



MEMORANDUM

To: North Suburban Communications Commission
From: Michael R. Bradley
Re: Broadband Franchising
Date: October 29, 2025

Franchise Basics

In simple terms, a franchise is an authorization from a local government entity to a company to use the public rights-of-way to provide services to area residents.

Benefits of Franchising

There are many proven benefits of franchising, such as build-out requirements, customer service standards, compliance with the City's right-of-way standards, the payment of franchise fees, and the provision of other public benefits.

Franchising Authority in this Area

The North Suburban Communications Commission has been delegated the authority to negotiate and manage the cable communications systems on behalf of its member cities. The Commission has administered the franchises for the area for 40+ years.

Broadband is Not a Telecommunications Service

Earlier this year, the U.S. Court of Appeals in a Hobbs Act review of an FCC Order held that broadband is not a telecommunications service. *Ohio Telecom Ass'n v. FCC (In re MCP No. 185)*, 124 F.4th 993 (6th Cir. 2025). This decision has caused cities in Minnesota to reevaluate where broadband-only providers fall under state law. Since broadband is not a telecommunications service under federal law, it is similarly not likely to be under state law. Instead, it is more likely that a broadband system is a "cable communications system." A "cable communications system" is a system that provides "*data, or communications content* service." See Minn. Stat. § 238.02, Subd. 3 and 31. This definition is much broader than a cable television system or "cable system" as that term is defined in federal law. See, e.g. *WH Link, LLC v. City of Otsego*, 664 N.W.2d 390 (Minn. Ct. App. 2003) (OVS provider using internet protocol is a cable communications system). If the City determines that a permit applicant is constructing a cable communications system, it could instruct the applicant to obtain a franchise from the Commission as a prerequisite to issuing permits.

Minnesota's First Broadband Franchise

A similar commission just negotiated and executed the first broadband franchise in the state for the City of Woodbury area. Additional information and links can be found [here](#). More information on the benefits of local franchising can be found [here](#). We would be happy to review this further with any of the Commission's Member Cities and their respective city attorneys.