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Regulations for Municipal Broadband Systems

The Tennessee General Assembly has enacted legislation that authorizes local governments to provide broadband services through their municipal electric systems or entities having adopted the Municipal Energy Authority Act. This legislation also places numerous responsibilities on local governments or Authorities who determine to provide such services, including the following:

- A. A separate accounting and record-keeping system must be maintained for the operation of the municipal electric system's internet services program. All costs, both direct and indirect, incurred in the operation of the program must be allocated to the rates charged for the services provided.
- B. A municipal electric system cannot subsidize the activities of the internet services program by using revenues of its power or other utility operations. The only authority to use electric system's funds is through the lending of funds, on a temporary basis, by an electric system. An electric system must charge interest to the internet services program for any loans at a rate equal to the highest rate then earned by the electric system on its invested plant funds.
- C. An internet services program must adhere to the same terms/conditions provided in existing power pole attachment agreements, including cost allocations for rates, insurance and other expenses normally associated with similar programs operated by private providers. The rate charged to the internet services program for pole attachments must be equal to the rate charged other franchise holders providing similar services.
- D. An electric system must provide the same response times and service quality to requests made by a private provider of similar services as it provides to the electric system's internet services program.
- E. An electric system, with respect to any internet services provided, must make tax equivalent payments as required by T.C.A § 7-52-606; however, the tax equivalent payment to be made by the electric system may not exceed the amount that would otherwise be due if it were a private provider of internet services paying ad valorem taxes.
- F. An electric system, with respect to any internet services provided, is subject to make payments to the appropriate units of government for amounts in lieu of the following taxes: excise and franchise taxes authorized by Tennessee Code Annotated, Title 67, Chapter 4, Parts 20 and 21; sales taxes authorized by Tennessee Code Annotated, Title 67, Part 6; and local privilege taxes authorized by Tennessee Code Annotated, Title 67, Chapter 4, Part 7.

The Legislature has authorized local governments to provide these services that have historically been provided by the private sector. The Legislature has also made it clear that any costs attributable to these programs must be allocated to the rates charged for services rendered, and that none of these costs are to be subsidized by electric system revenues. This requires a significant degree of recordkeeping to ensure that all expenses are properly allocated and reported. The accounting staff of the system should be familiar with these requirements and will be responsible for maintaining these records.