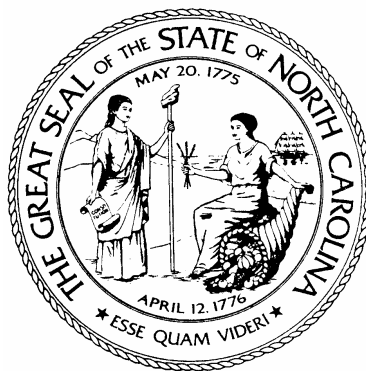


**REPORT OF THE
NORTH CAROLINA UTILITIES COMMISSION
TO THE
JOINT LEGISLATIVE
UTILITY REVIEW COMMITTEE
REGARDING
ACTIVITIES OF THE UTILITIES COMMISSION
CONDUCTED PURSUANT TO SESSION LAW 1999-180**



July 2003

July 16, 2003

Senator David W. Hoyle, Chairman
Joint Legislative Utility Review Committee
300-A Legislative Office Building
Raleigh, North Carolina 27601-2808

Dear Senator Hoyle:

The Utilities Commission hereby presents its report to the Joint Legislative Utility Review Committee pursuant to Section 7 of Session Law 1999-180. Copies of the report are being distributed to current members of the Committee.

Session Law 1999-180 authorizes electric membership corporations (EMCs) to own and operate interests in "separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment," so long as these other business entities meet certain conditions. The Utilities Commission is given authority to enforce one of these conditions, which requires that the separate business entities compensate the EMC for use of EMC personnel and property.

Section 7 of Session Law 1999-180 requires that, four years after enactment, the Utilities Commission shall report to the Joint Legislative Utility Review Committee on activities conducted by the Utilities Commission pursuant to the provisions of Session Law 1999-180, including recommendations, if any, with regard to any action to be taken by the General Assembly. By this report, the Utilities Commission summarizes its activities pursuant to Session Law 1999-180. The Utilities Commission makes no recommendations for action.

Very truly yours,

Jo Anne Sanford, Chair

JAS/SRK/srk

cc: Members of the JLURC
Steven J. Rose, Committee Counsel
Kory Goldsmith, Assistant Committee Counsel

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Penny Williams, Committee Clerk
Robert P. Gruber, Executive Director, Public Staff
The Honorable Roy Cooper, Attorney General
North Carolina Electric Membership Corporation
Carolina Power & Light Company
Duke Power, a Division of Duke Energy Corporation
Piedmont Natural Gas Company, Inc.
Carolina Utility Customers Association, Inc.
Albemarle Electric Membership Corporation
Blue Ridge Electric Membership Corporation
Broad River Electric Membership Corporation
Brunswick Electric Membership Corporation
Blue Ridge Mountain Electric Membership Corporation
Cape Hatteras Electric Membership Corporation
Carteret-Craven Electric Membership Corporation
Central Electric Membership Corporation
Edgecombe-Martin Electric Membership Corporation
Energy United Electric Membership Corporation
Four County Electric Membership Corporation
French Broad Electric Membership Corporation
Halifax Electric Membership Corporation
Harkers Island Electric Membership Corporation
Haywood Electric Membership Corporation
Jones-Onslow Electric Membership Corporation
Lumbee River Electric Membership Corporation
Mecklenburg Electric Membership Corporation
Mountain Electric Membership Corporation
Pee Dee Electric Membership Corporation
Piedmont Electric Membership Corporation
Pitt & Greene Electric Membership Corporation
Randolph Electric Membership Corporation
Roanoke Electric Membership Corporation
Rutherford Electric Membership Corporation
South River Electric Membership Corporation
Surry-Yadkin Electric Membership Corporation
Tideland Electric Membership Corporation
Tri-County Electric Membership Corporation
Tri-State Electric Membership Corporation
Union Electric Membership Corporation
Wake Electric Membership Corporation

REPORT TO THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE

Introduction

This report is being submitted to the Joint Legislative Utility Review Committee pursuant to Section 7 of Session Law 1999-180 (House Bill 476). Session Law 1999-180 was ratified by the General Assembly on June 10, 1999, and signed by the Governor on June 16, 1999. A copy of Session Law 1999-180 is attached to this report as Appendix A.

Section 7 of Session Law 1999-180 requires that, four years after enactment, the Utilities Commission shall report to the Joint Legislative Utility Review Committee on activities conducted by the Utilities Commission (the Commission) pursuant to the provisions of Session Law 1999-180 and that the report shall include the Commission's recommendations, if any, with regard to any action to be taken by the General Assembly.

Session Law 1999-180

Session Law 1999-180 is entitled "An Act Concerning the Grant of Powers to Electric Membership Corporations Regarding Subsidiary Organizations." For purposes of the present report, the significance of this legislation is that it amended the General Statutes to add G.S. 117-18.1 and G.S. 62-53.

G.S. 117-18.1 authorizes electric membership corporations (EMCs) to own and operate interests in "separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment," so long as these separate business entities meet five enumerated conditions. These conditions, in summary, are that the separate business entities:

- (1) are not financed with loans or grants from the Rural Utilities Service of the United States Department of Agriculture or with similar financing (except for water or wastewater collection and treatment projects);
- (2) are subject to all taxes, including income taxes, levied against similar business entities;
- (3) fully compensate the EMC for the use of the personnel, services, equipment, or tangible and intangible property of the EMC at the greater of a competitive price or the EMC's fully distributed costs;
- (4) are organized and operated pursuant to Chapter 55 or Chapter 57C of the General Statutes; and
- (5) do not receive any investment, loan, or guarantee from an EMC that, in the aggregate, exceeds ten percent (10%) of the assets of the EMC.

