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No. 920

H.P. 676

House of Representatives, March 8, 2021

An Act To Promote Oversight of and Competitive Parity among Video Service Providers

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative KESSLER of South Portland.
Cosponsored by Senator WOODSOME of York and
Representatives: EVANGELOS of Friendship, HEPLER of Woolwich, SACHS of Freeport,
STOVER of Boothbay, Senators: DAUGHTRY of Cumberland, DIAMOND of Cumberland,
MAXMIN of Lincoln.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 30-A MRSA §3008, sub-§1, ¶C**, as amended by PL 2007, c. 548, §1, is
3 further amended to read:

4 C. To provide adequate statutory authority to municipalities to make franchising and
5 regulatory decisions to implement this policy and to avoid the costs and uncertainty of
6 lawsuits challenging that authority; ~~and~~

7 **Sec. 2. 30-A MRSA §3008, sub-§1, ¶D**, as enacted by PL 2007, c. 548, §1, is
8 amended to read:

9 D. To ensure that all ~~cable television operators~~ video service providers receive the
10 same treatment with respect to franchising and regulatory processes and to encourage
11 new providers to provide competitive pressure on the pricing of such services;

12 **Sec. 3. 30-A MRSA §3008, sub-§1, ¶E** is enacted to read:

13 E. Consistent with the applicable requirements of this section, to prohibit a video
14 service provider from offering or providing its services within a municipality unless it
15 has entered into a franchise agreement or contract with the municipality pursuant to
16 this section; and

17 **Sec. 4. 30-A MRSA §3008, sub-§1, ¶F** is enacted to read:

18 F. In accordance with the oversight and enforcement authority granted to the Public
19 Utilities Commission pursuant to subsection 8, to provide regulatory oversight of video
20 service providers in the State.

21 **Sec. 5. 30-A MRSA §3008, sub-§1-A**, as enacted by PL 2007, c. 548, §1, is
22 amended to read:

23 **1-A. Definitions.** ~~For purposes of~~ As used in this section, unless the context otherwise
24 indicates, the following terms have the following meanings:

25 A. "Cable system operator" has the same meaning as "cable operator," as that term is
26 defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008;

27 B. "Cable television service" has the same meaning as "cable service," as that term is
28 defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; ~~and~~

29 C. "Cable television system" has the same meaning as "cable system," as that term is
30 defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008.

31 D. "Facility support equipment" means the equipment associated with the
32 interconnection between public, educational and governmental facility equipment and
33 the headend of a video service provider's system, beginning at the point at which a
34 public, educational and governmental signal enters transmitting equipment, which
35 must be owned and maintained by the video service provider. "Facility support
36 equipment" includes, but is not limited to, the equipment associated with the formatting
37 of public, educational and governmental programming for transmission to a subscriber
38 of the video service provider.

39 E. "Public, educational and governmental facility equipment" means, with respect to
40 any public, educational and governmental access channel, the equipment associated
41 with the interconnection between the network of the public, educational and

1 governmental access channel and the network of a video service provider, beginning
2 at the point at which a public, educational and governmental signal enters the private
3 network of the video service provider. "Public, educational and governmental facility
4 equipment" includes, but is not limited to, all signal transmission and carriage
5 methodologies employed to send, receive, manage, troubleshoot and maintain audio
6 and video signals; all physical wires, fiber lines and related connectivity medium or
7 device; and all equipment associated with the formatting of public, educational and
8 governmental programming for transmission to a cable television service subscriber.

9 F. "Public, educational and governmental programming" means content produced or
10 provided by any person, group or public or private agency or organization that is used
11 in conjunction with public, educational and governmental access channels and facility
12 support equipment.

13 G. "Public, educational and governmental signal" means any transmission of
14 electromagnetic or optical energy that carries audio or video from one location to
15 another for the purposes of providing public, educational and governmental
16 programming.

17 H. "Video service provider" means any person that sells in the State access to video,
18 audio or computer-generated or computer-augmented entertainment and delivers such
19 services via digital or analog infrastructure through facilities located in whole or in part
20 in the public rights-of-way, irrespective of the technology used to deliver such services.

