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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Commerce, Utilities, and Rail (SC-CUR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

400 S. Washington St.
P.O. Box 1660
Green Bay, WI 54304-1660
Phone 920-437-8704
Fax 920-437-1024
Web www.titletown.org



March 21, 2007

TO: Members of the Assembly Committee on Energy & Utilities
Rep. Phil Montgomery, chair

RE: LRB #1914/3 Video Competition Act

became AB 207,
companion to SB 107

I am writing you today to add the support of the Green Bay Area Chamber of Commerce to the widespread, bipartisan support already being expressed for the proposed Video Competition Act.

This bill will not only bring video choice to Wisconsin consumers by updating the current cable franchising process; it will also address the needs of new technology while still maintaining important regulatory authority and local government revenues.

We support passage of LRB #1914/3 because:

- It streamlines the franchise application process and brings it to a statewide level.
- It holds harmless the municipalities by directly sending them 5% of gross revenues and by maintaining their authority over rights-of-way.
- Competition will produce lower rates for subscribers (down 23% on average in states with competition) and create incentives for better customer service.
- It ensures a level playing field for all video service providers by allowing all of them the opportunity to opt out of current franchise agreements in favor of obtaining a statewide franchise.
- Consumers are still protected by prohibitions on service discrimination based on income or race, by FCC customer service standards and by the requirement that all new entrants into a market will have to match the incumbent provider's commitment to public, educational and government channels.

These reforms will bring millions of dollars of new infrastructure upgrades into Wisconsin as more competitors enter the marketplace.

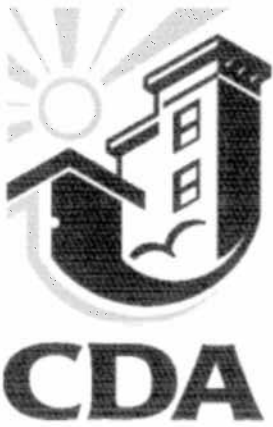
I respectfully ask that you support this bill when it comes before your committee later this month. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul F. Jadin', is written over a circular stamp or seal.

Paul F. Jadin
President





Community Development Authority

Madison Municipal Building, Suite 318
215 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703
ph (608)266.4675 tdd (608)264.9290 fx (608)264.9291
email housing@cityofmadison.com
mail P.O. Box 1785, Madison, WI 53701-1785

March 22, 2007

Members of the Wisconsin Legislature:

Dear Legislators,

I am writing in support of Madison City Channel and PEG Access Television in Wisconsin, and to urge you to restore existing funding mechanisms in the "Video Competition Act" (AB-207) the Wisconsin Legislature is considering.

Channels such as Madison City Channel are an important component of the public discourse. Communities such as Madison are very interested in the activities of their local government. Just as C-Span makes accessible the workings of the Federal Government and the proposed Wisconsin Eye that of State Government, Madison City Channel makes local Madison government and public affairs accessible to the Madison public, resulting in a more informed and involved citizenry.

MCC-12 has helped us inform the Citizens of Madison About our Housing Assistance Programs. Education and knowledge by the general public is key to the most effective and efficient use of our programs. It also helps to clarify and involve the public on important Housing policy issues facing our community, and helps us to make informed decisions.

However, under the current version of this bill, these vital community links are at risk.

In order for stations such as Madison City Channel to continue their missions, please amend the language of the "Video Competition Act" to fund PEG Access at *the greater of 1% of gross revenues or at the level required of the existing cable incumbent.*

Thank you for your attention in this matter. Please don't hesitate to contact me if I can provide any further information.

Sincerely,

Agustin Olvera

CDA Housing Director

COMPENION TO
SB 107

Dear Distinguished Elected Official:

This e-mail is in opposition to the provision that would remove the existing funding mechanisms in the "Video Competition Act" (AB-207).

I am a Charter cable subscriber. I have chosen to remain with Charter and not get a satellite dish, because of my desire to see the programs that are offered on City Cable Channel 12.

As an active citizen of Madison, I desire to be enlightened about what is happening in my community. Since I am not able to attend all events/meetings that might be of interest to me, I count on being able to see these events on Cable 12. Events such as the Common Council meetings, Access City Hall, Dane County Board meetings, the Mayor's Report, Senior Beat and even the Madison Symphony Orchestra are shown on Cable 12. Without the availability of access to meetings such as the City Council and Dane County board, I would not be able to keep current of issues that have an effect on me and my community, such as the redevelopment of the Hilldale Shopping Center and the Midvale Plaza. Not only was I able to watch the actions of the council, I was able to watch meetings of the Plan Commission.

While I could, if the need arises, attend some of these meeting, my downstairs neighbor is in her mid-70's and unable to attend the meetings, thus she needs the availability of PEG Access television to allow her to know what is happening. Other seniors that I am friendly with who live on Sawyer Terrace, also consider programs shown via the PEG Access television essential to them being knowledgeable and productive citizens. Currently many of them have been watching mayoral debates via cable.

Consider my 89 year old mother who is very active in this community. Her major in undergraduate school was the Foreign Languages of French, Spanish and German. She is able to view Connexion Latina to keep her informed of what is happening in the Latino community and keep her Spanish listening and understanding skills up. She enjoys being able to view Senior Beat and other programs geared to Seniors. Both my mom and my neighbor can continue to be informed citizens.

The existing PEG funding of less than a \$1.00 per month allows only those of us that have cable to pay for this service. For those individuals that elect not to subscribe to cable, they do not have to pay. A change in the fund would cause non subscribers to have to pay also. In other words, the general public would have to pay for a service that they do not use.

I hope that I can count on your opposition to the proposed provision that would remove the existing funding mechanisms in the "Video Competition Act" (AB-207).

Thank you for your consideration.

Ariel Y. Hicklin Ford
613 N. Midvale Blvd., #3
Madison, WI 53705

March 26, 2007

Committee on Energy and Utilities
Wisconsin State Assembly
Capitol Building
Madison, WI 53702

Dear Committee on Energy and Utilities Members:

I am writing in support of Madison City Channel and PEG Access Television in Wisconsin, and to urge you to restore existing funding mechanisms in the "Video Competition Act" (AB-207) the Wisconsin Legislature is considering.

Channels such as Madison City Channel are an important component of the public discourse. Communities such as Madison are very interested in the activities of their local government. Just as C-Span makes accessible the workings of the Federal Government and the proposed Wisconsin Eye that of State Government, Madison City Channel makes local Madison government and public affairs accessible to the Madison public, resulting in a more informed and involved citizenry.

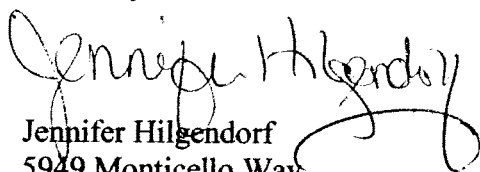
As the Programming Coordinator for Madison City Channel, in the 5 plus years that I've worked in this position, I have experienced countless phone calls and emails requesting information regarding the programming we broadcast. Many of these communications have been followed with positive feedback about our channel. I often hear from viewers how grateful they are to have access to our channel and appreciate all the work we've done. From receiving duplication requests of a Wisconsin Academy Evenings series program to getting help finding the streaming video of the latest Madison Common Council Meeting on our website, my day is filled with talking with citizens who watch Madison City Channel 12. I firmly believe that Madison City Channel creates a strong connection for the Madison Residents to City Government.

However, under the current version of this bill, these vital community links are at risk.

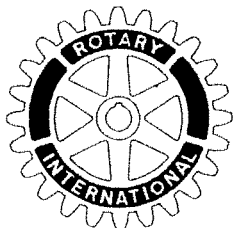
In order for stations such as Madison City Channel to continue their missions, please amend the language of the "Video Competition Act" to fund PEG Access *at the greater of 1% of gross revenues or at the level required of the existing cable incumbent*. This type of language is called "do no harm" language and simply preserves the status quo.

Thank you for your attention in this matter. Please don't hesitate to contact me if I can provide any further information.

Sincerely,



Jennifer Hilgendorf
5949 Monticello Way
Madison, WI 53719



Rotary Club of Madison

22 N. Carroll Street, Suite 202, Madison, WI 53703
Phone (608) 255-9164 Fax (608) 255-9007
E-mail: office@rotarymadison.org www.rotarymadison.org

March 26, 2007

Committee on Energy and Utilities
Wisconsin State Assembly
Capitol Building
Madison, WI 53702

Re: AB-207

To Committee on Energy and Utilities Members:

I understand that the proposed AB-207, "Video Competition Act," would essentially eliminate current authorization for the funding of Public, Educational, or Government channels. I write to strongly oppose that provision of the proposed law.

The citizens of Madison are served by City Channel 12. Many of us, retired or still employed, remain connected to City government through the programming of City Channel 12. If the funding were eliminated, or required to be shifted to the property tax, it would deeply wound, perhaps fatally, this access to city affairs.

City Channel 12 also provides informative, educational and entertaining programming. Prominent presentations and speakers before area service clubs are often taped by City Channel 12 and rebroadcast multiple times. As a member of and program chair for the Rotary Club of Madison, I am acutely aware of the positive reactions Madisonians have to such programming. In the past few years, presentations by UW Coach Bret Bielema, Chief Justice Shirley Abrahamson, UW researcher James Thomsen, and author David Marinnis, as well as programs celebrating Martin Luther King, Jr. and Benjamin Franklin, and thought-provoking presentations by numerous UW faculty, have been shared with citizens through the efforts of City Channel 12.

Legislation which would eliminate or severely hamper established funding mechanisms for City Channel 12 and similar outlets would do grave damage to the goal of an informed citizenry. I urge that the legislation under consideration, regardless of its other merit(s), maintain established funding mechanisms so as to allow continuation of such operations.

Very truly yours,

A handwritten signature in cursive script that reads "James K. Ruhly".

James K. Ruhly

JKR/dlb

cc: Brad Clark, Station Manager



MADISON AREA CRIME STOPPERS, INC.

Crime Stoppers Administrative Office • P.O. Box 964 • Madison, WI 53701-0964
Phone 266-6014 Rewards up to \$1,000

March 26, 2007

Dear Members of the Assembly Committee on Energy and Utilities:

I am writing in support of Madison City Channel and PEG Access Television in Wisconsin, and to urge you to restore existing funding mechanisms in the "Video Competition Act" (AB-207) the Wisconsin Legislature is considering.

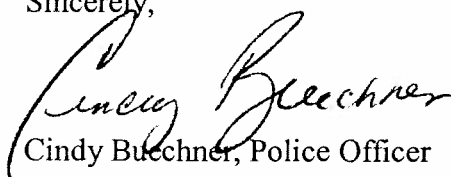
I am the Law Enforcement Coordinator for Madison Area Crime Stoppers and have been working with Madison City Channel 12 since May of 2006. Crime Stoppers is a program designed to prevent and solve crimes in a combined effort of police, media and citizens. The program is based on the idea that for every crime someone aside from the perpetrator has knowledge of that crime. Citizens are often reluctant to come forward with information out of fear or apathy about getting involved. Crime Stoppers combats these problems by ensuring informants anonymity and providing monetary reward for useful information.

Madison Area Crime Stoppers relies on the media to get the word out about the program, unsolved crimes, and wanted people. Madison City Channel 12 has been instrumental in assisting us with getting the word out by broadcasting English and Spanish weekly TV segments about unsolved crimes in the Madison area that are taped by Channel 27 and by airing a bulletin board daily that displays unsolved crimes and wanted people. Although I do not know the specific number of calls that come from information aired on Channel 12, I do know that in 2006 Madison Area Crime Stoppers received 137 more calls than in 2005 when we did not have a working relationship with Channel 12. Madison Area Crime Stoppers was also responsible for solving 93 cases in 2006 compared to 63 in 2005. This program depends on the services of media outlets like City Channel 12 for its success.

