

**TENNESSEE CODE ANNOTATED**  
**PUBLIC UTILITIES AND CARRIERS – ELECTRIC COOPERATIVES**

**65-25-205. Powers of Cooperative.**

(c) Neither the provisions of this part nor of any other Tennessee law shall be construed to authorize a cooperative to own, operate or otherwise acquire a legal or beneficial interest in a city-franchised or county-franchised cable television system; provided, that each cooperative may, within its service area and with the authorization of its board, contract to establish a joint venture with an entity that is a current franchise holder under title 7, chapter 59, within the cooperative's service area and has been operating, either itself or its predecessor franchise holder, for not less than three (3) years at the time of the establishment of the joint venture (hereinafter "cable joint venture"). A cable joint venture shall be authorized to provide cable service, two-way video transmission, video programming, internet services, and other like services and shall comply in all respects with the requirements of section 65-25-230.

**65-25-227. Sale of Cable Programming.**

No cooperative shall sell any cable programming to any users served or serviceable by a franchised cable company on April 7, 1988, except through the establishment of a telecommunications joint venture with such a cable company pursuant to section 65-25-231.

**65-25-228. Existing Electric Cooperatives – Restrictions on Concurrent Operation with Microwave Systems.**

The provisions of this part shall not be construed to authorize any existing electric cooperative to provide or perform services or activities in any geographic area in the state where such services or activities are currently being provided or performed by a wireless cable (microwave) system authorized and licensed by the federal communications commission as a multi-channel and/or multipoint distribution system (MDS) on April 7, 1988, without the express written consent of the MDS/MMDS owner/operator. This section applies only to a wireless cable (microwave) system authorized and licensed by the federal communications commission as a multi-channel and /or multi-point distribution system (MDS) in existence and operating on April 7, 1988.

**65-25-230. Subsidies by Electric Cooperatives to Joint Cable Ventures – Antitrust Provisions – Remedies.**

(a) An electric cooperative may not provide subsidies to a cable joint venture. Notwithstanding the limitations set forth in the preceding sentence, an electric cooperative participating in a cable joint venture may:

(1) Dedicate a reasonable portion of the electric plant to the provision of such service, the costs of which shall be allocated to such services by agreement of the parties to the joint venture.

(2) Lend funds, at a rate of interest not less than the highest rate then earned by the electric cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any such services; provided, that such interest costs shall be allocated to the cost of such service for regulatory purposes, and further provided that no financing for a cable joint venture shall come from loans from the rural utility service of the United States department of agriculture unless and until such loans are specifically authorized by federal statute.

(b) To the extent that an electric cooperative offers the services authorized by section 65-25-205 in a joint venture, such cooperative shall have all the powers, obligations, and authority granted other entities providing such services under the applicable laws of the United States, the state of Tennessee, or local governments; provided, however, the franchise under which the joint venture shall operate shall in no way be considered an overlapping franchise nor in any way

modify or amend section 7-59-203.

(c) Nothing in this part shall be construed to alter or amend the process or procedure for renewal of franchises.

(d) It shall be unlawful during the negotiation of the joint venture or thereafter for any party to a cable joint venture or the local franchising authority, as defined in title 7, chapter 59, to use unfair or anti-competitive practices under any applicable provision of state or federal law. Such practices shall include, but are not limited to, predatory pricing, collusion, and price tying.

(e) The parties to a cable joint venture or the local franchising authority, as defined in title 7, chapter 59, may bring a civil action for injunctive or declaratory relief in chancery court to enforce the provisions of subsection (d). Venue for such action may be in any county where the unfair or anti-competitive practice is alleged to have occurred or to be threatened.

(f) If the cable joint venture or any member of the cable joint venture providing such service is exempt from paying federal, state, or local taxes, then, for regulatory purposes, the cable joint venture shall allocate to the costs of such services an amount equal to a reasonable determination of the state, local and federal taxes which would be required to be paid if the cable joint venture were not exempt and each of its members were not exempt from paying such taxes.

**65-25-231. Joint Ventures for Provision of Telephone, Telegraph or Telecommunications Services – Subsidies – Antitrust provisions – Remedies – Joint Ventures for Provision of Natural Gas.**

(a)(1) Each cooperative may, within its service area and with the authorization of its board, contract to establish a joint venture with any entity for the provision of telephone, telegraph, or telecommunications services in compliance with chapters 4 and 5 of this title, and all other applicable state and federal laws, rules and regulations (hereinafter "telecommunications joint venture"). Notwithstanding section 65-4-101(a)(2) or any other provision of this code or of any private act, a telecommunication joint venture and every member of a telecommunication joint venture shall be subject to regulation by the Tennessee regulatory authority in the same manner and to the same extent as other certified providers of telecommunications services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in section 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the provision of telephone, telegraph and telecommunication services.

(2) Neither an electric cooperative nor any other entity participating in a telecommunications joint venture that provides such services may provide subsidies for such services. Notwithstanding the limitations set forth in the preceding sentence, an electric cooperative participating in a telecommunications joint venture may:

(A) Dedicate a reasonable portion of the electric plant to the provision of such services, the costs of which shall be allocated to such services for regulatory purposes; and

(B) Lend funds, at a rate of interest not less than the highest rate then earned by the electric cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any such services; provided, that such interest costs shall be allocated to the cost of such services for regulatory purposes.

(3) To the extent that it provides such services, a telecommunications joint venture has all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or the state of Tennessee. To the extent that such authority and powers do not conflict with the provisions of chapter 4 or 5 of this title, and any rules, regulations, or orders issued thereunder, a telecommunications joint venture providing any such services shall have all the authority and powers with respect to such services as are enumerated in this chapter.

(4) If the telecommunications joint venture or any member of the telecommunications joint venture providing such service is exempt from paying federal, state, or local taxes, then for regulatory purposes, the telecommunications joint venture shall allocate to the costs of such services an amount equal to a reasonable determination of the state, local and federal taxes which would be required to be paid if the telecommunications joint venture and each of its members were not exempt from paying such taxes.

(5) The provisions of this subsection are not applicable to areas served by an incumbent local exchange telephone company or telephone cooperative with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection

agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995, or section 65-4-201(d), is declared unconstitutional or unlawful by a court of competent jurisdiction in a final non-appealable order.

(b) Each cooperative may, within its service area and with the authorization of its board, contract to establish a joint venture with any entity to provide the transmission, transportation, distribution, delivery, or sale of natural gas, or similar products provided, however, that the entity with which the joint venture is established shall be engaged in such business at the time the contract to establish the joint venture is effective.

**65-25-232. Joint Ventures Subject to Excise and Franchise Fees.**

Each joint venture created pursuant to section 65-25-205 or 65-25-231 of this act in which one or more of the owners of the joint venture is an entity subject to the taxes imposed by title 67, chapter 4, parts 8 and 9 (or any tax imposed in place thereof) shall itself be subject to and shall pay the taxes required by parts 8 and 9 (or any tax imposed in place thereof).

**65-25-233. Joint Ventures to Provide Alarm Systems Not Authorized.**

Nothing in act 1999, ch. 430, title 67, chapter 4 shall be construed to allow an electric cooperative or a joint venture in which an electric cooperative is a member to engage in the business of providing alarm systems as defined in title 62, chapter 32, part 3.