

HOUSE BILL 999

C5, C1

EMERGENCY BILL

(0lr1757)

ENROLLED BILL

— *Economic Matters/Finance* —

Introduced by **Delegates Sample–Hughes, Adams, Anderton, Arentz, Ghrist, Griffith, Hartman, Hornberger, Jacobs, Mautz, McKay, Otto, and Reilly**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Member–Regulated Cooperatives – Establishment**
3 **(Rural Broadband for the Eastern Shore Act of 2020)**

4 FOR the purpose of establishing a process for an electric cooperative to operate as a
5 member–regulated cooperative in a certain area; requiring a cooperative’s board of
6 directors to hold a certain meeting and certain forums and provide a certain notice
7 and certain information to the cooperative’s members on whether to operate as a
8 member–regulated cooperative; requiring a cooperative’s board of directors to select
9 an independent auditor to control and supervise certain procedures for voting;
10 requiring the independent auditor to certify the results of a certain vote to the Public
11 Service Commission; specifying that the ~~Public–Service~~ Commission does not have
12 jurisdiction over a member–regulated cooperative, subject to certain exceptions;
13 requiring the Commission to expedite the review of a certain waiver; prohibiting a
14 member–regulated cooperative from exercising a certain power of condemnation for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



the sole purpose of providing broadband Internet service; specifying certain provisions of law that apply to a member-regulated cooperative; requiring a member-regulated cooperative to make certain information available to its members; prohibiting a member-regulated cooperative from adopting a new rate or changes to its rates or certain charges unless the member-regulated cooperative provides certain notice and opportunities to its members; requiring a member-regulated cooperative to implement a certain net metering program; requiring a member-regulated cooperative to adopt certain procedures for handling complaints from its members; prohibiting a member-regulated cooperative from requiring a member to use a certain complaint process; authorizing a member to take certain actions if the member uses a certain complaint process; stating that a decision made under a certain complaint process is binding on the member-regulated cooperative; requiring a member-regulated cooperative to establish certain policies regarding termination of service; authorizing the board of directors to amend certain policies regarding termination of service; requiring a member-regulated cooperative to report to certain committees of the General Assembly on the status of the deployment of broadband Internet service to the member-regulated cooperative's members on or before a certain date each year; prohibiting a member-regulated cooperative from denying access to certain facilities subject to a certain exception; requiring a member-regulated cooperative to charge a reasonable rate for access to certain facilities subject to a certain prohibition; ~~authorizing certain entities to file a complaint with the Commission regarding certain rates, terms, and conditions; requiring that the Commission hear and resolve a certain complaint in a certain manner~~; establishing a process for a member-regulated cooperative to revert to a cooperative; stating that the Commission has jurisdiction over a member-regulated cooperative that has elected to revert to a cooperative on issuance of a certain order; requiring the Commission to issue a certain order within a certain period of time; stating that the provisions of this Act prevail if there is a certain conflict; defining certain terms; making conforming changes; declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to electric cooperatives and member-regulated cooperatives.

BY renumbering

Article – Corporations and Associations

Section 5-635 through 5-642, respectively, and the part “Part VI. Miscellaneous Provisions”

to be Section ~~5-645~~ ~~5-646~~ 5-647 through ~~5-652~~ ~~5-653~~ 5-654, respectively, and the part “Part VII. Miscellaneous Provisions”

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 2-112(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2019 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – Corporations and Associations
3 Section 5–601 and 5–632(b)
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2019 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Corporations and Associations
8 Section 5–607(a)(12) and (c)
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2019 Supplement)

11 BY adding to
12 Article – Corporations and Associations
13 Section 5–635 through ~~5–642~~ ~~5–643~~ 5–644 to be under the new part “Part VI.
14 Member–Regulated Cooperatives”
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Corporations and Associations
19 Section ~~5–646(b)~~ 5–647(b)
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2019 Supplement)
22 (As enacted by Section 1 of this Act)