In order for stations such as Madison City Channel to continue their missions, please amend the language of the "Video Competition Act" to fund PEG Access at *the greater of 1% of gross revenues or at the level required of the existing cable incumbent*. This type of language is called "do no harm" language and simply preserves the status quo.

Thank you for your attention in this matter. Please don't hesitate to contact me if I can provide any further information

Sincerely,


Cindy Buechner, Police Officer

(608) 267-1984

*Serving All Dane County
A Community Effort to Deal with Crime*



Overture Center
FOR THE ARTS

201 State Street, Madison, WI 53703

March 23, 2007

Dear State Legislators,

Overture Center for the Arts strongly supports all public, educational and government television programming channels. We urge you to please preserve existing PEG funding in any state legislation.

We value our close relationship with Madison City Channel to help create awareness of Overture's many education, outreach, and community activities. Station manager Brad Clark works closely with us to communicate vital information about the more than 50,000 public school students who visit Overture for our performing arts series, OnStage, supported by the American Girl's Fund for Children.

In fact, we rely on public television to tape our annual season premiere party (May 16 this year) and help generate community interest and excitement for the variety of performances and gallery exhibitions at Overture. Madison City Channel is a key stakeholder in helping deliver our important community message with a level of quality and clarity we would likely be hard-pressed to afford in the commercial marketplace.

Overture asks you to please preserve existing PEG funding in any state legislation.

Sincerely,

Tom Carto

President and CEO, Overture Center for the Arts

March 26, 2007

Committee on Energy and Utilities
Wisconsin State Assembly
Capitol Building
Madison, WI 53702

Dear Members of the Assembly Committee on Energy and Utilities,

I am writing in support of Madison City Channel and PEG Access Television in Wisconsin, and to urge you to restore existing funding mechanisms in the "Video Competition Act" (AB-207) the Wisconsin Legislature is considering.

Channels such as Madison City Channel are an important component of the public discourse. Communities such as Madison are very interested in the activities of their local government. Just as C-Span makes accessible the workings of the Federal Government and the proposed Wisconsin Eye that of State Government, Madison City Channel makes local Madison government and public affairs accessible to the Madison public, resulting in a more informed and involved citizenry.

However, under the current version of this bill, these vital community links are at risk.

In order for stations such as Madison City Channel to continue their missions, please amend the language of the "Video Competition Act" to fund PEG Access at the greater of 1% of gross revenues or at the level required of the existing cable incumbent. This type of language is called "do no harm" language and simply preserves the status quo.

Thank you for your attention in this matter. Please don't hesitate to contact me if I can provide any further information.
Sincerely,

Dalia D. Dannenberg
F&S Staff Services Specialist
Capitol Insurance Companies
Ph: 608-829-4235
FX: 608-829-7402



March 26, 2007

Representative Phil Montgomery
Members of the Assembly Committee on Energy and Utilities
Room 412 East
State Capitol
State of Wisconsin

Dear Representative Montgomery:

I am writing in support of the Madison City Channel, and to urge you to maintain the existing funding mechanisms that are currently available to this channel.

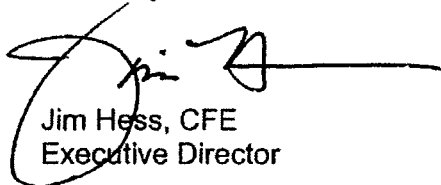
Channels such as Madison City Channel are an important component of the public discourse. Just as C-Span makes the workings of our federal government open to the general public, Madison City Channel makes local Madison government and public affairs accessible to the Madison area citizens, resulting in a more informed and involved citizenry.

Madison City Channel works with Monona Terrace to help educate the public about our facility, and promoting our free community events. They also tape and re-broadcast public programs held at Monona Terrace that citizens would not otherwise be able to attend.

However, under the current version of the "Video Competition Act" (AB-207), these vital community links are at risk. I urge you to support the current funding mechanisms for channels such as Madison Channel 12.

Thank you for your attention in this matter. Please contact me if I can be of any further assistance.

Sincerely,



Jim Hess, CFE
Executive Director

ONE JOHN HOLEN DRIVE
MADISON WI 53703

608 261-4000 TEL
608 261-4049 FAX
608 261-4150 TTY
info@mononaterrace.com

Madison City Channel - Organizations Served

Public Affairs Programs

The Mayor's Report

District Reports

Senior Beat

Conexion Latina

Madison Works

Access: City Hall (1982-2003)

Focus on Equality (1987-1998)

Healthy City (1987)

Common Horizons (1995-1997)

Building Blocks (1997-2003)

Regular Meeting Coverage

Madison Common Council

Madison Plan Commission

Madison Board of Estimates

Physical Disabilities Commission

Transit and Parking Commission

Pedestrian, Bicycle, and Motor

Vehicle Commission

Dane County Board

Organization

City of Madison Mayor's Office

Madison Common Council

Madison Senior Center

Centro Hispano; Madison

Common Council (Ald. Tim Bruer)

various City agencies

League of Women Voters of Dane

County

Equal Opportunities Commission;

Affirmative Action

City Public Health

YWCA

Mayor Bauman's Office

Staff/Organization

Common Council Office

City Planning and Development

City Comptroller's Office

Affirmative Action

Metro

City Traffic Engineering

Dane County Board Office

Video Production Services - City Agencies

Affirmative Action

City Attorney

Building Inspection

Community Development Block Grant

City Clerk

Employee Assistance Program

Engineering

Equal Opportunities Commission

Fire

Health

Housing Operations

Human Resources

Information Services

Library

Metro

Comptroller

Madison Sesquicentennial Committee

Mayor

Monona Terrace

Olbrich Gardens

Organizational Development and

Training

Parking Utility

Parks

Planning and Development

Police

Senior Center

Sewer Utility

Streets

Traffic Engineering

Transportation

Water Utility

Municipal Court

Video Production Services – Other Government Agencies

Dane County Cultural Affairs	Neighborhood Intervention Project
City-County Combined Campaign	Dane County Job Center
Dane County Veterans Services	State Elections Board
Dane County Department of Public Health	Employment & Training Association
Dane County Emergency Management	Dane County 911 Center
Madison Area Technical College	Dane County Parks
Dane County Clerk	

Video Production Services – Nonprofit Organizations

Domestic Abuse Intervention Services
Greater Madison Convention and Visitors Bureau
Pedestrians Encouraging Driving Safely, Inc.
Tobacco-Free Dane County Coalition
Red Cross of Madison
Community Health Charities of Wisconsin
North/East Side Senior Coalition
Madison Apartment Association
Celebrate Madison
African Association of Madison

Video Production Services – Other

Westgard Quality Corporation
Madison English as a Second Language School

Special “Ad-Hoc” Meeting/Event/Presentation Coverage – City Agencies

Mayor’s Office	Library
Equal Opportunities Commission	Metro
Public Health	Monona Terrace
Fire	Civic Center/Overture Center
Police	Senior Center
Planning and Development	Streets
Community Development Block Grant	Affirmative Action
Common Council	Community Services
Parks	Olbrich Gardens

Special “Ad-Hoc” Meeting/Event/Presentation Coverage – City Boards and Commissions

Sesquicentennial Commission	Parks Commission
Alcohol License Review Committee	Housing Committee
Civil Rights Department Advisory Committee	Transport 2020
Common Council Organizational Committee	Streetcar Study Committee
Commission on the Environment	Landmarks Commission
Community Development Authority	Urban Design Commission
Union Corners Public Hearings	State Street Redesign Project
City of Madison Comprehensive Plan	Economic Development Commission
Ad-Hoc Swimming Pool Committee	Metropolitan Planning Organization

Board of Health for Madison and Dane County Downtown Coordinating Committee
Broadband Telecommunications Regulatory Board
Madison Cultural Arts District Board
Community Development Block Grant Commission
East Rail Corridor Plan Advisory Committee

Special "Ad-Hoc" Meeting/Event/Presentation Coverage – Other Government Agencies

Dane County Equal Opportunities	UW Diversity Education Program
Office of Lt. Gov. Barbara Lawton	UW LaFollette Institute
Office of State Senator Mark Miller	UW Hospitals
Dane County Emergency Management	Public Service Commission
Office of U. S. Senator Russ Feingold	Dane County Comprehensive Plan
Office of U. S. Representative Tammy Baldwin	Dane County Census 2000
North Mendota Parkway Advisory Committee	
Dane County Women's Issues Committee	
Wisconsin Department of Health and Family Services	
Wisconsin Department of Transportation	
Dane County Regional Planning Commission	

Special "Ad-Hoc" Meeting/Event/Presentation Coverage – Nonprofit Organizations

Wisconsin Alliance of Cities	The Dane Fund
Wisconsin Association of PEG Channels	Safe Community Coalition
Wisconsin Forward Award	Downtown Madison Rotary
Wisconsin Academy of Sciences, Arts & Letters	King Coalition
YWCA of Madison and Dane County	Urban League of Greater Madison
Four Lakes Group Sierra Club	TEMPO Madison
Greater Madison Convention and Visitors Bureau	Capital Neighborhoods, Inc.
Center for Democracy in Action	Downtown Madison, Inc.
American Society for Public Administration	River Alliance
Tobacco-Free Dane County Coalition	Rape Crisis Center
Dudgeon-Monroe Neighborhood Association	Area Agency on Aging
Greater Madison Healthy Lawn Team	Historic Madison, Inc.
Wisconsin Innocence Project	Madison Pride
Breast Cancer Recovery Foundation	United Refugee Services
Madison-Camaguey Sister City Association	Madison Civics Club
Yahara Lakes Advisory Group	State Bar of Wisconsin
Greater Madison Chamber of Commerce	Madison Urban Ministry
Wisconsin Women in Government	Race Unity Rally
League of Women Voters of Dane County	Tenant Resource Center
League of Women Voters of Wisconsin	NAACP Madison Branch
International Association for Public Participation	United Way of Dane County
Society of Professional Journalists	Wheelchair Recycling Project
Apartment Association of South Central Wisconsin	Wisconsin Book Festival
Madison Area Quality Improvement Network	Centro Hispano
Physicians for Social Responsibility	Communities United Against Hate

Special "Ad-Hoc" Meeting/Event/Presentation Coverage – Other

Isthmus
Wisconsin State Journal

Madison Gas & Electric
Piano Technicians Guild

Community Bulletin Board – City Agencies

Board of Estimates
City Clerk Office
City of Madison CDBG
City of Madison Human Resources
City of Madison Study Circles on Race
East Washington Avenue Reconstruction Project
Fit City Madison
Irwin A. Goodman & Robert D. Goodman Swimming Pool
Madison CitiArts
Madison Civic Center
Madison Equal Opportunities Commission
Madison Metro Transit
Madison Parks Division
Madison Pay.com (Treasurer?)
Madison Public Health Department
Madison Senior Center
Madison Stuff Exchange
Madison Water Utility
MMSD Planetarium
MSCR
Overture Center
State Street Design Project
West Madison Senior Center

CCOC Subcommittee on
Committees
City of Madison Assessor
City of Madison Comprehensive
Plan
City of Madison Neighborhoods
City/County Health Department
Equal Opportunities Commission
Madison 150
Madison City Channel
Madison Common Council
Madison Fire Department
Madison Metropolitan Sewerage
District
Madison Parks Foundation
Madison Police Department
Madison Public Library System
Madison Streets and Recycling
Madison Traffic Engineering
Mayor's Office
Monona Terrace
Olbrich Gardens
Section 8 Advisory Commission
Warner Park Community Recreation
Center

Community Bulletin Board – Other Government Agencies

Dane County Board of Supervisors
Dane County Clean Sweep
Dane County Dairy Promotion Committee
Dane County Employee Relations Office
Dane County Regional Planning Commission
Dane County Youth Commission
MATC
MATC Showchoir

