

REGULATIONS OF CONNECTICUT STATE AGENCIES

Department of Energy and Environmental Protection

Public Utilities Regulatory Authority

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Community Access Support

Sec. 16-331a-1. Definitions

As used in section 16-331a-2 to 16-331a-10, inclusive:

(1) "Community Access Provider" means the entity responsible for providing community access operations within a franchise area.

(2) "Consumer Price Index (CPI)" shall mean the United States Department of Labor Consumer Price Index, Urban, Northeast Region, published by the Bureau of Labor Statistics.

(3) "End-user Premises" means a residential dwelling unit the owner or tenant of which purchases programming services from one or more multichannel video programming distributors within a franchise area as defined in section 16-331a-1 (4).

(4) "Multichannel video programming distributor (MVPD) within a franchise area" means a multichannel programming distributor as defined in 47 CFR 76.1300, as from time to time amended, that uses public streets and highways, utility poles or underground conduit to distribute video programming.

(5) "Subscriber" means a person who purchases programming services from one or more MVPDs within a franchise area, as defined in section 16-331a-1 (4).

(Effective September 26, 1996)

Sec. 16-331a-2. Number of community access channels required

(a) Each franchise holder shall maintain at least one specially designated channel to be used for community access. The franchise holder may use any such access channel for any other purpose whenever that channel's time has not been contracted for use for public access. Any conflict in time for use between community access or other use shall be resolved in favor of community access. The franchise holder shall keep a record, available for public inspection, of the requests for and use of access channel time. Such records must be retained for not less than two years.

(b) When the activated access channel capacity is in use for community access purposes during 80 percent of any consecutive five hour period Monday-Friday, for six consecutive weeks, the franchise holder shall, within six months, activate an additional channel for access use, provided, however, that this requirement shall not necessitate the rebuilding of a system or elimination of any existing services, and further provided that in no case shall the number of mandated access channels exceed ten per cent of the total channel capacity of the system.

(Effective September 26, 1996)

Sec. 16-331a-3. Rates and charges

No franchise holder shall charge access channel users for channel time. Franchise holders may assess rates and charges approved by the department against access users for technical assistance and production expenses.

(Effective September 26, 1996)

Sec. 16-331a-4. Operating rules

(a) Within 6 months after the effective date of these regulations or upon commencing operations, whichever is later, each franchise holder shall file proposed operating rules for access use with the DPUC approval. Such rules must include the following:

(1) All proposed rates and charges applicable to the use of access channels including technical assistance and production expenses.

(2) All forms to be used, e.g., applications or agreements.

(3) Equipment available for access use.

(4) A prohibition of the presentation of any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office).

(5) Any other operating rules which may apply to the provision and programming of access channels.

(b) In evaluating the equipment, rates, and administrative procedures which must be specified in the franchise holder's operating rules for access use, the department shall consider the franchise holder's financial resources; the system's subscriber base and channel capacity; the demographic characteristics of the franchise area and the public need, as determined by the department, consistent with the goals of affording the public a low cost means of television access and encouraging access channel usage by as many different persons or entities as practical.

(Effective September 26, 1996)

Sec. 16-331a-5. Notice requirement

Each franchise holder, upon filing proposed operating rules of access use with the DPUC, shall provide written notice of the availability of access channels to each subscriber within 60 days and such notice shall be repeated annually.

(Effective September 26, 1996)

Sec. 16-331a-6. Applicability of support requirements

Sections 16-331a-7 through 16-331a-10 shall only apply to franchise holders that seek a new, renewed or transferred certificate of public convenience and necessity to operate a community antenna television system after October 1, 1995. Community access support levels of all other franchise holders shall be governed by the terms of their existing franchise agreements, or in the absence of such agreement, by the requirements of sections 16-331a-11 and 16-331a-12.

(Effective September 26, 1996)

Sec. 16-331a-7. Community access support amount, CPI adjustment

The amount to be provided by each MVPD within a franchise area for community access support shall be \$5.00 per subscriber per year unless a different amount is required pursuant to section 16-331a-8. The amount shall be adjusted annually reflecting the CPI for the preceding calendar year. The amount shall be paid on a quarterly basis and shall be determined by multiplying the amount per subscriber by the average number of subscribers as determined in section 16-331a-9.

(Effective September 26, 1996)

Sec. 16-331a-8. Procedures for increasing or decreasing community access funding other than by the CPI

(a) At any time, on its own motion or for good cause shown, the department may increase or decrease the per subscriber amount to be collected annually from MVPDs within a franchise area to support community access by not more than 40% of said amount.

(b) The department, in its sole discretion, shall determine if a proceeding to increase or decrease the community access amount shall be held. To assist the department in determining whether good cause exists to initiate a proceeding pursuant to this section of the regulations, an entity requesting an increase or decrease shall provide to the department a clear statement indicating good cause why the request should be granted.

(c) Before increasing or decreasing the amount of community access support, the department shall hold a hearing, and accept evidence from the community access provider within the franchise area, MVPDs within the franchise area, the cable advisory council and residents of the franchise area.

(d) In determining whether the amount shall be increased or decreased not more than 40%, the department shall take into consideration:

(1) the number of subscribers served by the MVPD within a franchise area; (2) the fundamental purposes of community access, including but not limited to, the following: enhancing First Amendment rights; providing for the dissemination of diverse views and for a marketplace of ideas and information; providing viable alternatives to commercial programming, and enhancing a sense of community among residents of the town and franchise area; and (3) the criteria set forth in subsection (c) of Section 16-331a of the Connecticut General Statutes, and subsection (k) of Section 16-331a of the Connecticut General Statutes.

(Effective September 26, 1996)

Sec. 16-331a-9. Determination of average number of subscribers per MVPD within a franchise area

(a) The average number of subscribers per MVPD within a franchise area shall be determined on a quarterly basis. For purposes of calculating the amount of community access support due on the first business day of each calendar quarter (beginning January 1, April 1, July 1, and October 1), the number of subscribers of an MVPD operating within a franchise area shall be the average number of subscribers during the preceding quarter.

(b) The amount attributable to subscribers connected to a video dialtone platform shall be based on the average number of end-user premises connected to the platform which purchased programming from one or more video information providers over that platform.

(Effective September 26, 1996)

Sec. 16-331a-10. Assessment and collection procedures

(a) No later than June 1 of each year, the Department shall, by decision, adjust the required community access support amount per subscriber reflecting changes in the CPI and notify each MVPD within a franchise area and each community access provider of the adjusted amount for the next calendar year. The notification shall include the manner in which the adjusted amount was calculated.

(b) If an MVPD within a franchise area or the community access provider believes that the department's determination of the total amount due is incorrect, it shall, within 30 days from the date the Department issues the notification of the adjusted amount, inform the department in writing that it disagrees with the Department's calculation, indicating the reason or reasons it believes the calculation is incorrect. The department shall respond to the MVPD within a franchise area or the community access provider within 60 days of receipt of the written disagreement.

(c) If an MVPD within a franchise area is the community access provider, it shall include in its annual report filed pursuant to subsection (i) of section 16-331a of the Connecticut General Statutes information sufficient to establish that it has met its community access support obligations. If an MVPD within a franchise area is not the community access provider, it shall make quarterly payments to the community access provider no later than the first business day of each calendar quarter. At the same time, it shall notify the department of the amount of the payment made, showing all calculations.

