

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Proceeding
to Consider Changes to Requirements on
Video Franchisees Under the Digital
Infrastructure and Video Competition Act,
and Revisions to General Order 169.

Rulemaking 23-04-006
(Filed April 6, 2023)

**MOTION OF CALIFORNIA COMMUNITY FOUNDATION, COMMUNITIES IN
SCHOOLS OF LOS ANGELES, OAKLAND UNDIVIDED, GPSN, COMMON SENSE
MEDIA AND NEXTGEN POLICY TO LATE-FILE COMMENTS**

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June 2, 2023

In accordance with Rule 11.1 of the Commission’s Rules of Practice and Procedure, California Community Foundation (CCF), Communities of Schools in Los Angeles (CISLA), Oakland Undivided, GPSN, and NextGen Policy (Joint Advocates)¹ submit this motion for leave to late-file their Comments on Order Instituting Rulemaking to Proceeding to Consider Changes to Requirements on Video Franchisees under the Digital Infrastructure and Video Competition Act,² intended for filing on June 1, 2023.

Due to a clerical error, Joint Advocates miscalculated the filing date, and believed the comments were due on June 2, 2023. Joint Advocates did not detect this error until June 2, 2023, when a representative of CalBroadband sent the assigned Administrative Law Judge an email asking for clarification of the due date. Several other parties appear to have made the same mistake. Joint Advocates now seek permission to file their comments one day late.

No party will be prejudiced by receiving comments on the OIR one day late, as this proceeding is in the early stages and a one-day delay in filing will not impact the schedule in this proceeding. Joint Advocates have contacted CalBroadband, which has no objection to Joint Advocates’ filing comments one day late. Joint Advocates apologize for this error and seek permission to file their comments on the OIR.

¹ CCF filed a Motion for Party Status on May 19, 2023. CISLA, Oakland Undivided, GPSN, and NextGen Policy, and Common Sense Media are filing Motions for Party status concurrently with this Motion.

² A copy of the Comments are included as Attachment A.

Respectfully submitted,

June 2, 2023

/s/ Shayna Englin

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Authorized to sign on behalf of other parties

Attachment A

**OPENING COMMENTS OF CALIFORNIA COMMUNITY FOUNDATION,
COMMUNITIES IN SCHOOLS OF LOS ANGELES, #OAKLAND UNDIVIDED, GPSN,
COMMON SAND NEXTGEN POLICY (JOINT ADVOCATES) ON ORDER
INSTITUTING RULEMAKING TO PROCEEDING TO CONSIDER CHANGES TO
REQUIREMENTS ON VIDEO FRANCHISEES UNDER THE DIGITAL
INFRASTRUCTURE AND VIDEO COMPETITION ACT**

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June 2, 2023

I. INTRODUCTION

In accordance with the April 6, 2023, Assigned Commissioners' Ruling instituting rulemaking to consider changes to the Commission's licensing and oversight of franchisees under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), California Community Foundation, [X], [Y] (Joint Advocates) submit these opening comments pertaining to the scope of issues in the proceeding.

California Community Foundation (CCF) serves Los Angeles County, and its mission is to lead positive systemic change that strengthens Los Angeles communities. CCF envisions a future where all Angelenos have the opportunity to contribute to the productivity, health and well-being of our region, and CCF believes that our fates are shared, determined by how successfully we improve the quality of life for all of our residents. The CCF Digital Equity Initiative supports Digital Equity LA, a coalition of more than 50 organizations working in communities across LA County and the state, in sectors ranging from education to health care, economic development to housing, and beyond, united in a commitment to advance equitable access to fast, reliable and affordable broadband for all. Since 98% of Californians with a broadband subscription access that service through a cable franchise holder, implementation of SB28 is of vital interest to CCF and the Digital Equity LA coalition.

Communities in Schools of Los Angeles (CISLA) Communities In Schools of Los Angeles (CISLA) specializes in providing case-management for high-needs families and youth who are at risk of dropping out of school and experience behavior problems, attendance issues, and academic needs. CISLA currently serves 15 Title 1 LAUSD schools, placing full-time social workers and youth development professionals on campus to work with their students and the local community. The digital divide emerged as a central focus of our work during the early days of the pandemic, when inequitable access to fast, reliable, and affordable broadband for our communities and families surfaced as one of the most significant barriers to our families' success.

