



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 278
[2003 Senate Bill 272]

**Municipal Cable Television,
Telecommunications, and
Broadband Services**

2003 Acts: www.legis.state.wi.us/2003/data/acts/

Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 278 establishes requirements applicable to municipalities that offer cable television, telecommunications, or Internet access services. The Act contains three separate requirements and a number of exceptions to the requirements.

Procedures for Municipal Authorization of Service

The Act requires that, before a municipality may enact an ordinance or adopt a resolution authorizing the municipality to construct, own, or operate any facility for providing cable, telecommunications, or broadband service, the municipality must: (1) conduct a cost-benefit analysis of the proposed service; (2) make the analysis available for public inspection; and (3) hold a hearing on the proposed ordinance or resolution.

Cable Television Service

The Act provides that a municipality that owns and operates a cable television service may not require anyone who does not subscribe to the service to pay any costs of the service. This prohibition does not apply to the costs of public, educational, and governmental access channels or to debt service on certain bonds issued to finance the system.

Telecommunications Service

The Act modifies the manner in which municipal telecommunications utilities must calculate certain costs under the statute that is designed primarily to prevent telecommunications utilities from using revenues from regulated activities to subsidize unregulated activities. It requires a municipal utility to include certain costs that a private sector competitor would incur but that the municipal utility would not incur. These are costs such as rental fees for attaching lines to utility poles owned by the

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

municipality or for the use of public rights-of-way. The effect is that, with regard to this category of costs, the municipal utility must set rates that reflect the same costs that a private competitor's rates would reflect.

Exceptions

CLEC status and adoption of advisory referendum

The Act provides an exception to all three provisions of the Act if: (1) on November 1, 2003, the Public Service Commission has determined that the municipality is an alternative telecommunications utility (commonly referred to as being certified as a competitive local exchange carrier, or CLEC); and (2) the municipality holds an advisory referendum on the question of supporting the proposed service and a majority of voters approve the referendum.

Broadband service in the absence of other providers

The Act provides an exception to the procedural and cable television provisions (but not the telecommunications utility provision) only for the provision of broadband service in areas where the municipality determines, through specified procedures, there is no current or planned broadband service available.

Wholesale broadband service

The Act provides an exception to the procedural and telecommunications utility provisions (but not the cable television provision) for the offering of facilities on a nondiscriminatory basis to persons who provide broadband service to end users if the municipality does not, itself, use the facilities to provide broadband service to end users--that is to say, on a wholesale basis--and the municipality determines that the facility does not compete with more than one other provider of broadband service.

Existing municipal cable television systems

The Act provides an exception to all three provisions for a municipality that, on March 1, 2004, was providing cable television service. The two municipalities that were providing cable television service on March 1, 2004, are Oconto Falls and Reedsburg.

Additional Information

For a fuller description of the Act, see Legislative Council Information Memorandum 2004-4, *New Law Regarding Municipal Cable Television, Telecommunications, and Broadband Service* (May 5, 2004). The Information Memorandum may be obtained at the Legislative Council's web site at: http://www.legis.state.wi.us/lc/jlc04/im_2004_4.pdf.

The text of the Act may be obtained at the Legislature's web site, at the following address: <http://www.legis.state.wi.us/>.

Effective Date: Act 278 took effect on May 1, 2004.

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