

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 287
HOUSE BILL 255

1 AN ACT TO PRESCRIBE CERTAIN RIGHTS AND RESTRICTIONS WITH RESPECT TO
2 THE FURNISHING OF ELECTRIC SERVICE WITHIN MUNICIPALITIES AND IN
3 AREAS OUTSIDE MUNICIPALITIES; TO PROVIDE FOR THE ESTABLISHMENT OF
4 ELECTRIC SERVICE AREAS BY THE NORTH CAROLINA UTILITIES
5 COMMISSION; TO REQUIRE A CERTIFICATE OF CONVENIENCE AND
6 NECESSITY FOR THE CONSTRUCTION OF ELECTRIC GENERATING FACILITIES;
7 TO PROVIDE FOR TAXATION OF ELECTRIC MEMBERSHIP CORPORATIONS; TO
8 PROVIDE THAT ELECTRIC MEMBERSHIP CORPORATIONS SHALL BE SUBJECT
9 TO THE JURISDICTION OF THE NORTH CAROLINA UTILITIES COMMISSION IN
10 CERTAIN RESPECTS; AND TO AMEND CERTAIN PROVISIONS OF CHAPTERS 62,
11 105, 117, AND 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.
12

13 The General Assembly of North Carolina do enact:
14

15 **Section 1.** Chapter 160 of the General Statutes of North Carolina is hereby
16 amended by adding a new subchapter to be numbered Subchapter X and a new Article to be
17 numbered Article 41, to read as follows:

18 **"SUBCHAPTER X — ELECTRIC SERVICE IN MUNICIPAL AREAS**

19 **"ARTICLE 41**

20 **"Electric Service in Municipal Areas**

21 **"§ 160-510. Definitions.** With reference to electric service within a municipality, as used in
22 this Article, unless the context otherwise requires, the term:

23 "(1) 'Municipality' means the incorporated city or town;

24 "(2) 'Primary supplier' means the municipality, if it owns and maintains its own
25 electric system, and means a person, firm, or corporation which furnishes
26 electric service within the municipality pursuant to a franchise granted by, or
27 contract with, the municipality, or which, having furnished service pursuant
28 to a franchise or contract, is continuing to furnish service within the
29 municipality after the expiration of the franchise or contract;

30 "(3) 'Secondary supplier' means a person, firm, or corporation which is furnishing
31 electricity at retail to one or more consumers other than itself within the
32 limits of the municipality, but which is not a primary supplier: Provided, that
33 a primary supplier which furnishes electric service within the municipality
34 pursuant to a franchise or contract which limits or restricts the classes of
35 consumers or types of electric service permitted to such supplier shall, in and
36 with respect to any area annexed by the municipality after the effective date
37 of this Act, be a primary supplier for such classes of consumers or types of
38 service and, if it is furnishing other electric service in the annexed area on
39 the effective date of annexation, shall be a secondary supplier, in and with
40 respect to such annexed area, for all other electric service; provided further,
41 that a primary supplier which is continuing to furnish electric service after
42 the expiration of a franchise or contract which limited or restricted such
43 primary supplier with respect to classes of consumers or types of electric

1 service shall, m and with respect to any area annexed by the municipality
2 after the effective date of this Act, be a secondary supplier for all electric
3 service if it is furnishing electric service in the annexed area on the effective
4 date of annexation;

5 "(4) 'Premises' means the building, structure, or facility to which electricity is
6 being or is to be furnished; provided, that two or more buildings, structures,
7 or facilities which are located on one tract or contiguous tracts of land and
8 are utilized by one electric consumer for commercial, industrial,
9 institutional, or governmental purposes, shall together constitute one
10 'premises', except that any such building, structure, or facility shall not,
11 together with any other building, structure, or facility, constitute one
12 'premises' if the electric service to it is separately metered and the charges
13 for such service are calculated independently of charges for service to any
14 other building, structure, or facility; and

15 "(5) 'Line' means any conductor located inside the municipality for the
16 distribution or transmission of electricity, other than (i) in the case of
17 overhead construction, a conductor from the pole nearest the premises of a
18 consumer to such premises, or a conductor from a line tap to such premises,
19 and (ii) in the case of underground construction, a conductor from the
20 transformer (or the junction point, if there be one) nearest the premises of a
21 consumer to such premises.

22 "**§ 160-511. Service within present municipal corporate limits.** In any municipality in
23 which, on the effective date of this Act, a secondary supplier is furnishing electric service, the
24 suppliers of electric service inside the corporate limits of such municipality, as such limits exist
25 on the effective date of this Act, shall have rights and be subject to restrictions as follows:

26 "(1) The secondary supplier shall have the right to serve all premises being
27 served by it, or to which any of its facilities for service are attached, on the
28 effective date of this Act.

