



February 10, 2022

**NEK BROADBAND GOVERNING BOARD RESOLUTION
COMMITMENT TO NET NEUTRALITY**

The Federal Communications Commission (FCC) adopted net neutrality rules on February 26, 2015, that state: (1) Broadband providers shall not block access to lawful content, applications, services, or nonharmful devices; (2) Broadband providers shall not impair or degrade lawful Internet traffic on the basis of content, application, or service, or use of a nonharmful device; and (3) Broadband providers shall not favor some lawful Internet traffic over other lawful Internet traffic in exchange for consideration of any kind.

NEK Broadband commits to supporting net neutrality in its current and proposed broadband networks to align with the FCC's rules; the State of Vermont net neutrality standards under 3 V.S.A. Section 348 as appended below; and to promote a competitive broadband market. Specifically, NEK Broadband will not take part in or allow the following actions on its networks regarding net neutrality:

1. Block lawful content, applications, services, or non-harmful devices, subject to reasonable network management
2. Impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a non-harmful device, subject to reasonable network management
3. Engage in paid prioritization – meaning the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic – including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (a) in exchange for consideration (monetary or otherwise) from a third party, or (b) to benefit an affiliated entity.

This Net Neutrality commitment was voted on by a quorum of the NEK Broadband Governing Board at a duly-warned meeting on February 10th, 2022.

Attested to by Jami Jones, Clerk for NEK Broadband.

A handwritten signature in black ink, appearing to read "Jami Jones", is written below the attestation text.

Title 3 : Executive

Chapter 014 : Standards For Contracts Including Privatization Contracts

(Cite as: 3 V.S.A. § 348)

- **§ 348. Internet service providers; net neutrality compliance**
 - (a) The Secretary of Administration shall develop a process by which an Internet service provider may certify that it is in compliance with the consumer protection and net neutrality standards established in subsection (b) of this section.
 - (b) A certificate of net neutrality compliance shall be granted to an Internet service provider that demonstrates and the Secretary finds that the Internet service provider, insofar as the provider is engaged in the provision of broadband Internet access service:
 - (1) Does not engage in any of the following practices in Vermont:
 - (A) Blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management.
 - (B) Impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service or the use of a nonharmful device, subject to reasonable network management.
 - (C) Engaging in paid prioritization, unless this prohibition is waived pursuant to subsection (c) of this section.
 - (D) Unreasonably interfering with or unreasonably disadvantaging either a customer's ability to select, access, and use broadband Internet access service or lawful Internet content, applications, services, or devices of the customer's choice or an edge provider's ability to make lawful content, applications, services, or devices available to a customer. Reasonable network management shall not be considered a violation of this prohibition.
 - (E) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.
 - (2) Publicly discloses to consumers accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

(c) The Secretary may waive the ban on paid prioritization under subdivision (b)(1)(C) of this section only if the Internet service provider demonstrates and the Secretary finds that the practice would provide some significant public interest benefit and would not harm the open nature of the Internet in Vermont.

(d) As used in this section:

(1) "Broadband Internet access service" means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. The term also encompasses any service in Vermont that the Secretary finds to be providing a functional equivalent of the service described in this subdivision, or that is used to evade the protections established in this chapter.

(2) "Edge provider" means any person in Vermont that provides any content, application, or service over the Internet and any person in Vermont that provides a device used for accessing any content, application, or service over the Internet.

(3) "Internet service provider" or "provider" means a business that provides broadband Internet access service to any person in Vermont.

(4) "Paid prioritization" means the management of an Internet service provider's network to favor directly or indirectly some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration, monetary or otherwise, from a third party or to benefit an affiliated entity, or both.

(5) "Reasonable network management" means a practice that has a primarily technical network management justification but does not include other business practices and that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

(e) The terms and definitions of this section shall be interpreted broadly and any exceptions interpreted narrowly, using relevant Federal Communications Commission orders, advisory opinions, rulings, and regulations as persuasive guidance. (Added 2017, No. 169 (Adj. Sess.), § 2.)