The present report is concerned with condition (3) above. Condition (3), in detail, requires that the EMC's separate business entities

fully compensate the electric membership corporation for the use of personnel, services, equipment, or tangible and intangible property, the greater of (i) a competitive price, which is a price comparable with prices generally being charged at the time in arms length transactions in the same market, or (ii) the electric membership corporation's fully distributed costs, which shall include all direct and indirect costs, including cost of capital incurred in providing the personnel, services, equipment, tangible property, or intangible property in question. The value of real property shall include the intangible value of not having to purchase the real property being used, and the value of the identification with the EMC that will exist because of the use of the particular real property.

G.S. 117-18.1(a)(3) authorizes the Commission to enforce this condition "upon complaint showing reasonable grounds for investigation."¹ If the Commission, after such an investigation, finds that the charges for those transactions between the EMC and the other business entity do not conform with this condition, the Commission is empowered "to direct the electric membership corporation to adjust those charges to comply..." If the EMC does not comply with the Commission's directive, the Commission is empowered "to direct the electric membership corporation to divest its interest in the other business entity." G.S. 117-18.1(a)(3) authorizes the Commission, the Commission Staff, and the Public Staff to inspect the books and records of the EMCs and such other business entities. Finally, G.S. 117-18.1(a)(3) authorizes the Commission to adopt rules and reporting requirements to enforce the condition.

Session Law 1999-180 also added G.S. 62-53 to Chapter 62 of the General Statutes. Chapter 62 deals with the regulation of public utilities and the creation and powers of the Utilities Commission. The new statute, G.S. 62-53, reads, "In addition to any other authority granted to the Commission in this Chapter, the Commission shall have the authority to regulate electric membership corporations as provided in G.S. 117-18.1."

Activities Following Enactment of Session Law 1999-180

After this legislation was enacted, the Public Staff began a series of meetings and site visits with a view toward proposing rules and reporting requirements appropriate to monitoring transactions between the EMCs and the separate business entities authorized by G.S. 117-18.1.

First, the Public Staff met with representatives of the North Carolina Electric

¹ G.S. 62-73 and 62-74 authorize the Commission to hear complaints against public utilities and complaints by public utilities. This authority to hear complaints has existed in its present form since 1949, and the Commission has a Rule in place dealing with the procedure to be followed in complaint proceedings. Commission Rule R1-9.

Membership Corporation (NCEMC), a generation and transmission cooperative that is organized pursuant to Chapter 117 of the General Statutes and is responsible for the power supply of its 26 member distribution EMCs throughout North Carolina. The topics discussed at this meeting included the affiliate operations of certain EMCs, whether a standardized filing requirement should be implemented, and the filing of a petition for a rulemaking proceeding before the Commission. It was suggested that the Public Staff develop a proposed rule for review, as well as visit some EMCs to learn how they account for their transactions with affiliates.

During the latter part of 1999 and the first part of 2000, members of the Public Staff visited the offices of Piedmont Electric Membership Corporation and Blue Ridge Electric Membership Corporation. During each visit, the Public Staff and the EMC discussed the background of the EMC, its affiliate operations, and its approaches to affiliate cost allocation.

In April 2000, members of the Public Staff made a presentation to a meeting of attorneys representing various EMCs throughout the State. Items discussed during this presentation included (1) the organization of and relationship between the Commission and the Public Staff; (2) the history of the regulation of EMCs; (3) a description and review of G.S. 62-53 and G.S. 117-18.1; (4) prior Public Staff reviews of affiliate transactions and issues sometimes encountered; (5) codes of conduct; and (6) the next steps contemplated in preparing to make a filing with the Commission regarding a proposed rule and reporting requirements. In September 2000, the Public Staff made a presentation to the EMC Managers Conference that was similar in nature to the April presentation, but also included a summary of the reporting requirements that the Public Staff was at that time developing for its proposal to the Commission, as well as a draft of an annual transaction report form.

During the early autumn of 2000, the Public Staff developed a proposed rule and a form for an annual transaction report of EMC activities pursuant to G.S. 117-18.1. During this process, the Public Staff met again with representatives of the EMCs to discuss matters such as the role of the Public Staff in enforcement of G.S. 117-18.1(a)(3); the confidentiality of the information filed pursuant to Commission requirements; the development of cost allocation manuals and codes of conduct; whether annual financial reports filed with the Commission should be audited; and the Public Staff's draft transaction report form.

Proceedings to Adopt Commission Rule R19-1

On November 15, 2000, the Public Staff filed a Motion and Proposed Rule. By its Motion, the Public Staff recommended that the Commission adopt a Commission Rule and establish certain reporting requirements to enable the Commission and the Public Staff to monitor the cost allocations and transfer pricing for goods and services to and from the electric operations of the EMCs that engage in separate business activities pursuant to G.S. 117-18.1. The Public Staff proposed that each EMC that is engaged in, or plans to engage in, such activities should be required to file (1) a copy of its

audited financial statements, on an annual basis; (2) a cost allocation manual, updated annually; (3) an annual report on transactions on a form provided by the Utilities Commission; and (4) a code of conduct, updated annually. The Public Staff proposed that an EMC that is not engaged in such activities should be required only to file an annual statement that it is not engaged in such activities. The Public Staff's proposed Rule did not address the Commission's authority to hear complaints against EMCs because the Commission already had procedures for complaint proceedings.

On December 5, 2000, the Commission issued an Order initiating a rulemaking proceeding. The Order published the Public Staff's proposed Rule and proposed reporting forms and allowed interested persons to intervene and file comments and reply comments on these proposals. This Order required NCEMC to publish notice of the rulemaking proceeding in newspapers having general circulation in the service areas of the EMCs. Public notice was published in newspapers on December 23, 2000.

On December 7, 2000, NCEMC filed a petition to intervene in the rulemaking proceeding. The petition to intervene was allowed. Other petitions to intervene were filed by Duke Power, a division of Duke Energy Corporation (Duke), Carolina Power & Light Company (CP&L), the Carolina Utility Customers Association, Inc. (CUCA), and Piedmont Natural Gas Company, Inc. (Piedmont). All of these petitions to intervene were allowed by the Commission. CUCA and Piedmont, although allowed to intervene, did not file comments. The only parties actively participating in the rulemaking proceeding were the Public Staff, NCEMC, Duke, and CP&L.