29 "(2) The secondary supplier shall have the right, subject to subparagraph (3) of
30 this Section, to serve all premises initially requiring electric service after the
31 effective date of this Act which are located wholly within 300 feet of its
32 lines and located wholly more than 300 feet from the lines of the primary
33 supplier, as such suppliers' lines exist on the effective date of this Act.

34 "(3) Any premises initially requiring electric service after the effective date of
35 this Act which are located wholly within 300 feet of a secondary supplier's
36 lines and wholly within 300 feet of another secondary supplier's lines, but
37 wholly more than 300 feet from the primary supplier's lines, as the lines of
38 all suppliers exist on the effective date of this Act, may be served by the
39 secondary supplier which the consumer chooses, and no other supplier shall
40 thereafter furnish electric service to such premises, except upon the written
41 consent of the supplier then serving the premises.

42 "(4) A primary supplier shall not furnish electric service to any premises which a
43 secondary supplier has the right to serve as set forth in subparagraphs (1),
44 (2), and (3) of this Section, except upon the written consent of the secondary
45 supplier.

46 "(5) Any premises initially requiring electric service after the effective date of
47 this Act which are located wholly or partially within 300 feet of the primary
48 supplier's lines and are located wholly or partially within 300 feet of the
49 secondary supplier's lines, as such suppliers' lines exist on the effective date
50 of this Act, may be served by either the secondary supplier or the primary
51 supplier, whichever the consumer chooses, and no other supplier shall

1 thereafter furnish service to such premises, except upon the written consent
2 of the supplier then serving the premises.

3 "(6) Any premises initially requiring electric service after the effective date of
4 this Act which are located only partially within 300 feet of the secondary
5 supplier's lines and are located wholly more than 300 feet from the primary
6 supplier's lines, as such suppliers' lines exist on the effective date of this Act,
7 may be served by either the secondary supplier or the primary supplier,
8 whichever the consumer chooses, and no other supplier shall thereafter
9 furnish service to such premises, except upon the written consent of the
10 supplier then serving the premises.

11 "(7) Except as provided in subparagraphs (1), (2), (3), (5), and (6) of this Section,
12 a secondary supplier shall not furnish electric service inside the corporate
13 limits of such municipality as such limits exist on the effective date of this
14 Act, unless it first obtains the written consent of the municipality and of the
15 primary supplier.

16 "**§ 160-512. Service in annexed areas.** In any area annexed by a municipality after the
17 effective date of this Act in which, on the effective date of the annexation, a secondary supplier
18 is furnishing electric service, the suppliers of electric service within the municipality shall, in
19 and with respect to such annexed area, have rights and be subject to restrictions as follows:

20 "(1) The secondary supplier shall have the right to serve all premises being
21 served by it, or to which any of its facilities for service are attached, on the
22 effective date of the annexation.

23 "(2) The secondary supplier shall have the right, subject to subparagraph (3) of
24 this Section, to serve all premises initially requiring electric service after the
25 effective date of the annexation which are located wholly within 300 feet of
26 its lines and located wholly more than 300 feet from the lines of the primary
27 supplier, as such suppliers' lines exist on the effective date of the annexation.

28 "(3) Any premises initially requiring electric service after the effective date of the
29 annexation which are located wholly within 300 feet of a secondary
30 supplier's lines and wholly within 300 feet of another secondary supplier's
31 lines, but wholly more than 300 feet from the primary supplier's lines, as the
32 lines of all suppliers exist on the effective date of the annexation, may be
33 served by the secondary supplier which the consumer chooses, and no other
34 supplier shall thereafter furnish electric service to such premises, except
35 upon written consent of the supplier then serving the premises.

36 "(4) A primary supplier shall not furnish electric service to any premises which a
37 secondary supplier has the right to serve as set forth in subparagraphs (1),
38 (2), and (3) of this Section, except upon the written consent of the secondary
39 supplier.

40 "(5) Any premises initially requiring electric service after the effective date of the
41 annexation which are located wholly or partially within 300 feet of the
42 primary supplier's lines and are located wholly or partially within 300 feet of
43 the secondary supplier's lines, as such suppliers' lines exist on the effective
44 date of the annexation, may be served by either the secondary supplier or the
45 primary supplier, whichever the consumer chooses, and no other supplier
46 shall thereafter furnish service to such premises, except upon the written
47 consent of the supplier then serving the premises.

48 "(6) Any premises initially requiring electric service after the effective date of the
49 annexation which are located only partially within 300 feet of the secondary
50 supplier's lines and are located wholly more than 300 feet from the primary
51 supplier's lines, as such suppliers' lines exist on the effective date of the

1 annexation, may be served by either the secondary supplier or the primary
2 supplier, whichever the consumer chooses, and no other supplier shall
3 thereafter furnish service to such premises, except upon the written consent
4 of the supplier then serving the premises.

5 "(7) Except as provided in subparagraphs (1), (2), (3), (5), and (6) of this Section,
6 and except as provided in Sections 160-511 and 160-513, a secondary
7 supplier shall not furnish electric service inside the corporate limits of such
8 municipality, unless it first obtains the written consent of the municipality
9 and of the primary supplier.

