

207 CMR 4.00: TRANSFER OR ASSIGNMENT OF CONTROL OF A FINAL LICENSE

Section

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4.01: Transfer of Control

(1) A transaction through which a person (or other entity), a family group, or a group of persons (or entities) acting in concert, gains or loses control of a license or licensee shall constitute a transfer or assignment of a license or control thereof under M.G.L. c. 166A, § 7.

(2) A transfer or assignment of a license or control thereof between commonly controlled entities, between affiliated companies, or between parent and subsidiary corporations, shall not constitute a transfer or assignment of a license or control thereof under M.G.L. c. 166A, § 7. Under 207 CMR 4.00, an "affiliated company" is any person or entity that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with another person or entity.

(3) On request of a cable operator, an issuing authority or on its own initiative, the Commission may determine whether or not a particular transaction shall be considered a transfer or assignment of a license or control thereof under M.G.L. c. 166A, § 7.

4.02: Application for Transfer

(1) An applicant for transfer or assignment of a license or control thereof shall file with the affected community Federal Communications Commission Form 394, as it may be amended from time to time, accompanied by the required \$100 application fee. As such application is received, it shall be made available for public inspection in the city or town clerk's office during

regular business hours and for reproduction at a reasonable fee. Simultaneously with the community filing, the applicant shall file a copy of any such FCC Form 394 with the Commission. In instances in which there are several affected communities, and the FCC Form 394 for each one contains identical attachments, an applicant may file just two sets of attachments with the FCC Form 394 filed with the Commission.

(2) The issuing authority shall have 120 days from the filing of a completed FCC Form 394 to take final action on it. Requests for additional information by the issuing authority will not toll the 120 day review period unless the issuing authority and the applicant agree to an extension of time.

4.03: Hearing and Notice Requirements

(1) Within 60 days after the filing of the application, the issuing authority shall hold public hearing(s) to consider the desirability of approving the transfer. The issuing authority shall insure that the transferor and transferee, residents, and other interested parties are afforded full and fair opportunity to be heard.

(2) The notice of the public hearing shall be provided pursuant to 207 CMR 2.02. The issuing authority shall provide for a stenographic, video or other tape record of the hearing(s). The issuing authority may choose the recording methodology. The applicant shall bear the cost of the recording.

4.04: Standard of Review

(1) In reviewing an application for a transfer or assignment of a license or control thereof, an issuing authority shall consider only the transferee's

- (a) management experience,
- (b) technical expertise,
- (c) financial capability, and
- (d) legal ability to operate a cable system under the existing license.

(2) As part of an issuing authority's review of an application for a transfer or assignment of a license or control thereof, an issuing authority shall not propose amendments to or renegotiate the terms of the existing license or any license renewal proposal.

4.05: Issuing Authority Report

Within ten days of taking final action on any FCC Form 394, the issuing authority shall send the Commission a letter summarizing the action taken. If an issuing authority denies the application, it shall set forth a detailed statement of reasons for the denial in the letter to the Commission.

4.06: Rights of Appeal

Appeals to the Commission by aggrieved parties seeking a transfer of a final license pursuant to 207 CMR 4.00 shall be initiated in accordance with the provisions of M.G.L. c. 166A, § 14.

The Commission may, after a hearing conducted pursuant to M.G.L. c. 166A, § 14, issue such order as it deems appropriate to carry out the purpose of 207 CMR 4.00.

REGULATORY AUTHORITY

207 CMR 4.00: M.G.L. c. 166A, §§ 7 and 16.