

2007 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB107)

Received: **04/13/2007**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing: **Leg. Council**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to: **David.Lovell@legis.wisconsin.gov**
John.Stolzenberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Video service provider franchises

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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SENATE
ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2007 ASSEMBLY BILL 207

SB107

RM NOT
RUN

Ed. Comparison
Bill - no
changes!
MOK

bill list

Rego Cat

1 **AN ACT to repeal** 60.23 (24), 66.0419 (title), (1), (2) and (3), 66.0419 (4) and (5),
2 66.0421 (1) (a), 66.0421 (1) (b), 66.0422 (1) (a), 100.209, 196.04 (4) (a) 1. and
3 196.204 (7); **to renumber** 196.04 (4) (a) 2. a. to e.; **to renumber and amend**
4 66.0419 (3m), 182.017 (1) and 943.46 (1) (a); **to consolidate, renumber and**
5 **amend** 196.04 (4) (a) (intro.) and 2. (intro.); **to amend** 11.01 (17g), 20.395 (3)
6 (jh), 25.40 (1) (a) 4m., 66.0421 (title), 66.0421 (2), 66.0421 (3), 66.0421 (4),
7 66.0422 (title), 66.0422 (2) (intro.), 66.0422 (3) (b), 66.0422 (3n), 70.111 (25),
8 76.80 (3), 77.52 (2) (a) 12., 100.195 (1) (c) 2., 165.25 (4) (ar), 182.017 (3), 182.017
9 (5), 182.017 (6), 196.01 (1g), 196.01 (9m), 196.04 (4) (b), 196.195 (5), 196.203
10 (1m), 196.203 (3) (b) (intro.), 196.203 (3) (b) 2., 196.203 (3) (c), 196.203 (3) (d),
11 196.203 (3) (e) 1. (intro.), 196.50 (1) (b) 2. e., 196.50 (1) (c), 196.85 (1m) (b),
12 943.46 (title), 943.46 (2) (a), 943.46 (2) (b), 943.46 (2) (c), 943.46 (2) (d), 943.46
13 (2) (e), 943.46 (2) (f), 943.46 (2) (g) and 943.46 (5); **to repeal and recreate**

1 100.195 (1) (h) 1. and 196.01 (1p); and **to create** 66.0420, 66.0421 (1) (c),
2 66.0421 (1) (d), 66.0422 (1) (d), 182.017 (1g), 182.017 (8), 182.017 (9), 196.01
3 (12g), 196.01 (12r), 196.85 (1m) (d), 943.46 (1) (d) and 943.46 (1) (e) of the
4 statutes; **relating to:** regulation of cable television and video service providers
5 and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 11.01 (17g) of the statutes is amended to read:

7 11.01 (17g) “Public access channel” means a PEG channel ~~that is required~~
8 ~~under a franchise granted under s. 66.0419 (3) (b) by a city, village, or town to a cable~~
9 ~~operator, as defined in s. 66.0419 (2) (b), and, as defined in s. 66.0420 (2) (s), that is~~
10 used for public access purposes, but does not include a PEG channel that is used for
11 governmental or educational purposes.

12 **SECTION 2.** 20.395 (3) (jh) of the statutes is amended to read:

13 20.395 (3) (jh) *Utility facilities within highway rights-of-way, state funds.*
14 From the general fund, all moneys received from telecommunications providers, as
15 defined in s. 196.01 (8p), or cable television telecommunications service providers,
16 as defined in s. 196.01 (1r), for activities related to locating, accommodating,
17 operating, or maintaining utility facilities within highway rights-of-way, for such
18 purposes.

19 **SECTION 3.** 25.40 (1) (a) 4m. of the statutes is amended to read:

20 25.40 (1) (a) 4m. Moneys received from telecommunications providers or cable
21 television telecommunications service providers that are deposited in the general
22 fund and credited to the appropriation account under s. 20.395 (3) (jh).

23 **SECTION 4.** 60.23 (24) of the statutes is repealed.

1 **SECTION 5.** 66.0419 (title), (1), (2) and (3) of the statutes are repealed.

2 **SECTION 6.** 66.0419 (3m) of the statutes is renumbered 66.0420 (12), and
3 66.0420 (12) (title), (a) and (b) 2., as renumbered, are amended to read:

4 **66.0420 (12) (title) MUNICIPAL CABLE TELEVISION SYSTEM COSTS.** (a) Except for
5 costs for any of the following, a municipality that owns and operates a cable television
6 system, or an entity owned or operated, in whole or in part, by such a municipality,
7 may not require nonsubscribers of the cable television system to pay any of the costs
8 of the cable television system:

- 9 1. ~~Public, educational, and governmental access~~ PEG channels.
- 10 2. Debt service on bonds issued under s. 66.0619 to finance the construction,
11 renovation, or expansion of a cable television system.
- 12 3. The provision of broadband service by the cable television system, if the
13 requirements of s. 66.0422 (3d) (a), (b), or (c) are satisfied.

14 (b) 2. A majority of the governing board of the municipality votes to submit the
15 question of supporting the operation of a cable television system by the municipality
16 to the electors in an advisory referendum and a majority of the voters in the
17 municipality voting at the advisory referendum vote to support the operation of a
18 cable television system by the municipality.

19 **SECTION 7.** 66.0419 (4) and (5) of the statutes are repealed.

20 **SECTION 8.** 66.0420 of the statutes is created to read:

21 **66.0420 Video service. (1) LEGISLATIVE FINDINGS.** The legislature finds all
22 of the following:

23 (a) Video service brings important daily benefits to state residents by providing
24 news, education, and entertainment.

1 (b) Uniform regulation of all video service providers by this state is necessary
2 to ensure that state residents receive adequate and efficient video service and to
3 protect and promote the public health, safety, and welfare.

4 (c) Fair competition in the provision of video service will result in new and more
5 video programming choices for consumers in this state, and a number of providers
6 have stated their desire to provide that service.

7 (d) Timely entry into the market is critical for new entrants seeking to compete
8 with existing providers.

9 (e) This state's economy would be enhanced by additional investment in
10 communications and video programming infrastructure by existing and new
11 providers of video service.

12 (f) Minimal regulation of all providers of video service within a uniform
13 framework will promote the investment described in par. (e).

14 (g) Ensuring that existing providers of video service are subject to the same
15 regulatory requirements and procedures as new entrants will ensure fair
16 competition among all providers.

17 (h) This section is an enactment of statewide concern for the purpose of
18 providing uniform regulation of video service that promotes investment in
19 communications and video infrastructures and the continued development of this
20 state's video service marketplace within a framework that is fair and equitable to all
21 providers.

22 **(2) DEFINITIONS.** In this section:

23 (a) "Affiliate", when used in relation to any person, means another person who
24 owns or controls, is owned or controlled by, or is under common ownership or control
25 with such person.

1 (b) “Basic local exchange service area” means the area on file with the public
2 service commission in which a telecommunications video service provider provides
3 basic local exchange service, as defined in s. 196.01 (1g).

4 (c) “Cable franchise” means a franchise granted under s. 66.0419 (3) (b), 2005
5 stats.

6 (d) “Cable operator” has the meaning given in 47 USC 522 (5).

7 (e) “Cable service” has the meaning given in 47 USC 522 (6).

8 (f) “Cable system” has the meaning given in 47 USC 522 (7).

9 (g) “Department” means the department of financial institutions.

10 (h) “FCC” means the federal communications commission.

11 (i) “Franchise fee” has the meaning given in 47 USC 542 (g), and includes any
12 compensation required under s. 66.0425.

13 (j) 1. “Gross receipts” means all revenues received by and paid to a video service
14 provider by subscribers residing within a municipality for video service, including
15 all of the following:

16 a. Recurring charges for video service.

17 b. Event-based charges for video service, including pay-per-view and
18 video-on-demand charges.

19 c. Rental of set top boxes and other video service equipment.

20 d. Service charges related to the provision of video service, including activation,
21 installation, repair, and maintenance charges.

22 e. Administrative charges related to the provision of video service, including
23 service order and service termination charges.