NCEMC filed comments in which it proposed many changes to the Public Staff's proposed Rule and transaction report form. The comments revealed a fundamental difference in the way the Public Staff and NCEMC viewed the Commission's responsibility under G.S. 62-117-18.1(a)(3). NCEMC took the position that the General Assembly had simply given the Commission discretion to commence an investigation upon the filing of a complaint showing that reasonable grounds exist for believing that an EMC has engaged in transactions which do not conform to the requirements set forth in G.S. 117-18.1(a)(3). NCEMC did not believe that the Commission should act as an ongoing monitor of such activities or transactions. The Public Staff, on the other hand, viewed the Commission's role as broader. Noting that G.S. 117-18.1(a)(3) gives the Commission authority to establish rules and reporting requirements to enforce its oversight responsibility, the Public Staff took the position that the Commission should maintain a contextual framework for examining specific affiliated activities of the EMCs by adopting annual reporting requirements that will provide the Commission with sufficient financial and cost information to exercise its complaint jurisdiction over affiliated transactions efficiently and effectively.

Although Duke and CP&L are not EMCs and are not subject to the new statute or the proposed Rule, they are already required to file information about their own affiliate transactions and they were concerned that the new Rule might be applied to them in the future. In general terms, Duke and CP&L filed comments to the effect that the Public Staff's proposed Rule and transaction report form would require more details than

necessary to exercise the Commission's complaint function, would impose an administrative burden on the EMCs, and would not protect confidential information.

The Commission considered all of the comments and was ready to adopt a Rule to implement G.S. 117-18.1(a)(3) when, on May 4, 2001, the North Carolina Propane Gas Association, Inc. (NCPGA), filed a petition to intervene. The December 5, 2000 Order initiating the rulemaking proceeding had required that all petitions to intervene be filed by January 16, 2001, and NCPGA did not explain why its petition was late. NCEMC objected to the petition and moved to strike it. On May 16, 2001, the Commission denied NCPGA's petition to intervene as untimely.

Also on May 16, 2001, the Commission issued an Order which discussed and decided the issues raised by the parties to the rulemaking proceeding, adopted Commission Rule R19-1, and provided other guidance. A copy of Commission Rule R19-1 is attached as Appendix B. The major issues decided by the May 16, 2001 Order were as follows:

The Commission generally agreed with the Public Staff's view of the Commission's role and authority under G.S. 117-18.1(a)(3). The Commission concluded that it has some oversight responsibility in addition to its authority to hear complaints. To that end, the Commission decided to establish annual filing requirements, including an annual report (on a form prescribed by the Commission and available from the Chief Clerk of the Commission) on the transactions between the EMCs and their separate business entities. The Commission stated that an annual transaction report, in conjunction with the other filing requirements in the new Rule, will enable the Commission and the Public Staff to monitor the cost allocations and transfer pricing for goods and services to and from the EMCs that engage in separate business activities pursuant to G.S. 117-18.1. This annual transaction report is designed to provide a contextual framework in which the EMCs are required to demonstrate compliance with the transfer pricing condition.

The Commission stated in the May 16, 2001 Order that it will rely on the Public Staff to review the annual transaction reports and to take appropriate action should it discover problems.

The Commission concluded that audited financial statements would provide useful and relevant information regarding an EMC's separate business activities and that EMCs engaged in separate business activities pursuant to G.S. 117-18.1 should be required to file audited financial statements on an annual basis.

The Commission concluded that EMCs engaged in separate business activities pursuant to G.S. 117-18.1 should be required to file a cost allocation manual and should be required to update it annually or whenever there are significant changes in cost allocation methodologies. A cost allocation manual describes how an entity has decided to allocate and record costs between and among itself and its affiliates. A cost allocation manual is a tool which communicates cost allocation guidelines and

requirements to all employees involved in accounting and recording such transactions. The Commission concluded that this filing requirement will encourage EMCs to establish allocation policies and procedures which will be consistently applied by informed employees with regard to the business activities permitted by G.S. 117-18.1. The Commission also concluded that such a filing requirement could be a preventative measure to help avoid complaints and that the filings will provide useful information in the event a complaint is filed and investigated.

The Commission concluded that the EMCs engaged in separate business activities pursuant to G.S. 117-18.1 should be required to file a code of conduct adopted by the board of directors of the EMC and that the filing should be updated not later than 30 days prior to the effective date of any change to the code.

The Commission acknowledged the sensitive nature of some information that might be required from the EMCs under the Rule. NCEMC claimed that certain information might constitute a trade secret and be entitled to confidential treatment under the Public Records Act. The Commission concluded that claims of confidentiality should be asserted on a case-by-case basis under the Public Records Act. This conclusion is consistent with the normal practice of the Commission as to sensitive information filed with the Commission by other parties. The Commission concluded that it would rule on claims of confidentiality as issues arise, based upon the specific facts and circumstances as they then exist.

The financial statements and annual transaction reports shall cover a calendar year reporting period and shall be filed no later than May 1 of the year following the period covered by the statements and reports. The financial statements and annual transaction reports shall be verified by the chief executive officer of the EMC. The Commission provided that the initial cost allocation manual and code of conduct shall be filed no later than 90 days after the EMC conducts its first activity pursuant to G.S. 62-117-18.1.

The Commission also dealt with the period of time between enactment of Session Law 1999-180 and adoption of the new Rule 19-1 and with the transition to the new filing deadlines. The Commission required that each EMC should file a statement of whether it is engaged in separate business activities pursuant to G.S. 117-18.1 within 30 days from issuance of the May 16, 2001 Order. The Commission then required that each EMC engaged in separate business activities pursuant to G.S. 117-18.1 should (1) file audited financial statements for the year 2000, a cost allocation manual, and a code of conduct within 90 days and (2) file the annual transaction report for the calendar year 2000 by October 1, 2001.