GPSN is a non-profit intermediary organization exclusively focused on improving Los Angeles public education. GPSN envisions a public school system in Los Angeles that prepares all students to succeed in school and to live thriving adult lives. Guided by this vision, our mission is to bring together the Los Angeles community to catalyze the transformation of the public education system so that students of color and students living in poverty gain the knowledge, skills, and experiences to lead thriving adult lives. The digital divide is a known systems-level barrier to better, more equitable, public education for all, and ensuring fast, reliable, and affordable internet access for all Los Angeles families is a primary concern of GPSN. Given the overwhelming role DIVCA franchise holders play in the digital divide, this proceeding of direct interest.

#OaklandUndivided (#OU) is an equity-based, collective impact initiative launched in May 2020 to harness the people's power to solve one of modern society's most persistent structural inequities – the digital divide. #OaklandUndivided consists of a coalition of our founding partners including the City of Oakland, Oakland Unified School District, trusted anchor institutions, over 20 community-based organizations as well as elected and appointed officials and community leaders throughout Oakland. At #OaklandUndivided, we believe in taking a comprehensive approach to digital equity that addresses the structural inequities that undergird the divide. We believe digital equity impacts virtually every sector and intersection of society: Education, Healthcare, Workforce (employment), and Economic Development.

NextGen Policy is a California based non-profit organization dedicated to supporting and advocating for progressive policy, legislative, and programmatic issues in the areas of: climate, affordable housing, voting rights, healthcare, criminal justice reform, education, natural resources, income inequality, mental health, consumer protection, and veteran affairs. Access to fast, reliable, and affordable internet is an issue underpinning progress across all of these areas. Since a very small number of DIVCA franchise holders hold responsibility and influence for whether and how equitable access is accomplished, NextGen Policy has acute interest in this proceeding.

II. DISCUSSION

- 1. Does the enactment of SB 28 require revisions to existing rules contained in GO 169? If yes, which rules should be revised? How should those rules be revised? Are there rules in GO 169 that should no longer be in effect? Parties are asked to identify the specific rules.**

It is difficult for Joint Advocates to respond to this question, given that the Commission has not yet adopted any specific service requirements. Joint Advocates reserve the right to comment on this question on reply.

- 2. What customer service requirements should the Commission adopt?**

Subdivision (b) of Public Utilities Code section 5895 directs the Commission to “adopt customer service requirements for a holder of a state franchise and adjudicate any customer complaints.” At a bare minimum, the Commission should incorporate and enforce the Federal Communications Commission’s customer service requirements, in alignment with the 1992 Communications Act of 1992.³ However, in California, we frequently pride and congratulate ourselves for being leaders on issues of equity and consumer protection. For the Commission’s implementation of SB28 to be in alignment with the legislature’s intent and to make California a leader on responsible and reasonable customer service requirements in franchise agreements, the Commission must go much further than the FCC guidelines.

Accordingly, the Commission should adopt customer service requirements that bring California in alignment with the protections afforded customers in neighboring states and across the country. These are requirements that other states have imposed on California’s largest franchise holders and, in some cases, those requirements have been in place for decades. Joint Advocates respectfully suggest that the Commission conduct an analysis of minimum customer service requirements incorporated into franchise

³ FCC Customer Service Standards, accessed at <https://www.fcc.gov/media/customer-service-standards> on May 25, 2023

agreements in jurisdictions across the United States (including states, counties, and municipalities) as a reference for standards that have routinely been agreed to by corporations that also hold DIVCA franchises. Such an analysis can inform a baseline staff proposal as well as informing party positions on what protections the Commission should adopt.

Joint Advocates respectfully recommend that the Commission adopt the following service requirements, developed with reference to requirements franchise holders are currently successfully operating under in states including , Maine⁴, Massachusetts⁵, New York⁶, Oregon⁷, Pennsylvania⁸, Texas⁹, and Washington¹⁰, as well as those included in Model Franchise Agreements¹¹ developed by associations representing cities and counties in local-franchise states.