23 Preamble

24 WHEREAS, In 1938, 184 rural residents joined together under the Rural
25 Electrification Act to form Choptank Electric Cooperative, an electric cooperative that
26 would bring electricity to their homes and farms because for-profit electric companies
27 would not; and

28 WHEREAS, Today, Choptank Electric Cooperative delivers reliable and
29 cost-effective electricity that improves the quality of life to 54,150 members in nine
30 counties on Maryland’s Eastern Shore; and

31 WHEREAS, Choptank Electric Cooperative is owned by its members, not
32 shareholders; and

33 WHEREAS, Choptank Electric Cooperative owns 650 miles of existing middle-mile
34 communications fiber; and

35 WHEREAS, Choptank Electric Cooperative is governed by a board of directors who
36 are members of the cooperative and are democratically elected by their fellow members;
37 and

WHEREAS, Choptank Electric Cooperative members want to bring high-speed fiber Internet service to their homes, farms, and rural businesses to attain the standard of connectivity with the world that is enjoyed by their neighbors in Maryland's more urban areas; and

WHEREAS, Despite numerous studies and significant financial investment, the delivery of universal broadband Internet service to the rural residents on Maryland's Eastern Shore has still not occurred; and

WHEREAS, Current statutory and regulatory restrictions prevent the members of Choptank Electric Cooperative from using their economies-of-scale to deliver broadband Internet service quickly and efficiently to their homes; and

WHEREAS, The Rural Broadband for the Eastern Shore Act of 2020 will empower the members of Choptank Electric Cooperative to regulate themselves and provide economically efficient broadband Internet service; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5-635 through 5-642, respectively, and the part "Part VI. Miscellaneous Provisions" of Article – Corporations and Associations of the Annotated Code of Maryland be renumbered to be Section(s) ~~5-645~~ ~~5-646~~ 5-647 through ~~5-652~~ ~~5-653~~ 5-654, respectively, and the part "Part VII. Miscellaneous Provisions".

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utilities

2-112.

(a) (1) [To] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TO the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State and over motor carrier companies as provided in Title 9 of this article.

(2) EXCEPT AS PROVIDED IN TITLE 5, SUBTITLE 6, PART VI OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, THE COMMISSION DOES NOT HAVE JURISDICTION OVER A MEMBER-REGULATED COOPERATIVE AS DEFINED IN § 5-601 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

Article – Corporations and Associations

5-601.

(a) In this subtitle the following words have the meanings indicated.

(b) **“COMMISSION” MEANS THE PUBLIC SERVICE COMMISSION.**

(c) “Cooperative” means a corporation that:

(1) Is organized under this subtitle; or

(2) Becomes subject to this subtitle in the manner provided in this subtitle.

[(c)] (D) “Electric plant” means the material, equipment, and property owned by a cooperative and used or to be used for or in connection with electric service.

[(d)] (E) “Member” means a person or household that has been qualified and accepted for membership in a cooperative in accordance with its bylaws.

(F) **“MEMBER-REGULATED COOPERATIVE” MEANS A COOPERATIVE:**

(1) **THAT PROVIDES RETAIL ELECTRIC SERVICE TO ITS MEMBERS ON THE EASTERN SHORE OF MARYLAND; AND**

(2) **WHOSE BOARD OF DIRECTORS HAS PASSED A BINDING RESOLUTION TO OPERATE AS A MEMBER-REGULATED COOPERATIVE.**

[(e)] (G) (1) “Person” has the meaning stated in § 1-101 of this article.

(2) “Person” includes:

(i) The State;

(ii) A county, municipal corporation, or other political subdivision of the State; and

(iii) A unit of federal, State, or local government.

5-607.

(a) A cooperative has the power to:

(12) Construct, maintain, or operate or allow others to construct, maintain, or operate conducting or communications facilities that furnish telecommunications, broadband Internet access, or related services, along, on, under, or across:

(i) Real property, personal property, rights-of-way, and easements owned, held, or otherwise used by the cooperative; and

(ii) Publicly owned lands, roadways, and public ways, with the prior consent of the governing body of the municipal corporation or county in which the facilities are proposed to be constructed and under any reasonable regulations and conditions imposed by the governing body of the municipal corporation or county;

(c) To ensure that electric customers do not subsidize the cost of broadband services, an electric cooperative shall allocate properly all costs incurred under subsection (a)(12) of this section between electricity-related services and broadband services.

