

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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HOUSE BILL 1127

Short Title: Customer Choice in Electricity.

(Public)

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Sponsors: Representatives Miner; Braswell, Hardy, Reynolds, Starnes, and Wilkins.

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Referred to: Rules, Calendar and Operations of the House.

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April 21, 1997

**A BILL TO BE ENTITLED**

1  
2 AN ACT TO ENACT THE CUSTOMER CHOICE IN ELECTRICITY ACT, WHICH  
3 REQUIRES THE UTILITIES COMMISSION TO INITIATE A PROCEEDING TO  
4 RESTRUCTURE THE ELECTRIC UTILITY INDUSTRY, REQUIRES CERTAIN  
5 ELECTRIC UTILITIES TO FILE WITH THE UTILITIES COMMISSION  
6 RESTRUCTURING PLANS PROVIDING FOR CUSTOMER CHOICE,  
7 PROVIDES THAT ALL RETAIL CUSTOMERS SHALL BE PERMITTED TO  
8 CHOOSE THEIR ELECTRICITY SUPPLIERS BY A DATE CERTAIN,  
9 REQUIRES CERTAIN ELECTRIC UTILITIES TO SEPARATE GENERATION  
10 ASSETS AND OPERATIONS FROM TRANSMISSION AND DISTRIBUTION  
11 ASSETS AND OPERATIONS, REQUIRES CERTAIN ELECTRIC UTILITIES TO  
12 PROVIDE OPEN ACCESS TO THEIR TRANSMISSION AND DISTRIBUTION  
13 FACILITIES, REQUIRES THE UTILITIES COMMISSION TO ENSURE THAT  
14 RELIABLE AND SAFE ELECTRIC SERVICE IS MAINTAINED OR IMPROVED,  
15 PROVIDES FOR A SYSTEM BENEFITS CHARGE TO FUND RENEWABLE  
16 ENERGY RESOURCES, ENERGY EFFICIENCY, AND LOW-INCOME ENERGY  
17 ASSISTANCE, ALLOWS ELECTRIC UTILITIES TO RECOVER A PORTION OF  
18 THEIR STRANDED COSTS, AMENDS THE GENERAL STATUTES TO  
19 REMOVE PERSONS GENERATING ELECTRICITY FROM THE DEFINITION  
20 OF PUBLIC UTILITIES, AND PROVIDES FOR OTHER RELATED MATTERS.

1 The General Assembly of North Carolina enacts:

2 Section 1. The General Statutes are amended by adding a new Chapter to read:

3 **"Chapter 62B.**

4 **"Customer Choice in Electricity Act.**

5 **"§ 62B-1. Short title.**

6 This Chapter may be cited as the 'Customer Choice in Electricity Act of 1997.'

7 **"§ 62B-2. Declaration of policy.**

8 It is the intent of the General Assembly to allow competition in electric generation  
9 services in accordance with the following principles:

10 (1) Customer choice. – Retail electric customers should be able to choose  
11 among and have access to competing, qualified electricity suppliers and  
12 should be fully informed of their rights to customer choice.  
13 Competition should be implemented in a fair and equitable manner.

14 (2) Unbundling of services. – Generation services should be operationally  
15 and financially separated from transmission and distribution services.  
16 Generation services should become fully competitive, while  
17 transmission and distribution services should provide open access,  
18 comparability of service for all users, and nondiscriminatory pricing.  
19 Companies that own transmission or distribution capacity as well as  
20 generation capacity should not be allowed to use any monopolistic  
21 position in those services as a barrier to competition in generation.

22 (3) Open access. – Electricity suppliers and customers should have open  
23 access to the transmission and distribution system to ensure a fully  
24 competitive market.

25 (4) Reliability and safety. – Reliable and safe electric service should be  
26 maintained or improved.

27 (5) System benefits. – A nonbypassable surcharge should be levied by the  
28 Commission on retail electric customers for a limited period of time to  
29 ensure that renewable energy resources, energy efficiency, and low-  
30 income energy assistance are not disadvantaged in the transition to a  
31 competitive market.

32 (6) Stranded costs. – Incumbent electric utilities, including electric  
33 membership corporations and municipalities that elect to participate in a  
34 competitive market, should be allowed to recover up to 50 percent  
35 (50%) of their prudently incurred, verifiable, net stranded costs after  
36 fully mitigating those costs as required by the Commission. The  
37 mechanism for stranded cost recovery should be a nonbypassable charge  
38 levied on every customer for a period of five years that does not impede  
39 competition, disadvantage one class of customer or supplier over  
40 another, or cause the total price paid by the customer for comparable  
41 electric service to increase during the recovery period. The Commission  
42 shall determine the amount of stranded costs that qualifies for recovery  
43 in accordance with the provisions of this Chapter. Electric membership

1            corporations and municipalities that elect to sell their electricity-related  
2            assets and cease providing electric services should be allowed to recover  
3            one hundred percent (100%) of their stranded costs, as determined by  
4            the Commission, over a period not to exceed 10 years.

5    **"§ 62B-3. Definitions.**

6            As used in this Chapter, unless the context otherwise requires, the term:

7            (1) 'Affiliate' means a person who directly or indirectly through one or more  
8            intermediaries controls, is controlled by, or is under common control  
9            with, a specified person.

10          (2) 'Aggregator' means an entity, licensed by the Commission, that acts as  
11          an agent or intermediary in the sale and purchase of electric energy and  
12          aggregates multiple customers and electric supplies.

13          (3) 'Broker or marketer' means an entity, licensed by the Commission, that  
14          acts as an agent or intermediary in the sale and purchase of electric  
15          energy.

16          (4) 'Commission' means the North Carolina Utilities Commission.

17          (5) 'Customer' means a retail electric customer.

18          (6) 'Electric distribution company' means a public utility, or an electric  
19          membership corporation or municipality that elects to participate in a  
20          competitive market for electric generation services pursuant to G.S.  
21          62B-6, which provides facilities for the regulated transmission or  
22          distribution of electricity to customers, except building or facility  
23          owners or operators that manage the internal distribution system serving  
24          the building or facility and that supply electric power and other related  
25          electric power services to occupants of the building or facility.

26          (7) 'Electricity supplier' means a person or corporation, including a  
27          municipal or electric membership corporation, broker or marketer,  
28          aggregator, or any other entity, that sells electricity or related services to  
29          customers utilizing the regulated transmission or distribution facilities  
30          of an electric distribution company or that purchases, brokers, arranges,  
31          or markets electricity or related services for sale to end-use customers  
32          utilizing the regulated transmission and distribution facilities of an  
33          electric distribution company. The term does not include a building or  
34          facility owner or operator that manages the internal distribution system  
35          servicing the building or facility that supplies electric power and other  
36          related power services to occupants of the building or facility.

37          (8) 'Energy efficiency' means projects, programs, and services that are  
38          designed to optimize or reduce the use of electricity.

39          (9) 'Incumbent electric utility' means a public utility, or an electric  
40          membership corporation or municipality that elects to participate in a  
41          competitive market for electric generation services pursuant to G.S.  
42          62B-6, which was distributing electricity to the public for compensation  
43          on July 1, 1997.

- 1           (10) 'Low-income energy assistance' means policies, protections, and  
2           services that help low-income customers maintain electric service. The  
3           term includes customer assistance programs, termination of service  
4           protection and policies, and services that help low-income customers  
5           reduce or manage energy consumption in a cost-effective manner.
- 6           (11) 'Open access' means the right of electricity suppliers and customers to  
7           utilize and interconnect with the electric distribution system on a  
8           nondiscriminatory basis at rates, terms, and conditions of service  
9           comparable to the electric distribution companies' own use of the  
10           system to transport electricity.
- 11           (12) 'Renewable energy resources' means and includes technologies such as  
12           solar photovoltaic energy, solar thermal energy, wind power, low-head  
13           hydroelectric power, geothermal energy, landfill and mine-based  
14           methane gas, and sustainable biomass energy.
- 15           (13) 'Retail electric customer' means a direct purchaser of electric power.  
16           The term does not include an occupant of a building or facility (i) in  
17           which the owners or operators manage the internal distribution system  
18           servicing the building or facility and supply electric power and other  
19           related power services to occupants of the building or facility; (ii) in  
20           which the owners or operators are direct purchasers of electric power  
21           and in which the occupants are not direct purchasers.
- 22           (14) 'Stranded costs' means costs, liabilities, and investments, such as  
23           uneconomic assets, that electric utilities would reasonably expect to  
24           recover if the existing regulatory structure with retail rates for the  
25           bundled provision of electric service continued but that will not be  
26           recovered in a competitive market that allows for customer choice of  
27           electricity suppliers, unless a specific mechanism for such cost recovery  
28           is provided. Stranded costs may only include costs of:
- 29           a. Existing commitments or obligations incurred prior to July 1,  
30           1997;
- 31           b. Renegotiated commitments approved by the Commission; and
- 32           c. New mandated commitments approved by the Commission.
- 33           (15) 'Stranded cost recovery charge' means a nonbypassable charge applied  
34           to every customer accessing the transmission or distribution network  
35           that is designed to recover an electric utility's stranded costs as  
36           determined by the Commission under G.S. 62B-17.
- 37           (16) 'System benefits charge' means a nonbypassable charge applied to every  
38           customer accessing the transmission or distribution network which  
39           charge is designed to support the development of renewable energy  
40           resources, energy efficiency, and low-income energy assistance.
- 41           (17) 'Transmission costs' and 'distribution costs' means all costs directly or  
42           indirectly incurred to provide transmission and distribution services to  
43           retail electric customers, including the return of and return on facilities

1 and other capital investments necessary to provide transmission and  
2 distribution services and associated operating expenses, including  
3 applicable taxes.

4 **"§ 62B-4. Commission proceeding to restructure electric industry and allow**  
5 **customer choice; time line.**

6 No later than October 1, 1997, the Commission shall initiate a proceeding to require  
7 restructuring plans from each incumbent electric utility. The Commission's order  
8 initiating the proceeding shall be consistent with the provisions of this Chapter and shall  
9 provide for restructuring and customer choice on the following schedule:

- 10 (1) Residential customers shall have customer choice no later than October  
11 1, 1998;
- 12 (2) All commercial classes of customers shall have customer choice no later  
13 than January 1, 1999; and
- 14 (3) All industrial classes of customers shall have customer choice no later  
15 than July 1, 1999.

