**South Carolina General Assembly**

123rd Session, 2019-2020

**S. 1076**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Scott, Hembree, Campsen, McElveen, Rice, Sheheen, Cromer, Peeler, Shealy, Grooms, Williams, Malloy, Sabb, Campbell, Jackson, Kimpson, McLeod, M.B. Matthews, Allen, Gregory, Setzler, Johnson, Nicholson, Hutto, Reese, Talley, Turner, Harpootlian, Gambrell, Verdin, Cash, Loftis, Fanning and J. Matthews

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Companion/Similar bill(s): 1080, 3780

Introduced in the Senate on February 5, 2020

Currently residing in the Senate Committee on **Judiciary**

Summary: Broadband Accessibility Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/5/2020 Senate Introduced and read first time ([Senate Journal‑page 16](file:///h:\sj\20200205.docx))

2/5/2020 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 16](file:///h:\sj\20200205.docx))

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**VERSIONS OF THIS BILL**

[2/5/2020](file:///p:\pprever\2019-20\1076_20200205.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 9, TITLE 58 ENTITLED “BROADBAND ACCESSIBILITY ACT” SO AS TO PROVIDE LEGISLATIVE FINDINGS; TO DEFINE RELEVANT TERMS; TO AUTHORIZE AND REGULATE THE PROVISION OF BROADBAND INTERNET ACCESS SERVICE BY ELECTRIC COOPERATIVES; TO AMEND SECTION 33‑49‑20, RELATING TO DEFINITIONS APPLICABLE TO THE “ELECTRIC COOPERATIVE ACT”, SO AS TO DEFINE THE TERM “BROADBAND SYSTEM”; TO AMEND SECTION 33‑49‑150, RELATING TO THE AUTHORITY AND JURISDICTION OF THE OFFICE OF REGULATORY STAFF OVER ELECTRIC COOPERATIVES, SO AS TO VEST THE OFFICE OF REGULATORY STAFF WITH THE AUTHORITY AND JURISDICTION TO CONDUCT INSPECTIONS, AUDITS, AND EXAMINATIONS REGARDING THE COMPLIANCE OF ELECTRIC COOPERATIVES WITH THE PROVISIONS OF THIS ACT; AND TO AMEND SECTION 33‑49‑250, RELATING TO THE POWERS OF ELECTRIC COOPERATIVES, SO AS TO PROVIDE THAT A COOPERATIVE HAS THE POWER TO WHOLLY OR PARTIALLY OWN, OPERATE, MAINTAIN, CONSTRUCT, INSTALL, AND REPLACE A BROADBAND SYSTEM DIRECTLY OR INDIRECTLY, THROUGH ITSELF OR THROUGH ANOTHER ENTITY INCLUDING, BUT NOT LIMITED TO, A SUBSIDIARY, A CORPORATION, OR A COOPERATIVE OF WHICH IT IS A MEMBER OR AN AFFILIATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 58 of the 1976 Code is amended by adding:

“Article 25

Broadband Accessibility Act

Section 58‑9‑3000. (A) This article shall be known as the ‘Broadband Accessibility Act’.

(B) The General Assembly finds:

(1) More advanced communication capabilities, broadband facilities, and services are needed in many rural areas of the State.

(2) The continued lack of advanced communication capabilities, broadband facilities, and services in rural areas deprives citizens residing in these areas from access to opportunities such that the State needs to take action to correct and eliminate these discrepancies.

(3) It is the public policy of this State to encourage and facilitate the development and investment in advanced communications capabilities and broadband facilities and services in those rural areas in the State, as this development is vital and necessary to induce, create, and promote industrial and economic development in those rural areas of the State and to create job opportunities, enhance health care, and enhance educational advancement in those areas.

(4) It is the public policy of the State to promote the authorization of advanced communications capabilities to be installed within existing easements and other rights of way.

(5) It is the intent of this article to authorize electric providers to engage in arrangements, contracts, and other collaborative activities with public or private persons to facilitate the investment in or development of advanced communications capabilities and broadband services and broadband systems in this State.

(6) Utilizing existing electric easements to provide broadband services, especially when using existing overhead or underground facilities, does not change the physical use of the easement, interfere with or impair any vested rights of the owner or occupier of real property subject to electric easement, or place any additional burdens on the property interests of an owner or occupier. Consequently, the installation and operation of broadband services within any electric easement are merely changes in the manner or degree of the granted use as appropriate to accommodate a new technology and, absent any applicable express prohibition contained in the instrument conveying or granting the electric easement, shall be deemed as a matter of law to be permitted use within the scope of every electric easement.

