

**Regarding Federal Involvement in Service Territory Disputes**

1 More than 49 million Americans receive their electricity from a community-owned, not-for-profit public  
2 power utility, most of which are owned and operated by the local municipality they serve. In response to  
3 local growth and development, municipalities may expand their limits through state-authorized powers of  
4 annexation. In such cases, a public power utility has the desire, right, and responsibility to grow with its  
5 city and provide electric service to newly incorporated areas.

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7 In many cases, the annexation of areas previously served by a rural electric cooperative can lead to  
8 territorial disputes. These local disputes are solved in accordance with state law. In 1988, this fact was  
9 reaffirmed by a joint American Public Power Association (APPA) and National Rural Electric  
10 Cooperative Association (NRECA) task force on service territory disputes, which concluded these  
11 disputes should be resolved at the local and state levels.

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13 Despite this understanding, occasional attempts have been made to legislate on this issue at the federal  
14 level with the goal of restricting or prohibiting changes in service territory for rural electric cooperatives.  
15 These efforts have included a proposal to allow the administrator of the Rural Electrification  
16 Administration to veto any rural electric cooperative territorial changes that result from annexation, stand-  
17 alone legislation to preempt state laws and effectively freeze the service territory of municipal electric  
18 utilities, and efforts to outright prohibit the condemnation of electric cooperative territory when that  
19 territory is annexed by a municipality. Though these and other efforts have been unsuccessful, they are  
20 still an unacceptable attempt to preempt state and local laws, to ban competition by locking in existing  
21 service territories, and are inconsistent with the consensus reached by the APPA and NRECA task force.

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23 Further, these efforts are detrimental to the interests of state and local governments. A municipality may  
24 expand to attract businesses or industries to the area for the benefit of the region, to incorporate a rapidly  
25 urbanizing area, or to ensure citizens are covered by the local health department or have access to vital  
26 services like sanitation, fire, and police. In a time of great economic uncertainty for states and local  
27 governments, annexation, which is rightfully governed by the states, may be necessary to grow the local  
28 economy or provide essential services and should not be hamstrung by federal interference.

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30 Further, in a country as large and diverse as the United States, federal law would paint with too broad a  
31 brush to accommodate the diversity in electric utility industry structures and regulatory schemes that exist  
32 within the states. For this reason, electric utility service territories and other aspects of retail electric

33 service are, and always have been, regulated at the state level. This wise allocation of regulatory  
34 responsibility should be respected and maintained.

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36 NOW, THEREFORE, BE IT RESOLVED: That the American Public Power Association (APPA)  
37 strongly supports the rights of public power utilities to provide electric service within their corporate  
38 limits and adjacent urban growth areas.

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40 BE IT FURTHER RESOLVED: That APPA strongly opposes any legislation that would do any of the  
41 following:

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43 • Preempt state annexation laws and home rule provisions as provided for by some state  
44 constitutions;
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46 • Prohibit the condemnation of electric cooperative territory when that territory is annexed by a  
47 municipality;
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49 • Mandate a level of compensation to the cooperative that would render the service territory  
50 acquisition uneconomic and discourage the city from exercising its right to serve annexed areas;
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52 • Prevent a municipality from franchising an alternative supplier to compete with the electric  
53 cooperative, or prohibit the municipality from collecting a franchise fee from a cooperative as a  
54 condition to operate within the city limits;
- 55  
56 • Mandate a new review and/or approval process for territory disputes irrespective of existing state  
57 laws or constitutional provisions; and
- 58  
59 • Override or restrict, in any way, any local or state rules, regulations, ordinance, constitutional  
60 provisions or laws that have been established by a public body as a matter of public interest that  
61 govern the ability of public power utilities to serve all customers in their corporate limits and  
62 adjacent urban growth areas.

**Adopted at the Legislative & Resolutions Committee meeting**

**March 2, 2021**

**Sunsets in March 2029**