

1 04 NCAC 08 .0101 is amended as published in 28:04 NCR, Page 310, with changes, as follows:

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04 NCAC 08 .0101 PURPOSE

~~[The North Carolina Rural Electrification Authority (NCREA) consists of five Board members to be appointed by the Governor of North Carolina. The NCREA Board employs an Administrator who is responsible for directing the staff with the successful completion of the required functions of the office.] The purpose of the North Carolina Rural Electrification Authority [NCREA is to work to secure and continue adequate and dependable electric and telephone services to customers served by the electric membership corporations (EMCs) and the telephone membership corporations (TMCs) in predominately rural areas of the state at the lowest possible cost and on a nondiscriminatory basis, as set forth in G.S. 117. To accomplish this purpose, the Authority] acts as an agent in securing long term loans or grants from any agency of the United States Government [for EMCs and TMCs]. The Authority also serves as a forum [to receive and investigate complaints from members of these cooperatives] and arrive at a just and satisfactory solution to the complaints. [The NCREA, pursuant to the 1996 Telecommunications Act, is also responsible for receiving and establishing procedural schedules for Petitions for arbitration of interconnection agreements between TMCs and other local and wireless providers. The Authority renders final decisions for these arbitrations based on information received from testimony, data requests and hearings. The Authority approves TMC interconnection agreements and their amendments.]~~

(a) The purpose of the North Carolina Rural Electrification Authority (“the Authority”) is to secure and continue to provide dependable electric and telephone services to customers served by the electric membership corporations (“EMCs”) and the telephone membership corporations (“TMCs”) in predominately rural areas of the state at the lowest possible cost and on a nondiscriminatory basis, as set forth in G.S. 117-16.1. To accomplish this purpose, the Authority shall act as an agent in securing loans or grants from any agency of the United States Government. The Authority also serves as a forum to receive and investigate complaints from members of the electric cooperatives to arrive at a just and satisfactory solution to the member complaints.

(b) The Authority, pursuant to the Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996) (“the Act”) shall establish procedural schedules for Petitions for Arbitration of interconnection agreements between TMCs and other local and wireless providers. The Authority shall render final decisions for these arbitrations based on information received from testimony, discovery and hearings. The Authority shall review and approve the interconnection agreements and their amendments in accordance with Section 252(e) of the Telecommunications Act.

(c) The Board of the Authority shall choose a Secretary, who is also the Administrator of the Authority.

History Note: Authority G.S. 117-2; 117-3.1; 117-4; 117-2(11a); 117-26; 117-31; 117-32; 47 U.S.C. 251
Eff. February 1, 1976.1976.
Amended Effective May 1, 2014.

1 04 NCAC 08 .0109 is amended as published in 28:04 NCR, Page 311, with changes, as follows:

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04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR

The [Administrator of the NCREA] is responsible for directing the staff of the authority [Authority] in order to carry on the functions of the [Authority] in , [reviewing and presenting loans to the NCREA Board,] maintaining records, and files [files:] investigating [and providing responses to] complaints. [complaints and is responsible for all aspects of arbitration processes and procedures.] The Administrator has been granted the authority by the Rural Electrification Authority to select and employ any additional staff as required.

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

- (1) The Administrator shall oversee the application of the electric and telephone cooperatives rules and regulations to ensure they are administered according to the manner in which they are written.
- (2) The Administrator shall investigate and respond to complaints such as requests for deposits, meter tampering disputes, boundary issues disputed bills and power surges from EMC members and shall request any additional information from the cooperative needed by the Authority to respond to the complaints.
- (3) The Administrator may attend any annual meeting or Board meeting of an individual electric or telephone cooperative.
- (4) The Administrator shall review all Federal grant or loan applications from electric and telephone cooperatives, request any additional information needed for those applications, and present the grant and loan requests to the Board for review and approval.
- (5) The Administrator is responsible for reviewing interconnection agreements and amendments between the TMCs and competing local providers (CLPs) and commercial mobile radio service providers (CMRS) as defined in 47 U.S.C 252 in accordance with Section 252(e) of the Act and present those documents to the Board for approval.
- (6) In situations where the Authority is requested to arbitrate an interconnection agreement pursuant to Section 252(b)(1) of the Act or pursuant to a valid contractual agreement between a TMC and another telecommunications carrier, the Administrator is responsible for reviewing the petitions for arbitration.

History Note: Authority G.S. 117-2(10); 117-2(11a); 117-2(12); ~~417-4~~; 117-3.1(a); 117-31; 117-26; 117-32; 47 U.S.C 252
Eff. February 1, 1976
Amended Effective March 1, 2014

New Rule approved by the RRC at the March 20, 2014 meeting as responsive to an objection and creating a substantial change. The agency must publish this as a new rule following the procedure for temporary rulemaking set forth in G.S. 150B-21.1(a3)

1 **04 NCAC 08 .0313 ARBITRATION POLICIES**

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3 The Authority shall arbitrate any interconnection disputes between a TMC and other telecommunications carriers as
4 described in Section 252 of the 1996 Telecommunications Act (“the Act”). This Rule sets forth the procedures for
5 that process.

- 6 1. When the Authority is requested to arbitrate an interconnection agreement pursuant to Section 252(b)(1) of
7 the Act or pursuant to a valid contractual agreement between a North Carolina cooperative and another
8 telecommunication carrier, the petitioning party shall provide the Authority with the information required
9 under Section 252(b)(2) of the Act and the non-petitioning party shall have the opportunity to respond in
10 the timeframe set forth in Section 252(b)(3).
- 11 2. The Authority shall send each party a list of approved arbitrators. The parties shall have 15 days to review
12 the list, strike names they object to, rank the remaining names in the order of preference and return the list
13 to the Authority. The Authority shall then select the arbitrator agreed to by the parties. If the parties do not
14 agree on the selection, the Authority shall select an arbitrator of its choosing from the list.
- 15 3. The parties seeking the arbitration will be held accountable for any financial obligations, and each shall be
16 responsible for an equal portion of the arbitrator fee, regardless of the outcome of the recommendation
17 submitted to the Authority. The fee shall be paid directly to the arbitrator.
- 18 4. At the request of any party, or at the discretion of the arbitrator, the arbitrator may:
 - 19 A. schedule a preliminary hearing with the parties or its representatives;
 - 20 B. direct the production of documents and other information and the identification of any
21 witnesses to be called at the hearing; or
 - 22 C. order the parties to attend a formal arbitration hearing.
- 23 5. The parties shall respond to requests for hearing dates by the deadline established by the Authority or the
24 arbitrator, be cooperative in scheduling the earliest practical hearing date, and adhere to the established
25 hearing schedule. The arbitrator shall send a notice of hearing to the parties at least 20 calendar days in
26 advance of the hearing date, unless otherwise agreed to by the parties. At least five business days prior to
27 the arbitration hearing, the parties shall exchange copies of all exhibits each party intends to submit at the
28 hearing.
- 29 6. The arbitrator shall conclude the resolution of any unresolved issues no later than but before the conclusion
30 of nine months following the date on which the request for arbitration was originally received by the
31 Authority.
- 32 7. The petitioning party shall present evidence to support its petition. The non-petitioning party shall then
33 present evidence in response. The arbitrator has the discretion to vary this procedure and each party has the
34 right to be heard and is given an opportunity to present its case.
- 35 8. The arbitrator shall make a decision on the issues for arbitration that contains findings of fact and
36 conclusions of law, as applicable, and forward this recommended decision to the Authority.

- 37 9. The Authority shall consider the decision of the arbitrator to be a recommendation. The Authority shall
38 make the final decision in any arbitration hearing and may order additional written or oral testimony from
39 the parties in order to render the decision. The Authority may accept the recommended decision from the
40 arbitrator as its final decision, amend the recommended decision, or reject the recommended decision and
41 render its own independent decision.
- 42 10. In accordance with 47 U.S.C. 252, a resolution of any unresolved issues shall be reached not later than nine
43 months following the date on which the request for arbitration was originally received by the Authority.

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47 *History Note: Authority G.S. 117-31; 47 U.S.C. 252*

48 *Eff. February 1, 1976*

49 *Amended Eff. April 1, 2014*

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From: [Liles, Frances](#)
To: [Reeder, Amanda J](#)
Cc: lphillips@ncdoj.gov
Subject: RE: RRC Follow up on Rules
Date: Monday, March 10, 2014 2:26:32 PM

Amanda – I do agree with your summary below for the Rule change for .0313; for Rules .0101 and .0109, the REA has a conference call scheduled for 03-19 and if I get approval from the Board to proceed with those changes, I will want to present the .0101 and .0109 to the Rules Review Commission in April rather than May but if we don't present in April, we will definitely present the changes in May. Please call me if you have questions. Thanks,

From: Reeder, Amanda J [mailto:amanda.reeder@oah.nc.gov]
Sent: Thursday, March 06, 2014 3:45 PM
To: Liles, Frances; Phillips, Lareena (LPhillips@ncdoj.gov)
Cc: Reeder, Amanda J
Subject: RRC Follow up on Rules

Frances and Lareena:

This email is to confirm my understanding of our previous conversations regarding how the NC Rural Electrification Authority will respond to the RRC's continued objections to Rules 04 NCAC 08 .0101 and .0109. As I am sure you recall, the RRC objected to Rule .0101 and .0109, finding the agency lacks statutory authority to state it will investigate complaints against TMCs. Additionally, the RRC objected to Rule .0109 also has a lack of authority to set the requirements for arbitration in Item (6) of the rule outside of rulemaking.

