
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 106

Session of
1977

INTRODUCED BY MESSRS. PRATT AND TAYLOR, FEBRUARY 8, 1977

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, FEBRUARY 8, 1977

AN ACT

1 Providing for the comprehensive regulation of persons owning,
2 controlling, operating and managing cable television systems
3 or cable television companies; and imposing powers and duties
4 on municipalities.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the "Cable
9 Television Regulation Act."

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have, unless the context clearly indicates otherwise, the
13 meanings given to them in this section:

14 "Cable television company." Any person owning, controlling,
15 operating, managing or leasing a cable television system within
16 the Commonwealth.

17 "Cable television system." Any system which operates for
18 hire the service of receiving and amplifying programs broadcast
19 by one or more television or radio stations and any other

1 programs originated by a cable television company or by another
2 party, and distributing such programs by wire, cable microwave
3 or other means, whether such means are owned or leased, to
4 persons who subscribe to such service. Such definition does not
5 include:

6 (1) any system which serves fewer than 50 subscribers;
7 or

8 (2) any master antenna television system.

9 "Franchise." Any authorization granted by a municipality in
10 terms of a franchise, privilege, permit, license or other
11 municipal authorization to construct, operate, maintain or
12 manage a cable television system in any municipality.

13 "Master antenna television system." Any system which serves
14 only the residents of one or more apartment dwellings under
15 common ownership, control or management and any commercial
16 establishment located on the premises of such apartment house
17 and which transmits only signals broadcast over the air by
18 stations which may be normally viewed or heard locally without
19 objectionable interference, and which does not provide any
20 additional service over its facilities.

21 "Municipality." Any borough, unincorporated town, townships
22 and cities of the third class located within the Commonwealth of
23 Pennsylvania.

24 "Program." Any broadcast-type program, signal, message,
25 graphics, data or communication content service.

26 Section 3. Application of act.

27 The provisions of this act shall apply to every cable
28 television system and every cable television company as defined
29 in section 2, operating within the Commonwealth of Pennsylvania,
30 including a cable television company which constructs, operates

1 and maintains a cable television system in whole or in part
2 through the facilities of a person franchised to offer common or
3 contract carrier services. Persons possessing franchises for any
4 of the purposes contemplated by this act shall be deemed to be
5 subject to the provisions of this act although no property may
6 have been acquired, business transacted or franchises exercised.

7 Section 4. Powers of municipalities relating to franchises.

8 Each municipality shall to the extent permitted by, and not
9 contrary to applicable Federal law, rules and regulations:

10 (1) Prescribe standards for procedures and practices
11 which the municipality shall follow in granting franchises,
12 which standards shall provide for:

13 (i) the issuance of a public invitation to compete
14 for the franchise;

15 (ii) the filing of all franchise applications and
16 related documents as public records, with reasonable
17 notice to the public that such records are open to
18 inspection and examination during reasonable business
19 hours;

20 (iii) the holding of a public hearing, upon
21 reasonable notice to the public, at which the applicants
22 and their proposals shall be examined and members of the
23 public and interested parties are afforded a reasonable
24 opportunity to express their views thereon;

25 (iv) the rendition of a written report by the
26 municipality, made available to the public, setting forth
27 the reasons for its decision in awarding the franchise;
28 and

29 (v) such other procedural standards as the
30 municipality may deem necessary or appropriate to assure

1 maximum public participation and competition and to
2 protect the public interest.

3 (2) Prescribe minimum standards for inclusion in
4 franchises, including maximum initial and renewal terms;
5 minimum channel capacity; provisions regarding access to, and
6 facilities to make use of, channels for education and public
7 service programs; a requirement that no such franchise may be
8 exclusive; standards necessary or appropriate to protect the
9 interests of viewers of free broadcast television and the
10 public generally, which prohibit or limit cable television
11 companies from prohibiting or entering into agreements
12 prohibiting the sale or other transfer of rights for the
13 simultaneous or subsequent transmission over free broadcast
14 television of any program originated or transmitted over
15 cable television; and such other standards for inclusion in
16 franchises as the commission shall deem necessary or
17 appropriate to protect the public interest.

18 (3) Prescribe standards by which the franchising
19 authority shall determine whether an applicant possesses:

20 (i) the technical ability;

21 (ii) the financial ability;

22 (iii) the good character; and

23 (iv) other qualifications necessary to operate a

24 cable television system in the public interest.

25 (4) Prescribe standards for the construction and
26 operation of cable television systems, which standards shall
27 be designed to promote:

28 (i) safe, adequate and reliable service to

29 subscribers;

30 (ii) the construction and operation of systems

consistent with the most advanced state of the art;

(iii) a construction schedule providing for maximum penetration as rapidly as possible within the limitations of economic feasibility;

(iv) the construction of systems with the maximum practicable channel capacity, facilities for local program origination, facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within regions as established in the commission's Statewide plan and facilities capable of transmitting signals from subscribers to the cable television company or to other points; and

(v) the prompt handling of inquiries, complaints and requests for repairs.