⁴ Portland, ME, Franchise agreement, accessed at <https://www.spectrum.com/content/dam/Corporate/PDFs/About-Us/Legal/franchise-agreements/maine/PortlandMEfranchise.pdf> on May 25, 2023

⁵ Renewal Cable Television License for the City of Boston, Massachusetts granted to Comcast Massachusetts May 15, 2021, accessed at <https://www.boston.gov/sites/default/files/file/2022/03/Comcastlicensesanssides20211005.pdf> on May 25, 2023

⁶ Cable Franchise Agreement by and between the City of New York and Time Warner Entertainment Company, accessed at <https://www.nyc.gov/assets/oti/downloads/pdf/cable-tv-franchises/time-warner-cable-franchise-agreement-manhattan-south.pdf> on May 25, 2023

⁷ Franchise Agreement For Cable Services Between Comcast of Oregon II, Inc. And City of Portland, Oregon, accessed at https://www.mhcr.org/wp-content/uploads/2014/08/ops_renewalPortland-Comcast-Renewal-Franchise-Final.pdf on May 25, 2023

⁸ CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF PITTSBURGH AND COMCAST OF CALIFORNIA/PENNSYLVANIA/UTAH/WASHINGTON, INC., accessed at https://apps.pittsburghpa.gov/cis/Pittsburgh_Comcast_Franchise_Agreement_5-28-10.pdf on May 25, 2023

⁹ Texas Public Utility Code Chapter 66. State-Issued Cable and Video Franchise, accessed at https://ftp.puc.texas.gov/public/puct-info/industry/communications/business/sicfa/PURA11_Ch66.pdf on May 25, 2023

¹⁰ City of Seattle Cable Franchise Agreement, accessed at <https://www.seattle.gov/documents/Departments/SeattleIT/cable/Wave-Franchise-Agreement-November-2017.pdf> on May 25, 2023

¹¹ i.e. League of Oregon Cities Model Franchise Agreement, July 2022, accessed at <https://www.orcities.org/application/files/2616/5851/2426/ModelCableFranchiseAgreement-web-7-20-22.pdf> on May 25, 2023

A. Services

- a. A franchise holder must provide equal and uniform service quality to Subscribers and potential Subscribers within the Franchise Area, regardless of Subscribers' socioeconomic status.
- b. A franchise holder shall not make or grant any preferences or advantage in service quality, to any person nor subject any person to any prejudice or disadvantage in such rates or service.
- c. A franchise holder's system will maintain a minimum capacity of activated channels, defined under the Cable Act as those channels engineered at the headend of the Cable System for the provision of services generally available to residential subscribers of the Cable Services, regardless of whether such services actually are provided.
- d. A franchise holder shall file with the Commission schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. No rates or charges shall be effective except as they appear on a schedule so filed.
- e. The Cable System will have the bidirectional communications capacity for subscriber interaction if any, required for selection or use of Cable Service such as pay-per-view, video-on-demand ("VOD") and other interactive cable services requiring addressability.
- f. The franchise holder will maintain on its Cable System a minimum capacity of activated analog and/or digital Channels. The System will throughout the Term of this Franchise carry reverse signals in the upstream direction. The system performance, capacity and services offered may be reviewed to assure the system keeps pace with changes in technology and is at least comparable to other systems in the area.
- g. The franchise holder and the State of California acknowledge that the technology of Cable Systems is an evolving field. Franchise holder's Cable System within its Franchise Area shall be capable of offering Cable Services that are comparable to other Cable Systems owned and managed by the franchise holder in geographically similar regions of California ("Comparable Systems.") The Commission may send a written notice to the franchise holder, not to exceed one request every two (2) years, requesting information on Cable Services offered by such Comparable Systems. (b) If the Cable Services more advanced are being offered by the franchise holder or its Affiliated Entities to at least forty percent (40%) of the total Subscribers in the Comparable System, then the Commission may require

that franchise holder make such Cable Services available in the Franchise Area.