24 2. Notwithstanding subd. 1., “gross receipts” does not include any of the
25 following:

1 a. Discounts, refunds, and other price adjustments that reduce the amount of
2 compensation received by a video service provider.

3 b. Uncollectible fees, except that any uncollectible fees that are written off as
4 bad debt but subsequently collected shall be included as gross receipts in the period
5 collected, less the expenses of collection.

6 c. Late payment charges.

7 d. Maintenance charges.

8 e. Amounts billed to video service subscribers to recover taxes, fees, surcharges
9 or assessments of general applicability or otherwise collected by a video service
10 provider from video service subscribers for pass through to any federal, state, or local
11 government agency, including video service provider fees and regulatory fees paid to
12 the FCC under 47 USC 159.

13 f. Revenue from the sale of capital assets or surplus equipment not used by the
14 purchaser to receive video service from the seller of those assets or surplus
15 equipment.

16 g. Charges, other than those described in subd. 1., that are aggregated or
17 bundled with amounts described in subd. 1. and billed to video service subscribers,
18 including but not limited to any revenues received by a video service provider or its
19 affiliates for telecommunications services, information services, or the provision of
20 directory or Internet advertising, including yellow pages, white pages, banner
21 advertisement, and electronic publishing, if a video service provider can reasonably
22 identify such charges on books and records kept in the regular course of business or
23 by other reasonable means.

24 h. Reimbursement by programmers of marketing costs actually incurred by a
25 video service provider.

1 (k) “Household” means a house, apartment, mobile home, group of rooms, or
2 single room that is intended for occupancy as separate living quarters. For purposes
3 of this paragraph, “separate living quarters” are those in which the occupants live
4 and eat separately from any other persons in the building and which have direct
5 access from the outside of the building or through a common hall.

6 (L) “Incumbent cable operator” means a person who, immediately before the
7 effective date of this paragraph, was providing cable service under a cable franchise,
8 expired cable franchise, or cable franchise extension, or under an ordinance or
9 resolution adopted or enacted by a municipality.

10 (m) “Institutional network” means a network that connects governmental,
11 educational, and community institutions.

12 (n) “Interim cable operator” means an incumbent cable operator that elects to
13 continue to provide cable service under a cable franchise as specified in sub. (3) (b)
14 2. a.

15 (o) “Issued” means, with respect to a video service franchise, issued or
16 considered to be issued by the department under sub. (3) (f) 2.

17 (p) “Large telecommunications video service provider” means a
18 telecommunications video service provider that, on January 1, 2007, had more than
19 500,000 basic local exchange access lines in this state or an affiliate of such a
20 telecommunication video service provider.

21 (q) “Low-income household” means any individual or group of individuals
22 living together as one economic unit in a household whose aggregate annual income
23 is not more than \$35,000, as identified by the United States Census Bureau as of
24 January 1, 2007.

25 (r) “Municipality” means a city, village, or town.

1 (s) “PEG channel” means a channel designated for noncommercial public,
2 educational, or governmental use.

3 (sm) “Qualified cable operator” means any of the following:

4 1. A cable operator that has provided cable service in this state for at least 3
5 years prior to applying for a video service franchise and that has never had a cable
6 franchise revoked by a municipality.

7 2. An affiliate of a cable operator specified in subd. 1.

8 3. A cable operator that, on the date that it applies for a video service franchise,
9 is one of the 10 largest video service providers in the United States as measured by
10 the total number of video service subscribers nationally.

11 4. A parent corporation of a cable operator specified in subd. 3.

12 (t) “Service tier” means a category of video service for which a separate rate is
13 charged.

14 (u) “State agency” means any board, commission, department, or office in the
15 state government.

16 (um) “Telecommunications utility” has the meaning given in s. 196.01 (10).

17 (v) “Telecommunications video service provider” means a video service provider
18 that uses facilities for providing telecommunications service, as defined in s. 196.01
19 (9m), also to provide video service.

20 (w) “Video franchise area” means the area or areas described in an application
21 for a video service franchise under sub. (3) (d) 2., as modified, if applicable, in a
22 notification made under sub. (3) (j).

23 (x) “Video programming” means programming provided by, or generally
24 considered comparable to programming provided by, a television broadcast station.

1 (y) “Video service” means any video programming service, cable service, or
2 service provided via an open video system that complies with 47 USC 573, that is
3 provided through facilities located at least in part in public rights-of-way, without
4 regard to delivery technology, including Internet protocol technology or any other
5 technology. “Video service” does not include any of the following:

6 1. Video programming provided by a commercial mobile radio service provider,
7 as defined in s. 196.01 (2g).

8 2. Video programming provided solely as part of and via a service that enables
9 users to access content, information, electronic mail, or any other service offered over
10 the public Internet.

11 (z) “Video service franchise” means a franchise issued under sub. (3) (f) 2.

12 (zb) “Video service network” means wireline facilities, or any component
13 thereof, located at least in part in the public right-of-way that deliver video service,
14 without regard to delivery technology, including Internet protocol technology or any
15 other technology. “Video service network” includes a cable system.

16 (zg) “Video service provider” means a person, including an incumbent cable
17 operator, who is issued a video service franchise or a successor or assign of such a
18 person.

19 (zm) “Video service provider fee” means the fee paid by a video service provider
20 under sub. (7).

21 (3) AUTHORITY TO PROVIDE VIDEO SERVICE. (a) *In general.* Except for an interim
22 cable operator, and except as provided in par. (c), no person may provide video service
23 in this state unless the department has issued a video service franchise to the person
24 and the person has provided the notice required under par. (h).

1 (b) *Incumbent cable operators.* 1. A municipality may not renew or extend the
2 cable franchise of an incumbent cable operator that expires after the effective date
3 of this subdivision [revisor inserts date].

4 2. An incumbent cable operator may do one of the following:

5 a. Continue to provide cable service as an interim cable operator until the cable
6 franchise expires.

7 b. Apply for a video service franchise. If an incumbent cable operator applies
8 for a video service franchise, the cable franchise shall terminate and have no effect
9 upon issuance of the video service franchise. Upon termination of the cable
10 franchise, the municipality that granted the franchise shall, at the request of the
11 incumbent cable operator, surrender, return, or take such other action as may be
12 necessary to nullify any bond, letter of credit, or similar instrument intended to
13 secure the performance of the incumbent cable operator under the cable franchise.

14 3. An incumbent cable operator whose cable franchise expires after the
15 effective date of this subdivision [revisor inserts date], may not, after expiration
16 of the cable franchise, provide video service in this state unless the incumbent cable
17 operator applies for a video service franchise under subd. 2. b. and, upon issuance
18 of the video service franchise, provides the notice required under par. (h). An
19 incumbent cable operator whose cable franchise expired before the effective date of
20 this subdivision [revisor inserts date], and who was providing cable service
21 immediately before the effective date of this act, may continue to provide cable
22 service if, no later than the first day of the 2nd month beginning after the effective
23 date of this subdivision [revisor inserts date], the incumbent cable operator
24 applies for a video service franchise under subd. 2. b.

1 (c) *Other providers.* A person, other than an incumbent cable operator, who was
2 providing video service immediately before the effective date of this paragraph
3 [revisor inserts date], may provide video service without a video service franchise
4 issued by the department. This paragraph ceases to apply to such a person if the
5 person does not apply for a video service franchise no later than the first day of the
6 2nd month beginning after the effective date of this paragraph [revisor inserts
7 date].

8 (d) *Application.* An applicant for a video service franchise shall submit an
9 application to the department that consists of all of the following:

10 1. The location and telephone number of the applicant's principal place of
11 business, the names of the principal executive officers of the applicant, and the
12 names of any persons authorized to represent the applicant before the department.

13 2. A description of the area or areas of the state in which the applicant intends
14 to provide video service.

15 3. The date on which the applicant intends to begin providing video service in
16 the video franchise area.

17 4. An affidavit signed by an officer or general partner of the applicant that
18 affirms all of the following:

19 a. That the applicant has filed or will timely file with the FCC all forms required
20 by the FCC in advance of offering video service.