The Commission concluded that any EMC which does not conduct any of the separate business activities permitted by G.S. 117-18.1 should only be required to file an annual statement to that effect. The reporting requirements of the new Rule only apply to the EMCs which are actually engaged in the separate business activities permitted by G.S. 117-18.1.

On June 5, 2001, the Commission formally adopted an annual transaction report form and prescribed its use in connection with the reporting required by the EMCs in the Commission's May 16, 2001 Order. A copy of the annual transaction report form (including a March 2002 amendment discussed hereinafter) is attached as Appendix C.

The annual transaction report form is separated into four parts. Part 1 is designed to provide a summary of the EMC's investments in separate business entities falling under G.S. 117-18.1. Part 1 requires a detailed listing of separate business entities in which the EMC has a 10% or greater ownership interest and a reconciliation of the total of such investments with the total investment in subsidiaries per the EMC's audited financial statements. Part 2 requires detailed information regarding each of the separate business entities in which the EMC has a 10% or greater ownership interest and the EMC's transactions with each such entity. Part 3 requires information regarding any service company that may have been established to provide shared services to the EMC and/or one or more of the separate business entities. Part 4 consists of a notarized verification of the report, as required by the Order issued by the Commission on November 6, 2002, in Docket No. M-100, Sub 130.

Filings Pursuant to Commission Rule R19-1

In the summer of 2001, the Public Staff began monitoring the EMCs' initial filings pursuant to Commission Rule R19-1. As noted above, the Commission's May 16, 2001 Order required each EMC to file a statement of whether it was engaged in separate business activities pursuant to G.S. 117-18.1 within 30 days of the Order. The deadline for filing these letters was eventually extended to July 16, 2001. Based on an initial review of these letters, it appeared that all but 5 of the 28 filing EMCs were engaged in separate business activities pursuant to the statute, either through active conduct of such a business or through passive investment. (It was later determined that 2 of the 5 also had a passive investment in a separate business operation that brought them under the statute.)

In the autumn of 2001, the Public Staff began reviewing the sufficiency of the EMCs' filings of cost allocation manuals, codes of conduct, and the 2000 audited financial statements and annual transaction reports. In the course of the review, it became evident that several EMCs may have inadvertently misinterpreted the Commission's May 16, 2001 Order and/or the instructions on the annual transaction report form. The Order and the Commission Rule R19-1 both require each EMC conducting separate business activities pursuant to G.S. 117-18.1 to file the annual transaction report. There was no exception granted based on the size of the EMC's investment in the separate business activities being conducted. The report form itself requires detailed information regarding separate business entities in which the EMC has 10% or greater equity or ownership interest, and a reconciliation of the aggregate investment in such entities with the total investment in subsidiaries per the EMC's audited financial statements. However, several EMCs that had submitted letters informing the Commission of their engagement in separate business activities under the statute either (1) did not file a report or (2) filed a report that did not reflect all of those

business activities. The activities not reported generally consisted of those in which the EMC had an ownership interest of less than 10%.

The Public Staff contacted the EMCs that had either failed to file a report or had filed a report that was incomplete. Discussions with these EMCs revealed that the basic reason for the incomplete reporting was a belief that no report was required if an EMC held no investments equal to 10% or greater. The Public Staff informed the EMCs that it believed Rule R19-1 required them to report information regarding all separate business entities, even if the ownership interest in such entities was less than 10%. Each of the EMCs that were contacted filed or re-filed the affected pages of its 2000 annual transaction report by the spring of 2002.

Based on its discussions with the EMCs and review of the annual transaction report form, the Public Staff concluded that it might be appropriate to clarify the report form. The Public Staff filed a motion on February 14, 2002, asking for two relatively minor changes to the report form. The Public Staff asserted that its proposal would not change the content of the report required by the Commission, but would instead clarify the form and lead to better reporting by the EMCs. The Commission granted the Public Staff's motion and amended the annual transaction report form as of March 8, 2002.

When the annual transaction reports for 2001 were filed, the Public Staff performed a similar review of the sufficiency of the filings. While some issues with individual EMCs remain, overall the sufficiency of filings was improved in comparison with the filings for 2000. The reports for calendar year 2002 were due by May 1, 2003, and these reports are currently being processed and reviewed for sufficiency by the Public Staff.

During 2002, the Public Staff sent requests for information to several EMCs regarding the contents of the 2000 and 2001 annual transaction reports. For this first round of information requests, the Public Staff concentrated on those EMCs that were conducting active separate business activities through affiliates and were allocating costs to those affiliates. The EMCs contacted were responsive to the Public Staff's information requests, in certain cases providing large amounts of additional data. Review and follow-up of the information received from these EMCs began in 2002 and will continue in 2003, along with the gathering of information related to the 2002 annual transaction reports filed in 2003.

Appendix D to this report is a schedule for the year 2002 setting forth each of the EMCs that made reports or statements pursuant to Commission Rule R19-1 and indicating whether each was engaged in separate business activities as described in G.S. 117-18.1. As can be seen on this schedule, 26 EMCs were engaged in separate business activities as described in G.S. 117-18.1 and 7 EMCs were not engaged in such activities. The EMCs actively engaged in separate business activities are involved in several different types of operations. According to the latest reports filed with the Commission, four EMCs are actively operating businesses that involve the sale of gasoline, propane, and/or other petroleum products. However, approximately 20 EMCs

hold investments in Diversified Energy, LLC, a business enterprise selling propane to the public. Some of the other types of businesses which multiple EMCs are conducting pursuant to G.S. 117-18.1 are internet service, electrical contracting, surge protection, and heating and air conditioning services.

In June 2001, and again in June 2002, members of the Public Staff made presentations to the Finance and Accounting Conference sponsored by the North Carolina Association of Electric Cooperatives, an organization that provides trade association services to the State's EMCs. These presentations included discussions of G.S. 117-18.1, Commission Rule R19-1, the transaction report form (including the March 2002 amendment), and the information gathering process.