B. Emergency Alerts

- a. A franchise holder will provide emergency alert capability in full compliance with applicable FCC requirements, establish procedures to override video and audio on all channels of the Cable System to provide emergency messages consistent with the FCC's directives.

C. Subscriber Inquiries and Complaints

- a. A franchise holder will maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Franchise holder representatives trained and qualified to answer questions related to Cable Service in the Service Area must be available to receive reports of service interruptions twenty-four (24) hours a day, seven (7) days a week, and such representatives will be available to receive all other inquiries at least forty-five (45) hours per week including at least one night per week and/or some weekend hours. Franchise holder representatives will identify themselves by name when answering this number.
- b. A franchise holder may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. A foreign language routing option must be provided, and if the Subscriber does not enter an option, the menu will default to the first tier menu of English options. Calls received by the Franchise holder will be answered within thirty (30) seconds during Normal Business Hours. A franchise holder will meet this standard for ninety percent (95%) of the calls it receives at call centers receiving calls from Franchise Area Subscribers, as measured on a cumulative quarterly calendar basis. Measurement of this standard will include all calls received by the Franchise holder at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after thirty (30) seconds of call waiting. If the call needs to be transferred, transfer time will not exceed thirty (30) seconds.

D. Installations, Service Calls, and Equipment

- a. All installations will be in accordance with FCC rules and applicable law, including, but not limited to, appropriate grounding/bonding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of Franchise holder-supplied equipment and Cable Service.

- b. The standard installation will be performed within seven (7) business days of Subscriber request. A franchise holder will meet this standard for ninety-five percent (95%) of the standard installations it performs, as measured on a calendar quarter basis, excluding those requested by the Subscriber outside of the seven (7) day period.
- c. A franchise holder will offer Subscribers “appointment window” alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block during appropriate daylight available hours, usually beginning at 8:00 AM unless it is deemed appropriate to begin earlier by location exception. At a Franchise holder’s discretion, that franchise holder may offer Subscribers appointment arrival times other than these four (4) hour time blocks, if agreeable to the Subscriber.
- d. Franchise holder must provide for the pickup or drop off of equipment free of charge in one of the following manners: (i) by having a Franchise holder representative go to the Subscriber’s residence, (ii) by using a pre-paid mailer. If requested by a mobility-limited Subscriber, the Franchise holder will arrange for pickup and/or replacement of converters or other Franchise holder equipment at Subscriber’s address, at no cost to Subscriber, or by a satisfactory equivalent.
- e. Franchise holder must respond to a call from a Subscriber regarding a service interruption or other service problems within the following time frames:
 - i. Within twenty-four (24) hours, including weekends and holidays, of receiving Subscriber calls about service interruptions in the Service Area.
 - ii. A franchise holder must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the Commission of a Cable Service problem.
 - iii. A franchise holder will complete Service Calls within seventy-two (72) hours of the time Franchise holder commences to respond to the service interruption, not including situations where the Subscriber is not reasonably available for a Service Call to correct the service interruption within the seventy-two (72) hour period.
 - iv. A franchise holder will meet the standard in this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

E. Outages and Standby Provisions

- a. A franchise holder must have in place through the duration of the franchise, a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two hours. The plan will be publicly accessible at all times as part of records kept with the franchise application at the Commission.
- b. Stand-by power at the headend(s) shall be provided for a minimum of seventy-two (72) hours in the event of an outage. The power supplies serving the node(s) shall be capable of providing power for not less than seventy-two (72) hours in the event of a service interruption. Stand-by power must activate automatically upon the failure of commercial utility power.
- c. An outage is a “Significant Outage” if it lasts for more than two hours and affects .5% of subscribers in the Franchise Service Area. A franchise holder will notify an appointed office of the Commission of any Significant Outage of the Cable Service within four hours of the outage start.
- d. Franchise holder will exercise commercially reasonable efforts to limit any Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, franchise holder may schedule a Significant Outage for a period of more than four (4) hours during any twenty-four (24) hour period only after the Commission and each affected Subscriber in the Service Area have been given at least three (3) days prior notice of the proposed Significant Outage. Notwithstanding the foregoing, a franchise holder may perform modifications, repairs and upgrades to the System preferably between 12:01 a.m. and 6 a.m., so as to minimize service disruption to Customers.
- e. Franchise holder representatives who are capable of responding to service interruptions must be available to respond twenty-four (24) hours a day, seven (7) days a week.
- f. In the event that there is a Service Interruption to any Subscriber for six (6) or more consecutive hours and upon receipt of written or a credible oral request, a Franchise holder shall grant such Subscriber a pro rata credit or rebate, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due.
- g. A franchise holder will provide a credit upon Subscriber request when all channels received by that Subscriber experience the loss of picture or sound for a period of four (4) consecutive hours or more. The credit will equal, at

