

## Article 4.

### Telephone Service and Telephone Membership Corporations.

#### **§ 117-29. Assistance from Rural Electrification Authority in procuring adequate telephone service.**

Any number of persons residing in any rural community who are not provided with telephone service or are inadequately provided with same, may make application to the Rural Electrification Authority, upon such form as may be provided by the Rural Electrification Authority for assistance in securing telephone service, showing the circumstances of such community or communities with regard to telephone service and the need therefor. The Rural Electrification Authority shall make an investigation of the situation with respect to telephone service in such rural community or communities and if, upon investigation, it appears that such community or communities are not served with needed telephones or are inadequately served, the facts with reference thereto shall be collected by the Rural Electrification Authority and the Rural Electrification Authority shall promptly bring these facts to the attention of any telephone company serving the area, and shall make reasonable efforts to get such telephone company to provide the needed telephone service in such community or communities. (1945, c. 853, s. 1.)

#### **§ 117-30. Telephone membership corporations.**

(a) In the event it is ascertained by the Rural Electrification Authority that the community or communities referred to in the foregoing section G.S. 117-29 are in need of telephone service and that there is a sufficient number of persons to be served to justify such services, and the telephone company serving in the area in which the community or communities are located is unwilling to provide such service, a telephone membership corporation may be organized by such community or communities in the same manner that electric membership corporations may be formed under Article 2 of this Chapter, and all of the provisions of said Article shall be applicable to the formation of telephone membership corporations and such corporations shall have all the authority, powers and duties of such a corporation when formed under the provisions of said Article; except that the provisions of G.S. 117-8, 117-9, 117-10.1, 117-10.2, 117-16.1, 117-18(14), 117-18.1, 117-19 and 117-24 shall not be applicable to the organization of a telephone membership corporation, and except that such corporations so formed for the express purpose of providing telephone service necessary to serve the community or communities prescribed in the application may also provide the community or communities prescribed in the application with any communication service for the transmission of voice, sounds, signals, pictures, writing or signs of all kinds through the use of electricity or the electromagnetic spectrum between the transmitting and receiving apparatus, together with any telecommunications service requiring band-width capacity, including, but not limited to community antenna and cable television services, and including all lines, wires, cables, radio, light, electromagnetic impulse and all facilities, systems or other means used in the rendition of such services, but not including message telegram service or radio broadcasting services or facilities within the meaning of section 3(o) of the Federal Communications Act of 1934, as amended (47 USC § 153(o)) and except that such corporation so formed shall have no authority to engage in any other business. Provided, that the references in Article 2 of this Chapter to "power lines" or "energy" as to such telephone membership corporations shall be construed to mean telephone lines, broadband cables and lines, telephone service and broadband communications services. Provided further, that nothing herein shall be construed to authorize any telephone membership corporation organized hereunder to duplicate any line or lines, systems or other means by which adequate telephone service is being furnished;

or to build or to construct a telephone line, or telephone lines, or telephone systems, or otherwise to provide facilities or means of furnishing telephone service to any person, community, town or city then being adequately served by a telephone company, corporation or system; or to provide telephone service in an unserved area while any telephone company, corporation or system is acting in good faith and with reasonable diligence in arranging to provide adequate telephone service to such person, community, town or city.

(b) Any telephone membership corporation formed under this Article which now provides or has imminent plans to provide any service which is subject to the requirement of a state or local franchise shall make reasonable efforts to secure any such state or local franchise required for the operation of such service within its service area. Unless otherwise prohibited, any such franchise granted to a telephone membership corporation may be transferred or assigned by that corporation, in its discretion, if such transfer or assignment is reasonably calculated to contribute to the development of any such service within the franchised area. Provided, however, that no telephone membership corporation shall be required to obtain a state or local franchise to provide the types of telephone services being provided on July 1, 1979 by a telephone membership corporation, or the types of telephone services offered by existing telephone membership corporations on July 1, 1979 and proposed to be offered by any telephone membership corporation formed thereafter, without respect to the facilities or methods which are used to provide such services. (1945, c. 853, s. 2; 1965, c. 345, s. 1; 1979, c. 586; 1999-180, s. 3.)

**§ 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.)

**§ 117-32. Loans from federal agencies; authority of county, etc., to engage in telephone business.**

Whenever any corporation organized under the provisions of this Article desires to secure a grant or loan from any agency of the United States government now in existence or hereafter authorized, it shall apply through the North Carolina Rural Electrification Authority and not direct to the United States agency, and the said North Carolina Rural Electrification Authority alone shall

have the authority to make application for grants or loans to any such corporation. Nothing in this Article shall be deemed to authorize any county, city or town to engage in the telephone business. (1945, c. 853, s. 4.)

**§ 117-33. Declared public agency of State; taxes and assessments.**

A telephone membership corporation heretofore or hereafter organized under this Article shall be, and is hereby declared to be a public agency, and shall have within its limits for which it was formed the same rights as any other political subdivision of the State, and all property owned by said telephone membership corporation and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments as property owned by any county or municipality of the State so long as said property is owned by said telephone membership corporation and is used for the purposes for which the corporation was formed. Notwithstanding the foregoing, a telephone membership corporation shall not be eligible to receive a permanent registration plate issued under G.S. 20-84. (1965, c. 345, s. 2; 2012-159, s. 2.)

**§ 117-34. Dissolution.**

Any telephone membership corporation created under this Article may be dissolved by filing, as hereinafter provided, a certificate which shall be entitled and endorsed "Certificate of Dissolution of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and shall state:

- (1) Name of the corporation, and if such corporation is a corporation resulting from a consolidation as herein provided, the names of the original corporations.
- (2) The date of filing of the certificate of incorporation, and if such corporation is a corporation resulting from a consolidation as herein provided, the dates on which the certificates of incorporation of the original corporations were filed.
- (3) That the corporation elects to dissolve.
- (4) The name and post-office address of each of its directors, and the name, title and post-office address of each of its officers.

Such certificate shall be subscribed and acknowledged in the same manner as an original certificate of incorporation by the president or a vice-president, and the secretary or an assistant secretary, who shall make and annex an affidavit, stating that they have been authorized to execute and file such certificate by the votes cast in person by at least two-thirds of its total membership, without proxies.

A certificate of dissolution and a certified copy or copies thereof shall be filed in the same place as an original certificate of incorporation and thereupon the corporation shall be deemed to be dissolved.

Such corporation shall continue for the purpose of paying, satisfying and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall pass to and become the property of the State. (1965, c. 345, s. 2; 1987, c. 448, s. 3.)

**§ 117-35. Article complete in itself and controlling.**

Article 4 is complete in itself and shall be controlling. The provisions of any other law, general, special, or local except as provided in this Article, shall not apply to a telephone membership corporation formed under this Article. (1965, c. 345, s. 2.)

**§§ 117-36 through 117-40. Reserved for future codification purposes.**