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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Phone firms to offer cable TV service," 8-5-2006 The Times, pA1

"Verizon gets OK to sell TV service in NJ," 8-5-2005 Asbury Park Press, pA1

"New cable law will let Verizon vie for TV service," 8-5-2006 Star Ledger, p1

"New Jersey to let phone companies become pay television providers," 8-5-2005 NYT, p.B1

RWH 3/12/08

§§19,20 -
C.48:5A-25.1 &
48:5A-25.2
§§24,25 -
C.48:5A-28.1 &
48:5A-28.2
§30 - T&E
§31 –
Note to §§1-30
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Note to §§1-31

P.L. 2006, CHAPTER 83, *approved August 4, 2006*
Assembly Committee Substitute for Assembly, No. 804

1 **AN ACT** concerning the regulation of cable television service,
2 amending and supplementing P.L.1972, c.186 (C.48:5A-1 et
3 seq.) and amending P.L.1985, c.356, P.L.1991, c.412, and
4 P.L.2003, c.38.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 2 of P.L.1972, c.186 (C.48:5A-2) is amended to read
10 as follows:

11 2. The Legislature finds, determines and declares:

12 a. That, after careful investigation, it appears that the rates,
13 services and operations of cable television companies in this State
14 are affected with a public interest;

15 b. That it should be, and is hereby declared, the policy of this
16 State to provide fair regulation of cable television companies in the
17 interest of the public;

18 c. That the objects of such regulation are (1) to promote
19 adequate, economical and efficient cable television service to the
20 citizens and residents of this State, (2) to encourage the optimum
21 development of the educational and community-service potentials
22 of the cable television medium, (3) to provide just and reasonable
23 rates and charges for cable television system services without unjust
24 discrimination, undue preferences or advantages, or unfair or
25 destructive competitive practices, (4) to promote and encourage
26 harmony between cable television companies and their subscribers
27 and customers, (5) to protect the interests of the several
28 municipalities of this State in relation to the issuance of municipal
29 consents for the operation of cable television companies within
30 their several jurisdictions, and to secure a desirable degree of
31 uniformity in the practices and operations of cable television
32 companies in those several jurisdictions; and (6) to cooperate with
33 other states and with the Federal Government in promoting and
34 coordinating efforts to regulate cable television companies

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 effectively in the public interest;

2 d. That to secure such regulation and promote the objectives
3 thereof, authority to regulate cable television companies generally,
4 and their rates, services and operations, in the manner and in
5 accordance with the policies set forth in **[this act]** P.L.1972, c.186
6 (C.48:5A-1 et seq.) (the "act"), shall be vested in the **[Department]**
7 **Board** of Public Utilities;

8 e. That the Federal Communications Commission (the "FCC")
9 reported in its 2005 assessment of video programming competition
10 that increased competition in the multichannel video programming
11 distributor ("MVPD") market has led to improvements in cable
12 television services, including more channels of video programming
13 and increased service options for consumers, and in the case of
14 facilities-based competition, lower prices for customers;

15 f. That, as a result of ongoing technological innovations, non-
16 traditional providers of MVPD services such as local telephone
17 common carriers are offering or preparing to offer MVPD services
18 over existing telephone lines or over newly-installed high-speed
19 fiber lines to customers in their local telephone service areas, and
20 such developments have the potential for stimulating additional
21 competition in the MVPD market that should lead to further
22 improvements for MVPD customers;

23 g. That, in order to afford an equal opportunity for non-
24 traditional MVPD providers such as local telephone common
25 carriers to compete with existing providers, and to ensure that
26 customers receive the benefits of a more competitive MVPD
27 market, it is in the public interest to encourage common carriers to
28 enter the MVPD market by adapting the existing regulatory
29 framework to the changed circumstances brought about by recent
30 technological developments while allowing the State to retain its
31 necessary and appropriate regulatory oversight with regard to
32 consumer protection and customer service elements; and

33 h. That nothing in this act shall be seen to limit or otherwise
34 reduce the protection afforded to cable television customers, and it
35 is in the public interest to include additional provisions in this act to
36 ensure that customers continue to be provided a high level of
37 consumer protection and customer service in a more competitive
38 MVPD market.

39 (cf: P.L.1972, c.186, s.2)

40

41 2. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read
42 as follows:

43 3. As used in this act, except as the context may otherwise
44 clearly require or indicate:

45 a. "Board" means the Board of Public Utilities **[of this State]**.

46 b. "Office" means the Office of Cable Television established by
47 **[this act]** the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1

1 et seq.)

2 c. "Director" means the Director of the Office of Cable
3 Television.

4 d. "Cable television system" **or** "CATV system" or "cable
5 system" means **any facility within this State which is operated or**
6 **intended to be operated to perform the service of receiving and**
7 **amplifying the signals broadcast by one or more television stations**
8 **and redistributing such signals by wire, cable or other device or**
9 **means for accomplishing such redistribution, to members of the**
10 **public who subscribe to such service, or distributing through its**
11 **facility any television signals, whether broadcast or not; or any part**
12 **of such facility** a facility, consisting of a set of closed transmission
13 paths and associated signal generation, reception, and control
14 equipment, that is designed to provide cable television service
15 which includes video programming, without regard to the
16 technology used to deliver such video programming, including
17 Internet protocol technology or any successor technology, and
18 which is provided to multiple subscribers within a community, but
19 such term does not include: (1) a facility that serves only to
20 retransmit the television signals of one or more television broadcast
21 stations; (2) a facility that serves subscribers without using any
22 public right-of-way; (3) a facility of a common carrier which is
23 subject, in whole or in part, to regulation by the board pursuant to
24 Title 48 of the Revised Statutes, except that such facility shall be
25 considered a CATV system to the extent such facility is used in the
26 transmission of video programming directly to subscribers, unless
27 the extent of such use is solely to provide interactive on-demand
28 services; (4) an open video system that has been certified by the
29 Federal Communications Commission as being in compliance with
30 the provisions of Part 76, "Multichannel Video and Cable
31 Television Service," of Title 47 of the Code of Federal Regulations;
32 (5) any facilities of any electric public utility used solely for
33 operating its electric utility systems; or (6) a facility of an electric
34 public utility which is subject, in whole or in part, to regulation by
35 the board pursuant to Title 48 of the Revised Statutes, except that
36 such facility shall be considered a CATV system solely to the extent
37 that such facility is used in the transmission of video programming
38 directly to the subscribers. The term "facility" as used in this
39 subsection **includes all real property, antennae, poles, wires,**
40 **cables, conduits, amplifiers, instruments, appliances, fixtures and**
41 **other personal property used by a CATV company in providing**
42 **service to its subscribers and customers** is limited to the optical
43 spectrum wavelengths, bandwidth, or other current or future
44 technological capacity used for the transmission of video
45 programming directly to subscribers.

46 e. "Cable television reception service" means the simultaneous
47 delivery through a CATV system of the signals of television

1 broadcast stations to members of the public subscribing to such
2 service for a fee or other consideration, which service may include
3 additional nonbroadcast signals delivered as a part of the service
4 with no additional charge.

5 f. ["Cable communications system" or "cable communications
6 service" means any communications service other than cable
7 television reception service delivered through the facilities of a
8 CATV system and for which charges in addition to or other than
9 those made for cable television reception service are made or
10 proposed to be made.] (Deleted by amendment, P.L. , c.)
11 (pending before the Legislature as this bill)

12 g. "Cable television company" or "CATV company" means any
13 person [owning, controlling, operating or managing a cable
14 television system, and the term "person" as used herein shall be
15 construed, without limiting the generality thereof, to include
16 specifically any agency or instrumentality of this State or of any of
17 its political subdivisions; but this definition shall not include a
18 telephone, telegraph or electric utility company regulated by the
19 Board of Public Utilities in a case where it merely leases or rents or
20 otherwise provides to a CATV company wires, conduits, cables or
21 pole space used in the redistribution of television signals to or
22 toward subscribers or customers of such CATV company] or group
23 of persons (1) who provides cable service over a cable system and
24 directly or through one or more affiliates owns a significant interest
25 in such cable system, or (2) who otherwise controls or is
26 responsible for, through any arrangement, the management and
27 operation of such a cable system.

28 h. "Highway" includes every street, road, alley, thoroughfare,
29 way or place of any kind used by the public or open to the use of
30 the public.

31 i. "Certificate" means a certificate of approval issued[, or which
32 may be issued,] by the board pursuant to [this act] P.L.1972, c.186
33 (C.48:5A-1 et seq.).

34 j. "Cable television service" [includes the definitions of cable
35 television reception service and cable communications service
36 herein, as well as the provision of any other impulse or signal by a
37 cable television company or other service lawfully provided,
38 utilizing the facilities of the system], "CATV service" or "cable
39 service" means (1) the one-way transmission to subscribers of (a)
40 video programming, or (b) other programming service; and (2)
41 subscriber interaction, if any, which is required for the selection or
42 use of such video programming or other programming service,
43 regardless of the technology utilized by a cable television company
44 to enable such selection or use.

45 k. "Basic cable service" means any service tier which includes
46 the retransmission of local television broadcast signals and any
47 public, educational and governmental channels.

- 1 l. "Hearing impaired individual" means an individual who,
2 because of injury to, disease of, or defect in the inner, middle or
3 outer ear, or any combination thereof, has suffered a loss of hearing
4 acuity such that the individual cannot receive linguistic information
5 without amplification, dubbing or captions.
- 6 m. "In series connection" means a connection where the coaxial
7 service wire entering the residence of a subscriber connects first to
8 a television receiver or monitor, with the television receiver or
9 monitor being connected by coaxial wire to a video cassette
10 recorder or other auxiliary equipment or where the coaxial service
11 wire connects first to a video cassette recorder or auxiliary
12 equipment, with the equipment being connected to a television
13 receiver or monitor and where no external splitting device is used.
- 14 n. "Municipality" means one municipality acting singularly or
15 two or more municipalities acting jointly in the granting of
16 municipal consent for the provision of cable television service in
17 accordance with the provisions of the "Cable Television Act,"
18 P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.
- 19 o. "Open video system" means a facility consisting of a set of
20 transmission paths and associated signal generation, reception, and
21 control equipment that is designed to provide cable television
22 service to multiple subscribers within a municipality and which has
23 been certified by the Federal Communications Commission as being
24 in compliance with Part 76 "Multichannel Video and Cable
25 Television Service" of Title 47 of the Code of Federal Regulations.
- 26 p. "Private aggregator" means a duly-organized business or non-
27 profit organization authorized to do business in this State that enters
28 into a contract with two or more municipalities for the purpose of
29 facilitating the joint action of those municipalities in granting
30 municipal consent for the provision of cable television service to
31 those municipalities.
- 32 q. "Franchise" means an initial authorization, or renewal thereof,
33 issued by a franchising authority in accordance with the provisions
34 of P.L.1972, c.186 (C.48:5A-1 et seq.), whether such authorization
35 is designated as a franchise, permit, license, resolution, contract,
36 certificate, agreement or otherwise, which authorizes the
37 construction or operation of a cable television system.
- 38 r. "System-wide franchise" means a competitive franchise issued
39 pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) which authorizes a
40 CATV company to construct or operate a cable television system in
41 any location within this State in which the CATV company, at the
42 time of the issuance of the system-wide franchise, either has plant
43 or equipment in use for the provision of any consumer video, cable
44 or telecommunications service, including telephone service, or has
45 proposed to place such plant or equipment into use to provide such
46 service.
- 47 s. "Local franchising authority" or "franchising authority" means
48 a governmental entity empowered by federal, State, or local law to

- 1 grant a franchise.
- 2 t. "Telecommunications service provider" or
3 "telecommunications provider" means any owner of facilities and
4 equipment located in public rights-of-way used to provide
5 telecommunications services, except that such term does not include
6 aggregators of telecommunications services.
- 7 u. "Telecommunications service" means the offering of
8 telecommunications for a fee directly to the public, or to such
9 classes of users as to be effectively available directly to the public,
10 regardless of the facilities used.
- 11 v. "Video programming" means programming provided by, or
12 generally considered comparable to programming provided by, a
13 television broadcast station.
- 14 w. "Other programming service" means information other than
15 video programming that a CATV company makes available to all
16 subscribers generally.
- 17 x. "Gross revenues" means all revenues actually received by the
18 holder of a system-wide franchise or certificate of approval derived
19 during the calendar year from all the charges or fees paid by
20 subscribers in the municipality to the CATV company for providing
21 basic cable service, cable programming service, as that term is
22 defined in 47 C.F.R. s.76.901, and premier tier programming
23 service, for pay-per-view events, seasonal or sporting events of
24 limited duration, and for all similar programming or channels, but
25 gross revenues shall not include: (1) amounts not actually received,
26 even if billed, such as bad debt; refunds, rebates or discounts to
27 subscribers or other third parties; or revenue imputed from the
28 provision of cable services for free or at reduced rates to any person
29 as required or allowed by law, including, without limitation, the
30 provision of such services to public institutions, public schools,
31 governmental entities, or employees, other than forgone revenue
32 chosen not to be received in exchange for trades, barters, services,
33 or other items of value; (2) any revenue from any charges or fees
34 derived from services classified as non-cable services under federal
35 law, including, without limitation, revenue derived from
36 telecommunications services and information services and any other
37 revenues attributed by the holder of a certificate of approval or
38 system-wide franchise to non-cable services in accordance with
39 Federal Communications Commission rules, regulations, standards,
40 or orders; (3) amounts billed to and collected from subscribers to
41 recover any tax, fee or surcharge of general applicability imposed
42 by any governmental entity on the holder of a certificate of
43 approval or a system-wide franchise, including without limitation,
44 sales and use taxes, gross receipts taxes, excise taxes, utility users
45 taxes, public service taxes, communication taxes, and any other fee
46 not imposed by section 30 of P.L.1972, c.186 (C.48:5A-30). In the
47 case of cable service that may be bundled or integrated functionally
48 with other services, capabilities or applications, the gross revenues

1 shall only include those charges or fees derived from or attributable
2 to the provision of cable service, as reflected on the books and
3 records of the holder of a certificate of approval or a system-wide
4 franchise, as the case may be, in accordance with the rules,
5 regulations, standards and orders of the Federal Communications
6 Commission.

7 (cf: P.L.2003, c.38, s.3)

8

9 3. Section 4 of P.L.1972, c.186 (C.48:5A-4) is amended to read
10 as follows:

11 4. There is hereby established in the **【Department】** Board of
12 Public Utilities an Office of Cable Television; but nothing in **【this**
13 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed as
14 declaring or defining cable television to be a public utility or
15 subjecting it to the application of any of the provisions of Title 48
16 of the Revised Statutes, except as otherwise specifically provided in
17 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.).

18 (cf: P.L.1972, c.186, s.4)

19

20 4. Section 6 of P.L.1972, c.186 (C.48:5A-6) is amended to read
21 as follows:

22 6. The director under the supervision of the **【board】** President of
23 the Board shall organize the work of the office and establish therein
24 such administrative subdivisions as **【he】** may **【deem】** be deemed
25 necessary, proper and expedient. **【He】** The director may formulate
26 **【and adopt】** rules and regulations for the board's consideration and
27 prescribe duties for the efficient conduct of the business, work and
28 general administration of the office. **【He】** The director may
29 delegate to subordinate officers or employees in the office such **【of**
30 **his】** powers as **【he】** may **【deem】** be deemed desirable, to be
31 exercised under **【his】** the supervision and direction of the director.

32 (cf: P.L.1972, c.186, s.6)

33

34 5. Section 7 of P.L.1972, c.186 (C.48:5A-7) is amended to read
35 as follows:

36 7. Subject to the provisions of Title **【11】** 11A of the **【Revised】**
37 New Jersey Statutes, and within the limits of funds appropriated or
38 otherwise made available, the director with the approval of the
39 **【board】** President of the Board may appoint such officers and
40 employees of the office as **【he】** may **【deem】** be deemed necessary
41 for the performance of its duties, and may fix and determine their
42 qualifications, duties and compensation, and may retain or employ
43 engineers and private consultants on a contract basis or otherwise
44 for rendering professional or technical service or assistance.

45 (cf: P.L.1972, c.186, s.7)

1 6. Section 9 of P.L.1972, c.186 (C.48:5A-9) is amended to read
2 as follows:

3 9. The board, which is empowered pursuant to P.L.1972, c.186
4 (C.48:5A-1 et seq.) to be the local franchising authority in this
5 State, and the director under the supervision of the board, shall have
6 full right, power, authority and jurisdiction to:

7 a. Receive or initiate complaints of the alleged violation of any
8 of the provisions of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.)
9 or of any of the rules and regulations made pursuant to **【this act】**
10 P.L.1972, c.186 (C.48:5A-1 et seq.) or of the terms and conditions
11 of any municipal consent or franchise granted pursuant to **【this act】**
12 P.L.1972, c.186 (C.48:5A-1 et seq.); and for this purpose and all
13 other purposes necessary to enable **【him】** the director to administer
14 the duties of the office as prescribed by law may hold hearings and
15 shall have power to **【subpena】** subpoena witnesses and compel their
16 attendance, administer oaths and require the production for
17 examination of any books or papers relating to any matter under
18 investigation at any such hearing;

19 b. Supervise and regulate every CATV company operating
20 within this State and its property, property rights, equipment,
21 facilities, contracts, certificates and franchises so far as may be
22 necessary to carry out the purposes of **【this act】** P.L.1972, c.186
23 (C.48:5A-1 et seq.), and to do all things, whether herein specifically
24 designated or in addition thereto, which are necessary or convenient
25 in the exercise of such power and jurisdiction;

26 c. Institute all proceedings and investigations, hear all
27 complaints, issue all process and orders, and render all decisions
28 necessary to enforce the provisions of **【this act】** P.L.1972, c.186
29 (C.48:5A-1 et seq.), of the rules and regulations adopted thereunder,
30 or of any municipal consents issued pursuant to **【this act】** P.L.1972,
31 c.186 (C.48:5A-1 et seq.);

32 d. Institute, or intervene as a party in, any action in any court of
33 competent jurisdiction seeking mandamus, injunctive or other relief
34 to compel compliance with any provision of **【this act】** P.L.1972,
35 c.186 (C.48:5A-1 et seq.), of any rule, regulation or order adopted
36 thereunder or of any municipal consent or franchise issued
37 thereunder, or to restrain or otherwise prevent or prohibit any illegal
38 or unauthorized conduct in connection therewith.

39 (cf: P.L.1972, c.186, s.9)

40

41 7. Section 10 of P.L.1972, c.186 (C.48:5A-10) is amended to
42 read as follows:

43 10. The director with the approval of the board shall establish,
44 consistent with federal law, for the purpose of assuring safe,
45 adequate and proper cable television service, after hearing in
46 accordance with the “Administrative Procedure Act,” **【(】** P.L.1968,
47 c.410 【;】 (C.52:14B-1 et seq.), rules and regulations governing:

- 1 a. Technical standards of performance for CATV systems and
2 the equipment and facilities thereof, including standards of
3 maintenance and safety, not inconsistent with applicable Federal
4 regulations **【.】** ;
- 5 b. The prohibition and prevention of the imposition of any
6 unjust or unreasonable, unjustly discriminatory or unduly
7 preferential individual or joint rate, charge or schedule for any
8 service supplied or rendered by a CATV company within this State,
9 or the adoption or imposition of any unjust or unreasonable
10 classification in the making or as the basis of any individual or joint
11 rate, charge or schedule for any service rendered by a CATV
12 company within this State **【.】** ;
- 13 c. Requirements for the reasonably prompt and complete
14 exercise of the rights conferred by any certificate, subject to
15 revocation thereof or other penalty provided under **【this act】**
16 P.L.1972, c.186 (C.48:5A-1 et seq.);
- 17 d. Procedures and forms for the application by a CATV
18 company for municipal consents or for a franchise required under
19 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.);
- 20 e. Procedures and forms for review by the director of municipal
21 consents or franchises issued pursuant to the provisions of **【this**
22 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.);
- 23 f. Procedures and forms for the application by CATV companies
24 to municipalities for amendment of rates or other terms and
25 conditions of municipal consents or franchises and, for the review
26 by the director of the terms of such amendments, and for the
27 resolution by the director of disputes between municipalities and
28 CATV companies over such applications;
- 29 g. Procedures and forms for submission to and resolution by the
30 director of complaints or disputes by or between CATV companies,
31 municipalities or citizens regarding proper compliance with the
32 implementation of the provisions of **【this act】** P.L.1972, c.186
33 (C.48:5A-1 et seq.) or the rules and regulations made or municipal
34 consents or franchises issued pursuant to **【this act】** P.L.1972, c.186
35 (C.48:5A-1 et seq.); provided, however, that, notwithstanding the
36 foregoing provisions of this section or any of the provisions of **【this**
37 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.), it is the intent of **【this**
38 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) that all the provisions,
39 regulations and requirements imposed by or pursuant to **【this act】**
40 P.L.1972, c.186 (C.48:5A-1 et seq.) shall be operative only to the
41 extent that the same are not in conflict with the laws of the United
42 States or with any rules, regulations or orders adopted, issued or
43 promulgated pursuant thereto by any Federal regulatory body
44 having jurisdiction. No requirement, regulation, term, condition,
45 limitation or provision imposed by or pursuant to **【this act】**
46 P.L.1972, c.186 (C.48:5A-1 et seq.) which is contrary to or
47 inconsistent with any such Federal law, regulation or order now or

1 hereafter adopted shall be enforced by the director or shall be
2 authority for the granting, denial, amendment or limitation of any
3 municipal consent or certificate of approval which may be applied
4 for or issued under the terms of **【this act】** P.L.1972, c.186
5 (C.48:5A-1 et seq.).

6 The board through the office is hereby empowered and directed
7 to cooperate with any Federal regulatory agency in the enforcement
8 within this State of all Federal laws, rules, regulations and orders
9 relating to CATV systems and CATV companies, and therein to act
10 as agent for such Federal regulatory body to the extent authorized
11 by or pursuant to Federal law, and to enter into agreements for said
12 purpose.

13 (cf: P.L.1972, c.186, s.10)

14

15 8. Section 11 of P.L.1972, c.186 (C.48:5A-11) is amended to
16 read as follows:

17 11. a. **【Except as provided in subsection g. of section 28 of this**
18 **act with respect to rates to subscribers to cable television reception**
19 **service, the】** The board through the office shall, consistent with
20 federal law, prescribe just and reasonable rates, charges and
21 classifications for the services rendered by a CATV company, and
22 the tariffs therefor shall be filed and published in such manner and
23 on such notice as the director with the approval of the board may
24 prescribe, and shall be subject to change on such notice and in such
25 manner as the director with the approval of the board may
26 prescribe.

27 b. The board shall from time to time cause the established rates
28 and rate schedules of each CATV company for cable TV reception
29 service to be reviewed, and if upon such review it shall appear to
30 the board that, under federal law, such rates, or any of them, are or
31 may be excessive, unreasonable, unjustly discriminatory or unduly
32 preferential, the board shall require the CATV company to establish
33 to its satisfaction that such rates are just, reasonable and not
34 excessive or unjustly preferential or discriminatory, and for such
35 purpose shall order the director to hold a hearing thereon. After a
36 hearing upon notice and full opportunity to be heard afforded to the
37 CATV company, the director may recommend amendment of the
38 schedule of cable television subscription rates charged by such
39 company, and such amended schedule if approved by the board
40 shall supersede and replace the schedule so amended.

41 c. Any hearing held pursuant to this section shall be open to the
42 public, and notice thereof shall be published by the **【director】** cable
43 television company at least 10 days prior thereto in a newspaper or
44 newspapers of general circulation **【in each municipality comprised,**
45 **in whole or part,】** in the certificated area wherein the rate schedule
46 which is the subject of the hearing applies. Every municipality may
47 intervene in any hearing held by the director pursuant to this section

1 affecting the municipality or the public within the municipality.

2 d. No CATV company shall derive from the operations of cable
3 television reception service or cable communications systems any
4 revenues other than the fees, charges, rates and tariffs provided for
5 in subsection a. of this section and in subsection g. of section 28 of
6 this act.

7 e. Whenever pursuant to the provisions of **【this act】** P.L.1972,
8 c.186 (C.48:5A-1 et seq.) the board or the director is required to
9 determine whether any of the rates, charges, fees, tariffs and
10 classifications of a CATV company **【subject to this section or to**
11 **subsection g. of section 28 of this act】** are unjust, unreasonable,
12 discriminatory or unduly preferential, there shall be taken into
13 consideration any fees which are charged for the use of a CATV
14 system, or part thereof, as an advertising medium, or for services
15 ancillary to such use, and from which the CATV system derives
16 revenue, directly or indirectly, and the effect thereof upon, the
17 company's requirements for revenue from such fees, rates, charges,
18 tariffs and classifications subject to the provisions of this section.

19 f. The provisions of this section shall not apply in any area
20 where there is effective competition as that term is used in 47
21 U.S.C. s.543.

22 (cf: P.L.1972, c.186, s.11)

23

24 9. Section 2 of P.L.1985, c.356 (C.48:5A-11.2) is amended to
25 read as follows:

26 2. Notwithstanding the provisions of P.L.1972, c.186 (C.48:5A-
27 1 et seq.) or of any other State law to the contrary, any CATV
28 company providing service may establish rates or schedules which
29 provide for a reduction or discount in rates for cable television
30 reception service for senior citizens **【and】**, disabled citizens, or
31 other economically disadvantaged citizens who meet the eligibility
32 requirements of either the "Pharmaceutical Assistance to the Aged
33 and Disabled" program pursuant to P.L.1975, c.194 (C.30:4D-20 et
34 seq.), as amended and supplemented; or are receiving or are eligible
35 to receive benefits under the Supplemental Security Income
36 program, as defined in section 1 of P.L.1973, c.256 (C.44:7-85); or
37 are receiving disability insurance benefits under Title II of the
38 federal Social Security Act, 42 U.S.C. s.401 et seq., and meet the
39 income and residency requirements of the "Pharmaceutical
40 Assistance to the Aged and Disabled Program," established
41 pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

42 The Board of Public Utilities through the Office of Cable
43 Television shall adopt regulations for the prompt, fair and efficient
44 establishment and maintenance of these reduced or discounted rates
45 and schedules. Subscription to the "Tenants' Lifeline Assistance
46 Program," established pursuant to P.L.1981, c.210 (C.48:2-29.30 et
47 seq.), or to the "Lifeline Credit Program," established pursuant to

1 P.L.1979, c.197 (C.48:2-29.15 et seq.), shall not be a basis for
2 exclusion from any reduction or discount provided under this
3 section, nor shall subscription to any cable television service from
4 such provider be a basis for exclusion from the Tenants' Lifeline
5 Assistance Program or the Lifeline Credit Program.

6 "Senior citizen" means any person 62 years of age or older who
7 subscribes for CATV service and who does not share the
8 subscription with more than one other person in the same dwelling
9 unit who is less than 62 years of age.

10 (cf: P.L.1988, c.81, s.2)

11

12 10. Section 3 of P.L.1985, c.356 (C.48:5A-11.3) is amended to
13 read as follows:

14 3. **【A municipality shall not require】** A cable television
15 company shall not be required, as part of any franchising
16 agreement, or renewal thereof, or as part of any negotiations leading
17 up to a franchising agreement, or renewal thereof, **【that a CATV**
18 **company】** or pursuant to order, rule or regulation of the office or
19 the board, to provide the reduction or discount in rates which is
20 permitted under section 2 of 【this act】 P.L.1985, c.356 (C.48:5A-
21 11.2).

22 (cf: P.L.1985, c.356, s.3)

23

24 11. Section 15 of P.L.1972, c.186 (C.48:5A-15) is amended to
25 read as follows:

26 15. No person shall hereafter begin the construction **【,】** or
27 extension of a CATV system, or begin the operation of a CATV
28 system, or acquire ownership or control thereof, without first
29 obtaining from the board a certificate of approval or franchise
30 issued in accordance with the provisions and procedures specified
31 in **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.); except that the
32 director may, by order, rule or regulation, exempt a CATV company
33 from the above **【certificate】** requirement in a case **【where its】** in
34 which the CATV company's temporary acts or operations do not
35 require the issuance of a certificate of approval or a system-wide
36 franchise in the public interest. The issuance of a certificate of
37 approval or a system-wide franchise by the board to a CATV
38 company shall be deemed to confer a franchise upon the CATV
39 company. A telecommunications service provider holding
40 authority, granted prior to the enactment of P.L. , c. (C.)
41 (pending before the Legislature as this bill), to utilize the public
42 rights-of-way to construct, upgrade, operate or maintain a
43 communications network shall not be required to obtain a certificate
44 of authority, system-wide franchise or any other authorization,
45 except for being subject to generally applicable non-discriminatory
46 permit requirements, to construct, upgrade, operate or maintain a
47 communications network capable of providing cable service, and a

1 certificate of authority or a system-wide franchise shall be required
2 only prior to the actual provision of cable service on a commercial
3 basis to the general public.

4 (cf: P.L.1972, c.186, s.15)

5

6 12. Section 16 of P.L.1972, c.186 (C.48:5A-16) is amended to
7 read as follows:

8 16. a. Any entity that seeks to provide cable service in this State
9 after the effective date of P.L. , c. (C.) (pending before the
10 Legislature as this bill) may apply for either individual certificates
11 of approval or a system-wide franchise. The application for **【such】**
12 a certificate of approval or a system-wide franchise from the board
13 shall be in writing **【.】**.

14 b. (1) If the application is for an individual certificate of
15 approval, it shall have attached thereto the municipal consents
16 required under section 22 of 【this act】 P.L.1972, c.186 (C.48:5A-
17 22), except that a CATV company which is authorized under
18 section 25 of 【this act】 P.L.1972, c.186 (C.48:5A-25) to continue
19 operations after the expiration of a municipal consent and pending
20 municipal action upon application made for renewal or reissuance
21 of such consent may in lieu of such municipal consent attach to its
22 application a statement regarding its authorization to continue
23 operations under the provisions of section 25 of P.L.1972, c.186
24 (C.48:5A-25); and shall contain such other information as the
25 director may from time to time prescribe by duly promulgated rule,
26 regulation or order. Each such application shall be accompanied by
27 a filing fee of 【\$100.00】 \$200.

28 **【b.】** (2). Upon receipt of **【such】** an application for a certificate
29 of approval, the board shall review the 【same】 application and
30 shall, within 30 days of the receipt thereof, either issue the
31 certificate of approval applied for or order the director to schedule a
32 hearing upon the application. No application shall be denied
33 without a hearing thereon. In determining whether a certificate of
34 approval should 【issue】 be issued, the board shall consider 【, in
35 addition to】 only the requirements of 【section 17, among other
36 things, public convenience and necessity, the suitability and
37 character of the applicant, the financial responsibility of the
38 applicant, and the ability of the applicant to perform efficiently the
39 proposed service and other service which may be required by public
40 convenience and necessity during the term of the municipal consent.
41 Upon receipt of a complaint from any person claiming to be
42 aggrieved by the issuance of a certificate applied for, the board
43 shall not issue such certificate without a hearing thereon, if it deems
44 that there is a reasonable ground for such complaint】 sections 17
45 and 28 of P.L.1972, c.186 (C.48:5A-17; C.48:5A-28).

46 c. **【If in its initial review of the application it shall appear to the**
47 **board that any of the rates in the schedule of rates provided therein**

1 pursuant to subsection g. of section 28 of this act are or may be
2 excessive, unreasonable, unjustly discriminatory or unduly
3 preferential, it shall not issue a certificate without a hearing on such
4 application, to be held by the director at the order of the board at
5 which hearing the applicant CATV company may be required to
6 establish to his satisfaction that such rates are just, reasonable and
7 not excessive or unjustly preferential or discriminatory. After a
8 hearing at which such justification of rates is required, upon notice
9 and full opportunity to be heard afforded to the applicant CATV
10 company, the director may, recommended that the schedule of rates
11 aforesaid be amended and such amended schedule if approved by
12 the board shall supersede and replace the schedule so amended.】
13 (Deleted by amendment, P.L. , c.) (pending before the
14 Legislature as this bill)

15 d. If the application is for a system-wide franchise, it shall be
16 accompanied by a filing fee of \$1,000, and shall specify the
17 information required in section 28 of P.L.1972, c.186 (C.48:5A-28).

18 **【d.】** e. A hearing held pursuant to subsection b. of this section
19 shall be held not later than the sixtieth day following the date of
20 receipt of the application; it may be adjourned from time to time,
21 but not to a date later than the sixtieth day following the date on
22 which it commenced, except with the consent of the applicant. If
23 such hearing is held, the director shall within 60 days after the
24 conclusion thereof, transmit his findings of fact and
25 recommendations to the board, which shall either issue or deny the
26 certificate for which application was made, or may issue a
27 certificate with such limitations and conditions as the public interest
28 may require. The board shall transmit notice of its decision to the
29 applicant.