5-632.

(b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A proposed dissolution shall be approved by the affirmative vote of not less than two-thirds of the members voting on the matter at an annual or special meeting of the members.

(2) A PROPOSED DISSOLUTION OF A MEMBER-REGULATED COOPERATIVE SHALL BE APPROVED BY THE AFFIRMATIVE VOTE OF ~~NOT LESS THAN TWO-THIRDS~~ A MAJORITY OF THE MEMBERS VOTING AT A MEETING AT WHICH AT LEAST 15% OF THE MEMBERS VOTE.

PART VI. MEMBER-REGULATED COOPERATIVES.

5-635.

(A) (1) TO OPERATE AS A MEMBER-REGULATED COOPERATIVE, A COOPERATIVE SHALL:

(I) SUBMIT A REQUEST FOR A WAIVER FROM THE APPLICATION OF AFFILIATE REGULATIONS IN ACCORDANCE WITH COMAR 20.40.01.04; OR

(II) CONDUCT A ~~COOPERATIVE SHALL PASS, BY UNANIMOUS VOTE OF ITS BOARD OF DIRECTORS, A BINDING RESOLUTION TO OPERATE AS A MEMBER-REGULATED COOPERATIVE~~ VOTE OF THE COOPERATIVE'S MEMBERS IN ACCORDANCE WITH THIS SECTION.

(2) THE COMMISSION SHALL EXPEDITE THE REVIEW OF A WAIVER REQUESTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

~~(B) WITHIN 10 DAYS AFTER THE PASSAGE OF A BINDING RESOLUTION UNDER SUBSECTION (A) OF THIS SECTION, THE COOPERATIVE SHALL FILE A DECLARATION WITH THE COMMISSION STATING THAT IT HAS ELECTED TO OPERATE AS A MEMBER-REGULATED COOPERATIVE.~~

(B) A VOTE UNDER THIS SECTION:

1 (1) MAY BE CALLED BY A COOPERATIVE'S BOARD OF DIRECTORS; OR

2 (2) SHALL BE CALLED WITHIN 100 DAYS AFTER RECEIPT BY THE
3 BOARD OF DIRECTORS OF A PETITION SIGNED BY AT LEAST 1,000 COOPERATIVE
4 MEMBERS.

5 (C) (1) A COOPERATIVE'S BOARD OF DIRECTORS SHALL HOLD A MEETING
6 WITH THE COOPERATIVE'S MEMBERS ON WHETHER TO OPERATE AS A
7 MEMBER-REGULATED COOPERATIVE.

8 (2) (I) THE COOPERATIVE'S BOARD OF DIRECTORS SHALL PROVIDE
9 NOTICE OF THE MEETING TO THE MEMBERS OF THE COOPERATIVE.

10 (II) THE NOTICE SHALL:

11 1. INCLUDE:

12 A. THE PURPOSE OF THE MEETING, INCLUDING
13 INFORMATION ON MEMBER-REGULATED COOPERATIVES;

14 B. DIRECTIONS FOR VOTING ON WHETHER TO
15 OPERATE AS A MEMBER-REGULATED COOPERATIVE;

16 C. A FORM OR WRITTEN BALLOT FOR THE VOTE;

17 D. THE TIME, DATE, AND PLACE OF THE MEETING;
18 AND

19 E. THE TIME, DATE, AND PLACE OF THE FORUMS
20 REQUIRED UNDER SUBSECTION (D) OF THIS SECTION; AND

21 2. BE PROVIDED IN WRITING TO THE COOPERATIVE'S
22 MEMBERS AND THE COMMISSION BY MAIL OR BY HAND DELIVERY AT LEAST 40 DAYS
23 BUT NOT MORE THAN 90 DAYS BEFORE THE DATE OF THE MEETING.

