

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1490 Session of 2007

INTRODUCED BY EACHUS, DALEY, HARKINS, M. O'BRIEN, PASHINSKI, BELFANTI, GEORGE, JOSEPHS, LEVDANSKY, HORNAMAN, KULA, MCILVAINE SMITH, CURRY, MUNDY, K. SMITH, STABACK, SURRA, BRENNAN, HESS, MAHONEY, GALLOWAY, GERGELY, SWANGER, LEACH, WAGNER, CAPPELLI, J. WHITE AND GIBBONS, JULY 9, 2007

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 23, 2008

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ <—
2 ~~Consolidated Statutes, further providing for duties of the~~
3 ~~Pennsylvania Public Utility Commission; and providing for~~
4 ~~Statewide cable franchises and for municipal regulation of~~
5 ~~franchise holders of Statewide franchises. RELATING TO~~ <—
6 ~~BROADBAND DEPLOYMENT, MAPPING AND AVAILABILITY.~~

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

9 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~ <—
10 ~~Statutes is amended by adding a chapter to read:~~

CHAPTER 30A

STATE ISSUED CABLE AND VIDEO FRANCHISES

13 Sec.

14 30A01. Short title of chapter.

15 30A02. Declaration of policy.

16 30A03. Definitions.

17 30A04. State authorization to provide cable and/or video
18 service.

1 ~~30A05. Commission responsibilities.~~
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9 ~~30A13. Public, educational and governmental access channels.~~
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12 ~~30A15. Deployment requirements for Statewide cable license.~~
13 ~~30A16. Discrimination in provision of service prohibited.~~
14 ~~30A17. Requirement of adequate service and consumer protection.~~
15 ~~30A18. Enforcement.~~
16 ~~30A19. Statewide high speed broadband assessment and~~
17 ~~development.~~
18 ~~§ 30A01. Short title of chapter.~~
19 ~~This chapter shall be known and may be cited as the Consumer~~
20 ~~Choice Cable Franchising and High speed Broadband Promotion Act.~~
21 ~~§ 30A02. Declaration of policy.~~
22 ~~The General Assembly finds and declares as follows:~~
23 ~~That it is and has been the longstanding policy of this~~
24 ~~Commonwealth that every resident and business in this~~
25 ~~Commonwealth has a right to have equal physical and social~~
26 ~~access to adequate telecommunications services at just and~~
27 ~~reasonable rates, because universal access to the benefits of~~
28 ~~telephony is fundamental to effective communication, quality of~~
29 ~~life, economic development, public safety and security and~~
30 ~~democratic participation. Telecommunications, however, is~~

1 ~~undergoing dramatic changes with new technologies driving the~~
2 ~~ways people communicate with one another. No matter the source~~
3 ~~or vehicle by which people communicate with each other, the~~
4 ~~people of this Commonwealth have the right to adequate service~~
5 ~~at just and reasonable rates. Therefore, all telecommunications~~
6 ~~services must meet the highest standards of quality, reliability~~
7 ~~and safety, including protecting and expanding the system of~~
8 ~~emergency 911 service, which requires sufficient investment in~~
9 ~~telecommunications infrastructure and, as many years of~~
10 ~~experience have shown, adequate staffing provided by trained~~
11 ~~career employees operating under the applicable safety codes and~~
12 ~~regulations. New cable television services regulation is~~
13 ~~necessary to:~~

14 ~~(1) Promote adequate, affordable and efficient cable~~
15 ~~services to the citizens and residents of this Commonwealth.~~

16 ~~(2) Promote and encourage the optimum development of the~~
17 ~~educational, government and community based service~~
18 ~~potentials of the cable television medium.~~

19 ~~(3) Provide just and reasonable rates for cable~~
20 ~~television service without geographic discrimination.~~

21 ~~(4) Protect the municipalities of this Commonwealth as~~
22 ~~to the issuance of consents and agreements for the operations~~
23 ~~of cable television companies in municipalities and~~
24 ~~jurisdictions of municipalities.~~

25 ~~(5) Protect the rights of consumers to access lawful~~
26 ~~Internet content of their choice, subject to law enforcement,~~
27 ~~and connect their choice of legal devices that do not harm~~
28 ~~the network.~~

29 ~~(6) Cooperate with the Federal Government in promoting~~
30 ~~and coordinating efforts to regulate cable television~~

1 ~~effectively and in the public interest.~~

2 ~~(7) Competition in providing cable services is emerging~~
3 ~~with the convergence of pre-existing and new technologies for~~
4 ~~providing voice, video and data services, which results in~~
5 ~~increased investment in this Commonwealth, lower prices and~~
6 ~~improved service offerings for consumers.~~

7 ~~(8) Increased investment in and the potential for~~
8 ~~competition in the cable service market through the provision~~
9 ~~of new communications services and deployment of advanced~~
10 ~~communication infrastructure further enhances economic~~
11 ~~opportunities and the overall health, safety and welfare of~~
12 ~~the residents of this Commonwealth.~~

13 ~~(9) State issued franchises for providing cable service~~
14 ~~will promote and facilitate the deployment of advanced~~
15 ~~technologies and new services ubiquitously to all communities~~
16 ~~and preserve Pennsylvania's ability to compete in the~~
17 ~~national and global market place for business and industry~~
18 ~~and the creation and preservation of jobs.~~

19 ~~(10) Modifying existing cable service regulation through~~
20 ~~the enactment of new standards and procedures that provide~~
21 ~~consumers with access to a competitive, facilities based~~
22 ~~cable market that also preserves the municipal authority to~~
23 ~~maintain and manage public rights of way, collect a franchise~~
24 ~~fee, administer public educational and governmental access~~
25 ~~channels and ensure that competitive cable services are~~
26 ~~delivered in a nondiscriminatory manner is warranted in this~~
27 ~~Commonwealth.~~

28 ~~(11) Nothing in this act shall be seen to limit or~~
29 ~~reduce the protection afforded to cable television customers,~~
30 ~~broadband Internet services customers, telephone customers~~

~~and customers of advanced communications services generally,
and it is in the public interest to ensure that customers
continue to be provided a high level of customer protection
and customer service in a more competitive market. Therefore,
the General Assembly declares that the Commonwealth needs to
fundamentally reform broadband Internet access and cable
television to provide 21st Century technology to all
Pennsylvanians that is safe, reliable and affordable.~~

~~§ 30A03. Definitions.~~

~~The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:~~

~~"Cable operator." Any person or group of persons who:~~

~~(1) provides cable service over a cable system and
directly or through one or more affiliates owns a significant
interest in such cable system; or~~

~~(2) otherwise controls or is responsible for, through
any arrangement, the management and operation of such a cable
system, as set forth in section 522(5) of the Cable
Communications Policy Act of 1984 (Public Law 98 549, 47
U.S.C. § 522(5)).~~

~~"Cable service." The one way transmission to subscribers of
video programming or other programming service, and subscriber
interaction, if any, which is required for the selection or use
of such video programming or other programming service and
subscriber interaction, if any, which is required for the
selection or use of such video programming or other programming
service, regardless of the technology utilized by a cable
television company to enable such selection or use.~~

~~"Cable system." Any facility consisting of a set of closed~~

1 ~~transmission paths and associated signal generation, reception~~
2 ~~and control equipment that is designed to provide cable service~~
3 ~~which includes video programming without regard to the~~
4 ~~technology used to deliver such video programming, including~~
5 ~~Internet protocol technology or any successor technology and~~
6 ~~which is provided to multiple subscribers within a community, as~~
7 ~~set forth in section 522(7) of the Cable Communications Policy~~
8 ~~Act of 1984 (Public Law 98 549, 47 U.S.C. § 522(7)), but the~~
9 ~~term does not include:~~

10 ~~(1) A facility that serves only to retransmit the~~
11 ~~television signals of one or more television broadcast~~
12 ~~stations.~~

13 ~~(2) A facility that serves subscribers without using any~~
14 ~~public rights of way.~~

15 ~~(3) A facility of a common carrier which is subject, in~~
16 ~~whole or in part, to the provisions of Title II of the~~
17 ~~Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 201 et~~
18 ~~seq.), except that such facility shall be considered a cable~~
19 ~~system other than for purposes of section 541(c) of the Cable~~
20 ~~Communications Policy Act of 1984 (Public Law 98 549, 47~~
21 ~~U.S.C. § 541(c)) to the extent such facility is used in the~~
22 ~~transmission of video programming directly to subscribers,~~
23 ~~unless the extent of such use is solely to provide~~
24 ~~interactive on demand services.~~

