

477A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Board*" means the utilities board within the utilities division of the department of commerce.
2. "*Cable operator*" means the same as defined in 47 U.S.C. § 522.
3. "*Cable service*" means the same as defined in 47 U.S.C. § 522.
4. "*Cable system*" means the same as defined in 47 U.S.C. § 522.
5. "*Competitive cable service provider*" means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.
6. "*Competitive video service provider*" means a person who provides video service other than a cable operator.
7. "*Franchise*" means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider's network in a public right-of-way.
8. "*Franchise fee*" means the fee imposed under section 477A.7.
9. a. "*Gross revenues*" means all consideration of any kind or nature, including but not limited to cash, credits, property, and in-kind contributions received from subscribers for the provision of cable service over a cable system by a competitive cable service provider or for the provision of video service by a competitive video service provider within a municipality's jurisdiction. Gross revenues are limited to the following:
 - (1) Recurring charges for cable service or video service.
 - (2) Event-based charges for cable service or video service, including but not limited to pay-per-view and video-on-demand charges.
 - (3) Rental of set-top boxes and other cable service or video service equipment.
 - (4) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
 - (5) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
 - (6) A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a cable service provider or a video service provider for advertising over the cable service or video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising. This subparagraph applies only to municipalities that include this provision in their franchise agreements as of January 1, 2007.
- b. "*Gross revenues*" does not include any of the following:
 - (1) Revenues not actually received, even if billed, including bad debt.

(2) Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the person providing cable service or video service.

(3) Refunds, rebates, or discounts made to third parties, including subscribers, leased access providers, advertisers, or any municipality or other unit of local government.

(4) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues derived by the holder of a certificate of franchise authority from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, revenue received from information services, revenue received in connection with home-shopping services, or any other revenues attributed by the competitive cable service provider or competitive video service provider to noncable service or nonvideo service in accordance with the holder's books and records kept in the regular course of business and any applicable rules, regulations, standards, or orders.

(5) Revenues paid by subscribers to home-shopping programmers directly from the sale of merchandise through any home-shopping channel offered as part of the cable services or video services.

(6) Revenues from the sale of cable services or video services for resale in which the purchaser is required to collect the franchise fee from the purchaser's customer.

(7) Revenues from any tax of general applicability imposed upon the competitive cable service provider or competitive video service provider or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the competitive cable service provider or competitive video service provider and remitted to the taxing entity, including but not limited to sales or use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes, and including the franchise fee imposed under section 477A.7.

(8) Revenues forgone from the provision of cable services or video services to public institutions, public schools, or governmental entities at no charge.

(9) Revenues forgone from the competitive cable service provider's or competitive video service provider's provision of free or reduced-cost video service to any person, including, without limitation, any municipality and other public institutions or other institutions.

(10) Revenues from sales of capital assets or sales of surplus equipment.

(11) Revenues from reimbursements by programmers of marketing costs incurred by the competitive cable service provider or competitive video service provider for the introduction or promotion of new programming.

(12) Directory or internet advertising revenues including but not limited to yellow page, white page, banner advertisement, and electronic publishing.

(13) Copyright fees paid to the United States copyright office.

(14) Late payment charges.

(15) Maintenance charges.

10. *"Incumbent cable provider"* means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

11. "*Institutional network*" means the system of dedicated fibers, coaxial cables, or wires constructed and maintained by an incumbent cable provider which is reserved and dedicated by the municipality for noncommercial purposes.

12. "*Municipality*" means a county or city.

13. "*Percentage of gross revenues*" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall be not greater than five percent. However, if the incumbent cable provider is a municipal utility providing telecommunications services under section 388.10, "*percentage of gross revenues*" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall not be greater than an equitable apportionment of the services and fees that the municipal utility pays to the municipality, or five percent, whichever is less.

14. "*Public right-of-way*" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "*Public right-of-way*" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

15. "*Video programming*" means the same as defined in 47 U.S.C. § 522.

16. "*Video service*" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including internet protocol technology. "*Video service*" does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. § 332, or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.

2007 Acts, ch 201, §2, 15