STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1213 BY: GLOVER and BENSON

AS INTRODUCED

AN ACT RELATING TO CORPORATIONS; AMENDING 18 O.S. 1981, SECTION 437.2, AS AMENDED BY SECTION 1, CHAPTER 323, O.S.L. 1988 (18 O.S. SUPP. 1990, SECTION 437.2), WHICH RELATES TO RURAL ELECTRIC COOPERATIVES; CLARIFYING STATUTORY LANGUAGE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 1981, Section 437.2, as amended by Section 1, Chapter 323, O.S.L. 1988 (18 O.S. Supp. 1990, Section 437.2), is amended to read as follows:

Section 437.2 A cooperative shall have power to:

(a) ~~To~~ sue and be sued, in its corporate name;

(b) ~~To~~ have a perpetual existence unless a limited period of duration is stated in its charter;

(c) ~~To~~ adopt a corporate seal and alter the same at pleasure;

(d) ~~To~~ generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other

persons not in excess of ten percent (10%) of the number of its members;

(e) ~~To~~ make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds of character, and to accept and otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds, and other evidences of indebtedness and any and all types of security therefor;

(f) ~~To~~ make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in constructing, maintaining and operating electric refrigeration plants;

(g) ~~To~~ become a member in one or more other cooperatives or corporations or to own stock therein;

(h) ~~To~~ construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants, and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; provided, that any and all such electrical construction and maintenance shall conform to the requirements and regulations of the National Electrical Safety Code;

(i) ~~To~~ purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge,

hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(j) ~~To~~ borrow money and otherwise contract indebtedness therefor and to secure the payment thereof by mortgage, pledge, deed or trust, or any other encumbrance upon any or all of its then owned or after acquired real or personal property, assets, franchises, revenues or income;

(k) ~~To~~ construct, maintain and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys and bridges, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations, constructing or operating electric transmission and distribution lines or systems; provided that in case an area has been or shall be included, as a result of incorporation, annexation, population growth, or otherwise, within the boundaries of a city, town or village, a cooperative which was furnishing electric energy, or was constructing or operating electric facilities, in such area, prior to such inclusion, shall be entitled to construct, maintain and operate electric transmission and distribution lines and related facilities along, upon, under and across all existing and future public thoroughfares, and to continue and extend the furnishing of electric energy or the construction and operation of electric facilities in such area without obtaining the consent, franchise, license, permit or other authority of such city, town or village, subject, however, to compliance with the lawful safety requirements of such city, town or village as to the manner of constructing and maintaining facilities on such thoroughfares, and subject to payment of taxes of such city, town or village that may be levied and assessed as provided in Section 1201 of Title 68 of the Oklahoma

Statutes; and provided further that if such city, town or village in which an area has been or shall be included, as aforesaid, owns and operates a system for the furnishing of electric energy to its inhabitants, the cooperative furnishing electric energy in such area shall transfer to such city, town or village, upon its request, the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, subject, however, to the following requirement: The city, town or village shall pay to the cooperative an amount to compensate the cooperative for the fair value of the cooperative's facilities to be acquired by the city, town or village. If such cooperative and city, town or village cannot agree upon the amount to be paid to the cooperative, the city, town or village is authorized to file a proceeding in the district court of the county in which such city, town or village, or any part thereof, is located, for the acquisition of the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, and the procedure followed and the method of ascertaining just compensation to be paid the cooperative will be as provided in Article 2, Section 24, of the Oklahoma Constitution and Sections 53 to 58, inclusive, of Title 66 of the Oklahoma Statutes.

(l) ~~To~~ conduct its business and exercise any or all of its powers within or without this state;

(m) ~~To~~ adopt, amend and repeal bylaws; and

(n) ~~To~~ do and perform any and other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized; <u>and</u>

(o) ~~To~~ have and exercise the right of eminent domain in the same manner and by like proceedings as provided for railroad corporations under the laws of this state. No funds shall be lent by any privately owned electric utility or person connected, either directly or indirectly, to such a cooperative. Any such loan when made shall be void and uncollectible in any court of the State of Oklahoma.

SECTION 2. This act shall become effective September 1, 1991.

43-1-5396 KSM