25 ~~(4) An open video system that complies with section 573~~
26 ~~of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. §~~
27 ~~573).~~

28 ~~(5) Any facilities of any electric utility used solely~~
29 ~~for operating its electric utility system.~~

30 ~~"CATV company." Any person or group of persons who:~~

~~(1) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or~~

~~(2) otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.~~

~~"CATV system." Any facility which receives and amplifies the signals broadcast by one or more television stations and redistributes such signals by wire, cable or other means or which distributes signals it originates or which are originated by another for viewing by subscribers, whether the wire, cable or other facilities are owned or leased. A CATV system shall not include:~~

~~(1) the poles or other facilities of any telephone corporation used to provide channel service as a common carrier;~~

~~(2) a system serving not more than 250 subscribers; or~~

~~(3) a master antenna system servicing subscribers situated on property under common ownership.~~

~~"Commission." The Pennsylvania Public Utility Commission, or successor agency.~~

~~"Franchise." An initial authorization, or renewal of an authorization, issued by a franchising authority, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, that authorizes the construction and operation of a cable system in public rights of way.~~

~~"Franchise holder." A person who has received a State issued certificate of franchise authority but has not transferred or terminated such franchise authorization, in accordance with the~~

1 ~~provisions of this chapter.~~

2 ~~"Franchising authority." The commission and municipalities~~
3 ~~which are entitled to grant franchises and impose fees in~~
4 ~~accordance with sections 522(10) and 542 of the Cable~~
5 ~~Communications Policy Act of 1984 (Public Law 98 549, 47 U.S.C.~~
6 ~~§§ 522(10) and 542).~~

7 ~~"Gross revenues." Any and all revenues, including cash,~~
8 ~~credits, property or consideration of any kind or nature arising~~
9 ~~from, attributable to, or in any way derived directly or~~
10 ~~indirectly from the operation of the franchisee's cable system,~~
11 ~~including the studios and other associated facilities, to~~
12 ~~provide cable services. Gross revenues include, by way of~~
13 ~~illustration and not limitation, monthly fees charged~~
14 ~~subscribers for any basic, optional, premium, per channel, per~~
15 ~~program or cable programming service; installation~~
16 ~~disconnection, reconnection and change in service fees; leased~~
17 ~~channel fees; late fees and administrative fees; payments or~~
18 ~~other consideration received from programmers for carriage of~~
19 ~~programming on the system; revenues from rentals or sales of~~
20 ~~converters or other equipment; any studio rental, production~~
21 ~~equipment and personnel fees; advertising revenues; barter;~~
22 ~~revenues from program guides; revenues from the sale or carriage~~
23 ~~of other cable services; and revenues from home shopping~~
24 ~~channels and other revenue sharing arrangements. Gross revenues~~
25 ~~shall include revenues received by an entity other than the~~
26 ~~franchisee, an affiliate or other entity that operates the~~
27 ~~system where necessary to prevent evasion or avoidance of the~~
28 ~~obligation to pay the franchise fee. The term shall not include:~~

29 ~~(1) amounts not actually received, even if billed, such~~
30 ~~as bad debt; refunds, rebates or discounts to subscribers or~~

~~third parties; or revenue imputed from the provision of cable services for free or at reduced rates to any person as required or allowed by law, including, without limitation, the provision of such services to public institutions, public schools, governmental entities or employees, other than forgone revenue chosen not to be received in exchange for trades, barters, services or other items of value; or~~

~~(2) any revenue from any charges or fees derived from services classified as noncable services and information services and any other revenues attributed by the holder of a certificate of approval or systemwide franchise to noncable services in accordance with the Federal Communications Commission's rules, regulations, standards or orders; amounts billed to and collected from subscribers to recover any tax, fee or surcharge of general applicability imposed by any governmental entity on the holder of a certificate of approval; or a systemwide franchise, including, without limitation, sales and use taxes, gross receipt taxes, excise taxes, utility user taxes, public service taxes, communication taxes and any other fee not imposed. In the case of cable service that may be bundled or integrated functionally with other services, capabilities or applications, the gross revenues shall only include those charges or fees derived from or attributable to the provision of cable service, as reflected on the books and records of the holder of a certificate of approval or a systemwide franchise, as the case may be, in accordance with the rules, regulations, standards and orders of the Federal Communications Commission.~~

~~"High speed broadband." A communication channel using any~~

1 ~~technology and having a bandwidth equal to or greater than two~~
2 ~~megabits per second (mps) in the downstream direction and equal~~
3 ~~to or greater than one megabit in the upstream.~~

4 ~~"Incumbent cable operator."—The cable operator serving the~~
5 ~~largest number of cable subscribers in a particular municipal~~
6 ~~franchise area on the effective date of this chapter.~~

7 ~~"Low income household."—A household whose income is 30% of~~
8 ~~the median household income in this Commonwealth.~~

9 ~~"Municipality."—Cities of the first class, cities of the~~
10 ~~second class, cities of the second class A, cities of the third~~
11 ~~class, boroughs, incorporated towns, townships of the first~~
12 ~~class, townships of the second class and home rule~~
13 ~~municipalities within this Commonwealth.~~

14 ~~"Person."—An individual, partnership, association, joint~~
15 ~~stock company, trust, corporation, government entity, limited~~
16 ~~liability company or any other entity.~~

17 ~~"Public rights of way."—The areas on, below or above public~~
18 ~~roadways, highways, streets, public sidewalks, alleys, waterways~~
19 ~~or utility easements in which a municipality has an interest.~~

20 ~~"Service area."—For corporations providing~~
21 ~~telecommunications services, the term includes the entire~~
22 ~~territory in which the company provides telecommunications~~
23 ~~service.~~

24 ~~"Video programming."—Programming provided by, or generally~~
25 ~~considered comparable to programming provided by, a television~~
26 ~~broadcast station, as set forth in section 522(20) of the Cable~~
27 ~~Communications Policy Act of 1984 (Public Law 98 549, 47 U.S.C.~~
28 ~~§ 522(20)).~~

29 ~~§ 30A04.—State authorization to provide cable and/or video~~
30 ~~service.~~

1 ~~(a) General rule. Notwithstanding any other law to the~~
2 ~~contrary and subject to the provisions of this chapter, a person~~
3 ~~seeking to provide cable service in this Commonwealth after the~~
4 ~~effective date of this chapter may file an application for a~~
5 ~~Statewide franchise with the commission as required by this~~
6 ~~section. This section does not preclude cable operators from~~
7 ~~filing individual applications under this chapter, however, a~~
8 ~~person seeking to provide cable service in this Commonwealth,~~
9 ~~whether a Statewide franchise under this section or section~~
10 ~~30A06 (relating to application for Statewide cable franchise) or~~
11 ~~a municipal franchise under section 30A11 (relating to municipal~~
12 ~~regulation of franchise holders) shall be subject to all other~~
13 ~~provisions of this chapter.~~

14 ~~(b) Compliance. A person filing an application for a~~
15 ~~Statewide franchise with the commission shall be required upon~~
16 ~~receipt of such franchise to comply with section 30A14(f)~~
17 ~~(relating to cable operator's community commitment and~~
18 ~~responsibilities) with regard to all in State broadband and~~
19 ~~broadband capable facilities and lines built during the initial~~
20 ~~build out period pursuant to the authorization provided by such~~
21 ~~franchise and for the period of the initial build out period~~
22 ~~with regard to such person's in State broadband and broadband-~~
23 ~~capable facilities and lines in existence when such franchise~~
24 ~~becomes effective.~~

25 ~~(c) Grandfather provision. A person including an incumbent~~
26 ~~cable operator providing cable service under a franchise~~
27 ~~agreement with a franchising authority which existed prior to~~
28 ~~the effective date of this chapter is not subject to this~~
29 ~~section until the franchise agreement expires at the end of its~~
30 ~~original or any mutually agreeable renewal term, or unless and~~

1 ~~until the franchising authority and entity providing cable~~
2 ~~service mutually agree to terminate the existing franchise~~
3 ~~agreement.~~

