

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to

the Minn Cable Comm. Commission
(Agency or Board)

Regulation No. ~~Chapter~~ MCCC-Q-1 — MCCC-Q-7

Subject: Chapter Q - Poles, Ducts and Conduit agreements

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

AUG 5 1975

BY Eda Standaert
AUTH. SIGNATURE 3:15 pm
PR

Stamped and filed with the Secretary of State 8-5-75

Rev. 9-72

DEPARTMENT OF ADMINISTRATION

MINNESOTA COMMISSION ON CABLE COMMUNICATIONS

PUBLIC HEARING

April 25, 1975

ADDENDUM "A"

Exhibit 1 7117B 4-25-75

RESOLUTION NO. 11

A resolution regarding the holding of a statutory public hearing.

BE IT RESOLVED that Mr. Robert J. McDonald, Executive Director of the Minnesota State Commission on Cable Communications be and he hereby is granted the authority and directed to call a public hearing for the purpose of promulgating rules of the Minnesota State Commission on Cable Communications as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer at all hearings.

BE IT FURTHER RESOLVED that the rules to be considered at the public hearing or hearings hereby authorized are described topically as follows: Chapter Q - Poles, Ducts, and Conduit Agreements; Chapter J - Discrimination Prohibited, and an amendment to Rule H-1(q) - Compensation for Value of Assets. A copy of said rules will be on file with the executive director of the Commission at its business offices at 3050 Metro Office Park, Bloomington, Minnesota thirty days prior to any public hearing ordered as a result of this Resolution.

BDC/b

Adopted 3/13/75

Exhibit 2
4-25-75 MTB

CERTIFICATE OF COMMISSION'S
AUTHORIZING RESOLUTION

I, Virginia G. Greenman, do hereby certify that I am vice-chairman of the Minnesota State Commission on Cable Communications, a commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a Resolution adopted at a meeting of the Minnesota State Commission on Cable Communications duly and properly called and held on the thirteenth day of March, 1975, that a quorum was present at said meeting; that a majority of those members present voted in favor of the Resolution; that said Resolution is set forth in the minutes of said meeting or is incorporated by reference into said minutes and attached thereto as an addendum and has not been rescinded or modified:

> BE IT RESOLVED that Mr. Robert J. McDonald, Executive Director of the Minnesota State Commission on Cable Communications be and he hereby is granted the authority and directed to call a public hearing for the purpose of promulgating rules of the Minnesota State Commission on Cable Communications as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer at all hearings.
>
> BE IT FURTHER RESOLVED that the rules to be considered at the public hearing or hearings hereby authorized are described topically as follows: Chapter Q - Poles, Ducts, and Conduit Agreements; Chapter J - Discrimination Prohibited, and an amendment to Rule H-1(q) - Compensation for Value of Assets. A copy of said rules will be on file with the executive director of the Commission at its business offices at 3050 Metro Office Park, Bloomington, Minnesota thirty days prior to any public hearing ordered as a result of this Resolution.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of March, 1975.

Virginia G. Greenman
Vice-Chairman

Attest by one other member

Exhibit 3
4-25-75 mtg

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE Robert J. McDonald
Executive Director
Minnesota State Commission
on Cable Communications

In the matter of Proposed
Rules relating to Cable
Communications

ORDER FOR HEARING

To effectively implement Minnesota Statutes 1974, Section 238.05, subdivision 9 and Section 238.13, acting pursuant to authority delegated to me by the Commission, I deem it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in this Commission by Minnesota Statutes 1974, Section 238.06, and delegated to me for purposes of ordering a public hearing by Commission Resolution No. 11, adopted at a regular meeting of the Commission on March 13, 1975.

