

UTILITY FEE LIMITATIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the general operating limitations on a municipality that provides a cable television service or a public telecommunications service.

Highlighted Provisions:

This bill:

§→ ▶ authorizes a municipality, in certain circumstances, to enact a per address utility fee to cover costs related to the utility if the municipality has established a procedure for a person who is economically indigent to opt out of the fee; and ←§

▶ clarifies that any other means by which a municipality may not cross subsidize its cable television services or its public telecommunications services includes a fee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

§→ 10-8-14, as last amended by Laws of Utah 2013, Chapter 242 ←§

10-18-303, as last amended by Laws of Utah 2009, Chapter 388

Be it enacted by the Legislature of the state of Utah:

§→ Section 1. Section 10-8-14 is amended to read: ←§

10-8-14. Water, sewer, gas, electricity, and public transportation -- Service beyond municipal limits←§



23c §→-- Retainage -- Notice of service and agreement -- Cable television and public telecommunications services.

23d (1) A municipality may:

23e (a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas

23f works, electric light works, telecommunications lines, cable television lines, or public transportation systems;

23g (b) authorize the construction, maintenance and operation of the works or systems listed in

23h Subsection (1)(a) by others;

23i (c) purchase or lease the works or systems listed in Subsection (1)(a) from any person or

23j corporation; and

23k (d) sell and deliver the surplus product or service capacity of any works or system listed in

23l Subsection (1)(a), not required by the municipality or the municipality's inhabitants, to others beyond the

23m limits of the municipality, except the sale and delivery of:

23n (i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); and

23o (ii) cable television services or public telecommunications services is governed by Subsection (11).

23p (2) If any payment on a contract with a private person, firm, or corporation to construct waterworks,

23q sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable

23r television lines, or public transportation systems is retained or withheld, it shall be retained or withheld and

23s released as provided in Section 13-8-5.

23t (3) (a) Except as provided in Subsection (3)(b), (5), or (9), a municipality may not sell or deliver the

23u electricity produced or distributed by its electric works constructed, maintained, or operated in accordance

23v with Subsection (1) to a retail customer located beyond its municipal boundary.

23w (b) A municipality that provides retail electric service to a customer beyond its municipal boundary

23x on or before June 15, 2013, may continue to serve that customer if:

23y (i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined

23z in Section 54-2-1, that is obligated by its certificate of public convenience and necessity to serve the

23aa customer with an accurate and complete verified written notice described in Subsection (3)(c) that identifies

23ab each customer served by the municipality beyond its municipal boundary;

23ac (ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the

23ad provision of electric service with the electrical corporation; and

23ae (iii) the Public Service Commission approves the written filing agreement in accordance with

23af Section 54-4-40.

23ag (c) The municipality shall include in the written notice required in Subsection (3)(b)(i) for each

23ah customer:

23ai (i) the customer's meter number;

23aj (ii) the location of the customer's meter by street address, global positioning system coordinates,

23ak metes and bounds description, or other similar method of meter location;

23al (iii) the customer's class of service; and

23am (iv) a representation that the customer was receiving service from the municipality on or before June

23an 15, 2013.←Ŝ

23ao ~~§~~→(4) The written filing agreement entered into in accordance with Subsection (3)(b)(ii) shall require
 23ap the following:

23aq (a) The municipality shall provide electric service to a customer identified in accordance with
 23ar Subsection (3)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that
 23as the electrical corporation will provide electric service to the customer.

23at (b) If a customer who is located outside the municipal boundary and who is not identified in
 23au accordance with Subsection (3)(b)(i) requests service from the municipality after June 15, 2013, the
 23av municipality may not provide that customer electric service unless the municipality submits a request to and
 23aw enters into a written agreement with the electric corporation in accordance with Subsection (5).

23ax (5) (a) A municipality may submit to the electrical corporation a request to provide electric service
 23ay to an electric customer described in Subsection (4)(b).

23az (b) If a municipality submits a request, the electrical corporation shall respond to the request within
 23ba 60 days.

23bb (c) If the electrical corporation agrees to allow the municipality to provide electric service to the
 23bc customer:

23bd (i) the electrical corporation and the municipality shall enter into a written agreement;

23be (ii) the municipality shall agree in the written agreement to subsequently transfer service to the
 23bf customer described in Subsection (4)(b) if the electrical corporation notifies, in writing, the municipality that
 23bg the electrical corporation has installed a facility capable of providing electric service to the customer; and

23bh (iii) the municipality may provide the service if the Public Service Commission approves the
 23bi agreement in accordance with Section 54-4-40.

23bj (d) The municipality or the electrical corporation may terminate the agreement for the provision of
 23bk electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a
 23bl material change to the agreement.

23bm (6) If the municipality and electrical corporation make a transfer described in Subsection (5)(c)(ii):

23bn (a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

23bo (ii) the electrical corporation shall provide electric service to the customer; and

23bp (b) the municipality shall transfer a facility in accordance with and for the value as provided in
 23bq Section 10-2-421.

23br (7) (a) In accordance with Subsection (7)(b), the municipality shall establish a reasonable
 23bs mechanism for resolving potential future complaints by an electric customer located outside its municipal
 23bt boundary.

23bu (b) The mechanism shall require:

23bv (i) that the rates and conditions of service for a customer outside the municipality's boundary are at
 23bw least as favorable as the rates and conditions of service for a similarly situated customer within the
 23bx municipality's boundary; and

23by (ii) if the municipality provides a general rebate, refund, or other payment to a customer located
 23bz within the municipality's boundary, that the municipality also provide the same general rebate, refund, or ←§

23ca ~~§~~→other payment to a similarly situated customer located outside the municipality's boundary.

23cb (8) The municipality is relieved of any obligation to transfer a customer described in Subsection
23cc (4)(b) or facility used to serve the customer in accordance with Subsection (5)(c)(ii) if the municipality
23cd annexes the property on which the customer is being served.

23ce (9) (a) A municipality may provide electric service outside of its municipal boundary to a facility
23cf that is solely owned and operated by the municipality for municipal service.

23cg (b) A municipality's provision of electric service to a facility that is solely owned and operated by
23ch the municipality does not expand the municipality's electric service area.

23ci (10) Nothing in this section expands or diminishes the ability of a municipality to enter into a
23cj wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver
23ck wholesale electricity to the other municipality.

23cl (11) ~~§~~→ [~~A~~] **Except as provided in Subsection (12), a** ~~←§~~ municipality's actions under this
23cl1 section related to works or systems involving public
23cm telecommunications services or cable television services are subject to the requirements of Chapter 18,
23cn Municipal Cable Television and Public Telecommunications Services Act.

23co ~~§~~→ **(12) A municipality that constructs telecommunication lines and related facilities, and**
23cp **operates them as a communications utility that is open to providers, may enact a per address**
23cq **utility fee to cover costs related to the utility if the municipality has established a procedure for**
23cr **a person who is economically indigent to opt out of the fee.** ~~←§~~

24 Section ~~§~~→ [~~H~~] ~~2~~ ~~←§~~ . Section **10-18-303** is amended to read:

25 **10-18-303. General operating limitations.**

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