

CHAPTER 08 – RURAL ELECTRIFICATION AUTHORITY

SECTION .0100 – GENERAL PROVISIONS

04 NCAC 08 .0101 PURPOSE

(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; 117-2(11a); 117-3.1; 117-4; 117-26; 117-31; 117-32; 47 U.S.C. 251; Eff. February 1, 1976; Amended Eff. May 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0102 ADDRESS OF THE AUTHORITY

(a) The office of the Authority is located in Raleigh, North Carolina at 313 Chapanoke Road, Suite 210, and the mailing address is 4321 Mail Service Center, Raleigh, North Carolina 27699-4321.

(b) The website address for the Authority is rea.nc.gov.

(c) All correspondence shall be addressed to the attention of the Administrator or to the Chairman of the Authority. 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. and is closed on all state holidays.

History Note: Authority G.S. 117-1; Eff. February 1, 1976; Amended Eff. March 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Amended Eff. August 1, 2021.

04 NCAC 08 .0103 RURAL ELECTRIFICATION AUTHORITY CREATED

History Note: Authority G.S. 117-1; Eff. February 1, 1976; Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0104 TERM OF OFFICE

History Note: Authority G.S. 117-1; Eff. February 1, 1976; Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0105 ORGANIZATION

History Note: Authority G.S. 117-4;

Eff. February 1, 1976;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0106 COMPENSATION

History Note: Authority G.S. 117-5; 138-5;
Eff. February 1, 1976;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0107 MEETINGS

- (a) The Authority shall not meet more than 12 times per year.
- (b) The Administrator shall send a notice of the date and location of the meeting to all Authority Board members, cooperatives, interested parties and members of the USDA, one week prior to the meeting. A meeting notification shall be posted on the website of the Authority 72 hours prior to each meeting.
- (c) Anyone with a matter to present to the Board shall submit all pertinent documents two weeks prior to the meeting where the matter will be presented by the Administrator to the Board of the Authority for their consideration and decision.
- (d) A copy of public documents maintained by the office shall be available to the general public at actual cost.

History Note: Authority G.S. 117-4; 117-5;
Eff. February 1, 1976;
Amended Eff. March 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;
Amended Eff. August 1, 2023.

04 NCAC 08 .0108 NOTIFICATION OF MEETINGS

History Note: Authority G.S. 117-5;
Eff. February 1, 1976;
Repealed Eff. March 1, 2014.

04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR

History Note: Authority G.S. 117-2(10); 117-2(11a); 117-2(12); 117-3.1(a); 117-26; 117-31; 117-32;
47 U.S.C 252;
Eff. February 1, 1976;
Amended Eff. May 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;
Repealed Eff. August 1, 2023.

04 NCAC 08 .0110 CORRESPONDENCE AND COMMUNICATION

04 NCAC 08 .0111 BOARD PROCEEDINGS

04 NCAC 08 .0112 MEMBER VISITATION

History Note: Authority G.S. 117-2(12);
Eff. February 1, 1976;
Repealed Eff. March 1, 2014.

SECTION .0200 - ELECTRIC MEMBERSHIP CORPORATIONS

04 NCAC 08 .0201 DEFINITIONS

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

- (1) "Domestic corporation" means an electric membership corporation granted privilege by the State of North Carolina under Chapter 117 of the General Statutes to render its service to its members only in the territory assigned to it by the Authority.
- (2) "Domesticated corporation" means a foreign electric membership corporation created under G.S. 117 in the State of North Carolina to serve members within a defined area whose main charter is in another state.

History Note: Authority G.S. 117-2; 117-9; 117-28;
 Eff. February 1, 1976;
 Amended Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0202 LOAN APPLICATIONS AND CATEGORIES

- (a) All EMCs, both domestic and domesticated, shall petition the Authority to apply for any funds in the form of grants or loans issued from any agency of the United States Government for use in the State. The EMC shall send all loan documents to the Administrator three weeks prior to the Board meeting in accordance with Rule .0107 of this Chapter.
- (b) Domesticated corporations shall include only the funds for use in this State in its petition for the loan or grant.
- (c) A checklist for Rural Utility Service (RUS) loans and Rural Economic Development Loans and Grants (REDLG) may be found on the Authority's website.

History Note: Authority G.S. 117-26; 117-28;
 Eff. February 1, 1976;
 Amended Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0203 LOAN CATEGORIES

04 NCAC 08 .0204 DOCUMENTS REQUIRED FOR LOAN APPLICATIONS

04 NCAC 08 .0205 PRESENTATION OF DOCUMENTS

History Note: Authority G.S. 117-2(10); 117-2(11); 117-26;
 Eff. February 1, 1976;
 Repealed Eff. March 1, 2014.

