

Legal Restrictions on Municipal Development of Fiber Networks

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Municipality May Not Provide Telecommunications Services to Public

- PURA §54.201 prohibits a municipality from receiving a certificate of authority from the Texas PUC.
 - PURA §54.202 prohibits a municipality or municipally-owned utility from offering:
 - Any service for which a certificate of authority is required.
 - Any non-switched telecommunications service used to provide local or long-distance service, whether provided directly or indirectly through a telecommunications provider.
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Municipality May Not Discriminate Against CTP

- PURA §54.204 prohibits a municipality or municipally-owned utility from discriminating against a certificated telecommunications provider regarding:
 - Placement of a facility in the right-of-way.
 - Access to buildings.
 - Pole attachment agreement or underground conduit rate or term.
 - Pole attachment rates may not exceed FCC rate formula at 47 U.S.C. §224(e).
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Municipality May Deploy Internal Communications Network

- The statutory prohibitions are against providing “telecommunications service” to the public.
 - No prohibition against deploying communications network for internal city use.
 - No prohibition against providing “information services” to the public.
 - PURA §54.2025 authorizes a municipality or municipally-owned utility to lease excess dark fiber on a non-discriminatory basis.
 - No prohibition against partnership between city and municipally-owned utility on internal network.
 - No prohibition in leasing dark fiber to private entities.
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Municipally-Owned Utilities May Deploy Automated Meter Reading

- PURA §54.202 authorizes a municipally-owned utility to deploy automated meter reading services to energy customers.
 - Municipally-owned utility may deploy automated meter reading directly, or in with partnership with telecommunications provider.



Deployment of PEG Networks

- PURA §66.004 authorizes the Texas PUC to issue certificates of authority to cable providers following expiration of municipal franchise agreement.
 - Under PURA §66.009, city becomes responsible for providing PEG connectivity to cable provider.
 - PURA §66.006 requires the cable provider to pay municipalities a 1% in-kind contribution to support PEG programming.
 - The PEG contribution may only be used for capital infrastructure in accordance with federal law.
 - No prohibition against an internal fiber network delivering PEG connectivity in addition to other services.
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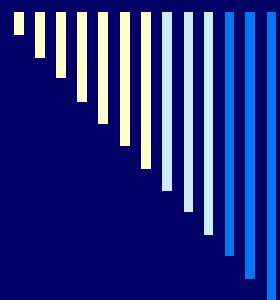
Continuation of Institutional Networks

- Under PURA §66.006, upon the expiration of a municipal cable franchise agreement, the cable provider shall continue to provide institutional network capacity at the “actual incremental cost” of the capacity.
 - City should require an incremental cost study prior to expiration of the cable franchise agreement.
 - Institutional networks can be part of an internal municipal communications network.
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Aggregation of Networks

- In developing a strategy for meeting the communications and broadband needs of your community, think in terms of aggregation of networks or network components.
 - A fiber network will allow a municipality to address multiple needs, such as:
 - Internal voice communications
 - Internal data and broadband services
 - Automated meter reading
 - Intelligent traffic design
 - PEG connectivity
 - Wireless applications
 - Public Internet access
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Conclusion

- BTOP grants provide municipalities an opportunity to finance a fiber network that will serve as the foundation to meet the internal and external communications and broadband needs necessary for a community to prosper.