

SEC. 23-44. STATE VIDEO FRANCHISEES.

(A) PEG fee established.

(1) In accord with Cal. Pub. Util. Code Section 5870(n), any grantee of a franchise, or state franchisee, must pay to the city a fee for the support of PEG channel facilities.

(2) The amount of the PEG Fee established by this section is 1% of gross revenues, as defined in this code, the applicable city-issued franchise, or Cal. Pub. Util. Code Section 5860(d).

(B) Franchise fee established.

(1) For any state franchisee, the amount of the franchise fee imposed by Cal. Pub. Util. Code Section 5840(q) shall be 5% of gross revenues, as defined in Cal. Pub. Util. Code Section 5860(d).

(2) In accordance with Cal. Pub. Util. Code Section 5860(a), the City Manager will prepare and provide to state franchisees all necessary documentation supporting the percentage franchise fee paid by the incumbent cable operator serving the city.

(C) Notices from state franchisees. Any notice a state franchisee is required to deliver to the city by Cal. Pub. Util. Code Section 5840(m) must be delivered to the City Manager.

(D) Nothing in this chapter is intended to limit or restrict in any way the imposition of any existing or future generally applicable, nondiscriminatory, competitively neutral tax, fee, or charge to a state franchisee, city franchisee or the services the franchisees provide.

(E) Customer service provisions for state franchisees.

(1) All state franchisees must comply with all applicable state and federal laws and regulations regarding customer service and customer protection.

(2) The City Manager may review the performance of state franchisees for compliance with the customer service requirements specified in Cal. Pub. Util. Code Section 5900 (the "Customer Service Standards").

(3) If the city believes a material breach of the customer service standards has occurred, the City Manager must give the state franchisee written notice of any alleged material breach(es). The state franchisee must remedy the specified material breach(es) no later than 30 days from receipt of the notice.

(4) If the state franchisee fails to remedy the specified material breach(es) within 30 days, the City Manager may impose monetary penalties on the following schedule:

(a) Up to \$500 for each day of each material breach, not to exceed \$1,500 for each occurrence of a material breach.

(b) For a second material breach of the same nature within 12 months, up to \$1,000 for each day of each material breach, not to exceed \$3,000 for each occurrence of the material breach.

(c) For a third or further material breach of the same nature within 12 months, up to \$1,000 for each day of each material breach, not to exceed \$3,000 for each occurrence of the material breach.

(5) Any monetary penalty imposed under this section may be appealed by the state franchisee to the City Council. Appeals must be received in writing by the City Clerk within 60 days of imposition of the penalty. The state franchisee may present any relevant written or oral evidence of its choice. The City Council may uphold or reverse, in whole or in part, the imposition of the monetary penalties.

(F) The City Manager shall ensure PEG transmissions, content, and programming provided by the city to a state franchisee is in a format compatible with the state franchisee's system. In the alternative, the transmissions, content, and programming may be provided in a industry standard format, in accord with Cal. Pub. Util. Code Section 5870(g)(1).

(G) For the duration of any city-issued franchise, if that franchisee has existing unsatisfied obligations under the franchise to pay to the city any cash payments for the ongoing costs of public, educational, and government access channel facilities or institutional networks, the fee payable by each city and state franchisee shall be the franchisee's pro rata per subscriber share of the cash payment required to be paid by the city

franchisee to the city for the costs of PEG channel facilities.

(1) Within 45 days of receipt of the notice required by Cal. Pub. Util. Code Section 5840(n), each city and state franchisee must provide to the City Manager a written statement of the number of its subscribers within the franchisee's service area in the city.

(2) Within 45 days of receipt all franchisee subscriber number statements, the City Manager must calculate the division of the cash payments among all city and state franchisees, and provide written notice to each franchisee of the franchisee's share of the cash payment. This amount may expressed as a percentage of gross revenue or as an amount per subscriber, per month, or otherwise.

(H) Interconnection. To properly serve the city's interest in PEG programming, each state franchisee and city franchisee must comply with the PEG system interconnection requirements of Cal. Pub. Util. Code Section 5870. The City Manager, or his or her designee, may make any interconnection determinations of the city under Cal. Pub. Util. Code Section 5870, including requiring interconnection where the city franchisee and state franchisee fail to reach a mutually acceptable interconnection agreement.

(Ord. No. 2782)