24 (D) (1) A COOPERATIVE'S BOARD OF DIRECTORS SHALL HOLD AT LEAST
25 TWO OPEN FORUMS TO ALLOW THE COOPERATIVE'S MEMBERS TO DISCUSS OR MAKE
26 INQUIRIES CONCERNING OPERATING AS A MEMBER-REGULATED COOPERATIVE.

27 (2) FORUMS SHALL BE HELD:

28 (I) ON SEPARATE DATES AT DIFFERENT LOCATIONS WITHIN
29 THE COOPERATIVE'S SERVICE TERRITORY;

1 (II) AT TIMES THAT ARE CONVENIENT FOR THE COOPERATIVE'S
2 MEMBERS TO ATTEND; AND

3 (III) AT LEAST 10 DAYS AFTER DELIVERY OF THE NOTICE
4 REQUIRED UNDER SUBSECTION (C)(2) OF THIS SECTION BUT NOT LATER THAN 20
5 DAYS BEFORE THE DATE OF THE MEETING REQUIRED UNDER SUBSECTION (C)(1) OF
6 THIS SECTION.

7 (3) A COOPERATIVE'S MEMBERS SHALL HAVE:

8 (I) THE OPPORTUNITY AT EACH FORUM TO MAKE INQUIRIES
9 ABOUT OPERATING AS A MEMBER-REGULATED COOPERATIVE; AND

10 (II) A REASONABLE, EQUAL OPPORTUNITY TO PRESENT THE
11 MEMBERS' VIEWS CONCERNING OPERATING AS A MEMBER-REGULATED
12 COOPERATIVE, INCLUDING PRESENTING VIEWS IN OPPOSITION TO OPERATING AS A
13 MEMBER-REGULATED COOPERATIVE.

14 (E) (1) IF A COOPERATIVE'S BOARD OF DIRECTORS MAILES INFORMATION
15 TO ITS MEMBERS REGARDING OPERATING AS A MEMBER-REGULATED COOPERATIVE
16 THAT IS IN ADDITION TO THE INFORMATION PROVIDED IN THE NOTICE, THE
17 COOPERATIVE'S BOARD OF DIRECTORS SHALL INCLUDE IN THE MAILING ANY
18 MATERIALS PROVIDED IN OPPOSITION TO OPERATING AS A MEMBER-REGULATED
19 COOPERATIVE IF THE MATERIALS ARE ACCOMPANIED BY A PETITION SIGNED BY AT
20 LEAST 100 OF THE COOPERATIVE'S MEMBERS.

21 (2) A COOPERATIVE SHALL PAY FOR MAILING THE MATERIALS IN AN
22 AMOUNT EQUAL TO THE COST OF MAILING THE COOPERATIVE'S NOTICE UNDER
23 SUBSECTION (C) OF THIS SECTION.

24 (3) IF THE COST OF MAILING THE MATERIALS IS GREATER THAN THE
25 COST OF MAILING THE COOPERATIVE'S NOTICE, THE DIFFERENCE SHALL BE PAID:

26 (I) PRO RATA BY THE COOPERATIVE'S MEMBERS SUBMITTING
27 MATERIALS IN OPPOSITION; AND

28 (II) BY AN ADVANCE DEPOSIT IN AN AMOUNT ESTIMATED TO
29 COVER THE EXCESS COSTS.

30 (F) (1) A COOPERATIVE'S BOARD OF DIRECTORS SHALL SELECT AN
31 INDEPENDENT AUDITOR TO CONTROL AND SUPERVISE THE PROCEDURES FOR
32 VOTING.

1 (2) EACH OF A COOPERATIVE'S MEMBERS IS ENTITLED TO ONE VOTE
2 ON WHETHER TO OPERATE AS A MEMBER-REGULATED COOPERATIVE, REGARDLESS
3 OF THE METHOD USED TO CAST A VOTE.

4 (3) A COOPERATIVE'S MEMBER MAY VOTE AT THE MEETING UNDER
5 SUBSECTION (A) OF THIS SECTION BY:

6 (I) WRITTEN BALLOT;

7 (II) USE OF A VOTING MACHINE; OR

8 (III) IF AUTHORIZED BY THE COOPERATIVE'S CHARTER OR
9 BYLAWS, BY ELECTRONIC BALLOT.

