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Details:

(FORM UPDATED: 08/11/2010)

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

**2007-08**

(session year)

**Senate**

(Assembly, Senate or Joint)

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

**COMMITTEE NOTICES ...**

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

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

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



# CITY OF MERRILL

## Office of the Mayor

Douglas C. Williams, Mayor

1004 East First Street • Merrill, Wisconsin • 54452

Phone (715) 536-5595 • FAX (715) 539-2668

**MERRILL**  
**WISCONSIN**  
*City Of Parks*

Date: March 27, 2007

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

From: Mayor Douglas C. Williams

RE: Senate Bill 107/Assembly Bill 207 – Regulation of cable television and video service providers

The City of Merrill, in partnership with the Merrill Area Public Schools, operates Merrill Productions Three (MP3) - a local educational and governmental access television channel. This local channel is an important contributor to open government and an informed citizenry. This channel is fiscally possible only through the \$71,500 received annually from cable franchise fees.

The City's CATV Committee on March 22<sup>nd</sup> recommended the attached resolution for consideration at the April 10<sup>th</sup> Merrill Common Council meeting.

The City of Merrill supports the Wisconsin Alliance of Cities proposals to preserve video franchising including:

- Maintaining franchising authority of local governments over cable and video services;
- Requirement for payment of franchise fees by all video and cable providers based upon a broad definition of gross revenues;
- Requirement for Public, Educational, and Government (PEG) channels be offered and supported by all providers;
- Requires reasonable levels of "build out" by new and existing providers within the municipality to guarantee investment, jobs, competition and choice for all neighborhoods;
- Allows a cable company to opt into a streamlined franchise only if it faces competition from another provider operating under a streamlined franchise; and
- Retains local authority to manage rights-of-way and protect local property taxpayers and cable customers.

As City of Merrill Mayor, I urge you to consider the concerns expressed by the Wisconsin Association of PEG Channels and local governments to preserve local control of public right-of-ways and essential franchise fee funding for public, education, and governmental channels.

*"Focusing on the Future"*

An equal opportunity/affirmative action employer.



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION REGARDING LOCAL EDUCATIONAL AND GOVERNMENTAL ACCESS TELEVISION CHANNELS**

WHEREAS, Educational and Governmental Access television channels, such as MP3 are an important contributor to open government in Merrill, the State of Wisconsin, and throughout the nation; and,

WHEREAS, franchise fees paid by cable television providers constitute an important source of revenues for Wisconsin communities such as Merrill for financing public education governmental access channels and other governmental functions in return for their use of public rights of way; and,

WHEREAS, there have been presented to Congress and Wisconsin Legislature a variety of proposals which could threaten such channels, local regulation, and would remove local authority over local rights of way and would provide only limited oversight of cable and other broadband video services.

NOW THEREFORE, BE IT RESOLVED BY THE CABLE TELEVISION COMMITTEE OF THE CITY OF MERRILL, WISCONSIN this 10<sup>th</sup> day of April, 2007, that it urges Congress and Wisconsin Legislature, in any legislation that is adopted, to preserve local franchising revenues, provide for local oversight of rights of way and the local service that cable and other broadband video services provide, and foster the funding of the essential access to the workings of government, schools, and community activities that Education and Governmental channels represent.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to U.S. Representative Obey, U.S. Senators Kohl and Feingold, State Representative Friske and State Senator Breske and the Wisconsin Association of PEG Access Channels.

Recommended by: CATV Committee

CITY OF MERRILL, WISCONSIN

Moved: \_\_\_\_\_

\_\_\_\_\_  
Douglas C. Williams  
Mayor

Passed: \_\_\_\_\_

\_\_\_\_\_  
William N. Heideman  
City Clerk



March 27, 2007

To: Members of the Senate and Assembly Utilities Committee  
From: Scott T. VanderSanden, President – AT&T Wisconsin

Re: Competitive Video Act (SB 107 / AB 207)

Good Morning. My name is Scott VanderSanden, president of AT&T Wisconsin. Thank you for allowing me the opportunity to speak today.

I'm here today to urge your support of Assembly Bill 207, and Senate Bill 107, The Competitive Video Act. The authors of these bills have done a great job of gathering input from a number of parties and have drafted a bill that makes good Video Choice policy for all of Wisconsin. With the support of the 43 bi-partisan co-sponsors this bill is ready to become law.

AT&T has a long history in Wisconsin, serving Wisconsin residents and businesses for more than 120 years. We employ more than 5,300 workers in Wisconsin, including more than 3,300 union workers, mainly represented by the Communications Workers of America.

Over the years, consumers have become more sophisticated and AT&T has responded to better meet their needs. In addition to traditional telephone service, we offer high-speed Internet, wireless voice and data services – and now, our new U-verse television service, which we provide over our phone lines.

To bring the next wave of technologies to consumers, we are in the process of investing \$4.6 billion in our network across the country. This investment makes it possible to offer voice over Internet Protocol service in the future, faster Internet speeds and our U-verse video product.

You might ask why is AT&T so concerned with video? Simply put, studies show that consumers want an alternative to cable and we want to provide that alternative.

Nationally, cable prices rose on average 93% over the last 10 years, according to the FCC. In Madison, consumers are paying 61% more per month than in 1999. In Milwaukee, prices jumped 62% since 1999.

Not surprisingly, 77% of Wisconsin voters say there isn't enough competition for cable service, and 75% say cable prices are too high.

The Video Competition Act will help improve prices and bring new services to consumers.

The best way to encourage alternatives and bring these types of potential consumer benefits to our residents quickly is to pass the Video Competition Act.

Wisconsin is home to 1,850 cities, villages and towns. AT&T offers service in 438 of these municipalities. If providers were required to negotiate franchise agreements in each community, consumers would wait years to get video.

The Video Competition Act jumpstarts competition and consumer benefits by requiring a provider to receive just one franchise, at the state level.

Even with this greatly streamlined process, the bill would still require video operators to pay local governments a franchise fee at the same rate as cable companies now pay.

And companies would still be legally bound to carry public channels.

Under this bill, local governments get major benefits of revenue sharing, and consumers see benefits of competition much sooner.

Such statewide video legislation is nothing new. Ten states have already approved such bills, and many more are considering them.

Since I last spoke with you Missouri has joined the list of states where a similar bill has passed. Illinois, Ohio, Florida, and Georgia have bills pending at this moment.

These legislatures passed video bills by large bi-partisan margins, and they've been signed by Democratic and Republican governors alike.

AT&T has supported such bills in the states that we operate, and we strongly support AB-207/SB 107.

Consumers today benefit from competitive markets for other services such as wireless, wireline voice service and broadband. In the video market satellite providers and the internet are capturing an ever increasing share. None of these services are regulated by local governments. Consumers have an enormous number of new providers, features and services to choose from – and falling prices.

Do you think there'd be as much competition or as many alternatives today if local governments regulated each of these services?

The bottom line is that consumers deserve a video alternative now. Consumers will greatly benefit from an alternative – with competitive prices, better service, new products.

Let more entrants into the marketplace quickly, so consumers can choose whether they want a cable company, a phone company or another provider to be their source for video entertainment. They deserve to have the choice.

The Act brings the benefit of competition to consumers now and continues to provide cities with key benefits. I would like to encourage your committees and Legislature to approve this bill now. Let's put Wisconsin in the forefront of consumer choice. Delay only harms consumers.

Thank you again for inviting AT&T to discuss this issue. I'd be happy to answer any questions that you may have.



**Comments of City of De Pere to AB207/SB107**  
**March 27, 2007**  
**412 East**  
**State Capitol**

Good Morning Senate Committee Chair Plale, Assembly Committee Chair Montgomery, Members of the Senate Committee on Utilities and Rail, and Members of the Assembly Committee on Energy and Utilities. I am Judy Schmidt-Lehman, City Attorney for the City of De Pere, and I am here on behalf of the City of De Pere this morning. Thank you for allowing me to speak on Senate Bill 107 and Assembly Bill 207.

Technology is changing more rapidly than probably any of us could have guessed 20 years ago. The City of De Pere recognizes that, for the well being of our residents and businesses, we have to be adaptive to changing technologies and embrace new and innovative ideas. The City of De Pere welcomes the opportunity to provide our residents and businesses with market-based competition for video services. The companion bills of AB 207 and SB 107 do just that, open the market for these cutting edge services to our residents and businesses. However these bills also have some troubling consequences for cities like De Pere, which we hope you will address before the bill becomes law.

I would like to address five areas in these bills which are of concern to the City of De Pere.

First, we believe the definition of "gross receipts" in these bills will mean less revenue paid by each video service provider to the City of De Pere. We urge you to adopt a

broader definition of “gross receipts” so that video service providers are required to pay their franchise fee on all income, not just a select portion. Specifically exempt under the bills from the definition of “gross receipts” are sources of income which De Pere currently receives from its cable franchise operator and which De Pere believes should be included in the definition of “gross receipts” in these bills:

- Advertising income
- Late payment fees
- Maintenance charges
- Revenue from the sale of equipment
- Marketing cost reimbursement

We realize the theory is that with increased competition will mean more subscribers and therefore more revenue. However, municipalities including the City of De Pere need to be kept whole for revenue currently being generated by cable franchise fees. We do not think that limiting sources of revenue will result in our being kept whole.