30 f. Upon receipt of an application for a system-wide franchise
31 submitted pursuant to subsection a. of this section, the board shall
32 review the application and shall, within 45 days of the receipt
33 thereof, schedule two public hearings to be held in different
34 geographical areas of the State during the 45-day review period to
35 consider the application. In determining whether a system-wide
36 franchise should be issued, the board shall consider only the
37 requirements of sections 17 and 28 of P.L.1972, c.186 (C.48:5A-17:
38 C.48:5A-28). On or before the expiration of the 45-day period, the
39 board shall issue an order in writing approving the application if the
40 applicant has complied with the requirements for a system-wide
41 franchise, or the board shall disapprove the application in writing
42 citing the reasons for disapproval if the board determines that the
43 application for a system-wide franchise does not comply with the
44 requirements for a system-wide franchise. If, during the 45-day
45 review period, the board determines to disapprove the application,
46 the board shall schedule a meeting with the applicant to explain to
47 the applicant the reasons for the board's disapproval and to allow
48 the applicant to question the board concerning the reasons for the

1 board's disapproval. Such meeting shall be scheduled no later than
2 two weeks following the expiration of the 45-day review period
3 required by this subsection. The applicant shall have 30 days
4 following the date of the meeting with the board required by this
5 subsection to file an appeal of the board's decision. The board shall
6 thereafter schedule an administrative hearing not later than the
7 thirtieth day following the date of the filing of the applicant's
8 appeal in order to consider the applicant's appeal. The board shall
9 issue a final decision in written form on the applicant's appeal not
10 later than the sixtieth day following the administrative hearing,
11 required by this subsection, on the applicant's appeal.

12 (cf: P.L.1972, c.186, s.16)

13

14 13. Section 17 of P.L.1972, c.186 (C.48:5A-17) is amended to
15 read as follows:

16 17. a. The board shall issue a certificate of approval or a
17 system-wide franchise, as appropriate, when, after reviewing the
18 application, and after **【hearing if one is held】** the required meeting
19 and hearings have been held pursuant to section 16 of P.L.1972,
20 c.186 (C.48:5A-16), the applicant establishes to **【its】** the board's
21 satisfaction that the applicant has all the municipal consents
22 necessary to support the application, if such consents are required,
23 and that such consents and the issuance thereof are in conformity
24 with the requirements of **【this act】** P.L.1972, c.186 (C.48:5A-1 et
25 seq.), and that the applicant has complied or is ready, willing and
26 able to comply with all applicable rules and regulations imposed by
27 or pursuant to State or federal law as preconditions for engaging in
28 **【his】** the applicant's proposed CATV operations; provided, that in
29 the case of any application for a certificate of approval which has
30 omitted the attachment of municipal consent in the circumstance
31 provided for in subsection a. of section 16 of **【this act】** P.L.1972,
32 c.186 (C.48:5A-16), the board shall condition the issuance of the
33 certificate upon the applicant's reasonably prompt attainment of the
34 omitted municipal consent or reasonably prompt initiation of
35 proceedings under subsection d. of this section.

36 b. In considering any **【such】** application for a certificate of
37 approval, the board shall take into consideration the probable
38 effects upon both the area for which certification is sought and
39 neighboring areas not covered in the municipal consents; and if it
40 finds that the probable effects, for technical and financial reasons,
41 would be to impede the development of adequate cable **【television】**
42 service, or create an unreasonable duplication of services likely to
43 be detrimental to the development of adequate cable **【television】**
44 service in any area either within or without the area for which
45 certification is sought, it may deny the certificate or it may amend
46 the certificate in issuing it so as to:

47 (1) Direct that areas covered in the application be excluded from

1 the area certified; or

2 (2) Direct that areas not covered in the application be included
3 in the area certified.

4 c. No such certificate of approval amended pursuant to
5 subsection b. of this section shall be issued except after hearing of
6 which each affected municipality shall be given notice and afforded
7 opportunity to be heard. No such amended certificate of approval
8 shall be issued which would impair the terms of any existing
9 certificate of approval or of any municipal consent upon which such
10 existing certificate is based, except with the consent of the holder of
11 such existing certificate and of any municipality having issued such
12 municipal consent.

13 d. If a municipality shall arbitrarily refuse to grant the municipal
14 consent required under the terms of **【this act】** P.L.1972, c.186
15 (C.48:5A-1 et seq.) prerequisite to issuance of a certificate, or to act
16 upon an application for such municipal consent within 90 days after
17 such application is filed, then the applicant **【CATV company】** may
18 avoid the necessity of first obtaining such municipal consent by
19 showing to the satisfaction of the board that the municipal consent
20 is being arbitrarily withheld. But any CATV company certificated
21 without municipal consent shall nevertheless pay the franchise tax
22 to the municipality imposed under section 30 of **【this act】**
23 P.L.1972, c.186 (C.48:5A-30). An application for certificate filed
24 pursuant to this subsection shall be accompanied by a filing fee of
25 **【\$200.00】** \$1,000.

26 e. If any municipality or county shall refuse to any CATV
27 company, whether the holder of a municipal consent from that
28 municipality or otherwise, any zoning variance or other municipal
29 act or authorization, or any county act or authorization, necessary to
30 permit such CATV company to locate any facility of such CATV
31 company within such municipality or county, or to install
32 transmission facilities through such municipality or county for the
33 purpose of serving subscribers or customers in any area for which
34 such CATV company has been issued a certificate or system-wide
35 franchise by the board, the CATV company may apply to the board
36 for an order setting aside such municipal or county refusal and
37 permitting such location of facility or installation of transmission
38 facilities as requested by the CATV company. An application
39 pursuant to this subsection shall be accompanied by a filing fee of
40 **【\$200.00】** \$500. The board, after hearing upon notice and full
41 opportunity for both the applicant and the municipality or county to
42 be heard, shall issue such order when it appears to the board's
43 satisfaction that such permission is necessary to enable the CATV
44 company to provide safe, adequate and proper CATV service to its
45 customers or subscribers in the manner required by **【this act】**
46 P.L.1972, c.186 (C.48:5A-1 et seq.) and that such location or
47 installation will not adversely affect the public health, safety and

1 welfare.

2 f. The director shall issue a certificate of approval to any CATV
3 company lawfully engaged in the construction, extension or
4 operation of a CATV system **【on the effective date of this act】**
5 within the boundaries of the municipality cited in the application,
6 for the construction, extension or operation then being conducted
7 within such municipality, without further review, if application for
8 such certificate is filed with the board within 90 days after such
9 effective date. The construction, extension or operation of such a
10 CATV system may be lawfully continued pending the filing of such
11 an application unless the director orders otherwise. An application
12 for such certificate which is untimely shall be determined in
13 accordance with the procedures prescribed in subsections a. through
14 d. of this section. A certificate of approval issued under this
15 subsection shall expire five years from the date of issuance; and no
16 CATV company holding such certificate shall be authorized to
17 continue its operations after such expiration unless prior thereto it
18 shall have obtained a certificate of approval under the procedures
19 specified in subsections a. through d. of this section, except that
20 such a CATV company which has initiated proceedings for
21 certification under subsections a. through d. of this section prior to
22 the expiration of a certificate of approval granted under this
23 subsection may continue its operations pending the final disposition
24 of such proceedings. An application pursuant to this subsection
25 shall be accompanied by a filing fee of **【\$50.00】** \$50.

26 (cf: P.L.1986, c.163, s.1)

27

28 14. Section 18 of P.L.1972, c.186 (C.48:5A-18) is amended as
29 follows:

30 18. a. Any hearing held pursuant to the provisions of section 16
31 or section 17 of **【this act】** P.L.1972, c.186 (C.48:5A-16; C.48:5A-
32 17) shall be open to the public, and notice thereof shall be published
33 by the **【director】** applicant at least 10 days prior thereto in a
34 newspaper or newspapers of general circulation throughout the
35 State or (1) if the hearing is upon application for certification, in
36 each municipality comprised, in whole or part, in the area for which
37 certification is sought, or (2) if the hearing is upon an application
38 under subsection e. of section 17 of P.L.1972, c.186 (C.48:5A-17),
39 in each municipality **【comprised in whole or part, in the certificated**
40 **area or area for which certification is sought, of the CATV system**
41 **of the applicant CATV company, and also each other municipality】**
42 whose refusal of municipal action or authorization is involved in the
43 application.

44 b. Every municipality may intervene in any hearing or
45 investigation held under the authority of **【this act】** P.L.1972, c.186
46 (C.48:5A-1 et seq.) which involves rates, charges, services or
47 facilities affecting the municipality or the public within the

1 municipality.

2 c. For the purpose of defraying the administrative expenses of
3 hearings held pursuant to section 16 or 17 of **[this act]** P.L.1972,
4 c.186 (C.48:5A-16; C.48:5A-17), the applicant CATV company
5 shall be required to pay to the Office of Cable Television a fee not
6 in excess of **[\$50.00]** \$500 per day of hearing or fraction thereof,
7 according to such fee schedule as the director shall from time to
8 time adopt by rule. Such fee shall be in addition to any filing fee
9 imposed pursuant to sections **[17]** 16 and **[18]** 17 of **[this act]**
10 P.L.1972, c.186 (C.48:5A-16; C.48:5A-17); the amount shall be due
11 and payable upon presentation of an invoice.

12 d. All fees and charges collected under the provisions of
13 **[section]** sections 16 [.] and 17 [or 18] of **[this act]** P.L.1972,
14 c.186 (C.48:5A-16; C.48:5A-17) shall be received by the director
15 for the sole use of the State, and **[he]** the director shall report on
16 and return to the State Treasurer all such fees and charges collected
17 **[by him]**.

18 (cf: P.L.1972, c.186, s.18)

19

20 15. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to
21 read as follows:

22 19. a. A certificate of approval issued by the board shall be
23 nontransferable, except by consent of the board**[:]** and shall specify
24 the area to which it applies and the municipal consents upon which
25 it is based **[, and]**. A certificate of approval issued by the board
26 shall be valid for 15 years from the date of issuance or 20 years
27 from the date of issuance if the board certifies that a CATV
28 company has implemented an open video system in accordance
29 with 47 U.S.C. s.573 within one year after receiving a municipal
30 consent, or until the expiration, revocation, termination or
31 renegotiation of any municipal consent upon which it is based,
32 whichever is sooner. But amendment of the terms of a municipal
33 consent by mutual consent and in conformity with the procedures
34 specified in [this act] P.L.1972, c.186 (C.48:5A-1 et seq.) during
35 the term for which it was issued shall not require the issuance of a
36 new certificate of approval. A CATV company holding a certificate
37 based upon a municipal consent with a provision for automatic
38 renewal for a term not exceeding 10 years beyond its expiration
39 date or 15 years beyond its expiration date if the board certifies that
40 the CATV company has implemented an open video system in
41 accordance with 47 U.S.C. s.573, shall be entitled to automatic
42 reissuance of a certificate for such term, unless it shall forfeit such
43 entitlement by violation of any terms of [this act] P.L.1972, c.186
44 (C.48:5A-1 et seq.), regulations issued pursuant thereto, or by the
45 terms of the municipal consent.

46 b. A system-wide franchise issued by the board shall be
47 nontransferable, except by consent of the board, and shall specify

1 the area to which it applies. A system-wide franchise issued by the
2 board shall be valid for seven years from the date of issuance. A
3 system-wide franchise issued pursuant to P.L.1972, c.186 (C.48:5A-
4 1 et seq.) shall not require: (1) a CATV company to operate
5 outside of the areas in which the CATV company either has plant or
6 equipment in use for the provision of any consumer video, cable or
7 telecommunications service, or has proposed to place into use such
8 plant or equipment for the provision of such services; or (2) a
9 CATV company with municipal consents issued prior to the
10 effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill) to operate outside of the areas covered by
12 such consents. Renewal of a system-wide franchise shall be valid
13 for a period of seven years from the date of the renewal issuance,
14 and the board shall establish rules governing the renewal of a
15 system-wide franchise.

16 (cf: P.L.2003, c.38, s.4)

17

18 16. Section 20 of P.L.1972, c.186 (C.48:5A-20) is amended to
19 read as follows:

20 20. a. Upon obtaining the prior approval of the board, if
21 necessary, a CATV company may construct and maintain the wires,
22 cables, and conduits necessary to its business upon, under or over
23 any highway, and may erect and maintain the necessary fixtures,
24 including poles and posts, for sustaining such wires and cables;
25 provided, however, that such wires, cables and fixtures shall be so
26 placed or constructed as not to unreasonably inconvenience public
27 travel on the highway or the use thereof by public utilities or other
28 persons or organizations having rights therein. This subsection
29 shall not apply to a telecommunications service provider deploying
30 telecommunications facilities that can be used as shared-use
31 facilities to carry cable television service at a later date.

32 b. Whenever the **【Board】** board shall find that public
33 convenience and necessity require the use by a CATV company or a
34 public utility of the wires, cables, conduits, poles or other
35 equipment, or any part thereof, on, over or under any highway or
36 any right-of-way and belonging to another CATV company or
37 public utility, and that such use will not result in injury to the owner
38 or other users of such equipment or any right-of-way or in any
39 substantial detriment to the service, and that such CATV companies
40 or public utilities have failed to agree upon such use or the terms
41 and conditions or compensation for the same, the **【office】** board
42 may order that such use be permitted and prescribe a reasonable
43 compensation and reasonable terms and conditions for the joint use.
44 If such use is ordered, the CATV company or public utility to which
45 the use is permitted shall be liable to the owner or other users of
46 such equipment for such damage as may result therefrom to the
47 property of such owner or other users thereof.

48 (cf: P.L.1972, c.186, s.20)

1 17. Section 7 of P.L.1991, c.412 (C.48:5A-20.1) is amended to
2 read as follows:

3 7. Within 30 days after the effective date of **【this act】** P.L._____,
4 c. (C.) (pending before the Legislature as this bill), the **【Board**
5 **of Regulatory Commissioners】** board shall notify the general
6 manager of every cable television company that, in order to receive
7 notice by an applicant pursuant to subsection h. of section 7.1 of
8 P.L.1975, c.291 (C.40:55D-12), the cable television company shall
9 register with any municipality in which the cable television
10 company has plant located in a right-of-way or easement.

11 (cf: P.L.1991, c.412, s.7)

12

13 18. Section 21 of P.L.1972, c.186 (C.48:5A-21) is amended to
14 read as follows:

15 21. Upon the prior approval of the **【Board】** board, any person
16 may lease or rent or otherwise make available facilities or rights-of-
17 way, including pole space, to a CATV company for the
18 redistribution of television signals to or toward the customers or
19 subscribers of such CATV company. **【Any lease, rental or other**
20 **method of making available such facilities or rights-of-way,**
21 **including pole space, which is in effect on the effective date of this**
22 **act and which will be in effect for a period of more than 120 days**
23 **after the effective date of this act shall be submitted to the board for**
24 **approval within 120 days after the effective date of this act, and if**
25 **such lease or rental or other method is disapproved by the board it**
26 **shall thereupon become void.】** The terms and conditions, including
27 rates and charges to the CATV company, imposed by any public
28 utility under any such lease, rental or other method of making
29 available such facilities or rights-of-way, including pole space, to a
30 CATV company shall be subject to the jurisdiction of the **【Board of**
31 **Public Utility Commissioners】** board in the same manner and to the
32 same extent that rates and charges of public utilities generally are
33 subject to the board's jurisdiction by virtue of the appropriate
34 provisions of Title 48 of the Revised Statutes.

35 (cf: P.L.1972, c.186, s.21)

36

37 19. (New section) a. Municipal consents and certificates of
38 approval for applications to provide cable television services in a
39 municipality issued prior to the effective date of P.L._____, c. (C.)
40 (pending before the Legislature as this bill) shall remain in effect
41 until such time as they may expire or until such time as the cable
42 television company is granted a renewal of the franchise as a
43 municipal franchise or converts the franchise to a system-wide
44 franchise. Except as may otherwise be provided by subsection b. of
45 this section and section 30 of P.L.1972, c.186 (C.48:5A-30), both
46 the municipality and the cable television company shall be bound
47 by the terms of the municipal consents and certificates of approval

1 until such time as the municipal consents and certificates of
2 approval have been converted into a system-wide franchise. A
3 cable television company with a municipal franchise or franchises
4 issued prior to the effective date of P.L. , c. (C.) (pending
5 before the Legislature as this bill) may, if it wishes, automatically
6 convert any or all such franchise or franchises into a system-wide
7 franchise upon notice to the board and the affected municipality,
8 but without the need for the consent of either the board or the
9 affected municipality and without regard to the requirements of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 applicable to applications for such a franchise, except that the
12 commitments required pursuant to subsections h. through n. of
13 section 28 of P.L.1972, c.186 (C.48:5A-28) shall be applicable to
14 any or all such system-wide franchises and any failure of a CATV
15 company to abide by or conform its practices to such commitments
16 shall be considered a violation of the system-wide franchise and the
17 board may enforce these provisions through the imposition of
18 monetary penalties under section 51 of P.L.1972, c.186 (C.48:5A-
19 51), or the suspension or revocation of the system-wide franchise,
20 or it may seek to renew such franchise or franchises as a municipal
21 franchise or franchises pursuant to the provisions of P.L.1972,
22 c.186 (C.48:5A-1 et seq.). Such conversion need not take place
23 with respect to all municipalities at the same time, but rather the
24 cable television company may convert additional municipal
25 franchises and add affected municipalities to the service area
26 covered by such system-wide franchise at any time during the term
27 of the system-wide franchise.

28 b. If a cable television company is granted a system-wide
29 franchise by the board pursuant to the provisions of P.L. , c.
30 (C.) (pending before the Legislature as this bill), the company
31 shall be able thereafter to be issued a municipal franchise or
32 franchises and the renewal of a municipal franchise or franchises
33 which had been issued prior to the effective date of P.L. , c.
34 (C.) (pending before the Legislature as this bill). Nothing herein
35 shall preclude a municipality from enforcing its right-of-way
36 management powers on a reasonable and non-discriminatory basis,
37 except that such powers shall not include the authority to impose
38 any fees, taxes, assessments or charges of any nature for the use of
39 public rights-of-way by a CATV company except as expressly
40 provided by P.L. , c. (C.) (pending before the Legislature as
41 this bill). The provisions of this subsection shall not be construed
42 to relieve any cable television company issued a system-wide
43 franchise of its obligations to meet the requirements of section 20 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45
46 20. (New section) a. As part of any system-wide franchise
47 issued by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.),
48 a CATV company shall be required to:

1 (1) begin providing cable television service on a commercial
2 basis, within three years of issuance of the system-wide franchise,
3 in:

4 (a) each county seat that is within the CATV company's service
5 area; and

6 (b) each municipality within the CATV company's service area
7 that has a population density greater than 7,111 persons per square
8 mile of land area, as determined by the most recent federal
9 decennial census prior to the enactment of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 The requirements of this paragraph shall only apply to CATV
12 companies that on the date of the issuance of the system-wide
13 franchise provide more than 40 percent of the local exchange
14 telephone service market in this State;

15 (2) make cable television service available throughout the
16 residential areas of any such municipalities within six years of the
17 date the CATV company first provides cable television service on a
18 commercial basis directly to multiple subscribers within such
19 central office area, subject to the CATV company's line extension
20 policy; provided, however, that such provision of service shall not
21 be required in: (a) areas where developments or buildings are
22 subject to claimed exclusive arrangements with other CATV
23 companies; (b) developments or buildings that the CATV company
24 cannot access, using its standard technical solutions, under
25 commercially reasonable terms and conditions after good faith
26 negotiation; or (c) areas in which the CATV company is unable to
27 access the public rights-of-way under reasonable terms and
28 conditions. The requirements of this paragraph shall only apply to
29 CATV companies that on the date of the issuance of the system-
30 wide franchise provide more than 40 percent of the local exchange
31 telephone service market in this State. As used in this subsection,
32 "central office" has the same meaning as that term is defined in 47
33 C.F.R. Part 36, Appendix, and "central office area" means the towns
34 or portions of towns served by such central office;

35 (3) provide service within the CATV company's service area
36 where cable television service is being offered, without
37 discrimination against any group of potential residential cable
38 subscribers because of the incomes levels of the residents of the
39 local area in which such groups reside; and

40 (4) fully complete a system capable of providing cable
41 television service to all households within the CATV company's
42 service area where cable television service is being offered, subject
43 to the CATV company's line extension policy and the provisions of
44 paragraphs (1) through (3) of this subsection.

45 b. Any person affected by the requirements of subsection a. of
46 this section may seek enforcement of such requirements by
47 initiating a proceeding with the board. As used in this section, an
48 affected person includes a municipality within which the potential

1 residential subscribers referred to in subsection a. of this section
2 reside.

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

14 d. The board shall convene proceedings within 36 months after
15 the grant of the first issued system-wide franchise to examine the
16 effects of the entry of system-wide franchisees into the State's cable
17 television market, and shall, within six months of convening such
18 proceedings, report to the Legislature on the following: (1) the
19 extent of actual deployment of cable service by each system-wide
20 franchisee, including the income and race of persons in the areas
21 where such facilities were deployed; (2) the franchisee's effect on
22 choice in the marketplace; and (3) the effect that introduction of
23 system-wide competitors has had on consumers. The study shall be
24 transmitted to the Governor, the President of the Senate, the
25 Speaker of the General Assembly, the Minority Leader of the
26 Senate, the Minority Leader of the General Assembly, and the
27 members of the Senate Economic Growth Committee and the
28 Assembly Telecommunications and Utilities Committee, or their
29 respective successor committees.

30

31 21. Section 26 of P.L.1972, c.186 (C.48:5A-26) is amended to
32 read as follows:

33 26. a. **【An】** Any ordinance issuing a municipal consent
34 pursuant to **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall
35 designate some officer, office, bureau or other agency of the
36 municipal government as "complaint officer" to receive and act
37 upon complaints by subscribers to cable television reception service
38 of the CATV company to which such consent is issued; and shall
39 provide for the establishment of procedures and methods by which
40 such complaints shall be received, processed and acted upon, for the
41 resolution and settlement of complaints and disputes between such
42 subscribers and the company, and for the enforcement of decisions
43 made by such "complaint officer." All complaints by such
44 subscribers alleging inadequate, unsafe or improper service or
45 failure by the company to comply with the terms of the municipal
46 consent shall be made in the first instance to such "complaint
47 officer." The "complaint officer" shall, within 30 days of the
48 receipt of such a complaint, report in writing to the subscriber the

1 disposition or status of **【his】** the subscriber's complaint. Any
2 subscriber or CATV company aggrieved by the action of a
3 "complaint officer" in connection with such complaint or dispute, or
4 any subscriber who shall not have received the written report
5 required under this section within 30 days, may petition the office
6 for a hearing upon said complaint, under the rules promulgated by
7 the director for the hearing and disposition of such matters.

8 b. Any municipality may, in lieu of complying with the terms of
9 subsection a. of this section, provide in the ordinance issuing its
10 municipal consent that complaints by local subscribers to cable
11 television reception service shall be filed directly with the office,
12 which shall thereupon be deemed the "complaint officer" for
13 purposes of this section.

14 c. Each CATV company receiving a municipal consent or a
15 system-wide franchise issued pursuant to P.L.1972, c.186 (C.48:5A-
16 1 et seq.), shall provide to each subscriber to its cable television
17 reception service, at the time **【of his becoming】** that person
18 becomes a subscriber and at least once in each calendar year
19 thereafter while **【he】** that person remains a subscriber, in a form
20 approved by the director, information as to the identity of the
21 "complaint officer," **【of】** which for system-wide franchises shall be
22 the Office of Cable Television, the identity and location of the local
23 business office or agent required under subsection d. of this section,
24 and **【of】** the procedure to be followed in making and pursuing
25 complaints to the "complaint officer" or the office pursuant to this
26 section.

27 d. A municipal consent or system-wide franchise issued
28 pursuant to **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall
29 require that the CATV company to which it is issued shall maintain
30 **【a】** local business **【office or agent】** offices or agents, for the
31 purpose of receiving, investigating and resolving all complaints
32 regarding the quality of service, equipment malfunctions, and
33 similar matters.

34 (cf: P.L.1972, c.186, s.26)

35
36 22. Section 8 of P.L.2003, c.38 (C.48:5A-26.1) is amended to
37 read as follows:

38 8. a. In addition to the requirements as provided in section 26 of
39 P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by
40 order in writing require every CATV company to keep for at least a
41 period of **【one year】** three years, a record of complaints received at
42 the CATV company's office, which shall include the name and
43 address of the subscriber, the date, the nature of complaint, any
44 corrective action taken if required, and the final disposition of the
45 complaint. The record shall be available for inspection by the staff
46 of the office. Copies of such record shall be provided to the staff of
47 the office upon request.

1 b. Every CATV company shall furnish to the office annually a
2 detailed report of the number and character of complaints made by
3 customers and communicated to the CATV company. In meeting
4 such requirement, the board shall establish a procedure for CATV
5 companies to record and characterize those customer complaints
6 using a uniform reporting methodology and containing those
7 matters as the board may from time to time prescribe. Copies of the
8 report shall be forwarded to the Governor and members of the
9 Legislature. All reports submitted to the office shall comply with
10 the provisions of the "Cable Subscriber Privacy Protection Act,"
11 P.L.1988, c.121 (C.48:5A-54 et seq.).
12 (cf: P.L.2003, c.38, s.8)

13
14 23. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to
15 read as follows:

16 28. **【In addition to whatever other information may be required**
17 **by the director under duly promulgated rules and regulations to be**
18 **contained in any application for a municipal consent, each】** Each
19 **【such】 application for a municipal consent or system-wide**
20 **franchise shall contain:**

21 a. A description of the initial area to be served.

22 b. A description of the proposed service in terms of the number
23 of channels of cable television reception service.

24 c. Sufficient evidence that the applicant **【company】** has the
25 financial and technical capacity and the legal, character and other
26 qualifications to construct, maintain and operate the necessary
27 installations, lines and equipment and to provide the service
28 proposed in a safe, adequate and proper manner.

29 d. Evidence of sufficient bond, or commitment therefor, with
30 sureties to be approved by the **【municipality】** office, in the penal
31 sum of not less than **【\$25,000.00】** \$25,000 for the faithful
32 performance of all undertakings by the **【company】** applicant as
33 represented in the application; the sufficiency of which shall be
34 subject to review by the director and approval by the board.

35 e. An undertaking to hold the **【municipality】** board and all
36 municipalities served harmless from any liability arising out of the
37 **【company's】** applicant's operation and construction of its CATV
38 system.

39 f. Evidence of sufficient insurance insuring the **【municipality】**
40 board, all municipalities served and the **【company】** applicant with
41 respect to all liability for any death, personal injury, property
42 damage or other liability arising out of the **【company's】** applicant's
43 construction and operation of its CATV system; the sufficiency of
44 which shall be subject to review by the director and approval by the
45 board. Such insurance shall be **【in the minimum amounts of】** no
46 less than: (1) **【\$150,000.00】** \$150,000 for bodily injury or death to

1 any one person, within the limit, however, of ~~【\$500,000.00】~~
2 \$500,000 for bodily injury or death resulting from any one accident,
3 (2) ~~【\$100,000.00】~~ \$100,000 for property damage resulting from
4 any one accident, and (3) ~~【\$50,000.00】~~ \$50,000 for all other types
5 of liability; the sufficiency of which shall be subject to review by
6 the director and approval by the board.

7 g. A schedule of proposed rates for cable television reception
8 service, which rates shall not be altered during the term for which
9 the municipal consent is issued, except by application to the board
10 for amendment of the terms and conditions of said consent after
11 public hearing, subject to the rules of the office, review by the
12 director and approval by the board, or amendment pursuant to the
13 provisions of subsection ~~【c. of section 16 of this act or subsection】~~
14 b. of section 11 of 【this act】 P.L.1972, c.186 (C.48:5A-11).

15 h. (1) With regard only to applications for a system-wide
16 franchise, a commitment as to those municipalities that are served
17 by a CATV company at the time of the application, to match or
18 surpass any line extension policy operative at the time the system-
19 wide franchise is granted and placed into effect prior to the
20 enactment of P.L. , c. (C.) (pending before the Legislature as
21 this bill) by a local franchise or certificate of approval, for the
22 duration of the system-wide franchise. In any event, the CATV
23 company shall extend its plant along public rights-of-way to all
24 residences and businesses within 150 aerial feet of the CATV
25 company's existing plant at no cost beyond the normal installation
26 rate, and to all residences and businesses within 100 underground
27 feet of the CATV company's plant at no cost beyond the normal
28 installation rate, and shall set a minimum house per mile density of
29 not less than 35 homes per square mile.

30 (2) This commitment shall be in addition to any and all board
31 orders and rules that impact upon the extension of plant, except that
32 such commitment shall supersede the board's regulations adopted as
33 N.J.A.C. 14:3-8.1 et seq., which shall not apply to CATV
34 companies, including telecommunications service providers that
35 have obtained a system-wide franchise.

36 i. With regard only to applications for a system-wide franchise,
37 a commitment to provide to each municipality that is served by a
38 CATV company, with two public, educational and governmental
39 access channels. In the event that two or more access channels are
40 requested by a municipality, the municipality shall demonstrate that
41 its cable-related needs require the provision of such additional
42 access channels. Any and all CATV companies operating in a
43 municipality shall provide interconnection to all other CATV
44 companies on reasonable terms and conditions, and the board shall
45 adopt regulations for procedures by which disputes between such
46 CATV companies shall be determined and expeditiously resolved.
47 Each municipality or its non-profit designee shall assume

1 responsibility for the management, operations and programming of
2 the public, educational and governmental access channels.

3 j. With regard only to applications for a system-wide franchise,
4 a commitment to install and retain or provide, without charge, one
5 service outlet activated for basic service to any and all fire stations,
6 public schools, police stations, public libraries, and other such
7 buildings used for municipal purposes.

8 k. With regard only to applications for a system-wide franchise,
9 a commitment to provide free Internet service, without charge,
10 through one service outlet activated for basic service to any and all
11 fire stations, public schools, police stations, public libraries, and
12 other such buildings used for municipal purposes.

13 l. With regard only to applications for a system-wide franchise,
14 a commitment to provide equipment and training for access users,
15 without charge, on a schedule to be agreed upon between the
16 municipality and the CATV company.

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

30 n. With regard only to applications for a system-wide franchise,
31 a commitment to meet any consumer protection requirements
32 applicable, pursuant to board regulations, to cable television
33 companies operating under certificates of approval.

34 (cf: P.L.1972, c.186, s.28)

35

36 24. (New section) The board shall adopt rules for procedures
37 for resolving disputes between CATV companies and between
38 CATV companies and municipalities concerning the provisions of
39 subsections i. through m. of section 28 of P.L.1972, c.186
40 (C.48:5A-28).

41

42 25. (New section) a. All of the elements required to be
43 included in the franchise application pursuant to P.L.1972, c.186
44 (C.48:5A-1 et seq.) shall form, in part, the foundation for the
45 board's decision as to the certificate of approval or system-wide
46 franchise.

47 b. The failure of a cable television company to abide by or
48 conform its practices to the commitments in the application shall be

1 considered a violation of the certificate of approval or system-wide
2 franchise, and the board may enforce these provisions through any
3 appropriate method, including the imposition of monetary penalties
4 under section 51 of P.L.1972, c.186 (C.48:5A-51), or the
5 suspension or revocation of the certificate of approval or system-
6 wide franchise.

7

8 26. Section 29 of P.L.1972, c.186 (C.48:5A-29) is amended to
9 read as follows:

10 29. All proposals and representations included in an application
11 for municipal consent or a system-wide franchise shall conform to
12 applicable rules and regulations of the office; except that nothing in
13 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed to
14 prevent an applicant from exceeding minimum requirements set by
15 the office, or offering facilities and services not required or
16 forbidden by such rules and regulations.

17 (cf: P.L.1972, c.186, s.29)

18

19 27. Section 30 of P.L.1972, c.186 (C.48:5A-30) is amended to
20 read as follows:

21 30. a. **【In】** Except as provided in subsection d. of this section,
22 in consideration of a municipal consent issued under 【this section】
23 P.L.1972, c.186 (C.48:5A-1 et seq.), the CATV company to which
24 **【it】** the municipal consent is issued shall annually pay to **【the】**
25 each municipality **【granting the same】** served by the CATV
26 company, in lieu of all other franchise taxes and municipal license
27 fees, a sum equal to **【2%】** two percent of the gross revenues from
28 all recurring charges in the nature of subscription fees paid by
29 subscribers to its cable television reception service in such
30 municipality. Each CATV company shall, on or before the twenty-
31 fifth day of January each year, file with the chief fiscal officer of
32 each municipality in the territory in which it is certificated to
33 operate a statement, verified by oath, showing the gross receipts
34 from such charges, and shall at the same time pay thereon to **【said】**
35 the chief fiscal officer of the municipality the **【2%】** two percent
36 charge hereby imposed on those receipts as a yearly franchise
37 revenue for the use of the streets.

38 b. Any CATV company which, pursuant to any agreement in
39 effect prior to **【the date of this act】** December 15, 1972, paid or had
40 agreed to pay to any municipality in fees or other charges in
41 consideration of the consent of such municipality to the use of
42 streets, alleys and public places thereof for the installation and
43 operation of a CATV system, or similar consideration, a sum or rate
44 exceeding that which it would pay pursuant to this section shall, in
45 applying for a certificate **【(other than the certificate granted**
46 **pursuant to subsection f. of section 17 of this act)】** of approval
47 show to the satisfaction of the board that the reduction in such

1 payments effectuated by the application of this section shall be
2 reflected in (1) commensurate reduction of rates to subscribers to
3 cable television reception service or (2) commensurate
4 improvements in such service made available to such subscribers.
5 If the board is not so satisfied it shall amend, as excessive, the rate
6 schedule contained in the application so that such rates shall be
7 reduced to a degree commensurate with the reduction in payments
8 by the CATV company to the municipality.

9 c. 【A】 In consideration of a municipal consent issued to a
10 CATV company pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a
11 municipality may petition the board for permission to charge a
12 yearly franchise fee exceeding that prescribed in subsection a. of
13 this section. A municipal consent setting such a fee in excess of the
14 amount prescribed in subsection a. of this section shall be deemed
15 to constitute such a petition when filed with the board pursuant to
16 section 16 of 【this act】 P.L.1972, c.186 (C.48:5A-16) as part of an
17 application for certificate of approval. A hearing pursuant to the
18 provisions of section 16 of P.L.1972, c.186 (C.48:5A-16) shall be
19 held upon any application containing such petition, or upon any
20 such petition separately filed, and at such hearing full notice and
21 opportunity to be heard upon the matter shall be accorded to both
22 the municipality and any CATV company affected thereby. The
23 board after such hearing and upon recommendation of the director
24 may grant such petition and allow the imposition of a franchise
25 revenue exceeding that prescribed in subsection a. of this section,
26 and at a rate to be prescribed by the board, when the board is
27 satisfied that the same is warranted by the expenses to the
28 municipality with respect to the regulation or supervision within its
29 territory of cable television, or any other expenses caused by the
30 existence and operation within its territory of cable television
31 service.

32 d. In consideration of a system-wide franchise issued under
33 P.L.1972, c.186 (C.48:5A-1 et seq.), once the CATV company
34 receiving such system-wide franchise serves one or more residents
35 within a municipality, then such CATV company shall pay the fees
36 as provided in paragraphs (1) and (2) of this subsection, and once
37 such CATV company files a certification with the board certifying
38 that the company is capable of serving 60 percent or more of the
39 households within such municipality that are served by a CATV
40 company that has received a municipal consent issued under
41 P.L.1972, c.186 (C.48:5A-1 et seq.) and the board approves such
42 certification, both the CATV company receiving such system-wide
43 franchise and a CATV company in such municipality that has
44 received a municipal consent issued under P.L.1972, c.186
45 (C.48:5A-1 et seq.), shall annually pay:

46 (1) to such municipality served by the CATV company, in lieu of
47 all other franchise taxes and municipal license fees, and for the
48 purpose of providing local property tax relief, a sum equal to three

1 and one half percent of the gross revenues, as this term is defined in
2 section 3 of P.L.1972, c.186 (C.48:5A-3), that the company derives
3 during the calendar year from cable television service charges or
4 fees paid by subscribers in the municipality to the company; and

5 (2) to the State Treasurer, on behalf of persons residing in the
6 municipality who are eligible for the "Pharmaceutical Assistance to
7 the Aged and Disabled" program established pursuant to P.L.1975,
8 c.194 (C.30:4D-20 et seq.), a sum equal to the amount that such
9 eligible persons pay as charges or fees to the company for providing
10 basic cable service to such persons, provided that the yearly total of
11 such payments from the company shall not exceed one half of one
12 percent of the gross revenues, as this term is defined in section 3 of
13 P.L.1972, c.186 (C.48:5A-3), that the company derives during the
14 calendar year from cable television service charges or fees paid by
15 subscribers in the municipality to the company. The State Treasurer
16 shall establish a "CATV Universal Access Fund," for the purposes
17 described in this paragraph.

18 e. Each CATV company shall, on or before the twenty-fifth day
19 of January each year, file with the chief fiscal officer of each
20 municipality in the territory in which it is certificated to operate a
21 statement, verified by oath, showing the gross receipts from the
22 charges described in subsection d. of this section, and shall at the
23 same time pay thereon: (1) to the chief fiscal officer of the
24 municipality the three and one-half percent charge hereby imposed
25 on those receipts as a yearly franchise revenue for the purpose of
26 providing local property tax relief; and (2) to the State Treasurer,
27 for deposit into the "CATV Universal Access Fund," for the
28 purpose of providing payment to eligible subscribers residing in the
29 municipality an amount equal to the charges or fees paid by such
30 subscribers during the preceding calendar year to the company for
31 providing basic cable service to such subscribers, provided that the
32 yearly total of such payments by the company to such subscribers
33 does not exceed the one half of one percent charge hereby imposed.

34 f. For the purposes of this section, in the case of a cable service
35 that may be bundled or integrated functionally with other services,
36 capabilities or applications, the fee required by this section shall be
37 applied only to the gross revenue from charges or fees derived from
38 revenues attributable to the provision of cable service, as reflected
39 on the books and records of the holder in accordance with Federal
40 Communications Commission rules, regulations, standards or
41 orders.

42 g. For the purposes of this section, within 45 days of the date of
43 receipt of the certification filed pursuant to subsection d. of this
44 section, the board shall issue an order in writing approving the
45 certification, or the board shall disapprove the certification in
46 writing citing the reasons for disapproval. If the board fails to
47 either approve or disapprove the certification within the 45-day
48 period, the certification shall be deemed to be approved. If, during

1 the 45-day period, the board determines to disapprove the
2 certification, the board shall schedule a meeting with the CATV
3 company to explain to the CATV company the reasons for the
4 board's disapproval and to allow the CATV company to question
5 the board concerning the reasons for the board's disapproval. Such
6 meeting shall be scheduled no later than two weeks following the
7 expiration of the 45-day period required by this subsection. The
8 CATV company shall have 30 days following the date of the
9 meeting with the board required by this subsection to file an appeal
10 of the board's decision. The board shall thereafter schedule an
11 administrative hearing not later than the thirtieth day following the
12 date of the filing of the CATV company's appeal in order to
13 consider the CATV company's appeal. The board shall issue a final
14 decision in written form on the CATV company's appeal not later
15 than the sixtieth day following the administrative hearing, required
16 by this subsection, on the CATV company's appeal.

17 (cf: P.L.1972, c.186, s.30)

18

19 28. Section 47 of P.L.1972, c.186 (C.48:5A-47) is amended to
20 read as follows:

21 47. The board may, after affording the holder an opportunity to
22 be heard, revoke, suspend or alter any certificate of approval or
23 franchise for the violation of any provisions of **【this act】** P.L.1972,
24 c.186 (C.48:5A-1 et seq.) or the rules, regulations or orders made
25 under authority of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.), or
26 for other reasonable cause, upon a finding that the revocation,
27 suspension or alteration will not adversely affect the public interest
28 in the provision of safe, adequate and proper cable television
29 service in this State.

30 (cf: P.L.1972, c.186, s.47)

31

32 29. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to
33 read as follows:

34 51. a. Any person or any officer or agent thereof who shall
35 knowingly violate any of the provisions of **【this act】** P.L.1972,
36 c.186 (C.48:5A-1 et seq.) or aid or advise in such violation, or who,
37 as principal, manager, director, agent, servant or employee
38 knowingly does any act comprising a part of such violation, is
39 guilty of a misdemeanor.

40 b. Any person who shall violate any provision of **【this act】**
41 P.L.1972, c.186 (C.48:5A-1 et seq.) or any rule, regulation or order
42 duly promulgated hereunder, shall be liable to a penalty of not more
43 than **【\$500.00】** \$1,000 for a first offense, not less than **【\$100.00】**
44 \$2,000 nor more than **【\$1,000.00】** \$5,000 for a second offense, and
45 not less than **【\$500.00】** \$5,000 nor more than **【\$1,000.00】** \$10,000
46 for a third and every subsequent offense. The penalties provided in
47 this subsection **【shall】** may be enforced by summary proceedings

1 instituted by the board in the name of the State in accordance with
2 **["the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The**
3 **Superior Court and the municipal courts shall have jurisdiction to**
4 **enforce said "penalty enforcement law" in connection with this act]**
5 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
6 10 et seq.). For the purposes of the fines imposed pursuant to this
7 subsection, a "cable television company" shall include all of the
8 affiliates of such company.

9 c. Whenever it shall appear to the board that any person has
10 violated, intends to violate, or will violate any provisions of this act
11 or any rule, regulation or order duly promulgated hereunder, the
12 board may institute a civil action in the Superior Court for
13 injunctive relief and for such other relief as may be appropriate in
14 the circumstances, and the said court may proceed in any such
15 action in a summary manner.

16 (cf: P.L.1991, c.91, s.470)

17

18 30. (New section) a. The Commissioner of Community Affairs,
19 in consultation with the Board of Public Utilities, shall develop and
20 conduct a study to investigate how CATV companies can overcome
21 the technical, physical and other barriers to the provision of cable
22 television services to residents of multiple dwellings in New Jersey.
23 The Commissioner is directed to consider the relevant experiences
24 of those CATV companies that have received a certificate of
25 approval, those CATV companies that have received a system-wide
26 franchise, or any other new or existing entrants to the cable
27 television market in this State.

28 b. In preparing the study, the commissioner shall investigate any
29 model codes, such as the "BOCA National Existing Structures Code
30 of 1987," the New Jersey Housing Rehabilitation code promulgated
31 pursuant to P.L.1995, c.78 (C.52:27D-123.7 et seq.) and
32 experiences of other code enforcement jurisdictions, to consult with
33 individuals and organizations experienced in the construction or
34 rehabilitation of multiple dwellings in this State and conduct
35 research as may be relevant to the purposes of P.L.1972, c.186
36 (C.48:5A-1 et seq.).

37 c. The commissioner shall, within 18 months of the date of
38 enactment of P.L. , c. (C.) (pending before the Legislature as
39 this bill), submit a written report to the Governor and Legislature,
40 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), setting
41 forth the findings and recommendations of this study as well as
42 making such recommendations for further legislative action as the
43 commissioner may deem likely to remove those barriers.

44

45 31. Except as otherwise provided in paragraph (2) of subsection
46 h. of section 28 of P.L.1972, c.186 (C.48:5A-28), the provisions of
47 P.L. , c. (C.) (pending before the Legislature as this bill) shall
48 not be construed to in any way conflict with any obligations that

1 may exist under any and all applicable board orders and rules that
2 are in place on the effective date of P.L. , c. (C.) (pending
3 before the Legislature as this bill).

4

5 32. This act shall take effect immediately, but sections 1 through
6 31 shall be inoperative until the 90th day after enactment, except
7 that the board may take such anticipatory administrative action as
8 may be necessary to effectuate the purposes of P.L. , c. (C.)
9 (pending before the Legislature as this bill).

10

11

12

13

14 _____
15 Authorizes a competitive system-wide franchise for certain
providers of cable television service.

ASSEMBLY, No. 804

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman MICHAEL J. PANTER

District 12 (Mercer and Monmouth)

Co-Sponsored by:

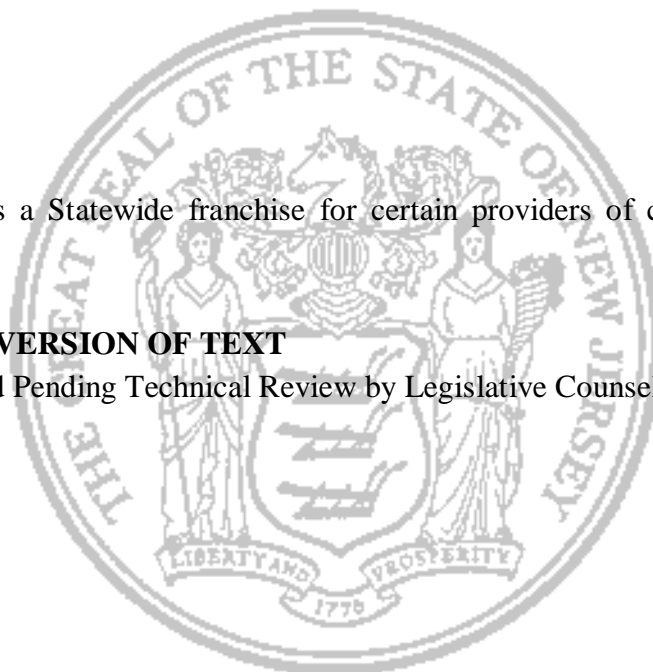
Assemblymen Egan

SYNOPSIS

Authorizes a Statewide franchise for certain providers of cable television service.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/12/2006)

A804 CARABALLO, VAS

2

1 AN ACT concerning the regulation of cable television service and
2 amending and supplementing P.L.1972, c.186 (C.48:5A-1 et
3 seq.), amending P.L.1985, c.356, P.L.1991, c.412 and P.L.2003,
4 c.38, and repealing certain sections of the statutory law.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. Section 2 of P.L.1972, c.186 (C.48:5A-2) is amended to read
10 as follows:

11 2. The Legislature finds, determines and declares:

12 a. That, after careful investigation, it appears that the rates,
13 services and operations of cable television companies in this State
14 are affected with a public interest;

15 b. That it should be, and is hereby declared, the policy of this
16 State to provide fair regulation of cable television companies in the
17 interest of the public;

18 c. That the objects of such regulation are (1) to promote
19 adequate, economical and efficient cable television service to the
20 citizens and residents of this State, (2) to encourage the optimum
21 development of the educational and community-service potentials
22 of the cable television medium, (3) to provide just and reasonable
23 rates and charges for cable television system services without unjust
24 discrimination, undue preferences or advantages, or unfair or
25 destructive competitive practices, (4) to promote and encourage
26 harmony between cable television companies and their subscribers
27 and customers, (5) to protect the interests of the several
28 municipalities of this State in relation to the issuance of municipal
29 consents for the operation of cable television companies within
30 their several jurisdictions, and to secure a desirable degree of
31 uniformity in the practices and operations of cable television
32 companies in those several jurisdictions; and (6) to cooperate with
33 other states and with the Federal Government in promoting and
34 coordinating efforts to regulate cable television companies
35 effectively in the public interest;

36 d. That to secure such regulation and promote the objectives
37 thereof, authority to regulate cable television companies generally,
38 and their rates, services and operations, in the manner and in
39 accordance with the policies set forth in **[this act] P.L.1972, c.186**
40 **(C.48:5A-1 et seq.)** (the "act"), shall be vested in the **[Department]**
41 **Board of Public Utilities[.]** ;

42 e. That the Federal Communications Commission (the "FCC")
43 reported in its 2005 assessment of video programming competition
44 that increased competition in the multichannel video programming
45 distributor ("MVPD") market has led to improvements in cable

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 television services, including more channels of video programming
2 and increased service options for consumers, but generally not
3 lower prices;

4 f. That, as a result of ongoing technological innovations, non-
5 traditional providers of MVPD services such as local telephone
6 common carriers are offering or preparing to offer MVPD services
7 over existing telephone lines or over newly-installed high-speed
8 fiber lines to customers in their local telephone service areas, and
9 such developments have the potential for stimulating additional
10 competition in the MVPD market that should lead to further
11 improvements for MVPD customers;

12 g. That, in order to afford an equal opportunity for non-
13 traditional MVPD providers such as local telephone common
14 carriers to compete with existing providers, and to ensure that
15 customers receive the benefits of a more competitive MVPD
16 market, it is in the public interest to encourage common carriers to
17 enter the MVPD market by adapting the existing regulatory
18 framework to the changed circumstances brought about by recent
19 technological developments while allowing the State to retain its
20 necessary and appropriate regulatory oversight with regard to
21 consumer protection and customer service elements; and

22 h. That nothing in this act shall be seen to limit or otherwise
23 reduce the protection afforded to cable television customers, and it
24 is in the public interest to include additional provisions in this act to
25 ensure that customers continue to be provided a high level of
26 consumer protection and customer service in a more competitive
27 MVPD market.

28 (cf: P.L.1972, c.186, s.2)

29

30 2. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read
31 as follows:

32 3. As used in this act, except as the context may otherwise
33 clearly require or indicate:

34 a. "Board" means the Board of Public Utilities **[of this State]**.

35 b. "Office" means the Office of Cable Television established by
36 **[this act]** the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1
37 et seq.).

38 c. "Director" means the Director of the Office of Cable
39 Television.

40 d. "Cable television system" or "CATV system" means **[any**
41 **facility within this State which is operated or intended to be**
42 **operated to perform the service of receiving and amplifying the**
43 **signals broadcast by one or more television stations and**
44 **redistributing such signals by wire, cable or other device or means**
45 **for accomplishing such redistribution, to members of the public**
46 **who subscribe to such service, or distributing through its facility**
47 **any television signals, whether broadcast or not; or any part of such**

1 facility] a facility, consisting of a set of closed transmission paths
2 and associated signal generation, reception, and control equipment,
3 that is designed to provide cable television service which includes
4 video programming and which is provided to multiple subscribers
5 within a community, but such term does not include: (1) a facility
6 that serves only to retransmit the television signals of one or more
7 television broadcast stations; (2) a facility that serves subscribers
8 without using any public right-of-way; (3) a facility of a common
9 carrier which is subject, in whole or in part, to regulation by the
10 board pursuant to Title 48 of the Revised Statutes, except that such
11 facility shall be considered a CATV system to the extent such
12 facility is used in the transmission of video programming directly to
13 subscribers; (4) an open video system that has been certified by the
14 Federal Communications Commission as being in compliance with
15 the provisions of Part 76, "Multichannel Video and Cable
16 Television Service," of Title 47 of the Code of Federal Regulations;
17 (5) any facilities of any electric public utility used solely for
18 operating its electric utility systems; or (6) a facility of an electric
19 public utility which is subject, in whole or in part, to regulation by
20 the board pursuant to Title 48 of the Revised Statutes, except that
21 such facility shall be considered a CATV system to the extent that
22 such facility is used in the transmission of video programming
23 directly to the subscribers. The term "facility" as used in this
24 subsection includes all real property, antennae, poles, wires, cables,
25 conduits, amplifiers, instruments, appliances, fixtures and other
26 personal property used by a CATV company in providing service to
27 its subscribers and customers.

28 e. "Cable television reception service" means the simultaneous
29 delivery through a CATV system of the signals of television
30 broadcast stations to members of the public subscribing to such
31 service, which service may include additional nonbroadcast signals
32 delivered as a part of the service with no additional charge.

33 f. "Cable communications system" or "cable communications
34 service" means any communications service other than cable
35 television reception service delivered through the facilities of a
36 CATV system and for which charges in addition to or other than
37 those made for cable television reception service are made or
38 proposed to be made.

39 g. "Cable television company" or "CATV company" means any
40 person owning, controlling, operating or managing a cable
41 television system, and the term "person" as used herein shall be
42 construed, without limiting the generality thereof, to include
43 specifically any agency or instrumentality of this State or of any of
44 its political subdivisions, including telecommunications service
45 providers; but this definition shall not include a telephone,
46 telegraph or electric utility company regulated by the Board of
47 Public Utilities in a case where it merely leases or rents or
48 otherwise provides to a CATV company wires, conduits, cables or

- 1 pole space used in the redistribution of television signals to or
2 toward subscribers or customers of such CATV company.
- 3 h. "Highway" includes every street, road, alley, thoroughfare,
4 way or place of any kind used by the public or open to the use of
5 the public.
- 6 i. "Certificate" means a certificate of approval issued [, or
7 which may be issued,] by the board pursuant to [this act]
8 P.L.1972, c.186 (C.48:5A-1 et seq.).
- 9 j. "Cable television service" includes the definitions of cable
10 television reception service and cable communications service
11 herein, as well as the provision of any other impulse or signal by a
12 cable television company or other service lawfully provided,
13 utilizing the facilities of the system.
- 14 k. "Basic cable service" means any service tier which includes
15 the retransmission of local television broadcast signals.
- 16 l. "Hearing impaired individual" means an individual who,
17 because of injury to, disease of, or defect in the inner, middle or
18 outer ear, or any combination thereof, has suffered a loss of hearing
19 acuity such that the individual cannot receive linguistic information
20 without amplification, dubbing or captions.
- 21 m. "In series connection" means a connection where the coaxial
22 service wire entering the residence of a subscriber connects first to
23 a television receiver or monitor, with the television receiver or
24 monitor being connected by coaxial wire to a video cassette
25 recorder or other auxiliary equipment or where the coaxial service
26 wire connects first to a video cassette recorder or auxiliary
27 equipment, with the equipment being connected to a television
28 receiver or monitor and where no external splitting device is used.
- 29 n. "Municipality" means one municipality acting singularly or
30 two or more municipalities acting jointly in the granting of
31 municipal consent for the provision of cable television service in
32 accordance with the provisions of the "Cable Television Act,"
33 P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.
- 34 o. "Open video system" means a facility consisting of a set of
35 transmission paths and associated signal generation, reception, and
36 control equipment that is designed to provide cable television
37 service to multiple subscribers within a municipality and which has
38 been certified by the Federal Communications Commission as being
39 in compliance with Part 76 "Multichannel Video and Cable
40 Television Service" of Title 47 of the Code of Federal Regulations.
- 41 p. "Private aggregator" means a duly-organized business or non-
42 profit organization authorized to do business in this State that enters
43 into a contract with two or more municipalities for the purpose of
44 facilitating the joint action of those municipalities in granting
45 municipal consent for the provision of cable television service to
46 those municipalities.
- 47 q. "Franchise" means an initial authorization, or renewal thereof,

1 issued by a franchising authority in accordance with the provisions
2 of P.L.1972, c.186 (C.48:5A-1 et seq.), whether such authorization
3 is designated as a franchise, permit, license, resolution, contract,
4 certificate, agreement or otherwise, which authorizes the
5 construction or operation of a cable television system.

6 r. "Statewide franchise" means a franchise issued pursuant to
7 P.L.1972, c.186 (C.48:5A-1 et seq.) which authorizes a cable
8 television company to construct or operate a cable television system
9 in any location within the State of New Jersey.

10 s. "Local franchising authority" or "franchising authority" means
11 a governmental entity empowered by federal, State, or local law to
12 grant a franchise.

13 t. "Telecommunications service provider" or
14 "telecommunications provider" means any owner of facilities and
15 equipment located in public rights-of-way used to provide
16 telecommunications services, except that such term does not include
17 aggregators of telecommunications services.

18 u. "Telecommunications service" means the offering of
19 telecommunications for a fee directly to the public, or to such
20 classes of users as to be effectively available directly to the public,
21 regardless of the facilities used.

22 v. "Video reception service" means the simultaneous delivery by
23 any means, equipment or facilities, of the signals of television
24 broadcast stations to members of the public subscribing to such
25 service for a fee or other consideration, which service may include
26 additional non-broadcast signals delivered as part of the service.

27 (cf: P.L.2003, c.38, s.3)

28

29 3. Section 4 of P.L.1972, c.186 (C.48:5A-4) is amended to read
30 as follows:

31 4. There is hereby established in the **【Department】** Board of
32 Public Utilities an Office of Cable Television; but nothing in **【this**
33 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed as
34 declaring or defining cable television to be a public utility or
35 subjecting it to the application of any of the provisions of Title 48
36 of the Revised Statutes, except as otherwise specifically provided
37 in **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.).

38 (cf: P.L.1972, c.186, s.4)

39

40 4. Section 5 of P.L.1972, c.186 (C.48:5A-5) is amended to read
41 as follows:

42 5. The office shall be headed and administered by a director,
43 who shall be a person qualified by training and experience to
44 perform the duties of **【his】** the office, and shall receive such salary
45 as shall be **【provided by law】** determined by the President of the
46 Board. The director shall be appointed by the **【board】** President of
47 the Board, and shall serve at the pleasure of the **【board】** President

1 of the Board.

2 (cf: P.L.1972, c.186, s.5)

3

4 5. Section 6 of P.L.1972, c.186 (C.48:5A-6) is amended to read
5 as follows:

6 6. The director under the supervision of the **【board】** the
7 President of the Board shall organize the work of the office and
8 establish therein such administrative subdivisions as **【he】** may
9 **【deem】** be deemed necessary, proper and expedient. **【He】** The
10 director may formulate **【and adopt】** rules and regulations for the
11 board's consideration and prescribe duties for the efficient conduct
12 of the business, work and general administration of the office.
13 **【He】** The director may delegate to subordinate officers or
14 employees in the office such **【of his】** powers as **【he】** may **【deem】**
15 be deemed desirable, to be exercised under **【his】** the supervision
16 and direction of the director.

17 (cf: P.L.1972, c.186, s.6)

18

19 6. Section 7 of P.L.1972, c.186 (C.48:5A-7) is amended to read
20 as follows:

21 7. Subject to the provisions of Title **【11】** 11A of the **【Revised】**
22 New Jersey Statutes, and within the limits of funds appropriated or
23 otherwise made available, the director with the approval of the
24 **【board】** President of the Board may appoint such officers and
25 employees of the office as **【he】** may **【deem】** be deemed necessary
26 for the performance of its duties, and may fix and determine their
27 qualifications, duties and compensation, and may retain or employ
28 engineers and private consultants on a contract basis or otherwise
29 for rendering professional or technical service or assistance.

30 (cf: P.L.1972, c.186, s.7)

31

32 7. Section 9 of P.L.1972, c.186 (C.48:5A-9) is amended to read
33 as follows:

34 9. The board, which is empowered pursuant to P.L.1972, c.186
35 (C.48:5A-1 et seq.) to be the local franchising authority in this
36 State, and the director under the supervision of the board, shall have
37 full right, power, authority and jurisdiction to:

38 a. Receive or initiate complaints of the alleged violation of any
39 of the provisions of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.)
40 or of any of the rules and regulations made pursuant to **【this act】**
41 P.L.1972, c.186 (C.48:5A-1 et seq.) or of the terms and conditions
42 of any municipal consent or franchise granted pursuant to **【this act】**
43 P.L.1972, c.186 (C.48:5A-1 et seq.); and for this purpose and all
44 other purposes necessary to enable **【him】** the director to administer
45 the duties of the office as prescribed by law may hold hearings and
46 shall have power to subpoena witnesses and compel their attendance,

1 administer oaths and require the production for examination of any
2 books or papers relating to any matter under investigation at any
3 such hearing;

4 b. Supervise and regulate every CATV company operating
5 within this State and its property, property rights, equipment,
6 facilities, contracts, certificates and franchises so far as may be
7 necessary to carry out the purposes of **[this act]** P.L.1972, c.186
8 (C.48:5A-1 et seq.), and to do all things, whether herein specifically
9 designated or in addition thereto, which are necessary or convenient
10 in the exercise of such power and jurisdiction;

11 c. Institute all proceedings and investigations, hear all
12 complaints, issue all process and orders, and render all decisions
13 necessary to enforce the provisions of **[this act]** P.L.1972, c.186
14 (C.48:5A-1 et seq.), of the rules and regulations adopted thereunder,
15 or of any municipal consents issued pursuant to **[this act]**
16 P.L.1972, c.186 (C.48:5A-1 et seq.) ;

17 d. Institute, or intervene as a party in, any action in any court of
18 competent jurisdiction seeking mandamus, injunctive or other relief
19 to compel compliance with any provision of **[this act]** P.L.1972,
20 c.186 (C.48:5A-1 et seq.), of any rule, regulation or order adopted
21 thereunder or of any municipal consent or franchise issued
22 thereunder, or to restrain or otherwise prevent or prohibit any illegal
23 or unauthorized conduct in connection therewith.

24 (cf: P.L.1972, c.186, s.9)

25

26 8. Section 10 of P.L.1972, c.186 (C.48:5A-10) is amended to
27 read as follows:

28 10. The director with the approval of the board shall establish,
29 for the purpose of assuring safe, adequate and proper cable
30 television service, **[after hearing in accordance with the**
31 **Administrative Procedure Act (P.L.1968, c. 410; C. 52:14B-1 et**
32 **seq.),]** rules and regulations governing:

33 a. Technical standards of performance for CATV systems and
34 the equipment and facilities thereof, including standards of
35 maintenance and safety, not inconsistent with applicable Federal
36 regulations**[.]**;

37 b. The prohibition and prevention of the imposition of any
38 unjust or unreasonable, unjustly discriminatory or unduly
39 preferential individual or joint rate, charge or schedule for any
40 service supplied or rendered by a CATV company within this State,
41 or the adoption or imposition of any unjust or unreasonable
42 classification in the making or as the basis of any individual or joint
43 rate, charge or schedule for any service rendered by a CATV
44 company within this State**[.]**;

45 c. Requirements for the reasonably prompt and complete
46 exercise of the rights conferred by any certificate, subject to
47 revocation thereof or other penalty provided under **[this act]**

1 P.L.1972, c.186 (C.48:5A-1 et seq.);

2 d. Procedures and forms for the application by a CATV
3 company for municipal consents or for a franchise required under
4 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.);

5 e. Procedures and forms for review by the director of municipal
6 consents issued pursuant to the provisions of **【this act】** P.L.1972,
7 c.186 (C.48:5A-1 et seq.);

8 f. Procedures and forms for the application by CATV companies
9 to municipalities for amendment of rates or other terms and
10 conditions of municipal consents or franchises and, for the review
11 by the director of the terms of such amendments, and for the
12 resolution by the director of disputes between municipalities and
13 CATV companies over such applications;

14 g. Procedures and forms for submission to and resolution by the
15 director of complaints or disputes by or between CATV companies,
16 municipalities or citizens regarding proper compliance with the
17 implementation of the provisions of **【this act】** P.L.1972, c.186
18 (C.48:5A-1 et seq.) or the rules and regulations made or municipal
19 consents or franchises issued pursuant to **【this act】** P.L.1972, c.186
20 (C.48:5A-1 et seq.); provided, however, that, notwithstanding the
21 foregoing provisions of this section or any of the provisions of **【this**
22 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.), it is the intent of **【this**
23 **act】** P.L.1972, c.186 (C.48:5A-1 et seq.) that all the provisions,
24 regulations and requirements imposed by or pursuant to **【this act】**
25 P.L.1972, c.186 (C.48:5A-1 et seq.) shall be operative only to the
26 extent that the same are not in conflict with the laws of the United
27 States or with any rules, regulations or orders adopted, issued or
28 promulgated pursuant thereto by any Federal regulatory body
29 having jurisdiction. No requirement, regulation, term, condition,
30 limitation or provision imposed by or pursuant to **【this act】**
31 P.L.1972, c.186 (C.48:5A-1 et seq.) which is contrary to or
32 inconsistent with any such Federal law, regulation or order now or
33 hereafter adopted shall be enforced by the director or shall be
34 authority for the granting, denial, amendment or limitation of any
35 municipal consent or certificate of approval which may be applied
36 for or issued under the terms of **【this act】** P.L.1972, c.186
37 (C.48:5A-1 et seq.).

38 The board through the office is hereby empowered and directed
39 to cooperate with any Federal regulatory agency in the enforcement
40 within this State of all Federal laws, rules, regulations and orders
41 relating to CATV systems and CATV companies, and therein to act
42 as agent for such Federal regulatory body to the extent authorized
43 by or pursuant to Federal law, and to enter into agreements for said
44 purpose.

45 (cf: P.L.1972, c.186, s.10)

46

47 9. Section 11 of P.L.1972, c.186 (C.48:5A-11) is amended to

1 read as follows:

2 11. a. Except as provided in subsection g. of section 28 of **[this**
3 **act]** P.L.1972, c.186 (C.48:5A-28) with respect to rates to
4 subscribers to cable television reception service, the board through
5 the office shall prescribe just and reasonable rates, charges and
6 classifications for the services rendered by a CATV company, and
7 the tariffs therefor shall be filed and published in such manner and
8 on such notice as the director with the approval of the board may
9 prescribe, and shall be subject to change on such notice and in such
10 manner as the director with the approval of the board may
11 prescribe.

12 b. The board shall from time to time cause the established rates
13 and rate schedules of each CATV company for cable TV reception
14 service to be reviewed, and if upon such review it shall appear to
15 the board that such rates, or any of them, are or may be excessive,
16 unreasonable, unjustly discriminatory or unduly preferential, the
17 board shall require the CATV company to establish to its
18 satisfaction that such rates are just, reasonable and not excessive or
19 unjustly preferential or discriminatory, and for such purpose shall
20 order the director to hold a hearing thereon. After a hearing upon
21 notice and full opportunity to be heard afforded to the CATV
22 company, the director may recommend amendment of the schedule
23 of cable television subscription rates charged by such company, and
24 such amended schedule if approved by the board shall supersede
25 and replace the schedule so amended.

26 c. Any hearing held pursuant to this section shall be open to the
27 public, and notice thereof shall be published by the **[director]** cable
28 television company at least 10 days prior thereto in a newspaper or
29 newspapers of general circulation **[in each municipality comprised,**
30 **in whole or part,]** in the certificated area wherein the rate schedule
31 which is the subject of the hearing applies. **[Every municipality**
32 **may intervene in any hearing held by the director pursuant to this**
33 **section affecting the municipality or the public within the**
34 **municipality.]**

35 d. No CATV company shall derive from the operations of cable
36 television reception service or cable communications systems any
37 revenues other than the fees, charges, rates and tariffs provided for
38 in subsection a. of this section and in subsection g. of section 28 of
39 **[this act]** P.L.1972, c.186 (C.48:5A-28).