4 ~~(d) Restrictions. Nothing in this section shall restrict a~~
5 ~~cable operator from applying to the commission for a Statewide~~
6 ~~franchise authority to provide cable and/or video service in~~
7 ~~territories of this Commonwealth.~~

8 ~~(c) Franchising authority. The commission shall have the~~
9 ~~franchising authority to issue Statewide franchises to provide~~
10 ~~cable service under this chapter. Neither the commission nor any~~
11 ~~municipality in this Commonwealth may require a franchise holder~~
12 ~~to obtain any separate or additional franchise or otherwise~~
13 ~~impose any fee or other requirement, including, but not limited~~
14 ~~to, the regulation of cable service rates, on any franchise~~
15 ~~holder as a condition of providing cable service, except as~~
16 ~~provided in this chapter.~~

17 ~~§ 30A05. Commission responsibilities.~~

18 ~~(a) General rule. The commission shall assign existing~~
19 ~~permanent staff of such legal, technical and other employees of~~
20 ~~the commission as may be required for the proper conduct of its~~
21 ~~cable franchising responsibilities under this chapter. The~~
22 ~~powers and duties of the commission with respect to Statewide~~
23 ~~franchise shall not exceed those prescribed in this chapter.~~

24 ~~(b) Power and duties. The commission shall be responsible~~
25 ~~for establishing additional administrative procedures not~~
26 ~~explicitly granted in this chapter for the issuance of a~~
27 ~~Statewide franchise in accordance with the provisions of this~~
28 ~~chapter. The commission's administrative powers and duties shall~~
29 ~~be limited to the provisions found in section 30A06 (relating to~~
30 ~~application for Statewide cable franchise) and additional~~

1 ~~powers, including the:~~

2 ~~(1) development of procedures to submit, review and~~
3 ~~document applications filed with the commission;~~

4 ~~(2) review of the initial submission and any updates of~~
5 ~~the general description of the service area footprint to be~~
6 ~~served or expanded, including, if applicable, any area within~~
7 ~~a municipality to be served by an applicant;~~

8 ~~(3) determination and notice of incomplete applications;~~

9 ~~(4) approval of applications and amended applications,~~
10 ~~or denial of such applications within the periods designated~~
11 ~~under the provisions of this article;~~

12 ~~(5) issuance to applicants whose applications are~~
13 ~~approved for Statewide franchises to provide cable service in~~
14 ~~the service area footprint described in the application; to~~
15 ~~construct, upgrade, operate or maintain a network capable of~~
16 ~~providing such service; and to use and occupy the public~~
17 ~~rights of way in the delivery of that service;~~

18 ~~(6) development of procedures to review and document the~~
19 ~~transfer or termination of a Statewide franchise;~~

20 ~~(7) establish regulations to deal with any consumer~~
21 ~~complaints or complaints alleging violations of any~~
22 ~~provisions of this chapter. Such regulations shall be easily~~
23 ~~accessible to Commonwealth residents and shall be posted on~~
24 ~~the Internet. The commission shall also provide consumer~~
25 ~~complaint forms on the Internet. In addition to any other~~
26 ~~authority granted by law, the Office of Consumer Advocate and~~
27 ~~the Office of Small Business Advocate shall have the~~
28 ~~authority to represent the interests of consumers under this~~
29 ~~chapter; and~~

30 ~~(8) establish procedures for the periodic review of the~~

~~compliance of Statewide franchises with the rules,
regulations and commitments required in this chapter.~~

~~§ 30A06. Application for Statewide cable franchise.~~

~~(a) General rule. Any person desiring to provide cable
service in this Commonwealth after the effective date of this
chapter may file an application for a Statewide franchise with
the commission as required by this section.~~

~~(b) Contents of application. Applications for a Statewide
franchise shall contain and be limited to:~~

~~(1) A statement that the applicant has filed or will
timely file with the Federal Communications Commission all
forms required by that agency in advance of offering cable
service in this Commonwealth.~~

~~(2) A statement that the applicant agrees to comply with
all other applicable Federal and State statutes and
regulations and all generally applicable municipal ordinances
and regulations regarding the time, place and manner of using
and occupying public rights of way adopted in accordance with
Federal and State law.~~

~~(3) A general description of the service area footprint
to be served, including, if applicable, any area within a
municipality to be served by the applicant. The description
may be set forth on one or more maps. If the applicant is a
telecommunications carrier or an affiliate of a
telecommunications carrier, the service area shall include a
description of the territory in which the company provides
telephone service. Descriptions of service area footprints
shall be updated by the applicant prior to the expansion of
cable service to a previously undesignated service area and,
upon such expansion, written notice shall be given to the~~

1 ~~commission of the new service area to be served by the~~
2 ~~applicant. The State issued franchise area and any service~~
3 ~~area within the franchise area may extend beyond the area or~~
4 ~~areas where the applicant has preexisting authority to occupy~~
5 ~~the public rights of way.~~

6 ~~(4) The location of the applicant's principal place of~~
7 ~~business, the names of the applicant's principal executive~~
8 ~~officers, and the name, address and telephone number of an~~
9 ~~officer, general partner or other employee of the applicant~~
10 ~~who will be responsible for ongoing communications with the~~
11 ~~commission.~~

12 ~~(5) The name and location of the principal place of~~
13 ~~business of the applicant's parent company, if any.~~

14 ~~(6) The signature of an officer or general partner of~~
15 ~~the applicant verifying the information set forth in the~~
16 ~~application.~~

17 ~~(7) Demonstration that the financial, technical,~~
18 ~~managerial and legal character and other qualifications~~
19 ~~needed to construct, operate and maintain the necessary plant~~
20 ~~and to provide service in a safe, adequate and proper manner,~~
21 ~~including compliance with the act of July 9, 1990 (P.L.340,~~
22 ~~No.78), known as the Public Safety Emergency Telephone Act.~~

23 ~~(8) A record of compliance with Federal, State and local~~
24 ~~laws.~~

25 ~~(9) Commitment that all installation, maintenance,~~
26 ~~billing, customer service and associated work related to the~~
27 ~~provision of cable television service will be performed in~~
28 ~~this Commonwealth.~~

29 ~~(10) Additional information as needed by the commission.~~

30 ~~(c) List of municipalities. Upon filing an application with~~

~~1 the commission for a systemwide franchise agreement pursuant to
2 subsection (b), the applicant shall include a list of the
3 specific municipalities to which CATV service will be provided
4 or extended, the anticipated construction and deployment dates
5 and the anticipated date on which service will be offered and a
6 certified statement that such deployment will meet the
7 requirements of sections 30A15 and 30A16. The applicant shall
8 concurrently provide a copy of the application to each affected
9 municipality.~~

~~10 (d) Notification. Within 15 business days after it receives
11 the application, the commission shall:~~

~~12 (1) determine whether an application submitted is
13 incomplete; and~~

~~14 (2) if so, the commission shall notify the applicant
15 that the application is incomplete and identify the
16 information that the commission must receive from the
17 applicant to make the application complete.~~

~~18 (e) Application decision. Within 120 days after it receives
19 the completed application, the commission shall approve the
20 application and issue a Statewide franchise to the applicant or
21 deny the application. Within 120 days of the receipt, the
22 commission shall schedule three public hearings to be held in
23 different geographical areas of this Commonwealth to gain public
24 comment in consideration of the application. On or before the
25 expiration of the 120 day period, the commission shall issue an
26 order in writing approving the application if the applicant has
27 complied with the requirements for a Statewide franchise, or the
28 commission shall disapprove the application in writing, citing
29 the reasons for disapproval if the commission determines that
30 the application for a Statewide franchise does not comply with~~

~~1 the requirements for a Statewide franchise. The commission may
2 deny the application only if the applicant has failed to state
3 in the application the information and representations required
4 by subsection (b). If the commission denies the application, it
5 must specify with particularity the reason or reasons for the
6 denial, and the applicant may amend its application to cure any
7 deficiency. The commission shall decide upon the amended
8 application within 60 business days of its submission to the
9 commission by the applicant. If the commission denies the
10 application, the commission shall schedule a public meeting with
11 the applicant to explain to the applicant the reasons for the
12 commission's disapproval. The meeting shall be scheduled no
13 later than 30 days following the expiration of the 120 day
14 review period as required by this subsection. The applicant
15 shall have 30 days following the date of the meeting with the
16 commission to file an appeal of the board's decision. The
17 commission shall thereafter schedule an administrative hearing
18 not later than the 30th day following the date of the filing of
19 the applicant's appeal in order to consider the applicant's
20 appeal. The commission shall issue a final decision in written
21 form on the applicant's appeal not later than the 60th day
22 following the administrative hearing, required by this
23 subsection, on the applicant's appeal. After an administrative
24 period an applicant may challenge a denial of its application or
25 amended application in any court of competent jurisdiction.~~