10 **"§ 160-513. Service within newly incorporated municipality.** (a) In any municipality which
11 is newly incorporated after the effective date of this Act in which, on the effective date of the
12 incorporation, there is more than one supplier of electric service, all suppliers of electric service
13 therein shall continue to have the rights and be subject to the restrictions in effect prior to the
14 incorporation of the municipality until there is a primary supplier within such municipality.

15 "(b) When, in any such newly incorporated municipality, a primary supplier comes into
16 being and at such time a secondary supplier is furnishing electric service in said municipality,
17 the suppliers of electric service shall have rights and be subject to restrictions as follows:

18 "(1) The secondary supplier shall have the right to serve all premises being
19 served by it, or to which any of its facilities for service are attached, on the
20 date a primary supplier comes into being.

21 "(2) The secondary supplier shall have the right, subject to subparagraph (3) of
22 this subsection, to serve all premises initially requiring electric service after
23 the date a primary supplier comes into being which are located wholly
24 within 300 feet of its lines and located wholly more than 300 feet from the
25 lines of the primary supplier, as such suppliers' lines exist on said date.

26 "(3) Any premises initially requiring electric service after the date a primary
27 supplier comes into being which are located wholly within 300 feet of a
28 secondary supplier's lines and wholly within 300 feet of another secondary
29 supplier's lines, but wholly more than 300 feet from the primary
30 supplier's lines, as the lines of all suppliers exist on said date, may be served
31 by the secondary supplier which the consumer chooses, and no other
32 supplier shall thereafter furnish electric service to such premises, except
33 upon the written consent of the supplier then serving the premises.

34 "(4) A primary supplier shall not furnish electric service to any premises which a
35 secondary supplier has the right to serve as set forth in subparagraphs (1),
36 (2), and (3) of this subsection, except upon the written consent of the
37 secondary supplier.

38 "(5) Any premises initially requiring electric service after the date a primary
39 supplier comes into being which are located wholly or partially within 300
40 feet of the primary supplier's lines and are located wholly or partially within
41 300 feet of the secondary supplier's lines, as such suppliers' lines exist on
42 said date, may be served by either the secondary supplier or the primary
43 supplier, whichever the consumer chooses, and no other supplier shall
44 thereafter furnish service to such premises, except upon the written consent
45 of the supplier then serving the premises.

46 "(6) Any premises initially requiring electric service after the date a primary
47 supplier comes into being which are located only partially within 300 feet of
48 the secondary supplier's lines and are located wholly more than 300 feet
49 from the primary supplier's lines, as such suppliers' lines exist on said date,
50 may be served by either the secondary supplier or the primary supplier,
51 whichever the consumer chooses, and no other supplier shall thereafter

1 furnish service to such premises, except upon the written consent of the
2 supplier then serving the premises.

3 "(7) Except as provided in subparagraphs (1), (2), (3), (5), and (6) of this
4 subsection, a secondary supplier shall not furnish electric service inside the
5 corporate limits of such municipality as such limits exist on the date a
6 primary supplier comes into being, unless it first obtains the written consent
7 of the municipality and of the primary supplier.

8 "**§ 160-514. Temporary electric service.** No electric supplier shall furnish temporary electric
9 service for the construction of premises which it would not have the right to serve under this
10 Article if such premises were already constructed. The construction of lines for, and the
11 furnishing of, temporary service for the construction of premises which any other electric
12 supplier, if chosen by the consumer, would have the right to serve if such premises were
13 already constructed, shall not impair the right of such other electric supplier to furnish service
14 to such premises after the construction thereof, if then chosen by the consumer; nor, unless the
15 consumer chooses to have such premises served by the supplier which furnished the temporary
16 service, shall the furnishing of such temporary service or the construction of a line therefor
17 impair the right of any other electric supplier to furnish service to any other premises which,
18 without regard to the construction of such temporary service line, it has the right to serve.

19 "**§ 160-515. Jurisdiction of North Carolina Utilities Commission.** Notwithstanding the
20 provisions of Sections 160-511, 160-512, 160-513, and 160-514 of this Article:

21 "(1) The North Carolina Utilities Commission shall have the authority and
22 jurisdiction, after notice to the affected electric suppliers and after hearing, if
23 a hearing is requested by any affected electric supplier or any other
24 interested party, to order a primary supplier which is subject to the
25 jurisdiction of said Commission to furnish electric service to any consumer
26 who desires service from such primary supplier at any premises being served
27 by a secondary supplier, or at premises which a secondary supplier has the
28 right to serve pursuant to other Sections of this Article, and to order such
29 secondary supplier to cease and desist from furnishing electric service to
30 such premises, upon the Commission's finding that service being furnished
31 or to be furnished to such consumer by such secondary supplier is or will be
32 inadequate or undependable, or that the rates, conditions of service or
33 service regulations, applied to such consumer, are unreasonably
34 discriminatory; and