40 e. Whenever pursuant to the provisions of **[this act]** P.L.1972,
41 c.186 (C.48:5A-1 et seq.) the board or the director is required to
42 determine whether any of the rates, charges, fees, tariffs and
43 classifications of a CATV company subject to this section or to
44 subsection g. of section 28 of **[this act]** P.L.1972, c.186 (C.48:5A-
45 28) are unjust, unreasonable, discriminatory or unduly preferential,
46 there shall be taken into consideration any fees which are charged
47 for the use of a CATV system, or part thereof, as an advertising

1 medium, or for services ancillary to such use, and from which the
2 CATV system derives revenue, directly or indirectly, and the effect
3 thereof upon, the company's requirements for revenue from such
4 fees, rates, charges, tariffs and classifications subject to the
5 provisions of this section.
6 (cf: P.L.1972, c.186, s.11)
7

8 10. Section 2 of P.L.1985, c.356 (C.48:5A-11.2) is amended to
9 read as follows:

10 2. Notwithstanding the provisions of P.L.1972, c.186 (C. 48:5A-
11 1 et seq.) or of any other State law to the contrary, any CATV
12 company providing service may establish rates or schedules which
13 provide for a reduction or discount in rates for cable television
14 reception service for senior citizens ~~and~~, disabled citizens, or
15 other economically disadvantaged groups who meet the eligibility
16 requirements of either the "Pharmaceutical Assistance to the Aged
17 and Disabled" program pursuant to P.L.1975, c.94 (C.30:4D-20 et
18 seq.) ,as amended and supplemented; or are receiving or are eligible
19 to receive benefits under the Supplemental Security Income
20 program, P.L.1973, c.256 (C.44:7-85 et seq.); or are receiving
21 disability insurance benefits under Title II of the federal Social
22 Security Act, 42 U.S.C. s.401 et seq. and meet the income and
23 residency requirements of the "Pharmaceutical Assistance to the
24 Aged and Disabled Program," established pursuant to P.L.1975,
25 c.194 (C.30:4D-20 et seq.).

26 The Board of Public Utilities through the Office of Cable
27 Television shall adopt regulations for the prompt, fair and efficient
28 establishment and maintenance of these reduced or discounted rates
29 and schedules. Subscription to the "Tenants' Lifeline Assistance
30 Program," established pursuant to P.L.1981, c.210 (C.48:2-29.30 et
31 seq.), or to the "Lifeline Credit Program," established pursuant to
32 P.L.1979, c.197 (C.48:2-29.15 et seq.), shall not be a basis for
33 exclusion from any reduction or discount provided under this
34 section, nor shall subscription to any cable television service from
35 such provider be a basis for exclusion from the Tenants' Lifeline
36 Assistance Program or the Lifeline Credit Program.

37 "Senior citizen" means any person 62 years of age or older who
38 subscribes for CATV service and who does not share the
39 subscription with more than one other person in the same dwelling
40 unit who is less than 62 years of age.
41 (cf: P.L.1988, c.81, s.2)
42

43 11. Section 3 of P.L.1985, c.356 (C.48:5A-11.3) is amended to
44 read as follows:

45 3. ~~【A municipality shall not require】~~A cable television company
46 shall not be required, as part of any franchising agreement, or
47 renewal thereof, or as part of any negotiations leading up to a

1 franchising agreement, or renewal thereof, **[that a CATV company]**
2 to provide the reduction or discount in rates which is permitted
3 under section 2 of **[this act]** P.L.1985, c.356 (C.48:5A-11.2).
4 (cf: P.L.1985, c.356, s.3)

5
6 12. Section 15 of P.L.1972, c.186 (C.48:5A-15) is amended to
7 read as follows:

8 15. No person shall hereafter begin the construction~~[,]~~ or
9 extension of a CATV system, or begin or continue the operation of
10 a CATV system, or acquire ownership or control thereof, without
11 first obtaining from the board a certificate of approval or franchise
12 issued in accordance with the provisions and procedures specified
13 in **[this act]** P.L.1972, c.186 (C.48:5A-1 et seq.); except that the
14 director may, by order, rule or regulation, exempt a CATV company
15 from the above **[certificate]** requirement in a case **[where its]** in
16 which the company's temporary acts or operations do not require
17 the issuance of a certificate or franchise in the public interest. The
18 issuance of a certificate by the board to a cable service company
19 shall be deemed to confer a franchise upon the cable television
20 company.
21 (cf: P.L.1972, c.186, s.15)

22
23 13. Section 16 of P.L.1972, c.186 (C.48:5A-16) is amended to
24 read as follows:

25 16. a. The application for **[such]** a **[certificate of approval]**
26 Statewide franchise from the board shall be in writing, **[shall have]**
27 attached thereto the municipal consents required under section 22 of
28 this act, except that a CATV company which is authorized under
29 section 25 of this act to continue operations after the expiration of a
30 municipal consent and pending municipal action upon application
31 made for renewal or reissuance of such consent may in lieu of such
32 municipal consent attach to its application a statement regarding its
33 authorization to continue operations under the provisions of section
34 25;] and shall contain such **[other]** information as the director may
35 from time to time prescribe by duly promulgated rule, regulation or
36 order. Each such application shall be accompanied by a filing fee
37 of **[\$100.00]** \$1,000.

38 b. Upon receipt of such application, the board shall review the
39 same and shall, within 30 days of the receipt thereof, either issue
40 the **[certificate]** Statewide franchise applied for or order the
41 director to schedule a hearing upon the application. No application
42 shall be denied without a hearing thereon. In determining whether a
43 **[certificate]** Statewide franchise should **[issue]** be issued, the
44 board shall consider, in addition to the requirements of section 17 of
45 P.L.1972, c.186 (C.48:5A-17), among other things, public
46 convenience and necessity, the suitability and character of the
47 applicant, the financial responsibility of the applicant, and the

1 ability of the applicant to perform efficiently the proposed service
2 and other service which may be required by public convenience and
3 necessity during the term of the **[municipal consent]** Statewide
4 franchise. Upon receipt of a complaint from any person claiming to
5 be aggrieved by the issuance of a **[certificate]** Statewide franchise
6 applied for, the board shall not issue such **[certificate]** Statewide
7 franchise without a hearing thereon, if it deems that there is a
8 reasonable ground for such complaint.

9 c. **[If in its initial review of the application it shall appear to the**
10 **board that any of the rates in the schedule of rates provided therein**
11 **pursuant to subsection g. of section 28 of this act are or may be**
12 **excessive, unreasonable, unjustly discriminatory or unduly**
13 **preferential, it shall not issue a certificate without a hearing on such**
14 **application, to be held by the director at the order of the board at**
15 **which hearing the applicant CATV company may be required to**
16 **establish to his satisfaction that such rates are just, reasonable and**
17 **not excessive or unjustly preferential or discriminatory. After a**
18 **hearing at which such justification of rates is required, upon notice**
19 **and full opportunity to be heard afforded to the applicant CATV**
20 **company, the director may, recommended that the schedule of rates**
21 **aforesaid be amended and such amended schedule if approved by**
22 **the board shall supersede and replace the schedule so amended.]**
23 (Deleted by amendment, P.L. , c.) (pending before the
24 Legislature as this bill)

25 d. **[A hearing held pursuant to this section shall be held not later**
26 **than the sixtieth day following the date of receipt of the**
27 **application; it may be adjourned from time to time, but not to a**
28 **date later than the sixtieth day following the date on which it**
29 **commenced, except with the consent of the applicant. If such**
30 **hearing is held, the director shall within 60 days after the**
31 **conclusion thereof, transmit his findings of fact and**
32 **recommendations to the board, which shall either issue or deny the**
33 **certificate for which application was made, or may issue a**
34 **certificate with such limitations and conditions as the public interest**
35 **may require. The board shall transmit notice of its decision to the**
36 **applicant.]** (Deleted by amendment, P.L. , c.) (pending before
37 the Legislature as this bill)
38 (cf: P.L.1972, c.186, s.16)

39
40 14. Section 17 of P.L.1972, c.186 (C.48:5A-17) is amended to
41 read as follows:

42 17. a. The board shall issue a **[certificate of approval]**
43 Statewide franchise when, after reviewing the application, and after
44 hearing if one is held, the applicant establishes to **[its]** the board's
45 satisfaction that the applicant **[has all the municipal consents**
46 **necessary to support the application, that such consents and the**
47 **issuance thereof are in conformity with the requirements of this act,**

1 and that the applicant] has complied or is ready, willing and able to
2 comply with all applicable rules and regulations imposed by or
3 pursuant to State or federal law as preconditions for engaging in
4 [his] the applicant's proposed CATV operations[; provided, that in
5 the case of any application which has omitted the attachment of
6 municipal consent in the circumstance provided for in subsection a.
7 of section 16 of this act, the board shall condition the issuance of
8 the certificate upon the applicant's reasonably prompt attainment of
9 the omitted municipal consent or reasonably prompt initiation of
10 proceedings under subsection d. of this section].

11 b. [In considering any such application, the board shall take into
12 consideration the probable effects upon both the area for which
13 certification is sought and neighboring areas not covered in the
14 municipal consents; and if it finds that the probable effects, for
15 technical and financial reasons, would be to impede the
16 development of adequate cable television service, or create an
17 unreasonable duplication of services likely to be detrimental to the
18 development of adequate cable television service in any area either
19 within or without the area for which certification is sought, it may
20 deny the certificate or it may amend the certificate in issuing it so as
21 to:

22 (1) Direct that areas covered in the application be excluded from
23 the area certified; or

24 (2) Direct that areas not covered in the application be included
25 in the area certified.] (Deleted by amendment, P.L. , c.)
26 (pending before the Legislature as this bill)

27 c. [No such certificate amended pursuant to subsection b. of this
28 section shall be issued except after hearing of which each affected
29 municipality shall be given notice and afforded opportunity to be
30 heard. No such amended certificate shall be issued which would
31 impair the terms of any existing certificate or of any municipal
32 consent upon which such existing certificate is based, except with
33 the consent of the holder of such existing certificate and of any
34 municipality having issued such municipal consent.] (Deleted by
35 amendment, P.L. , c.) (pending before the Legislature as this bill)

36 d. [If a municipality shall arbitrarily refuse to grant the
37 municipal consent required under the terms of this act prerequisite
38 to issuance of a certificate, or to act upon an application for such
39 municipal consent within 90 days after such application is filed,
40 then the applicant CATV company may avoid the necessity of first
41 obtaining such municipal consent by showing to the satisfaction of
42 the board that the municipal consent is being arbitrarily withheld.
43 But any CATV company certificated without municipal consent
44 shall nevertheless pay the franchise tax to the municipality imposed
45 under section 30 of this act. An application for certificate filed
46 pursuant to this subsection shall be accompanied by a filing fee of
47 \$200.00.] (Deleted by amendment, P.L. , c.) (pending before

1 the Legislature as this bill)

2 e. **【**If any municipality or county shall refuse to any CATV
3 company, whether the holder of a municipal consent from that
4 municipality or otherwise, any zoning variance or other municipal
5 act or authorization, or any county act or authorization, necessary to
6 permit such company to locate any facility of such company within
7 such municipality or county, or to install transmission facilities
8 through such municipality or county for the purpose of serving
9 subscribers or customers in any area for which such company has
10 been issued a certificate by the board, the company may apply to
11 the board for an order setting aside such municipal or county refusal
12 and permitting such location of facility or installation of
13 transmission facilities as requested by the company. An application
14 pursuant to this subsection shall be accompanied by a filing fee of
15 \$200.00. The board, after hearing upon notice and full opportunity
16 for both the applicant and the municipality or county to be heard,
17 shall issue such order when it appears to the board's satisfaction that
18 such permission is necessary to enable the company to provide safe,
19 adequate and proper CATV service to its customers or subscribers
20 in the manner required by this act, and that such location or
21 installation will not adversely affect the public health, safety and
22 welfare.】 (Deleted by amendment, P.L. , c.) (pending before
23 the Legislature as this bill)

24 f. **【**The director shall issue a certificate to any CATV company
25 lawfully engaged in the construction, extension or operation of a
26 CATV system on the effective date of this act, for the construction,
27 extension or operation then being conducted, without further
28 review, if application for such certificate is filed with the board
29 within 90 days after such effective date. The construction,
30 extension or operation of such a CATV system may be lawfully
31 continued pending the filing of such an application unless the
32 director orders otherwise. An application for such certificate which
33 is untimely shall be determined in accordance with the procedures
34 prescribed in subsections a. through d. of this section. A certificate
35 issued under this subsection shall expire five years from the date of
36 issuance; and no CATV company holding such certificate shall be
37 authorized to continue its operations after such expiration unless
38 prior thereto it shall have obtained a certificate under the
39 procedures specified in subsections a. through d. of this section,
40 except that such a CATV company which has initiated proceedings
41 for certification under subsections a. through d. of this section prior
42 to the expiration of a certificate granted under this subsection may
43 continue its operations pending the final disposition of such
44 proceedings. An application pursuant to this subsection shall be
45 accompanied by a filing fee of \$50.00.】 (Deleted by amendment,
46 P.L. , c.) (pending before the Legislature as this bill)
47 (cf: P.L.1986, c.163, s.1)

1 15. Section 18 of P.L.1972, c.186 (C.48:5A-18) is amended as
2 follows:

3 18. a. Any hearing held pursuant to the provisions of section 16
4 or section 17 of **[this act]** P.L.1972, c.186 (C.48:5A-16; C.48:5A-
5 17) shall be open to the public, and notice thereof shall be published
6 by the **[director]** applicant at least 10 days prior thereto in a
7 newspaper or newspapers of general circulation throughout the
8 State **[(1) if the hearing is upon application for certification, in each**
9 **municipality comprised, in whole or part, in the area for which**
10 **certification is sought, or (2) if the hearing is upon an application**
11 **under subsection e. of section 17, in each municipality comprised in**
12 **whole or part, in the certificated area or area for which certification**
13 **is sought, of the CATV system of the applicant CATV company,**
14 **and also each other municipality whose refusal of municipal action**
15 **or authorization is involved in the application].**

16 b. Every municipality may intervene in any hearing or
17 investigation held under the authority of **[this act]** P.L.1972, c.186
18 (C.48:5A-1 et seq.) which involves rates, charges, services or
19 facilities affecting the municipality or the public within the
20 municipality.

21 c. For the purpose of defraying the administrative expenses of
22 hearings held pursuant to section 16 or 17 of **[this act]** P.L.1972, c.
23 186 (C.48:5A-16; C.48:5A-17), the applicant CATV company shall
24 be required to pay to the Office of Cable Television a fee not in
25 excess of **[\$50.00]** \$500 per day of hearing or fraction thereof,
26 according to such fee schedule as the director shall from time to
27 time adopt by rule. Such fee shall be in addition to any filing fee
28 imposed pursuant to sections **[17]** 16 and 18 of **[this act]**
29 P.L.1972, c.186 (C.48:5A-16; C.48:5A-18); the amount shall be due
30 and payable upon presentation of an invoice.

31 d. All fees and charges collected under the provisions of section
32 16, **[17]** or 18 of **[this act]** P.L.1972, c.186 (C.48:5A-16; C.48:5A-
33 18) shall be received by the director for the sole use of the State,
34 and **[he]** the director shall report on and return to the State
35 Treasurer all such fees and charges collected **[by him]**.
36 (cf: P.L.1972, c.186, s.18)

37
38 16. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to
39 read as follows:

40 19. A **[certificate of approval]** Statewide franchise issued by the
41 board shall be nontransferable, except by consent of the board;
42 **[shall specify the area to which it applies and the municipal**
43 **consents upon which it is based,]** and shall be valid for 15 years
44 from the date of issuance or 20 years from the date of issuance if
45 the board certifies that a CATV company has implemented an open
46 video system in accordance with 47 U.S.C. s.573 **[within one year**

1 after receiving a municipal consent, or until the expiration,
2 revocation, termination or renegotiation of any municipal consent
3 upon which it is based, whichever is sooner. But amendment of the
4 terms of a municipal consent by mutual consent and in conformity
5 with the procedures specified in this act during the term for which it
6 was issued shall not require the issuance of a new certificate of
7 approval. A CATV company holding a certificate based upon a
8 municipal consent with a provision for automatic renewal for a term
9 not exceeding 10 years beyond its expiration date or 15 years
10 beyond its expiration date if the board certifies that the CATV
11 company has implemented an open video system in accordance with
12 47 U.S.C. s.573, shall be entitled to automatic reissuance of a
13 certificate for such term, unless it shall forfeit such entitlement by
14 violation of any terms of this act, regulations issued pursuant
15 thereto, or by the terms of the municipal consent]. Renewal of a
16 Statewide franchise shall be valid for 15 years from the date of the
17 renewal issuance, and the board shall establish rules governing the
18 renewal of a Statewide franchise.
19 (cf: P.L.2003, c.38, s.4)

20

21 17. Section 20 of P.L.1972, c.186 (C.48:5A-20) is amended to
22 read as follows:

23 20. a. Upon obtaining the prior approval of the board, a CATV
24 company may construct and maintain the wires, cables, and
25 conduits necessary to its business upon, under or over any highway,
26 and may erect and maintain the necessary fixtures, including poles
27 and posts, for sustaining such wires and cables; provided, however,
28 that such wires, cables and fixtures shall be so placed or constructed
29 as not to unreasonably inconvenience public travel on the highway
30 or the use thereof by public utilities or other persons or
31 organizations having rights therein.

32 b. Whenever the **[Board]** board shall find that public
33 convenience and necessity require the use by a CATV company or a
34 public utility of the wires, cables, conduits, poles or other
35 equipment, or any part thereof, on, over or under any highway or
36 any right-of-way and belonging to another CATV company or
37 public utility, and that such use will not result in injury to the owner
38 or other users of such equipment or any right-of-way or in any
39 substantial detriment to the service, and that such CATV companies
40 or public utilities have failed to agree upon such use or the terms
41 and conditions or compensation for the same, the **[office]** board
42 may order that such use be permitted and prescribe a reasonable
43 compensation and reasonable terms and conditions for the joint use.
44 If such use is ordered, the CATV company or public utility to which
45 the use is permitted shall be liable to the owner or other users of
46 such equipment for such damage as may result therefrom to the

1 property of such owner or other users thereof.
2 (cf: P.L.1972, c.186, s.20)

3
4 18. Section 7 of P.L.1991, c.412 (C.48:5A-20.1) is amended to
5 read as follows:

6 7. Within 30 days after the effective date of **【this act】** P.L. , c.
7 (C.) (pending before the Legislature as this bill), the **【Board of**
8 **Regulatory Commissioners】** board shall notify the general manager
9 of every cable television company that, in order to receive notice by
10 an applicant pursuant to subsection h. of section 7.1 of P.L.1975,
11 c.291 (C.40:55D-12), the cable television company shall register
12 with any municipality in which the cable television company has
13 plant located in a right-of-way or easement.
14 (cf: P.L.1991, c. 412, s.7)

15
16 19. Section 21 of P.L.1972, c.186 (C.48:5A-21) is amended to
17 read as follows:

18 21. Upon the prior approval of the **【Board】** board, any person
19 may lease or rent or otherwise make available facilities or rights-of-
20 way, including pole space, to a CATV company for the
21 redistribution of television signals to or toward the customers or
22 subscribers of such CATV company. Any lease, rental or other
23 method of making available such facilities or rights-of-way,
24 including pole space, which is in effect on the effective date of **【this**
25 **act】** P.L. , c. (C.) (pending before the Legislature as this bill)
26 and which will be in effect for a period of more than 120 days after
27 **【the effective】** that date **【of this act】** shall be submitted to the
28 board for approval within 120 days after **【the effective】** that date
29 **【of this act】**, and if such lease or rental or other method is
30 disapproved by the board it shall thereupon become void. The
31 terms and conditions, including rates and charges to the CATV
32 company, imposed by any public utility under any such lease, rental
33 or other method of making available such facilities or rights-of-
34 way, including pole space, to a CATV company shall be subject to
35 the jurisdiction of the **【Board of Public Utility Commissioners】**
36 board in the same manner and to the same extent that rates and
37 charges of public utilities generally are subject to the board's
38 jurisdiction by virtue of the appropriate provisions of Title 48 of the
39 Revised Statutes.

40 (cf: P.L.1972, c.186, s.21)

41
42 20. (New section) Municipal consents and certificates of
43 approval for applications to provide cable television services in a
44 municipality issued prior to the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall remain in effect
46 until such time as they may expire or until such time as the cable
47 television company is granted a renewal of the franchise as a

1 Statewide franchise. Both the municipality and the cable television
2 company shall be bound by the terms of the municipal consents and
3 certificates of approval until such time as the municipal consents
4 and certificates of approval have been converted or renewed into a
5 Statewide franchise. A cable television company with a franchise
6 or franchises issued prior to the effective date of P.L. , c.
7 (C.) (pending before the Legislature as this bill) may, if it
8 wishes, seek early renewal of such franchise or franchises as a
9 Statewide franchise. All renewals, whether sought early or at the
10 expiration of the franchise, shall be consolidated under a single
11 Statewide franchise for each cable television company. No further
12 municipal consents or certificates of approval shall be issued after
13 the effective date of P.L. , c. (C.) (pending before the
14 Legislature as this bill). Nothing herein shall preclude a
15 municipality from enforcing its right-of-way management powers
16 on a non-discriminatory basis.

17

18 21. (New section) a. As part of any Statewide franchise issued
19 by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a
20 cable television company shall be required to:

21 (1) provide service to any and all municipalities in which the
22 company, at the time of the issuance of the Statewide franchise,
23 either has plant or equipment in use for the provision of any
24 consumer video, cable or telecommunications service, including
25 telephone service, or has proposed to place such plant or equipment
26 into use to provide such service in accordance with a schedule of
27 construction of the necessary plant, which schedule shall be
28 approved by the board in conjunction with the issuance of the
29 Statewide franchise;

30 (2) provide service to all groups of potential residential cable
31 television subscribers within a municipality, without discrimination
32 on the basis of economic or commercial desirability factors such as
33 the comparative incomes levels of, or the ease of access to, the
34 residents of the local area in which such groups reside;

35 (3) fully complete a system capable of providing cable
36 television service to all residents of a municipality subject to any
37 line extension rules, regulations or policies as set or approved by
38 the board; and

39 (4) not later than six years from the date on which the Statewide
40 franchise is issued, fully complete a system capable of providing, to
41 every municipality in the State, cable television service that meets
42 the requirements of paragraphs (2) and (3) of this subsection.

43 b. Any person affected by the requirements of subsection a. of
44 this section may seek enforcement of such requirements by
45 initiating a proceeding with the board. As used in this section, an
46 affected person includes a municipality within which the potential
47 residential subscribers referred to in subsection a. of this section
48 reside.

1 c. If the board determines that a cable television company has
2 denied access to cable television service to a group of potential
3 residential subscribers on the basis of income level or other
4 commercial desirability factors, the board is authorized to direct the
5 provider to rectify the noncompliance, and to enforce such directive
6 through any appropriate method, including the imposition of
7 monetary penalties and disgorgement set forth in section 51 of
8 P.L.1972, c.186 (C.48:5A-51). A municipality in which the
9 provider offers cable television service shall be an appropriate party
10 in any such proceeding.

11

12 22. Section 26 of P.L.1972, c.186 (C.48:5A-26) is amended to
13 read as follows:

14 26. a. 【An】 With regard to any municipal consent and
15 certificate of approval issued prior to the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the
17 ordinance issuing a municipal consent pursuant to **【this act】**
18 P.L.1972, c.186 (C.48:5A-1 et seq.) shall designate some officer,
19 office, bureau or other agency of the municipal government as
20 "complaint officer" to receive and act upon complaints by
21 subscribers to cable television reception service of the CATV
22 company to which such consent is issued; and shall provide for the
23 establishment of procedures and methods by which such complaints
24 shall be received, processed and acted upon, for the resolution and
25 settlement of complaints and disputes between such subscribers
26 and the company, and for the enforcement of decisions made by
27 such "complaint officer." All complaints by such subscribers
28 alleging inadequate, unsafe or improper service or failure by the
29 company to comply with the terms of the municipal consent shall be
30 made in the first instance to such "complaint officer." The
31 "complaint officer" shall, within 30 days of the receipt of such a
32 complaint, report in writing to the subscriber the disposition or
33 status of **【his】** the subscriber's complaint. Any subscriber or
34 CATV company aggrieved by the action of a "complaint officer" in
35 connection with such complaint or dispute, or any subscriber who
36 shall not have received the written report required under this section
37 within 30 days, may petition the office for a hearing upon said
38 complaint, under the rules promulgated by the director for the
39 hearing and disposition of such matters.

40 b. **【Any】**With respect to a municipal consent and certificate of
41 approval issued prior to the effective date of P.L. , c. (C.)
42 (pending before the Legislature as this bill), any municipality may,
43 in lieu of complying with the terms of subsection a. of this section,
44 provide in the ordinance issuing its municipal consent that
45 complaints by local subscribers to cable television reception service
46 shall be filed directly with the office, which shall thereupon be
47 deemed the "complaint officer" for purposes of this section.

1 c. Each CATV company **[receiving a municipal consent]**, with
2 respect to either a municipal consent and certificate of approval
3 issued prior to the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill) or a Statewide franchise issued
5 pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), shall provide to
6 each subscriber to its cable television reception service, at the time
7 **[of his becoming]** that person becomes a subscriber and at least
8 once in each calendar year thereafter while **[he]** that person
9 remains a subscriber, in a form approved by the director,
10 information as to the identity of the "complaint officer," **[of]** which
11 for Statewide franchises shall be the Office of Cable Television, the
12 identity and location of the local business office or agent required
13 under subsection d. of this section, and **[of]** the procedure to be
14 followed in making and pursuing complaints to the "complaint
15 officer" or the office pursuant to this section.

16 d. A **[municipal consent]** Statewide franchise issued pursuant to
17 **[this act]** P.L.1972, c.186 (C.48:5A-1 et seq.) shall require that the
18 CATV company to which it is issued shall maintain **[a]** local
19 business **[office or agent]** offices or agents within the political
20 boundary of the municipality served or, with the prior approval of
21 the board, within ten miles of the political boundary of the
22 municipality, for the purpose of receiving, investigating and
23 resolving all complaints regarding the quality of service, equipment
24 malfunctions, and similar matters.

25 (cf: P.L.1972, c.186, s.26)

26

27 23. Section 8 of P.L.2003, c.38 (C.48:5A-26.1) is amended to
28 read as follows:

29 8. a. In addition to the requirements as provided in section 26 of
30 P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by
31 order in writing require every CATV company to keep for at least a
32 period of **[one year]** three years, a record of complaints received at
33 the CATV company's office, which shall include the name and
34 address of the subscriber, the date, the nature of complaint, any
35 corrective action taken if required, and the final disposition of the
36 complaint. The record shall be available for inspection by the staff
37 of the office. Copies of such record shall be provided to the staff of
38 the office upon request.

39 b. Every CATV company shall furnish to the office annually a
40 detailed report of the number and character of complaints made by
41 customers and communicated to the CATV company. In meeting
42 such requirement, the board shall establish a procedure for CATV
43 companies to record and characterize those customer complaints
44 using a uniform reporting methodology and containing those
45 matters as the board may from time to time prescribe. Copies of the
46 report shall be forwarded to the Governor and members of the
47 Legislature. All reports submitted to the office shall comply with

1 the provisions of the "Cable Subscriber Privacy Protection Act,"
2 P.L.1988, c.121 (C.48:5A-54 et seq.).
3 (cf: P.L.2003, c.38, s.8)
4

5 24. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to
6 read as follows:

7 28. In addition to whatever other information may be required
8 by the director under duly promulgated rules and regulations to be
9 contained in any application for a **【municipal consent】** Statewide
10 franchise, each such application shall contain:

11 a. A **【description of the area to be served】** deployment schedule,
12 setting forth the municipalities to be served, the date service shall
13 begin in each proposed municipality, and a date certain by which
14 each community will be fully built-out, subject to the build-out
15 requirements set forth in P.L.1972, c.186 (C.48:5A-1 et seq.).

16 b. A description of the proposed service in terms of the number
17 of channels of cable television reception service.

18 c. Sufficient evidence that the applicant company has the
19 financial and technical capacity and the legal, character and other
20 qualifications to construct, maintain and operate the necessary
21 installations, lines and equipment and to provide the service
22 proposed in a safe, adequate and proper manner.

23 d. Evidence of sufficient bond, or commitment therefor, with
24 sureties to be approved by the **【municipality】** office, in the penal
25 sum of not less than \$25,000.00 for the faithful performance of all
26 undertakings by the company as represented in the application; the
27 sufficiency of which shall be subject to review by the director and
28 approval by the board.

29 e. An undertaking to hold the **【municipality】** board and all
30 municipalities served harmless from any liability arising out of the
31 company's operation and construction of its CATV system.

32 f. Evidence of sufficient insurance insuring the **【municipality】**
33 board, all municipalities served and the company with respect to all
34 liability for any death, personal injury, property damage or other
35 liability arising out of the company's construction and operation of
36 its CATV system; the sufficiency of which shall be subject to
37 review by the director and approval by the board. Such insurance
38 shall be **【in the minimum amounts of】** no less than: (1) \$150,000.00
39 for bodily injury or death to any one person, within the limit,
40 however, of \$500,000.00 for bodily injury or death resulting from
41 any one accident, (2) \$100,000.00 for property damage resulting
42 from any one accident, and (3) \$50,000.00 for all other types of
43 liability; the sufficiency of which shall be subject to review by the
44 director and approval by the board.

45 g. A schedule of proposed rates for cable television reception
46 service, which rates shall not be altered during the term for which
47 the **【municipal consent】** franchise is issued, except by application

1 to the board for amendment of the terms and conditions of said
2 **【consent】 franchise** after public hearing, subject to the rules of the
3 office, review by the director and approval by the board, or
4 amendment pursuant to the provisions of subsection c. of section 16
5 of **【this act】 P.L.1972, c.186 (C.48:5A-16)** or subsection b. of
6 section 11 of **【this act】 P.L.1972, c.186 (C.48:5A-11)**.

7 h. A commitment as to those municipalities that are served by a
8 cable television provider at the time of the application, to match or
9 surpass any line extension policy placed into effect by a local
10 franchise or certificate of approval, for the duration of the Statewide
11 franchise. In any event, the cable television company shall extend
12 its plant along public rights-of-way to all residences and businesses
13 within 150 aerial feet of the operator's existing plant at no cost
14 beyond the normal installation rate, and to all residences and
15 businesses within 100 underground feet of the operator's plant at no
16 cost beyond the normal installation rate, and shall set a minimum
17 house per mile density of no more than 35 homes per mile. This
18 commitment shall be in addition to any and all board orders and
19 rules that impact upon the extension of plant, including, but not
20 limited to, the board's regulations adopted pursuant to N.J.A.C.
21 14:3-8.1 et seq.

22 i. A commitment to provide to each municipality that is served
23 by a cable television provider, with two public, educational and
24 governmental access channels. In the event that two or more access
25 channels are requested by a municipality, the municipality shall
26 demonstrate that its cable-related needs require the provision of
27 such additional access channels. Any and all cable television
28 providers operating in a municipality shall provide interconnection
29 to all other cable television providers on reasonable terms and
30 conditions and the board shall adopt regulations for procedures by
31 which disputes between such cable television providers shall be
32 determined and expeditiously resolved. Each municipality or its
33 non-profit designee shall assume responsibility for the management,
34 operations and programming of the public, educational and
35 governmental access channels.

36 j. A commitment to retain or provide, without charge, one
37 service outlet activated for basic service to any and all fire stations,
38 public schools, police stations, public libraries, and other such
39 buildings used for municipal purposes.

40 k. A commitment to provide free Internet service, without
41 charge, through one service outlet activated for basic service to any
42 and all fire stations, public schools, police stations, public libraries,
43 and other such buildings used for municipal purposes.

44 l. A commitment to provide equipment and training for access
45 users, without charge, on a schedule to be agreed upon between the
46 municipality and the cable television operator.

47 m. A commitment to provide a return feed from any one location

1 in the municipality, without charge, to the cable television
2 company's headend or other location of interconnection to the cable
3 television system for public, educational or governmental use and
4 which, at a minimum, provides the ability for the municipality to
5 cablecast live or taped access programming, in real time, as may be
6 applicable, to the cable television company's customers in the
7 municipality. A cable television company shall only be required to
8 provide a return line without charge if such return line would be
9 within the distance of a standard installation, as defined by the
10 cable television company and specified in the tariff on file with the
11 board. If an installation exceeds the distance limitations of a
12 standard installation, the cable television company may only charge
13 the municipality for the costs of extending the line beyond the
14 distance limitations of standard installation costs. No cable
15 television company is responsible for providing a return access line
16 unless a municipality requests a line in writing. A cable television
17 company that has interconnected with another cable television
18 company may require the second cable television company to pay
19 for half of the cable television company's absorbed costs for
20 extension. The board shall adopt rules for procedures for resolving
21 disputes between cable television companies and between cable
22 television companies and municipalities concerning the provisions
23 of this section.

24 (cf: P.L.1972, c.186, s.28)

25

26 25. (New section) a. In the event the cable television company
27 is required to modify any element of the franchise application,
28 including the deployment schedule, the cable television company
29 shall seek prior board approval.

30 b. All of the elements required to be included in the franchise
31 application pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall be
32 considered as part of the commitment of the Statewide franchise,
33 and shall form, in part, the foundation for the board's decision as to
34 the Statewide franchise. The failure of a cable television company
35 to abide by or conform its practices to the commitments in the
36 application shall be considered a violation of the Statewide
37 franchise, and the board may enforce these provisions through any
38 appropriate method, including the imposition of penalties and
39 disgorgement under section 51 of P.L.1972, c.186 (C.48:5A-51), or
40 the suspension or revocation of the Statewide franchise.