16 **"§ 62B-5. Electric utility restructuring plans.**

17 No later than 90 days after the issuance of the Commission's order on restructuring  
18 pursuant to G.S. 62B-4, each incumbent electric utility shall file with the Commission a  
19 restructuring plan providing for customer choice for residential customers as set forth in  
20 this Chapter and establishing a protocol for the unbundling of services as required by this  
21 Chapter. Each incumbent electric utility shall file a supplemental restructuring plan  
22 concerning customer choice for commercial and industrial customers by April 1, 1998,  
23 unless its initial restructuring plan addressed customer choice for commercial and  
24 industrial customers. The plan shall include:

- 25 (1) A schedule for the introduction of customer choice for customers  
26 currently served by the incumbent electric utility; and
- 27 (2) The manner in which the incumbent electric utility will otherwise  
28 comply with each provision of this Chapter.

29 **"§ 62B-6. Electric membership corporations and municipalities.**

30 (a) An electric membership corporation or municipality providing electric service  
31 on July 1, 1997, may elect to participate in a competitive market for electric generation  
32 services by filing a restructuring plan with the Commission pursuant to G.S. 62B-5.

33 (b) An electric membership corporation or municipality that files a restructuring  
34 plan with the Commission shall be eligible for stranded cost recovery as provided in G.S.  
35 62B-17.

36 (c) An electric membership corporation or municipality that does not file a  
37 restructuring plan with the Commission may prohibit electricity suppliers from serving  
38 customers within its service area. However, such an electric membership corporation or  
39 municipality is prohibited from supplying electricity to customers outside its service area  
40 that it did not serve before July 1, 1997.

41 **"§ 62B-7. Customer choice.**

42 (a) Except as provided in G.S. 62B-6(c) and G.S. 62B-11(c), customers may  
43 choose to receive electric generation and other related services from any registered

1 electricity supplier pursuant to the time line established under G.S. 62B-4 and by the  
2 Commission.

3 (b) The Commission shall adopt a default provider plan for customers who fail or  
4 are unable to make their own arrangements for electric generation services.

5 **"§ 62B-8. Registration of electricity suppliers.**

6 (a) All electricity suppliers shall register with the Commission. Information  
7 required by the Commission as a condition of registration shall include:

8 (1) Documentation of the applicant's technical ability to obtain and deliver  
9 electricity and provide any other proposed services;

10 (2) Documentation of the applicant's financial capability to provide the  
11 proposed services; and

12 (3) A description of the applicant's form of ownership.

13 (b) The Commission may not regulate prices for the generation of electricity or  
14 limit market entry by electricity suppliers in a manner that adversely affects competition.

15 **"§ 62B-9. Unbundling of services.**

16 (a) The Commission's order on restructuring pursuant to G.S. 62B-4 shall require  
17 all incumbent electric utilities to separate, both operationally and financially, generation  
18 assets and operations from transmission and distribution assets and operations.

19 (b) An electric distribution company or an affiliate of an electric distribution  
20 company may own electric generation assets. The electric distribution company or the  
21 affiliate may sell unbundled generation services to customers, provided that generation  
22 assets and services are operationally and financially separate from transmission and  
23 distribution assets and services, if any, and that the distribution company and the affiliate  
24 provide comparable service and nondiscriminatory pricing for all users.

25 **"§ 62B-10. Billing; disclosure.**

26 (a) Except as provided in subsection (b) of this section, each electric distribution  
27 company shall be responsible for billing its customers for all electric services, consistent  
28 with the rules of the Commission, regardless of the identity of the provider of those  
29 services.

30 (b) A customer may elect to designate its electricity supplier as the billing party  
31 for all its electric services. A customer may elect to receive a separate bill from its  
32 electricity supplier or suppliers for services provided to the customer by the electricity  
33 supplier or suppliers.

34 (c) If services are provided by an entity other than the billing party, the entity that  
35 provides those services shall furnish to the billing party billing data so that the billing  
36 party may bill customers in a single, monthly bill with separate components for all  
37 services, including generation, transmission, distribution, ancillary services, system  
38 benefits charges, and stranded cost-recovery charges.

39 (d) The Commission shall adopt rules governing the handling of receipts by billing  
40 parties and the financial relationship between billing parties and other providers of  
41 electric services.

42 (e) Customer bills shall contain unbundled charges sufficient to enable the  
43 customer to determine the basis for those charges. Charges for meters, meter reading,

1 and customer billing shall be separately itemized from charges for construction,  
2 operation, and maintenance of the distribution system.

3 (f) The Commission shall adopt rules to require each electric distribution  
4 company, electricity supplier, marketer, aggregator, and broker to provide accurate  
5 information in sufficient detail to enable customers to make informed choices regarding  
6 the purchase of all electricity services offered by that provider. Information shall be  
7 provided to customers in an understandable format that enables customers to compare  
8 prices and services on a uniform basis.

9 (g) Each registered electricity supplier shall disclose to customers information  
10 concerning the resource mix and key environmental characteristics of the electricity it  
11 supplies, based upon current information. This information shall be included in marketing  
12 materials provided to prospective customers and shall periodically be provided to the  
13 electricity suppliers' existing customers. The Commission shall adopt rules establishing  
14 the scope and frequency of these disclosures and shall develop a standard, simple, and  
15 understandable reporting format for disclosure to customers. Disclosures shall include, at  
16 a minimum:

17 (1) The percentage of each type of fuel used to generate electricity sold to  
18 customers;

19 (2) Water use and wastewater discharges associated with electricity  
20 generation; and

21 (3) Air emissions resulting from generation, including criteria pollutants  
22 (nitrogen oxides, sulfur dioxide, carbon monoxide, particulates, lead,  
23 and volatile organic compounds), hazardous air pollutants, and carbon  
24 dioxide.

25 (h) Each electric distribution company shall provide customer service functions  
26 consistent with the regulations of the Commission, including meter reading, complaint  
27 resolution, and other services to the extent that the electric distribution company  
28 continues to provide the services to its customers as part of its unbundled distribution  
29 services. Each electric distribution company shall maintain customer service functions at  
30 a level of quality equal to or greater than that provided prior to the implementation of  
31 customer choice.

32 (i) The Commission shall adopt rules to ensure that an electric distribution  
33 company may not change a customer's electricity supplier without evidence of the  
34 customer's consent to a change of supplier.

35 **"§ 62B-11. Open access; reciprocity; distributed generation.**

36 (a) Each electric distribution company shall provide its customers and all  
37 electricity suppliers access to its regulated transmission and distribution facilities and  
38 ancillary services, including maintenance, installation, repair, and meter reading, on a  
39 nondiscriminatory and comparable basis. The Commission shall promote  
40 nondiscriminatory open access to the electric system for wholesale and retail transactions.

41 (b) Electric distribution companies shall file with the Federal Energy Regulatory  
42 Commission or with the Commission, as appropriate, comparable service tariffs that  
43 provide open access for all electricity suppliers. The Commission shall ensure that no

1 electric distribution company obtains an unfair advantage in offering access to or pricing  
2 its services.

3 (c) The Commission shall adopt rules and, consistent with federal law, standards  
4 and conditions for the exchange of reciprocal rights for transmission and distribution  
5 access between electric distribution companies located within this State and those located  
6 outside the State. An electric distribution company located outside North Carolina, or the  
7 affiliate of such a company, may not act as an electricity supplier to a customer within the  
8 State unless the electric distribution company serving that customer has the reciprocal  
9 right, whether exercised or not, by statute, regulation, or voluntary tariff of the out-of-  
10 state electric distribution company to serve a customer of that company.

11 (d) The Commission shall develop a plan by October 1, 1997, to provide for the  
12 expedited review and resolution of disputes related to violations of the open access  
13 provisions of this section and the rules adopted pursuant to this section.

14 (e) The Commission shall adopt rules to ensure that distributed generation sources  
15 have access to the transmission and distribution system on nondiscriminatory terms and  
16 conditions.

17 **"§ 62B-12. Eminent domain.**

18 The right of eminent domain may not be used to:

- 19 (1) Deny physical access or interconnection to transmission or distribution  
20 facilities;
- 21 (2) Restrict the construction of new transmission or distribution facilities by  
22 any qualified party; or
- 23 (3) Otherwise limit competition.

24 **"§ 62B-13. Transmission and distribution pricing.**

25 (a) To the extent that the Commission has jurisdiction over transmission and  
26 distribution pricing, the Commission shall encourage pricing mechanisms to enhance  
27 reliability, compensate transmission and distribution owners fairly, and avoid  
28 transmission and distribution congestion.

29 (b) The Commission shall establish reasonable rates for unbundled distribution  
30 services. Rates shall be based upon fair and equitable cost-of-service principles to  
31 promote efficient, safe, and reliable services at the lowest possible cost. Distribution  
32 charges shall be structured as a monthly fee based on demand and shall be charged in a  
33 nondiscriminatory manner. The monthly charge shall be set based upon a  
34 nondiscriminatory allocation of costs across customer classes, but may differ across  
35 customer classes based on the cost of providing service to the class of customer.

36 (c) Each incumbent electric utility that is subject to the jurisdiction of the  
37 Commission shall file unbundled service tariffs to provide distribution services to all  
38 eligible customers on a nondiscriminatory basis.

39 **"§ 62B-14. Fair dealing; market power; obligation to connect.**

40 (a) Except as provided in G.S. 62B-6(c) and G.S. 62B-11(c), all electricity  
41 suppliers shall be allowed to compete equally to supply electric generation services to  
42 North Carolina customers.



1 (b) Competition among electricity suppliers shall be fair, nondiscriminatory, and  
2 consistent. All electricity suppliers shall be subject to the same legal, regulatory, and tax  
3 treatment. Except as authorized by G.S. 62B-16 or other provisions of State or federal  
4 law, the Commission shall eliminate subsidies and disparate regulation, or legal  
5 requirements that favor certain electricity suppliers or disadvantage others.

6 (c) The Commission shall adopt rules to prevent the concentration of undue  
7 market power, self-dealing, and other anticompetitive practices.

8 (d) Each electric distribution company shall have the obligation to connect all  
9 customers within its service territory and to provide transmission, distribution, and  
10 ancillary services on nondiscriminatory terms and conditions.

11 **"§ 62B-15. Reliability and safety.**

12 (a) The Commission shall adopt rules to establish minimum consumer service  
13 safeguards and otherwise to ensure that reliable and safe electric service is maintained or  
14 improved.

15 (b) The Commission shall adopt rules to ensure that electric distribution  
16 companies have in place sufficient measures to preserve the integrity, safety, reliability,  
17 and quality of electric service in North Carolina.

18 **"§ 62B-16. System benefits.**

19 (a) There is established in the Office of State Treasurer the Electric System  
20 Benefits Fund to fund renewable energy resources, energy efficiency, and low-income  
21 energy assistance as authorized in this section. The Fund shall consist of revenues  
22 generated by the systems benefits charge established under subsection (c) of this section  
23 and any other revenues appropriated to the Fund by the General Assembly.