(7) The limited grant of authorization to electric providers in this article is reasonably related to the proposed legislative objective of providing advanced communications capabilities, broadband facilities, and services in rural, underserved, and unserved areas.

Section 58‑9‑3010. For purposes of this article:

(1) ‘Advanced communications capabilities’ means the communications capabilities defined from time to time as advanced telecommunications capabilities by the Federal Communications Commission (FCC) through regulations, statutes, or other written guidance or orders. The term also includes broadband systems and broadband services.

(2) ‘Broadband affiliate’ means a person that is at least ten percent owned by an electric cooperative, controlled by way of ownership interests therein, directly or indirectly, by the electric cooperative, or under common control with the electric cooperative, and which is formed to provide, among other services, utility support services or nonutility support services.

(3) ‘Broadband operator’ means a person that owns or operates a broadband system within an electric easement, including the electric cooperative if the electric cooperative is operating the broadband system and including a person that provides broadband services on a wholesale basis to another broadband operator or broadband service provider.

(4) ‘Broadband service provider’ means a person that provides broadband services on a retail basis to end‑use customers.

(5) ‘Broadband services’ means the provision of connectivity to a high‑speed, high‑capacity transmission medium or to a technology supporting the higher of:

(a) in the provider‑to‑consumer (downstream) direction, a speed, in technical terms (bandwidth), with minimum download speeds of twenty‑five megabits per second and minimum upload speeds of three megabits per second for either of the following:

(i) to provide access to the Internet; or

(ii) to provide computer processing, information sharing, information storage, information content, or protocol conversion, including any service application or information service over the electric delivery system of an electric provider, and includes any advanced communications capabilities that enable users to originate, send, and receive high‑quality voice, data, graphics, video programming, and video communications using any technology including a broadband system; or

(b) the definition of broadband by the Federal Communications Commission (FCC).

(6) ‘Broadband system’ means any of the following that may be used to facilitate, directly or indirectly, the provision or transmission of broadband services, whether utility support services or nonutility support services, or both: materials; wires; cables, including fiber optic and copper cables, whether such cables are dark or lit, and whether such cables are in use or dormant; conduits; antennas; equipment; fixtures; switching multiplexers; poles; routers; switches; servers; appurtenances; facilities; and ancillary or auxiliary equipment.

(7) ‘Commission’ means the South Carolina Public Service

Commission.

(8) ‘Electric delivery system’ means any product, fixture, equipment, or technology, or part thereof, necessary or useful in supporting the generation, transmission, transformation, or distribution or delivery of electricity including, but not limited to, generators, electric transmission facilities and lines, distribution facilities and lines, wires, cables, fiber optic cables, poles, transformers, antennas, anchors, guys, grounding systems, communications systems, insulators, conduits, and any other related or ancillary facilities or materials used by an electric provider or electric cooperative to generate, transmit, transform, deliver, or distribute electric energy, as such lines and facilities may exist from time to time and whether such lines or facilities are above ground or underground.

(9) ‘Electric easement’ means any recorded or unrecorded easement or right of way in favor of an electric provider or an electric cooperative that permits the siting and use of an electric delivery system on, over, under, or across the land of a property owner, regardless of whether the easement or right of way is for the exclusive benefit of the electric provider or electric cooperative or for use in connection with the provision of other services, and regardless of whether the electric provider or electric cooperative provides the other services. Electric easements include, but are not limited to, easements obtained under a law of this State, or by any of the following methods: Negotiation, condemnation, prescription, or grant including, but not limited to, a grant pursuant to a bylaw provision, service agreement, or membership agreement, rate schedule, tariff, rule, regulation, practice, act, requirement, or privilege.

(10) ‘Electric cooperative’ means an electric cooperative incorporated under Chapter 49, Title 33.

(11) ‘Electric provider’ means an electrical utility, as defined in Section 58‑27‑10 and the Public Service Authority created by Chapter 31, Title 58.

(12) ‘Nonutility support services’ means broadband services and related services that support services, uses, or purposes other than utility support services.

(13) ‘Person’ means an individual, trust, estate, corporation, partnership, limited partnership, limited liability partnership, or limited liability company having a separate legal existence under state law.

