

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**DIVISION OF PUBLIC UTILITIES AND CARRIERS**

**RULES GOVERNING**

**COMMUNITY ANTENNA TELEVISION SYSTEMS**

**Originally Promulgated on January 30, 1981**

**First Revision on January 14, 1983**

**Second Revision on February 24, 2005**

**Third Revision on January 1, 2007**

## **PREFACE**

The attached text of the Division of Public Utilities and Carriers' Rules Governing Community Antenna Television Systems contains the text as adopted on January 30, 1981, updated to include changes and additions adopted on October 16, 1981, March 12, 1982, January 14, 1983, February 25, 2005 and January 1, 2007. In the current printing, all previously released separate appendices have been incorporated into the rules' text.

Copies of Statements explaining the Division's decision making on the issues addressed in the rules, and additional copies of these rules, are available from the Division of Public Utilities and Carriers, 89 Jefferson Blvd., Warwick, RI 02888, telephone number, (401) 941-4500. These rules have been promulgated under the authority granted to the Administrator by Title 39, Chapter 19 of the Rhode Island General Laws and Title 16, Chapter 16, Sections 6 and 6.2 pursuant to the Administrative Procedures Act.

Thomas F. Ahern  
Administrator

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## **CHAPTER 1 - GENERAL PROVISIONS**

### **Section 1.1 Statutory Authority**

These rules and regulations are promulgated in accordance with the authority granted to the Division of Public Utilities and Carriers by §§ 39-19-2 and 39-19-6 and by §§ 16-61-6 and 16-61-6.2 of the Rhode Island General Laws, as amended, to supervise and regulate every company owning or operating a community antenna television plant within this State and the Rhode Island Public Telecommunications Authority in connection with that entity's ownership and operation of its PEG access studio(s) and playback equipment, and the Statewide Interconnection System.

### **Section 1.2 Definitions**

For the purpose of these rules, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning, unless it can be reasonably inferred that a meaning particular to the community antenna television industry should be utilized, in which case meanings or definitions used by the FCC shall apply.

- (a) "Administrator": the Administrator of the Division of Public Utilities and Carriers.
- (b) "Basic Service": any service tier which includes the retransmission of local television broadcast signals and such other components for inclusion in the Basic Service tier required by federal law.
- (c) "Cable Service": (1) the one-way transmission to Subscribers of (aa) Video Programming, or (bb) Other Programming Service, and (2) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.
- (d) "Cable Programming Service": any Video Programming provided over a CATV System, regardless of service tier, including installation or rental of equipment used for receipt of such Video Programming, other than (1) Video Programming carried on the Basic Service tier, and (2) Video Programming offered on a per channel or per program basis.

- (e) “CATV Company,” “CATV Operator” or “CATV System Operator”: any person or group of persons: (1) who provides Cable Service which is used in a CATV System and directly or through one or more affiliates owns a significant interest in such CATV System, or (2) who otherwise controls or is responsible for, through any arrangement, the management and operation of such CATV System.
- (f) “CATV Service Area” or “Service Area”: a geographic area, as may be defined by political, metes and bounds, or other appropriate description, which encompasses a CATV System’s entire projected Service Area. Such boundaries may include areas which in the judgment of the Administrator and the party proposing the CATV Service Area, extension of service is not immediately feasible but may be in the future.
- (g) “Certificate”: a document issued by the Administrator which confers certain rights and which authorizes particular phases of planning, construction, and/or operation of a CATV System. Such term applies to any or all of the specific certificates defined in this section, as indicated by the context.
- (h) “Certificate of Authority to Operate”: a Certificate issued by the Administrator to a holder of a valid Construction Certificate and a valid Compliance Order Certificate, authorizing the operation of a CATV System in compliance with applicable laws, regulations, and orders of the Administrator. Such Certificate shall authorize the holder to begin provision of actual service to the public.
- (i) “Community Antenna Television System” or “CATV System”: a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community.

Such definition shall not include:

- (1) a facility that serves only to retransmit the television signals of 1 or more television broadcast stations;
- (2) a facility which does not use public rights of way, public highways or streets, or private streets offered for public dedication for the construction and operation of its physical plant;

- (3) a facility of a common carrier as defined by federal law except to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services as defined by federal law;
  - (4) an open video system as defined by federal law; or
  - (5) any facilities of any electric utility used solely for operating its electric utility system.
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- (j) “Class IV CATV Channel”: a signaling path provided by a CATV System to transmit signals of any type from a Subscriber terminal to another point in the CATV System.
  - (k) “Commission”: the Public Utilities Commission of the State of Rhode Island.
  - (l) “Compliance Order Certificate”: a Certificate issued by the Administrator designating a particular applicant as grantee and holder of franchise and ownership rights to a CATV System within a specified Service Area. Such Certificate does not constitute authority to construct or operate a CATV System.
  - (m) “Construction Certificate”: a Certificate issued by the Administrator to a holder of a valid Compliance Order Certificate, authorizing construction of a CATV System which will meet specific design and operational criteria set forth in these rules and orders of the Administrator. Such Certificates shall specify the information required by these rules and the laws of this State. Issuance of a Construction Certificate does not confer authority to operate a CATV System.
  - (n) “Converter”: an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate channel selector also permits Subscribers to view all signals included in the Basic Service delivered at designated converted dial locations.
  - (o) “Division”: the Rhode Island Division of Public Utilities and Carriers, and any legally appointed, designated or elected agent or successor.

- (p) “Electing CATV Operator”: shall mean an entity defined in Section 1.2(e) of these rules that elects to continue to manage PEG access studios within its Service Area pursuant to G.L. § 16-61-6.2(e).
- (q) “FCC”: the Federal Communications Commission, and any legally appointed, designated, or elected successor.
- (r) “Gross Revenues”: all revenue derived directly or indirectly by a CATV Certificate holder, its affiliates, subsidiaries, parent, and any person in which it has a financial interest, from or in connection with the operation of a CATV System within the State of Rhode Island pursuant to these rules and the laws of this State; provided, however, all revenues, shall include but not be limited to Basic Service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, and advertising revenues; and that this shall not include any taxes on services furnished by a CATV System Operator imposed directly upon any Subscriber or user by a Municipality, the State, or other governmental unit and collected by a CATV System Operator on behalf of said governmental unit. Gross Revenues shall not include revenues derived from Information Services.
- (s) “Information Service”: the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (t) “Interconnect”: the entity designated by the Administrator and the Rhode Island General Laws to construct and operate, as necessary, the transmission and reception facilities necessary to administer and operate a Statewide Interconnection System.
- (u) “Institutional Network”: a communication network which is constructed or operated by the CATV Operator and is generally available only to institutional Subscribers and/or users for receiving institutional services.
- (v) “Municipality”: a city or town in the State of Rhode Island.
- (w) “Other Programming Service”: information that a CATV Operator makes available to all Subscribers generally.<sup>1</sup>

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<sup>1</sup> E.g., TV Selection Guide.

- (x) “Proper Service”: service in accordance with standards established the FCC in 47 C.F.R. §§ 76.601-76.630.<sup>2</sup>
- (y) “PEG”: public, education and government.
- (z) “Residential Network”: a communications network constructed or operated by a CATV Operator that is available to Subscribers.
- (aa) “RIPTA”: refers to The Rhode Island Public Telecommunications Authority or its designee and is the entity with powers, duties of authority and subject to regulatory authority as provided for the in G.L. § 16-61-6 and § 16-61-6.2.
- (bb) “Significantly Viewed”: as applied to a broadcast television station, viewed in a certain percentage of households not subscribing to CATV services, as determined in accordance with FCC rules (§§ 76.5 (i), 76.54).
- (cc) “State”: the State of Rhode Island and Providence Plantations.
- (dd) “Statewide Interconnection System”: a system of broad-band electronic linkages by means of microwave, coaxial cable, or other means whereby the signals and electrical impulses of radio, television and other intelligences, either analog or digital, may be interchanged among any or all Service Areas or CATV Systems in this State.
- (ee) “Subscriber”: a member of the general public or any commercial, non-commercial, governmental or institutional customer: who receives services and/or programming distributed by a CATV System and does not further distribute them, and who is responsible for any tariffed installation and/or monthly service charges.
- (ff) “Video Programming”: programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

### **Section 1.3 Authority of Administrator and Division**

(a) In accordance with the terms of Title 39, Chapter 19 of the General Laws as amended, every person or company owning or operating a CATV System in this State is subject to the jurisdiction of the Division, to these rules, and to such orders as the Division may issue.

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<sup>2</sup> Pursuant to FCC Performance Tests, Technical Standards and the like.



(b) Applicants for the holders of CATV Certificates described in these rules will be taken and held to have acknowledged and agreed that the Division is empowered by § 39-19-6 of the General Laws to, from time to time, promulgate and enforce such reasonable rules and regulations as it may deem necessary with reference to issuance of Certificates, territory of operation, abandonment of facilities, elimination of unjust discrimination among Subscribers, financial responsibility and insurance covering personal injury and property damage, safety of equipment and operation and filing of reports.

(c) By accepting the Certificates described in these rules, the holder will be taken and held to have acknowledged and agreed that the Administrator has the right and authority periodically to review and after hearing (if requested in accordance with the Division's Rules of Practice and Procedure), to revise the requirements applicable to the Certificate holder's specific system, and to make such changes, adjustments, and revisions in the terms and conditions of the Certificate as are reasonable, consistent with the public interest, and responsive to specific conditions in or specific needs of the public to be served in a specific Service Area or the State at large; and which the Administrator finds necessary in the exercise of his police powers.

#### **Section 1.4 CATV Certificate Required**

(a) No person or company shall own a CATV System in this State unless there shall be in force and effect for the same a valid Compliance Order Certificate issued by the Administrator in accordance with these rules.

(b) No person or company shall construct or cause to be constructed a CATV System in this State unless there shall be in force and effect for the same a valid Construction Certificate authorizing such construction issued by the Administrator in accordance with these rules.

(c) No person or company shall operate a CATV System in this State unless there shall be in force and effect for the same a valid Certificate of Authority to Operate issued by the Administrator in accordance with these rules.

#### **Section 1.5 Grant**

The person or company named in a Compliance Order Certificate issued by the Administrator in accordance with these rules is the grantee of such rights for that particular CATV Service Area as authorized by Title 39, Chapter 19 of the General Laws; and as such, said person or company is subject to the jurisdiction of the Division.

## **Section 1.6 Rights of Way**

(a) Acceptance of a Compliance Order Certificate by an applicant therefor does not in itself confer upon the holder the right to erect poles or posts or to construct any conduit or other facility or maintain cables, wires or fixtures, upon, under or over any state or municipal highway or public place for the purpose of operating a CATV System. A Certificate holder must make application for permission to occupy the state or municipal right-of-way to the State Director of Transportation and the proper officials of each Municipality included in that service area having jurisdiction over such roads or public places. Such permission shall not be unreasonably withheld.

(b) Applications for permission to occupy rights-of-way shall be made in such form as the issuing authority shall require. The form of the permit shall be determined by the issuing authority, and shall at a minimum conform to the requirements of § 39-19-7 of the General Laws and all other applicable statutes and ordinances.

## **Section 1.7 Fees**

(a) Pursuant to § 39-19-9 of the General Laws, the State Controller shall determine the expenses of the Public Utilities Commission and of the Division of Public Utilities and Carriers associated with the regulation of operational CATV Systems, including the cost of Commission and Division personnel and consultants performing duties directly associated with such systems. The State Controller shall notify the Administrator of the Division in writing of the amount of such expenses. The Administrator shall thereupon apportion and assess such expenses among the several operational CATV franchise holders located in this State in the proportion that the Gross Revenue of each CATV franchise shall bear to the Gross Revenues of all of the CATV franchises issued and operational; provided however, that the sum so apportioned and assessed shall not exceed two-hundred and fifty thousand dollars (\$250,000) for any fiscal year and the amount of any individual assessment shall not exceed three percent (3%) of its Gross Revenues. Such sum so apportioned and assessed shall be in addition to any taxes payable to the State under any other provision of law.

(b) CATV franchise awardees who have received Compliance Order Certificates but, as a result of their own fault, have not received Certificates of Authority to Operate, shall be assessed twenty-five thousand dollars (\$25,000) for any twelve (12) month period in which they are franchised but not in operation.

(c) The holder of any CATV Certificate shall pay an annual license fee of fifty dollars (\$50.00).

(d) For the purposes of this section, “fiscal year” shall mean the fiscal year used by the state government of Rhode Island. “Gross Revenues” shall mean the gross revenues of a CATV Company in the company’s fiscal year, which ends during the state government’s fiscal year.

### **Section 1.8 Procedure**

(a) The provisions of the following chapters of the Rhode Island General Laws, as amended, shall be fully applicable to proceedings before the Division relating to CATV Systems:

- (1) Title 42, Chapter 35 (the Administrative Procedures Act); and
- (2) Title 39, Chapters 1 to 5 and 19, as appropriate (Public Utilities).

(b) In addition to the statutes referenced in paragraph (a) above, all proceedings before the Division relating to CATV Systems shall be subject to all established or commonly used procedures of the Division and the Public Utilities Commission, as appropriate and the Division’s Rules of Practice and Procedure.

### **Section 1.9 Rights of Individuals**

(a) No CATV Company shall deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of age, race, religion, sex, physical handicap, or country of national origin. All CATV System Operators shall comply at all times with all other requirements of applicable federal, state and local laws and regulations, and the requirements of all executive and administrative orders relating to nondiscrimination, which are incorporated and made part of these rules by reference.

(b) No signals of a Class IV CATV Channel (as defined in Section 1.2(j) of these rules) shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a written statement explaining the capabilities and operation of the terminal, and a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provision. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such authorization is required for each type of classification of Class IV CATV activity planned for the purpose, provided, however, that a CATV System Operator shall be entitled to conduct systemwide or individually addressed “sweeps” for the purpose of verifying system integrity, controlling return-path transmission, or billing.

### **Section 1.10 Discrimination in Employment Prohibited**

No holder of any CATV Certificate, nor any applicant therefor shall refuse to hire or employ, or discharge an employee or discriminate against any employee with respect to compensation, terms, conditions or privileges of employment because of age, race, religion, sex, physical handicap, or country of ancestral origin.

### **Section 1.11 Equal Employment Opportunities**

(a) All holders of any CATV Certificate shall establish, maintain and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of CATV System employment policy and practice. Such program shall at a minimum conform with all requirements contained in applicable Rhode Island and United States statutes, the regulations of the FCC, the Rhode Island Commission for Human Rights, other state and federal agencies having appropriate jurisdiction, and executive orders of the Governor of Rhode Island.

(b) A copy of the equal employment opportunity program developed in accordance with the above paragraph shall be filed with the Division and revised to be kept current.

### **Section 1.12 Petition for Waiver**

(a) On petition by a CATV Company, the Administrator may waive any provision of these rules relating to CATV Systems.

(b) The petition must be submitted in writing and shall be accompanied by a certificate of service upon the chief executive officers and clerks of the municipalities and the chairman of the Service Area Citizens' Advisory Committee within the affected Service Area, as well as the Chairman of the Cable Television Advisory Council, as recorded at the Division.

(c) The petition shall state the relief requested setting forth the specific rule and citations, where appropriate, and may contain alternative requests. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief required and to support a determination that a grant of such relief would serve the public interest. Factual allegations shall be supported by an affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(d) The Administrator, after public hearing, shall determine on the basis of the petition, written comments, and testimony received, whether the public interest would be served by the granting, in whole or part, or by the denial of the request.

### **Section 1.13 Severability**

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## **CHAPTER 2 - CATV SERVICE AREAS**

### **Section 2.1 Authority**

Pursuant to the provisions of Rhode Island General Laws § 39-19-6, the Administrator shall have authority to designate various areas of the State as CATV Service Areas, upon petition by an interested party (which may include Division staff with responsibility for cable television) and to approve or disapprove petitions for designation of new CATV Service Areas or alteration of previously designated CATV Service Areas, subject to the procedures provided for in this chapter.

### **Section 2.2 Petitions for Designation or Alteration of Service Areas**

(a) A petition to designate an area of the State as a CATV Service Area or to alter a previously designated CATV Service Area, may be filed by Division staff with responsibility for cable television, by a Municipality or group of Municipalities, a CATV Company, or any party who has announced an intention to form a CATV Company.

(b) The petition shall be in a form acceptable to the Administrator, and shall contain at a minimum the following information:

- (1) identity of the party filing the petition;
- (2) name, address and telephone number of the person who may be contacted for further information about the petition;

- (3) a U.S. Geodetic Survey map (or equivalent) showing the boundaries of the proposed CATV Service Area and the boundaries of the territory within this Service Area in which CATV service would be initially available;
- (4) population and number of dwelling units in the total proposed service area and in the territory in which CATV service would be initially available;
- (5) population density data or other information which will demonstrate to the Administrator that all areas in which service is or may become feasible are being included in the proposed CATV Service Area, and in the territory within the serviced area in which CATV service would be initially available;
- (6) financial and or other information which will assist the Administrator in determining the financial viability of a CATV System in the proposed Service Area; and
- (7) a statement to support the contention that to grant the petition would be in the public interest.

### **Section 2.3 Service of Petitions**

Copies of petitions to designate or alter a CATV Service Area shall be served upon the following, at substantially the same time as the petition is served upon the Administrator:

- (a) the clerk and chief executive officers of all municipalities encompassed in the proposed service area;
- (b) the clerk and chief executive officers of all Rhode Island municipalities adjacent to the proposed service area; and
- (c) any CATV System Operator or other CATV Certificate holder within the State of Rhode Island.

### **Section 2.4 Procedure for CATV Service Area Designation**

(a) The Administrator shall designate petitions relating to designation of Service Areas for hearing within a reasonable time. At least one hearing shall be held at

a location in the proposed Service Area to afford opportunity for public comment.

(b) In determining whether to approve or reject a petition requesting designation or alteration of a CATV Service Area, the Administrator shall consider the following:

- (1) the communications needs and desires of the residents of the community, as expressed in needs assessment reports submitted pursuant to Section 2.6 herein;
- (2) the prospects for and likelihood of development of CATV Systems in areas within and contiguous to the proposed CATV Service Area, and what impact the proposed designation or expansion can be expected to have on those prospects;
- (3) whether the proposed boundaries encompass any areas which would be more appropriately included in an adjacent CATV Service Area;
- (4) the economic viability of a CATV System operated in the proposed CATV Service Area; and
- (5) any other factors deemed relevant by the petitioner or Administrator.

(c) If after hearing and investigation the Administrator finds that to approve a proposal to designate an area of the State as a CATV Service Area, or a proposal to alter a previously designated Service Area, would be in the public interest, he shall grant the petition therefor.

**Section 2.5 Service Area Designation and Alteration Orders; Invitations for Applications**

(a) All CATV Service Area designation or alteration proceedings shall be terminated by a written order setting forth reasons why the petition was either approved or rejected.

(b) In addition, orders approving petitions for designation or alteration of CATV Service Areas shall include at a minimum the following:

- (1) the numerical designation of the Service Area;
- (2) an identification of the boundaries of the Service Area;

- (3) a provision specifying that portion of the Service Area in which service must initially be made available;
- (4) a provision incorporating by reference the final written report of the Service Area Citizens' Advisory Committee for that Service Area (required by Section 2.6 of these rules), and any other reports or documents considered in the proceeding; and
- (5) provisions setting forth any specifications, conditions, or requirements consistent with the public interest relating to the specific system which may be built in that Service Area. Such terms, conditions, and requirements shall be binding on all applicants for Certificates in that Service Area; provided, however, that in the case of a Service Area being expanded, the terms, conditions, and requirements shall be binding upon the Certificate holder for that Service Area; provided further that the Certificate holder accepts an appropriately amended Compliance Order Certificate pursuant to Section 3.3 of these rules.

### **Section 2.6 Needs Assessment Reports**

The Service Area Citizens' Advisory Committee appointed by the Administrator for the proposed Service Area (as provided for in Section 15.1 of these rules) shall be responsible to prepare and submit to the Administrator a written report of the committee's assessment of the communications needs and desires of the residents of the proposed Service Area, as set forth in Section 15.1(f)(3) of these rules. Nothing herein shall preclude the submission of a community needs assessment report by any other party in interest.

## **CHAPTER 3 - CERTIFICATES AND APPLICATIONS**

### **Section 3.1 General Provisions**

(a) All Certificates granted in accordance with Title 39, Chapter 19 of the Rhode Island General laws, as amended, shall be non-exclusive in nature, and of an indefinite term.

(b) Applications for Certificates shall be filed with the Administrator in a format approved by the Administrator.



(c) All applications for Certificates are defined as contested cases, and are subject to the provisions of Title 42, Chapter 35 of the General Laws.

(d) All Certificates granted by the Administrator shall be accompanied by an order setting forth reasons for granting the Certificate.

(e) Applications will be accepted only for those areas of the State officially designated as CATV Service Areas by the Administrator.

### **Section 3.2 Invitation for Applications**

(a) Following the designation of an area of the State as a new CATV Service Area, the Administrator shall issue an Invitation for Applications to provide CATV service and give notice of its availability.

(b) Invitations for Applications shall, at a minimum, contain the following information:

- (1) a description of the Service Area, including at a minimum, its numerical designations, its boundaries, the municipalities contained in it, and other pertinent information;
- (2) a description of the boundaries of the area within that Service Area in which service must initially be made available;
- (3) a description of the CATV System design and services desired for that Service Area, including any specifications, terms, conditions, or requirements established in the Administrator's order designating that Service Area;
- (4) a statement that all applications must, at a minimum, conform with applicable state and federal statutes, these rules, FCC rules, and Division orders;
- (5) the closing date for submission of completed written applications and the required fifty-dollar (\$50.00) fee. Such closing dates shall be no less than sixty (60) days after the date of the Invitation for Applications; and
- (6) The name of the Division official who may be contacted for further information and application forms, together with the address and telephone number of the Division's offices.

