

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-419
HOUSE BILL 1395**

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO CONSIDER DIFFERENCES BETWEEN ELECTRIC MEMBERSHIP CORPORATIONS AND CITIES NOT RESOLVED PURSUANT TO G.S. 160A-331.2(B), AS ENACTED BY S.L. 2005-150.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-331.2 reads as rewritten:

"§ 160A-331.2. Agreements of electric suppliers.

(a) The General Assembly finds and determines that, in order to avoid the unnecessary duplication of electric facilities and to facilitate the settlement of disputes between cities that are primary suppliers and other electric suppliers, it is desirable for the State to authorize electric suppliers to enter into agreements pursuant to which the parties to the agreements allocate to each other the right to provide electric service to premises each would not have the right to serve under this Article but for the agreement, provided that no agreement between a city that is a primary supplier and another electric supplier shall be enforceable by or against an electric supplier that is subject to the territorial assignment jurisdiction of the North Carolina Utilities Commission until the agreement has been approved by the Commission. The Commission shall approve an agreement entered into pursuant to this section unless it finds that such agreement is not in the public interest. Such agreements may allocate the right to serve premises by reference to specific premises, geographical boundaries, or amounts of unspecified load to be served, but no agreement shall affect in any way the rights of other electric suppliers who are not parties to the relevant agreement. The provisions of this section apply to agreements relating to electric service inside and outside the corporate limits of a city.

~~(b) During the period beginning June 1, 2005, and ending May 31, 2007, electric membership corporations and cities that own and maintain their own electric distribution lines shall undertake good faith negotiations concerning the provision of future electric services within areas outside of the corporate limits of such cities as of June 1, 2005, and the development of agreements relating to the provision of electric services, the location of lines, and the areas within which electric services may be provided by such electric suppliers. To the extent such negotiations produce any agreements between the affected electric suppliers, such agreements shall be submitted to the North Carolina Utilities Commission for approval under this section. To the extent such negotiations do not produce an agreement and disputes among the suppliers remain as of May 31, 2007, such disputes shall be resolved pursuant to the provisions of G.S. 7A-38.3C(i).~~

(c) To the extent negotiations undertaken pursuant to subsection (b) of this section, as enacted by S.L. 2005-150, have not resulted in an agreement between a negotiating electric membership corporation and a negotiating city by May 31, 2007, jurisdiction shall immediately lie in the North Carolina Utilities Commission to resolve all issues related to those negotiations. Either party to the negotiations may petition the Commission to exercise the jurisdiction conferred in this subsection upon the filing of a petition and the payment of a filing fee of five hundred dollars (\$500.00). In reaching its decision, the Commission shall include consideration of the public convenience and

necessity. The Commission shall not consider rate differentials between the involved city and the involved electric membership corporation.

(d) Notwithstanding an order of the Commission issued pursuant to subsection (c) of this section:

(1) Any electric membership corporation or city may furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city, or at premises which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section, upon agreement of the affected electric membership corporation or city, subject to approval by the Commission.

(2) The Commission shall have the authority and jurisdiction, after notice to all affected electric membership corporations and cities and after a hearing, if a hearing is requested by any affected electric membership corporation or city, or any other interested party, to order any electric membership corporation or city which may reasonably do so to furnish electric service to any consumer who desires service from that electric membership corporation or city at any premises being served by another electric membership corporation or city pursuant to subsection (c) of this section or subdivision (1) of this subsection, or which another electric membership corporation or city has the right to serve pursuant to subsection (c) of this section or subdivision (1) of this subsection, and to order the other electric membership corporation or city to cease and desist from furnishing electric service to such premises, upon finding that service to the consumer by the electric membership corporation or city which is then furnishing service, or which has the right to furnish service to those premises, is or will be inadequate or undependable, or that the rates, conditions of service, or service regulations, applied to such consumer, are unreasonably discriminatory.

(e) Assignments or reassignments made or approved by the Commission pursuant to subsection (c) or (d) of this section shall be deemed to be service area agreements approved pursuant to subsection (a) of this section."

SECTION 2. G.S. 117-10.2 reads as rewritten:

"§ 117-10.2. Restriction on municipal service.

Except as otherwise provided in this section, no electric membership corporation shall furnish electric service to, or within the limits of, any incorporated city or town, except pursuant to a franchise that may be granted under the provisions of G.S. 117-10.1, or as permitted under G.S. 160A-331, ~~160A-331.1~~, 160A-331.2, 160A-332, and 160A-333. In addition, an electric membership corporation may furnish electric service to, or within the limits of, any incorporated city or town if the city or town and all electric suppliers, including public utilities, other electric membership corporations and other cities or towns, then furnishing electric service to or within such city or town consent thereto in writing."

SECTION 3. G.S. 117-10.3 and G.S. 160A-331.1 are repealed. Agreements previously entered into pursuant to G.S. 117-10.3 and G.S. 160A-331.1 shall not be affected by this repeal.

SECTION 4. G.S. 7A-38.3C is repealed. Any disputes submitted to the Public Staff of the North Carolina Utilities Commission pursuant to G.S. 7A-38.3C(i) are transferred to the North Carolina Utilities Commission to be considered by the Commission pursuant to G.S. 160A-331.2(c), as enacted by this act, and the Commission shall exercise its jurisdiction upon payment of the filing fee required by that subsection by the petitioner.

SECTION 5. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 2nd day of August, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:00 p.m. this 21st day of August, 2007