10 (4) IF A COOPERATIVE USES WRITTEN BALLOTS UNDER PARAGRAPH
11 (3) OF THIS SUBSECTION, THE WRITTEN BALLOTS SHALL BE:

12 (I) INCLUDED WITH THE NOTICE REQUIRED UNDER
13 SUBSECTION (C) OF THIS SECTION; AND

14 (II) CAST AND COUNTED IF RECEIVED BY THE COOPERATIVE'S
15 BOARD OF DIRECTORS BEFORE THE END OF THE MEETING UNDER SUBSECTION (A)
16 OF THIS SECTION.

17 (5) (I) ANY PROCEDURES ADOPTED FOR THE USE AND
18 TRANSMISSION OF ELECTRONIC BALLOTS SHALL ENSURE THAT EACH ELECTRONIC
19 BALLOT WAS SENT BY A COOPERATIVE MEMBER WHO IS ENTITLED TO VOTE.

20 (II) AN ELECTRONIC BALLOT SHALL BE CAST AND COUNTED IF
21 SUBMITTED ELECTRONICALLY BEFORE THE END OF THE MEETING UNDER
22 SUBSECTION (A) OF THIS SECTION.

23 (G) TO OPERATE AS A MEMBER-REGULATED COOPERATIVE SHALL REQUIRE
24 THE AFFIRMATIVE VOTE OF A MAJORITY OF THE COOPERATIVE'S MEMBERS VOTING
25 AT A MEETING AT WHICH AT LEAST 15% OF THE MEMBERS VOTE.

26 (H) THE INDEPENDENT AUDITOR SELECTED BY THE COOPERATIVE'S BOARD
27 OF DIRECTORS UNDER SUBSECTION (F) OF THIS SECTION SHALL CERTIFY TO THE
28 COMMISSION, IN WRITING, THE RESULTS OF A VOTE UNDER THIS SECTION WITHIN 5
29 BUSINESS DAYS AFTER THE DATE OF THE VOTE.

30 5-636.

~~(C)~~ ~~(1)~~ ~~(A)~~ SUBJECT TO ~~PARAGRAPH (2) OF THIS SUBSECTION~~
~~SUBSECTION (B) OF THIS SECTION~~, WITHIN 180 DAYS AFTER ~~FILING A DECLARATION~~
~~UNDER SUBSECTION (B) OF THIS SECTION~~ PROVIDING A CERTIFICATION TO THE
COMMISSION UNDER § 5-635(H) OF THIS SUBTITLE, THE COOPERATIVE'S BOARD OF
DIRECTORS, BY A SUPERMAJORITY VOTE, SHALL:

~~(H)~~ (1) ADOPT BYLAWS FOR THE MEMBER-REGULATED
COOPERATIVE; AND

~~(H)~~ (2) AMEND THE COOPERATIVE'S ARTICLES OF
INCORPORATION TO REFLECT THE COOPERATIVE'S CONVERSION TO BEING A
MEMBER-REGULATED COOPERATIVE.

~~(2)~~ (B) THE BYLAWS AND AMENDED ARTICLES OF INCORPORATION
SHALL:

~~(H)~~ (1) AUTHORIZE THE MEMBER-REGULATED
COOPERATIVE TO PROVIDE BROADBAND INTERNET SERVICE; ~~AND~~

~~(H)~~ (2) ESTABLISH A PLAN FOR MAKING BROADBAND
INTERNET SERVICE AVAILABLE TO MEMBERS IN A MANNER THAT MAXIMIZES
DEPLOYMENT WITH AVAILABLE FINANCIAL RESOURCES;

(3) INCLUDE AN ALLOCATION METHOD IN ACCORDANCE WITH §
5-607(C) OF THIS SUBTITLE TO ENSURE THAT ELECTRIC CUSTOMERS DO NOT
SUBSIDIZE THE COST OF BROADBAND INTERNET SERVICE; AND

(4) EXCEPT AS PROVIDED IN ~~§ 5-636(A)(2)~~ § 5-637(A)(2) OF THIS
SUBTITLE, BE CONSISTENT WITH THIS SUBTITLE.