Dane County Clean Air Coalition
Dane County Cultural Affairs
Commission
Dane County Department of Human
Services
Dane County Public Safety
Communications Center
Dane County Veterans Service
Office
Department of Public Works
MATC Mitby Theater
National Highway Traffic Safety

South Central Library System
Story Corps (national archives)
U.S. Coast Guard Auxiliary

Administration
State Historical Society
Transport 2020 Commission
University of Wisconsin – Madison
School of Music

University of Wisconsin – Madison Physics Department
University of Wisconsin Department of Intercollegiate Athletics
University of Wisconsin-Madison Classified Personnel Office
University Opera
US Postal Service
UW Arboretum
UW Center for the Study of Upper Midwestern Cultures
UW Memorial Union
UW-M Cycling Club
UW-Madison Center for the Humanities
UW-School of Veterinary Medicine
Wisconsin Council on Developmental Disabilities
Wisconsin DOT
Wisconsin Park and Recreation Association
Wisconsin Union Theatre

University Theatre
UW African Studies Program
UW Flying Club
UW-M Center for East Asian Studies
UW-M Geology Museum
UW-Madison Dance
Wisconsin Arts Board
Wisconsin Department of Veterans Affairs
Wisconsin Humanities Council
Wisconsin Union Galleries
Wisconsin Veterans Museum

Community Bulletin Board – Nonprofit Organizations/Events

100 Black Men of Madison, WI
4-C Child and Adult Care Food Program
African Association of Madison, Inc.
AIDS Network South Central Wisconsin
American Business Women's Association Madison Chapter
American Cancer Society
American College Dance Festival Association
Assumption Greek Orthodox Church
Bach Dancing and Dynamite Society
Balalaika and Domra Association of America
Bartell Theatre
Bicycle Federation of Wisconsin
Big Brothers and Big Sisters of Dane County
Boys & Girls Club of Dane County, Inc.
Breast Cancer Survivors Support Group
Business and Professional Women of WI
Capitol Neighbors, Inc.
Centro Hispano
Community Action Coalition of South Central Wisconsin
Community Services Center
Cow Parade Wisconsin 2006
CTM Madison Family Theatre Company
Dane County Advocacy Network

AAA Wisconsin
AARP
AIYSEP
Alzheimer's Association
American Red Cross
Arthritis Foundation
Atwood Community Center
Badger State Games
Barrymore Theatre
Bayview Foundation
Blue Dot Theatre
Brat Fest
Briarpatch
Broom Street Theatre
Capitol City Band
Capitol Square Sprints Madison
Chazen Museum of Art
Community Shares
Cystic Fibrosis Foundation
Dance Wisconsin
Dane County Fair

Dane County Farmer's Market	Dane County Food Pantry Network
Dane County Humane Society	Dane County Job Center
Dane County Kids	Downtown Madison, Inc.
Dane County Winter Farmer's Market	Easter Seals Wisconsin
Domestic Abuse Intervention Services	Eastside Farmer's Market
East Madison/Monona Coalition of the Aging	Eastside Players
Edgewood College	Empty Bowls Madison
Exchange Center for the Prevention of Child Abuse	Fantasy in Lights
Fitchburg Farmer's Market	Flu Shot Clinic
Four Lake Council of Boy Scouts of America	Four Seasons Theatre
Friends of Pheasant Branch	GLSEN South Central Wisconsin
Great Midwest Alpaca Festival	Habitat ReStore
Greater Madison Convention and Visitors Bureau	Harambee Health Hour
Greater State Street Business Association	Havens Center
Habitat for Humanity of Dane County	Hello Friend
Henry Vilas Zoo	Hilldale Farmer's Market
Home Buyers Round Table of Dane County	Home Health United
Homeless Cooperative	HospiceCare
HOPE'S Helping Others Prevent & Educated about Suicide	
Houdini Club of Wisconsin	Independent Living, Inc.
Isthmus Jazz Festival	Isthmus Vocal Ensemble
Jin-Wen Yu Dance	Kalaanajali School of Dance
Kanopy Dance Company	Kennedy Heights Community Center
Kujichagulia - Madison Center for Self Determination, Inc.	
League of Women Voters of Dane County	Li Chiao-Ping Dance
Mad CAP	Mad-City Ski Team
Madison Area Cagebird Association of Wisconsin	Madison Area Credit Unions
Madison Area Community Supported Agriculture Coalition	
Madison Area Concert Handbells	Madison Area Crime Stoppers
Madison Area Down Syndrome Society	Madison Area Jugglers
Madison Area Literacy Council	Madison Area Mothers of Multiples
Madison Area Peace Coalition	Madison Area Safe Kids Coalition
Madison Art Center	Madison Audubon Society
Madison Bahá'í faith community	Madison Ballet
Madison Blues Society	Madison Boychoir
Madison Brass	Madison Children's Museum
Madison Coalition of Older Adults	Madison Common Council
Madison Community Orchestra	Madison Festivals Inc.
Madison Fireworks Fund, Inc.	Madison Folk Music Society
Madison Human "Milk Depot"	Madison Jazz Society
Madison Marimba Quartet	Madison Municipal Band
Madison Museum of Contemporary Art	Madison Opera
Madison Repertory Theatre	Madison Rotary
Madison Savoyards, Ltd.	Madison Sports Car Club
Madison Symphony Orchestra	Madison Theatre Guild
Madison Youth Choirs	Madison's Kids Cafe

March of Dimes	Max Kade Institute
Marquette Neighborhood Association	MEDIC
McClellan Park Neighborhood Association	Mercury Players Theatre
Middleton Farmer's Market	Midvale Heights Neighborhood
Midwest Renewable Energy Association	Neighborhood Connections
National Association of Letter Carriers	Neighborhood Watch
Nehemiah Community Development Corporation	North/Eastside Senior Coalition
Neighborhood House Community Center	Opera for the Young
Old Market Neighborhood Association	Parental Stress Center
P.A.V.E. Promoting Awareness, Victim Empowerment	
Parkwood Hills Garden Club	Patrick Marsh Conservancy
Polar Plunge	Positive Outlook Support Team
Project Bootstrap	Project Home
PUSH America	Rainbow Project
Rape Crisis Center	REAP Food Group
Retired & Senior Volunteer Program RSVP	Safe Harbor of Dane County, Inc.
Rolling Meadows Neighborhood Association	Ronald McDonald House Charities
Safe Community Coalition of Madison and Dane County	
SAIL Support for Active Independent Lives	Schumacher Farm
Second Harvest of Dane County	Seniors Organizing Seniors
Small Business Development Center	South Madison Community Market
South Madison Coalition of the Elderly	Special Olympics
St. Bernard's Theater	Stage Q
Stage Works Productions, Inc.	STARTS
Strollers Theatre Ltd.	Sun Prairie Farmer's Market
Sun Prairie Garden Club	TEMPO Madison
Susan G. Komen Breast Cancer Foundation	Tenant Resource Center
TapIT/New Works Ensemble Theater	The Oakwood Chamber Players
Tenney-Lapham Neighborhood Association	The Respite Center
The Leukemia & Lymphoma Society	The Veterans of Foreign Wars Band
The Philharmonic Chorus of Madison	United Way of Dane County
Tobacco-Free Dane County Coalition	V.A. Kids Center
United Cerebral Palsy of Greater Dane County	WAEA
Waunakee Farmer's Market	Westside Community Market
WhoopDeDoo Productions, Inc.	Wisconsin Alliance of Cities
Wisconsin Academy of Sciences, Arts and Letters	Wisconsin Chamber Choir
Wisconsin Alliance of Artists and Craftspeople, Inc.	
Wisconsin Association of PEG Access Channels	Wisconsin Chamber Orchestra
Wisconsin Center for Academically Talented Youth	
Wisconsin Sports Development Corporation	Wisconsin Tobacco Quit Line
Wisconsin Track Club	Wisconsin Wetlands Association
Wisconsin Women's Business Initiative Corporation	
Wisconsin Youth Symphony Orchestras	World Dairy Expo
Yahara District Boy Scouts of America	YMCA of Dane County
Young Shakespeare Players	YWCA of Dane County





**NORTHEAST
WISCONSIN
CHAMBERS
COALITION**

March 22, 2007

TO: Members of the Assembly Committee on Energy & Utilities
Rep. Phil Montgomery, chair

RE: LRB #1914/3 Video Competition Act

*became AB 207,
companion to SB 107*

Fond du Lac Area
Association of Commerce
207 N Main St
Fond du Lac, WI 54935-3460
(920)921.9500
www.fdlac.com

We are writing today on behalf of the Northeast Wisconsin Chamber Coalition to formally support the proposed Video Competition Act. The coalition represents more than 5,000 businesses in Northeast Wisconsin and is committed to improving the business climate of the New North region.

We believe this bill warrants your support, because it will benefit consumers by giving them more choice and enhance competition amongst the various video providers. It will also encourage development of new technology, while maintaining important regulatory authority and local government revenues.

Fox Cities Chamber
of Commerce & Industry
PO Box 1855
Appleton, WI 54912-1855
(920)734.7101
www.foxcitieschamber.com

- We support passage of LRB #1914/3 because:
- It streamlines the franchise application process and brings it to a statewide level.
- It holds harmless the municipalities by directly sending them 5% of gross revenues and by maintaining their authority over rights-of-way.
- Competition will produce lower rates for subscribers (down 23% on average in states with competition) and create incentives for better customer service.
- It ensures a level playing field for all video service providers by allowing all of them the opportunity to opt out of current franchise agreements in favor of obtaining a statewide franchise.
- Consumers are still protected by prohibitions on service discrimination based on income or race, by FCC customer service standards and by the requirement that all new entrants into a market will have to match the incumbent provider's commitment to public, educational and government channels.

Green Bay Area
Chamber of Commerce
PO Box 1660
Green Bay, WI 54305-1660
(920)437.8704
www.titletown.org

These reforms will bring millions of dollars of new infrastructure upgrades into Wisconsin as more competitors enter the marketplace.

We respectfully ask that you support this bill when it comes before your committee later this month. Thank you for your consideration.

Sincerely,

John A. Casper
President/CEO
Oshkosh Chamber of Commerce

Paul Jadin
President
Green Bay Area Chamber of
Commerce

Joseph Reitemeier
President/CEO
Fond du Lac Area Association of Commerce

William J. Welch
President/CEO
Fox Cities Chamber of Commerce &
Industry





CENTRO DE LA COMUNIDAD UNIDA UNITED COMMUNITY CENTER

1028 S. 9th Street Milwaukee, WI 53204
(414) 384-3100 Fax: (414) 649-4411
Website: www.unitedcc.org

March 22, 2007

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Juan A. Ruiz

Executive Director
Ricardo Diaz



Representative Phil Montgomery
Room 129 West
State Capitol
P.O. Box 8953
Madison, WI 53708

Dear Representative Montgomery:

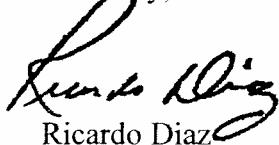
I wish to go on record in support of the proposed State Wide Video Legislation. I do so on my own behalf and on behalf of the thousands of people served by our agency.

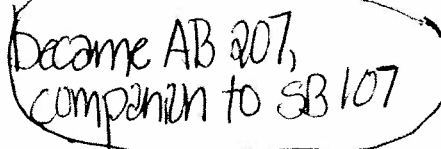
I believe that competition is one of the criteria necessary to keep services and prices at a level that consumers can afford. I have often wondered why only one provider has been allowed to corner the market in Wisconsin. A single provider is all too likely to use that status to raise prices and in the process make services unaffordable for the average consumer. In addition, the average consumer cannot afford their favorites, i.e., baseball games for our elderly gentlemen because these are expensive add-ons.

The present requirements that new video service providers have to follow to secure individual franchises from each community where they want to do business would be a disservice for small communities and residents. The current franchise requirements, if maintained, will withhold competitive video services, cost savings and choices from customers.

