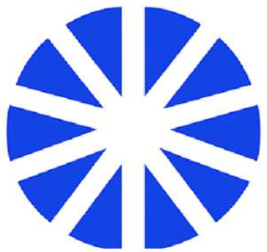


The logo for Cohen Law Group, featuring a solid blue square to the left of the text "Cohen Law Group" in a blue serif font.

Cohen Law Group

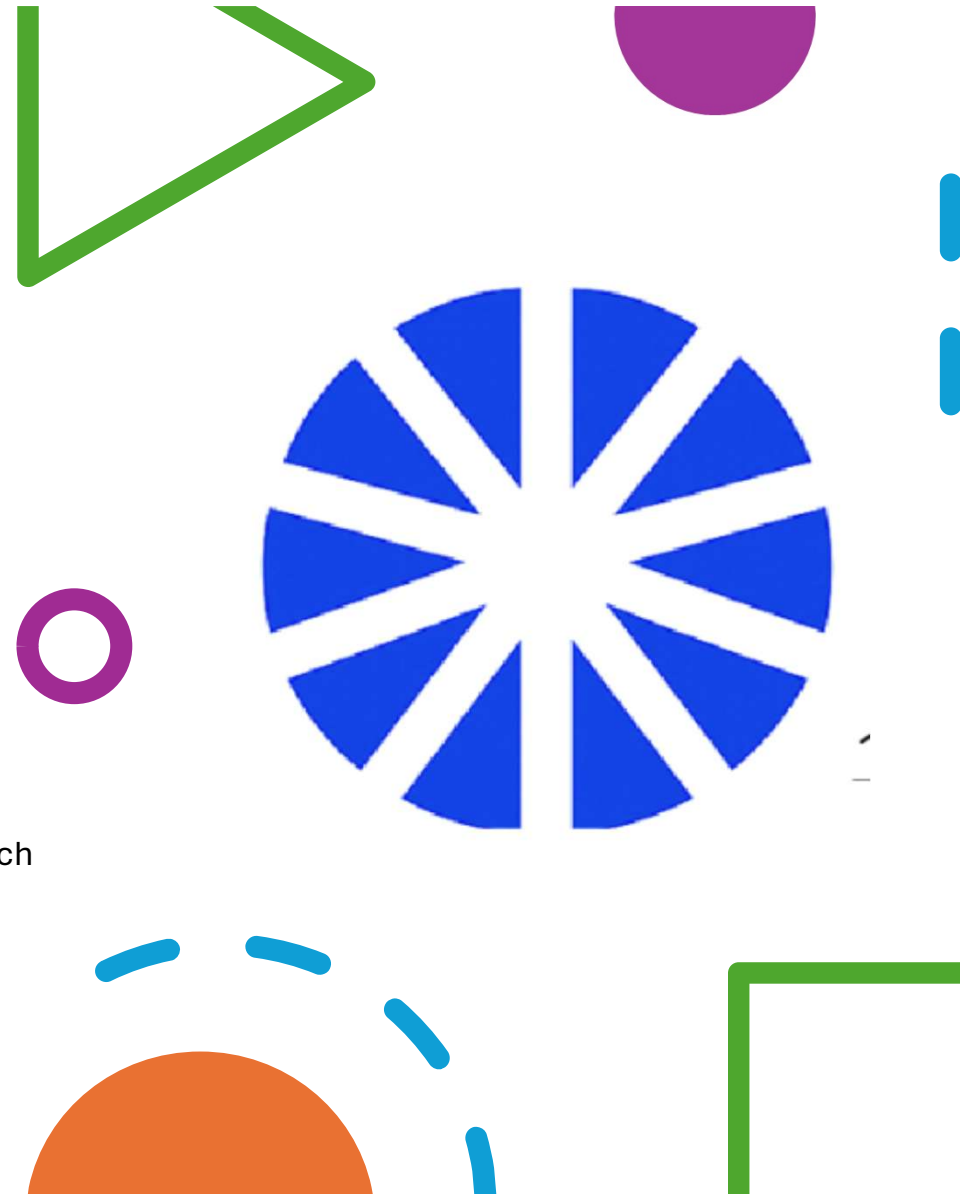


2026 PACOG Conference Cable TV: COG Franchising

A Partnership between the South
Hills Area COG & the Cohen Law
Group

A little background on the SHACOG

- Established in 1973
 - 23 member municipalities in Allegheny & Washington Counties
 - Approximately 333,000 residents call these communities home.
- Summary of Programs and Services:
 - Joint purchasing and procurement** through the SHACOG Purchasing Alliance
- Grant application and administration:
 - CDBG, Act 152, GEDTF, & LSA
- Public works and infrastructure coordination
 - Shared Vector Truck & Sewer Camera Van – Shared Employees and Expertise
- Public safety initiatives
 - CIRT (24 Police Departments) & TRT (37 Fire Departments) & much more!
- Training and professional development
 - Coordinated Public Works, Police, and Fire Trainings
- Legislative advocacy and regional collaboration
- &



The SHACOG Franchise Fee Authority

- First conceived in 1995, SHACOG helped facilitate intergovernmental collaboration between 12 Communities for the establishment of a Joint Franchise Fee Authority
 - Baldwin Borough, Baldwin Township, Brentwood Borough, Castle Shannon Borough, Dormont Borough, Elizabeth Borough, Heidelberg Borough, Jefferson Hills Borough, Mt. Oliver Borough, Scott Township, Whitehall Borough, & White Oak Borough.



Why Collaborate on this Topic?



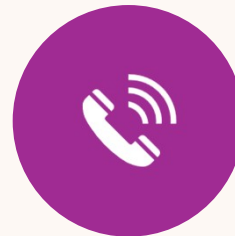
Current Role: SHACOG administers existing telecommunications franchises in partnership with the Cohen Law Group and negotiates renewals or new agreements on behalf of participating municipalities.



Program Scope: The authority covers telecommunications matters, including cable television franchises.



Shared Benefits: Consolidation reduces administrative, technical, and legal costs while strengthening participating municipalities' bargaining position with telecommunications providers.



