

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 476*
Committee Substitute Favorable 4/26/99

Short Title: EMC Subsidiaries.

(Public)

Sponsors:

Referred to:

March 23, 1999

A BILL TO BE ENTITLED
AN ACT CONCERNING THE GRANT OF POWERS TO ELECTRIC MEMBERSHIP
CORPORATIONS REGARDING SUBSIDIARY ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 117-18 is amended by adding a new subdivision to read:

"(14) As to electric membership corporations, to 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:

- a. 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.

- 1 **b.** They are subject to all taxes, specifically including federal
2 and state income taxes, levied against business entities of
3 the same structure and engaged in the same activities.
- 4 **c.** They do not use any personnel, equipment, or property of
5 the electric membership corporation in the operation of
6 the other business entity.
- 7 **d.** They are organized and operated pursuant to Chapter 55
8 or Chapter 57C of the General Statutes.
- 9 **e.** They do not encumber or expose to liability, in the
10 aggregate, in excess of fifteen percent (15%) of the assets
11 of the electric membership corporation.

12 An electric membership corporation may not form or organize a
13 separate business entity to engage in activities involving the
14 distribution, storage, or sale of oil, as defined in G.S. 143-
15 215.77(8), specifically including liquefied petroleum gases, but
16 may acquire, hold, dispose of, and operate any interest in an
17 existing business entity already engaged in these activities,
18 subject to the other provisions of this subdivision."

19 Section 2. G.S. 117-30(a) reads as rewritten:

20 "(a) In the event it is ascertained by the Rural Electrification Authority that the
21 community or communities referred to in the foregoing section [G.S. 117-29] are in need
22 of telephone service and that there is a sufficient number of persons to be served to justify
23 such services, and the telephone company serving in the area in which the community or
24 communities are located is unwilling to provide such service, a telephone membership
25 corporation may be organized by such community or communities in the same manner
26 that electric membership corporations may be formed under Article 2 of this Chapter, and
27 all of the provisions of said Article shall be applicable to the formation of telephone
28 membership corporations and such corporations shall have all the authority, powers and
29 duties of such a corporation when formed under the provisions of said Article; except that
30 the provisions of G.S. 117-8, 117-9, 117-10.1, 117-10.2, 117-16.1, 117-18(14), 117-19
31 and 117-24 shall not be applicable to the organization of a telephone membership
32 corporation, and except that such corporations so formed for the express purpose of
33 providing telephone service necessary to serve the community or communities prescribed
34 in the application may also provide the community or communities prescribed in the
35 application with any communication service for the transmission of voice, sounds,
36 signals, pictures, writing or signs of all kinds through the use of electricity or the
37 electromagnetic spectrum between the transmitting and receiving apparatus, together with
38 any telecommunications service requiring band-width capacity, including, but not limited
39 to community antenna and cable television services, and including all lines, wires, cables,
40 radio, light, electromagnetic impulse and all facilities, systems or other means used in the
41 rendition of such services, but not including message telegram service or radio
42 broadcasting services or facilities within the meaning of section 3(o) of the Federal
43 Communications Act of 1934, as amended (47 USC § 153(o)) and except that such

1 corporation so formed shall have no authority to engage in any other business. Provided,
2 that the references in Article 2 of this Chapter to "power lines" or "energy" as to such
3 telephone membership corporations shall be construed to mean telephone lines,
4 broadband cables and lines, telephone service and broadband communications services.
5 Provided further, that nothing herein shall be construed to authorize any telephone
6 membership corporation organized hereunder to duplicate any line or lines, systems or
7 other means by which adequate telephone service is being furnished; or to build or to
8 construct a telephone line, or telephone lines, or telephone systems, or otherwise to
9 provide facilities or means of furnishing telephone service to any person, community,
10 town or city then being adequately served by a telephone company, corporation or
11 system; or to provide telephone service in an unserved area while any telephone
12 company, corporation or system is acting in good faith and with reasonable diligence in
13 arranging to provide adequate telephone service to such person, community, town or
14 city."

15 Section 3. This act is effective when it becomes law.