Section 5. Franchise requirement.

(a) No cable television system, whether or not it is deemed to occupy or use a public thoroughfare, shall commence operations or expand the area it serves after April 1, 1978 unless it has been franchised by each municipality in which it proposes to provide or extend service.

(b) A municipality shall have the power to require a franchise of any cable television system providing service within the municipality, notwithstanding that said cable television system does not occupy, use or in any way traverse a public street. The provision of any municipal charter or other law authorizing a municipality to require and grant franchises is hereby enlarged and expanded, to the extent necessary, to authorize such franchises.

1 Section 6. Transfer, renewal or amendment of franchises and
2 transfer of control over franchises and system
3 properties.

4 (a) No transfer, renewal or amendment of any franchise, or
5 any transfer of control of a franchise or of facilities
6 constituting a significant part of any cable television system
7 shall be effective without the prior approval of the
8 municipality. For the purposes of this section, a merger or
9 consolidation of two or more cable television companies shall be
10 deemed to be a transfer of the franchises or certificates
11 granted to such companies.

12 (b) A person wishing to transfer, renew or amend a
13 franchise, or to transfer control of a franchise or of a
14 substantial part of the facilities thereof shall file with the
15 municipality an application for approval of such change, in such
16 form and containing such information and supporting documents as
17 the municipality may require.

18 (c) The municipality may approve the application contingent
19 upon compliance with standards, terms or conditions set by the
20 municipality which it determines would not have been met by the
21 proposed transfer, renewal or amendment.

22 (d) In the event the municipality refuses to approve the
23 application, it shall set forth in writing the reasons for its
24 decision.

25 (e) Approval of a transfer, renewal or amendment under this
26 section shall not preclude invalidation of a franchise illegally
27 obtained.

28 Section 7. Rates.

29 (a) Except as otherwise provided in this section, the rates
30 charged by a cable television company shall be those specified

1 in the franchise which may establish, or provide for the
2 establishment of reasonable classifications of service and
3 categories of subscribers, or charge different rates for
4 differing services or for subscribers in different categories.

5 (b) Such rates may not be changed except by application to
6 and approval by the municipality which grants the franchise.

7 (c) No rate provision in any franchise shall bind a
8 municipality for more than ten years and no rate provision in
9 any renewed franchise shall bind a municipality for more than
10 five years. In the event that an existing franchise purports to
11 bind a municipality with respect to rates for a period to expire
12 after January 1, 1988, such provisions shall have no further
13 force or effect after January 1, 1988. Any rate or rates found
14 by the municipality, after public notice and opportunity for
15 hearing, to be discriminatory or preferential as between
16 subscribers similarly situated shall thereafter be void. Reduced
17 rates or free service to government, educational or charitable
18 institutions shall not be considered unduly discriminatory or
19 preferential.

20 (d) In the event the municipality finds that any rate is
21 discriminatory or preferential pursuant to subsection (c), it
22 may issue an order requiring the cable television company to
23 provide for new rates which are nondiscriminatory and
24 nonpreferential or reduced to reflect the inadequate service.

25 (e) The municipality may, after public notice and
26 opportunity for hearing, prescribe rates for cable television
27 service when:

28 (1) existing rates have been found discriminatory or
29 preferential and, after reasonable opportunity, the
30 municipality and the cable television company have not

provided for new rates which are nondiscriminatory or nonpreferential, as provided in subsection (d); or

(2) upon complaint by any interested party and after reasonable opportunity for negotiation between the municipality and the franchisee, the municipality finds that rates are not established by or pursuant to the terms of the franchise, in which event, the municipality shall fix rates at a level comparable to rates fixed in comparable franchises requiring comparable service for comparable service areas.

Section 8. Abandonment of service.

(a) No cable television company, notwithstanding any provision in a franchise, may abandon any service or portion thereof without having given six months' prior written notice to the municipalities it serves.

(b) When abandonment of any service is prohibited by a franchise, no cable television company may abandon such service without written consent of the municipality. In granting such consent, the municipality may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

Section 9. Municipal fees; taxes or charges.

Nothing in this act shall be construed to limit the power of any municipality to impose upon any cable television company, a fee, tax or charge, provided that any such fee, tax or charge does not exceed the maximum amount permitted by applicable Federal law, rules or regulations.

Section 10. Appeals.

The decision, findings or other rulings of a municipality may be appealed by the cable television company or franchisee to the court of common pleas in the county wherein the municipality is

1 located. Such appeal shall be filed within ten days from the
2 handing down of any decision, finding or other ruling.

3 Section 11. Effective date.

4 This act shall take effect in 60 days.