(14) ‘Utility support services’ means broadband services and related services, uses, or purposes that support the operational performance and service reliability of the electric delivery system of an electric provider or electric cooperative, including, but not limited to, all of the following:

(a) automated meter reading;

(b) real‑time or other system monitoring;

(c) remote service control;

(d) outage detection and restoration;

(e) predictive maintenance and diagnostics;

(f) monitoring and enhancement of power quality, load

control, voltage control, and flow;

(g) supervisory control and data acquisition;

(h) management and flow of electricity;

(i) internal communications;

(j) dispatch, start‑up, ramping, shutdown, curtailment, scheduling, or control of electric generation, transmission, or distribution of resources or ancillary services relating thereto including, but not limited to, generator imbalance, spinning and non‑spinning reserves, and reserve sharing;

(k) distributed energy resource support; and

(l) all other uses supporting the reliability, resilience, and security of the electric delivery system.

Section 58‑9‑3020. (A) To the extent not otherwise authorized by law, and in addition to all other purposes, powers, and authority currently granted to electric cooperatives under the laws of this State, an electric cooperative may do all of the following:

(1) own, operate, maintain, construct, install, and replace a broadband system on, over, under, or across the electric cooperative’s electric easements, whether used for or supporting utility support services or used for or supporting nonutility support services, whether on a wholesale or retail basis;

(2) allow a broadband affiliate or an unaffiliated person to own, lease, manage, construct, superintend, install, operate, maintain, and replace a broadband system on, over, under, or across the electric cooperative’s electric easements, on such terms and conditions as specified by the electric cooperative, whether used for or supporting utility support services or used for or supporting wholesale or retail nonutility support services, including the power and authority to apportion the electric easement, to grant licenses, and to grant other usage or operational rights to other broadband operators for the broadband system located within the electric easements;

(3) provide broadband services, whether used for or supporting utility support services or for wholesale or retail nonutility support services; and

(4) allow a broadband affiliate or an unaffiliated person to provide broadband services over or through a broadband system within the electric easements of an electric cooperative, on such terms and conditions as specified by the electric cooperative, whether used for or supporting utility support services or used for or supporting wholesale or retail nonutility support services.

(B) In order to assist an electric cooperative in the planning, engineering, construction, extension, provision, operation, repair and maintenance of broadband services, an electric cooperative or its broadband affiliate is authorized to:

(1) apply for, accept, repay and utilize loans, grants, and other financing from any person or governmental entity, and

(2) enter into contracts, agreements, partnerships, or other types of business relationships with any person or governmental entity.

(C) In furtherance of its authority under subsection (A), an electric cooperative shall have the sole authority to determine which broadband affiliate or unaffiliated person, including a broadband operator or broadband service provider, may have access to the broadband system within its electric easements and on its electric delivery system and to determine the terms and conditions on which the broadband affiliate or unaffiliated person may access the broadband system, including, without limitation, whether the access will be on an exclusive or nonexclusive basis.

(D) This article does not require or obligate an electric cooperative to install or implement a broadband system or advanced communications capabilities, to provide broadband services, or to allow others to install a broadband system or facilities or use the electric cooperative’s electric easements and electric delivery system to provide broadband services.

Section 58‑9‑3030. (A) To the extent not otherwise authorized by law, and in addition to all other purposes, powers, and authority currently granted to electric providers under the laws of this State, an electric provider may do all of the following:

(1) allow a broadband operator or a broadband provider to own, lease, manage, construct, superintend, install, operate, maintain, and replace a broadband system on, over, under, or across the electric provider’s electric easements, on such terms and conditions as specified by the electric provider, whether used for or supporting utility support services or used for or supporting wholesale or retail nonutility support services, including the power and authority to apportion the electric easement, to grant licenses, and to grant other usage or operational rights to other broadband operators for the broadband system located within the electric easements;

(2) allow a broadband operator or a broadband provider to provide broadband services over or through a broadband system within the electric easements of an electric provider, on such terms and conditions as specified by the electric provider, whether used for or supporting utility support services or used for or supporting wholesale or retail nonutility support services.

(B) In furtherance of its authority under subsection (A), an electric provider shall have the sole authority to determine which broadband operators or broadband service providers may have access to the broadband system within its electric easements and on its electric delivery system and to determine the terms and conditions on which the broadband affiliate or unaffiliated person may access the broadband system, including, without limitation, whether the access will be on an exclusive or nonexclusive basis.

