

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1800

H. P. 1344

House of Representatives, April 3, 1975

On Motion of Mr. Bustin of Augusta, referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Jacques of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Establish the Maine Commission on Cable Television.

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

Sec. 1. 10 MRSA Pt. 14, c. 213, is enacted to read:

PART 14

CABLE TELEVISION

CHAPTER 213

MAINE COMMISSION ON CABLE TELEVISION

§ 12001. Declaration of legislative findings and intent

Upon consideration of the public interest associated with cable television, the Legislature of the State of Maine has determined that while cable television serves in part as an extension of interstate broadcasting, operations involve public rights-of-way, municipal franchising and vital business and community service, and, therefore, are of state concern; that while said operations must be subject to state oversight, they also must be protected from undue restraint and regulation so as to assure cable systems with optimum technology and maximum penetration in this State as rapidly as economically and technically feasible; that municipalities and the State would benefit from valuable educational and public services through cable television systems; that the public and the business community would benefit if served by cable channels sufficient to meet the needs of producers and distributors of program and other communication content services; and that the cable television industry is in a period of rapid growth and corporate consolidation and should proceed in accord with regional and state-wide service objectives; and, many

municipalities lack the necessary resources and expertise to plan for and secure these benefits and to protect subscribers and other parties to the public interest in franchise negotiations.

There is, therefore, a need for a state agency to develop a state telecommunications policy; to promote the rapid development of the cable television industry responsive to community and public interest and consonant with policies, regulations and statutes of the Federal Government; to assure that cable television companies provide adequate, economical and efficient service to their subscribers, the municipalities within which they are franchised and other parties to the public interest; and, to encourage the endeavors of public and private institutions, municipalities, associations and organizations in developing programming for the public interest.

It is the intent of the Legislature in the enactment of this Part to vest authority in an independent commission to oversee development of the cable television industry in Maine in accordance with a state-wide service plan; to review the suitability of practices for franchising cable television companies to protect the public interest; to set standards for cable television systems and franchise practices; to assure channel availability for municipal services, educational television, program diversity, local expression and other program and communications content services, to provide consultant services to community organizations and municipalities in franchise negotiations; and, to stimulate the development of diverse instructional, educational, community interest and public affairs programming with full access thereto by cable television companies, educational broadcasters and public and private institutions operating closed circuit television systems and instructional television fixed services.

§ 12002. Definitions

The words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context.

1. Cable television company. "Cable television company" shall mean any person or persons owning, controlling, operating, managing or leasing a cable television system within the State. For purposes of this definition, "control" shall mean effective control whether direct or indirect and however exercised. A person or affiliated group of persons owning or controlling directly or indirectly 25% of the stock or assets of a cable television system shall be presumed to control such system.

2. Cable television system. "Cable television system" shall mean any facility that, in whole or in part, receives and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire, cable or other means, whether such means are owned or leased to subscribing members of the public who pay for such service. Such term shall not include:

- A. Any system which serves fewer than 50 subscribers; or
- B. Any master antenna television system.

3. Commission. "Commission" shall mean the Commission on Cable Television created by this chapter.

4. Franchise. "Franchise" shall mean and include any authorization granted by a municipality or association of municipalities, whether in terms of a franchise, privilege, permit, license or other authorization, to construct, operate, maintain or manage a cable television system serving one or more residents of Maine.

5. Gross annual receipts. "Gross annual receipts" shall mean any and all compensation received directly or indirectly by a cable television company from its operations within the State, including but not limited to sums received from subscribers or users in payment for programs received and/or transmitted, advertising and carrier service revenue and any other moneys that constitute income in accordance with the system of accounts approved by the commission.

Gross annual receipts shall not include any taxes on services furnished by a cable television company imposed directly on any subscriber or user by any municipality, state or other governmental unit and collected by the company for such governmental unit.

6. Master antenna television system. "Master antenna television system" shall mean any television system which serves only the residents of one or more apartment dwellings under common ownership, control or management and which transmits only signals broadcast over the air by stations which may be normally viewed or heard locally without objectionable interference, and which does not provide any additional service.

7. Municipality. "Municipality" shall mean any town or city or other political subdivision in Maine authorized by state law to issue a franchise.

8. Person. "Person" shall mean any individual, trustee, partnership, association, corporation, municipality or other legal entity.

9. Program. "Program" shall mean any broadcast-type program, signal, message, graphics, data or communication content service.

10. State. "State" shall mean the State of Maine.

11. State agency. "State agency" shall mean any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of this State.

§ 12003. Commission created

A State Commission on Cable Television is established, which shall consist of 5 members, none of whom shall hold any other public office and no more than 3 of whom shall be of the same political party. The members of the commission shall be representative of the broad range of interests related to telecommunication needs and concerns, including so far as possible the fields of broadcasting, educational television, cable television, municipal and consumer interests.

