

**Effective 5/10/2016**

**10-8-14 Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.**

- (1) As used in this section, "public telecommunications service facilities" means the same as that term is defined in Section 10-18-102.
- (2) A municipality may:
  - (a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, public transportation systems , or public telecommunications service facilities ;
  - (b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (2)(a) by others;
  - (c) purchase or lease the works or systems listed in Subsection (1)(a) from any person or corporation; and
  - (d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (2)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:
    - (i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); and
    - (ii) cable television services or public telecommunications services is governed by Subsection (12).
- (3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, public transportation systems , or public telecommunications service facilities is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- (4)
  - (a) Except as provided in Subsection (4)(b), (6), or (10), a municipality may not sell or deliver the electricity produced or distributed by its electric works constructed, maintained, or operated in accordance with Subsection (2) to a retail customer located beyond its municipal boundary.
  - (b) A municipality that provides retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, may continue to serve that customer if:
    - (i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by its certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection (4)(c) that identifies each customer served by the municipality beyond its municipal boundary;
    - (ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and
    - (iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.
  - (c) The municipality shall include in the written notice required in Subsection (4)(b)(i) for each customer:
    - (i) the customer's meter number;
    - (ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;
    - (iii) the customer's class of service; and
    - (iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

- (5) The written filing agreement entered into in accordance with Subsection (3)(b)(ii) shall require the following:
  - (a) The municipality shall provide electric service to a customer identified in accordance with Subsection (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.
  - (b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (4)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (6).
- (6)
  - (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection (5)(b).
  - (b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.
  - (c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:
    - (i) the electrical corporation and the municipality shall enter into a written agreement;
    - (ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection (5)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and
    - (iii) the municipality may provide the service if:
      - (A) except as provided in Subsection (6)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or
      - (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.
  - (d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.
- (7) If the municipality and electrical corporation make a transfer described in Subsection (6)(c)(ii):
  - (a)
    - (i) the municipality shall transfer the electric service customer to the electrical corporation; and
    - (ii) the electrical corporation shall provide electric service to the customer; and
  - (b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.
- (8)
  - (a) In accordance with Subsection (8)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside its municipal boundary.
  - (b) The mechanism shall require:
    - (i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and
    - (ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

- (9) The municipality is relieved of any obligation to transfer a customer described in Subsection (5)(b) or facility used to serve the customer in accordance with Subsection (6)(c)(ii) if the municipality annexes the property on which the customer is being served.
- (10)
- (a) A municipality may provide electric service outside of its municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.
  - (b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.
- (11) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.
- (12) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Amended by Chapter 419, 2016 General Session