NOW, THEREFORE, IT IS ORDERED this 17th day of March, 1975, that a public hearing on the proposed rules captioned above be held in the State Office Building Auditorium, Saint Paul, Minnesota, on April 25, 1975, commencing at 9:00 A.M. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

Robert J. McDonald

Robert J. McDonald
Executive Director, Minnesota State
Commission on Cable Communications

Exhibit 4. MJB
4-25-75

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE Robert J. McDonald
Executive Director
Minnesota State Commission
on Cable Communications

In the matter of Proposed
Rules relating to the regulation of cable communications

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M. S. 1971, Section 15.0412, Subdivision 4, in the above-entitled matter in the auditorium of the State Office Building, Saint Paul, Minnesota, on April 25, 1975, commencing at 9:00 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commission proposes to adopt rules relating to the following matters: Chapter Q concerns pole, duct and conduit agreements; Chapter J concerns the prohibition of discrimination; and an amendment to Chapter H-1(q) concerning compensation for value of assets.

The proposed rules may be set out topically as follows:

A. Chapter Q - Pole, Duct and Conduit Agreements

1. Policy
2. Definitions
3. Application

4. Permits

5. Legal Authority

6. Indemnification

7. Additional Terms

B. Chapter J - Discrimination Prohibited

1. Discrimination in Franchising

2. Discrimination by Cable Communications Company

3. Employment

4. Equal Employment Opportunity Opportunity Program

5. Additional Information to be Furnished

6. Records Available to the Public

7. Compliance Mechanism

C. Amendment to H-1(q) - Compensation for Value of Assets

Copies of the proposed rules will be available thirty days prior to the public hearing herein noticed and may be obtained by mail or at the offices of the Commission on Cable Communications, 3050 Metro Office Park, Suite 301, Bloomington, Minnesota 55420, for a nominal charge. Additional copies will be available at the door for a nominal charge on the date of the hearing.

Robert J. McDonald

Robert J. McDonald
Executive Director, Minnesota State
Commission on Cable Communications

Exhibit 5
4-25-75 MTB

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE Robert J. McDonald
Executive Director
Minnesota State Commission
on Cable Communications

In the matter of Proposed
Rules relating to Cable
Communications

STATEMENT OF NEED

The above captioned rules, with the exception of the amendment to Rule H-1(q), are not amendments to existing rules of the Minnesota State Commission on Cable Communications.

The need to adopt these rules arises because of the legislative mandate placed on the Commission by Minnesota Statutes 1974, Section 238.05, subdivision 9 and Section 238.13, to adopt rules governing certain aspects of the cable communications industry. The need to amend Rule H-1(q) arises because of problems with long-term financing. The rules are further needed to promote the orderly growth of the cable communications industry in the State of Minnesota, and to protect the public interest in the availability of cable communications services.

Robert J. McDonald

Robert J. McDonald
Executive Director, Minnesota State
Commission on Cable Communications

Exhibit 6 M23

4-25-75

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the matter of Proposed

Rules relating to Cable

Communications

AFFIDAVIT

Anita Benda, being duly sworn on oath deposes and says:

1) That she is an employee of the Department of Administration of the State of Minnesota serving the Minnesota Cable Commission.

2) That on the 18th day of March, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M. S. 15.0412.

3) That on the 18th day of March, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Anita Benda

Anita Benda
Cable Communications Specialist
Minnesota Commission on
Cable Communications

Subscribed and sworn to before me
this 18th day of March, 1975.

Darla Mae R. Hormann

DARLA MAE R. HORMANN
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 7, 1981

Exhibit 7 MTB

4-25-75

STATE OF MINNESOTA

COUNTY OF HENNEPIN

CERTIFICATE

In the matter of Proposed

Rules relating to Cable

Communications

I hereby certify that the attached 419 labels & one sheets constitute the complete list of persons, associations, and other interested groups who as of 8:00 o'clock A.M., this 18th day of March, 1975, have requested pursuant to M. S. 1974, Section 15.0412, Subdivision 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Joan Anderson Growe

By Ceil Dieni

Exhibit 8 m78
4-25-75

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the matter of Proposed

Rules relating to Cable

Communications

AFFIDAVIT OF MAILING

Beatrice L. Frankus, being first duly sworn deposes and says:

That on the 21st day of March, 1975, at the City of Bloomington, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mails at said City of Bloomington, a true and correct copy thereof, properly enveloped, with postage prepaid, to all municipalities in the State of Minnesota, all persons and associations at the addresses listed on the attached Certificate regarding the Secretary of State, members of the Minnesota Legislature, and other interested individuals.