Complaint Proceedings

There have not been any complaints filed with the Commission pursuant to the provisions of G.S. 117-18.1(a)(3). This subdivision of the statute provides for the Commission to investigate the charges for transactions between an EMC and its separate business activities authorized by G.S. 117-18.1 "upon complaint showing reasonable grounds for investigation." G.S. 117-18.1(a)(3). No complaint has been filed.

The Commission has received at least two letters inquiring as to the status of the Commission's implementation of Session Law 1999-180. The Commission responded to both letters and assured the writers that the Commission had well-established procedures already in place for the filing and disposition of complaint proceedings and that anyone with reasonable grounds for an investigation of transactions between an EMC and its separate business activities authorized by G.S. 117-18.1 should file a complaint.

One person filed an objection to a claim of confidentiality made by an EMC, and the Commission held proceedings on this objection in Docket No. EC-23, Sub 33. The Public Records Act generally defines public records to include all documents received by any State government agency in connection with the transaction of public business. G.S. 132-1(a). Public records are "the property of the people" and are generally available to the public. G.S. 132-1(b). However, G.S. 132-1.2(1) makes an exception for certain "trade secrets." In adopting Rule R19-1, the Commission provided that EMCs may claim confidentiality as to the information that they file with the Commission, but that

any claim of confidentiality made by an EMC shall relate to "trade secrets" as defined in G.S. 66-152(3) and shall be explicit; i.e., every page for which such a claim is asserted shall be clearly stamped "CONFIDENTIAL" at the time of the filing. In the event an interested person shall desire access to information claimed by the affected EMC to constitute a trade secret, the person desiring such access shall file a letter with the Chief Clerk of the Commission, with a copy to the affected

EMC, requesting a determination as to the extent to which the information in question is actually protected from public disclosure under the Public Records Act.

Commission Rule R19-1(d).

On September 27, 2001, Blue Ridge Electric Membership Corporation (Blue Ridge) filed its Annual Report of Transactions for year 2000. Most of the report was stamped as confidential. On March 13, 2002, Bruce Byers of Rutherfordton (who is apparently part owner of a business that sells propane) filed a letter with the Commission objecting to Blue Ridge's claim of confidentiality for its report and asserting that Blue Ridge's report should be public information. The Chair of the Commission issued an Order on March 15, 2002, requiring Blue Ridge to file a response to Mr. Byers' letter. On April 11, 2002, Blue Ridge filed a letter and a supporting affidavit from its chief executive officer asking the Commission to deny access to the information designated as confidential in the Blue Ridge report. Blue Ridge acknowledged owning a separate company engaged in the propane business, but Blue Ridge identified specific information in its report as confidential and, referring to the definition of a trade secret in G.S. 66-152(3),² asserted that this information has commercial value to Blue Ridge from not being generally known or readily ascertainable by independent means and that the information is maintained in a confidential manner by Blue Ridge's accounting department. The affidavit asserted that the propane business is intensely competitive and that information about costs and expenses would benefit a competitor.

On May 30, 2002, the Commission issued an Order asking the parties to address the issue of confidentiality in more detail. Blue Ridge submitted a brief on July 11, 2002, arguing that its report included trade secrets and should be kept confidential. Mr. Byers filed a letter on July 3, 2002, stating that he "would like to postpone indefinitely my proceeding with the Commission regarding Blue Ridge EMC and its 'confidential' records." Mr. Byers stated that he had reviewed Session Law 1999-180 and found it "discouraging that it 'empowers' the Commission only to... 'direct the [EMC] to adjust those charges to comply [with G.S. 117-18.1(a)(3)]...." Mr. Byers stated that G.S. 117-18.1(a)(3) gives an EMC "a second chance" even if it is found in violation of G.S. 117.18.1(a)(3). In light of Mr. Byers' request to postpone proceedings on his objection, the Commission issued an order on July 30, 2002, suspending proceedings in the docket.

² A trade secret is defined by G.S. 66-152(3) as

business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Recommendations

Section 7 of Session Law 1999-180 requires that the present report “shall include the Utilities Commission’s recommendations, if any, with regard to any action to be taken by the General Assembly.” The Commission does not have recommendations for action by the General Assembly.

The Commission is an administrative agency created to perform the specific duties assigned to it by the General Assembly and to implement the policies declared by the General Assembly. The Commission possesses all of the statutory authority and the resources that it needs in order to carry out the oversight and complaint jurisdiction assigned to the Commission by Session Law 1999-180.

Session Law 1999-180 represents a decision by the General Assembly as to the appropriate role of EMCs in North Carolina. This legislation was a balance of competing interests that appeared before the General Assembly and expressed their views. The General Assembly is the appropriate body to balance such interests and to decide such policy questions, and the Commission does not have any recommendations as to the policies embodied in Session Law 1999-180.

SESSION LAW 1999-180
HOUSE BILL 476

AN ACT CONCERNING THE GRANT OF POWERS TO ELECTRIC MEMBERSHIP CORPORATIONS REGARDING SUBSIDIARY ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 117-18 is amended by adding a new subdivision to read:

"(14) As to electric membership corporations, to conduct the activities permitted by G.S. 117-18.1."