In order to satisfy the RRC's objection to Rule .0109, Item (6), the REA submitted a new proposed rule for adoption, Rule 08 .0313. This rule was discussed at the RRC meeting in February, and the Commission will act upon it at its March 20, 2014 meeting.

In order to satisfy the RRC's other objection to Rule .0109 and .0101, the REA will respond pursuant to G.S. 150B-21.12 and will send those rewritten rules after the REA's next regularly scheduled Board meeting, which will be held on April 28, 2014. Therefore, REA will have until Thursday, May 8 to respond.

Please email me to confirm that this your understanding, as well.

Thank you,
Amanda

Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/ 431-3079

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.



Letter notifying the agency of the continuing objection to two rules following the February 20, 2014 meeting

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

February 21, 2014

Frances Liles, Administrator
NC Rural Electrification Authority
Sent via email to files@nc-rea.net

Re: Rules 04 NCAC 08 .0101 and .0109.

Dear Frances:

At its meeting on February 20, 2014, the Rules Review Commission continued its objection to the above-captioned rules in accordance with G.S. 150B-21.12(c).

The Commission objected to both rules finding the agency lacks statutory authority to investigate member complaints against Telephone Membership Corporations.

The Commission additionally objected to Rule 08 .0109, finding the agency has no authority to set the process for arbitration outside of rulemaking as proposed in Item 6.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: NC Rural Electrification Authority

RULE CITATION: 04 NCAC 08 .0101

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

In Paragraph (a), the Authority states that it will serve as a forum to receive and investigate complaints for members of Electric Membership Corporations (EMCs) and Telephone Membership Corporations (TMCs). G.S. 117-2(11a) specifically allows the Authority to do this for EMCs. Staff is not aware of any corresponding authority for TMCs, and therefore does not see that the Authority is able to do this under the current statutes.

The Authority believes it does have the authority to do this for TMCs under G.S. 117-3.1 and 117-31. Those statutes are attached for your reference. Staff expects the Authority will appear at the meeting to discuss this with you.

§ 117-2. Powers.

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

- (1) To investigate all applications from communities unserved, or inadequately served, with electrical energy in North Carolina, and to determine the feasibility of obtaining such service therefor.
- (2) To employ such personnel as shall be necessary to conduct surveys, assist the several communities to organize and finance extensions of rural distribution lines; to negotiate with power companies and other agencies for the supply of electric energy for and on behalf of the rural communities that desire service.
- (3) To contact the power companies and other agencies contiguous to the area and areas desiring service, for the purpose of arranging for the extension by said companies, or other agencies, of service in that community for such extension as may be feasible for the power company, or other agency, contiguous to the area to finance itself.
- (4) To make estimates of costs of extension which the power company would not be willing to finance and report such findings to the citizens of the community desiring service or to the corporations organized under this Chapter, to be known as "electric membership corporations."
- (5) To estimate the service charges which said community would have to set up in addition to the rates for energy as may be found necessary in order to make extension self-liquidating.
- (6) To have authority to call upon the Utilities Commission of the State to fix such rates and service charges as will be necessary to accomplish the purpose, and the right to petition the Utilities Commission to require extension of lines by the power companies when, in its opinion, it is proper and feasible.
- (7) To have the power of eminent domain for the purpose of condemning rights-of-way for the erection of transmission and distribution lines, either in its own name, or in its own name on behalf of the electric membership corporations to be formed as provided by law. For the purposes of exercising the powers of eminent domain the North Carolina Rural Electrification Authority shall be deemed a private condemnor and shall follow the procedures of Chapter 40A for a private condemnor.
- (8) To have such right and authority to secure for said local communities or electric membership corporations as may be set up assistance from any agency of the United States government, either by gift or loan, as may be possible to aid said local community in securing electric energy for said community.
- (9) To investigate all applications from communities for the formation of electric membership corporations and determine and pass upon the question of granting the authority to form such corporations; to provide forms for making such applications; and to do all things necessary to a proper determination of the question of establishment of the local electric membership corporations.
- (10) To act as agent for any electric membership corporations formed under direction or permission of the North Carolina Rural Electrification Authority in securing loans or grants from any agency of the United States government.
- (11) To prescribe rules and regulations and the necessary blanks for the electric membership corporations in making applications for grant or loan from any agency of the United States government.
- (11a) To receive and investigate complaints from members of electric membership corporations.**
- (12) To do all other acts and things which may be necessary to aid the rural communities in North Carolina to secure electric energy. (1935, c. 288, s. 2; 1981, c. 919, s. 12; 2013-187, s. 3.)

§ 117-3.1. Regulatory fee.

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

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

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

(2) Four cents (4¢) for each electric membership corporation's North Carolina meter connected for service and for each telephone membership corporation's North Carolina access line connected for service for each quarter of the year.

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

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

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

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

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

§ 117-31. Power of Rural Electrification Authority to prosecute requested investigations.

In investigating the application filed with the Rural Electrification Authority under the provisions of G.S. 117-30 of this Article, the Rural Electrification Authority shall have the authority to employ such personnel as shall be necessary to conduct surveys; to contact the telephone companies serving the general area for the purpose of arranging for extension of telephone service by such companies to such community or communities; to make estimates of the cost of the extension of telephone service to such community or communities; to call upon the Utilities Commission of the State to fix such rates as will be applicable to such service; to secure for such community or communities any assistance which may be available from the federal government by gift or loan or in any other manner; to investigate all applications for the creation of telephone membership corporations and determine and pass upon the question of granting authority to form such corporation; to provide forms for making such applications, and to do all things necessary to a proper determination of the question of the establishment of such telephone membership corporations in keeping with the provisions of this Article; to act as agent for any such telephone membership corporation in securing loans or grants from any agency of the United States government; to prescribe rules and regulations and the necessary blanks for such membership corporations in making applications for grants or loans from any agency of the United States government; to do all other acts and things which may be necessary to aid the rural communities in North Carolina in securing telephone service. (1945, c. 853, s. 3.)

1 04 NCAC 0-8 .0101 is amended as published in 28:04 NCR, Page 310, with changes, as follows:

2
3 **04 NCAC 08 .0101 PURPOSE**

4 ~~[The North Carolina Rural Electrification Authority (NCREA) consists of five Board members to be appointed by~~
5 ~~the Governor of North Carolina. The NCREA Board employs an Administrator who is responsible for directing the~~
6 ~~staff with the successful completion of the required functions of the office.] The purpose of the North Carolina Rural~~
7 ~~Electrification Authority [NCREA is to work to secure and continue adequate and dependable electric and telephone~~
8 ~~services to customers served by the electric membership corporations (EMCs) and the telephone membership~~
9 ~~corporations (TMCs) in predominately rural areas of the state at the lowest possible cost and on a nondiscriminatory~~
10 ~~basis, as set forth in G.S. 117. To accomplish this purpose, the Authority] acts as an agent in securing long term~~
11 ~~loans or grants from any agency of the United States Government [for EMCs and TMCs]. The Authority also serves~~
12 ~~as a forum [to receive and investigate complaints from members of these cooperatives] and arrive at a just and~~
13 ~~satisfactory solution to the complaints. [The NCREA, pursuant to the 1996 Telecommunications Act, is also~~
14 ~~responsible for receiving and establishing procedural schedules for Petitions for arbitration of interconnection~~
15 ~~agreements between TMCs and other local and wireless providers. The Authority renders final decisions for these~~
16 ~~arbitrations based on information received from testimony, data requests and hearings. The Authority approves~~
17 ~~TMC interconnection agreements and their amendments.]~~

18
19 (a) The purpose of the North Carolina Rural Electrification Authority (“the Authority”) is to secure and continue to
20 provide dependable electric and telephone services to customers served by the electric membership corporations
21 (“EMCs”) and the telephone membership corporations (“TMCs”) in predominately rural areas of the state at the
22 lowest possible cost and on a nondiscriminatory basis, as set forth in G.S. 117-16.1. To accomplish this purpose, the
23 Authority shall act as an agent in securing loans or grants from any agency of the United States Government. The
24 Authority also serves as a forum to receive and investigate complaints from members of these cooperatives and
25 arrives at a just and satisfactory solution to the complaints.

26 (b) The Authority, pursuant to the Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996)
27 (“the Act”) shall establish procedural schedules for Petitions for Arbitration of interconnection agreements between
28 TMCs and other local and wireless providers. The Authority will render final decisions for these arbitrations based
29 on information received from testimony, discovery and hearings. The Authority shall review and approve the
30 interconnection agreements and their amendments in accordance with Section 252(e) of the Telecommunications
31 Act.