21 "Video service provider" includes, but is not limited to, a cable system operator and a
22 common carrier that operates a cable television system. "Video service provider" does
23 not include:

24 (1) A commercial mobile service provider, as defined in 47 United States Code,
25 Section 332(d), providing access to video programming; or

26 (2) An internet access service, as defined in 47 United States Code, Section
27 231(e)(4), providing access to video programming.

28 **Sec. 6. 30-A MRSA §3008, sub-§3, ¶B**, as amended by PL 2007, c. 548, §1, is
29 further amended to read:

30 B. Notwithstanding any provision in a franchise, a ~~eable-system-operator~~ video service
31 provider may not abandon service or a portion of that service without having given 6
32 months' prior written notice to the franchising municipality, if any, and to the
33 municipalities affected by that abandonment. When abandonment of any service is
34 prohibited by a municipal franchise, a ~~eable-system-operator~~ video service provider
35 may not abandon that service without written consent of the municipal officers. Any
36 ~~eable-system-operator~~ video service provider that violates this paragraph commits a
37 civil violation for which a fine of \$50 a day for each day that the violation continues
38 may be adjudged.

39 **Sec. 7. 30-A MRSA §3008, sub-§3, ¶C**, as amended by PL 2007, c. 548, §1, is
40 further amended to read:

41 C. Neither the ~~eable-system-operator~~ video service provider whose facilities are facility
42 support equipment is used to transmit a program produced by a person other than that
43 operator provider, under Federal Communications Commission regulations or

1 municipal ordinance, nor the officers, directors or employees of ~~any such cable system~~
2 ~~operator that provider~~ are liable for damages arising from any obscene or defamatory
3 statements or actions or invasion of privacy occurring during any program when that
4 ~~cable system operator provider~~ does not originate or produce the program.

5 **Sec. 8. 30-A MRSA §3008, sub-§3, ¶F**, as enacted by PL 2019, c. 308, §1, is
6 amended to read:

7 F. Notwithstanding any provision in a franchise, a ~~cable system operator~~ video service
8 provider shall offer subscribers the option of purchasing access to cable channels, or
9 programs on cable channels, individually.

10 **Sec. 9. 30-A MRSA §3008, sub-§3, ¶G** is enacted to read:

11 G. Notwithstanding any provision in a franchise, a video service provider is
12 responsible for all costs associated with public, educational and governmental facility
13 equipment used for the management of public, educational and governmental access
14 channels within the franchising municipality, including, but not limited to, technology
15 upgrade costs for signal quality improvement or for other reasons. A video service
16 provider may not offset any such costs through the payment of required fees under
17 subsection 5-A.

18 **Sec. 10. 30-A MRSA §3008, sub-§4**, as amended by PL 2007, c. 548, §1, is further
19 amended to read:

20 **4. Franchise procedures.** Pursuant to subsection 2, a municipality may enact
21 ordinances governing the procedures for granting franchises to ~~cable system operators~~
22 video service providers. These ordinances must be enacted before granting any such
23 franchise or franchises and must be designed to ensure that the terms and conditions of a
24 franchise will adequately protect the needs and interests of the municipality. The
25 ordinances must include, but are not limited to, provisions for the following:

26 A. A mechanism for determining special local needs or interests before issuing a
27 request for proposals, whether by actively seeking to determine those needs or interests
28 or by allowing a period for public comment on a proposed request for proposals;

29 B. The filing of franchise applications and related documents as public records, with
30 reasonable notice to the public that the records are open to inspection during reasonable
31 hours;

32 C. A reasonable opportunity for public input before granting franchises; and

33 D. The assessment of reasonable fees to defray the costs of public notice, advertising
34 and other expenses incurred by the municipality in acting upon applications.

35 **Sec. 11. 30-A MRSA §3008, sub-§5**, as amended by PL 2019, c. 245, §§1 to 3, is
36 further amended to read:

37 **5. Franchise agreements or contracts.** The State specifically authorizes municipal
38 officers pursuant to ordinances to contract on such terms and conditions and impose such
39 fees as ~~are in the best interests of the municipality provided for under this subsection,~~
40 including the grant of ~~exclusive or~~ nonexclusive franchises for a period not to exceed 15
41 years, for the placing and maintenance of cable television systems and appurtenances, or
42 parts thereof, ~~along in~~ in public ways and including contracts with ~~cable system operators~~

1 video service providers that receive the services of television signal transmission offered
2 by any public utilities using public ways for such transmission. A video service provider
3 may not offer or provide its services within a municipality unless it has entered into a
4 franchise agreement or contract with the municipality pursuant to this subsection. A public
5 utility may not be required to contract with the municipal officers under this subsection.
6 Each franchise must contain the following provisions:

7 A. The area or areas to be served;

8 B. A line extension policy, which must specify a minimum density requirement of no
9 more than 15 residences per linear strand mile of aerial cable for areas in which the
10 ~~cable system operator~~ video service provider will make cable television service
11 available to every residence;

12 C. A provision for renewal, the term of which may not exceed 15 years. A provision
13 for automatic renewal or other provision for extending the initial term is prohibited.
14 Franchise renewal is governed by section 3010, subsection 5-C;

15 C-1. Provisions regarding the payment or remittance of applicable fees and surcharges
16 by the video service provider in accordance with subsections 5-A and 5-B;

17 D. Procedures for the investigation and resolution of complaints by the ~~cable system~~
18 ~~operator~~ video service provider;

19 D-1. A provision for the use and support of public, educational and governmental
20 access channels, which must be carried in the same manner and numerical location
21 sequence as are the local broadcast channels originating from the State and carried on
22 the cable television system pursuant to section 3010, subsection 5-A; and

23 E. Any other terms and conditions that are in the best interests of the municipality.

24 **Sec. 12. 30-A MRSA §3008, sub-§5-A** is enacted to read:

25 **5-A. Franchise fees.** Beginning January 1, 2022, any new or renewed franchise
26 agreement or contract between a municipality and a video service provider must include
27 provisions regarding the payment of the fees described in this subsection.

28 A. The video service provider must be required to pay to the municipality or its
29 designee a fee equal to 5% of the video service provider's gross annual revenue derived
30 from its operation of the cable television system in the municipality as compensation
31 for use of public rights-of-way.

32 B. The municipality is authorized to use the fees collected under this subsection for
33 costs associated with the regulation of the operation of the video service provider
34 within the municipality; to support the provision of public, educational and
35 governmental programming within the municipality; to offset municipal property
36 taxes; or for any other purpose identified by the municipality.

37 C. The fees under this subsection must be paid by the video service provider to the
38 municipality or its designee on a quarterly basis and must be received by the
39 municipality or designee no later than 45 days after the end of the calendar quarter for
40 which the payment is made. If the video service provider fails to timely pay to the
41 municipality or its designee the fees required under this subsection:

1 (1) Interest must accrue on the required, unpaid fees at the rate of 12% simple
2 interest per annum; and

3 (2) The repeated failure to timely pay such fees is a material breach of the terms
4 of the franchise agreement or contract, and the municipality may at its discretion
5 terminate the agreement or contract.

6 D. Each payment under paragraph C must include a statement prepared by a financial
7 representative or agent of the video service provider, testified and verified as correct,
8 identifying the total amount of gross annual revenue generated by all activities of the
9 provider within the municipality for that payment period and describing the
10 calculations used to determine the amount of the payment. The video service provider
11 shall prepare and maintain the financial information and records necessary to provide
12 the information required under this paragraph in accordance with accounting principles
13 and auditing standards generally accepted within the cable television industry.

14 E. The municipality may request that the information provided by the video service
15 provider pursuant to paragraph D be subject to audit by a qualified 3rd party to be
16 selected by the municipality. The costs of the audit are to be paid by the municipality
17 except where the results of the audit demonstrate that the video service provider
18 underpaid by more than 4% the fees required under this subsection, in which case the
19 video service provider must reimburse the municipality for the costs of the audit.

