

Provisions for Electric, Gas & Other Fuel Systems

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Provisions for Electric, Gas & Other Fuel Systems	3
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Reference Number:
MTAS-571

Energy Production and Landfill Methane

Any municipality is empowered "to construct, own, operate, or maintain – within its corporate limits or within the limits of the county wherein it is located – an existing or planned energy production facility or facilities," including acquiring easements or other appurtenances for transporting or transmitting energy. Such a facility may use "fossil or other fuels" or solid waste. Creating a monopoly by ordinance is specifically authorized, provided the ordinance is first reviewed and approved by the state Department of Environment and Conservation. Annual reports about the monopoly must be made to and reviewed by this department. T.C.A. §§ 7-54-101, *et seq.*

The Landfill Methane Development Act allows any municipality to construct and operate a facility for the preparation of landfill methane for transportation and as a substitute for natural gas. T.C.A. §§ 65-28-201, *et seq.*

Averaging Bills

Any utility providing electricity, natural gas, or other fuel to more than 15,000 residential customers must permit bill payment on a monthly averaging basis. Every customer has the option to use such a plan. T.C.A. §§ 65-33-101–106.

Utility Relocation for Highway Construction

Under the common law, utilities using municipal streets may be required to remove or relocate those utilities from those streets at their own expense. With respect to state highways, however, T.C.A. § 54-5-804 authorizes the Department of Transportation, subject to funding, to reimburse public and private utilities the full costs of relocating caused by state road projects.

To qualify, the utility must:

- Comply with T.C.A. § 54-5-854(b), including preparing and submitting to the department the utility's relocation plan, its cost estimate, and schedule for completing the relocation within specified allowed times.
- Enter into a written agreement with the commissioner to include the relocation costs as a part of the department's highway construction contract, OR enter into an agreement that the utility will remove all facilities that the department wants moved before the department lets the construction contract. The utility will be reimbursed for the cost of the relocation work it has undertaken if the department does not undertake the project within a specified time.

The utility will be responsible for inspecting all phases of the relocation to ensure compliance with all specifications and safety codes.

The department will make no reimbursement until the commissioner is satisfied that the relocation has been performed in accordance with plans and the schedule of calendar days approved by the department.

This section requires the utility to reimburse the department to the extent the department is not compensated from federal funds for the relocation costs.

The utility management review board administers a state-funded loan program to help local governments and certain non-profit businesses relocate utilities in the path of highway construction projects. Such loans are provided for up to 15 years and are interest free for the first five years. The utility management review board requires the borrowing utility to establish user fees sufficient to repay the loan and interest. T.C.A. § 7-82-701, T.C.A. § 67-3-617(j)(1).

Utilities that are relocating because of a state highway project must make monthly progress reports to the Tennessee Department of Transportation (TDOT) and other utility owners. Reports made at pre-construction meetings between the contractor and TDOT will be sufficient to meet this requirement even if the meetings are not held monthly. T.C.A. § 54-5-854 (h) (2).

Energy Acquisition Corporations

The Energy Acquisition Corporation Act, contained in T.C.A. §§ 7-39-101, *et seq.*, authorizes municipalities to establish energy acquisition corporations. These corporations have extraordinarily broad powers to acquire and operate gas- and electricity-producing properties under various arrangements prescribed by the act, including the power to issue bonds for those purposes. Municipalities are authorized to lend money to and enter into other financial arrangements with such corporations. The structure and powers of energy acquisition corporations are prescribed in the act.

T.C.A. § 7-39-302(a)(12) requires engineering services provided by an energy acquisition corporation to be in compliance with T.C.A. § Title 62, Chapter 2.

Electrical Safety Code for Supply Stations

T.C.A. § 68-101-104 adopts the August 1, 2006, edition of the American National Standard Safety Code (for supply stations and lines, overhead and underground electric-supply and communications lines, and work rules governing their construction and operation.)

Oil and Gas Exploration

Municipalities are authorized to undertake oil and gas ventures. Cities may prospect, drill, mine, produce, treat, and transport natural gas, oil, and mineral byproducts. T.C.A. § 6-54-110.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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