Each member shall be appointed by the Governor with the advice and consent of the Council for 5 years, provided that of the 5 members first appointed, one shall be appointed for one year, one for 2 years, one for 3 years, one for 4 years and one for 5 years, from the January 1st following their appointment. Their successors shall be appointed for terms of 5 years each. Members shall continue in office until their successors have been appointed and qualified, or until removed by the Governor for cause.

The Governor shall designate one of the members to be chairman who shall preside at meetings of the commission. The members shall elect one of their number as vice-chairman of the commission.

Vacancies in the commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

The chairman and the other members of the commission each shall be compensated \$25 per day for each day actually spent in the performance of their duties and shall be reimbursed for their actual travelling expenses necessarily incurred in the performance of their duties. Employees of the commission shall be subject to the Personnel Law.

Three members of the commission shall constitute a quorum for the transaction of any business and the affirmative vote of a majority at any meeting shall be required for the exercise of any power or function of the commission. The commission may delegate to one or more of its members, or its officers, agents or employees, such powers and duties as it deems appropriate.

The commission may appoint a counsel, an executive director and such other employees, agents and consultants as it deems necessary, prescribe their duties and fix their compensation within the amounts available therefor by appropriation.

§ 12004. Duties of the commission

1. Duties. The commission shall:

A. Develop and maintain a state-wide plan for development of cable television services, setting forth the objectives which the commission deems to be of regional and state concern;

B. To the extent permitted by, and not contrary to applicable federal law, rules and regulations:

(1) Prescribe standards for procedures and practices which municipalities shall follow in granting franchises, which standards shall provide for the issuance of a public invitation to compete for the franchise; the filing of all franchise applications and related documents as public records, with reasonable notice to the public that such records are open to inspection and examination during reasonable business hours; the holding of a public hearing, upon reasonable notice to the public and the commission, at which the applicants and their proposals shall be examined and the members of the public and interested parties are afforded a reasonable opportunity to express their views thereon; the rendition of a

written report by the municipality, made available to the public, setting forth the reasons for its decision in awarding the franchise; and such other procedural standards as the commission may deem necessary or appropriate to assure maximum public participation and competition and to protect the public interest;

(2) Prescribe minimum standards for inclusion in franchises, including maximum initial and renewal terms; minimum channel capacity; provisions regarding access to, and facilities to make use of, channels for education and public service programs; a requirement that no such franchise may be exclusive; standards necessary or appropriate to protect the interests of viewers of free broadcast television and the public generally, which prohibit or limit cable television companies from prohibiting or entering into agreements prohibiting the sale or other transfer of rights for the simultaneous or subsequent transmission over free broadcast television of any program originated or transmitted over cable television; and such other standards for inclusion in franchises as the commission shall deem necessary or appropriate to protect the public interest;

(3) Prescribe standards by which municipalities shall determine whether an applicant possesses the technical ability, the financial ability, the good character and other qualifications necessary to operate a cable television system in the public interest;

(4) Prescribe standards for the construction and operation of cable television systems, which standards shall be designed to promote safe, adequate and reliable service to subscribers, the construction and operation of systems reflecting the most advanced state of the art consistent with the needs and resources of the communities to be served, construction schedules providing for as rapid as possible extension of service within the limitations of economic feasibility, the construction of systems with the maximum practicable channel capacity, facilities for local program origination, facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within regions as established in the commission's state-wide policy and facilities capable of transmitting signals from subscribers to other points, and the prompt handling of inquiries, complaints and requests for repairs;

(5) Prescribe such standards for the prohibition or limitation of concentration of control over mass media and communication companies and facilities and methods of enforcing such standards, as the commission may determine to be necessary or appropriate to protect the public interest;

C. Provide advice and technical assistance to municipalities and others in matters relating to telecommunications services;

D. Review and act upon applications for certificates of confirmation as provided hereinafter in this chapter;

- E. Represent the State before the Federal Communications Commission and other federal agencies in respect of telecommunications matters and make available information on communications developments at the federal level;
- F. Encourage cooperative arrangements among organizations, institutions and municipalities in the development of regional educational, instructional and public affairs programming services;
- G. Cooperate with municipalities to facilitate undertaking of multiple community cable television systems;
- H. Encourage the creation of public and community groups, to organize, seek chartering when appropriate, and request franchising for the establishment of public, nonprofit and not-for-profit cable television operations;
- I. Maintain liaison with the communications industry and parties both public and private, having an interest therein, other states and agencies of this State to promote the rapid and harmonious development of cable television services as set forth in the legislative findings and intent;
- J. Undertake such studies as it finds necessary to further the objectives of this chapter.