32 (c) The Board of the Authority will choose a Secretary, who is also the Administrator of the Authority.

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34 *History Note:* Authority G.S. 117-2; 117-3.1; 117-4; 117-2(11a); 117-26; 117-31; 117-32; 47 U.S.C. 251
35 Eff. February 1, 1976.
36 Amended Effective March 1, 2014

1 04 NCAC 08 .0102 is amended as published in 28:04 NCR, Page 311, with changes, as follows:

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3 04 NCAC 08 .0102 **ADDRESS OF THE AUTHORITY**

4 The office of the Rural Electrification Authority [NCREA] is located in Raleigh, North Carolina. [Carolina] [and]
5 The [the] mailing address for the Rural Electrification Authority is P. O. Box 25249, [4321 Mail Service Center,]
6 Raleigh, North Carolina 27611 [27699]. [Correspondence and communication with the NCREA should be
7 addressed to the attention of the Administrator or to the Chairman of the NCREA.] The [NCREA] office is open to
8 the public Monday through Friday during the normal business hours established for state government agencies. [A
9 copy of the NCREA Board proceedings is available to the general public upon a written request to the NCREA
10 office.]

11 (a) The office of the Authority is located in Raleigh, North Carolina at 120 Penmarc Drive, Suite 104 and the
12 mailing address is 4321 Mail Service Center, Raleigh, North Carolina 27699-4321.

13 (b) The website address for the Authority is www.ncrea.net.

14 (c) All correspondence shall be addressed to the attention of the Administrator or to the Chairman of the Authority.
15 The office is open to the public Monday through Friday during the normal business hours of 8:00 a.m. to 5:00 p.m.
16 and is closed on all state holidays.

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19 *History Note: Authority G.S. 117-1.*

20 *Eff. February 1, 1976.*

21 *Amendment Effective March 1, 2014*

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1 04 NCAC 08 .0107 is amended as published in 28:04 NCR, Page 311, with changes, as follows:

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3 **04 NCAC 08 .0107 MEETINGS**

4 ~~Members of the [NCREA] shall meet not more than 12 times in one year. Generally, the meetings will be held at~~
5 ~~the office; however, meetings may be scheduled in conjunction with other related activities within the state. [The~~
6 ~~Administrator shall send a notice of the date of the meeting to all Board members, cooperatives and interested~~
7 ~~parties prior to the meeting. If anyone has any matter to present for the Board's consideration, the Agency must~~
8 ~~receive all pertinent documents in the NCREA office three weeks prior to the scheduled meeting.]~~

9
10 (a) The Authority shall not meet more than 12 times per year. The meetings will be held at the office, offsite, or via
11 conference call.

12 (b) The Administrator shall send a notice of the date and location of the meeting to all Authority Board members,
13 cooperatives and interested parties, which include the telephone coalition, the North Carolina Electric Membership
14 Corporation, and members of the USDA, four weeks prior to the meeting.

15 (c) Anyone with a matter to present to the Board shall ensure the Authority receives all pertinent documents three
16 weeks prior to the meeting where the matter will be presented to the Board.

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

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

21 *Eff. February 1, 1976;*

22 *Amended Effective March 1, 2014*

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1 04 NCAC 08 .0108; 08 .0110; 08 .0111; 08 .0112; 08 .0203; 08 .0205; 08 .0207; 08 .0208; .08 .0209; 08 .0211;
2 08 .0212; 08 .0303; 08 .0305; 08 .0307; 08 .0308; 08 .0309; 08 .0310; 08 .0311; 08 .0312 are repealed as published
3 in 28:04 NCR, Pages 311, 312, 313 and 314 with changes, as follows:
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- 5 **04 NCAC 08 .0108 NOTIFICATION OF MEETINGS**
- 6 **04 NCAC 08.0110 CORRESPONDENCE AND COMMUNICATION**
- 7 **04 NCAC 08.0111 BOARD PROCEEDINGS**
- 8 **04 NCAC 08 .0112 MEMBER VISITATION**
- 9 **04 NCAC 08 .0203 LOAN CATEGORIES**
- 10 **04 NCAC 08 .0205 PRESENTATION OF DOCUMENTS**
- 11 **04 NCAC 08 .0207 OPERATING RULES AND REGULATIONS**
- 12 **04 NCAC 08 .0208 BYLAWS**
- 13 **04 NCAC 08 .0209 RATE SCHEDULES**
- 14 **04 NCAC 08 .0211 DATA SHEETS FOR PROGRESS REPORTS**
- 15 **04 NCAC 08 .0212 OPERATING BUDGET**
- 16 **04 NCAC 08 .0303 LOAN CATEGORIES**
- 17 **04 NCAC 08 .0305 PRESENTATION OF DOCUMENTS**
- 18 **04 NCAC 08 .0307 OPERATING RULES AND REGULATIONS**
- 19 **04 NCAC 08 .0308 BYLAWS**
- 20 **04 NCAC 08 .0309 TARIFFS**
- 21 **04 NCAC 08 .0310 COMPLAINTS**
- 22 **04 NCAC 08 .0311 DATA SHEETS FOR PROGRESS REPORTS**
- 23 **04 NCAC 08 .0312 OPERATING BUDGET**

24
25 *History Note: Authority G.S. 117-2(10); 117-2(11); 117-2(12); 117-5; 117-26*
26 *Eff. February 1, 1976;*
27 *Repeal Eff. March 1, 2014*
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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: NC Rural Electrification Authority

RULE CITATION: 04 NCAC 08 .0109

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

In Item (2), the Authority states that the Administrator will to respond and investigate complaints for members of Electric Membership Corporations (EMCs) and Telephone Membership Corporations (TMCs). G.S. 117-2(11a) specifically allows the Authority to do this for EMCs. Staff is not aware of any corresponding authority for TMCs, and therefore does not see that the Authority is able to do this under the current statutes. [G.S. 117-2 is attached to the Staff Opinion for Rule .0101.]

In Item (6), the Authority states it will act as the arbitrator pursuant to 47 USC 252. Staff believes the Authority can do this. However, in Item (6), the Authority states it will arbitrate using the procedures set out on the Authority's website. Staff is not aware of any statutory authority to allow the Rural Electrification Authority to set this process outside of rulemaking.

§252. Procedures for negotiation, arbitration, and approval of agreements

(a) Agreements arrived at through negotiation

(1) Voluntary negotiations

Upon receiving a request for interconnection, services, or network elements pursuant to section 251 of this title, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251 of this title. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before February 8, 1996, shall be submitted to the State commission under subsection (e) of this section.

(2) Mediation

Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

(b) Agreements arrived at through compulsory arbitration

(1) Arbitration

During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

(2) Duty of petitioner

(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

- (i) the unresolved issues;
- (ii) the position of each of the parties with respect to those issues; and
- (iii) any other issue discussed and resolved by the parties.

(B) A party petitioning a State commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

(3) Opportunity to respond

A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

(4) Action by State commission

(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) of this section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

(5) Refusal to negotiate

The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

(c) Standards for arbitration

In resolving by arbitration under subsection (b) of this section any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

- (1) ensure that such resolution and conditions meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title;
- (2) establish any rates for interconnection, services, or network elements according to subsection (d) of this section; and
- (3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(d) Pricing standards

(1) Interconnection and network element charges

Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251 of this title, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

(A) shall be—

- (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and
- (ii) nondiscriminatory, and

(B) may include a reasonable profit.

(2) Charges for transport and termination of traffic

(A) In general

For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5) of this title, a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

(B) Rules of construction

This paragraph shall not be construed—

(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

(3) Wholesale prices for telecommunications services

For the purposes of section 251(c)(4) of this title, a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

(e) Approval by State commission

(1) Approval required

Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

(2) Grounds for rejection

The State commission may only reject—

(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) of this section if it finds that—

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) of this section if it finds that the agreement does not meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title, or the standards set forth in subsection (d) of this section.

(3) Preservation of authority

Notwithstanding paragraph (2), but subject to section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

(4) Schedule for decision

If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a) of this section, or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b) of this section, the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

(5) Commission to act if State will not act

If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.

(6) Review of State commission actions

In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a State commission's failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 of this title and this section.

(f) Statements of generally available terms

(1) In general

A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 of this title and the regulations thereunder and the standards applicable under this section.

(2) State commission review

A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 of this title and the regulations thereunder. Except as provided in section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

(3) Schedule for review

The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

(A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

(B) permit such statement to take effect.

(4) Authority to continue review

Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

(5) Duty to negotiate not affected

The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251 of this title.

(g) Consolidation of State proceedings

Where not inconsistent with the requirements of this chapter, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253 of this title, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this chapter.

(h) Filing required

A State commission shall make a copy of each agreement approved under subsection (e) of this section and each statement approved under subsection (f) of this section available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

(i) Availability to other telecommunications carriers

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

(j) “Incumbent local exchange carrier” defined

For purposes of this section, the term “incumbent local exchange carrier” has the meaning provided in section 251(h) of this title.

