

10-18-303 General operating limitations.

A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.

- (1) A municipality that provides a cable television service shall comply with:
 - (a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and
 - (b) the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.
- (2) A municipality that provides a public telecommunications service shall comply with:
 - (a) the Telecommunications Act of 1996, Pub. L. 104-104;
 - (b) the regulations issued by the Federal Communications Commission under the Telecommunications Act of 1996, Pub. L. 104-104;
 - (c) Section 54-8b-2.2 relating to:
 - (i) the interconnection of essential facilities; and
 - (ii) the purchase and sale of essential services; and
 - (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.
- (3) A municipality may not cross subsidize its cable television services or its public telecommunications services with:
 - (a) tax dollars;
 - (b) income from other municipal or utility services;
 - (c) below-market rate loans from the municipality; or
 - (d) any other means.
- (4)
 - (a) A municipality may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:
 - (i) cable television services; or
 - (ii) public telecommunications services.
 - (b) A municipality shall apply without discrimination as to itself and to any private provider the municipality's ordinances, rules, and policies, including those relating to:
 - (i) obligation to serve;
 - (ii) access to public rights of way;
 - (iii) permitting;
 - (iv) performance bonding;
 - (v) reporting; and
 - (vi) quality of service.
 - (c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.
- (5) In calculating the rates charged by a municipality for a cable television service or a public telecommunications service, the municipality:
 - (a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:
 - (i) federal, state, and local taxes;
 - (ii) franchise fees;
 - (iii) permit fees;
 - (iv) pole attachment fees; and
 - (v) fees similar to those described in Subsections (5)(a)(i) through (iv); and
 - (b) may not price any cable television service or public telecommunications service at a level that is less than the sum of:
 - (i) the actual direct costs of providing the service;

- (ii) the actual indirect costs of providing the service; and
 - (iii) the amount determined under Subsection (5)(a).
- (6)
- (a) A municipality that provides cable television services or public telecommunications services shall establish and maintain a comprehensive price list of all cable television services or public telecommunications services offered by the municipality.
 - (b) The price list required by Subsection (6)(a) shall:
 - (i) include all terms and conditions relating to the municipality providing each cable television service or public telecommunications service offered by the municipality;
 - (ii)
 - (A) be published in a newspaper having general circulation in the municipality; and
 - (B) be published in accordance with Section 45-1-101; and
 - (iii) be available for inspection:
 - (A) at a designated office of the municipality; and
 - (B) during normal business hours.
 - (c) At least five days before the date a change to a municipality's price list becomes effective, the municipality shall:
 - (i) notify the following of the change:
 - (A) all subscribers to the services for which the price list is being changed; and
 - (B) any other persons requesting notification of any changes to the municipality's price list; and
 - (ii)
 - (A) publish notice in a newspaper of general circulation in the municipality; and
 - (B) publish notice in accordance with Section 45-1-101.
 - (d) In accordance with Subsection (6)(c)(ii)(A), if there is no newspaper of general circulation in the municipality, the municipality shall publish the notice required by this Subsection (6) in a newspaper of general circulation that is nearest the municipality.
 - (e) A municipality may not offer a cable television service or a public telecommunications service except in accordance with the prices, terms, and conditions set forth in the municipality's price list.
- (7) A municipality may not offer to provide or provide cable television services or public telecommunications services to a subscriber that does not reside within the geographic boundaries of the municipality.
- (8)
- (a) A municipality shall keep accurate books and records of the municipality's:
 - (i) cable television services; and
 - (ii) public telecommunications services.
 - (b) The books and records required to be kept under Subsection (8)(a) are subject to legislative audit to verify the municipality's compliance with the requirements of this chapter including:
 - (i) pricing;
 - (ii) recordkeeping; and
 - (iii) antidiscrimination.
- (9) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.

Amended by Chapter 388, 2009 General Session