

1 provide energy services and products, telecommunications services and products, water, and
2 wastewater collection and treatment, so long as those other business entities meet all of the
3 following conditions:

4 ...

5 (d) The provisions of subdivisions (1) and (3) of subsection (a) of this section do not
6 apply to the separate business activities of an electric membership corporation that forms,
7 organizes, acquires, holds, disposes of, or operates any interest up to and including full
8 controlling interest in a separate business entity that provides or supports high-speed broadband
9 services to one or more households, businesses, or community anchor points in an unserved area.
10 For purposes of this subsection, the following definitions shall apply:

11 (1) "Anchor points." – The term shall include schools, libraries, community
12 colleges, community centers, and other similar places.

13 (2) "High-speed broadband services." – Internet transmission speeds of a
14 minimum of 25 megabits per second (Mbps) downstream and 3 Mbps
15 upstream.

16 (3) "Unserved area." – A location where inhabitants or businesses do not have
17 access to high-speed broadband services."

18 **SECTION 2.** Article 3 of Chapter 117 of the General Statutes is amended by adding
19 a new section to read as follows:

20 **"§ 117-28.1. Electric membership corporations; easements.**

21 (a) Any easement owned, held, or otherwise used by an electric membership corporation
22 for the purpose of electrification, as stated in G.S. 117-10, may also be used by the corporation,
23 or its wholly owned subsidiary, for the ancillary purpose of supplying high-speed broadband
24 service, where such use does not require additional construction and is ancillary to the
25 electrification purposes for which broadband fiber is or was installed.

26 (b) Notwithstanding G.S. 1A-1, Rule 23, a class action may not be maintained against an
27 electric membership corporation or its wholly owned subsidiary in a suit in trespass or inverse
28 condemnation based on a claim of expanded use of an easement. If, in a suit in trespass or inverse
29 condemnation based on a claim of expanded use of an easement, an individual property owner
30 prevails over a corporation or its wholly owned subsidiary, the trespass shall be deemed
31 permanent and the actual damages awarded shall be the fair market value which, notwithstanding
32 any other provision of law, shall always be greater than zero but shall not exceed the difference
33 between the fair market value of the property owner's entire property immediately before the
34 taking and the fair market value of the property owner's property immediately after the taking.
35 Evidence of revenues or profits derived or the rental value of an assembled communications
36 corridor shall not be admissible in determining fair market value. A property owner's actual
37 damages shall be fixed at the time of the initial trespass and shall not be deemed to continue,
38 accumulate, or accrue. Upon payment of damages, the corporation or its wholly owned subsidiary
39 shall be granted a permanent easement for the trespass that was the subject of the claim."

40 **SECTION 3.** This act is effective when it becomes law and applies to all claims filed
41 on or after that date.