(c) Notice of the availability of an Invitation for Applications shall be published at least once in the Providence Journal Bulletin, at least once in any other newspaper of general circulation in the Service Area, and at least once in any two publications that may reasonably be expected to attract the attention of prospective applicants nationally. A copy of the notice shall also be mailed to each CATV Certificate holder in the State.

(d) The published notice shall contain at a minimum the following information:

- (1) a description of the boundaries of the Service Area;
- (2) a statement that Invitations for Applications and application forms are available from a Division official whose name is specified, together with the address and telephone number of the Division's offices;
- (3) the closing date for submission of completed written applications and the required fifty dollar (\$50.00) fee, which shall be the same data as given in the Invitation for Applications; and
- (4) a statement that all applications received will be available for public inspection at the Division's offices during regular business hours.

(e) For Service Areas that have already been designated, a prospective CATV Company may submit an application for a Compliance Order Certificate pursuant to Section 3.3 at any time without the need for the Administrator to issue an Invitation for Applications.

### **Section 3.3 Compliance Order Certificates**

(a) All applications for Compliance Order Certificates shall be accompanied by a fee of fifty dollars (\$50.00).

(b) Applications for Compliance Order Certificates shall be reviewed upon receipt. Any deficiencies noted by the Administrator must be remedied before the application will be assigned a docket number and designated for hearing by the Administrator.

(c) Completed application forms for Compliance Order Certificates and any supporting documents shall provide a full and factual basis for decision-making, and shall contain at a minimum the following information:

- (1) channel capacity, including both the total number of channels in the proposed system and the number of channels to be energized immediately;
- (2) a statement of the television and radio broadcast signals to be carried, together with a description of programming and other services to be offered.
- (3) a description of the proposed system design and planned operation, including at least the following:
  - (i) general area for location of headend (s) antenna(s);
  - (ii) extent and type of Information Services to be offered on the Residential Network, together with a schedule for their activation or projected availability from particular points;
  - (iii) extent and type of automated services to be provided;
  - (iv) location of origination points and origination facilities;
  - (v) the number of channels to be made available for access uses; and
  - (vi) provisions for expansion of channel capacity and other upgrading of the technical capabilities of the system as technological improvements become available.
- (4) a timetable for completion of construction of the proposed system, which shall at a minimum conform with the requirements of Chapter 8 of these rules, and which shall assure uniform availability of service throughout the designated Service Area (in accordance with the density standards contained in Section 10.2 of these rules;
- (5) a proposed tariff (which shall meet all requirements of Chapter 11 of these rules), showing the rates used in calculation of the applicant's financial projections;
- (6) terms and conditions under which service is to be provided to educational, charitable, and governmental entities;

- (7) a statement of the applicant's qualifications and experience in the cable television field, if any; and (to the extent possible) the names and professional experience of the persons or organizations who will be responsible for the design, construction, installation, and operation of the proposed system;
- (8) a statement indicating whether the applicant or any of its principals owns or operates any other CATV System (or holds a franchise for which no system has been built) or any newspaper or broadcast television or radio station, and a statement of the name(s) and address(es) of each such operation and the chief executive officer of the franchising authority in which each such system or station is located;
- (9) a statement of ownership detailing the corporate organization of the applicant (if any), including the names and addresses of officers and directors (and any other major stockholders, if any) and the number of shares held by each; and intracompany relationships, including parent, subsidiary, and affiliated companies;
- (10) a documented plan for financing the proposed CATV System, which shall indicate specifically every significant anticipated source of capital and any and all limitations and/or conditions with respect to the availability of the indicated sources of capital;
- (11) pro forma income statements and balance sheets showing ten (10) years of projected operations of the applicant. The income statement shall include, but shall not be limited to, identifying: the anticipated penetration rates in the Service Areas of proposed operation, projected revenues derived from cable, Information Services, telephone and other services for each area, projected expenses, projected earnings before interest, taxes, depreciation and amortization, and projected net income. The balance sheet shall include, but shall not be limited to, identifying: the initial assets, liabilities and capitalization of the applicant and changes thereto over the ten (10) year time-period; and
- (12) a statement indicating why it would be in the public interest to grant the application.

(d) If, after public hearing and investigation, the Administrator is satisfied that an applicant is fit, willing, technically qualified, and financially able to perform the service for which it has applied, and to conform to the requirements, orders, rules, and regulations of the Division and laws of the State of Rhode Island and that the proposed operation will be consistent with the public interest then he shall issue a Compliance Order Certificate to that applicant.

(e) An applicant which has been awarded a Compliance Order Certificate shall notify the Administrator in writing within thirty (30) days whether it will accept or decline the award.

(f) In default of the delivery of written notice of acceptance of a Compliance Order Certificate, the awardee shall be deemed to have rejected and repudiated the Certificate, and thereafter the awardee shall have no rights, remedies or redress in the premises.

(g) Acceptance of a Compliance Order Certificate authorizes and obligates the applicant to meet all requirements set forth in these rules for the Construction Certificate pursuant to Chapter 8 of these rules.

(h) In the event that the boundaries of an existing Service Area are expanded or otherwise altered by order of the Administrator pursuant to Chapter 2 of these rules, the Administrator shall issue an amended Compliance Order Certificate to the Certificate holder for that Service Area, who must then respond to the award of the amended Certificate as provided in paragraphs (e) and (f) of this section.

### **Section 3.4 Construction Certificates**

(a) A Construction Certificate may be issued only to a holder of a valid Compliance Order Certificate after public hearing.

(b) Pursuant to § 39-19-5 of the General Laws, each Construction Certificate shall specify, and applicants therefor shall submit for the Administrator's consideration and approval, the following:

- (1) a map and metes and bounds description of the certified Service Area, showing the planned phases of construction for the entire CATV System, and complete strand mapping showing the routes of all aerial and underground trunk and feeder cables in the distribution system of the initial phase of construction. Upon the request of the Division, the applicant shall submit complete strand maps detailing all aerial and underground trunk and feeder cables

of all subsequent construction phases. Such map and description shall also indicate those parts of the Service Area that the applicant anticipates would receive service only through application of the proposed line extension policy;

- (2) a complete technical and narrative description of the system design, including system and equipment specifications;
- (3) proof of conformance with the technical, engineering, and safety standards and codes set forth in these rules;
- (4) location of towers and head end facilities;
- (5) proof that the applicant has obtained or applied for all known licenses, and other forms of permission required by State and local government bodies prior to commencement of construction;
- (6) copies of applications and/or consummated pole attachment; conduit occupancy, and right-of-way agreements;
- (7) copies of all arrangements with common carrier communications companies or services;
- (8) proof of a satisfactory method of maintenance and continuing records of operations to show adequacy of service and performance continuing financial responsibility;
- (9) satisfactory evidence of liability insurance coverage in amounts specified by Chapter 12 of these rules; and
- (10) any corrections, updates or amplifications to items filed at the time of application for a Compliance Order, including especially system design parameters required to be filed by Section 3.3(c)(3) of these rules.

(c) If the Administrator is satisfied that an applicant for a Construction Certificate has met all of the conditions, terms, and requirements of the Compliance Order Certificate, and of these rules, then he shall grant a Construction Certificate to the applicant.

(d) Such Construction Certificate shall authorize the holder to commence actual construction of a CATV System within this State, but not constitute authority to operate said system.

(e) If the holder of a Construction Certificate plans changes or alterations in its system which will result in substantive changes in any of the conditions of its Construction Certificate listed in paragraph (b) of this Section, the Certificate holder shall notify the Division of the substance of the changes. Upon review, the Division may require the holder to file an application to amend its Construction Certificate or proceed as it deems is appropriate under the circumstances. An application to amend a Construction Certificate will be considered on the same basis as an original application for a Construction Certificate.

### **Section 3.5 Certificates of Authority to Operate**

(a) A Certificate of Authority to Operate shall be issued only to a holder of a valid Construction Certificate after public hearing.

(b) The holder of a Construction Certificate shall give the Administrator at least sixty (60) days prior written notice before the anticipated date when the CATV System (or initial segment thereof) will be ready for commencement or actual service to the public.

(c) Applicants for Certificates of Authority to Operate shall file with the Administrator a complete copy of the proposed customer contracts, rules and regulations; any and all changes; corrections; additions; and clarifications to documents previously filed with the Administrator and the Division; and any such amendments to these documents or the Administrator may require.

(d) Upon the Administrator's determination that the applicant has complied with applicable statutes, these rules, and any additional terms, conditions, and requirements which may be imposed upon it by the Administrator, the Administrator shall issue a Certificate of Authority to Operate to the applicant.

(e) No CATV System shall commence service to the public or other operation until it is in receipt of a valid Certificate of Authority to Operate.

(f) If a Construction Certificate held by an operating CATV Company is subsequently amended by the Administrator in accordance with Section 3.4(e) of these rules, then the holder of that amended certificate shall make application to the Division for an amended Certificate of Authority to Operate. If new construction is involved, the applicant for an amended Certificate of Authority to Operate shall give the Administrator at least sixty (60 days) written notice of the anticipated date when the new sections of the system will be ready for commencement of service to the public.

## CHAPTER 4 - TRANSFERS AND ASSIGNMENTS

### Section 4.1 Transfer of Certificates

(a) A Certificate or substantial control thereof may not be sold, assigned or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to, or vest in any person, firm, corporation or other organization, group or body, either through an act of the awardee or operator, by merger, consolidation, or by operation of law, whether by foreclosure, judicial sale, receivership, bankruptcy, reorganization, condemnation or other action or proceeding, without the approval of the Administrator in a written order, following a duly noticed public hearing.

(b) An application for a transfer or assignment shall be commenced by filing a copy of FCC Form 394, together with all exhibits, with the Division, along with a statement by the transferee as to: (i) its financial and technical fitness, (ii) management's experience operating a CATV System, (iii) a sworn affirmation that the transferee will conform to the requirements, orders, rules and regulations of the Division, and (iv) why the proposed transfer is consistent with the public interest.

(c) The criteria for approval of any assignment or transfer by the Administrator shall be identical with the criteria required to be met at the awarding of an original Compliance Order Certificate.

(d) The granting of approval by the Administrator in any one instance, shall not constitute a waiver or grant in any other instance nor render unnecessary any other or subsequent approval.

(e) Nothing in this section contained shall be deemed to prohibit a mortgage, pledge or sale and lease back of a system, or any part thereof, for financing purposes with the consent of the Administrator.

(f) The Administrator shall have one hundred and twenty (120) days from the date of an application for transfer or assignment to act upon an application to transfer or assign unless the applicant and the Administrator agree to an extension of time.

(g) Upon approval of any such sale, transfer, or assignment, the purchaser, transferee, or assignee shall return all certificates to the Administrator who shall then issue new Certificates in the name of the new Certificate holder.