~~26 (f) Contents of franchise authorization. A Statewide
27 franchise authorization shall contain:~~

~~28 (1) A grant of a franchise to provide cable service in
29 the service area footprint described in the application, and
30 to construct, upgrade, operate or maintain a network capable~~

1 ~~of providing such service, except where a network grant is~~
2 ~~not required to use and occupy public rights of way in the~~
3 ~~delivery of that service.~~

4 ~~(2) A statement that the franchise grant in paragraph~~
5 ~~(1) is subject to lawful operation of the cable service by~~
6 ~~the applicant or its successor in interest.~~

7 ~~(g) Preexisting authority. An applicant having preexisting~~
8 ~~authority to utilize public rights of way is required to obtain~~
9 ~~a Statewide franchise prior to the actual provision of cable~~
10 ~~service on a commercial basis directly to subscribers. However,~~
11 ~~such an applicant is not required to obtain a Statewide~~
12 ~~franchise or any municipality authorization, except for being~~
13 ~~subject to municipal right of way requirements, in order to~~
14 ~~construct, upgrade, operate or maintain a network that is~~
15 ~~capable of providing cable service.~~

16 ~~(h) Nontransferability. A systemwide franchise issued by~~
17 ~~the commission shall be nontransferable, except by written~~
18 ~~consent. In order to grant such consent the commission shall:~~

19 ~~(1) Develop rules and procedures to ensure that any~~
20 ~~company applying for a transfer shall meet all Statewide~~
21 ~~franchisee requirements and commitments included with this~~
22 ~~chapter.~~

23 ~~(2) Obtain a commitment from company obtaining the~~
24 ~~transfer that any collective bargaining agreement entered~~
25 ~~into by a CATV provider shall continue to be honored, paid or~~
26 ~~performed to the same extent as would be required if the CATV~~
27 ~~provider continued to operate under its franchise for the~~
28 ~~duration of that franchise unless the duration of that~~
29 ~~agreement is limited by its terms or by Federal or State law.~~

30 ~~§ 30A07. Length of Statewide franchise.~~

~~1 A Statewide franchise issued by the commission shall be valid
2 for six years from the date of issuance. Renewal of a Statewide
3 franchise shall be valid for a period of six years from the date
4 of the renewal issuance, and the commission shall establish
5 rules governing the renewal of a Statewide franchise.~~

~~6 § 30A08. Termination of Statewide franchise.~~

~~7 (a) General rule. A franchise shall terminate at the
8 expiration of its term or otherwise in accordance with the
9 provisions thereof, unless, prior thereto, the commission
10 otherwise orders.~~

~~11 (b) Commission ordering termination. The commission may
12 order a termination only if it finds, after public notice and
13 opportunity for a hearing, that the franchisee:~~

~~14 (1) has committed a material breach of its franchise or
15 any applicable provision of this chapter or of the
16 regulations promulgated under this chapter and has failed,
17 without reasonable justification, to cure said breach within
18 60 days after having received written notice thereof from the
19 commission;~~

~~20 (2) has not met the requirements of sections 30A15
21 (relating to deployment requirements for Statewide cable
22 license) and 30A16 (relating to discrimination in provision
23 of service prohibited); or~~

~~24 (3) has been adjudicated a bankrupt or has filed a
25 voluntary petition for bankruptcy or reorganization or for an
26 order protecting its assets from the claims of creditors and
27 the commission finds that termination of the franchise or
28 certificate of confirmation under such conditions is in the
29 best interest of the public.~~

~~30 (c) Upon termination. Upon termination of a franchise or~~

~~1 certificate of confirmation, the cable operator shall dispose of
2 its facilities in accordance with the provisions of the
3 franchise or certificate. However, on motion of any interested
4 party or upon its own motion, and after public notice and
5 opportunity for hearing, if the commission finds that the
6 continued presence of the facilities in any public thoroughfare
7 would pose a nuisance to the municipality or its residents, the
8 operator shall remove its facilities within such period as the
9 commission shall order. In the absence of any applicable
10 franchise or certificate provision or order by the commission to
11 the contrary, the cable television company may abandon its
12 facilities.~~

~~13 § 30A09. Abandonment of service.~~

~~14 (a) General rule. No cable operator may abandon any service
15 or portion thereof without giving six months' prior written
16 notice to the commission and to the franchisor, if any, and to
17 the municipalities it serves.~~

~~18 (b) Written consent. When abandonment of any service is
19 prohibited by a franchise, no cable operator may abandon such
20 service without written consent of the commission. In granting
21 such consent, the commission may impose such terms, conditions
22 or requirements as in its judgment are necessary to protect the
23 public interest.~~

~~24 § 30A10. Access to public rights of way.~~

~~25 (a) General rule. Municipalities shall allow a franchise
26 holder under this chapter to install, construct and maintain
27 facilities capable of providing cable and/or video service
28 within public rights of way within the jurisdiction of the
29 municipality under the same terms and conditions as applicable
30 to public utility corporations under applicable Federal and~~

1 ~~State law.~~

2 ~~(b) Nondiscrimination. No municipality shall discriminate~~
3 ~~against a franchise holder regarding the authorization or~~
4 ~~placement of a communications network in public rights of way,~~
5 ~~access to a building or a utility pole attachment term. All~~
6 ~~municipality public right of way requirements applicable to~~
7 ~~cable operators and video service providers must be~~
8 ~~competitively neutral, reasonable and nondiscriminatory.~~

9 ~~(c) Construction permits and licenses. In the exercise of~~
10 ~~their lawful regulatory authority, municipalities shall promptly~~
11 ~~process all valid and administratively complete applications of~~
12 ~~a franchise holder for a permit or license to excavate, set~~
13 ~~poles, locate lines, construct facilities, make repairs, affect~~
14 ~~traffic flow or other similar approvals. The municipality shall~~
15 ~~make every reasonable effort not to delay or unduly burden the~~
16 ~~franchise holder in the timely conduct of the holder's business.~~

17 ~~(d) Expedited response or repair. In the event of fire,~~
18 ~~flooding, accident or other exigent circumstances necessitating~~
19 ~~immediate response work or repair by the franchise holder, the~~
20 ~~franchise holder may begin the repair or response work without~~
21 ~~prior approval from the affected municipality, provided,~~
22 ~~however, that the franchise holder shall notify the municipality~~
23 ~~as promptly as reasonably possible after beginning the work and~~
24 ~~shall subsequently obtain any approval required by a municipal~~
25 ~~ordinance applicable to expedited response or repair work.~~

26 ~~(e) Indemnity in connection with public rights of way. A~~
27 ~~franchise holder shall indemnify and hold a municipality and its~~
28 ~~officers and employees harmless against any and all claims,~~
29 ~~lawsuits, judgments, costs, liens, losses, expenses, fees,~~
30 ~~including reasonable attorneys' fees and costs of defense,~~

1 ~~proceedings, actions, demands, causes of action, liability and~~
2 ~~suits of any kind and nature, including personal or bodily~~
3 ~~injury or death, property damage or other harm for which~~
4 ~~recovery of damages is sought, that is found by a court of~~
5 ~~competent jurisdiction to be caused solely by the negligent act,~~
6 ~~error or omission of the franchise holder or any agent, officer,~~
7 ~~director, representative, employee, affiliate or subcontractor~~
8 ~~of the franchise holder or their respective officers, agents,~~
9 ~~employees, directors or representatives, while installing,~~
10 ~~repairing or maintaining facilities in a municipality public~~
11 ~~right of way. The indemnity provided by this subsection does not~~
12 ~~apply to any liability resulting from the negligence of the~~
13 ~~municipality or its officers, employees, contractors or~~
14 ~~subcontractors. If the franchise holder and the municipality are~~
15 ~~found jointly liable by a court of competent jurisdiction,~~
16 ~~liability shall be apportioned comparatively in accordance with~~
17 ~~the laws of this Commonwealth without, however, waiving any~~
18 ~~governmental immunity available to the municipality under State~~
19 ~~law and without waiving any defenses of the parties under State~~
20 ~~law. This subsection is solely for the benefit of the~~
21 ~~municipality and the franchise holder and does not create or~~
22 ~~grant any rights, contractual or otherwise, for or to any other~~
23 ~~person or entity.~~