35 "(2) The North Carolina Utilities Commission shall have the authority and
36 jurisdiction, after notice to the affected secondary supplier and after hearing,
37 if a hearing is requested by the affected secondary supplier or any other
38 interested party, to order any secondary supplier to cease and desist from
39 furnishing electric service to any premises being served by it, or to any
40 premises which it has the right to serve pursuant to other Sections of this
41 Article, if the consumer desires service at such premises from a primary
42 supplier which is not subject to the jurisdiction of the Commission and
43 which is willing to furnish service to such premises, upon the Commission's
44 finding that service being furnished or to be furnished to such consumer by
45 such secondary supplier is or will be inadequate or undependable, or that the
46 rates, conditions of service or service regulations, applied to such consumer,
47 are unreasonably discriminatory.

48 "**§ 160-516. Removal, sale, and transfer of electric facilities.** A secondary supplier may
49 voluntarily discontinue its service to any premises and remove any of its electric facilities
50 located inside the limits of a municipality or sell and transfer such facilities to a primary
51 supplier in such municipality, subject to approval by the North Carolina Utilities Commission,

1 upon the Commission's determination that the public interest will not thereby be adversely
2 affected.

3 **"§ 160-517. Electric service for municipal facilities.** No provisions of this Article shall
4 prevent a municipality which is a primary supplier from furnishing its own electric service for
5 municipal facilities, or prevent any other primary supplier from furnishing electric street
6 lighting service to a municipality inside the municipality.

7 **"§ 160-518. Effect of this Article on rights and duties of primary supplier.** Except for the
8 rights granted to and restrictions upon primary suppliers contained in the provisions of this
9 Article, nothing in this Article shall diminish, enlarge, alter, or affect in any way the rights and
10 duties of a primary supplier to furnish electric service to premises within the limits of a
11 municipality.

12 **"§ 160-519. Electric suppliers subject to police power.** No provisions of this Article shall
13 restrict the exercise of the police power of a municipality over the erection and maintenance of
14 poles, wires and other facilities of electric suppliers in streets, alleys, and public ways."

15 **Sec. 2.** Chapter 62 of the General Statutes is hereby amended by adding a new
16 Section to be numbered 62-110.1, to read as follows:

17 **"§ 62-110.1. Certificate for construction of a generating facility.** (a) Notwithstanding the
18 proviso in G.S. 62-110, no public utility or other person shall begin the construction of any
19 steam, water, or other facility for the generation of electricity to be directly or indirectly used
20 for the furnishing of public utility service, even though the facility be for furnishing the service
21 already being rendered, without first obtaining from the Commission a certificate that public
22 convenience and necessity requires, or will require, such construction.

23 "(b) For the purpose of this Section, 'public utility' shall include any electric membership
24 corporation operating within this State, and the term 'public utility service' shall include the
25 service rendered by any such electric membership corporation."

26 **Sec. 3.** Chapter 62 of the General Statutes is hereby amended by adding a new
27 Section to be numbered 62-82, to read as follows:

28 **"§ 62-82. Special procedure in hearing and deciding application for certificate for a
29 generating facility; additional appeal bond in certain cases.** (a) Whenever there is filed with
30 the Commission an application for a certificate of public convenience and necessity for the
31 construction of a facility for the generation of electricity under G.S. 62-110.1, the Commission
32 shall require the applicant to publish a notice thereof once a week for four successive weeks in
33 a daily newspaper of general circulation in the county where such facility is proposed to be
34 constructed, and thereafter the Commission, upon complaint shall, or upon its own initiative
35 may, upon reasonable notice, enter upon a hearing to determine whether such certificate shall
36 be awarded. Any such hearing must be commenced by the Commission not later than three (3)
37 months after the filing of such application, and the procedure for rendering decisions therein
38 shall be given priority over all other cases on the Commission's calendar of hearings and
39 decisions, except rate proceedings referred to in G.S. 62-81. Such applications shall be heard by
40 the full Commission, and the Commission shall furnish a transcript of evidence and testimony
41 submitted by the end of the second business day after the taking of each day of testimony. The
42 Commission shall require that briefs and oral arguments in such cases be submitted within
43 thirty (30) days after the conclusion of the hearing, and the Commission shall render its
44 decision in such cases within sixty (60) days after submission of such briefs and arguments. If
45 the Commission does not, upon its own initiative, order a hearing and does not receive a
46 complaint within ten (10) days after the last day of publication of the notice, the Commission
47 shall enter an order awarding the certificate.