21 b. That the applicant agrees to comply with this section and all applicable
22 federal statutes and regulations.

23 c. That the applicant is legally, financially, and technically qualified to provide
24 video service.

25 5. A description of the services that the applicant proposes to provide.

1 6. An application fee of \$1,000.

2 (e) *Service upon municipalities.* 1. At the time that an applicant submits an
3 application under par. (d), or a video service provider submits a notification
4 regarding a modification to an application under par. (j), to the department, the
5 applicant or video service provider shall serve a copy of the application or notification
6 on each municipality in the video franchise area.

7 2. a. This subdivision applies only to a municipality that, under subd. 1., is
8 served a copy of an application or that, under subd. 1., is served a copy of a
9 notification relating to an expansion of the area or areas of the state in which a video
10 service provider intends to provide video service, if the municipality has not
11 previously been served a copy of an application under subd. 1. by that video service
12 provider.

13 b. If a municipality specified in subd. 2. a. has granted any cable franchise that
14 is in effect immediately before the effective date of this subdivision ... [revisor inserts
15 date], the municipality shall, no later than 10 business days after receipt of the copy,
16 notify the applicant in writing of the number of PEG channels for which incumbent
17 cable operators are required to provide channel capacity in the municipality and the
18 percentage of revenues that incumbent cable operators are required to pay the
19 municipality as franchise fees.

20 (f) *Department duties.* 1. No later than 15 business days after the filing of an
21 application, the department shall notify the applicant in writing as to whether the
22 application is complete and, if the department has determined that the application
23 is not complete, the department shall state the reasons for the determination.

24 2. No later than 15 business days after the filing of an application that the
25 department has determined is complete, the department shall determine whether

1 an applicant is legally, financially, and technically qualified to provide video service.
2 If the department determines that an applicant is legally, financially, and technically
3 qualified to provide video service, the department shall issue a video service
4 franchise to the applicant. If the department determines that an applicant is not
5 legally, financially, and technically qualified to provide video service, the department
6 shall reject the application and shall state the reasons for the determination. If the
7 department fails to make the determination, the department shall be considered to
8 have issued a video service franchise to the applicant, unless the applicant
9 withdraws the application or agrees with the department to an extension of time.

10 3. Notwithstanding subd. 2., if an applicant is a telecommunications utility or
11 qualified cable operator, the department shall determine that the applicant is legally,
12 financially, and technically qualified to provide video service.

13 4. The department shall promulgate rules for determining whether an
14 applicant that is not a telecommunications utility or qualified cable operator is
15 legally, financially, and technically qualified to provide video service.

16 (g) *Effect of video service franchise.* A video service franchise issued by the
17 department authorizes a video service provider to occupy the public rights-of-way
18 and to construct, operate, maintain, and repair a video service network to provide
19 video service in the video franchise area.

20 (h) *Notice before providing service.* No later than 10 business days before
21 providing video service in a municipality in a video franchise area, a video service
22 provider shall provide notice to the department and the municipality.

23 (i) *Expiration and revocation of video service franchise.* 1. Except as provided
24 in subd. 2., a video service franchise issued to a video service provider does not expire,
25 unless the video service provider gives 30 days' advance notice to the department

1 that the video service provider intends to terminate the video service franchise. If
2 a video service provider gives such notice, the video service franchise shall expire on
3 the termination date stated in the notice.

4 2. The department may revoke a video service franchise issued to a video
5 service provider if the department determines that the video service provider has
6 willfully and knowingly repeatedly failed to substantially meet a material
7 requirement imposed upon it by this section and the department has not otherwise
8 acquiesced in such noncompliance through a waiver. Before commencing a
9 revocation proceeding, the department shall provide the video service provider
10 written notice of the department's intention to revoke the franchise and the
11 department's reasons for the revocation and afford the video service provider a
12 reasonable opportunity to cure any alleged violation. A revocation proceeding under
13 this subdivision is a contested case under ch. 227.

14 (j) *Modifications.* If there is any change in the information included in an
15 application filed by a video service provider under this subsection, the video service
16 provider shall notify the department and update the information within 10 business
17 days after the change, except that if the video service provider determines to expand
18 the area or areas of the state in which the video service provider intends to provide
19 video service, the video service provider shall notify the department as soon as
20 practicable after making such a determination but no later than 10 business days
21 before providing video service in the expansion area or areas. A video service
22 provider that makes a notification regarding a change in the information specified
23 in par. (d) 2., 3., 4., or 5., shall include with the notification a fee of \$100. No fee is
24 required for a notification regarding a change in the information specified in par. (d)

25 1.

1 (4) FRANCHISING AUTHORITY. For purposes of 47 USC 521 to 573, the state is the
2 exclusive franchising authority for video service providers in this state.
3 Notwithstanding s. 66.0425 and except as provided in s. 182.017, no municipality
4 may require a video service provider to obtain a franchise to provide video service or
5 impose on a video service provider any fee or requirement relating to the construction
6 of a video service network or the provision of video service, including any
7 requirement to deploy facilities or equipment or any requirement regarding rates for
8 video service, except as specifically authorized under this section.

9 (5) PEG CHANNELS. (a) *Maximum number of PEG channels.* 1. If an incumbent
10 cable operator is providing channel capacity for PEG channels to a municipality
11 under a cable franchise in effect immediately before the effective date of this
12 subdivision [revisor inserts date], the municipality shall require each interim
13 cable operator or video service provider that provides video service in the
14 municipality to provide channel capacity for the same number of PEG channels for
15 which channel capacity is provided immediately before the effective date of this
16 subdivision [revisor inserts date].

17 2. a. Except as provided in subd. 2. b. and c., if no incumbent cable operator is
18 providing channel capacity for PEG channels to a municipality under a cable
19 franchise that is in effect immediately before the effective date of this subd. 2. a.
20 [revisor inserts date], then, if the municipality has a population of 50,000 or more,
21 the municipality may require each interim cable operator and video service provider
22 that provides video service in the municipality to provide channel capacity for up to
23 3 PEG channels, and, if the municipality has a population of less than 50,000, the
24 municipality may require each interim cable operator and video service provider that

1 provides video service in the municipality to provide channel capacity for no more
2 than 2 PEG channels.

3 b. If an interim cable operator or video service provider distributes video
4 programming to more than one municipality through a single headend or video hub
5 office and the aggregate population of the municipalities is 50,000 or more, the
6 municipalities may not require the interim cable operator or video service provider
7 to provide, in the aggregate, channel capacity for more than 3 PEG channels under
8 subd. 2. a.

9 c. If an interim cable operator or video service provider distributes video
10 programming to more than one municipality through a single headend or video hub
11 office and the aggregate population of the municipalities is less than 50,000, the
12 municipalities may not require the interim cable operator or video service provider
13 to provide, in the aggregate, channel capacity for more than 2 PEG channels under
14 subd. 2. a.

15 3. An interim cable operator or video service provider shall provide any channel
16 capacity for PEG channels required under this paragraph on any service tier that is
17 viewed by more than 50 percent of the interim cable operator's or video service
18 provider's customers.

19 4. If a municipality is not required to provide notice to a video service provider
20 under sub. (3) (e) 2., the video service provider's duty to provide any additional
21 channel capacity for PEG channels that is required by the municipality under this
22 paragraph first applies on the date that the video service provider begins to provide
23 service in the municipality, and, if the municipality is required to provide notice
24 under sub. (3) (e) 2., the video service provider's duty to provide any such additional
25 channel capacity first applies on the date that the video service provider begins to

1 provide video service in the municipality or on the 90th day after the video service
2 provider receives the municipality's notice, whichever is later.

3 (b) *Exceptions.* 1. a. Notwithstanding par. (a), an interim cable operator or
4 video service provider may reprogram for any other purpose any channel capacity
5 provided for a PEG channel required by a municipality under par. (a) if the PEG
6 channel is not substantially utilized by the municipality. If the municipality certifies
7 to the interim cable operator or video service provider that reprogrammed channel
8 capacity for a PEG channel will be substantially utilized by the municipality, the
9 interim cable operator or video service provider shall, no later than 120 days after
10 receipt of the certification, restore the channel capacity for the PEG channel.
11 Notwithstanding par. (a) 3., an interim cable operator or video service provider may
12 provide restored channel capacity for a PEG channel on any service tier.