24 (b) The State Treasurer shall hold the Fund separate and apart from all other  
25 monies, funds, and accounts. Investment earnings credited to the assets of the Fund shall  
26 become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year  
27 shall be carried forward in the Fund for the next succeeding fiscal year. The Fund shall  
28 be administered by the Energy Division of the Department of Commerce in accordance  
29 with rules adopted by the Commission.

30 (c) The Commission shall provide for a system benefits charge to be charged by  
31 billing parties to all electric customers. The Commission shall set the system benefits  
32 charge at a rate that does not exceed twenty-five one thousandths of one cent (\$.00025)  
33 per kilowatt-hour. The system benefits charge shall be assessed for a period not to  
34 exceed five years.

35 (d) The Commission shall adopt rules establishing the manner in which the system  
36 benefits charge is assessed, the administration of the Electric System Benefits Fund  
37 established in subsection (a) of this section, the manner in which that Fund is used to  
38 support renewable energy resources, energy efficiency, and low-income energy  
39 assistance, and other related matters the Commission deems appropriate and necessary.

40 (e) The purpose and amount of the system benefits charge shall be clearly  
41 delineated in electric bills so that the customer can readily determine that portion of the  
42 customer's monthly payment that is being used for the purposes of this section. Each  
43 entity responsible for billing and collecting the system benefits charge shall remit the

1 sums collected through the charge to the State Treasurer for deposit in the Electric  
2 System Benefits Fund.

3 **"§ 62B-17. Stranded costs.**

4 (a) Each incumbent electric utility is entitled to recover up to fifty percent (50%)  
5 of its prudently incurred, verifiable, net stranded costs.

6 (b) An electric membership corporation or a municipality providing electricity  
7 services on July 1, 1997, may elect to sell all its electricity-related assets at a bona fide  
8 market price, cease providing electricity services and recover one hundred percent  
9 (100%) of its prudently incurred, verifiable, net stranded costs. The Commission shall  
10 determine whether these stranded costs should be recovered only from customers within  
11 the service territory of the electric membership corporation or municipality or from  
12 customers in a broader service territory, up to and including statewide. If those costs are  
13 recovered from customers outside the service territory of the electric membership  
14 corporation or municipality, a separate stranded cost recovery charge for those stranded  
15 costs shall be itemized in the bills to those customers.

16 (c) In calculating the stranded costs of an electric membership corporation that is a  
17 member of the North Carolina Electric Membership Corporation, the Commission shall  
18 include the corporation's pro rata share of the assets and liabilities of the North Carolina  
19 Electric Membership Corporation. In calculating the stranded costs of a municipality that  
20 is a member of a municipal power agency, the Commission shall include the  
21 municipality's pro rata share of the assets and liabilities of the municipal power agency.

22 (d) Each electric utility may file a stranded cost recovery plan within 90 days after  
23 issuance of the Commission's order on restructuring. The recovery plan shall:

24 (1) Document anticipated stranded costs, mitigation proposals, and  
25 offsetting value of other assets;

26 (2) Provide for recovery of stranded costs over a period of five years or 10  
27 years in the case of an electric membership corporation or municipality  
28 making an election under subsection (b) of this section; and

29 (3) Propose a stranded cost recovery charge, which shall be a monthly  
30 charge, allocated to all customers pursuant to the most recent rate design  
31 approved by the Commission, provided that the recovery period and the  
32 amount of stranded costs to be recovered shall yield a stranded cost  
33 recovery charge that shall not, during the recovery period, cause the  
34 total price per kilowatt-hour charged to any customer by the incumbent  
35 electric utility for comparable electric services, including transmission  
36 and distribution services, to exceed the price charged on July 1, 1997.

37 (e) Stranded costs shall be determined on a net basis, and shall be verifiable.  
38 Stranded costs for incumbent electric utilities shall not include transmission and  
39 distribution assets, and shall be reconciled annually to actual electricity market conditions  
40 subject to the limitations of subsection (i) of this section. Except as otherwise provided in  
41 this subsection, any utility asset whose market value exceeds the book value, including  
42 any assets, domestic or foreign, obtained or controlled by an electric utility by purchase,

1 acquisition, merger, or other means within five years before July 1, 1997, shall be used  
2 to reduce stranded costs.

3 (f) In order to recover stranded costs, electric utilities shall take all reasonable  
4 measures to prudently, thoroughly, and aggressively mitigate those costs, including:

5 (1) Reduction of expenses;

6 (2) Renegotiation of existing contracts;

7 (3) Refinancing of existing debt; and

8 (4) Sale, write-off, or write-down of uneconomic or surplus assets,  
9 including regulatory assets not directly related to the provision of  
10 electricity service.

11 (g) Prior to the introduction of customer choice, the Commission shall approve and  
12 publish a stranded cost recovery plan for each electric utility submitting a plan. In  
13 approving stranded cost recovery plans and establishing stranded cost recovery charges,  
14 the Commission shall balance the interests of customers and utility investors. Nothing in  
15 this section is intended to provide any greater stranded cost recovery than is available  
16 under applicable regulation or provision of law on July 1, 1997.

17 (h) Any recovery of stranded costs shall be through a nonbypassable,  
18 nondiscriminatory wires charge that is limited in duration and consistent with the  
19 promotion of fully competitive markets. Except as provided for in subsection (b) of this  
20 section, stranded cost recovery charges shall only apply to customers within an electric  
21 utility's retail service territory. Stranded cost recovery charges shall not apply to  
22 wheeling-through transactions nor to any competitive alternative which existed before  
23 July 1, 1997, including self-generation and the sale of nonfirm electricity. Stranded cost  
24 recovery charges shall be based on load and customer class as determined by the  
25 Commission. The stranded cost recovery charge must be assessed as a separate line item  
26 on a customer's bill with the designation, 'stranded cost recovery charge'.

27 (i) The Commission shall not approve stranded cost recovery charges or plans  
28 that:

29 (1) Include mechanisms that impede competition, such as entry and exit  
30 fees; or

31 (2) Penalize customers for changes in usage occurring in the normal course  
32 of business, including those resulting from changes in business cycles,  
33 termination of operations, weather conditions, reduced production,  
34 changes in manufacturing processes, installation or expansion of new  
35 self-generation, or co-generation equipment, performance of existing  
36 self-generation, or co-generation equipment, energy conservation  
37 efforts, or other similar factors.

38 (j) The burden of proof for any stranded cost recovery claim must be borne by the  
39 electric utility making the claim.

40 (k) This Chapter provides the exclusive mechanism for stranded cost recovery by  
41 electric utilities. Any stranded costs not recovered under this Chapter and the recovery  
42 plan, as modified and approved by the Commission, shall not be recoverable by the  
43 electric utility. Approval of a recovery plan and collection of any stranded costs shall

1 constitute a settlement of all the claims by an electric utility for recovery of stranded  
2 costs. An electric utility that seeks to establish claims for recovery of stranded costs  
3 through any other means is not eligible for recovery pursuant to a recovery plan or the  
4 collection of a stranded cost recovery charge.

5 **"§ 62B-18. Remedies.**

6 No electric distribution company shall be liable for damages to a current or future  
7 customer if the customer's chosen electricity supplier or provider of unbundled services  
8 fails to deliver the service in accordance with the terms of its bilateral contract with the  
9 customer. This provision shall not relieve an electric distribution company of liability  
10 arising from its own actions or failure to act.

11 **"§ 62B-19. Jurisdiction.**

12 Any existing jurisdictional uncertainties or disputes regarding electric distribution  
13 companies or electricity suppliers shall not delay the implementation of this Chapter."

14 Section 2. G.S. 62-2 reads as rewritten:

15 **"§ 62-2. Declaration of policy.**

16 Upon investigation, it has been determined that the rates, services and operations of  
17 public utilities as defined herein, are affected with the public interest and that the  
18 availability of an adequate and reliable supply of electric power and natural gas to the  
19 people, economy and government of North Carolina is a matter of public policy. It is  
20 hereby declared to be the policy of the State of North Carolina:

- 21 (1) To provide fair regulation of public utilities in the interest of the public;  
22 (2) To promote the inherent advantage of regulated public utilities;  
23 (3) To promote adequate, reliable and economical utility service to all of  
24 the citizens and residents of the State;  
25 ~~(3a) To assure that resources necessary to meet future growth through the~~  
26 ~~provision of adequate, reliable utility service include use of the entire~~  
27 ~~spectrum of demand side options, including but not limited to~~  
28 ~~conservation, load management and efficiency programs, as additional~~  
29 ~~sources of energy supply and/or energy demand reductions. To that end,~~  
30 ~~to require energy planning and fixing of rates in a manner to result in~~  
31 ~~the least cost mix of generation and demand reduction measures which~~  
32 ~~is achievable, including consideration of appropriate rewards to utilities~~  
33 ~~for efficiency and conservation which decrease utility bills;~~  
34 (4) To provide just and reasonable rates and charges for public utility  
35 services without unjust discrimination, undue preferences or advantages,  
36 or unfair or destructive competitive practices and consistent with long-  
37 term management and conservation of energy resources by avoiding  
38 wasteful, uneconomic and inefficient uses of energy;  
39 (4a) To assure that facilities necessary to meet future growth can be financed  
40 by the utilities operating in this State on terms which are reasonable and  
41 fair to both the customers and existing investors of such utilities; and to  
42 that end to authorize fixing of rates in such a manner as to result in  
43 lower costs of new facilities and lower rates over the operating lives of

- 1 such new facilities by making provisions in the rate-making process for  
2 the investment of public utilities in plants under construction;
- 3 (5) To encourage and promote harmony between public utilities, their users  
4 and the environment;
- 5 (6) To foster the continued service of public utilities on a well-planned and  
6 coordinated basis that is consistent with the level of energy needed for  
7 the protection of public health and safety and for the promotion of the  
8 general welfare as expressed in the State energy policy;
- 9 ~~(7) To seek to adjust the rate of growth of regulated energy supply facilities~~  
10 ~~servicing the State to the policy requirements of statewide development;~~
- 11 (8) To cooperate with other states and with the federal government in  
12 promoting and coordinating interstate and intrastate public utility  
13 service and reliability of public utility energy supply; and
- 14 (9) To facilitate the construction of facilities in and the extension of natural  
15 gas service to unserved areas in order to promote the public welfare  
16 throughout the State and to that end to authorize the creation of an  
17 expansion fund for each natural gas local distribution company to be  
18 administered under the supervision of the North Carolina Utilities  
19 Commission.