48 "(b) Any party or parties opposing, and appealing from, an order of the Commission
49 which awards a certificate under G.S. 62-110.1 shall be obligated to recompense the party to
50 whom the certificate is awarded, if such award is affirmed upon appeal, for the damages, if any,
51 which such party sustains by reason of the delay in beginning the construction of the facility

1 which is occasioned by the appeal, such damages to be measured by the increase in the cost of
2 such generating facility (excluding legal fees, court costs, and other expenses incurred in
3 connection with the appeal). No appeal from any order of the Commission which awards any
4 such certificate may be taken by any party opposing such award unless, within the time limit
5 for filing notice of appeal as provided for in G.S. 62-90, such party shall have filed with the
6 Commission a bond with sureties approved by the Commission, or an undertaking approved by
7 the Commission, in such amount as the Commission determines will be reasonably sufficient to
8 discharge the obligation hereinabove imposed upon such appealing party. The Commission
9 may, when there are two or more such appealing parties permit them to file a joint bond or
10 undertaking. If the award order of the Commission is affirmed on appeal, the Commission shall
11 determine the amount, if any, of damages sustained by the party to whom the certificate was
12 awarded, and shall issue appropriate orders to assure that such damages be paid and, if
13 necessary, that the bond or undertaking be enforced."

14 **Sec. 4.** Section 62-99 of the General Statutes is hereby amended by rewriting said
15 Section, to read as follows:

16 "**§ 62-99. Rate increases and generating facility orders appealed direct from Commission**
17 **to Supreme Court.** Appeals from an order or decision of the Commission approving or
18 authorizing an increase in the rates or charges of a public utility and from an order or decision
19 of the Commission awarding or denying a certificate of convenience and necessity under G.S.
20 62-110.1 shall be made directly from the Commission to the Supreme Court without
21 intermediate review in the Superior Court. The Commission shall transmit the entire record in
22 all such appeals direct to the Supreme Court for hearing and review in accordance with the
23 extent of review set out in this Article for review of Commission cases, and the rules and
24 regulations as are prescribed by law for appeals."

25 **Sec 5.** Chapter 62 of the General Statutes is hereby amended by adding a new
26 Section to be numbered 62-110.2, to read as follows:

27 "**§ 62-110.2. Electric service areas outside of municipalities.** (a) As used in this Section,
28 unless the context otherwise requires, the term:

29 "(1) 'Premises' means the building, structure, or facility to which electricity is
30 being or is to be furnished; provided, that two or more buildings, structures,
31 or facilities which are located on one tract or contiguous tracts of land and
32 are utilized by one electric consumer for commercial, industrial,
33 institutional, or governmental purposes, shall together constitute one
34 'premises', except that any such building, structure, or facility shall not,
35 together with any other building, structure, or facility, constitute one
36 'premises' if the electric service to it is separately metered and the charges
37 for such service are calculated independently of charges for service to any
38 other building, structure, or facility; and

39 "(2) 'Line' means any conductor for the distribution or transmission of electricity,
40 other than (i) in the case of overhead construction a conductor from the pole
41 nearest the premises of a consumer to such premises or a conductor from a
42 line tap to such premises, and (ii) in the case of underground construction, a
43 conductor from the transformer (or junction point, if there be one) nearest
44 the premises of a consumer to such premises.

45 "(3) 'Electric supplier' means any public utility furnishing electric service or any
46 electric membership corporation.

47 "(b) In areas outside of municipalities, electric suppliers shall have rights and be subject to
48 restrictions as follows:

49 "(1) Every electric supplier shall have the right to serve all premises being served
50 by it, or to which any of its facilities for service are attached, on the effective
51 date of this Act.

