

LARIMER COUNTY: INFORMATION TECHNOLOGY

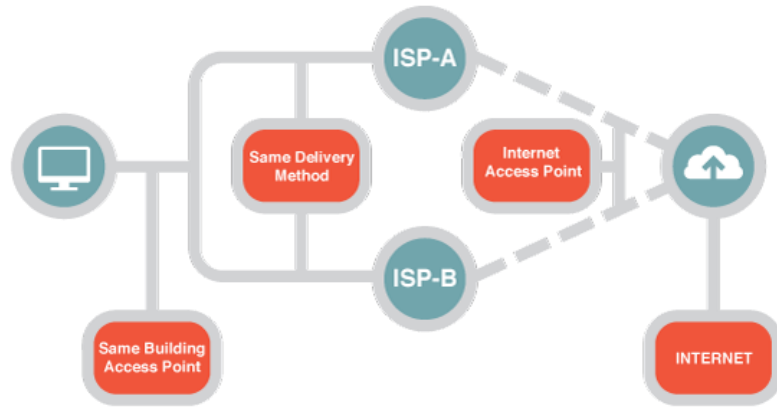


SENATE BILL 19-107



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This is how redundancy works.



Issues

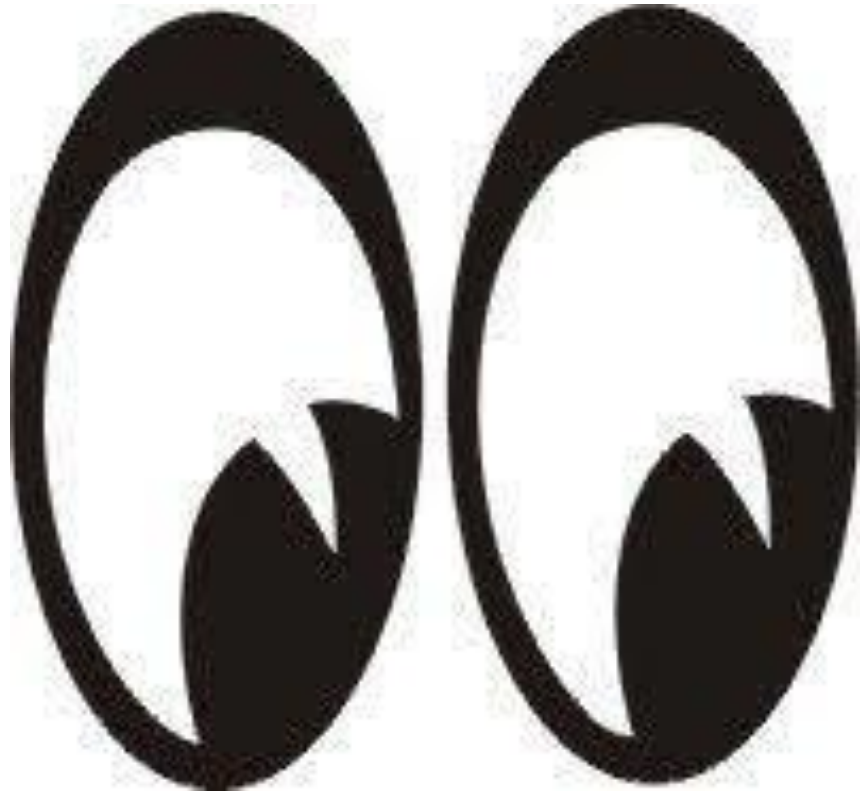
- Estes Park 911 Redundancy
- Telluride Foundation
- Elevate

Case Law

- *Barfield v. Sho-Me Power Electric Cooperative*, No. 15-2964, 8th Circuit
- **Vacated:** Jury Award of \$79 Million, for unjust enrichment,
- **Held:** The court concluded that when Sho-Me exceeded its rights by using the fiberoptic cable for unauthorized purposes, such use became a trespass under **Missouri law**

Case Law

- *Int'l Paper Co. v. MCI WorldCom Network Servs., Inc.*, (442 F.3d 633 (8th Cir. 2006))
- **Claim:** complaint alleging state law claims of trespass, slander of title, and unjust enrichment.
- **Held:** Transmission of light signals cannot constitute a trespass under **Arkansas law**, then transmission of light signals for a particular purpose cannot constitute a trespass. We see no reason to believe that Arkansas would recognize a claim for damages from an intangible trespass of light signals



The Vision Forward

Change the definition of an electrical easement to permit the transmission of commercial data.

Streamlining Easement Access for Broadband

Modify Colorado statute to permit the use of existing electrical easements controlled by electrical service providers to:

- Use previously installed communications infrastructure to carry additional network traffic not associated with the control and management of the electrical network.
 - *This change would permit commercial network traffic to be carried on communications infrastructure that has previously been installed in an electrical system easement.*



Streamlining Easement Access for Broadband

- Permit the installation of new communications infrastructure within the existing electrical service provider's easements to carry network traffic not associated with the control and management of the electrical network.
 - *This change would permit installation of new communications infrastructure on existing facilities within an existing easement for electrical facilities. The replacement of poles to meet maintenance and engineering requirements would be permitted under this change as long as the easement footprint remains the same.*
 - *The service provider is responsible for restoring the easement to pre-installation condition after the installation of the communications infrastructure*



Streamlining Easement Access for Broadband

Relief process for landowner who believe their property value has been reduced:

- *If a property owner believes they have been deprived of value of their property by the additional use of the easement they may make a claim by having an appraisal of their property completed at their expense.*
- *Compare appraisal to a previous appraisal*
- *Damages, if any, are determined by the difference between the negative change in value between the two appraisals.*
- *Any revenues, profits, or fees or other revenues derived by the electrical supplier may not be used in the calculation of the change in value(damages).*
- *If there is no reduction in value of the property, the property owner is not entitled to compensation.*



- SB19-107 introduced to the State Senate 1/29
- Sponsor Senator Kerry Donovan
- Stakeholder meeting with the sponsor – 2/1
 - Oral Comments
 - Accept Written Comments

**WELCOME TO
REALITY**



SB19-107

What's on the Punch List

- Expansion of bill to specifically include prescriptive easements
- Language to address the WAPA issue (possibly just declaration language that seeks to open up that avenue for talks with the feds)
- Possible exclusion of investor-owned utilities in the bill
- Inclusion of member owned whole sale power providers – ie Tri-State, PRPA etc.
- Pole-attachment and make ready fees
- Removal of language that requires negotiation with landowner directly





What's on the Punch List

- Allowing pre-existing underground infrastructure to be used for broadband purposes.
- Installation of fiber in existing duct using existing access points.
- Some kind of recourse for landowners to address perceived “takings” – Similar to Missouri legislation
- Cross-subsidization issue 40-15.106
- Remove proposed PUC oversight of municipal and member owned providers
- Exclude high-voltage transmission lines

The image is a composite of two parts. The top half shows a close-up of several rows of sausages, likely bratwurst, arranged in a semi-circular pattern. The bottom half shows a black and white photograph of a large theater audience seated in a semi-circular arrangement, looking towards a stage. The text is overlaid on the top half of the image.

“If you
like laws and sausages,
you should never watch
either one being made.”

-Otto von Bismarck

Questions?

