



Working to Create Michigan's Future Today

METRO AUTHORITY

2009 ANNUAL REPORT

Department of Energy, Labor & Economic Growth
METRO Authority
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EXECUTIVE SUMMARY

The METRO Authority was created in November of 2002 as a result of P.A. 48 of 2002 (METRO Act) with the express purpose of streamlining the right-of-way permitting processes between municipalities (cities, townships, or villages) and telecommunication providers (providers). The Act is the result of collaborative efforts between municipalities and providers. Historically, providers expanding their services into or within the state's 1,778 municipalities approached each municipality individually and completed whatever permitting process these municipalities required as municipalities were not required to have a standard permitting process or fee structure.

The Authority is responsible for recovering the costs of public right-of-way use by the providers. This process starts each February by the Authority sending out notices to all telecom providers requiring them to submit information regarding their linear footages in public rights-of-way. The Authority then assesses maintenance fees owed by providers each April based on the figures they submitted and the formulas provided by the Act. With the money collected from the telecommunication providers, and any interested earned throughout the year, the Authority calculates payments due to eligible municipalities; and in early June, distributes these payments. Currently, 100% of fees assessed on providers are paid out to eligible municipalities. Seventy-five percent of available funds are distributed to eligible cities and villages based on the Michigan Department of Transportation fund distribution formula as found in Section 13 of PA 51 of 1951. Twenty-five percent of available funds are disbursed to eligible townships based on each township's proportionate share of the total linear feet of public rights-of-way in or on which providers' facilities are located within all townships located in metropolitan areas. Townships received \$5.5 million and cities/villages received \$16.5 million of the \$22 million dollars disbursed in 2009.

The Authority, throughout the year, also coordinates public right-of-way matters between telecom facilities and municipalities; files an annual report to the Governor; issues determinations; grants waivers for underserved areas; collects Annual Reports from municipalities with populations over 10,000; monitors repair and restoration regarding public right-of-way dispute resolutions; and provides information/technical assistance to both municipalities and providers.

The goals of the METRO Authority continue to be:

- Encourage competition in the availability, prices, terms, and other conditions of providing telecommunication services.
- Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increased investment in the telecommunication infrastructure in Michigan.
- Improve the opportunities for economic development and the delivery of telecommunication services.
- Streamline the process for authorizing access to and use of public rights-of-way by telecommunication providers.

- Ensure the reasonable control and management of public rights-of-way by municipalities within Michigan.
- Provide for a common public rights-of-way maintenance fee applicable to telecommunication providers.
- Ensure effective review and disposition of disputes under the Act.
- Allow for a tax credit for providers to recover the costs under the Act (and ensure that providers do not pass costs onto end-users thru rates and charges for telecommunication services).

The METRO Authority has prepared this report in compliance with Section 3 of Michigan Public Act 48 of 2002, which requires the METRO Authority to file an annual report of its activities for the preceding year with the Governor and the members of the legislative committees dealing with energy, technology, and telecommunications issues.

The METRO Authority, per Executive Order 2008-20, is a division within the Michigan Department of Energy, Labor & Economic Growth. The FY10 budget boilerplate (SB 243), Section 366 states: “It is the intent of the legislature that the metropolitan extension telecommunications rights-of-way oversight authority established in section 3 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA48, MCL 484.3103, be transferred to, and organized within, the public service commission.”

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Year 2009 Summary

The annual report of the year 2009 activities of the METRO Authority is enclosed. The following provides a summary of some of the more informative aspects of the seventh year of operation:

A. Reporting of Footage and Access Lines

All providers that have telecommunication facilities in the State of Michigan are required to report to the METRO Authority the following information:

1. Linear footage for each city, village, or township defined as—occupied by the provider regardless of the quantity or type of the provider’s facilities utilizing the public right-of-way or whether the facilities are leased to another provider.
2. Total number of owned access lines, including wholesale and retail
3. Total number of linear feet by underground and above ground broken down by city, village and township boundary.
4. Competitive Local Exchange Carriers (CLECs) must report total linear feet in each of the Incumbent Local Exchange Carriers service areas (ILECs).
5. Cable providers may satisfy the fee requirement by certifying that their aggregate investment in Michigan, since January 1, 1996, in facilities capable of providing broadband internet transport access service exceeds the aggregate amount of the maintenance fees assessed.