Second, the current version of these bills requires PEG (Public Access, educational and government channel) channels to provide at least 12 hours of programming, of which 80% must be locally produced and non-repeating. With this standard, the City of De Pere will lose its PEG channel if the video service provider decides to take it over for their own programming. Loss of the PEG channel will harm De Pere residents. I am consistently amazed at the number of persons who watch broadcasts of De Pere Common Council meetings, scan the bulletin board, and other programming on De Pere’s PEG

channel. De Pere urges you to remove the programming requirements or we will be forced to become program producers rather than the provider of government programming.

Third, in conjunction with maintaining our PEG channels is the need for video service providers to be required to carry PEG programming from the source to the head end or video hub. De Pere believes it should be the responsibility of the video service provider to get our government programming to its video service.

Fourth, free connections to schools and government buildings to the video service provider are not only economically justified, but the right thing to do. It makes no sense for the taxpayers in De Pere to be required to pay for installation of a connection to government or school buildings. New video service providers should honor the same public service requirements as cable operators have in the past and provide these connections without charge.

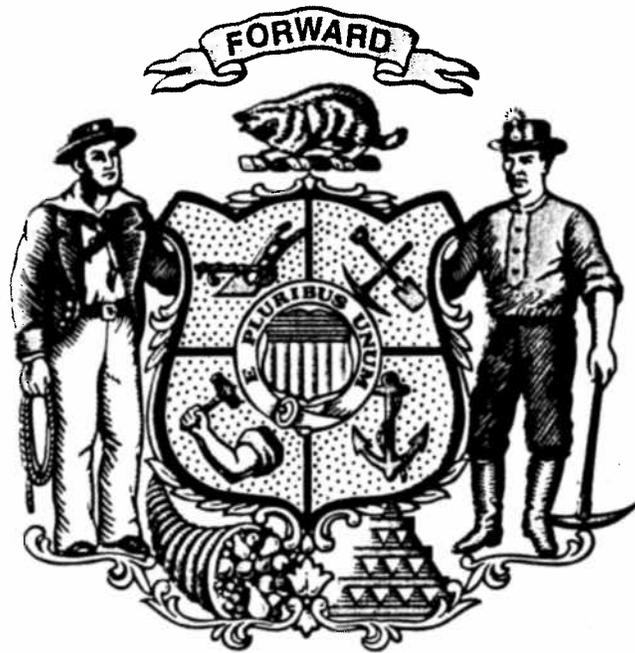
Fifth, the bill currently calls for relief from right-of-way permit and infrastructure degradation fees for video service providers. We hope that generally accepted principles for right-of-way management and cost recovery for street degradation will continue to prevail. As the committees are well aware, the Public Service Commission already has established rules for airing complaints over right-of-way management fees. We urge you to remove from this bill issues regarding right-of-way management that have no place in

video franchising regulations. The proper place for those regulations is in the already existing Public Service Commission rules.

As stated earlier, the City of De Pere welcomes the opportunity to provide our residents and businesses with market-based competition for video services. We are ready to embrace new technology. However, providing a new entryway into the market for video service providers should not be at the expense of municipalities. This bill can be revised so that both video service providers and municipalities are treated fairly in the legislation.

Thank you again for the opportunity to speak with you this morning.

Judith Schmidt-Lehman  
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# Sun Prairie Cable Access

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

From: Lindsay Giese, Program Coordinator Sun Prairie Cable Access  
Rachel Packard, Program Coordinator Sun Prairie Cable Access

Date: March 27, 2007

Re: **Video Competition Act AB207/SB107, Statewide Video Franchising Bill**

First off we would like to thank all the Committee members for allowing us to speak today. My name is Lindsay Giese and I'm here with Rachel Packard, both of us work as Program Coordinators for Sun Prairie Cable Access. As you've heard from some of the testimonials this morning, KIDS-4 television has had an important impact on the lives of many children in Sun Prairie. Whether it has been learning the skilled craft of television production or the social and life skills kids have gained such as teamwork, cooperation, and self-confidence. KIDS-4 is an important part of each of their lives and they prove that each week with the hard work they do inside of crew and outside of crew in their schools and within their community. Fortunately some of our young reporters are here today to show their support for KIDS-4 and PEG Access, but many others were not able to miss out on a whole day of school. Though they are not in attendance today those other KIDS-4 crewmembers wanted to share their concerns about the future of KIDS-4 with all of you. We have two short video segments we want to share with members of the committee and this audience today. In the first clip the kids shared their thoughts on "What Does KIDS-4 Mean to You?" I will let them tell you themselves what they were thinking.

As proposed in AB207/SB107- Sun Prairie Cable Access will lose funding. Currently KIDS-4 serves over eighty children on a weekly basis, with a reduction in funding the number of children we could realistically serve would dramatically change. We asked the kids how they would feel if they were unable to participate in KIDS-4. The following video is a sampling of a few of their responses.

Thank you for your time and we hope you will consider amending this bill to allow worthwhile programs like KIDS-4 to continue.



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

From: Cameron Thompson, Program Coordinator Sun Prairie Cable Access

**Re: Video Competition Act AB207/SB107, Statewide Video Franchising Bill**

Committee members, thank you for allowing me to speak. My name is Cameron Thompson. I am a Program Coordinator for Sun Prairie Cable Access. I am before you to address two specific areas from the Video Competition Act.

First, AB207/SB107 requires that Sun Prairie Cable Access must provide to video service providers, at our cost, our programming in a format that is acceptable to them, whether we can afford to do so or not, or risk losing our station.

Connecting to just one video service provider from one channel from one origination point will run into the tens-of-thousands of dollars annually. To support our station in its current capacity the annual cost of transmission alone to just the current incumbent cable operator would be at least \$65,000, and this number grows exponentially as we gain video competition. Providing this service should be a cost of entry for any video service provider or incumbent cable operator into the video service market.

Second, even if we could cover the cost of transmission, the proposed programming stipulations, if unmet mean termination of our station. The time and cost of producing the staggering amount of programming required by this bill would be virtually impossible; even for a large broadcast station. Repeating programming in a day is in some situations is a necessity, for example airing candidate debates and school referendums on election days, to allow voters the opportunity to be as informed as possible, before casting their ballot.

AB207/SB107 will greatly reduce the amount of funding Sun Prairie Cable Access has to operate, asks us to pay for transmission to video service providers and incumbent cable operators, and then imposes impossible program stipulations. The combined effort will make it impossible for Sun Prairie Cable Access to continue.

Sun Prairie Cable Access's is not opposed to video competition. I am respectfully asking this committee to consider all the impacts of this bill. I am asking the committee to one amend the bill to have the video service provider cover the cost of transmission, two, add a more favorable definition of gross revenue for funding cable access, three eliminate unrealistic programming stipulations. Changes to these three areas would allow video competition and the continuation of Sun Prairie Cable Access. Thank you for your time and consideration of this matter.



# Sun Prairie Cable Access

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

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

From: Pam Steitz, Executive Director Sun Prairie Cable Access

Thank you for allowing me to speak. My name is Pam Steitz, and I am the Executive Director of Sun Prairie Cable Access.

I would like to address the grave impact the proposed Video Competition Act would have on Cable Access. I am here to ask this committee to consider all the ramifications of this bill. As written, it would cripple our station. By Eliminating Funding, Adding transmission costs, and imposing extensive programming stipulations, this act threatens our ability to survive.

The proposed programming stipulation with the threat of termination would be nearly impossible to meet if funding remained at current levels. But with the decrease in revenues, this measure virtually guarantees the end of Public Access.

Since 1979, Sun Prairie Cable Access has given community members an outlet to reach a local audience with their message over our two channels, KSUN 12 and KIDS-4. KSUN 12 provides our public, educational and government programs. KIDS-4 is a unique channel dedicated to television for KIDS by KIDS. Its mission to teach media literacy to children ages 9 to 14, through hands on use of television production equipment.

These kids will tell you that they are learning about television production, and they are, but they are also learning teamwork, self confidence, public speaking, self reliance and the value of volunteerism. These are qualities that they will use everyday in school and work. I have seen hundreds of children go through the program and am proud of the adults they have become. The KIDS-4 program and public access are helping them become good citizens and future leaders in our communities.

I am asking the committee to amend the proposed bill to have the video service providers continue to cover the cost of transmission, to add a more favorable definition of gross revenue and to eliminate the programming stipulations. These changes are vital to the continued existence of Sun Prairie Public Access.

Thank you,





## Wisconsin Manufacturers & Commerce

Wisconsin Manufacturers'  
Association • 1911  
Wisconsin Council  
of Safety • 1923  
Wisconsin State Chamber  
of Commerce • 1929

James S. Haney  
President

James A. Buchen  
Vice President  
Government Relations

James R. Morgan  
Vice President  
Marketing & Membership

Michael R. Shoys  
Vice President  
Administration

To: Chairperson Jeff Plale  
Members of the Senate Committee on Commerce, Utilities and Rail  
Chairperson Phil Montgomery  
Members of the Assembly Committee on Energy and Utilities  
From: R.J. Pirlot, Director of Legislative Relations  
Date: March 27, 2007  
Subject: **Support Senate Bill 107/Assembly Bill 207.**

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Wisconsin Manufacturers and Commerce (WMC) is a long-standing supporter of deregulation of the video service industry, and is strongly supportive of attempts to foster competition in the industry. The more companies which enter the video service market, the better we believe it is for Wisconsin businesses and other consumers of video services. As such, WMC supports Senate Bill 107 and Assembly Bill 207.

