

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1500 Session of
1974

INTRODUCED BY MURPHY AND AMMERMAN, FEBRUARY 18, 1974

REFERRED TO CORPORATIONS, FEBRUARY 18, 1974

AN ACT

1 Providing for the comprehensive regulation of persons owning,
2 controlling, operating and managing community antenna
3 television systems; defining the powers and duties of the
4 Pennsylvania Public Utility Commission and prescribing
5 penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short Title.--This act shall be known, and may be
9 cited, as the "State Community Antenna Television System Act."

10 Section 2. Definitions.--The following words, when used in
11 this act, shall have the following meanings, unless otherwise
12 clearly apparent from the context:

13 (1) The word "commission" shall mean the Pennsylvania Public
14 Utility Commission;

15 (2) The words "community antenna television company" or
16 "CATV company" shall mean any person or organization which owns,
17 controls, operates or manages a community antenna television
18 system; except that such definition shall not include (i) a
19 telephone, telegraph or electric utility regulated by the
20 commission in a case where it merely leases or rents to a CATV

1 company wires or cables for the redistribution of television
2 signals to or toward subscribers of such CATV company, or (ii) a
3 telephone or telegraph utility regulated by the commission in a
4 case where it merely provides communication channel service
5 under published tariffs filed with the commission to a CATV
6 company for the redistribution of television signals to or
7 toward subscribers of such CATV company;

8 (3) The words "community antenna television system" or "CATV
9 system" shall mean any facility within this State which is
10 constructed in whole or in part in, on, under or over any
11 highway or other public place and which is operated to perform
12 for hire the service of receiving and amplifying the signals
13 broadcast by one or more television stations and redistributing
14 such signals by wire, cable or other means to members of the
15 public who subscribe to such service; except that such
16 definition shall not include (i) any system which serves fewer
17 than fifty subscribers, or (ii) any system which serves only the
18 residents of one or more apartment dwellings under common
19 ownership, control or management, and commercial establishments
20 located on the premises of such dwellings;

21 (4) The word "facility" shall include all real property,
22 antennae, poles, wires, cables, conduits, amplifiers,
23 instruments, appliances, fixtures and other personal property
24 used by a CATV company in providing service to its subscribers;
25 and

26 (5) The word "highway" shall include every street, road,
27 alley, thoroughfare, way or place of any kind used by the public
28 or open to the use of the public as a matter of right for the
29 purpose of vehicular traffic.

30 Section 3. Declaration of Public Policy.--Upon

1 investigation, the General Assembly of the Commonwealth of
2 Pennsylvania has determined that the rates, services and
3 operations of community antenna television companies are
4 affected with a public interest and it is hereby declared to be
5 the policy of this Commonwealth to provide fair regulation of
6 CATV companies in the interest of the public, to promote
7 adequate, economical and efficient CATV system service to its
8 citizens and residents, to provide just and reasonable rates and
9 charges for CATV system services without unjust discrimination,
10 undue preferences or advantages, or unfair or destructive
11 competitive practices, to encourage and promote harmony between
12 CATV companies and their subscribers, to cooperate with other
13 states and with the Federal government in promoting and
14 coordinating efforts to effectively regulate CATV companies in
15 the public interest, and to these ends, to vest authority in the
16 commission to regulate CATV companies generally and their rates,
17 services and operations, in the manner and in accordance with
18 the policies set forth in this act.

19 Section 4. Certificate of Public Convenience and Necessity;
20 Proviso; Application; Notice; Hearings; Issuance.--(a) No person
21 or organization shall hereafter begin the construction,
22 extension or operation of a CATV system or acquire ownership or
23 control thereof without first obtaining from the commission a
24 certificate that the present or future public convenience and
25 necessity require or will require such construction, extension,
26 operation or acquisition: Provided, however, That the commission
27 may by rule and regulation exempt a CATV company from the above
28 certificate requirement in a case where (i) its temporary acts
29 or operations do not require the issuance of a certificate in
30 the public interest, or (ii) its extensions of or additions to

1 its CATV system are within its certificated territory or an
2 adjacent uncertificated territory and such extensions or
3 additions will promote the prompt availability of such service
4 to prospective subscribers and at the same time prevent
5 unnecessary and uneconomic duplication of CATV facilities as
6 between two or more persons or organizations.

7 (b) The application for such a certificate of public
8 convenience and necessity shall be in writing, shall include a
9 description of the territory in which the CATV system is
10 proposed to be constructed, extended, operated or acquired,
11 shall contain such other information as the commission may
12 prescribe from time to time by rules and regulations or orders,
13 and shall be accompanied by a fee of fifty dollars (\$50).

14 (c) Upon the filing of such an application and the payment
15 of the fee prescribed, the commission shall fix the time and
16 place for a hearing thereon and shall cause notice thereof to be
17 given to the chief executive officer of the municipalities and
18 townships and to any telephone or telegraph utility or CATV
19 company in the affected territory and to such other parties in
20 interest as the commission may deem necessary. The commission
21 shall also cause notice of the application to be published at
22 least fourteen days prior to the hearing in some newspaper of
23 general circulation in the affected territory.

24 (d) After such hearing, the commission may issue to the
25 applicant a certificate of public convenience and necessity in a
26 form to be prescribed by it or may refuse to issue the same or
27 may issue it for only partial exercise of the privilege sought,
28 or may attach to the exercise of the right granted by the
29 certificate such terms, limitations and conditions which it
30 deems the public interest may require. The certificate shall

1 include a description of the territory in which the CATV system
2 is to be constructed, extended, operated or acquired.

3 (e) In determining whether a certificate shall be issued,
4 the commission shall take into consideration, among other
5 things, the public need for the proposed service or acquisition,
6 the suitability of the applicant, the financial responsibility
7 of the applicant, and the ability of the applicant to perform
8 efficiently the service for which authority is requested.

9 Section 5. Certification of CATV Companies Operating on
10 Effective Date of Act.--The commission shall issue a certificate
11 of public convenience and necessity to any CATV company lawfully
12 engaged in the construction, extension or operation of its CATV
13 system on the effective date of this act, for the construction,
14 extension or operation then being conducted, without requiring
15 proof that public convenience and necessity will be served by
16 such construction, extension or operation and without further
17 proceedings, if application for such certificate is filed with
18 the commission within ninety days after such date. The
19 application shall contain the information and shall be
20 accompanied by the fee prescribed in section 4 of this act. The
21 construction, extension or operation of such a CATV system may
22 be lawfully continued pending the filing of such an application
23 and the determination of same unless the commission orders
24 otherwise. An application for such a certificate which is
25 untimely shall be determined in accordance with the procedure
26 prescribed in section 4 of this act and such certificate shall
27 be issued or refused accordingly.

28 Section 6. Transfer of Certificate.--No such certificate of
29 public convenience and necessity may be transferred, assigned or
30 encumbered unless such transaction is first approved by the

1 commission.

2 Section 7. Revocation or Change of Certificate.--The
3 commission may, after affording the holder an opportunity to be
4 heard, revoke, suspend or alter any such certificate of public
5 convenience and necessity for the wilful violation of any
6 provision of this act or the rules and regulations or orders of
7 the commission made under the authority of this act, or for
8 other reasonable cause.

9 Section 8. General Jurisdiction of Commission.--(a) The
10 commission shall have the power and jurisdiction to supervise
11 and regulate every CATV company operating within this State and
12 its property, easements, property rights, equipment, facilities,
13 contracts, certificates and franchises so far as may be
14 necessary to carry out the purposes of this act, and to do all
15 things whether herein specifically designated or in addition
16 thereto, which are necessary or convenient in the exercise of
17 such power and jurisdiction. Without limiting the generality of
18 the foregoing, the commission is authorized to adopt and enforce
19 such reasonable rules and regulations and orders as it may deem
20 necessary with respect to rates, charges and classifications,
21 issuance of certificates, territory of operation, abandonment or
22 suspension of service, adequacy of service, prevention or
23 elimination of unjust discrimination between subscribers,
24 financial responsibility, insurance covering personal injury and
25 property damage, uniform system of accounts, records, reports,
26 safety of operation and equipment, and to otherwise accomplish
27 the purposes of this act and to implement its provisions.

28 (b) The commission may, after affording an opportunity for
29 hearing, order a CATV company (i) to construct and operate any
30 reasonable extension of its existing CATV system within the

1 certificated territory, or (ii) to make any reasonable repair or
2 improvement of or addition to such system.

3 (c) The commission shall from time to time visit the places
4 of business and other premises and examine the records and
5 facilities of all CATV companies to ascertain if all rules and
6 regulations and orders of the commission have been complied
7 with, and shall have the power to examine all officers, agents
8 and employes of such CATV companies, and all other persons,
9 under oath, and to compel the production of papers and the
10 attendance of witnesses to obtain the information necessary for
11 administering the provisions of this act.

12 (d) The commission shall have the power and authority to
13 institute all proceedings and investigations, hear all
14 complaints, issue all process and orders, and render all
15 decisions necessary to enforce the provisions of this act or of
16 the rules, regulations and orders adopted thereunder, or to
17 otherwise accomplish the purposes of this act.

18 (e) The commission or other aggrieved party shall have the
19 right to institute, or to intervene as a party in, any action in
20 any court of competent jurisdiction seeking mandamus, injunctive
21 or other relief to compel compliance with any provision of this
22 act or of any rule, regulation or order adopted thereunder, or
23 to restrain or otherwise prevent or prohibit any illegal or
24 unauthorized conduct in connection therewith.

25 Section 9. Rates.--The commission shall prescribe just and
26 reasonable rates, charges and classifications for the services
27 rendered by a CATV company to subscribers, and the tariffs
28 therefor shall be in such form and shall be filed and published
29 in such manner and on such notice as the commission may
30 prescribe, and shall be subject to change on such notice and in

1 such manner as the commission may prescribe. The commission, in
2 the exercise of its power to prescribe such just and reasonable
3 rates, charges and classifications, may use such standards,
4 formulae, criteria or methods as the commission may determine in
5 order to enable the CATV company, under honest, economic and
6 efficient management, to render the service and derive a
7 reasonable profit therefrom.

8 Section 10. Duties of CATV Companies.--(a) Each CATV company
9 (and other person and organization providing any service,
10 equipment or facilities thereto) shall provide safe and adequate
11 service, equipment and facilities for the operation of its CATV
12 system.

13 (b) No CATV company shall demand or receive a greater or
14 less or different compensation for providing CATV service than
15 the rates and charges specified in the tariff in effect at the
16 time.

17 (c) All rates, charges and classifications for the service
18 rendered by a CATV company shall be just and reasonable, and any
19 such rate, charge or classification that is unjust or
20 unreasonable is hereby declared to be unlawful. No CATV company
21 shall make any unjust or unreasonable discrimination in rates,
22 charges, classifications, practices, regulations, facilities or
23 services for or in connection with like service, directly or
24 indirectly, by any means or device, or make or give any undue or
25 unreasonable preference or advantage to any particular person,
26 class of persons or locality, or subject any particular person,
27 class of persons, or locality to any undue or unreasonable
28 prejudice or disadvantage.

29 (d) Every CATV company and other person and organization
30 shall obey and comply with every rule and regulation and order

1 adopted by the commission under the provisions of this act.

2 Section 11. Abandonment.--No CATV company shall abandon all
3 or any part of its system or other property necessary or useful
4 in the performance of its duties to the public, or discontinue
5 or temporarily suspend all or any part of the service which it
6 is rendering to the public by the use of same, without first
7 obtaining the approval of the commission. In granting such
8 approval, the commission may impose such terms, conditions or
9 requirements as in its judgment are necessary to protect the
10 public interest.

11 Section 12. Eminent Domain; Highway Use; Pole Attachments;
12 Commission Approval.--(a) Upon obtaining the prior approval of
13 the commission, a CATV company shall be vested with the power to
14 acquire through eminent domain proceedings the lands, property
15 and rights of any character whatsoever necessary to construct,
16 extend, improve, alter, maintain or operate its CATV system.
17 Under such circumstances, the CATV company shall be entitled to
18 pursue the same eminent domain procedure which is available for
19 use by the telephone, telegraph or electric public utilities
20 which are subject to the jurisdiction of the commission.

