

CHAPTER NO. 237

HOUSE BILL NO. 802

INTRODUCED BY LIEN

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Business and Industry.
February 19, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, pass consideration.
February 22, 1979	Second reading, do pass.
February 23, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Business and Industry.
March 5, 1979	Committee recommend bill be concurred in. Report adopted.
March 7, 1979	Second reading, concurred in.
March 9, 1979	Third reading, concurred in.

IN THE HOUSE

March 10, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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House BILL NO. *802*

INTRODUCED BY *Leim*

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE RURAL ELECTRIC AND TELEPHONE COOPERATIVE ACT TO AUTHORIZE RURAL TELEPHONE COOPERATIVES TO ESTABLISH, MAINTAIN, AND OPERATE CABLE TELEVISION AND BROADCAST SYSTEMS AND FACILITIES FOR THE BENEFIT OF ITS TELEPHONE CUSTOMERS; AMENDING SECTIONS 35-18-102, 35-18-105, AND 35-18-106, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-18-102, MCA, is amended to read:

"35-18-102. Definitions. (1) Corporations organized under this chapter and corporations which become subject to this chapter in the manner hereinafter provided are hereinafter referred to as "cooperatives".

(2) In this chapter, unless the context otherwise requires the following definitions apply:

(a) "Cable television system" means a system that receives and amplifies the signals broadcast by one or more television stations and redistributes the signals to subscribing members of the public for a fixed or periodic fee by wire, cable, microwave, or other means, whether such means are owned or leased.

(b) "Broadband" means transmission facilities capable of handling frequencies greater than those required for high grade voice communication (higher than 4 kilohertz).

(c) "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.

(d) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic.

(e) "Rural area", as applied to all corporations organized under the provisions of 35-18-105(1), means any area not included within the boundaries of any incorporated or unincorporated city, town, village, or borough having a population in excess of 3,500 persons on March 17, 1939, or subsequent thereto, and every incorporated municipality in which 95% or more of the premises are served by an electric cooperative on February 1, 1971; "rural area", as applied to all corporations organized under the provisions of 35-18-105(2), means any area not included within the boundaries of any incorporated or unincorporated city or town having a population in excess of 1,500 persons."

Section 2. Section 35-18-105, MCA, is amended to read:

"35-18-105. Permissible purposes for incorporation.

1 Cooperative nonprofit membership corporations may be
2 organized under this chapter for the following purposes:

3 (1) for the purpose of supplying electric energy and
4 promoting and extending the use thereof in rural areas, as
5 provided in this chapter;

6 (2) for the purpose ~~purposes~~ of making generally
7 available in rural areas adequate telephone service, ~~cable~~
8 ~~television service, or broadband facilities~~ through the
9 improvement and expansion of existing telephone, ~~cable~~
10 ~~television, or broadband~~ facilities and the construction and
11 operation of such additional facilities as are required to
12 assure the availability of such service to the widest
13 practicable number of rural users thereof, provided that
14 nonduplication of lines, facilities, or systems providing
15 reasonably adequate service will result therefrom."

16 Section 3. Section 35-18-106, M.A., is amended to read:

17 "35-18-106. Powers of cooperatives. A cooperative
18 shall have power to:

19 (1) sue and be sued in its corporate name;

20 (2) have perpetual existence;

21 (3) adopt a corporate seal and alter the same at
22 pleasure;

23 (4) become a member in one or more other cooperatives
24 or corporations or to own stock therein;

25 (5) construct, purchase, take, receive, lease as

1 lessee, or otherwise acquire and to own, hold, use, equip,
2 maintain, and operate and sell, assign, transfer, convey,
3 exchange, lease as lessor, mortgage, pledge, or otherwise
4 dispose of or encumber electric transmission and
5 distribution lines or systems, electric generating plants,
6 electric refrigeration plants, telephone lines, facilities
7 or systems (but not telegraph or radio broadcasting services
8 or facilities) as defined by law, lands, buildings,
9 structures, dams, plants and equipment, and any and all
10 kinds or classes of real or personal property whatsoever,
11 which shall be deemed necessary, convenient, or appropriate
12 to accomplish the purpose for which the cooperative is
13 organized;