- 1 "(2) Every electric supplier shall have the right, subject to subparagraph (4) of
2 this subsection, to serve all premises initially requiring electric service after
3 the effective date of this Act which are located wholly within 300 feet of
4 such electric supplier's lines as such lines exist on the effective date of this
5 Act, except premises which, on said date, are being served by another
6 electric supplier or to which any of another electric supplier's facilities for
7 service are attached.
- 8 "(3) Every electric supplier shall have the right, subject to subparagraph (4) of
9 this subsection, to serve all premises initially requiring electric service after
10 the effective date of this Act which are located wholly within 300 feet of
11 lines that such electric supplier constructs after the effective date of this Act
12 to serve consumers that it has the right to serve, except premises located
13 wholly within a service area assigned to another electric supplier pursuant to
14 subsection (c) hereof.
- 15 "(4) Any premises initially requiring electric service after the effective date of
16 this Act, which are located wholly or partially within 300 feet of the lines of
17 one electric supplier and also wholly or partially within 300 feet of the lines
18 of another electric supplier, as each of such supplier's lines exist on the
19 effective date of this Act, or as extended to serve consumers that the supplier
20 has the right to serve, may be served by such one of said electric suppliers
21 which the consumer chooses, and any electric supplier not so chosen by the
22 consumer shall not thereafter furnish service to such premises.
- 23 "(5) Any premises initially requiring electric service after the effective date of
24 this Act which are not located wholly within 300 feet of the lines of any
25 electric supplier and are not located partially within 300 feet of the lines of
26 two or more electric suppliers may be served by any electric supplier which
27 the consumer chooses, unless such premises are located wholly or partially
28 within an area assigned to an electric supplier pursuant to subsection (c)
29 hereof, and any electric supplier not so chosen by the consumer shall not
30 thereafter furnish service to such premises.
- 31 "(6) Any premises initially requiring electric service after the effective date of
32 this Act which are located partially within a service area assigned to one
33 electric supplier and partially within a service area assigned to another
34 electric supplier pursuant to subsection (c) hereof, or are located partially
35 within a service area assigned to one electric supplier pursuant to subsection
36 (c) hereof and partially within 300 feet of the lines of another electric
37 supplier, as such lines exist on the effective date of this Act or as extended to
38 serve consumers it has the right to serve, may be served by such one of said
39 electric suppliers which the consumer chooses, and the electric supplier not
40 so chosen shall not thereafter furnish service to such premises.
- 41 "(7) Any premises initially requiring electric service after the effective date of
42 this Act which are located only partially within a service area assigned to
43 one electric supplier pursuant to subsection (c) hereof and are located wholly
44 outside the service areas assigned to other electric suppliers and are located
45 wholly more than 300 feet from other electric suppliers' lines, may be served
46 by any electric supplier which the consumer chooses, and any electric
47 supplier not so chosen by the consumer shall not thereafter furnish service to
48 such premises.
- 49 "(8) Every electric supplier shall have the right to serve all premises located
50 wholly within the service area assigned to it pursuant to subsection (c)
51 hereof.

1 "(9) No electric supplier shall furnish temporary electric service for the
2 construction of premises which it would not have the right to serve under
3 this subsection if such premises were already constructed. The construction
4 of lines for, and the furnishing of, temporary service for the construction of
5 premises which any other electric supplier, if chosen by the consumer,
6 would have the right to serve if such premises were already constructed,
7 shall not impair the right of such other electric supplier to furnish service to
8 such premises after the construction thereof, if then chosen by the consumer;
9 nor, unless the consumer chooses to have such premises served by the
10 supplier which furnished the temporary service, shall the furnishing of such
11 temporary service or the construction of a line therefor impair the right of
12 any other electric supplier to furnish service to any other premises which,
13 without regard to the construction of such temporary service line, it has the
14 right to serve.

15 "(10) No electric supplier shall furnish electric service to any premises in this State
16 outside the limits of any incorporated city or town except as permitted by
17 this Section; provided, that nothing in this Section shall restrict the right of
18 an electric supplier to furnish electric service to itself or to exchange or
19 interchange electric energy with, purchase electric energy from or sell
20 electric energy to any other electric supplier.

21 "(c) (1) In order to avoid unnecessary duplication of electric facilities, the Commission is
22 authorized and directed to assign, as soon as practicable after January 1, 1966, to electric
23 suppliers all areas, by adequately defined boundaries, that are outside the corporate limits of
24 municipalities and that are more than 300 feet from the lines of all electric suppliers as such
25 lines exist on the dates of the assignments; provided, that the Commission may leave
26 unassigned any area in which the Commission, in its discretion, determines that the existing
27 lines of two or more electric suppliers are in such close proximity that no substantial avoidance
28 of duplication of facilities would be accomplished by assignment of such area. The
29 Commission shall make assignments of areas in accordance with public convenience and
30 necessity, considering among other things, the location of existing lines and facilities of electric
31 suppliers and the adequacy and dependability of the service of electric suppliers, but not
32 considering rate differentials among electric suppliers.

33 "(2) The Commission, upon agreement of the affected electric suppliers, is
34 authorized to reassign to one electric supplier any area or portion thereof
35 theretofore assigned to another; and the Commission, notwithstanding the
36 lack of such agreement, is authorized to reassign to one electric supplier any
37 area or portion thereof theretofore assigned to another, except premises
38 being served by the other electric supplier or to which any of its facilities for
39 service are attached and except such portions of such area as are within 300
40 feet of the other electric supplier's lines, upon finding that such reassignment
41 is required by public convenience and necessity. In determining whether
42 public convenience and necessity requires such reassignment, the
43 Commission shall consider, among other things, the adequacy and
44 dependability of the service of the affected electric suppliers, but shall not
45 consider rate differentials between such electric suppliers.

46 "(d) Notwithstanding the provisions of subsections (b) and (c) of this Section: (1) Any
47 electric supplier may furnish electric service to any consumer who desires service from such
48 electric supplier at any premises being served by another electric supplier, or at premises which
49 another electric supplier has the right to serve pursuant to other provisions of this Section, upon
50 agreement of the affected electric suppliers; and (2) The Commission shall have the authority
51 and jurisdiction, after notice to all affected electric suppliers and after hearing, if a hearing is

1 requested by any affected electric supplier or any other interested party, to order any electric
2 supplier which may reasonably do so to furnish electric service to any consumer who desires
3 service from such electric supplier at any premises being served by another electric supplier, or
4 at premises which another electric supplier has the right to serve pursuant to other provisions of
5 this Section, and to order such other electric supplier to cease and desist from furnishing
6 electric service to such premises, upon finding that service to such consumer by the electric
7 supplier which is then furnishing service, or which has the right to furnish service, to such
8 premises, is or will be inadequate or undependable, or that the rates, conditions of service or
9 service regulations applied to each consumer, are unreasonably discriminatory.