41

42 26. Section 29 of P.L.1972, c.186 (C.48:5A-29) is amended to
43 read as follows:

44 29. All proposals and representations included in an application
45 for **【municipal consent】** a Statewide franchise shall conform to
46 applicable rules and regulations of the office; except that nothing in
47 **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed to

1 prevent an applicant from exceeding minimum requirements set by
2 the office, or offering facilities and services not required or
3 forbidden by such rules and regulations.

4 (cf: P.L.1972, c.186, s.29)

5
6 27. Section 30 of P.L.1972, c.186 (C.48:5A-30) is amended to
7 read as follows:

8 30. a. In consideration of a **[municipal consent]** Statewide
9 franchise issued under **[this section]** P.L.1972, c.186 (C.48:5A-1 et
10 seq.), the CATV company to which **[it]** the Statewide franchise is
11 issued shall annually pay: (1) to [the] each municipality [granting
12 the same] served by the CATV company, in lieu of all other
13 franchise taxes and municipal license fees, except as may otherwise
14 be provided by this subsection, a sum equal to [2%] three percent
15 of the gross revenues [from all recurring charges in the nature of
16 subscription fees paid by subscribers to its cable television
17 reception service in such municipality] that the company derives
18 during the calendar year from all the charges or fees paid by
19 subscribers in the municipality to the company for providing cable
20 television service for basic, expanded basic and premier tier
21 programming, for pay-per-view events, seasonal or sporting events
22 of limited duration, and for all similar programming or channels;
23 (2) to the county in which such municipality is located, a sum equal
24 to one half of one percent of the gross revenues that the company
25 derives during the calendar year from all the charges or fees paid by
26 subscribers in the municipality to the company for providing cable
27 television service for basic, expanded basic and premier tier
28 programming, for pay-per-view events, seasonal or sporting events
29 of limited duration, and for all similar programming or channels;
30 and (3) to persons residing in the municipality who are eligible for
31 the "Pharmaceutical Assistance to the Aged and Disabled" program
32 established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum
33 equal to the amount that such eligible persons pay as charges or fees
34 to the company for providing the basic tier programming service to
35 such persons, provided that the yearly total of such payments from
36 the company does not exceed one half of one percent of the gross
37 revenues that the company derives during the calendar year from all
38 the charges or fees paid by subscribers in the municipality to the
39 company for providing cable television service for basic, expanded
40 basic and premier tier programming, for pay-per-view events,
41 seasonal or sporting events of limited duration, and for all similar
42 programming or channels. Each CATV company shall, on or before
43 the twenty-fifth day of January each year, file with the chief fiscal
44 officer of each municipality and county, in the territory in which it
45 is certificated to operate a statement, verified by oath, showing the
46 gross receipts from such charges, and shall at the same time pay
47 thereon: (1) to [said]the chief fiscal officer of the municipality the

1 **[2%]** three percent charge hereby imposed on those receipts as a
2 yearly franchise revenue for the use of the streets, which sum the
3 municipality may use as part of its general revenue fund or to meet
4 the cable-related needs of the municipality; (2) to the chief fiscal
5 officer of the county in which the municipality is located the one
6 half of one percent charge hereby imposed on those receipts as a
7 yearly fee for payment of the costs of providing recreational
8 programs in the county; and (3) to eligible subscribers residing in
9 the municipality an amount equal to the charges or fees paid by
10 such subscribers during the preceding calendar year to the company
11 for providing the basic tier of cable television service to such
12 subscribers, provided that the yearly total of such payments by the
13 company to such subscribers does not exceed the one half of one
14 percent charge hereby imposed.

15 b. **[Any CATV company which, pursuant to any agreement in**
16 **effect prior to the date of this act, paid or had agreed to pay to any**
17 **municipality in fees or other charges in consideration of the**
18 **consent of such municipality to the use of streets, alleys and public**
19 **places thereof for the installation and operation of a CATV system,**
20 **or similar consideration, a sum or rate exceeding that which it**
21 **would pay pursuant to this section shall, in applying for a certificate**
22 **(other than the certificate granted pursuant to subsection f. of**
23 **section 17 of this act) show to the satisfaction of the board that the**
24 **reduction in such payments effectuated by the application of this**
25 **section shall be reflected in (1) commensurate reduction of rates to**
26 **subscribers to cable television reception service or (2)**
27 **commensurate improvements in such service made available to**
28 **such subscribers. If the board is not so satisfied it shall amend, as**
29 **excessive, the rate schedule contained in the application so that**
30 **such rates shall be reduced to a degree commensurate with the**
31 **reduction in payments by the CATV company to the municipality.]**
32 (Deleted by amendment, P.L. , c.) (pending before the
33 Legislature as this bill)

34 c. **[A municipality may petition the board for permission to**
35 **charge a yearly franchise fee exceeding that prescribed in**
36 **subsection a. of this section. A municipal consent setting such a fee**
37 **in excess of the amount prescribed in subsection a. of this section**
38 **shall be deemed to constitute such a petition when filed with the**
39 **board pursuant to section 16 of this act as part of an application for**
40 **certificate of approval. A hearing pursuant to the provisions of**
41 **section 16 shall be held upon any application containing such**
42 **petition, or upon any such petition separately filed, and at such**
43 **hearing full notice and opportunity to be heard upon the matter**
44 **shall be accorded to both the municipality and any CATV company**
45 **affected thereby. The board after such hearing and upon**
46 **recommendation of the director may grant such petition and allow**
47 **the imposition of a franchise revenue exceeding that prescribed in**

1 subsection a. of this section, and at a rate to be prescribed by the
2 board, when the board is satisfied that the same is warranted by the
3 expenses to the municipality with respect to the regulation or
4 supervision within its territory of cable television, or any other
5 expenses caused by the existence and operation within its territory
6 of cable television.】 (Deleted by amendment, P.L. , c.)
7 (pending before the Legislature as this bill)

8 d. Under any municipal consent and certificate of approval
9 issued prior to the effective date of P.L. , c. (C.) (pending
10 before the Legislature as this bill), and in consideration of such
11 municipal consent and certificate of approval, the cable television
12 company to which they were issued shall pay to the municipality
13 which granted the same, in lieu of all other franchise taxes and
14 municipal license fees, a sum equal to two percent of the gross
15 revenues from all recurring charges in the nature of subscription
16 fees paid by subscribers to its cable television reception service in
17 such municipality. Each cable television company shall, on or
18 before the twenty-fifth day of January each year, file with the chief
19 fiscal officer of each municipality in the territory in which it is
20 certificated to operate a statement, verified by oath, showing the
21 gross receipts from such charges, and shall at the same time pay
22 thereon to said chief fiscal officer the two percent charge hereby
23 imposed as a yearly franchise revenue for the use of the streets.
24 (cf: P.L.1972, c.186, s.30)
25

26 28. Section 47 of P.L.1972, c.186 (C.48:5A-47) is amended to
27 read as follows:

28 47. The board may, after affording the holder an opportunity to
29 be heard, revoke, suspend or alter any certificate of approval or
30 franchise for the violation of any provisions of **【this act】** P.L.1972,
31 c.186 (C.48:5A-1 et seq.) or the rules, regulations or orders made
32 under authority of **【this act】** P.L.1972, c.186 (C.48:5A-1 et seq.),
33 or for other reasonable cause, upon a finding that the revocation,
34 suspension or alteration will not adversely affect the public interest
35 in the provision of safe, adequate and proper cable television
36 service in this State.
37 (cf: P.L.1972, c.186, s.47)
38

39 29. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to
40 read as follows:

41 51. a. Any person or any officer or agent thereof who shall
42 knowingly violate any of the provisions of **【this act】** P.L.1972,
43 c.186 (C.48:5A-1 et seq.) or aid or advise in such violation, or who,
44 as principal, manager, director, agent, servant or employee
45 knowingly does any act comprising a part of such violation, is
46 guilty of a misdemeanor.

47 b. Any person who shall violate any provision of **【this act】**

1 P.L.1972, c.186 (C.48:5A-1 et seq.) or any rule, regulation or order
2 duly promulgated hereunder, shall be liable to a penalty of not more
3 than **[\$500.00 for a first offense, not less than \$100.00 nor more**
4 **than \$1,000.00 for a second offense, and not less than \$500.00 nor**
5 **more than \$1,000.00 for a third and every subsequent offense]**
6 \$10,000 as well as disgorgement of economic benefits received by
7 any person or persons committing such violation. The penalties and
8 return of economic benefits provided in this subsection **[shall] may**
9 be enforced by summary proceedings instituted by the board in the
10 name of the State in accordance with **["the penalty enforcement**
11 **law" (N.J.S.2A:58-1 et seq.).** The Superior Court and the municipal
12 courts shall have jurisdiction to enforce said "penalty enforcement
13 law" in connection with this act] the "Penalty Enforcement Law of
14 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the board
15 may, after hearing, suspend a Statewide franchise for a period of up
16 to five years, or may revoke a Statewide franchise. A person whose
17 franchise is revoked shall be barred from making a new application
18 for a Statewide franchise for five years from the date of revocation.
19 In the case of a cable television service provider who has failed to
20 fully complete a system capable of providing cable service to every
21 municipality in the State in violation of paragraph (4) of subsection
22 b. of section 20 of P.L. , c. (C.) (pending before the
23 Legislature as this bill), or who has denied cable television service
24 access to a group of potential residential subscribers on the basis of
25 income level or other commercial desirability factors in violation of
26 subsection c. of section 20 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), the person's Statewide franchise
28 shall be revoked, and the person shall be barred from making a new
29 application for a Statewide franchise for five years from the date of
30 revocation.

31 c. Whenever it shall appear to the board that any person has
32 violated, intends to violate, or will violate any provisions of this act
33 or any rule, regulation or order duly promulgated hereunder, the
34 board may institute a civil action in the Superior Court for
35 injunctive relief and for such other relief as may be appropriate in
36 the circumstances, and the said court may proceed in any such
37 action in a summary manner.
38 (cf: P.L.1991, c.91, s.470)

39
40 30. Section 6 of P.L. 2003, c.38 (C.48:5A-64) is repealed.

41
42 31. This act shall take effect immediately, but sections 1 through
43 30 shall be inoperative until the 90th day after enactment, except
44 that the board may take such anticipatory administrative action as
45 may be necessary to effectuate the purposes of P.L. , c. (C.)
46 (pending before the Legislature as this bill).

STATEMENT

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The bill amends the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to provide for the approval of Statewide franchises for cable television companies to construct or operate a cable system anywhere within the State.

Under current law, cable television ("CATV") companies are required to obtain municipal consent in the form of an ordinance before they may obtain a certificate of approval from the Board of Public Utilities (the "BPU") to provide cable television service within a particular municipality.

The bill amends section 3 of P.L.1972, c.186 (C.48:5A-3) to clarify the definition of CATV system and to expand the definition to include facilities of either a telephone common carrier or an electric public utility subject to BPU regulation to the extent that such facilities are used for transmission of video programming.

The bill also amends section 3 of P.L.1972, c.186 (C.48:5A-3) to expand the definition of CATV company to include telecommunications service providers and to add certain definitions to section 3 of P.L.1972, c.186 (C.48:5A-3) to clarify the meaning of terms such as Statewide franchise, local franchising authority, telecommunications service and video reception service.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends section 16 of the act to require an application for a Statewide franchise to: (1) be in written form; (2) include such information as may be required by the Director of the office of Cable Television (the "director"); and (3) be accompanied by a filing fee of \$1,000 (which is increased from the current fee of \$100).

The bill amends section 17 of the act to authorize issuance of a Statewide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met. The bill amends section 18 of the act to increase the fee for hearing an application for a Statewide franchise from \$50 to \$500 per day to defray administrative expenses.

The bill amends section 19 of the act to provide that: (1) a Statewide franchise shall not be transferable except by consent of the BPU; (2) renewal of a Statewide franchise shall be valid for 15 years from the renewal issuance date; and (3) the BPU shall establish rules governing the renewal of Statewide franchises.

Section 20 of the bill provides that any municipal consent and certificate of approval issued prior to the effective date of the bill for existing CATV providers shall remain in effect until they expire or until the CATV provider is granted a Statewide franchise. Section 22 also provides that no further municipal consents or certificates of approval shall be issued after the effective date of the

1 bill.

2 Section 21 of the bill requires that as part of any Statewide
3 franchise issued by the BPU, a CATV provider shall be required to:

4 (1) provide service to all municipalities in which a CATV
5 provider has plant or equipment in use, or has proposed to place
6 into use, for providing CATV service in accordance with a schedule
7 approved by the BPU;

8 (2) provide such service to all groups within a municipality on a
9 non-discriminatory basis;

10 (3) fully complete a CATV service system subject to line
11 extension rules, regulations or policies set or approved by the BPU;
12 and

13 (4) not later than six years from the date on which the Statewide
14 franchise is issued, fully complete a system capable of providing, to
15 every municipality in the State, CATV service that meets the
16 requirements of paragraphs (2) and (3) of this subsection.

17 Section 21 of the bill also allows any person affected by the
18 requirements of a Statewide franchise to initiate proceedings with
19 the BPU to determine whether there has been a denial of access and
20 authorizes the BPU to impose appropriate penalties to direct the
21 provider to comply with the Statewide franchise requirements.

22 Section 24 of the bill amends section 28 of P.L.1972, c.186
23 (C.48:5A-28) to require that an application for a Statewide
24 franchise contain, in addition to other information required by the
25 director, a deployment schedule setting forth the municipalities to
26 be served, the dates that service shall begin in each municipality
27 and the dates by which the build out requirements shall be met
28 pursuant to the act.

29 In addition, section 24 of the bill requires a commitment from a
30 CATV provider to:

31 (1) match or surpass any line extension policy in effect at the
32 time of the provider's application for a Statewide franchise, for the
33 duration of the franchise;

34 (2) provide each municipality served with two public,
35 educational or governmental access channels;

36 (3) provide, without charge, one basic service outlet and free
37 Internet service to fire stations, public schools, police stations,
38 public libraries and other municipal buildings; and

39 (4) provide a return feed from any one location in the
40 municipality, without charge, to the CATV company's headend or
41 other location of interconnection for public, educational or
42 governmental use that enables the municipality to cablecast live or
43 taped access programming to CATV customers in the municipality.

44 The bill amends section 30 of the act to require CATV providers
45 to pay:

46 (1) to the municipality served, a sum equal to three percent of
47 gross revenues derived from all tier levels of CATV programming
48 including pay-per-view events, seasonal or sporting events of

1 limited duration, and other similar programming or channels
2 provided to subscribers within the municipality;

3 (2) to the county in which the municipality is located, a sum
4 equal to one half of one percent of such gross revenues; and

5 (3) to persons residing in the municipality served who are
6 eligible for the "Pharmaceutical Assistance to the Aged and
7 Disabled" program established pursuant to P.L.1975, c.194
8 (C.30:4D-20 et seq.), a sum equal to the amount such persons pay
9 annually for basic tier CATV service provided that such payments
10 do not exceed one half of one percent of such gross revenues.

11 The bill further amends section 30 of the act to provide that:

12 (1) the three percent paid to municipalities by CATV companies
13 pursuant to section 30 of the act may be used as part of the general
14 revenue fund for municipal purposes or to meet cable-related needs
15 of the municipality;

16 (2) the one half of one percent paid to the county in which such
17 municipality is located pursuant to section 30 of the act shall be
18 allocated for payment of recreational programs in the county; and

19 (3) the payments required to be made to eligible CATV
20 subscribers for basic CATV service pursuant to section 30 of the act
21 shall not exceed an amount equal to the one half of one percent
22 charge imposed by section 30 of the act.

23 The bill also amends section 30 of the act to provide that CATV
24 companies issued municipal consents and certificates of approval
25 prior to the effective date of the bill, shall continue to pay to the
26 municipality two percent of the gross revenues from providing basic
27 CATV service to subscribers in the municipality for the use of
28 streets.

29 This bill amends section 51 of the act to increase penalties for
30 violation of the act to \$10,000 as well as disgorgement of economic
31 benefits received by persons committing violations of the act. The
32 bill authorizes the BPU to suspend a violator's Statewide franchise
33 for up to five years, or to revoke a violator's franchise. A person
34 whose Statewide franchise is revoked would be barred for five years
35 from reapplying for a new Statewide franchise. A cable television
36 service franchisee who has failed to meet the six-year deadline for
37 completion of a system capable of providing cable service to every
38 municipality in the State, or who has denied cable television service
39 access to a group of potential residential subscribers on the basis of
40 income level or other commercial desirability factors, shall be
41 subject to revocation of the Statewide franchise and barred for five
42 years from making a new application for a Statewide franchise.

43 The bill also amends the act to clarify eligibility for various
44 discounts that may be offered to subscribers and to update and
45 clarify certain provisions of the act.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 804

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Telecommunications and Utilities Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 804.

As reported, this substitute amends the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to provide for a two-tiered system of obtaining approval for providing cable television service in this State. The bill provides that a cable television ("CATV") company may either: (1) obtain a municipal consent in the form of an ordinance before it obtains a certificate of approval from the Board of Public Utilities (the "BPU") to provide CATV service within a particular municipality (as currently allowed); or (2) receive a system-wide franchise by constructing or operating a CATV system at any location within the State in which the company, at the time of issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service, or has proposed to place such plant or equipment into use to provide such service.

The bill amends section 3 of the act to clarify the definition of a CATV system and to expand the definition to include facilities of either a telephone common carrier or an electric public utility subject to BPU regulation to the extent that such facilities are used for the transmission of video programming.

The bill also amends section 3 of the act to expand the definition of a CATV company to include telecommunications service providers and to add certain definitions to section 3 of the act to clarify the meaning of terms such as system-wide franchise, local franchising authority, telecommunications service and gross revenues.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends section 16 of the act to require an application for an individual certificate of approval to: (1) be in written form; (2) include such information as may be required by the Director of the Office of Cable Television (the "director"); and (3) be accompanied by a filing fee of \$200 (which is increased from the current fee of \$100

for an individual certificate of approval). The bill further amends section 16 of the act to provide that an application for a system-wide franchise shall be accompanied by a filing fee of \$1,000 and shall specify the information required in section 28 of the act. In addition, the bill amends section 16 of the act to provide for an expedited review of applications for a system-wide franchise by the board.

The bill amends section 17 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all appropriate requirements have been met. The bill amends section 18 of the act to increase the fee for hearing an application for an individual certificate of approval or a system-wide franchise from \$50 to \$500 per day to defray administrative expenses.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise shall not be transferable except by consent of the BPU; (2) renewal of a system-wide franchise shall be valid for seven years from the renewal issuance date; and (3) the BPU shall establish rules governing the renewal of system-wide franchises.

Section 19 of the bill provides that any municipal consent and certificate of approval issued prior to the effective date of the bill for existing CATV providers shall remain in effect until they expire or until the CATV provider converts the franchise to a system-wide franchise.

Section 20 of the bill requires that as part of any system-wide franchise issued by the BPU to CATV companies that on the date of the issuance of a system-wide franchise provide more than 40 percent of the local exchange telephone service market in this State, such companies are required to:

(1) begin providing cable service on a commercial basis, within three years of the issuance of the system-wide franchise, in:

(a) each county seat that is within the CATV company's service area; and

(b) each municipality within the CATV company's service area with a population density greater than 7,111 persons per square mile as determined by the most recent federal decennial census; and

(2) make cable service available throughout the residential area of any such municipalities within six years of first providing service to multiple subscribers within such central office area subject to limited exceptions concerning the commercial reasonableness of extending service;

(3) provide such service to all groups within a municipality on a non-discriminatory basis;

(4) fully complete a CATV service system subject to certain line extension rules and policies and subject to the provisions of paragraphs (1) through (3) above.

Section 20 of the bill also incorporates by reference the definition of "central office" from 47 C.F.R. Part 36, Appendix, and defines "central office area" to mean the towns or portions of towns served by such central office. In addition, section 20 allows any person affected

by the requirements of a system-wide franchise to initiate proceedings with the BPU to determine whether there has been a denial of access and authorizes the BPU to impose appropriate penalties to direct the provider to comply with the system-wide franchise requirements.

The bill amends section 28 of the act to require that an application for a municipal consent or a system-wide franchise contain:

- (1) a description of the initial area to be served;
- (2) a description of the proposed service to be offered; and
- (3) sufficient evidence of other qualifications to maintain and operate a cable system.

In addition, the bill amends section 28 of the act to require a commitment with regard to a system-wide franchise application from a CATV provider to:

- (1) match or surpass any line extension policy in effect at the time the system-wide franchise is granted and placed into effect, for the duration of the franchise;
- (2) provide each municipality served with two public, educational or governmental access channels;
- (3) provide, without charge, one basic service outlet and free Internet service to fire stations, public schools, police stations, public libraries and other municipal buildings;
- (4) provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company;
- (5) provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection for public, educational or governmental use that enables the municipality to cablecast live or taped access programming to CATV customers in the municipality; and
- (6) meet any consumer protection requirements applicable pursuant to board regulations, to cable television companies operating under a certificate of approval.

The bill amends section 30 of the act to require:

- (1) an incumbent CATV company to pay to the municipality served, a sum equal to two percent of gross revenues derived from all recurring charges in the nature of subscription fees paid by subscribers (i.e., fees paid for basic and expanded service) until the board approves a system-wide franchise holder's certification that it is capable of serving 60 percent or more of the households in the municipality served by the incumbent CATV company.

Upon approval of such certification, the incumbent CATV company and the system-wide franchise holder would be obligated to pay three and one half percent of gross revenues, derived from cable television service charges and fees paid by subscribers, to the municipality for the purpose of providing local property tax relief.

- (2) An incumbent CATV company and a system-wide franchise holder to pay up to one half of one percent of the gross revenues,

derived from cable television service charges and fees paid by subscribers, to the State Treasurer to establish a "CATV Universal Access Fund" for the purpose of providing payment to eligible subscribers equal to the amount paid by such subscribers for the cost of basic CATV service.

As defined in the amendments to section 30 of the act, "eligible subscribers" are persons residing in the municipality served who are eligible for the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

The bill amends section 51 of the act to increase penalties for violation of the act to \$1,000 for a first offense, to not less than \$2,000 nor more than \$5,000 for a second offense, and to not less than \$5,000 nor more than \$10,000 for a third and any subsequent offense. It also adds language to clarify that for purposes of the imposition of fines, a "cable television company" shall include all of that company's affiliates.

Section 25 of the bill authorizes the board to impose monetary penalties under section 51 of the act or to seek suspension or revocation of a certificate of approval or system-wide franchise for failure of a CATV company to conform to the commitments contained in its application for such certificate or franchise.

Section 31 of the bill provides that except as otherwise provided by paragraph (2) of subsection h. of section 28 of the act, the provisions of the bill shall not be construed to any way be in conflict with any obligations that may exist under any and all applicable board orders and rules that are in place on the effective date of the bill.

The bill also amends the act to clarify eligibility for various discounts that may be offered to subscribers and to update and clarify certain provisions of the act.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 804
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: MAY 30, 2006

SUMMARY

Synopsis: Authorizes a competitive system-wide franchise for certain providers of cable television service.

Type of Impact: Indeterminate

Agencies Affected: Department of the Treasury, municipalities, Board of Public Utilities, Commissioner of Community Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate - See Comments Below		
State Revenue	Indeterminate - See Comments Below		
Local Cost	Indeterminate - See Comments Below		
Local Revenue	Indeterminate - See Comments Below		

- Certain municipalities are likely to receive franchise fees from cable television (CATV) companies, equal to 3.5 percent of gross revenues derived from all tier levels of CATV programming provided to subscribers within the municipality. Information is not available to estimate the proposal’s net fiscal impact to municipalities.
- Increased activity costs to the Board of Public Utilities (BPU) are expected, with offsetting revenue from applicant fees. Information is not available to specify the activity cost or fee revenue to the BPU.
- The Department of the Treasury will receive revenue equal to the amount that certain municipalities’ residents pay as charges or fees to the company for providing basic cable service to such persons. The State Treasurer is to establish a “CATV Universal Access Fund,” for the purpose of distributing such sums to such eligible persons. The State will incur unknown activity costs to administer the fund, which will not be reimbursed.

- The Commissioner of Community Affairs will incur unknown activity costs to comply with the proposal's requirement to conduct a study and to report the findings and recommendations of this study.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 804 of 2006 proposes to change the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to establish a bifurcated system of franchises under which a CATV company may receive an approval for providing service in this State. Under the bill, the company may either: (1) obtain a municipal consent in the form of an ordinance before it obtains a certificate of approval from the BPU to provide CATV service within a particular municipality (as currently allowed); or (2) receive a system-wide franchise by constructing or operating a CATV system at any location within the State in which the company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service or has proposed to place such plant or equipment into use to provide such service.

The bill amends section 16 of the act to require an application for a system-wide franchise to be in written form and include the applicable information required under section 28 of the act. An application for a system-wide franchise is to be accompanied by a filing fee of \$1,000; the filing fee for a certificate of approval is increased to \$200 from the current fee of \$100.

The bill amends section 17 and 18 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met, and to increase certain application filing and administrative cost recovery fees.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise or certificate of approval is not transferable except by consent of the BPU; (2) the issuance of a system-wide franchise and its renewal is valid for seven years; and (3) the BPU is to establish rules governing the renewal of a system-wide franchise.

The bill amends section 30 of the act to require that, once a CATV company which has been issued a system-wide franchise under the act serves one or more residents within a municipality, that company is to annually pay: (1) to the municipality served, a sum equal to 3.5% of gross revenues derived from all tier levels of CATV programming including pay-per-view events, seasonal or sporting events of limited duration, and other similar programming or channels provided to subscribers within the municipality; and (2) to the State Treasurer, on behalf of municipal residents who are eligible for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program (C.30:4D-20 et seq.), a sum equal to the amount that such eligible persons pay as charges or fees to the company for providing basic cable service to such persons, up to 0.5 percent of the gross revenues that the company derives during the calendar year from all the charges or fees paid by subscribers in the municipality to the company for providing all tier levels of CATV programming. Once that system-wide franchisee is capable of serving 60 percent or more of the households within such municipality that are currently served by a municipal franchisee under the act, that municipal franchisee will also be subject to the same two fees, instead of the single lower-rate fee (2 percent of charges for basic/expanded tier service in the municipality) for which it was liable prior to the system-wide franchisee's attainment of that level of market service capability. The State Treasurer is to establish a "CATV Universal Access Fund," for the purpose of distributing revenue from the second fee to such eligible PAAD beneficiaries.

The bill amends section 51 of the “Cable Television Act” to increase penalties for violations of the act.

Finally, section 30 of the bill requires the Commissioner of Community Affairs, in consultation with the BPU, to develop and conduct a study investigating how CATV companies can overcome the technical, physical and other barriers to the provision of cable television services to residents of multiple dwellings in New Jersey. The commissioner is directed to consider the relevant experiences of those CATV companies that have received a certificate of approval, those CATV companies that have received a system-wide franchise, or any other new or existing entrants to the cable television market in this State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Insufficient information is available to estimate the various impacts of this proposal. Certain municipalities will receive franchise fees from CATV companies, equal to 3.5 percent of gross revenues derived from all tier levels of CATV programming provided to subscribers within the municipality. Information is not available to estimate the net fiscal impact of this rate change to municipalities. The OLS notes that the realization of increased revenue if any through collection of the franchise fee at the higher rate on a larger portion of each subscriber’s cable bill will occur gradually over time: initially, as system-wide franchises are granted and their holders begin commercial service and start paying the fees themselves, and later, as those franchises service capability in a given municipality attains the level at which the incumbent municipal franchise for that municipality become liable to pay that higher fee.

Increased activity costs to the BPU are expected, with offsetting revenue from applicant fees. The Department of the Treasury will receive revenue equal to the amount that municipal residents eligible for PAAD program benefits pay as charges or fees to the company for providing basic cable service to such persons. The State Treasurer is to establish a “CATV Universal Access Fund,” for the purpose of distributing such sums to such eligible persons. The State will incur unknown activity costs to administer the fund, which will not be reimbursed. The Commissioner of Community Affairs will incur unknown activity costs to comply with the proposal’s requirement to conduct a study and to report the findings and recommendations of this study.

The Office of Cable Television (OCTV) in the Board of Public Utilities has provided data indicating that in 2004:

- Municipal franchise fees paid in 2005 (for 2004 activity) based on the current 2 percent fee on basic/expanded basic revenues were \$24 million; and
- If the proposed system-wide franchise fee based on 3.5 percent of gross revenue (including premium services) had been applicable that year, fee revenue would have been approximately \$59 million.

It should be noted, however, that for purposes of obtaining an idea of the impact of this bill on franchise fees, the OCTV data is best viewed as a starting point, subject to a number of caveats. It is critical to note that the estimate of revenue from the higher fee would only be realized under certain unlikely conditions: first, that no municipality would continue to receive the current fee of 2 percent, and second, that companies do not change prices from the 2004 assessment. But as noted above, it is expected that under the bill, holders of system-wide franchises will enter the market slowly, and that incumbent cable providers will retain municipal franchises (and the 2 percent fee rate) for some time. Additionally, it is likely that price changes and demand response shifts will occur, altering the total fees paid to municipalities and the State.

Given the potential market impact of the bill, OLS cannot estimate the actual franchise fees municipalities could expect under the altered market. While the fee paid by a consumer who switches to a provider holding a system-wide franchise would be levied at a higher *rate*, the related gross revenue to which the fee applies is unpredictable, and the average fee that subscribers of such a franchisee would pay is therefore indeterminate. In light of these caveats, we would expect actual system-wide franchise fee revenue to be materially less than \$59 million.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Mark J. Trease
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 192

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator JOSEPH V. DORIA, JR.

District 31 (Hudson)

Senator ANTHONY R. BUCCO

District 25 (Morris)

SYNOPSIS

Authorizes a system-wide franchise for certain providers of cable television service.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/7/2006)

1 AN ACT concerning the regulation of cable television service and
2 amending and supplementing P.L.1972, c.186 (C.48:5A-1 et
3 seq.), amending P.L.1985, c.356, P.L.1991, c.412 and P.L.2003,
4 c.38, and repealing certain sections of the statutory law.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. Section 2 of P.L.1972, c.186 (C.48:5A-2) is amended to read
10 as follows:

11 2. The Legislature finds, determines and declares:

12 a. That, after careful investigation, it appears that the rates,
13 services and operations of cable television companies in this State
14 are affected with a public interest;

15 b. That it should be, and is hereby declared, the policy of this
16 State to provide fair regulation of cable television companies in the
17 interest of the public;

18 c. That the objects of such regulation are (1) to promote
19 adequate, economical and efficient cable television service to the
20 citizens and residents of this State, (2) to encourage the optimum
21 development of the educational and community-service potentials
22 of the cable television medium, (3) to provide just and reasonable
23 rates and charges for cable television system services without unjust
24 discrimination, undue preferences or advantages, or unfair or
25 destructive competitive practices, (4) to promote and encourage
26 harmony between cable television companies and their subscribers
27 and customers, (5) to protect the interests of the several
28 municipalities of this State in relation to the issuance of municipal
29 consents for the operation of cable television companies within
30 their several jurisdictions, and to secure a desirable degree of
31 uniformity in the practices and operations of cable television
32 companies in those several jurisdictions; and (6) to cooperate with
33 other states and with the Federal Government in promoting and
34 coordinating efforts to regulate cable television companies
35 effectively in the public interest;

36 d. That to secure such regulation and promote the objectives
37 thereof, authority to regulate cable television companies generally,
38 and their rates, services and operations, in the manner and in
39 accordance with the policies set forth in [this act] P.L.1972, c.186
40 (C.48:5A-1 et seq.) (the "act"), shall be vested in the [Department]
41 Board of Public Utilities];

42 e. That the Federal Communications Commission (the "FCC")
43 reported in its 2005 assessment of video programming competition
44 that increased competition in the multichannel video programming

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 distributor ("MVPD") market has led to improvements in cable
2 television services, including more channels of video programming
3 and increased service options for consumers, but generally not
4 lower prices;

5 f. That, as a result of ongoing technological innovations, non-
6 traditional providers of MVPD services such as local telephone
7 common carriers are offering or preparing to offer MVPD services
8 over existing telephone lines or over newly-installed high-speed
9 fiber lines to customers in their local telephone service areas, and
10 such developments have the potential for stimulating additional
11 competition in the MVPD market that should lead to further
12 improvements for MVPD customers;

13 g. That, in order to afford an equal opportunity for non-
14 traditional MVPD providers such as local telephone common
15 carriers to compete with existing providers, and to ensure that
16 customers receive the benefits of a more competitive MVPD
17 market, it is in the public interest to encourage common carriers to
18 enter the MVPD market by adapting the existing regulatory
19 framework to the changed circumstances brought about by recent
20 technological developments while allowing the State to retain its
21 necessary and appropriate regulatory oversight with regard to
22 consumer protection and customer service elements; and

23 h. That nothing in this act shall be seen to limit or otherwise
24 reduce the protection afforded to cable television customers, and it
25 is in the public interest to include additional provisions in this act to
26 ensure that customers continue to be provided a high level of
27 consumer protection and customer service in a more competitive
28 MVPD market.

