

CHAPTER 28. SUBSTANTIVE RULES APPLICABLE TO CABLE AND VIDEO SERVICE PROVIDERS.

Subchapter B. PROVISIONS RELATING TO APPLICATION FOR A STATE-ISSUED CERTIFICATE OF FRANCHISE AUTHORITY.

§28.6. State-Issued Certificate of Franchise Authority (CFA) Certification Criteria.

- (a) **Scope and purpose.** This section applies to the commission's certification of persons and entities to provide cable and/or video service as holders of a state-issued certificate of franchise authority (CFA), as established in the Public Utility Regulatory Act (PURA), Chapter 66, §§66.001-66.004.
- (b) **Application for CFA.** An entity or person seeking to provide cable and/or video service in this state shall file an application for a CFA with the commission as provided in subsection (e) of this section.
- (c) **Eligibility to file application.**
 - (1) A cable service provider or a video service provider that currently has or had previously received a municipal franchise to provide cable service or video service is not eligible to seek a CFA to provide service in that municipality until the expiration date of the existing franchise agreement for such municipality.
 - (2) A cable service provider or a video service provider that currently has or had previously received a municipal franchise to provide cable service or video service may file an application for a CFA to provide service in such municipality no earlier than 17 business days before the expiration of the municipal franchise provided that the application requests issuance of the CFA after the expiration of the municipal franchise.
 - (3) For purposes of this subsection a cable service provider or video service provider will be deemed to have or have had a franchise to provide cable service or video service in a specific municipality if any affiliates or successor entity of the cable or video provider has or had a franchise agreement granted by that specific municipality. The terms "affiliates or successor entity" in this subsection include but are not limited to any entity receiving, obtaining, or operating under a municipal cable or video franchise through merger, sale, assignment, restructuring, or any other type of transaction.
- (d) **Procedure for reviewing CFA applications.**
 - (1) The commission shall notify an applicant for CFA whether the application is complete before the 15th business day after the application was submitted.
 - (2) The commission shall issue a CFA before the 17th business day after the application, including the requisite affidavit, has been filed if the commission finds the application to be complete and sufficient.
- (e) **Standards for granting franchise authority to CFA applicants.** An applicant for a CFA shall submit a completed Application for State Issued Certificate of Franchise Authority, which shall include the following items:
 - (1) An affidavit signed by an officer or general partner of the applicant affirming the following:
 - (A) the applicant has filed or will timely file with the Federal Communications Commissions (FCC) all forms that the FCC requires from entities seeking to provide cable or video services in Texas;
 - (B) the applicant agrees to comply with all applicable federal and state statutes and regulations;
 - (C) the applicant agrees to comply with all applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of the cable and/or video service, including the police powers of the municipalities in which the service is delivered;
 - (D) all statements made in the Application for State Issued Certificate of Franchise Authority are true and correct.

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§28.6(e) continued

- (2) A description of the service area footprint to be served. Service areas may be an entire municipality or a portion thereof and may include incorporated areas as well as unincorporated areas. Acceptable service area descriptions include properly labeled maps that clearly define the service area using city/municipality limits, county boundaries, metes and bounds, subdivisions, and/or other geographic areas with distinct boundaries.
 - (3) The street address and telephone number of the applicant's principal place of business.
 - (4) The name, addresses, and telephone numbers of an authorized representative, a regulatory contact, and an emergency contact.
 - (5) The names of the applicant's principal executive officers.
- (f) **Name(s) on CFA.**
- (1) All cable and/or video services provided under a CFA shall be provided in the name under which certification was granted by the commission. The requested name(s) must be registered with the proper authorities to conduct business in Texas (*i.e.*, the Texas Secretary of State with the exception of sole proprietorships that are registered with the county in the requested service area), and may not be deceptive, misleading, vague, inappropriate, or duplicative of an existing CFA holder.
 - (2) The holder of the CFA may request commission approval to add, delete or change the name(s) on the franchise authority in accordance with subsection (g)(4) of this section.
- (g) **Amendments, terminations and transfers of a CFA.**
- (1) **Termination of CFA.** A CFA may be terminated by the certificate holder by submitting written notice to the commission. The CFA Termination Notice shall be filed with the commission in the project number established by staff for that purpose.
 - (2) **Transfer of ownership/control.** A CFA is fully transferable to any successor in interest to the entity to which the CFA was originally granted. The successor in interest shall file a written notice of transfer with the commission and the relevant municipality within 14 business days of the completion of such transfer. The notice to the commission shall be in the form of an application to amend the existing CFA and shall contain the information described in subsection (e) of this section
 - (3) **Expansion of service area footprint.** Changes to the description of the existing service area footprint shall be accomplished by filing an application to amend the existing CFA with the commission prior to any such change.
 - (4) **Name changes.** The holder of the CFA may request commission approval to add, delete, or change the name(s) on the CFA by filing with the commission an application to amend its CFA.
- (h) **Reporting requirements.**
- (1) All CFA holders shall notify the commission of changes in company contact information within 14 business days of any such change.
 - (2) Every CFA holder shall file with this commission a copy of any order or ruling issued by a court of competent jurisdiction that either modifies or revokes its CFA or makes it ineligible to hold a CFA within 14 business days of the issuance of such order or ruling.
- (i) **Records requirements.**
- A franchise holder shall maintain a copy of records required by applicable federal or state laws and regulations for a period of not less than 12 months. Upon commission staff request, the franchise holder shall provide an accurate and complete copy of any such records no later than 21 business days after the date of such request.