(June 19, 1934, ch. 652, title II, §252, as added Pub. L. 104–104, title I, §101(a), Feb. 8, 1996, 110 Stat. 66.)

04 NCAC 08 .0109 is amended as published in 28:04 NCR, Page 311, with changes, as follows:

04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR

~~The [Administrator of the NCREA] is responsible for directing the staff of the authority [Authority] in order to carry on the functions of the [Authority] in , [reviewing and presenting loans to the NCREA Board,] maintaining records, and files [files,] investigating [and providing responses to] complaints. [complaints and is responsible for all aspects of arbitration processes and procedures.] The Administrator has been granted the authority by the Rural Electrification Authority to select and employ any additional staff as required.~~

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

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

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

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

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

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

(6) In situations where the Authority is requested to arbitrate an interconnection agreement pursuant to Section 252(b)(1) of the Act or pursuant to a valid contractual agreement between a TMC and another telecommunications carrier, the Administrator is responsible for reviewing the petitions for arbitration. The Authority will arbitrate the matter in accordance with the Resolution on Arbitration Policies on the Authority's website.

History Note: Authority G.S. 117-2(10); 117-2(11a); 117-2(12); ~~117-4;~~ 117-3.1(a); 117-31; 117-26; 117-32; 47

U.S.C 252

Eff. February 1, 1976-;

Amended Effective March 1, 2014

1 04 NCAC 08 .0201 is amended as published in 28:04 NCR, Page 312, with changes, as follows:

2

3 **04 NCAC 08 .0201 DEFINITIONS**

4 ~~(a) A ["domestic corporation"] [means] an [EMC] licensed by the State of North Carolina under Chapter 117 of~~
5 ~~the General Statutes to render its service to its members only in the territory assigned to it by the North Carolina~~
6 ~~Utilities Commission.~~

7 ~~(b) A ["domesticated corporation"] [means] a foreign electric membership corporation licensed in the State of~~
8 ~~North Carolina to serve members within a defined area whose main charter is in another state.~~

9 ~~(c) [The Administrator is the person selected by the NCREA Board to oversee, manage and abide by the~~
10 ~~requirements and responsibilities of the day to day operation of the NCREA office.]~~

11

12 For the purposes of this Section, the following definitions apply:

13 (a) "Domestic corporation" means an electric membership corporation granted privilege by the State of North
14 Carolina under Chapter 117 of the General Statutes to render its service to its members only in the territory assigned
15 to it by the Authority.

16 (b) "Domesticated corporation" means a foreign electric membership corporation created under G.S. 117 in the
17 State of North Carolina to serve members within a defined area whose main charter is in another state.

18

19 *History Note: Authority G.S. 117-2; 117-9; 117-28;*

20 *Eff. February 1, 1976;*

21 *Amended Effective March 1, 2014*

22

1 04 NCAC 08 .0202 is amended as published in 28:04 NCR, Page 312, with changes, as follows:

2

3 **04 NCAC 08 .0202 LOAN APPLICATIONS AND CATEGORIES**

4 All [EMCs], both domestic and domesticated, [must] petition the [NCREA] for any funds in the form of grants or
5 loans received from any agency of the United States Government for use in the State of North Carolina. [All loan
6 documents shall be presented at least three weeks prior to the scheduled North Carolina Rural Electrification
7 Authority board meeting for review by the administrator.]

8

9 Note: In the case of a domesticated corporation, only the funds for use in the State of North Carolina shall be
10 included in the petition for the loan or grant. [Loan categories shall be as defined by the United State Department of
11 Agriculture, Rural Electrification Administration Bulletin 20-2, latest revision, and shall meet the requirements set
12 forth in all other related bulletins covering loan policies and requirements under Section 4 of the Rural
13 Electrification Act.]

14

15 (a) All EMCs, both domestic and domesticated, shall petition the Authority to apply for any funds in the form of
16 grants or loans issued from any agency of the United States Government for use in the State. The EMC shall send
17 all loan documents to the Administrator three weeks prior to the Board meeting in accordance with Rule .0107 of
18 this Chapter.

19 (b) Domesticated corporations shall include only the funds for use in this State in its petition for the loan or grant.

20 (c) A checklist for Rural Utility Service (RUS) loans and Rural Economic Development Loans and Grants (REDLG)
21 may be found on the Authority's website.

22

23 *History Note: Authority G.S. 117-26; 117-28.*

24 *Eff. February 1, 1976;*

25 *Amended Effective March 1, 2014*

26

1 04 NCAC 08 .0204 was proposed for amendment in 28:04 NCR, Page 312, but is now repealed.

2

3 **04 NCAC 08 .0204 DOCUMENTS REQUIRED FOR LOAN APPLICATIONS**

4 ~~The list of documents required for a loan application by the [NCREA] are as follows:~~

5	DOCUMENT	NCREA
6	(1) Petition to State Authority	1
7	(2) Board Resolution	1
8	(3) REA Form 740a	1
9	(4) REA Form 7 (Financial & Statistical Report)	1
10	(5) REA Form 7a (Supplement to REA Form 7)	1
11	(6) REA Form 740c	1
12	(7) REA Form 325a (Financial Forecast)	1
13	(8) Board Resolution Approving Financial Forecast	1
14	(9) Retail Rate Schedule	1
15	(10) Area Coverage Policy	1
16	(11) REA Form 602 with attachment	1
17	(12) Page 4 of Mortgage (if required)	1
18	(13) Tabulation of New Services Connected & Retired	1
19	(14) Environmental Statement	1
20	(15) Statement Regarding Historic Sights	
21	Listed in National Register	1
22	(16) Copy of Letter to National Rural Utilities	
23	Cooperative Finance Corporation	1
24	(17) Bylaws	1

25

26 *History Note: Authority G.S. 117-26; 117-2(11).*

27 *Eff. February 1, 1976;*

28 *Repealed Effective March 1, 2014*

29

04 NCAC 08 .0206 is amended as published in 28:04 NCR, page 312, with changes, as follows:

04 NCAC 08 .0206 OPERATING RULES AND REGULATIONS

~~[(a) Each December 31 and June 30, a copy of the Financial and Statistical Report (REA Form 7) and Annual Supplement to Financial and Statistical Report (REA Form 7a) shall be filed [by the EMC] with the [NCREA.]~~

~~[(b) A copy of the service agreements or policies of each EMC's current operating rules and regulations shall be filed with the NCREA. As rules and regulations are modified, revised copies of all revisions shall be filed with the Authority within] 30 [days.]~~

~~[(c) A copy of the current bylaws of each EMC shall be filed with the NCREA.]~~

~~[(d) A copy of the current rate schedules of each EMC shall be filed with the NCREA.]~~

~~[(e) Each EMC shall file a data sheet at least once per year showing growth trends in miles of line, facilities, and consumers served.]~~

~~[(f) Each EMC is requested to keep a current operating budget report breakdown sheet on file in this office for purposes of loan reviews and reports.]~~

The EMCs shall provide the following information to the Authority:

(1)A copy of the Financial and Statistical Report (RUS Form 7) and Annual Supplement to Financial and Statistical Report (RUS Form 7a) for periods ending December 31 and June 30 of each year. These forms can be found on the USDA's website at http://www.rurdev.usda.gov/UEP_Support_DCS.html and can be accessed free of charge.

(2)A copy of the EMC's current operating rules and regulations. EMCs shall file copies of revised rules and regulations within 30 days of revision.

(3)A copy of the current EMC bylaws. Changes to the bylaws must be filed within 30 days of the revision.

(4)A copy of the current EMC rate schedules. Changes to the rate schedules must be filed within 30 days of the revision.

(5)An annual data sheet showing growth trends in miles of line, facilities and consumers served.

(6)Each EMC is required to provide a current operating budget report to the Authority at the time of a loan application.

History Note: Authority G.S. 117-2(12); 117-26.

Eff. February 1, 1976-;

Amended Effective March 1, 2014

1 04 NCAC 08 .0210 was proposed for amendment in 28:04 NCR, Page 313, but is now repealed.

2

3 **04 NCAC 08 .0210 COMPLAINTS**

4 ~~Any member with a complaint against his cooperative [(whether it is an electric or telephone membership~~
5 ~~corporation)] may contact the administrator [of the NCREA] or his [the] designated staff member[,] of the North~~
6 ~~Carolina Rural Electrification Authority . The administrator [Administrator] (or staff member) will contact the~~
7 ~~manager of the electric membership corporation to [shall] investigate the complaint and obtain all data necessary to~~
8 ~~negotiate a reasonable solution to the complaint. In all cases, the manager of the cooperative is encouraged to settle~~
9 ~~the complaint; however, in all cases the administrator [The [A]administrator (or his appointed staff member) [will]~~
10 ~~contacts the member by phone or letter regarding the complaint. The solution to the problem is reached by factual~~
11 ~~evidence, without biased opinions or discriminations. It is the administrator's responsibility [of the Administrator]~~
12 ~~to ascertain that all service rules and regulations are administered fairly and equally to each member,[] regardless of~~
13 ~~whether he designates someone to handle the complaint or sees to it himself. In the event no satisfactory solution~~
14 ~~can be reached between the complainant and his cooperative, and if the a[A]dministrator deems it necessary, the~~
15 ~~a[A]dministrator will make a trip to visit the cooperative and its member.~~

16

17 *History Note: Authority G.S. 117-2(12).*

18 *Eff. February 1, 1976⁷;*

19 *Repealed Effective March 1, 2014*

20

1 04 NCAC 08 .0301 is amended as published in 28:04 NCR, Page 313, with changes, as follows:

2
3 **04 NCAC 08 .0301 DEFINITIONS**

4 A["domestic corporation"] [means] a telephone [membership] corporation [(TMC)] licensed by the State of North
5 Carolina under Chapter 117 of the General Statutes to render its service to its members only in the territory assigned
6 to it by the North Carolina Utilities Commission and agreed [to] by the [NCREA.]