Providers are required to report new and/or retired footages and access lines to the METRO Authority no later than March 18th of each year. They are invoiced based on the information available to the METRO Authority as of that date. In addition, cable companies report their total aggregate investments reported in Michigan.

B. 2009 Maintenance Fee Payments (Attachment B)

	<u>Invoiced</u>	<u>Collected</u>
- ILECs	\$20,608,323	\$20,608,323
- CLECs	\$ 1,366,803	\$ 1,351,928
- <u>Broad Bundles</u>	<u>\$ 9,403</u>	<u>\$ 9,403</u>
	\$21,984,529	\$21,969,654

C. 2009 Payments to Municipalities

	<u>Payments</u>	<u>Payments Held*</u>	<u>Total</u>
Cities and Villages (Attachment C)	\$16,478,328.70	\$29,011.17	\$16,507,339.87
Townships (Attachment D)	<u>\$ 5,476,205.35</u>	<u>\$26,239.01</u>	<u>\$5,502,444.36</u>
- Total Payments**	\$21,954,534.05	\$55,250.18	\$22,009,784.23

* Payments in escrow for those municipalities that are in noncompliance with PA 48.

** 2009 payments include funds collected in 2008 after the June distribution, plus any accrued interest.

D. Municipalities Eligible to Receive 2009 METRO Act Funds

	Total	Eligible for 2009 Funds	Ineligible for 2009 Funds
Cities	271	270	1
Villages	264	248	16
Townships	<u>1,243</u>	<u>1,240</u>	<u>3</u>
Total	1,778	1,758	20

Attachment F illustrates the municipalities that are not currently eligible to receive METRO Act Funds.

E. Michigan Public Service Commission

(METRO Act, Section 8(14))

1. Tax Credits Granted to ILECs	\$20,611,631.27
2. Tax Credits Granted to CLECs	\$1,213,002.04
3. Tax Credits Granted to Broadband Companies	\$8,652.00
4. Right-of-Way Permits Received	86
– Unilateral	70
– Bilateral	9
– Unspecified Type	7
– Approved Permits	68
– Denied Permits	3
– Pending Permits	0
– New Permits	68
– Extensions to Existing Permits	18

See Attachments E and I.

F. State Legislation Impacting the METRO Act

The following proposed/enacted legislation impacting the METRO Act are continued to be reviewed:

A. Proposed Legislation

- Senate Bill 108 was enacted in 2008 and allowed 19 of the 39 currently ineligible municipalities to become eligible to receive year 2007 METRO Act funding.
- Senate Bill 425, as proposed, would amend Section 11 of the METRO Act to provide administrative/operational funding for the METRO Authority by:
 - Changing the provider payments of their state maintenance fee from one annual payment to four annual quarterly payments of 25% of the amount owed.
 - Providing that up to 3% of the annual maintenance fees collected from telecommunication providers can be used to fund the operational expenses of the METRO Authority.
 - Providing that the Michigan Department of Treasury invest maintenance fee payments and that interest earned be used to fund operating expenses and administrative costs of the Authority.

Proposal referred to House Committee—Department will possibly pursue in future years.

- House Bill 5047, as proposed, would amend Section 6(8)(a)&(b) , the Uniform Video Service Local Franchise Act (PA 480 of 2007) to clarify how a provider pays the local franchise fee.

The METRO Authority is reviewing the impact, if any, of this amendment as regards the requirements of the METRO Act.

- House Bill 5048, adopted MPSC resolution procedures for disputes arising under the Uniform Video Service Local Franchise Act (PA 480 of 2007).