24 ~~(f) Written notice. A franchise holder and a municipality~~
25 ~~shall promptly advise the other in writing of any known claim or~~
26 ~~demand against the holder or the municipality related to or~~
27 ~~arising out of the holder's activities in a public right of way.~~

28 ~~§ 30A11. Municipal regulation of franchise holders.~~

29 ~~A municipality may:~~

30 ~~(1) Exercise its nondiscriminatory police power with~~

1 ~~respect to its public rights of way and a franchise holder's~~
2 ~~use thereof, which may include requiring the holders to~~
3 ~~provide the municipality with maps showing the location of~~
4 ~~its cable system and its communications facilities, if any,~~
5 ~~within the municipality.~~

6 ~~(2) Receive and mediate cable service quality complaints~~
7 ~~from a franchise holder's customers within the municipality.~~

8 ~~(3) Require a franchise holder who is providing cable~~
9 ~~service within the municipality to register with the~~
10 ~~municipality, maintain a point of contact and provide notice~~
11 ~~of any franchise authorization transfer to the municipality~~
12 ~~within 14 business days after the completion of the transfer.~~

13 ~~(4) Establish reasonable guidelines regarding the use of~~
14 ~~public, educational and governmental access channels within~~
15 ~~the municipality in addition to those established under this~~
16 ~~chapter.~~

17 ~~(5) Nothing in this title shall be construed to preclude~~
18 ~~the continued provision or offering of telecommunications~~
19 ~~services by a political subdivision.~~

20 ~~§ 30A12. Payment and remittance of franchise fee.~~

21 ~~(a) General rule. A franchise holder who offers cable~~
22 ~~service within the jurisdiction of a municipality shall~~
23 ~~calculate and remit to the municipality at the end of each~~
24 ~~calendar year quarter a franchise fee as provided in this~~
25 ~~section. The obligation to calculate and remit the franchise fee~~
26 ~~to a municipality shall begin immediately upon provision of~~
27 ~~cable service within that municipality's jurisdiction. However,~~
28 ~~the first remittance shall not be due until the end of the first~~
29 ~~calendar year quarter that is at least 180 days after the~~
30 ~~provision of cable service began.~~

1 ~~(b) Calculation of franchise fee. The franchise fee shall~~
2 ~~be calculated as a percentage of the franchise holder's gross~~
3 ~~revenues equal to the franchise fee percentage applied by the~~
4 ~~municipality to the incumbent cable operator in the~~
5 ~~municipality, or when no incumbent cable operator exists, a~~
6 ~~percentage agreed to by the holder and the municipality or,~~
7 ~~absent such agreement, a percentage prescribed by the~~
8 ~~municipality in an ordinance, provided, however, that the~~
9 ~~percentage shall not exceed 5%. After the expiration of the~~
10 ~~incumbent cable operator's franchise, a municipality may, by~~
11 ~~ordinance, change the percentage applied to the gross revenues~~
12 ~~of the franchise holder and the incumbent cable operator,~~
13 ~~provided that after such change the percentage shall not exceed~~
14 ~~5% and shall apply equally to all cable operators operating~~
15 ~~within the municipality.~~

16 ~~(c) Documentation. No fee under this section will become~~
17 ~~due until the municipality certifies and provides documentation~~
18 ~~to the franchise holder supporting the percentage paid by any~~
19 ~~incumbent cable operator serving the area within the~~
20 ~~municipality's jurisdiction.~~

21 ~~(d) Restrictions. No municipality or any other political~~
22 ~~subdivision of this Commonwealth may assess any additional fees~~
23 ~~or charges or other remuneration of any kind from a franchise~~
24 ~~holder other than as set forth in this section or in section~~
25 ~~30A13 (relating to public, educational and governmental~~
26 ~~channels).~~

27 ~~(e) Application to bundled services. For purposes of this~~
28 ~~section, in the case of a cable service that may be bundled or~~
29 ~~integrated functionally with other services, capabilities or~~
30 ~~applications, the franchise fee shall be applied only to the~~

~~1 gross revenues, as defined in this chapter, attributable to
2 cable service, as reflected on the books and records of the
3 holder in accordance with generally accepted accounting
4 principles and Federal Communications Commission rules,
5 regulations, standards or orders, as applicable.~~

~~6 (f) Remittance and review of franchise fee. The franchise
7 fee shall be remitted to the applicable municipality quarterly,
8 within 45 days after the end of the quarter for the preceding
9 calendar quarter. Each payment shall be accompanied by a summary
10 explaining the basis for the calculation of the franchise fee.
11 Not more than once annually, a municipality may examine the
12 franchise holder's business records to the extent reasonably
13 necessary to ensure compensation in accordance with this
14 section. Each party shall bear the party's own costs of the
15 examination. Any claims by a municipality that compensation is
16 not in accordance with this section, and any claims for refunds
17 or other corrections to a remittance of a franchise holder, must
18 be made within three years and 45 days of the end of the quarter
19 for which compensation is remitted or three years from the date
20 of remittance, whichever is later. Either a municipality or a
21 franchise holder may, in the event of a dispute concerning
22 compensation under this section, bring an action in a court of
23 competent jurisdiction.~~

~~24 § 30A13. Public, educational and governmental access channels.~~

~~25 (a) General rule. A franchise holder shall provide
26 municipalities it serves with capacity in its cable service to
27 allow public, educational and governmental (PEG) access
28 channels. For the purposes of this section, PEG channels shall
29 be defined as analog channels of six Mhz bandwidth or the same
30 as any other channel on the basic tier, whichever is greater. In~~

1 ~~addition to the requirements set forth in this section, the~~
2 ~~commission may issue additional rules or guidelines regarding~~
3 ~~PEG access channels. The holder shall provide the same ancillary~~
4 ~~services to the PEG channels as the incumbent providers.~~

5 ~~(b) Provisioning of access channels. The franchise holder~~
6 ~~shall designate a sufficient amount of capacity on its cable~~
7 ~~service to allow the provision of a comparable number of PEG~~
8 ~~access channels or hours of programming that the incumbent cable~~
9 ~~operator has activated and provided within the municipality~~
10 ~~under the terms of its franchise agreement as of the effective~~
11 ~~date of this chapter. If a municipality did not have PEG access~~
12 ~~channels as of that date, the cable operator shall furnish to~~
13 ~~the municipality upon request up to three PEG access channels~~
14 ~~for a municipality with a population of at least 50,000 and up~~
15 ~~to two PEG access channels for a municipality with a population~~
16 ~~of less than 50,000. The holder shall have 12 months from the~~
17 ~~date the municipality requests such PEG access channels to~~
18 ~~designate the PEG access channel capacity, provided, however,~~
19 ~~that the 12 month period shall be tolled by any period during~~
20 ~~which the designation or provision of PEG access channel~~
21 ~~capacity is technically infeasible, including any failure or~~
22 ~~delay of the incumbent cable operator to make adequate~~
23 ~~interconnection available, as required by this section. In~~
24 ~~cities with a population of 80,000 or more persons, if a system~~
25 ~~has total activated bandwidth in excess of 862 Mhz then at least~~
26 ~~two additional PEG channels shall be set aside by the holder,~~
27 ~~including one for public access.~~

28 ~~(c) Channel responsibility. The content and operation of~~
29 ~~any PEG access channel provided pursuant to this section shall~~
30 ~~be the responsibility of the municipality receiving the benefit~~

1 ~~of such channel, and the franchise holder bears only the~~
2 ~~responsibility for the transmission of such channel, subject to~~
3 ~~technological constraints. The franchise holder shall be~~
4 ~~responsible for providing the connectivity, as well as other~~
5 ~~equipment necessary, to each PEG access channel programming~~
6 ~~distribution location and for doing so without charge for up to~~
7 ~~the first 200 feet of the holder's connecting facilities.~~