If local franchise agreements are the main impediment to establishing more choices and lower prices for the average consumer and the Wisconsin Video Competition Act - LRB-1914 will help to bring about this change, I believe it is incumbent on the Wisconsin State Legislature to pass the bill. Let's level the playing field and provide access to good, reasonably priced services for all consumers.

Sincerely,


Ricardo Diaz



RD/at



Gary L. Smith
1036 Morningside Drive
Janesville, Wisconsin 53546

March 23, 2007

SB 107?

Rep. Phil Montgomery, Chair
Committee on Energy and Utilities

Dear Representative Montgomery and Committee:

For the past several years, I have been on the board for Friends of JATV-12, the public access channel serving the Janesville area. On many occasions I have participated in programs aired on our public, education and government channels. After each airing, it is amazing how many people comment on the program. This is an indication of strong viewership and interest in our community programming.

JATV-12 provides an array of services to the citizens of our community. Some of those services are educational programs, broadcast of city council meetings, candidate forums, taping and broadcasting of community events and meetings, airing non-profit organization programs informing the community of available services, to name a few.

Whereas I believe competition with cable companies would be beneficial, without safeguards for local access channels, valuable community benefits are in jeopardy. Allowing municipalities to collect a PEG (public, education and government) fee of 1-2% of gross revenues earmarked to preserve local access television would safeguard this important and needed service in the local community.

Without the assurance of the PEG fee, I cannot support opening the cable market to competition. Please take into consideration the worthwhile and essential service public access television channels provide to local communities. Please save PEG access—preserve dedicated PEG funding, free transmission and local control over content.

Thank you for taking this concern into consideration.

Sincerely,

Gary L. Smith





WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: ASSEMBLY COMMITTEE ON ENERGY AND UTILITIES
SENATE COMMITTEE ON COMMERCE, UTILITIES, AND RAIL

FROM: David L. Lovell, Senior Analyst, and John Stolzenberg, Chief of Research Services

RE: 2007 Assembly Bill 207 and 2007 Senate Bill 107, Relating to Regulation of Cable Television and Video Service Providers; Overview of Major Provisions

DATE: March 26, 2007

This memorandum provides an overview, in outline format, of the major provisions of 2007 Assembly Bill 207 and 2007 Senate Bill 107, relating to regulation of cable television and video service providers. For a full-text summary of the entire bills, including summaries of applicable current law, see our memorandum to you of this date titled, *2007 Assembly Bill 207 and 2007 Senate Bill 107, Relating to Regulation of Cable Television and Video Service Providers; Background and Summary*.

AUTHORITY TO PROVIDE VIDEO SERVICE

- Replaces current municipal franchise system with state franchise
 - Franchise holder is termed “video service provider”
 - New entrant to market applies for franchise
 - Incumbent cable operator may:
 - Terminate municipal franchise and apply for state franchise; *or*
 - Continue under municipal franchise as “interim cable operator”
 - Current municipal franchises may not be renewed upon expiration
 - New state franchises do not expire
 - Franchise is issued by Department of Financial Institutions (DFI) upon receipt of complete application

- Video service provider must notify municipalities of:
 - Application for franchise that includes the municipality in the video franchise area
 - Intent to commence service (10-day advance notice)
- Municipalities must inform video service providers of:
 - The amount of franchise fee paid by any incumbent cable operator
 - The number of public, educational, and governmental (PEG) channels provided by any incumbent cable operator

VIDEO SERVICE PROVIDER FEE

- In general, video service provider must pay video service provider fee to each municipality in which it offers service
- The fee is the lesser of:
 - 5% of video service providers gross revenues; *or*
 - The amount of franchise fee paid by incumbent cable operator
- Municipalities barred from imposing any other fee
- Enforcement of fee payments:
 - Municipality may inspect service provider's records once every three years
 - Must negotiate settlement of disputed amounts of fees
 - May sue only if good faith settlement discussions fail
 - Three-year time limit to commence suit
 - Neither party may recover costs of litigation
- Video service provider may itemize amount of fee on customers' bills

PEG CHANNELS

- In general, video service provider must provide municipalities PEG channel capacity
 - Three PEG channels for population of 50,000 or more
 - Two PEG channels for population under 50,000
 - Fewer if incumbent cable operator provided fewer

- Municipality fully responsible for PEG programming
 - Must produce and transmit to video service provider
 - May not charge fee to video service provider
- If not substantially utilized, video service provider may reprogram a PEG channel
 - Restore as PEG channel if municipality certifies it will substantially utilize it
 - “Substantially utilized” means:
 - At least 12 hours programming daily; and
 - At least 80% of programming is locally produced and not repeated
 - PEG channels must be available on any service tier viewed by more than 50% of subscribers
 - If PEG channel is reprogrammed because not substantially utilized and later restored to a PEG function, video service provider may provide on any service tier

PUBLIC RIGHTS-OF-WAY

- State franchise authorizes a video service provider to:
 - Occupy the public rights-of-way; and
 - Construct, operate, maintain, and repair a video service network to provide video service in the video franchise area
- If video service provider pays the required video service provider fee, municipality may not require the video service provider to pay
 - Compensation under s. 66.0425 (regulates occupation of public rights-of-way)
 - Any permit fee, encroachment fee, degradation fee, or any other fee
- Municipalities may not impose any fee or requirement on a video service provider relating to the construction of a video service network

CONSUMER PROTECTION

- Department of Agriculture, Trade and Consumer Protection (DATCP):
 - Retains authority to enforce service standards and disclosure requirements applicable to cable operators and to telecommunication providers offering a video service bundled with a telecommunications service

- DATCP may amend these standards to apply to other types of video service providers
- Apparent continued statewide application of state privacy protections for cable service subscribers
- In a municipality with one video service provider, municipality *may* enforce only Federal Communications Commission (FCC) service standards relating to:
 - Provision of telephone access lines, customer service centers, and bill payment locations;
 - Performance standards for installations and responding to outages and service calls; and
 - Standards for issuing refund checks and service credits
- In a municipality with more than one video service provider, municipality, and state agencies *may not* enforce any state or local “customer service standards,” (except for DATCP enforcement of regulations described above)
- Repeal of state service standards in the statutory “cable television subscriber rights”

ACCESS TO SERVICE (“BUILD-OUT”)

- Build-out requirement applies only to “large telecommunications video service provider”
 - Effectively, this means AT&T Wisconsin
- Build-out requirement:
 - 25% of households no later than three years after service commenced
 - 50% of households no later than the later of:
 - Six years after service commenced
 - Two years after at least 30% of households with access have subscribed for six months
- Provider may obtain an extension or waiver under specified circumstances

DISCRIMINATION

- Discrimination based on income or race prohibited
- The following are defenses against allegation of discrimination based on income:
 - Three years after service commenced, 25% of households with access are low-income
 - Five years after service commenced, 30% of households with access are low-income

- Provider may obtain an extension or waiver under specified circumstances

REGULATION OF RATES

- Neither DFI nor a municipality may regulate rates *if* at least two unaffiliated video service providers provide service in a municipality
- Limitation applies regardless of whether any provider has sought a determination by the FCC regarding effective competition

RULE-MAKING LIMITED

- DFI prohibited from promulgating rules interpreting or establishing procedures related to its functions under the bills

ENFORCEMENT

- If any party fails to comply with the new law:
 - A municipality, cable operator, or video service provider may bring an action in circuit court
 - Court is directed to order compliance with the law
 - Bills are silent regarding recovery of damages
 - No party to a suit may recover its costs of prosecuting or defending the suit
- Department of Justice may enforce
 - No penalties specified in bills or current law
 - Statutory default penalty is a forfeiture of not more than \$200

If you have questions regarding 2007 Assembly Bill 207 and 2007 Senate Bill 107 or video services in general, please contact either of us at the Legislative Council staff offices.

DLL:JES:ty:jb





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: ASSEMBLY COMMITTEE ON ENERGY AND UTILITIES
SENATE COMMITTEE ON COMMERCE, UTILITIES, AND RAIL

FROM: David L. Lovell, Senior Analyst, and John Stolzenberg, Chief of Research Services

RE: 2007 Assembly Bill 207 and 2007 Senate Bill 107, Relating to Regulation of Cable Television and Video Service Providers; Background and Summary

DATE: March 26, 2007

This memorandum summarizes the provisions of 2007 Assembly Bill 207 and 2007 Senate Bill 107, relating to regulation of cable television and video service providers. The memorandum includes summaries of applicable current law. It was prepared at the request of Representative Phil Montgomery, Chair, Assembly Committee on Energy and Utilities, and Senator Jeff Plale, Chair, Senate Committee on Commerce, Utilities, and Rail.

OVERVIEW AND PURPOSE

The bills replace municipal franchising of cable television service with a streamlined state franchising process for video services offered by cable service providers and telecommunications service providers. In legislative findings contained in the bills, the purposes of the legislation is summarized in the following statement:

This section is an enactment of statewide concern for the purpose of providing uniform regulation of video service that promotes investment in communications and video infrastructures in the continued development of the state's video service marketplace within a framework that is fair and equitable to all providers. [Proposed s. 66.0420 (1) (h).]

In general, the bills simplify the process for a video service provider to obtain a franchise to offer its service in this state and reduces the state's and municipalities' roles in regulating those services. The bills seek to facilitate the entry of new providers and thereby foster the development of competitive markets for video services. The bills anticipate that the resulting competition will effectively regulate the behavior of video service providers in such areas as rates, services, and customer satisfaction, as providers compete to attract and retain customers.

LEGISLATIVE FINDINGS

Current state law contains a statement of legislative findings and intent. This statement reflects the Legislature's delegation to municipalities of the authority to regulate and impose franchise fees on cable operators under the Federal Cable Communications Policy Act of 1984.

The bills replace the current statement of legislative findings and intent with eight legislative findings relating to the purposes of the state video franchising framework created by the bills, described above.

AUTHORITY TO PROVIDE VIDEO SERVICE

Current Law

Cable Service Providers

Under federal law, a franchise is required to provide cable service. [47 USC 521 *et seq.*] The franchising authority, the entity that grants a franchise, may be either the state or an individual municipality. Under state law, municipalities (cities, villages, and towns) are the franchising authority. Municipalities may operate or regulate cable television systems, require the payment of franchise fees by cable operators, and set rates and regulate cable services to the extent allowed by federal law. [s. 66.0419 (3), Stats.]

Telecommunications Providers

Federal law is not entirely clear regarding the provision of video services by a telecommunications provider. On the one hand, the service has the attributes of cable service, suggesting that it should be subject to cable franchising requirements. On the other hand, since the service is provided by a regulated telecommunications utility using its telecommunications facilities, one could argue that it is a telecommunications service, subject to regulation as such but not subject to cable regulations. AT&T argues, based on the configuration of its network, that its video service is neither a cable service subject to regulation under cable service regulations, nor a telecommunication service subject to telecommunications regulations. This regulatory uncertainty is illustrated in diverging strategies being pursued by telecommunications companies: AT&T is installing facilities for video service in various cities, asserting that it has the authority to do so, while Verizon is negotiating cable franchise agreements with other cities. The City of Milwaukee has disputed AT&T's assertions and has asked the US District Court to rule whether AT&T is subject to the city's cable franchising ordinance. While a ruling from the court could greatly clarify the regulatory scene, it could take years before appeals are completed. In the meantime, the City of Milwaukee and AT&T have negotiated a draft, three-year, interim agreement to govern AT&T's development of video service in that city, pending the outcome of the federal court case.

The Bills

In General

The bills apply to “video programming” and “video service” provided by “video service providers.” “Video programming” is defined as “programming provided by, or generally considered comparable to programming provided by, a television broadcast station.” “Video service” is defined, effectively, as video programming provided by a cable service provider or a telecommunications service provider through wireline-based facilities.¹ “Video service” does *not* include video programming provided by cellular telephone, satellite, television, or Internet access. A “video service provider” is any person that holds a state video franchise.