--Section 8(3) of PA 480 reads:

“A franchising entity may impose on a video service provider a permit fee only to the extent it imposes such a fee on incumbent video providers, and any fee shall not exceed the actual, direct costs incurred by the franchising entity for issuing the relevant permit. A fee under this section shall not be levied if the video service provider already has paid a permit fee of any kind in connection with the same activity that would otherwise be covered by the

permit fee under this section or is otherwise authorized by law or contract to place the facilities used by the video service provider in the public rights-of-way or for general revenue purposes.”

This section of PA 48 relates to the fact that providers that pay the METRO Act maintenance fee (Section 4(3)) do not pay local fees for access or use of municipality rights-of-way. However, this is not applicable to providers that do not pay the METRO Act maintenance fee.

2009

METRO

AUTHORITY

ACTIVITIES

2009 METRO Authority Activities

This report has been prepared pursuant to Section 3 of the METRO Act (PA 48 of 2002).

I. Invoice Calculations

The 2009 telecom provider assessments were for the period April 1, 2008 to March 31, 2009 with payment due by April 30, 2009 (Sec 8(2)).

Providers are invoiced each April based on the information available as of mid-March of each year. According to Section 8 of PA 48, providers shall pay a fee due to the METRO Authority as follows:

ILECs: the lesser of

- a. \$0.05/linear foot; or
- b. Number of access lines times the statewide per access line per year of the provider with the highest number of access lines in Michigan (AT&T).

In 2009, AT&T reported 2,602,365 access lines and 306,360,833 linear feet.

306,360,833 linear feet *times* \$0.05 = \$15,318,041.65
\$15,318,041.65 *divided* by 2,602,365 access lines = \$5.8862

Therefore, the 2009 access line rate for ILECs was \$5.8862

CLECs/Broadband Companies: rate is based on linear foot charge only for each ILEC it resides in:

Each ILEC per linear foot fee times CLECs/Broadband Companies linear feet in that ILECs territory

Cable Providers:

Cable providers are assessed, per Section 8(11) of the METRO Act, \$0.01 per linear foot. Cable providers report the amount of aggregate investments in Michigan since January 1, 1996, in facilities capable of providing broadband internet transport service. This assessment may be satisfied if the amount of investments certified by the cable provider exceeds the amount assessed.

Because reported investments exceeded assessments in all cases, no cable providers were invoiced in 2009. However, the METRO Authority is still required to collect linear footage in public rights-of-way information (See Attachment J).

II. Telecommunication Provider Assessments

Invoices are typically mailed out by April 1st of each year based on the information provided by each provider and based on AT&T's number of access lines.

The total amount received from providers is deposited into a State of Michigan account, which is used for compensatory payments to those eligible municipalities that have opted in.

Three-Year Comparison of Assessments

	<u>2007</u>	<u>2008</u>	<u>2009</u>
<i>Incumbent Local Exchange Carriers (ILECs)</i>			
Total number reporting	40	40	40
Total linear feet reported	515,227,924	519,463,190	518,713,726
AT&T linear feet reported	303,643,833	307,591,203	306,360,833
Total access lines reported	4,228,490	3,948,403	3,502,262
AT&T access lines reported	3,185,010	2,969,219	2,602,365
Amount invoiced	\$20,136,766	\$20,428,834	\$20,608,323
<i>Competitive Local Exchange Carriers (CLECs)</i>			
Total number reporting	40	42	43
Total linear feet reported	27,215,538	28,125,366	29,818,380
Amount invoiced	\$1,261,389	\$1,296,048	\$1,366,803
<i>Broadband Companies</i>			
Total number reporting	3	3	3
Total linear feet reported	209,418	230,818	241,053
Amount invoiced	\$12,202	\$8,943	\$9,403
<i>Cable Companies</i>			
Total number reporting	15	15	16
Linear feet reported	202,900,387	204,459,977	207,321,597
Amount invoiced	\$0	\$0	\$0
<i>Total Amount Invoiced</i>	\$21,410,357	\$21,733,825	\$21,984,529