(C) This article does not require or obligate an electric provider to install or implement a broadband system or advanced communications capabilities, to provide broadband services, or to allow others to install a broadband system or facilities or use the electric provider’s electric easements and electric delivery system to provide broadband services.

(D) An electric provider may not require any person to purchase broadband services from a broadband operator or broadband service provider as a condition of receiving or continuing to receive electric energy from the electric provider.

(E) An electric provider may not disconnect any customer from receiving electric services pursuant to its electric delivery system due to the customer’s failure to pay for broadband services provided to the customer by a broadband operator or a broadband service provider.

Section 58‑9‑3040. (A) This article does not authorize any electric provider or electric cooperative to provide retail electric service outside of its electric service territory as determined under the applicable provisions of Chapter 27, Title 58.

(B) Except as specified herein, nothing in this article is intended to amend, repeal, enlarge, or otherwise affect Chapter 27, Title 58.

Section 58‑9‑3050. An electric provider or electric cooperative may charge a broadband affiliate or an unaffiliated person, including a broadband operator or broadband service provider, for the costs of the construction, installation, replacement, operation, use, and maintenance of the broadband system or of those parts of its electric delivery system that are used or may be reserved for use by the broadband affiliate or unaffiliated broadband operator or broadband service provider for the provision of broadband services. No electric provider or electric cooperative shall be required to construct, install, replace, operate, or maintain a broadband system or provide broadband services. An electric provider, electric cooperative, broadband affiliate, or unaffiliated broadband operator or broadband services provider may charge for broadband services or any other uses of the broadband system, whether wholesale or retail, at rates determined by the provider thereof.

Section 58‑9‑3060. (A) If the owner of an interest in real propertysubject to an electric easement contends that the owner’sproperty has been taken or destroyed by theconstruction, installation, use, or enlargement of broadbandsystems within the electric easement on the owner’s propertyand the electric easement does not expressly provide for such,the owner may file a civil action in the circuit court for thecounty in which the property is located to recover damages asspecified by this section. All such actions must be broughtwithin two years after the later of:

(1) the effective date of the act adding this section; or

(2) the date broadband systems are first constructed or installed within the electric easement on the owner’s real property. Nothing in this article shall revive any right or remedy which may have become barred by lapse of time, or by any law of this State, prior to the effective date of the act adding this section.

(B)(1) In any action under subsection (A), if the court determines that the construction, installation, use or enlargement of a broadband system exceeds the scope of the rights granted by the electric easement on the owner’s real property, the measure of damages shall be an amount equal to the difference, if any, between the following:

(a) the fair market value of the owner’s real property immediately before the construction or installation of broadband systems within the electric easement on the owner’s real property;

(b) the fair market value of the owner’s real property immediately after the construction or installation of broadband systems within the electric easement on the owner’s real property and taking into account the incidental benefits to the owner’s property resulting from the potential availability of broadband services to the property; and

(c) any decreases in the fair market value of owner’s property which are not attributable to the construction or installation of broadband systems within the electric easement on the owner’s real property shall not be included for purposes of calculating damages.

(2) The damages, if any, shall be fixed as of the date of construction or installation of broadband systems and shall not be deemed to continue, accumulate, or accrue. The judgment in any such action for the plaintiff shall include the plaintiff’s costs and litigation expenses. Costs and litigation expenses authorized by this section may be claimed, taxed, and awarded under the same procedures that apply to costs in other civil actions. Payment of the judgment in any such action shall vest in the electric provider or electric cooperative all property rights necessary to construct, use, install, operate, replace, and maintain, from time to time, the broadband systems within the electric easement on the owner’s real property and the electric easement shall be thereafter permanently expanded to include the right to construct, use, install, operate, replace, and maintain the broadband system and broadband services. The judgment shall have the same effect as a conveyance executed by the owner in due form under applicable law and shall run with the land. A certified copy of the judgment may be filed by the electric provider or electric cooperative, a broadband affiliate, or other broadband operator in the land records of the county in which the subject property is located, but is not required to make such broadening of the electric easement effective. The expansion for the broadband system shall include the broadband system within the maintenance, egress, and ingress provisions of the electric easement.

(C) Evidence of past, current or future revenues or profits derived or to be derived by an electric provider, electric cooperative, broadband affiliate, or unaffiliated broadband operator or broadband service provider from providing broadband services is not admissible for any purpose in an action under this section.