Increased competition for video service will lead to:

- lower rates,
- more programming choices,
- better customer service, and
- increased innovation and investment.

We are pleased that telecommunication company AT&T is interested in offering video service in Wisconsin. With new entrants into and increased competition within the video service market, Wisconsin businesses and consumers will enjoy the fruits of more video service competition. WMC hopes this legislation spurs others to enter into this market, too.

Overall, WMC recognizes much remains to be done in order to create fully competitive markets in the video service market. As such, we fully support any attempts to break down barriers to further facilitate video service competition and thereby allow for the entry of more competitors into the video service industry.

WMC respectfully urges you to support Senate Bill 107 and Assembly Bill 207.

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[www.wmc.org](http://www.wmc.org)





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

From: Vel Wiley, Executive Director, MATA Community Media – Milwaukee

Date: March 27, 2007

Re: Recommended Changes to AB207/SB107, Statewide Video Franchising Bill

MATA Community Media services the City of Milwaukee and seven suburban communities. We also provide service support to educational access groups in Milwaukee. The current language in the Statewide Video Franchising Bill would eliminate public, educational and government access (PEG) in the State of Wisconsin. It would also reduce current franchise fees to local governments by 20% - 25%.

It is disheartening to know that the competing businesses supporting this bill wish to use public property, but not provide the public with support of service venues such as PEG services. Surely, the elected officials will not permit such a clear disregard of public welfare to occur. To prevent *them,* make the Statewide Bill more reasonable and constituent supportive, the following changes are recommended:

### 1. Maintain PEG Financial Support Requirements

- AB 207/SB/107 prohibits municipalities from requiring financial or other support from video service providers for PEG channels. PEG stations provide valuable services to their communities by televising council meetings, candidate forums, community events, and programs promoting the causes of non-profit organizations.
- Change: Video providers should be required to provide 2% of gross receipts or match PEG financial commitments under the incumbent's franchise agreement, whichever is greater.
- Currently in California, Texas, Milwaukee-AT&T Bill

### 2. Maintain Local Control over Peg Channel Capacity and Programming

- Current language in the Franchise Bill under "substantially utilized" states that PEG channels not utilizing 12 hours per day of unrepeated locally produced programming may have the channel (s) reclaimed by the video provider. Such standards are indefensible given that no other television industry, broadcast, cable or PBS, is under such stringent rules.

- Change: Eliminate the provision that allows providers to take back PEG channels that are not “substantially utilized”.
- Currently in Milwaukee-AT&T Agreement

### **3. Continue Carriage of PEG Programming from Source to Headend or video Hub**

- AB 207/SB 107 Forces municipalities to pay for the equipment necessary to ensure that all subscribers receive local PEG programming. This will put an insurmountable financial burden on almost all PEG stations. Half of all PEG stations may be lost; the rest will have to cut back on program production unless local property taxes are increased to cover the short fall. Interconnection of video networks should be required where necessary for the signal quality of PEG channels to be the same as for the commercial broadcast channels.
- Change: Require the video service provider to carry PEG programming to the headend or the video hub at its expense and to interconnect with its competitor’s network where necessary to make PEG programming available to all subscribers via a quality signal.
- Currently in California and existing Wisconsin cable franchises

### **4. Expanding the Definition of “Gross Revenues” for the purpose of Calculating Franchise Fees**

- AB 207/SB 107 excludes non-subscriber revenues from the definition of “Gross Revenues” that are subject to the 5% franchise fee. This reduces the payments made by the cable operator by 20% - 25% in many communities. Currently, only cable subscribers pay toward the franchise fees. By reducing the amount local communities will receive, the entire community may have to pay higher taxes and/or fees to compensate for the reduced revenue.
- Although the cable/video providers will have increased profits due to reduced franchise fees, the price of the service is not likely to be reduced as demonstrated by Time Warner in Milwaukee. After cutting the support to public access by 57%, Time Warner did not lower the service cost, but rather, it was increased.
- Change: Have definitions of “Gross Revenues” that include subscriber and non-subscriber receipts.
- Currently in Texas, California, existing Wisconsin cable franchises and Milwaukee AT&T Agreement

## 5. Clarify Rights-of-Way Authority and Other Police Powers

- The current Franchise Bill language does not provide local communities with the power to control the Rights-of-Way. It is important for municipalities maintain authority of the Rights-of-Way including the right to collect street opening permit fees and require performance bonds and other management tools. The Rights-of-Way is public property and should have oversight by the local government.
- Change: Make clear that municipal authority over rights-of-way is preserved, including the right to collect street opening permit fees and require performance bonds and other management tools.
- Supporting language for Right-of-Way governance is in contracts with California, existing Wisconsin cable franchises, Milwaukee-AT&T Agreement.



Wisconsin State Assembly and Senate Energy and Utilities Committees  
March 27, 2007

I am Richard Wollangk, City Manager for the City of Oshkosh, 215 Church Avenue. I am here today to show my support for PEG channels like our Oshkosh Community Access Television (OCAT) and voice my opposition to language in AB 207/SB 107 that will reduce or eliminate any existing PEG funding for PEG channels or franchise fees.

PEG channels (like OCAT) provide the only source of gavel-to-gavel coverage of our local governments in action. In Oshkosh OCAT CitiCable 10 covers live coverage of common council, school board, Winnebago County Board, plan commission, traffic review and parks board meetings. These meetings (both live and in replays) provide citizens insight into our government and allow them to become more actively involved with the political process. OCAT programming is more than just meetings however-- OCAT's municipal programming with such programs as "Your City at Work" and "The City Manager's Report" provides citizens with an inside look into city projects, programs and services. OCAT's government access bulletin board provides pages of information on everything from city meeting dates, municipal notices, department news, voting information, job postings and much more.

OCAT PEG channels are important to our community and have a strong following among citizens. A 2005 telephone survey conducted by the UW Oshkosh Center for Community Partnerships indicated 83% of respondents watched CitiCable 10 programming in the last year with 62% watching once a week or more. The survey also indicated 80% of CitiCable 10 viewers were satisfied or very satisfied with the program offerings.

As a City Manager and the person responsible for budget preparation in Oshkosh I am extremely concerned with any legislation that would or could impact our tax levy. Based on the proposed legislation the City of Oshkosh faces a potential financial impact (including loss of current revenue in addition to increased costs for transmission) from \$2.8M to \$3.4M over the remaining life of our current franchise agreement. This certainly has the potential of a very negative impact on our property taxpayers.

Please save PEG access -- Preserve dedicated PEG funding, free transmission, and local control over content. Thank you.



Presented March 27, 2007 to the

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

by Mick Givens of N1432 Burma Road, Sarona, WI 54870

My name is Mick Givens. I live at N1432 Burma Road in Sarona, Wisconsin. I thank you and the State of Wisconsin for the opportunity to address you on this matter of great importance. I drove more than 4 hours to be here to express my complete support for the positions presented to you jointly by the League of Wisconsin Municipalities, the Wisconsin Alliance of Cities and Wisconsin Association of PEG Channels and also by the Municipal Electric Utilities of Wisconsin.

These groups and their representatives will present those positions so I will not take your time to repeat their efforts.

I believe my background gives me an informed position on the issues that I ask you to consider. I was a cable television technician back in the late 1970's and began volunteering my time to assist the Bloomer high school audio/video club in broadcasting School Board meetings live on the public access channel. Although I was certainly not the only person touched by those broadcasts, I was moved enough that I ran for School Board. I later became a District Manager for Marcus Communications, predecessor of Charter Communications. While with Marcus, I was elected by the membership to the Wisconsin Cable Communications Association to serve on their board of directors. I left cable television in 1994 and have since become Cable Director for the City of Rice Lake, a position which placed me at the forefront in the City's dealings with the cable television provider and open video system operator. I have directed the operations of the Rice Lake public access channel for over 11 years and was also elected by the membership of the Wisconsin Association of PEG Channels to serve on their board of directors. I was recently asked by the Town Chairman in the Town of Long Lake, Washburn County, where I live and serve on the Comprehensive Planning Commission, to head franchise renewal negotiations with Charter on a franchise I secured as a cable representative in 1989.

The timing and speed of the activity on AB 207/SB 107, which I first learned about less 3 weeks ago, has precluded the city of Rice Lake, which meets tonight, from taking formal action on the proposed Statewide Video Franchising Bill. However the City has adopted resolutions twice in about the past year in opposition to proposed federal legislation which would have taken away local control over local rights-of-way and impacted public access television.

The most important voices on this issue come from our local citizens, who stand to lose the most with this legislation if it passes without amendment. I have brought three e-mails I received from concerned members of the Rice Lake community who want to retain Public Access.