## **Section 4.2 Substantial Control**

For the purposes of this chapter, substantial control of a Certificate shall be deemed to exist whenever a person, family group, partnership, association, group of persons acting in concert, or corporation:

- (a) holds twenty-one (21%) percent or more of the stock of the corporation in the name of which the Certificate stands; and/or
- (b) exercises actual working control in whatever manner.

## **CHAPTER 5 - REVOCATION, ABANDONMENT AND ADMINISTRATIVE PENALTIES**

### **Section 5.1 Abandonment**

No certificate, nor any operating CATV System or portion thereof shall be abandoned by the holder or operator without the written consent of the Administrator.

### **Section 5.2 Revocation for Cause**

Upon application by the Administrator, the Public Utilities Commission may, after public hearing, cancel, revoke, suspend or alter any Certificate for the following causes as provided in § 39-19-8 of the Rhode Island General Laws, as amended:

- (a) willful violation of any provision of Chapter 19 in Title 39 of the Rhode Island General Laws, as amended.
- (b) failure of the Certificate holder to comply with any reasonable rule, regulation, order, or direction of the Administrator; provided, however, that the Administrator shall not file such application until after he has given the certificate holder a reasonable opportunity to correct such failure or to satisfy the Administrator that such failure was due to causes beyond its control.
- (c) for failure to commence operations within a reasonable time after receipt of a Certificate of Authority to Operate.

- (d) after commencing operations, for failing (without good cause shown) for a continuous period of sixty (60) days to render Proper Service.

### **Section 5.3 Administrative Penalties**

The Administrator may impose an administrative penalty upon any CATV Company which shall violate any of the provisions of Title 39, Chapter 19 or any Division, order, rule or regulation promulgated thereunder, of no less than two hundred (\$200) nor more than one thousand dollars (\$1,000) for each violation. In the case of a continuing violation, every day's continuance thereof shall be deemed a separate and distinct offense.

### **Section 5.4 Removal of Property**

(a) In the event a Construction Certificate or Certificate of Authority to Operate is revoked or cancelled, the holder thereof will, upon request by the Administrator and at its own expense, promptly remove all its property and promptly restore the street or other area from which it is removed to such condition as directed by the Municipality or public authority or as ordered by the Administrator.

(b) The Administrator may, upon written application therefor by the Certificate holder, approve the abandonment of any such property in place under such terms and conditions as the Administrator may prescribe.

### **Section 5.5 Return of Certificate**

Upon receipt of the Administrator's consent to abandonment, or upon receipt of any order canceling, revoking, or altering any Certificate, the Certificate holder shall return the affected Certificate to the Administrator.

## **CHAPTER 6 - OBSCENITY**

In addition to the Division regulations set forth in this chapter there are also applicable FCC rules and regulations dealing with obscenity (47 C.F.R. § 76.702) and defining origination cablecasting (47 C.F.R. § 76.5 (p)). Reference is also made to applicable Rhode Island statutes which cover obscenity (Rhode Island General Laws, Title 11, Chapter 31 and Title 12, Chapter 27).

### **Section 6.1 Dissemination of Obscene Program Material Prohibited**

Neither a CATV Certificate holder nor RIPTA shall knowingly create, produce, direct, reproduce, publish, present, transmit, disseminate, advertise or exhibit, from whatever source, any programming which is obscene according to contemporary community standards or otherwise illegal on any channel originated by the CATV Certificate holder.

### **Section 6.2 Operating Rules for PEG Access Channel**

Each Electing CATV Operator and RIPTA shall adopt PEG access user rules and guidelines for PEG access channels, to be filed with the Division prior to the activation of these channels, designed to prohibit the presentation of any obscene material over these channels. Except as hereinabove specified, neither an Electing CATV Operator nor RIPTA shall have control over the content of PEG access programming.

### **Section 6.3 Movie Ratings**

Every CATV Certificate holder shall publish in advance the ratings of the Motion Picture Association of America (MPAA) for all movies cablecast when such ratings are available from the MPAA.

### **Section 6.4 Referral to the Department of Attorney General**

When a program is determined to be obscene or otherwise illegal, under Chapter 6 of these rules, the matter shall be referred to the Department of the Attorney General of the State of Rhode Island.

## **CHAPTER 7 - TECHNICAL AND DESIGN STANDARDS**

### **Section 7.1 Compliance with Design Standards; Waivers**

All CATV Systems constructed and operated within this State shall conform to the minimum design criteria set forth in this chapter.

## **Section 7.2 Residential Network**

All CATV Systems in Rhode Island shall meet the following minimum standards:

- (a) shall be designed with an initial analog passband of 750 MHz;
- (b) be designed to be an active two-way plant utilizing the return bandwidth to permit such services as impulse pay-per-view and other interactive services; and
- (c) Possess stand-by powering.

## **Section 7.3 Institutional Network**

(a) Due to the advent of facilities-based competition for Cable Services in Rhode Island, as of the effective date of these rules and subject to the provisions of subsection (b) of this section, CATV Operators shall not be required to construct, operate or maintain Institutional Networks in this state. Nothing in this section shall be construed to preclude a CATV Operator from voluntarily constructing, operating or maintaining an Institutional Network in this state.

(b) Physically separate Institutional Networks existing as of December 31, 2006 shall be preserved, unless otherwise authorized by the Division.

(c) All existing or to be negotiated settlement agreements with respect to Information Services provided over Institutional Networks shall remain in full force and effect.

## **Section 7.4 Interconnection of Systems**

(a) Each holder of any CATV Certificate shall ensure that its system be so designed, constructed and operated that it may be interconnected with and tied into every other CATV System authorized by the Administrator to operate in an adjacent Service Area.

(b) RIPTA shall have the responsibility for the operation of a Statewide Interconnection System for the Residential Network. All CATV Systems that receive a Certificate of Authority to Operate shall, where necessary, enter into a contract with other CATV Systems, the Administrator and RIPTA and begin to provide for the transmission of programming for the Statewide Interconnection System immediately upon commencing operation.

(c) The Statewide Interconnection System shall be capable of providing both upstream and downstream video, audio, and data signals to and from all operational CATV Systems in the State on the equivalent of three (3) television channels in the downstream direction and three (3) television channels in the upstream direction. The design of the Statewide Interconnection System shall allow for economical expansion of both the number of activated channels and the total technical capacity of the system, as demand may warrant.

### **Section 7.5 Emergency Communications**

(a) All CATV Systems certified to operate in this State shall be required to participate fully in the State Emergency Alert System (“EAS”) operational plan developed by the Rhode Island Emergency Management Agency, or its successor. Such participation shall, at a minimum, require that the operator monitor at all times Primary-1, as designated by the State Emergency Management Agency, and that unmanned or part-time manned operations be so equipped that EAS warnings and programming be automatically carried.

(b) All CATV Systems shall be so designed as to permit at a minimum emergency audio override on all channels in the event of activation of the EAS State Emergency Network by responsible Federal, State, or local officials (as provided for in the State EAS operational plan). Such audio override may direct viewers to turn to in-state television channels or to the government access channel, which may also be activated to carry emergency audio messages originated by the activating agency. The system shall be so designed that Subscribers may listen directly to the monitored radio station for the duration of the emergency activation.

(c) In addition, wherever financially feasible, CATV Systems shall be so designed as to permit the capability of carrying both video and audio emergency information originated by the activating agency on the government access channel.

(d) CATV System Operators shall be held harmless and indemnified from any damages or penalties resulting from such overriding by the Emergency Management Agency and/or other activating agency or official(s).

### **Section 7.6 Signal Carriage**

(a) Each CATV System certificated to operate within this State shall be operationally capable of relaying to all Subscriber terminals at least the following signals:

- (1) all television broadcast signals allowed or required to be carried in that Service Area pursuant to FCC rules, as amended from time to time; and
- (2) all specially designated access channels required to be carried by that system pursuant to Chapter 14 of these rules.

(b) The minimum number of access channels required to be carried by all CATV Systems under the provisions of Section 14.1 of these rules shall be made available on the lowest tier or level of Basic Service offered by each CATV System on its Residential Network.

### **Section 7.7 Technical Standards**

The technical standards contained in Subpart K of Part 76 of the Rules and Regulations of the Federal Communications Commission are hereby incorporated into these rules, and made a part of all Certificates of Construction and Authority to Operate issued by the Administrator.

### **Section 7.8 Performance Tests**

(a) Within one hundred and twenty (120) days of commencement of service to Subscribers on any portion of a CATV system, or on any substantially reconstructed portion of a CATV system, the holder of a Certificate of Authority to Operate will conduct technical performance tests to determine the extent to which the system complies with the standards required in Section 7.7.

(b) All such tests shall be performed by, or under the supervision of, a registered professional engineer or technician with proper training and experience, using instrumentation and calibration procedures necessary to achieve reasonable precision of measurement.

(c) In the event the measured performance at any location fails to comply with the technical standards required, the Certificate holder shall immediately take steps to assure compliance.

(d) Copies of reports of the initial performance test and measurement, and of annual performance tests required by FCC rules shall be kept available for inspection by Division personnel at the CATV System Operator's office for at least five (5) years.

## **CHAPTER 8 - CONSTRUCTION OF CATV SYSTEM**

### **Section 8.1 Timetable - General Provisions**

(a) All Certificates granted according to these rules shall be subject to the specific timetable contained in Section 8.2 of these rules.

(b) Requests for waiver of the timetable will be entertained by the Administrator only upon a showing that compliance is beyond the control of the awardee.

(c) Certificate holders are expected to keep the Administrator informed of progress in pre-construction and construction phases so that he may initiate investigation in the event of delays.

(d) Unless for reasonable cause otherwise ordered by the Administrator, failure to meet the requirements of the timetable contained in Section 8.2 of these rules will be considered grounds for either revocation of the Certificates issued or a fine based on the provisions contained in Section 5.3 (Administrative Penalties).

### **Section 8.2 Timetable**

(a) All known necessary governmental permits, licenses, authorizations, and certificates (except a Construction Certificate) shall be applied for within ninety (90) days of the date of acceptance of Compliance Order Certificate.

(b) The holder of a Compliance Order Certificate shall meet all requirements for granting of a Construction Certificate (as set forth in Section 3.4 of these rules) within two hundred seventy (270) days from and after the applicant's acceptance of a Compliance Order Certificate.

(c) Construction of a CATV System shall begin within ninety (90) days of completion of sufficient contiguous make-ready work for the first phase of construction; provided further that applications for such make-ready work shall be made within thirty (30) days of receipt of a Construction Certificate.

(d) The Certificate holder shall maintain current duplicate copies of all as-built design maps for its system at its local business offices, one of which shall be deemed to be the Division's copy.

(e) The Certificate holder shall give the Division at least sixty (60) days written notice of the date on which the CATV System or portion thereof is expected to be ready for commencement of service to the public.

(f) Subscriber service shall commence as soon as practicable following receipt of a Certificate of Authority to Operate.

(g) The CATV Company's complaint department, in compliance with Section 13.2 of these rules, shall begin operation at the same time as service commences.