20 To these ends, therefore, authority shall be vested in the North Carolina Utilities  
21 Commission to regulate public utilities generally, their rates, services and operations, and  
22 their expansion in relation to long-term energy conservation and management policies  
23 and statewide development requirements, and in the manner and in accordance with the  
24 policies set forth in this Chapter. Nothing in this Chapter shall be construed to imply any  
25 extension of Utilities Commission regulatory jurisdiction over any industry or enterprise  
26 that is not subject to the regulatory jurisdiction of said Commission.

27 Because of technological changes in the equipment and facilities now available and  
28 needed to provide telephone and telecommunications services, changes in regulatory  
29 policies by the federal government, and changes resulting from the court-ordered  
30 divestiture of the American Telephone and Telegraph Company, competitive offerings of  
31 certain types of telephone and telecommunications services may be in the public interest.  
32 Consequently, authority shall be vested in the North Carolina Utilities Commission to  
33 allow competitive offerings of local exchange, exchange access, and long distance  
34 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with  
35 the provisions of G.S. 62-110, and the Commission is further authorized after notice to  
36 affected parties and hearing to deregulate or to exempt from regulation under any or all  
37 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.  
38 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or  
39 exemption from regulation is in the public interest; or (ii) a public utility as defined in  
40 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that  
41 the service or business of such public utility is competitive and that such deregulation or  
42 exemption from regulation is in the public interest.

1 The policy and authority stated in this section shall be applicable to common carriers  
2 of passengers by motor vehicle and their regulation by the North Carolina Utilities  
3 Commission only to the extent that they are consistent with the provisions of the Bus  
4 Regulatory Reform Act of 1985.

5 The North Carolina Utilities Commission may develop regulatory policies to govern  
6 the provision of telecommunications services to the public which promote efficiency,  
7 technological innovation, economic growth, and permit telecommunications utilities a  
8 reasonable opportunity to compete in an emerging competitive environment, giving due  
9 regard to consumers, stockholders, and maintenance of reasonably affordable local  
10 exchange service and long distance service."

11 Section 3. G.S. 62-3 reads as rewritten:

12 **"§ 62-3. Definitions.**

13 As used in this Chapter, unless the context otherwise requires, the term:

- 14 (1) 'Broker,' with regard to motor carriers of passengers, means any person  
15 not included in the term 'motor carrier' and not a bona fide employee or  
16 agent of any such carrier, who or which as principal or agent engages in  
17 the business of selling or offering for sale any transportation of  
18 passengers by motor carrier, or negotiates for or holds himself, or itself,  
19 out by solicitation, advertisements, or otherwise, as one who sells,  
20 provides, furnishes, contracts, or arranges for such transportation for  
21 compensation, either directly or indirectly.
- 22 (1a) 'Bus company' means any common carrier by motor vehicle which holds  
23 itself out to the general public to engage in the transportation by motor  
24 vehicle in intrastate commerce of passengers over fixed routes or in  
25 charter operations, or both, except as exempted in G.S. 62-260.
- 26 (2) 'Certificate' means a certificate of public convenience and necessity  
27 issued by the Commission to a public utility or a certificate of authority  
28 issued by the Commission to a bus company.
- 29 (3) 'Certified mail' means such mail only when a return receipt is requested.
- 30 (4) 'Charter operations' with regard to bus companies means the  
31 transportation of a group of persons for sightseeing purposes, pleasure  
32 tours, and other types of special operations, or the transportation of a  
33 group of persons who, pursuant to a common purpose and under a  
34 single contract, and for a fixed charge for the vehicle, have acquired the  
35 exclusive use of a passenger-carrying motor vehicle to travel together as  
36 a group to a specified destination or for a particular itinerary, either  
37 agreed upon in advance or modified by the chartered group after having  
38 left the place of origin.
- 39 (5) 'Commission' means the North Carolina Utilities Commission.
- 40 (6) 'Common carrier' means any person which holds itself out to the general  
41 public to engage in transportation of persons or household goods for  
42 compensation, including transportation by train, bus, truck, boat or other  
43 conveyance, except as exempted in G.S. 62-260.

- 1 (7) 'Common carrier by motor vehicle' means any person which holds itself  
2 out to the general public to engage in the transportation by motor  
3 vehicle in intrastate commerce of persons or household goods or any  
4 class or classes thereof for compensation, whether over regular or  
5 irregular routes, or in charter operations, except as exempted in G.S. 62-  
6 260.
- 7 (7a) 'Competing local provider' means any person applying for a certificate  
8 to provide local exchange or exchange access services in competition  
9 with a local exchange company.
- 10 (8), (9) Repealed by Session Laws 1995, c. 523, s. 1.
- 11 (9a) 'Fixed route' means the specific highway or highways over which a bus  
12 company is authorized to operate between fixed termini.
- 13 (10) 'Foreign commerce' means commerce between any place in the United  
14 States and any place in a foreign country, or between places in the  
15 United States through any foreign country.
- 16 (11) 'Franchise' means the grant of authority by the Commission to any  
17 person to engage in business as a public utility, whether or not exclusive  
18 or shared with others or restricted as to terms and conditions and  
19 whether described by area or territory or not, and includes certificates,  
20 and all other forms of licenses or orders and decisions granting such  
21 authority.
- 22 (12) 'Highway' means any road or street in this State used by the public or  
23 dedicated or appropriated to public use.
- 24 (13) 'Industrial plant' means any plant, mill, or factory engaged in the  
25 business of manufacturing.
- 26 (14) 'Interstate commerce' means commerce between any place in a state and  
27 any place in another state or between places in the same state through  
28 another state.
- 29 (15) 'Intrastate commerce' means commerce between points and over a route  
30 or within a territory wholly within this State, which commerce is not a  
31 part of a prior or subsequent movement to or from points outside of this  
32 State in interstate or foreign commerce, and includes all transportation  
33 within this State for compensation in interstate or foreign commerce  
34 which has been exempted by Congress from federal regulation.
- 35 (16) 'Intrastate operations' means the transportation of persons or household  
36 goods for compensation in intrastate commerce.
- 37 (16a) 'Local exchange company' means a person holding, on January 1, 1995,  
38 a certificate to provide local exchange services or exchange access  
39 services.
- 40 (17) 'Motor carrier' means a common carrier by motor vehicle.
- 41 (18) 'Motor vehicle' means any vehicle, machine, tractor, semi-trailer, or any  
42 combination thereof, which is propelled or drawn by mechanical power  
43 and used upon the highways within the State.

- 1 (19) 'Municipality' means any incorporated community, whether designated  
2 in its charter as a city, town, or village.
- 3 (20) Repealed by Session Laws 1995, c. 523, s. 1.
- 4 (21) 'Person' means a corporation, individual, copartnership, company,  
5 association, or any combination of individuals or organizations doing  
6 business as a unit, and includes any trustee, receiver, assignee, lessee, or  
7 personal representative thereof.
- 8 (22) 'Private carrier' means any person not included in the definitions of  
9 common carrier, which transports in intrastate commerce in its own  
10 vehicle or vehicles property of which such person is the owner, lessee,  
11 or bailee, when such transportation is for the purpose of sale, lease, rent,  
12 or bailment, or when such transportation is purely an incidental adjunct  
13 to some other established private business owned and operated by such  
14 person other than the transportation of household goods for  
15 compensation.
- 16 (23) a. 'Public utility' means a person, whether organized under the laws  
17 of this State or under the laws of any other state or country, now  
18 or hereafter owning or operating in this State equipment or  
19 facilities for:
- 20 1. Producing, generating, transmitting, delivering or  
21 furnishing ~~electricity, piped gas, steam or any other like~~  
22 ~~agency for the production of light, heat or power to or for~~  
23 ~~the public for compensation; provided, however, that the~~  
24 ~~term 'public utility' shall not include persons who~~  
25 ~~construct or operate an electric generating facility, the~~  
26 ~~primary purpose of which facility is for such person's own~~  
27 ~~use and not for the primary purpose of producing~~  
28 ~~electricity, heat, or steam for sale to or for the public for~~  
29 ~~compensation; gas;~~
- 30 1a. Transmitting or distributing electricity to or for the public  
31 for compensation. The term 'public utility' shall not  
32 include electricity suppliers as defined in Chapter 62B-  
33 3(7).
- 34 2. Diverting, developing, pumping, impounding, distributing  
35 or furnishing water to or for the public for compensation,  
36 or operating a public sewerage system for compensation;  
37 provided, however, that the term 'public utility' shall not  
38 include any person or company whose sole operation  
39 consists of selling water to less than 10 residential  
40 customers, except that any person or company which  
41 constructs a water system in a subdivision with plans for  
42 10 or more lots and which holds itself out by contracts or  
43 other means at the time of said construction to serve an



- 1 area containing more than 10 residential building lots shall  
2 be a public utility at the time of such planning or holding  
3 out to serve such 10 or more building lots, without regard  
4 to the number of actual customers connected;
- 5 3. Transporting persons or household goods by street,  
6 suburban or interurban bus or railways for the public for  
7 compensation;
- 8 4. Transporting persons or household goods by railways or  
9 motor vehicles, or any other form of transportation for the  
10 public for compensation, except motor carriers exempted  
11 in G.S. 62-260, and except carriers by air;
- 12 5. Transporting or conveying gas, crude oil or other fluid  
13 substance by pipeline for the public for compensation;
- 14 6. Conveying or transmitting messages or communications  
15 by telephone or telegraph, or any other means of  
16 transmission, where such service is offered to the public  
17 for compensation.
- 18 b. The term 'public utility' shall for rate-making purposes include  
19 any person ~~producing, generating~~ producing or furnishing any of  
20 the foregoing services to another person for distribution to or for  
21 the public for ~~compensation~~ compensation, except that the term  
22 shall not include persons who own or operate facilities for  
23 electricity generation.
- 24 c. The term 'public utility' shall include all persons affiliated  
25 through stock ownership with a public utility doing business in  
26 this State as parent corporation or subsidiary corporation as  
27 defined in G.S. 55-2 to such an extent that the Commission shall  
28 find that such affiliation has an effect on the rates or service of  
29 such public utility.
- 30 d. The term 'public utility,' except as otherwise expressly provided  
31 in this Chapter, shall not include a municipality, an authority  
32 organized under the North Carolina Water and Sewer Authorities  
33 Act, electric or telephone membership corporation or nonprofit  
34 water membership or consumer-owned corporations financed by  
35 the Farmers Home Administration, the United States Department  
36 of Housing and Urban Development, or any similar or successor  
37 federal financing agency, provided, that (i) any such financing  
38 administration, department or agency exercise substantial control  
39 over and regulation of any such corporation's rates and terms and  
40 conditions of service, and (ii) the members or consumer-owners  
41 of any such corporation, pursuant to the corporation's articles of  
42 incorporation and bylaws, shall elect the governing board of the  
43 corporation; or any person not otherwise a public utility who

1 furnishes such service or commodity only to himself, his  
2 employees or tenants when such service or commodity is not  
3 resold to or used by others; provided, however, that any person  
4 other than a nonprofit organization serving only its members,  
5 who distributes or provides utility service to his employees or  
6 tenants by individual meters or by other coin-operated devices  
7 with a charge for metered or coin-operated utility service shall be  
8 a public utility within the definition and meaning of this Chapter  
9 with respect to the regulation of rates and provisions of service  
10 rendered through such meter or coin-operated device imposing  
11 such separate metered utility charge. If any person conducting a  
12 public utility shall also conduct any enterprise not a public utility,  
13 such enterprise is not subject to the provisions of this Chapter. A  
14 water or sewer system owned by a homeowners' association that  
15 provides water or sewer service only to members or leaseholds of  
16 members is not subject to the provisions of this Chapter.