8 ~~(d) Transmission of municipal programming. The~~
9 ~~municipality, or its designees, must ensure that all~~
10 ~~transmissions, content or programming to be transmitted over a~~
11 ~~PEG access channel or facility by a franchise holder are~~
12 ~~provided or submitted to the franchise holder in a manner or~~
13 ~~form that is capable of being accepted and transmitted by the~~
14 ~~franchise holder, without requirement for additional alteration~~
15 ~~or change in the content by the franchise holder, over the~~
16 ~~franchise holder's cable service. The municipality's provision~~
17 ~~of PEG content to the franchise holder shall constitute~~
18 ~~authorization for the franchise holder to carry such content~~
19 ~~including, at the franchise holder's option, beyond the~~
20 ~~jurisdictional boundaries of the municipality.~~

21 ~~(e) Interconnection. Each franchise holder and incumbent~~
22 ~~cable operator shall use reasonable efforts to interconnect~~
23 ~~their facilities for the purpose of providing PEG access channel~~
24 ~~programming. Interconnection may be accomplished by direct~~
25 ~~cable, microwave link, satellite or other reasonable method of~~
26 ~~connection. Franchise holders and incumbent cable operators~~
27 ~~shall negotiate in good faith and incumbent cable operators may~~
28 ~~not withhold interconnection of PEG channels. In the event a~~
29 ~~franchise holder and an incumbent cable operator cannot reach a~~
30 ~~mutually acceptable interconnection agreement, then the duty of~~

1 ~~the holder shall be discharged if the holder makes~~
2 ~~interconnection available to the channel originator at a point~~
3 ~~on the franchise holder's network, as determined by the~~
4 ~~franchise holder.~~

5 ~~(f) Use of PEG channels. The PEG channels shall be for the~~
6 ~~exclusive use of the local entity or its designee to provide~~
7 ~~public, educational and governmental channels. The PEG channels~~
8 ~~shall be used only for noncommercial purposes. However,~~
9 ~~advertising, underwriting or sponsorship recognition may be~~
10 ~~carried on the channels for the purpose of funding PEG related~~
11 ~~activities. The PEG channels shall all be carried on the basic~~
12 ~~service tier. To the extent feasible, the PEG channel shall not~~
13 ~~be separated numerically from other channels carried on the~~
14 ~~basic service tier and the channel numbers for the PEG channels~~
15 ~~shall be the same channel numbers used by the incumbent cable~~
16 ~~operator unless prohibited by Federal law. After the initial~~
17 ~~designation of PEG channel numbers, the channel numbers shall~~
18 ~~not be changed without the agreement of the local entity unless~~
19 ~~the change is required by Federal law. Each channel shall be~~
20 ~~capable of carrying a national television system committee~~
21 ~~(NTSC) television signal.~~

22 ~~(g) Content. The content to be provided over the PEG~~
23 ~~channel capacity provided pursuant to this section shall be the~~
24 ~~responsibility of the local entity or its designee receiving the~~
25 ~~benefit of that capacity, and the holder of a State franchise~~
26 ~~bears only the responsibility for the transmission of that~~
27 ~~content, subject to technological constraints.~~

28 ~~(h) PEG signal and capacity. The PEG signal shall be~~
29 ~~receivable by all subscribers, whether they receive digital or~~
30 ~~analog service, or a combination thereof, without the need for~~

~~1 any equipment other than the equipment necessary to receive the
2 lowest cost tier of service. The PEG access capacity provided
3 shall be of similar quality and functionality to that offered by
4 commercial channels on the lowest cost tier of service unless
5 the signal is provided to the holder at a lower quality or with
6 less functionality.~~

~~7 (i) Unsatisfied obligations. After January 1, 2007, and
8 until the expiration of the incumbent cable operator's
9 franchise, if the incumbent cable operator has existing
10 unsatisfied obligations under the franchise to remit to the
11 local entity or its designee any cash payments for the ongoing
12 costs of public, educational and government access channel
13 facilities, the local entity or its designee for the public
14 access channels shall divide those cash payments among all cable
15 providers as provided in this section. The fee shall be the
16 holder's pro rata per subscriber share of the cash payment
17 required to be paid by the incumbent cable operator to the local
18 entity or its designee community access organization for the
19 costs of PEG channel facilities. All video service providers and
20 the incumbent cable operator shall be subject to the same
21 requirements for recurring payments for the support of PEG
22 channel facilities, whether expressed as a percentage of gross
23 revenue or as an amount per subscriber, per month or otherwise.~~

~~24 (j) Local fee for ongoing support. A local entity shall
25 establish a fee for the ongoing support of the cost of PEG
26 facilities and services that would become effective subsequent
27 to the expiration of any fee imposed by this chapter, provided,
28 however, that no such fee shall be allocated such that any
29 community access organization is receiving anything less than
30 what it is receiving from the cable operator on the effective~~

~~1 date of this chapter. If, on December 31, 2007, a local entity
2 or its designee is imposing a separate fee to support PEG
3 channel facilities that is in excess of 2%, that entity or its
4 designee may establish a fee no greater than that separate fee,
5 and in no event greater than 3%, to support PEG activities. If
6 the PEG support fee imposed by a local entity or its designee is
7 expressed in a manner other than as a percentage of gross
8 revenues, the local entity or its designee community access
9 organization may convert that fee to a currently equivalent
10 percentage of gross revenues at any time. The local entity or
11 its designee may adopt requirements for the provision of PEG-
12 related in kind resources by all cable service providers.~~

~~13 (k) Rules governing channel time and facilities. Rules and
14 regulations adopted by the community access organization shall
15 govern the use of any channel time on the public channels as
16 well as the equipment, facilities and services related to the
17 public channels.~~

~~18 (l) Enforcement. The commission, through an administrative
19 proceeding, shall have the original jurisdiction to enforce any
20 requirements under this section to resolve any dispute regarding
21 the requirements set forth in this section. After the
22 administrative process is exhausted, a court of competent
23 jurisdiction shall have jurisdiction to enforce any requirement
24 under this section or resolve any dispute regarding the
25 requirements set forth in this section, and no cable operator
26 may be barred from the provision of cable service or be required
27 to terminate cable service as a result of such dispute or
28 enforcement action.~~

~~29 § 30A14. Cable operator's community commitment and
30 responsibilities.~~

1 ~~(a) General rule. Cable operators shall make the following~~
2 ~~commitments to the communities they serve.~~

3 ~~(b) Provision of basic service to public institutions.~~
4 ~~Cable operators shall install and retain or provide, without~~
5 ~~charge, one service outlet activated for basic service to any~~
6 ~~and all fire stations, public schools, police stations, public~~
7 ~~libraries and other such buildings used for municipal purposes.~~

8 ~~(c) Provision of Internet service to public institutions.~~
9 ~~Cable operators shall provide high speed broadband Internet~~
10 ~~service, without charge, through one service outlet activated~~
11 ~~for basic service to any and all fire stations, public schools,~~
12 ~~police stations, public libraries and other such buildings used~~
13 ~~for municipal purposes.~~

14 ~~(d) Equipment and training. A cable operator shall provide~~
15 ~~equipment and training for access users without charge, on a~~
16 ~~schedule to be agreed upon between the municipality and the CATV~~
17 ~~company.~~

18 ~~(e) Return feed. The CATV company shall provide a return~~
19 ~~feed from any one location in the municipality, without charge,~~
20 ~~to the CATV company's headend or other location of~~
21 ~~interconnection to the cable television system for public,~~
22 ~~educational or governmental use, which return feed, at a~~
23 ~~minimum, provides the ability for the municipality to cablecast~~
24 ~~live or taped access programming, in real time, as may be~~
25 ~~applicable to the CATV company's customers in the municipality.~~
26 ~~No CATV company is responsible for providing a return access~~
27 ~~feed unless a municipality requests such a feed in writing. A~~
28 ~~CATV company that has interconnected with another CATV company~~
29 ~~may require the second CATV company to pay for one half of the~~
30 ~~CATV company's absorbed costs for extension.~~

~~(f) Cable operator responsibilities. Cable operators are responsible to:~~

~~(1) clearly and conspicuously disclose to users, in plain language, accurate information concerning any terms, conditions or limitations on the broadband network service they offer, the speeds of the download and uploading speeds of the provider's high speed broadband Internet service;~~

~~(2) interconnect their facilities with the facilities of other providers of broadband network services on reasonable and nondiscriminatory terms or conditions; and~~