Section 2. Article 2 of Chapter 117 of the General Statutes is amended by adding a new section to read:

"§ 117-18.1. *Subsidiary business activities.*

(a) Electric membership corporations may form, organize, acquire, hold, dispose of, and operate any interest up to and including full controlling interest in separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment, so long as those other business entities meet all of the following conditions:

- (1) They are not financed with loans or grants from the Rural Utilities Service (RUS) of the United States Department of Agriculture (USDA) or the USDA or with similar financing from any successor agency. This limitation shall not apply to RUS or USDA loans or grants, or loans or grants from successor agencies, for water or wastewater collection and treatment projects.
- (2) They are subject to all taxes, specifically including federal and State income taxes, levied against business entities of the same structure and engaged in the same activities.
- (3) They fully compensate the electric membership corporation for the use of personnel, services, equipment, or tangible and intangible property, the greater of (i) a competitive price, which is a price comparable with prices generally being charged at the time in arms length transactions in the same market, or (ii) the electric membership corporation's fully distributed costs, which shall include all direct and indirect costs, including cost of capital incurred in providing the personnel, services, equipment, tangible property, or intangible property in question. The value of real property shall include the intangible value of not having to purchase the real property being used, and the value of the

identification with the EMC that will exist because of the use of the particular real property. Should the Utilities Commission, upon complaint showing reasonable grounds for investigation, find after investigation, that the charges for those transactions between the electric membership corporation and the other business entity do not conform with the provisions of this subdivision, the Utilities Commission is empowered to direct the electric membership corporation to adjust those charges to comply with the provisions of this subdivision. If the electric membership corporation does not comply with the Utilities Commission's directive, then the Utilities Commission is empowered to direct the electric membership corporation to divest its interest in the other business entity. For purposes of enforcing this subdivision, members of the Utilities Commission, the Utilities Commission staff, and the Public Staff are authorized to inspect the books and records of such other business entities and the electric membership corporations. The Utilities Commission shall have the authority to adopt rules and reporting requirements to enforce this subdivision. The provisions of G.S. 62-310(a), 62-311, 62-312, 62-313, 62-314, 62-315, 62-316, 62-326, and 62-327 shall apply to electric membership corporations with respect to the application of this subdivision.

(4) They are organized and operated pursuant to Chapter 55 or Chapter 57C of the General Statutes.

(5) They do not receive from an electric membership corporation any investment, loan, guarantee, or pledge of assets in an amount that, in the aggregate, exceeds ten percent (10%) of the assets of that electric membership corporation.

(b) An electric membership corporation may not form or organize a separate business entity to engage in activities involving the distribution, storage, or sale of oil, as defined in G.S. 143-215.77(8), specifically including liquefied petroleum gases, but may acquire, hold, dispose of, and operate any interest in an existing business entity already engaged in these activities, subject to the other provisions of this section.

(c) No director, or spouse of a director, of an electric membership corporation may be employed or have any financial interest in any separate business entity formed, organized, acquired, held, or operated by an electric membership corporation pursuant to the provisions of this section."

Section 3. G.S. 117-30(a) reads as rewritten:

"(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."

Section 4. Article 3 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-53. *Electric membership corporation subsidiaries.*

In addition to any other authority granted to the Commission in this Chapter, the Commission shall have the authority to regulate electric membership corporations as provided in G.S. 117-18.1."

Section 5. G.S. 62-302 reads as rewritten:
"§ 62-302. *Regulatory fee.*

(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission 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 Commission and the Public Staff in regulating public utilities in the interest of the public. It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53.

(b) Public Utility Rate. –

- (1) For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i) twelve hundredths percent (0.12%) of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter.
- (2) For fiscal years beginning on or after July 1, 1990, the regulatory fee shall be the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter.
- (3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).
- (4) As used in this section, the term "North Carolina jurisdictional revenues" means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

(b1) Electric Membership Corporation Rate. – For the purpose of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, beginning with the 1999-2000 fiscal year the North Carolina Electric Membership Corporation shall pay an annual flat fee to the fund established in subsection (d) of this section. The amount of the annual fee shall be as established by the General Assembly by law.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose the amount of the regulatory fee. For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, the proposed amount shall be

included in a special budget message the Governor shall submit to the General Assembly.

The amount of the fee proposed by the Commission may not exceed the amount necessary to defray the estimated cost of the operations of the Commission and the Public Staff for the regulation of the electric membership corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of the Commission and the Public Staff for the regulation of the electric membership corporations for the upcoming fiscal year. The fee will be assessed on a quarterly basis and will be due and payable to the Commission on or before the 15th day of the second month following the end of each quarter.

(c) When Due. – The regulatory fee imposed under this section, except the fee imposed by subsection (b1) of this section, is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter. Every public utility 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 Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Commission may by rule require. Receipts shall be reported on an accrual basis.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of twenty-five dollars (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the public utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(d) Use of Proceeds. – A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff, except for the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in

regulating public utilities in the interest of the public as provided by this Chapter and in regulating electric membership corporations as provided in G.S. 117-18.1.

The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Section 6. G.S. 62-300 is amended by adding a new subsection to read:

"(e) The provisions of this section shall apply with respect to the regulation of electric membership corporations as provided in G.S. 117-18.1."

Section 7. Four years after this act becomes law, the Utilities Commission shall report to the Joint Legislative Utility Review Committee on activities the Commission has conducted pursuant to the provisions of this act. The report shall contain the Utilities Commission's recommendations, if any, with regard to any action to be taken by the General Assembly.

Section 8. It is the intent of the General Assembly that both the election of board members and the hiring of employees of electric membership corporations should reflect the diversity of the communities those corporations serve. To those ends, the General Assembly directs that each electric membership corporation of North Carolina shall report minority representation on its board and in its workforce to the North Carolina Association of Electric Cooperatives so that the Association can report on minority representation to the Joint Legislative Commission on Governmental Operations. The North Carolina Association of Electric Cooperatives shall make an interim report on minority representation on the boards and workforces of the electric membership corporations two years after this act becomes law, and shall make a final report on that subject four years after this act becomes law.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1999.

Became law upon approval of the Governor at 11:45 a.m. on the 16th day of June, 1999

Commission Rule R19-1. Electric Membership Corporation Reporting Requirements.