17 e. The term 'public utility' shall include the University of North  
18 Carolina insofar as said University supplies telephone service,  
19 electricity or water to the public for compensation from the  
20 University Enterprises defined in G.S. 116-41.1(9).

21 f. The term 'public utility' shall include the Town of Pineville  
22 insofar as said town supplies telephone services to the public for  
23 compensation. The territory to be served by the Town of  
24 Pineville in furnishing telephone services, subject to the Public  
25 Utilities Act, shall include the town limits as they exist on May 8,  
26 1973, and shall also include the area proposed to be annexed  
27 under the town's ordinance adopted May 3, 1971, until January 1,  
28 1975.

29 g. The term 'public utility' shall not include a hotel, motel, time  
30 share or condominium complex operated primarily to serve  
31 transient occupants, which imposes charges to occupants for  
32 local, long-distance, or wide area telecommunication services  
33 when such calls are completed through the use of facilities  
34 provided by a public utility, and provided further that the local  
35 services received are rated in accordance with the provisions of  
36 G.S. 62-110(d) and the applicable charges for telephone calls are  
37 prominently displayed in each area where occupant rooms are  
38 located.

39 h. The term 'public utility' shall not include the resale of electricity  
40 by (i) a campground operated primarily to serve transient  
41 occupants, or (ii) a marina; provided that (i) the campground or  
42 marina charges no more than the actual cost of the electricity  
43 supplied to it, (ii) the amount of electricity used by each campsite

1 or marina slip occupant is measured by an individual metering  
2 device, (iii) the applicable rates are prominently displayed at or  
3 near each campsite or marina slip, and (iv) the campground or  
4 marina only resells electricity to campsite or marina slip  
5 occupants.

6 i. The term 'public utility' shall not include the State, the Office of  
7 the State Controller, or the Microelectronics Center of North  
8 Carolina in the provision or sharing of switched broadband  
9 telecommunications services with non-State entities or  
10 organizations of the kind or type set forth in G.S. 143B-426.39.

11 j. The term 'public utility' shall not include any person, not  
12 otherwise a public utility, conveying or transmitting messages or  
13 communications by mobile radio communications service.  
14 Mobile radio communications service includes one-way or two-  
15 way radio service provided to mobile or fixed stations or  
16 receivers using mobile radio service frequencies.

17 (24) 'Rate' means every compensation, charge, fare, tariff, schedule, toll,  
18 rental and classification, or any of them, demanded, observed, charged  
19 or collected by any public utility, for any service product or commodity  
20 offered by it to the public, and any rules, regulations, practices or  
21 contracts affecting any such compensation, charge, fare, tariff, schedule,  
22 toll, rental or classification.

23 (25) 'Route' means the course or way which is traveled; the road or highway  
24 over which motor vehicles operate.

25 (26) 'Securities' means stock, stock certificates, bonds, notes, debentures, or  
26 other evidences of ownership or of indebtedness, and any assumption or  
27 guaranty thereof.

28 (27) 'Service' means any ~~service~~ service, other than the generation of  
29 electricity, furnished by a public utility, including any commodity  
30 furnished as a part of such service and any ancillary service or facility  
31 used in connection with such service.

32 ~~(27a) 'Small power producer' means a person or corporation owning or~~  
33 ~~operating an electrical power production facility with a power~~  
34 ~~production capacity which, together with any other facilities located at~~  
35 ~~the same site, does not exceed 80 megawatts of electricity and which~~  
36 ~~depends upon renewable resources for its primary source of energy. For~~  
37 ~~the purposes of this section, renewable resources shall mean:~~  
38 ~~hydroelectric power. A small power producer shall not include persons~~  
39 ~~primarily engaged in the generation or sale of electricity from other than~~  
40 ~~small power production facilities.~~

41 (28) The word 'State' means the State of North Carolina; 'state' means any  
42 state.

1 (29) 'Town' means any unincorporated community or collection of people  
2 having a geographical name by which it may be generally known and is  
3 so generally designated.

4 (30) 'Panel' means a panel of three commissioners, a division of the Utilities  
5 Commission authorized for the purpose of carrying out certain functions  
6 of the Commission."

7 Section 4. G.S. 62-82 is repealed.

8 Section 5. G.S. 62-110.1 is repealed.

9 Section 6. G.S. 62-110.2 reads as rewritten:

10 **"§ 62-110.2. Electric distribution service areas outside of municipalities.**

11 (a) As used in this section, unless the context otherwise requires, the term:

12 (1) 'Premises' means the building, structure, or facility to which electricity  
13 is being or is to be furnished; provided, that two or more buildings,  
14 structures, or facilities which are located on one tract or contiguous  
15 tracts of land and are utilized by one electric consumer for commercial,  
16 industrial, institutional, or governmental purposes, shall together  
17 constitute one 'premises,' except that any such building, structure, or  
18 facility shall not, together with any other building, structure, or facility,  
19 constitute one 'premises' if the electric distribution service to it is  
20 separately metered and the charges for such service are calculated  
21 independently of charges for service to any other building, structure, or  
22 facility; and

23 (2) 'Line' means any conductor for the distribution or transmission of  
24 electricity, other than

25 a. In the case of overhead construction, a conductor from the pole  
26 nearest the premises of a consumer to such premises, or a  
27 conductor from a line tap to such premises, and

28 b. In the case of underground construction, a conductor from the  
29 transformer (or junction point, if there be one) nearest the  
30 premises of a consumer to such premises.

31 (3) '~~Electric supplier—distribution company~~' means ~~any public utility~~  
32 ~~furnishing electric service or any electric membership corporation—~~a person  
33 providing facilities for the regulated transmission or distribution of  
34 electricity of customers, except building or facility owners or operators  
35 that manage the internal distribution system serving the building or  
36 facility and that supply electric power and other related electric power  
37 services to occupants of the building or facility.

38 (b) In areas outside of municipalities, ~~electric suppliers—distribution companies~~ shall  
39 have rights and be subject to restrictions as follows:

40 (1) Every electric ~~supplier—distribution company~~ shall have the right to serve  
41 all premises being served by it, or to which any of its facilities for  
42 distribution service are attached, on ~~April 20, 1965.~~ July 1, 1997.

- 1           (2) Every electric ~~supplier-distribution company~~ shall have the right, subject  
2 to subdivision (4) of this subsection, to serve all premises initially  
3 requiring electric distribution service after ~~April 20, 1965, July 1, 1997,~~  
4 which are located wholly within 300 feet of such electric ~~supplier's~~  
5 distribution company's lines as such lines exist on ~~April 20, 1965, July 1,~~  
6 1997, except premises which, on said date, are being served by another  
7 electric ~~supplier-distribution company~~ or to which any of another electric  
8 ~~supplier's-distribution company's~~ facilities for distribution service are  
9 attached.
- 10           (3) Every electric ~~supplier-distribution company~~ shall have the right, subject  
11 to subdivision (4) of this subsection, to serve all premises initially  
12 requiring electric service after ~~April 20, 1965, July 1, 1997,~~ which are  
13 located wholly within 300 feet of lines that such electric ~~supplier~~  
14 distribution company constructs after ~~April 20, 1965, July 1, 1997,~~ to  
15 serve consumers that it has the right to serve, except premises located  
16 wholly within a service area assigned to another electric ~~supplier~~  
17 distribution company pursuant to subsection (c) hereof.
- 18           (4) Any premises initially requiring electric distribution service after ~~April~~  
19 20, 1965, July 1, 1997, which are located wholly or partially within 300  
20 feet of the lines of one electric ~~supplier-distribution company~~ and also  
21 wholly or partially within 300 feet of the lines of another electric  
22 ~~supplier-distribution company,~~ supplier, as each of such supplier's lines  
23 exist on ~~April 20, 1965, July 1, 1997,~~ or as extended to serve consumers  
24 that the ~~supplier-distribution company~~ has the right to serve, may be  
25 served by such one of said electric ~~suppliers-distribution companies~~  
26 which the consumer chooses, and any electric ~~supplier-distribution~~  
27 company supplier not so chosen by the consumer shall not thereafter  
28 furnish distribution service to such premises.
- 29           (5) Any premises initially requiring electric distribution service after ~~April~~  
30 20, 1965, July 1, 1997, which are not located wholly within 300 feet of  
31 the lines of any electric ~~supplier-distribution company~~ and are not  
32 located partially within 300 feet of the lines of two or more electric  
33 ~~suppliers-distribution companies~~ may be served by any electric ~~supplier~~  
34 distribution company which the consumer chooses, unless such  
35 premises are located wholly or partially within an area assigned to an  
36 electric ~~supplier-distribution company~~ pursuant to subsection (c) hereof,  
37 and any electric ~~supplier-distribution company~~ not so chosen by the  
38 consumer shall not thereafter furnish service to such premises.
- 39           (6) Any premises initially requiring electric distribution service after ~~April~~  
40 20, 1965, July 1, 1997, which are located partially within a service area  
41 assigned to one electric ~~supplier-distribution company~~ and partially  
42 within a service area assigned to another electric ~~supplier-distribution~~  
43 company pursuant to subsection (c) hereof, or are located partially

1 within a service area assigned to one electric ~~supplier~~-distribution  
2 company pursuant to subsection (c) hereof and partially within 300 feet  
3 of the lines of another electric ~~supplier~~, distribution company, as such  
4 lines exist on ~~April 20, 1965, July 1, 1997~~, or as extended to serve  
5 consumers it has the right to serve, may be served by such one of said  
6 electric ~~suppliers~~-distribution companies which the consumer chooses,  
7 and the electric ~~supplier~~-distribution company not so chosen shall not  
8 thereafter furnish distribution service to such premises.