14 (6) purchase or otherwise acquire and own, hold, use,
15 and exercise and sell, assign, transfer, convey, mortgage,
16 pledge, hypothecate, or otherwise dispose of or encumber
17 franchises, rights, privileges, licenses, rights-of-way, and
18 easements;

19 (7) borrow money and otherwise contract indebtedness
20 and issue notes, bonds, and other evidences of indebtedness
21 therefor and secure the payment thereof by mortgage, pledge,
22 deed of trust, or any other encumbrance upon any or all of
23 its then owned or after-acquired real or personal property,
24 assets, franchises, revenues, or income;

25 (8) construct, maintain, and operate electric

1 transmission and distribution lines or telephones, cable
 2 television, or broadband lines, facilities, or systems
 3 along, upon, under, and across all public thoroughfares,
 4 including without limitation all roads, highways, streets,
 5 alleys, bridges, and causeways and upon, under, and across
 6 all publicly owned lands, subject, however, to the same
 7 requirements in respect of the use of such thoroughfares and
 8 lands as are imposed by the respective authorities having
 9 jurisdiction thereof upon corporations constructing or
 10 operating electric transmission and distribution lines or
 11 systems or telephone lines, facilities, or systems;

12 (9) exercise the power of eminent domain in the manner
 13 provided by the laws of this state for the exercise of that
 14 power by corporations constructing or operating electric
 15 transmission and distribution lines or systems or telephone
 16 lines, facilities, or systems;

17 (10) conduct its business and exercise any or all of
 18 its powers within or without this state;

19 (11) adopt, amend, and repeal bylaws;

20 (12) in the case of corporations organized under the
 21 provisions of 35-18-105(1):

22 (a) generate, manufacture, purchase, acquire,
 23 accumulate, and transmit electric energy and distribute,
 24 sell, supply, and dispose of electric energy in rural areas
 25 to its members, to governmental agencies and political

1 subdivisions, and to other persons not in excess of 10% of
 2 the number of its members;

3 (b) make loans to persons to whom electric energy is
 4 or will be supplied by the cooperative for the purpose of
 5 and otherwise to assist such persons in wiring their
 6 premises and installing therein electrical and plumbing
 7 fixtures, appliances, apparatus, and equipment of any and
 8 all kinds and character and, in connection therewith,
 9 purchase, acquire, lease, sell, distribute, install, and
 10 repair such electrical and plumbing fixtures, appliances,
 11 apparatus, and equipment and accept or otherwise acquire and
 12 sell, assign, transfer, endorse, pledge, hypothecate, and
 13 otherwise dispose of notes, bonds, and other evidences of
 14 indebtedness and any and all types of security therefor;

15 (c) make loans to persons to whom electric energy is
 16 or will be supplied by the cooperatives for the purpose of
 17 and otherwise to assist such persons in constructing,
 18 maintaining, and operating electric refrigeration plants;

19 (13) in the case of corporations organized under the
 20 provisions of 35-18-105(2):

21 (a) improve and expand existing telephone lines,
 22 facilities, and systems in rural areas and construct,
 23 acquire, operate, and furnish such additional telephone
 24 lines, facilities, and systems as are required to assure the
 25 availability of adequate telephone service to the widest

1 practicable number of rural users thereof, provided that no
2 duplication of lines, facilities, or systems providing
3 reasonably adequate service will result therefrom;

4 (b) make loans to persons to whom telephone service is
5 or will be supplied by the cooperative for the purpose of
6 and otherwise to assist such persons in wiring their
7 premises for telephone service and installing therein
8 telephone fixtures, appliances, apparatus, and equipment of
9 any and all kinds and character and, in connection
10 therewith, purchase, acquire, lease, sell, distribute,
11 install, and repair such telephone fixtures, appliances,
12 apparatus, and equipment and accept or otherwise acquire and
13 sell, assign, transfer, endorse, pledge, hypothecate, and
14 otherwise dispose of notes, bonds, and other evidences of
15 indebtedness and any and all types of security therefor;

16 (14) do and perform any and all other acts and things
17 and have and exercise any and all other powers which may be
18 necessary, convenient, or appropriate to accomplish the
19 purpose for which the cooperative is organized."