~~(3) not prohibit a user from attaching or using a device on the provider's network that does not physically damage or materially degrade other users' utilization of the network.~~

~~§ 30A15. Deployment requirements for Statewide cable license.~~

~~(a) General rule. As part of any franchise issued by the commission under this chapter, a cable operator shall be required to deploy cable service in their entire service territory.~~

~~(b) Deployment requirements. Deployment requirements for cable operators with more than 250,000 or more local exchange or long distance lines in this Commonwealth:~~

~~(1) Within three years of the issuance of the Statewide license:~~

~~(i) The operator shall provide access to its cable service including high speed broadband Internet service on a commercial basis to a number of households at least equal to 35% of the customer households in the franchise holder's service area.~~

~~(ii) At least 25% of the households with access to the holder's cable and high speed broadband Internet~~

~~service on a commercial basis shall be low income households.~~

~~(2) Within six years of the issuance of the Statewide license:~~

~~(i) the operator shall provide access to its cable and high speed broadband Internet service on a commercial basis to 70% of the households in its service area; and~~

~~(ii) at least 30% of the households with access to the holder's cable and high speed broad band Internet service on a commercial basis shall be low income households.~~

~~(3) Within 12 years of the issuance of the initial Statewide license, the operator, if it obtained a franchise renewal, or any transferee shall provide access to its cable and high speed broadband Internet service on a commercial basis service to all of the households in its service area subject to its line extension policy.~~

~~(4) After three years of providing service under this subsection, the license holder may apply to the commission for an extension of subsection (b)(1) and (2) if ten percent of the households with access to the operator's cable service have not subscribed to the license holder's cable service for six consecutive months within three years after it begins offering service.~~

~~(c) Deployment requirements for incumbent cable companies that become Statewide franchise holders. Incumbent cable companies that become Statewide franchise holders shall not reduce the number or percentage of household served, shall build out to all residential households subject to the operator's line extension policy within three years and shall upgrade their~~

1 ~~facilities across the entire service area within three years of~~
2 ~~the date the cable operator upgrades any part of its facilities.~~

3 ~~(d) Deployment requirements for all other Statewide~~
4 ~~franchise holders. Within three years of the issuance of the~~
5 ~~franchise, all other Statewide franchise holders shall fully~~
6 ~~complete a system capable of providing cable service to all~~
7 ~~households within the cable operator's service area, subject to~~
8 ~~the cable operator's line extension policy.~~

9 ~~(e) Discrimination by building owners prohibited. No~~
10 ~~building owner may discriminate against a telephone company,~~
11 ~~broadband services or advanced communications company or its~~
12 ~~ability to provide services to one or more tenants of a~~
13 ~~multitenant property that is owned or controlled by the building~~
14 ~~owner, including discriminatory terms and conditions by which~~
15 ~~the telephone company, broadband services or advanced~~
16 ~~communications company gains physical access to the property to~~
17 ~~place its facilities and provide telecommunications services to~~
18 ~~the property's tenants. The commission shall have jurisdiction~~
19 ~~to implement the provisions of this subsection by appropriate~~
20 ~~rules and regulations and to adjudicate administratively~~
21 ~~disputes arising under this subsection. In no event may the lack~~
22 ~~of agreement over terms and conditions of access delay the~~
23 ~~ability of a requesting telecommunications company to obtain~~
24 ~~access for more than 30 days following an initial request~~
25 ~~therefore.~~

26 ~~(f) Annual reports. All license holders must file annual~~
27 ~~public reports with the commission and the relevant local entity~~
28 ~~that shall contain:~~

29 ~~(1) The total number of actual subscribers in this~~
30 ~~Commonwealth for the preceding fiscal year.~~

1 ~~(2) The total number of actual subscribers within each~~
2 ~~zip code in this Commonwealth for the preceding fiscal year.~~

3 ~~(3) A description and map of the physical area in which~~
4 ~~the license holder currently offers video services for the~~
5 ~~preceding fiscal year.~~

6 ~~(4) A description and map of the physical area in which~~
7 ~~the license holder plans to offer video services for the next~~
8 ~~fiscal year. The license holder is not required to build out~~
9 ~~to all the described areas indicated to the commission, as~~
10 ~~long as the provisions of this chapter are being met.~~

11 ~~§ 30A16. Discrimination in provision of service prohibited.~~

12 ~~(a) General rule. The franchise holder shall make all~~
13 ~~efforts to become capable of providing cable service to all~~
14 ~~households within the designated service area footprint. A cable~~
15 ~~operator that has been granted a Statewide franchise under this~~
16 ~~chapter shall not deny access to cable service to any group of~~
17 ~~potential residential subscribers because of the income or race~~
18 ~~of the residents in the local area in which such group resides.~~

19 ~~A franchisee must submit to the commission a development~~
20 ~~schedule, setting forth the municipalities to be served, the~~
21 ~~date service shall begin in each proposed municipality, and a~~
22 ~~date certain by which each community will be able to receive~~
23 ~~cable service. The commission shall ensure that the build out~~
24 ~~process is not discriminatory based on an area's class or race.~~
25 ~~If deployment of cable services under a Statewide franchise is~~
26 ~~scheduled for deployment in a given area, the cable operator~~
27 ~~must offer service to all residents within the geographic area~~
28 ~~or the commission may terminate the franchise pursuant to~~
29 ~~section 30A08 (relating to termination of Statewide franchise).~~

30 ~~(b) Enforcement. If the commission determines that a cable~~

~~1 operator has denied access to cable service to a group of
2 potential residential subscribers because of the income levels
3 of the residents of the local area in which such group resides
4 or has failed to meet the requirements of the section, the
5 commission is authorized to, after conducting a hearing with
6 full notice and opportunity to be heard, impose monetary
7 penalties of not less than \$50,000 nor more than \$100,000 per
8 municipality, not to exceed a total of \$3,650,000 per year for
9 all violations. A municipality in which the provider offers
10 cable service shall be an appropriate party in any such
11 proceeding.~~

~~12 § 30A17. Requirement for adequate service and consumer
13 protection.~~

~~14 Every cable operator shall provide safe, adequate and
15 reliable service in accordance with applicable laws, regulations
16 and franchise requirements. Cable operators with a Statewide
17 franchise or a franchise issued by a municipality are subject to
18 any customer service standards pertaining to the provision of
19 cable service established by law or regulation. All customer
20 service and consumer protection standards under this section
21 shall be interpreted and applied to accommodate newer or
22 different technologies while meeting or exceeding the goals of
23 these standards. Notwithstanding any other provisions of this
24 chapter, all customer service standards and consumer protection
25 standards shall be interpreted and applied to any cable system
26 operators as defined in this chapter who also provide
27 telecommunications services to any customers in their service
28 territory; and such telecommunications service providers shall
29 be subject to the customer service and consumer protection
30 requirements established in 52 Pa. Code Chs. 63 (relating to~~

1 ~~telephone service) and 64 (relating to standards and billing~~
2 ~~practices for residential telephone service) and section~~
3 ~~3019(b)(2) (relating to additional powers and duties).~~
4 ~~§ 30A18. Enforcement.~~

5 ~~The exclusive remedy for enforcing the provisions of this~~
6 ~~chapter, shall be the commission. In addition to any other~~
7 ~~authority established under law, the Office of Consumer Advocate~~
8 ~~and the Office of Small Business Advocate shall have the~~
9 ~~authority to represent the interests of consumers under this~~
10 ~~chapter.~~

11 ~~§ 30A19. Statewide high speed broadband assessment and~~
12 ~~development.~~

13 ~~(a) General rule. The Department of Community and Economic~~
14 ~~Development shall enlist a public private partnership to~~
15 ~~implement a comprehensive, Statewide high speed broadband~~
16 ~~Internet deployment and adoption initiative with the purpose of:~~

17 ~~(1) Ensuring that all Commonwealth residents and~~
18 ~~businesses have access to affordable and reliable high speed~~
19 ~~broadband Internet services.~~

20 ~~(2) Achieving improved technology literacy, increased~~
21 ~~computer ownership and high speed broadband Internet use~~
22 ~~among Commonwealth residents and businesses.~~

23 ~~(3) Establishing and empowering local technology teams~~
24 ~~in each county to plan for improved technology use across~~
25 ~~multiple community sectors.~~