21 (b) Upon obtaining the prior approval of the commission, a
22 CATV company may construct and maintain the wires and cables
23 necessary to its business upon, under or over any highway and
24 may erect and maintain the necessary fixtures, including poles
25 and posts, for sustaining such wires and cables: Provided,
26 however, That such wires, cables and fixtures shall not be so
27 placed or constructed as to unreasonably inconvenience present
28 or future public travel on the highway or use thereof by public
29 utilities or other persons or organizations having rights
30 therein.

1 (c) Whenever the commission shall find that public
2 convenience and necessity require the use by a public utility of
3 the wires, cables, conduits, poles or other equipment, or any
4 part thereof, on, over or under any highway belonging to another
5 public utility and that such use will not result in irreparable
6 injury to the owner or other users of such equipment or in any
7 substantial detriment to the service, and that such public
8 utilities have failed to agree upon such use or the terms and
9 conditions or compensation for the same, the commission may
10 order that such use be permitted, and prescribe a reasonable
11 compensation and reasonable terms and conditions for the joint
12 use. If such use is ordered, the public utility to whom the use
13 is permitted shall be liable to the owner or other users of such
14 equipment for such damage as may result therefrom to the
15 property of such owner or other users thereof. The words "public
16 utility" as used in this subsection shall include a CATV company
17 and any public utility subject to the jurisdiction of the
18 commission.

19 Section 13. Lease or Rental of Certain CATV Facilities or
20 Provision of Channel Service.--Upon the prior approval of the
21 commission, any person or organization may contract to lease or
22 rent facilities to a CATV company or to provide it with
23 communication channel service for the redistribution of
24 television signals to or toward the subscribers of such CATV
25 company. Any such contract which is in effect on the effective
26 date of this act and which will be in effect for a period of
27 more than ninety days thereafter shall be submitted to the
28 commission for approval within ninety days after the effective
29 date of this act, and if such contract is disapproved it shall
30 thereupon become void.

1 Section 14. Approval of Securities.--(a) No CATV company
2 shall issue any stock, bond, note or other evidence of debt
3 payable more than twelve months after issuance without first
4 obtaining the approval of the commission. In determining whether
5 a proposed issuance of securities shall be approved, the
6 commission shall take into consideration whether the issuance is
7 reasonably required for the acquisition of property or the
8 construction, extension or improvement of the applicant's CATV
9 system, or for the improvement or maintenance of its service, or
10 for the discharge or refunding of its obligations, or for other
11 purposes consistent with the public interest. Commission
12 approval, when granted, shall be evidenced by a written order
13 authorizing such issue, the principal amount thereof and the
14 purpose and use for which the issue is authorized.

15 (b) If an agency is empowered by another state or
16 jurisdiction to regulate and control the amount and character of
17 such securities to be issued by a CATV company operating a CATV
18 system both in this State and in such other state or
19 jurisdiction, then the commission shall have the power to agree
20 with such agency of such other state or jurisdiction on the
21 issue of such securities by such CATV company and shall have the
22 power to approve such issue jointly with such agency.

23 Section 15. Approval of Mergers.--No CATV company operating
24 or managing a CATV system shall combine, merge or consolidate
25 with, or acquire control of, another organization without first
26 obtaining the approval of the commission, which shall be granted
27 only after an investigation and finding that such proposed
28 combination, merger, consolidation or acquisition is in the
29 public interest.

30 Section 16. Judicial Review.--Within thirty days after the

1 service of an order or decision reflecting any action of the
2 commission which is ripe for judicial review, any party
3 aggrieved thereby may appeal to a court of competent
4 jurisdiction for the purpose of having the reasonableness or
5 lawfulness of such action inquired into and determined. Such
6 appeal shall be tried according to the rules governing other
7 civil cases to the extent practicable.

8 Section 17. Penalty.--Any person or the officer, agent or
9 employe of any organization who wilfully violates any provision
10 of this act or of any rule, regulation or order adopted
11 thereunder, or who wilfully procures, aids or abets any
12 violation of such a provision shall be guilty of a misdemeanor
13 and upon conviction thereof shall be sentenced to pay a fine of
14 not more than five hundred dollars (\$500), or to undergo
15 imprisonment for not more than one year, or both.

16 Section 18. Repeals.--All acts and parts of acts in so far
17 as inconsistent herewith are repealed.