

MT. HOOD CABLE REGULATORY COMMISSION

RULES OF PROCEDURE As Amended December 15, 1997

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Section 1. Officers

- 1.1 Officers. The Commission shall elect a Chair and Vice Chair (Officers) from among its members.
- 1.2 Term of Office. The Officers' terms of office shall be for one year from July 1 through June 30. Officers may be elected to no more than three full consecutive terms.
- 1.3 Election. Commissioners may nominate Officers by oral motion. After the close of nominations, the Commission shall vote in writing or by oral motion upon the names nominated. The election of officers shall be by a majority of Commissioners.
- 1.4 Vacancy. If an Officer's position becomes vacant, the Commission shall elect a successor from among its members who shall serve the unexpired term.
- 1.5 Chair. The Chair shall have the duties and powers to:
 - A. Direct the preparation and distribution of an agenda for all Commission meetings;
 - B. Preside over all deliberations and meetings of the Commission;
 - C. Vote on all questions before the Commission;
 - D. Call special meetings of the Commission in accordance with these Rules of Procedure;
 - E. Sign all resolutions, orders, contracts and other documents memorializing Commission action;
 - F. Establish committees and appoint members and chairs.
- 1.6 Vice Chair. During the absence, disability or disqualification of the Chair, the Vice Chair shall assume all the duties and powers of the Chair. In the absence of both Officers, the Commission shall elect an acting Chair.

Section 2. Meetings and Meeting Notices

- 2.1 Regular Meetings. The Commission shall hold regular monthly meetings at such times as the Commission shall determine. The Chair may cancel and/or reschedule a regular meeting if any regular meeting falls on a legal holiday, if lack of a quorum is apparent, or for other good cause. The location of regular meetings shall be determined by the Commission.
- 2.2 Special Meetings. The Chair may, upon his or her own motion or upon request of at least two other Commission members, call a special meeting. Notice of special meetings shall be given to all Commission members not less than 24 hours in advance of the special meeting, and shall comply with applicable requirements of state law. In case of emergency, the Chair may call a special meeting upon such notice as is appropriate under the circumstances and complies with applicable state law.
- 2.3 Meetings Open to Public. Except as otherwise provided herein, all Commission meetings shall be open to the public and conducted pursuant to the requirements of Oregon law. The Commission may meet in executive session as permitted by Oregon law. Prior to convening an executive session, the Chair shall state the statutory authorization for the session.
- 2.4 Notice of Meetings

A. Notifications of regular meetings shall be mailed to Commission members, cable franchisees, interested news organizations, affected governmental units and other interested persons and organizations at least seven days prior to the meeting. The notifications shall state the time, date, place and agenda for the meeting.

B. The Commission shall add any interested person or organization to the agenda notification list upon request.

Section 3. Agenda, Testimony, Conduct of Meetings

3.1 Meeting Agenda. Any Commissioner or other person may request that an item be placed on the agenda of a regular Commission meeting. Such a request is subject to approval of the Chair. Requests made for agenda placement and any accompanying materials must be received by the Cable Communications office at least 10 days prior to the next regular Commission meeting.

3.2 Order of Agenda. The Commission may amend the order of agenda items upon consent of the majority of Commission members present.

3.3 Public Testimony. Members of the public and interested parties may present testimony on any agenda item. The Commission shall provide an opportunity for comment on non-agenda items at the start and finish of all regular meetings. The Chair may establish such reasonable limitations on comment or testimony, including time limits, as she or he deems necessary.

3.4 Conduct of Meetings. All persons shall conduct themselves at Commission meetings in an orderly and mutually respectful manner. In the event that persons engage in disrespectful or disorderly language or conduct, the Chair may exclude or summarily suspend such persons for the duration of the meeting or agenda item, or take other appropriate action. The Commission, in its discretion, may review an action by the Chair under this section.

Section 4. Quorum, Attendance, Voting, Disclosures, Minutes

4.1 Quorum At any meeting of the Commission, the majority of the members of the Commission shall constitute a quorum.

4.2 Voting

A. Each Commission member is entitled to one vote. Except as provided in this Section, all Commission action shall require a motion, a second, and a majority vote of members present.

B. Adoption or amendments to these Rules of Procedure shall require at least six affirmative Commission votes.

4.3 Attendance.

A. If a Commission member is unable to attend a regular or special meeting, he or she must notify the Cable Communications office or the Chair prior to the meeting.

B. If any member of the Commission is absent for two successive regular meetings without excuse or prior notice, the Chair shall contact the member's governing body, notify the body of the absences and request appropriate action.

4.4 Disclosures. During regular or special meetings, Commission members shall verbally disclose all contacts relating to the business or duties of the Commission, and the nature of such contacts, with any cable franchisee or any organization or person with which the Commission has a contract. This excludes contact with Cable Commission staff or member jurisdictions. The Commission member shall disclose the contact at the next subsequent Commission meeting attended by the Commission member following the date of the contact.

4.5 Conflict of Interest. Pursuant to state law, Commissioners must disclose at a public meeting any conflict of interest prior to participation in any discussion or action by the Commission.

4.6 Rules of Procedure. All rules of procedure not provided for herein shall be determined in accordance with the latest edition of "Roberts Rules of Order Newly Revised."

4.7 Minutes and Recording.

A. Commission staff shall record meetings of the full Commission by means of audio tape.

B. Commission staff shall provide for Commission review and approval of written meeting minutes which shall include, at a minimum:

- (1) members present;
- (2) motions, proposals, resolutions, orders, and measures proposed and their disposition;
- (3) results of all votes and the vote of each member by name;
- (4) a brief summary of the substance of any discussion on any matter; and
- (5) any verbatim remarks if expressly requested by a member.

C. So long as approved written meeting minutes of Commission meetings are on file and available to the public, Commission staff may recycle or otherwise dispose of Commission meeting audio tapes following one year from the date of a Commission meeting.

Section 5. Committees

5.1 Committees. The Chair may establish committees as deemed necessary to assist the Commission in carrying out its responsibilities. For all committees, the Chair may determine, among other things, committee composition, chair, term, and the time and manner in which the committee shall report to the Commission.

5.2 Committee Meetings Public. Committee meetings shall be open to the public and conducted pursuant to the requirements of Oregon law.

Section 6. Hearings

6.1 Informal Hearings. The Commission may conduct informal hearings on any matters related to the Commission's duties, responsibilities, jurisdiction or authority. Informal hearings may be held at any Commission public meeting. In any informal hearing, the Commission shall provide time to hear oral testimony of interested persons or may receive written comments. The Commission may establish a reasonable timetable for submission of written comments

to ensure that such comments can be adequately considered by the Commission. The Commission may reach a final determination at the public meeting, or may direct staff to prepare a written order for adoption by the Commission.

6.2 Formal Hearings.

A. Discretionary. Upon written request or on its own motion, the Commission may conduct a formal hearing prior to taking any action, including but not limited to: adopting orders and resolutions; disapproving any cable rate filings in whole or in part; approving a cable rate filing or rate increase in whole or in part over any objections; enforcing cable customer service standards; or waiving or enforcing any contract or franchise requirements. In its discretion, the Commission may conduct formal hearings on any matters related to the Commission's duties, responsibilities, jurisdiction or authority.

B. Mandatory. The Commission shall conduct a formal hearing prior to making any final determinations on: any cable rate matter where a hearing is required by law; imposing or recommending a franchise or contract penalty or sanction; or suspending, revoking or terminating any franchise or contract subject to the Commission's jurisdiction. The Commission shall conduct a formal hearing whenever required by constitutional provision or otherwise by law.

6.3 Written Requests for Formal Hearing. Written requests for formal hearing shall contain:

A. The order, resolution, standard, or contract or franchise requirement that apply to the person or state of facts;

B. A detailed statement of the relevant facts, including sufficient facts to show the person's interest;

C. The legal arguments or contentions asserted by the person;

D. The questions presented and the specific relief requested; and

E. The name and address of the person and any other person known to be interested in the requested hearing.

6.4 Formal Hearings Generally. Formal hearings shall be conducted under the control of a presiding officer. The presiding officer may be the Chair, the Commission, any member thereof, or any other person designated by the Commission.

