

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA(LRBs0062/1)-SB107)

Received: **04/18/2007**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Katy**

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

Drafter: **mkunkel**

May Contact:

Adtl. 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:

Financial support for PEG channels

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>
/?							
/1	mkunkel 04/18/2007	wjackson 04/18/2007	sherritz 04/18/2007	_____	sbasford 04/18/2007	sbasford 04/18/2007	

FE Sent For:

<END>

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*Please
deliver to
400 SE*

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/?	mkunkel	/1 Wj 4/18	sh 4/18	sh/ss 4/18			

FE Sent For:

<END>

Kunkel, Mark

From: Venskus, Katy
Sent: Wednesday, April 18, 2007 10:16 AM
To: Kunkel, Mark
Subject: Please use this language to draft the PEG financial support amendment

Importance: High

Attachments: PEG Fee amendment.doc



PEG Fee
amendment.doc (30 K)

Katy Venskus
Clerk, Senate Committee on Commerce Utilities and Rail
Office of Senator Jeff Plale
313 South, State Capitol
PO Box 7882
Madison, WI 53701
608.266.7505

PEG Fee amendment

To Assembly subst. amendment LRB s0061/1. Note that this also assumes Assembly amendment aLRB 0313/1 is in place.

1. On page 12, starting on line 13, amend the text as follows:

“b. If a municipality specified in subd. 2. a. has granted any cable franchise that is in effect immediately before the effective date of this subdivision [revisor inserts date], the municipality shall, no later than 10 business days after receipt of the copy, notify the applicant in writing of the number of PEG channels for which incumbent cable operators are required to provide channel capacity in the municipality, the amount and type of monetary support required of incumbent cable operators for PEG channels as described in s. 66.0420 (5) e., and the percentage of revenues that incumbent cable operators are required to pay the municipality as franchise fees.”

2. On page 17, starting on line 17, amend the text as follows:

“2. Notwithstanding par. (a), if a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim cable operator or video service provider is required to provide channel capacity for any PEG channel or monetary support for PEG channels pursuant to sub (5) e until the 90th day after the municipality provides such notice.

(c) *Powers and duties of municipalities.* 1. Except as otherwise required under par. (a), sub (4)d. and (4) e., a municipality may not require an interim cable operator or video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity.”

On page 19, after line 13, insert the following text:

“e. 1. The obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities contained in a franchise existing on the effective date of this act [revisor to insert date] shall continue until the term of the franchise would have expired if it had not been terminated pursuant to s. 66.0420(3) or until January 1, 2010, whichever is earlier.

2. Each video service provider providing video service in a municipality shall have the same obligation to provide monetary support PEG access facilities as the incumbent cable operator with the most subscribers in such municipality as of the effective date of this act [revisor to insert date]. To the extent such incumbent cable operator provides such support in the form of a percentage of gross revenue or a per subscriber fee, any other video service provider shall pay the same percentage of gross revenue or per subscriber fee as the incumbent cable operator. To the extent the incumbent cable operator provides such support in the form of a lump sum payment without an offset to its gross receipts fee, any other video service provider shall be responsible for a pro rata share of such payment made by the incumbent cable operator after the date on which the other video service provider commences service in a particular municipality, based on its proportion of video service customers in such municipality. To the extent the incumbent cable operator provides such support on an in-kind basis after the date on which the other video service provider commences service in a particular municipality, any other video service provider shall pay the municipality a sum equal to the pro rata amount of the fair

market value of such support based on its proportion of video service customers in such municipality.

3. For purposes of this section, the proportion of video service customers of a video service provider shall be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations.”

Kunkel, Mark

From: Venskus, Katy
Sent: Wednesday, April 18, 2007 11:31 AM
To: Kunkel, Mark
Subject: Final instructions on PEG fee amdt

Attachments: WI PEG Support Fees Amendment (3) -jb rev.DOC



WI PEG Support
Fees Amendment ...

Absolute last set of changes...