7 [~~Arbitration means arbitration proceedings as set out in the United States Telecommunications Act of 1996 and~~
8 ~~subsequent amendments to that Act. Rules for arbitration are prescribed by the NCREA and the Authority is~~
9 ~~responsible for establishing procedural schedules and for rendering final decisions for arbitration Petitions.~~

10 ~~The NCREA is responsible for the review of interconnection agreements and their amendments upon receipt and~~
11 ~~presenting the agreements and amendments to the NCREA Board for their approval. An interconnection agreement~~
12 ~~means an agreement for interconnection as set out in the United States Telecommunications Act of 1996 and~~
13 ~~subsequent amendments to that Act. Agreements and amendments are negotiated between TMCs and competing~~
14 ~~local providers (CLPs) or a Commercial Mobile Radio Service Provider (CMRS).]~~

15
16 For the purposes of this Section, the following definitions apply:

17 (a)“Commercial Mobile Radio Service Provider (CMRS)” means a carrier whose wireless network is connected to
18 the public switched telephone network.

19 (b)“Competing Local Provider (CLP)” means a telephone company that competes with the already established local
20 telephone company by providing its own network and switching.

21 (c)“Domestic corporation” means a telephone membership corporation (TMC) established in the State by G.S. 117
22 to render its services to its members only in the territory assigned to it by the Authority.

23 (d)“Domesticated corporation” means a foreign TMC created under G.S. 117 to serve members within a defined
24 area in the State whose main charter is in another state.

25 (e)“Interconnection Agreement” means the negotiation of agreements and subsequent amendments between
26 requesting telecommunications carriers (such as CLPs or CMRS providers) and TMCs for interconnection services
27 or network elements pursuant to Section 251 of the Act.

28 (f)“Tariff” means a schedule of charges imposed on members of the TMC by the TMCs.

29
30 *History Note: Authority G.S. 117-2(12); 117-28; 47 CFR 20.3; 47 U.S.C 251; 47 U.S.C 252*

31 *Eff. February 1, 1976.*

32 *Amended Effective March 1, 2014*

33

1 04 NCAC 08 .0302 is amended as published in 28:04 NCR, Page 313, with changes, as follows:

2

3 **04 NCAC 08 .0302 LOAN APPLICATIONS**

4 ~~All [TMCs shall] petition the [NCREA] for any funds in the form of grants or loans received from any agency of~~
5 ~~the United States Government for use in the State of North Carolina.~~

6 ~~Loan categories shall be as defined by the United States Department of Agriculture, Rural Electrification~~
7 ~~Administration Bulletin 320_4, latest revision, and shall meet the requirements set forth in all other related bulletins~~
8 ~~covering loan policies and requirements under Title II, Section 201, of the Rural Electrification Act.~~

9 ~~All loan documents shall be presented at least three weeks prior to the scheduled (NCREA) Board meeting for~~
10 ~~review by the Administrator. The Administrator will prepare a summary of the loan and present the loan to the~~
11 ~~Board for their approval.~~

12 (a)All TMCs shall petition the Authority to apply for any funds in the form of grants or loans issued from any
13 agency of the United States government for use in the State.

14 (b)The TMC shall send all loan documents to the Administrator three weeks prior to the Board meeting in
15 accordance with Rule .0107 of this Chapter.

16

17

18 *History Note: Authority G.S. 117-2(11).*

19 *Eff. February 1, 1976.*

20 *Amended Effective March 1, 2014*

21

04 NCAC 08 .0306 is amended as published in 28:04 NCR, Page 314, with changes, as follows:

04 NCAC 08 .0306 OPERATING STATEMENT [RULES AND REGULATIONS]

REQUIRED DISCLOSURES

All telephone [TMCs] are required to file a copy of the Financial and Statistical Report for Telephone Borrowers (REA Form 479), the Annual Supplement to December 31 Financial and Statistical Report (REA Form 479a) and Employment Data (REA Form 15) with the [NCREA] by [December 31st and June 30th of each calendar year.

A copy of the current policies of each TMC shall be filed with the North Carolina Rural Electrification Authority.

A copy of the current bylaws of each TMC shall be filed with the office of the REA.

A copy of the current tariffs of each TMC shall be filed with the NCREA.

Each TMC may be requested from time to time to supply this office certain data information regarding its operation for purposes of reports.

Each TMC is requested to keep a current operating budget breakdown sheet on file with this office for purposes of review and reports.

Each TMC shall provide all negotiated interconnection agreements and their amendments to the Authority for review and approval.

In situations where the TMC and other Party (i.e. other local provider or wireless provider) cannot agree to the terms of the interconnection agreement, one of the Parties may file a Petition with the Authority for an arbitration of the disputed issues. The Authority will receive and review the Petition, establish procedural schedules; the Authority may request and receive data requests and testimonies and may conduct a hearing to collect additional data in order to render a final decision for the arbitration.]

The TMCs shall provide the following information to the Authority:

(1) A copy of the Financial and Statistical Report for Telephone Borrowers (RUS Form 479), the Annual Supplement to the December 31 Financial and Statistical Report (RUS Form 479a) and Employment Data (RUS Form 15). These forms can be found on the USDA's website at http://www.rurdev.usda.gov/UEP_Support_DCS.html and can be accessed at no charge. This information shall be provided to the Authority by December 31st and June 30th of each year and is used when reviewing loan and grant requests.

(2) A copy of the current TMC bylaws. Changes to the bylaws must be filed within 30 days of the revision.

(3) A copy of the current TMC tariffs. Changes to the tariffs must be filed within 30 days of the revision.

(4) Each TMC shall provide all negotiated interconnection agreements and their amendments to the Authority for review and approval in accordance with 47 U.S.C 252.

History Note: Authority G.S. 117-2(11); 117-31; 47 U.S.C 252

Eff. February 1, 1976;

1

Amended Effective March 1, 2014.

2

04 NCAC 08 .0401 is amended as published in 28:04 NCR, page 315, with changes, as follows:

04 NCAC 08 .0401 PETITIONS FOR RULE-MAKING HEARINGS

~~(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the North Carolina Rural Electrification Authority [NCREA] shall address a petition to:~~

~~Administrator~~

~~North Carolina Rural Electrification Authority~~

~~P. O. Box 25249~~

~~[4321 Mail Service Center]~~

~~Raleigh, North Carolina 27611. [27699.]~~

~~(b) The petition should [shall] contain the following information:~~

~~(1) either a draft of the proposed rule or a summary of its contents,~~

~~(2) reason for proposal,~~

~~(3) effect of the existing rules or orders,~~

~~(4) effect of the proposed rule on existing practices,~~

~~(5) any data supporting proposal,~~

~~(6) list of the groups or individuals most likely to be affected by the proposed rule,~~

~~(7) name(s) and address(es) of petitioner(s),~~

~~(8) [the] date.~~

~~(c) The authority will determine within 30 [120] days of submission, whether the public interest will be served by granting it. The authority will consider all the contents of the submitted petition, plus any additional information it deems relevant.~~

~~(d) If the decision is to deny the petition, the administrator [Administrator] will notify the petitioner in writing, stating the reasons therefor. [therefore.] If the decision is to grant the petition, the authority [Authority] within 10 days of decision will [shall] initiate a rule making proceeding by issuing a rule making notice, as provided in these rules. [If a hearing is held, the Authority will provide the appropriate notice.]~~

~~(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Authority shall address the petition to: Administrator, North Carolina Rural Electrification Authority, 4321 Mail Service Center, Raleigh, North Carolina 27699-4321.~~

~~(b) The petition shall contain the following information:~~

~~(1) a draft of the proposed rule;~~

~~(2) effect on the existing rules and practices;~~

~~(3) the name(s) and address(es) of petitioner(s); and~~

~~(4) the date.~~

1 (c) The Authority shall determine within 120 days of submission whether the public interest will be served by
2 granting the request. The Authority will consider all the contents of the submitted petition, plus any additional
3 information it deems relevant.

4 (d) If the decision is to deny the petition, the Administrator shall notify the petitioner in writing, stating the reasons
5 therefor. If the decision is to grant the petition, the Authority shall initiate a rule-making proceeding as required by
6 G.S. 150B.

