

# HOUSE BILL 999

C5, C1

EMERGENCY BILL  
ENROLLED BILL

(01r1757)

— *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

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### 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.*



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

32 BY renumbering

33 Article – Corporations and Associations

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

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

38 Annotated Code of Maryland

39 (2014 Replacement Volume and 2019 Supplement)

40 BY repealing and reenacting, with amendments,

41 Article – Public Utilities

42 Section 2-112(a)

43 Annotated Code of Maryland

44 (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

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

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

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

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

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

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

#### 21 Article – Public Utilities

22 2-112.

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

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

#### 32 Article – Corporations and Associations

33 5-601.

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

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

2 (c) “Cooperative” means a corporation that:

3 (1) Is organized under this subtitle; or

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

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

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

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

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

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

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

15 (2) “Person” includes:

16 (i) The State;

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

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

20 5-607.

21 (a) A cooperative has the power to:

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

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

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

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

8 5-632.

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

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

17 PART VI. MEMBER-REGULATED COOPERATIVES.

18 5-635.

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

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

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

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

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

33 (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 MAILS 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.**

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

6                   ~~(1)~~ (1)       ADOPT BYLAWS FOR THE MEMBER-REGULATED  
 7 COOPERATIVE; AND

8                   ~~(2)~~ (2)       AMEND THE COOPERATIVE'S ARTICLES OF  
 9 INCORPORATION TO REFLECT THE COOPERATIVE'S CONVERSION TO BEING A  
 10 MEMBER-REGULATED COOPERATIVE.

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

13                   ~~(1)~~ (1)       AUTHORIZE THE MEMBER-REGULATED  
 14 COOPERATIVE TO PROVIDE BROADBAND INTERNET SERVICE; ~~AND~~

15                   ~~(2)~~ (2)       ESTABLISH A PLAN FOR MAKING BROADBAND  
 16 INTERNET SERVICE AVAILABLE TO MEMBERS IN A MANNER THAT MAXIMIZES  
 17 DEPLOYMENT WITH AVAILABLE FINANCIAL RESOURCES;

18                   (3) INCLUDE AN ALLOCATION METHOD IN ACCORDANCE WITH §  
 19 5-607(C) OF THIS SUBTITLE TO ENSURE THAT ELECTRIC CUSTOMERS DO NOT  
 20 SUBSIDIZE THE COST OF BROADBAND INTERNET SERVICE; AND

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

23 ~~5-636. 5-637.~~

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

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

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

32           (1) § 5-103;

- 1           (2)   § 5-201;
- 2           (3)   § 5-202;
- 3           (4)   § 5-303;
- 4           (5)   § 5-304;
- 5           (6)   § 7-103;
- 6           (7)   § 7-104;
- 7           (8)   § 7-203;
- 8           (9)   § 7-207;
- 9           (10) § 7-302;
- 10          (11) TITLE 7, SUBTITLE 5, PART I AND PART II;
- 11          (12) TITLE 7, SUBTITLE 7; AND
- 12          (13) § 13-101.

13 ~~5-637.~~ 5-638.

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

- 16           (1)   RATE SCHEDULES, TARIFFS, AND TERMS AND CONDITIONS OF  
17 SERVICE;
- 18           (2)   FINANCIAL AND STATISTICAL INFORMATION REGARDING:
  - 19               (I)   OPERATING REVENUES;
  - 20               (II)  REVENUES PER RATE CLASS;
  - 21               (III) NUMBER OF MEMBERS PER RATE CLASS; AND
  - 22               (IV)  NUMBER OF METERS PER RATE CLASS;
- 23           (3)   DATA AND INFORMATION CONCERNING LOAD MANAGEMENT,  
24 ENERGY CONSERVATION, AND OTHER SIMILAR PROGRAMS;

1 (4) INFORMATION CONCERNING ONGOING CONSUMER EDUCATION  
2 PROGRAMS; AND

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

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

9 (1) NOTICE OF THE PROPOSED RATES;

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

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

13 ~~5-638.~~ 5-639.

14 A MEMBER-REGULATED COOPERATIVE SHALL:

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

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

19 ~~5-639.~~ 5-640.

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~5-640.~~ 5-641.

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

20 (1) TO LOW-INCOME MEMBERS;

21 (2) TO A MEMBER IN COLD WEATHER; AND

22 (3) TO A MEMBER IN HOT WEATHER.

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

25 ~~5-641.~~ 5-642.

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

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

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

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

10 (I) ON A NONDISCRIMINATORY BASIS; AND

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

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

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

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

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

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

31 ~~(ii) THE COMMISSION SHALL HEAR AND RESOLVE A~~  
 32 ~~COMPLAINT FILED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH IN~~  
 33 ~~ACCORDANCE WITH 47 U.S.C. § 224 AND 47 C.F.R. §§ 1.1401 THROUGH 1.1415,~~  
 34 ~~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.

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.