

§ 117-28.1. Electric membership corporations; easements.

(a) Any easement owned, held, or otherwise used by an electric membership corporation for the purpose of electrification, as stated in G.S. 117-10 may also be used by the corporation, or its wholly owned subsidiary, for the ancillary purpose of supplying high-speed broadband service, where such use does not require additional construction and is ancillary to the electrification purposes for which broadband fiber is or was installed. Nothing in this subsection shall affect, abrogate, or eliminate in any way any obligation of the corporation or its wholly owned subsidiary to comply with any applicable requirements related to notice, safety, or permitting when constructing or maintaining lines or broadband fiber on, over, under, or across property owned or operated by a railroad company.

(b) Notwithstanding G.S. 1A-1, Rule 23, a class action may not be maintained against an electric membership corporation or its wholly owned subsidiary in a suit in trespass or inverse condemnation based on a claim of expanded use of an easement. If, in a suit in trespass or inverse condemnation based on a claim of expanded use of an easement, an individual property owner prevails over a corporation or its wholly owned subsidiary, the trespass shall be deemed permanent and the actual damages awarded shall be the fair market value which, notwithstanding any other provision of law, shall always be greater than zero but shall not exceed the difference between the fair market value of the property owner's entire property immediately before the taking and the fair market value of the property owner's property immediately after the taking. Evidence of revenues or profits derived or the rental value of an assembled communications corridor shall not be admissible in determining fair market value. A property owner's actual damages shall be fixed at the time of the initial trespass and shall not be deemed to continue, accumulate, or accrue. Upon payment of damages, the corporation or its wholly owned subsidiary shall be granted a permanent easement for the trespass that was the subject of the claim. (2019-17, s. 2; 2020-74, s. 30.)