(h) Within one year after receipt of a Construction Certificate, the holder thereof shall have completed sufficient construction to make service available to Subscribers in at least twenty percent (20%) of the Service Area, or have completed construction of at least one hundred (100) plant miles of Residential Network cable, whichever is greater. Thereafter, service on the Residential Network shall be made available to potential Subscribers at the rate of twenty percent (20%) of the Service Area per year.

(i) Unless the Administrator shall have waived the requirement, within five years from the receipt of the Construction Certificate the holder thereof shall have made service available to all potential Subscribers in those portions of its service area meeting the density tests described in Section 10.2 of these rules.

(j) For the purposes of this section, "to make service available" shall mean to pass homes and institutions with energized Residential Network trunk cable (as appropriate) so that those homes and institutions may be connected to the system.

### **Section 8.3 Design Changes and Extensions**

If the holder of a Construction Certificate plans significant extensions of its trunk or distribution system, relocation of or substantive changes in its tower or head end facilities, or other significant redesign, rebuilding, or new construction, then that Certificate holder shall notify the Division of the substance of the extensions, relocations, changes, redesign, rebuild or new construction. Upon review, the Division will proceed pursuant to Section 3.4(e).



#### **Section 8.4 Placement of Cables**

(a) Wherever practical, a holder of a Construction Certificate shall install its system using existing poles, conduits, rights-of-way, and other facilities of utility companies.

(b) Wherever underground conduits are available, cables must be placed underground.

(c) In the event neither poles nor conduits are available, a Certificate holder may install its facilities in any other manner approved by the Administrator; subject, however, to the prior approval of the governmental agency or public authority having jurisdiction over such other manner of installation.

(d) In no event shall a CATV Certificate holder install poles in areas where underground facilities are used by existing public utilities, unless such facilities cannot accommodate additional cable.

(e) If at any time a Municipality or the Commission shall require all utilities to be placed underground, the certificate holder shall, upon reasonable notice and at its own expense, conform with such requirement.

(f) Whenever required by any public authority to relocate its facilities (for reasons which may include traffic conditions, public safety, street or highway construction or improvement, street or highway grade establishment or change, the installation of sewers, drains, utility facilities, or other public improvements or the moving of buildings or urban redevelopment), the Certificate holder shall, upon reasonable notice and at its own expense, comply with the requirement.

(NOTE: Use of the phrase “at its own expense” in paragraphs (e) and (f) of this section shall not preclude receipt by the Certificate holder of any funds which may be available to it for this purpose by public or private grant or applicable law.)

#### **Section 8.5 Failure to Comply with Underground or Relocation Request**

Upon failure, refusal or neglect of the Certificate holder to comply with a requirement to relocate its facilities or to install them underground (as provided for in Section 8.4 above), the municipality, the Commission, or the public authority imposing the requirement may, after hearing cause such work to be accomplished, and upon so doing shall submit to the Certificate holder an itemized statement of the costs thereof. If the certificate holder does not within sixty (60) days of the receipt of such statement pay the entire cost thereof, the holder’s Certificate of Authority to Operate may be subject to action pursuant to Section 5.3 or may be altered, amended, or revoked and cancelled.

## **Section 8.6 Subscriber Drops**

(a) The standard installation shall consist of an aerial drop of no more than one hundred fifty (150) feet from a single pole attachment to the customer's residence or other structure to be served. A standard installation shall be provided to each Subscriber at the Certificate holder's expense. Drops in excess of one hundred and fifty (150) feet, any concealed wiring or other custom installation work, and all underground drops, shall be charged at the rates set forth in the CATV Company's filed tariff.

(b) In areas where distribution cables are located underground, Subscriber drop cables shall also be located underground. In other areas, the drop cables shall be aerial unless the Subscriber elects to pay the costs of underground installation as set forth in the CATV Company's tariff.

## **CHAPTER 9 - SAFETY REQUIREMENTS**

### **Section 9.1 Safety Codes and Standards**

(a) All construction of CATV Systems shall be with the use of materials of good and durable quality.

(b) All work involved in construction, installation, maintenance and repair of CATV Systems shall be performed in a safe, thorough and reliable manner, and in compliance with applicable safety codes, including electric or other public utility codes for joint use of pole lines and underground trenches or conduits, and applicable federal, State and municipal law, ordinance and regulation.

(c) All construction, operation and maintenance of CATV Systems shall be governed by the latest edition of the National Electric Code and National Electric Safety Code.

### **Section 9.2 Accidents**

Every CATV Certificate holder and RIPTA shall, whenever any accident attended with loss of human life or serious injury occurs within this State, directly or indirectly arising from or connected with its maintenance or operation, give immediate notice thereof to the Division.

## **CHAPTER 10 - EXTENSIONS OF SERVICE**

### **Section 10.1 Density**

For the purposes of this chapter, “household density” or “density” shall mean the number of households or other Subscribers in a Service Area or part of a Service Area, divided by the linear miles of cable plant in that service area or part of a Service Area.

### **Section 10.2 Density Standards; Waivers**

(a) In all Service Areas in which the overall average density is greater than 60 homes per mile, the applicant is required immediately upon receipt of a Construction Certificate to proceed to wire the entire Service Area and to complete such total wiring and to make service available to every household in the area with deliberate expedition.

(b) In all Service Areas in which the overall average density is less than 60 homes per mile, the applicant upon receipt of a Construction Certificate is required to proceed without delay to make service available to all homes in those portions of the Service Area having a density of 15 homes per  $\frac{1}{4}$  mile.

### **Section 10.3 Line Extension Policy**

(a) All CATV Certificate holders shall file a statement of the CATV Company’s policy on line extensions for the Administrator’s review and approval. Each such policy must at a minimum conform to the provisions of the following paragraphs of this section.

(b) All line extension policies shall allow for the recovery of the actual capital cost of each extension from the Subscribers served by that extension.

(c) If a line extension policy filed in accordance with paragraph (a) above requires contributions in aid of construction, then that policy shall also allow for the rebating or reallocation of such contributions among original and new Subscribers, if new Subscribers connect to the extension within a specified period of time.

## **CHAPTER 11 - TARIFF AND OTHER FILINGS**

### **Section 11.1 Tariff Required; Other Informational Filings**

As required by Section 39-19-6 of the General Laws and subject to federal law, no certificates shall be issued or remain valid unless the applicant or Certificate holder (unless otherwise exempted) has filed with the Division and revised to keep current a copy of FCC Forms 1240 and 1205 (or such other appropriate forms) and a complete schedule of rates, charges and fees as provided in Section 11.3 of these rules.

### **Section 11.2 General Provisions**

(a) As provided in Section 39-19-6 of the General Laws, all rates and charges charged by a CATV Company shall be reasonably compensatory so as not to encourage unfair or destructive competitive practices and shall be applied without discrimination.

(b) Nothing herein shall prohibit the following:

- (1) the waiving or reduction of rates and charges in conjunction with promotional campaigns for the purpose of attracting Subscribers;
- (2) the provision of installation or monthly service without charge to schools, government or non-profit organizations or agencies, or buildings owned or operated by such agencies at the option of the CATV System Operator; or
- (3) voluntary offering of reasonable discounts to senior citizens or other economically disadvantaged group discounts.

(c) Any and all proposed tariffs or proposed revisions to existing tariffs shall be filed with the Division at least thirty (30) days in advance of their effective date(s). Upon filing its proposal, the Certificate Holder shall, at its sole cost and expense, forthwith publish notice of the filing of the proposal or revision at least once in a newspaper of general circulation within the entire affected CATV Service Area. Tariff filings shall be kept available for public inspection during normal business hours at the local business office of the Certificate holder, and the published notice shall state the address and normal business hours of that office.

(d) The Administrator, on his own motion, or upon request of Subscribers, may hold public hearings on tariff filings, and will hold hearings on filings as required by § 39-19-6 of the General Laws and applicable federal law.

### **Section 11.3 Contents of Tariff**

For residential service, all proposed tariffs filed for approval shall, at a minimum, set forth the rates and charges for:

- (a) monthly Basic Service rates along with the number, listing and description of Basic Service channels available;
- (b) all applicable installation charges;
- (c) add, move, and reconnect charges for additional outlets at initial and after initial installation and inside wiring;
- (d) rental of Converters and remotes or other Subscriber's home equipment;
- (e) change of service tier;
- (f) change of service, for in office and home visits;
- (g) miscellaneous; and
- (h) categories of services and/or equipment that are subject to regulation by federal law.

### **Section 11.4 Informational Filing**

All CATV Companies operating in Rhode Island shall file and maintain with the Division an informational filing detailing all other rates and charges for services not specifically identified in Section 11.3 of these rules, including but not limited to rates and charges for Cable Programming Services, Information Services, etc.

## **CHAPTER 12 - INSURANCE AND INDEMNIFICATION**

### **Section 12.1 Save Harmless Provision**

(a) The holder of a Construction Certificate or Certificate of Authority to Operate shall indemnify and hold harmless all governmental bodies and officials from any and all claims, demands, causes of action, action, suits, proceedings, liability,

damage, cost and expense of every kind and nature whatsoever, including but not limited to damages arising from claims of injury or death to persons or damage to property occasioned by or arising out of any conduct undertaken pursuant to the granting of a certificate or pertaining to the exercise or the enjoyment thereof.

(b) The holder of a Construction Certificate or Certificate of Authority to Operate shall pay and satisfy any judgment, decree or order issued in any of the premises against such governmental body or official.

### **Section 12.2 Insurance and Bonds Required**

(a) Before commencing any construction or operation authorized by the issuance of an appropriate Certificate, the holder thereof shall file with the Division, and thereafter keep current at all times, certificates of insurance and performance bonds in the amounts required by the following sections of this chapter.

(b) Such certificates and proof shall show that the holder of a CATV Certificate has obtained and has in effect and thereafter maintains in full force and effect, at its own cost and expense, insurance policies and performance bonds issued by companies authorized to do business in Rhode Island.

(c) No material change or cancellation of any insurance policy will be permitted without thirty (30) days prior written notice delivered to the Administrator.

### **Section 12.3 Liability Insurance**

Every holder of a Construction Certificate or Certificate of Authority to Operate shall, in accordance with Section 12.2 above, furnish evidence of liability insurance for the following purposes and in the indicated amounts:

- (a) general liability (covering and furnishing protection to the holder, all governmental bodies and all public officials with regard to all damages resulting from the installation, development, maintenance, or expansion of the CATV system): not less than one million dollars (\$1,000,000) combined single limit for bodily injury or death and property damage arising from any one occurrence.
- (b) motor vehicle liability (covering all motor or other vehicles, whether owned, non-owned, or hired): not less than five hundred thousand dollars (\$500,000) combined single limit for bodily injury or death and property damage arising from any one occurrence.

- (c) broadcaster's liability (including infringement of copyright): five hundred thousand dollars (\$500,000) single limit of liability.

#### **Section 12.4 Worker's Compensation Insurance**

All holders of a Certificate of Construction or Certificate of Authority to Operate shall obtain (in accordance with Section 12.2 above) worker's compensation insurance as required by Rhode Island law.

