

House Bill 100

By: Representative Parsons of the 44<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and  
2 public transportation, so as to specifically authorize electric membership corporations and  
3 their affiliates to provide broadband services; to provide for definitions; to authorize certain  
4 financing and partnerships for the provision of broadband services; to prohibit  
5 cross-subsidization between the provision of broadband services and an electric membership  
6 corporation's natural gas activities or electricity services activities; to provide for related  
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
11 transportation, is amended by revising Code Section 46-3-171, relating to definitions relative  
12 to electric membership corporations and foreign electric cooperatives, as follows:

13 "46-3-171.

14 As used in this article, the term:

15 (1) 'Address' means a complete mailing address, including, whenever practicable, street  
16 and number or building and floor.

17 (2) 'Articles of incorporation' means the original or restated articles of incorporation or  
18 articles of consolidation and all the amendments thereto, including articles of merger, and  
19 also includes what have been designated by the laws of this state prior to July 1, 1981,  
20 as charters.

21 (2.1) 'Broadband affiliate' means any person which directly or indirectly controls, is  
22 controlled by, or is under common control of one or more electric membership  
23 corporations and which is used to provide broadband services.

24 (2.2) 'Broadband services' means a wired or wireless service that consists of the  
25 capability to transmit data at a rate of not less than 25 megabits per second in the

26 downstream direction and at least 3 megabits per second in the upstream direction to end  
 27 users and in combination with such service provides:

28 (A) Access to the internet; or

29 (B) Computer processing, information storage, or protocol conversion.

30 Such term shall include any facilities and equipment associated with such a service and  
 31 any application or information content to be provided over such a service.

32 (3) 'Electric membership corporation' or 'EMC' means an electric membership  
 33 corporation organized under this article or any prior electric membership corporation law  
 34 of this state, or a corporation which elected, in accordance with the provisions thereof,  
 35 to be governed by Ga. L. 1937, p. 644, the 'Electric Membership Corporation Act.'

36 (4) 'Federal agency' includes the United States of America and any department,  
 37 administration, commission, board, bureau, office, establishment, agency, authority, or  
 38 instrumentality thereof.

39 (5) 'Foreign electric cooperative' means a cooperative, nonprofit membership corporation  
 40 organized under laws other than the laws of this state for the same or similar purposes for  
 41 which an electric membership corporation may be organized under this article.

42 (5.1) 'Gas activities' shall have the same meaning as provided in Code Section 46-4-152.

43 (5.2) 'Gas affiliate' shall have the same meaning as the term 'EMC gas affiliate' provided  
 44 in Code Section 46-4-152.

45 (6) 'Insolvent' means that an electric membership corporation is unable to pay its debts  
 46 as they become due in the usual course of its business or that it has liabilities in excess  
 47 of assets.

48 (7) 'Member' means a person who has met the requirements and conditions of  
 49 membership in an electric membership corporation which are set forth in this article and  
 50 in the articles of incorporation and bylaws of an electric membership corporation.

51 (8) 'Person' includes any natural person; firm; association; electric membership  
 52 corporation; ~~foreign electric cooperative; corporation, either domestic or foreign;~~  
 53 ~~business or other trust; partnership; limited liability company, federal agency; state or~~  
 54 ~~political subdivision thereof; or body politic, or any other entity recognized by law.~~

55 (9) 'Service' means any service or commodity which an electric membership corporation  
 56 may provide under this article for which value is paid."

57 **SECTION 2.**

58 Said title is further amended by revising Code Section 46-3-200, relating to purposes of  
 59 electric membership corporations, as follows:

60 "46-3-200.

61 An electric membership corporation may serve any one or more of the following purposes:

- 62 (1) To furnish electrical energy and ~~service~~ services;
- 63 (2) To assist its members in the efficient and economical use of energy;
- 64 (3) To engage in research and to promote and develop energy conservation and sources
- 65 and methods of conserving, producing, converting, and delivering energy; ~~and~~
- 66 (4) To provide and operate broadband services within such electric membership
- 67 corporation's assigned area and within a five-mile radius thereof directly or indirectly
- 68 through a contractual arrangement or through a broadband affiliate, contingent upon
- 69 compliance with Code Sections 46-5-163 and 46-3-200.2. As used in this paragraph, the
- 70 term 'assigned area' shall have the same meaning as provided in Code Section 46-3-3; or
- 71 ~~(4)(5)~~ To engage in any lawful act or activity necessary or convenient to effect the
- 72 foregoing purposes."

### 73 SECTION 3.

74 Said title is further amended by adding two new Code sections to read as follows:

75 "46-3-200.1.

76 In order to assist an electric membership corporation or its broadband affiliate in the

77 planning, engineering, construction, extension, provision, operation, repair, and

78 maintenance of broadband services, such electric membership corporation or its broadband

79 affiliate shall be authorized to:

- 80 (1) Apply for, accept, repay, and utilize loans, grants, and other financing from any
- 81 person; and
- 82 (2) Enter into contracts, agreements, partnerships, or other types of business relationships
- 83 with any person.

84 46-3-200.2.

85 (a) No electric membership corporation, broadband affiliate, or gas affiliate shall permit

86 cross-subsidization between its electricity services activities, its broadband services

87 activities, or its gas activities. To prevent cross-subsidization between gas activities and

88 electricity services activities, any electric membership corporation with a gas affiliate shall

89 be subject to Code Section 46-4-153.1. To prevent cross-subsidization between broadband

90 services activities and gas activities and between broadband services activities and

91 electricity services activities, any electric membership corporation or its broadband affiliate

92 that provides or operates broadband services shall:

- 93 (1) Fully allocate all costs of electricity services activities and broadband services
- 94 activities, including costs for any shared services, between electricity services activities
- 95 and such electric membership corporation's or broadband affiliate's broadband services
- 96 activities, in accordance with the applicable uniform system of accounts and generally

97 accepted accounting principles that are applicable to electric membership corporations  
98 under federal and state laws, rules, and regulations;  
99 (2) Not charge any costs of electricity services activities or gas activities to the  
100 broadband services customers of such electric membership corporation or its broadband  
101 affiliate;  
102 (3) Not charge any costs of broadband services activities to the electricity services  
103 customers of such electric membership corporation or to the gas activities customers of  
104 its gas affiliate; and  
105 (4) For the protection and privacy of customer information, not release any proprietary  
106 information about any broadband services customers of such electric membership  
107 corporation or its broadband affiliate to its electricity services division or any affiliate  
108 thereof, any subsidiary of the electric membership corporation, or any gas affiliate  
109 without obtaining prior verifiable authorization from such broadband services customers.  
110 (b) The provisions of this Code section shall not be deemed to prohibit an electric  
111 membership corporation from making or guaranteeing loans or other credit facilities to a  
112 broadband affiliate or to any other person, if such loan or credit facility is related to any  
113 service that such electric membership corporation may lawfully provide."

114 **SECTION 4.**

115 This Act shall become effective upon its approval by the Governor or upon its becoming law  
116 without such approval.

117 **SECTION 5.**

118 All laws and parts of laws in conflict with this Act are repealed.