



Ohio Revised Code

Section 4939.09 [Former R.C. 4939.08, amended and renumbered by H.B. 478, 132nd General Assembly, effective 8/1/2018] Exceptions for prior franchises or agreements.

Effective: August 1, 2018

Legislation: House Bill 478 - 132nd General Assembly

(A) Nothing in sections 4939.01 to 4939.08 of the Revised Code applies to a franchise or to any agreement with a public utility, cable operator, or operator, for the balance of its term, if the franchise or agreement meets all of the following, as applicable:

(1)(a) With respect to a public utility or cable operator, the franchise was granted, or the agreement was authorized by ordinance or otherwise and was entered into, by a municipal corporation prior to July 2, 2002.

(b) With respect to an operator, the agreement was authorized by ordinance or otherwise and was entered into by a municipal corporation and the operator prior to the effective date of the amendments to this section by S.B. 331 of the 131st general assembly.

(2) The franchise or agreement authorizes the occupation or use of public ways.

(3) The public utility or operator agrees with the applicable public way fees, or nonmonetary compensation, if any, or the cable operator pays the applicable fee or utilizes the credit, offset, or deduction specified in division (B)(4) of section 4939.05 of the Revised Code.

(B)(1) Except as otherwise provided in division (A) of section 4939.06 of the Revised Code, nothing in sections 4939.01 to 4939.08 of the Revised Code applies to an ordinance both governing public ways and enacted by a municipal corporation prior to September 29, 1999, unless, on or after that date, the ordinance is materially modified.

(2) Division (B)(1) of this section does not apply to operators and their facilities.

(C) Nothing in sections 4939.01 to 4939.08 of the Revised Code authorizes a municipal corporation



to levy a fee, other than a public way fee authorized by section 4939.05 of the Revised Code, on a pipeline company or an operator of a pipeline facility regulated under the "Accountable Pipeline Safety and Partnership Act of 1996," 110 Stat. 3793, 49 U.S.C.A. 60101, or on an operating partner or affiliated business unit operating under guidelines of the federal energy regulatory commission as they relate to the construction and operation of a pipeline.

(D) Nothing in sections 4939.01 to 4939.08 and this section of the Revised Code prohibits a municipal corporation from doing either of the following:

(1) Charging a cable operator a franchise fee in accordance with the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 542;

(2) Allowing a credit, offset, or deduction against the payment of a construction permit fee for any franchise fee a cable operator pays to the municipal corporation.