04 NCAC 08 .0206 OPERATING RULES AND REGULATIONS

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 Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0207 OPERATING RULES AND REGULATIONS

04 NCAC 08 .0208 BYLAWS

04 NCAC 08 .0209	RATE SCHEDULES
04 NCAC 08 .0210	COMPLAINTS
04 NCAC 08 .0211	DATA SHEETS FOR PROGRESS REPORTS
04 NCAC 08 .0212	OPERATING BUDGET

History Note: Authority G.S. 117-2(11); 117-2(12);
 Eff. February 1, 1976;
 Repealed Eff. March 1, 2014.

SECTION .0300 - TELEPHONE MEMBERSHIP CORPORATIONS

04 NCAC 08 .0301 DEFINITIONS

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

- (1) "Commercial Mobile Radio Service Provider (CMRS)" means a carrier whose wireless network is connected to the public switched telephone network.
- (2) "Competing Local Provider (CLP)" means a telephone company that competes with the already established local telephone company by providing its own network and switching.
- (3) "Domestic corporation" means a telephone membership corporation (TMC) established in the State by G.S. 117 to render its services to its members only in the territory assigned to it by the Authority.
- (4) "Domesticated corporation" means a foreign TMC created under G.S. 117 to serve members within a defined area in the State whose main charter is in another state.
- (5) "Interconnection Agreement" means the negotiation of agreements and subsequent amendments between requesting telecommunications carriers (such as CLPs or CMRS providers) and TMCs for interconnection services or network elements pursuant to Section 251 of the Act.
- (6) "Tariff" means a schedule of charges imposed on members of the TMC by the TMCs.

History Note: Authority G.S. 117-2(12); 117-28; 47 CFR 20.3; 47 U.S.C. 251; 47 U.S.C. 252;
 Eff. February 1, 1976;
 Amended Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0302 LOAN APPLICATIONS

- (a) All TMCs shall petition the Authority to apply for any funds in the form of grants or loans issued from any agency of the United States government for use in the State.
- (b) The TMC shall send all loan documents to the Administrator three weeks prior to the Board meeting in accordance with Rule .0107 of this Chapter.

History Note: Authority G.S. 117-2(11);
 Eff. February 1, 1976;
 Amended Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0303 LOAN CATEGORIES

History Note: Authority G.S. 117-2(11);
 Eff. February 1, 1976;
 Repealed Eff. March 1, 2014.

04 NCAC 08 .0304 LOAN APPLICATIONS AND CATEGORIES

A checklist for applications made pursuant to Rule .0302 of this Section for Rural Utility Service (RUS) loans and Rural Economic Development Loans and Grants (REDLG) may be found on the Authority's website.

History Note: Authority G.S. 117-32;
 Eff. February 1, 1976;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;

Amended Eff. November 1, 2015.

04 NCAC 08 .0305 PRESENTATION OF DOCUMENTS

*History Note: Authority G.S. 117-2(11);
 Eff. February 1, 1976;
 Repealed Eff. March 1, 2014.*

04 NCAC 08 .0306 REQUIRED DISCLOSURES

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;
 Amended Eff. March 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

- 04 NCAC 08 .0307 OPERATING RULES AND REGULATIONS**
- 04 NCAC 08 .0308 BYLAWS**
- 04 NCAC 08 .0309 TARIFFS**
- 04 NCAC 08 .0310 COMPLAINTS**
- 04 NCAC 08 .0311 DATA SHEETS FOR PROGRESS REPORTS**
- 04 NCAC 08 .0312 OPERATING BUDGET**

*History Note: Authority G.S. 117-2(11); 117-2(12);
 Eff. February 1, 1976;
 Repealed Eff. March 1, 2014.*

04 NCAC 08 .0313 ARBITRATION POLICIES

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

- (1) When 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 North Carolina cooperative and another telecommunication carrier, the petitioning party shall provide the Authority with the information required under Section 252(b)(2) of the Act and the non-petitioning party shall have the opportunity to respond in the timeframe set forth in Section 252(b)(3).
- (2) The Authority shall send each party a list of approved arbitrators. The parties shall have 15 days to review the list, strike names they object to, rank the remaining names in the order of preference and return the list to the Authority. The Authority shall then select the arbitrator agreed to by the parties. If the parties do not agree on the selection, the Authority shall select an arbitrator of its choosing from the list.
- (3) The parties seeking the arbitration shall be held accountable for any financial obligations, and each shall be responsible for an equal portion of the arbitrator fee, regardless of the outcome of the recommendation submitted to the Authority. The fee shall be paid directly to the arbitrator.
- (4) At the request of any party, or at the discretion of the arbitrator, the arbitrator may:

- (a) schedule a preliminary hearing with the parties or its representatives;
 - (b) direct the production of documents and other information and the identification of any witnesses to be called at the hearing; or
 - (c) order the parties to attend a formal arbitration hearing.
- (5) The parties shall respond to requests for hearing dates by the deadline established by the Authority or the arbitrator, be cooperative in scheduling the earliest practical hearing date, and adhere to the established hearing schedule. The arbitrator shall send a notice of hearing to the parties at least 20 calendar days in advance of the hearing date, unless otherwise agreed to by the parties. At least five business days prior to the arbitration hearing, the parties shall exchange copies of all exhibits each party intends to submit at the hearing.
- (6) The arbitrator shall conclude the resolution of any unresolved issues no later than nine months following the date on which the request for arbitration was originally received by the Authority.
- (7) The petitioning party shall present evidence to support its petition. The non-petitioning party shall then present evidence in response. The arbitrator has the discretion to vary this procedure, but each party shall have the right to be heard and be given an opportunity to present his or her case.
- (8) The arbitrator shall make a decision on the issues presented for arbitration that contains applicable findings of fact and conclusions of law and forward this recommended decision to the Authority.
- (9) The Authority shall consider the decision of the arbitrator to be a recommendation. The Authority shall make the final decision in any arbitration hearing and may order additional written or oral testimony from the parties in order to render the decision. The Authority may accept the recommended decision from the arbitrator as its final decision, amend the recommended decision, or reject the recommended decision and render its own independent decision.
- (10) In accordance with 47 U.S.C. 252, a resolution of any unresolved issues shall be reached not later than nine months following the date on which the request for arbitration was originally received by the Authority.

*History Note: Authority G.S. 117-31; 47 U.S.C. 252;
Eff. June 1, 2014.*

SECTION .0400 - PETITIONS: HEARINGS: TEMPORARY RULES: DECLARATORY RULINGS: CONTESTED CASES

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 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.
- (c) The Authority shall determine within 120 days of submission whether the public interest will be served by granting the request. 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 shall notify the petitioner in writing, stating the reasons therefor. If the decision is to grant the petition, the Authority shall initiate a rule-making proceeding as required by G.S. 150B.
- (e) Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the Authority shall follow the procedures in G.S. 150B.

*History Note: Authority G.S. 117-2(12); 150B-20;
Eff. February 1, 1976;
Amended Eff. March 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

04 NCAC 08 .0402 RULE-MAKING HEARINGS

History Note: Authority G.S. 117-2(12);
Eff. February 1, 1976;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0403 TEMPORARY RULES

History Note: Authority G.S. 117-2(12);
Eff. February 1, 1976;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

04 NCAC 08 .0404 DECLARATORY RULINGS

- (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.
- (b) All requests for declaratory rulings shall be written and mailed to: Administrator, North Carolina Rural Electrification Authority, 4321 Mail Service Center, Raleigh, North Carolina 27699-4321.
- (c) All requests for a declaratory ruling must include the following information:
- (1) the name and address of petitioner;
 - (2) the statute, rule or order to which the petition relates;
 - (3) the concise statement of the manner in which petitioner is aggrieved by the statute, rule or order or its potential application to him or her;
 - (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing; and
 - (5) the date.
- (d) The Authority shall respond to a request for a declaratory ruling as follows:
- (1) within 30 days of receipt of the request for a declaratory ruling, the Authority shall make a written decision to grant or deny the request. If the Authority fails to make a written decision to grant or deny the request within 30 days, the failure shall be deemed a decision to deny the request.
 - (2) If the Authority denies the request, the decision is immediately subject to judicial review in accordance with Article 4 of this Chapter.
 - (3) If the Authority grants the request, the Authority shall issue a written ruling on the merits within 45 days of the decision to grant the request. A declaratory ruling is subject to judicial review in accordance with Article 4 of G.S. 150B.
 - (4) If the Authority fails to issue a declaratory ruling within 45 days, the failure shall be deemed a denial on the merits and the person aggrieved may seek judicial review pursuant to Article 4 of G.S. 150B. Upon review of the Authority's failure to issue a declaratory ruling, the court shall not consider any basis for the denial that was not presented in writing to the person aggrieved.
- (e) The Board shall refuse to issue a declaratory ruling under the following circumstances:
- (1) when the Board has already made a controlling decision on substantially similar facts in a contested case;
 - (2) when the facts underlying the request for a ruling were specifically considered at the time of the adoption of the rule in question; or
 - (3) when the subject matter of the request is involved in pending litigation in North Carolina.

History Note: Authority G.S. 117-2(12); 150B-4;
Eff. February 1, 1976;
Amended Eff. March 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

04 NCAC 08 .0405 CONTESTED CASES

*History Note: Authority G.S. 117-2(12);
 Eff. February 1, 1976;
 Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).*