

199—44.3(17A,476,477A) Certificate of franchise authority. As provided in 2007 Iowa Acts, Senate File 554, section 3, after July 1, 2007, a person shall not provide cable service or video service in Iowa without a franchise. The franchise may be issued by either the commission pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the commission. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the commission. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

44.3(2) Municipal utilities. A municipal utility that provides cable service or video service in Iowa is not required to obtain a certificate of franchise authority in the municipality in which the provision of cable service or video service by the municipality was originally approved.

44.3(3) Initial application. Within 30 calendar days after receiving an application and affidavit from an applicant using a form developed by and available from the commission, the commission shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The commission shall not issue a certificate of franchise authority to an applicant unless the commission finds that all of the following requirements have been met. If the commission needs additional information to determine whether the requirements in paragraphs “g,” “h” and “i” are met and that determination cannot be made within the initial 30-day period, the commission may docket the application for further review and take an additional 60 calendar days to make that determination. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

a. A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa.

b. A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules.

c. A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered.

d. A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable. The service area description must be sufficiently detailed to enable the commission to ascertain the boundaries of the applicant’s proposed service area. Applicants certificated by the commission as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the commission.

e. The address of the applicant’s principal place of business and the names and titles of the applicant’s principal executive officers with direct authority over and responsibility for the applicant’s cable or video operations.

f. The telephone number for customer service contact.

g. Documentation that the applicant possesses sufficient managerial, technical, and financial capability to provide the cable service or video service proposed in the service area. An applicant or its subsidiary which has a commission-issued certificate of public convenience and necessity to provide telephone service pursuant to Iowa Code section 476.29 shall be exempt from the provisions of this paragraph.

h. Copies of advertisements or news releases announcing the applicant’s intent to provide cable service or video service in the service area intended for release if the certificate of franchise authority is

granted. If such items are not available at the time the application is filed, the applicant shall file copies with the commission when they become available.

i. A schedule of dates by which the applicant intends to commence operation in each municipality proposed to be served within the service area. The applicant shall file timely updates to this schedule to maintain accuracy.

44.3(4) *Content of certificate.* A certificate of franchise authority issued by the commission shall contain all of the following:

a. A grant of authority to provide cable service or video service in the service area designated in the application;

b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of Iowa, including the police powers of the municipalities in which the service is delivered;

c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor; and

d. A statement that the franchise is for a term of ten years, is renewable, and is nonexclusive.

44.3(5) *Modification of service area.* At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the commission and shall notify the commission of the effective date of the expansion or other change in service area using a form developed by and available from the commission. The commission will acknowledge receipt of a notice of service area modification by letter.

44.3(6) *Transfer of certificate of franchise authority.* The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the commission and each affected municipality using a form developed by and available from the commission. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the commission or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the commission, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The commission will acknowledge receipt of a notice of transfer by letter.

44.3(7) *Termination of certificate of franchise authority.* The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the commission and to each affected municipality using a form developed by and available from the commission. The commission will acknowledge receipt of a notice of termination by letter.

44.3(8) *Updates.* The holder of a certificate of franchise authority shall notify the commission of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by sending a letter to the commission specifying the change and certificate number. The notice shall be provided within 14 days after the effective date of the change.

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