- (a) *General.* G.S. 117-18.1 allows electric membership corporations (EMCs) to own and operate separate business entities that provide energy services and products, telecommunications services and products, water, and wastewater collection and treatment, subject to certain conditions. One of those conditions is that the separate business entity fully compensate the EMC for the use of personnel, services, equipment, or tangible and intangible property of the EMC at the greater of a competitive price or the EMC's fully distributed costs. The Utilities Commission is empowered, upon complaint, to direct the EMC to adjust charges that do not comply with this condition and, if the EMC does not comply, to direct the EMC to divest its interest in the other business entity. To enforce G.S. 117-18.1(a)(3), the Commission, the Commission Staff, and the Public Staff are authorized to inspect the books and records of such other business entities and the EMCs, and the Commission is authorized to adopt rules and reporting requirements. G.S. 62-53 provides that in addition to any other authority granted in this Chapter, the Commission has the authority to regulate EMCs as provided in G.S. 117-18.1.
- (b) *Applicability.* This rule is applicable to each EMC providing electric service in North Carolina.
- (c) *Reporting Requirements by Electric Membership Corporations.* Each EMC that conducts activities pursuant to G.S. 117-18.1 shall file with the Commission the following:
- (1) a copy of its audited financial statements, on an annual basis;
 - (2) a cost allocation manual, updated within 30 days of any significant change in cost allocation methodologies;
 - (3) a code of conduct adopted by the board of directors of the EMC, updated not later than 30 days prior to the effective date of any change; and
 - (4) an annual report on transactions between the EMC and separate business entities by which the EMC conducts activities permitted by G.S. 117-18.1, on a form prescribed by the Commission and available through the Chief Clerk of the Commission.

The financial statements and annual reports on transactions shall each cover an annual reporting period of January 1st to December 31st and shall be filed as soon as possible after the close of the calendar year but in no event later than May 1st of the year following the calendar year covered by financial statements and annual reports. The initial cost allocation manual and code of conduct shall be filed no later than 90 days after an EMC conducts its first activity permitted by G.S. 117-18.1. The financial statements and annual reports shall be verified by the oath of the chief executive officer of the EMC in accordance with the requirements of G.S. 62-53.

- (d) *Confidentiality of Information Submitted Pursuant to Rule.* Any claim of confidentiality with regard to information submitted pursuant to this Rule shall be made with specificity by the EMC and shall, if necessary, be determined by the Commission in accordance with Chapter 132 of the North Carolina General Statutes, the Public Records Act. Consistent with G.S. 132-1.2, any claim of confidentiality made by an EMC shall relate to “trade secrets” as defined in G.S. 66-152(3) and shall be explicit; i.e., every page for which such a claim is asserted shall be clearly stamped “CONFIDENTIAL” at the time of the filing. In the event an interested person shall desire access to information claimed by the affected EMC to constitute a trade secret, the person desiring such access shall file a letter with the Chief Clerk of the Commission, with a copy to the affected EMC, requesting a determination as to the extent to which the information in question is actually protected from public disclosure under the Public Records Act.
- (e) *Electric Membership Corporations That Do Not Conduct Activities Permitted by G.S. 117-18.1.* An EMC that does not conduct activities permitted by G.S. 117-18.1 during a calendar year shall only be required to file an annual statement to that effect, no later than May 1st of the following calendar year.

NORTH CAROLINA UTILITIES COMMISSION

FILING REQUIRED PURSUANT TO
COMMISSION RULE R19-1

ANNUAL REPORT OF TRANSACTIONS OF
_____,
AN ELECTRIC MEMBERSHIP CORPORATION,
WITH AFFILIATED SEPARATE BUSINESS ENTITIES

EMC Certificate No. _____

Twelve months ended _____

Address

City State Zip Code

Phone Number

Name of Contact Person

Phone Number

Email Address

Date of Report

Please Return an Original and Six Copies To:
Chief Clerk's Office
NC Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

PART 1: SUMMARY OF INVESTMENTS IN SEPARATE BUSINESS ENTITY ACTIVITIES

Subpart 1(a): Information Regarding Separate Business Entities In Which EMC Has a 10% or Greater Equity or Ownership Interest

Please provide the following information for each separate business entity in which the EMC has a 10% or greater equity or ownership interest. Attach additional pages if necessary.

Name of Separate Business Entity	Dollar Amount of EMC Equity/Ownership Investment	Percentage of EMC Ownership of Separate Business Entity
1)		
2)		
3)		
4)		
5)		
6)		
7)		
8)		
9)		
10)		
11)		
12)		
13)		
14)		
15)		
16)		
17)		
18) Total		

Subpart 1(b): Reconciliation of Subpart 1(a) to Audited Financial Statements

Please provide the following information for the EMC even if the EMC was not required to record information in Subpart 1(a).

1. Total on L18 in Subpart 1(a)	
2. Investment in Subsidiaries per audited financial statements filed pursuant to Rule R19-1	
3. Difference (L1 - L2)	

If Line 3 is not zero, please explain in detail the differences in the amounts reported on Line 1 and Line 2.

PART 2(): DETAIL INFORMATION BY SEPARATE BUSINESS ENTITY

Please complete all subparts of Part 2 for each separate business entity listed in Subpart 1(a), identifying each separate business entity by inserting an unique capital letter between the parentheses; e.g., 2(A) for the first separate business entity, 2(B) for the second, etc.

Subpart 2()(i)

Please fill out the following summary information regarding the separate business entity.

Item	Requested Information
Name of separate business entity	
Detailed description of separate business entity's business	
Was the separate business entity created by the EMC or was it a preexisting entity in which the EMC acquired an equity/ownership interest?	
Amount of EMC's equity/ownership interest at the most recent audited financial statement date	
Description of how EMC's equity/ownership interest is recorded on EMC's books	
Description of how EMC's equity/ownership interest is recorded in the audited financial statements filed pursuant to Reporting Requirement No. 1	

Subpart 2()(ii)

For each of the following items, please include in the first column the dollar amount reported on the EMC's balance sheet at the most recent audited financial statement date. Please include in the second column a description of how each amount is recorded on the EMC's books and in the audited financial statements filed pursuant to Reporting Requirement No.1 of Commission Rule R19-1.