The bills specify that the state is the exclusive franchising authority for video service providers in Wisconsin. They phase out existing municipal franchise agreements by prohibiting their renewal and allowing cable operators to terminate them prior to their expiration. They further prohibit municipalities from requiring video service providers to obtain new municipal franchises. In their place, the bills require video service providers to obtain a state franchise, which applies state-wide and does not expire unless terminated by the franchise holder. An incumbent cable operator may choose to continue operating under an existing municipal franchise for the remaining life of that franchise; the bills refer to these as “interim cable operators.”²

Application for Franchise

A person who intends to provide video service in this state must apply to the Department of Financial Institutions (DFI) for a franchise. In general, the application must identify the applicant, the areas in which it intends to provide video service (its “video franchise area”), and the date on which the applicant intends to commence service. It must also include an affidavit with assurances that the applicant will comply with filing requirements of the Federal Communications Commission (FCC) and with all applicable state and federal laws, and that the applicant is legally, financially, and technically qualified to provide the service. Within 10 business days of receiving an application, the DFI must notify the applicant whether the application is complete. Within 10 business days of receiving an application that it determines is complete, the DFI must issue a franchise to the applicant. If the DFI fails to issue the franchise in the required time, it will be considered to have issued the franchise.

¹ The definition of “video service” is in several parts. First, it is provided by one of the following: (1) any video programming service (which is not defined); (2) a cable service; or (3) an “open video system,” (a video service offered by a local telephone service provider under a specified federal regulatory regime). Second, it is provided through facilities located at least in part in public rights-of-way. Third, the definition is without regard to technology (except for the specification that it be facilities-based). It explicitly *includes* services provided using Internet protocol (IP) technology. It explicitly *excludes* video programming provided by cell phone service providers or through Internet access (i.e., video clips available on the Internet). The requirement of facilities in public rights-of-way effectively excludes satellite and television broadcast services, as well.

² Because an interim cable operator does not hold a state franchise, it is not included in the term “video service provider.” Consequently, provisions of the bills that refer only to video service providers do not apply to interim cable operators.

A video service provider must provide an update of information in its application to the DFI within 10 business days of any change to that information. If the change involves an expansion of its video franchise area, the video service provider must inform the DFI of the change as soon as practicable after determining to make the change, but no less than 10 business days before commencing service in the expanded area.

Note that there is no negotiation of terms of a franchise and no review process for an application, beyond the DFI's determination that the application is complete. Rather, under the bills, the terms of a franchise are spelled out in the statutes, as described below.

Transfer of Franchise

Under state law, a cable operator may not transfer a franchise without the approval of the municipality that issued the franchise, although the municipality may not withhold approval without cause. A transfer of control is presumed to occur if 40% or more of the ownership interest in a cable television system is transferred. In addition, a cable operator is required to notify the municipality if it transfers 10% or more of the ownership. A municipality and cable operator can agree to alternative provisions regarding franchise transfers, as part of the written franchise. [s. 66.0419 (5), Stats.]

Under the bills, a video service provider may transfer its franchise to any successor-in-interest. It must inform the DFI of the transfer not later than 10 days after the transfer is complete. The new video service provider must provide to the DFI the information required in a franchise application, but the bills do not specify a time frame for this requirement. Neither the DFI nor any municipality has authority to review or approve a transfer of a franchise.

Notices to Municipalities

Under the bills, an applicant for a state franchise must provide a copy of its application to each municipality in its video franchise area at the time that it submits the application to the DFI. Similarly, a video service provider must provide copies of any application information updates (including expansions of video franchise area) to the municipalities and provide municipalities information related to the transfer of a franchise.

A video service provider must provide a municipality notice 10 days prior to commencing service in the municipality.

Notices by Municipalities

If a municipality that has a cable franchise agreement in effect on the effective date of the law receives a notice that a video service provider will commence providing service within its territory, the municipality must provide a written notice to the video service provider, within 10 business days of receiving the notice, stating the following: (1) the number of public, educational, or governmental channels the incumbent cable operator is required to provide in the municipality; and (2) the "percentage of revenues" that the incumbent cable operator is required to pay the municipality as franchise fees. The same requirement applies when a municipality receives notice that a video service provider has expanded its video service area to include the municipality.

VIDEO SERVICE PROVIDER FEE

Current Law

Under current law, a municipality may require a cable operator to pay a franchise fee to the municipality. Federal law limits the amount of the fee to not more than 5% of the cable operator's gross revenues, but does not define "gross revenues." It also states that a cable operator may itemize on customers' bills the amount billed to recover the franchise fee. [47 USC s. 542 and s. 66.0419 (3) (c). Stats.]

With few exceptions, franchise fees in Wisconsin are 5% of the cable provider's gross revenues.

The Bills

Imposition and Amount of Fee

The bills require that video service providers make quarterly payments to the municipalities in which they provide service equal to not more than 5% of the provider's gross receipts for that quarter. If, on the effective date of the law, a cable operator is paying a franchise fee that is less than 5% of gross receipts, the new fee will be that lower percentage; if more than one cable operator are providing cable service in a municipality and are all paying fees less than 5%, the new fee is the lowest of those fees. The bills provide a detailed definition of "gross receipts."³

Fee payments are due no later than 45 days after the close of a calendar quarter. In general, the video service provider's obligation to pay the fee commences in the quarter in which it commences service. If a municipality fails to notify the video service provider of the percentage of franchise fees and number of public, educational, and government (PEG) channels required under prior cable franchise agreements within the 10-day deadline set by the bills, described earlier, the video service provider's obligation commences in the quarter that includes the 45th day after the municipality provides that notice.

In a number of provisions, the bills prohibit a municipality from imposing any fee or charge on a video service provider beyond the video service provider fee.

³In the bills, "gross receipts" means all revenues received by a video service provider from subscribers in a municipality for video service. It explicitly *includes*: recurring charges for video service; event-based charges (e.g., pay-per-view); equipment rental (e.g., set top boxes); service charges (for, e.g., activation, installation, repair, and maintenance); and administrative charges. It explicitly *excludes*: discounts, refunds, and other price adjustments; uncollectible fees (those written off as bad debt but later collected are included, less the expense of collection); late payment charges; maintenance charges; amounts billed to recover taxes, fees, surcharges, or assessments; revenue from the sale of certain capital assets or surplus equipment; charges for non-video services that are bundled with video services; and reimbursement by programmers of marketing costs actually incurred by the video service provider. Implicitly *excluded* are revenues a video service provider receives from anyone other than a subscriber, most notably revenues from advertising and home shopping channels.

Enforcement of Fee and Other Provisions

The bills allow a municipality to review a video service provider's records to ensure proper and accurate payment of the fee, but limit this review to no more than once in any three-year period. The parties must complete good-faith settlement discussions regarding any dispute regarding the amount of a fee before either party may bring an action regarding the disputed fee. In any subsequent litigation, these negotiations will be treated as compromise negotiations under the state courts' rules of evidence.⁴ Unless the parties agree otherwise, any action that is brought must be commenced within three years of the quarter to which the disputed amount relates. Neither party may recover the costs it incurs in the course of such litigation.

The bills require that all determinations and calculations regarding video service provider fees be made using generally accepted accounting practices. Also, the bills specifically allow video service providers to itemize on customers' bills the amount billed to recover the fee.

PEG CHANNELS

Current Law

Under federal law, a municipality may require that a cable operator provide capacity, facilities, or financial support for adequate PEG channel access. It also states that a cable operator may itemize on customers' bills the amount billed to recover the cost of meeting its obligations regarding PEG channels. [47 USC s. 541 (a) (4) (B).]

With few exceptions, current franchise agreements in Wisconsin require provision for two or three PEG channels.

The Bills

Requirement; Number of PEG Channels

The bills require a video service provider to make available to a municipality in which it provides service channels for PEG programming. In general, for a municipality with a population of 50,000 or more, a provider must provide three PEG channels and, for a municipality with a population less than 50,000, it must provide two PEG channels. There are two exceptions to this generalization:

- If, prior to the enactment of the new law, a municipality were receiving fewer PEG channels than these numbers, the future obligation to these municipalities would be no more than that lesser number. For example, if a municipality receives only one PEG channel from its incumbent cable operator, future video service providers will not be obligated to provide more than one PEG channel to that municipality.

⁴ The effect is that any settlement offer made during the negotiations may not be used as evidence that the dispute over the fee is valid or as evidence regarding the amount of the disputed fee.

- If a video service provider distributes programming to more than one municipality from a single head end or hub office, it is required to provide the number of PEG channels to those municipalities collectively corresponding to their collective population. For example, if two municipalities with a collective population of 60,000 are served from a single hub office, the video service provider is required to provide three PEG channels to those municipalities collectively.

In a municipality where there is no incumbent cable operator, the video service provider must make the PEG channels available beginning on the date that it commences service in the municipality. If there is an incumbent cable operator, and the municipality is therefore required to notify the video service provider of the number of PEG channels the incumbent provides to it, the video service provider must make the PEG channels available on the date that it commences service in the municipality or the 90th day after it receives the notice, whichever is later.

If a municipality does not substantially utilize a PEG channel, the video service provider may reprogram that channel. A municipality is substantially utilizing a channel if it provides at least 12 hours of programming on the channel every day, at least 80% of which is new (“not repeated”), locally produced programming. A municipality may regain the use of a PEG channel that has been reprogrammed by certifying to the video service provider that it will substantially utilize the channel.

A video service provider must make PEG channels available on any service tier that is viewed by more than 50% of its customers. If a PEG channel was reprogrammed due to the failure of the municipality to substantially utilize the channel and later restored to a PEG function, the video service provider may provide the restored channel on any service tier.

Operation of PEG Channels

The bills provide that municipalities are responsible for virtually all aspects of operating PEG channels. A video service provider is required to: (1) provide only the first 200 feet of transmission line needed to connect its network to one distribution point used by the municipality to transmit PEG programming for the PEG channel; and (2) transmit programming provided to it by the municipality.

Beyond this, municipalities may not require a video service provider to provide any funds, services, programming, facilities, or equipment related to PEG channel operation. It is the municipality’s responsibility to do all of the following:

- Operate the channel and produce or obtain the programming.
- Ensure that all programming is submitted to the video service provider in a form the video service provider can broadcast with no manipulation or modification.
- Make all programming for a PEG channel available to all video service providers operating in the municipality in a nondiscriminatory manner.

Interconnection of Video Service Providers' Networks

The bills require that, if there are more than one video service provider in a municipality and the interconnection of their networks "is technically necessary and feasible for the transmission of programming of any PEG channel," the two providers must negotiate in good faith for interconnection on mutually acceptable terms, rates, and conditions. The provider who requests interconnection is responsible for interconnection costs, including the cost of transmitting programming from its origination point to the interconnection point.

PUBLIC RIGHTS-OF-WAY

Current Law

Cable Service Providers

Federal law provides that a cable franchise "shall be construed to authorize the construction of a cable system over public rights-of-way" In exercising this authority, the law requires cable operators to: (1) protect the safety, functioning, and appearance of the property and the safety of the public; (2) bear the cost of the construction; and (3) compensate the land owner for any resulting damages. [47 USC s. 541 (a) (2).]

Telecommunications Providers

State law allows public utilities and various other entities to construct necessary facilities in, across, or beneath streets and highways. Section 66.0425, Stats., establishes the requirement that a person obtain a municipal permit for the privilege to engage in construction in public rights-of-way, and addresses compensation to the municipality, performance bonds, liability, and third parties' interests. Many of the requirements of this section do *not* apply to various types of telecommunications companies.