13 b. For purposes of this subdivision, a PEG channel is substantially utilized by
14 a municipality if the municipality provides 40 hours or more of programming on the
15 PEG channel each week and at least 60 percent of that programming is locally
16 produced.

17 2. Notwithstanding par. (a), if a municipality fails to provide the notice
18 specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim
19 cable operator or video service provider is required to provide channel capacity for
20 any PEG channel until the 90th day after the municipality provides such notice.

21 (c) *Powers and duties of municipalities.* 1. Except as otherwise required under
22 par. (a), a municipality may not require an interim cable operator or video service
23 provider to provide any funds, services, programming, facilities, or equipment
24 related to public, educational, or governmental use of channel capacity.

1 2. The operation of any PEG channel for which a municipality requires an
2 interim cable operator or video service provider to provide channel capacity under
3 par. (a), and the production of any programming appearing on such a PEG channel,
4 shall be the sole responsibility of the municipality and, except as provided in par. (d)
5 1., the interim cable operator or video service provider shall bear only the
6 responsibility to transmit programming appearing on the PEG channel.

7 3. A municipality that requires an interim cable operator or video service
8 provider to provide channel capacity for a PEG channel under par. (a) shall do all of
9 the following:

10 a. Ensure that all content and programming that the municipality provides or
11 arranges to provide for transmission on the PEG channel is submitted to the interim
12 cable operator or video service provider in a manner and form that is capable of being
13 accepted and transmitted by the interim cable operator or video service provider over
14 its video service network without changing the content or transmission signal and
15 that is compatible with the technology or protocol, including Internet protocol
16 television, utilized by the interim cable operator or video service provider to deliver
17 video service.

18 b. Make the content and programming that the municipality provides or
19 arranges to provide for transmission on a PEG channel available in a
20 nondiscriminatory manner to all interim cable operators and video service providers
21 that provide video service in the municipality.

22 (d) *Duties of interim cable providers and video service provider.* 1. If a
23 municipality requires an interim cable operator or video service provider to provide
24 channel capacity for a PEG channel under par. (a), the interim cable operator or video
25 service provider shall be required to provide only the first 200 feet of transmission

1 line that is necessary to connect the interim cable operator's or video service
2 provider's video service network to one distribution point used by the municipality
3 to transmit programming for the PEG channel.

4 2. If the interconnection of the video service networks of interim cable operators
5 or video service providers is technically necessary and feasible for the transmission
6 of programming for any PEG channel for which channel capacity is required by a
7 municipality under par. (a), the interim cable operators and video service providers
8 shall negotiate in good faith for interconnection on mutually acceptable rates, terms,
9 and conditions, except that an interim cable operator or video service provider who
10 requests interconnection is responsible for interconnection costs, including the cost
11 of transmitting programming from its origination point to the interconnection point.
12 Interconnection may be accomplished by direct cable, microwave link, satellite, or
13 any other reasonable method.

14 (6) INSTITUTIONAL NETWORKS. Notwithstanding any franchise, ordinance, or
15 resolution in effect on the effective date of this subsection [revisor inserts date],
16 no state agency or municipality may require an interim cable operator or video
17 service provider to provide any institutional network or equivalent capacity on its
18 video service network.

19 (7) VIDEO SERVICE PROVIDER FEE. (a) *Duty to pay fee.* 1. Notwithstanding s.
20 66.0611 and except as provided in subd. 2., a video service provider shall, on a
21 quarterly calendar basis, calculate and pay to each municipality in which the video
22 service provider provides video service a video service provider fee equal to the
23 percentage of the video service provider's gross receipts that is specified in par. (b).
24 A video service provider shall remit the fee to the municipality no later than 45 days
25 after the end of each quarter. Except as provided in subd. 2. or par. (b) 1., if the

1 municipality is not required to provide notice under sub. (3) (e) 2., the duty to remit
2 the fee first applies to the quarter in which the video service provider begins to
3 provide service in the municipality, and, if the municipality is required to provide
4 notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in
5 which the video service provider begins to provide service in the municipality or to
6 the quarter that includes the 45th day after the video service provider receives the
7 municipality's notice, whichever quarter is later.

8 2. If a municipality fails to provide the notice specified in sub. (3) (e) 2. before
9 the deadline specified in sub. (3) (e) 2., no video service provider is required to pay
10 a video service provider fee, and no interim cable operator is required to pay a
11 franchise fee, to the municipality until the 45th day after the end of the quarter in
12 which the municipality provides the notice specified in sub. (3) (e) 2.

13 (b) *Amount of fee.* The percentage applied to a video service provider's gross
14 receipts under par. (a) 1. for each municipality shall be 5 percent or one of the
15 following percentages, whichever is less:

16 1. If no incumbent cable operator was required to pay a franchise fee equal to
17 a percentage of gross revenues to the municipality immediately before the effective
18 date of this subdivision [revisor inserts date], the municipality may specify a
19 percentage of no more than 5 percent. The duty of a video service provider to pay the
20 municipality a video service fee equal to such percentage shall first apply to the
21 quarter that includes the 45th day after the municipality provides notice of the
22 percentage to the video service provider.

23 2. If an incumbent cable operator was required to pay a franchise fee equal to
24 a percentage of gross revenues to the municipality immediately before the effective
25 date of this subdivision [revisor inserts date], that percentage.

1 3. If more than one incumbent cable operator was required to pay a franchise
2 fee equal to a percentage of gross revenues to the municipality immediately before
3 the effective date of this subdivision [revisor inserts date], the lowest such
4 percentage.

5 (c) *Generally accepted accounting principles.* All determinations and
6 computations made under this subsection shall be made pursuant to generally
7 accepted accounting principles.

8 (d) *Record review.* A municipality may, upon reasonable written request but
9 no more than once in any 3-year period, for the purpose of ensuring proper and
10 accurate payment of a video service provider fee, review the business records of a
11 video service provider that is required to pay the municipality a video service
12 provider fee.

13 (e) *Actions to enforce payment.* 1. A municipality or a video service provider
14 may not bring an action concerning the amount of a video service provider fee
15 allegedly due to the municipality unless the parties have first participated in and
16 completed good faith settlement discussions. For purposes of any future litigation,
17 all negotiations pursuant to this paragraph shall be treated as compromise
18 negotiations under s. 904.08.

19 2. An action regarding a dispute over the amount of a video service provider fee
20 paid or allegedly due under this subsection shall be commenced within 3 years
21 following the end of the calendar quarter to which the disputed amount relates or be
22 barred, unless the parties agree in writing to an extension of time. Notwithstanding
23 ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in the action to
24 either party.

1 (f) *Itemization.* A video service provider may identify and collect the amount
2 related to a video service provider fee as a separate line item on customer bills.

3 (g) *Invalidity of other fees.* If a video service provider pays video service
4 provider fees to a municipality as required under this subsection, the municipality
5 may not require the video service provider to pay any compensation under s. 66.0425,
6 or, notwithstanding s. 182.017, any permit fee, encroachment fee, degradation fee,
7 or any other fee, for the occupation of or work within public rights-of-way.

8 (8) DISCRIMINATION; ACCESS TO SERVICES. (a) *Discrimination prohibited.* 1. No
9 video service provider may deny access to video service to any group of potential
10 residential customers in the video service provider's video franchise area because of
11 the race or income of the residents in the local area in which the group resides.

12 2. It is a defense to an alleged violation of subd. 1. based on income if the video
13 service provider has met either of the following conditions:

14 a. No later than 3 years after the date on which the video service provider began
15 providing video service under this section, at least 25 percent of households with
16 access to the video service provider's video service are low-income households.

17 b. No later than 5 years after the date on which the video service provider began
18 providing video service under this section, at least 30 percent of the households with
19 access to the video service provider's video service are low-income households.

20 (b) *Access.* 1. A large telecommunications video service provider shall provide
21 access to its video service to the following percentages of households within the large
22 telecommunications video service provider's basic local exchange service area:

23 a. Not less than 35 percent no later than 3 years after the date on which the
24 large telecommunications video service provider began providing video service
25 under this section.

1 b. Not less than 50 percent no later than 5 years after the date on which the
2 large telecommunications video service provider began providing video service
3 under this section, or no later than 2 years after at least 30 percent of households
4 with access to the large telecommunications video service provider's video service
5 subscribe to the service for 6 consecutive months, whichever occurs later.

6 2. A large telecommunications video service provider shall file an annual report
7 with the department regarding the large telecommunications video service
8 provider's progress in complying with subd. 1.

9 (c) *Extensions and waivers.* A video service provider may apply to the
10 department for an extension of any time limit specified in par. (a) 2. or (b) or a waiver
11 of a requirement to comply with par. (b). The department shall grant the extension
12 or waiver if the video service provider demonstrates to the satisfaction of the
13 department that the video service provider has made substantial and continuous
14 efforts to comply with the requirements of this subsection and that the extension or
15 waiver is necessary due to one or more of the following factors:

16 1. The video service provider's inability to obtain access to public and private
17 rights-of-way under reasonable terms and conditions.

18 2. Developments and buildings that are not subject to competition because of
19 exclusive service arrangements.

20 3. Developments and buildings that are not accessible using reasonable
21 technical solutions under commercially reasonable terms and conditions.

22 4. Natural disasters.

23 5. Other factors beyond the control of the video service provider.

1 (d) *Alternative technologies.* A video service provider may satisfy the
2 requirements of this subsection through the use of an alternative technology, other
3 than satellite service, that does all of the following:

4 1. Offers service, functionality, and content demonstrably similar to the
5 service, functionality, and content provided through the video service provider's
6 video service network.

7 2. Provides access to PEG channels and messages broadcast over the
8 emergency alert system.

9 (e) *Limitations.* Notwithstanding any other provision of this section, a
10 telecommunications video service provider is not required to provide video service
11 outside the provider's basic local exchange service area, and a video service provider
12 that is an incumbent cable operator is not required to provide video service outside
13 the area in which the incumbent cable operator provided cable service at the time the
14 department issued a video service franchise to the incumbent cable operator.

15 **(9) CUSTOMER SERVICE STANDARDS.** (a) Except as provided in par. (b), upon 90
16 days' advance notice, a municipality may require a video service provider to comply
17 with the customer service standards specified in 47 CFR 76.309 (c) in its provision
18 of video service. Neither the department nor any municipality shall have the
19 authority to impose additional or different customer service standards that are
20 specific to the provision of video service.

21 (b) No video service provider that provides video service in a municipality may
22 be subject to any customer service standards if there is at least one other person
23 offering cable or video service in the municipality or if the video service provider is
24 subject to effective competition, as determined under 47 CFR 76.905, in the
25 municipality. This paragraph does not apply to any customer service standards

1 promulgated by rule by the department of agriculture, trade and consumer
2 protection.

3 **(9m) LOCAL BROADCAST STATIONS.** (a) In this subsection, a “noncable video
4 service provider” means a video service provider that is not a cable operator.

5 (b) If a local broadcast station is authorized to exercise against a cable operator
6 the right to require mandatory carriage under 47 USC 534, or the right to grant or
7 withhold retransmission consent under 47 USC 325 (b), the local broadcast station
8 may exercise the same right against a noncable video service provider to the same
9 extent as the local broadcast station may exercise such right against a cable operator
10 under federal law.

11 (c) A noncable video service provider shall transmit, without degradation, the
12 signals that a local broadcast station delivers to the noncable video service provider,
13 but is not required to utilize the same or similar reception technology as the local
14 broadcast station or the programming providers of the local broadcast station.

15 (d) A noncable video service provider may not do any of the following:

16 1. Discriminate among or between local broadcast stations, or programming
17 providers of local broadcast stations, with respect to the transmission of their
18 signals.

19 2. Delete, change, or alter a copyright identification transmitted as part of a
20 local broadcast station’s signal.

21 **(10) LIMITATION ON RATE REGULATION.** The department or a municipality may not
22 regulate the rates charged for any video service by an interim cable operator or video
23 service provider that provides video service in a municipality if at least one other
24 interim cable operator or video service provider is providing video service in the
25 municipality and the other interim cable operator or video service provider is not an

1 affiliate of the interim cable operator or video service provider. This subsection
2 applies regardless of whether any affected interim cable operator or video service
3 provider has sought a determination from the FCC regarding effective competition
4 under 47 CFR 76.905.

5 (11) TRANSFER OF VIDEO SERVICE FRANCHISE. A person who is issued a video
6 service franchise may transfer the video service franchise to any
7 successor-in-interest, including a successor-in-interest that arises through
8 merger, sale, assignment, restructuring, change of control, or any other transaction.
9 No later than 10 days after the transfer is completed, the person originally issued the
10 video service franchise shall provide notice of the transfer to the department and to
11 any municipality in which the person has provided video service, and the person to
12 whom the video service franchise is transferred shall submit the information and
13 affidavit specified in sub. (3) (d) 1. and 4. to the department and to any such
14 municipality. Neither the department nor any municipality shall have any authority
15 to review or approve the transfer.

16 (13) RULE-MAKING; ENFORCEMENT. (a) Notwithstanding s. 227.11 and except as
17 provided in sub. (3) (f) 4., the department may not promulgate rules interpreting or
18 establishing procedures for this section.

19 (b) Except as provided in sub. (7) (e), a municipality, interim cable operator, or
20 video service provider that is affected by a failure to comply with this section may
21 bring an action to enforce this section. If a court finds that a municipality, interim
22 cable operator, or video service provider has not complied with this section, the court
23 shall order the municipality, interim cable operator, or video service provider to
24 comply with this section. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035,
25 no costs may be allowed in an action under this paragraph to any party.

1 (c) Any violation of this section may be enforced by an action on behalf of the
2 state by the department of justice.

3 **SECTION 9.** 66.0421 (title) of the statutes is amended to read:

4 **66.0421 (title) Access to eable video service.**

5 **SECTION 10.** 66.0421 (1) (a) of the statutes is repealed.

6 **SECTION 11.** 66.0421 (1) (b) of the statutes is repealed.

7 **SECTION 12.** 66.0421 (1) (c) of the statutes is created to read:

8 66.0421 (1) (c) “Video service” has the meaning given in s. 66.0420 (2) (y).

9 **SECTION 13.** 66.0421 (1) (d) of the statutes is created to read:

10 66.0421 (1) (d) “Video service provider” has the meaning given in s. 66.0420 (2)
11 (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

12 **SECTION 14.** 66.0421 (2) of the statutes is amended to read:

13 **66.0421 (2) INTERFERENCE PROHIBITED.** The owner or manager of a multiunit
14 dwelling under common ownership, control or management or of a mobile home park
15 or the association or board of directors of a condominium may not prevent a ~~cable~~
16 ~~operator~~ video service provider from providing ~~cable~~ video service to a subscriber who
17 is a resident of the multiunit dwelling, mobile home park or of the condominium or
18 interfere with a ~~cable operator~~ video service provider providing ~~cable~~ video service
19 to a subscriber who is a resident of the multiunit dwelling, mobile home park or of
20 the condominium.

21 **SECTION 15.** 66.0421 (3) of the statutes is amended to read:

22 **66.0421 (3) INSTALLATION IN MULTIUNIT BUILDING.** Before installation, a ~~cable~~
23 ~~operator~~ video service provider shall consult with the owner or manager of a
24 multiunit dwelling or with the association or board of directors of a condominium to
25 establish the points of attachment to the building and the methods of wiring. A ~~cable~~

1 ~~operator~~ video service provider shall install facilities to provide ~~eable~~ video service
2 in a safe and orderly manner and in a manner designed to minimize adverse effects
3 to the aesthetics of the multiunit dwelling or condominium. Facilities installed to
4 provide ~~eable~~ video service may not impair public safety, damage fire protection
5 systems or impair fire-resistive construction or components of a multiunit dwelling
6 or condominium.