Service Consistency: The program helps standardize telecommunications services across participating communities.

SHACOG Benefits too!

Additional Revenue for SHACOG

Receives Direct Payments from Comcast & Verizon

- Distributes quarterly payments to participating communities
- 10% retained (which accrues interest) to pay legal fees associated with audits and negotiations. A fifth annual payment is issued by the end of each year.
- 2% of the overall Revenue is transferred to SHACOG General Fund for administrative time and efforts associated with the Program.





Revenues in 2025

Verizon

- \$835,980.53

Comcast

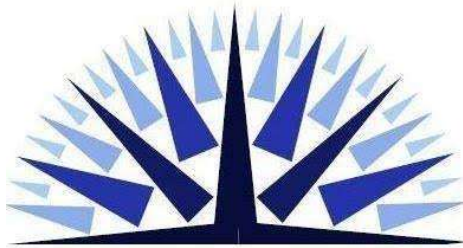
- \$1,132,936.47

Total - \$1,968,917.00

- SHACOG Admin Fee -
\$39,378.34

The logo for Cohen Law Group, featuring a solid blue square on the left. To the right of the square, the word "Cohen" is written in white serif font, and "Law Group" is written in blue serif font.

Cohen Law Group



Another Example of Franchise Fee Cooperation in a COG

- Patrick Conners served as Executive Director of QVCOG from 2021-2025
- Cohen Law Group would offer a group discount for legal fees based on number of participating communities (10% - 20%)
 - 6 of 15 member communities engaged with this opportunity

Cable Franchising: A Challenging and Uncertain Environment

- 15 years ago, cable companies were virtual monopolies. Today, incumbent cable companies (e.g. Comcast, Service Electric, Blue Ridge, etc.) have greater competition:
 - Wired competitive operators (Verizon, Shentel, Astound).
 - Video streaming services (Netflix, Hulu, Disney+, etc.).
- Incumbent cable companies are now competing with other incumbent companies (known as “overbuilding”).
- Within this changing landscape, municipalities still control the public rights-of-way (ROW’s) and have significant power over cable companies.
- Municipal officials are effectively the “landlords” of their ROW’s. Cable companies use the ROW’s for wires and equipment. Local governments are entitled under federal law to fair compensation for the companies’ use of municipal property.
- Franchise renewal is the best opportunity to assert your rights and obtain benefits from your cable company(ies).