(d) The department shall resolve any disputes regarding the quarterly payments.
(Effective September 26, 1996)

Sec. 16-331a-11. Standards for determining adequacy

The Department shall employ the standards in this section to determine, on a case-by-case basis, the level of support which each CATV company shall make available to the public to facilitate meaningful community access. The department shall review each company's support taking into consideration the factors in section 16-331a-12. The Department considers that community access support which comprises the following components would be adequate to facilitate meaningful community access:

(a) Personnel:

(1) Personnel sufficient to accomplish the following:

(A) Coordinate all access programming functions and efforts, including coordinating efforts and communicating with the Advisory Council, and

(B) Administer all efforts made by the company for community access;

(2) Any company which has 20,000 or more subscribers shall designate one employee, at a minimum, as the access coordinator who has as his or her sole responsibilities those identified in subdivision (1) of this subsection. Any CATV company which has less than 20,000 subscribers shall designate one full time employee, at a minimum, as the access coordinator who has as his or her primary responsibilities those identified in subdivision (1) of this subsection;

(3) Technical personnel to assist the access coordinator and to assist the access users, as required;

(4) Additional personnel assigned to supplement the access coordinator's efforts in coordination and administration when the absence of such supplementary efforts would unreasonably hinder the development of community access;

(5) An annual assessment, performed by the company and based in part on recommendations solicited by the company from access users and the Advisory Council, of whether the number of personnel assigned to community access, and the amount of time spent by such personnel on community access, are sufficient to facilitate meaningful community access.

(b) Training:

(1) A training program, offered at no charge to trainees or their organizations except as specified herein, designed and operated by the company to train interested persons to handle equipment safely and to produce community access programming, including, but not limited to, the following: (A) preproduction planning, (B) portable field production, (C) studio production, (D) editing, and (E) post-production tasks. Classes held for the training program shall be a reasonable size, as determined by the material presented. Classes shall be offered regularly outside of business hours, including evenings and weekends, in addition to the sessions offered regularly during business hours. The training program shall be offered first to residents of the franchise area and then to members of private, nonprofit organizations located and operating in the franchise area;

(2) The availability of a proficiency test, which individuals may pass instead of the successful completion of the training program;

(3) Advanced level courses, as determined by demand, offered solely by the company for cooperatively with other companies or organizations.

(c) Facilities and Equipment:

(1) Facilities and equipment, at no charge except for the cost of gasoline for the use of a van or for tapes, sufficient to enable access users to produce and show live and taped productions of commercial broadcast quality, as more fully defined below:

(A) For systems with fewer than or equal to 3,500 subscribers, equipment, including, but not limited to, the following equipment, all of which shall be portable except for the character generator and cable casting equipment: a color, self-contained camera package having a minimum of 350 lines of horizontal resolution, video tape recorder, microphones, microphone mixer, tripod, lighting equipment, carrying cases, cablecasting equipment, and a sixteen-page character generator,

(B) For systems with more than 3,500 subscribers, but fewer than 25,000 subscribers, equipment and facilities, including, but not limited to, the following: an equipped studio of not less than 200 square feet, and the portable equipment identified in subparagraph (A) of this subdivision,

(C) For systems in excess of 25,000 subscribers, facilities and equipment including, but not limited to, the following: an equipped studio of not less than 400 square feet, and the portable equipment identified in subparagraph (A) of this subdivision,

(D) For each 25,000 subscribers or fraction thereof in excess of 50,000 subscribers, an additional camera package and portable equipment as specified in subparagraph (A) of this subdivision;

(2) Reasonable procedures, established in consultation with access users and the Advisory Council, for the following: (A) Making equipment and facilities available when the company's offices are closed for business, (B) Handling the tardy return of equipment and return of damaged equipment by users, (C) Properly maintaining equipment and facilities.

(d) Channel Capacity:

Channel capacity sufficient to support meaningful and productive community access by meeting the demands for channel time for community access, including, at a minimum, one specially-designated community access channel, with additional channel time made available as required by section 16-331a-2 of these regulations.

