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Title XXXVI

Chapter 610

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BUSINESS ORGANIZATIONS

CABLE AND VIDEO SERVICES

610.09 Public, educational, and governmental access channels. —

(1) A certificateholder, not later than 180 days following a request by a municipality or county within whose jurisdiction the certificateholder is providing cable or video service, shall designate a sufficient amount of capacity on its network to allow the provision of public, educational, and governmental access channels for noncommercial programming as set forth in this section.

(2) A certificateholder shall designate a sufficient amount of capacity on its network to allow the provision of the same number of public, educational, and governmental access channels or their functional equivalent that a municipality or county has activated under the incumbent cable or video service provider's franchise agreement as of July 1, 2007. For the purposes of this section, a public, educational, or governmental channel is deemed activated if the channel is being used for public, educational, or governmental programming within the municipality or county. The municipality or county may request additional channels or their functional equivalent permitted under the incumbent cable or video service provider's franchise agreement as of July 1, 2007. Upon the expiration of the incumbent cable or video service provider's franchise agreement or within 6 months after a request of a municipality or county for an additional channel or its functional equivalent, a public access channel or capacity equivalent may be furnished after a polling of all subscribers of the cable or video service in their service area. The usage of one public access channel or capacity equivalent shall be determined by a majority of all the provider's subscribers in the jurisdiction. The video or cable service subscribers must be provided with clear, plain language informing them that public access is unfiltered programming and may contain adult content.

(3) If a municipality or county did not have public, educational, or governmental access channels activated under the incumbent cable or video service provider's franchise agreement as of July 1, 2007, after the expiration date of the incumbent cable or video service provider's franchise agreement and within 6 months after a request by the municipality or county within whose jurisdiction a certificateholder is providing cable or video service, the certificateholder shall furnish up to two public, educational, or governmental channels or their functional equivalent. The usage of the channels or their functional equivalent shall be determined by a majority of all the video service provider's subscribers in the jurisdiction in order of preference of all video service subscribers. Cable or video service subscribers must be provided with clear, plain language informing them that public access is unfiltered programming and contains adult content.

(4) If a municipality or county has not used the number of access channels or their functional equivalent permitted by subsection (3), access to the additional channels or their functional equivalent allowed in subsection (3) shall be provided upon 6 months' written notice.

(5) A public, educational, or governmental access channel authorized by this section is deemed activated and substantially used if the channel is being used for public, educational, or governmental access programming within the municipality or county for at least 10 hours per day on average, of which at least 5 hours must be nonrepeat programming and as measured on a quarterly basis. Static information screens or bulletin-board programming shall not count toward this 10-hour requirement. If the applicable access channel does not meet this utilization criterion, the video service provider shall notify the applicable access provider in writing of this failure. If the access provider fails to meet this utilization criterion in the subsequent quarter, the cable or video service provider may reprogram the channel at its discretion. The cable or video service provider shall work in good faith with the access provider to attempt to provide future carriage of the applicable access channel within the limits of this section if the access provider can make reasonable assurances that its future programming will meet the utilization criteria set out in this subsection.

(6) A cable or video service provider may locate any public, educational, or governmental access channel on its lowest digital tier of service offered to the provider's subscribers. A cable or video service provider must notify its customers and the applicable municipality or county at least 120 days prior to relocating the applicable educational or governmental access channel.

(7) The operation of any public, educational, or governmental access channel or its functional equivalent provided under this section shall be the responsibility of the municipality or county receiving the benefit of such channel or its functional equivalent, and a certificateholder bears only the responsibility for the transmission of such channel content. A certificateholder shall be responsible for the cost of providing the connectivity to one origination point for each public, educational, or governmental access channel up to 200 feet from the certificateholder's activated video service distribution plant.

(8) The municipality or county shall ensure that all transmissions, content, or programming to be transmitted over a channel or facility by a certificateholder are provided or submitted to the cable or video service provider in a manner or form that is capable of being accepted and transmitted by a provider without any requirement for additional alteration or change in the content by the provider, over the particular network of the cable or video service provider, which is compatible with the technology or protocol used by the cable or video service provider to deliver services. To the extent that a public, educational, or governmental channel content provider has authority, the delivery of public, educational, or governmental content to a certificateholder constitutes authorization for the certificateholder to carry such content, including, at the provider's option, authorization to carry the content beyond the jurisdictional boundaries of the municipality or county.

(9) Where technically feasible, a certificateholder and an incumbent cable service provider shall use reasonable efforts to interconnect their networks for the purpose of providing public, educational, and governmental programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. Certificateholders and incumbent cable service providers shall negotiate in good faith, and incumbent cable service providers may not withhold interconnection of public, educational, and governmental channels. The requesting party shall bear the cost of such interconnection.

(10) A certificateholder is not required to interconnect for, or otherwise to transmit, public, educational, and governmental content that is branded with the logo, name, or other identifying marks of another cable or video service provider, and a municipality or county may require a cable or video service provider to remove its logo, name, or other identifying marks from public, educational, and governmental content that is to be made available to another provider. This subsection does not apply/

to the logo, name, or other identifying marks of the public, educational, or governmental programmer or producer.

(11) A municipality or county that has activated at least one public, educational, or governmental access channel pursuant to this section may require cable or video service providers to remit public, educational, and governmental support contributions in an amount equal to a lump-sum or recurring per-subscriber funding obligation to support public, educational, and governmental access channels, or other related costs as provided for in the incumbent's franchise that exists prior to July 1, 2007, until the expiration date of the incumbent cable or video service provider's franchise agreement. Any prospective lump-sum payment shall be made on an equivalent per-subscriber basis calculated as follows: the amount of prospective funding obligations divided by the number of subscribers being served by the incumbent cable or video service provider at the time of payment, divided by the number of months remaining in the incumbent cable or video service provider's franchise equals the monthly per-subscriber amount to be paid by the certificateholder. The obligations set forth in this subsection apply until the earlier of the expiration date of the incumbent cable or video service provider's franchise agreement or July 1, 2012. For purposes of this subsection, an incumbent cable or video service provider is the service provider serving the largest number of subscribers as of July 1, 2007.

(12) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section.

History.—s. 7, ch. 2007-29.