

## **Chapter 117.**

### **Electrification.**

#### Article 1.

##### Rural Electrification Authority.

#### **§ 117-1. Rural Electrification Authority created; appointments; terms of members.**

An agency to be known as the North Carolina Rural Electrification Authority is hereby created as an agency of the State of North Carolina, such agency to consist of five members to be appointed by the Governor of North Carolina. Current members of the North Carolina Rural Electrification Authority shall complete their respective terms of office. On or after June 5, 1975, the Governor shall appoint two members to replace those members whose terms expire on said date. All appointments made by the Governor shall be made for terms of four years. (1935, c. 288, s. 1; 1975, c. 709, s. 7.)

#### **§ 117-2. Powers.**

The purpose of said North Carolina Rural Electrification Authority is to secure electrical service for the rural districts of the State where service is not now being rendered, and it is hereby empowered to do the following in order to accomplish that purpose:

- (1) To investigate all applications from communities unserved, or inadequately served, with electrical energy in North Carolina, and to determine the feasibility of obtaining such service therefor.
- (2) To employ such personnel as shall be necessary to conduct surveys, assist the several communities to organize and finance extensions of rural distribution lines; to negotiate with power companies and other agencies for the supply of electric energy for and on behalf of the rural communities that desire service.
- (3) To contact the power companies and other agencies contiguous to the area and areas desiring service, for the purpose of arranging for the extension by said companies, or other agencies, of service in that community for such extension as may be feasible for the power company, or other agency, contiguous to the area to finance itself.
- (4) To make estimates of costs of extension which the power company would not be willing to finance and report such findings to the citizens of the community desiring service or to the corporations organized under this Chapter, to be known as "electric membership corporations."
- (5) To estimate the service charges which said community would have to set up in addition to the rates for energy as may be found necessary in order to make extension self-liquidating.
- (6) To have authority to call upon the Utilities Commission of the State to fix such rates and service charges as will be necessary to accomplish the purpose, and the right to petition the Utilities Commission to require extension of lines by the power companies when, in its opinion, it is proper and feasible.
- (7) To have the power of eminent domain for the purpose of condemning rights-of-way for the erection of transmission and distribution lines, either in its own name, or in its own name on behalf of the electric membership corporations to be formed as provided by law. For the purposes of exercising the powers of eminent domain the North Carolina Rural Electrification Authority shall be

deemed a private condemnor and shall follow the procedures of Chapter 40A for a private condemnor.

- (8) To have such right and authority to secure for said local communities or electric membership corporations as may be set up assistance from any agency of the United States government, either by gift or loan, as may be possible to aid said local community in securing electric energy for said community.
- (9) To investigate all applications from communities for the formation of electric membership corporations and determine and pass upon the question of granting the authority to form such corporations; to provide forms for making such applications; and to do all things necessary to a proper determination of the question of establishment of the local electric membership corporations.
- (10) To act as agent for any electric membership corporations formed under direction or permission of the North Carolina Rural Electrification Authority in securing loans or grants from any agency of the United States government.
- (11) To prescribe rules and regulations and the necessary blanks for the electric membership corporations in making applications for grant or loan from any agency of the United States government.
- (11a) To receive and investigate complaints from members of electric membership corporations.
- (12) To do all other acts and things which may be necessary to aid the rural communities in North Carolina to secure electric energy. (1935, c. 288, s. 2; 1981, c. 919, s. 12; 2013-187, s. 3.)

#### **§ 117-2.1. Additional powers.**

In addition to the powers provided in G.S. 117-2, the Authority is empowered, authorized and directed to make, promulgate and implement plans and programs whereby the electric membership corporations organized or domesticated under this Chapter shall promote and foster methods of conserving electric energy in accordance with provisions of the National Energy Act as delegated to the states. (1979, c. 285, s. 1.)