From Scot Arnold, a producer/announcer who helped in the live broadcast of 5 regular season and 2 playoff Rice Lake Warrior girls basketball games this past season:

Please consider an amendment to the new proposed bill and keep Public Access in small towns as Rice Lake WI. As a volunteer for our local channel, I hear numerous comments everyday about our local channel tv 14. They love the programs that we have! It is especially beneficial to those who can not get out from home as well as those of us who can not make it to other events and meetings that our channel carries. Please consider an amendment to the bill. It would be a great loss to our Rice Lake community if we were to lose Rice Lake Public Access Community Channel TV 14. Thank you.

From Susan Dietz, City Council President and Cable Commission President:  
I feel that the Public Access Channel 14 in Rice Lake is a valuable asset to the community. In my many years of serving on the Rice Lake City Council, I have never ceased to be gratified when constituents share that they have watched the latest meeting and are staying abreast of issues being discussed. They value seeing and hearing the entire discussion and not merely relying on the condensed versions in the local press. I also have learned that there is a great value placed on such local happenings as high school graduation and sporting events, dedications of local parks, memorials, and community current events. In short, the channel fosters the closeness found in this community.

From Bob and Kathy Lehman, viewers:

I am writing to thank you for supporting RL High School sports! Even though I coach, I still watch almost every game in replay on TV 14 just to get another view, and listen to the commentators for their thoughts. It is a wonderful service for us sports fans! My wife and daughters also watch the replayed games.

My parents have passed away, but they were also regular viewers for the sports, RL council meetings and the church services. They were basically homebound for the last couple of years of their lives and TV 14 gave them a connection to what was going on in our community. It would be sad to lose what we have in TV 14.

Channel 14 is a great addition to a smaller city like Rice Lake. Friends in other communities are jealous of what we have with our little hometown TV station. Hopefully, TV 14 can continue to grow, a major feat as a "volunteer" operation. It is just another example of what makes living in and around our community so special. Thank you, and TV 14, for what you are to the Rice Lake area.





Metropolitan Milwaukee  
Association of Commerce

## **MMAC Testimony SB107/AB207**

**March 27, 2007**

**Steve Baas, Government Affairs Director**

The Metropolitan Milwaukee Association of Commerce (MMAC) is pleased to appear in support of the SB107/AB207, and would like to thank the chairmen and committee members for taking up this important piece of legislation.

The MMAC represents over 2000 member companies employing nearly 300,000 individuals in the metropolitan Milwaukee region. Every day these companies are competing for employees, investment, and business opportunities with other regions, other states, and other countries. In this increasingly competitive global marketplace, we need to constantly look for new and innovative ways to make our economy stand out.

This legislation, placing Wisconsin on the cutting edge in information and entertainment technology, is one important tool toward that competitiveness goal. SB107/AB207 not only holds the promise of more jobs and investment in the new technology itself. It also helps create a more dynamic marketplace of options for consumers that gives our region a competitive edge as we work to attract new jobs and workers in all areas of businesses and industry.

At the MMAC, we want metro Milwaukee to be a leader, not a follower, in the global marketplace of the 21<sup>st</sup> Century. We believe this bill, allowing and encouraging the implementation of this innovative new technology throughout our region, will help us toward that goal.

I thank you again for holding this public hearing and urge your prompt action to advance this critical piece of legislation forward.

###



Wisconsin State Assembly and Senate Energy and Utilities Committees  
March 27, 2007

comment  
to SB107

I am Tim Franz, Fire Chief for the City of Oshkosh, 215 Church Avenue. I am here today to show my support for PEG channels like our Oshkosh Community Access Television (OCAT) and voice my opposition to language in AB 207 that will reduce or eliminate any existing PEG funding for PEG channels or franchise fees.

Legislators should consider the important role PEG channels (like OCAT) play in keeping residents informed and safe during emergency situations. In Oshkosh OCAT PEG channels are utilized during emergency situations as the official City public information outlet from our Emergency Operations Center-- keeping citizens informed through live press conferences, taped segments and repeated text messages concerning health, safety or incident updates. OCAT has greatly increased our ability to communicate public information during numerous city-wide emergency situations. Their effectiveness and efficiency during these situations makes them an invaluable partner in future emergency response and planning programs.

PEG channels (like OCAT) also provide public safety partners like our fire department, police department and health department the ability to inform citizens of our programs and services through monthly television programs. The Oshkosh Police Department currently produces a monthly program entitled "Beyond the Badge" highlighting crime prevention and awareness issues. The Oshkosh Fire Department is in the planning stages of a similar programming featuring fire prevention, awareness and other public safety issues. Please do not underestimate the value of PEG channels for public safety information, awareness and prevention programs.

Please save PEG access -- Preserve dedicated PEG funding, free transmission, and local control over content. Thank you.





## Office of the Mayor

David J. Cieslewicz

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**Remarks Before the Joint Hearing of the Senate Committee on Commerce, Utilities and Rail  
and the Assembly Committee on Energy and Utilities on AB 207 and SB 107  
March 27, 2007**

Good morning, Sen. Plale, Rep. Montgomery and members of the Committee. My name is Mario Mendoza and I am the Economic Development and Legislative Liaison for the City of Madison. On behalf of Mayor Dave Cieslewicz, I thank you for the opportunity to speak today. I am accompanied by Brad Clark, Station Manager of Madison City Channel 12, and Roger Allen, Assistant City Attorney for the City of Madison. Each of us would like to share some concerns regarding different aspects of Assembly Bill 207 and Senate Bill 107. I will focus my remarks on four basic points.

First, we believe the bill to be unnecessary to further competition. Just in the last week or so, AT&T has agreed to the terms of a contract in the Milwaukee area that would enable it to enter that market and compete. Furthermore, Verizon, another telecommunications company, has been able to comply with local franchising regulations for some time on the East Coast, and has entered into numerous such agreements.

Second, this bill would result in a significant loss of revenue for the City of Madison. Based on 2006 figures, the City would lose \$398,000 in PEG funding and \$270,000 in Franchise Fees. This would likely result in reducing City services to the tune of \$668,000, because in the current environment where local government budgets are subject to levy limits, cities are quite limited in their ability to offset such losses of non-levy revenues. At the same time, taxpayers --not all of whom are or will become cable TV or video service subscribers--will derive no benefit that they would not receive under the current regulatory framework and, quite likely, will receive \$668,000 less in services.

Third, we are troubled by the apparent loss of local control over municipalities' ability to regulate access --including excavation on-- the public Right of Way. This bill relieves providers of the obligation to pay fees for excavation in the public ROW. It also appears to relieve providers of the duty to restore the ROW once they have excavated it.

Finally, the franchise fee set forth in this bill raises a question: What do the people of California and Texas have that the people of Wisconsin do not have? In California and Texas, the legislature included a provision regarding payment by video service providers of a fee to municipalities to support PEG programming. The bill before the Committee today does not.

Thank you.



# WAPC



## Wisconsin Association of PEG Channels

*Serving the needs of public, education, and government cable access television stations since 1998.*

2006-2007  
Board of Directors

President  
**Joel Desprez**  
Eau Claire  
Community TV

Vice-President  
**Judi Kneece**  
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**John Jordan**  
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Beloit College

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Mauston Public Access

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**Scott Mealiff**  
Sheboygan TV 8 WSCS

**John Quirk**  
Stevens Point Community  
Television

ACM Representative  
**Mary Shanahan Spanic**  
West Allis Community  
Media Center

Executive Director  
**Mary Cardona**  
608-215-5594  
608-233-6148 (fax)  
wapc@tds.net

### Public Hearing on AB 207 and SB107 March 27, 2007

Remarks of Mary Cardona, Executive Director

This bill devastates PEG access in Wisconsin and its authors claim to "preserve" it. How can there be such a difference in opinion? What makes PEG work? And why does this bill make it not work?

Public, Education, and Government access television channels on cable systems have made a go of it and even thrived over the last 30 years because of four sources of support: the cable operator, the municipality, subscribers and the community. AB 207 and its partner, SB 107, eliminate or undermine each one of these supports and then require stations to produce even more programming or be forced off the line-up. I'm here to say that this is not a recipe for preserving PEG access. At least half of our 43 WAPC member stations will not survive and the rest will be severely damaged. Small town stations will all be gone. And Wisconsin communities will have lost something of great value – being able to see their local communities on television.

Today, cable operators provide the transmission lines that carry produced programs and live coverage of events from our local buildings to the cable headend. This bill requires municipalities to lease those lines themselves – and then lease another set for the competitive operator. Amendments introduced by the League of Wisconsin Municipalities, the Wisconsin Alliance of Cities and WAPC would keep transmission responsibilities with operators where they belong.

Today, municipalities allocate some or all of the 5% franchise fee to PEG stations. Under AB 207, these fees could see a cut of 20%. Access center revenue from franchise fees would therefore also be cut 20% -- and maybe more, if municipalities choose to make up some of the revenue loss by reducing the allocation to PEG. The amendments introduced by cities and WAPC would keep fees intact.