26 ~~(4) Establishing and sustaining an environment ripe for~~
27 ~~telecommunications and technology investment Statewide.~~

28 ~~(b) Private public partnership to cooperate. The public-~~
29 ~~private partnership as set forth in subsection (a) shall include~~
30 ~~input and cooperation among State agencies and bodies~~

1 ~~representing economic development, local community development,~~
2 ~~technology planning, education, health care and other relevant~~
3 ~~entities. The public entities within the partnership shall~~
4 ~~collaborate with telecommunications providers, technology~~
5 ~~companies, telecommunications labor organizations, community-~~
6 ~~based organizations and relevant private sector entities to~~
7 ~~achieve the purposes set forth in subsection (a).~~

8 ~~(c) Requirements. The high speed broadband Internet~~
9 ~~deployment and adoption initiative as set forth in paragraph (2)~~
10 ~~shall include, but not be limited to:~~

11 ~~(1) Creating a geographic Statewide inventory of high-~~
12 ~~speed broadband Internet service and other relevant~~
13 ~~telecommunications and information technology services. The~~
14 ~~inventory shall:~~

15 ~~(i) Identify geographic gaps in high speed broadband~~
16 ~~Internet service through a method of geographic~~
17 ~~information systems (GIS) mapping of service availability~~
18 ~~and GIS analysis at the census block level.~~

19 ~~(ii) Provide a baseline assessment of Statewide~~
20 ~~high speed broadband Internet deployment in terms of~~
21 ~~percentage of households with high speed broadband~~
22 ~~Internet availability.~~

23 ~~(iii) Provide updates to these data every six~~
24 ~~months.~~

25 ~~(2) Tracking Statewide residential and business adoption~~
26 ~~of high speed broadband Internet, computers and related~~
27 ~~information technology; identifying barriers to adoption; and~~
28 ~~measuring progress on these data annually.~~

29 ~~(3) Building and facilitating in each county or~~
30 ~~designated region a local technology planning team with~~

~~members representing a cross section of the community, including, but not limited to, representatives of business, telecommunications labor organizations, K-12 education, health care, libraries, higher education, community based organizations, local government, tourism, parks and recreation and agriculture. Each team shall benchmark technology use across relevant community sectors, set goals for improved technology use within each sector and develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation.~~

~~(4) Working collaboratively with high speed broadband Internet providers and technology companies across this Commonwealth to encourage deployment and use, especially in underserved areas, through the use of local demand aggregation, mapping analysis and the creation of market intelligence to improve the business case for providers to deploy.~~

~~(5) Establishing programs to improve computer ownership and Internet access for disenfranchised populations across this Commonwealth.~~

~~(d) Contracting with nonprofit. The Department of Community and Economic Development may contract with a nonprofit organization to accomplish the objectives set forth in this chapter. The organization shall have an established competency in working with public and private sectors to accomplish wide-scale deployment and adoption of telecommunications and information technology.~~

~~Section 2. This act shall take effect immediately.~~

SECTION 1. DECLARATION OF POLICY.

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1 THE FOLLOWING IS DECLARED TO BE THE POLICY OF THE GENERAL
2 ASSEMBLY:

3 (1) BROADBAND AVAILABILITY IS A CRITICAL FACTOR OF
4 ECONOMIC DEVELOPMENT TO STIMULATE COMMERCE AND INCREASE JOB
5 CREATION AND RETENTION IN THIS COMMONWEALTH.

6 (2) HIGH-SPEED INTERNET ACCESS, OR BROADBAND, IS
7 ESSENTIAL INFRASTRUCTURE THAT HAS BEEN PROVEN TO STIMULATE
8 ECONOMIC DEVELOPMENT, CREATE JOBS AND INCREASE PROPERTY
9 VALUES AND TAX RECEIPTS.

10 (3) THE DEPLOYMENT AND ADOPTION OF BROADBAND TECHNOLOGY
11 HAS RESULTED IN ENHANCED ECONOMIC DEVELOPMENT AND PUBLIC
12 SAFETY, IMPROVED HEALTH CARE AND EDUCATIONAL OPPORTUNITIES
13 AND A BETTER QUALITY OF LIFE FOR ALL PENNSYLVANIANS.

14 (4) A STATEWIDE BROADBAND INVENTORY ESTABLISHED IN 66
15 PA.C.S. CH. 30 (RELATING TO ALTERNATIVE FORM OF REGULATION OF
16 TELECOMMUNICATIONS SERVICES) IS A VITAL BUILDING BLOCK TO A
17 MORE INFORMED BROADBAND POLICY.

18 (5) IMPROVING DATA COLLECTION AND MAPPING OF THE
19 DEPLOYMENT AND ADOPTION OF BROADBAND SERVICE WILL ASSIST IN
20 IDENTIFYING ANY UNDERSERVED AREAS AND UTILIZING EXISTING
21 RESOURCES TO TRIGGER THE DEPLOYMENT OF BROADBAND SERVICES IN
22 SUCH AREAS.

23 (6) THE GENERAL ASSEMBLY RECOGNIZES AND ENCOURAGES
24 COMPLEMENTARY STATE EFFORTS TO IMPROVE THE QUALITY AND
25 USEFULNESS OF BROADBAND DATA COLLECTED AT THE DEPARTMENT OF
26 COMMUNITY AND ECONOMIC DEVELOPMENT AS REQUIRED UNDER 66
27 PA.C.S. CH. 30.

28 (7) THE GENERAL ASSEMBLY CONTINUES TO ENCOURAGE AND
29 SUPPORT THE ESTABLISHED PARTNERSHIP BETWEEN PUBLIC AND
30 PRIVATE SECTORS IN THE UNIVERSAL DEPLOYMENT OF BROADBAND

1 SERVICES AS MANDATED UNDER 66 PA.C.S. CH. 30 FOR THE
2 RESIDENTS AND BUSINESSES OF THIS COMMONWEALTH.

3 SECTION 2. MAPPING AND REPORT.

4 THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL
5 WORK COLLABORATIVELY WITH ALTERNATIVE SERVICE PROVIDERS,
6 BROADBAND SERVICE PROVIDERS AND INFORMATION TECHNOLOGY
7 COMPANIES, AS MANDATED UNDER 66 PA.C.S. CH. 30 (RELATING TO
8 ALTERNATIVE FORM OF REGULATION OF TELECOMMUNICATIONS SERVICES)
9 IN ORDER TO:

10 (1) MAINTAIN AND UPDATE THE COMMONWEALTH'S BROADBAND
11 INVENTORY MAP ON ITS INTERNET WEBSITE NO LESS THAN ON A
12 MONTHLY BASIS TO:

13 (I) IDENTIFY BROADBAND SERVICE PENETRATION LEVELS
14 THROUGH A METHOD OF GEOGRAPHIC INFORMATION SYSTEM MAPPING
15 OF SERVICE AVAILABILITY;

16 (II) UTILIZE EXISTING STATE PROGRAMS TO AGGREGATE
17 DEMAND FOR THE INCREASED DEPLOYMENT OF HIGH-SPEED
18 BROADBAND IN ANY UNDERSERVED AREAS; AND

19 (III) PROVIDE A BASELINE AND ONGOING ASSESSMENT OF
20 STATEWIDE BROADBAND DEPLOYMENT IN TERMS OF TOTAL
21 HOUSEHOLDS WITH HIGH-SPEED BROADBAND AVAILABILITY.

22 (2) PROTECT THE CONFIDENTIALITY OF TRADE SECRETS AND
23 OTHER PROPRIETARY BUSINESS INFORMATION OF ALTERNATIVE SERVICE
24 PROVIDERS, BROADBAND SERVICE PROVIDERS AND INFORMATION
25 SERVICE PROVIDERS.

26 (3) ISSUE AN ANNUAL REPORT TO THE GENERAL ASSEMBLY
27 DETAILING ITS EFFORTS TO MAP BROADBAND AVAILABILITY
28 THROUGHOUT THIS COMMONWEALTH, IDENTIFY UNDERSERVED AREAS AND
29 ASSIST IN THE INCREASED DEPLOYMENT OF HIGH-SPEED BROADBAND
30 SERVICES UNDER EXISTING STATE PROGRAMS.

1 SECTION 3. EFFECTIVE DATE.

2 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.