a minimum, a proportionate amount, on a daily basis, of the affected Subscriber(s) current monthly bill.

F. Privacy

- a. A franchise holder shall respect the rights of privacy of every Subscriber and shall not violate such rights through the use of any device or signal associated with the Cable System. A franchise holder shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations. At the same time, all references to privacy in this Section are subject to the provisions of Public Law 107-56 (October 26, 2001), Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, known as the "USA PATRIOT ACT."
- b. A franchise holder shall be responsible for complying with such privacy policy and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal Subscriber information is handled and protected strictly in accordance with this policy and all applicable laws and regulations.
- c. Absent a court order or requirement of federal law, neither the franchise holder nor its designee shall tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor, any cable, line, signal, input device, or Subscriber outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber or user.
- d. A franchise holder shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes.
- e. Except as permitted by Section 631 of the Cable Act as amended, neither the franchise holder nor its designee nor its employees shall make available to any third party, including the Commission or the State of California or any jurisdiction therein and affiliates of the franchise holder,, information concerning the viewing habits or subscription package decisions of any individual Subscriber. If a court authorizes or orders such disclosure, the franchise holder shall notify the Subscriber prior to disclosure, unless such notification is otherwise prohibited by applicable law or the court.
- f. Upon a written request by a Subscriber, a franchise holder shall make available for inspection at a reasonable time and place all personal Subscriber information that franchise holder maintains regarding said Subscriber. A franchise holder shall ensure that all information related to billing and service requests is accurate and up to date and shall promptly correct any errors upon discovery.

G. Billing

- a. Bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, all applicable service tiers, equipment charges and any installation or repair charges. Bills shall state the billing period, including an effective due date, the amount of current billing and any relevant credits or past due balances. Bills shall state whether itemized charges are required by state or federal law.
- b. A franchise holder shall not assess late fees for non-payment of a current bill until at least thirty (30) days have elapsed since the mailing of the bill by franchise holder.
- c. A franchise holder shall provide its telephone number and address on Subscribers' bills.
- d. A franchise holder shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the Commission upon request.
- e. Any Subscriber who, in good faith, disputes all or part of any bill sent by franchise holder has the option of withholding the disputed amount, without a late fee or disconnection, until franchise holder has investigated the dispute in good faith and has made a determination that the amount is owed provided that: (1) The Subscriber provides a written Complaint to franchise in a timely fashion and includes identifying information; (2) The Subscriber pays all undisputed charges; and (3) The Subscriber cooperates in determining the appropriateness of the charges in dispute. (d) Franchise holder shall maintain customer Complaint records for inspection by the affected Subscriber, which shall contain the date each Complaint is received, the name and address of the affected Subscriber, a description of the Complaint, the date of resolution of the Complaint, and a description of the resolution.

H. Service Termination

- a. Charges for Cable Service will be discontinued at the time of the requested termination of service by the Subscriber, except equipment charges may be applied until equipment has been returned. Equipment charges after the termination of service may only be applied with separate mailed notice to the former Subscriber. Equipment charges are capped at the cost of the equipment.
- b. No period of notice prior to requested termination of service can be required of Subscribers by a franchise holder.

- c. No charge will be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request unless there is a delay in returning franchise holder equipment or early termination charges apply pursuant to the Subscriber's service contract.
- d. If the Subscriber fails to specify an effective date for disconnection, the Subscriber will not be responsible for services received after the day following the date the disconnect request is received by a Franchise holder.
- e. For purposes of this subsection, the term "disconnect" will include Subscribers who elect to cease receiving Cable Service from a franchise holder and to receive Cable Service or other multichannel video service from another Person or entity. If by reason of force majeure the franchise holder is unable to provide service to the subscriber, or the subscriber is unable to utilize wireline cable services, charges for such services will be discontinued at the time of the force majeure event.