Summary of 2009 Assessments

	<u>Total Invoiced</u>	<u>Total Payments Received by 05/15/09</u>
<i>ILECs</i>	\$20,608,323	\$20,608,323
<i>CLECs</i>	\$1,366,803	\$1,277,480
<i>Broadband Co.'s</i>	<u>\$9,403</u>	<u>\$5,501</u>
<i>Total</i>	<u>\$21,984,529</u>	<u>\$21,891,304</u>

III. Municipality Payments

Section 11 of the METRO Act stipulates allocation of funds collected from telecommunication providers. 75% of the funds collected are disbursed to cities and villages based on the formula found in section 13 of 1950 PA 51 administered by the Michigan Department of Transportation. The remaining 25% is disbursed to townships based on their linear feet as a percentage of total linear feet reported for all townships. Normally, calculations are made for payments to each municipality in Michigan, then the amounts allocated to municipalities that are not opted in – 39 in all – are removed from the calculations and their money is re-distributed to the remaining municipalities.

In 2008, SB108 was enacted with the purpose of amending the METRO Act to allow those municipalities currently not opted in another opportunity to become eligible to receive METRO Act funding. Of the 39 non-opted in municipalities, 19 responded by opting-in and are receiving METRO Act funds.

Section 10(5) of PA 48 requires municipalities with populations of over 10,000 to file an annual report on the use and disposition of METRO funds. In 2009, payments were temporarily withheld from municipalities that failed to file annual reports. As of February 28, 2009, two municipalities, with funds totaling \$44,677 have not filed their 2008 annual report.

In addition, 2009 payments were temporarily withheld from several municipalities that failed to respond to permit applications over an extended period time. As of February 28, 2009, five municipalities with funds totaling \$10,573 have still not responded to repeated requests to act on outstanding permit applications.

Summary of Available Funds

	<u>Total</u>
2009 invoices paid by 5/15/09	\$21,891,304.20
2009 interest earned	\$1,058.02
2008 invoices paid in 2009	\$29,748.45
Prior year carry forward	\$124,718.23
Refunds	\$360.00
Subtotal	\$22,047,188.90
<i>Less:</i>	
2008 municipal payments made in 2008 (prior to 5/15/09)	(\$11,764.09)
2008 payments pending (as of (5/15/09)	<u>(\$25,638.31)</u>
Total funds available for disbursements	<u>\$22,009,786.50</u>

Summary of Payments

	<u>Cities & Villages</u>	<u>Townships</u>	<u>Total</u>
2008 municipal payments made in 2009	\$7,208.58	\$25,015.78	\$32,224.36
2009 payments made to municipalities	\$16,478,328.70	\$5,476,205.35	\$21,954,534.05
Payments held pending receipt of annual report*	28,158.41	16,518.39	44,676.80
Payments held pending permit action**	<u>852.76</u>	<u>9,720.62</u>	<u>10,573.38</u>
Total	<u>\$16,478,328.10</u>	<u>\$5,476,205.35</u>	<u>\$22,009,784.23</u>

**To date, two municipalities have failed to file their 2008 annual report. Payment is being held pending receipt of their annual report.*

***Five municipalities have failed to act on outstanding AT&T permit applications. Payments to these municipalities are being held pending action on their permit applications. (Attachment A-General Information.)*

IV. Approved Property Tax Credits

The METRO Act, Section 8(14) and PA 50 of 2002 allows for a property tax credit as the sole means by which providers can recover costs under this Act; and insures that the providers do not pass costs on to the end-users of this state through rates and charges for telecommunication services. These tax credits must be approved by the Michigan Public Service Commission (MPSC). Attachment E illustrates the property tax credits approved by the MPSC for 2009 totals \$20,611,631 for ILECs, \$1,213,002 for CLECs, and \$8,652 for broadband companies through July 29, 2009.

V. **Activities Resolved/Under Review**

A. **Route Map/Permit Requirements/Guidelines**

The METRO Authority issued Route Map Minimum Requirement Instruction/Guidelines (Attachment K) which partially resolved longstanding issues regarding Section 6(3) of the METRO Act.