Subscribers have also done their part to support PEG access. Through a local legislative process, many communities (about half of WAPC members) collect PEG fees from cable subscribers on monthly cable bills. These few cents a month make a big difference to PEG stations. But AB 207 abolishes this income source. City and

WAPC amendments to the bill would restore this source of income negotiated in good faith with cable companies, by allowing current funding schemes above 1% to go forward and the remainder to qualify for an up to 1% PEG fee.

Finally, PEG stations would never survive without the support of their communities. Our budgets typically come up for review every year and stations always operate with the needs of their communities in mind. AB207 creates arbitrary content requirements that will force nearly all stations to close, force others to play programs that do not meet community needs, and force many others to regionalize. This last is just as damaging, because a channel without a strong community identity lacks the strong bond needed to garner support at annual municipal budget discussions. City and WAPC amendments eliminate content controls and reinstate community based channel allocations.

I appreciate your time. And I ask, please save PEG access – Preserve dedicated PEG funding, free transmission, and local control over content. Thank you.

# WAPC



## Wisconsin Association of PEG Channels

Serving the needs of public, education, and government cable access television stations since 1998.

### Effect of AB207 on WAPC Member PEG Access Stations

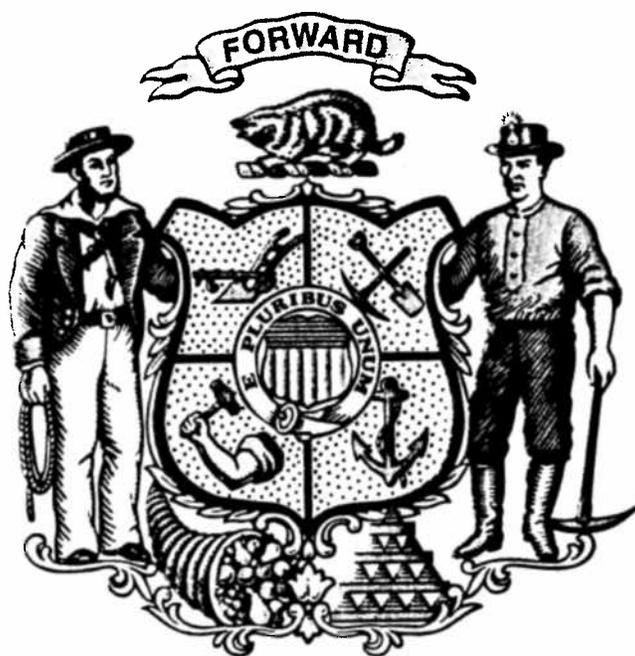
Statewide financial loss & closures

from Decreased Income and Increased Expenses

**\$50 million dollar revenue loss for PEG support alone over 10 years**

City (amounts estimated for cities in blue; PEG budget bankrupt for cities in red)	2005 or 2006 Annual PEG Access Station Budget	Annual lost Income:	Annual new Expenses:	Annual PEG Budget remaining (if any)	Annual increase in municipal property tax to maintain current level of PEG access station service
		No PEG fee 20% decrease in Franchise Fee	Lease of transmission lines & Related Equipment*		
Beloit	\$50,000	\$10,000	\$31,000	18%	\$41,000
Deerfield	\$21,000	\$5,400	\$31,000	0	\$36,400
Dodgeville	\$28,000	\$5,600	\$31,000	0	\$36,600
Eau Claire	\$337,000	\$270,600	\$155,000	0	\$425,600
Fitchburg	\$200,000	\$40,000	\$248,000	0	\$288,000
Hartford	\$87,500	\$23,500	\$93,000	0	\$77,000
Hudson – N. Hudson	\$155,000	\$52,600	\$62,000	26%	\$114,600
Janesville	\$208,000	\$99,200	\$93,000	8%	\$192,200
Jefferson	\$6,500	\$1,300	\$31,000	0	\$32,300
Kenosha (public)	\$92,000	\$12,000	\$31,000	53%	\$43,000
Lake Mills	\$38,000	\$7,600	\$93,000	0	\$100,600
Madison (public)	\$129,000	\$129,000	\$31,000	0	\$160,000
Madison (gov't)	\$489,000	\$305,000	\$62,000	25%	\$367,000
Marshfield	\$172,000	\$34,400	\$93,000	26%	\$127,400
Mauston	\$46,000	\$22,800	\$31,000	0	\$53,800
McFarland	\$82,000	\$21,200	\$31,000	36%	\$52,200
Menomonee Falls	\$114,000	\$22,800	\$31,000	53%	\$53,800
Merrill	\$71,000	\$14,200	\$31,000	36%	\$45,200
Milwaukee (public)	\$500,000	\$500,000	\$124,000	0	\$624,000
Monona	\$40,000	\$8,000	\$31,000	3%	\$39,000
New London	\$60,000	\$12,000	\$31,000	28%	\$43,000
Oregon	\$60,000	\$12,000	\$31,000	28%	\$43,000
Oshkosh	\$337,000	\$145,000	\$62,000	39%	\$207,000
Pleasant Prairie	\$15,000	\$3,000	\$31,000	0	\$34,000
Plymouth	\$70,000	\$14,000	\$31,000	36%	\$45,000
Prescott	\$30,000	\$6,000	\$31,000	0	\$37,000
Rice Lake	\$75,000	\$11,000	\$31,000	44%	\$42,000
Ripon	\$68,000	\$13,600	\$4,000	0	\$17,600
River Falls	\$136,000	\$72,800	\$31,000	24%	\$103,800
Sheboygan	\$148,000	\$36,000	\$279,000	0	\$315,000
Stevens Point	\$174,000	\$63,600	\$186,000	0	\$249,600
Sturgeon Bay	\$98,500	\$26,500	\$31,000	42%	\$57,500
Sun Prairie	\$338,400	\$107,200	\$155,000	23%	\$262,200
Waterloo	\$30,000	\$6,000	\$31,000	0	\$37,000
Wausau	\$107,000	\$83,800	\$186,000	0	\$269,800
West Allis (public)	\$150,000	\$150,000	\$31,000	0	\$181,000
West Allis (gov't)	\$335,000	\$67,000	\$31,000	71%	\$98,000
West Bend	\$250,000	\$50,000	\$31,000	68%	\$81,000
Whitewater	\$98,000	\$19,600	\$31,000	48%	\$50,600
Wisconsin Rapids	\$160,000	\$32,000	\$31,000	61%	\$63,000
<b>Annual Totals</b>	<b>\$5,605,900</b>	<b>\$2,516,300</b>	<b>\$2,670,000</b>		<b>\$5,146,800</b>

\* Transmission line needed from each local origination site to headend or video hub. T-1 cost for AT&T estimated at \$1,000 per month. Broadcast quality link to cable operator estimated at \$1,400 per month. Since access stations have never paid for this capacity on a cable system, WAPC bases this figure on the cost of leased fiber from a cable company in one municipality. Number of origination sites per city varies from 1 to 9.



LRB 1914/3 Hearing

March 27, 2007

became AB 207,  
amendment to SB 107

My name is Bob Chernow. I chair the Regional Telecommunications Commission which has 35 members. I also chair the North Shore Cable Commission which has the 7 North Shore communities of Milwaukee County. We have our own PEG channels.

After many calls, I was able to get an appointment with Representative Phil Montgomery. Jerry Musial, West Allis' Video/Cable Coordinator, joined me. Rep. Montgomery made it clear that the RTC would not have a seat at the table even though our communities have the highest concentration of cable subscribers in Wisconsin and it is our communities that AT&T sees as its market. Rep. Montgomery made it clear that this was going to be the "Phil Bill".

Actually it would be more accurate to say that this is the "AT&T Bill". Our AT&T friends have had full access to the writing of this bill. They are behind a very clever and well funded public relation's campaign. And they are behind the creative numbers that the partisan Wisconsin Policy Research Institute, Inc. just published.

Saying this, let us look at what's wrong with LRB 1914/3.

1- *It kills off PEG.*

Is this what the Legislature wants? The bill forbids us to collect "capital contributions"; the money that the FCC lets fund PEG. It requires 12 hours of daily local programming, something that is not needed or even done by local TV stations.

Solution: Permit capital contributions up to 1% and allow local PEG to serve their communities with reasonable use.

2- *It dramatically reduces franchise fees.*

Professor Barry Orton, Wisconsin's cable expert, says that the bill reduces franchise revenues by 20-25% by changing the definition of gross receipts.

Are these the promised "savings" that AT&T boasts? If so, the beneficiary will be Time Warner Cable. Time Warner reduced the funding for Milwaukee's PEG channels and **then promptly raised their own rates.**

Solution: The bill should include revenues from Home Shopping, advertising and other sources in its definition of gross revenues.

3- *There is no oversight.*

Sign a simple form and declare that you have the money and technical skills and you get a franchise. Bonding? Forget it. Inspections of equipment? You can look, but you can't charge for the work. Restoration? Perhaps!

If a community runs into a crooked company or an incompetent firm, it can't do anything about it because a franchise NEVER ends. You can't even check into whom the company is transferring their "franchise". This is not mere theory. The RTC required special bonding from Aldephia, a firm whose corrupt officers later pushed them into bankruptcy. The officers are now serving jail time.

Audits are allowed, but not paid for. Consumer protection goes to Madison, with little enforcement power. AT&T's installations differ from Time Warner Cable.

Solution: Reasonable fees are needed to check electric wiring and other installation, especially because of an unexplained explosion of at least one of AT&T's cabinets. Restoration of our Rights of Way needs teeth to insure compliance.

Some standards for bonding are needed as well as proof that a person or company has the finances and technical skills to operate a franchise. Transfers need the same oversight.

The Regional Telecommunications was created two decades ago to collectively negotiate with a cable/video provider to have one stop approval of a model ordinance and contract. This system has worked well. We negotiated in fact with AT&T. Yet our communities are urban-suburban for the most part. Much of the State has lower concentrations of people and is served poorly. Few will ever get competition. Yet this bill permits current cable providers to opt in and reduce what they pay locally. This reduction of franchise fees means that property tax will be raises or local services- already strained- reduced. This is, in realty, an unfunded mandate by the Legislature. It is wrong.

Solution: Adopt the Milwaukee-AT&T agreement as the statewide model.

Bob Chernow  
Chair  
Regional Telecommunications Communications  
North Shore Cable Commission

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Milwaukee, Wisconsin 53202

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Phone: 414-347-7089



# UNIVERSITY OF WISCONSIN - MADISON

37  
YEARS  
1970 - 2007

Professor Bassam Z. Shakhshiri  
William T. Evjue Distinguished Chair for the Wisconsin Idea

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March 27, 2007

→ became AB 207,  
companion to  
SB 107

To the Wisconsin State Senate and Assembly Energy and Utilities Committees:

Whatever action you take on LRB-1914/3, I hope you will ensure that there will be no degradation in the technical quality of community access cable channels, and that they receive adequate funding. These channels provide a valuable service to their communities.

The Madison Metropolitan School District has recorded and presented several of our Wisconsin Initiative for Science Literacy programs on its cable channel 10 in Madison. One such program is a series called Conversations in Science for Teachers. The series is open to all teachers in Dane County, who can earn continuing education credit. Each school year, WISL arranges for eight distinguished University of Wisconsin researchers to share their expertise with the teachers. The series is intended to re-invigorate the teachers by exposing them to cutting-edge research and to encourage researchers to communicate with a broader audience. This year's topics have included performance-enhancing drugs, the links between calories, cancer, and aging, and the production of hydrogen and liquid fuels from biomass.

We have received a lot of positive feedback from people who have seen the programs on cable channel 10. The channel gets a sizable audience, and the technical level of the presentations is accessible to a reasonably well-educated lay person.

Another series co-sponsored by WISL and recorded and presented by the school district was "Conversation on Creativity," which invited distinguished faculty from the sciences, arts, and humanities to discuss what creativity means to them, and how it applies to their field.

We are very pleased that the school district's cable channel has allowed us to reach a wider audience, and we hope that the pending legislation will do nothing to hamper the ability of schools, cities, and other organizations to use the cable channels for the benefit of their communities.

Sincerely,



Bassam Z. Shakhshiri  
Professor of Chemistry  
Director, Wisconsin Initiative for Science Literacy



**PUBLIC HEARING ON SENATE BILL 107** *AB 207*  
**Relating to regulation of cable television and video service providers**

**March 27, 2007**

Good morning, Ladies and Gentlemen. Thank you for the opportunity to address you on this important topic.

I am Paul Williams, a member of the Janesville city council.  
I am appearing on behalf of the City of Janesville.

Janesville currently has a franchise agreement with Charter Communications.

Under the agreement, in exchange for the right to provide cable TV services to Janesville residents, Charter pays Janesville approximately **\$ 550,000** annually. Charter also provides a local access channel that broadcasts city council meetings and other local programming, valued at approximately **\$ 140,000** annually.

Janesville's agreement with Charter also requires that Charter **respond** to complaints in a **timely** and **customer-friendly** manner, **maintain** quality service, and **adhere** to right-of-way regulations. The city has a staff person who serves as a **liaison** between residents and Charter.

In the past few years, Charter has made substantial improvements in **responsiveness** to customer complaints and in **service reliability**.

The City of Janesville is **opposed** to Senate Bill 107 for the following reasons:

*\* AB 207*

First, it would likely reduce by **20%** the franchise fees Janesville currently receives, increasing the burden on taxpayers to pay the costs now covered by the franchise fee.

Second, this bill is NOT likely to reduce cable TV rates for Janesville residents.

Third, under the proposed bill, the **complaint procedures** that the city and Charter have developed through the years would be replaced by a new, untested set of procedures.

Fourth, the overall result of the proposed bill will be to **increase** the **tax burden** on Janesville residents or to **cut** public access TV, like all-too-familiar situations brought on by **levy limits** and **reduced state aids**.

Lastly, the 12-hour-a-day **new-programming** requirement for PEG channels under the proposed bill would be **impossible** for Janesville—and most Wisconsin cities, I would guess—to meet.

In the seven years I have served on the Janesville city council and in the 16 years I have worked in a law office, I have read hundreds of statutes, ordinances, policies, contracts, and agreements, but I have never read anything as **one-sided**—in this case, in favor of video service providers; as **deceptive**--in this case, to consumers; as **unfair**--in this case, to municipalities; and as **oppressive**--in this case, to taxpayers—as this proposed bill.

On behalf of the city of Janesville and its taxpayers, I ask that you vote against Senate Bill 107. Thank you.

*5 AB 207*





State of Wisconsin  
Jim Doyle, Governor

---

**Department of Agriculture, Trade and Consumer Protection**  
Rod Nilsestuen, Secretary

March 27, 2007

Senator Jeffrey Plale  
Room 313 South  
State Capitol  
Madison, WI 53707-7882

Representative Phil Montgomery  
Room 129 West  
State Capitol  
Madison, WI 53708

**Re: AB 207 and SB 107**

Dear Representative Montgomery and Senator Plale:

Thank you for the opportunity to testify for information on SB 107 and AB 207.

We applaud the basic tenet of this legislation which is to provide increased competition in the video services industry. For too long consumers have had little or no choice in determining who could provide what has become a popular service for consumers. We believe that permitting increased competition will provide more choices for consumers and, hopefully, lower prices.

However, we have significant concerns about the total lack of consumer protections in the legislation, including the repeal of s. 100.209, Stats., entitled "Cable television subscriber rights." This statute, which has been in existence in one form or another for twenty six (26) years, provides what we consider basic and fundamental protections for consumers. These include:

- The right to have service repaired within seventy two (72) hours of notification if the service problem is not the result of a natural disaster;
- The right to a credit against a consumer's bill if there is an interruption that is longer than four (4) hours in a day;
- The right to receive thirty (30) days advance notice of any increase in rates or deletion of any current programming service;
- The right to a grace period of forty five (45) days for disconnection due to an unpaid bill and ten (10) days advance notice of disconnection.

Over the past two (2) plus decades, this statute has served consumers well. Each year we receive hundreds of complaints from consumers about cable television services. In addition, we receive well over a thousand complaints about issues involving telecommunications providers, a group that is advocating for passage of this legislation. Indeed, until the enactment of Wisconsin's no-call law, telecommunications complaints were perennially our number one complaint. Since no-call, telecommunications has perennially been our number two (2) complaint.

We have heard that some proponents of this legislation contend that increased competition will lead to consumer protection because if consumers are unhappy with the service provided by one entity, the consumer can simply switch to a competitor. This argument is invalid for several reasons.

First, not all Wisconsin residents will have multiple providers from which they can choose. There is no requirement in the legislation that requires all video service providers to serve all persons in the state and in many areas, particularly smaller municipalities and rural areas, only one provider will continue to exist. For consumers in these areas, repeal of s. 100.209, Stats., will mean that no matter how poor they think their current service is, there is absolutely nothing they can do about it.

Second, switching from one provider to another is not always easy. Like the cell phone industry, video service providers can have subscription agreements which run for several years and which impose a significant fee for early termination of that agreement. In reality then, even where competition does exist, some consumers will not be financially able to make a switch for several years.

We have also heard arguments by proponents of this legislation that federal law provides ample consumer protection. Again, we disagree. Current federal law does impose some requirements on cable operators, but these are limited to issues like maintaining an office to take consumer calls and bill payments, installing cable television within seven (7) business days of an order for service, and providing refunds or credits in a certain number of days. These provisions in no way address the fundamental consumer protection issues that s. 100.209, Stats., covers.

In addition, some proponents argue that s. 100.209, Stats., can be repealed because DATCP can promulgate rules for consumer protection. While this legislation does make reference to rules promulgated by DATCP, it gives no authority to DATCP to promulgate any rules. And, there is currently no law that permits DATCP to promulgate rules concerning the topics addressed by the statute or any customer service or quality of service standards.

Because of our concerns, we strongly believe that s. 100.209 should not be repealed. However, we do think it needs to be amended in two regards. First, we think that the

terms "video service" and "video service provider" need to be added. It would be unfair to cable operators if only they, and not their competition, were bound by the requirements of that statute. In addition, we think the provision in the statute that permits municipalities to enact ordinances that give greater protection to consumers than allowed by the statute should be deleted. If the state is going to be the franchise authority, municipalities should not be entitled to enact separate ordinances.

