

477A.7 Fees — financial support.

1. *a.* In any service area in which a competitive cable service provider or a competitive video service provider holding a certificate of franchise authority offers or provides cable service or video service, the competitive cable service provider or competitive video service provider shall calculate and pay a franchise fee to the municipality with authority to grant a certificate of franchise authority in that service area upon the municipality's written request. If the municipality makes such a request, the franchise fee shall be due and paid to the municipality on a quarterly basis, not later than forty-five days after the close of the quarter, and shall be calculated as a percentage of gross revenues. The municipality shall not demand any additional franchise fees from the competitive cable service provider or competitive video service provider, and shall not demand the use of any other calculation method for the franchise fee.

b. All cable service providers and video service providers shall pay a franchise fee at the same percent of gross revenues as had been assessed on the incumbent cable provider by the municipality as of January 1, 2007, and such percentage shall continue to apply for the period of the remaining term of the existing franchise agreement with the municipality. Upon expiration of the period of the remaining term of the agreement with the incumbent cable service provider, a municipality may request an increase in the franchise fee up to five percent of gross revenues.

c. A provider who is both a competitive cable service provider and a competitive video service provider shall be subject to and only be required to pay one franchise fee to a municipality under this subsection regardless of whether the provider provides both cable service and video service.

d. At the request of a municipality and not more than once per year, an independent auditor may perform reasonable audits of the competitive cable service provider's or competitive video service provider's calculation of the franchise fee under this subsection. The municipality shall bear the costs of any audit requested pursuant to this subsection, unless the audit discloses that the competitive cable service provider or competitive video service provider has underpaid franchise fees by more than five percent, in which case the competitive cable service provider or competitive video service provider shall pay all of the reasonable and actual costs of the audit.

e. A competitive cable service provider or competitive video service provider may identify and collect the amount of the franchise fee as a separate line item on the regular bill of each subscriber.

2. If an incumbent cable provider pays any fee to a municipality for public, educational, and governmental access channels, any subsequent holder of a certificate of franchise authority that includes that municipality shall pay this fee at the same rate during the remaining term of the existing franchise agreement with the municipality, even if the incumbent cable provider elects to convert to a certificate of franchise authority pursuant to section 477A.2. All fees collected pursuant to this subsection shall be used only for the support of the public, educational, and governmental access channels.

3. *a.* If an incumbent cable provider is required by a franchise agreement as of January 1, 2007, to provide institutional network capacity to a municipality for use by the municipality for noncommercial purposes, the incumbent cable provider and any subsequent holder of a certificate of franchise authority shall provide support only for the existing institutional network on a pro rata basis per customer. Any financial support provided for an institutional network shall be limited to ongoing maintenance and support of the existing institutional network. This subsection shall be applicable only to a cable service provider's or video service provider's first certificate of franchise authority issued under this chapter, and shall not apply to any subsequent renewals. For the purposes of this subsection, maintenance and support shall only include the reasonable incremental cost of moves, changes, and restoring connectivity of the fiber or coaxial cable lines up to a demarcation point at the building.

b. For purposes of this subsection, the number of customers of a cable service provider or video service provider shall be determined based on the relative number of subscribers in that municipality at the end of the prior calendar year as reported to the municipality by all incumbent cable providers and holders of a certificate of franchise authority. Any records

showing the number of subscribers shall be considered confidential records pursuant to section 22.7. The incumbent cable provider shall provide to the municipality, on an annual basis, the maintenance and support costs of the institutional network, subject to an independent audit. A municipality acting under this subsection shall notify and present a bill to competitive cable service providers or competitive video service providers for the amount of such support on an annual basis, beginning one year after issuance of the certificate of franchise authority. The annual institutional network support shall be due and paid by the providers to the municipality in four quarterly payments, not later than forty-five days after the close of each quarter. The municipality shall reimburse the incumbent cable provider for the amounts received from competitive cable service providers or competitive video service providers.

c. This subsection shall not apply if the incumbent cable service provider is a municipal utility providing telecommunications services under section 388.10.

4. A franchise fee may be assessed or imposed by a municipality without regard to the municipality's cost of inspecting, supervising, or otherwise regulating the franchise, and the fees collected may be credited to the municipality's general fund and used for municipal general fund purposes.

5. To the extent that any amount of franchise fees assessed by and paid to a municipality prior to May 29, 2007, pursuant to a franchise agreement between a municipality and any person to erect, maintain, and operate plants and systems for cable television, exceeds the municipality's reasonable costs of inspecting, supervising, or otherwise regulating the franchise, such amount is deemed and declared to be authorized and legally assessed by and paid to the municipality.

2007 Acts, ch 201, §8, 15

Referred to in §477A.1