The authority for public utilities and cooperatives that provide a utility service to occupy public rights-of-way is subject to a number of statutes and to "reasonable regulations made by any city, village or town through which the transmission lines or system may pass" [s. 182.017, Stats.] Further, a municipality may determine, by contract, ordinance, or resolution and consistent with state law, the "terms and conditions ... upon which [a] public utility may be permitted to occupy the streets, highways or other public places within the municipality." [s. 196.58 (1) (a), Stats.] The Public Service Commission (PSC) is required to review complaints that such regulations are unreasonable, and has adopted rules setting limits on them. [s. 196.58 (4), Stats., and ch. PSC 130, Wis. Adm. Code]

The Bills

The bills provide that, notwithstanding s. 66.0425, municipalities may not impose any fee or requirement on a video service provider relating to the construction of a video service network. They also state that, as long as a video service provider pays the required video service provider fee, "the municipality may not require the video service provider to pay any compensation under s. 66.0425, or

any permit fee, encroachment fee, degradation fee, or any other fee, for the occupation of or work within public rights-of-way.”⁵

In a separate provision, the bills state that “[a] video franchise issued by the [DFI] authorizes a video service provider to occupy the public rights-of-way and to construct, operate, maintain, and repair a video service network to provide video service in the video franchise area.”

CONSUMER PROTECTION

There is no generally accepted definition of regulations and policies that constitute “consumer protection.” For purposes of this memorandum, consumer protection regulations will be considered regulations that are designed to ensure that a business treats its customers fairly. These regulations include:

- Service standards, such as acceptable response times for addressing outages and establishment of a billing dispute resolution process.
- Required disclosure of the terms of product and service offerings and prices.
- Protection of customer privacy.

Current Law

The FCC’s regulations require each cable operator to meet the following “*customer service obligations*”: (1) provide a telephone access line, a customer service center, and bill payment locations that meet specified requirements; (2) meet specified performance standards for performing installations and responding to outages and service calls; and (3) issue refund checks and service credits within specified periods. [47 CFR s. 76.309.] The FCC also requires a cable operator to respond to a written complaint over a billing dispute within 30 days and provide certain disclosures to its customers. [47 CFR ss. 76.1602, 76.1603, and 76.1619.] These regulations also authorize a cable franchise authority to enforce the standards and disclosures. In addition, federal law establishes that it does not preclude any state or franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by federal law, or from imposing additional service standards or disclosure requirements. [47 USC s. 552 (d).]

Current federal law also prohibits a cable operator from collecting or disclosing subscribers’ personally identifiable information without consent, except under specified circumstances. [47 USC s. 551.] Cable operators must notify their subscribers at least annually of subscribers’ personally identifiable information that the operator is or will be collecting and the uses of this information; provide subscribers access to their personally identifying information; and destroy this information when it is no longer necessary for the purpose for which it was collected. This federal law also specifies that it does not prohibit any state or franchising authority from enacting or enforcing laws consistent with its subscriber privacy protections.

⁵ While the bills clearly indicate that this policy is notwithstanding s. 66.0425, they are silent regarding how these provisions relate to ss. 182.017 and 196.58.

Current state law prescribes a set of “cable subscriber rights.” [s. 100.209, Stats.] These standards require a cable operator to: (1) give a subscriber specified credits for service interruptions; (2) prevent disconnection of cable service for failure to pay a bill until the unpaid bill is at least 45 days past due; and (3) specify time periods for a cable operator to repair cable service and to provide notice for instituting a rate increase, deleting a program service, or disconnecting a subscriber. This statute also explicitly states that it does not prohibit the Department of Agriculture, Trade, and Consumer Protection (DATCP) or a municipality from establishing by rule or ordinance, respectively, regulations that expand these subscriber rights.

DATCP’s current rule on telecommunications and cable television services specifies certain service standards, including a prohibition on a cable operator billing a consumer for a service that the consumer has not affirmatively ordered (also referred to as “negative option billing”) and various prohibited practices, including misrepresenting the provider’s identity or the terms of a subscription, or charging a cancellation fee that has not been disclosed to the customer. [ss. ATCP 123.06, 123.08, and 123.10, Wis. Adm. Code.]

DATCP’s rules also specify a number of disclosures that a cable operator or telecommunications provider must provide to its subscribers, including information on subscription terms and notice of price increases and other subscription changes. [ss. ATCP 123.02 and 123.04, Wis. Adm. Code.]

DATCP’s service standards and disclosure requirements apply to cable operators and to telecommunications providers offering a video programming service bundled with a telecommunications service at a single price.

Staff at the PSC have indicated that the portion of the PSC’s rules on telecommunications services standards and disclosure requirements that relate to billing and credit practices apply to a video programming service provided by a telecommunications utility, if the telecommunications utility bundles the video programming service with a telecommunications service and bills for the services on one bill. These standards include (subject to confirmation by PSC staff) bill adjustments and refunds for interrupted service; limits on the ability of the utility to require a cash deposit or other guarantee as a condition to service; criteria for disconnecting or refusing service; and limitations on residential deferred payment agreements. [ss. PSC 165.05 (2) and 165.051 to 165.053, Wis. Adm. Code.]

Current state law specifies a number of privacy protections for cable television subscribers. [s. 134.43, Stats.] These provisions authorize a subscriber to request a device, at no charge to the subscriber, which the subscriber can use to prevent reception and transmission of messages by the subscriber’s cable equipment. The provisions also generally prohibit any person from doing any of the following without the written consent of the subscriber within the preceding two years:

- Monitor the subscriber’s cable equipment or its use.
- Provide anyone the name, address, or other information that discloses any aspect of the behavior of a subscriber or a member of the subscriber’s household, other than for certain billing purposes or providing listings of cable television programs.
- Conduct research that requires the response of the subscriber or a member of the subscriber’s household without the specified more frequent notification.

The Bills

The bills establish that, if there is only one video service provider in a municipality, the municipality may require a video service provider to comply with the FCC's "customer service obligations" identified above. The bills preclude the DFI and municipalities from imposing additional or different customer service standards that are specific to the provision of video service.

If there is more than one video service provider in a municipality or if a sole provider is subject to "effective competition," as defined in federal regulations, the bills establish that these video service providers may not be subjected to any "customer service standards."⁶ The bills provide an exception to this limitation for customer service standards promulgated by rule by DATCP. The effect of this exception is that the DATCP's, but not the PSC's, current service standards and disclosure requirements will apply statewide to cable operators and to telecommunications providers offering bundled video programming and telecommunications services.

The bills do not preclude DATCP from amending its existing service standards to apply to other types of video service providers or, to the extent it has the legal authority to do so, promulgating by rule other service standards or disclosure requirement.

The bills repeal the current law on cable subscriber rights.

The bills do not amend the cable subscriber privacy protections in state law or broaden the applicability of these protections to video service providers and subscribers. The effect is that the protections will continue to apply to interim cable operators (who do not hold a state franchise and thus are not a video provider under the bills). In addition, an argument can be made that under the bills these state protections will continue to apply to customers of other cable operators who hold a state franchise but not to other types of video service providers based on the distinction in federal law between customer service standards and consumer protection law.

The bills also prohibit any municipality from imposing on any video service provider any requirement relating to the provision of video service. This prohibition would include requirements relating to customer privacy.

ACCESS TO SERVICE ("BUILD-OUT")

Current Law

Federal law prohibits a franchising authority from regulating services, facilities, and equipment provided by a cable operator unless the regulation is consistent with the regulations. Federal law authorizes a franchising authority, to the extent related to the establishment and operation of a cable system, to establish requirements for facilities and equipment in its request for proposals for a franchise

⁶ Neither the bills nor the FCC's regulations define the term "customer service standards." However, since the FCC identifies its service standards and disclosure requirements in 47 CFR ss. 76.309, 76.1602, 76.1603, and 76.1619 as "customer service standards," a strong argument can be made that this prohibition in the bills applies to the types of standards and requirements identified in these FCC regulations.

or renewal of a franchise. [47 USC s. 544 (a) and (b).] These requirements can include requirements for construction of facilities that provide access to service, commonly referred to as “build-out” requirements. Federal law also requires a franchising authority in awarding a cable franchise to allow the applicant’s cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area. [47 USC s. 541 (a) (4) (A).]

Current state law authorizes a municipality to regulate services provided by a cable operator to the extent provided under federal law. [s. 66.0419 (3) (e), Stats.]

The Bills

The bill’s requirements on access to service apply only to a “large telecommunications video service provider” (LTVSP) This type of provider is a video service provider that uses facilities for providing telecommunications service also to provide video service and that has more than 500,000 residential customer access (or telephone) lines in the state. Presently, only AT&T Wisconsin has this many residential access lines.

The bills require a LTVSP to provide access to its video service to the following percentages of households within its residential local exchange service area:

- Not less than 25% no later than three years after the date on which the LTVSP began providing video service under its state franchise.
- Not less than 50% no later than six years after the date on which the LTVSP began providing video service under its state franchise, or no later than two years after at least 30% of households with access to the LTVSP’s video service subscribe to the service for six consecutive months, whichever occurs later.

A LTVSP must file an annual report with the DFI regarding its progress in complying with these requirements.

A LTVSP may apply to the DFI for an extension of any time limit specified in these requirements or for a waiver from the requirements. DFI must grant the extension or waiver if the provider demonstrates to the department’s satisfaction that the provider has made “substantial and continuous efforts” to comply with the requirements and that the extension or waiver is necessary due to one or more of the following factors: (1) the provider’s inability to obtain access to rights-of-way under reasonable terms and conditions; (2) developments and buildings that are not subject to competition because of exclusive service arrangements or are not accessible using reasonable technical solutions under commercially reasonable terms and conditions; (3) natural disasters; and (4) other factors beyond the control of the provider.

A LTVSP may satisfy these requirements through the use of an alternative technology, other than satellite service, that does all the following: (1) offers service, functionality, and content demonstrably similar to that provided through the provider’s video service network; and (2) provides access to PEG channels and messages broadcast over the emergency alert system.

The bills also establish that, notwithstanding any of the above provisions, a telecommunications video service provider of any size is not required to provide video service outside its residential local exchange service area, and a video service provider that is an incumbent cable operator is not required to provide video service outside the area in which the operator provided service at the time DFI issued a video service franchise to the operator.

DISCRIMINATION

Current Law

Federal law specifies that a franchising authority in awarding a franchise must ensure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which the group resides. [47 USC s. 541 (a) (3).]

Current state law authorizes a municipality to regulate services provided by a cable operator to the extent provided under federal law. [s. 66.0419 (3) (e), Stats.]

The Bills

The bills establish that no video service provider may deny access to video service to any group of potential residential customers in the provider's video franchise area because of the race or income of the residents in the local area in which the group resides.

The bills specify a defense to an alleged violation of the above prohibition based on income if the video service provider has met either of the following conditions:

- No later than three years after the date on which the provider began providing video service under its state franchise, at least 25% of households with access to the provider's video service are low-income households.
- No later than five years after the date on which the provider began providing video service under its state franchise, at least 30% of households with access to the provider's video service are low-income households.

The bills define a "low-income household" to be any individual or group of individuals living together as one economic unit in a households whose aggregate annual income is not more than \$35,000, as identified by the United States Census Bureau as of January 1, 2007.

The bills apply the provisions on extensions and waivers described in the preceding discussion of access to service to the defenses identified above. The bills also apply the provisions on alternative technologies and limitations on geographic service territory specified in the preceding discussion of access to service to the prohibition on discrimination and the related defenses identified above.

REGULATION OF RATES

Current Law

Under state law, municipalities are authorized to establish cable service rates to the extent provided under federal law. [s. 66.0419 (3) (e), Stats.] Current state law also states that “[t]he authority granted under this section to a municipality to operate and regulate a cable television system is in addition to any other power which the municipality has and the authority of a municipality to operate and regulate a cable television system is limited only by the express language of this section.” [s. 66.0419 (4), Stats.]