#### **Section 12.5 Performance Bond**

All holders of a Certificate of Construction or Certificate of Authority to Operate shall furnish and file (in accordance with Section 12.2 above) a performance bond in the sum of not less than fifty thousand dollars (\$50,000) nor more than one million dollars (\$1,000,000), as determined by the Administrator, guaranteeing that the certificate holder will truly observe, abide by, fulfill and perform each and every term, condition, provision and limitation subject to which the certificate is granted or under which the privileges granted thereby are exercised.

### **CHAPTER 13 - CUSTOMER SERVICE**

#### **Section 13.1 Local Business Office**

(a) Each CATV System Operator shall maintain within its Service Area a local business office that shall be open and adequately staffed during normal business hours.

(b) Such office shall not only be open during all usual business hours, and adequately staffed, but also provision shall be made so that telephone calls from Subscribers may be received at any time.

#### **Section 13.2 Complaints by Subscribers**

(a) Every CATV System Operator shall keep a record or log of all complaints received, quality of service, equipment malfunctions, billing procedure, employee attitude and similar matters. Such records shall be maintained for a period of two (2) years.

(b) Such record shall contain the following information for each complaint received.

- (1) date, time, nature of complaint;
- (2) name, address, telephone number of complainant;
- (3) investigation of complaint;
- (4) manner and time of resolution of complaint; and
- (5) if the complaint regards equipment malfunction or the quality of reception, a report indicating corrective steps taken, with the nature of the problem stated and the technician or repairman identified by name. (such report shall be made even if no trouble is identified, or if further instruction was required to enable the Subscriber to properly adjust the converter or other terminal device, or if the fault was in the Subscriber's television receiver.)

(c) If the Division requests further investigation of a complaint, the CATV Operator will commence such investigation forthwith and proceed expeditiously. A full report of the operator's investigation of the complaint shall be rendered to the Division without delay, indicating whether the complaint had merit, what was done (or is proposed to be done) to resolve it, and when the result can be expected.

(d) The FCC customer service obligations contained in 47 C.F.R. § 76.309 are incorporated in these Rules except where such obligations are exceeded, as provided in any Order or approved agreement between the Division and any CATV Company.

### **Section 13.3 Notice of Complaint Procedure**

At the time of initial installation or reconnection of service, and at least once each year thereafter, every CATV System Operator shall deliver to every Subscriber and user a clear, understandable written statement of the procedure for reporting and resolving complaints, and the process available to him for redress of any service problem or other grievances he may have. Such statement shall list the names, addresses and telephone numbers of these officials or representatives of the operator, the Division, and the FCC to whom complaints should be addressed.



#### **Section 13.4 Discontinuance of Service**

Except as otherwise provided in this chapter, no CATV System Operator shall curtail, suspend or discontinue service to any Subscriber, except at the Subscriber's request, or for the following purposes or reasons:

- (a) to comply in good faith with the order of a court of competent jurisdiction;
- (b) to make temporary or permanent repairs or improvements in the system or its equipment;
- (c) to prevent a hazard to persons or property resulting from the condition of the installation or the Subscriber's equipment;
- (d) because of failure to pay a valid bill due for service furnished at a present or previous location or to make or increase a proper deposit;
- (e) because the Subscriber has removed or is removing from the premises;
- (f) because the Subscriber without its approval tapped the system to provide Cable Service to others or otherwise tampered with its facilities;
- (g) because the Subscriber made fraudulent representations regarding the use of the service within the Subscriber's premises;
- (h) because the Subscriber so operates or connects his equipment as to cause disturbing effects on the service of other Subscribers or its equipment or facilities;
- (i) because the Subscriber refuses reasonable access to his premises to its representatives who must have such access to make required inspections or tests or to make adjustments to or service equipment or to legally remove its property or to otherwise comply with conditions of its approved tariff; and
- (j) because the provision of service to the Subscriber jeopardizes the safety of company employee(s).

### **Section 13.5 Discontinuance for Nonpayment of Bills**

(a) No CATV System Operator shall discontinue service to any Subscriber for nonpayment of bills unless the Subscriber has been sent written notice of the operator's intention to disconnect, mailed so as to be received, under reasonable circumstances, at least ten (10) days in advance of the proposed discontinuance. No such intention notice shall be sent until at least thirty (30) days have elapsed from the date that the bill is mailed or delivered; Provided, however, in case of illegal use of the cable, fraud, or if it is indicated that the Subscriber is prepared to remove from the Service Area, the operator may discontinue service without notice.

(b) Where a charge or service is in dispute, the Subscriber or the CATV Operator may request, prior to the date of discontinuance specified in the notice, a review by the Administrator or his designee, who shall investigate the complaint, afford each party to the dispute a reasonable opportunity to be heard, and communicate his findings to the parties. During the pendency of such review, the operator shall not discontinue service to the Subscriber due to the circumstances out of which the dispute arose.

### **Section 13.6 Credit Deposits**

(a) Where a credit of a Subscriber is not established or where a Subscriber is in default in the payment of bills, a CATV System Operator may require as a condition of supplying or continuing service deposit not exceeding the estimated average charge for service during any two-month period.

(b) Where a Subscriber who has made a deposit fails to pay a bill, the CATV System Operator shall apply the deposit insofar as necessary to liquidate the bill, and may require a restoration of the deposit.

(c) Upon closing any Subscriber account for which a deposit has been paid, the CATV System Operator shall promptly return the balance remaining after the closing bill for service has been settled to the depositor with the interest due.

(d) If a Subscriber who has paid a deposit establishes satisfactory credit by payment of all bills within the allowed time during a period of two years, the CATV System Operator shall refund to the Subscriber the amount of the deposit together with all interest due thereon.

### **Section 13.7 Equipment Deposits**

If a CATV System Operator supplies equipment to a Subscriber it will not require a deposit exceeding the replacement cost of the equipment which deposit it will hold at six percent (6%) per annum simple interest to be applied so far as necessary to replacement or repair of the equipment resulting from Subscriber abuse. In such case, it may require that the deposit be restored to its original amount.

### **Section 13.8 Restoration of Service**

A CATV System Operator shall restore service upon application when the conditions under which it was disconnected are corrected and all proper deposits made. In the event of a dispute, it will accept and comply with the ruling or order of the Administrator until the same is set aside or reversed by a court of competent jurisdiction.

### **Section 13.9 Interruption of Service**

(a) All CATV System Operators shall render efficient service, make repair promptly, and interrupt service only for good cause, and for the shortest time possible. Insofar as is feasible, planned interruptions of service shall be scheduled during hours of minimum system use. All CATV System Operators shall exercise reasonable diligence to avoid interruption or curtailments of service, and will restore service as promptly as possible consistent with safe practice.

(b) Planned interruptions of service shall be preceded by at least nine-six (96) hours prior written notice delivered to a designated employee of the Division. Each such notice shall state the time, expected duration and cause of the interruption. In addition, beginning at least ninety-six (96) hours in advance of the planned interruption of service, the operator shall give continuous notice of the interruption to all affected Subscribers on at least one access channel or automated channel. The operator shall give affected users of institutional services pursuant to Section 7.3(b) at least ninety-six (96) hours notice of interruptions of their service by an appropriate means. Wherever feasible, the CATV Operator shall also mail to all affected Subscribers a printed notice of the planned interruption.

(c) Interruption of service due to accident or other causes beyond the control of the CATV System Operator shall be reported immediately to the Division.

(d) In the event of interruptions of service resulting from whatever cause other than negligence of a Subscriber or failure of equipment of facilities furnished by a Subscriber, and which continues more than twenty-four (24) hours, and which is reported to the company, a prorated adjustment to the monthly service charge shall be credited to the affected Subscribers for each twenty-four (24) hour period or fraction thereof that the interruption continues. No credit will be given for interruptions of service of less than twenty four (24) hours duration. For the purposes of calculating a pro-rated adjustment, every month shall be considered to have thirty (30) days.

### **Section 13.10 Installation of Drops**

When a CATV System Operator receives an application for service, and the only outdoor installation work required is to drop a line from the feeder cable to the Subscriber's building, it will make the installation promptly and in no event later than ten (10) days following receipt of the application unless good and sufficient reason exists.

### **Section 13.11 Parental Guidance Device**

Each CATV System Operator shall provide parental control devices to customers upon request at cost or, if the charges for such devices are regulated, at the regulated rate thereof.

### **Section 13.12 Captioning**

In order to serve the needs of hearing impaired persons in their Service Areas, each CATV System Operator shall equip its customer service center with a Telecommunications Device for the Deaf (TDD), and shall make available upon request closed caption devices for hearing impaired customers at cost.

## **CHAPTER 14 - COMMUNITY PROGRAMMING SERVICES**

### **Section 14.1 Number and Designation of Access And Interconnect Channels**

(a) Every CATV System Operator constructing a Residential Network of the minimum downstream channel capacity specified in Section 7.2 (a) of these rules shall specially designate and reserve a minimum of six (6) television channels for access purposes, inclusive of Interconnect channels, as set forth below.

(b) Every CATV System Operator shall make available to all Subscribers who receive all or any part of the total services offered on the system at least one access channel in each of the categories in sub paragraphs (1), (2), (3), (4) and (5) herein. Additional channels for access purposes shall be apportioned and designated in response to demonstrated community need (as provided for in subsection (d) of this rule).

Channels reserved for access purposes shall be designated as one of the following:

- (1) Public: Public access channels shall be made available for use by members of the general public on a first-come, first-served nondiscriminatory basis.
- (2) Educational: Educational access channels shall be made available for use by local educational authorities and institutions (including, but not limited to, school departments, colleges and universities but excluding commercial educational enterprises);
- (3) Government: Government access channels shall be made available for use by municipal and state government;
- (4) Leased: Leased access channels shall be made available on a first-come, first-served non-discriminatory basis; and
- (5) Interconnect Channels established by Section 7.4(c): Interconnect Channels shall be made available on a first come, first served non-discriminatory basis for PEG programming of statewide import.

(c) The minimum number of specially designated access channels required by the above paragraph shall be made available immediately upon commencement of Subscriber service.

(d) If any of the specially designated access channels required by paragraphs (a) and (b) above are in use eight (8) hours per day for a three-month period, and if there is demand for use of an additional channel for the same purpose, then the CATV System Operator shall provide an additional specially designated access channel within six (6) months of a formal request by the Service Area Citizens' Advisory Committee for that Service Area.

(e) However, upon a showing to the Administrator that demand does not warrant activation of all the specially designated access channels required by this section, PEG access and/or Interconnect programming may be combined onto one or more channels.

(f) To the extent that time is available therefor, specially designated access channels may be offered for lease or used for other broadcast or non-broadcast services, provided that such services are subject to displacement if there is demand to use the channel for its specially designated purpose.

(g) Any fixed studio provided pursuant to these rules shall be made available without charge to users of the specially designated access channels. Each Electing CATV Operator and RIPTA shall grant such users reasonable access to the studio facilities during normal business hours. In addition, access to the studio facilities shall be granted upon request until 9:00 p.m. weekday evenings and at least four hours per day on weekends.

