

1 17A-2-302.

2 Section 2. Section **17A-2-302** is amended to read:

3 **17A-2-302. Electric service districts -- Public Service Commission jurisdiction --**
4 **Exceptions.**

5 (1) An electric service district may only include an area where:

6 (a) no retail electricity has been provided to commercial, industrial, residential, and other
7 users of electricity from an investor-owned utility within any part of an area certificated by the
8 Public Service Commission or an area adjacent to that area, municipal agency, or electric
9 cooperative within the five years immediately preceding September 1, 1985; and

10 (b) electric service is provided to at least one user of electricity within the electric service
11 district as of September 1, 1985.

12 (2) An electric service district organized under this part is a public utility and subject to
13 the jurisdiction of the Public Service Commission. Nothing in this part may be construed to give
14 the Public Service Commission jurisdiction over any improvement district, other than an electric
15 service district organized under this part, or over any municipality or association of municipalities
16 organized under the Interlocal Cooperation Act. Before an electric service district serves any
17 customer, the electric service district shall obtain a certificate of public convenience and necessity
18 from the Public Service Commission.

19 (3) Section 54-7-12 does not apply to rate changes of an electric service district subject
20 to the following:

21 (a) the electric service district is organized for the purpose of distributing electricity to
22 customers within the boundaries of the electric service district on a not-for-profit basis;

23 (b) the schedule of new rates or other change that results in new rates has been approved
24 by the board of directors of the electric service district;

25 (c) prior to the implementation of any rate increases, the electric service district first holds
26 a public meeting for all its customers to whom mailed notice of the meeting is sent not less than
27 ten days prior to the meeting; and

28 (d) the electric service district has filed the schedule of new rates or other change with the
29 commission. These documents shall be made available by the commission for public inspection.

30 (4) If an application for certification is not filed by an electric service district organized
31 under this part and approved by the Public Service Commission by September 1, 1986, all

1 provisions in this part relating to electric service districts are repealed.

2 (5) (a) As used in this Subsection (5), "fair market value" means replacement cost less
3 depreciation.

4 (b) If a city or town that provides electric services to its residents annexes an area included
5 within an electric service district organized under this part:

6 (i) the area is, upon annexation, excluded from the electric service district;

7 (ii) subject to Subsection (5)(d), the city or town shall pay the electric service district the
8 fair market value of:

9 (A) the electric service district's tangible assets located within the annexed area;

10 (B) the electric service district's tangible assets located outside the annexed area that are
11 required to provide service to customers within the annexed area; and

12 (C) the electric service district's tangible assets located outside the annexed area that are
13 rendered entirely useless to the electric service district due to the annexation and the transfer of
14 electric service district assets to the city or town;

15 (iii) the city or town may provide electric service to the annexed area immediately upon
16 annexation; and

17 (iv) the electric service district shall, upon payment of the fair market value, transfer to the
18 city or town title to and ownership of the assets for which payment was made.

19 (c) Subject to Subsection (5)(d), the electric service district is entitled only to payment of
20 the fair market value of tangible assets, as provided in Subsection (5)(b)(ii), and is not entitled to
21 payment for severance damages, lost profits, lost revenues, loss of customers, or any other
22 damages.

23 (d) Notwithstanding Subsections (5)(b)(ii) and (c), if the electric service district has no
24 customers in the annexed area, the electric service district is not entitled to any compensation from
25 the annexing city or town.

26 (e) This Subsection (5) applies to:

27 (i) each annexation described in Subsection (5)(b) that occurs on or after May 4, 1998; and

28 (ii) retrospectively to each annexation described in Subsection (5)(b) that occurred before
29 May 4, 1998, if the city or town and the electric service district have not agreed upon the amount
30 of compensation that the city or town should pay to the electric service district.

Legislative Review Note
as of 1-14-98 2:24 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel