

Illinois Judge Strikes Down Fee for Telecom Utility Access to Public Right-of-Way

Ruling in Metro Communications Company, Inc. v. City of Altamont lawsuit eases burdens on telecommunications providers throughout Illinois by eliminating local Right-of-Way fees

A Circuit Court in Illinois issued a Declaratory Ruling earlier this month enforcing an Illinois law designed to protect telecommunications company access to the public rights-of-way free of charge.

Judge James J. Eder of the Fourth Judicial Circuit ruled that a municipal ordinance assessing a fee for installing telecommunications lines in the public right of way contravened Illinois law prohibiting franchise fees or other charges “for the use of the public rights-of-way, including charges for the recovery of reasonable costs of regulating the use of the public rights-of-way.”

The case, Metro Communications Company, Inc. v. City of Altamont, involved a city ordinance that assessed a fee on all utilities prior to approval of installation of utility lines in the public right-of-way.

Metro claimed that Illinois law specifically prohibited such fees under Section 30(a) of the Telecommunications Municipal Infrastructure Maintenance Fee Act. “The City cannot pass an ordinance that nullifies an Act of the Illinois General Assembly,” argued Metro’s counsel.

Altamont argued the application fee would pay for the application review process. But Judge Eder disagreed finding this type of fee “seems to fall precisely into the language of Section 30(a) when it talks about charges for the recovery of reasonable costs of regulating the use of the public right-of-way.”

The case reaffirmed longstanding precedent in Illinois granting unencumbered access for telecommunications companies to the public rights-of-way.

As the Illinois Supreme Court noted 23 years ago, “there are 1,281 cities and villages in Illinois, 102 counties and 1,434 townships, each of which maintain travelled ways. If each of these governmental units had the right to charge tolls for conduits going under and over their streets, the effect would amount to legalized extortion and a crippling of communication and commerce as we know it.” American Tel. & Tel. Co. v. Village of Arlington Heights, 156 Ill. 2d 399, 408-409 (1993).

Metro Communications Company, Inc., was represented by Jane L. Wagner of [Marashlian & Donahue, PLLC, The CommLaw Group](#).

If you have questions about the impact of this case on your business, please contact Jane Wagner at 703-714-1321 or jlw@commlawgroup.com.



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