

Matrix of Franchise Language and ATTBB Activities

Issue	Franchise Language (section #)	Description of ATTBB Cable Position	Local Franchise Authority (LFA) Position	Feb 2003 Update
<p>Payment of Franchise Fees for Cable Modems and Leased Lines</p>	<p>Definitions: a Cable Communications System means "a system of antennas, cable * * or any other conductors, converters, equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital, or other forms of electronic or electrical signals." (#3) Franchise Fee. As compensation for the franchise granted herein for the construction, operation, maintenance and reconstruction of a cable communications system within the franchise territory, the grantee shall pay an annual amount equal to five percent of the Grantee's gross annual revenues. (#10.(1))</p>	<p>Federal agency interpretations of language in the 1996 Telecommunications Act have decided that cable modem service is a telecommunications service, not a cable service, and therefore it is not subject to franchises and franchise fee obligations, despite any franchise wording. Any local dispute cannot be resolved until the national dispute is resolved. With regard to leased use for such things as telephone services, there is no facility or equipment in the rights of way devoted solely to this purpose, there fore the franchise which concerns a cable TV system, does not include revenue gained from additional incidental use of facilities in the rights-of-way.</p>	<p>The franchise grants not just the opportunity to establish a one-way video programming system, it also grants permission to use the system for advanced processes, such as two way communications (cable modems) and leased lines for such things as third party telephone service. The calculations of franchise fees from gross revenues must include revenues from these other uses.</p>	<p>A review of ATTBB revenues (audit) is under way. ATTBB is cooperating with the review. There is national litigation on the issue of cable modems, in which ATTBB is claiming that the FCC was right.</p>

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<p>Customer Service (Partial)</p>	<p>Grantee shall maintain an office in the city of Eugene and the city of Springfield which shall be open during all the usual business hours with its telephone listed in directories of the telephone company serving the franchise territory, and be so operated that complaints and requests for repairs or adjustments may be received at any time, day or night, seven days a week. (#12.(3)(a)) Grantee shall equip and staff so as to assure that subscribers calling the office do not encounter, on the average, unreasonably high percentage of busy signals or unreasonably long hold times before reaching a customer service representative. * * If the commission feels, after repeated notification, that the Grantee's telephone service is unreasonable and unacceptable, the commission and Grantee shall meet and establish phone standards and procedures for monitoring said standards. (#12.(3)(b))</p>	<p>Consolidation of customer service systems was a business necessity. Consolidation allows the company to save on high personnel costs while still providing a response to customer requests. The new centralized location to answer customer inquiries in Beaverton is well staffed and responsive to customer complaints.</p>	<p>Moving the physical location of the persons who actually answered subscriber complaint calls from the local area to a national service facility led to an unacceptable number of busy signals or interminably long waits. The inability of those representatives to provide any information regarding local circumstances made the service unreasonable and unacceptable. The loss of responsive customer services resulted in an increase in calls to the Local Franchise Authorities. Relocation of the system back to an Oregon location seems to be working but needs continual monitoring. The specific requirement that all service calls be dealt with from a local office is not a critical requirement of the franchise, as long as the alternative provides equally responsive service.</p>	<p>The standards for service responsiveness in the franchise could be made more specific if the MPC wished to do so. Federal rules allow a franchise authority to establish customer service standards at any time. These standards can cover several matters, including the response times for answering the calls for customer complaints. The local representatives of ATTBB have continued to respond promptly and fairly to customer based requests when those are relayed by the LFA.</p>