Further your affiant sayeth not.

Beatrice L. Frankus

Beatrice L. Frankus, Clerk-Typist
Minnesota Commission on
Cable Communications

Subscribed and sworn to before me
this 24th day of March, 1975.

Darla Mae R. Hormann

DARLA MAE R. HORMANN
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 7, 1981

RESOLUTION NO. 14

BE IT RESOLVED, that the rules relating to pole, duct and conduit agreements be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes, 1974, Section 238.06, subdivision 1 and that the Chairperson of the Minnesota Commission on Cable Communications, be and hereby is, authorized to sign an order adopting those rules.

adopted
7/11/75

CERTIFICATE OF COMMISSION'S ADOPTION

OF RULES RESOLUTION

I, Virginia G. Greenman, do hereby certify that I am vice-chairman of the Minnesota State Commission on Cable Communications, a commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a Resolution adopted at a meeting of the Minnesota State Commission on Cable Communications duly and properly called and held on the 11th day of July, 1975, that a quorum was present at said meeting; that a majority of those members present voted in favor of the Resolution; that said Resolution is set forth in the minutes of said meeting or is incorporated by reference into said minutes and attached thereto as an addendum and has not been rescinded or modified:

> BE IT RESOLVED, that the rules relating to pole, duct and conduit agreements be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes, 1974, Section 238.06, subdivision 1 and that the Chairperson of the Minnesota Commission on Cable Communications, be and hereby is, authorized to sign an order adopting those rules.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18 day of July, 1975.

Virginia G. Greenman
Vice-Chairman

Attest by one other member

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE Richard G. Hunegs, Chairman
Minnesota State Commission
on Cable Communications

In the matter of Proposed Rules
Relating to the regulation of
cable communications

FINDINGS OF FACT

The above-entitled matter came on for hearing before Robert J. McDonald, executive director of the Minnesota State Commission on Cable Communications, acting as hearing officer pursuant to authority delegated by the Commission on the 25th day of April, 1975, at 9:00 a.m. in Room 123 of the State Capitol, St. Paul, Minnesota, after proper notice required by M. S., 1974, Section 15.0412, was served on all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following facts and conclusions regarding the adoption of the above captioned rules:

Chapter Q - Pole, Duct and Conduit Agreements

Minnesota Statutes 1974, Section 238.13 provides:

> The Commission shall within two years from May 24, 1973, adopt appropriate rules specifying necessary regulations for contractual agreements between cable communications operators and any public utilities with respect to the use of poles, ducts, conduits, and other appurtenances related to the cable communications transmission lines.

Testimony was heard at the public hearing questioning whether any rules relating to pole, duct and conduit agreements should be adopted since none were considered "necessary". I find that the seven rules on pole, duct and conduit agreements herein adopted are "necessary" in the sense of being appropriate to the subject matter and designed to accomplish a desirable result. I find that the aforesaid meaning is the meaning to be given the word "necessary" as contained in Minnesota Statutes 1974, Section 238.13, rather than a meaning which carries some notion of indispensability or the character of being essential.

MCCC-Q-1. Policy. The rule merely states that the chapter of rules should be liberally construed to effectuate the purposes and provisions of the governing statute, Minnesota Statute, 1974, Section 238.13. No testimony was given at the public hearing in opposition to this rule. I find that such a broad interpretation is necessary to effectuate the purposes of the chapter of proposed rules.

MCCC-Q-2. Definitions. The rule merely defines certain words and phrases for purposes of the rules adopted. No testimony was heard at the public hearing in opposition to the definitions as proposed. I find that the definitions are necessary to assist in interpreting the balance of the chapter of rules.

MCCC-Q-3. Application. The rule merely states to what pole, duct and conduit agreements the rules will apply. Conflicting testimony was heard at the public hearing concerning whether the phrase "substantially renegotiated"should be included. I find that the phrase "substantially renegotiated" has a well recognized legal meaning and I agree with the testimony that concluded that pole, duct and conduit agreements substantially renegotiated should be included in the scope of the rule. I further find that the whole rule is necessary to define exactly the agreements to which the rules will apply and that the date selected, January 1, 1976, is sufficiently removed in time so that all parties to such agreements will be aware of the rule.

