



# Annexation Basics for Electric Cities

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## Three Methods of Annexation

- 100% Petition: Simple petition and ordinance, all owners consent.
- 75% Petition: Petition signed by 75% or more of the freeholders owning at least 75% of the assessed value of property in the area to be annexed.
- 25% Petition and Referendum: Petition signed by 25% of the qualified electors residing in the area to be annexed, followed by a referendum within the area to be annexed. There is an odd rule for the polling place.



## Contiguity

- “Property which is adjacent to a municipality and shares a continuous border.” S.C. Code Sec. 5-3-305.
- Stated in cases and in Attorney General opinions as “touching.”
- “Contiguity is not established by a road, waterway, right-of-way, easement, railroad track, marshland, or utility line which connects one property to another; however, if the connecting road, waterway, easement, railroad track, marshland, or utility line intervenes between two properties, which but for the intervening connector would be adjacent and share a continuous border, the intervening connector does not destroy contiguity.”



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## Shoestring Annexations

- Although contiguity cannot be established by a roadway or easement, it apparently can be established by a strip or “shoestring” between the municipality and the area to be annexed.
- The caselaw on this question is not clear. Sometimes the issue is raised with the Attorney General.



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## Primary Issue in Electric Service Area

- The primary consideration for municipal power systems is reverse ouster: “The supplier of electricity having property or facilities in areas incorporated as a city or town or annexed into an existing city or town has the right to compel the city or town or an electrical utility operating in that city or town pursuant to a franchise, contract, permit, or other consent to purchase the facilities and properties and to compel the payment of just compensation.” S.C. Code Sec. 58-27-1360.



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## Just Compensation

Under S.C. Code Sec. 58-27-1360, just compensation includes:

- (a) Reproduction cost, new, of the facilities being acquired, less depreciation on a straight-line basis;
- (b) Cost of reintegrating the system of the selling supplier after detaching the portion to be sold (including allowance for idle substation, transmission, and generation capacity caused in the remaining portion of the system or of any supplying systems, the cost of which is borne in whole or in part by the selling system);
- (c) An additional amount, in recognition of the loss of revenue of greater than average value, equivalent to two and one-half times the gross revenue derived by the selling supplier from the consumers on the lines being acquired during the twelve months next preceding the first of the month in which notice of purchase was given the selling supplier.



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