20 F. A municipality's or its designee's acceptance of fees paid by the video service
21 provider pursuant to this subsection does not constitute an agreement by the
22 municipality that the amount of the fee is correct unless the municipality has not
23 initiated a process to challenge or audit the amount of the fee paid within 36 months of
24 receipt or, in the case of a fee not accompanied by a statement under paragraph D that
25 is verified as correct, 48 months of receipt. Prior to the expiration of such time period,
26 the municipality may inspect relevant financial information and records of the video
27 service provider and initiate a process to seek compensation for any underpayment.

28 **Sec. 13. 30-A MRSA §3008, sub-§5-B** is enacted to read:

29 **5-B. Video service regulatory surcharge.** A franchise agreement or contract between
30 a municipality and a video service provider must include provisions regarding the
31 collection and remittance of the surcharge described in this subsection.

32 A. In addition to the fees required under subsection 5-A, a video service regulatory
33 surcharge is imposed. The Public Utilities Commission shall adopt rules establishing
34 the amount of the surcharge, which may not exceed 25¢ per month per subscriber of
35 the services provided by a video service provider and which must be designed to offset
36 the anticipated costs to the Public Utilities Commission of its regulatory oversight
37 activities under this section. Rules adopted by the Public Utilities Commission
38 pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375,
39 subchapter 2-A.

40 B. Beginning on the date that the Public Utilities Commission adopts a rule
41 establishing the amount of the surcharge pursuant to paragraph A, the surcharge must
42 be collected by the video service provider from each of its subscribers on a monthly
43 basis and the amount of the surcharge owed by each subscriber must be explicitly
44 identified on the subscriber's bill and indicate that the surcharge is collected to support

1 regulatory oversight activities of the cable television industry in the State by the Public
2 Utilities Commission.

3 C. The video service provider shall remit to the Treasurer of State the surcharge
4 amounts it collected from its subscribers pursuant to paragraph B on a monthly basis
5 and within one month of the month during which those surcharge amounts were
6 collected. The remittance must be accompanied by the following information provided
7 on a form approved by the Public Utilities Commission:

8 (1) The total surcharge remittance amount and the month and year for which that
9 amount is remitted;

10 (2) The calculation used to arrive at the surcharge remittance amount and the
11 calculation used to arrive at the amount of any surcharge amounts determined
12 uncollectible;

13 (3) The legal name of the company submitting the remittance and its telephone
14 number and, if applicable, the parent company name, address and telephone
15 number; and

16 (4) The name and telephone number of the person who completed the form.

17 D. The Treasurer of State shall deposit all remittances received pursuant to paragraph
18 C into a separate, dedicated, nonlapsing account of the Public Utilities Commission.
19 The Public Utilities Commission may expend funds from that account only to support
20 its activities related to the oversight and enforcement of this section in accordance with
21 the authority granted in subsection 8.

22 **Sec. 14. 30-A MRSA §3008, sub-§7**, as amended by PL 2019, c. 245, §4, is further
23 amended to read:

24 **7. Model franchise agreement.** The Department of Administrative and Financial
25 Services, Office of Information Technology, or a successor state agency, referred to in this
26 subsection as "the office," shall develop and may update and amend a model franchise
27 agreement for use by any municipality and any ~~cable-system-operator~~ video service
28 provider that mutually choose to adopt the model franchise agreement or any of its
29 provisions. A ~~cable-system-operator~~ video service provider may not modify or amend the
30 model franchise agreement without the consent of the municipality. The office shall make
31 the model franchise agreement available on its publicly accessible website. In the
32 development of the model franchise agreement, the office shall, at a minimum, consider
33 the following issues:

34 A. Franchise fees;

35 B. Build-out requirements;

36 C. Public, educational and governmental access channels and reasonable facility
37 support equipment for such channels;

38 D. Customer service standards;

39 E. The disparate needs of the diverse municipalities in this State; and

40 F. The policy goal of promoting competition in the delivery of cable television service.

41 This subsection does not allow the office to establish prices for any cable television service
42 or to regulate the content of cable television service.