§ 12005. Powers of the commission

1. Powers.

- A. The commission may promulgate, issue, amend and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the purposes of this chapter. Such orders, rules and regulations may classify persons and matters within the jurisdiction of the commission and prescribe different requirements for different classes of persons or matters. A copy of any order, rule or regulation promulgated hereunder shall be subject to public inspection during reasonable business hours.
- B. The commission may require cable television companies to maintain and file such reports, contracts and statements, including, but not limited to, ownership, accounting, auditing and operating statements, engineering reports and other data as the commission may deem necessary or appropriate to administer this chapter. The commission, including members of its staff, may make reasonable inspections of the records and facilities of any cable television company.
- C. The commission may examine, under oath, all officers, agents, employees and stockholders of any cable television company, municipal officials and any other persons and compel the production of papers and the attendance of witnesses to obtain the information necessary to administer this chapter.
- D. The commission may require and receive from any agency of the State or any political subdivision thereof such assistance and data as may be necessary to enable the commission to administer this chapter. The commission may enter into such cooperative arrangements with state agencies and

municipalities, each of which is hereby authorized to enter into such cooperative arrangements, as shall be necessary or appropriate to assure that there will be maximum utilization of existing expertise in communications technology and cable television operations and programming and that the purposes of this chapter will be furthered. Upon request of the commission, any state agency may transfer to the commission such officers and employees as the commission may deem necessary from time to time to assist the commission in carrying out its functions and duties. Officers and employees so transferred shall not lose their status or rights under the Personnel Law, or State Retirement System.

E. The commission, upon the request of any municipality which has issued a franchise or whose residents subscribe to cable television service, may, after due hearing and investigation, fix and establish for the applicable cable television system or systems the rates to be charged to subscribers, said rates to be fair, reasonable, and nondiscriminatory and to provide a fair rate of return to the cable television company or companies operating such cable television system or systems.

F. The commission shall have and may exercise all other powers necessary or appropriate to carry out the purposes of this chapter.

§ 12006. Costs and expenses of the commission

1. All costs and expenses of the commission shall be paid pursuant to appropriation in the first instance from the State Treasury, on the certification of the chairman of the commission and upon the audit and warrant of the State Controller. The State Treasury shall be reimbursed by payments to be made from moneys collected pursuant to this chapter.

2. On or before May 1st of each year, the commission shall estimate the total costs and expenses necessary to operate and administer the commission for the current fiscal year, including the repayment of any first instance appropriations outstanding on March 31st immediately preceding such fiscal year. The commission shall, at such time or times and pursuant to such procedure as it shall determine by regulation, bill and collect from each cable television company the greater of:

A. One hundred dollars; or

B. An amount computed by multiplying such total estimated operating expenses of the commission by a fraction the numerator of which is the gross annual receipts of such cable television company during such 12-month period preceding the date of computation as the commission shall designate by regulation, and the denominator of which is the total gross annual receipts of all cable television companies operating in the State during such period. A cable television company may elect to make partial payments equal to $\frac{1}{4}$ of the total amount billed June 30th, September 30th, December 31st and March 10th of the fiscal year to which the billing relates. On or before September 15th of each year, the commission shall compute the actual costs and expenses of the commission for the preceding state fiscal year and shall, on or before October 15th of such year, send to each

cable television company a statement setting forth the amount due and payable by, or the amount standing to the credit of, such cable television company computed on the basis of the above stated formula, except that for the purposes of such computation the fraction shall be multiplied against the total actual operating expenses of the commission for such fiscal year. Any amount owing by any cable television company shall be payable not later than 30 days following the date of such statement. Any amount standing to the credit of any cable television company shall be applied as a credit against any succeeding payment due. In no event shall the amount billed to or collected from any cable television company pursuant to this section exceed 1% of the gross annual receipts of such company during the 12-month period designated by the commission.

§ 12007. Municipal fees; taxes or charges

Nothing in this chapter shall be construed to limit the power of any municipality to impose upon any cable television company a fee, tax or charge, provided that any such fee, tax or charge when added to the amount payable to the commission under section 12006 does not exceed the maximum amount permitted by applicable federal law, rules or regulations.

§ 12008. Franchise requirement

No cable television system, whether or not it is deemed to occupy or use a public thoroughfare, may commence operations, or, if in operation at the effective date of this Act, expand the area it serves after the effective date of this Act unless it has been franchised by each municipality in which it proposes to provide or extend service.

A municipality shall have the power to require a franchise of any cable television system providing service within the municipality, notwithstanding that said cable television system does not occupy, use or in any way traverse a public way. The provision of any municipal charter or other law authorizing a municipality to require and grant franchises is hereby amended, to the extent necessary, to authorize such franchises.

Nothing in this chapter shall be construed to prevent franchise requirements in excess of those prescribed by the commission, unless such requirement is inconsistent with this chapter or any regulation, policy or procedure of the commission.