(e) Promotion:

(1) In addition to the promotional techniques specified in subdivision (3) of subsection (f) of section 16-331 of the Connecticut General Statutes, promotional efforts undertaken in consultation with the Advisory Council and access users, which are sufficient to promote the use of community access channels, facilities, and training programs through mechanisms which may include, but are not limited to, the following:

(A) A bill insert or brochure mailed to all customers at least annually, describing the purposes and accomplishments of community access and the procedures for becoming involved in community access.

(B) A check-off provision on customers' bills which enables customers to donate money to community access;

(2) Promotion of the community's involvement in community access, including specific efforts to involve minority groups;

(3) Publicity about programming through announcing schedules for community access programming in the newspaper, in public service announcements on television and radio, and inserts in the company's program guide,

(4) Efforts to coordinate the Advisory Council's and access users' promotional activities with the company's promotional activities;

(5) A mechanism by which the company shall obtain an annual financial report, from any individuals or groups who receive any direct monetary contribution from

the company, identifying what funding was received and how and by whom it was spent.

(f) **Funding:**

Money provided to fund the components of adequate community access, as specified in this section, in lieu of providing the specific components of support, when such funding is sufficient in amount to enable the achievement of the standards set herein and when the provision of funding, in lieu of a specific type support, does facilitate the development of community access.

(g) **Evaluation and Assessment:**

(1) The company's establishment of specific goals for community access, set in consultation with the Advisory Council, and a periodic assessment of the achievement of those goals;

(2) An annual evaluation by the company, submitted to the Department, completed after soliciting, receiving, and incorporating comments from the Advisory Council, access users, community members, and subscribers, of the effectiveness of the company's community access program, and the achievement of the program's goals.

(Effective September 26, 1996)

Sec. 16-331a-12. Review of community access support levels

The Department shall review each company's support, according to the standards set in section 16-331a-11, and may adjust the level of support below such standards if the following so warrant an adjustment:

- (1) The size of the company's rate base;
- (2) The number of subscribers served by the company;
- (3) The length of time for which the company has held the franchise;
- (4) The company's channel capacity;
- (5) The terms of the company's existing franchise certificate as it applies to community access;

(6) The overall effectiveness of the community access program, including, but not limited to, the following: the number of people who have enrolled in the training program or taken a proficiency test, the number of programs produced, the number of inquiries received about community access, the amount of air time used on the community access channels, the amount of donations made to the company for community access, including funds raised by access users and access organizations, the perceptions and responses to the community access program held by the Advisory Council, access users, and the community;

(7) The existence of an agreement by the company to provide a level of support higher than that set by the standards in section 16-331a-11;

(8) The demography of the community and the public need;

(9) The fundamental purposes of community access, including but not limited to, the following: enhancing First Amendment rights; providing for the dissemination of diverse views and for a marketplace of ideas and information; capitalizing on the possibilities inherent in "narrowcasting," as contrasted with broadcasting; providing for viable alternatives to commercial programming, and enhancing a sense of community among residents of the town and franchise area.

(Effective September 26, 1996)

Sec. 16-331a-13. Annual report requirements for entities providing community access operations

(a) The annual report required to be filed with the department pursuant to section 16-331a(i) of the Connecticut General Statutes by each company or nonprofit organization providing community access operations shall conform to a standard format

provided by the department to all community access providers no later than December first preceding the February fifteenth statutory filing deadline.

(b) The standard format provided by the department shall contain questions pertaining to the official name and address of the community access studio, contact phone numbers, description of facilities, equipment, personnel, hours of operation, number of access channels and channel designation, cablecast logs, programming, operating rules, annual budgets, accounting, number of access users, training, funding, donations, promotions and outreach efforts, and any further information deemed necessary by the Department. This form shall be revised and updated as required.

(c) Any community access provider designated as a not-for-profit corporation shall file with the department a copy of its Form 990 or 990-EZ (Return of Organization Exempt from Income Tax) within 30 days of its filing of said form with the Internal Revenue Service.

(Adopted effective September 7, 1999)