1 **Sec. 15. 30-A MRSA §3008, sub-§8** is enacted to read:

2 **8. Oversight and enforcement; rulemaking.** Except as provided in subsection 9, the
3 Public Utilities Commission shall oversee and enforce the provisions of this section and
4 may adopt rules as necessary for those purposes. Rules adopted by the Public Utilities
5 Commission pursuant to this subsection are routine technical rules as defined in Title 5,
6 chapter 375, subchapter 2-A.

7 **Sec. 16. 30-A MRSA §3008, sub-§9** is enacted to read:

8 **9. Authorized judicial actions; statute of limitations.** In accordance with the
9 authority provided in Title 5, chapter 10, the Attorney General may bring an action to
10 enforce the provisions of this section, including, but not limited to, an action to recover any
11 unpaid fees required by this section and an action to enjoin the operation of an entity not in
12 compliance with the requirements of this section.

13 A municipality that has suffered an adverse impact due to the action of an entity not in
14 compliance with the requirements of this section may bring an action against that entity to
15 recover any unpaid fees required by this section or to enjoin the operation of that entity.

16 Notwithstanding any provision of law to the contrary, an action brought under this section
17 must be commenced within 7 years of the date that the cause of action arose.

18 **Sec. 17. 30-A MRSA §3010**, as amended by PL 2019, c. 657, §§1 and 2, is further
19 amended by amending the section headnote to read:

20 **§3010. Consumer rights and protection relating to ~~cable television service~~ services**
21 **provided by video service providers**

22 **Sec. 18. 30-A MRSA §3010, first ¶**, as amended by PL 2019, c. 245, §5, is further
23 amended to read:

24 This section applies to every franchisee. For purposes of this section, "franchisee"
25 means a ~~cable system operator~~ video service provider that is granted a franchise by a
26 municipality in accordance with section 3008. For purposes of this section, "cable system
27 operator," and "cable television service" and "video service provider" have the same
28 meanings as in section 3008, subsection 1-A, except that "~~cable system operator~~" "video
29 service provider" includes a cable system operator that is a multichannel video
30 programming distributor as defined in 47 United States Code, Section 522(13). For
31 purposes of this section, "originator" means a local unit of government or the entity to
32 which a local unit of government has assigned responsibility for managing public,
33 educational and governmental access channels.

34 **Sec. 19. 30-A MRSA §3010, sub-§1**, as amended by PL 2007, c. 548, §2, is further
35 amended to read:

36 **1. Credits and refunds for interruption of service.** Credits and refunds for
37 interruption of ~~cable television service~~ of services provided by a franchisee must be as
38 follows.

39 A. In the event service to any subscriber is interrupted for 6 or more consecutive hours
40 in a 30-day period, the franchisee will, upon request, grant that subscriber a pro rata
41 credit or rebate.

1 B. An office of the franchisee must be open during usual business hours, have a listed
2 toll-free telephone and be capable of receiving complaints, requests for adjustments
3 and service calls.

4 C. The franchisee shall provide subscribers with 30 days' advance written notice of an
5 increase in rates, changes in billing practices, the movement of a channel to a different
6 location or service tier or the deletion of a channel.

7 **Sec. 20. 30-A MRSA §3010, sub-§2**, as amended by PL 2007, c. 548, §2, is further
8 amended to read:

9 **2. Notice to subscribers regarding quality of service.** Notice to subscribers
10 regarding quality of service must be as follows.

11 A. For each new subscriber, and annually thereafter, every franchisee shall cause to be
12 mailed to each of its subscribers a notice that:

13 (1) Informs subscribers of how to communicate their views and complaints to the
14 ~~cable system operator~~, video service provider and to the proper municipal official,
15 the Office of the Public Advocate, the Public Utilities Commission and the
16 Attorney General;

17 (2) States the responsibility of the Public Utilities Commission and the Department
18 of the Attorney General to receive, investigate and resolve consumer complaints
19 or complaints raised by the franchising authority under section 3008 concerning
20 matters other than ~~channel selection~~ program choices and rates;

21 (3) States the policy regarding and method by which subscribers may request
22 rebates or pro rata credits as described in subsection 1, paragraph A; and

23 (4) Informs subscribers of their right to request basic-tier, nonpremium
24 programming service and the cost of that service.

