

STATE OF ALABAMA
DEPARTMENT OF FINANCE
ADMINISTRATIVE CODE

CHAPTER 355-2-1
CONSENT FOR SALE OR ISSUANCE OF CERTAIN AUTHORITIES BY ELECTRIC
MEMBERSHIP COOPERATIVES

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355-2-1-.01 Repeal.

All previously existing rules for the Consent for sale or Issuance of Certain Authorities by Electric Membership Cooperatives are repealed and replaced in their entirety by this chapter.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: New Rule: Filed September 20, 2001; effective October 25, 2001.

355-2-1-.02 Scope And Application Of Regulations.

The rules and regulations in this chapter are prescribed for carrying into effect Code of Ala. 1975, §41-4-16, as amended, which provides that no bonds or other evidence of indebtedness of any commission or authority created to construct or reconstruct highway bridges, approaches and appurtenances thereto, any housing authority, any state rural electrification authority, any electric membership corporation, any power district or any improvement authority shall be issued or sold until the consent to the issuance and sale thereof shall have been given by the Department of Finance. The consent of the Department of Finance is to be evidenced by the written approval of the Director of Finance. The provisions of this chapter do not apply to any bonds or other

evidence of indebtedness issued by any municipality, or any agencies, bureaus or commission thereof.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.03 Definitions.

As used in this chapter, except where the context clearly indicates otherwise, or where the term is defined elsewhere in this chapter, the following definitions shall apply:

(a) Debt means bonds or other evidence of indebtedness.

(b) Department means the Department of Finance.

(c) Petitioner means any commission or authority created to construct or reconstruct highway bridges, approaches and appurtenances thereto, any housing authority, any state rural electrification authority, any electric membership corporation, any power district or any improvement authority.

(d) Project means the plan or program of the petitioner and the uses to which the petitioner proposes to put the proceeds of the debt.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.04 Organization And Operation.

The General Counsel of the Department or his or her designee shall serve as the hearing officer to conduct all hearings under this chapter. All petitions, correspondence, requests for information and any other submissions made pursuant to this chapter should be made to the General Counsel of the Department as follows:

Legal Division
Department of Finance
Alabama State Capitol
Montgomery, AL 36130

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.05 Questions Of Procedure And Evidence.

The hearing officer shall, in accordance with these rules, and except as otherwise provided in these rules, rule upon all questions of procedure and, in the event that evidence is taken, on the admissibility of the evidence. The decision of the hearing officer shall be final.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.06 Petitions.

(1) Filing of Petitions. The hearing procedure is initiated by filing a petition with the Legal Division of the Department.

(2) Contents of Petitions. To the extent applicable to the project, all petitions shall contain or be accompanied by the following information:

(a) A specific reference to the status or law which authorized the proposed project and the sale or issuance of debt.

(b) A copy of the charter provision of the Petitioner, certified by the secretary of the Petitioner, which authorizes the project and the sale or issuance of the debt.

(c) A resolution, duly certified, or the Petitioner's governing body or board of directors, authorizing the project, together with a resolution authorizing the petition to be made to the Department of Finance.

(d) A map or description which clearly shows the extent and location of the project.

(e) A detailed estimate of the cost of the proposed project.

(f) A detailed estimate of annual revenues, expenses and debt services arising out of the proposed project.

(g) A statement of the prospective source of water, gas or power supply.

(h) A statement regarding the engineering feasibility of the project signed by a licensed engineer.

(i) A detailed income and expense statement of the Petitioner for the last two years.

(j) All schedules of rates proposed to be put into effect for services rendered the public by the proposed project, if such rates in the first year after completion of the project are expected to be different from Petitioner's present rates or Petitioner's general rates than expected to be in effect.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

**355-2-1-.07 Instructions For Electric Membership Corporations
And Electric Cooperatives.**

Instructions for petitions filed by electric membership corporations and electric cooperatives are found in Appendix A of these rules and are a part of this rule. Petitions filed by Electric Membership Corporations and Electric Cooperatives pursuant to appendix A shall contain the information prescribed in appendix A to the extent applicable to the project.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.08 Notice Of Hearing.

After a petition is filed, the Petitioner shall prepare for approval by the hearing officer a notice of the time and place of the hearing on the petition. The Petitioner must cause the notice of the hearing to be published at its own expense in one newspaper published or circulated in each of the counties in which the Petitioner does business. On the date of the hearing, the Petitioner shall deliver to the Department of Finance proof of publication from each newspaper in which the notice of the hearing was published. The proof of publication of the notice shall be a sworn statement setting out the notice and stating that it was published one time at least five (5) days prior to the date of the hearing.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-.09 Hearings.

All hearings shall be open to the public. Opportunity shall be afforded to all persons attending the hearing to present evidence and argument in favor of or in opposition to the petition. The hearing officer shall determine if the proceedings at the public hearing shall be transcribed by a court reporter. If so, it shall be the responsibility of other Petitioner to retain the services of a qualified court reporter for said hearing and to pay the appearance fee or other fees and costs charged by the court reporter. The cost of the copies of the transcript shall be paid by the person or entity requesting the copy from the court reporter. The burden shall be on the Petitioner to prove its petition to the satisfaction of the Department.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001. **Amended:** Published January 31, 2025; effective March 17, 2025.

