

## Part 1 General Provisions

### **10-18-101 Title -- Policy statement.**

- (1) This chapter is known as the "Municipal Cable Television and Public Telecommunications Services Act."
- (2) The Legislature finds that it is the policy of this state to:
  - (a) ensure that cable television services and public telecommunications services are provided through fair competition consistent with the federal Telecommunications Act of 1996, Pub. L. 104-104, in order to provide the widest possible diversity of information and news sources to the general public;
  - (b) advance the exercise of rights under the First Amendment of the Constitution of the United States;
  - (c) enhance the development and widespread use of technological advances in providing cable television services and public telecommunications services;
  - (d) encourage improved customer service of cable television services and public telecommunications services at competitive rates;
  - (e) ensure that cable television services and public telecommunications services are each provided within a consistent, comprehensive, and nondiscriminatory federal, state, and local government framework; and
  - (f) ensure that when a municipality provides to its inhabitants cable television services, public telecommunications services, or both, and competes with private providers whose activities are regulated by the municipality, the municipality does not discriminate against the competing providers of the same services.

Enacted by Chapter 83, 2001 General Session

### **10-18-102 Definitions.**

As used in this chapter:

- (1) "Cable television service" means:
  - (a) the one-way transmission to subscribers of:
    - (i) video programming; or
    - (ii) other programming service; and
  - (b) subscriber interaction, if any, that is required for the selection or use of:
    - (i) the video programming; or
    - (ii) other programming service.
- (2) "Capital costs" means all costs of providing a service that are capitalized in accordance with generally accepted accounting principles.
- (3) "Cross subsidize" means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.
- (4) "Direct costs" means those expenses of a municipality that:
  - (a) are directly attributable to providing:
    - (i) a cable television service; or
    - (ii) a public telecommunications service; and
  - (b) would be eliminated if the service described in Subsection (4)(a) were not provided by the municipality.

- (5) "Feasibility consultant" means an individual or entity with expertise in the processes and economics of providing:
  - (a) cable television service; and
  - (b) public telecommunications service.
- (6)
  - (a) "Full-cost accounting" means the accounting of all costs incurred by a municipality in providing:
    - (i) a cable television service; or
    - (ii) a public telecommunications service.
  - (b) The costs included in a full-cost accounting include all:
    - (i) capital costs;
    - (ii) direct costs; and
    - (iii) indirect costs.
- (7)
  - (a) "Indirect costs" means any costs:
    - (i) identified with two or more services or other functions; and
    - (ii) that are not directly identified with a single service or function.
  - (b) "Indirect costs" may include cost factors for:
    - (i) administration;
    - (ii) accounting;
    - (iii) personnel;
    - (iv) purchasing;
    - (v) legal support; and
    - (vi) other staff or departmental support.
- (8) "Private provider" means a person that:
  - (a) provides:
    - (i) cable television services; or
    - (ii) public telecommunications services; and
  - (b) is a private entity.
- (9) "Public telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.
- (10) "Public telecommunications service facilities" means a facility described in Subsection 10-18-105(2).
- (11) "Subscribers" means a person that lawfully receives:
  - (a) cable television services; or
  - (b) public telecommunications services.

Amended by Chapter 419, 2016 General Session

**10-18-103 Antitrust immunity.**

- (1) When a municipality is offering or providing a cable television service or public telecommunications service, the immunity from antitrust liability afforded to political subdivisions of the state under Section 76-10-3109 does not apply to the municipality providing those services.
- (2) A municipality that provides a cable television service or a public telecommunications service is subject to applicable antitrust liabilities under the federal Local Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

Amended by Chapter 187, 2013 General Session

**10-18-104 Application to existing contracts.**

- (1)
  - (a) If before the sooner of March 1 or the effective date of the chapter, the legislative body of a municipality authorized the municipality to offer or provide cable television services or public telecommunications services, each authorized service:
    - (i) is exempt from Part 2, Conditions for Providing Services; and
    - (ii) is subject to Part 3, Operational Requirements and Limitations.
  - (b) The exemption described in Subsection (1)(a)(i) may not apply to any cable television service or public telecommunications service authorized by the legislative body of a municipality on or after the sooner of March 1 or the effective date of this chapter.
- (2) This chapter does not:
  - (a) invalidate any contract entered into by a municipality before the sooner of March 1 or the effective date of this chapter:
    - (i) for the design, construction, equipping, operation, or maintenance of facilities used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:
      - (A) cable television services; or
      - (B) public telecommunications services;
    - (ii) with a private provider for the use of the facilities described in Subsection (2)(a)(i) in connection with the private provider offering:
      - (A) cable television services; or
      - (B) public telecommunications services;
    - (iii) with a subscriber for providing:
      - (A) a cable television service; or
      - (B) a public telecommunications service; or
    - (iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:
      - (A) a cable television service; or
      - (B) a public telecommunications service; or
  - (b) impair any security interest granted by a municipality as collateral for the municipality's obligations under a contract described in Subsection (2)(a).
- (3)
  - (a) A municipality meeting the one or more of the following conditions is exempt from this chapter as provided in Subsection (3)(b):
    - (i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund facilities or equipment that the municipality uses to provide:
      - (A) cable television services; or
      - (B) public telecommunications services; or
    - (ii) a municipality that has operated for at least three years consecutively before the sooner of March 1 or the effective date of this chapter:
      - (A) a cable television service; or
      - (B) a public telecommunications service.
  - (b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:
    - (i) Subsection 10-18-303(4);
    - (ii) Subsection 10-18-303(7);

- (iii) Subsection 10-18-303(9);
  - (iv) Section 10-18-304; and
  - (v) Section 10-18-305.
- (4) For the time period beginning on the effective date of this chapter and ending on December 31, 2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from Subsection 10-18-301(1)(d).

Amended by Chapter 189, 2014 General Session

**10-18-105 Scope of chapter.**

- (1) Nothing in this chapter authorizes any county or other political subdivision of this state to:
- (a) provide:
    - (i) a cable television service; or
    - (ii) a public telecommunications service; or
  - (b) purchase, lease, construct, maintain, or operate a facility for the purpose of providing:
    - (i) a cable television service; or
    - (ii) a public telecommunications service.
- (2) Except as provided in Subsections (3) and (4), this chapter does not apply to a municipality purchasing, leasing, constructing, or equipping facilities:
- (a) that are designed to provide services within the municipality ; and
  - (b) that the municipality:
    - (i) uses for internal municipal government purposes; or
    - (ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering:
      - (A) cable television services; or
      - (B) public telecommunications services.
- (3)
- (a) As used in this Subsection (3), "municipal entity" means:
    - (i) a municipality; or
    - (ii) an entity created pursuant to an agreement:
      - (A) under Title 11, Chapter 13, Interlocal Cooperation Act; and
      - (B) to which a municipality is a party.
  - (b) Notwithstanding Subsection (2), a municipal entity shall comply with Subsection (3)(c) if the municipal entity purchases, leases, constructs, or equips facilities that the municipal entity by written contract leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering:
    - (i) cable television services; or
    - (ii) public telecommunications services.
  - (c) A municipal entity described in Subsection (3)(b) shall, with respect to an action described in Subsection (3)(b), comply with the obligations imposed on a municipality pursuant to:
    - (i) Section 10-18-302; and
    - (ii) Subsections 10-18-303(3) and (4).
- (4) A municipality described in Subsection 10-18-105(2) may call an election under Section 10-18-204 with respect to the provision of public telecommunications service facilities.

Amended by Chapter 419, 2016 General Session

**10-18-106 Severability.**

If any provision of this chapter or the application of any provision of this chapter is found invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 83, 2001 General Session