25 B. The notice must be in nontechnical language, understandable by the general public
26 and in a convenient format. On or before January 30th of each year, the franchisee
27 shall certify to the franchising authority and to the Public Utilities Commission and the
28 Department of the Attorney General that it has distributed the notice during the
29 previous calendar year as required by this section.

30 **Sec. 21. 30-A MRSA §3010, sub-§5**, as amended by PL 2007, c. 548, §2, is further
31 amended to read:

32 **5. Franchises.** All franchises must be nonexclusive. All franchises must include
33 provision for access to, and ~~facilities~~ facility support equipment necessary to make use of,
34 one or more local public, educational and governmental access channels subject to the
35 definitions and requirements of the Cable Communications Policy Act of 1984, Public Law
36 98-549 or related requirements or regulations of the Federal Communications Commission.

37 As used in this subsection, "facility support equipment" has the same meaning as in section
38 3008, subsection 1-A, paragraph D.

39 **Sec. 22. 30-A MRSA §3010, sub-§5-A**, as enacted by PL 2019, c. 245, §6, is
40 amended to read:

41 **5-A. Public, educational and governmental access channels.** A ~~cable system~~
42 ~~operator~~ video service provider shall carry public, educational and governmental access

1 channels on the ~~cable-system operator's~~ provider's basic cable or video service offerings or
2 tiers. A ~~cable-system operator~~ video service provider may not separate public, educational
3 and governmental access channels numerically from other local broadcast channels carried
4 on the ~~cable-system operator's~~ provider's basic cable or video service offerings or tiers and,
5 in the event of a franchise license transfer, shall use the same channel numbers for the
6 public, educational and governmental access channels as used for those channels by the
7 incumbent ~~cable-system operator~~ video service provider, unless prohibited by federal law.
8 After the initial designation of public, educational and governmental access channel
9 numbers, a ~~cable-system operator~~ video service provider may not change the channel
10 numbers without the agreement of the originator, unless the change is required by federal
11 law.

12 A ~~cable-system operator~~ video service provider shall restore a public, educational or
13 governmental access channel that has been moved without the consent of the originator
14 within the 24 months preceding the effective date of this subsection to its original location
15 and channel number within 60 days after the effective date of this subsection.

16 **Sec. 23. 30-A MRSA §3010, sub-§5-B**, as enacted by PL 2019, c. 245, §6, is
17 amended to read:

18 **5-B. Transmission.** A ~~cable-system operator~~ video service provider shall retransmit
19 public, educational and governmental access channel signals in the format in which they
20 are received from the originator and at the same signal quality as that provided to all
21 subscribers of the cable television service for local broadcast channels. A ~~cable-system~~
22 ~~operator~~ video service provider may not diminish, down convert or otherwise tamper with
23 the signal quality or format provided by the originator. A ~~cable-system operator~~ video
24 service provider shall deliver a public, educational or governmental access channel signal
25 to the subscriber in a quality and format equivalent to the quality and format of local
26 broadcast channel signals carried on the cable television service if provided as such by the
27 originator. A ~~cable-system operator~~ video service provider shall carry each public,
28 educational or governmental access channel in both a high definition format and a standard
29 digital format in the same manner as that in which local broadcast channels are provided,
30 unless prohibited by federal law.