29 (cf: P.L.1972, c.186, s.2)

30

31 2. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read
32 as follows:

33 3. As used in this act, except as the context may otherwise
34 clearly require or indicate:

35 a. "Board" means the Board of Public Utilities [of this State].

36 b. "Office" means the Office of Cable Television established by
37 [this act] the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et
38 seq.).

39 c. "Director" means the Director of the Office of Cable
40 Television.

41 d. "Cable television system" or "CATV system" means [any
42 facility within this State which is operated or intended to be
43 operated to perform the service of receiving and amplifying the
44 signals broadcast by one or more television stations and
45 redistributing such signals by wire, cable or other device or means
46 for accomplishing such redistribution, to members of the public
47 who subscribe to such service, or distributing through its facility

1 any television signals, whether broadcast or not; or any part of such
2 facility] a facility, consisting of a set of closed transmission paths
3 and associated signal generation, reception, and control equipment,
4 that is designed to provide cable television service which includes
5 video programming and which is provided to multiple subscribers
6 within a community, but such term does not include: (1) a facility
7 that serves only to retransmit the television signals of one or more
8 television broadcast stations; (2) a facility that serves subscribers
9 without using any public right-of-way; (3) a facility of a common
10 carrier which is subject, in whole or in part, to regulation by the
11 board pursuant to Title 48 of the Revised Statutes, except that such
12 facility shall be considered a CATV system to the extent such
13 facility is used in the transmission of video programming directly to
14 subscribers; (4) an open video system that has been certified by the
15 Federal Communications Commission as being in compliance with
16 the provisions of Part 76, "Multichannel Video and Cable
17 Television Service," of Title 47 of the Code of Federal Regulations;
18 (5) any facilities of any electric public utility used solely for
19 operating its electric utility systems; or (6) a facility of an electric
20 public utility which is subject, in whole or in part, to regulation by
21 the board pursuant to Title 48 of the Revised Statutes, except that
22 such facility shall be considered a CATV system to the extent that
23 such facility is used in the transmission of video programming
24 directly to the subscribers. The term "facility" as used in this
25 subsection includes all real property, antennae, poles, wires, cables,
26 conduits, amplifiers, instruments, appliances, fixtures and other
27 personal property used by a CATV company in providing service to
28 its subscribers and customers.

29 e. "Cable television reception service" means the simultaneous
30 delivery through a CATV system of the signals of television
31 broadcast stations to members of the public subscribing to such
32 service, which service may include additional nonbroadcast signals
33 delivered as a part of the service with no additional charge.

34 f. "Cable communications system" or "cable communications
35 service" means any communications service other than cable
36 television reception service delivered through the facilities of a
37 CATV system and for which charges in addition to or other than
38 those made for cable television reception service are made or
39 proposed to be made.

40 g. "Cable television company" or "CATV company" means any
41 person owning, controlling, operating or managing a cable
42 television system, and the term "person" as used herein shall be
43 construed, without limiting the generality thereof, to include
44 specifically any agency or instrumentality of this State or of any of
45 its political subdivisions, including telecommunications service
46 providers; but this definition shall not include a telephone,
47 telegraph or electric utility company regulated by the Board of

1 Public Utilities in a case where it merely leases or rents or
2 otherwise provides to a CATV company wires, conduits, cables or
3 pole space used in the redistribution of television signals to or
4 toward subscribers or customers of such CATV company.

5 h. "Highway" includes every street, road, alley, thoroughfare,
6 way or place of any kind used by the public or open to the use of
7 the public.

8 i. "Certificate" means a certificate of approval issued [, or which
9 may be issued,] by the board pursuant to [this act] P.L.1972, c.186
10 (C.48:5A-1 et seq.).

11 j. "Cable television service" includes the definitions of cable
12 television reception service and cable communications service
13 herein, as well as the provision of any other impulse or signal by a
14 cable television company or other service lawfully provided,
15 utilizing the facilities of the system.

16 k. "Basic cable service" means any service tier which includes
17 the retransmission of local television broadcast signals.

18 l. "Hearing impaired individual" means an individual who,
19 because of injury to, disease of, or defect in the inner, middle or
20 outer ear, or any combination thereof, has suffered a loss of hearing
21 acuity such that the individual cannot receive linguistic information
22 without amplification, dubbing or captions.

23 m. "In series connection" means a connection where the coaxial
24 service wire entering the residence of a subscriber connects first to
25 a television receiver or monitor, with the television receiver or
26 monitor being connected by coaxial wire to a video cassette
27 recorder or other auxiliary equipment or where the coaxial service
28 wire connects first to a video cassette recorder or auxiliary
29 equipment, with the equipment being connected to a television
30 receiver or monitor and where no external splitting device is used.

31 n. "Municipality" means one municipality acting singularly or
32 two or more municipalities acting jointly in the granting of
33 municipal consent for the provision of cable television service in
34 accordance with the provisions of the "Cable Television Act,"
35 P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.

36 o. "Open video system" means a facility consisting of a set of
37 transmission paths and associated signal generation, reception, and
38 control equipment that is designed to provide cable television
39 service to multiple subscribers within a municipality and which has
40 been certified by the Federal Communications Commission as being
41 in compliance with Part 76 "Multichannel Video and Cable
42 Television Service" of Title 47 of the Code of Federal Regulations.

43 p. "Private aggregator" means a duly-organized business or non-
44 profit organization authorized to do business in this State that enters
45 into a contract with two or more municipalities for the purpose of
46 facilitating the joint action of those municipalities in granting
47 municipal consent for the provision of cable television service to

1 those municipalities.

2 q. "Franchise" means an initial authorization, or renewal thereof,
3 issued by a franchising authority in accordance with the provisions
4 of P.L.1972, c.186 (C.48:5A-1 et seq.), whether such authorization
5 is designated as a franchise, permit, license, resolution, contract,
6 certificate, agreement or otherwise, which authorizes the
7 construction or operation of a cable television system.

8 r. "System-wide franchise" means a franchise issued pursuant to
9 P.L.1972, c.186 (C.48:5A-1 et seq.) which authorizes a cable
10 television company to construct or operate a cable television system
11 in any location within the State of New Jersey in which the
12 company, at the time of the issuance of the system-wide franchise,
13 either has plant or equipment in use for the provision of any
14 consumer video, cable or telecommunications service, including
15 telephone service, or has proposed to place such plant or equipment
16 into use to provide such service in accordance with a schedule of
17 construction of the necessary plant, as approved by the board in
18 conjunction with the issuance of the system-wide franchise.

19 s. "Local franchising authority" or "franchising authority" means
20 a governmental entity empowered by federal, State, or local law to
21 grant a franchise.

22 t. "Telecommunications service provider" or
23 "telecommunications provider" means any owner of facilities and
24 equipment located in public rights-of-way used to provide
25 telecommunications services, except that such term does not include
26 aggregators of telecommunications services.

27 u. "Telecommunications service" means the offering of
28 telecommunications for a fee directly to the public, or to such
29 classes of users as to be effectively available directly to the public,
30 regardless of the facilities used.

31 v. "Video reception service" means the simultaneous delivery by
32 any means, equipment or facilities, of the signals of television
33 broadcast stations to members of the public subscribing to such
34 service for a fee or other consideration, which service may include
35 additional non-broadcast signals delivered as part of the service.

36 (cf: P.L.2003, c.38, s.3)

37

38 3. Section 4 of P.L.1972, c.186 (C.48:5A-4) is amended to read
39 as follows:

40 4. There is hereby established in the [Department] Board of
41 Public Utilities an Office of Cable Television; but nothing in [this
42 act] P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed as
43 declaring or defining cable television to be a public utility or
44 subjecting it to the application of any of the provisions of Title 48
45 of the Revised Statutes, except as otherwise specifically provided in
46 [this act] P.L.1972, c.186 (C.48:5A-1 et seq.).

1 (cf: P.L.1972, c.186, s.4)

2

3 4. Section 5 of P.L.1972, c.186 (C.48:5A-5) is amended to read
4 as follows:

5 5. The office shall be headed and administered by a director,
6 who shall be a person qualified by training and experience to
7 perform the duties of [his] the office, and shall receive such salary
8 as shall be [provided by law] determined by the President of the
9 Board. The director shall be appointed by the [board] President of
10 the Board, and shall serve at the pleasure of the [board] President of
11 the Board.

12 (cf: P.L.1972, c.186, s.5)

13

14 5. Section 6 of P.L.1972, c.186 (C.48:5A-6) is amended to read
15 as follows:

16 6. The director under the supervision of the [board] the
17 President of the Board shall organize the work of the office and
18 establish therein such administrative subdivisions as [he] may
19 [deem] be deemed necessary, proper and expedient. [He] The
20 director may formulate [and adopt] rules and regulations for the
21 board's consideration and prescribe duties for the efficient conduct
22 of the business, work and general administration of the office. [He]
23 The director may delegate to subordinate officers or employees in
24 the office such [of his] powers as [he] may [deem] be deemed
25 desirable, to be exercised under [his] the supervision and direction
26 of the director.

27 (cf: P.L.1972, c.186, s.6)

28

29 6. Section 7 of P.L.1972, c.186 (C.48:5A-7) is amended to read
30 as follows:

31 7. Subject to the provisions of Title [11] 11A of the [Revised]
32 New Jersey Statutes, and within the limits of funds appropriated or
33 otherwise made available, the director with the approval of the
34 [board] President of the Board may appoint such officers and
35 employees of the office as [he] may [deem] be deemed necessary
36 for the performance of its duties, and may fix and determine their
37 qualifications, duties and compensation, and may retain or employ
38 engineers and private consultants on a contract basis or otherwise
39 for rendering professional or technical service or assistance.

40 (cf: P.L.1972, c.186, s.7)

41

42 7. Section 9 of P.L.1972, c.186 (C.48:5A-9) is amended to read
43 as follows:

S192 DORIA, BUCCO

8

- 1 9. The board, which is empowered pursuant to P.L.1972, c.186
- 2 (C.48:5A-1 et seq.) to be the local franchising authority in this
- 3 State, and the director under the supervision of the board, shall have
- 4 full right, power, authority and jurisdiction to:
- 5 a. Receive or initiate complaints of the alleged violation of any

1 of the provisions of [this act] P.L.1972, c.186 (C.48:5A-1 et seq.) or
2 of any of the rules and regulations made pursuant to [this act]
3 P.L.1972, c.186 (C.48:5A-1 et seq.) or of the terms and conditions
4 of any municipal consent or franchise granted pursuant to [this act]
5 P.L.1972, c.186 (C.48:5A-1 et seq.); and for this purpose and all
6 other purposes necessary to enable [him] the director to administer
7 the duties of the office as prescribed by law may hold hearings and
8 shall have power to subpoena witnesses and compel their attendance,
9 administer oaths and require the production for examination of any
10 books or papers relating to any matter under investigation at any
11 such hearing;

12 b. Supervise and regulate every CATV company operating
13 within this State and its property, property rights, equipment,
14 facilities, contracts, certificates and franchises so far as may be
15 necessary to carry out the purposes of [this act] P.L.1972, c.186
16 (C.48:5A-1 et seq.), and to do all things, whether herein specifically
17 designated or in addition thereto, which are necessary or convenient
18 in the exercise of such power and jurisdiction;

19 c. Institute all proceedings and investigations, hear all
20 complaints, issue all process and orders, and render all decisions
21 necessary to enforce the provisions of [this act] P.L.1972, c.186
22 (C.48:5A-1 et seq.), of the rules and regulations adopted thereunder,
23 or of any municipal consents issued pursuant to [this act] P.L.1972,
24 c.186 (C.48:5A-1 et seq.);

25 d. Institute, or intervene as a party in, any action in any court of
26 competent jurisdiction seeking mandamus, injunctive or other relief
27 to compel compliance with any provision of [this act] P.L.1972,
28 c.186 (C.48:5A-1 et seq.), of any rule, regulation or order adopted
29 thereunder or of any municipal consent or franchise issued
30 thereunder, or to restrain or otherwise prevent or prohibit any illegal
31 or unauthorized conduct in connection therewith.

32 (cf: P.L.1972, c.186, s.9)

33

34 8. Section 10 of P.L.1972, c.186 (C.48:5A-10) is amended to
35 read as follows:

36 10. The director with the approval of the board shall establish,
37 for the purpose of assuring safe, adequate and proper cable
38 television service, [after hearing in accordance with the
39 Administrative Procedure Act (P.L.1968, c.410; C.52:14B-1 et
40 seq.),] rules and regulations governing:

41 a. Technical standards of performance for CATV systems and
42 the equipment and facilities thereof, including standards of
43 maintenance and safety, not inconsistent with applicable Federal
44 regulations[.];

- 1 b. The prohibition and prevention of the imposition of any
2 unjust or unreasonable, unjustly discriminatory or unduly
3 preferential individual or joint rate, charge or schedule for any
4 service supplied or rendered by a CATV company within this State,
5 or the adoption or imposition of any unjust or unreasonable
6 classification in the making or as the basis of any individual or joint
7 rate, charge or schedule for any service rendered by a CATV
8 company within this State[.];
- 9 c. Requirements for the reasonably prompt and complete
10 exercise of the rights conferred by any certificate, subject to
11 revocation thereof or other penalty provided under [this act]
12 P.L.1972, c.186 (C.48:5A-1 et seq.);
- 13 d. Procedures and forms for the application by a CATV
14 company for municipal consents or for a franchise required under
15 [this act] P.L.1972, c.186 (C.48:5A-1 et seq.);
- 16 e. Procedures and forms for review by the director of municipal
17 consents issued pursuant to the provisions of [this act] P.L.1972,
18 c.186 (C.48:5A-1 et seq.);
- 19 f. Procedures and forms for the application by CATV companies
20 to municipalities for amendment of rates or other terms and
21 conditions of municipal consents or franchises and, for the review
22 by the director of the terms of such amendments, and for the
23 resolution by the director of disputes between municipalities and
24 CATV companies over such applications;
- 25 g. Procedures and forms for submission to and resolution by the
26 director of complaints or disputes by or between CATV companies,
27 municipalities or citizens regarding proper compliance with the
28 implementation of the provisions of [this act] P.L.1972, c.186
29 (C.48:5A-1 et seq.) or the rules and regulations made or municipal
30 consents or franchises issued pursuant to [this act] P.L.1972, c.186
31 (C.48:5A-1 et seq.); provided, however, that, notwithstanding the
32 foregoing provisions of this section or any of the provisions of [this
33 act] P.L.1972, c.186 (C.48:5A-1 et seq.), it is the intent of [this act]
34 P.L.1972, c.186 (C.48:5A-1 et seq.) that all the provisions,
35 regulations and requirements imposed by or pursuant to [this act]
36 P.L.1972, c.186 (C.48:5A-1 et seq.) shall be operative only to the
37 extent that the same are not in conflict with the laws of the United
38 States or with any rules, regulations or orders adopted, issued or
39 promulgated pursuant thereto by any Federal regulatory body
40 having jurisdiction. No requirement, regulation, term, condition,
41 limitation or provision imposed by or pursuant to [this act]
42 P.L.1972, c.186 (C.48:5A-1 et seq.) which is contrary to or
43 inconsistent with any such Federal law, regulation or order now or
44 hereafter adopted shall be enforced by the director or shall be

1 authority for the granting, denial, amendment or limitation of any
2 municipal consent or certificate of approval which may be applied
3 for or issued under the terms of [this act] P.L.1972, c.186 (C.48:5A-
4 1 et seq.).

5 The board through the office is hereby empowered and directed
6 to cooperate with any Federal regulatory agency in the enforcement
7 within this State of all Federal laws, rules, regulations and orders
8 relating to CATV systems and CATV companies, and therein to act
9 as agent for such Federal regulatory body to the extent authorized
10 by or pursuant to Federal law, and to enter into agreements for said
11 purpose.

12 (cf: P.L.1972, c.186, s.10)

13

14 9. Section 11 of P.L.1972, c.186 (C.48:5A-11) is amended to
15 read as follows:

16 11. a. Except as provided in subsection g. of section 28 of [this
17 act] P.L.1972, c.186 (C.48:5A-28) with respect to rates to
18 subscribers to cable television reception service, the board through
19 the office shall prescribe just and reasonable rates, charges and
20 classifications for the services rendered by a CATV company, and
21 the tariffs therefor shall be filed and published in such manner and
22 on such notice as the director with the approval of the board may
23 prescribe, and shall be subject to change on such notice and in such
24 manner as the director with the approval of the board may
25 prescribe.

26 b. The board shall from time to time cause the established rates
27 and rate schedules of each CATV company for cable TV reception
28 service to be reviewed, and if upon such review it shall appear to
29 the board that such rates, or any of them, are or may be excessive,
30 unreasonable, unjustly discriminatory or unduly preferential, the
31 board shall require the CATV company to establish to its
32 satisfaction that such rates are just, reasonable and not excessive or
33 unjustly preferential or discriminatory, and for such purpose shall
34 order the director to hold a hearing thereon. After a hearing upon
35 notice and full opportunity to be heard afforded to the CATV
36 company, the director may recommend amendment of the schedule
37 of cable television subscription rates charged by such company, and
38 such amended schedule if approved by the board shall supersede
39 and replace the schedule so amended.

40 c. Any hearing held pursuant to this section shall be open to the
41 public, and notice thereof shall be published by the [director] cable
42 television company at least 10 days prior thereto in a newspaper or
43 newspapers of general circulation [in each municipality comprised,
44 in whole or part,] in the certificated area wherein the rate schedule
45 which is the subject of the hearing applies. [Every municipality

1 may intervene in any hearing held by the director pursuant to this
2 section affecting the municipality or the public within the
3 municipality.]

4 d. No CATV company shall derive from the operations of cable
5 television reception service or cable communications systems any
6 revenues other than the fees, charges, rates and tariffs provided for
7 in subsection a. of this section and in subsection g. of section 28 of
8 [this act] P.L.1972, c.186 (C.48:5A-28).

9 e. Whenever pursuant to the provisions of [this act] P.L.1972,
10 c.186 (C.48:5A-1 et seq.) the board or the director is required to
11 determine whether any of the rates, charges, fees, tariffs and
12 classifications of a CATV company subject to this section or to
13 subsection g. of section 28 of [this act] P.L.1972, c.186 (C.48:5A-
14 28) are unjust, unreasonable, discriminatory or unduly preferential,
15 there shall be taken into consideration any fees which are charged
16 for the use of a CATV system, or part thereof, as an advertising
17 medium, or for services ancillary to such use, and from which the
18 CATV system derives revenue, directly or indirectly, and the effect
19 thereof upon, the company's requirements for revenue from such
20 fees, rates, charges, tariffs and classifications subject to the
21 provisions of this section.
22 (cf: P.L.1972, c.186, s.11)

23
24 10. Section 2 of P.L.1985, c.356 (C.48:5A-11.2) is amended to
25 read as follows:

26 2. Notwithstanding the provisions of P.L.1972, c.186 (C.48:5A-
27 1 et seq.) or of any other State law to the contrary, any CATV
28 company providing service may establish rates or schedules which
29 provide for a reduction or discount in rates for cable television
30 reception service for senior citizens [and], disabled citizens, or
31 other economically disadvantaged groups who meet the eligibility
32 requirements of either the "Pharmaceutical Assistance to the Aged
33 and Disabled" program pursuant to P.L.1975, c.94 (C.30:4D-20 et
34 seq.) as amended and supplemented; or are receiving or are eligible
35 to receive benefits under the Supplemental Security Income
36 program, P.L.1973, c.256 (C.44:7-85 et seq.); or are receiving
37 disability insurance benefits under Title II of the federal Social
38 Security Act, 42 U.S.C. s.401 et seq. and meet the income and
39 residency requirements of the "Pharmaceutical Assistance to the
40 Aged and Disabled Program," established pursuant to P.L.1975,
41 c.194 (C.30:4D-20 et seq.).

42 The Board of Public Utilities through the Office of Cable
43 Television shall adopt regulations for the prompt, fair and efficient
44 establishment and maintenance of these reduced or discounted rates
45 and schedules. Subscription to the "Tenants' Lifeline Assistance
46 Program," established pursuant to P.L.1981, c.210 (C.48:2-29.30 et

1 seq.), or to the "Lifeline Credit Program," established pursuant to
2 P.L.1979, c.197 (C.48:2-29.15 et seq.), shall not be a basis for
3 exclusion from any reduction or discount provided under this
4 section, nor shall subscription to any cable television service from
5 such provider be a basis for exclusion from the Tenants' Lifeline
6 Assistance Program or the Lifeline Credit Program.

7 "Senior citizen" means any person 62 years of age or older who
8 subscribes for CATV service and who does not share the
9 subscription with more than one other person in the same dwelling
10 unit who is less than 62 years of age.

11 (cf: P.L.1988, c.81, s.2)

12

13 11. Section 3 of P.L.1985, c.356 (C.48:5A-11.3) is amended to
14 read as follows:

15 3. [A municipality shall not require] A cable television company
16 shall not be required, as part of any franchising agreement, or
17 renewal thereof, or as part of any negotiations leading up to a
18 franchising agreement, or renewal thereof, [that a CATV company]
19 to provide the reduction or discount in rates which is permitted
20 under section 2 of [this act] P.L.1985, c.356 (C.48:5A-11.2).

21 (cf: P.L.1985, c.356, s.3)

22

23 12. Section 15 of P.L.1972, c.186 (C.48:5A-15) is amended to
24 read as follows:

25 15. No person shall hereafter begin the construction[,] or
26 extension of a CATV system, or begin or continue the operation of
27 a CATV system, or acquire ownership or control thereof, without
28 first obtaining from the board a certificate of approval or franchise
29 issued in accordance with the provisions and procedures specified
30 in [this act] P.L.1972, c.186 (C.48:5A-1 et seq.); except that the
31 director may, by order, rule or regulation, exempt a CATV company
32 from the above [certificate] requirement in a case [where its] in
33 which the company's temporary acts or operations do not require
34 the issuance of a certificate or franchise in the public interest. The
35 issuance of a certificate by the board to a cable service company
36 shall be deemed to confer a franchise upon the cable television
37 company.

38 (cf: P.L.1972, c.186, s.15)

39

40 13. Section 16 of P.L.1972, c.186 (C.48:5A-16) is amended to
41 read as follows:

42 16. a. The application for [such] a [certificate of approval]
43 system-wide franchise from the board shall be in writing, [shall
44 have attached thereto the municipal consents required under section
45 22 of this act, except that a CATV company which is authorized

1 under section 25 of this act to continue operations after the
2 expiration of a municipal consent and pending municipal action
3 upon application made for renewal or reissuance of such consent
4 may in lieu of such municipal consent attach to its application a
5 statement regarding its authorization to continue operations under
6 the provisions of section 25;] and shall contain such [other]
7 information as the director may from time to time prescribe by duly
8 promulgated rule, regulation or order. Each such application shall
9 be accompanied by a filing fee of [\$100.00] \$1,000.

10 b. Upon receipt of such application, the board shall review the
11 same and shall, within [30] 45 days of the receipt thereof, [either
12 issue the certificate applied for or order the director to schedule a
13 hearing upon the application] schedule two public hearings to be
14 held in different geographical areas of the State during the 45-day
15 review period to consider the application submitted pursuant to
16 subsection a. of this section for a system-wide franchise. Upon the
17 expiration of the 45-day period, the board shall issue an order in
18 writing approving the application if the applicant has complied with
19 the requirements for a system-wide franchise, or the board shall
20 disapprove the application in writing citing the reasons for
21 disapproval if the board determines that the application for a
22 system-wide franchise is deficient. No application shall be denied
23 without a hearing thereon. In determining whether a [certificate]
24 system-wide franchise should [issue] be issued, the board shall
25 consider, in addition to the requirements of section 17 of P.L.1972,
26 c.186 (C.48:5A-17), among other things, public convenience and
27 necessity, the suitability and character of the applicant, the financial
28 responsibility of the applicant, and the ability of the applicant to
29 perform efficiently the proposed service and other service which
30 may be required by public convenience and necessity during the
31 term of the [municipal consent] system-wide franchise. Upon
32 receipt of a complaint from any person claiming to be aggrieved by
33 the issuance of a [certificate] system-wide franchise applied for, the
34 board shall not issue such [certificate] system-wide franchise
35 without a hearing thereon, if it deems that there is a reasonable
36 ground for such complaint, provided that such a hearing shall be
37 held within the 45-day review period required by this subsection.

38 c. [If in its initial review of the application it shall appear to the
39 board that any of the rates in the schedule of rates provided therein
40 pursuant to subsection g. of section 28 of this act are or may be
41 excessive, unreasonable, unjustly discriminatory or unduly
42 preferential, it shall not issue a certificate without a hearing on such
43 application, to be held by the director at the order of the board at
44 which hearing the applicant CATV company may be required to

1 establish to his satisfaction that such rates are just, reasonable and
2 not excessive or unjustly preferential or discriminatory. After a
3 hearing at which such justification of rates is required, upon notice
4 and full opportunity to be heard afforded to the applicant CATV
5 company, the director may, recommended that the schedule of rates
6 aforesaid be amended and such amended schedule if approved by
7 the board shall supersede and replace the schedule so amended.]
8 (Deleted by amendment, P.L. , c.) (pending before the
9 Legislature as this bill)

10 d. [A hearing held pursuant to this section shall be held not later
11 than the sixtieth day following the date of receipt of the
12 application; it may be adjourned from time to time, but not to a
13 date later than the sixtieth day following the date on which it
14 commenced, except with the consent of the applicant. If such
15 hearing is held, the director shall within 60 days after the
16 conclusion thereof, transmit his findings of fact and
17 recommendations to the board, which shall either issue or deny the
18 certificate for which application was made, or may issue a
19 certificate with such limitations and conditions as the public interest
20 may require. The board shall transmit notice of its decision to the
21 applicant.] (Deleted by amendment, P.L. , c.) (pending before
22 the Legislature as this bill)
23 (cf: P.L.1972, c.186, s.16)
24

25 14. Section 17 of P.L.1972, c.186 (C.48:5A-17) is amended to
26 read as follows:

27 17. a. The board shall issue a [certificate of approval] system-
28 wide franchise when, after reviewing the application, and after
29 [hearing if one is held] the hearings have been held pursuant to
30 section 16 of P.L.1972, c.186 (C.48:5A-16), the applicant
31 establishes to [its] the board's satisfaction that the applicant [has all
32 the municipal consents necessary to support the application, that
33 such consents and the issuance thereof are in conformity with the
34 requirements of this act, and that the applicant] has complied or is
35 ready, willing and able to comply with all applicable rules and
36 regulations imposed by or pursuant to State or federal law as
37 preconditions for engaging in [his] the applicant's proposed CATV
38 operations[; provided, that in the case of any application which has
39 omitted the attachment of municipal consent in the circumstance
40 provided for in subsection a. of section 16 of this act, the board
41 shall condition the issuance of the certificate upon the applicant's
42 reasonably prompt attainment of the omitted municipal consent or
43 reasonably prompt initiation of proceedings under subsection d. of
44 this section].

1 b. [In considering any such application, the board shall take into
2 consideration the probable effects upon both the area for which
3 certification is sought and neighboring areas not covered in the
4 municipal consents; and if it finds that the probable effects, for
5 technical and financial reasons, would be to impede the
6 development of adequate cable television service, or create an
7 unreasonable duplication of services likely to be detrimental to the
8 development of adequate cable television service in any area either
9 within or without the area for which certification is sought, it may
10 deny the certificate or it may amend the certificate in issuing it so as
11 to:

12 (1) Direct that areas covered in the application be excluded from
13 the area certified; or

14 (2) Direct that areas not covered in the application be included
15 in the area certified.] (Deleted by amendment, P.L. , c.)
16 (pending before the Legislature as this bill)

17 c. [No such certificate amended pursuant to subsection b. of this
18 section shall be issued except after hearing of which each affected
19 municipality shall be given notice and afforded opportunity to be
20 heard. No such amended certificate shall be issued which would
21 impair the terms of any existing certificate or of any municipal
22 consent upon which such existing certificate is based, except with
23 the consent of the holder of such existing certificate and of any
24 municipality having issued such municipal consent.] (Deleted by
25 amendment, P.L. , c.) (pending before the Legislature as this
26 bill)

27 d. [If a municipality shall arbitrarily refuse to grant the
28 municipal consent required under the terms of this act prerequisite
29 to issuance of a certificate, or to act upon an application for such
30 municipal consent within 90 days after such application is filed,
31 then the applicant CATV company may avoid the necessity of first
32 obtaining such municipal consent by showing to the satisfaction of
33 the board that the municipal consent is being arbitrarily withheld.
34 But any CATV company certificated without municipal consent
35 shall nevertheless pay the franchise tax to the municipality imposed
36 under section 30 of this act. An application for certificate filed
37 pursuant to this subsection shall be accompanied by a filing fee of
38 \$200.00.] (Deleted by amendment, P.L. , c.) (pending before the
39 Legislature as this bill)

40 e. [If any municipality or county shall refuse to any CATV
41 company, whether the holder of a municipal consent from that
42 municipality or otherwise, any zoning variance or other municipal
43 act or authorization, or any county act or authorization, necessary to
44 permit such company to locate any facility of such company within
45 such municipality or county, or to install transmission facilities

1 through such municipality or county for the purpose of serving
2 subscribers or customers in any area for which such company has
3 been issued a certificate by the board, the company may apply to
4 the board for an order setting aside such municipal or county refusal
5 and permitting such location of facility or installation of
6 transmission facilities as requested by the company. An application
7 pursuant to this subsection shall be accompanied by a filing fee of
8 \$200.00. The board, after hearing upon notice and full opportunity
9 for both the applicant and the municipality or county to be heard,
10 shall issue such order when it appears to the board's satisfaction that
11 such permission is necessary to enable the company to provide safe,
12 adequate and proper CATV service to its customers or subscribers
13 in the manner required by this act, and that such location or
14 installation will not adversely affect the public health, safety and
15 welfare.] (Deleted by amendment, P.L. , c.) (pending before the
16 Legislature as this bill)

17 f. [The director shall issue a certificate to any CATV company
18 lawfully engaged in the construction, extension or operation of a
19 CATV system on the effective date of this act, for the construction,
20 extension or operation then being conducted, without further
21 review, if application for such certificate is filed with the board
22 within 90 days after such effective date. The construction,
23 extension or operation of such a CATV system may be lawfully
24 continued pending the filing of such an application unless the
25 director orders otherwise. An application for such certificate which
26 is untimely shall be determined in accordance with the procedures
27 prescribed in subsections a. through d. of this section. A certificate
28 issued under this subsection shall expire five years from the date of
29 issuance; and no CATV company holding such certificate shall be
30 authorized to continue its operations after such expiration unless
31 prior thereto it shall have obtained a certificate under the
32 procedures specified in subsections a. through d. of this section,
33 except that such a CATV company which has initiated proceedings
34 for certification under subsections a. through d. of this section prior
35 to the expiration of a certificate granted under this subsection may
36 continue its operations pending the final disposition of such
37 proceedings. An application pursuant to this subsection shall be
38 accompanied by a filing fee of \$50.00.] (Deleted by amendment,
39 P.L. , c.) (pending before the Legislature as this bill)
40 (cf: P.L.1986, c.163, s.1)

41

42 15. Section 18 of P.L.1972, c.186 (C.48:5A-18) is amended as
43 follows:

44 18. a. Any hearing held pursuant to the provisions of section 16
45 or section 17 of [this act] P.L.1972. c.186 (C.48:5A-16; C.48:5A-
46 17) shall be open to the public, and notice thereof shall be published

1 by the [director] applicant at least 10 days prior thereto in a
2 newspaper or newspapers of general circulation throughout the
3 State [(1) if the hearing is upon application for certification, in each
4 municipality comprised, in whole or part, in the area for which
5 certification is sought, or (2) if the hearing is upon an application
6 under subsection e. of section 17, in each municipality comprised in
7 whole or part, in the certificated area or area for which certification
8 is sought, of the CATV system of the applicant CATV company,
9 and also each other municipality whose refusal of municipal action
10 or authorization is involved in the application].

11 b. Every municipality may intervene in any hearing or
12 investigation held under the authority of [this act] P.L.1972, c.186
13 (C.48:5A-1 et seq.) which involves rates, charges, services or
14 facilities affecting the municipality or the public within the
15 municipality.

16 c. For the purpose of defraying the administrative expenses of
17 hearings held pursuant to section 16 or 17 of [this act] P.L.1972,
18 c.186 (C.48:5A-16; C.48:5A-17), the applicant CATV company
19 shall be required to pay to the Office of Cable Television a fee not
20 in excess of [\$50.00] \$500 per day of hearing or fraction thereof,
21 according to such fee schedule as the director shall from time to
22 time adopt by rule. Such fee shall be in addition to any filing fee
23 imposed pursuant to sections [17] 16 and 18 of [this act] P.L.1972,
24 c.186 (C.48:5A-16; C.48:5A-18); the amount shall be due and
25 payable upon presentation of an invoice.

26 d. All fees and charges collected under the provisions of section
27 16[, 17] or 18 of [this act] P.L.1972. c.186 (C.48:5A-16; C.48:5A-
28 18) shall be received by the director for the sole use of the State,
29 and [he] the director shall report on and return to the State Treasurer
30 all such fees and charges collected [by him].