9 (7) Any premises initially requiring electric distribution service after ~~April~~  
10 ~~20, 1965, July 1, 1997~~, which are located only partially within a service  
11 area assigned to one electric ~~supplier~~-distribution company pursuant to  
12 subsection (c) hereof and are located wholly outside the service areas  
13 assigned to other electric ~~suppliers~~-distribution companies and are  
14 located wholly more than 300 feet from other electric ~~suppliers'~~  
15 distribution companies lines, may be served by any electric ~~supplier~~  
16 distribution company which the consumer chooses, and any electric  
17 ~~supplier~~-distribution company not so chosen by the consumer shall not  
18 thereafter furnish distribution service to such premises.

19 (8) Every electric ~~supplier~~-distribution company shall have the right to serve  
20 all premises located wholly within the service area assigned to it  
21 pursuant to subsection (c) hereof.

22 (9) No electric ~~supplier~~-distribution company shall furnish temporary  
23 electric distribution service for the construction of premises which it  
24 would not have the right to serve under this subsection if such premises  
25 were already constructed. The construction of lines for, and the  
26 furnishing of, temporary distribution service for the construction of  
27 premises which any other electric ~~supplier~~, distribution company, if  
28 chosen by the consumer, would have the right to serve if such premises  
29 were already constructed, shall not impair the right of such other electric  
30 ~~supplier~~-distribution company to furnish distribution service to such  
31 premises after the construction thereof, if then chosen by the consumer;  
32 nor, unless the consumer chooses to have such premises served by the  
33 ~~supplier~~-distribution company which furnished the temporary service,  
34 shall the furnishing of such temporary service or the construction of a  
35 line therefor impair the right of any other electric ~~supplier~~-distribution  
36 company to furnish distribution service to any other premises which,  
37 without regard to the construction of such temporary service line, it has  
38 the right to serve.

39 (10) No electric ~~supplier~~-distribution company shall furnish electric  
40 distribution service to any premises in this State outside the limits of  
41 any incorporated city or town except as permitted by this section;  
42 provided, that nothing in this section shall restrict the right of an electric  
43 ~~supplier~~-distribution company to furnish electric distribution service to

1           itself or to exchange or interchange electric energy with, purchase  
2           electric energy from or sell electric energy to any other electric ~~supplier-~~  
3           distribution company.

- 4           (c)    (1)   In order to avoid unnecessary duplication of electric facilities, the  
5           Commission is authorized and directed to assign, as soon as practicable  
6           after January 1, ~~1966, 1998,~~ to electric ~~suppliers-~~distribution companies  
7           all areas, by adequately defined boundaries, that are outside the  
8           corporate limits of municipalities and that are more than 300 feet from  
9           the lines of all electric ~~suppliers-~~distribution companies as such lines  
10          exist on the dates of the assignments; provided, that the Commission  
11          may leave unassigned any area in which the Commission, in its  
12          discretion, determines that the existing lines of two or more electric  
13          ~~suppliers-~~distribution companies are in such close proximity that no  
14          substantial avoidance of duplication of facilities would be accomplished  
15          by assignment of such area. The Commission shall make assignments of  
16          areas in accordance with public convenience and necessity, considering,  
17          among other things, the location of existing lines and facilities of  
18          electric ~~suppliers-~~distribution companies and the adequacy and  
19          dependability of the service of electric ~~suppliers-~~distribution companies,  
20          but not considering rate differentials among electric ~~suppliers-~~  
21          distribution companies.

- 22          (2)   The Commission, upon agreement of the affected electric ~~suppliers,~~  
23          distribution companies, is authorized to reassign to one electric ~~supplier~~  
24          distribution company any area or portion thereof theretofore assigned to  
25          another; and the Commission, notwithstanding the lack of such  
26          agreement, is authorized to reassign to one electric ~~supplier-~~distribution  
27          company any area or portion thereof theretofore assigned to another,  
28          except premises being served by the other electric ~~supplier-~~distribution  
29          company or to which any of its facilities for distribution service are  
30          attached and except such portions of such area as are within 300 feet of  
31          the other electric ~~supplier's-~~distribution company's lines, upon finding  
32          that such reassignment is required by public convenience and necessity.  
33          In determining whether public convenience and necessity requires such  
34          reassignment, the Commission shall consider, among other things, the  
35          adequacy and dependability of the service of the affected electric  
36          ~~suppliers-~~distribution companies, but shall not consider rate differentials  
37          between such electric ~~suppliers-~~distribution companies.

- 38          (d)    Notwithstanding the provisions of subsections (b) and (c) of this section:

- 39          (1)    Any electric ~~supplier-~~distribution company may furnish electric  
40          distribution service to any consumer who desires distribution service  
41          from such electric ~~supplier-~~distribution company at any premises being  
42          served by another electric ~~supplier-~~distribution company, or at premises  
43          which another electric ~~supplier-~~distribution company has the right to

1 serve pursuant to other provisions of this section, upon agreement of the  
2 affected electric ~~suppliers; distribution companies; and~~

- 3 (2) The Commission shall have the authority and jurisdiction, after notice to  
4 all affected electric ~~suppliers; distribution companies~~ and after hearing, if  
5 a hearing is requested by any affected electric ~~supplier; distribution~~  
6 company or any other interested party, to order any electric ~~supplier~~  
7 distribution company which may reasonably do so to furnish electric  
8 distribution service to any consumer who desires distribution service  
9 from such electric ~~supplier; distribution company~~ at any premises being  
10 served by another electric ~~supplier; distribution company~~, or at premises  
11 which another electric ~~supplier; distribution company~~ has the right to  
12 serve pursuant to other provisions of this section, and to order such  
13 other electric ~~supplier; distribution company~~ to cease and desist from  
14 furnishing electric distribution service to such premises, upon finding  
15 that distribution service to such consumer by the electric ~~supplier~~  
16 distribution company which is then furnishing distribution service, or  
17 which has the right to furnish distribution service, to such premises, is  
18 or will be inadequate or undependable, or that the rates, conditions of  
19 service or service regulations, applied to such consumer, are  
20 unreasonably discriminatory.

21 (e) The furnishing of electric distribution service in any area which becomes a part  
22 of any municipality after ~~April 20, 1965; July 1, 1997,~~ either by annexation or  
23 incorporation, (whether or not such area, or any portion thereof, shall have been assigned  
24 pursuant to subsection (c) of this section) shall be subject to the provisions of Part 2,  
25 Article 16 of Chapter 160A of the General Statutes, and any provisions of this section  
26 inconsistent with said Article shall not be applicable within such area after the effective  
27 date of such annexation or incorporation."

28 Section 7. G.S. 62-155 reads as rewritten:

29 "**§ 62-155. Electric power rates to promote conservation.**

30 (a) It is the policy of the State to conserve energy through efficient utilization of  
31 all resources.

32 (b) If the Utilities Commission after study determines that conservation of  
33 electricity and economy of operation for the public utility will be furthered thereby, it  
34 shall direct each electric public utility to notify its customers by the most economical  
35 means available of the anticipated periods in the near future when ~~its generating capacity~~  
36 electricity consumption is likely to be near peak demand and urge its customers to refrain  
37 from using electricity at these peak times of the day. In addition, each public utility shall,  
38 insofar as practicable, investigate, develop, and put into service, with approval of the  
39 Commission, procedures and devices that will temporarily curtail or cut off certain types  
40 of appliances or equipment for short periods of time whenever an unusual peak demand  
41 threatens to overload its system.

42 (c) The Commission itself shall inform the general public as to the necessity for  
43 controlling demands for electricity at peak periods and shall require the several electric



1 public utilities to carry out its program of information and education in any reasonable  
2 manner.

3 ~~(d) The Commission shall study the feasibility of and, if found to be practicable,~~  
4 ~~just and reasonable, make plans for the public utilities to bill customers by a system of~~  
5 ~~nondiscriminatory peak pricing, with incentive rates for off-peak use of electricity~~  
6 ~~charging more for peak periods than for off-peak periods to reflect the higher cost of~~  
7 ~~providing electric service during periods of peak demand on the utility system. No order~~  
8 ~~regarding such rates shall be issued by the Commission without a prior public hearing,~~  
9 ~~whether in a single electric utility company rate case or in general orders relating to two~~  
10 ~~or more or all electric utilities.~~

11 ~~(e) No Class A electric public utility shall apply for any rate change unless it files~~  
12 ~~at the time of the application a report of the probable effect of the proposed rates on peak~~  
13 ~~demand on it and its estimate of the kilowatt hours of electricity that will be used by its~~  
14 ~~customers during the ensuing one year and five years from the time such rates are~~  
15 ~~proposed to become effective."~~

16 Section 8. G.S. 62-156 is repealed.

17 Section 9. G.S. 160A-312 reads as rewritten:

18 **"§ 160A-312. Authority to operate public enterprises.**

19 (a) A city shall have authority to acquire, construct, establish, enlarge, improve,  
20 maintain, own, operate, and contract for the operation of any or all of the public  
21 enterprises as defined in this Article to furnish services to the city and its citizens. Subject  
22 to Part 2 of this Article, a city may acquire, construct, establish, enlarge, improve,  
23 maintain, own, and operate any public enterprise outside its corporate limits, within  
24 reasonable limitations, but in no case shall a city be held liable for damages to those  
25 outside the corporate limits for failure to furnish any public enterprise service.

26 (b) A city shall have full authority to protect and regulate any public enterprise  
27 system belonging to or operated by it by adequate and reasonable rules. The rules shall be  
28 adopted by ordinance, shall apply to the public enterprise system both within and outside  
29 the corporate limits of the city, and may be enforced with the remedies available under  
30 any provision of law.

31 (c) A city may operate that part of a gas system involving the purchase and/or  
32 lease of natural gas fields, natural gas reserves and natural gas supplies and the surveying,  
33 drilling or any other activities related to the exploration for natural gas, in a partnership or  
34 joint venture arrangement with natural gas utilities and private enterprise.

35 (d) Notwithstanding any other provision of this section, a city that elects pursuant  
36 to G.S. 62B-6 to participate in a competitive market for electric generation services:

37 (1) Shall do so in accordance with the requirements of Chapter 62B of the  
38 General Statutes; and

39 (2) Shall not have the exclusive right to provide electric generation services  
40 to customers inside its corporate limits, but shall compete with other  
41 electricity suppliers for the business of those customers."

42 Section 10. G.S. 160A-313 reads as rewritten:

43 **"§ 160A-313. Financing public enterprise.**

1 Subject to the restrictions, limitations, procedures, and regulations otherwise provided  
2 by law, a city shall have full authority to finance the cost of any public enterprise by  
3 levying taxes, borrowing money, and appropriating any other revenues therefor, and by  
4 accepting and administering gifts and grants from any source on behalf ~~thereof~~-~~thereof~~,  
5 except that a city may not use taxes, appropriations, or other public funds to subsidize the  
6 operation of an electric generation system."