31 A ~~cable-system operator~~ video service provider, when requested, shall assist in providing
32 the originator with access to the entity that controls the cable television service's electronic
33 program guide so that subscribers may view, select and record public, educational and
34 governmental access channels in the same manner as that in which they view, select and
35 record local broadcast channels. In addition, a ~~cable-system operator~~ video service provider
36 shall identify public, educational and governmental access channels on the electronic
37 program guide in the same manner as that in which local broadcast channels are identified.
38 This subsection does not obligate a ~~cable-system operator~~ video service provider to list
39 public, educational and governmental access channel content on channel cards and channel
40 listings. If channels are selected by a viewer through a menu system, the ~~cable-system~~
41 ~~operator~~ video service provider shall display the public, educational and governmental
42 access channels' designations in a similar manner as that in which local broadcast channel
43 designations are displayed.

44 A ~~cable-system operator~~ video service provider shall make available to the originator a toll-
45 free telephone number with a direct line to a service technician who is familiar with the

1 signal path and equipment associated with public, educational and governmental access
2 channels on the cable television system for resolution of a signal quality problem.

3 **Sec. 24. 30-A MRSA §3010, sub-§5-C**, as enacted by PL 2019, c. 245, §6, is
4 amended to read:

5 **5-C. Franchise renewals.** The franchise renewal process must be conducted in
6 compliance with 47 United States Code, Section 546 and this subsection.

7 A. A ~~cable-system-operator~~ video service provider shall maintain adequate personnel
8 and resources to respond to municipal requests for renewal information in a timely
9 manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade
10 Practices Act.

11 B. If an automatic renewal provision exists in a franchise agreement on the effective
12 date of this subsection, the automatic renewal provision remains in effect until that
13 franchise agreement expires. The ~~cable-system-operator~~ video service provider shall
14 notify the franchising authority of the automatic renewal no later than 36 months in
15 advance of the expiration of the franchise.

16 C. A municipality may require maps, diagrams, annual reports and franchise fee
17 statements at renewal, which the ~~cable-system-operator~~ video service provider shall
18 make available upon reasonable notice. If information is proprietary, the municipality
19 may execute a nondisclosure agreement with the ~~cable-system-operator~~ video service
20 provider.

21 **Sec. 25. 30-A MRSA §3010, sub-§6**, as amended by PL 2007, c. 548, §2, is further
22 amended to read:

23 **6. Rights of individuals.** A ~~cable-system-operator~~ video service provider may not
24 deny service, deny access or otherwise discriminate against subscribers, channel users or
25 general citizens on the basis of age, race, religion, sex, physical handicap or country of
26 natural origin.

27 **Sec. 26. 30-A MRSA §3010, sub-§6-A**, as amended by PL 2007, c. 548, §2, is
28 further amended to read:

29 **6-A. Subscriber privacy.** A ~~cable-system-operator~~ video service provider may not
30 intrude upon the privacy of a subscriber by installing or using any equipment that allows
31 the ~~cable-system-operator~~ video service provider to observe or to listen to what is occurring
32 in an individual subscriber's household or to monitor the viewing habits of the subscriber
33 without express, prior written consent of the subscriber. A ~~cable-system-operator~~ video
34 service provider may not sell, disclose or otherwise make available, or permit the use of,
35 lists of the names or addresses of its subscribers, or any list or other information that
36 identifies by name or address subscribers or subscriber viewing habits, to any person or
37 agency for any purpose whatsoever without the prior written consent of the subscriber
38 except that the ~~cable-system-operator~~ video service provider may make such lists available
39 to persons performing services for the ~~cable-system-operator~~ video service provider in
40 connection with its business or operations, such as a billing service, when the availability
41 of such lists is necessary to the performance of such services if, in either case, the persons
42 or entity receiving such lists agree in writing that they will not permit them to be made
43 available to any other party.

Sec. 27. 30-A MRSA §3010, sub-§6-B, as amended by PL 2007, c. 548, §2, is further amended to read:

6-B. Late fees. A ~~cable system operator~~ video service provider may not charge a late fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of the amount due in the bill. If the bill includes separate charges for different levels of service, a late fee or other penalty or charge must be calculated on the total amount overdue for all levels of service and may not be calculated separately for each level of service. A payment is not late under this subsection until at least 30 days after those services to which the late fee applies have been received by the consumer.