I. Communication with Subscribers

- a. Franchise holder will comply with federal regulations including, but not limited to: a. 47 C.F.R. §76.952(a). Providing Grantor's information to Subscribers. b. 47 U.S.C. §551.
- b. Franchise holder will provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers or in hard copy format to the Commission, at any time upon request, and at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the franchise holder:
 - i. Products and Cable Service offered;
 - ii. Prices and options for Cable Services and condition of subscription to Cable Services. Prices will include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by the franchise holder related to Cable Service;
 - iii. Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;
 - iv. Channel positions of Cable Services offered on the Cable System;
 - v. Complaint procedures, including the name, address, and telephone number of the relevant Commission office, but with a notice

- advising the Subscriber to initially contact Franchise holder about all complaints and questions;
- vi. Procedures for requesting Cable Service credit;
 - vii. The availability of a parental control device;
 - viii. Franchise holder practices and procedures for protecting against invasion of privacy; and
 - ix. The address and telephone number of the franchise holder's office to which complaints may be reported.
- c. All information enumerated in the above section 2.i.b. shall be readily available on the franchise holder's public website and a link to the information on Subscriber's monthly billing statement, in font no smaller than 14 point
 - d. All Franchise holder personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of a franchise holder will wear a clearly visible identification card bearing their name and photograph.
 - e. Every service vehicle of Franchise holder and its contractors or subcontractors will be clearly identified as such to the public. Specifically, Franchise holder vehicles will have Franchise holder's logo plainly visible. The vehicles of those contractors and subcontractors working for Franchise holder will have the contractor's / subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to Franchise holder.
 - f. All notices identified in this Section to subscribers will be by either:
 - i. A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or
 - ii. A separate electronic notification.
 - g. A franchise holder will provide reasonable notice to Subscribers and the Commission of any pricing changes or additional changes (excluding sales discounts, new products or offers) and, subject to the forgoing, any changes in Cable Services, including channel line-ups. Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of Franchise holder. If the 36 change is not within Franchise holder's control, Franchise holder will provide an explanation to the Commission of the reason and expected length of delay.

- h. A franchise holder will provide a copy of the notice to the Commission including how and where the notice was given to Subscribers.
- i. Notices of changes in rates will indicate the Cable Service new rates and old rates, if applicable.
- j. Notices of changes of Cable Services and/or channel locations will include a description of the new Cable Service, the specific channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.
- k. Every notice of termination of Cable Service will include the following information: a. The name and address of the Subscriber whose account is delinquent; b. The amount of the delinquency for all services billed; c. The date by which payment is required in order to avoid termination of Cable Service; and d. The telephone number for Franchise holder where the Subscriber can receive additional information about their account and discuss the pending termination.

3. What types of complaints from consumers should the Commission adjudicate? Are there complaints that are more appropriate for the Commission to use an informal consumer complaint process? Which criteria should the Commission use to decide which types of complaints to adjudicate?

The Commission should adjudicate complaints related to a) violations of equal access and anti discrimination provisions current in franchise law at the time the complaint is made; b) violations of customer service requirements; and c) complaints brought by local agencies, non-profit service organizations, or informal collectives representing ten or more complainants.

An informal consumer complaint process should be utilized for complaints that are in a resolution process with the franchise holder, or that reflect a one-time or short-lived violation that has been resolved (even temporarily) with or without a resolution process with the franchise holder.

The Commission should reserve the right to adjudicate complaints that reflect patterns or scale in the informal complaint process.

Again the Commission should look to the policies and procedures enshrined in franchise agreements in place in states and localities around the country for reference.

