

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Rural Electrification Authority

RULE CITATION: 04 NCAC 08 .0107

DEADLINE FOR RECEIPT: Friday, July 14, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On the "Submission for Permanent Rule" form, in Box 3, "Amendment" should be selected instead of "Adoption". In Box 5, a selection is required. In Box 6, Notice of Text was published on May 16, 2022; please change.

In Paragraph (a), the sentence that states: "The meeting will be held at the office, offsite, or via video or conference call." is unnecessary and should be deleted. Also, words such as "will" should be "shall" and phrases such as "the office" need to be better defined.

In Paragraph (b), are "cooperatives" or "the telephone coalition" defined anywhere? What do these words mean? Can they be more well-defined or explained? Also, "at least" is unnecessary and the two instances should be deleted.

In Paragraph (c), can "shall ensure the Authority receives" be more simply stated "shall submit"? Also, "shall" should be used instead of "will".

In the History Note, Authority, what authority is granted by 150B-19(5)(b)? This does not seem necessary to list here.

Is the "September 1, 2023" effective date correct? This Rule could have an effective date of August 1.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 10, 2023

1 04 NCAC 08 .0107 is amended as published in 36:22 NCR 1778 as follows:

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3 **04 NCAC 08 .0107 MEETINGS**

4 (a) The Authority shall not meet more than 12 times per year. The meetings will be held at the office, offsite, or via
5 video or conference call.

6 (b) The Administrator shall send a notice of the date and location of the meeting to all Authority Board members,
7 cooperatives, and interested parties, which include the telephone coalition, the North Carolina Electric Membership
8 Corporation, and members of the USDA, at least one week ~~four weeks~~ prior to the meeting. A meeting notification
9 shall be posted on the website of the Authority at least 72 hours prior to each meeting.

10 (c) Anyone with a matter to present to the Board shall ensure the Authority receives all pertinent documents ~~two three~~
11 weeks prior to the meeting where the matter will be presented by the Administrator to the ~~Board.~~ Board of the
12 Authority for their consideration and decision.

13 (d) A copy of public documents maintained by ~~this~~ the office ~~is~~ shall be available to the general public at actual cost.

14

15 *History Note: Authority G.S. 117-4; 117-5; 150B-19(5)b;*

16 *Eff. February 1, 1976;*

17 *Amended Eff. March 1, 2014;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest*

19 *Eff. May 23, 2015;*

20 *Amended Eff. September 1, 2023.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Rural Electrification Authority

RULE CITATION: 04 NCAC 08 .0109

DEADLINE FOR RECEIPT: Friday, July 14, 2023

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On the "Submission for Permanent Rule" form, in Box 3, "Amendment" should be selected instead of "Adoption". In Box 5, a selection is required. In Box 6, Notice of Text was published on May 16, 2022; please change.

Please see G.S. 150B-2(8a), which defines "Rule". A rule is not a statement concerning only the internal management of an agency. If a rule does not affect the procedural or substantive rights or duties of a person not employed by the Authority, then it is a policy and should not be included in the Administrative Code. Using that definition, is .0109 a rule? It appears to be a policy that should not be in the Administrative Code.

Regardless of the previous question, the formatting needs to be corrected. The prefatory sentence is incorrect. Also, each of the Items (1) through (6) should be indented.

"Any" and "all" should not be used if "a", "an", or "the" can be used with the same meaning or if the word can be omitted. These appear on lines 11 and 13.

In Item (5), use "shall review" instead of "is responsible for reviewing".

In Item (6), use "shall review and follow" instead of "is responsible for reviewing ... and following". Also, it should state "and follow the procedures of Rule .0313 of this Subchapter."

In the History Note, Authority, perhaps it would be more clear if it stated: "G.S. 117-2; 117-3.1; 117-26; 117-31; 117-32; 47 U.S.C. 252;" Also, "Eff. February 1, 1976" should be on the next line.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: July 10, 2023

1 NCAC 08 .0109 is amended as published in 36.22 NCR 1778 as follows:

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3 **04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR**

4 The Administrator is responsible for directing the staff of the Authority and overseeing the functions of the office.

5 (1) The Administrator shall oversee the application of the electric and telephone cooperatives rules and regulations
6 to ensure they are administered according to the manner in which they are written.

7 (2) The Administrator shall investigate and respond to complaints such as requests for deposits, meter tampering
8 disputes, boundary issues, disputed ~~bills~~ bills, and power surges from EMC members and shall request any
9 additional information from the cooperative needed by the Authority to respond to the complaints.

10 (3) The Administrator may attend any annual meeting or Board meeting of an individual electric or telephone
11 cooperative.

12 (4) The Administrator shall review all Federal grant or loan applications from electric and telephone cooperatives,
13 request any additional information needed for those applications, and present the grant and loan requests to the
14 Board of the Authority for review and ~~approval~~ decision.

15 (5) The Administrator is responsible for reviewing interconnection agreements and amendments between the TMCs
16 and competing local providers (CLPs) and commercial mobile radio service providers (CMRS) as defined in 47
17 U.S.C 252 in accordance with Section 252(e) of the Act and present those documents to the Board of the ~~authority~~
18 Authority for review and decision ~~approval~~.

19 (6) In situations where the Authority is requested to arbitrate an interconnection agreement pursuant to Section
20 252(b)(1) of the Act or pursuant to a valid contractual agreement between a TMC and another telecommunications
21 carrier, the Administrator is responsible for reviewing the petitions ~~and ensuring all~~ and following procedures as
22 cited in the NC Administrative Code 04 NCAC 08 .0313 for arbitration.

23

24 *History Note: Authority G.S. 117-2(10); 117-2(11a); 117-2(12); 117-3.1(a); 117-26; 117-31; 117-32;*

25 *47 U.S.C 252; Eff. February 1, 1976;*

26 *Amended Eff. May 1, 2014;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive*
28 *public interest Eff. May 23, 2015.*

29 *Eff. September 1, 2023*