(D) An owner bringing an action under this section may not bring an action on behalf of a class. The limitation in this subsection is a substantive limitation and allowing an owner to bring a class action or other representative action for a violation of this article would abridge, enlarge, or modify the substantive rights created by this section.

(E) An electric provider, electric cooperative, broadband affiliate, or unaffiliated broadband operator or broadband service provider may receive such rights from an owner of real property by service agreement or service regulation, membership agreement, license agreement, or other agreement to serve the property with advanced communications capabilities without granting an easement or right of way. The grant or agreement may permit the construction, installation, replacement, operation, use, and maintenance of the advanced communications capabilities on the property without the requirement of further consent of any other tenant, concessionaire, or occupant of that property.

(F) With respect to the installation of broadband systems within an electric easement in effect prior to the effective date of the act adding this section, the electric provider or electric cooperative shall provide the same notice as is required by the express terms of the electric easement, if any, or as required by other applicable law for the construction or installation of the electric delivery system within the electric easement. With respect to the installation of broadband systems within an electric easement that is acquired other than by condemnation after the effective date of the act adding this section, the electric provider or electric cooperative shall provide such notice as is required by the express terms of the document creating the electric easement, if any; or if there is no written document creating the electric easement or no express terms in the document, then the electric provider or electric cooperative shall provide notice to the owner of the real property subject to the electric easement by informing such owner of the installation of the broadband system within the electric easement prior to installation. Notice shall be sufficient if mailed to the name and address of the owner or owners listed in the real property ad valorem tax records for the county where the real property is located. Nothing in this section shall require the notice from the electric provider or electric cooperative when the electric easement is acquired by condemnation or pursuant to an expansion of the electric easement by civil action commenced by the owner.

(G) Nothing in this article must be deemed to relieve the broadband operator, broadband service provider, electric provider, or electric cooperative from liability for bodily injury or physical damage to real or personal property located adjacent to the electric easement.

Section 58‑9‑3070. (A) Nothing in this article shall interfere with the commission’s preexisting authority to regulate public utilities under this title. Nothing in this article shall provide a basis for creating or granting jurisdiction to the commission over any electric providers or electric cooperative or any broadband affiliate that are otherwise exempt or are otherwise not subject to the jurisdiction of the commission unless explicitly stated.

(B) Nothing in this article shall affect, abrogate, or eliminate in any way any obligation of an electric provider or electric cooperative or any broadband affiliate or broadband operator to comply with any applicable safety and permitting requirements of any railroad company or any state governmental body or agency with respect to property that is held or controlled by such railroad company or state governmental body or agency, as the case may be, and in, on, over, or across which an easement is located.

(C) Except as provided in this section, nothing in this article is intended to expand or contract an electric provider’s or electric cooperative’s rights and obligations with regard to applicable laws in connection with pole attachments to its electric delivery system, or the terms of any pole attachment agreement in effect with its electric delivery system.

Section 58‑9‑3080. (A) An electric cooperative providing broadband services shall fully allocate and properly account for all marginal costs, including the internal imputation of such costs when the electric cooperative does not provide broadband services through an affiliate, related to the provision of nonutility support services, including any transactions provided for in subsection (B), and shall not use its electric services sales revenues for the subsidization of such nonutility support services. No transaction treated in accordance with subsection (B) shall be considered a cross‑subsidy.

(B) Nothing in this section shall prevent an electric cooperative from making investments in broadband affiliates otherwise permitted by applicable law, making loans to broadband affiliates otherwise permitted by applicable law which have a repayment obligation from the affiliate, entering into capital or operating leases with the broadband affiliate or entering into guarantees or other security arrangements for the benefit of a broadband affiliate, all on such terms and subject to such conditions as the board approves in the case of members which are electric cooperatives.

(C) An electric cooperative engaged in providing retail nonutility support services shall apply the same rate methodology to determine pole attachment rates, and shall require the same terms and conditions of access, for pole attachments to its electric delivery system for its broadband services, with such methodology and terms of access to be determined at the time of the applicable pole attachment request, as the provider applies for pole attachments to its electric delivery system by persons not affiliated with the electric cooperative.

(D) An electric cooperative may not condition the receipt of electricity service on, nor provide more favorable terms for electricity service for, persons that receive broadband services from the electric cooperative, a broadband affiliate, or unaffiliated broadband operator or broadband service provider.