Some examples:

- North Carolina¹² sets a standard of “persistent or repeated violations,” and requires franchise holders to include information on customer bills that refer to both the service provider’s complaint process and the state agency designated to receive complaints: “Persistent or repeated violations of the federal customer service requirements or the terms and conditions of the cable service provider's agreement with customers are unfair or deceptive acts or practices under G.S. 75-1.1. To facilitate the resolution of customer complaints, the cable service provider must include the following statement on the customer's bill: "If you have a complaint about your cable service, you should first contact customer service at the following telephone number: (insert the cable service provider's customer service telephone number). If the cable service provider does not satisfactorily resolve your complaint, contact the Consumer Protection Division of the Attorney General's Office of the State of North Carolina (insert information on how to contact the Consumer Protection Division of the Attorney General's Office).”
- Texas¹³ refers complainants to initiate a proceeding: “An affected person may seek enforcement of the requirements ... by initiating a proceeding with the commission. A municipality within which the potential residential cable service or video service subscribers ... may be considered an affected person for purposes of this section.”

¹² G.S. 66-356 Page 1 § 66-356. Service standards and requirements. (a) Discrimination Prohibited. – A person who provides cable, accessed at https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_66/GS_66-356.pdf on May 25, 2023

¹³ Texas Public Utility Code Chapter 66. State-Issued Cable and Video Franchise, accessed at https://ftp.puc.texas.gov/public/puct-info/industry/communications/business/sicfa/PURA11_Ch66.pdf on May 25, 2023

- The City of Seattle¹⁴ (Washington is one of the majority of states in the country that still operates with local franchises) defines a process for complainants to follow before calling a hotline or submitting a complaint form.

4. How should the Commission adjudicate complaints from consumers? For example, should the Commission allow consumers to file both expedited and formal complaints with the Commission?

The Commission should allow consumers to file both expedited and formal complaints with the Commission, and should establish a procedure for the Commission to work with franchise holders to investigate, validate, and remedy complaints.

5. What enforcement actions should the Commission consider for violations of regulatory requirements and franchise agreements? For example, should the Commission utilize the Order Instituting Investigation or establish a citation program setting out reasonable penalties for identified violations?

The Commission should establish a citation program setting out reasonable penalties for identified violations with mechanisms for graduated penalties upon identification of repeated violations. The penalty mechanism should include escalating fines for each day a franchise holder is out of compliance with the Commission's service quality requirements, persistent failures to meet service quality requirements, and patterns of complaints that persist after penalties are charged.

6. What are appropriate penalties for video franchisees that do not meet the terms of their franchise agreements or the customer service requirements the Commission adopts in compliance with SB 28? For example, should consumers receive credits in addition to penalty amounts that go to the general fund as a part of the penalty structure? How should these credits be determined? How should these credits be calculated? (e.g., per day

¹⁴ <https://www.seattle.gov/tech/services/cable-service/cable-customer-bill-of-rights>, accessed on May 25, 2023

basis, percentage basis, or fixed dollar amount) Under which circumstances should consumers receive credits?

Customers should receive credits in addition to penalty amounts. Joint Advocates recommend the following mechanisms for calculating customer credits, borrowed in whole or part from mechanisms in place in other states where DIVCA franchise holders also hold franchises:

- In the event that there is a Service Interruption to any Subscriber for six (6) or more consecutive hours and upon receipt of written or a credible oral request, a Franchise holder it shall grant such Subscriber a pro rata credit or rebate, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due.
- A franchise holder will provide a credit upon Subscriber request when all channels received by that Subscriber experience the loss of picture or sound for a period of four (4) consecutive hours or more. The credit will equal, at a minimum, a proportionate amount, on a daily basis, of the affected Subscriber(s) current monthly bill.

It is difficult to recommend more specific penalty mechanisms before the Commission identifies specific service quality metrics. At time of filing, Joint Advocates respectfully suggest that the Commission use the penalty mechanism used for Telecommunications Services service quality violations in General Order 133-D.

7. Should the Commission adopt reporting requirements for video franchisees? What type of reporting requirements should the Commission adopt?

