

CHAPTER 23.

PROVISION OF COMMUNICATIONS SERVICES BY CITIES.

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CHAPTER 23.

PROVISION OF COMMUNICATIONS SERVICES BY CITIES.

R23-1. Application.

This Chapter exists to implement certain aspects of Session Law 2011-84, codified in large part in G.S. 160A-340, et seq., relating to this Commission's authority. This Chapter governs any city or joint agency that seeks to provide communications service in North Carolina, except as specifically exempted in S.L. 2011-84.

(NCUC Docket No. P-100, Sub 169, 02/28/12.)

R23-2. DEFINITIONS.

- (a) The term “city” shall be defined as provided in G.S. 160A-1(2).
- (b) The following terms shall be defined as provided in G.S. 160A-340: “city-owned communications service provider”; “communications network”; “communications service”; “high-speed Internet access service”; “interlocal agreement”; and “joint agency”.
- (c) The terms “cable service”, “telecommunications service”, and “video programming service” have the same meanings as in G.S. 105-164.3.
- (d) The term “unserved area” shall be defined as provided in G.S. 160A-340.2(b).

(NCUC Docket No. P-100, Sub 169, 02/28/12.)

R23-3. PETITION FOR DETERMINATION OF AN UNSERVED AREA, OBJECTIONS TO DETERMINATION.

- (a) A city that proposes to provide communications service to an unserved area shall first file a petition with the Commission for a determination that the area is unserved.
- (b) The petition shall comply with Commission Rule R1-5 and provide sufficient information to demonstrate to the Commission that the area in question meets the definition of “unserved area.” In addition to the information required in Rule R1-5, the petition shall also include the following:
- (1) A description of each census block proposed to be included in the unserved area;
 - (2) Information on the current availability of high-speed Internet access service at the household level in the proposed unserved area; and
 - (3) A letter or resolution in support of the determination from the appropriate governing body that is filing the petition.
- (c) The Commission or Public staff may request additional information as needed.
- (d) Procedure upon receipt of Petition – Upon the filing of a petition that meets the requirements set forth above:
- (1) The Commission will issue a procedural order stating that a petition for a determination of an unserved area has been received and that parties who wish to file an objection to the petition must file the objection in writing and in compliance with the provisions of Rule R1-5 within 60 days of the date of the procedural order. The Commission shall also post the procedural order on its website;
 - (2) Upon its own initiative, the Commission may schedule a hearing to determine whether a determination should be made and require notice of the hearing to be published by the petitioner in the newspaper in the county or counties where the proposed unserved area is located;
 - (3) If an objection is filed within 60 days of the procedural order, the Commission will schedule a hearing to consider whether a determination should be made and will give reasonable notice to the petitioner and to each objecting party. Following the hearing, the Commission will enter an order making the determination whether an area is unserved; and
 - (4) If no objection is filed within the time specified, the Commission shall enter an order making the determination whether an area is unserved.
- (e) No city shall begin providing communications service in an unserved area prior to receiving a determination from the Commission that the area is unserved.

(NCUC Docket No. P-100, Sub 169, 02/28/12.)

R23-4. NOTICE OF PROPOSAL TO PROVIDE SERVICE.

(a) Upon filing of a notice by a city or joint agency that proposes to provide communications services pursuant to G.S. 160A-340.3, the Commission shall post the notice of the proposal on the Commission's website. The notice must be filed with the Commission at least 45 days prior to first hearing scheduled in the notice and shall remain available on the Commission's website through the duration of the public hearings scheduled in the notice.

(b) A city may file a petition for determination of an unserved area pursuant to Commission Rule R23-3 contemporaneously with the notice requirements of this rule.

(NCUC Docket No. P-100, Sub 169, 02/28/12.)

R23-5. PUBLIC UTILITY STATUS OF CITY-OWNED COMMUNICATIONS SERVICE PROVIDER.

Except as provided in Sections 5 and 6 of S.L. 2011-84, G.S. 160A-340.2, and G.S. 62-2(b1), a city or joint agency that provides service as defined in G.S. 62-3(23)a.6. is a public utility and shall comply with all applicable provisions of the Public Utilities Act and all applicable rules and regulations of the Commission.

(NCUC Docket No. P-100, Sub 169, 02/28/12.)