~~5-636. 5-637.~~

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
THIS SUBTITLE APPLIES TO THE PROVISION OF BROADBAND INTERNET SERVICE BY
A MEMBER-REGULATED COOPERATIVE.

(2) A MEMBER-REGULATED COOPERATIVE MAY NOT, FOR THE SOLE
PURPOSE OF PROVIDING BROADBAND INTERNET SERVICE, EXERCISE THE POWER
OF CONDEMNATION UNDER § 5-607(A)(16) OF THIS SUBTITLE.

(B) A MEMBER-REGULATED COOPERATIVE IS SUBJECT TO THE FOLLOWING
PROVISIONS OF THE PUBLIC UTILITIES ARTICLE:

(1) § 5-103;

(2) § 5-201;

(3) § 5-202;

(4) § 5-303;

(5) § 5-304;

(6) § 7-103;

(7) § 7-104;

(8) § 7-203;

(9) § 7-207;

(10) § 7-302;

(11) TITLE 7, SUBTITLE 5, PART I AND PART II;

(12) TITLE 7, SUBTITLE 7; AND

(13) § 13-101.

~~5-637.~~ 5-638.

(A) A MEMBER-REGULATED COOPERATIVE SHALL MAKE AVAILABLE TO ITS MEMBERS:

(1) RATE SCHEDULES, TARIFFS, AND TERMS AND CONDITIONS OF SERVICE;

(2) FINANCIAL AND STATISTICAL INFORMATION REGARDING:

(I) OPERATING REVENUES;

(II) REVENUES PER RATE CLASS;

(III) NUMBER OF MEMBERS PER RATE CLASS; AND

(IV) NUMBER OF METERS PER RATE CLASS;

(3) DATA AND INFORMATION CONCERNING LOAD MANAGEMENT, ENERGY CONSERVATION, AND OTHER SIMILAR PROGRAMS;

(4) INFORMATION CONCERNING ONGOING CONSUMER EDUCATION PROGRAMS; AND

(5) INFORMATION CONCERNING THE MEMBER-REGULATED COOPERATIVE'S PERFORMANCE, INCLUDING INCOME STATEMENTS, BALANCE SHEETS, AND RELIABILITY DATA.

(B) A MEMBER-REGULATED COOPERATIVE MAY NOT ADOPT A NEW RATE OR INCREASE OR DECREASE ITS RATES OR CHARGES FOR THE SERVICES IT PROVIDES UNLESS THE MEMBER-REGULATED COOPERATIVE PROVIDES TO ITS MEMBERS:

(1) NOTICE OF THE PROPOSED RATES;

(2) THE OPPORTUNITY TO COMMENT ON THE PROPOSED RATES; AND

(3) THE OPPORTUNITY TO OBSERVE THE PORTION OF THE MEETING IN WHICH THE BOARD OF DIRECTORS VOTES ON THE PROPOSED RATES.

~~5-638.~~ 5-639.

A MEMBER-REGULATED COOPERATIVE SHALL:

(1) IMPLEMENT A NET METERING PROGRAM THAT IS CONSISTENT WITH § 7-306 OF THE PUBLIC UTILITIES ARTICLE; AND

(2) USE THE PROCESS ESTABLISHED UNDER ~~§ 5-639~~ § 5-640 OF THIS SUBTITLE TO RESOLVE COMPLAINTS RELATED TO NET METERING.

~~5-639.~~ 5-640.

(A) A MEMBER-REGULATED COOPERATIVE SHALL ADOPT PROCEDURES TO HEAR, DECIDE, AND RESOLVE, IN A PROMPT AND FAIR MANNER, COMPLAINTS FROM ITS MEMBERS, INCLUDING COMPLAINTS REGARDING NET METERING.