MCCC-Q-4. Permits. The rule requires a cable television system to obtain a permit from a public utility before attaching to the utility company's poles or occupying their conduit. Testimony was filed with the Commission that the rule and especially the standard for attachment should be more strongly weighed in favor of a cable communications company. I find that since a cable television system is not a public utility that no absolute right to use the utility company's poles or conduit can be imposed. I find that imposing a standard consonant with the public interest and the public utility company's service obligations is the greatest duty that can be legally imposed. A rule requiring the obtaining of a permit before attachment is necessary for the orderly conduct of the business of both the public utility and the cable television company.

MCCC-Q-5. Legal Authority. This rule merely requires the cable television company to obtain legally required consents and follow all applicable rules and regulations regarding such attachments. I find that the rule is necessary if the public utility company is to be assured that the attachments and occupations of conduit are legally proper.

MCCC-Q-6. Indemnification. This rule provides that the cable television company is to indemnify the public utility company for any damages or loss occasioned by the operation of the cable television company's equipment. The only opposition to this rule which was filed with the Commission was cured through an amendment at the time the rule was adopted. I find that a rule with respect to indemnification is necessary to relieve the public utility company of liability for the extra hazard occasioned by the installation of the cable television company's equipment.

MCCC-Q-7. Additional Terms. The rule provides that pole, duct and conduit agreements may contain additional terms not in conflict with this chapter. No opposition to this rule was heard at the public hearing. I find that this rule is necessary since pole, duct and conduit agreements will have to contain terms additional to those proposed in this chapter of rules but they should not be allowed to be conflicting.

Conclusion

On the basis of all the facts heretofore detailed, I find that the rules and regulations heretofore detailed and approved by the Commission at its meeting of July 11, 1975, should be adopted because they provide for reasonable requirements for the administration and enforcement of regulations relating to pole, duct and conduit agreements, and I find that these rules are necessary to reinforce and supervise this effort.

Richard G. Hunegs
Chairman, Minnesota State
Commission on Cable Communications

July 24, 1975
Date

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE Richard G. Hunegs, Chairman
Minnesota State Commission
on Cable Communications

In the matter of Proposed Rules
Relating to the regulation of
cable communications.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Robert J. McDonald, executive director of the Minnesota Commission on Cable Communications, acting as hearing officer pursuant to delegated authority on the 25th day of April, 1975, at 9:00 a.m. in Room 123 of the State Capitol, St. Paul, Minnesota, after proper notice required by M. S. 1974, Section 15.0412, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Chapter Q - Pole, Duct and Conduit Agreements, are adopted this 24th day of July, 1975, pursuant to authority vested in the Commission by Minnesota Statutes, 1974, Section 238.06, and delegated to me by Resolution No. 14 of the Commission adopted by the Commission at a regular meeting held July 11, 1975.

Richard G. Hunegs
Chairman, Minnesota State
Commission on Cable Communications

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Bruce D. Campbell, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Bruce D Campbell

Special Assistant Attorney General

Dated: July 24, 1975

CHAPTER Q - POLES, DUCTS AND CONDUIT AGREEMENTS

MCCC-Q-1 Policy

These rules shall be liberally construed to effectuate the purposes and provisions of Minnesota Statutes 1974, Section 238.13.

MCCC-Q-2 Definitions

As used in this Chapter, the following words and phrases shall have the meanings given them herein unless a different meaning clearly appears in the text:

(a) "Conduit system" means any reinforced passage or opening in, on, under or through the ground capable of containing communications facilities and includes the following: main conduit; underground dips and short sections of conduit under roadways, driveways, parking lots and similar conduit installations; laterals to poles and into buildings; ducts; and manholes.

(b) "Cable communications company's equipment" means aerial wires, cables, amplifiers, associated power supply equipment, and other transmission apparatus necessary for the proper operation of the cable communications system in a franchised area.

(c) "Public utility company poles" means poles owned by the public utility and poles owned by others for which the public utility has the right to permit others to attach in the communications space on said pole.