7 (e) Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the
8 Authority shall follow the procedures in 150B.

9
10 *History Note: Authority G.S. 117-2(12); ~~150A-11, 12(a), 16;~~ 150B-20.*

11 *Eff. February 1, 1976*

12 *Amended Effective March 1, 2014.*

13

04 NCAC 08 .0404 is amended as published in 28:04 NCR, Page 315, with changes, as follows:

04 NCAC 08 .0404 DECLARATORY RULINGS

~~(a) Any person substantially affected by a statute administered by a rule of the [NCREA] North Carolina Rural Electrification Authority may request a declaratory ruling as to:~~

- ~~(1) whether, and if so how, that statute, or rule applies to a given factual situation; or~~
- ~~(2) whether a particular agency rule is valid.~~

~~(b) The authority will have the power to make such declaratory rulings. All requests for declaratory rulings shall be written and mailed to:~~

~~Administrator
North Carolina Rural Electrification Authority
P. O. Box 25249
[4321 Mail Service Center]
Raleigh, North Carolina 27611, [27699.]~~

~~(c) All requests for a declaratory ruling must include the following information:~~

- ~~(1) name and address of petitioner,~~
- ~~(2) statute or rule to which petition relates,~~
- ~~(3) concise statement of the manner in which petitioner is aggrieved by the statute, or rule or its potential application to him,~~
- ~~(4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing,~~
- ~~(5) [and the] date.~~

~~(d) Whenever the authority believes for good cause that the issuance of a declaratory ruling is undesirable, it may refuse to do so. When good cause for refusing to issue a declaratory ruling is deemed to exist, the authority will notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.~~

~~(e) Where a declaratory ruling is deemed appropriate, the authority will issue the ruling within [45] 60 days of receipt of the petition.~~

~~(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be appropriate in a particular case.~~

(a) Any person aggrieved by a statute administered by a rule of the Authority may request a declaratory ruling for the following reasons:

- (1) to determine the validity of a rule;
- (2) to determine the applicability to a given set of facts of a statute, rule or order administered by the agency; or
- (3) to resolve a conflict or inconsistency within the agency regarding interpretation of a law of rule adopted by the agency.

1 (b) All requests for declaratory rulings shall be written and mailed to: Administrator, North Carolina Rural
2 Electrification Authority, 4321 Mail Service Center, Raleigh, North Carolina 27699-4321.

3 (c) All requests for a declaratory ruling must include the following information:

4 (1) the name and address of petitioner;

5 (2) the statute, rule or order to which the petition relates;

6 (3) the concise statement of the manner in which petitioner is aggrieved by the statute, rule or order or its
7 potential application to him or her;

8 (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing; and

9 (5) the date.

10 (d) The Authority shall respond to a request for a declaratory ruling as follows:

11 (1) within 30 days of receipt of the request for a declaratory ruling, the Authority shall make a written
12 decision to grant or deny the request. If the Authority fails to make a written decision to grant or deny the
13 request within 30 days, the failure shall be deemed a decision to deny the request.

14 (2) If the Authority denies the request, the decision is immediately subject to judicial review in accordance
15 with Article 4 of this Chapter.

16 (3) If the Authority grants the request, the Authority shall issue a written ruling on the merits within 45
17 days of the decision to grant the request. A declaratory ruling is subject to judicial review in accordance
18 with Article 4 of G.S. 150B.

19 (4) If the Authority fails to issue a declaratory ruling within 45 days, the failure shall be deemed a denial on
20 the merits and the person aggrieved may seek judicial review pursuant to Article 4 of G.S. 150B. Upon
21 review of the Authority's failure to issue a declaratory ruling, the court shall not consider any basis for the
22 denial that was not presented in writing to the person aggrieved.

23 (e) The Board shall refuse to issue a declaratory ruling under the following circumstances:

24 (1) when the Board has already made a controlling decision on substantially similar facts in a contested
25 case;

26 (2) when the facts underlying the request for a ruling were specifically considered at the time of the
27 adoption of the rule in question; or

28 (3) when the subject matter of the request is involved in pending litigation in North Carolina.

31 *History Note: Authority G.S. 117-2(12); 150B-4.*

32 *Eff. February 1, 1976*

33 *Amended Effective March 1, 2014*



Letter to agency,
notifying it of the
Commission's December
objection

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

December 19, 2013

Frances Liles, Administrator
NC Rural Electrification Authority
120 Penmarc Drive
Suite 104
Raleigh NC 27603

Re: Rules 04 NCAC 08 .0101, .0102, .0107, .0108, .0109, .0110, .0111, .0112, .0201,
.0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302,
.0303, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401 and .0404.

Dear Frances:

At its meeting the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to these Rules based on ambiguity. The rules as written are unclear and do not clearly state the purposes or procedures contemplated in the Rules. In addition, the Commission objected to Rule 04 NCAC 08 .0210 for lack of statutory authority, as there does not appear to be any authority for the Rural Electrification Authority to investigate member complaints against Telephone Membership Corporations.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

SECTION .0100 - GENERAL PROVISIONS

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“04 NCAC 08 .0101 is amended as published in 28:04 NCR, Page 310, as follows”:

04 NCAC 08 .0101 PURPOSE

The North Carolina Rural Electrification Authority (NCREA) consists of five Board members to be appointed by the Governor of North Carolina. The NCREA Board employs an Administrator who is responsible for directing the staff with the successful completion of the required functions of the office. The purpose of the North Carolina Rural Electrification Authority NCREA is to work to secure and continue adequate and dependable electric and telephone services to customers served by the electric membership corporations (EMCs) and the telephone membership corporations (TMCs) in predominately rural areas of the state at the lowest possible cost and on a nondiscriminatory basis, as set forth in G.S. 117. To accomplish this purpose, the Authority acts as an agent in securing long-term loans or grants from any agency of the United States Government for EMCs and TMCs. The Authority also serves as a forum to receive and investigate complaints from members of these cooperatives and arrive at a just and satisfactory solution to the complaints. The NCREA, pursuant to the 1996 Telecommunications Act, is also responsible for receiving and establishing procedural schedules for Petitions for arbitration of interconnection agreements between TMCs and other local and wireless providers. The Authority renders final decisions for these arbitrations based on information received from testimony, data requests and hearings. The Authority approves TMC interconnection agreements and their amendments.

*History Note: Authority G.S. 117-2; 117-4; 117-26; 117-32;
Eff. February 1, 1976.
Amended Effective January 1, 2014*

1 “04 NCAC 08 0102 is amended as published in 28:04 NCR, Page 311, as follows”:

2 **04 NCAC 08 0102 ~~NAME AND ADDRESS OF THE NCREA~~**

3

4 The office of the ~~Rural Electrification Authority~~ NCREA is located in Raleigh, North Carolina and the mailing
5 address for the Rural Electrification Authority is P. O. Box 25249 is 4321 Mail Service Center, Raleigh, North
6 Carolina 27611-27699. Correspondence and communication with the NCREA should be addressed to the attention
7 of the Administrator or to the Chairman of the NCREA. The NCREA office is open to the public Monday through
8 Friday during the normal business hours established for state government agencies. A copy of the NCREA Board
9 proceedings is available to the general public upon a written request to the NCREA office.

10

11 *History Note: Authority G.S. 117-1;*
12 *Eff. February 1, 1976.*
13 *Amendment Effective January 1, 2014*

1 “04 NCAC 08. 0107 is amended as published in 28:04 NCR, Page 311, as follows”:

2 **04 NCAC 08. 0107 MEETINGS**

3 Members of the ~~Rural Electrification Authority~~ NCREA shall meet not more than 12 times in one year. Generally,
4 the meetings will be held at the office; however, meetings may be scheduled in conjunction with other related
5 activities within the state. The Administrator shall send a notice of the date of the meeting to all Board members,
6 cooperatives and interested parties prior to the meeting. If anyone has any matter to present for the Board’s
7 consideration, the Agency must receive all pertinent documents in the NCREA office three weeks prior to the
8 scheduled meeting.

9

10

11 *History Note: Authority G.S. 117-4; 117-5;*

12 *Eff. February 1, 1976.*

13 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0108 is amended as published in 28:04 NCR, Page 311 as follows”:

2 **04 NCAC 08 .0108 NOTIFICATION OF MEETINGS**

3

4 *History Note: Authority G.S. 117-5*

5 *Eff. February 1, 1976*

1 “04 NCAC 08 .0109 is amended as published in 28:04 NCR, Page 311, as follows”:

2 **04 NCAC 08 .0109 AUTHORITY STAFF**

3 The Rural Electrification Authority employs a secretary, who shall be a competent engineer, and, who also serves as
4 ~~chief administrator.~~ Administrator of the NCREA is responsible for directing the staff of the Authority in order to
5 carry on the functions of the ~~authority~~ Authority in checking loans reviewing and presenting loans to the NCREA
6 Board, maintaining records, and files; and investigating and providing responses to complaints and is responsible for
7 all aspects of arbitration processes and procedures. The Administrator has been granted the authority by the Rural
8 Electrification Authority to select and employ any additional staff as required.