7 **SECTION 16.** 66.0421 (4) of the statutes is amended to read:

8 66.0421 (4) **REPAIR RESPONSIBILITY.** A ~~eable-operator~~ video service provider is
9 responsible for any repairs to a building required because of the construction,
10 installation, disconnection or servicing of facilities to provide ~~eable~~ video service.

11 **SECTION 17.** 66.0422 (title) of the statutes is amended to read:

12 **66.0422 (title) ~~Cable television~~ Video service, telecommunications, and**
13 **broadband facilities.**

14 **SECTION 18.** 66.0422 (1) (a) of the statutes is repealed.

15 **SECTION 19.** 66.0422 (1) (d) of the statutes is created to read:

16 66.0422 (1) (d) “Video service” has the meaning given in s. 66.0420 (2) (y).

17 **SECTION 20.** 66.0422 (2) (intro.) of the statutes is amended to read:

18 66.0422 (2) (intro.) Except as provided in subs. (3), (3d), (3m), and (3n), no local
19 government may enact an ordinance or adopt a resolution authorizing the local
20 government to construct, own, or operate any facility for providing ~~eable~~ video
21 service, telecommunications service, or broadband service, directly or indirectly, to
22 the public, unless all of the following are satisfied:

23 **SECTION 21.** 66.0422 (3) (b) of the statutes is amended to read:

24 66.0422 (3) (b) A majority of the governing board of the local government votes
25 to submit the question of supporting the operation of the facility for providing ~~eable~~

1 video service, telecommunications service, or Internet access service, directly or
2 indirectly to the public, by the local government to the electors in an advisory
3 referendum and a majority of the voters in the local government voting at the
4 advisory referendum vote to support operation of such a facility by the local
5 government.

6 **SECTION 22.** 66.0422 (3n) of the statutes is amended to read:

7 66.0422 (3n) Subsection (2) does not apply to a local government that, on March
8 1, 2004, was providing ~~cable~~ video service to the public.

9 **SECTION 23.** 70.111 (25) of the statutes is amended to read:

10 70.111 (25) DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment
11 owned and used by a radio station, television station, or ~~cable television system~~ video
12 service network, as defined in s. ~~66.0419 (2) (d)~~ 66.0420 (2) (zb).

13 **SECTION 24.** 76.80 (3) of the statutes is amended to read:

14 76.80 (3) “Telecommunications services” means the transmission of voice,
15 video, facsimile or data messages, including telegraph messages, except that
16 “telecommunications services” does not include ~~cable television~~ video service, as
17 defined in s. 66.0420 (2) (y), radio, one-way radio paging or transmitting messages
18 incidental to transient occupancy in hotels, as defined in s. 254.61 (3).

19 **SECTION 25.** 77.52 (2) (a) 12. of the statutes is amended to read:

20 77.52 (2) (a) 12. The sale of cable television system services, or video services,
21 as defined in s. 66.0420 (2) (y), including installation charges.

22 **SECTION 26.** 100.195 (1) (c) 2. of the statutes, as created by 2005 Wisconsin Act
23 458, is amended to read:

24 100.195 (1) (c) 2. Telecommunications services or ~~cable~~ television services.

1 **SECTION 27.** 100.195 (1) (h) 1. of the statutes, as created by 2005 Wisconsin Act
2 458, is repealed and recreated to read:

3 100.195 (1) (h) 1. Video service, as defined in s. 66.0420 (2) (y).

4 **SECTION 28.** 100.209 of the statutes is repealed.

5 **SECTION 29.** 165.25 (4) (ar) of the statutes, as affected by 2005 Wisconsin Act
6 458, is amended to read:

7 165.25 (4) (ar) The department of justice shall furnish all legal services
8 required by the department of agriculture, trade and consumer protection relating
9 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
10 100.182, 100.20, 100.205, 100.207, ~~100.209~~, 100.21, 100.28, 100.37, 100.42, 100.50,
11 100.51, and 100.195 and chs. 126, 136, 344, 704, 707, and 779, together with any
12 other services as are necessarily connected to the legal services.

13 **SECTION 30.** 182.017 (1) of the statutes is renumbered 182.017 (1r) and
14 amended to read:

15 182.017 (1r) ~~RIGHT-OF-WAY FOR. Any domestic corporation organized to furnish~~
16 ~~telegraph or telecommunications service or transmit heat, power or electric current~~
17 ~~to the public or for public purposes, an independent system operator, as defined in~~
18 ~~s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1)~~
19 ~~(dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph~~
20 ~~or telecommunications service or a cooperative organized under ch. 185 to transmit~~
21 ~~heat, power or electric current to its members, company may, subject to ss. 30.44~~
22 ~~(3m), 30.45, 86.16, and 196.491 (3) (d) 3m. and to reasonable regulations made by any~~
23 ~~city, village or town municipality through which its transmission lines or systems~~
24 ~~may pass, construct and maintain such lines or systems with all necessary~~
25 ~~appurtenances in, across or beneath any public highway or bridge or any stream or~~

1 body of water, or upon any lands of any owner consenting thereto, and for such
2 purpose may acquire lands or the necessary easements; and may connect and operate
3 its lines or system with other lines or systems devoted to like business, within or
4 without this state, and charge reasonable rates for the transmission and delivery of
5 messages or the furnishing of heat, power, or electric light.

6 **SECTION 31.** 182.017 (1g) of the statutes is created to read:

7 182.017 (1g) DEFINITIONS. In this section:

8 (a) “Commission” means the public service commission.

9 (b) “Company” means any of the following:

10 1. A domestic corporation organized to furnish telegraph or
11 telecommunications service or transmit heat, power, or electric current to the public
12 or for public purposes.

13 2. An independent system operator, as defined in s. 196.485 (1) (d).

14 3. An independent transmission owner, as defined in s. 196.485 (1) (dm).

15 4. A cooperative association organized under ch. 185 or 193 to furnish telegraph
16 or telecommunications service.

17 5. A cooperative association organized under ch. 185 to transmit heat, power,
18 or electric current to its members.

19 6. An interim cable operator, as defined in s. 66.0420 (2) (n).

20 7. A video service provider, as defined in s. 66.0420 (2) (zg).

21 (c) “Municipality” means a city, village, or town.

22 **SECTION 32.** 182.017 (3) of the statutes is amended to read:

23 182.017 (3) ABANDONED LINES REMOVED. The public service commission after a
24 public hearing as provided in s. 196.26, and subject to the right of review as provided
25 in ch. 227, may declare any line to have been abandoned or discontinued, if the facts

1 warrant such finding. Whenever such a finding shall have been made the
2 ~~corporation~~ company shall remove such line, and on failure for 3 months after such
3 finding of abandonment or discontinuance, any person owning land over, through or
4 upon which such line shall pass, may remove the same, or the supervisors of any town
5 within which said lines may be situated, may remove the said lines from the limits
6 of its highways, and such person or supervisors shall be entitled to recover from the
7 company owning the lines the expense for labor involved in removing the property.

8 **SECTION 33.** 182.017 (5) of the statutes is amended to read:

9 182.017 (5) TREE TRIMMING. Any ~~such corporation~~ company which shall in any
10 manner destroy, trim or injure any shade or ornamental trees along any such lines
11 or systems, or, in the course of tree trimming or removal, cause any damage to
12 buildings, fences, crops, livestock or other property, except by the consent of the
13 owner, or after the right so to do has been acquired, shall be liable to the person
14 aggrieved in 3 times the actual damage sustained, besides costs.

15 **SECTION 34.** 182.017 (6) of the statutes is amended to read:

16 182.017 (6) MUNICIPAL FRANCHISE REQUIRED. No lighting or heating corporation
17 or lighting or heating cooperative association shall have any right hereunder in any
18 ~~city, village or town~~ municipality until it has obtained a franchise or written consent
19 for the erection or installation of its lines from such ~~city, village or town~~ municipality.