MCCC-Q-3 Application

The provisions of this Chapter shall only apply to pole, duct and conduit agreements entered into or renewed between public utilities and cable communications companies on or after January 1, 1976 and shall have no application to such agreements executed prior to January 1, 1976 until such agreements are either renewed or substantially renegotiated. If a public utility company and a cable communications company enter into an agreement regarding only pole attachments, the provisions of this Chapter relating to conduit systems shall not be applicable to such agreement and if

a public utility company and a cable communications company enter into an agreement regarding only use of a conduit system, the provisions of this Chapter relating to pole attachments shall not be applicable to such an agreement.

MCCC-Q-4 Permits

Every pole, duct and conduit agreement shall contain a provision that before attaching to the public utility company's poles or occupying any part of the public utility's conduit system, the cable communications company shall make application and receive a permit therefor on a form provided by the public utility company. If the cable communications company accepts the permit, it may attach its equipment to the poles covered by said permit or occupy the conduit system of the public utility to the extent authorized by said permit, subject to the provisions of this Chapter and all terms of the agreement between the contracting parties. In granting or denying a permit, the public utility has the right to determine whether a grant of a permit would adversely affect its public services, duties and obligations or have an adverse effect on the economy, safety, and future needs of the public utility.

MCCC-Q-5 Legal Authority

Every pole, duct and conduit agreement shall contain a provision that the cable communications company shall submit to the public utility company evidence of the cable communications company's lawful authority to place, maintain and operate its facilities within public streets, highways, and other thoroughfares and shall secure any legally necessary permits and consents from federal, state, county and municipal authorities and from the owners of private property to construct, maintain and operate facilities at the locations of poles or conduit systems of the public utility company which it uses. The parties to the agreement shall at all times observe and comply with, and the provisions of a pole, duct and conduit agreement shall be subject to, all laws, ordinances and regulations which in any manner affect the rights and obligations of the parties to any such agreement, so long as such laws, ordinances or regulations remain in effect.

MCCC-Q-6 Indemnification

Every pole, duct and conduit agreement shall contain a provision that the cable communications company shall defend, indemnify, protect and save harmless the public utility from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any workmen's compensation law or under any plan for employees' disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, use or removal of the cable communications company's cable, equipment and facilities or by the proximity of the cables, equipment and facilities of the parties to the agreement, or by any act of the cable communications company on or in the vicinity of the public utility company's poles and conduit system, in the performance of the agreement. Nothing contained herein shall relieve the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control. The cable communications company shall also indemnify, protect and save harmless the public utility from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of the cable communications company's facilities including taxes, special charges by others, claims and demands for damages or loss infringement of copyright, for libel and slander, for unauthorized use of television broadcast programs, and for unauthorized use of other program material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of the cable communications equipment in combination with the public utility company's poles, conduit system or otherwise. Nothing contained herein shall relieve the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control. The cable communications company shall carry insurance to protect the parties to the agreement from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from

or by reason of such loss, injury, claim or damage. The amount of any such insurance shall be agreed to by the parties to this agreement. The cable communications company shall also carry such insurance as will protect it from all claims under any workmen's compensation laws in effect that may be applicable to it. All insurance required shall remain in effect for the entire term of the agreement.

MCCC-Q-7 Additional Terms

Nothing contained in these Rules shall in any way prohibit a public utility company from including in its pole, duct and conduit agreements with cable communications companies additional terms which do not conflict with the provisions of this Chapter.

APPROVED AS TO FORM AND LEGALITY
8-5 19 75
WARREN SPANNAUS, ATTORNEY GENERAL
BY Melanie B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 5 - 1975 - 3:00 pm
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
AUG 5 1975
BY Ida Stoudermann
AUTH. SIGNATURE
3:15 p.m.

CHAPTER Q - POLES, DUCTS AND CONDUIT AGREEMENTS

MCCC-Q-1 Policy

These rules shall be liberally construed to effectuate the purposes and provisions of Minnesota Statutes 1974, Section 238.13.