Katy Venskus
Clerk, Senate Committee on Commerce Utilities and Rail
Office of Senator Jeff Plale
313 South, State Capitol
PO Box 7882
Madison, WI 53701
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PEG Fee amendment

To Assembly subst. amendment LRB s0061/1. Note that this also assumes Assembly amendment aLRB 0313/1 is in place.

1. On page 12, starting on line 13, amend the text as follows:

“b. If a municipality specified in subd. 2. a. has granted any cable franchise that is in effect immediately before the effective date of this subdivision [revisor inserts date], the municipality shall, no later than 10 business days after receipt of the copy, notify the applicant in writing of the number of PEG channels for which incumbent cable operators are required to provide channel capacity in the municipality, the amount and type of monetary support required of incumbent cable operators for PEG channels as described in s. 66.0420 (7)(f), and the percentage of revenues that incumbent cable operators are required to pay the municipality as franchise fees.”

2. On page 17, starting on line 17, amend the text as follows:

“2. Notwithstanding par. (a), if a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim cable operator or video service provider is required to provide channel capacity for any PEG channel or monetary support for PEG channels pursuant to sub (7)(f) until the 90th day after the municipality provides such notice.

(c) *Powers and duties of municipalities.* 1. Except as otherwise required under par. (a), sub (4)(d) and sub (7)(f), a municipality may not require an interim cable operator or video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity.”

3. On page 19, starting on line 19, amend the text as follows:

(7) VIDEO SERVICE PROVIDER FEE. (a) Duty to pay fee. 1. Notwithstanding s. 66.0611 and except as provided in subd. 2., a video service provider shall, on a quarterly calendar basis, calculate and pay to each municipality in which the video service provider provides video service a video service provider fee equal to the percentage of the video service provider's gross receipts that is specified in par. (b) and the PEG support fee described in par. (f). A video service provider shall remit the fees to the municipality no later than 45 days after the end of each quarter. Except as provided in subd. 2. or par. (b) 1., if the municipality is not required to provide notice under sub. (3)(e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide service in the municipality, and, if the municipality is required to provide notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide service in the municipality or to the quarter that includes the 45th day after the video service provider receives the municipality's notice, whichever quarter is later.

4. On page 21, after line 24, insert the following text and redesignate subdivisions (f) and (g) as (g) and (h), respectively:

“(f). PEG support fee. 1. The obligation, actually imposed by a municipality prior to April 18, 2007, on an incumbent cable operator to provide monetary support for PEG access facilities and contained in a franchise existing on the effective date of this act [revisor to insert date] shall continue until the term of the franchise would have expired if

341

it had not been terminated pursuant to s. 66.0420(3) or until January 1, 2010, whichever is earlier.

2. Each video service provider providing video service in a municipality shall have the same obligation to provide monetary support for PEG access facilities as the incumbent cable operator with the most subscribers in such municipality as of the effective date of this act [revisor to insert date]. To the extent such incumbent cable operator provides such support in the form of a percentage of gross revenues or a per subscriber fee, any other video service provider shall pay the same percentage of gross revenues or per subscriber fee to the municipality as the incumbent cable operator. To the extent the incumbent cable operator provides such support in the form of a lump sum payment without an offset to its franchise fee or video service provider fee, any other video service provider that commences service in particular municipality shall pay the municipality a sum equal to the pro rata amount of such lump sum payment based on its proportion of video service customers in such municipality.

3. For purposes of this subdivision, the proportion of video service customers of a video service provider shall be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations.”

5. On page 22, beginning on line 1, amend the text as follows:

(g) *Itemization.* A video service provider may identify and collect the amount

related to a video service provider fee and any fee imposed for support of PEG channels
as described in sub (f) as a separate line item on customer bills.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0329/1

MDK:.....

WLJ

O-NOTE

Now

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT (LRBs0062/1),
TO 2007 SENATE BILL 107**

1 At the locations indicated, amend the substitute amendment as follows:

2 ↓ 1. Page 12, line 17: after "municipality" insert ", the amount and type of
3 monetary support for access facilities for PEG channels required of incumbent cable
4 operators as described in sub. (7) (em),".