20 Section 4. Effective date. This act is effective on
21 passage and approval.

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7 CABLE TELEVISION AND BROADBAND SYSTEMS AND FACILITIES FOR
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9 35-18-102, 35-18-105, AND 35-18-106, MCA; AND PROVIDING AN
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 (2) In this chapter, unless the context otherwise
19 requires the following definitions apply:

20 (a) "Cable television system" means a system that
21 receives and amplifies the signals broadcast by one or more
22 television stations and redistributes the signals to
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24 fee by wire, cable, microwave, or other means, whether such
25 means are owned or leased.

1 (b) "Broadband" means transmission facilities capable
2 of handling frequencies greater than those required for high
3 grade voice communication (higher than 4 kilobertz).

4 (c) "Member" means each incorporator of a
5 cooperative and each person admitted to and retaining
6 membership therein and shall include a husband and wife
7 admitted to joint membership.

8 (d) "Person" includes any natural person, firm,
9 association, corporation, business trust, partnership,
10 federal agency, state or political subdivision or agency
11 thereof, or any body politic.

12 (e) "Rural area", as applied to all corporations
13 organized under the provisions of 35-18-105(1), means any
14 area not included within the boundaries of any incorporated
15 or unincorporated city, town, village, or borough having a
16 population in excess of 3,500 persons on March 17, 1939, or
17 subsequent thereto, and every incorporated municipality in
18 which 95% or more of the premises are served by an electric
19 cooperative on February 1, 1971; "rural area", as applied to
20 all corporations organized under the provisions of
21 35-18-105(2), means any area not included within the
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23 town having a population in excess of 1,500 persons."

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25 "35-18-105. Permissible purposes for incorporation.

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5 provided in this chapter;

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8 ~~television service, or broadband facilities~~ through the
9 improvement and expansion of existing telephones, ~~cable~~
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13 practicable number of rural users thereof, provided that
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15 reasonably adequate service will result therefrom."

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17 "35-18-106. Powers of cooperatives. A cooperative
18 shall have power to:

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20 (2) have perpetual existence;
21 (3) adopt a corporate seal and alter the same at
22 pleasure;
23 (4) become a member in one or more other cooperatives
24 or corporations or to own stock therein;
25 (5) construct, purchase, take, receive, lease as

1 lessee, or otherwise acquire and to own, hold, use, equip,
2 maintain, and operate and sell, assign, transfer, convey,
3 exchange, lease as lessor, mortgage, pledge, or otherwise
4 dispose of or encumber electric transmission and
5 distribution lines or systems, electric generating plants,
6 electric refrigeration plants, telephone lines, facilities
7 or systems (but not telegraph or radio broadcasting services
8 or facilities) as defined by law, lands, buildings,
9 structures, dams, plants and equipment, and any and all
10 kinds or classes of real or personal property whatsoever,
11 which shall be deemed necessary, convenient, or appropriate
12 to accomplish the purpose for which the cooperative is
13 organized;

14 (6) purchase or otherwise acquire and own, hold, use,
15 and exercise and sell, assign, transfer, convey, mortgage,
16 pledge, hypothecate, or otherwise dispose of or encumber
17 franchises, rights, privileges, licenses, rights-of-way, and
18 easements;

19 (7) borrow money and otherwise contract indebtedness
20 and issue notes, bonds, and other evidences of indebtedness
21 therefor and secure the payment thereof by mortgage, pledge,
22 deed of trust, or any other encumbrance upon any or all of
23 its then owned or after-acquired real or personal property,
24 assets, franchises, revenues, or income;

25 (8) construct, maintain, and operate electric

1 transmission and distribution lines or telephone, cable
 2 television, or broadband lines, facilities, or systems
 3 along, upon, under, and across all public thoroughfares,
 4 including without limitation all roads, highways, streets,
 5 alleys, bridges, and causeways and upon, under, and across
 6 all publicly owned lands, subject, however, to the same
 7 requirements in respect of the use of such thoroughfares and
 8 lands as are imposed by the respective authorities having
 9 jurisdiction thereof upon corporations constructing or
 10 operating electric transmission and distribution lines or
 11 systems or telephone lines, facilities, or systems;

12 (9) exercise the power of eminent domain in the manner
 13 provided by the laws of this state for the exercise of that
 14 power by corporations constructing or operating electric
 15 transmission and distribution lines or systems or telephone
 16 lines, facilities, or systems;

17 (10) conduct its business and exercise any or all of
 18 its powers within or without this state;