#### **Section 14.2 Fixed Studio Production Capability**

(a) RIPTA shall provide one (1) fixed studio in each Service Area excluding Service Area 9 (New Shoreham). Each Electing CATV Operator shall also provide one (1) fixed studio in each of its Service Area(s). Each such studio shall be equipped for full-color production and transmission of live, videotape, and film television programs on specially designated access channels. (Such programs may be furnished or produced by residents of that Service Area and institutions or groups within that Service Area.)

(b) Each studio shall be centrally located within each Service Area.

(c) At a minimum, each such studio shall be furnished with the following equipment, which shall function and shall be in accordance with equipment that are standard in the industry:

##### Studio/Control Room:

- (1) three (3) cameras with tripods on dollies;
- (2) one (1) record video tape recorder that records video in suitable format and one (1) playback video tape recorder that plays back video with time base corrector in suitable format;
- (3) one (1) modulator for tie in for live cablecast and monitoring (audio and video) for the modulator;
- (4) one (1) studio control room switcher;
- (5) one (1) character generator;

- (6) one (1) audio mixing board;
- (7) intercom system and control room speaker;
- (8) one (1) cassette player/recorder, one (1) DVD player and one (1) CD player;
- (9) (shared with portable) hand and Lavalier microphones and audio cables;
- (10) test/signal equipment including distribution amps, audio amplifiers, and waveform monitor/vector scope/processing gear for live cablecast;
- (11) lighting grid and lights, with control system remotely controlled from control room;
- (12) Appropriate support equipment and accessories including but not necessarily limited to cables, cords, microphone stands and booms, studio furnishings, and an intercom system;
- (13) one (1) studio color monitor and audio speaker, one (1) preview and program color monitor, black & white camera monitors, and monitors for record deck and character generator;

Editing:

- (14) cuts-only linear edit suite, including one source and one record deck, edit controller, character generator, audio mixing capability, cassette player, CD player, deck monitors, character generator, monitor, and edit controller monitor;
- (15) non-linear editing system;

Playback:

- (16) automated controller;
- (17) video recorder in suitable formats;
- (18) color monitor;

- (19) modulator; and
- (20) time base corrector.

### **Section 14.3 Portable Production Equipment Capability**

(a) Each Electing CATV Operator and RIPTA shall provide and maintain mobile and/or portable television production equipment for use by residents of each Service Area in the production of programming for specially designated access channels. Such equipment shall be available from one or more convenient and accessible locations within the Service Area.

(b) Each Electing CATV Operator and RIPTA shall provide and maintain portable equipment of a type and in quantities adequate to satisfy the program production needs of the users of specially designated access channels. At a minimum, however, each Electing CATV Operator and RIPTA shall immediately provide two (2) complete sets of the following equipment for use by producers in each studio that they operate and maintain:

- (1) two (2) camcorders – appropriate format and two (2) tripods;
- (2) monitoring – audio for each camcorder, and monitoring – video for each camcorder;
- (3) two (2) lighting kits;
- (4) one (1), 4-input wireless system, including mixer function, including at least two (2) handheld microphones and two (2) Lavalier microphones; and
- (5) appropriate accessories, including but not limited to, cords, cables, microphone desk, stands, audio cables/connectors and equipment cart.

(c) To the extent that equipment maintained at the fixed studio is portable and not in use for program production for specially designated access channels at that location, such equipment may be made available for use outside the studio.



#### **Section 14.4 Access Services Operating Rules**

(a) Each Electing CATV Operator and RIPTA shall establish and publish rules pertaining to the administration and use of the specially designated access channels and access production equipment and facilities required by this chapter. Such rules shall be filed with the Administrator at least sixty (60) days before any access channels are put into use. Any revisions to such rules shall be promptly filed with the Administrator. Copies of such operating rules shall be kept available for public inspection at the local business office of RIPTA and the Electing CATV Operator.

(b) In addition to the specific requirements contained in the following sections of this chapter, all operating rules submitted in accordance with this section shall include, but not be limited to, the following provisions:

- (1) procedures for scheduling the use of television production equipment provided by the system operator, and for scheduling the cablecasting of programming on the specially designated access channels;
- (2) a provision requiring the Electing CATV Operator and RIPTA to maintain a complete record of all users of the specially designated PEG and leased access channels, and to keep such record available for public inspection at the local business office of the Electing CATV Operator and RIPTA. Such record shall contain the names, complete addresses, and telephone numbers of these users, and shall be retained by the operator for a period of two years; and
- (3) a provision that the Electing CATV Operator and RIPTA shall not attempt to control program content or specially designated access channels, except to the extent necessary to protect it from liability under these rules and applicable law.

#### **Section 14.5 Access Channel Operating Rules**

- (a) Every Electing CATV Operator within this State and RIPTA shall:
- (1) actively encourage the use of specially designated access channels as a medium of diversified public expression;
  - (2) make time available to all users of access channels on a first-come, first-served, nondiscriminatory basis, and without charge;

- (3) provide at its own cost professional assistance to citizens desiring to advance their skills in planning, production, and programming of effective programs for specially designated access channels, and in developing innovative uses of cable technology;
  - (4) furnish without charge appropriate technical assistance and adequate studio facilities to users of the specially designated access channels; and
  - (5) provide at its own cost professional assistance to local school officials in planning and installing cable facilities for the reception of educational television and for local origination within the school system.
- (b) Neither an Electing CATV Operator in this State nor RIPTA shall:
- (1) permit any access channel to be used to give political advantage to an incumbent in office; and
  - (2) permit the specially designated government channel to be used to propagandize government views.

(c) If an Electing CATV Operator in this State or RIPTA permits the origination or dissemination of political campaign material, it will afford equal opportunities to all candidates for the same office.

(d) If an Electing CATV Operator in this State or RIPTA permits the origination or dissemination of views concerning a controversial issue of public importance, it will afford equal opportunity for the presentation of contrary points of view.

(e) Every Electing CATV Operator in this State and RIPTA shall adopt appropriate operating rules for the implementation of these objectives.

#### **Section 14.6 Leased Access Channel Operating Rules**

The operation of all leased access channels of a CATV System Operator shall be governed by applicable federal law, including but not limited to, 47 C.F.R. § 76.701, § 76.970, § 76.971, and § 76.975.

## **Section 14.7 Personnel and Technical Assistance**

(a) Each Electing CATV Operator and RIPTA shall make available an adequate number of appropriate programming and technical personnel to maintain and oversee the use of the production equipment required to be provided by this chapter, and to provide the following training and technical assistance:

- (1) training of government employees, employees of educational institutions, and representatives of non-profit community organizations and institutions in the use of system production equipment available for access and institutional program production;
- (2) training of the public in the use of system production equipment available for access program production; and
- (3) guidance and planning assistance to government officials, officials of educational institutions, and officials of non-profit community institutions and organizations in the development of access programming and institutional services, and the design and utilization of facilities for production, origination, and internal distribution (*i.e.*, within buildings).

(b) Every Electing CATV Operator and RIPTA shall each employ at least one (1) full-time coordinator of access services who shall have continuing oversight and administration of the development and utilization of access programming services.

(c) Any and all technical, planning, and instructional assistance provided by an Electing CATV Operator and RIPTA pursuant to this section shall be provided at no expense to the access services user.

## **CHAPTER 15 - ADVISORY BODIES**

### **Section 15.1 Service Area Citizens' Advisory Committees**

(a) The Administrator shall appoint Service Area Citizens' Advisory Committees in accordance with this chapter.

(b) Appointments to Service Area Citizens' Advisory Committees shall be made by the Administrator after consultation with the chief executive officers of all the municipalities included in the proposed or existing Service Area, and with the management of the CATV Certificate holder (if any) for that Service Area.

(c) Service Area Citizens' Advisory Committees shall consist of the following:

- (1) from each municipal government in the service area, one (1) representative. Municipal representatives shall be nominated by the highest elected municipal official in each Municipality, with the advice and consent of the municipal council. If no nomination is received within forty-five (45) days of notification, the chairman of the advisory committee shall make the nomination. If a nomination is not received from the chairman of the advisory committee within another forty-five (45) days, the Administrator may move forward with appointments as he deems appropriate;
- (2) at least one (1) representative of municipal school systems in the Service Area, after consultation with the Superintendents of the school systems in the Service Area;
- (3) one (1) representative of post-secondary higher education, if interested;
- (4) not less than three (3) and not more than five (5) representatives of the general public; and
- (5) the managers of each CATV Certificate holder for that Service Area (or his/her designee), and one (1) representative from RIPTA, as non-voting members.

Membership of such committee (and of any such sub-committees as they may appoint) shall be as broadly representative of the interests of the community as possible. Except for the CATV Certificate holders' representatives and that of RIPTA, appointees shall be residents of that Service Area, and shall not be commercially involved in the CATV industry.

- (d) Members of Service Area Citizens' Advisory Committees shall serve without remuneration for a period of three (3) years. Original appointments shall be for terms of one, two or three (1, 2, or 3) years with subsequent appointments for a term of three (3) years, so that the terms of one-third of the committee's member expire in any year. Members shall

be eligible to succeed themselves. Vacancies shall be filled in the same manner as original appointments; however, vacancies for reasons other than expiration shall be filled only for the unexpired portion of the term.

- (e) The members of each Service Area Citizens' Advisory Committee shall choose a chairman from among themselves, and may appoint such subcommittees as it sees fit to deal with specific issues or segments of community interests. Meetings shall be held no less than four times annually, or at the call of the chairman. All meetings shall be open to the public.
- (f) Each Service Area Citizens' Advisory Committee shall have the following duties and responsibilities:
  - (1) to inform itself and the public about cable television;
  - (2) to advise the CATV Certificate holder and RIPTA of community needs and concerns;
  - (3) to assess on an ongoing basis, the communications needs and desires of the residents of the proposed or existing Service Area; to analyze how the services which can be provided by CATV Systems can satisfy those needs; and to make periodic written reports to both the Administrator, the CATV Certificate holders (if any), and RIPTA stating the communications needs and desires of the residents of the proposed or existing Service Area, and making recommendations on the means of satisfying those needs (which, in the case of a proposed service area, or an existing Service Area for which no Compliance Order Certificates have been issued, may include a description of the CATV System it deems best suited to meet those needs);
  - (4) to advise and make recommendations to an Electing CATV Operator and RIPTA on the development of operating rules for PEG access channels governing continuing administration of those channels ;
  - (5) to advise and make recommendations to an Electing CATV Operator and RIPTA and community agencies on programming policies and development and acquisition of programs for PEG access channels and Institutional Networks preserved by Section 7.3(b);

- (6) to assist an Electing CATV Operator and RIPTA in the promotion of PEG access channels;
  - (7) to recommend to the Administrator, in consultation with the Certificate holder and affected agencies, which public buildings and non-profit organization buildings within the Service Area should receive free residential service;
  - (8) to advise and make recommendations to Certificate holders and RIPTA on the utilization of the statewide interconnection facilities and channels;
  - (9) to submit upon request, or in compliance with a rule, written reports of the CATV System Operator's performance under the terms of these rules, FCC rules, Division orders, and state and federal statutes, especially as regards the provision of an Electing CATV Operator's and RIPTA's PEG access services as well as a summary of the committee's activity for the previous year; and
  - (10) to perform such other duties as the municipal governments of that Service Area, in consultation with the Administrator, may specify in writing.
- (g) Service Area Citizens' Advisory Committees shall promptly furnish copies of all reports to the Administrator, to RIPTA, and to municipal officials and the CATV Certificate holder for that Service Area.