6.5 Party Status.

A. (1) Any person with a personal interest or who represents a public interest may request to participate in a formal hearing as a party. To request participation as a party, a person must file a written request with the presiding officer at least 15 days before the date set for the formal hearing. The request must include a statement describing the interest, personal or public, and how the determination to be made in the formal hearing will affect this interest.

(2) Staff shall be considered to have party status in all formal hearings.

B. The presiding officer may determine that the person either has a personal interest in the outcome of the hearing or represents a public interest in the result. The presiding officer may deny the request if the interest is not within the scope of the Commission's jurisdiction or if existing parties will adequately represent the interest. As used in this section, "person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

C. Parties withdrawing from a hearing shall immediately notify all other parties and the presiding officer.

6.6 Notice of Formal Hearing. Upon determining that a formal hearing is required or desirable, the Commission shall give notice of a formal hearing. Such notice shall contain:

A. The date, time and place of the formal hearing;

B. The authority and under which the formal hearing is to be held;

C. References to the franchise requirement, rule, ordinance, laws, code provisions, contracts or other matters at issue;

D. A short and plain statement of the matters at issue or to be considered;

E. A statement that the party may be represented by counsel at the hearing; and

F. Such other matters as the Commission deems appropriate.

6.7 Conferences.

A. The presiding officer may schedule conferences to:

(1) Establish a hearings schedule, including dates for submitting written testimony and exhibits;

(2) Identify, clarify and simplify issues;

(3) Eliminate irrelevant or immaterial issues;

(4) Obtain stipulations, authenticate documents, admit documents into evidence and decide the order of presentation;

(5) Consider other matters which may expedite the orderly conduct and disposition of the hearing.

B. The record shall reflect the results of any conferences. Unaccepted proposals made at conferences shall be inadmissible as evidence in the hearing.

6.8 Conduct of Hearing.

- A. The presiding officer shall determine the order in which parties shall make presentations at the hearing.
- B. (1) When written testimony or exhibits are offered as evidence, copies shall be provided to all other parties and the presiding officer. Whenever possible, parties shall distribute copies of written testimony and exhibits before the commencement of the hearing. Otherwise, copies shall be distributed at the commencement of the hearing. Exhibits shall be marked upon receipt and the marking shall identify the party offering the exhibit. Exhibits which are admitted shall be made a part of the record for the hearing.
- (2) Parties may file briefs in a hearing in support of their respective positions. The presiding officer shall fix the time and order for filing briefs.
- C. (1) Written testimony shall be prepared in question and answer or narrative form and shall contain a narrative of the qualifications of the witness. Proposed written testimony shall be subject to the same rules of admissibility as other evidence.
- (2) Any party submitting written testimony shall make the testifying person available at the hearing for cross-examination. Failure to have the person available at the hearing shall be grounds for excluding that person's written testimony.
- D. Parties shall have the right to cross-examine adverse witnesses. The parties may present rebuttal evidence, if any.
- E. Parties shall have the right to an opportunity to make opening and closing statements at the hearing.
- F. The presiding officer may question any witnesses at the hearing.
- G. The presiding officer may set reasonable time limits on oral statements and testimony, and may exclude or limit cumulative, repetitious or irrelevant matters. All evidence of the type commonly relied upon by reasonable persons in the conduct of their serious affairs shall be admissible at the hearing. Subject to the presiding officer's power to exclude evidence, all offered evidence shall be received unless a party objects.
- H. The presiding officer may receive evidence objected to by any party. Rulings on admissibility or exclusion of evidence shall be made at the time of hearing or within the written order.
- 6.9 Final Determinations. Whenever the presiding officer is not the full Commission, a written order shall be prepared, after the close of the formal hearing, containing findings of fact and conclusions of law as appropriate. The order shall not be final until considered and adopted by the Commission. Copies of the proposed order shall be provided to all parties. Parties may file written exceptions to the proposed order for consideration by the Commission.
- 6.10 Reconsideration. A party may seek reconsideration of a final determination within 30 days after adoption by the Commission. The request for reconsideration shall specifically identify the grounds for reconsideration. The Commission may only grant a request for

reconsideration if sufficient reason exists. If the Commission does not act on a request for reconsideration within 30 days after it was filed, the request shall be deemed to be denied.