31 (cf: P.L.1972, c.186, s.18)

32

33 16. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to
34 read as follows:

35 19. A [certificate of approval] system-wide franchise issued by
36 the board shall be nontransferable, except by consent of the board;
37 [shall specify the area to which it applies and the municipal
38 consents upon which it is based,] and shall be valid for 15 years
39 from the date of issuance or 20 years from the date of issuance if
40 the board certifies that a CATV company has implemented an open
41 video system in accordance with 47 U.S.C. s.573 [within one year
42 after receiving a municipal consent, or until the expiration,
43 revocation, termination or renegotiation of any municipal consent

1 upon which it is based, whichever is sooner. But amendment of the
2 terms of a municipal consent by mutual consent and in conformity
3 with the procedures specified in this act during the term for which it
4 was issued shall not require the issuance of a new certificate of
5 approval. A CATV company holding a certificate based upon a
6 municipal consent with a provision for automatic renewal for a term
7 not exceeding 10 years beyond its expiration date or 15 years
8 beyond its expiration date if the board certifies that the CATV
9 company has implemented an open video system in accordance with
10 47 U.S.C. s.573, shall be entitled to automatic reissuance of a
11 certificate for such term, unless it shall forfeit such entitlement by
12 violation of any terms of this act, regulations issued pursuant
13 thereto, or by the terms of the municipal consent]. A system-wide
14 franchise issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.)
15 shall not require a CATV company to operate outside of the areas in
16 which the company either has plant or equipment in use for the
17 provision of any consumer video, cable or telecommunications
18 service, or has proposed to place into use such plant or equipment
19 for the provision of such services in accordance with a schedule of
20 construction approved by the board. Renewal of a system-wide
21 franchise shall be valid for 15 years from the date of the renewal
22 issuance, and the board shall establish rules governing the renewal
23 of a system-wide franchise.

24 (cf: P.L.2003, c.38, s.4)

25

26 17. Section 20 of P.L.1972, c.186 (C.48:5A-20) is amended to
27 read as follows:

28 20. a. Upon obtaining the prior approval of the board, a CATV
29 company may construct and maintain the wires, cables, and
30 conduits necessary to its business upon, under or over any highway,
31 and may erect and maintain the necessary fixtures, including poles
32 and posts, for sustaining such wires and cables; provided, however,
33 that such wires, cables and fixtures shall be so placed or constructed
34 as not to unreasonably inconvenience public travel on the highway
35 or the use thereof by public utilities or other persons or
36 organizations having rights therein.

37 b. Whenever the [Board] board shall find that public
38 convenience and necessity require the use by a CATV company or a
39 public utility of the wires, cables, conduits, poles or other
40 equipment, or any part thereof, on, over or under any highway or
41 any right-of-way and belonging to another CATV company or
42 public utility, and that such use will not result in injury to the owner
43 or other users of such equipment or any right-of-way or in any
44 substantial detriment to the service, and that such CATV companies
45 or public utilities have failed to agree upon such use or the terms
46 and conditions or compensation for the same, the [office] board
47 may order that such use be permitted and prescribe a reasonable

1 compensation and reasonable terms and conditions for the joint use.
2 If such use is ordered, the CATV company or public utility to which
3 the use is permitted shall be liable to the owner or other users of
4 such equipment for such damage as may result therefrom to the
5 property of such owner or other users thereof.
6 (cf: P.L.1972, c.186, s.20)

7
8 18. Section 7 of P.L.1991, c.412 (C.48:5A-20.1) is amended to
9 read as follows:

10 7. Within 30 days after the effective date of [this act] P.L. _____, c.
11 (C. _____) (pending before the Legislature as this bill), the [Board of
12 Regulatory Commissioners] board shall notify the general manager
13 of every cable television company that, in order to receive notice by
14 an applicant pursuant to subsection h. of section 7.1 of P.L.1975,
15 c.291 (C.40:55D-12), the cable television company shall register
16 with any municipality in which the cable television company has
17 plant located in a right-of-way or easement.
18 (cf: P.L.1991, c.412, s.7)

19
20 19. Section 21 of P.L.1972, c.186 (C.48:5A-21) is amended to
21 read as follows:

22 21. Upon the prior approval of the [Board] board, any person
23 may lease or rent or otherwise make available facilities or rights-of-
24 way, including pole space, to a CATV company for the
25 redistribution of television signals to or toward the customers or
26 subscribers of such CATV company. Any lease, rental or other
27 method of making available such facilities or rights-of-way,
28 including pole space, which is in effect on the effective date of [this
29 act] P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill)
30 and which will be in effect for a period of more than 120 days after
31 [the effective] that date [of this act] shall be submitted to the board
32 for approval within 120 days after [the effective] that date [of this
33 act], and if such lease or rental or other method is disapproved by
34 the board it shall thereupon become void. The terms and
35 conditions, including rates and charges to the CATV company,
36 imposed by any public utility under any such lease, rental or other
37 method of making available such facilities or rights-of-way,
38 including pole space, to a CATV company shall be subject to the
39 jurisdiction of the [Board of Public Utility Commissioners] board in
40 the same manner and to the same extent that rates and charges of
41 public utilities generally are subject to the board's jurisdiction by
42 virtue of the appropriate provisions of Title 48 of the Revised
43 Statutes.
44 (cf: P.L.1972, c.186, s.21)

1
2 20. (New section) Municipal consents and certificates of
3 approval for applications to provide cable television services in a
4 municipality issued prior to the effective date of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall remain in effect
6 until such time as they may expire or until such time as the cable
7 television company is granted a renewal of the franchise as a
8 system-wide franchise. Both the municipality and the cable
9 television company shall be bound by the terms of the municipal
10 consents and certificates of approval until such time as the
11 municipal consents and certificates of approval have been converted
12 or renewed into a system-wide franchise. A cable television
13 company with a franchise or franchises issued prior to the effective
14 date of P.L. , c. (C.) (pending before the Legislature as this
15 bill) may, if it wishes, seek early renewal of such franchise or
16 franchises as a system-wide franchise. All renewals, whether
17 sought early or at the expiration of the franchise, shall be
18 consolidated under a single system-wide franchise for each cable
19 television company. No further municipal consents or certificates
20 of approval shall be issued after the effective date of P.L. , c.
21 (C.) (pending before the Legislature as this bill). Nothing herein
22 shall preclude a municipality from enforcing its right-of-way
23 management powers on a non-discriminatory basis.
24

25 21. (New section) a. As part of any system-wide franchise
26 issued by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.),
27 a cable television company shall be required to:

28 (1) begin providing cable television service on a commercial
29 basis, within three years of issuance of the system-wide franchise,
30 in the sixty municipalities having the greatest population density in
31 the cable television company's service area. Such population
32 density determination and rankings shall be based on the average
33 population density in all municipalities within the cable television
34 company's service area, as determined by the last decennial census
35 prior to the cable television company's application;

36 (2) make cable television service available throughout the
37 residential areas of any such municipalities within six years of the
38 date the company first provides cable television service on a
39 commercial basis directly to multiple subscribers within such
40 municipalities, provided, however, that such provision of service
41 shall not be required in: (a) areas where developments or buildings
42 are subject to claimed exclusive arrangements with other providers;
43 (b) developments or buildings that the cable television company
44 cannot access under commercially reasonable terms and conditions
45 after good faith negotiation; (c) developments or buildings in which
46 the cable television company is unable to provide cable television
47 service for technical reasons or which require non-standard
48 facilities that cannot be deployed on a commercially reasonable

1 basis; or (d) areas where the cable television company is unable to
2 access the public rights-of-way under reasonable terms and
3 conditions;

4 (3) provide service to all groups of potential residential cable
5 television subscribers within a municipality for which a franchise
6 has been granted to the cable television company, without
7 discrimination on the basis of the incomes levels of the residents of
8 the local area in which such groups reside; and

9 (4) fully complete a system capable of providing cable
10 television service to all residents of a municipality for which a
11 franchise has been issued to the cable television company pursuant
12 to the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.), subject to
13 any line extension rules, regulations or policies as set or approved
14 by the board and the requirements of paragraphs (1) through (3) of
15 this subsection.

16 b. Any person affected by the requirements of subsection a. of
17 this section may seek enforcement of such requirements by
18 initiating a proceeding with the board. As used in this section, an
19 affected person includes a municipality within which the potential
20 residential subscribers referred to in subsection a. of this section
21 reside.

22 c. If the board determines that a cable television company has
23 denied access to cable television service to a group of potential
24 residential subscribers because of the income levels of the residents
25 of the local area in which such group resides, the board is
26 authorized to direct the company to rectify the noncompliance, and
27 to enforce such directive through any appropriate method, including
28 the imposition of monetary penalties and disgorgement set forth in
29 section 51 of P.L.1972, c.186 (C.48:5A-51). A municipality in
30 which the provider offers cable television service shall be an
31 appropriate party in any such proceeding.

32

33 22. Section 26 of P.L.1972, c.186 (C.48:5A-26) is amended to
34 read as follows:

35 26. a. [An] With regard to any municipal consent and certificate
36 of approval issued prior to the effective date of P.L. , c. (C.)
37 (pending before the Legislature as this bill), the ordinance issuing a
38 municipal consent pursuant to [this act] P.L.1972, c.186 (C.48:5A-1
39 et seq.) shall designate some officer, office, bureau or other agency
40 of the municipal government as "complaint officer" to receive and
41 act upon complaints by subscribers to cable television reception
42 service of the CATV company to which such consent is issued; and
43 shall provide for the establishment of procedures and methods by
44 which such complaints shall be received, processed and acted upon,
45 for the resolution and settlement of complaints and disputes
46 between such subscribers and the company, and for the
47 enforcement of decisions made by such "complaint officer." All

1 complaints by such subscribers alleging inadequate, unsafe or
2 improper service or failure by the company to comply with the
3 terms of the municipal consent shall be made in the first instance to
4 such "complaint officer." The "complaint officer" shall, within 30
5 days of the receipt of such a complaint, report in writing to the
6 subscriber the disposition or status of [his] the subscriber's
7 complaint. Any subscriber or CATV company aggrieved by the
8 action of a "complaint officer" in connection with such complaint or
9 dispute, or any subscriber who shall not have received the written
10 report required under this section within 30 days, may petition the
11 office for a hearing upon said complaint, under the rules
12 promulgated by the director for the hearing and disposition of such
13 matters.

14 b. [Any] With respect to a municipal consent and certificate of
15 approval issued prior to the effective date of P.L. , c. (C.)
16 (pending before the Legislature as this bill), any municipality may,
17 in lieu of complying with the terms of subsection a. of this section,
18 provide in the ordinance issuing its municipal consent that
19 complaints by local subscribers to cable television reception service
20 shall be filed directly with the office, which shall thereupon be
21 deemed the "complaint officer" for purposes of this section.

22 c. Each CATV company [receiving a municipal consent], with
23 respect to either a municipal consent and certificate of approval
24 issued prior to the effective date of P.L. , c. (C.) (pending
25 before the Legislature as this bill) or a system-wide franchise issued
26 pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), shall provide to
27 each subscriber to its cable television reception service, at the time
28 [of his becoming] that person becomes a subscriber and at least
29 once in each calendar year thereafter while [he] that person remains
30 a subscriber, in a form approved by the director, information as to
31 the identity of the "complaint officer," [of] which for system-wide
32 franchises shall be the Office of Cable Television, the identity and
33 location of the local business office or agent required under
34 subsection d. of this section, and [of] the procedure to be followed
35 in making and pursuing complaints to the "complaint officer" or the
36 office pursuant to this section.

37 d. A [municipal consent] system-wide franchise issued pursuant
38 to [this act] P.L.1972, c.186 (C.48:5A-1 et seq.) shall require that
39 the CATV company to which it is issued shall maintain [a] local
40 business [office or agent] offices or agents within the political
41 boundary of the municipality served or, with the prior approval of
42 the board, within ten miles of the political boundary of the
43 municipality, for the purpose of receiving, investigating and
44 resolving all complaints regarding the quality of service, equipment

1 malfunctions, and similar matters.

2 (cf: P.L.1972, c.186, s.26)

3

4 23. Section 8 of P.L.2003, c.38 (C.48:5A-26.1) is amended to
5 read as follows:

6 8. a. In addition to the requirements as provided in section 26 of
7 P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by
8 order in writing require every CATV company to keep for at least a
9 period of [one year] three years, a record of complaints received at
10 the CATV company's office, which shall include the name and
11 address of the subscriber, the date, the nature of complaint, any
12 corrective action taken if required, and the final disposition of the
13 complaint. The record shall be available for inspection by the staff
14 of the office. Copies of such record shall be provided to the staff of
15 the office upon request.

16 b. Every CATV company shall furnish to the office annually a
17 detailed report of the number and character of complaints made by
18 customers and communicated to the CATV company. In meeting
19 such requirement, the board shall establish a procedure for CATV
20 companies to record and characterize those customer complaints
21 using a uniform reporting methodology and containing those
22 matters as the board may from time to time prescribe. Copies of the
23 report shall be forwarded to the Governor and members of the
24 Legislature. All reports submitted to the office shall comply with
25 the provisions of the "Cable Subscriber Privacy Protection Act,"
26 P.L.1988, c.121 (C.48:5A-54 et seq.).

27 (cf: P.L.2003, c.38, s.8)

1 24. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to
2 read as follows:

3 28. In addition to whatever other information may be required
4 by the director under duly promulgated rules and regulations to be
5 contained in any application for a [municipal consent] system-wide
6 franchise, each such application shall contain:

7 a. A [description of the area to be served] deployment schedule,
8 setting forth the municipalities to be served, the date service shall
9 begin in each proposed municipality, and a date certain by which
10 each community will be fully built-out, subject to the build-out
11 requirements set forth in P.L.1972, c.186 (C.48:5A-1 et seq.).

12 b. A description of the proposed service in terms of the number
13 of channels of cable television reception service.

14 c. Sufficient evidence that the applicant company has the
15 financial and technical capacity and the legal, character and other
16 qualifications to construct, maintain and operate the necessary
17 installations, lines and equipment and to provide the service
18 proposed in a safe, adequate and proper manner.

19 d. Evidence of sufficient bond, or commitment therefor, with
20 sureties to be approved by the [municipality] office, in the penal
21 sum of not less than \$25,000.00 for the faithful performance of all
22 undertakings by the company as represented in the application; the
23 sufficiency of which shall be subject to review by the director and
24 approval by the board.

25 e. An undertaking to hold the [municipality] board and all
26 municipalities served harmless from any liability arising out of the
27 company's operation and construction of its CATV system.

28 f. Evidence of sufficient insurance insuring the [municipality]
29 board, all municipalities served and the company with respect to all
30 liability for any death, personal injury, property damage or other
31 liability arising out of the company's construction and operation of
32 its CATV system; the sufficiency of which shall be subject to
33 review by the director and approval by the board. Such insurance
34 shall be [in the minimum amounts of] no less than: (1) \$150,000.00
35 for bodily injury or death to any one person, within the limit,
36 however, of \$500,000.00 for bodily injury or death resulting from
37 any one accident, (2) \$100,000.00 for property damage resulting
38 from any one accident, and (3) \$50,000.00 for all other types of
39 liability; the sufficiency of which shall be subject to review by the
40 director and approval by the board.

41 g. A schedule of proposed rates for cable television reception
42 service, which rates shall not be altered during the term for which
43 the [municipal consent] franchise is issued, except by application to
44 the board for amendment of the terms and conditions of said
45 [consent] franchise after public hearing, subject to the rules of the

1 office, review by the director and approval by the board, or
2 amendment pursuant to the provisions of subsection c. of section 16
3 of [this act] P.L.1972, c.186 (C.48:5A-16) or subsection b. of
4 section 11 of [this act] P.L.1972, c.186 (C.48:5A-11).

5 h. A commitment as to those municipalities that are served by a
6 cable television company at the time of the application, to match or
7 surpass any line extension policy placed into effect by a local
8 franchise or certificate of approval, for the duration of the system-
9 wide franchise. In any event, the cable television company shall
10 extend its plant along public rights-of-way to all residences and
11 businesses within 150 aerial feet of the operator's existing plant at
12 no cost beyond the normal installation rate, and to all residences
13 and businesses within 100 underground feet of the operator's plant
14 at no cost beyond the normal installation rate, and shall set a
15 minimum house per mile density of no more than 35 homes per
16 mile. This commitment shall be in addition to any and all board
17 orders and rules that impact upon the extension of plant, including,
18 but not limited to, the board's regulations adopted pursuant to
19 N.J.A.C. 14:3-8.1 et seq.

20 i. A commitment to provide to each municipality that is served
21 by a cable television company, with two public, educational and
22 governmental access channels. In the event that two or more access
23 channels are requested by a municipality, the municipality shall
24 demonstrate that its cable-related needs require the provision of
25 such additional access channels. Any and all cable television
26 companies operating in a municipality shall provide interconnection
27 to all other cable television companies on reasonable terms and
28 conditions and the board shall adopt regulations for procedures by
29 which disputes between such cable television companies shall be
30 determined and expeditiously resolved. Each municipality or its
31 non-profit designee shall assume responsibility for the management,
32 operations and programming of the public, educational and
33 governmental access channels.

34 j. A commitment to retain or provide, without charge, one
35 service outlet activated for basic service to any and all fire stations,
36 public schools, police stations, public libraries, and other such
37 buildings used for municipal purposes.

38 k. A commitment to provide free Internet service, without
39 charge, through one service outlet activated for basic service to any
40 and all fire stations, public schools, police stations, public libraries,
41 and other such buildings used for municipal purposes.

42 l. A commitment to provide equipment and training for access
43 users, without charge, on a schedule to be agreed upon between the
44 municipality and the cable television operator.

45 m. A commitment to provide a return feed from any one location
46 in the municipality, without charge, to the cable television
47 company's headend or other location of interconnection to the cable

1 television system for public, educational or governmental use and
2 which, at a minimum, provides the ability for the municipality to
3 cablecast live or taped access programming, in real time, as may be
4 applicable, to the cable television company's customers in the
5 municipality. A cable television company shall only be required to
6 provide a return line without charge if such return line would be
7 within the distance of a standard installation, as defined by the
8 cable television company and specified in the tariff on file with the
9 board. If an installation exceeds the distance limitations of a
10 standard installation, the cable television company may only charge
11 the municipality for the costs of extending the line beyond the
12 distance limitations of standard installation costs. No cable
13 television company is responsible for providing a return access line
14 unless a municipality requests a line in writing. A cable television
15 company that has interconnected with another cable television
16 company may require the second cable television company to pay
17 for half of the cable television company's absorbed costs for
18 extension. The board shall adopt rules for procedures for resolving
19 disputes between cable television companies and between cable
20 television companies and municipalities concerning the provisions
21 of this section.

22 (cf: P.L.1972, c.186, s.28)

23

24 25. (New section) a. In the event the cable television company
25 is required to modify any element of the franchise application,
26 including the deployment schedule, the cable television company
27 shall seek prior board approval.

28 b. All of the elements required to be included in the franchise
29 application pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall be
30 considered as part of the commitment of the system-wide franchise,
31 and shall form, in part, the foundation for the board's decision as to
32 the system-wide franchise. The failure of a cable television
33 company to abide by or conform its practices to the commitments in
34 the application shall be considered a violation of the system-wide
35 franchise, and the board may enforce these provisions through any
36 appropriate method, including the imposition of penalties and
37 disgorgement under section 51 of P.L.1972, c.186 (C.48:5A-51), or
38 the suspension or revocation of the system-wide franchise.

39

40 26. Section 29 of P.L.1972, c.186 (C.48:5A-29) is amended to
41 read as follows:

42 29. All proposals and representations included in an application
43 for [municipal consent] a system-wide franchise shall conform to
44 applicable rules and regulations of the office; except that nothing in
45 [this act] P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed to
46 prevent an applicant from exceeding minimum requirements set by
47 the office, or offering facilities and services not required or

1 forbidden by such rules and regulations.

2 (cf: P.L.1972, c.186, s.29)

3 27. Section 30 of P.L.1972, c.186 (C.48:5A-30) is amended to
4 read as follows:

5 30. a. In consideration of a [municipal consent] system-wide
6 franchise issued under [this section] P.L.1972, c.186 (C.48:5A-1 et
7 seq.), the CATV company to which [it] the system-wide franchise is
8 issued shall annually pay: (1) to [the] each municipality [granting
9 the same] served by the CATV company, in lieu of all other
10 franchise taxes and municipal license fees, except as may otherwise
11 be provided by this subsection, a sum equal to [2%] three percent of
12 the gross revenues [from all recurring charges in the nature of
13 subscription fees paid by subscribers to its cable television
14 reception service in such municipality] that the company derives
15 during the calendar year from all the charges or fees paid by
16 subscribers in the municipality to the company for providing cable
17 television service for basic, expanded basic and premier tier
18 programming, for pay-per-view events, seasonal or sporting events
19 of limited duration, and for all similar programming or channels;
20 (2) to the county in which such municipality is located, a sum equal
21 to one half of one percent of the gross revenues that the company
22 derives during the calendar year from all the charges or fees paid by
23 subscribers in the municipality to the company for providing cable
24 television service for basic, expanded basic and premier tier
25 programming, for pay-per-view events, seasonal or sporting events
26 of limited duration, and for all similar programming or channels;
27 and (3) to persons residing in the municipality who are eligible for
28 the "Pharmaceutical Assistance to the Aged and Disabled" program
29 established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum
30 equal to the amount that such eligible persons pay as charges or fees
31 to the company for providing the basic tier programming service to
32 such persons, provided that the yearly total of such payments from
33 the company does not exceed one half of one percent of the gross
34 revenues that the company derives during the calendar year from all
35 the charges or fees paid by subscribers in the municipality to the
36 company for providing cable television service for basic, expanded
37 basic and premier tier programming, for pay-per-view events,
38 seasonal or sporting events of limited duration, and for all similar
39 programming or channels. Each CATV company shall, on or before
40 the twenty-fifth day of January each year, file with the chief fiscal
41 officer of each municipality and county, in the territory in which it
42 is certificated to operate a statement, verified by oath, showing the
43 gross receipts from such charges, and shall at the same time pay
44 thereon: (1) to [said]the chief fiscal officer of the municipality the

1 [2%] three percent charge hereby imposed on those receipts as a
2 yearly franchise revenue for the use of the streets, which sum the
3 municipality may use as part of its general revenue fund or to meet
4 the cable-related needs of the municipality; (2) to the chief fiscal
5 officer of the county in which the municipality is located the one
6 half of one percent charge hereby imposed on those receipts as a
7 yearly fee for payment of the costs of providing recreational
8 programs in the county; and (3) to eligible subscribers residing in
9 the municipality an amount equal to the charges or fees paid by
10 such subscribers during the preceding calendar year to the company
11 for providing the basic tier of cable television service to such
12 subscribers, provided that the yearly total of such payments by the
13 company to such subscribers does not exceed the one half of one
14 percent charge hereby imposed.

15 b. [Any CATV company which, pursuant to any agreement in
16 effect prior to the date of this act, paid or had agreed to pay to any
17 municipality in fees or other charges in consideration of the
18 consent of such municipality to the use of streets, alleys and public
19 places thereof for the installation and operation of a CATV system,
20 or similar consideration, a sum or rate exceeding that which it
21 would pay pursuant to this section shall, in applying for a certificate
22 (other than the certificate granted pursuant to subsection f. of
23 section 17 of this act) show to the satisfaction of the board that the
24 reduction in such payments effectuated by the application of this
25 section shall be reflected in (1) commensurate reduction of rates to
26 subscribers to cable television reception service or (2)
27 commensurate improvements in such service made available to
28 such subscribers. If the board is not so satisfied it shall amend, as
29 excessive, the rate schedule contained in the application so that
30 such rates shall be reduced to a degree commensurate with the
31 reduction in payments by the CATV company to the municipality.]
32 (Deleted by amendment, P.L. , c.) (pending before the
33 Legislature as this bill)

34 c. [A municipality may petition the board for permission to
35 charge a yearly franchise fee exceeding that prescribed in
36 subsection a. of this section. A municipal consent setting such a fee
37 in excess of the amount prescribed in subsection a. of this section
38 shall be deemed to constitute such a petition when filed with the
39 board pursuant to section 16 of this act as part of an application for
40 certificate of approval. A hearing pursuant to the provisions of
41 section 16 shall be held upon any application containing such
42 petition, or upon any such petition separately filed, and at such
43 hearing full notice and opportunity to be heard upon the matter
44 shall be accorded to both the municipality and any CATV company
45 affected thereby. The board after such hearing and upon
46 recommendation of the director may grant such petition and allow

1 the imposition of a franchise revenue exceeding that prescribed in
2 subsection a. of this section, and at a rate to be prescribed by the
3 board, when the board is satisfied that the same is warranted by the
4 expenses to the municipality with respect to the regulation or
5 supervision within its territory of cable television, or any other
6 expenses caused by the existence and operation within its territory
7 of cable television.] (Deleted by amendment, P.L. , c.)
8 (pending before the Legislature as this bill)

9 d. Under any municipal consent and certificate of approval
10 issued prior to the effective date of P.L. , c. (C.) (pending
11 before the Legislature as this bill), and in consideration of such
12 municipal consent and certificate of approval, the cable television
13 company to which they were issued shall pay to the municipality
14 which granted the same, in lieu of all other franchise taxes and
15 municipal license fees, a sum equal to two percent of the gross
16 revenues from all recurring charges in the nature of subscription
17 fees paid by subscribers to its cable television reception service in
18 such municipality. Each cable television company shall, on or
19 before the twenty-fifth day of January each year, file with the chief
20 fiscal officer of each municipality in the territory in which it is
21 certificated to operate a statement, verified by oath, showing the
22 gross receipts from such charges, and shall at the same time pay
23 thereon to said chief fiscal officer the two percent charge hereby
24 imposed as a yearly franchise revenue for the use of the streets.
25 (cf: P.L.1972, c.186, s.30)

26
27 28. Section 47 of P.L.1972, c.186 (C.48:5A-47) is amended to
28 read as follows:

29 47. The board may, after affording the holder an opportunity to
30 be heard, revoke, suspend or alter any certificate of approval or
31 franchise for the violation of any provisions of [this act] P.L.1972,
32 c.186 (C.48:5A-1 et seq.) or the rules, regulations or orders made
33 under authority of [this act] P.L.1972, c.186 (C.48:5A-1 et seq.), or
34 for other reasonable cause, upon a finding that the revocation,
35 suspension or alteration will not adversely affect the public interest
36 in the provision of safe, adequate and proper cable television
37 service in this State.
38 (cf: P.L.1972, c.186, s.47)

39
40 29. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to
41 read as follows:

42 51. a. Any person or any officer or agent thereof who shall
43 knowingly violate any of the provisions of [this act] P.L.1972,
44 c.186 (C.48:5A-1 et seq.) or aid or advise in such violation, or who,
45 as principal, manager, director, agent, servant or employee
46 knowingly does any act comprising a part of such violation, is

1 guilty of a misdemeanor.

2 b. Any person who shall violate any provision of [this act]
3 P.L.1972, c.186 (C.48:5A-1 et seq.) or any rule, regulation or order
4 duly promulgated hereunder, shall be liable to a penalty of not more
5 than [\$500.00 for a first offense, not less than \$100.00 nor more
6 than \$1,000.00 for a second offense, and not less than \$500.00 nor
7 more than \$1,000.00 for a third and every subsequent offense]
8 \$10,000 as well as disgorgement of economic benefits received by
9 any person or persons committing such violation. The penalties and
10 return of economic benefits provided in this subsection [shall] may
11 be enforced by summary proceedings instituted by the board in the
12 name of the State in accordance with ["the penalty enforcement
13 law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal
14 courts shall have jurisdiction to enforce said "penalty enforcement
15 law" in connection with this act] the "Penalty Enforcement Law of
16 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the board
17 may, after hearing, suspend a system-wide franchise for a period of
18 up to five years, or may revoke a system-wide franchise. A person
19 whose franchise is revoked shall be barred from making a new
20 application for a system-wide franchise for five years from the date
21 of revocation. In the case of a cable television company that has
22 failed to fully complete a system capable of providing cable service
23 in violation of section 21 of P.L. , c. (C.) (pending
24 before the Legislature as this bill), or that has denied cable
25 television service access to a group of potential residential
26 subscribers on the basis of income level in violation of section 21 of
27 P.L. , c. (C.) (pending before the Legislature as this
28 bill), the company's system-wide franchise shall be revoked, and the
29 company shall be barred from making a new application for a
30 system-wide franchise for five years from the date of revocation.

31 c. Whenever it shall appear to the board that any person has
32 violated, intends to violate, or will violate any provisions of this act
33 or any rule, regulation or order duly promulgated hereunder, the
34 board may institute a civil action in the Superior Court for
35 injunctive relief and for such other relief as may be appropriate in
36 the circumstances, and the said court may proceed in any such
37 action in a summary manner.

38 (cf: P.L.1991, c.91, s.470)

39

40 30. Section 6 of P.L.2003, c.38 (C.48:5A-64) is repealed.

41

42 31. This act shall take effect immediately, but sections 1 through
43 30 shall be inoperative until the 90th day after enactment, except
44 that the board may take such anticipatory administrative action as
45 may be necessary to effectuate the purposes of P.L. , c. (C.)
46 (pending before the Legislature as this bill).

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STATEMENT

The bill amends the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to provide for the approval of system-wide franchises for cable television companies to construct or operate a cable system at any location within the State in which the company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service or has proposed to place such plant or equipment into use to provide such service.

Under current law, cable television ("CATV") companies are required to obtain municipal consent in the form of an ordinance before they may obtain a certificate of approval from the Board of Public Utilities (the "BPU") to provide cable television service within a particular municipality.

The bill amends section 3 of the act to clarify and expand a number of definitions such as including in the definition of cable television company, the facilities of either a telephone common carrier or an electric public utility subject to BPU regulation, to the extent that such facilities are used for transmission of video programming.

The bill also amends section 3 of the act to add certain definitions and to clarify the meaning of terms such as system-wide franchise, local franchising authority, telecommunications service and video reception service.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends section 16 of the act to require an application for a system-wide franchise to: (1) be in written form; (2) include such information as may be required by the Director of the office of Cable Television (the "director"); and (3) be accompanied by a filing fee of \$1,000 (which is increased from the current fee of \$100).

The bill amends section 17 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met. The bill amends section 18 of the act to increase the fee for hearing an application for a system-wide franchise from \$50 to \$500 per day to defray administrative expenses.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise shall not be transferable except by consent of the BPU; (2) renewal of a system-wide franchise shall be valid for 15 years from the renewal issuance date; and (3) the BPU shall establish rules governing the renewal of system-wide franchises.

1 Section 20 of the bill provides that any municipal consent and
2 certificate of approval issued prior to the effective date of the bill
3 for existing CATV companies shall remain in effect until they
4 expire or until the CATV company is granted a system-wide
5 franchise. Section 20 of the bill also provides that no further
6 municipal consents or certificates of approval shall be issued after
7 the effective date of the bill.

8 Section 21 of the bill requires that as part of any system-wide
9 franchise issued by the BPU, a CATV company shall be required to:

10 (1) begin providing cable television service on a commercial
11 basis, within three years of issuance of the system-wide franchise,
12 in the sixty municipalities having the greatest population density in
13 the cable television company's service area;

14 (2) make cable television service available throughout the
15 residential areas of any such municipalities within six years of the
16 date the company first provides cable television service on a
17 commercial basis directly to multiple subscribers within such
18 municipalities, except where it may be commercially unreasonable
19 to do so;

20 (3) provide such service to all groups within a municipality for
21 which a franchise has been issued to the CATV company, without
22 discrimination on the basis of the income levels of the residents of
23 the municipality; and

24 (4) fully complete a CATV service system to provide service to
25 all residents of a municipality for which a franchise has been issued
26 to the CATV company, subject to line extension rules, regulations
27 or policies set or approved by the BPU and consistent with the other
28 requirements of the section.

29 Section 21 of the bill also allows any person affected by the
30 requirements of a system-wide franchise to initiate proceedings
31 with the BPU to determine whether there has been a denial of
32 access and authorizes the BPU to impose appropriate penalties to
33 direct the provider to comply with the system-wide franchise
34 requirements.

35 Section 24 of the bill amends section 28 of the act to require that
36 an application for a system-wide franchise contain, in addition to
37 other information required by the director, a deployment schedule
38 setting forth the municipalities to be served, the dates that service
39 shall begin in each municipality and the dates by which the build
40 out requirements shall be met pursuant to the act.

41 In addition, section 24 of the bill requires a commitment from a
42 CATV company to:

43 (1) match or surpass any line extension policy in effect at the
44 time of the provider's application for a system-wide franchise, for
45 the duration of the franchise;

46 (2) provide each municipality served with two public,
47 educational or governmental access channels;

48 (3) provide, without charge, one basic service outlet and free

1 Internet service to fire stations, public schools, police stations,
2 public libraries and other municipal buildings; and

3 (4) provide a return feed from any one location in the
4 municipality, without charge, to the CATV company's headend or
5 other location of interconnection for public, educational or
6 governmental use that enables the municipality to cablecast live or
7 taped access programming to CATV customers in the municipality.