(B) (1) THE PROCEDURES ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE FOR A FORMAL AND AN INFORMAL COMPLAINT PROCESS.

(2) A FORMAL COMPLAINT PROCEEDING SHALL INCLUDE, AT A MINIMUM:

(I) THE RIGHT TO PRESENT A COMPLAINT IN WRITING;

(II) THE RIGHT TO HAVE A COMPLAINT HEARD BY THE CHIEF EXECUTIVE OFFICER OF THE MEMBER-REGULATED COOPERATIVE, OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE;

(III) THE RIGHT TO A WRITTEN RESPONSE THAT STATES THE REASONS FOR THE MEMBER-REGULATED COOPERATIVE'S DECISION; AND

(IV) THE RIGHT TO HAVE THE COMPLAINT AND RESPONSE REVIEWED BY THE BOARD OF DIRECTORS.

(C) (1) A MEMBER-REGULATED COOPERATIVE MAY NOT REQUIRE A MEMBER TO USE THE FORMAL OR INFORMAL COMPLAINT PROCESS.

(2) IF A MEMBER USES THE FORMAL OR INFORMAL COMPLAINT PROCESS, THE MEMBER MAY:

(I) ACCEPT THE DECISION RESULTING FROM THE PROCESS; OR

(II) REJECT THE DECISION RESULTING FROM THE PROCESS AND PURSUE ANY OTHER REMEDY AUTHORIZED BY LAW.

(D) A DECISION MADE UNDER A FORMAL OR INFORMAL COMPLAINT PROCESS IS BINDING ON THE MEMBER-REGULATED COOPERATIVE.

~~5-640.~~ 5-641.

(A) A MEMBER-REGULATED COOPERATIVE SHALL ESTABLISH POLICIES REGARDING TERMINATION OF SERVICE, INCLUDING TERMINATION OF SERVICE:

(1) TO LOW-INCOME MEMBERS;

(2) TO A MEMBER IN COLD WEATHER; AND

(3) TO A MEMBER IN HOT WEATHER.

(B) THE BOARD OF DIRECTORS MAY, AS NECESSARY, AMEND THE POLICIES REGARDING TERMINATION OF SERVICE.

~~5-641.~~ 5-642.

(A) ON OR BEFORE DECEMBER 1 EACH YEAR, A MEMBER-REGULATED COOPERATIVE SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE DEPLOYMENT OF

BROADBAND INTERNET SERVICE TO THE MEMBER-REGULATED COOPERATIVE'S MEMBERS.

~~(A)~~ (B) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER-REGULATED COOPERATIVE MAY NOT PROHIBIT A TELECOMMUNICATIONS OR CABLE SERVICE PROVIDER FROM ACCESSING A POLE, DUCT, CONDUIT, RIGHT-OF-WAY, OR SIMILAR FACILITY OWNED OR CONTROLLED, IN WHOLE OR IN PART, BY THE MEMBER-REGULATED COOPERATIVE.

(2) A MEMBER-REGULATED COOPERATIVE MAY DENY ACCESS TO A FACILITY SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) ON A NONDISCRIMINATORY BASIS; AND

(II) IF THE MEMBER-REGULATED COOPERATIVE DETERMINES THAT:

1. THE FACILITY DOES NOT HAVE SUFFICIENT CAPACITY TO ALLOW ACCESS; OR

2. ALLOWING ACCESS WOULD CREATE SAFETY, RELIABILITY, OR ENGINEERING CONCERNS.

~~(B)~~ (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER-REGULATED COOPERATIVE SHALL CHARGE A REASONABLE RATE FOR ACCESS TO A FACILITY SPECIFIED UNDER SUBSECTION ~~(A)(1)~~ (B)(1) OF THIS SECTION.

(2) A MEMBER-REGULATED COOPERATIVE MAY NOT CHARGE A RATE FOR ACCESS TO A FACILITY SPECIFIED UNDER SUBSECTION ~~(A)(1)~~ (B)(1) OF THIS SECTION THAT IS MORE THAN THE RATES CHARGED FOR ACCESS BY A LOCAL EXCHANGE CARRIER, ELECTRIC COMPANY, WATER COMPANY, OR OTHER UTILITY OPERATING IN THE MEMBER-REGULATED COOPERATIVE'S SERVICE AREA.