- 9 (1) The Administrator shall oversee the application of the electric and telephone cooperatives rules and
10 regulations to ensure they are administered according to the manner in which they are written.
11 (2) The Administrator shall investigate member complaints and request additional facts or information from
12 the cooperative needed by the NCREA in order to adequately respond to written and verbal member
13 complaints.
14 (3) The Administrator may attend any annual meeting or Board meeting of an individual electric or telephone
15 cooperative, whether invited or not, if he/she feels it necessary to further better public relations or
16 communications between the cooperative and its members and this office.
17 (4) The Administrator shall review electric and telephone loan or grant applications, request any additional
18 information from the cooperatives for those applications, prepare a summary and present the loan requests
19 to the NCREA Board for their review and approval.
20 (5) The Administrator is responsible for reviewing all petitions for arbitration from the TMCs or other
21 telecommunications providers. Upon review of those petitions, the Administrator will provide a summary
22 to the Board and coordinate procedural schedules and any Orders that are written in connection with those
23 arbitrations. The Administrator is also responsible for reviewing interconnection agreements and
24 amendments between the TMCs and other local providers and presenting those documents to the REA
25 Board for their approval

26
27 *History Note:* Authority G.S. 117-2(12); 117-4;
28 *Eff. February 1, 1976.*
29 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0110 is amended as published in 28:04 NCR, Page 311, as follows”:

2

3 **04 NCAC 08 .0110 CORRESPONDENCE AND COMMUNICATION**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976*

1 “04 NCAC 08 .0111 is amended as published in 28:04 NCR, Page 311, as follows”:

2

3 **04 NCAC 08 .0111 BOARD PROCEEDINGS**

4

5 *History Note: Authority G.S. 117-2(12)*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0112 is amended as published in 28:04 NCR, Page 311, as follows”:

2

3 **04 NCAC 08 .0112 MEMBER VISITATION**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0201 is amended as published in 28:04 NCR, Page 312, as follows”:

2 **04 NCAC 08 .0201 DEFINITIONS**

3 (a) A “domestic corporation” ~~is hereby defined as~~ means an ~~electric membership corporation~~ EMC licensed by the
4 State of North Carolina under Chapter 117 of the General Statutes to render its service to its members only in the
5 territory assigned to it by the North Carolina Utilities Commission.

6 (b) A “domesticated corporation” ~~is a~~ means a foreign electric membership corporation licensed in the State of
7 North Carolina to serve members within a defined area whose main charter is in another state.

8 (c) The Administrator is the person selected by the NCREA Board to oversee, manage and abide by the
9 requirements and responsibilities of the day-to-day operation of the NCREA office.

10

11

12 *History Note: Authority G.S. 117-28;*

13 *Eff. February 1, 1976.*

14 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0202 is amended as published in 28:04 NCR, Page 312, as follows”:

2 **04 NCAC 08 .0202 LOAN APPLICATIONS AND CATEGORIES**

3 All ~~EMC~~electric membership corporations, both domestic and domesticated, ~~are required to~~ must
4 petition the ~~North Carolina Rural Electrification Authority~~ NCREA for any funds in the form of grants or
5 loans received from any agency of the United States Government for use in the State of North Carolina.
6 All loan documents shall be presented at least three weeks prior to the scheduled North Carolina Rural
7 Electrification Authority board meeting for review by the administrator.

8 Note: In the case of a domesticated corporation, only the funds for use in the State of North Carolina
9 shall be included in the petition for the loan or grant. Loan categories shall be as defined by the United
10 State Department of Agriculture, Rural Electrification Administration Bulletin 20-2, latest revision, and
11 shall meet the requirements set forth in all other related bulletins covering loan policies and requirements
12 under Section 4 of the Rural Electrification Act.

13

14 *History Note: Authority G.S. 117-26; 117-28;*
15 *Eff. February 1, 1976.*
16 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0203 is amended as published in 28:04 NCR, Page 312, as follows”:

2

3 **04 NCAC 08 .0203 LOAN CATEGORIES**

4

5 *History Note: Authority G.S. 117-26;*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0204 is amended as published in 28:04 NCR, Page 312, as follows”:

2 **04 NCAC 08 .0204 DOCUMENTS REQUIRED FOR LOAN APPLICATIONS**

3 The list of documents required for a loan application by the ~~North Carolina Rural Electrification Authority~~ NCREA
4 are as ~~listed below~~ follows:

5	<u>DOCUMENT</u>	<u>NCREA</u>
6	(1) Petition to State Authority	1
7	(2) Board Resolution	1
8	(3) REA Form 740a	1
9	(4) REA Form 7 (Financial & Statistical Report)	1
10	(5) REA Form 7a (Supplement to REA Form 7)	1
11	(6) REA Form 740c	1
12	(7) REA Form 325a (Financial Forecast)	1
13	(8) Board Resolution Approving Financial Forecast	1
14	(9) Retail Rate Schedule	1
15	(10) Area Coverage Policy	1
16	(11) REA Form 602 with attachment	1
17	(12) Page 4 of Mortgage (if required)	1
18	(13) Tabulation of New Services Connected & Retired	1
19	(14) Environmental Statement	1
20	(15) Statement Regarding Historic Sights	
21	Listed in National Register	1
22	(16) Copy of Letter to National Rural Utilities	
23	Cooperative Finance Corporation	1
24	(17) Bylaws	1
25		

26 *History Note: Authority G.S. 117-26; 117-2(11);*
27 *Eff. February 1, 1976.*
28 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0205 is amended as published in 28:04 NCR, Page 312, as follows”:

2

3 **04 NCAC 08 .0205 PRESENTATION OF DOCUMENTS**

4

5 *History Note: Authority G.S. 117-26; 117-2(10);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0206 is amended as published in 28:04 NCR, Page 312, as follows”:

2 **04 NCAC 08 .0206 OPERATING STATEMENT RULES AND REGULATIONS**

3 (a) Each December 31 and June 30, a copy of the Financial and Statistical Report (REA Form 7) and Annual
4 Supplement to Financial and Statistical Report (REA Form 7a) shall be filed by the EMC with the ~~North Carolina~~
5 ~~Rural Electrification Authority~~ NCREA.

6 (b) A copy of the service agreements or policies of each EMC’s current operating rules and regulations shall be
7 filed with the NCREA. As rules and regulations are modified, revised copies of all revisions shall be filed with the
8 Authority within thirty days.

9 (c) A copy of the current bylaws of each EMC shall be filed with the NCREA.

10 (d) A copy of the current rate schedules of each EMC shall be filed with the NCREA.

11 (e) Each EMC shall file a data sheet at least once per year showing growth trends in miles of line, facilities, and
12 consumers served.

13 (f) Each EMC is requested to keep a current operating budget report breakdown sheet on file in this office for
14 purposes of loan reviews and reports.

15

16 *History Note: Authority G.S. 117-2(12);*

17 *Eff. February 1, 1976.*

18 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0207 is amended as published in 28:04 NCR, Page 313, as follows”:

2

3 **04 NCAC 08 .0207 OPERATING RULES AND REGULATIONS**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0208 is amended as published in 28:04 NCR, Page 313, as follows”:

2

3 **04 NCAC 08 .0208** **BYLAWS**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0209 is amended as published in 28:04 NCR, Page 313, as follows”:

2

3 **04 NCAC 08 .0209 RATE SCHEDULES**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0210 is amended as published in 28:04 NCR, Page 313, as follows”:

2 **04 NCAC 08 .0210 COMPLAINTS**

3 Any member with a complaint against his cooperative (whether it is an electric or telephone membership
4 corporation) may contact the Administrator of the NCREA or the his designated staff member, ~~of the North Carolina~~
5 ~~Rural Electrification Authority~~ The ~~administrator~~ Administrator (or staff member) ~~shall~~ will ~~contact the manager~~
6 ~~of the electric membership corporation~~ to investigate the complaint and obtain all data necessary to negotiate a
7 reasonable solution to the complaint. ~~In all cases, the manager of the cooperative is encouraged to settle the~~
8 ~~complaint; however, in all cases the administrator.~~ The Administrator (or his appointed staff member) ~~contacts~~ will
9 contact the member by phone or letter regarding the complaint. The solution to the problem is reached by factual
10 evidence, without biased opinions or discriminations. It is the responsibility of the Administrator ~~Administrator's~~
11 ~~responsibility~~ to ascertain that all service rules and regulations are administered fairly and equally to each member.
12 ~~regardless of whether he designates someone to handle the complaint or sees to it himself.~~ In the event no
13 satisfactory solution can be reached between the complainant and his cooperative, and if the ~~administrator~~
14 Administrator deems it necessary, the ~~administrator~~ Administrator will make a trip to visit the cooperative and its
15 member.