8 Section 27 of the bill amends section 30 of the act to require
9 CATV companies to pay:

10 (1) to the municipality served, a sum equal to three percent of
11 gross revenues derived from all tier levels of CATV programming
12 including pay-per-view events, seasonal or sporting events of
13 limited duration, and other similar programming or channels
14 provided to subscribers within the municipality;

15 (2) to the county in which the municipality is located, a sum
16 equal to one half of one percent of such gross revenues; and

17 (3) to persons residing in the municipality served who are
18 eligible for the "Pharmaceutical Assistance to the Aged and
19 Disabled" program established pursuant to P.L.1975, c.194
20 (C.30:4D-20 et seq.), a sum equal to the amount such persons pay
21 annually for basic tier CATV service provided that such payments
22 do not exceed one half of one percent of such gross revenues.

23 The bill further amends section 30 of the act to provide that:

24 (1) the three percent paid to municipalities by CATV companies
25 pursuant to section 30 of the act may be used as part of the general
26 revenue fund for municipal purposes or to meet cable-related needs
27 of the municipality;

28 (2) the one half of one percent paid to the county in which such
29 municipality is located pursuant to section 30 of the act shall be
30 allocated for payment of recreational programs in the county; and

31 (3) the payments required to be made to eligible CATV
32 subscribers for basic CATV service pursuant to section 30 of the act
33 shall not exceed an amount equal to the one half of one percent
34 charge imposed by section 30 of the act.

35 The bill also amends section 30 of the act to provide that CATV
36 companies issued municipal consents and certificates of approval
37 prior to the effective date of the bill, shall pay to the municipality
38 two percent of the gross revenues from providing basic CATV
39 service to subscribers in the municipality for the use of streets.

40 This bill amends section 51 of the act to increase penalties for
41 violation of the act to \$10,000 as well as disgorgement of economic
42 benefits received by persons committing violations of the act. The
43 bill authorizes the BPU to suspend a violator's system-wide
44 franchise for up to five years, or to revoke a violator's franchise. A
45 person whose system-wide franchise is revoked would be barred for
46 five years from reapplying for a new system-wide franchise. A
47 cable television service franchisee who has failed to complete a
48 system capable of providing cable service pursuant to the criteria

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1 set forth in section 21 of the bill shall be subject to revocation of the
2 system-wide franchise and barred for five years from making a new
3 application for a system-wide franchise.

4 The bill also amends the act to clarify eligibility for various
5 discounts that may be offered to subscribers and to update and
6 clarify certain provisions of the act.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 192**

STATE OF NEW JERSEY

DATED: MARCH 13, 2006

The Senate Economic Growth Committee reports favorably a Senate Committee Substitute for Senate Bill No. 192.

The bill, as substituted, changes the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to establish a bifurcated system as to how a cable television ("CATV") company may receive an approval for providing CATV service in this State. Under the bill, the CATV company may either: (1) obtain a municipal consent in the form of an ordinance before it obtains a certificate of approval from the Board of Public Utilities (the "BPU") to provide CATV service within a particular municipality (as currently allowed); or (2) receive a system-wide franchise by constructing or operating a CATV system at any location within the State in which the company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service or has proposed to place such plant or equipment into use to provide such service.

The bill amends section 3 of the act to clarify and expand a number of definitions, such as including in the definition of a CATV system, the facilities of either a telephone common carrier or an electric public utility subject to BPU regulation, to the extent that such facilities are used for transmission of video programming directly to subscribers. The bill also amends section 3 of the act to add definitions such as "franchise," "system-wide franchise," "local franchising authority," "telecommunications service provider" "telecommunications service," "video programming" "other programming service" and "gross revenues," and to clarify the meaning of the terms "cable television service" and "cable television company," in order to conform those definitions to those found in federal law.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends sections 9 through 11 of the act to clarify that actions taken by the BPU with respect to CATV service is to be consistent with federal law.

The bill amends section 15 of the act to provide that a telecommunications service provider holding authority, granted prior to the enactment of the bill, to utilize the public rights-of-way to construct, upgrade, operate or maintain a communications network shall not be required to obtain a certificate of authority, system-wide franchise or any other authorization, except for being subject to generally applicable non-discriminatory permit requirements, to construct, upgrade, operate or maintain a communications network capable of providing CATV service, and a certificate of authority or a system-wide franchise shall be required only prior to the actual provision of CATV service on a commercial basis to the general public.

The bill amends section 16 of the act to require an application for a system-wide franchise to be in written form and include the applicable information required under section 28 of the act. An application for a certificate of approval or a system-wide franchise is to be accompanied by a filing fee of \$1,000 (which is increased from the current fee of \$100). The bill further amends section 16 of the act to provide an expedited hearing procedure under which the board is to review the application for a system-wide franchise by requiring that, within 45 days of the receipt of such application, the board is to order the director to schedule two public hearings to be held in different geographical areas of the State during the 45-day review period to consider the application.

The bill amends section 17 and 18 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met and increases certain application filing fees.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise or certificate of approval is not transferable except by consent of the BPU; (2) the issuance of a system-wide franchise and its renewal is valid for seven years; and (3) the BPU is to establish rules governing the renewal of a system-wide franchise.

The bill amends section 20 of the act to clarify that the provisions of that section do not apply to a telecommunications service provider deploying telecommunications facilities that can be used as shared-use facilities to carry CATV service at a later date.

Section 19 of the bill provides that any municipal consent and certificate of approval issued prior to the effective date of the bill for existing CATV companies shall remain in effect until they expire or until the CATV company is granted a renewal of the municipal franchise or a system-wide franchise.

Section 20 of the bill requires that as part of any system-wide franchise issued by the BPU to CATV companies that on the date of the issuance of the system-wide franchise provide more than 40 percent of the local exchange telephone service market in this State, such companies are required to: (1) begin providing CATV service on

a commercial basis, within three years of issuance of the system-wide franchise, (a) in each county seat within the CATV company's service area and in which there is located a central office, as defined under federal regulation, of such CATV company, and each municipality served by such central office, and (b) in the municipalities in the CATV company's service area that have a population density greater than 7,111 per square mile of land area, as determined by the most recent federal decennial census; and (2) make CATV service available to residential customers in any such municipalities within six years of the date the company first provides CATV service on a commercial basis directly to multiple subscribers within such municipalities, subject to limited exceptions. Section 20 of the bill requires every CATV company receiving a system-wide franchise to provide CATV service without discrimination on the basis of the income levels of the residents of the municipality. Section 20 of the bill also allows any person affected by the requirements of a system-wide franchise to initiate proceedings with the BPU to determine whether there has been a denial of access and authorizes the BPU to impose appropriate penalties to direct the company to comply with the system-wide franchise requirements.

The bill amends section 28 of the act to require a commitment from a CATV company receiving a system-wide franchise to: (1) match or surpass any line extension policy operative at the time the system-wide franchise is granted and placed into effect prior to the enactment of the bill by a local franchise or certificate of approval, for the duration of the system-wide franchise; (2) provide each municipality that is served by a CATV company with two public, educational and governmental access channels, provided that if two or more access channels are requested by a municipality, the municipality shall demonstrate that its cable-related needs require the provision of such additional access channels; (3) retain or provide, without charge, one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes; (4) provide free Internet service, without charge, through one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes; (5) provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company; and (6) provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the CATV system for public, educational or governmental use and which, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality. The board is to adopt rules for procedures for resolving disputes between CATV companies

themselves and between CATV companies and municipalities concerning the commitment requirements described above.

The bill amends section 30 of the act to require that, a CATV company issued a system-wide franchise under the act, that serves one or more residents within a municipality is to pay the fees as described in this paragraph, and once the CATV company receiving such system-wide franchise is capable of serving the same residents within such municipality that are currently served by a CATV company that has received a municipal consent issued under the act, both the CATV company receiving such system-wide franchise and a CATV company that has received a municipal consent for such municipality, are to annually pay: (1) to the municipality served, and for the purpose of providing local property tax relief, a sum equal to three and one half percent of gross revenues derived from all tier levels of CATV programming including pay-per-view events, seasonal or sporting events of limited duration, and other similar programming or channels provided to subscribers within the municipality; and (2) to the State Treasurer, the persons residing in the municipality who are eligible for the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum equal to the amount that such eligible persons pay as charges or fees to the company for providing basic cable service to such persons, provided that the yearly total of such payments from the company does not exceed one half of one percent of the gross revenues that the company derives during the calendar year from all the charges or fees paid by subscribers in the municipality to the company for providing all tier levels of CATV programming including pay-per-view events, seasonal or sporting events of limited duration, and other similar programming or channels provided to subscribers within the municipality. The State Treasurer is to establish a "CATV Universal Access Fund," for the purpose of distributing such sums to such eligible persons.

The bill amends section 51 of the act to increase penalties for violations of the act and to provide that violations of the act may be enforced by summary proceedings instituted by the board in the name of the State in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

Section 30 of the bill requires the Commissioner of Community Affairs, in consultation with the BPU, to develop and conduct a study investigating how CATV companies can overcome the technical, physical and other barriers to the provision of cable television services to residents of multiple dwellings in New Jersey. The commissioner is directed to consider the relevant experiences of those CATV companies that have received a certificate of approval, those CATV companies that have received a system-wide franchise, or any other new or existing entrants to the cable television market in this State. Within 18 months of the date of enactment of the bill, the

commissioner is to submit a written report to the Governor and Legislature setting forth the findings and recommendations of this study as well as making such recommendations for further legislative action as he may deem likely to remove those barriers.

The bill also amends the act to clarify eligibility for various discounts that may be offered to subscribers and to update and clarify certain provisions of the act.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 192**

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Senate Economic Growth Committee reports favorably the Senate Committee Substitute for Senate Bill No. 192 with committee amendments.

The substitute bill, as amended, changes the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to establish a bifurcated franchising system under which a cable television ("CATV") company may receive an approval to provide CATV service in this State. Under the bill, the CATV company may either: (1) obtain a municipal consent in the form of an ordinance before it obtains a certificate of approval from the Board of Public Utilities (the "BPU") to provide CATV service within a particular municipality (as currently allowed); or (2) receive a system-wide franchise by constructing or operating a CATV system at any location within the State in which the company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service or has proposed to place such plant or equipment into use to provide such service.

The bill amends section 3 of the act to clarify and expand a number of definitions; in particular, the definition of a CATV system is broadened to cover the facilities of either a telephone common carrier or an electric public utility subject to BPU regulation, to the extent that such facilities are used for transmission of video programming directly to subscribers. The bill also amends section 3 of the act to add definitions such as "franchise," "system-wide franchise," "local franchising authority," "telecommunications service provider" "telecommunications service," "video programming" "other programming service" and "gross revenues," and to clarify the meaning of the terms "cable television service" and "cable television company."

The bill amends sections 9 through 11 of the act to clarify the BPU's franchising authority under, and that actions taken by the BPU with respect to CATV service are to be consistent, with federal law.

The bill amends section 2 of P.L.1985, c.356 (C.48:5A-11.2) to include eligible members of economically disadvantaged groups as persons who may receive a reduction or discount for CATV service.

The bill amends section 15 of the act to provide that (1) a telecommunications service provider holding authority, granted prior to the enactment of the bill, to utilize the public rights-of-way to construct, upgrade, operate or maintain a communications network shall not be required to obtain a certificate of authority, system-wide franchise or any other authorization, except for being subject to generally applicable non-discriminatory permit requirements, to construct, upgrade, operate or maintain a communications network capable of providing CATV service, and (2) a certificate of authority or a system-wide franchise shall be required only prior to the actual provision of CATV service on a commercial basis to the general public.

The bill amends section 16 of the act to require an application for a system-wide franchise to be in written form and include the applicable information required under section 28 of the act. An application for a certificate of approval is to be accompanied by a filing fee of \$200 (which is increased from the current fee of \$100) and an application for a system-wide franchise is to be accompanied by a filing fee of \$1,000. The bill further amends section 16 of the act to provide an expedited hearing procedure under which the board is to review the application for a system-wide franchise within 45 days of the receipt of such application and schedule two public hearings to be held in different geographical areas of the State during the 45-day review period to consider the application.

The bill amends section 17 and 18 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU's satisfaction that all federal and State requirements have been met and increases certain application filing and administrative expense recovery fees.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise or certificate of approval is not transferable except by consent of the BPU; (2) the issuance of a system-wide franchise and its renewal is valid for seven years; and (3) the BPU is to establish rules governing the renewal of a system-wide franchise.

The bill amends section 20 of the act to clarify that the provisions of that section do not apply to a telecommunications service provider deploying telecommunications facilities that can be used as shared-use facilities to carry CATV service at a later date.

Section 19 of the bill provides that any municipal consent and certificate of approval issued prior to the effective date of the bill for existing CATV companies shall remain in effect until they expire or until the CATV company is granted a renewal of the municipal franchise or converts the franchise to a system-wide franchise.

Section 20 of the bill requires that, as part of any system-wide franchise issued by the BPU to CATV companies that on the date of the issuance of the system-wide franchise provide more than 40 percent of the local exchange telephone service market in this State, such companies shall: (1) begin providing CATV service on a commercial basis, within three years of issuance of the system-wide franchise, (a) in each county seat within the CATV company's service area, and (b) in the municipalities in the CATV company's service area that have a population density greater than 7,111 per square mile of land area, as determined by the most recent federal decennial census; and (2) make CATV service available throughout all of the residential areas of any such municipalities served by any central office located therein within the system-wide franchise holder's service area, within six years from the date the CATV company first provides service on a commercial basis directly to multiple subscribers within the central office area. It is the intent of the sponsor that the language in paragraph (2) of subsection a. of section 20 requires system-wide franchise holders to make cable television service available throughout all of the residential areas of all municipalities served by any central office located in a county seat within the franchise holder's service area, within 6 years from the date the CATV company first provides service on a commercial basis directly within that county seat.

Section 20 of the bill also requires every CATV company receiving a system-wide franchise to provide CATV service without discrimination on the basis of the income levels of the residents of the municipality. And finally, it allows any person affected by the requirements of a system-wide franchise to initiate proceedings with the BPU to determine whether there has been a denial of access and authorizes the BPU to impose appropriate penalties to direct the company to comply with the system-wide franchise requirements.

The bill amends section 28 of the act to require a commitment from a CATV company receiving a system-wide franchise to: (1) match or surpass any line extension policy operative at the time the system-wide franchise is granted and placed into effect prior to the enactment of the bill by a local franchise or certificate of approval, for the duration of the system-wide franchise; (2) provide each municipality that is served by a CATV company with two public, educational and governmental access channels, provided that if two or more access channels are requested by a municipality, the municipality shall demonstrate that its cable-related needs require the provision of such additional access channels; (3) retain or provide, without charge, one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes; (4) provide free Internet service, without charge, through one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes;

(5) provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company; (6) provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the CATV system for public, educational or governmental use which, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality; and (7) a commitment to meet any consumer protection requirements applicable, pursuant to BPU regulations, to CATV companies operating under a municipal franchise. The board is to adopt rules for procedures for resolving disputes between CATV companies themselves and between CATV companies and municipalities concerning the commitment requirements described above.

The bill amends section 30 of the act to require that, once a CATV company issued a system-wide franchise under the act serves one or more residents within a municipality, it shall pay the fees as described in this paragraph; and once the CATV company receiving such system-wide franchise is capable of serving 60 percent or more of the households within such municipality that are currently served by a CATV company that has received a municipal consent issued under the act, both the CATV company receiving such system-wide franchise and the CATV company that has received a municipal consent for such municipality are to annually pay: (1) to the municipality served, and for the purpose of providing local property tax relief, a sum equal to three and one half percent of gross revenues derived from CATV charges or fees paid by subscribers within the municipality; and (2) to the State Treasurer, on behalf of the persons residing in the municipality who are eligible for the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum equal to the amount that such eligible persons pay as charges or fees to the company for providing basic cable service to such persons, provided that the yearly total of such payments from the company shall not exceed one half of one percent of the gross revenues that the company derives during the calendar year from CATV charges or fees paid by subscribers within the municipality. The State Treasurer is to establish a "CATV Universal Access Fund," for the purpose of distributing such sums to such eligible persons.

The bill amends section 51 of the act to increase penalties for violations of the act and to provide that violations of the act may be enforced by summary proceedings instituted by the board in the name of the State in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

Section 30 of the bill requires the Commissioner of Community Affairs, in consultation with the BPU, to develop and conduct a study

investigating how CATV companies can overcome the technical, physical and other barriers to the provision of cable television services to residents of multiple dwellings in New Jersey. The commissioner is directed to consider the relevant experiences of those CATV companies that have received a certificate of approval, those CATV companies that have received a system-wide franchise, or any other new or existing entrants to the cable television market in this State. Within 18 months of the date of enactment of the bill, the commissioner is to submit a written report to the Governor and Legislature setting forth the findings and recommendations of this study as well as making such recommendations for further legislative action as he may deem likely to remove those barriers.

The bill also amends the act to clarify eligibility for various discounts that may be offered to subscribers and to update and clarify certain provisions of the act.

The committee amended the substitute bill to do the following:

1) in section 2 of the bill, change the definition of “CATV system” and “CATV service” to provide that video programming may be provided regardless of technology used;

2) in section 12 of the bill: a) change municipal franchise application fee to \$200; b) change the system-wide franchise application fee to \$1,000 and require such application to include the information required in section 28 of P.L.1972, c.186 (C.48:5A-28); c) with regard to an application for either type of franchise, BPU can only consider requirements in sections 17 and 28 of P.L.1972, c.186 (C.48:5A-17; C.48:5A-28); and d) provide for an expedited procedure for the BPU to review an system-wide franchise application.

3) in section 15 of the bill, clarify that the BPU can't require a CATV company having a municipal franchise to operate outside of area covered by the municipal consent;

4) in section 19 of the bill: a) allow a CATV company having a municipal franchise to automatically convert any or all of its franchise to a system-wide franchise without need of the consent of the BPU or the affected municipality, except that the CATV company must meet the commitments set forth in subsections h. through n. of section 28 of P.L.1972, c.186 (C.48:5A-28); b) provide that the conversion need not take place with respect to all municipalities at the same time, and allow the CATV company to convert additional municipal franchises and add affected municipalities at any time; and c) clarify that municipalities shall not impose any fees, taxes, assessments or charges for use of its public rights-of-way except as provided in the bill;

5) in section 20 of the bill: a) change the type of county seats covered by the three-year requirement of this section from those in which a central office is located to all county seats and, instead of linking the central office municipality and served municipalities with the county seat, make CATV service available throughout all of the residential areas of all municipalities served by any central office

located in a county seat within the system-wide franchise holder's service area, within six years from the date the CATV company first provides service on a commercial basis directly within that county seat and defines a central office area; b) revise one of the service requirement exemptions regarding those developments or buildings that the CATV company cannot access, using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; and c) increase penalties from \$10,000 to not less than \$50,000 nor more than \$100,000 per municipality for failing to meet the requirements of paragraph (2) of subsection a. of section 20 of the bill;

6) in section 23 of the bill: a) with regard only to applications for a system-wide franchise, clarify that a CATV company's commitment in paragraph (1) of subsection h. of section 28 of P.L.1972, c.186 (C.48:5A-28) shall be in addition to any and all BPU orders and rules that impact upon the extension of plant, except that such commitments are to supersede the BPU's regulations adopted as N.J.A.C.14:3-8.1 et seq. which shall not apply to CATV companies; (b) remove the requirement that a CATV company is to only be required to provide a return feed without charge from any one location in the municipality, to the CATV company's headend or other location of interconnection to the cable television system for public, educational or governmental use, if such return feed would be within the distance of a standard installation, as defined by the CATV company and specified in the tariff on file with the BPU; and c) with regard only to applications for a system-wide franchise, a commitment to meet any consumer protection requirements applicable, pursuant to BPU regulations, to CATV companies operating under a municipal franchise;

7) section 25 of the bill, clarify that BPU may impose monetary penalties or other administrative penalties with regard to commitments made in the application, but not with regard to all the elements required in an application;

8) in section 27 of the bill, establish the threshold share of the subscriber market within a municipality that a system-wide franchise must be capable of serving before its franchise fee structure is imposed on the municipal franchise for the municipality by: a) changing from all residents to 60 percent of the households served by the municipal franchise, b) requiring the system-wide franchise to be responsible for certifying to the BPU its attainment of that market share service capability , and c) establishing a process under which the BPU shall approve or disapprove the certification;

9) in section 29 of the bill, clarify that for the purposes of the fines imposed pursuant to subsection b. of section 29, a "cable television company" is to include all of the affiliates of such company; and

10) add a new section 31 to the bill to provide that the bill is not to be construed as to conflict with BPU orders and rules in effect on date

of enact, except with regard to the “smart growth” rules that are superseded.

As amended and reported by the committee, Senate Bill, No.192 (SCS) is identical to Assembly Bill, No.804 (ACS).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 192
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JUNE 6, 2006

SUMMARY

- Synopsis:** Authorizes a competitive system-wide franchise for certain providers of cable television service.
- Type of Impact:** Indeterminate.
- Agencies Affected:** Department of the Treasury, municipalities, Board of Public Utilities, Commissioner of Community Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate - See Comments Below		
State Revenue	Indeterminate - See Comments Below		
Local Cost	Indeterminate - See Comments Below		
Local Revenue	Indeterminate - See Comments Below		

- Certain municipalities are likely to receive franchise fees from cable television (CATV) companies, equal to 3.5 percent of gross revenues derived from all tier levels of CATV programming provided to subscribers within the municipality. Information is not available to estimate the proposal’s net fiscal impact to municipalities.
- Increased activity costs to the Board of Public Utilities (BPU) are expected, with offsetting revenue from applicant fees. Information is not available to specify the activity cost or fee revenue to the BPU.
- The Department of the Treasury will receive revenue equal to the amount that certain municipalities’ residents pay as charges or fees to the company for providing basic cable service to such persons. The State Treasurer is to establish a “CATV Universal Access

Fund,” for the purpose of distributing such sums to such eligible persons. The State will incur unknown activity costs to administer the fund, which will not be reimbursed.

- The Commissioner of Community Affairs will incur unknown activity costs to comply with the proposal’s requirement to conduct a study and to report the findings and recommendations of this study.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 192 (1R) of 2006 proposes to change the State's "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act") to establish a bifurcated system of franchises under which a CATV company may receive an approval for providing service in this State. Under the bill, the company may either: (1) obtain a municipal consent in the form of an ordinance before it obtains a certificate of approval from the BPU to provide CATV service within a particular municipality (as currently allowed); or (2) receive a system-wide franchise by constructing or operating a CATV system at any location within the State in which the company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service or has proposed to place such plant or equipment into use to provide such service.

The bill amends section 16 of the act to require an application for a system-wide franchise to be in written form and include the applicable information required under section 28 of the act. An application for a system-wide franchise is to be accompanied by a filing fee of \$1,000; the filing fee for a certificate of approval is increased to \$200 from the current fee of \$100.

The bill amends section 17 and 18 of the act to authorize issuance of a system-wide franchise by the BPU if the applicant establishes to the BPU’s satisfaction that all federal and State requirements have been met, and to increase certain application filing and administrative cost recovery fees.

The bill amends section 19 of the act to provide that: (1) a system-wide franchise or certificate of approval is not transferable except by consent of the BPU; (2) the issuance of a system-wide franchise and its renewal is valid for seven years; and (3) the BPU is to establish rules governing the renewal of a system-wide franchise.

The bill amends section 30 of the act to require that, once a CATV company which has been issued a system-wide franchise under the act serves one or more residents within a municipality, that company is to annually pay: (1) to the municipality served, a sum equal to 3.5 percent of gross revenues derived from all tier levels of CATV programming including pay-per-view events, seasonal or sporting events of limited duration, and other similar programming or channels provided to subscribers within the municipality; and (2) to the State Treasurer, on behalf of municipal residents who are eligible for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program (C.30:4D-20 et seq.), a sum equal to the amount that such eligible persons pay as charges or fees to the company for providing basic cable service to such persons, up to 0.5 percent of the gross revenues that the company derives during the calendar year from all the charges or fees paid by subscribers in the municipality to the company for providing all tier levels of CATV programming. Once that system-wide franchisee is capable of serving 60 percent or more of the households within such municipality that are currently served by a municipal franchisee under the act, that municipal franchisee will also be subject to the same two fees, instead of the single lower-rate fee (2 percent of charges for basic/expanded tier service in the municipality) for which it was liable prior to the system-wide franchisee’s attainment of that

level of market service capability. The State Treasurer is to establish a “CATV Universal Access Fund,” for the purpose of distributing revenue from the second fee to such eligible PAAD beneficiaries.

The bill amends section 51 of the “Cable Television Act” to increase penalties for violations of the act.

Finally, section 30 of the bill requires the Commissioner of Community Affairs, in consultation with the BPU, to develop and conduct a study investigating how CATV companies can overcome the technical, physical and other barriers to the provision of cable television services to residents of multiple dwellings in New Jersey. The commissioner is directed to consider the relevant experiences of those CATV companies that have received a certificate of approval, those CATV companies that have received a system-wide franchise, or any other new or existing entrants to the cable television market in this State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Insufficient information is available to estimate the various impacts of this proposal. Certain municipalities will receive franchise fees from CATV companies, equal to 3.5% of gross revenues derived from all tier levels of CATV programming provided to subscribers within the municipality. Information is not available to estimate the net fiscal impact of this rate change to municipalities. The Office of Legislative Services notes that the realization of increased revenue, if any, through collection of the franchise fee at the higher rate on a larger portion of each subscriber’s cable bill will occur gradually over time: initially, as system-wide franchises are granted and their holders begin commercial service and start paying the fees themselves, and later, as those franchisees’ service capability in a given municipality attains the level at which the incumbent municipal franchise for that municipality become liable to pay that higher fee.

Increased activity costs to the BPU are expected, with offsetting revenue from applicant fees. The Department of the Treasury will receive revenue equal to the amount that municipal residents eligible for PAAD program benefits pay as charges or fees to the company for providing basic cable service to such persons. The State Treasurer is to establish a “CATV Universal Access Fund,” for the purpose of distributing such sums to such eligible persons. The State will incur unknown activity costs to administer the fund, which will not be reimbursed. The Commissioner of Community Affairs will incur unknown activity costs to comply with the proposal’s requirement to conduct a study and to report the findings and recommendations of this study.

The Office of Cable Television in the BPU has provided data indicating that in 2004:

- Municipal franchise fees paid in 2005 (for 2004 activity) based on the current 2 percent fee on basic/expanded basic revenues were \$24 million; and

- If the proposed system-wide franchise fee based on 3.5 percent of gross revenue (including premium services) had been applicable that year, fee revenue would have been approximately \$59 million.

It should be noted, however, that for purposes of obtaining an idea of the impact of this bill on franchise fees, the OCTV data is best viewed as a starting point, subject to a number of caveats. It is critical to note that the estimate of revenue from the higher fee would only be realized under certain unlikely conditions: first, that no municipality would continue to receive the current fee of 2 percent, and second, that companies do not change prices from the 2004 assessment. But as noted above, it is expected that under the bill, holders of system-wide franchises will enter the market slowly, and that incumbent cable providers will retain municipal franchises (and the 2 percent fee rate) for some time. Additionally, it is likely that price changes and demand response shifts will occur, altering the total fees paid to municipalities and the State.

Given the potential market impact of the bill, Office of Legislative Services cannot estimate the actual franchise fees municipalities could expect under the altered market. While the fee paid by a consumer who switches to a provider holding a system-wide franchise would be levied at a higher *rate*, the related gross revenue to which the fee applies is unpredictable, and the average fee that subscribers of such a franchisee would pay is therefore indeterminate. In light of these caveats, we would expect actual system-wide franchise fee revenue to be materially less than \$59 million.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Mark J. Trease
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

Aug-04-06 Governor Corzine Signs Cable Franchise Legislation And Executive Order

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GOVERNOR CORZINE SIGNS CABLE FRANCHISE LEGISLATION AND EXECUTIVE ORDER

TRENTON - Governor Jon S. Corzine today signed legislation (A-804/S-192) that authorizes competitive system-wide cable franchises. Additionally, he signed an Executive Order that directs the Public Advocate to monitor and enforce the new law, and the Board of Public Utilities to issue strong regulations.

He issued the following statement:

"The power of competition can improve quality and lower prices. Under the legislation signed today authorizing new cable franchises, New Jersey cable television customers will soon see the benefits of competition.

"Market-based competition has to be balanced with strong consumer protections so that the benefits of competition are not denied to certain groups. That's why I also signed today an Executive Order that will help ensure that no one is left behind.

"Under the Order, Public Advocate Ron Chen will monitor the build-out of these new franchises. He will bring appropriate enforcement actions where necessary to protect the rights of all citizens, and especially residents of apartment buildings and other multi-family units, and ensure they receive appropriate coverage and service.

"The Order also directs the Board of Public Utilities, which regulates the cable television market in New Jersey, to issue regulations that will enhance the state's ability to monitor the build-out of these new franchises. The regulations will

impose thorough reporting requirements and provide clear definitions to some of the language in the bill.

"Taken together, the bill and the Executive Order will help ensure that all of New Jersey's communities receive the benefits of meaningful cable television competition as quickly as possible."

The sponsors of the legislation are Assemblymen Wilfredo Caraballo, Joseph Vas, Upendra J. Chivukula, Joseph R. Malone, III, Jeff Van Drew, and Thomas Giblin, and Senators Joseph V. Doria Jr. and Anthony R. Bucco.

The Executive Order is below.

EXECUTIVE ORDER NO. 25

WHEREAS, cable television is an important service upon which millions in our State rely for entertainment and information; and

WHEREAS, competition among providers of cable television service has been shown to enhance the quality of, and reduce the price for, such service; and

WHEREAS, today, the prospects for meaningful competition for the delivery of cable television service to consumers have been greatly improved through the emergence of new technologies and the development of a dynamic marketplace for cable television service; and

WHEREAS, New Jersey law governing the regulation of cable television service has not substantially changed since the enactment in 1972 of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act"); and

WHEREAS, in order for New Jersey residents to enjoy the benefits of enhanced competition in an expeditious manner, substantial changes in the Act are necessary to make New Jersey's system of cable television regulation more flexible and adaptable to rapidly evolving technologies and market conditions; and

WHEREAS, the Legislature has passed, and I have signed into law, Assembly Committee Substitute for Assembly Bill No. 804 (2006) ("A-804"), legislation

that makes these substantial changes and will accelerate the introduction of meaningful competition into the New Jersey cable television market through the issuance of “system-wide franchises”; and

WHEREAS, this Administration is committed to ensuring that all of New Jersey’s communities receive the benefits of meaningful cable television competition as quickly as possible; and

WHEREAS, Verizon New Jersey Inc., which is the regulated local telephone service provider for millions of New Jersey residents, has committed to seeking a system-wide franchise and to investing more than \$1.5 billion over the next three years to build a fiber-optic system that, within three years, is expected to be capable of providing cable competition to more than 3.5 million New Jersey residents. Further, Verizon also has indicated that, because of the density and other unique aspects of the New Jersey market, Verizon’s long-range goal is to upgrade its network with fiber technology in wire centers throughout the State if consumers respond to its new video and data services as it anticipates; and

WHEREAS, in adopting A-804, the Legislature concluded that relying on a balance of market forces and legislative mandates is the best approach to achieve the goal of ensuring that all of New Jersey’s communities receive the benefits of meaningful cable television competition as quickly as possible, and I concur with that conclusion; and

WHEREAS, the legislative mandates include so-called “build-out” requirements set forth in section 20(a) of A-804 as well as an explicit statutory prohibition against red-lining; and

WHEREAS, section 20(a)(2) of A-804 describes the circumstances under which a system—wide franchisee will not be required to provide service to multiple-dwelling units (“MDUs”); and

WHEREAS, concerned citizens and various organizations have raised concerns that I share about the potential negative impact of those provisions on those who reside in apartment buildings and other MDUs; and

WHEREAS, section 20(b) of A-804 provides an enforcement mechanism to ensure that system-wide franchisees abide by the build-out requirements of section 20(a); and

WHEREAS, the effectiveness of this enforcement mechanism would be enhanced through strong and appropriate regulations and active monitoring by the Public Advocate; and

WHEREAS, the Act grants to the Director of the Office of Cable Television within the Board of Public Utilities ("BPU") the authority, subject to BPU approval, to promulgate regulations to implement the Act; and

WHEREAS, the Public Advocate is responsible for a broad range of consumer-protection and advocacy functions, including but not limited to promoting the public interest with respect to the provision of cable television and related services;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. In addition to all other regulations necessary or appropriate to implement A-804, the Director shall, with BPU approval, promulgate regulations providing guidance concerning the meaning of the terms that appear in Section 20(a)(2) of A-804, including the following: "claimed exclusive arrangements"; "standard technical solutions"; "commercially reasonable terms and conditions"; "after good faith negotiation"; and "reasonable terms and conditions."
2. The Director shall, with BPU approval, promulgate regulations requiring that, whenever a system-wide franchisee invokes an exception to the provision of service to a multiple- dwelling unit ("MDU") as set forth in section 20(a)(2)(a), (b) or (c) of A-804, the franchisee must promptly provide written notice of such invocation to both the BPU and the Public Advocate. Such written notice shall describe both the fact that an exception is being invoked as well as a thorough description of the reason or reasons supporting such invocation.

3. The Public Advocate shall monitor the activities of system-wide franchisees and bring appropriate enforcement actions, pursuant to section 20(b) of A-804 or otherwise, to protect the rights of residents of MDUs and all citizens and ensure that they receive appropriate coverage and service.

This Order shall take effect immediately.