B. **Use of Maintenance Fee Payments Guidelines**

Municipalities with populations over 10,000 are required to report on the usage of the funds they receive under PA 48 of 2002 by April 30 annually. The Act states that municipalities may use funds received under the Act solely for rights-of-way related purposes. Attachment A includes the current guidelines regarding the use of the METRO Act funds.

C. **Reduced Footages/Fee Collections**

Each year the METRO Authority requests each telecommunication provider in Michigan to “true up” (update) their linear footages. They report this information by city, village and township. At the end of April, the METRO Authority invoice the older providers (ILECs) based on their linear footages or number of access lines, whichever is less. Newer providers (CLECs) are invoiced on their linear footages. One hundred percent of the money received from the telecommunication providers is distributed to cities, villages, and townships. Seventy-five percent of the money is distributed to cities and villages based on a formula found in PA 51. Twenty-five percent of the money is distributed to townships and is based on each township’s linear footage as compared to the total linear footages for all townships.

While the METRO Authority has the statutory ability to audit provider reports/information, due to limited staff (2 ½) and limited funding, the METRO Authority cannot perform this task at this time; and, thusly, may be not receiving sufficient footage information to collect as much maintenance fees as may be owed.

D. **Possible New Providers**

Section 8(2) of the METRO Act authorizes the METRO Authority to determine the amount of fees to be collected from telecommunication providers; and the information required to calculate those fees. Upon review of the municipality permits listed by the MPSC, and other sources, numerous providers have been identified as possibly coming under the jurisdiction of the METRO Act. As a result of our efforts, new CLECs were identified and invoiced in 2009. Most of the organizations contacted have claimed exemption from the act (i.e., as an

“educational institution” or “no facilities”); some are still under review. Others have not responded to our communication efforts.

Further, due to the Uniform Video Service Local Franchise Act (PA 480 of 2006), several major providers formerly only providing telephone or cable services, are now providing “bundled services.” The METRO Authority is continuing to review whether some of these providers are now subject to the maintenance fee provisions of the METRO Act.

E. METRO Authority Data Base System

The Metro Authority database conversion project was finalized in the summer of 2009. This database streamlines many of METRO Authority’s internal systems, including:

Ability to add/update/look up information on municipalities

- contact information
- historical payment information
- current linear footage information
- annual report information

Ability to add/update/look up information on telecom providers

- contact information
- historical invoicing and payment information
- historical information on linear footage, access lines, etc.

Ability to generate

- invoices
- invoice lists
- accounts payable reports
- municipality payment reports
- refund reports
- municipal payment held reports

The new database system is also designed for use by municipalities and telecom providers and can be accessed through our website – www.michigan.gov/metro.

METRO Authority Database System for Municipalities

Municipalities registered to use the database can view their current and historical information relative to their maintenance fee payments and view the footages reported by telecom providers. They may also edit their contact information, file their annual report, and export certain information to spreadsheets. Any municipality wishing to register may do so by contacting the METRO Authority.

METRO Authority Database System for Telecom Providers

This system, rolled-out to all telecom providers in early 2009, offers registered providers the capability to:

- 1) View and edit their current contact information for true ups and invoicing
- 2) View their annual summary information for linear footages and access lines
- 3) View their annual summary information for invoices and payments
- 4) Electronically complete and submit their annual true ups

Providers now have the capability to e-file their true up their linear footages.

F. Provider Property Tax Credit Coordination

The METRO Authority's continued collaboration with the Michigan Public Service Commission and the Michigan Department of Treasury has resulted in a better, more efficient process of awarding property tax credits to providers who submit their applications in a timely manner.

G. METRO Authority 2009 Policy/Issue Guidelines

The METRO Authority made/issued and/or reissued the following, but not limited to, guidances to clarify certain issues of interest to municipalities and providers: (Refer to METRO Authority's website: www.michigan.gov/metro).

- **Provider Utility Box Installations**
Municipalities continue to inquire whether, under the METRO Act, a municipality is restricted or prohibited from imposing certain regulations/guidelines on a provider installing utility boxes/cabinets in its public rights-of-way. Municipalities are advised that Sections 15(2) and 19(1) of the METRO Act do not "limit a municipality's rights to review and approve a provider's access to an ongoing use of a public-right-of-way to ensure and protect the health, safety, and welfare of the public."

