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**To:** Mayor Nelson and Members of the City Council

**From:** Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer

**Date:** July 3, 2025

**Subject:** Broadband Franchising

At its June 18, 2025 meeting, the North Metro Telecommunications Commission (NMTC) directed staff to research the Commission's authority to franchise broadband providers under Minnesota law by classifying them as cable communications systems.

If pursued successfully, this approach could generate additional revenue for NMTC to support community programming and public access services. It would also establish safeguards for member cities by requiring broadband providers to restore rights-of-way after construction and by offering a mechanism to promote equitable broadband deployment throughout each community.

The Commission's legal counsel believes that a recent federal appeals court ruling—*Ohio Telecom Association v. FCC* (6th Circuit, January 2025)—reinforces this local authority. That decision struck down the FCC's 2024 Safeguarding and Securing the Open Internet Order, which had attempted to reclassify broadband internet as a "telecommunications service" under the 1996 Telecommunications Act. As a result, broadband continues to be treated as an "information service" under federal law, limiting the FCC's ability to regulate it directly under Title II.

Minnesota Statutes § 238.02, subd. 3 provides a broad definition of a cable communications system, encompassing any facility that delivers video programming to multiple subscribers using public rights-of-way. This definition is not limited to traditional cable television and could include broadband networks that provide video content—particularly streaming services—making them potentially subject to local franchising under state law.

Given this legal framework, staff recommends that the City coordinate with NMTC to pursue broadband franchise agreements when providers apply for right-of-way permits. This would ensure consistent oversight, protect local infrastructure, and potentially support expanded broadband access.

Staff is seeking direction from the City Council on whether to proceed with this approach. If you have any questions or would like additional background, please don't hesitate to contact me at 763-784-6491.