16

17 *History Note: Authority G.S. 117-2(12);*

18 *Eff. February 1, 1976.*

19 *Amended Effective January 1, 2014*

1 “04 NCAC 08 .0211 is amended as published in 28:04 NCR, Page 313, as follows”:

2 **04 NCAC 08 .0211 DATA SHEETS FOR PROGRESS REPORTS**

3

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 “04 NCAC 08 .0212 is amended as published in 28:04 NCR, Page 313, as follows”:

2

3 **04 NCAC 08 .0212 OPERATING BUDGET**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0301 is amended as published in 28:04 NCR, Page 313, as follows:

2 **04 NCAC 08 .0301 DEFINITIONS**

3 A “domestic corporation” ~~is defined as~~ means a telephone membership corporation (TMC) licensed by the State of
4 North Carolina under Chapter 117 of the General Statutes to render its service to its members only in the territory
5 assigned to it by the North Carolina Utilities Commission and agreed ~~on~~ to by the ~~North Carolina Rural~~
6 ~~Electrification Authority~~ NCREA.

7 Arbitration means arbitration proceedings as set out in the United States Telecommunications Act of 1996 and
8 subsequent amendments to that Act. Rules for arbitration are prescribed by the NCREA and the Authority is
9 responsible for establishing procedural schedules and for rendering final decisions for arbitration Petitions.

10 The NCREA is responsible for the review of interconnection agreements and their amendments upon receipt and
11 presenting the agreements and amendments to the Authority for their approval. An interconnection agreement
12 means an agreement for interconnection as set out in the United States Telecommunications Act of 1996 and
13 subsequent amendments to that Act. Agreements and amendments are negotiated between TMCs and competing
14 local providers (CLPs) or a Commercial Mobile Radio Service Provider (CMRS).

15

16

17 *History Note: Authority G.S. 117-2(12); 117-28;*

18 *Eff. February 1, 1976.*

19 *Amended Effective December 1, 2013.*

1 04 NCAC 08 .0302 is amended as published in 28:04 NCR, Page 313, as follows:

2 **04 NCAC 08 .0302 LOAN APPLICATIONS**

3 All ~~telephone membership corporations are required to~~ TMCs shall petition the ~~North Carolina Rural Electrification~~
4 ~~Authority~~ NCREA for any funds in the form of grants or loans received from any agency of the United States
5 Government for use in the State of North Carolina.

6 Loan categories shall be as defined by the United States Department of Agriculture, Rural Electrification
7 Administration Bulletin 320-4, latest revision, and shall meet the requirements set forth in all other related bulletins
8 covering loan policies and requirements under Title II, Section 201, of the Rural Electrification Act.

9 All loan documents shall be presented at least three weeks prior to the scheduled (NCREA) Board meeting for
10 review by the Administrator. The Administrator will prepare a summary of the loan and present the loan to the
11 Board for their approval.

12

13 *History Note: Authority G.S. 117-2(11);*

14 *Eff. February 1, 1976.*

15 *Amended Effective December 1, 2013.*

1 04 NCAC 08 .0303 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0303 LOAN CATEGORIES**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0305 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0305 PRESENTATION OF DOCUMENTS**

4

5 *History Note: Authority G.S. 117-2(11)*

6 *Eff. February 1, 1976.*

1 04 NCAC 08.0306 is amended as published in 28:04 NCR, Page 314, as follows:

2 **04 NCAC 08 .0306 OPERATING STATEMENT RULES AND REGULATIONS**

3 All ~~telephone membership corporations~~ TMCs are required ~~on each December 31 and June 30~~, to file a copy of the
4 Financial and Statistical Report for Telephone Borrowers (REA Form 479), the Annual Supplement to December 31
5 Financial and Statistical Report (REA Form 479a) and Employment Data (REA Form 15) with the ~~North Carolina~~
6 ~~Rural Electrification Authority~~ NCREA by December 31st and June 30th of each calendar year.

7 A copy of the current policies of each TMC shall be filed with the North Carolina Rural Electrification Authority.

8 A copy of the current bylaws of each TMC shall be filed with the office of the REA.

9 A copy of the current tariffs of each TMC shall be filed with the NCREA.

10 Each TMC may be requested from time to time to supply this office certain data information regarding its operation
11 for purposes of reports.

12 Each TMC is requested to keep a current operating budget breakdown sheet on file with this office for purposes of
13 review and reports.

14 Each TMC shall provide all negotiated interconnection agreements and their amendments to the Authority for
15 review and approval.

16 In situations where the TMC and other Party (i.e. other local provider or wireless provider) cannot agree to the terms
17 of the interconnection agreement, one of the Parties may file a Petition with the Authority for an arbitration of the
18 disputed issues. The Authority will receive and review the Petition, establish procedural schedules; the Authority
19 may request and receive data requests and testimonies and may conduct a hearing to collect additional data in order
20 to render a final decision for the arbitration.

21
22

23 History Note: Authority G.S. 117-2(11);

24 Eff. February 1, 1976.

25 Amended Effective December 1, 2013.

1 04 NCAC 08 .0307 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0307 OPERATING RULES AND REGULATIONS**

4

5

6 *History Note: Authority G.S. 117-2(11);*

7 *Eff. February 1, 1976.*

1 04 NCAC 08 .0308 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0308** **BYLAWS**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0309 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0309 TARIFFS**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0310 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0310 COMPLAINTS**

4

5 *History Note: Authority G.S. 117-2(12);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0311 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0311 DATA SHEETS FOR PROGRESS REPORTS**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0312 is repealed as published in 28:04 NCR, Page 314, as follows:

2

3 **04 NCAC 08 .0312 OPERATING BUDGET**

4

5 *History Note: Authority G.S. 117-2(11);*

6 *Eff. February 1, 1976.*

1 04 NCAC 08 .0401 is amended as published in 28:04 NCR, Page 315, as follows:

2 **04 NCAC 08 .0401 PETITIONS FOR RULE-MAKING HEARINGS**

3 (a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the ~~North~~
4 ~~Carolina Rural Electrification Authority~~ NCREA shall address a petition to:

5 Administrator

6 North Carolina Rural Electrification Authority

7 P. O. Box 25249

8 4321 Mail Service Center

9 Raleigh, North Carolina ~~27611~~ 27699.

10 (b) The petition ~~should~~ shall contain the following information:

- 11 (1) either a draft of the proposed rule or a summary of its contents,
- 12 (2) reason for proposal,
- 13 (3) effect of the existing rules or orders,
- 14 (4) effect of the proposed rule on existing practices,
- 15 (5) any data supporting proposal,
- 16 (6) list of the groups or individuals most likely to be affected by the proposed rule,
- 17 (7) name(s) and address(es) of petitioner(s),
- 18 (8) the date.

19 (c) The authority will determine within ~~30~~ 120 days of submission ~~or at the next meeting of the authority, after study~~
20 ~~of the facts stated in the petition~~, whether the public interest will be served by granting it. The authority will
21 consider all the contents of the submitted petition, plus any additional information it deems relevant.

22 (d) If the decision is to deny the petition, the ~~administrator~~ Administrator will notify the petitioner in writing, stating
23 the reasons therefore. If the decision is to grant the petition, the Authority ~~within 10 days of decision will~~ shall
24 initiate a rule-making proceeding by issuing a rule making notice, as provided in these rules. If a hearing is held, the
25 Authority will provide the appropriate notice.

27 *History Note: Authority G.S. 117-2(12); 150b-20 ;*
28 *Eff. February 1, 1976.*
29 *Amended Effective December 1, 2013.*

1 04 NCAC 08 .0404 is amended as published in 28:04 NCR, Page 315, as follows:

2 **04 NCAC 08 .0404 DECLARATORY RULINGS**

3 (a) Any person substantially affected by a statute administered by a rule of the NCREA ~~North Carolina Rural~~
4 ~~Electrification Authority~~ may request a declaratory ruling as to:

- 5 (1) whether, and if so how, that statute, or rule applies to a given factual situation; or
- 6 (2) whether a particular agency rule is valid.

7 (b) The authority will have the power to make such declaratory rulings. All requests for declaratory rulings shall be
8 written and mailed to:

9 Administrator

10 North Carolina Rural Electrification Authority

11 ~~P. O. Box 25249~~

12 4321 Mail Service Center

13 Raleigh, North Carolina ~~27611~~ 27699.

14 (c) All requests for a declaratory ruling must include the following information:

- 15 (1) name and address of petitioner,
- 16 (2) statute or rule to which petition relates,
- 17 (3) concise statement of the manner in which petitioner is aggrieved by the statute, or rule or its
18 potential application to him,
- 19 (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing,
- 20 (5) and the date.

21 (d) Whenever the authority believes for good cause that the issuance of a declaratory ruling is undesirable, it may
22 refuse to do so. When good cause for refusing to issue a declaratory ruling is deemed to exist, the authority will
23 notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

24 (e) Where a declaratory ruling is deemed appropriate, the authority will issue the ruling within 45 ~~60~~ days of receipt
25 of the petition.

26 (f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as
27 may be appropriate in a particular case.

28
29 *History Note: Authority G.S. 117-2(12);*

30 *Eff. February 1, 1976*

31 *Amended Effective December 1, 2013*

32