#### **§ 117-3. Authority not granted power to fix rates or order line extensions; right of suggestion and petition.**

The Authority itself shall not be a rate-making body, and shall have no power to fix the rates or service charges, or to order the extension of lines by the power companies. The function of making rates and service charges and orders for the extension of lines shall remain in the Utilities Commission of North Carolina, and the Authority shall only have the right of suggestion and petition to the Utilities Commission of its opinion as to the proper rates and service charges and line extensions, and no rate recommended or suggested by the Authority shall be effective until approved by the Utilities Commission: Provided, that if the Utilities Commission of North Carolina does not have the right under the existing law to fix service charges in addition to the rates prescribed for electrical energy, and the power to order line extensions, such power and authority is hereby granted the Utilities Commission of North Carolina to fix and promulgate service charges in addition to rates in any community which avails itself of this Article, and form a corporation authorized hereunder to be known as electric membership corporation, and to order line extensions when it shall determine that the same is proper and feasible. (1935, c. 288, s. 3.)

**§ 117-3.1. Regulatory fee.**

(a) Fee imposed. – It is the policy of the State of North Carolina to provide fair regulation of electric and telephone membership corporations in the interest of the public. The cost of regulating electric and telephone membership corporations is a burden incident to the privilege of operating as an electric or telephone membership corporation. Therefore, for the purpose of defraying the cost of regulating electric and telephone membership corporations, every electric and telephone membership corporation subject to the jurisdiction of the Authority shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Authority in regulating electric and telephone membership corporations in the interest of the public.

(b) Rate. – For each fiscal year, the regulatory fee shall be the greater of the following:

- (1) The rate established by the General Assembly for that year for each electric membership corporation's North Carolina meter connected for service and each telephone membership corporation's North Carolina access line connected for service for each quarter of the year.
- (2) Four cents (4¢) for each electric membership corporation's North Carolina meter connected for service and for each telephone membership corporation's North Carolina access line connected for service for each quarter of the year.

When the Authority prepares its budget request for the upcoming fiscal year, the Authority shall propose a rate for the regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. If the General Assembly decides to set the regulatory fee at a rate higher than the rate in subdivision (2) of this subsection, it shall set the regulatory fee by law.

The regulatory fee may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Authority for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Authority for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Authority or a possible unanticipated increase or decrease in North Carolina electric meters and North Carolina telephone access lines.

(c) When Due. – The regulatory fee imposed under this section is due and payable to the Authority on or before the 15th day of the second month following the end of each quarter. Every electric and telephone membership corporation subject to the regulatory fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Authority. The report shall state the electric or telephone membership corporation's total North Carolina electric meters or North Carolina telephone access lines connected for service for the preceding quarter and shall be accompanied by any supporting documentation that the Authority may by rule require.

(d) Use of Proceeds. – A special fund in the office of the State Treasurer, the North Carolina Rural Electrification Authority Fund (NCREA Fund), is created. The fees collected pursuant to this section and all other funds received by the Authority shall be deposited in the NCREA Fund. The NCREA Fund shall be placed in an interest bearing account and any interest or other income derived from the NCREA Fund shall be credited to the NCREA Fund. Moneys in the NCREA Fund shall only be spent pursuant to an appropriation by the General Assembly.

The NCREA Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of the NCREA Fund shall revert to the General Fund. All funds credited to the NCREA Fund shall be used only to pay the expenses of the Authority in regulating electric and telephone membership corporations in the interest of the public as provided by this Chapter.(1991, c. 473, s. 1; 1991 (Reg. Sess., 1992), c. 803, s. 1; 2006-203, s. 58.)

**§ 117-4. Organization meeting of Authority; chairman and secretary.**

Promptly after their appointment the Authority shall meet and organize at such meeting, and at the first meeting of each year thereafter, the members shall choose from their number a chairman. They shall also choose a secretary, who shall be a competent engineer and shall fix his salary subject to the approval as provided in G.S. 143-35 to 143-47. (1935, c. 288, s. 4.)

**§ 117-5. Compensation and expenses.**

All members of the Authority, except the secretary, shall receive as compensation for their services per diem and actual expenses incurred while in the performance of their duties in accordance with the provisions of G.S. 138-5. (1935, c. 288, s. 5; 1939, c. 97; 1975, c. 709, s. 8.)