### **Section 15.2 Cable Television Advisory Council**

(a) There shall be established by the Administrator a permanent Cable Television Advisory Council consisting of twelve (12) members, three (3) representatives of all the CATV Certificate holders in the State, one member from RIPTA and eight (8) public members, as provided below, all of whom shall serve without remuneration.

(b) Ex-officio members of the Council shall be considered for appointment to the Council upon application to the Administrator.

(c) Each representative of the CATV Certificate holders shall be the manager or designee of a Certificated CATV Company in this State. These representatives shall be appointed by the Administrator for a two (2) year term on a rotating basis. Original appointments of these representatives shall be made for terms of one and two (1 and 2) years, with subsequent appointments for a two (2) year term.

(d) Public Members of the Council shall be selected by the Administrator from nominations submitted by the Service Area Citizens' Advisory Committees in the various franchised parts of the State, and shall include at least three (3) chairmen of Service area Citizens' Advisory Committees. All public members shall be appointed for a term of three (3) years. Original appointments of public members shall be for terms of one, two, or three (1, 2, or 3) years with subsequent appointments for a term of three (3) years, so that the terms of one-third of the public membership of the Council shall expire in any year. Members shall be eligible to succeed themselves. Vacancies shall be filled in the same manner as original appointments; however, vacancies for reasons other than expiration shall be filled only for the unexpired portion of the term. Public members shall be as broadly representative of the State as possible.

(e) The Administrator shall designate a member of the Council as its chairman; however, only public members shall be eligible to serve as chairman. The Council shall meet at the call of its chairman.

(f) The Cable Television Advisory Council shall have the following duties and responsibilities:

- (1) to advise the Administrator on the development, adoption and implementation of rules, regulations and policies governing CATV systems in the State; and
- (2) to advise the Interconnect of statewide needs and concerns, and on policies governing continuing administration of that system designed to meet those needs and concerns.

## **CHAPTER 16 - PROHIBITED ACTIVITIES**

The holder of any CATV Certificate is prohibited from directly or indirectly soliciting, referring, or causing or permitting the solicitation or referral of any Subscriber to persons engaged in any business herein prohibited to be engaged in by the Certificate holder.

## **CHAPTER 17 - REPORTS AND FILINGS**

### **Section 17.1 Annual Report Required**

(a) Within one year of the granting of a Certificate of Authority to Operate, on March 31 and annually thereafter, every CATV Operator and RIPTA, as applicable, shall file a report with the Division, containing the information required by the following sections and any other information the Administrator may require. The report shall be made in a form acceptable to the Administrator.

(b) The Division shall review each such annual report as it is received, and present the results of its review to the Administrator.

### **Section 17.2 Annual Report - Financial, Ownership, Management Information**

Every annual report submitted to the Division in accordance with Section 17.1 of these rules shall contain the following information regarding ownership, management, and financial condition of the Certificate holder:

(a) a sworn financial and operating report including a balance sheet and profit and loss statement;

(b) a list of its officers, directors, and management personnel; and

(c) a statement containing the name, address, date of birth, and social security number of each legal and each beneficial holder of more than five percent (5%) of its stock; and the name, address and nature of business of any enterprise in which it has more than five percent (5%) interest.

### **Section 17.3 Annual Report - Facilities, Services, Subscriber Information**

Every annual report submitted to the Division in accordance with Section 17.1 of these rules shall contain the following information regarding the physical facilities and equipment of the system, its Subscriber population, and the services offered by it:

(a) current exact location of head-end (and sub-headends or hubs, if any), studios and offices;

(b) a listing of broadcast and non-broadcast signals carried;



(c) a report on the nature and extent of programming originated by the CATV System Operator (whether automated, live, or videotape);

(d) a report on the nature and extent of utilization of access channels and institutional services;

(e) a report on the nature and extent of any experimentations and service innovations conducted during the previous twelve months;

(f) a report on the nature of the use of system facilities (including studio and mobile and portable production equipment) by noncommercial and commercial customers other than users of access channels;

(g) a breakdown of Basic Service and Cable Programming Service Subscribers by Service Area; and

(h) the name and address of each Subscriber receiving free monthly installation of Cable Service (specifying levels of service contracted for by each), along with the relationship of each such Subscriber to the system. Notwithstanding the foregoing, the CATV Company shall not be required to provide any Subscriber information in violation of § 631 of the Cable Act (47 U.S.C. § 551) or any other applicable law regarding the protection of Subscriber privacy.

#### **Section 17.4 Accounting and Reporting**

(a) Each CATV Company, and RIPTA, for its PEG access and Interconnect operations, shall keep such books of accounts and all other books and financial records applicable to its system in this State in accordance with generally accepted accounting principles (GAAP).

(b) Each CATV Company, and RIPTA, for its PEG access and Interconnect operations, shall file annually with the Division the appropriate forms required by the GAAP within ninety (90) days following the close of the company's fiscal year.

(c) A CATV System Operator, and RIPTA, for its PEG access and Interconnect operations, who ceases to operate a CATV System in this State shall promptly notify the Division of that fact and file, no later than thirty (30) days after ceasing operation, a final financial report in a form and manner acceptable to the Division.

(d) Nothing in this section shall be construed to limit the Division's power to require additional or supplemental information.

### **Section 17.5 Availability of Books and Records**

Each CATV Company, and RIPTA, for its PEG access and Interconnect operations, shall fully cooperate in making available at reasonable times, and the Division shall have the right to inspect the books, records, maps, plans and other like materials of the company applicable to its system or systems in this State, at any time during reasonable business hours; provided where volume and convenience necessitate, the company may require inspection to take place on its own premises.

### **Section 17.6 Annual Access Provider Report**

Every Electing CATV Company and RIPTA shall file a report with the Division each year (January 1 through December 31) or portion of a year concerning its efforts in the administration of access. The report shall be due on March 31 of the following year and shall be in a form and contain such information that is acceptable to the Administrator.

### **Section 17.7 CATV Company Assessment Report**

In addition to its ongoing authority to regulate Rhode Island CATV Companies and RIPTA, for its PEG access and Interconnect operations, under Title 39, Chapter 19 and Title 16, Chapter 61, respectively, the Division shall conduct an assessment of the operations of each cable company and RIPTA, for its PEG access and Interconnect operations, in the State every five (5) years as it relates to its compliance with these rules. The Division shall hold at least one (1) public hearing and may retain expert witnesses. The first such report shall be completed within twelve (12) months following the adoption of this rule, and every five (5) years thereafter. The report shall be in a form suitable to the Administrator.

### **Section 17.8 Periodic Rules Review**

In addition to its ongoing authority to promulgate rules and regulations regarding the regulation of cable television in the State of Rhode Island under Title 39, Chapter 19, every ten (10) years from the date of the promulgation of these rules, the Division shall conduct a review of these rules to ensure that they are in conformance with the future cable-related community needs and interests of the people of the State of Rhode Island.

**CHAPTER 18 - PEG STUDIO AND INTERCONNECT  
TRANSFER AND COST RECOVERY**

**Section 18.1 Transfer of Existing PEG and Interconnect Facilities to RIPTA**

(a) On or after January 1, 2007, any existing CATV Operator may transfer to RIPTA the ownership of its PEG access studios (or where applicable the operation of its PEG access facilities), and the ownership of playback equipment and existing Interconnect playback equipment.

(b) No later than thirty (30) days prior to the effective date of any such transfer, the contracting parties shall provide the Division the following documentation:

- (1) a copy of the agreement effecting the transfer;
- (2) a notice designating the effective date of the transfer; and
- (3) a notarized affidavit that each lease entered into between the parties or assumed by RIPTA is at fair market value, and that the transferor's employees working in public access facilities shall become employees of RIPTA on the effective date of the transfer unless otherwise negotiated to the satisfaction of the Division.

(c) On or before March 31, 2007, any existing CATV Operator electing to continue to operate and manage its PEG access studio(s) within its Service Area shall provide written notice to the Division of its election to do so, without prejudice to deciding at a subsequent time to transfer its PEG access studios (or where applicable the operation of its PEG access facilities), and the ownership of playback equipment and existing Interconnect playback equipment.

**Section 18.2 - PEG Studio and Interconnect Quarterly Expense Statement, Fee and Pass-Through**

(a) On or before June 30, 2007, and by the last day of the second month of each calendar year quarter thereafter, RIPTA shall forward an itemized statement to each CATV Operator that reflects RIPTA's operating and maintenance expenses for PEG access facilities, playback equipment and Interconnect equipment and other PEG and Interconnect related expenses for the preceding calendar year quarter.

(b) Each CATV Operator that receives quarterly statements from RIPTA shall, by the last day of each calendar year quarter, provide to RIPTA a PEG access and Interconnect fee in an amount equal to \$.50 per month (or such other amount set by the Division) for each Subscriber of the CATV Operator in the preceding quarter, and may pass through such expenses to its Subscribers as provided by federal law.

(c) The Division may adjust the amount of the PEG access and Interconnect fee provided for in Section 18.2(b), no more than once annually, following public hearing and notice to RIPTA, all CATV Operators and others provided in Section 12 of the Division's Rules of Practice and Procedure, and upon a finding that an adjustment is appropriate in light of the prudent and reasonable expenses incurred, or projected to be incurred, by RIPTA in operating and maintaining PEG access facilities, playback equipment, and Interconnect equipment as required and allowed by these Rules.

### **Section 18.3 - Yearly PEG Studio and Interconnect Expense Statement**

(a) On or before March 31, 2008, and by March 31st of each calendar year thereafter, RIPTA shall forward to the Division an itemized statement that reflects RIPTA's operating and maintenance expenses for PEG access facilities, playback equipment and Interconnect equipment for the preceding calendar year. RIPTA may include the yearly statement in the report that it files with the Division pursuant to Section 17.6 of these rules.

(b) The total annual amount of itemized operating and maintenance expenses reflected in RIPTA's statement for calendar years 2007 and 2008 shall not exceed the sum which is currently generated by the fifty (50) cents per Subscriber per month PEG access and regulatory fee and any additional revenue the Division receives pursuant to the settlement agreement dated October 4, 2006 in Docket No. D-2006-C-4. On or after January 1, 2009, RIPTA may modify this amount, not more than once annually, with the consent of the Division.

## **CHAPTER 19 - OPERATION OF RULES**

### **Section 19.1 - Effective Date of Rules**

These Rules shall become effective as of January 1, 2007 and shall operate prospectively only.