- 6.11 Review. Review of Commission orders shall be as provided in the Intergovernmental Agreement creating the Commission, or applicable franchise agreements, or as otherwise required by law.
- 6.12 Effect on Franchises and Applicable Law. Nothing herein shall be construed to conflict with any of the specific provisions of applicable franchises under the Commission's jurisdiction or applicable law, including but not limited to, the applicable rules of the Federal Communications Commission. In the event of any direct conflict between the Commission's rules and the rules of the Federal Communications Commission, the latter shall prevail.

Section 7. Rate Regulation Procedures

- 7.1 Commission to Administer Rate Regulation in Accordance with FCC Rules. Upon certification, the Commission will administer basic rate regulation processes in accordance with applicable FCC rules, in particular the Federal Communications Commission's Cable Rate Regulation, 47 C.F.R. § 76.900 to § 76.985. As used in these rules, the terms "basic service tier", "associated equipment costs", "actual cost of equipment", "cost-of-service", "basic service tier charge" as defined in 47 C.F.R. § 76.900 to § 76.985.

7.2 Basic Rate Regulation.

A. The Commission may initiate regulation of the rates for the basic service tier and associated equipment by providing written notification to a cable franchisee under the jurisdiction of the Commission. Such notice shall state that the Commission has been certified to regulate rates for the basic service tier, and shall request that the franchisee file its schedule of rates for the basic service tier and associated equipment within 30 days of receiving the notification.

B. After a franchisee has submitted for review its existing rates for the basic service tier and associated equipment costs, the existing rates will remain in effect or the proposed rates will become effective after 30 days from the date of submission; provided, however that the Commission may toll this 30-day deadline for an additional time by issuing a brief written order as described in paragraph C. hereof within 30 days of the rate submission explaining that the Commission needs additional time to review the rates.

C. If the Commission is unable to determine, based upon the material submitted by the cable franchisee, that the existing or proposed rates are within the permitted basic service tier charge or actual cost of equipment, or if the cable franchisee has submitted a cost-of-service showing seeking to justify a rate above the basic service tier charge, the Commission may toll the 30-day deadline in paragraph B. hereof to request and/or consider additional information or to consider the comments from interested parties as follows:

- (1) For an additional 90 days in cases not involving cost-of-service showings; or
- (2) For an additional 150 days in cases involving cost-of-service showings.

D. If the Commission has availed itself of the additional 90 or 150 days permitted in subsection B., and has taken no action within these additional time periods, then the

proposed rates will go into effect at the end of the 90 or 150 day periods, or existing rates will remain in effect at such times, subject to refunds in accordance with the Federal Communications Commission's Cable Rate Regulations, if the Commission subsequently issues a written decision disapproving any portion of such rates. In order to order refunds, the Commission must have issued a brief written order to the cable franchisee by the end of the 90 or 150 day period permitted in subsection C. directing the operator to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.

- 7.3 Written Decision. Whenever the Commission disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase in whole or in part over the objections of interested parties, such decision will be issued in writing, with public notice given and the text of any written decision released to the public.
- 7.4 Superseding Effect of FCC Rate Regulations. In general, the Commission will apply FCC rules and regulations to the basic rate regulation process as authorized by law, provisions of franchises and other agreements administered by the Commission and local laws to the contrary notwithstanding. In the event of a specific conflict between the rate regulations of the FCC and the provisions of a franchise, contract, ordinance, municipal law or policy, or rule including the rules of this Commission, the FCC regulation will prevail.