Another issue of major concern to us is the legislation's provisions regarding discrimination and access to service. In our opinion, those provisions do little to protect against discrimination or promote access. With respect to discrimination, the legislation provides that by the end of the third year of a franchise, only 25% of those with access to services must be low income households; that by the end of year five (5), that percentage increases to only 30%. Put another way, this legislation means that starting at the end of five (5) years, video service providers may exclude 70% of the low income households in their service area from access to service.

In addition, current telecommunications providers that obtain video franchises under this legislation and have more than 500,000 basic local exchange access lines in the state, must provide access to video services to only 25% of households within their basic local exchange area and at the end of six (6) years, to only 30% of such households. Again, put another way, this legislation means that starting at the end of six (6) years, these providers may exclude 70% of the households in their basic local exchange area from access to video service.

Rather than these provisions, we encourage the committees to consider alternative language which is adapted from North Carolina's state-issued video service franchise law. That language, as adapted is:

- (a) A video service provider may not deny access to the service to any group of potential residential subscribers within the video franchise area because of the race or income of the residents. A violation of this subsection shall be considered an unfair trade practice under s. 100.20. In determining whether a cable service provider has violated this subsection with respect to a group of potential residential subscribers in a video franchise area, the following factors must be considered:
  1. The length of time since the provider was granted a franchise for this area. If less than a year has elapsed since the franchise for this area was granted, it is conclusively presumed that a violation has not occurred. This subsection does not apply to providers that currently provide video or cable television services.
  2. The cost of providing service to the affected group due to distance from facilities, density or other factors.
  3. Technological impediments to providing service to the affected group.
  4. Inability to obtain access to property required to provide service to the affected group.

We believe that this language provides greater protection to Wisconsin residents while not imposing an onerous burden on video/cable television providers.

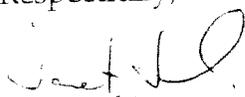
Finally, we have serious concerns with the legislation's process of granting franchises. The legislation does not grant any discretion to DFI to grant or deny a franchise. Rather, the legislation provides that if an application for a franchise is complete, DFI must approve it. In addition, while the legislation provides that an applicant must furnish an affidavit attesting to financial, legal, and technical capability to provide video services, DFI can neither promulgate rules defining "financial, legal, and technical" capability, nor question whether the applicant's attestation is accurate. Similarly, the legislation provides that once a franchise is granted it can only be terminated at the request of the franchisee and that a franchisee can transfer the franchise to anyone the franchisee chooses.

We believe that DFI should be able to exercise some discretion both in promulgating rules and granting a franchise. We also believe that the law should contain reasonable standards under which a franchise can be revoked. Without this authority, DFI is nothing more than a processor of applications, all of which must be granted if the application is complete. Moreover, without this authority, consumers are ill-served because anyone, whether objectively qualified or not, must be granted a franchise in perpetuity.

We are aware that DFI is addressing certain items of concern with the legislation in its written testimony. We have consulted with DFI on these concerns and are in complete accord with them.

Thank you again for this opportunity to provide testimony on this legislation.

Respectfully,



Janet Jenkins  
Administrator  
Division of Trade & Consumer Protection





**State of Wisconsin**  
*Department of Financial Institutions*

Jim Doyle, **Governor**

Lorrie Keating Heinemann, **Secretary**

Testimony of  
Christopher Green, General Counsel  
Department of Financial Institutions  
Joint Hearing of Assembly Committee on Energy and Utilities &  
Senate Committee on Commerce Utilities and Rail  
Assembly Bill 207 and Senate Bill 107  
March 27, 2007

Chairperson Montgomery and Chairperson Plale, thank you for giving me the opportunity to testify on behalf of the Department of Financial Institutions (DFI) for information only on Assembly Bill 207 (AB 207) and Senate Bill 107 (SB 107), which relate to the creation of statewide video service franchises.

DFI believes competition in this industry is important. We support the intent of the legislation to provide consumers with a choice in cable television service. In our review of the bills, however, we have come across some concerns that directly relate to consumer protection.

It is my understanding the Department of Agriculture, Trade and Consumer Protection (DATCP) agrees with DFI that existing consumer protections should not be repealed. Competition alone will not guarantee consumers will be protected.

In addition, DFI and DATCP should be allowed to promulgate rules to implement the statute. There are a number of undefined terms and processes in the bill that necessitate rulemaking to ensure the intent of the legislation is carried out and consumers are protected.

DFI has specific suggestions on how to improve the franchise review process to ensure consumers are receiving service from businesses that are qualified to provide cable services. These suggestions are centered on the need for a true review of the franchise applications that are sent to DFI.

AB 207 and SB 107 require DFI to issue a video service franchise within 10 days of receipt of an application. There is nothing in the legislation that allow DFI to deny the application, even if the applicant is not legally, financially or technically qualified to provide video service or if the provider has a record of consistently violating consumer protection laws. DFI's only determination under the bills is whether or not the application is complete and the bills do not define, nor do they allow the department to define through rulemaking, what makes an application complete.

DFI suggests amending the bills so that a determination of completeness must be made by the department within 15 days. Once an application is complete, DFI proposes creating an additional 15 day requirement for the department to determine if the business is legally, financially and technically qualified to provide video service. Rulemaking would be required, as we have for other industries with similar reviews, to define these terms and create an understandable process for the business applying for the franchise, consumers and DFI.

In addition, there is no mechanism under the legislation to revoke an existing franchise or prevent the transfer of an existing video franchise if the video provider or transferee has a track record of poor service or non-payment of fees or other indications that the video provider has violated the law.

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AB 207 and SB 107 effectively prevent the review and dispute of the video service provider's financial records and payment of fees. One provision in the legislation states that to dispute a fee, it must be disputed within three years of the violation. However, another provision states that the video service provider's financial records may be reviewed only once every three years. The additional audit and dispute resolution process called for in the bills prevent an action to be brought for non-payment or under payment of fees within the time constraints specified in the legislation. DFI suggests allowing for the review of video service provider's financial records once every two years.

In addition, DFI proposes sending a portion of the fees directly to the state to pay for the review of franchise applications and consumer complaint processing. As currently written, the legislation does not provide for any fees or other revenue to pay for the state's costs associated with the bill.

DFI also shares DATCP's concerns regarding the provisions in the legislation that attempt to prevent discrimination in the provision of video services. We believe these provisions must be strengthened to ensure "redlining" does not occur.

In summary, DFI supports the intent of the legislation, but believes minor changes can be made that will significantly strengthen consumer protections. We look forward to working with you on this important piece of legislation. Thank you.



March 27, 2007

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

From: Charles Uphoff – Chair, Fitchburg Broadband Telecommunications Commission  
Executive Director, WYOU Community Television

**Re: AB 207 / SB 107 – Video Competition Act**

I was born in Wisconsin, have spent most of my life here and have been actively involved in community affairs, as a member and President of the Fitchburg City Council, as a member of the Oregon School Board for nine years, as a member of the Dane County Ethics Board and as Coordinator of the Wisconsin Conference on Children and Families under Governor Lee Sherman Dreyfus.

For the past eight years I have been a member of the Fitchburg Cable/ Broadband Telecommunications Commission and I currently serve as Executive Director of WYOU, Madison's public access television station. *An informed public is essential to the survival of our democracy and public access to local independent media is essential to both.*

Public, Educational and Government access channels play a vital role around the State of Wisconsin as a forum for in-depth discussion of issues and as a source of local news and information that helps to create and strengthen our communities. Fitchburg Access channels cover government and community meetings, special events and provide award-winning coverage of community issues not covered elsewhere.

Dozens of community organizations use public access television for public service announcements to publicize upcoming events and in both January of this year WYOU Community Television aired more than 148 hours of locally produced programming that involved more than 1,000 hours donated by volunteers, producers and production crews to set up shoot and edit programs. Of the 58 locally produced shows that aired in January, twenty-one of the programs were new within the previous three months.

WYOU checks out video cameras to members of the community at no cost, with an equivalent rental value of more than \$20,000 each month. Over the past year WYOU has covered nationally recognized speakers for the Madison Civics Club and a day-long conference on coordinating economic development strategies for the Dane County Collaboration Council and the Greater Madison Chamber of Commerce along with dozens of other community events without commercial interruptions when other local media were nowhere to be seen or showed up only briefly to get their 30 second sound-bites. Our democracy cannot survive on sound-bites

WYOU and other public access stations provide internships, training and technical support to help young people and other members of the community learn valuable skills in the area of video production and editing. WYOU has eight programs that are produced live each week from our studios, including two all-Spanish-language programs featuring call-ins music videos and interviews on topics of vital interest to viewers and the community and the young man who runs the sound-board for one of these shows is 12 years old.

The legislature recently approved an initiative designed to bring more filmmakers to Wisconsin. Public access stations have, for years, provided a training ground and resources for would-be filmmakers.