Franchise Fees

- Many financial, in-kind, and legal benefits for municipalities in franchise renewal, but let's focus on franchise fees.
- Under federal law, you can assess up to 5% of cable company's "gross revenues" for cable services derived from your municipality.
- Cannot receive fees for internet service revenues. *FCC Order* (2002) and Supreme Court decision in *Brand X v. FCC*. Applies to streaming services.
- **Can negotiate increased franchise fees by re-defining "gross revenues" in the franchise agreement to include 27 eligible revenue sources.** Most current agreements include only a fraction of these.
- These include subscriber based and non-subscriber-based revenues.
- At a time when franchise fee revenue is eroding due to "cord cutting," redefining "gross revenues" will mitigate the financial loss.



Franchise Fee Audit

- Federal Cable Act requires municipality to review the cable company's "past performance" and identify its "cable-related community needs."
- Past performance: Did the cable company comply with the current franchise agreement? Key past performance review is the franchise fee audit.
- Franchise fees may be the most unaccounted for revenue line item in your budget.

Three key inquiries in a franchise fee audit:

- Has the cable company paid on all revenue sources in the definition of "gross revenues"?
- Has the company allocated bundled revenue sources correctly to cable service (rather than internet and phone)?
- Has the company coded all addresses to the right municipality? Homes Passed List.
- If the cable company underpaid, most likely will be both retroactive (plus penalties and interest) and prospective payments to the municipality.

ROW Management

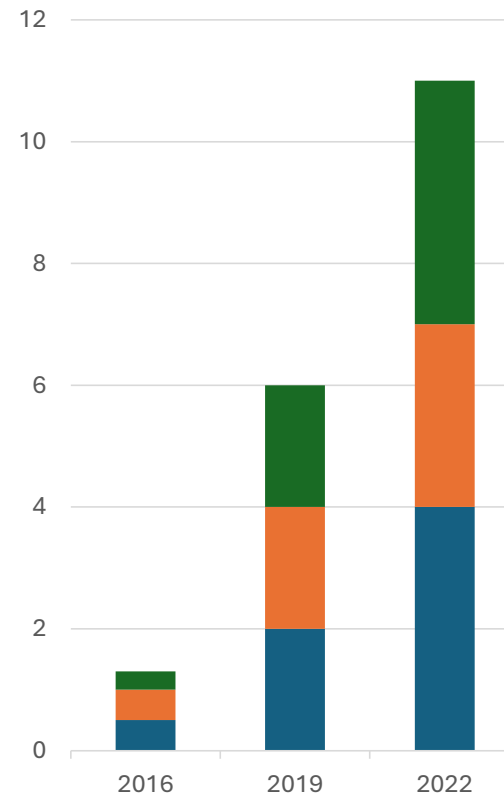
- Managing construction activity and ongoing operations in the ROW has become more important to PA municipalities. Added pressure from new entrants, like broadband providers, has caused them to consider regulatory improvements.
- Important to understand your regulatory authority to properly exercise control over ROW occupants without overstepping legal bounds.
- Both public utility companies and non-utility companies operate within the ROW.
- Public Utility Companies:
 - Hold a Certificate of Public Convenience from the PA Public Utility Commission.
 - Have “the right to enter upon and occupy streets, highways, waters and other public ways and places” pursuant to 15 Pa.C.S. § 1511(e).
 - Must still obtain permits and “shall comply with the lawful and reasonable regulations” of the municipality. (15 Pa.C.S. § 1511(e)).
 - Utilities are typically resistant to municipal authority even when such authority being legally supported.