7 Section 11. G.S. 160A-314 reads as rewritten:

8 "**§ 160A-314. Authority to fix and enforce rates.**

9 (a) A city may establish and revise from time to time schedules of rents, rates,  
10 fees, charges, and penalties for the use of or the services furnished by any public  
11 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to  
12 classes of service, and different schedules may be adopted for services provided outside  
13 the corporate limits of the city.

14 (a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties  
15 for structural and natural stormwater and drainage systems under this section, the city  
16 council shall hold a public hearing on the matter. A notice of the hearing shall be given at  
17 least once in a newspaper having general circulation in the area, not less than seven days  
18 before the public hearing. The hearing may be held concurrently with the public hearing  
19 on the proposed budget ordinance.

20 The fees established under this subsection must be made applicable throughout the  
21 area of the city. Schedules of rates, fees, charges, and penalties for providing structural  
22 and natural stormwater and drainage system service may vary according to whether the  
23 property served is residential, commercial, or industrial property, the property's use, the  
24 size of the property, the area of impervious surfaces on the property, the quantity and  
25 quality of the runoff from the property, the characteristics of the watershed into which  
26 stormwater from the property drains, and other factors that affect the stormwater drainage  
27 system. Rates, fees, and charges imposed under this subsection may not exceed the city's  
28 cost of providing a stormwater and drainage system.

29 No stormwater utility fee may be levied under this subsection whenever two or more  
30 units of local government operate separate structural and natural stormwater and drainage  
31 system services in the same area within a county. However, two or more units of local  
32 government may allocate among themselves the functions, duties, powers, and  
33 responsibilities for jointly operating a single structural and natural stormwater and  
34 drainage system service in the same area within a county, provided that only one unit  
35 may levy a fee for the service within the joint service area. For purposes of this  
36 subsection, a unit of local government shall include a regional authority providing  
37 structural and natural stormwater and drainage system services.

38 (a2) A fee for the use of a disposal facility provided by the city may vary based on  
39 the amount, characteristics, and form of recyclable materials present in solid waste  
40 brought to the facility for disposal. This section does not prohibit a city from providing  
41 aid to low-income persons to pay all or part of the cost of solid waste management  
42 services for those persons.

1 (a3) If a city elects pursuant to G.S. 62B-6 to participate in a competitive market for  
2 electric generation services, it shall comply with the requirements of Chapter 62B of the  
3 General Statutes.

4 (b) A city shall have power to collect delinquent accounts by any remedy provided  
5 by law for collecting and enforcing private debts, and may specify by ordinance the order  
6 in which partial payments are to be applied among the various enterprise services covered  
7 by a bill for the services. A city may also discontinue service to any customer whose  
8 account remains delinquent for more than 10 days. When service is discontinued for  
9 delinquency, it shall be unlawful for any person other than a duly authorized agent or  
10 employee of the city to do any act that results in a resumption of services. If a delinquent  
11 customer is not the owner of the premises to which the services are delivered, the  
12 payment of the delinquent account may not be required before providing services at the  
13 request of a new and different tenant or occupant of the premises, but this restriction shall  
14 not apply when the premises are occupied by two or more tenants whose services are  
15 measured by the same meter.

16 (c) Except as provided in subsection (d) and G.S. 160A-314.1, rents, rates, fees,  
17 charges, and penalties for enterprisory services shall be legal obligations of the person  
18 contracting for them, and shall in no case be a lien upon the property or premises served,  
19 provided that no contract shall be necessary in the case of structural and natural  
20 stormwater and drainage systems.

21 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal  
22 obligations of the owner of the premises served when:

23 (1) The property or premises is leased or rented to more than one tenant and  
24 services rendered to more than one tenant are measured by the same  
25 meter.

26 (2) Charges made for use of a sewage system are billed separately from  
27 charges made for the use of a water distribution system.

28 (e) Nothing in this section shall repeal any portion of any city charter inconsistent  
29 herewith."

30 Section 12. G.S. 160A-319 reads as rewritten:

31 "**§ 160A-319. Utility franchises.**

32 (a) A city shall have authority to grant upon reasonable terms franchises for the  
33 operation within the city of any of the enterprises listed in G.S. 160A-311 and for for the  
34 operation of telephone ~~systems~~-systems, except that a city that elects pursuant to G.S.  
35 62B-6 to participate in a competitive market for electric generation services shall not  
36 have the authority to grant a franchise for electric generation services. No franchise shall  
37 be granted for a period of more than 60 years, except that a franchise for solid waste  
38 collection or disposal systems and facilities shall not be granted for a period of more than  
39 30 years and cable television franchises shall not be granted for a period of more than 20  
40 years. Except as otherwise provided by law, when a city operates an enterprise, or upon  
41 granting a franchise, a city may by ordinance make it unlawful to operate an enterprise  
42 without a franchise.

(b) For the purposes of this section, 'cable television system' means any system or facility that, by means of a master antenna and wires or cables, or by wires or cables alone, receives, amplifies, modifies, transmits, or distributes any television, radio, or electronic signal, audio or video or both, to subscribing members of the public for compensation. 'Cable television system' does not include providing master antenna services only to property owned or leased by the same person, firm, or corporation, nor communication services rendered to a cable television system by a public utility that is regulated by the North Carolina Utilities Commission or the Federal Communications Commission in providing those services."

Section 13. G.S. 160A-332 reads as rewritten:

**"§ 160A-322. Contracts for electric power and water.**

A city is authorized to enter into contracts for a period not exceeding 40 years for the supply of water, ~~and~~ and, subject to the requirements of Chapter 62B of the General Statutes, for a period not exceeding 30 years for the supply of electric power or other public commodity or services."

Section 14. G.S. 160A-323 reads as rewritten:

**"§ 160A-323. Load management and peak load pricing of electric power.**

In addition and supplemental to the powers conferred upon municipalities by the laws of the State and for the purposes of conserving electricity and increasing the economy of operation of municipal electric systems, any municipality owning or operating an electric distribution system, any municipality engaging in a joint project pursuant to Chapter 159B of the General Statutes and any joint agency created pursuant to Chapter 159B of the General Statutes, shall have and may exercise the power and ~~authority~~ authority to investigate, study, develop, and place into effect procedures and to investigate, study, develop, purchase, lease, own, operate, maintain, and put into service devices, which will temporarily curtail or cut off certain types of appliances or equipment for short periods of time whenever an unusual peak demand threatens to overload the electric system.

(1) ~~To investigate, study, develop and place into effect procedures and to investigate, study, develop, purchase, lease, own, operate, maintain, and put into service devices, which will temporarily curtail or cut off certain types of appliances or equipment for short periods of time whenever an unusual peak demand threatens to overload the electric system or economies would result; and~~

(2) ~~To fix rates and bill customers by a system of nondiscriminatory peak pricing, with incentive rates for off peak use of electricity charging more for peak periods than for off peak periods to reflect the higher cost of providing electric service during periods of peak demand on the electric system."~~

Section 15. Part 2 of Article 16 of Chapter 160A reads as rewritten:

"Part 2. Electric Distribution Service in Urban Areas.

**"§ 160A-331. Definitions.**

Unless the context otherwise requires, the following words and phrases shall have the meanings indicated when used in this Part:

- 1           (1) The 'determination date' is  
2           a. ~~April 20, 1965, July 1, 1997,~~ with respect to areas within the  
3           corporate limits of any city as of ~~April 20, 1965; July 1, 1997;~~  
4           b. The effective date of annexation with respect to areas annexed to  
5           any city after ~~April 20, 1965; July 1, 1997;~~  
6           c. The date a primary ~~supplier-distribution company~~ comes into  
7           being with respect to any city first incorporated after ~~April 20,~~  
8           ~~1965; July 1, 1997.~~
- 9           (1a) 'Electric distribution company' means a person providing facilities for  
10           the regulated transmission or distribution of electricity to customers,  
11           except building or facility owners or operators that manage the internal  
12           distribution system serving the building or facility and that supply  
13           electric power and other related electric power services to occupants of  
14           the building or facility.
- 15           (2) 'Line' means any conductor located inside the city for distributing or  
16           transmitting electricity, other than  
17           a. For overhead construction, a conductor from the pole nearest the  
18           premises of a consumer to such premises, or a conductor from a  
19           line tap to such premises, and  
20           b. For underground construction, a conductor from the transformer  
21           (or the junction point, if there be one) nearest the premises of a  
22           consumer to such premises.
- 23           (3) 'Premises' means the building, structure, or facility to which electricity  
24           is being or is to be furnished. Two or more buildings, structures, or  
25           facilities that are located on one tract or contiguous tracts of land and  
26           are used by one electric consumer for commercial, industrial,  
27           institutional, or governmental purposes, shall together constitute one  
28           'premises,' except that any such building, structure, or facility shall not,  
29           together with any other building, structure, or facility, constitute one  
30           'premises' if the electric service to it is separately metered and the  
31           charges for such service are calculated independently of charges for  
32           service to any other building, structure, or facility.
- 33           (4) 'Primary ~~supplier-distribution company~~' means a city that owns and  
34           maintains its own electric distribution system, or a person, firm, or  
35           corporation that furnishes electric distribution service within a city  
36           pursuant to a franchise granted by, or contract with, a city, or that,  
37           having furnished service pursuant to a franchise or contract, is  
38           continuing to furnish service within a city after the expiration of the  
39           franchise or contract.
- 40           (5) 'Secondary ~~supplier-distribution company~~' means a person, firm, or  
41           corporation that furnishes ~~electricity at retail~~ electric distribution service  
42           to one or more consumers other than itself within the limits of a city but  
43           is not a primary ~~supplier-distribution company~~. A primary ~~supplier~~

1            distribution company that furnishes electric distribution service within a  
2 city pursuant to a franchise or contract that limits or restricts the classes  
3 of consumers or types of electric distribution service permitted to such  
4 supplier shall, in and with respect to any area annexed by the city after  
5 ~~April 20, 1965, July 1, 1997,~~ be a primary ~~supplier-distribution company~~  
6 for such classes of consumers or types of service, and if it furnishes  
7 other electric distribution service in the annexed area on the effective  
8 date of annexation, shall be a secondary ~~supplier-distribution company,~~  
9 in and with respect to such annexed area, for all other electric  
10 distribution service. A primary ~~supplier-distribution company~~ that  
11 continues to furnish electric distribution service after the expiration of a  
12 franchise or contract that limited or restricted such primary ~~supplier~~  
13 distribution company with respect to classes of consumers or types of  
14 electric distribution service shall, in and with respect to any area  
15 annexed by the city after ~~April 20, 1965, July 1, 1997,~~ be a secondary  
16 ~~supplier-distribution company~~ for all electric distribution service if it is  
17 furnishing electric distribution service in the annexed area on the  
18 effective date of annexation.