10 "(e) The furnishing of electric service in any area which becomes a part of any
11 municipality after the effective date of this Act, either by annexation or incorporation, (whether
12 or not such area, or any portion thereof, shall have been assigned pursuant to subsection (c) of
13 this Section) shall be subject to the provisions of Article 41 of Subchapter X of Chapter 160 of
14 the General Statutes, and any provisions of this Section inconsistent with said Article shall not
15 be applicable within such area after the effective date of such annexation or incorporation."

16 **Sec. 6.** Section 62-42 of the General Statutes is hereby amended by adding at the
17 end thereof a new subsection to be designated (c), to read as follows:

18 "(c) For the purpose of this Section, 'public utility' shall include any electric membership
19 corporation operating within this State."

20 **Sec. 7.** Section 62-138 of the General Statutes is hereby amended by adding at the
21 end thereof a new subsection to be designated (f), to read as follows:

22 "(f) Under such rules as the Commission may prescribe, every electric membership
23 corporation operating within this State shall file with the Commission, for information
24 purposes, all rates, schedules of rates, charges, service regulations, and forms of service
25 contracts, used or to be used within the State, and shall keep copies of such schedules, rates,
26 charges, service regulations, and contracts open to public inspection."

27 **Sec. 8.** Section 62-140 of the General Statutes is hereby amended by adding at the
28 end of subsection (c) thereof a new sentence, to read as follows: "For the purpose of this
29 subsection, 'public utility' shall include any electric membership corporation operating within
30 this State, and the terms 'utility service' and 'public utility service' shall include the service
31 rendered by any such electric membership corporation."

32 **Sec. 9.** Chapter 117 of the General Statutes is hereby amended by adding thereto a
33 new Section to be numbered 117-10.1, to read as follows:

34 "**§ 117-10.1. Municipal franchises.** An electric membership corporation shall be eligible to
35 receive a franchise pursuant to G.S. 160-2(6) from any city or town:

- 36 "(1) in which such electric membership corporation is on the effective date of this
37 Act furnishing electric service at retail to a majority of the electric meters; or
38 "(2) to which such electric membership corporation is on the effective date of this
39 Act furnishing the entire supply of electricity at wholesale; or
40 "(3) which is newly incorporated subsequent to the effective date of this Act, and
41 in which on the effective date of such incorporation the electric membership
42 corporation is furnishing electric service at retail to a majority of the
43 meters."

44 **Sec. 10.** Chapter 117 of the General Statutes is hereby amended by adding a new
45 Section to be numbered 117-10.2, to read as follows:

46 "**§ 117-10.2. Restriction on municipal service.** No electric membership corporation shall
47 furnish electric service to, or within the limits of, any incorporated city or town, except
48 pursuant to a franchise that may be granted under the provisions of G.S. 117-10.1, or as
49 permitted under G.S. 160-511, G.S. 160-512, and G.S. 160-513; provided, that an electric
50 membership corporation may furnish electric service to, or within the limits of, any
51 incorporated city or town if the city or town and all electric suppliers, including public utilities,

1 other electric membership corporations and other cities or towns, then furnishing electric
2 service to or within such city or town consent thereto in writing."

3 **Sec. 11.** Chapter 117 of the General Statutes is hereby amended by adding thereto a
4 new Section, to be numbered 117-16.1, to read as follows:

5 "**§ 117-16.1. Discrimination prohibited.** No electric membership corporation shall, as to rates
6 or services, make or grant any unreasonable preference or advantage to any member or subject
7 any member to any unreasonable prejudice or disadvantage. No electric membership
8 corporation shall establish or maintain any unreasonable difference as to rates or services either
9 as between localities or as between classes of service. No electric membership corporation shall
10 give, pay, or receive any rebate or bonus, directly or indirectly, or mislead or deceive its
11 members in any manner as to rates charged for the services of such electric membership
12 corporation."

13 **Sec. 12.** Section 117-19 of the General Statutes is hereby repealed, and a new
14 Section, to be numbered 117-19, is hereby substituted in lieu thereof, to read as follows:

15 "**§ 117-19. Taxes and assessments.** (a) From and after the effective date of this Act, no
16 electric membership corporation heretofore or hereafter organized, reorganized, or
17 domesticated under the provisions of this Chapter shall be a public agency; nor shall any such
18 corporation be, or have the rights of, a political subdivision of the State.