(E) An electric cooperative may not share confidential information from an unaffiliated broadband operator or broadband service provider obtained in a pole attachment request and approval process including, but not limited to, requested locations for pole attachments, the locations of customers to be served, or any identifying information regarding customers with another broadband affiliate, an unaffiliated broadband operator or an unaffiliated broadband service provider.

(F) An electric cooperative may not disconnect any customer from receiving electric services pursuant to its electric delivery system due to the customer’s failure to pay for broadband services provided to the customer by the electric cooperative or its broadband affiliate.”

SECTION 2. Section 33‑49‑20 of the 1976 Code is amended to read:

“Section 33‑49‑20. In this chapter, unless the context otherwise requires:

(1) ‘person’ includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic;

(2) ‘member’ means each incorporator of a cooperative and each person admitted to and retaining membership therein and shall include a husband and wife admitted to joint membership;

(3) ‘articles of incorporation’ includes the articles of conversion of a converted corporation;

(4) ‘commission’ means the South Carolina Public Service Commission;

(5) ‘corridor’ means the area within 300 feet of an electric supplier’s distribution lines as described in Act 432 of 1969.

(6) ‘broadband system’ means any of the following that may be used to facilitate, directly or indirectly, the provision or transmission of broadband services, whether in support of the operational performance and service reliability of the electric delivery system or for other purposes, or both: materials; wires; cables, including fiber optic and copper cables, whether such cables are dark or lit, and whether such cables are in use or dormant; conduits; antennas; equipment; fixtures; switching multiplexers; poles; routers; switches; servers; appurtenances; facilities; and ancillary or auxiliary equipment.

Corporations organized under this chapter and corporations which become subject to this chapter in the manner provided herein are hereinafter referred to as ‘cooperatives’.”

SECTION 3. Section 33‑49‑150 of the 1976 Code, as added by Act 56 of 2019, is amended to read:

“Section 33‑49‑150. The Office of Regulatory Staff under the provisions of this section is hereby vested with the authority and jurisdiction to make inspections, audits, and examinations of electric cooperatives pursuant to the provisions of Chapter 4, Title 58 relating to the compliance of electric cooperatives with the provisions of Sections 33‑49‑255, 33‑49‑280, 33‑49‑420, 33‑49‑430, 33‑49‑440, 33‑49‑450, 33‑49‑610, 33‑49‑615, 33‑49‑620, 33‑49‑625, 33‑49‑630, 33‑49‑640, 33‑49‑645, 33‑49‑1410, 33‑49‑1420, 33‑49‑1430, 33‑49‑1440, 58‑27‑820, ~~and~~ 58‑27‑840, and 58‑9‑3080. The Office of Regulatory Staff is granted authority and jurisdiction over electric cooperatives that provide only wholesale services with regard to any of the foregoing statutory provisions to the extent that those provisions are applicable to the wholesale electric cooperatives. The Office of Regulatory Staff does not have the authority or jurisdiction to make inspections, audits, or examinations of subsidiaries of an electric cooperative provided that the subsidiary is not a broadband affiliate as defined in Section 58‑9‑3010, is not subsidized by, or any financial credit risk to, electric cooperative ratepayers and that the subsidiary has not taken action, on behalf of the electric cooperative, on any of the electric cooperative’s duties as provided in the sections listed above. Where an electric cooperative board of trustees has exercised its business judgment in accordance with sound business and management practices and consistent with the long‑term financial stability of the cooperative and the benefit of its members, the Office of Regulatory Staff is not authorized to disturb the resulting decisions of the electric cooperative board of trustees. Upon completion of an authorized inspection, audit, or examination, the Office of Regulatory Staff must report its findings to the management and board of the electric cooperative and attempt to resolve with the management and board any compliance issues that are identified. The Public Service Commission is vested with the authority and jurisdiction to resolve any disputed issues arising from the inspections, audits, or examinations.”

SECTION 4. Section 33‑49‑250(10) and (11) of the 1976 Code is amended to read:

“(10) to wholly or partially own, operate, maintain, construct, install, and replace a broadband system directly or indirectly, through itself or through another entity including, but not limited to, a subsidiary, a corporation, or a cooperative of which it is a member or an affiliate;

(11) to conduct its business and exercise any or all of its powers within or without this State; and

~~(11)~~(12) to do and perform any and all other acts and things and to have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.”

SECTION 5. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor.

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