

§ 117-18.1. Subsidiary business activities.

(a) Electric membership corporations may form, organize, acquire, hold, dispose of, and operate any interest up to and including full controlling interest in separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment, so long as those other business entities meet all of the following conditions:

- (1) They are not financed with loans or grants from the Rural Utilities Service (RUS) of the United States Department of Agriculture (USDA) or the USDA or with similar financing from any successor agency. This limitation shall not apply to RUS or USDA loans or grants, or loans or grants from successor agencies, for water or wastewater collection and treatment projects.
- (2) They are subject to all taxes, specifically including federal and State income taxes, levied against business entities of the same structure and engaged in the same activities.
- (3) They fully compensate the electric membership corporation for the use of personnel, services, equipment, or tangible and intangible property, the greater of (i) a competitive price, which is a price comparable with prices generally being charged at the time in arms length transactions in the same market, or (ii) the electric membership corporation's fully distributed costs, which shall include all direct and indirect costs, including cost of capital incurred in providing the personnel, services, equipment, tangible property, or intangible property in question. The value of real property shall include the intangible value of not having to purchase the real property being used, and the value of the identification with the EMC that will exist because of the use of the particular real property. Should the Utilities Commission, upon complaint showing reasonable grounds for investigation, find after investigation, that the charges for those transactions between the electric membership corporation and the other business entity do not conform with the provisions of this subdivision, the Utilities Commission is empowered to direct the electric membership corporation to adjust those charges to comply with the provisions of this subdivision. If the electric membership corporation does not comply with the Utilities Commission's directive, then the Utilities Commission is empowered to direct the electric membership corporation to divest its interest in the other business entity. For purposes of enforcing this subdivision, members of the Utilities Commission, the Utilities Commission staff, and the Public Staff are authorized to inspect the books and records of such other business entities and the electric membership corporations. The Utilities Commission shall have the authority to adopt rules and reporting requirements to enforce this subdivision. The provisions of G.S. 62-310(a), 62-311, 62-312, 62-313, 62-314, 62-315, 62-316, 62-326, and 62-327 shall apply to electric membership corporations with respect to the application of this subdivision.
- (4) They are organized and operated pursuant to Chapter 55 or Chapter 57D of the General Statutes.
- (5) They do not receive from an electric membership corporation any investment, loan, guarantee, or pledge of assets in an amount that, in the aggregate, exceeds ten percent (10%) of the assets of that electric membership corporation.

(b) An electric membership corporation may not form or organize a separate business entity to engage in activities involving the distribution, storage, or sale of oil, as defined in G.S. 143-215.77(8), specifically including liquefied petroleum gases, but may acquire, hold,

dispose of, and operate any interest in an existing business entity already engaged in these activities, subject to the other provisions of this section.

(c) No director, or spouse of a director, of an electric membership corporation may be employed or have any financial interest in any separate business entity formed, organized, acquired, held, or operated by an electric membership corporation pursuant to the provisions of this section.

(d) The provisions of subdivisions (1) and (3) of subsection (a) of this section do not apply to the separate business activities of an electric membership corporation that forms, organizes, acquires, holds, disposes of, or operates any interest up to and including full controlling interest in a separate business entity that provides or supports high-speed broadband services to one or more households, businesses, or community anchor points in an unserved area. For purposes of this subsection, the following definitions shall apply:

- (1) "Anchor points." – The term shall include schools, libraries, community colleges, community centers, and other similar places.
- (2) "High-speed broadband services." – Internet transmission speeds of a minimum of 25 megabits per second (Mbps) downstream and 3 Mbps upstream.
- (3) "Unserved area." – A location where inhabitants or businesses do not have access to high-speed broadband services. (1999-180, s. 2; 2013-157, s. 30; 2019-17, s. 1.)