

## **Title 207: Department of Telecommunications and Cable**

### **207 CMR 2.00: GENERAL RULES**

Section 2.01: Petition for Adoption, Amendment or Repeal of Regulations

Section 2.02: Notice of Public Hearings

Section 2.03: Statutory Reporting Forms

Section 2.04: Waiver

#### **2.01: Petition for Adoption, Amendment or Repeal of Regulations**

- (1) Any interested person may at any time petition the Department to adopt, amend, or repeal any regulation contained within 207 CMR pursuant to M.G.L. c. 30A, § 4. The petition shall be addressed to the Department, shall be signed by the petitioner, and shall set forth clearly and concisely the text of the proposed regulation.
- (2) Upon receipt of a petition, the Department shall determine whether to schedule the petition for further proceedings in accordance with M.G.L. c. 30A and shall so notify the petitioner.

#### **2.02: Notice of Public Hearings**

- (1) Any public hearing held pursuant to 207 CMR 3.00, 207 CMR 4.00, or 207 CMR 6.00 shall require prior public notice identifying the time, place, and purpose of the hearing. The notice shall be published in a newspaper of general circulation in the affected city or town once in each of two successive weeks, the first publication being not less than 14 days before the day of any such hearing. If there is no newspaper in the city or town, the notice shall be posted in a conspicuous place in the city or town hall not less than 14 days before the day of such hearing. The notice shall also state that any applications, reports, statements and amendments to be considered at the hearing that constitute public records under state law are available for public inspection during regular business hours and for reproduction at a reasonable fee. Evidence of such notice shall be incorporated in the record of any hearing. The issuing authority shall provide prior public notice for all public hearings held pursuant to 207 CMR 3.00 and 207 CMR 4.00. The cable operator shall provide prior public notice for all public hearings held pursuant to 207 CMR 6.00.
- (2) Within an area served by an operating cable system and having cablecasting facilities within the control of the cable operator, the operator shall cablecast the prescribed notice over its facilities at least twice a week, on separate days, during each of the two weeks preceding the hearing date. If the cablecasting facilities are not within the control of the cable operator, the operator shall use its best efforts to cablecast the prescribed notice. The notice shall be cablecast at times most likely to reach the maximum viewing audience. The log of such cablecasts shall be incorporated in the record of any hearing.

#### **2.03: Statutory Reporting Forms**

- (1) Application for an Initial or Renewal License. Pursuant to M.G.L. c. 166A, §§ 4 and 13, the Department shall prescribe an application form. No license or renewal thereof shall be issued except upon written application in accordance with this form.
- (2) Annual Financial Reporting Forms. Pursuant to M.G.L. c. 166A, § 8, the Department shall prescribe financial reporting forms, which shall be filed annually by the licensee, on or before April 30, for operations during the preceding calendar year. The Department may prescribe a uniform reporting system for the completion of the financial reporting forms.
- (3) Complaint Forms. The Department shall prescribe a complaint form, to be filed by the licensee with the Department on an annual basis pursuant to M.G.L. c. 166A, § 10.

#### 2.04: Waiver

Consistent with the public interest, upon receipt of a request from an issuing authority, a cable operator, or upon its own initiative, the Department may waive particular provisions of 207 CMR for good cause shown.

#### REGULATORY AUTHORITY

207 CMR 2.00: M.G.L. c. 166A, §§ 4, 6, 8, 10, 13, 16.

## **207 CMR 3.00: LICENSING**

Section 3.01: General Provisions

Section 3.02: Initiation of Licensing Process

Section 3.03: Formal Licensing Procedure

Section 3.04: Grant of Final License

Section 3.05: License Renewal Procedures

Section 3.06: License Renewal Grant or Denial

Section 3.07: Request for Amendment

Section 3.08: Complaint Provisions

Section 3.09: Rights of Appeal

### **3.01: General Provisions**

- (1) All applications, reports, written statements, and amendments filed with or prepared by the issuing authority pursuant to 207 CMR 3.00 that are public records under Massachusetts law shall be made available for public inspection in the city or town clerk's office of the issuing authority during regular business hours and for reproduction at a reasonable fee. The applicant shall also file copies of any application(s) and amendments with the Department.
- (2) For the purposes of 207 CMR 3.00, the number of residents of each city or town shall be determined from the most recent official federal census figures.
- (3) The issuing authority may appoint a cable advisory committee and define its duties. In carrying out their duties, cable advisory committee members shall not participate in any matters in a way which would violate the Massachusetts conflict of interest law, M.G.L. c. 268A.
- (4) Public notice in accordance with 207 CMR 2.02 shall be provided for any public hearing required to be held by the issuing authority under 207 CMR 3.00.
- (5) With respect to all public hearings held by the issuing authority under 207 CMR 3.00, 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.

### **3.02: Initiation of Licensing Process**

- (1) The licensing process may be initiated by any of the following actions:
  - (a) A decision by the issuing authority to begin the licensing process.
  - (b) The filing with the issuing authority of an application form prescribed by the Department pursuant to M.G.L. c. 166A, § 4.
  - (c) The filing with the issuing authority of a petition signed by registered voters of the issuing authority requesting that it begin the licensing process. A petition shall be valid when signed by as many registered voters as equals one-half of one

percent of the residents of the issuing authority, except that the number of required signatures shall not be more than 500.

- (2) No later than 60 days after an application or a voters' petition is filed, the issuing authority shall decide whether the licensing process shall be undertaken. Before making such decision and after notice as required by 207 CMR 2.02, the issuing authority shall hold a public hearing. The issuing authority shall afford any applicant, petitioner, resident or other interested party a full and fair opportunity to be heard. If more than one initiative is filed before the hearing, such additional initiative shall be considered during the scheduled hearing.
- (3) If, after the hearing described in 207 CMR 3.02(2), the issuing authority declines to undertake the licensing process, it shall promptly issue a written report containing the specific reasons for its decision. Within seven days of the issuance of the report, the issuing authority shall forward copies of the report to the Department, to each license applicant of record, and to the incumbent cable licensee(s), if any. For the purposes of M.G.L. c. 166A, § 14, the report shall be considered a denial of any applications pending before the issuing authority.
- (4) If the issuing authority elects to proceed with the licensing process, it shall approve or deny each application within 12 months from the date it decides to do so under 207 CMR 3.02(2).

### 3.03: Formal Licensing Procedure

- (1) If the issuing authority elects to undertake the licensing process under 207 CMR 3.02(2) it shall promptly:
  - (a) Notify the Department of the date that the licensing process was initiated; and
  - (b) Specify a filing deadline for applications for a cable license or licenses.
- (2) Within 90 days of the application filing deadline under 207 CMR 3.03(1)(b), the issuing authority shall issue a written report that includes specifications for the cable license as it deems appropriate. Within seven days after its issuance, the issuing authority shall forward copies of the report to each applicant of record and to the Department and shall set a deadline for receipt of amendments to applications. No applicant shall materially amend its application after the deadline for receipt of amendments.
- (3) After issuing its report under 207 CMR 3.03(2), and after notice as required by 207 CMR 2.02, the issuing authority shall hold a public hearing to assess the qualifications of each applicant. Assessment of applicant qualifications shall be limited to the information provided in the applications on file, any amendments to such applications, the issuing authority report on license specifications, oral testimony given during the hearing, and other relevant information included in the hearing record.
- (4) Within 60 days following the close of the hearing the issuing authority shall approve or deny each application. The issuing authority shall grant a provisional license to any

successful applicant and shall issue a written public statement containing in detail the reasons for the approval or denial of each application. The issuing authority shall send a copy of such statement to each applicant of record.

- (5) The provisional license shall be executed within three months of the issuing authority's vote to award the provisional license. It shall be valid for a period no longer than one year, by which time the provisional licensee must have met the requirements set forth in 207 CMR 3.04(1). The provisional license shall expire upon the issuance of a final license or one year from the date of execution of the provisional license, whichever occurs first.
- (6) Within seven days of the issuance of the public statement regarding the approval or denial of license applications the issuing authority shall file copies of the following documents with the Department:
  - (a) The issuing authority statement prepared pursuant to 207 CMR 3.03(4); and
  - (b) The provisional license, if one has been granted.
- (7) No provisional license or any rights thereunder shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, either directly, indirectly, or by transfer or assignment of control by any entity holding such provisional license. "Transfer or assignment of control" shall be defined in accordance with 207 CMR 4.00.
- (8) Actual construction of physical facilities for a cable system may not commence prior to the grant of a final license pursuant to 207 CMR 3.04.

#### 3.04: Grant of Final License

- (1) A final license to construct and operate a cable system shall be granted by the issuing authority following substantial compliance with each of the following requirements:
  - (a) The submission requirements contained in the application form prescribed by the Department, pursuant to M.G.L. c. 166A, § 4; and
  - (b) The requirements of M.G.L. c. 166A, §§ 3, 4, and 5.
- (2) A final license shall contain terms substantially identical with the terms contained in the provisional license. Notwithstanding the foregoing, a final license may contain terms differing from those in the provisional license, if the issuing authority, in the public statement required by 207 CMR 3.04(4), sets forth in detail its reasons for accepting an alteration of those terms.
- (3) In the event the issuing authority finds that there has been a failure to comply with the provisions of 207 CMR 3.04(1), the issuing authority shall deny a final license to the provisional licensee and shall issue a written statement setting forth in detail the basis for such finding and denial. A copy of the statement shall be sent to the provisional licensee and to the Department.

- (4) The issuing authority shall grant a final license to an approved applicant and shall issue a written public statement containing in detail the reasons for granting the approval, including, where applicable, the reasons for accepting an alteration of the terms of the provisional license. A copy of the statement shall be sent to the licensee.
- (5) Within seven days of the grant of a final license, the issuing authority shall file copies of the following documents with the Department. The issuing authority may file such documents electronically:
  - (a) the final license;
  - (b) the written statement issued pursuant to 207 CMR 3.04(4); and
  - (c) the completed application form prescribed by the Department pursuant to M.G.L. c. 166A, § 4.
- (6) If the issuing authority denies the final license, it may recommence the licensing process at any time. If this occurs within a reasonable time after the issuance of the public statement under 207 CMR 3.04(3), the issuing authority may request a waiver for an abbreviated licensing process in accordance with 207 CMR 2.04.

### 3.05: License Renewal Procedures

- (1) The renewal of a license to operate a cable television system shall be in accordance with the federal license renewal statute, 47 U.S.C. § 546. 207 CMR 3.05, 3.06, and 3.09 shall supplement the federal license renewal statute.
- (2) All license renewal applicants shall complete the application form prescribed by the Department pursuant to M.G.L. c. 166A, § 4.
- (3) No license renewal may be granted or denied without a prior public hearing with prior public notice pursuant to 207 CMR 2.02.
- (4) The issuing authority shall notify the license applicant in writing of the date of the completion of ascertainment proceedings conducted pursuant to 47 U.S.C. § 546(a).
- (5) The issuing authority's preliminary decision to deny renewal shall be made in writing and shall include the basis of the denial.

### 3.06: License Renewal Grant or Denial

- (1) Concurrent with the grant of a renewal license, the issuing authority shall issue a written public statement reporting the license grant and detailing the reasons for it, including but not limited to the applicant's substantial compliance with provisions set forth in 47 U.S.C. § 546(c)(1)(A) through (D). Those provisions are as follows:
  - (a) The cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
  - (b) The quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or

- quality of cable services or other services provided over the system, has been reasonable in light of community needs;
- (c) The operator has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the operator's proposal; and
  - (d) The operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (2) Within seven days of the grant of a renewal license, the issuing authority shall file copies of the following documents with the Department. The issuing authority may file such documents electronically:
- (a) The issuing authority statement prepared pursuant to 207 CMR 3.06(1); and
  - (b) The renewal license.
- (3) Should the issuing authority deny a renewal application, within 14 days of its decision to deny, it shall issue a written statement detailing the reasons for its denial, specifically addressing the criteria set forth in 207 CMR 3.06(1)(a) through (d). The issuing authority shall file a copy of this statement with the license renewal applicant and with the Department upon issuance.

### 3.07: Request for Amendment

- (1) Notice. When an issuing authority and a licensee propose to amend a final license, the issuing authority shall cause notice of the same to be published in a newspaper of general circulation in the city or town to be affected by any amendment. The notice shall include a concise summary of each amendment sufficient to identify its subject matter. Publication shall be made not less than 14 days before the commencement of the public comment period pursuant to 207 CMR 3.07(3). If there is no newspaper in such city or town, notice shall be posted in a conspicuous place in the city or town hall for a period not less than 30 days preceding the commencement of the public comment period. The costs of publishing this notice shall be borne equally by the issuing authority and the licensee.

Within any area served by an operating cable system and having cablecasting facilities within the control of the cable operator, the licensee shall cablecast a concise summary of any proposed amendment(s) sufficient to identify their subject matter at least once daily on each of eight days preceding the commencement of the public comment period. Such notice shall be cablecast at times most likely to reach the maximum viewing audience. If the cablecasting facilities are not within the control of the cable operator, the operator shall use its best efforts to cablecast the prescribed notice.

- (2) Report on Request for Amendment. Coincident with publication of notice of any proposed amendment, the issuing authority shall make available to the public in the city or town clerk's office a written report, prepared by the issuing authority and cable licensee, which shall:

- (a) Identify the licensee, the full text of the proposed amendment, and the purpose for which the requested amendment is being made;
  - (b) State the date the request for amendment was received by the issuing authority;
  - (c) Describe the probable effect(s) of the proposed amendment on consumers and any other concerned parties.
- (3) The public shall be afforded a reasonable opportunity to provide input on the proposed amendment during a public comment period of at least 21 days in duration held prior to the issuing authority's final decision on the adoption of the requested amendment.
- (4) The proposed amendment shall be adopted if the issuing authority and the licensee so determine within a reasonable period following the close of the public comment period.
- (5) Within ten days of adopting a license amendment, the issuing authority shall issue a written public report specifying the reasons for its decision. Upon issuance of its report, the issuing authority shall forward copies of the report and the amended license to the Department.
- (6) Nothing shall prevent an issuing authority and a licensee from requesting or adopting more than one amendment at a time pursuant to the provisions of 207 CMR 3.07.

### 3.08: Complaint Provisions

Any person aggrieved by the action of the issuing authority in amending a final license pursuant to 207 CMR 3.07 may file a complaint in writing with the Department within 30 days of the adoption of the amendment. The Department may, at its direction, initiate an investigation of the issuing authority's action and hold hearings thereon, giving due notice to all parties.

If, after investigation and hearing, the Department approves the issuing authority's action, it shall issue notice to the issuing authority to that effect. If the Department disapproves, it shall issue a decision in writing advising said issuing authority of the reasons for its decision and the issuing authority shall conform with the decision.

### 3.09: Rights of Appeal

- (1) Appeals to the Department by aggrieved parties seeking an initial or renewal license pursuant to 207 CMR 3.00 shall be initiated in accordance with the provisions of M.G.L. c. 166A, § 14. The following parties shall have standing to appeal to the Department:
  - (a) An applicant for an initial license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.02(3) or 3.03(4) or by the failure of an issuing authority to make a decision within 60 days of the hearing provided for in 207 CMR 3.03(4); or
  - (b) An applicant for a license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.04(3); or

- (c) An applicant for a renewal license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.06(3).
- (2) The Department 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 3.00.

**REGULATORY AUTHORITY**

207 CMR 3.00: M.G.L. c. 166A, §§ 4, 13 and 16.

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

Section 4.01: Transfer of Control

Section 4.02: Application for Transfer

Section 4.03: Hearing and Notice Requirements

Section 4.04: Standard of Review

Section 4.05: Issuing Authority Report

Section 4.06: Rights of Appeal

### **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 Department 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 Department. 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 Department.
- (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 Department 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 Department.

#### 4.06: Rights of Appeal

Appeals to the Department 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 Department 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.

## **207 CMR 6.00: RATE REGULATION**

Section 6.01: Adoption of Federal Cable Rate Regulations

Section 6.02: Department as Rate Regulator

Section 6.03: Hearings

Section 6.04: Department Rate Regulation

Section 6.05: Hearing and Notice Requirements

### **6.01: Adoption of Federal Cable Rate Regulations**

Pursuant to M.G.L. c. 166A, § 15 and 47 U.S.C. § 543, federal regulations promulgated by the Federal Communications Commission at Subpart N, “Cable Rate Regulations,” 47 CFR § 76.901 et seq., as amended, are hereby adopted and incorporated by reference in 207 CMR 6.01.

### **6.02: Department as Rate Regulator**

The Department is the certified “franchising authority” for regulating basic service tier rates and associated equipment costs in Massachusetts.

### **6.03: Rate Hearing Procedures**

All rate hearings conducted in accordance with M.G.L. c. 166A, § 15 shall be subject to the provisions of M.G.L. c. 30A and 207 CMR 1.00.

### **6.04: Department Rate Regulation**

The Department shall, consistent with FCC regulations, regulate the basic service tier and equipment rates:

- (1) At the request of an issuing authority; or
- (2) On its own if the Department finds such regulation to be in the public interest. In any case where the Department acts on its own to regulate rates without the request of an issuing authority, the Department shall notify the relevant issuing authority and cable operator prior to commencing regulation.

### **6.05: Hearing and Notice Requirements**

For purposes of fixing and establishing rates pursuant to M.G.L. c. 166A, § 15, the Department shall conduct public hearings at the Department's principal office or at such other site as it may designate. Public notice of any hearing shall be made pursuant to 207 CMR 2.02, to insure that there is a reasonable opportunity for consideration of the views of interested parties.

REGULATORY AUTHORITY

207 CMR 6.00: 47 U.S.C. § 543, M.G.L. c. 166A, §§ 15, 16.

## **207 CMR 6.00: RATE REGULATION**

Section 6.01: Adoption of Federal Cable Rate Regulations

Section 6.02: Department as Rate Regulator

Section 6.03: Hearings

Section 6.04: Department Rate Regulation

Section 6.05: Hearing and Notice Requirements

### **6.01: Adoption of Federal Cable Rate Regulations**

Pursuant to M.G.L. c. 166A, § 15 and 47 U.S.C. § 543, federal regulations promulgated by the Federal Communications Commission at Subpart N, “Cable Rate Regulations,” 47 CFR § 76.901 et seq., as amended, are hereby adopted and incorporated by reference in 207 CMR 6.01.

### **6.02: Department as Rate Regulator**

The Department is the certified “franchising authority” for regulating basic service tier rates and associated equipment costs in Massachusetts.

### **6.03: Rate Hearing Procedures**

All rate hearings conducted in accordance with M.G.L. c. 166A, § 15 shall be subject to the provisions of M.G.L. c. 30A and 207 CMR 1.00.

### **6.04: Department Rate Regulation**

The Department shall, consistent with FCC regulations, regulate the basic service tier and equipment rates:

- (1) At the request of an issuing authority; or
- (2) On its own if the Department finds such regulation to be in the public interest. In any case where the Department acts on its own to regulate rates without the request of an issuing authority, the Department shall notify the relevant issuing authority and cable operator prior to commencing regulation.

### **6.05: Hearing and Notice Requirements**

For purposes of fixing and establishing rates pursuant to M.G.L. c. 166A, § 15, the Department shall conduct public hearings at the Department's principal office or at such other site as it may designate. Public notice of any hearing shall be made pursuant to 207 CMR 2.02, to insure that there is a reasonable opportunity for consideration of the views of interested parties.

REGULATORY AUTHORITY

207 CMR 6.00: 47 U.S.C. § 543, M.G.L. c. 166A, §§ 15, 16.

## **207 CMR 10.00: BILLING AND TERMINATION OF SERVICE**

Section 10.01: Billing Practices Notice

Section 10.02: Services, Rates and Charges Notice

Section 10.03: Form of Bill

Section 10.04: Advance Billing and Issuance of Bills

Section 10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service

Section 10.06: Charges for Disconnection or Downgrading of Service

Section 10.07: Billing Disputes

Section 10.08: Security Deposits

### **10.01: Billing Practices Notice**

- (1) Every cable television operator shall give written notice of its billing practices to potential subscribers before a subscription agreement is reached. Such notice shall include practices relating to the frequency and timing of bills, payment requirements necessary to avoid account delinquency, billing dispute resolution procedures, and late payment penalties.
- (2) A copy of the cable television operator's billing practices notice, work order, and sample subscriber bill shall be filed by March 15th of each year with the Department, the issuing authority, and the operator's local office, where they shall be available for public inspection. If an operator amends its billing practices notice, work order, or subscriber bill after submitting the annual filing, it shall file copies of the amendments with the Department, the issuing authority, and the operator's local office.
- (3) At least 30 days prior to implementing a change of one of its billing practices, the cable television operator shall notify in writing the Department, the issuing authority, and all affected subscribers of the change and shall include in the notice a description of the changed practice.
- (4) Statements about billing practices in work orders, marketing materials, and other documents shall be consistent with the billing practices notice.

### **10.02: Services, Rates and Charges Notice**

- (1) Every cable television operator shall give notice of its services, rates, and charges to potential subscribers before a subscription agreement is reached.
- (2) At least 30 days prior to implementing an increase in one of its rates, charges, or fees, or a substantial change in the number or type of programming services, the operator shall notify, in writing, the Department, the issuing authority, and all affected subscribers of the change and shall include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided.

- (3) Every cable television operator shall fully disclose in writing all of its programming services and rates, upon request from a subscriber.
- (4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase and/or replacement due to damage or theft of equipment or devices used in relation to cable services, upon request from a subscriber.
- (5) Every cable television operator shall provide written notice of the charge, if any, for service visits and under what circumstances such charge will be imposed, upon request from a subscriber.
- (6) A copy of the cable operator's programming services, rates, and charges shall be filed by March 15th of each year with the Department, the issuing authority, and the operator's local office where it shall be made available for public inspection. If an operator amends its notice after the annual filing, it shall file a copy of the amendment with the Department, the issuing authority, and the operator's local office.
- (7) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service.

#### 10.03: Form of Bill

- (1) The bill shall contain the following information in clear, concise, and understandable language and format:
  - (a) the name, local address, and telephone number of the cable television operator.  
The telephone number shall be displayed in a conspicuous location on the bill and shall be accompanied by a statement that the subscriber may call this number with any questions or complaints about the bill or to obtain a description of the subscriber's rights under 207 CMR 10.07 in the event of a billing dispute;
  - (b) the period of time over which each chargeable service is billed including prorated periods as a result of establishment and termination of service;
  - (c) the dates on which individually chargeable services were rendered or any applicable credits were applied;
  - (d) separate itemization of each rate, charge, or fee levied or credit applied, including, but not be limited to, basic, premium service, and equipment charges, as well as any unit, pay-per-view, or per item charges or fees;
  - (e) the amount of the bill for the current billing period, separate from any prior balance due; and
  - (f) the date on which payment is due from the subscriber.

- (2) Cable operators may identify as a separate line item of each regular subscriber bill the following:
  - (a) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to whom the fee is paid;
  - (b) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels;
  - (c) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under 207 CMR 10.03, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.
- (3) All itemized costs shall be direct and verifiable. Each cable operator shall maintain a document in its public file which shall be available upon request and shall provide the accounting justification for all itemized costs appearing on the bill.

#### 10.04: Advance Billing and Issuance of Bill

- (1) In the absence of a license provision further limiting the period of advance billing, a cable operator may, under uniform, nondiscriminatory terms and conditions, require payment not more than two months prior to the last day of a service period.
- (2) A cable subscriber may voluntarily offer and a cable operator may accept advance payments for periods greater than two months.
- (3) Upon request, a cable television operator shall provide subscribers with a written statement of account for each billing period and a final bill at the time of disconnection.

#### 10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service

- (1) Subscriber payment is due on the due date marked on the bill, which shall be a date certain and in no case a statement that the bill is due upon receipt. The due date shall not be less than five business days following the mailing date of the bill.
- (2) A subscriber account shall not be considered delinquent unless payment has not been received by the operator at least 30 days after the bill due date.
- (3) The following provisions shall apply to the imposition of late charges on subscribers:
  - (a) A cable television operator shall not impose a late charge on a subscriber unless a subscriber is delinquent, the operator has given the subscriber a written late charge notice in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the date of delinquency to pay the balance due.
  - (b) A charge of not more than five percent of the balance due may be imposed as a one-time late charge.

- (c) No late charge may be assessed on the amount of a bill in dispute.
- (4) A cable television operator shall not terminate a subscriber's service unless the subscriber is delinquent, the cable operator has given the subscriber a separate written notice of termination in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the mailing of the notice of termination to pay the balance due. A notice of termination shall not be mailed to subscribers until after the date of delinquency.
- (5) A cable television operator shall not assess a late charge on a bill or discontinue a subscriber's cable television service solely because of the nonpayment of the disputed portion of a bill during the period established by 207 CMR 10.07 for registration of a complaint with the operator or during the process of a dispute resolution mechanism recognized under 207 CMR 10.07.
- (6) Any charge for returned checks shall be reasonably related to the costs incurred by the cable operator in processing such checks.

#### 10.06: Charges for Disconnection or Downgrading of Service

- (1) A cable television operator may impose a charge reasonably related to the cost incurred for a downgrade of service, except that no such charge may be imposed when:
  - (a) A subscriber requests total disconnection from cable service; or
  - (b) A subscriber requests the downgrade within the 30 day period following the notice of a rate increase or a substantial change in the number or type of programming services relative to the service(s) in question.
- (2) If a subscriber requests disconnection from cable television service prior to the effective date of an increase in rates, the subscriber shall not be charged the increased rate if the cable television operator fails to disconnect service prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from service shall receive from the cable operator a prorated refund of any amounts paid in advance.

#### 10.07: Billing Disputes

- (1) Every cable television operator shall have established procedures for prompt investigation of any billing dispute registered by a subscriber. The procedures shall provide at least 30 days from the due date of the bill for the subscriber to register a complaint. The cable television operator shall notify the subscriber of the result of its investigation and give an explanation for its decision within 30 business days of receipt of the complaint.
- (2) The subscriber forfeits any rights under 207 CMR 10.07 if he or she fails to pay an undisputed balance within 30 days of the bill due date.

- (3) Any subscriber who disagrees with the results of the cable television operator's investigation must promptly inquire about and take advantage of any complaint resolution mechanism, formal or informal, available under the license or through the issuing authority before the Department may accept a petition filed under 207 CMR 10.07(4).
- (4) The subscriber or the cable television operator may petition the Department to resolve disputed matters within 30 days of any final action by the cable operator. Final action under 207 CMR 10.07(3) shall be deemed to have occurred 30 days after the filing of a complaint.
- (5) Upon receipt of a petition, the Department may proceed to resolve the dispute if all parties agree to submit the dispute to the Department and be bound by the Department's decision and the Department obtains a statement signed by the parties indicating that agreement. In resolving the dispute, the Department may receive written or oral statements from the parties, and may conduct its own investigation. The Department shall then issue a decision based on the record and the parties shall receive written notification of the decision and a statement of reasons therefor.

#### 10.08: Security Deposits

- (1) A cable operator shall not require from any cable subscriber a security deposit for converters or other equipment in excess of the cost of the equipment.
- (2) The cable operator shall pay interest to the cable subscriber at a rate of five percent per year, or other such lesser amount of interest as has been received from the bank where the deposit has been held for any deposit held for six months or more, and such interest shall accrue from the date the deposit is made by the cable subscriber. Interest shall be paid annually by the cable operator to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.
- (3) Within 30 days after the return of the converter or other equipment, the cable operator shall return the security deposit plus any accrued interest to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

#### REGULATORY AUTHORITY

207 CMR 10.00: 47 U.S.C. § 552, M.G.L. c. 166A, §§ 2A, 3, 5(1), 10, 16 and 17.