19 (11) adopt, amend, and repeal bylaws;

20 (12) in the case of corporations organized under the
 21 provisions of 35-18-105(1):

22 (a) generate, manufacture, purchase, acquire,
 23 accumulate, and transmit electric energy and distribute,
 24 sell, supply, and dispose of electric energy in rural areas
 25 to its members, to governmental agencies and political

1 subdivisions, and to other persons not in excess of 10% of
 2 the number of its members;

3 (b) make loans to persons to whom electric energy is
 4 or will be supplied by the cooperative for the purpose of
 5 and otherwise to assist such persons in wiring their
 6 premises and installing therein electrical and plumbing
 7 fixtures, appliances, apparatus, and equipment of any and
 8 all kinds and character and, in connection therewith,
 9 purchase, acquire, lease, sell, distribute, install, and
 10 repair such electrical and plumbing fixtures, appliances,
 11 apparatus, and equipment and accept or otherwise acquire and
 12 sell, assign, transfer, endorse, pledge, hypothecate, and
 13 otherwise dispose of notes, bonds, and other evidences of
 14 indebtedness and any and all types of security therefor;

15 (c) make loans to persons to whom electric energy is
 16 or will be supplied by the cooperatives for the purpose of
 17 and otherwise to assist such persons in constructing,
 18 maintaining, and operating electric refrigeration plants;

19 (13) in the case of corporations organized under the
 20 provisions of 35-18-105(2):

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 22 facilities, and systems in rural areas and construct,
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16 (14) do and perform any and all other acts and things
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(2) In this chapter, unless the context otherwise requires the following definitions apply:

(a) "Cable television system" means a system that receives and amplifies the signals broadcast by one or more television stations and redistributes the signals to subscribing members of the public for a fixed or periodic fee by wire, cable, microwaves or other means, whether such means are owned or leased.

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(d) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic.

(e) "Rural area", as applied to all corporations organized under the provisions of 35-18-105(1), means any area not included within the boundaries of any incorporated or unincorporated city, town, village, or borough having a population in excess of 3,500 persons on March 17, 1939, or subsequent thereto, and every incorporated municipality in which 95% or more of the premises are served by an electric cooperative on February 1, 1971; "rural area", as applied to all corporations organized under the provisions of 35-18-105(2), means any area not included within the boundaries of any incorporated or unincorporated city or town having a population in excess of 1,500 persons."

Section 2. Section 35-18-105, MCA, is amended to read:

"35-18-105. Permissible purposes for incorporation.

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8 television service, or broadband facilities through the
9 improvement and expansion of existing telephone, cable
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11 operation of such additional facilities as are required to
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15 reasonably adequate service will result therefrom."

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- 23 (4) become a member in one or more other cooperatives
24 or corporations or to own stock therein;
- 25 (5) construct, purchase, take, receive, lease as

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2 maintain, and operate and sell, assign, transfer, convey,
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4 dispose of or encumber electric transmission and
5 distribution lines or systems, electric generating plants,
6 electric refrigeration plants, telephone lines, facilities
7 or systems (but not telegraph or radio broadcasting services
8 or facilities) as defined by law, lands, buildings,
9 structures, dams, plants and equipment, and any and all
10 kinds or classes of real or personal property whatsoever,
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 2 the number of its members;

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 4 or will be supplied by the cooperative for the purpose of
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16 (14) do and perform any and all other acts and things
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8 ~~(b)(d)~~ "Person" includes any natural person, firm,
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23 (4) become a member in one or more other cooperatives
24 or corporations or to own stock therein;

25 (5) construct, purchase, take, receive, lease as

1 lessee, or otherwise acquire and to own, hold, use, equip,
2 maintain, and operate and sell, assign, transfer, convey,
3 exchange, lease as lessor, mortgage, pledge, or otherwise
4 dispose of or encumber electric transmission and
5 distribution lines or systems, electric generating plants,
6 electric refrigeration plants, telephone lines, facilities
7 or systems (but not telegraph or radio broadcasting services
8 or facilities) as defined by law, lands, buildings,
9 structures, dams, plants and equipment, and any and all
10 kinds or classes of real or personal property whatsoever,
11 which shall be deemed necessary, convenient, or appropriate
12 to accomplish the purpose for which the cooperative is
13 organized;