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<p>Planned improvements to the system</p>	<p>Before Grantee further increases the channel capacity of its cable system, it shall submit to the commission reports containing relevant information *** (#5.(1)) Prohibition of Discriminatory or Preferential Practices The Grantee shall not, in its rates or charges, or in making available the services or facilities of its system * * * make or grant discriminatory preference or advantages to any subscriber or potential subscriber to the system (#6(3)) Plan for Extension and Reconstruction of the Cable System * * * any postponement of system extension beyond the times specified in the plan report timetable shall require consent of the commission.</p>	<p>ATTBB does acknowledge that in 1998 the City of Eugene and ATTBB agreed upon a network upgrade completion date and that the date was “not to be impacted by the purchase of TCI Cable”. When the deadline was not met, however, ATTBB disagreed that the work stoppage was due to the purchase of TCI Cable. Instead, ATTBB believes the national recession caused understandable delays.</p>	<p>In 1998, a plan for upgrading the system (to allow the use of cable modems and digital video programming) was agreed to during Eugene-TCI/ATTBB Transfer of Control. The roll-out of the improvements stopped before November 2000, the agreed-upon completion date, producing a mini-digital divide within Eugene : 47% was upgraded and 52% was not upgraded This delay was not accepted. A specific plan for completing the upgrade was required.</p>	<p>Eugene took enforcement action in early 2001. A settlement was reached which included financial benefits to Eugene subscribers and a stringent construction schedule. Penalties will result if the June 30, 2003 completion date is not met. ATTBB has been meeting the new schedule so that by June the entire area will be upgraded.</p>

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Customer Dispute Resolution (Partial)	<p>In the event that a subscriber complaint regarding Grantee's performance of this franchise is not resolved to the mutual satisfaction of the subscriber and the Grantee, either the subscriber or the Grantee may request that the matter be presented to the commission for resolution by the commission or its designee. Nothing in this paragraph 12(4)(d) or in a decision of the commission under this paragraph shall limit a subscriber's or the Grantee's rights to seek judicial resolution of the matter. (#12(4)(d)) The Grantee shall have the authority, consistent with applicable laws and FCC rules and regulations, to promulgate from time to time such rules, regulations, terms, and conditions governing the conduct of its business with subscribers as shall be reasonable and necessary to enable the Grantee to exercise its rights and perform its obligations under this franchise. (#12.(7)) Resolution of Disputes. It is the intent of the Grantor to provide for orderly resolution of disputes arising out of the enforcement or interpretation of provisions of this franchise, or any rule, regulation, or procedure relating to cable communications matters. To this end, the procedures set forth in Subsections (2) [Fact Finding] and (3) [Mediation] below may be implemented upon the election of either the Grantee or Grantor where agreement has not been reached after a reasonable time and good faith negotiation. In addition, any controversy or dispute may be submitted to binding arbitration as set forth in Subsection (4) below, but only upon agreement of both Grantee and Grantor (#15(1))</p>	<p>Arbitration is a preferred way of settling disputes, and is less costly to everyone than litigation. The franchise gives ATTBB the right to create rules on how disputes with customers are resolved. Customers were given the option of canceling their subscriptions if they objected to the rules. The original mandatory, binding arbitration rules to which objections were raised have been revised so that ATTBB now pays the cost of arbitration, and so that the subscriber now has a choice of which arbitration system is used. Nothing in the arbitration procedures was intended to limit the subscriber's rights to seek assistance from the LFA. The new rules have a section on resolving disagreements just before the section on arbitration, and in that section the right to consult with the LFA is clearly stated.</p>	<p>The imposition of mandatory, binding arbitration for all subscriber disputes and the elimination of all judicial review is contrary to the intent of the franchise. It deprives subscribers of a judicial review of some issues where the type of arbitration that ATTBB has imposed is not a viable option for resolution of the disputes. The imposition of this form of arbitration serves to cut off subscriber rights without any counterbalancing advantage to subscribers. To the extent that the imposed program prevents or discourages subscribers from using all the rights granted to them under the franchise, the imposition of the system violates the franchise.</p>	<p>The first set of mandatory arbitration rules was challenged in court and the rules were overturned. This decision has been appealed. The newest rules do reduce the burden on the subscriber and make a stronger statement regarding the subscriber's right to seek help from the LFA.</p>