The Commission should adopt reporting requirements that allow the Commission to collect granular data on the actual locations served by the holder of a state franchise, implement strong customer service requirements, and adjudicate any customer complaints as required by Public Utilities Code section 5895. Joint Advocates

respectfully suggest that the Commission implement the following reporting requirements, based in whole or part on requirements that are standard in other states operating under DIVCA-like policy and local-franchising schema:

- **Service Location Data**, to allow for accurate and transparent validation of compliance with service quality metrics pertaining to capacity and technology:
 - Strand Maps. Franchise holder will maintain updated strand map drawings of the Cable System and make them available to the Commission for inspection upon request. Strand drawings or their functional equivalent will be updated as changes occur in the Cable System. The Franchise holder will provide to the Commission, upon request but at least once per year, at no cost to the Commission, a copy of the updated strand maps showing the location of the Franchise holder's facilities in the Streets and Public Ways within the Franchise Area, OR
 - GIS Maps. Franchise holder will provide, upon request but at least once per calendar year, at no cost the Commission, a GIS map in a format acceptable to the Commission of all its facilities, including but not limited to active, inactive, and abandoned, located with the Grantor's rights-of-way or Grantor's property. The map shall indicate status of facilities as active, inactive, and abandoned. The Commission will not request such map more than once per calendar year.
 - Service Maps: Upon written request, a franchise holder shall provide to the franchisor for its exclusive use and shall maintain at its local offices a complete set of the franchise service area maps,, on which shall be shown those areas in which its facilities exist and the location of all streets. The maps shall be provided to the franchisor in hardcopy and also, if technically feasible and available, in an electronic GIS format which is compatible with the City's GIS format. The maps shall also designate where the cable wires and other equipment are aerial and where they are underground. a franchise holder shall provide the franchisor with updated maps within thirty (30) days after a request is made by the franchisor.
 - Performance Testing: A franchise holder will perform all system tests required by the FCC, and all other tests reasonably necessary for the

Commission to easily determine compliance with technical standards required by the Franchise. Upon request, Franchise holder will advise the Commission of schedules and methods for testing the Cable System on a regular basis to determine compliance with the provisions of this Franchise and applicable FCC technical standards. Written records of all system test results performed by or for the Franchise holder will be maintained and copies of written tests will be made available to the Commission upon request, at no cost to the Commission.. Tests may be witnessed by representatives of the Commission. The Commission may conduct independent tests of the system for which the Franchise holder will give its fullest cooperation. If one or more of the locations tested fails to meet the performance standards, the Franchise holder will be required to take corrective measures, inform the Commission of those actions, and the entire test will be repeated at the locations which failed, and at least five (5) additional randomly chosen locations. If results of a second test indicate failure of the system to meet the technical performance requirements of this Franchise then the Commission may apply such remedies as it deems appropriate, unless the circumstances of the failure are caused by conditions which are beyond the Franchise holder's control, as determined, acknowledged and verified by the Commission.

- Compliance with Technical Specifications: It is the responsibility of the Franchise holder to document that the system and its operation are in compliance with FCC technical specifications and performance requirements. If the Grantor has received subscriber complaints regarding the performance of the Cable System, and the Grantor determines that the most efficient or only reasonable way to determine a question of Cable System compliance with FCC technical specifications is through a specific testing of the system in addition to test required by the FCC; Franchise holder will, upon written notice by the Grantor, perform such testing at a reasonable time, and Franchise holder will give the Grantor an opportunity to witness the testing and provide the Grantor with documentation of the testing results. The FCC's technical standards will govern the protocols for all such testing. In any case where the system testing reveals non-compliance with FCC standards, the Franchise holder will repair the system or make whatever modifications are required and necessary to bring the system performance into compliance with FCC standards within sixty (60) days of a non-compliant test.

8. Should the Commission modernize and revise the application processes described in GO 169 Sections IV-V and Section VII? How can the Commission implement DIVCA more efficiently and effectively to accomplish the policy objectives of DIVCA?

Joint Advocates do not have a response to this question at this time, given that the Commission has not yet adopted any specific service requirements. Joint Advocates reserve the right to comment on this question on reply.

III. CONCLUSION

Joint Advocates look forward to working with the Commission and stakeholders to ensure a speedy implementation of SB 28 and the creation of service quality mechanisms which will benefit both consumers and the public interest.

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