355-2-1-.10 Final Order.

Following the hearing on the petition, the hearing officer may request that the Petitioner prepare a proposed order for consideration by the Director of Finance. The proposed order shall either grant or deny the petition and may address any other matters deemed relevant by the Department. The Department shall grant its consent to the issuance or sale as requested in the petition upon its finding that such issuance or sale serves some public need and its in the public interest.

Author: Department of Finance

Statutory Authority: Code of Ala. 1975, §§41-4-16, 41-4-35.

History: Filed September 30, 1982. **Repealed and New Rule:** Filed September 20, 2001; effective October 25, 2001.

355-2-1-A

Appendix A.

APPENDIX A

**SUGGESTIONS FOR PREPARING PETITIONS
TO THE DEPARTMENT OF FINANCE FOR APPROVAL
OF LOANS TO ELECTRIC MEMBERSHIP CORPORATIONS
AND ELECTRIC COOPERATIVES**

1. The petition should be directed to the Department of Finance of the State of Alabama. A suggested heading is as follows: Petition of _____ Electric Cooperative to the Department of Finance of the State of Alabama for consent to issue and Deliver its Note in the amount of \$ _____ to the United States of America.

Then specifically direct the petition to _____,
Director of Finance of the State of Alabama.

2. The petition should show the type of corporation filing the petition and refer to the law authorizing the project. In the case of electric membership corporations, it is Title 37, Chapter 7, Code of Ala. 1975. In the case of electric cooperatives it is Title 37, Chapter 7, Code of Ala. 1975.

3. The petition should specify the plan or program of the cooperative seeking the loan, i.e., "to furnish electric energy to 500 consumers in the counties of _____ and _____ not now receiving central station electric service."

4. It should also specify the uses to which the proceeds of the loan are to be put, such as, "the construction of 65 miles of electrical distribution lines and adequate transformers etc., to furnish electric service to consumers." This varies as to whether the loan proceeds are to be used for rehabilitation of existing lines, new lines, structures or equipment.

5. A certified copy of the charter provisions of the cooperative authorizing the project and the issuance of a note is required to be attached to the petition as an exhibit. The charter of each cooperative contains general provisions which authorize the borrowing of money and the construction of electric lines. These articles should be copied and certified as correct by the secretary of the cooperative.

6. The regulations require a copy of the resolution of the Board of Trustees authorizing the particular project and the borrowing of the money therefor. The attorney for the cooperative should add to this resolution a further resolution authorizing him or his law firm to file the petition with the Department of Finance of the State of Alabama. Attached to the resolution should be a

certificate of the secretary certifying that the resolution is a true and correct copy of one passed at the particular meeting at which a quorum was present and voted, and that the resolution has not been altered, rescinded or modified.

7. The regulations require that a map or description of the project and the location thereof be attached to the petition. A small scale map showing the location of new lines or the location of the rehabilitation of old ones should be attached to the petition and when the maps are large, the Department of Finance will allow the filing of these maps separately.

8. A detailed estimate of the costs of the project should be included in the petition. This information is secured from the budget furnished by REA which itemizes the costs of lines, transformers, switches, etc.

9. The regulations also require that the petition contain a detailed estimate of annual revenue, expenses and debt service arising out of the proposed project. This information is secured from the project engineer and shows the annual estimated revenue, expenses and annual interest to be paid on the loan.

10. To comply with the requirement that the source of power must be indicated, the petition should contain a statement that the power is to be secured from Alabama Power Company, Alabama Electric Cooperative, Inc., or TVA, whichever is applicable.

11. A statement regarding the engineering feasibility of the project is complied with by attaching to the petition a statement signed by the project engineer, to which is attached his seal and registration number. He should be an electrical engineer registered in Alabama. These statements are usually concise and designate that the engineer has made a study of the system and in his opinion the additions are needed and that the project is feasible.

12. The Petitioner should furnish for inclusion in the petition, or as an exhibit thereto, a detailed income and expense statement of the cooperative for the past two years which shows the total revenue, operating expenses, depreciation, taxes and interest for that time.

13. The regulations require that a statement be made concerning the tax liability of the cooperative in connection with the proposed project, which is complied with by stating the taxes which will be assessed against the additional project will be assessed at the same rate as assessments are now made against the cooperative's other properties in the respective counties.

14. A photostatic copy of the rate schedules should be attached to the petition to comply with the requirement that the rates to be put in effect be shown.

15. The petition should contain a request that the Department of Finance order a public hearing, prescribe such notice as it may find to be necessary and upon said hearing find that the issuance of the note serves a public need and is in the public interest, and consent to the issuance thereof.

16. The rules and regulations require that one copy of the petition be filed at least two weeks prior to the date of the public hearing. When the petition is filed, the Department of Finance will furnish to the Petitioner sufficient notices to be published in the newspapers published in the counties which the Petitioner serves. The newspapers should be requested to furnish immediately upon publication of the notice proof of publication, which is a sworn statement setting out the notice and stating that it was published one time prior to the date of the hearing. These proofs of publication are required to be delivered to the Department of Finance on the date of the hearing.

Author:

Statutory Authority:

History: