



THE COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY
Cable Television Division**

CTV 06-1

Petition by Verizon New England Inc. to commence a rulemaking pursuant to 207 C.M.R. § 2.01(1) to amend 207 C.M.R. § 3.00 et seq.: Licensing.

ORDER INSTITUTING RULEMAKING

I. INTRODUCTION

On March 16, 2006, Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon”) filed, pursuant to G.L. c. 30A, § 4, c. 166A, § 16, and 207 C.M.R. § 2.01(1), a petition with the Department of Telecommunications and Energy, through the Cable Television Division (“Cable Division”), requesting that the Cable Division adopt a regulation governing the licensing process for a cable system in a city or town where the issuing authority has previously granted at least one cable license, and the applicant seeks to offer cable television service in competition with the incumbent provider. Verizon further requests that the Cable Division amend the regulation at 207 C.M.R. § 3.09, governing appeals, in keeping with Verizon’s proposed regulation on competitive licenses. A copy of Verizon’s Proposed Regulations is attached as Attachment A.

II. VERIZON’S PROPOSED REGULATIONS

In its Petition, Verizon argues that the local franchise process is a barrier to its competitive entry in the local cable market and is in need of reform (Petition at 2). Verizon compares “Massachusetts’ requirements for entry into the highly competitive telecommunications business to the entry requirements for the potentially competitive video market” and suggests that the unreasonable entry barriers weaken video competition and hurt consumers by delaying the benefits of competition (*id.* at 2). Verizon notes that when the Cable Division adopted the current local franchising process, the cable industry was a nascent industry that did not have the mass deployment capabilities that exist today for other video providers (*id.* at 3). Verizon asserts that although the industry has evolved significantly in

terms of service and revenue, the franchise regulations have not been changed to match this industry evolution (id. at 3, citing DTE 2004 Annual Report at 30).

According to Verizon, the regulations for the franchise process were originally developed to provide municipalities with the ability to first decide if cable television service was in the best interest of its citizens and then to determine the viability of the cable operator (id. at 3). Verizon asserts that the process may have been appropriate for an issuing authority who had not yet determined whether to license any cable operator, but creates an unreasonable barrier to competition for new entrants who wish to provide service within a community that has already made a determination that video services benefit its citizens. Verizon posits that the Cable Division should better match franchise regulations with current market realities in Massachusetts. To this end, Verizon proposes regulations governing competitive licenses that, according to Verizon, improve and streamline the process and encourage video competition and broadband deployment, while preserving local control of the outcome (Petition at 4-5).

Verizon's proposal includes two adjustments to the current licensing regulations: (1) a new regulation governing the application and review process for competitive licenses; and (2) an amendment to 207 C.M.R. § 3.09, governing appeals of licensing decisions. Verizon's proposed regulation 207 C.M.R. § 3.10,¹ "Competitive Licenses," would create a licensing process applicable to an applicant seeking a cable license in a city or town where the licensing

¹ Verizon proposed that the new regulation be inserted between 207 C.M.R. § 3.04 and 207 C.M.R. § 3.05, and therefore numbered its proposed regulation, 207 C.M.R. § 3.04.5. According to the Regulations Manual published by the Secretary of State, this is an improper numbering format. The Regulations Manual, at 10 (Nov. 2002). We have numbered the proposed regulation 207 C.M.R. § 3.10.

authority has already issued a cable license and the holder of that license is operating a cable system within the city or town. Applicants would file a license application with the issuing authority and the Cable Division (Proposed Regulation § 3.10(1)). No later than 60 days after the application is filed, the issuing authority would hold a public hearing to assess the qualifications of the applicant (Proposed Regulation § 3.10(2)). The issuing authority's assessment of the applicant would be limited to the application, any amendments thereto, and oral and other testimony on the hearing record (Proposed Regulation § 3.10(2)). Following the hearing, the issuing authority would have 30 days in which to issue its written decision and, if the application is approved, issue a license (Proposed Regulation § 3.10(4)).

Verizon's proposed revision to 207 C.M.R. § 3.09 amends the procedure for appeals to the Cable Division of a decision by the issuing authority or a failure of the issuing authority to act on an application (Proposed Regulation § 3.09(1)(a)). The Cable Division's review of an appeal would be conducted de novo (Proposed Regulation § 3.09(2)). A hearing on the appeal would be required within 60 days of the filing of a petition of appeal (Proposed Regulation § 3.09(2)).

III. DISCUSSION

Upon receipt of a petition proposing regulatory change, the Cable Division must determine whether to schedule the petition for further proceedings. 207 C.M.R. § 2.01(2). The Cable Division received several letters in opposition to the initiation of a rulemaking proceeding concerning cable licensing. See e.g., Letter from Massachusetts Municipal Association, dated April 13, 2006; Letter from RCN, dated March 22, 2006. In addition,

pursuant to Executive Order No. 145, the Cable Division met with representatives of the Local Government Advisory Commission who also expressed opposition to the initiation of a proceeding. Generally, municipalities expressed concern with any proposal that may have the affect of limiting their authority or ability to properly review and negotiate a cable license. The municipalities question the propriety of altering rules that they claim have worked well for decades at the behest of a single proponent. Other stakeholders, such as RCN, have indicated that the current process is working and there has been no evidence of a failure of the process that warrants the proposed remedy.

We also consider the stated purpose of the proposed regulations: to promote video competition and investment in advanced services (Petition at 8). There has long been a federal policy of fostering competition among cable television operators. Communications Act of 1934, as amended, Section 601(6), 47 U.S.C. § 521(6). The Cable Division has taken action to implement and further this policy. For example, the Cable Division has granted requests of municipalities considering applications of competitive providers to waive its regulations concerning notice and solicitation requirements in order to expedite the licensing process. See e.g. Letter to The Honorable John C. Curran, March 1, 2005.

Currently, only direct broadcast satellite providers offer services in all Massachusetts communities in competition with incumbent cable providers. While franchises are non-exclusive by law, the number of communities in which two or more cable licenses have

been granted is limited.² Communications Act of 1934, as Amended, Section 621(a)(1), 47 U.S.C. § 541(a)(1). Now, Verizon has applied, under its current licensing regulations, for licenses in over 45 communities. Although Verizon has not committed to serving additional communities, it has argued that

“[n]ext-generation communications networks, such as that currently being built by Verizon in Massachusetts, require the ability to offer video services without unnecessary regulation and delay; and the proposed regulation would go a long way toward creating the right investment climate for competitive video providers to fulfill the goals of investment and communications policy in the state.”

(Petition at 14).

While the Cable Division recognizes that participating in a rulemaking proceeding may burden already limited resources, the issues raised in the opposition statements deserve further exploration and comment. The Cable Division, in determining whether any changes to the licensing process should be adopted, would greatly benefit by a comprehensive record containing examples of actual experience and data. Moreover, Verizon’s proposed rules have the potential of increasing video competition in the Commonwealth, thereby conferring the benefits of that competition on consumers. We find that the balance of interests weighs in favor of commencing this rulemaking proceeding. Therefore, pursuant to G.L. 166A, § 16, and 207 C.M.R. § 2.01(1), and by this Order, the Cable Division initiates a rulemaking proceeding to solicit comment from interested persons on whether to adopt the proposed

² RCN serves 14 metropolitan Boston communities pursuant to franchise agreements. Verizon is currently serving three municipalities. In addition, two municipalities have established competitive cable television services owned and operated by the municipal electric department.

regulations or otherwise amend the current regulations. In addition, on its own motion, the Cable Division includes in this rulemaking proceeding a proposal to make a technical correction to 207 C.M.R. by changing “Community Antenna Television Commission” to “Community Antenna Television Division” in the title, and the reference “Commission” to “Division” in each instance it appears in the section.³ The Cable Division’s regulations have not been amended to reflect the changes in G.L. c. 166A. See St. 1997, c. 43, §§ 133, 115-129, c. 88, § 33; St. 1998, §§ 142-146. A copy of the proposed regulations, reflecting this technical change, is attached to this Order as Attachment B.

IV. SOLICITATION OF COMMENTS

The Cable Division emphasizes that the decision to open this proceeding is in no way reflective of a predisposition to adopt the proposed changes. Rather, the decision to open the proceeding reflects the Cable Division’s desire to allow all interested persons an opportunity to participate in this very important policy debate. We strongly encourage all interested persons, especially local governments, to offer comment and provide relevant data on issues of concern to them. In addition, the Cable Division highlights some general issues on which we welcome comment.

First, we raise the issue of what is the appropriate forum for this discussion. The issue of competitive licensing is being contemplated by legislators and regulators in several states and on the national level. The Federal Communications Commission (“FCC”) has

³ In Verizon’s proposed regulations, Verizon refers to the Cable Division as “Commission,” consistent with the current title and other subsections.

commenced a proceeding to investigate whether local issuing authorities are unreasonably refusing to grant competitive video franchises or are otherwise creating unreasonable barriers to market entry. In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Notice of Proposed Rulemaking, MB Docket No. 05-311, FCC 05-189, (November 18, 2005) (“FCC Franchising NPRM”). Of particular note, in the FCC Franchising NPRM, the FCC sought comment on whether multi-step processes established by some states create an unreasonable barrier to entry by competitive providers. Id. at 8-9, ¶ 14. The FCC specifically referred to the Cable Division’s regulations at 207 C.M.R. § 3.00 et seq. when questioning the propriety of such processes. Id. at 9, ¶ 14, n. 62.

Moreover, several bills addressing competitive licensing are being discussed by both houses of Congress. On the state level, Texas, Virginia, and Indiana have passed legislation altering the process by which a cable television provider that seeks to offer service in competition with an incumbent cable television provider may obtain a license to do so. Tex. Util. Code §§ 66.001-66.017; Va. Code §§ 15.2-2108.19-15.2-2108.31; Ind. Code §§ 8-1-32.5, 8-1-34 (2006). Several other states are currently considering such legislative action. While there is currently no proposed legislation pending at the Massachusetts Legislature on this issue, federal licensing legislation could affect the process established in Massachusetts. Given the attention being paid to the competitive licensing issue and the possibility of regulatory change resulting from any federal legislative action, the

Cable Division seeks comment on whether regulatory action is appropriate at this time. We request that comments further address the value and costs of delaying regulatory action for events that are not certain to occur, particularly as those costs may relate to unnecessarily delaying the benefits of cable competition to Massachusetts consumers.

Turning to the substance of Verizon's proposal, we raise the following issues.

Generally, Verizon's proposal streamlines the licensing process for competitive providers by eliminating the threshold decision by the issuing authority to initiate the licensing process, the application solicitation process, the provisional license requirement and the requirement that issuing authorities issue a written report outlining the specifications for a license. With respect to the elimination of the threshold decision by issuing authorities, and the issuing authority specifications report, we specifically seek comment on whether 207 C.M.R. § 3.02(2), as applied to competitive franchises, is consistent with 47 U.S.C. § 541(a). Regarding application solicitation, as noted above, the Cable Division routinely waives the regulation requiring solicitation of applications in national trade journals and reduces the notice requirement from 60 days to 30 days. Is there any reason that the Cable Division's practice should not be formalized by regulation?

Although the requirement that an issuing authority issue a provisional license prior to issuing a final license currently exists, since 1996, there has been no instance where the final competitive license was preceded by a provisional license of any significant duration.⁴ The

⁴ In several instances, RCN has complied with the letter of the regulations by executing a provisional license simultaneously with the final license.

purpose of the provisional license is to allow the applicant time to obtain the financing needed to build the cable system. The provisional license requirement also provided “an important check on a new licensee’s commitment to fulfill all obligations under the franchise agreement and state law.” In Re Amendment of 207 CMR § 2.00 - § 10.00, R-25, at 16 (1996).

Verizon argues in its Petition that the current framework makes little sense when competitive providers who already have access to the rights-of-way seek to offer competitive video services over their broadband networks (Petition at 4). Nevertheless, if we were to establish a distinct process for competitive licensing, the regulations would apply to providers who may not have access to the rights-of-way and must engage in significant construction prior to offering services. In these circumstances, might the protections of a provisional license be warranted or does the fact that the industry is no longer nascent alleviate the need for such protection? The Cable Division seeks comment as to the continued significance of a provisional license either to an issuing authority or competitive provider in the licensing process.

Another significant change Verizon proposes regards the length of the process. Currently, an issuing authority must make a decision to grant or deny an initial license within 12 months of the date it decides to initiate the licensing process. 207 C.M.R. § 3.02(4). There is no explicit recourse for an operator aggrieved by an issuing authority’s inaction under this provision. Verizon proposes that with respect to competitive franchises, that period be limited to three months. In addition, Verizon’s proposal includes an explicit right to appeal to the Cable Division inaction by the issuing authority. The Cable Division seeks comment on

whether the proposed three-month period is reasonable, considering the applicable standard of review. As points of reference, the review period for a formal proposal for renewal, involving whether the proposal is reasonable to meet the cable-related needs of the community taking into consideration the costs of meeting those needs, is 120 days. Communications Act of 1934, as amended, Section 626(c)(1), 47 U.S.C. § 546(c)(1).⁵ Further, the review of license transfer applications, which focuses solely on the qualifications of the transferee-applicant, is limited to 120 days. Communications Act of 1934, as amended, Section 617, 47 U.S.C. § 537. We specifically seek comment from those communities that have initiated the licensing process with Verizon. The experiences of these communities, and those of the competitive franchisees, would provide valuable insight into the merits and shortcomings of the current process.

Second, with respect to this issue, the three-month “competitive franchising process” commences upon the applicant’s filing of an application. Thus, timing of the process is in the applicant’s exclusive control. The proposal contains recourse for inaction on the part of the issuing authority. Many have raised the issue of inaction by the applicant. For example, under the proposed regulations, there is no requirement that an applicant respond to information requests or otherwise assist the issuing authority in its review. If the municipality does not render a decision because it lacks sufficient information to do so, the applicant, under Verizon’s proposal, may request the Cable Division to review the application, de novo. By

⁵ This 120-day review period of course closes the 36-month renewal window. 47 U.S.C. § 546.

this example, an applicant's failure to participate in the process seems to be of no consequence to the applicant.

With respect to an appeal to the Cable Division, while Verizon's proposal addresses the mode of review, *ie. de novo* review, it does not address the standard by which the Cable Division would review an application. Unlike cases where a municipality has withheld consent to transfer a license or denied a renewal license application, the standard of review of an initial license is not defined by statute. We note that 47 U.S.C. § 541(a) prohibits a franchising authority from unreasonably denying a competitive franchise. We seek comment on the standard by which the Cable Division would determine whether an application were reasonable and whether such standard should be included in the regulation.

Interested persons should file initial written comments on the proposed revisions to 207 C.M.R. § 3.00 *et seq.*, and on the technical correction to 207 C.M.R., to the extent necessary, no later than 5:00 p.m. on July 14, 2006, and reply comments no later than 5:00 p.m. on September 13, 2006. Written comments should be limited in length to a maximum of 20 one-sided double spaced typewritten pages. Comments should be filed with Andrea Nixon, Clerk, Cable Division, One South Station, Boston, Massachusetts, 02110. All comments must also be submitted to the Cable Division in electronic format using one of the following methods: (1) by email attachment to andrea.nixon@state.ma.us; or (2) on a 3.5" floppy disk. The text of the e-mail or the diskette label must specify: (1) an easily identifiable case caption; (2) docket number CTV 06-1; (3) the name of the person or company submitting the filing; and (4) a brief descriptive title of the document (*e.g.*, comments). The

electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Text responses should be written in Corel WordPerfect, Microsoft Word, or as an Adobe-compatible PDF file. Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format will be posted on the Cable Division's website (www.mass.gov/dte/catv/).

To provide further opportunity for comment, and pursuant to G.L. c. 30A, § 2, and c. 166A, § 16, the Cable Division will hold a public hearing on August 16, 2006, at 10:00 a.m., at the offices of the Department of Telecommunications and Energy, One South Station, Boston, Massachusetts. Interested persons may present facts, opinions, or arguments relating to the proposed regulations at the public hearing. Interested persons planning to participate in this public hearing are requested to notify the Cable Division of their intent to participate. Such notice may be in writing or by email to andrea.nixon@state.ma.us and should include complete contact information for all participants (name, title, company/community name, business address, telephone, fax, and email address).

**By Order of the
Department of Telecommunications and Energy
Cable Television Division**

Alicia C. Matthews
Director

Date: May 5, 2006

Attachment A
Verizon's Proposed Regulation

207 CMR 3.00: LICENSING

Section 3.09: Rights of Appeal

Section 3.10 Competitive License

3.09: Rights of Appeal

(1) Appeals to the Division 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 Division:

- (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), 3.03(5) or 3.10 or by the failure of an issuing authority to take any action required of it by 207 CMR 3.00 within 60 days of the date for such action as set forth in 207 CMR 3.00;
- (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) Within 60 days of the filing of a petition of appeal pursuant to M.G.L. c. 166 A, § 14, the Division shall conduct a hearing *de novo* pursuant to said statute and issue such order as it deems appropriate to carry out the purpose of M.G.L. c. 166A and 207 CMR 3.00.

3.10 Competitive License

(1) In any city or town in which the licensing authority has issued a license pursuant to 207 CMR 3.03 or 207 CMR 3.04 and the holder of such a license is operating a cable system within the city or town, an applicant seeking to operate a cable system within the city or town in competition with the incumbent licensee(s) may initiate the licensing process by filing with the issuing authority an application in the form prescribed by the Division pursuant to M.G.L. c. 166A, §4, and note thereon that an incumbent is currently providing cable service within the city or town. The applicant shall also file a copy of the application with the Division. The provisions of this section, and not sections 3.02, 3.03 and 3.04 above, shall govern the disposition of such application.

- (2) No later than 60 days after an application is filed pursuant to 207 CMR 3.10(1), the issuing authority shall hold a public hearing to assess the qualifications of the applicant. Assessment of applicant qualifications shall be limited to the information provided in the application on file, any amendments to such application, oral testimony given during the hearing and other relevant information included in the hearing record.
- (3) An application under this section shall be approved and 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 Division, pursuant to M.G.L. c. 166A, §4; and
 - (b) the requirements of M.G.L. c. 166A, §§3, 4 and 5.
- (4) Within 30 days following the date of the hearing, the issuing authority shall approve or deny the application and shall issue a written public statement containing in detail the reasons for such approval or denial. If the application is approved, the issuing authority shall also issue a final license at that time. The issuing authority shall send copies of such statement and, if applicable, the final license to the applicant.
- (5) Within seven days of approving or denying the application pursuant to 207 CMR 3.10(3), the issuing authority shall file with the Division a copy of such statement and, if applicable, a copy of the final license.

REGULATORY AUTHORITY

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

Attachment B
Proposed Technical Corrections

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 Division 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 Division, 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 Division 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 Division 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 Division 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 Division may prescribe a uniform reporting system for the completion of the financial reporting forms.

(3) Complaint Forms. The Division shall prescribe a complaint form, to be filed by the licensee with the Division on a quarterly 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 Division may waive particular provisions of 207 CMR for good cause shown.

REGULATORY AUTHORITY

207 CMR 2.00: M.G.L. c. 166A, §§ 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 Division.
- (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 Division 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 Division, 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 Division of the date that the licensing process was initiated; and
 - (b) Solicit applications for a cable license or licenses and specify a filing deadline for such applications.

- (2) License applications shall be solicited by publication of a notice in a newspaper of general circulation in the city or town soliciting the applications at least once in each of

two successive weeks, the first publication being not less than 60 days before the filing deadline for receipt of applications. Such notice shall also be published not less than 60 days before the filing deadline in one trade journal selected from a listing on file with the Division. No applications may be filed after the issuing authority's final deadline for applications has passed.

(3) 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 Division 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.

(4) After issuing its report under 207 CMR 3.03(3), 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.

(5) 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.

(6) 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.

(7) 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 Division:

- (a) The issuing authority statement prepared pursuant to 207 CMR 3.03(5);
- and
- (b) The provisional license, if one has been granted.

(8) 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.

(9) 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 Division, 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 Division.

(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 Division:

- (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 Division 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. 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 Division 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 Division:

- (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 Division 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 Division.

(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 Division within 30 days of the adoption of the amendment. The Division 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 Division approves the issuing authority's action, it shall issue notice to the issuing authority to that effect. If the Division 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 Division 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 Division:

(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(5) 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 Division 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 Division 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 Division 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 Division. 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 Division.

(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 Division 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 Division.

4.06: Rights of Appeal

Appeals to the Division 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 Division 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: Division as Rate Regulator

Section 6.03: Hearings

Section 6.04: Division 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 Division 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: Division as Rate Regulator

The Division 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 801 CMR 1.00.

6.04: Division Rate Regulation

The Division 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 Division finds such regulation to be in the public interest. In any case where the Division acts on its own to regulate rates without the request of an issuing authority, the Division 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 Division shall conduct public hearings at the Division'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.

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 Division, the issuing authority, and the company'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 Division, the issuing authority and the company'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 Division, the issuing authority and all affected subscribers of the change and include 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) The 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 or charges or a substantial change in the number or type of programming services, the operator shall notify, in writing, the Division, the issuing authority and all affected subscribers of the

change and 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 Division, the issuing authority and the company'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 Division, the issuing authority and the company'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 or charge 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;
 - (e) the amount of the bill for the current billing period, separate from any prior balance due;
 - (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, that provides 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 company 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 5 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 company 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 a prorated refund of any amounts paid in advance.

10.07: Billing Disputes

(1) Every cable television operator shall establish procedures for prompt investigation of any billing dispute registered by a subscriber. The procedure 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 working days of receipt of the complaint.

(2) The subscriber shall forfeit any rights under 207 CMR 10.07 if he or she fails to pay the undisputed balance within 30 days.

(3) Any subscriber in disagreement with the results of the cable television operator's investigation shall 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 Division may accept a petition filed under 207 CMR 10.07(4).

(4) The subscriber or the cable television operator may petition the Division to resolve disputed matters within 30 days of any final action. 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 Division may proceed to resolve the dispute if all parties agree to submit the dispute to the Division and be bound by the Division's decision and the Division obtains a statement signed by the parties indicating that agreement. In resolving the dispute, the Division may receive either written or oral statements from the parties, and may conduct its own investigation. The Division 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 7% per year 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.