Before the
Mt. Hood Cable Regulatory Commission
1120 SW Fifth Ave, Room 1305
Portland, OR 97204

Establish a fee to cover the required costs for the	)	
MHCRC to process a competitive cable services	)	Resolution No. 2007-04
Franchise application in connection with any	)	Adopted by the Commission
Franchise application submitted pursuant to	)	June 18, 2007
§76.41 of the Code of Federal Regulations	)	

Section 1.   Findings.

1.1   Authority. The Mt. Hood Cable Regulatory Commission ("MHCRC") was created by Intergovernmental Agreement (dated 12/24/92) ("IGA") to carry out cable regulation and administration on behalf of Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village ("the Jurisdictions"). Among other things, the MHCRC acts in an advisory capacity to the Jurisdictions in connection with the proposed grant of any cable franchise. As set forth in the IGA (Section 4.B.1), the Jurisdictions have reserved to themselves authority to grant cable communications system franchises; while agreeing to consider the advice and recommendations of the MHCRC and to take no action in such matters until the MHCRC has had a prior opportunity to consider the matter. The IGA (Section 3) vests with the MHCRC all the powers, rights and duties necessary to carry out the purposes of the IGA, which includes the authority to create a competitive cable franchise application process for any applicant seeking a competitive cable franchise in any of the Jurisdictions.

1.2   FCC Competitive Franchise Application Process Rule ("CFAR"). On December 20, 2006 the Federal Communications Commission ("FCC") adopted a Report and Order and Further Notice of Proposed Rulemaking on franchising in MB Docket No 05-311. In the Order, the FCC adopted an amendment to Part 76 of Title 47 of the Code of Federal Regulations to create a new rule regarding competitive cable franchise applications, to be set forth as 47 CFR §76.41. The FCC's Order was published in the Federal Register on March 21, 2007.

1.3   Jurisdictions CFAR Local Rule for Franchise Applications. In compliance with the FCC's mandates under the CFAR, and to avoid confusion and ensure that the appropriate application process is followed by competitive providers, the MHCRC Jurisdictions adopted a CFAR Local Rule in May 2007. Under the CFAR Local Rule, the MHCRC, on behalf of the MHCRC Jurisdictions, is required to process any competitive cable franchise application submitted pursuant to 47 CFR §76.41, and establish, among other things, application fees.

1.4   MHCRC's reasonable and incidental costs to process a CFAR franchise application. The MHCRC intends that the application fee will serve to recover all reasonable costs associated with processing a CFAR franchise application, including, without limitation, costs of administrative review; financial, legal and technical evaluation of the applicant; analysis and

negotiation of applicant's proposed franchise terms; notice and publication requirements of the MHCRC for public hearings and meetings; and documentation preparation expenses.

Now, therefore, the Commission resolves:

Section 2.

2.1   The MHCRC adopts an initial $5,000 deposit, with additional deposits in increments of $5,000 as these deposits are depleted, to reimburse the MHCRC's costs related to processing a CFAR Franchise Application.

A.   The MHCRC shall review only those CFAR Franchise Applications that include the initial $5,000 application deposit.

B.   The MHCRC will shall document staff wages, benefits, overhead expenses, goods, services and other reasonable costs related to processing the CFAR franchise application. The MHCRC shall provide written documentation of the MHCRC's costs to the Applicant on a monthly basis.

C.   If the documented costs exceed the initial $5,000 deposit, the MHCRC will notify the Applicant and the Applicant, within 30 days of the notice, shall submit additional deposits in $5,000 increments.

D.   If the MHCRC does not received additional deposits within 30 days of the notice, the time period set forth in 47 C.F.R. §76.41(d) shall be tolled from the due date of the deposit until the date it is received by the MHCRC.

E.   If the MHCRC's total costs are less than the total amount deposited by the Applicant, the excess shall be refunded to the Applicant within 45 days of concluding the CFAR Franchise Application process.

2.2   Upon request of the CFAR Franchise Applicant, the MHCRC may reduce or waive the application deposit. In evaluating such a request, the MHCRC will consider the following factors: (1) the size of the proposed franchise area; (2) the number of potential subscribers in the proposed franchise area; (3) the financial hardship to the CFAR Franchise Applicant (including any parent corporation or affiliate); and (4) other information relevant to the cost of processing the application and/or the CFAR Franchise Applicant's ability to pay the deposit.

2.3   The MHCRC's CFAR Franchise Application deposit is in addition to any franchise application fees adopted by the Jurisdictions, and is not in place of any Jurisdictional fees or charges.

2.4   Notwithstanding the CFAR Local Rule, any competitive cable services franchise applicant may elect to submit a cable franchise application to the MHCRC and/or engage in cable franchise negotiations without regard to the application of the FCC CFAR.   In such cases, on behalf of the Jurisdictions, the MHCRC is authorized to negotiate the terms of a competitive cable franchise for recommendation to and consideration by the Jurisdictions without regard to 47 CFR §76.41 and the CFAR Local Rule, and therefore, without payment of the CFAR Franchise Application deposit. Agreement by any applicant to negotiate a franchise without regard to 47 CFR §76.41 and the CFAR Local Rule shall not be deemed by the MHCRC to

effect a waiver of any franchise applicant's right under applicable law to trigger application of 47 CFR §76.41 and the CFAR Local Rule, where applicable.

RESOLVED BY THE COMMISSION on June 18, 2007.

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Norman D. Thomas, Chair

Reviewed by:

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Ben Walters, Legal Counsel