5 ↓ 2. Page 17, line 20: after "PEG channel" insert ", or monetary support for
6 access facilities for PEG channels pursuant to sub. (7) (em),".

7 ↓ 3. Page 17, line 22: delete "par. (a)" and substitute "pars. (a) and (d) and sub.
8 (7) (em)".

9 ↓ 4. Page 19, line 23: after "par. (b)" insert "and the monetary support for access
10 facilities for PEG channels described in par. (em)".

11 (11) 5. Page ²¹~~19~~, line ²⁴~~13~~: after that line insert:

1 “(em) *PEG channel monetary support*. 1. This subdivision applies to an
2 incumbent cable operator whose cable franchise is terminated under sub. (3) (b) ²~~40~~
3 b. The obligation that is actually imposed by a municipality prior to April 18, 2007,
4 on such an incumbent cable operator to provide monetary support for access facilities
5 for PEG channels and that is contained in a cable franchise existing on the effective
6 date of this subdivision [revisor inserts date] shall continue until the earlier of the
7 following: ⁵

8 a. The first day of the 36th month beginning after the effective date of this subd. [✓]

9 1. a. [revisor inserts date].

10 b. The date on which the cable franchise would have expired if the cable
11 franchise had not terminated under sub. (3) (b) ²~~40~~ b. [✓]

12 2. The duty of an interim cable operator to provide monetary support for access
13 facilities for PEG channels that is contained in a cable franchise existing on the
14 effective date of this subdivision [revisor inserts date] shall continue until the
15 cable franchise expires. ⁵

16 3. Each video service provider providing video service in a municipality shall
17 have the same obligation to provide monetary support for access facilities for PEG
18 channels as the incumbent cable operator with the most subscribers in the
19 municipality as of the effective date of this subdivision [revisor inserts date]. To
20 the extent that such incumbent cable operator provides such support in the form of
21 a percentage of gross revenues or a per subscriber fee, any other video service
22 provider shall pay the same percentage of gross revenues or per subscriber fee to the
23 municipality as the incumbent cable operator. To the extent that such incumbent
24 cable operator provides such support in the form of a lump sum payment without an
25 offset to its franchise fee or video service provider fee, any other video service

1 provider that commences service in the municipality shall pay the municipality a
2 sum equal to the pro rata amount of such lump sum payment based on its proportion
3 of video service customers in such municipality.

4 4. For purposes of this ^{paragraph} subdivision, the proportion of video service customers
5 of a video service provider shall be determined based on the relative number of
6 subscribers as of the end of the prior calendar year as reported by all incumbent cable
7 operators and holders of video service authorizations.”. ✓

8 **6.** Page 22, line 2: after “provider fee” insert “and any fee imposed for monetary
9 support for access facilities for PEG channel ⁵ as described in par. (em)”. ✓

10

11

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0329/1dn

MDK:.....

Wij

Sen. Plale:

Please note the following about this amendment:

1. The instructions refer to "PEG access facilities," which is not defined. Instead, I refer to access facilities for PEG channels. The instructions include other terms that aren't defined, as well as some procedures that may not be clear. For example, I don't know what a "relative" number of subscribers is, and I don't know how the pro rata calculations are supposed to be made. However, given the urgency of this request, I was not able address these issues.
2. I think you need to allow interim cable operators to provide support for PEG channels until their cable franchises expire and I created language to do that.
3. Except in the provision relating to itemization, I referred to monetary support, rather than a fee, because I don't the think your usage of the word "fee" is consistent.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0329/1dn
MDK:wlj:sh

April 18, 2007

Sen. Plale:

Please note the following about this amendment:

1. The instructions refer to "PEG access facilities," which is not defined. Instead, I refer to access facilities for PEG channels. The instructions include other terms that aren't defined, as well as some procedures that may not be clear. For example, I don't know what a "relative" number of subscribers is, and I don't know how the pro rata calculations are supposed to be made. However, given the urgency of this request, I was not able address these issues.
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