20 **SECTION 35.** 182.017 (8) of the statutes is created to read:

21 182.017 (8) COMMISSION REVIEW. Upon complaint by a company that a
22 regulation by a municipality under sub. (1r) is unreasonable, the commission shall
23 set a hearing and, if the commission finds that the regulation is unreasonable, the
24 regulation shall be void.

25 **SECTION 36.** 182.017 (9) of the statutes is created to read:

1 182.017 **(9)** TIME LIMIT FOR PERMITS. If a municipality establishes a permit
2 process under sub. (1r), the municipality shall approve or deny a permit application
3 no later than 60 days after receipt of the application, and, if the municipality fails
4 to do so, the municipality shall be considered to have approved the application and
5 granted the permit. If a municipality denies a permit application, the municipality
6 shall provide the applicant a written explanation of the reasons for the denial at the
7 time that the municipality denies the application.

8 **SECTION 37.** 196.01 (1g) of the statutes is amended to read:

9 196.01 **(1g)** “Basic local exchange service” means the provision to residential
10 customers of an access facility, whether by wire, cable, fiber optics or radio, and
11 essential usage within a local calling area for the transmission of high-quality
12 2-way interactive switched voice or data communication. “Basic local exchange
13 service” includes extended community calling and extended area service. “Basic
14 local exchange service” does not include additional access facilities or any
15 discretionary or optional services that may be provided to a residential customer.
16 “Basic local exchange service” does not include cable television service or services
17 provided by a commercial mobile radio service provider.

18 **SECTION 38.** 196.01 (1p) of the statutes is repealed and recreated to read:

19 196.01 **(1p)** “Cable service” has the meaning given in 47 USC 522 (6).

20 **SECTION 39.** 196.01 (9m) of the statutes is amended to read:

21 196.01 **(9m)** “Telecommunications service” means the offering for sale of the
22 conveyance of voice, data or other information at any frequency over any part of the
23 electromagnetic spectrum, including the sale of service for collection, storage,
24 forwarding, switching and delivery incidental to such communication and including

1 the regulated sale of customer premises equipment. “Telecommunications service”
2 does not include cable television service or broadcast service.

3 **SECTION 40.** 196.01 (12g) of the statutes is created to read:

4 196.01 (12g) “Video service” has the meaning given in s. 66.0420 (2) (y).

5 **SECTION 41.** 196.01 (12r) of the statutes is created to read:

6 196.01 (12r) “Video service provider” has the meaning given in s. 66.0420 (2)
7 (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

8 **SECTION 42.** 196.04 (4) (a) (intro.) and 2. (intro.) of the statutes are
9 consolidated, renumbered 196.04 (4) (a) (intro.) and amended to read:

10 196.04 (4) (a) (intro.) In this subsection: ~~2. “Sewerage, “sewerage system~~
11 ~~operator”~~ means any of the following:

12 **SECTION 43.** 196.04 (4) (a) 1. of the statutes is repealed.

13 **SECTION 44.** 196.04 (4) (a) 2. a. to e. of the statutes are renumbered 196.04 (4)
14 (a) 1. to 5.

15 **SECTION 45.** 196.04 (4) (b) of the statutes is amended to read:

16 196.04 (4) (b) If the parties cannot agree and the commission finds that public
17 convenience and necessity or the rendition of reasonably adequate service to the
18 public requires that a public utility, telecommunications provider, sewerage system
19 operator, ~~or cable operator~~ video service provider be permitted to extend its lines on,
20 over or under the right-of-way of any railroad, or requires that the tracks of any
21 railroad be extended on, over or under the right-of-way of any public utility,
22 telecommunications provider, sewerage system operator, ~~or cable operator~~ video
23 service provider, the commission may order the extension by the public utility,
24 telecommunications provider, sewerage system operator, ~~cable operator~~ video
25 service provider, or railroad on, over or under the right-of-way of the other if it will

1 not materially impair the ability of the railroad, telecommunications provider,
2 sewerage system operator, ~~cable operator~~ video service provider, or public utility, on,
3 over or under whose right-of-way the extension would be made, to serve the public.
4 The commission shall prescribe lawful conditions and compensation which the
5 commission deems equitable and reasonable in light of all the circumstances.

6 **SECTION 46.** 196.195 (5) of the statutes is amended to read:

7 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
8 (4) the commission has determined that effective competition exists in the market
9 for the telecommunications service which justifies a lesser degree of regulation and
10 that lesser regulation in that market will serve the public interest, the commission
11 may, by order, suspend any of the following provisions of law, except as provided
12 under subs. (7) and (8): ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s.
13 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s.
14 196.194; s. 196.196 (1) or (5); s. 196.20; ~~s. 196.204 (7)~~; s. 196.21; s. 196.22; s. 196.26;
15 s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.
16 196.78; s. 196.79; and s. 196.805.

17 **SECTION 47.** 196.203 (1m) of the statutes is amended to read:

18 196.203 (1m) Any person claiming to be a cable television telecommunications
19 service provider under this section shall annually file with the commission any
20 information required by the commission to determine the gross income of the person
21 which is derived from the operation of a cable television system.

22 **SECTION 48.** 196.203 (3) (b) (intro.) of the statutes is amended to read:

23 196.203 (3) (b) (intro.) The commission may not deny a petition filed under par.
24 (a) by a provider of cable ~~television~~ service for alternative telecommunications utility
25 status in a particular geographical area as not being in the public interest if basic

1 local exchange service is provided in the same geographical area by any of the
2 following:

3 **SECTION 49.** 196.203 (3) (b) 2. of the statutes is amended to read:

4 196.203 (3) (b) 2. Subject to par. (c), a telecommunications utility with 50,000
5 or less access lines in use in this state which also provides cable ~~television~~ service in
6 that geographical area, if provision of cable ~~television~~ service began after September
7 1, 1994.

8 **SECTION 50.** 196.203 (3) (c) of the statutes is amended to read:

9 196.203 (3) (c) Paragraph (b) 2. shall not apply if the telecommunications
10 utility's provision of cable ~~television~~ service is limited to the provision of satellite
11 cable programming, as defined in s. 943.47 (1) (b).

12 **SECTION 51.** 196.203 (3) (d) of the statutes is amended to read:

13 196.203 (3) (d) Section 196.50 (1) (b) applies to an alternative
14 telecommunications utility except for a provider of cable ~~television~~ service.

15 **SECTION 52.** 196.203 (3) (e) 1. (intro.) of the statutes is amended to read:

16 196.203 (3) (e) 1. (intro.) If a provider of cable ~~television~~ service files a petition
17 under par. (a) for alternative telecommunications status to offer local exchange
18 service, as defined in s. 196.50 (1) (b) 1., in a geographical area served by a
19 telecommunications utility with less than 50,000 access lines in use in this state on
20 September 1, 1994, or at any time thereafter, the commission may not deny the
21 petition as not being in the public interest and shall do any of the following:

22 **SECTION 53.** 196.204 (7) of the statutes is repealed.

23 **SECTION 54.** 196.50 (1) (b) 2. e. of the statutes is amended to read:

24 196.50 (1) (b) 2. e. The holder of the permit and the applicant are both providers
25 of cable ~~television~~ video service, if the holder's provision of cable ~~television~~ video

1 service began after September 1, 1994. ~~This subd. 2. e. does not apply if the holder's~~
2 ~~provision of cable television service is limited to the provision of satellite cable~~
3 ~~programming, as defined in s. 943.47 (1) (b).~~

4 **SECTION 55.** 196.50 (1) (c) of the statutes is amended to read:

5 196.50 (1) (c) Any provision in an agreement or municipal franchise that
6 prohibits entry into the telecommunications or ~~cable television~~ video services market
7 after September 1, 1994, is void. ~~Paragraph (b) and this paragraph do not invalidate~~
8 ~~an ordinance enacted under s. 66.0419 which requires a provider of cable television~~
9 ~~services to obtain a franchise before offering those services.~~

10 **SECTION 56.** 196.85 (1m) (b) of the statutes is amended to read:

11 196.85 (1m) (b) For the purpose of direct assessment under sub. (1) of expenses
12 incurred by the commission in connection with its activities under s. 196.04 (4), the
13 term “public utility” includes a ~~cable operator, as defined in s. 66.0419 (2) (b)~~ video
14 service provider.