19 "(b) With respect to its properties owned and revenues received on and after January 1,
20 1967, each electric membership corporation operating within the State shall be subject to, and
21 shall pay taxes and assessments under, all laws relative to State, county, municipal and other
22 local taxes and assessments applicable to the electric light and power companies in this State,
23 except income tax.

24 "(c) Each electric membership corporation operating in this State shall, on all of its
25 properties located within any incorporated city or town, pay in lieu of taxes to such cities and
26 towns and to the counties in which such cities and towns are located, amounts equal for 1965 to
27 fifty per cent (50%), and equal for 1966 to one hundred per cent (100%), of the ad valorem
28 property taxes that would be paid on such properties if such properties were owned by persons
29 fully subject to such taxes.

30 "(d) For the privilege of engaging in business in one or more incorporated cities or towns
31 for the period beginning May 1, 1965, and ending December 31, 1966, or any part of such
32 period, an electric membership corporation shall pay to the State an amount equal to six per
33 cent (6%) of its gross receipts received within such period from the business of furnishing
34 electricity to or within all such cities and towns, less, however, six per cent (6%) of such
35 amount as such electric membership corporation has paid with respect to such sales to any
36 public utility which pays a six per cent (6%) franchise tax to the State on its wholesale sales of
37 electricity to such electric membership corporation. The reporting, payment, and collection
38 provisions of G.S. 105-116 shall apply to the levy herein made. The State shall remit to such
39 cities and towns the same proportion of such payments, and in the same manner, as is provided
40 in G.S. 105-116 with respect to taxes paid by electric light and power companies.

41 "(e) Except as provided in subsections (c) and (d) of this Section, no electric
42 membership corporation shall be subject during the years 1965 and 1966 to any tax levied by
43 Chapter 105 of the General Statutes except those taxes to which it was subject on December 31,
44 1964."

45 **Sec. 13.** Section 117-20 of the General Statutes is hereby amended by deleting the
46 words inside the parentheses beginning on line 2 and ending on line 4, and by inserting in lieu
47 thereof new wording to read as follows:

48 "other than merchandise and property which lie within the limits of an incorporated city or
49 town, or which shall represent not in excess of ten per cent (10%) of the total value of the
50 corporation's assets, or which in the judgment of the Board are not necessary or useful in
51 operating the corporation."

1 **Sec. 14.** Section 117-24 of the General Statutes is hereby amended by deleting
2 therefrom the last sentence, which reads as follows:

3 "Any assets remaining after all liabilities or obligations of the corporation have been
4 satisfied or discharged shall pass to and become the property of the State."

5 and by inserting in lieu thereof the following:

6 "Any assets remaining after all liabilities or obligations of the corporation have been
7 satisfied or discharged shall be distributed among the members in such manner as is provided
8 for in the corporation's charter or bylaws, and the charter or bylaws may provide for
9 distributions to persons who were members in one or more prior years."

10 **Sec. 15.** Section 117-27 of the General Statutes is hereby repealed.

11 **Sec. 16.** Section 105-114 of the General Statutes is hereby amended by adding
12 immediately following the period after the words "statutory authority" in line 19 thereof a new
13 sentence, to read as follows:

14 "The term 'corporation' as used in this Article shall also mean and include any electric
15 membership corporation organized under Chapter 117, and any electric membership
16 corporation, whether or not organized under the laws of this State, doing business within the
17 State."

18 **Sec. 17.** Section 105-355 of the General Statutes is hereby amended by:

19 Deleting the period at the end of the title thereof following the words "public utility
20 companies" and inserting in lieu thereof a comma, and adding the following: "and electric
21 membership corporations.";

22 Inserting after the comma following the words "eminent domain" in line 4 thereof
23 the following: "and every electric membership corporation,";

24 Deleting the period at the end of subparagraph (1) and inserting in lieu thereof a
25 comma, and adding thereafter the following: "if any.";

26 Deleting the period at the end of subparagraph (2) and inserting in lieu thereof a
27 comma, and adding thereafter the following: "or, in the case of an electric membership
28 corporation, the amount of its outstanding membership fees and the amount of its outstanding
29 capital credits, or, if it has not adopted a capital credits plan, the amount of its unrefunded
30 patronage margins."; and

31 Deleting the period at the end of subparagraph (4) and inserting in lieu thereof a
32 semicolon, and adding thereafter the following: "or, in the case of an electric membership
33 corporation, the actual value of the capital of the corporation other than debt."

34 **Sec. 18.** The provisions of this Act shall not apply to pending litigation.

35 **Sec. 19.** All laws and clauses of laws in conflict with the provisions of this Act are
36 hereby repealed.

37 **Sec. 20.** This Act shall be in full force and effect from and after its ratification,
38 except that the provisions of Sections 16 and 17 of this Act shall be in full force and effect on
39 and after January 1, 1967.

40 In the General Assembly read three times and ratified, this the 20th day of April,
41 1965.