14 (6) purchase or otherwise acquire and own, hold, use,
15 and exercise and sell, assign, transfer, convey, mortgage,
16 pledge, hypothecate, or otherwise dispose of or encumber
17 franchises, rights, privileges, licenses, rights-of-way, and
18 easements;

19 (7) borrow money and otherwise contract indebtedness
20 and issue notes, bonds, and other evidences of indebtedness
21 therefor and secure the payment thereof by mortgage, pledge,
22 deed of trust, or any other encumbrance upon any or all of
23 its then owned or after-acquired real or personal property,
24 assets, franchises, revenues, or income;

25 (8) construct, maintain, and operate electric

1 transmission and distribution lines or telephone, cable
 2 television, or broadband lines, facilities, or systems
 3 along, upon, under, and across all public thoroughfares,
 4 including without limitation all roads, highways, streets,
 5 alleys, bridges, and causeways and upon, under, and across
 6 all publicly owned lands, subject, however, to the same
 7 requirements in respect of the use of such thoroughfares and
 8 lands as are imposed by the respective authorities having
 9 jurisdiction thereof upon corporations constructing or
 10 operating electric transmission and distribution lines or
 11 systems or telephone lines, facilities, or systems;

12 (9) exercise the power of eminent domain in the manner
 13 provided by the laws of this state for the exercise of that
 14 power by corporations constructing or operating electric
 15 transmission and distribution lines or systems or telephone
 16 lines, facilities, or systems;

17 (10) conduct its business and exercise any or all of
 18 its powers within or without this state;

19 (11) adopt, amend, and repeal bylaws;

20 (12) in the case of corporations organized under the
 21 provisions of 35-18-105(1):

22 (a) generate, manufacture, purchase, acquire,
 23 accumulate, and transmit electric energy and distribute,
 24 sell, supply, and dispose of electric energy in rural areas
 25 to its members, to governmental agencies and political

1 subdivisions, and to other persons not in excess of 10% of
 2 the number of its members;

3 (b) make loans to persons to whom electric energy is
 4 or will be supplied by the cooperative for the purpose of
 5 and otherwise to assist such persons in wiring their
 6 premises and installing therein electrical and plumbing
 7 fixtures, appliances, apparatus, and equipment of any and
 8 all kinds and character and, in connection therewith,
 9 purchase, acquire, lease, sell, distribute, install, and
 10 repair such electrical and plumbing fixtures, appliances,
 11 apparatus, and equipment and accept or otherwise acquire and
 12 sell, assign, transfer, endorse, pledge, hypothecate, and
 13 otherwise dispose of notes, bonds, and other evidences of
 14 indebtedness and any and all types of security therefor;

15 (c) make loans to persons to whom electric energy is
 16 or will be supplied by the cooperatives for the purpose of
 17 and otherwise to assist such persons in constructing,
 18 maintaining, and operating electric refrigeration plants;

19 (13) in the case of corporations organized under the
 20 provisions of 35-18-105(2):

21 (a) improve and expand existing telephone lines,
 22 facilities, and systems in rural areas and construct,
 23 acquire, operate, and furnish such additional telephone
 24 lines, facilities, and systems as are required to assure the
 25 availability of adequate telephone service to the widest

1 practicable number of rural users thereof, provided that no
2 duplication of lines, facilities, or systems providing
3 reasonably adequate service will result therefrom;

4 (b) make loans to persons to whom telephone service is
5 or will be supplied by the cooperative for the purpose of
6 and otherwise to assist such persons in wiring their
7 premises for telephone service and installing therein
8 telephone fixtures, appliances, apparatus, and equipment of
9 any and all kinds and character and, in connection
10 therewith, purchase, acquire, lease, sell, distribute,
11 install, and repair such telephone fixtures, appliances,
12 apparatus, and equipment and accept or otherwise acquire and
13 sell, assign, transfer, endorse, pledge, hypothecate, and
14 otherwise dispose of notes, bonds, and other evidences of
15 indebtedness and any and all types of security therefor;

16 (14) do and perform any and all other acts and things
17 and have and exercise any and all other powers which may be
18 necessary, convenient, or appropriate to accomplish the
19 purpose for which the cooperative is organized.*

20 Section 4. Effective date. This act is effective on
21 passage and approval.

-End-