15 **SECTION 57.** 196.85 (1m) (d) of the statutes is created to read:

16 196.85 (1m) (d) For the purpose of direct assessment under sub. (1) of expenses
17 incurred by the commission in connection with its activities under s. 182.017, the
18 term “public utility” includes a company, as defined in s. 182.017 (1g) (b).

19 **SECTION 58.** 943.46 (title) of the statutes is amended to read:

20 **943.46 (title) Theft of ~~cable television~~ video service.**

21 **SECTION 59.** 943.46 (1) (a) of the statutes is renumbered 943.46 (1) (c) and
22 amended to read:

23 943.46 (1) (c) “~~Cable television~~ Video service” has the meaning given in s.
24 ~~196.01 (1p).~~ “~~Cable television~~ 66.0420 (2) (y), except that “video service” does not
25 include signals received by privately owned antennas that are not connected to a

1 ~~cable television system~~ video service network whether or not the same signals are
2 provided by a ~~cable television company~~ video service provider.

3 **SECTION 60.** 943.46 (1) (d) of the statutes is created to read:

4 943.46 (1) (d) “Video service network” has the meaning given in s. 66.0420 (2)
5 (zb).

6 **SECTION 61.** 943.46 (1) (e) of the statutes is created to read:

7 943.46 (1) (e) “Video service provider” has the meaning given in s. 66.0420 (2)
8 (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

9 **SECTION 62.** 943.46 (2) (a) of the statutes is amended to read:

10 943.46 (2) (a) Obtain or attempt to obtain ~~cable television~~ video service from
11 a ~~company~~ provider by trick, artifice, deception, use of an illegal device or illegal
12 decoder or other fraudulent means with the intent to deprive that ~~company~~ provider
13 of any or all lawful compensation for rendering each type of service obtained. The
14 intent required for a violation of this paragraph may be inferred from the presence
15 on the property and in the actual possession of the defendant of a device not
16 authorized by the ~~cable television company~~ video service provider, the major purpose
17 of which is to permit reception of ~~cable television~~ video services without payment.
18 This inference is rebutted if the defendant demonstrates that he or she purchased
19 that device for a legitimate use.

20 **SECTION 63.** 943.46 (2) (b) of the statutes is amended to read:

21 943.46 (2) (b) Give technical assistance or instruction to any person in
22 obtaining or attempting to obtain any ~~cable television~~ video service without payment
23 of all lawful compensation to the ~~company~~ provider providing that service. This
24 paragraph does not apply if the defendant demonstrates that the technical

1 assistance or instruction was given or the installation of the connection, descrambler
2 or receiving device was for a legitimate use.

3 **SECTION 64.** 943.46 (2) (c) of the statutes is amended to read:

4 943.46 (2) (c) Make or maintain a connection, whether physical, electrical,
5 mechanical, acoustical or by other means, with any cables, wires, components or
6 other devices used for the distribution of ~~cable television~~ video services for the
7 purpose of distributing ~~cable television~~ video service to any other dwelling unit
8 without authority from a ~~cable television company~~ video service provider.

9 **SECTION 65.** 943.46 (2) (d) of the statutes is amended to read:

10 943.46 (2) (d) Make or maintain a connection, whether physical, electrical,
11 mechanical, acoustical or by other means, with any cables, wires, components or
12 other devices used for the distribution of ~~cable television~~ video services for the
13 purpose of obtaining ~~cable television~~ video service without payment of all lawful
14 compensation to the ~~company~~ provider providing that service. The intent required
15 for a violation of this paragraph may be inferred from proof that the ~~cable~~ video
16 service to the defendant's residence or business was connected under a service
17 agreement with the defendant and has been disconnected by the ~~cable television~~
18 ~~company~~ video service provider and that thereafter there exists in fact a connection
19 to the ~~cable system~~ video service network at the defendant's residence or business.

20 **SECTION 66.** 943.46 (2) (e) of the statutes is amended to read:

21 943.46 (2) (e) Make or maintain any modification or alteration to any device
22 installed with the authorization of a ~~cable television company~~ video service provider
23 for the purpose of intercepting or receiving any program or other service carried by
24 that ~~company~~ provider which that person is not authorized by that ~~company~~ provider
25 to receive. The intent required for a violation of this paragraph may be inferred from

1 proof that, as a matter of standard procedure, the ~~cable television company~~ video
2 service provider places written warning labels on its converters or decoders
3 explaining that tampering with the device is a violation of law and the converter or
4 decoder is found to have been tampered with, altered or modified so as to allow the
5 reception or interception of programming carried by the ~~cable television company~~
6 video service provider without authority to do so. The trier of fact may also infer that
7 a converter or decoder has been altered or modified from proof that the ~~cable~~
8 ~~television company~~ video service provider, as a matter of standard procedure, seals
9 the converters or decoders with a label or mechanical device, that the seal was shown
10 to the customer upon delivery of the decoder and that the seal has been removed or
11 broken. The inferences under this paragraph are rebutted if the ~~cable television~~
12 ~~company~~ video service provider cannot demonstrate that the intact seal was shown
13 to the customer.

14 **SECTION 67.** 943.46 (2) (f) of the statutes is amended to read:

15 943.46 (2) (f) Possess without authority any device or printed circuit board
16 designed to receive from a ~~cable television system~~ video service network any ~~cable~~
17 ~~television~~ video programming or services offered for sale over that ~~cable television~~
18 ~~system~~ video service network, whether or not the programming or services are
19 encoded, filtered, scrambled or otherwise made unintelligible, or perform or
20 facilitate the performance of any of the acts under pars. (a) to (e) with the intent that
21 that device or printed circuit be used to receive that ~~cable television company's~~ video
22 service provider's services without payment. Intent to violate this paragraph for
23 direct or indirect commercial advantage or private financial gain may be inferred
24 from proof of the existence on the property and in the actual possession of the

1 defendant of a device if the totality of circumstances, including quantities or
2 volumes, indicates possession for resale.

3 **SECTION 68.** 943.46 (2) (g) of the statutes is amended to read:

4 943.46 (2) (g) Manufacture, import into this state, distribute, publish,
5 advertise, sell, lease or offer for sale or lease any device, printed circuit board or any
6 plan or kit for a device or for a printed circuit designed to receive the ~~cable television~~
7 video programming or services offered for sale over a ~~cable television system~~ video
8 service network from a ~~cable television system~~ video service network, whether or not
9 the programming or services are encoded, filtered, scrambled or otherwise made
10 unintelligible, with the intent that that device, printed circuit, plan or kit be used for
11 the reception of that ~~company's~~ provider's services without payment. The intent
12 required for a violation of this paragraph may be inferred from proof that the
13 defendant has sold, leased or offered for sale or lease any device, printed circuit
14 board, plan or kit for a device or for a printed circuit board in violation of this
15 paragraph and during the course of the transaction for sale or lease the defendant
16 expressly states or implies to the buyer that the product will enable the buyer to
17 obtain ~~cable television~~ video service without charge.

18 **SECTION 69.** 943.46 (5) of the statutes is amended to read:

19 943.46 (5) EXCEPTION. This section does not affect the use by a person of ~~cable~~
20 ~~television~~ video services if the services have been paid for and the use is exclusive to
21 the person's dwelling unit. This subsection does not prohibit a board or council of any
22 city, village or town from specifying the number and manner of installation of outlets
23 used by any such person for ~~cable television~~ video services and does not prohibit a
24 ~~cable television company~~ video service provider, in any written contract with a

1 subscriber, from requiring the company's provider's approval for any increase in the
2 number of those outlets used.

3 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0062/1dn

MDK:j:....

js

Sen. Plale:

This substitute amendment is the companion to LRBs0061/1.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0062/1dn
MDK:cjs:nwn

April 13, 2007

Sen. Plale:

This substitute amendment is the companion to LRBs0061/1.

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