**65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 240: VIDEO SERVICE FRANCHISE DISPUTE RESOLUTION**

**SUMMARY:** This Rule sets forth procedures for mediation between a municipality and a video service provider.

**§ 1 APPLICABILITY**

This Chapter sets forth a process for Mediation between a Municipality and a Video Service Provider relating to negotiations of a franchise agreement or contract, the obligations of the Participants under the agreement or contract, or the obligations of the Video Service Provider under 30-A M.R.S. §§ 3008 and 3010, except that the Commission will not address any provision of 30-A M.R.S. § 3010 relating to consumer rights or protections.

**§ 2 Definitions**

**A. “Case Management System” or “CMS.”** Case Management System or CMS means the Commission’s online case management and docketing system available through the Commission’s website at www.maine.gov/mpuc.

**B.** **Commission.** "Commission" means the Maine Public Utilities Commission.

**C.** **Commission Staff.** “Commission Staff” means employees of the Commission.

**D.** **Mediator.** "Mediator" or “Mediators” means the member or members of Commission Staff assigned by the Director of Telephone and Water Utility Industries to facilitate a Mediation.

**E.** **Mediation.** "Mediation" means a voluntary, informal, non-adjudicatory, ex parte, dispute resolution process by which a Mediator assists the Participants in resolving their dispute. Mediation is non-binding, and the Mediator or Commission may not impose a resolution upon the Participants. If the Participants cannot reach a mutually acceptable resolution, the Participants may pursue other forms of dispute resolution that do not involve the Commission.

**F.** **Municipality.** "Municipality" is as defined in 30-A M.R.S. § 2001(8).

**G.** **Participant.** "Participant" means a Municipality including its attorney(s) and other authorized representatives, or a Video Service Provider including its attorney(s) and other authorized representatives.

**H.** **Video Service Provider.** "Video Service Provider" is as defined in 30-A M.R.S. § 3008(1-A)(J).

**§ 3. MEDIATION PROCESS**

 **A. Activities Prior to Requesting Mediation**

The Participants must engage in good faith negotiations to resolve their dispute prior to requesting Mediation by the Commission. A Participant may only request Mediation if the Participants’ good faith negotiations are unsuccessful or the Participants are at an impasse.

Prior to requesting Mediation, the Participant requesting Mediation must contact the other Participant and give at least 2 business days’ notice that they are planning to request Mediation and request dates and times that the other Participant will be available for Mediation.

 **B. Requesting Mediation**

 **1. Filing of Request**

The Participant requesting Mediation by the Commission must make the request by making a docketed filing in the Commission’s CMS.

 **2. Contents of Request**

The request must describe the nature of the dispute, contain all relevant facts underlying the dispute, and contain a description of the steps the Participants have taken in good faith to resolve the dispute prior to requesting Mediation. If applicable, the Participant filing the request must attach all relevant documents (*e.g.*, contract or franchise agreement). The request must also contain the dates and times that the Participants are available for Mediation.

**3. Response to Mediation Request**

Upon receipt of a request for mediation, the Participant that did not make the request may, within 15 days of the filing of the request, file a responsive statement in the appropriate docket in CMS. The responsive statement must contain items listed in Section 3(B)(2) of this Chapter.

 **C. Mediation**

 **1. Date, Time, and Venue**

Once the Commission receives a filed written request for Mediation, the Mediator will establish a mutually agreeable date and time for the Mediation. The Participants may agree to conduct the Mediation in-person at the Commission’s offices or the Participants may agree to conduct the Mediation virtually via Microsoft Teams or other similar virtual meeting platform as arranged by the Commission.

 **2. Further Mediation Sessions and Ex Parte Processes**

With the mutual agreement of the Participants, the Mediator may schedule additional Mediation sessions. The Mediator may also, with notice to, and the mutual agreement of, the Participants, meet and communicate with each Participant on an *ex parte* (*i.e.*, one-on-one) basis.

 **3. Conclusion of Mediation**

**a. Conclusion by Participants**

Both Participants must participate in good faith in at least one Mediation session. After the first Mediation session, if both Participants have participated in good faith either Participant may decline to continue to participate in Mediation. The judgement regarding whether both Participants have participated in good faith is in the sole discretion of the Mediator.

Once the Participants have participated in good faith in one Mediation session, neither Participant is required to participate in subsequent Mediation regarding the same dispute. This concludes the mediation.

**b. Conclusion by Mediator**

The Mediator may conclude Mediation in the following circumstances:

i. If the Participants have resolved the dispute;

ii. If the Participants mutually agree that further mediation would be unproductive and unlikely to result in a mutually agreeable resolution to the dispute; or

iii. If, in the Mediator’s sole judgment, further discussion and Mediation would be unproductive or unlikely to result in a mutually agreeable resolution to the dispute.

**c. Unsuccessful Mediation**

If Mediation does not resolve the Participants’ dispute, the Participants may pursue resolution of the dispute through binding arbitration pursuant to 30-A M.R.S. § 3009-B(2), or by other means.

**D. Confidentiality**

Requests, responses, supporting materials, discussions, and any other information pertaining to Mediation may be entitled to confidential protection pursuant to 35-A M.R.S. § 1311-A and, as such, may not be “public records” pursuant to the Maine Freedom of Access Act, 1 M.R.S. §§ 400-521. Any Participant wishing to designate Mediation information as confidential must file a motion in the appropriate docket in CMS requesting issuance of a protective order pursuant to 35-A M.R.S. §§ 1311-A or 1311-B (as applicable) and Chapter 110 of the Commission’s Rules of Practice and Procedure. Participants must also file public redacted versions of all confidential written materials.

**§ 4. WAIVER**

Upon the written request of any person subject to this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Rule that is not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Commission’s Administrative Director, or the Director of Telephone and Water Utility Industries may grant the waiver.

BASIS STATEMENT: The factual and policy basis for this Chapter is set forth in the Commission’s Order Amending Rule and Statement of Factual and Policy Basis, Docket No. 2024-00316, issued on July 24, 2025. Copies of the Order have been filed with this Chapter at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333-0018.

STATUTORY AUTHORITY: 30-A M.R.S. § 3009-B(1); 35‑A M.R.S. § 111

EFFECTIVE DATE: This Chapter was approved as to form and legality by the Attorney General on August 5, 2025. It was filed with the Secretary of State on August 5, 2025 (filing 2025-154) and became effective on August 10, 2025.

APAO ACCESSIBILITY CHECK: August 18, 2025