~~(3) (I) A CABLE OPERATOR, TELECOMMUNICATIONS CARRIER, OR OTHER ENTITY AUTHORIZED TO ACCESS A FACILITY SPECIFIED UNDER SUBSECTION (A)(1) OF THIS SECTION BY A MEMBER-REGULATED COOPERATIVE MAY FILE A COMPLAINT WITH THE COMMISSION REGARDING THE MEMBER-REGULATED COOPERATIVE'S RATES, TERMS, AND CONDITIONS FOR ACCESS.~~

~~(H) THE COMMISSION SHALL HEAR AND RESOLVE A COMPLAINT FILED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ACCORDANCE WITH 47 U.S.C. § 224 AND 47 C.F.R. §§ 1.1401 THROUGH 1.1415, INCLUSIVE.~~

1 ~~5-642.~~ 5-643.

2 (A) (1) A MEMBER-REGULATED COOPERATIVE SHALL HOLD AN
3 ELECTION TO REVERT TO A COOPERATIVE ON:

4 (I) A ~~SUPERMAJORITY~~ MAJORITY VOTE OF THE BOARD OF
5 DIRECTORS; OR

6 (II) RECEIPT BY THE BOARD OF DIRECTORS OF A PETITION
7 SIGNED BY AT LEAST 1,000 MEMBERS.

8 (2) A MEMBER-REGULATED COOPERATIVE MAY HOLD AN ELECTION
9 TO REVERT TO A COOPERATIVE ONLY ONCE EVERY 12 MONTHS.

10 (B) (1) ~~A MEMBER-REGULATED COOPERATIVE SHALL REVERT TO A~~
11 ~~COOPERATIVE ON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS VOTE~~
12 TO REVERT TO A COOPERATIVE SHALL BE HELD IN ACCORDANCE WITH § 5-635 OF
13 THIS SUBTITLE.

14 (2) WITHIN 5 DAYS AFTER AN AFFIRMATIVE VOTE TO REVERT TO A
15 COOPERATIVE, THE MEMBER-REGULATED COOPERATIVE SHALL FILE A
16 DECLARATION WITH THE COMMISSION STATING THAT IT HAS REVERTED TO A
17 COOPERATIVE.

18 (C) (1) THE COMMISSION SHALL HAVE JURISDICTION OVER A
19 MEMBER-REGULATED COOPERATIVE THAT HAS ELECTED TO REVERT TO A
20 COOPERATIVE ON ISSUANCE OF AN ORDER BY THE COMMISSION.

21 (2) THE COMMISSION SHALL ISSUE THE ORDER UNDER PARAGRAPH
22 (1) OF THIS SUBSECTION WITHIN 180 DAYS AFTER THE FILING OF A DECLARATION
23 UNDER SUBSECTION (B)(2) OF THIS SECTION.

24 ~~5-642.~~ ~~5-643.~~ 5-644.

25 IF THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS PART AND OTHER
26 PROVISIONS OF LAW, THE PROVISIONS OF THIS PART SHALL PREVAIL.

27 ~~5-643.~~ ~~5-644.~~ 5-645. RESERVED.

28 ~~5-644.~~ ~~5-645.~~ 5-646. RESERVED.

29 ~~5-646.~~ 5-647.

(b) On payment of the fees provided for in [§ 5-637] ~~§ 5-647~~ ~~§ 5-648~~ ~~§ 5-649~~ of this subtitle, the Department shall accept for record any articles or certificate filed with the Department under this section if the Department finds that the articles or certificate conform to the requirements of this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, during the 2028 legislative session, the General Assembly shall deliberate and determine whether the provisions of this Act shall be terminated and of no further force and effect. If the General Assembly does not take any action to terminate this Act, the provisions of this Act shall continue to be in full force and effect.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~ ~~October 1, 2020~~ *is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.*

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.