19 **"§ 160A-332. Electric distribution service within city limits.**

20        (a) The ~~suppliers of electric service~~ electric distribution companies providing service  
21 inside the corporate limits of any city in which a secondary ~~supplier-distribution company~~  
22 was furnishing electric distribution service on the determination date (as defined in G.S.  
23 160A-331(1)) shall have rights and be subject to restrictions as follows:

- 24            (1) The secondary ~~supplier-distribution company~~ shall have the right to  
25 serve all premises being served by it, or to which any of its facilities are  
26 attached, on the determination date.
- 27            (2) The secondary ~~supplier-distribution company~~ shall have the right,  
28 subject to subdivision (3) of this section, to serve all premises initially  
29 requiring electric distribution service after the determination date which  
30 are located wholly within 300 feet of its lines and located wholly more  
31 than 300 feet from the lines of the primary ~~supplier-distribution~~  
32 company, as such ~~suppliers-distribution companies'~~ lines existed on the  
33 determination date.
- 34            (3) Any premises initially requiring electric distribution service after the  
35 determination date which are located wholly within 300 feet of a  
36 secondary ~~supplier's-distribution company's~~ lines and wholly within 300  
37 feet of another secondary ~~supplier's-distribution company's~~ lines, but  
38 wholly more than 300 feet from the primary ~~supplier's-distribution~~  
39 company's lines, as the lines of all ~~suppliers-distribution companies~~  
40 existed on the determination date, may be served by the secondary  
41 ~~supplier-distribution company~~ which the consumer chooses, and no other  
42 ~~supplier-distribution company~~ shall thereafter furnish electric service to

1 such premises, except with the written consent of the ~~supplier~~  
2 distribution company then serving the premises.

3 (4) A primary ~~supplier-distribution company~~ shall not furnish electric  
4 distribution service to any premises which a secondary ~~supplier~~  
5 distribution company has the right to serve as set forth in subdivisions  
6 (1), (2), and (3) of this section, except with the written consent of the  
7 secondary ~~supplier-distribution company~~.

8 (5) Any premises initially requiring electric distribution service after the  
9 determination date which are located wholly or partially within 300 feet  
10 of the primary ~~supplier's-distribution company's~~ lines and are located  
11 wholly or partially within 300 feet of the secondary ~~supplier's~~  
12 distribution company's lines, as such ~~suppliers'-distribution companies'~~  
13 lines existed on the determination date, may be served by either the  
14 secondary ~~supplier-distribution company~~ or the primary ~~supplier,~~  
15 distribution company, whichever the consumer chooses, and no other  
16 ~~supplier-distribution company~~ shall thereafter furnish distribution service  
17 to such premises, except with the written consent of the ~~supplier~~  
18 distribution company then serving the premises.

19 (6) Any premises initially requiring electric distribution service after the  
20 determination date, which are located only partially within 300 feet of  
21 the secondary ~~supplier's-distribution company's~~ lines and are located  
22 wholly more than 300 feet from the primary ~~supplier's-distribution~~  
23 company's lines, as such ~~supplier's-distribution company's~~ lines existed  
24 on the determination date, may be served either by the secondary  
25 ~~supplier-distribution company~~ or the primary ~~supplier,-distribution~~  
26 company, whichever the consumer chooses, and no other ~~supplier~~  
27 distribution company shall thereafter furnish service to such premises,  
28 except with the written consent of the ~~supplier-distribution company~~ then  
29 serving the premises.

30 (7) Except as provided in subdivisions (1), (2), (3), (5), and (6) of this  
31 section, a secondary ~~supplier-distribution company~~ shall not furnish  
32 electric distribution service within the corporate limits of any city unless  
33 it first obtains the written consent of the city and the primary ~~supplier-~~  
34 distribution company.

35 (b) In any city that is first incorporated after ~~April 20, 1965,~~ July 1, 1997, in which,  
36 on the effective date of the incorporation, there is more than one ~~supplier-distribution~~  
37 company of electric service, all ~~suppliers-of electric service-distribution companies~~ therein  
38 shall continue to have the rights and be subject to the restrictions in effect before the city  
39 was incorporated until there is a primary ~~supplier-distribution company~~ within the city.

40 **"§ 160A-333. Temporary electric distribution service.**

41 No electric ~~supplier-distribution company~~ shall furnish temporary electric distribution  
42 service for the construction of premises which it would not have the right to serve under  
43 this Part if such premises were already constructed. The construction of lines for, and the

1 furnishing of, temporary electric distribution service for the construction of premises  
2 which any other electric ~~supplier, distribution company,~~ if chosen by the consumer, would  
3 have the right to serve if such premises were already constructed, shall not impair the  
4 right of such other electric ~~supplier, distribution company~~ to furnish service to such  
5 premises after the construction thereof, if then chosen by the consumer; nor, unless the  
6 consumer chooses to have such premises served by the ~~supplier, distribution company~~ that  
7 furnished the temporary distribution service, shall the furnishing of such temporary  
8 distribution service or the construction of a line therefor impair the right of any other  
9 electric ~~supplier, distribution company~~ to furnish distribution service to any other premises  
10 which, without regard to the construction of such temporary service line, it has the right  
11 to serve.

12 **"§ 160A-334. Authority and jurisdiction of Utilities Commission.**

13 Notwithstanding G.S. 160A-332 and 160A-333, if the North Carolina Utilities  
14 Commission finds that distribution service being furnished to or to be furnished to the  
15 consumer by a secondary ~~supplier, distribution company~~ is or will be inadequate or  
16 undependable, or that rates, conditions of service or service regulations, applied to such  
17 consumer, are unreasonably discriminatory, the Commission shall have the authority and  
18 jurisdiction, after notice to each affected electric ~~supplier, distribution company,~~ and after  
19 hearing, if a hearing is requested by an interested party, to:

- 20 (1) Order a primary ~~supplier, distribution company~~ that is subject to the  
21 jurisdiction of the Commission to furnish electric distribution service to  
22 any consumer who desires service from the primary ~~supplier, distribution~~  
23 company at any premises served by a secondary ~~supplier, distribution~~  
24 company, or at premises which a secondary ~~supplier, distribution~~  
25 company has the right to serve pursuant to other sections of this Part,  
26 and to order such secondary ~~supplier, distribution company~~ to cease and  
27 desist from furnishing electric distribution service to such premises, or  
28 (2) Order any secondary ~~supplier, distribution company~~ to cease and desist  
29 from furnishing electric distribution service to any premises being  
30 served by it or to any premises which it has the right to serve pursuant  
31 to other sections of this Part, if the consumer desires distribution service  
32 from a primary ~~supplier, distribution company~~ that is not subject to the  
33 jurisdiction of the Commission and which is willing to furnish service to  
34 such premises.

35 **"§ 160A-335. Discontinuance of service and transfer of facilities by secondary  
36 ~~supplier, distribution company.~~**

37 A secondary ~~supplier, distribution company~~ may voluntarily discontinue its service to  
38 any premises and remove any of its electric facilities located inside the corporate limits of  
39 a city or sell and transfer such facilities to a primary ~~supplier, distribution company~~ in such  
40 city, subject to approval by the North Carolina Utilities Commission, if the Commission  
41 determines that the public interest will not thereby be adversely affected.

42 **"§ 160A-336. Electric distribution service for city facilities.**



1 No provisions of this Part shall prevent a city that is a primary ~~supplier~~-distribution  
2 company from furnishing its own electric distribution service for city facilities, or prevent  
3 any other primary ~~supplier~~-distribution company from furnishing electric ~~street lighting~~  
4 distribution service to a city inside its corporate limits.

5 **"§ 160A-337. Effect of Part on rights and duties of primary ~~supplier~~-distribution**  
6 **company.**

7 Except for the rights granted to and restrictions upon primary ~~suppliers~~-distribution  
8 companies contained in the provisions of this Part, nothing in this Part shall diminish,  
9 enlarge, alter, or affect in any way the rights and duties of a primary ~~supplier~~-distribution  
10 company to furnish electric distribution service to premises within the corporate limits of  
11 a city.

12 **"§ 160A-338. Electric ~~suppliers~~-distribution companies subject to police power.**

13 No provisions of this Part shall restrict the exercise of the police power of a city over  
14 the erection and maintenance of poles, wires, and other facilities of electric ~~suppliers~~  
15 distribution companies in streets, alleys, and other public ways.

16 Section 16. G.S. 117-10.1 reads as rewritten:

17 **"§ 117-10.1. Municipal franchises.**

18 An electric membership corporation shall be eligible to receive a franchise pursuant to  
19 ~~G.S. 160-2(6)~~ G.S. 160A-319 from any city or town:

- 20 (1) In which such electric membership corporation is on ~~April 20, 1965~~-July  
21 1, 1997, furnishing electric distribution service at retail to a majority of  
22 the electric meters; or
- 23 (2) To which such electric membership corporation is on ~~April 20, 1965~~-July  
24 1, 1997, furnishing the entire supply of electricity at wholesale; or
- 25 (3) Which is newly incorporated subsequent to ~~April 20, 1965~~, July 1, 1997,  
26 and in which on the effective date of such incorporation the electric  
27 membership corporation is furnishing electric distribution service at  
28 retail to a majority of the meters."

29 Section 17. G.S. 117-10.2 reads as rewritten:

30 **"§ 117-10.2. Restriction on municipal service.**

31 No electric membership corporation shall furnish electric distribution service to, or  
32 within the limits of, any incorporated city or town, except pursuant to a franchise that  
33 may be granted under the provisions of ~~G.S. 117-10.1~~, G.S. 160A-319, or as permitted  
34 under ~~G.S. 160-511, 160-512, and 160-513~~; G.S. 160A-331, 160A-332, and 160A-333;  
35 provided, that an electric membership corporation may furnish electric distribution  
36 service to, or within the limits of, any incorporated city or town if the city or town and all  
37 electric ~~suppliers~~-distribution companies, including public utilities, other electric  
38 membership corporations and other cities or towns, then furnishing electric distribution  
39 service to or within such city or town consent thereto in writing."

40 Section 18. The Utilities Commission shall study whether a regional or State  
41 independent system operator should be established to enhance system reliability or  
42 achieve other goals. The Utilities Commission shall report its findings and  
43 recommendations to the General Assembly by April 1, 1998.

1           Section 19. The provisions of this act are severable. If any provision of this  
2 act is held invalid by a court of competent jurisdiction, the invalidity does not affect other  
3 provisions of the act that can be given effect without the invalid provision.

4           Section 20. This act becomes effective July 1, 1997.