Sec. 28. 30-A MRSA §3010, sub-§8, as enacted by PL 2007, c. 548, §2, is amended to read:

8. Filing of franchise agreements. ~~A cable system operator~~ video service provider that maintains a publicly accessible website shall post on that website a copy of the most recently executed franchise agreement for each franchise that it has been granted by a municipality in the State.

Sec. 29. 35-A MRSA §103, sub-§2, ¶E is enacted to read:

E. The commission shall enforce the provisions of Title 30-A, section 3008.

Sec. 30. 35-A MRSA §2503, sub-§20, as amended by PL 1995, c. 254, §5, is further amended to read:

20. Exclusive method. Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply with or be subject to any other law, including, but not limited to, Title 30-A, chapter 165 provided, however, that a person subject to Title 30-A, section 3008 must comply with the requirements of that section with respect to the location of its facilities.

Sec. 31. 35-A MRS **A MRSA §8303** is enacted to read:

§8303. Dispute resolution; cable television franchises

1. Petition. If a municipality has entered into a franchise agreement or contract with a video service provider pursuant to Title 30-A, section 3008, subsection 5 and the municipality or provider disputes their respective obligations under that agreement or contract, the municipality or provider may petition the commission under this section to investigate and resolve the dispute.

2. Commission procedure. If the commission receives a petition pursuant to subsection 1, it shall investigate the dispute and, in an adjudicatory proceeding, may issue an order directing the parties to take any actions the commission finds reasonable to resolve the dispute.

As used in this section, "video service provider" has the same meaning as in Title 30-A, section 3008, subsection 1-A, paragraph H.

SUMMARY

This bill amends the State's laws governing municipal cable television systems ordinances as follows.

1 1. It adds definitions for the terms "facility support equipment"; "public, educational
2 and governmental facility equipment"; "public, educational and governmental
3 programming"; "public, educational and governmental signal"; and "video service
4 provider."

5 2. It amends those laws to clarify the regulation under those laws of video service
6 providers, which included cable system operators.

7 3. It removes language authorizing municipalities to enter into exclusive franchise
8 agreements or contracts with a video service provider.

9 4. It prohibits video service providers from providing services within a municipality
10 unless the provider has entered into a franchise agreement or contract with that
11 municipality.

12 5. It requires video service providers to pay on a quarterly basis to each municipality
13 with which it has a franchise agreement or contract a fee equal to 5% of the provider's gross
14 annual revenue from its operations within the municipality.

15 6. It clarifies that all costs associated with public, educational and governmental
16 facility equipment used for the management of public, educational and governmental
17 access channels within a franchising municipality, including technology upgrade costs for
18 signal quality improvement, are the responsibility of the video service provider the
19 municipality has granted a franchise to. The video service provider may not offset such
20 costs through the payment of required franchise fees.

21 7. It authorizes the Public Utilities Commission to oversee and enforce provisions
22 relating to the municipal franchising of video service providers. Costs associated with that
23 oversight and enforcement will be offset through the collection by video service providers
24 from their subscribers of a video service regulatory surcharge, the amount of which will be
25 established by the Public Utilities Commission by rule but which may not exceed 25¢ per
26 month per subscriber.

27 8. It authorizes the Attorney General to bring an enforcement action against a
28 noncompliant video service provider in accordance with its authority under the Maine
29 Unfair Trade Practices Act. It also authorizes a municipality to bring a similar enforcement
30 action. Both types of actions must be brought within 7 years of the date the cause of action
31 arose.

32 9. It clarifies that the consumer protection provisions in law currently available to
33 consumers with respect to cable television service apply to the services provided by video
34 service providers.

35 10. It excludes from otherwise applicable permitting requirements under the laws
36 regulating facilities in the public way the provision of services by a video service provider
37 that are instead regulated under the laws governing municipal cable television systems
38 ordinances, as amended by this legislation.

39 11. It establishes a dispute resolution process, to be overseen by the Public Utilities
40 Commission, for disputes that arise between a franchising municipality and a video service
41 provider over their respective obligations under a franchise contract or agreement.