

**METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT
ACT (EXCERPT)
Act 48 of 2002**

484.3114 Telecommunication or cable modem service through broadband internet access transport service; requirements; exceptions; violation; complaint.

Sec. 14. (1) Except as otherwise provided by subsection (2), a county, municipality, or an affiliate, shall comply with all of the following requirements:

(a) Before the passage of any ordinance or resolution authorizing a county or municipality to either construct telecommunication facilities or provide a telecommunication or cable modem service provided through a broadband internet access transport service, a county or municipality shall conduct at least 1 public hearing. A notice of the public hearing shall be provided as required by law.

(b) Not less than 30 days before the hearing required under subdivision (a), the county or municipality shall prepare reasonable projections of at least a 3-year cost-benefit analysis. This analysis shall identify and disclose the total projected direct costs of and the revenues to be derived from constructing the telecommunication facilities and providing the telecommunication or cable modem service through a broadband internet access transport service. The costs shall be determined by using accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(c) A county or municipality shall prepare and maintain accounting records in accordance with accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The accounting records required under this subdivision are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(d) Charges for telecommunication service and cable modem services provided through a broadband internet access transport service shall include all of the following:

(i) All capital costs attributable to the provision of the service.

(ii) All costs attributable to the provision of the service that would be eliminated if the service was discontinued.

(iii) The proportionate share of costs identified with the provision of 2 or more county or municipal services including telecommunication services.

(e) A county or municipality that provides a telecommunication service or cable modem service provided through a broadband internet access transport service shall not adopt an ordinance or a policy that unduly discriminates against another person providing the same service. Subject to other requirements of this section, this subsection shall not be construed as precluding a county or municipality from establishing rates different from those of another person providing the same service.

(f) In providing a telecommunication or cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to public rights-of-ways.

(g) A municipality shall not impose or enforce against a provider any local regulation with respect to public rights-of-way that is not also applicable to the municipality in its provision of a telecommunication or cable modem service provided through a broadband internet access transport service.

(h) In providing a telecommunication or a cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to and rates for pole attachments.

(2) Subsection (1) does not apply to either of the following:

(a) Telecommunication facilities constructed and operated by a county, municipality, or an affiliate, to provide telecommunication service or a cable modem service provided through a broadband internet access transport service that is not provided to any residential or commercial premises.

(b) Telecommunication facilities that are owned or operated by a county, municipality, or an affiliate for compensation, and that are located within the territory served by the county, municipality or its affiliate that provided a telecommunication service or a cable modem service provided through broadband internet access transport service before December 31, 2001 or that allowed any third party to use the county's or municipality's telecommunication facilities for compensation before December 31, 2001, to provide such a service.

(3) If a complaint is filed under section 18 alleging a violation of this section, the commission shall allow a county or municipality to take reasonable steps to correct a violation found by the commission before the commission imposes any penalties.

(4) The commission, in reviewing a complaint under subsection (3), shall consider, in determining whether charges imposed by a county or municipality are in compliance with subsection (1), the applicable federal, state, county, and local taxes and fees paid by the complainant or providers serving that county or municipality.

History: 2002, Act 48, Eff. Nov. 1, 2002.