Item	Balance Sheet Amount	Description of Recording
Loans to or from separate business entity		
Notes or accounts receivable from or payable to separate business entity		
Other assets or liabilities related to separate business entity		

Subpart 2() (iii) Summary Transaction Information

For each of the following categories, please include in the first column the total dollar amounts for the type of transaction between the EMC and the separate business entity, flowing in each direction, which occurred during the year. Please include in the second column how the transactions were recorded on the EMC's books and in the audited financial statements.

Category	Transaction Amount and Type	Description of Recording
Personnel		
Services		
Facilities		
Equipment		
Interest		
Fees		
Other Tangible Property		
Intangible Property and Benefits		
Other (list separately)		

Subpart 2()(iv): Detailed Information on Transactions

For each category of transactions in Part 2, Subpart 2()(iii), please provide the following information regarding transactions listed that involve the separate business entity's use of EMC resources. Please divide the relevant categories into subcategories and/or individual transactions as necessary to provide full and clear information.

Item	Requested Information
Name of category	
Description of subcategory, if appropriate	
Description of individual transaction, if appropriate	
Transaction amount(s)	
Was compensation provided to EMC at a competitive price or at fully distributed cost?	
The competitive price and fully distributed cost amounts used for comparison purposes to select the appropriate (highest) level of compensation	
The methods and calculations used to determine competitive price and fully distributed cost, including the components of fully distributed cost (attach supporting documentation if necessary)	

Subpart 2() (v): Advertising and Intangible Benefits

For each category listed in the following table, please provide the amount of compensation paid to the EMC by the separate business entity and state whether the compensation provided to the EMC was at a competitive price or at fully distributed cost. Please indicate the competitive price and fully distributed cost amounts used for comparison purposes to select the appropriate (highest) level of compensation. Please list the methods and calculations used to determine competitive price and fully distributed cost, including the components of fully distributed cost (attach supporting documentation if necessary).

Category	Compensation Amount	Competitive Price or FDC?	Competitive Price and FDC Amounts	Methods, Calculations, and Components
<u>Joint</u> advertising, website development and operation, and/or other marketing efforts by the EMC and the separate business entity				
Advertising, website development and operation and/or other marketing efforts <u>by the EMC</u> that directly or indirectly support the business of the separate business entity				
Advertising, website development and operation, and/or other marketing efforts <u>by the separate business entity</u> that make use of the EMC's name and/or logo, or that make use of an association with the EMC in any manner				
Intangible benefits accruing to the separate business entity by use of (and thus association with) EMC personnel, services, facilities, equipment, or other resources				
Intangible benefits accruing to the separate business entity by public knowledge of its affiliation with the EMC				
The availability and/or use of EMC systems to make available and/or schedule the use of EMC personnel, services, facilities, equipment, or other resources for separate business entity purposes				
The availability of the EMC to backstand the business operations and credit of the separate business entity				

Subpart 2()(vi): Contracts

Please list all contracts between the EMC and the separate business entity executed during the period covered by this report. Please attach copies of the contracts to the report.

Date of Contract	Title of Contract

Subpart 2()(vii): Transfers

Please provide a listing and description of any significant transfers of the following from the EMC to the separate business entity.

Item	Requested Information
Services	
Functions	
Departments	
Employees	
Assets	
Liabilities	
Rights	
Obligations	

Part 3: SERVICE COMPANY

If an affiliated separate business entity has been established to provide shared services to the EMC and/or one or more other separate business entities, please provide the following information.

Item	Requested Information
Name of Service Company	
Detailed description of the assignment/allocation methods used to determine charges to the EMC and each of the other separate business entities	

**Part 4: VERIFICATION UNDER OATH
REGARDING ACCURACY OF REPORT**

(NOTE: THIS VERIFICATION SHALL BE COMPLETED BY EITHER THE CHIEF EXECUTIVE OFFICER, A SENIOR LEVEL FINANCIAL OFFICER, OR THE RESPONSIBLE ACCOUNTING OFFICER.)

I, _____, state and attest that the attached Annual Report of Transactions With Affiliated Separate Business Entities is filed on behalf of _____ (Name of Electric Membership Corporation) as required by the North Carolina Utilities Commission; that I have reviewed said Report and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information provided therein; and that, to the best of my knowledge, information, and belief, all of the information contained therein is accurate and true, no material information or fact has been knowingly omitted or misstated therein, and all of the information contained in said Report has been prepared and presented in accordance with all applicable North Carolina General Statutes, Commission Rules, and Commission Orders.

Signature of Person Making Verification

Job Title

Date

Subscribed and sworn before me this the _____ day of _____, 200__.

Notary Public

My Commission Expires: _____

**ENGAGEMENT OF ELECTRIC MEMBERSHIP CORPORATIONS
IN SEPARATE BUSINESS ACTIVITIES PURSUANT TO
G.S. 117-18.1 - CALENDAR YEAR 2002**

<u>Electric Membership Corporation</u>	<u>Engaged In Separate Business Activities</u>	<u>Not Engaged In Separate Business Activities</u>
Albemarle	X	
Blue Ridge	X	
Blue Ridge Mountain	X	
Broad River		X
Brunswick	X	
Cape Hatteras	X	
Carteret-Craven	X	
Central	X	
Edgecombe-Martin	X	
Energy United	X	
Four County	X	
French Broad		X
Halifax	X	
Harkers Island		X
Haywood		X
Jones-Onslow	X	
Lumbee River	X	
Mecklenburg		X
Mountain	X	
NCEMC	X	
Pee Dee	X	
Piedmont	X	
Pitt & Greene	X	
Randolph		X
Roanoke	X	
Rutherford	X	
South River	X	
Surry-Yadkin	X	
Tideland	X	
Tri-County	X	
Tri-State		X
Union	X	
Wake	X	

SOURCE: Reports filed with Utilities Commission and verbal communication with EMC personnel.