Federal law expresses a preference for competition over regulation of cable service rates, and prohibits rate regulation if the FCC has determined that the market in question is subject to effective competition. In the absence of effective competition, a franchising authority may regulate rates for basic service only, including programming on the cable operator’s basic programming tier. All other rates are subject to FCC regulations. [47 USC s. 543.]

The Bills

The bills provide that neither DFI nor a municipality may regulate the rates of a video service provider under a state franchise or an interim cable operator under a municipal franchise if at least two unaffiliated video service providers provide service in a municipality. This limitation applies regardless of whether any provider has sought a determination by the FCC regarding effective competition.

The bills are silent on rate regulation where there is only one video service provider. The result, it appears, is that no state or municipal entity has authority to regulate rates in this instance.

INSTITUTIONAL NETWORKS

The bills provide that, notwithstanding any ordinance or franchise agreement in effect on the effective date of this law, no state agency or municipality may require an interim cable operator or video service provider to provide any institutional network or equivalent capacity on its network. “Institutional network” is defined as a network that connects governmental, educational, and community institutions.

RULE-MAKING LIMITED

In general, a state agency may promulgate rules interpreting the provisions of any statute enforced or administered by it or prescribing forms or procedures in connection with such statutes. [s. 227.11 (2) (a) and (b), Stats.] In addition, many statutes authorize or require agency rule-making.

The bills prohibit the DFI from promulgating rules interpreting or establishing procedures related to its functions under the bills.

ENFORCEMENT

The bills authorize a municipality, interim cable operator, or video service provider that is affected by a failure to comply with the new law created by the bills to bring an action in circuit court. The court is directed to order compliance with the law, but the bills are silent regarding the recovery of damages. No party to a suit may recover its costs of prosecuting or defending the suit.

In addition, the Department of Justice may enforce the provisions of the new law. The bills do not specify penalties for violations of the new law, nor does Ch. 66, Stats., in which the law is numbered. In the absence of any specified penalty, civil violations are punishable by a forfeiture of not more than \$200. [s. 939.61 (1), Stats.]

TERMINOLOGY AND CONFORMING AMENDMENTS

The bills change many references throughout the states from “cable service” to “video service” and from “cable operator” to “video service provider.” The bills also conform various statutes to the state video service franchising framework created by the bills.

If you have questions regarding 2007 Assembly Bill 207 and 2007 Senate Bill 107 or video services in general, please contact either of us at the Legislative Council staff offices.

DLL:JES:ty





*Hispanic Chamber
of Commerce*
W I S C O N S I N

March 26, 2007

Representative Phil Montgomery
State Capitol – Room 129 West
PO Box 8953
Madison, Wisconsin 53708

By Email: Rep.Montgomery@legis.wisconsin.gov
By Fax: 608-282-3604

become AB 207,
companion to SB
107

Dear Representative Montgomery:

The Hispanic Chamber of Commerce of Wisconsin (HCCW) is the premier Hispanic business association that represents the interests of over 5,500 Hispanic-owned small businesses throughout the State of Wisconsin. Nationally recognized for its outstanding achievement and success, the mission of the HCCW is to promote, support, and advance the growth and development of Hispanic enterprises. In addition, the HCCW is widely identified as a respected voice of the Hispanic community; promotes a network for political issues; addresses community needs; and provides opportunities for the Hispanic population and community at large.

As such, the HCCW unequivocally supports the Wisconsin Video Competition Act (LRB 1914). It is my understanding that this legislation would establish market competition with cable service providers by removing barriers and requirements of local franchise agreements. It is further understood that the legislation would help to lower prices for video and cable services thereby allowing more choices for the consumer; and would increase competition and provide employment opportunities.

The HCCW applauds your sponsorship of the legislation and commends your goal of creating a new, faster and cheaper process at the state level. The bill promises to be of genuine benefit to Wisconsin consumers by allowing more choices, fair competition, better prices and new options for video entertainment. No secret, telecommunications services are no longer a luxury but rather a crucial part of our economy.

You have already demonstrated your leadership by placing a high priority on this telecommunications bill. Please continue to use your considerable influence to convince your colleagues of the importance of LRB 1914.

As always your attention and support are sincerely appreciated, as is the opportunity to comment.

Sincerely,

Maria Monreal-Cameron
HCCW President & CEO







Tom Barrett
Mayor, City of Milwaukee

March 26, 2007

The Milwaukee Journal Sentinel Editorial Board
P.O. Box 371
Milwaukee, WI 53201-0371

Dear Milwaukee Journal Sentinel Editorial Board:

We are writing to express our concern with your March 24, 2007 editorial "Adopt the 5% solution" which takes the position that municipalities should be able to provide public access programming with only a 5% cut of video revenue. We are disappointed to see that the Journal Sentinel has rushed to judgment on such an important issue facing local consumers and taxpayers.

Over the past year, the City of Milwaukee has been actively involved in the debate over bringing competition into the cable/video market. During this time, city officials led by City Attorney Grant Langley, have actively pursued a fair solution to allow AT&T to bring its U-Verse product into this market. In addition to a video franchise fee of 5% of gross revenue, AT&T has agreed that it will pay an additional 2% of gross revenue to the City to support public, educational and government access channels.

The local agreement between AT&T and the City of Milwaukee protects taxpayers and consumers. We expect the same protections from statewide video franchising legislation. As drafted, however, Senate Bill 107 and Assembly Bill 207 fail to do so.

Milwaukee's rights-of-way are the most valuable resource owned by city taxpayers. Cable franchise fees are designed to reimburse city governments for providing broad access to publicly owned rights-of-way and are more akin to "rent" than "taxes." Cable/video providers like Time Warner and AT&T are private, for-profit enterprises that are using publicly owned property in their profit-making ventures. Almost no business can say that they are only paying 7% of their gross revenues in rent for this huge amount of property. No property owner would be satisfied with letting a private business use their land for free. This is why we believe the 7% fee is fair and reasonable. And, apparently, AT&T does, too. Or, it wouldn't have agreed to such a figure.

As mentioned in the editorial, the bill wipes out any additional fees to support local public, education and government access (PEG) channels. In Milwaukee, there are four PEG channels currently being broadcasted. City Channel 25 is actually now paid for with the 5% franchise fee revenue deposited into the city's general fund. The two MATA Community Media Channels, [Channels 14 and 96], are primarily funded by the PEG funding provided by Time Warner Cable over and above the 5% franchise fee. If cable providers are able to opt out of their existing

franchise agreements, public access programming like the MATA channels will eventually lose funding and will be forced to shut down. The loss of these valuable stations would be most unfortunate for our community.

The proposed legislation defines gross receipts differently from our current contract with Time Warner Cable and our new agreement with AT&T. This presents a problem for Milwaukee and other communities. Since the proposed legislation enables them to opt into a statewide franchise, existing local agreements will become irrelevant as providers take advantage of more favorable terms under the state franchise requirements.

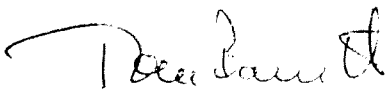
Under the proposed definition of "gross receipts", our initial review shows that the City would see an immediate reduction of about \$350,000 (almost 10%) in revenue from its Time Warner payment. This is not accompanied by any reduction in city costs and will result in either an equal increase in the property tax levy or a reduction in services. And, there won't even be any significant competition in this market for years. In fact, 20 months after similar legislation went into effect in the State of Texas there are still only 3,000 subscribers to the new AT&T product.

There are many other problems with the proposed legislation and we have asked the authors to address them. The legislation eliminates payment of local permit fees, assessments for pavement cuts and other city costs for providing these businesses access to the public right-of-way. The costs associated with issuing these permits and access to city services don't go away. It is time consuming for city employees to review and assess the location of utility boxes and other infrastructure being installed to provide cable/video services. Public utilities have to pay them and so should cable/video providers.

The constitutionality of abrogating existing cable franchise agreements that were negotiated in good faith is questionable. Cable connections to schools and government buildings are no longer required. Also, consumer protection and customer service standards are gutted in the legislation.

Why would we want to pass legislation in the State of Wisconsin with provisions that are significantly sub-par to those found in similar legislation passed in numerous other states like Texas and California? The major players in this market have already agreed to provide much more generous terms than those found in the legislation. Our consumers and taxpayers deserve better and we will continue to fight for changes to make Wisconsin's statewide video franchising legislation a model for other states to follow. The Milwaukee agreement with AT&T is a good place to start.

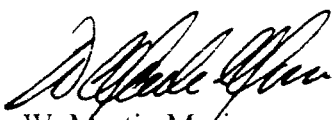
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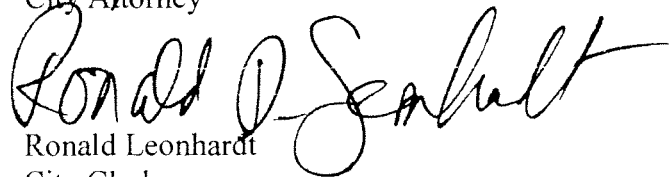
Tom Barrett
Mayor



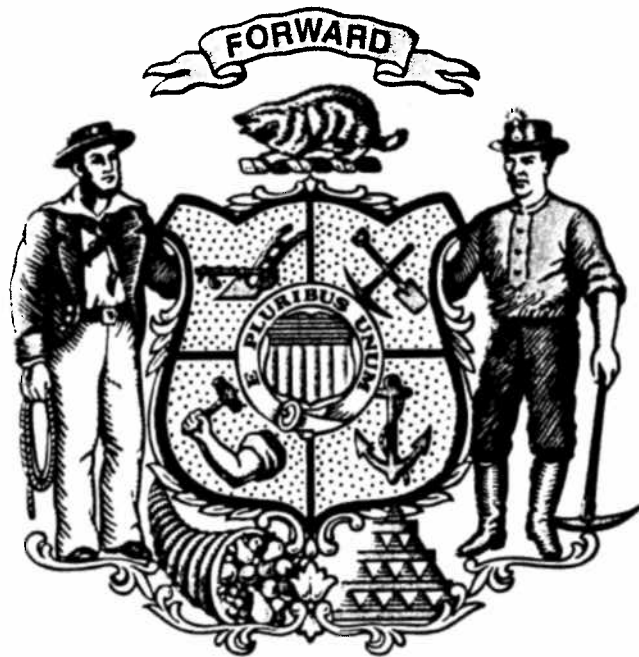
Grant Langley
City Attorney

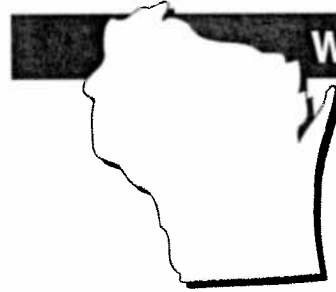


W. Martin Morics
City Comptroller



Ronald Leonhardt
City Clerk





WISCONSIN ALLIANCE OF CITIES



To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

From: Dan Thompson, Executive Director, League of Wisconsin Municipalities
Ed Huck, Executive Director, Wisconsin Alliance of Cities
Mary Cardona, Executive Director, Wisconsin Association of PEG Channels

Date: March 26, 2007

Re: Recommended Changes to AB 207/SB 107, Statewide Video Franchising Bill

Municipalities have significant concerns about many elements of AB 207/SB 107. Municipalities fare much worse under this bill than any similar legislation passed in other states. We urge you to adopt the following eleven reasonable amendments designed to keep municipalities whole and to protect consumers. (Note: Recommended language for some provisions is attached.)

1) Don't Abrogate Existing Franchise Agreements

- Change: Require current cable operators to honor existing contracts with municipalities until competition exists within the community.
- Reason: AB 207/SB 107 gives incumbent cable operators the option to terminate their franchise agreements. These agreements were negotiated in good faith by local governments. It would be unfair, unprecedented and possibly unconstitutional for the state to allow the abrogation of contractual obligations. Continued oversight by the local franchising authority is necessary until the incumbent cable operator is subject to competition in the franchise area.
- Precedent: Cable and phone companies agreed to a competition trigger in California, Virginia and in proposed federal legislation. Texas legislation abrogated no contracts.

