

4.15 Non-Discriminatory Access to Cable Modem Platform

(A). Conditions Precedent. When one of the following conditions precedent is met, Franchisee agrees to enter into good faith negotiations with the City to provide non-discriminatory access to its cable modem platform by requesting Internet service providers and on-line service providers, irrespective of whether such providers are affiliated with the Franchisee. Negotiations will cover, but not be limited to, the following items: the timetable for implementation, the method of implementation, including rates to be charged to such providers, identification of additional service providers, the process by which such provider(s) will be afforded access to the Cable System, any impact on Subscriber rates, and any impact on Franchisee's operations. The parties agree that such negotiations shall commence within ten (10) days of the occurrence of any of the following conditions precedent and that if the parties cannot reach agreement on the terms of such provision within 60 days, the City reserves its right to prescribe such requirement. Such requirement would be effective upon enactment, unless such action was based on a court decision as provided in Section 3, in which event such requirement will not be effective until such court decision is final, with no appeals remaining.

(1). Franchisee or any Affiliated Entity agrees with a franchise authority to provide access to its broadband Internet access transport services to one or more unaffiliated Internet service provider(s) in any of its cable systems;

(2). Upon entry of an order of the FCC imposing a requirement on Franchisee or any of its Affiliated Entities to provide access to its broadband Internet access transport services to one or more unaffiliated Internet service provider(s) in any of its cable systems;

(3). Upon entry of a final judgment of a decision in federal court upholding the imposition of a requirement on Franchisee or any of its Affiliated Entities to provide access to its broadband Internet access transport services to one or more unaffiliated Internet service provider(s) in any of its cable systems.

(B). City's Authority. Approval of this Franchise does not waive or otherwise diminish any lawful authority of the City to otherwise require the provision of non-discriminatory access to the Franchisee's Cable System for providers of Internet access service. Neither City nor Franchisee have waived any rights, obligations, claims, defenses or remedies regarding the City's authority to impose such conditions.