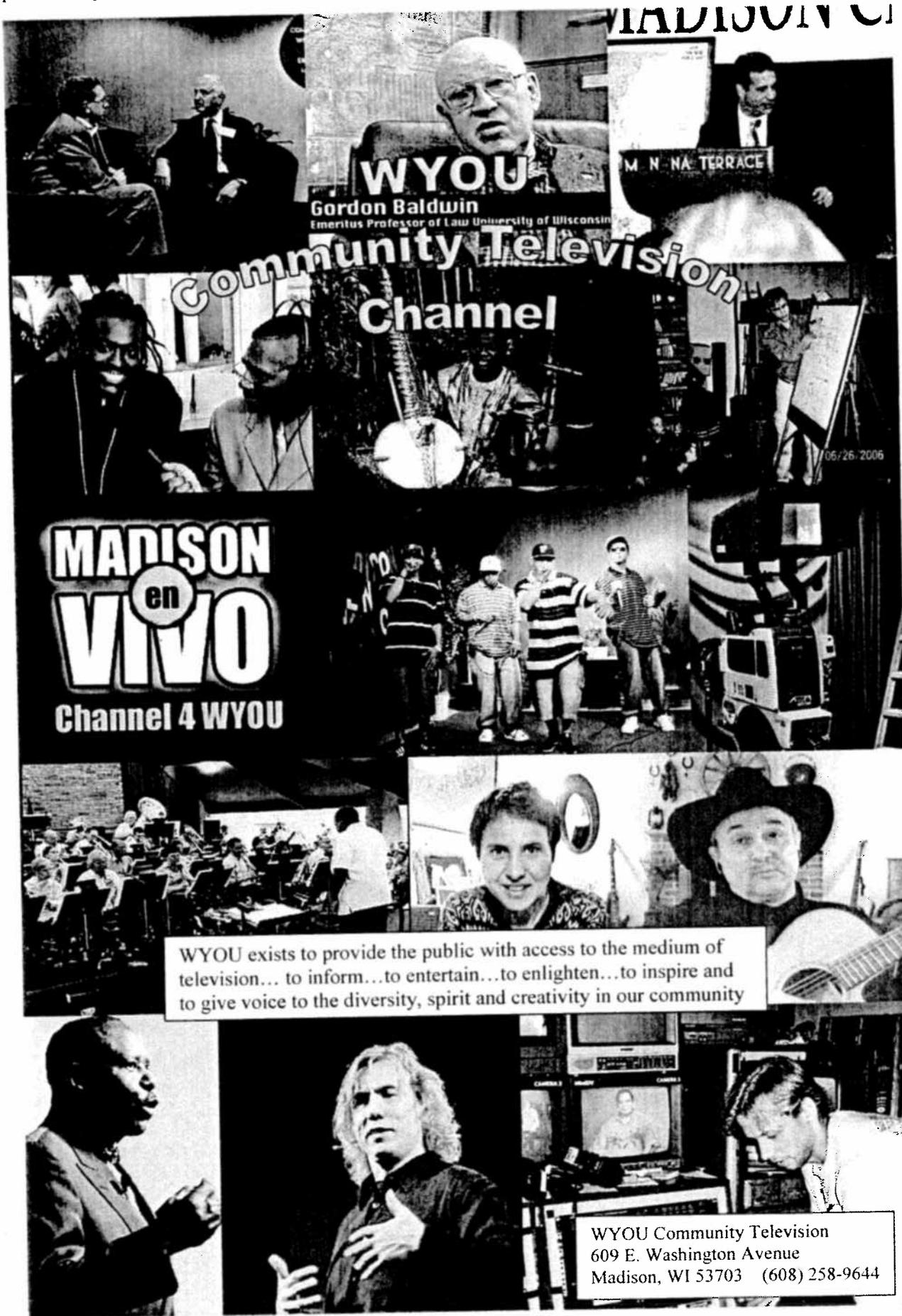
A list of a tiny fraction of the community organizations that utilize WYOU includes The Greater Madison Chamber of Commerce, Downtown Madison, Inc., Madison Civics Club, Olbricht Gardens, Attic Angels, Edgewood College, Downtown Madison Rotary, League of Women Voters, Madison School Community Recreation Program, Madison Urban League – Kennedy Hgts Gang Prevention Project, Head Start Parent Information Exchange and more than a dozen local churches and religious groups.

It was distressing, when I did a Google search for LRB 1914 / 3, the predecessor of the Bills under consideration at this hearing to discover that the first site that came up was for a right-wing Texas-based "think tank" headed by former House majority leader Dick Armey, whose principal financial backers include Verizon and AT&T. Their "Choose Your Cable" campaign seems to have provided the blue print for this legislation.

It is being suggested by some of the largest and wealthiest telecommunications companies in the world that the requirement of obtaining local franchises is burdensome. I would respectfully submit that meeting the requirements of the Freedom of Information Act is burdensome ... complying with the open meetings law, voting itself... even democracy is burdensome. If the incumbent video service providers and ordinary citizens with fewer resources and far fewer lobbyists have been able to meet these burdens for more than 30 years, so can AT&T.

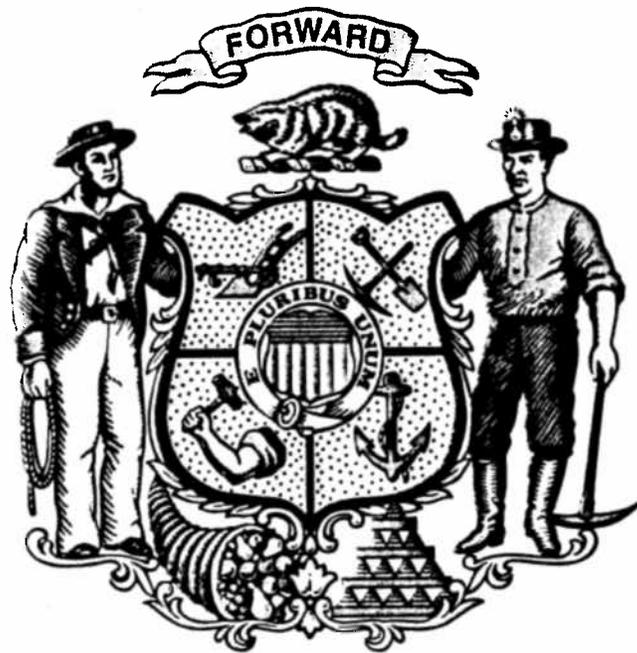
I strongly support the recommended changes to this legislation put forward by the League of Wisconsin Municipalities, the Wisconsin Alliance of Cities and the Wisconsin Association of PEG Channels.

An informed public is essential to the survival of our democracy...public access to independent local media is essential to both. In January alone, WYOU aired more than 148 hours of locally produced programming.



WYOU exists to provide the public with access to the medium of television... to inform...to entertain...to enlighten...to inspire and to give voice to the diversity, spirit and creativity in our community

WYOU Community Television  
609 E. Washington Avenue  
Madison, WI 53703 (608) 258-9644



March 28, 2007

Norman R. Aulabaugh  
2541 S. Tollefson Rd.  
Orfordville, WI 53576

Representative Phil Montgomery  
PO Box 8593  
Madison, WI 53708

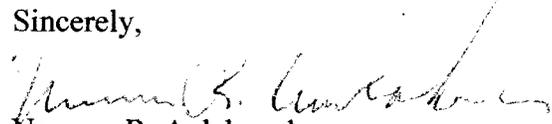
Dear Representative Montgomery:

I attended your "hearing" yesterday on Assembly Bill (207) I was appalled by your conduct as chairman. You didn't conduct a hearing where people were allowed to speak for or against the bill. Instead, you monopolized the meeting to lecture to the people assembled, *your* feelings, *your* opinions and *your* facts related to *your* bill; a bill *you* introduced to the assembly on March 22 of 2007. Finally, after more than two hours had passed, Senator Breske had to speak up to stop the abuse you were exercising as chairman.

A chairman's job is to make sure everyone gets a fair and equal opportunity to speak on the issue. If the chair wants to make comments on the issue under discussion, then the chair needs to pass the gavel to another, step down as chair, and speak, in turn, from the same location as the others.

Representative Montgomery, I'm flabbergasted that a member of the Wisconsin State Legislature would behave as you did today. You don't deserve to be a representative in the Wisconsin Assembly much less the chairman of a committee. The hearing you chaired yesterday was a disgrace and a discredit to the democratic process.

Sincerely,

  
Norman R. Aulabaugh  
608 879-2841  
nra@ticon.net

CC: Governor Jim Doyle

Republican Assembly Leader: Representative Jeff Fitzgerald

Democratic Assembly Leader: Representative James Kreuser

My senator and representative: Senator Judith Robson and Representative Kim Hixson

Commerce, Utilities and Rail members: Representative Kevin Petersen, Representative Eugene Hahn, Representative Mark Honadel, Representative Brett Davis, Representative Lee Nerison, Representative Josh Zepnick, Representative Tony Staskunas, Representative John Steinbrink, Representative James Soletski

Committee on Energy and Utilities members: Senator Jeffrey Plale, Senator Roger Breske, Senator Robert Wirsch, Senator David Hansen, Senator Robert Cowles, Senator Sheila Harsdorf, Senator Neal Kedzie

The Green Bay Press Gazette

COMPENION TO  
SB 107