ROW Management

- Utility Companies:
 - Municipalities may require utilities to do certain things, such as obtain permits and pay applicable permit fees. Examples are street excavation, aerial facilities, new poles.
 - They are prohibited from the following (*PPL v. City of Lancaster* - PA Supreme Court 2019):
 - Imposing an annual fee for ROW occupancy or maintenance
 - Requiring a utility to remove, relocate or reposition its facilities
- Non-Utility Companies:
 - Local authority is much stronger. Municipalities can (and should) require:
 - Execution of a Right-of-Way Use Agreement authorizing the company to occupy the ROW.
 - Annual ROW occupancy fees as compensation for use of the ROW and financial security for construction operations.
 - Submission of maps and drawings detailing existing facilities and new construction.
 - Permits for construction activity in the ROW.
 - Most effective way to exercise ROW management authority is to enact a **ROW Management Ordinance**. Without codified regulations, companies will simply construct facilities in the ROW with little to no communication with your municipality.

Wireless Data Explosion

- Wireless data traffic in North America was 4.86 exabytes per month in 2021. By end of 2027, it is expected to increase four-fold to 19.53 exabytes per month. (One exabyte is equivalent to over one billion gigabytes. (Ericcson Mobility Report))



PA Act 50: Small Wireless Facilities Deployment Act

- PA Act 50 (effective October 28, 2021) was the culmination of a heated four-year battle between the wireless industry and PA municipalities.
- Applies only to “Small Wireless Facilities” (SWF) in the ROW. A SWF is an antenna installed on the following:
 - (i) an existing utility pole, provided the installation does not extend more than 5 feet above the pole.
 - (ii) a new or replacement pole, provided the pole and antenna combined are not taller than 50 feet.
 - (iii) wireless provider may seek a “height limit waiver,” but only in accordance with local ordinances.
- Each antenna (excluding equipment) may be no more than 3 cubic feet in volume and all other equipment (excluding antennas) may be no more than 28 cubic feet total.
- Act 50 preserves local zoning authority. SWF’s must be allowed, however, in the ROW in all zoning districts as a permitted use subject to local ordinances.
- Act 50 includes strict time frames for review and action on SWF applications.

PA Act 50: Small Wireless Facilities Deployment Act

- Permissible Fees
 - Application fees:
 - \$500 for 1-5 collocated antennas; \$100 per collocated antenna included in the same application thereafter.
 - \$1,000 for new or replacement poles.
 - Right-of-way use fees:
 - \$270 per wireless facility site per year.
 - Municipalities may exceed \$270 fee if they can demonstrate that actual reasonable costs are in excess of the \$270 per year.
 - If the FCC adjusts its fee levels, municipalities may also adjust their fees.
- Design Guidelines
 - Municipalities are permitted to enact “objective design guidelines” for SWF’s to “minimize of aesthetic impact” subject to the following requirements:
 - The guidelines must be technically feasible.
 - They must not have the effect of prohibiting the wireless provider’s technology.
 - They must not unreasonably discriminate among wireless providers.

Proposed Course of Action for Wireless Facilities

- Be proactive, not reactive. Important to have ground rules in place when wireless applications are received to be able to manage SWF's and avoid claims of discrimination.
- Enact a new **Wireless Facilities Ordinance** or amend your current ordinance, and prepare design standards to achieve the following:
 - Address SWF's in the ROW and traditional towers outside the ROW.
 - Incorporate recent FCC and PA Act 50 regulatory changes and add key legal protections.
 - Amend or create fee schedule by using new fee ceilings or by doing a cost study.
 - Create comprehensive design standards for SWF's.
 - Strike a balance between addressing the need for wireless broadband service and preserving the character of the community.

The “COG Advantage”

- Whether negotiating a cable franchise agreement, preparing a ROW management ordinance, or drafting a wireless ordinance, there are major advantages to multi-municipal groups (COG's).
- COG's create more negotiating leverage with cable companies and establish a common, regional approach to ROW and wireless management.
- COG projects often involve “volume discounts” on project fees. Depending on number of municipalities involved, our law firm offers discounts of 10%-20% on our single municipality fees.
- “The secret is to work less as individuals and more as a team.”
Knute Rockne, football coach