2) Expand Definition of "Gross Receipts" for Purposes of Calculating Franchise Fee

- Change: Include advertising and other non-subscriber revenues in the definition of gross receipts.
- Reason: Excluding non-subscriber revenues from the 5% fee will reduce the amount of franchise fee payments incumbent cable operators currently pay to local governments by 20-25%, a short fall that will not be made up by competition. As the majority of franchise fees are paid into the general fund, AB 207/SB 107 will force local governments to raise property taxes – or reduce services - to make up for the loss in franchise fee payments.
- Precedent: Texas, California, existing WI cable franchises, Milwaukee-AT&T Agreement

3) Clarify Rights-of-Way Authority and Other Police Powers

- Change: Make clear that municipal authority over rights-of-way is preserved, including the right to collect street opening permit fees and require performance bonds and other management tools.
- Reason: AB 207/SB 107 would eliminate street opening permit fees and may prevent municipalities from requiring video providers to post bonds before excavating in the right-of-way. The proposed changes are necessary to protect local rights-of-way.
- Precedent: California, existing WI cable franchises, Milwaukee-AT&T Agreement

4) Maintain PEG Financial Support Requirements

- Change: Require video providers to either pay municipalities 1% of gross receipts or match PEG financial commitments under the incumbent's franchise agreement, whichever is greater.
- Reason: AB 207/SB 107 prohibits municipalities from requiring financial or other support from video service providers for PEG Channels. PEG stations provide valuable services to their communities by televising council meetings, candidate forums, community events, and programs promoting the causes of non-profit organizations. During emergencies, police and fire agencies depend on PEG stations to disseminate information quickly. Public safety personnel also use PEG stations to offer public safety programming. PEG is a valuable asset to our communities and should be adequately funded by video service providers in order to avoid property tax increases or the loss of televised public programming.
- Precedent: California, Texas, Milwaukee-AT&T Agreement

5) Maintain Local Control over PEG Channel Capacity and Programming

- Change: Eliminate the provision that allows providers to take back PEG channels that are not "substantially utilized."
- Reason: AB 207/SB 107 proposes to eliminate any PEG channel that does not televise 10 hours of unrepeat local programming each day. This standard would result in the elimination of nearly every PEG channel in Wisconsin. PEG channels serve an important public purpose. Community need should be the standard for the number of PEG channels provided. Imposing arbitrary channel use requirements reduces the flexibility of a PEG station to meet and balance community needs within the station's limited budget and wastes money.
- Precedent: Milwaukee-AT&T Agreement

6) Continue Carriage of PEG Programming from Source to Headend or Video Hub

- Change: Require the video service provider to carry PEG programming to the headend or the video hub at its expense and to interconnect with its competitor's network where necessary to make PEG programming available to all subscribers via a quality signal.
- Reason: Forcing municipalities to pay for the equipment necessary to ensure that all subscribers receive local PEG programming will put an insurmountable financial burden on most all PEG stations. Half of all PEG stations may be lost; the rest will have to cut back on program production unless local property taxes are increased to cover the short fall. Interconnection of video networks should be required where necessary for the signal quality of PEG channels to be the same as for the commercial broadcast channels.
- Precedent: California, existing WI cable franchises

7) Provide Free Connections to Schools and Government Buildings

- Change: Require video service providers to continue the long-standing practice of providing free video service connections and basic service to local schools and government buildings.
- Reason: Schools and local governments have long depended on the free cable hook ups and free cable service provided by the incumbent cable operator. Local governments, and especially local schools, do not have the financial resources to pay for these services they have traditionally received for free.
- Precedent: New Jersey, Virginia, existing WI cable franchises, Milwaukee-AT&T Agreement

8) Strengthen Consumer Protection Standards

- Change: Require video providers to comply with all applicable state, federal and local customer service standards and customer privacy laws. Permit local governments to maintain and enforce existing local standards pertaining to incumbent cable operators until the incumbent is subject to competition within the franchise area. Authorize the Department of Agriculture, Trade and Consumer Protection to establish enforcement mechanisms to enforce applicable state and federal consumer protection and customer privacy laws and regulations.
- Reason: Provide greater protection to consumers.
- Precedent: California, Texas, existing WI cable franchises, Milwaukee-AT&T Agreement

9) Define Term of Franchise and Franchise Renewal Process

- Change: Establish a once every 10-year review and renewal process so that a franchise may be terminated where the video service provider has willfully and repeatedly violated federal, state or local law or regulations.
- Reason: Ensure that renewal standards are met and make clear that renewal is not guaranteed if the provider has not complied. An agreement in perpetuity provides no incentive for a provider to offer a quality product, good customer service, or even prompt or full payments since there is no risk of losing the franchise.
- Precedent: Senate version of HR 5252

10) Expand the Application Form and Applicant Qualifications

- Change: Franchise applicants must be required to submit evidence of their financial, technical, and legal qualifications. Such evidence must be thoroughly reviewed and considered before a franchise is granted. Eliminate the "approval by inaction" provision.
- Reason: Would-be video providers that lack the technical or financial qualifications to provide service shouldn't have access to local rights-of-way. Public rights-of-way are a precious and limited resource and must be protected.
- Precedent: Virginia, South Carolina, California, existing WI cable franchises

11) Improve Audit Rights

- Change: Require video service providers to pay reasonable fees for audits if there is an underpayment of 5% or greater.
- Reason: Provides an incentive to accurately calculate the payments.
- Precedent: California, existing WI cable franchises, Milwaukee-AT&T Agreement.



Venskus, Katy

From: Hodgson, Amber
Sent: Monday, March 26, 2007 4:34 PM
To: Venskus, Katy
Subject: FW: RE: List of Sun Prairie people testifying

Here you go....

From: Vander Meer, John
Sent: Monday, March 26, 2007 4:32 PM
To: Hodgson, Amber
Subject: RE: List of Sun Prairie people testifying

Dear Amber and Katie:

This is the list of folks who will be testifying on **AB 207**. Because there are kids involved, who are missing a day of school to attend this meeting, I was wondering it would be possible to get us up there as early as possible. Any assistance you could give us on this would be greatly appreciated. Also we wanted to make sure that you knew there are going to be DVD presentations, so if there is a problem with that logistically could you let us know and we will make other arrangements. FYI: We contacted Montgomery's office and they said it wouldn't be a problem.

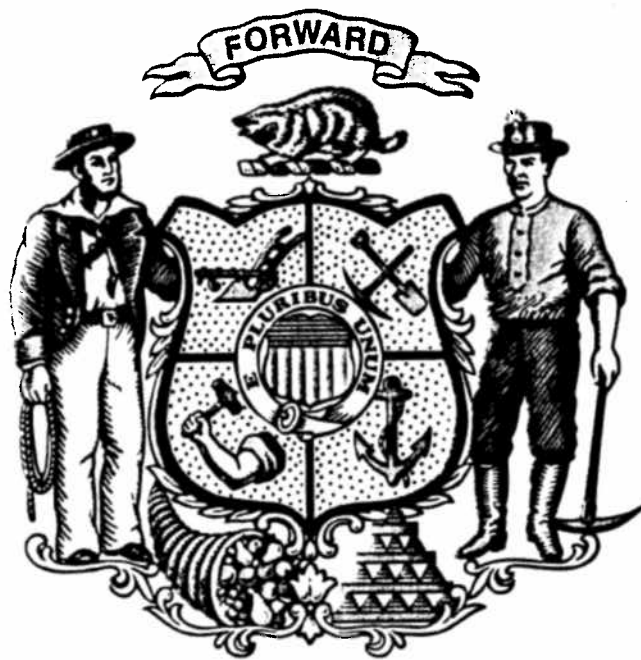
Here's the list:

- Rep. Gary Hebl
- Mayor Joe Chase
- Margaret Powers, Financial Officer
- Pam Steitz, Director of Sun Prairie Community Access TV (SPCATV)8
- Zach Henderson, 8th grade KIDS-4 crew member
- Jessi Gerg, 7th grade KIDS-4 crew member
- Lindsay Giese, Program Coordinator SPCATV introduces video on "What does KIDS-4 Mean to Me?"
- Rachel Packard, Program Coordinator SPCATV introduces video on "How would you feel if you couldn't be in KIDS-4?"
- Cameron Thompson, Program Coordinator SPCATV
- Jon Freund, Alderperson City of Sun Prairie

Thanks again for your help with this.

-- John

John J. Vander Meer
Legislative Aide
Representative Gary Hebl





SUN PRAIRIE AREA SCHOOL DISTRICT

501 South Bird Street Sun Prairie, Wisconsin 53590 (608) 834-6500 Fax: (608) 834-6555

March 26, 2007

SB 107?

To the Energy and Utilities Committee:

I am writing to ask you to oppose the so-called "Video Competition Act," which eliminates local control and will severely negatively impact Sun Prairie Cable Access T.V. (SPCATV).

The Sun Prairie Area School District relies heavily on SPCATV to communicate with the community. SPACTV broadcasts school board meetings, special meetings and schedules of meetings, providing a key conduit for citizens to be involved in their government. They broadcast special events such as graduation, concerts, and other student performances, opening schools to the entire community. SPACTV allows us to create special programs, such as my "School Views" program. This allows community members to see schools from the perspectives of their students. Finally, SPACTV, through the Kids-4 Program, empowers our students to become video literate as well as engage in community service.

I count SPACTV a blessing to our schools and community. I cannot imagine why anyone would propose legislation that will end or severely limit Sun Prairie's local public access. To do so will limit perspectives on government, reduce the community's understanding of their schools, and limit opportunities for our children.

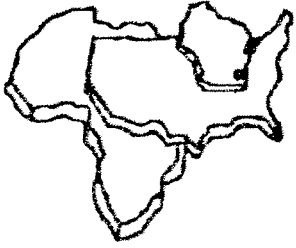
While the title of this bill contains an attractive catch phrase, "competition," unfortunately, hidden in the details of this bill are features that remove local control and replace it with state control--details that will reduce local funding options and flexibility; details that will require cuts in service and lowered expectations. Government works best the closer it is to the people it serves. We do not need the state to manage what local government has done very well.

Please oppose this act and allow the excellence that has developed in Sun Prairie to continue.

Sincerely,

Tim Culver
District Administrator





*African American Chamber of Commerce
Of Greater Milwaukee
6203 W. Capitol Drive
Milwaukee, Wisconsin 53216
Phone: (414) 462-9450 • FAX (414) 462-9452*

March 26, 2007

Senator Jeffrey T. Plale
Room 313 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

State Representative Phil Montgomery
Room 129 West, State Capitol
P.O. Box 8953
Madison, WI 53708

Re: **The Wisconsin Video Competition Act - LRB 1914**

became AB 207,
companion to SB 107

Dear Senator Plate and Rep. Montgomery:

We, at the African American Chamber of Commerce (AACC) of Greater Milwaukee, would like to go on record in support of the above bill in the name of fairness, which would benefit the business community and support the many low income families as consumers, especially in southeastern Wisconsin where a large number of African American citizens reside with a burning need to become share holders as this industry continues to grow.

The AACC believes this bill will open the door for additional competition with the hope of business members getting involved in support of a leveled plain field when competitive standards are in place.

It is quite clear that southeastern Wisconsin needs an economic booster, which may be in the form of additional communication opportunities, not only just as consumers but also as stockholders who will share in the profits.

Again, we are very pleased to hear LRB-1914 has been introduced, and you may call on the Chamber if additional support is needed to move this bill forward.

Sincerely,

Dester Martin
Chairman, AACC Executive Committee

*Part of The Whole ... For A Better Business Community
"Become a Sharing Partner"*