The METRO Authority also provided inquiring municipalities a copy of Michigan municipalities' general guidelines required by their engineering department regarding utility boxes in the municipality's public right-of-way which provides that:

- If at all possible, avoid placing above ground utility boxes within the right-of-way of major thoroughfares since they pose both a potential visibility obstruction as well as a potential collision hazard.
- Above ground utility boxes should not be placed within the normal sidewalk or bike path area.

- Above ground utility boxes should be no wider (perpendicular to road) than four feet, no requirement regarding length.
 - On curbed roadways, above ground utility boxes should be at least four feet back of curb; also, an off street parking area should be provided adjacent to the box for utility vehicle use.
 - On roadways without curb, above ground utility boxes should be at least 15’ from the pavement edge and an OM-3R Object Marker shall be placed at the corner of the box closest to the road facing approaching traffic.
 - Maximum height of above ground utility boxes should be 36” above lowest adjacent street elevation.
 - Above ground utility boxes should be no closer than 50’ from intersecting streets and no closer than 25’ from driveways.
- Waiver of Maintenance Fees
Pursuant to Section 8(21) of the METRO Act, the METRO Authority approved the waiver of maintenance fees for years 2007, 2008, and 2009 as requested by Allband Communications Cooperative servicing Mitchell Township, Caledonia Township, and the Village of Hillman. During the approval period, the METRO Authority has deducted the appropriate amount of waived maintenance fees from the disbursements allocated to the participating municipalities. Parties to this agreement were notified that the approval period expired in 2009.
 - Bundled Service Assessments
The METRO Authority is continuing to address the issue of whether and/or how to assess maintenance fees on telecommunication providers bundling telephone, cable TV and broadband internet services. Providers that are licensed as CLECs, operate as CLECs, and charge their customers for telephone services are subject to the maintenance fee prescribed by Section 8 of the METRO Act.

H. Michigan Economic Recovery Planning

The METRO Authority continued participation in several State workgroups structuring plans to receive and expend federal American Reinvestment and Recovery Act funds coming to Michigan. The Authority continues to provide valuable information/insight regarding underserved and unserved areas of the state regarding broadband facilities to the Planning Consortium consisting of:

- 1) Municipality Linear Footages Report (lists footages reported for each municipality/by municipality)
- 2) Telecom Provider Linear Footages Report (lists footages reported for each municipality by telecom provider)
- 3) Municipality Populations (lists municipalities from smallest population to largest)

4) Municipality contacts for each of the state's 1,778 municipalities

This information is of great assistance in using the federal stimulus funds to expand and improve the state's broadband/internet infrastructure.

- **METRO Authority Administrative/Operational Needs**

The METRO Authority staff still consists of only two full-time and one half-time staff. Due to the numerous and complex duties and responsibilities to implement the METRO Act, as well as oversee the department's Freedom of Information Act responsibilities, there is critical need for additional staff; and a specific, detailed METRO Authority budget.

There continues to be urgent need to amend the METRO Act via the previously proposed legislation (SB 425) that would:

- Change the provider payment of their state maintenance fee from one annual payment to four quarterly annual payments of 25% of the amount owed.
- Provide that up to 3% of the annual maintenance fees collected from telecommunication providers can be used to fund the operational expenses of the METRO Authority.
- Provide that the Michigan Department of Treasury invest maintenance fee payments and that interest earned be used to fund operating expenses and administrative costs of the Authority.

Amendment of the METRO Act would have a very minor fiscal impact on the some 1,758 eligible municipalities currently sharing collected provider maintenance fees. The legislation would provide that no more than 3% of collected fees could be used for METRO Authority operating and administrative expenses. For FY08, this would have equated to about \$600,000 to operate a \$22-\$30 million dollar annual program. Further, passage of such an amendment would favorably impact the state as it would:

- Not cost the state any GF/GP funds
- Provide the opportunity for greater collection of maintenance fees to distribute to municipalities
- Provide the opportunity to greatly enhance the state telecommunication services infrastructure by increased investments
- Provide for greater opportunities for telecommunication providers to expand services throughout the state due to standardized policies/procedures
- Provide the opportunity for greater economic development activities, emerging technologies, job creation, etc.