MCCC-Q-2 Definitions

As used in this Chapter, the following words and phrases shall have the meanings given them herein unless a different meaning clearly appears in the text:

(a) "Conduit system" means any reinforced passage or opening in, on, under or through the ground capable of containing communications facilities and includes the following: main conduit; underground dips and short sections of conduit under roadways, driveways, parking lots and similar conduit installations; laterals to poles and into buildings; ducts; and manholes.

(b) "Cable communications company's equipment" means aerial wires, cables, amplifiers, associated power supply equipment, and other transmission apparatus necessary for the proper operation of the cable communications system in a franchised area.

(c) "Public utility company poles" means poles owned by the public utility and poles owned by others for which the public utility has the right to permit others to attach in the communications space on said pole.

MCCC-Q-3 Application

The provisions of this Chapter shall only apply to pole, duct and conduit agreements entered into or renewed between public utilities and cable communications companies on or after January 1, 1976 and shall have no application to such agreements executed prior to January 1, 1976 until such agreements are either renewed or substantially renegotiated. If a public utility company and a cable communications company enter into an agreement regarding only pole attachments, the provisions of this Chapter relating to conduit systems shall not be applicable to such agreement and if

PROPOSED

a public utility company and a cable communications company enter into an agreement regarding only use of a conduit system, the provisions of this Chapter relating to pole attachments shall not be applicable to such an agreement.

MCCC-Q-4 Permits

Every pole, duct and conduit agreement shall contain a provision that before attaching to the public utility company's poles or occupying any part of the public utility's conduit system, the cable communications company shall make application and receive a permit therefore on a form provided by the public utility company. If the cable communications company accepts the permit, it may attach its equipment to the poles covered by said permit or occupy the conduit system of the public utility to the extent authorized by said permit, subject to the provisions of this Chapter and all terms of the agreement between the contracting parties. In granting or denying a permit, the public utility has the right to determine whether a grant of a permit would adversely affect its public services, duties and obligations or have an adverse effect on the economy, safety, and future needs of the public utility.

MCCC-Q-5 Legal Authority

Every pole, duct and conduit agreement shall contain a provision that the cable communications company shall submit to the public utility company evidence of the cable communications company's lawful authority to place, maintain and operate its facilities within public streets, highways, and other thoroughfares and shall secure any necessary permits and consents from federal, state, county and municipal authorities and from the owners of private property to construct, maintain and operate facilities at the locations of poles or conduit systems of the public utility company which it uses. The parties to the agreement shall at all times observe and comply with, and the provisions of a pole, duct and conduit agreement shall be subject to, all laws, ordinances and regulations which in any manner affect the rights and obligations of the parties to any such agreement, so long as such laws, ordinances or regulations remain in effect.

PROPOSED

MCCC-Q-6 Indemnification

Every pole, duct and conduit agreement shall contain a provision that the cable communications company shall defend, indemnify, protect and save harmless the public utility from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any workmen's compensation law or under any plan for employees' disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, use or removal of the cable communications company's cable, equipment and facilities or by the proximity of the cables, equipment and facilities of the parties to the agreement, or by any act of the cable communications company on or in the vicinity of the public utility company's poles and conduit system, in the performance of the agreement. The cable communications company shall also indemnify, protect and save harmless the public utility from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of the cable communications company's facilities including taxes, special charges by others, claims and demands for damages or loss infringement of copyright, for libel and slander, for unauthorized use of television broadcast programs, and for unauthorized use of other program material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of the cable communications equipment in combination with the public utility company's poles, conduit system or otherwise. The cable communications company shall carry insurance to protect the parties to the agreement from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of such loss, injury, claim or damage. The amount of any such insurance shall be agreed to by the parties to this agreement. The cable communications company shall also carry such insurance as will protect it from all claims under any workmen's compensation laws in effect that may be applicable to it. All insurance required shall remain in effect for the entire term of the agreement.

PROPOSED

MCCC-Q-7 Additional Terms

Nothing contained in these Rules shall in any way prohibit a public utility company from including in its pole, duct and conduit agreements with cable communications companies additional terms which do not conflict with the provisions of this Chapter.

PROPOSED