The enactment of such legislation would provide funds for operating and administrative expenses needed to operate this program. As one of the nation's recognized leaders in the development and encouragement of telecommunications services, such proposed legislation has the support of most of Michigan's telecommunication providers and municipalities.

Continued failure to provide the METRO Authority adequate funds for its operating and administrative expenses has curtailed its ability to adequately implement the METRO Act; and be of assistance to telecommunication providers and municipalities in the maintenance and/or expansion of telecommunication services throughout the state.

However, for FY10, METRO Authority core staff funding was transferred to the Michigan Public Service Commission via the boilerplate provision in SB 243 which states:

“Sec. 366. It is the intent of the legislature that the metropolitan extension telecommunications rights-of-way oversight authority established in section 3 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA48, MCL 484.3103, be transferred to, and organized within, the public service commission.”

I. Freedom of Information Act

Since 2003, the METRO Authority Director has been designated as the Department's Freedom of Information Act (FOIA) Coordinator per MCL 15.236 of the FOIA. These duties include:

- Oversight/coordination of 28 office/bureau FOIA liaisons
- Oversight of the processing of about 44-46,000 annual requests for records/information, including subpoenas and appeals
- Coordinate training for liaisons
- Maintain FOIA policies/procedures guidelines
- Annually update department FOIA fee policies

J. Other METRO Authority/FOIA Accomplishments Additions

- Collected \$105,530.33 of delinquent maintenance fees from three telecom providers to be added to FY10 disbursements to eligible municipalities.
- Updated METRO Authority website to include most recent information regarding METRO Act activities and operations.
- Reviewed MPSC website information related to the METRO Act and suggested removal clarification, and/or updates to outdated information; MPSC accepted recommendations and posted updated their METRO Act FAQs information on their website.

- Rendered determination that contractors performing work in public rights-of-way for telecom providers are not exempt from paying municipality construction permits.
- Rendered determination that telecom cable company providers that provide cable, telephone and internet (bundled) services and initially obtained a unilateral or bi-lateral permit to access, occupy, or use a municipality's public right-of-way must extend or renew such permits when they expire. This determination blunts claims by some telecom providers that they now may not have to pay METRO Act maintenance fees per Section 8(11) of the Act.
- As part of the Governor's Broadband Planning Consortium as regards the state's efforts to secure federal ARRA funds to provide broadband services to unserved/underserved areas of Michigan, provided information from METRO Act resources that facilitated better communications to the state's 1,778 municipalities about planned state broadband access, resources, etc.
- Formulated and issued procedures to address Attorney General concern that state departments must timely address statutory FOIA response periods and postmarking of such responses to document mailing dates to avoid losing circuit court actions alleging untimely FOIA responses.

K. Continuing Challenges

- VOIP Companies—MPSC indicates that it has no regulatory authority over VOIP companies. However, Sections 8(11) and 8(12) of the METRO Act could be interpreted to imply that VOIP companies may be covered, but would not necessarily result in the Authority collecting any more fees from the cable companies that provide VOIP services. In light of the new Video Services legislation, does the METRO Authority need to continue to monitor this matter?
- Provider Linear Foot Reductions—Municipalities continue to express concerns about a verification process of the reductions of linear footage reported by providers. Due to the Authority's limited staff, the Authority, currently has the authority, but not the ability to audit the provider reports/information. Is this a matter that can be addressed by other means?
- Telecom Permits—Municipalities have expressed concerns that some telecom providers have and/or attempted to unilaterally change provisions of telecom permits that will adversely impact municipalities.
- Sections of the METRO Act—are no longer accurate or relevant and need to be updated/eliminated, but obtaining needed amendments will be problematic due to resistance from telecom providers/others.