§ 12009. Construction of systems

Every cable television system constructed after the effective date of this Act shall comply with such construction standards as the commission may have prescribed pursuant to section 12004, subsection 1, paragraph B.

§ 12010. Certificate of confirmation

1. Application. Except as provided in subsection 6, after the effective date of this Act, no person shall exercise a franchise, and no such franchise shall be effective, until the commission has confirmed such franchise. A person wishing to exercise a franchise shall file with the commission an

application for a certificate of confirmation in such form and containing such information and supportive documentation as the commission may require. The application shall be accompanied by proof of service thereof upon the franchisor and by such fee as the commission may set.

2. **Hearing.** The commission may hold a public hearing on any application for a certificate of confirmation if it determines that such a hearing is in the public interest. The commission shall fix the time and place for such a hearing and cause notice thereof to be given to the applicant, the chief executive officer of the municipality issuing the franchise and such other persons as the commission may deem appropriate. Testimony may be taken and evidence received at such a hearing pursuant to such rules and procedures as the commission may establish.

3. **Issuance.** The commission shall issue a certificate of confirmation of the franchise unless it finds that the applicant, the proposed cable television system or the proposed franchise does not conform to the standards embodied in the regulations promulgated by the commission pursuant to section 12005, subsection 1, paragraph A, or that operation of the proposed cable television system by the applicant under the proposed franchise would be in violation of law or any regulation or standard promulgated by the commission.

4. **Contingency.** The commission may issue a certificate of confirmation contingent upon compliance with standards, terms or conditions set by the commission pursuant to this chapter.

5. **Refusal reasons.** In the event the commission refuses to issue a certificate of confirmation, it shall set forth in writing the reasons for its refusal.

6. **Existing franchises.** Any cable television company which, pursuant to an existing franchise, was lawfully engaged in actual operations, or had commenced substantial construction as such term is defined by the commission, of a cable television system on the effective date of this Act may continue to exercise said franchise pursuant to the terms thereof, provided such company files with the commission, on or before January 1, 1976 an application for certification of confirmation, in such form and containing such information and supporting documentation as the commission may require. The commission shall issue a certificate of confirmation to such a cable television company valid for the unexpired term of its franchise or for 5 years, whichever is less, without further proceedings, which certificate may be renewed by the commission, on application, pursuant to section 12011.

7. —not exercised. Notwithstanding any other provision of this chapter, any franchise which has not been exercised as indicated by substantial performance within one year after June 30, 1975 shall be deemed contrary to the public interest and such franchise and any certificate of confirmation previously issued by the commission shall be invalidated, unless the cable television company can make an adequate showing that substantial performance was precluded by circumstances beyond the reasonable control of such company. Any subsequent application for a certificate of confirmation shall be determined in accordance with this section.

8. —nonfranchised. The commission shall issue a certificate of confirmation valid for an initial term of 5 years to any cable television company engaged in actual and lawful nonfranchised cable television operations on June 30, 1975, if application for such a certificate is made to the commission on or before January 1, 1976, in such form and containing such information and supporting documentation as the commission may require. Notwithstanding any other provisions of this chapter, any such company which obtains a certificate of confirmation may continue to operate within the limits of the area in which it was actually rendering service on June 30, 1975, as determined by the commission. Such a certificate of confirmation may be renewed by the commission on application for 5-year terms pursuant to section 12011.

9. —further validation. Nothing in this section shall be deemed to validate a franchise not granted in accordance with law or affect any claims in litigation on the effective date of this Act. No confirmation under this section shall preclude invalidation of any franchise illegally obtained.

§ 12011. Transfer, renewal or amendment of franchises and transfer of control over franchises and facilities

1. Approval. No transfer, renewal or amendment of any franchise, or any transfer of control of a franchise or certificate of confirmation or of facilities constituting a substantial part of any cable television system in Maine shall be effective without the prior approval of the commission. Such approval shall be required in addition to any municipal approval required under the franchise or by law. For the purposes of this section, a transfer of ownership or control of any cable television company, and a merger or consolidation of 2 or more cable television companies shall constitute a transfer of the franchises or certificates granted to such company or companies.

2. Application. A person wishing to transfer, renew or amend a franchise, or to transfer control of a franchise or of facilities constituting a substantial part of a cable television system shall file with the commission an application for approval of such change, in such form and containing such information and supporting documents as the commission may require. The application shall be accompanied by such fee as the commission may set. The commission may hold a public hearing on any such application as set forth in section 12010, subsection 2.

3. Nonconforming. The commission shall approve the application unless it finds that the applicant, or in the case of a transfer application, the proposed transferee, or the cable television system does not conform to the standards embodied in the regulations promulgated by the commission pursuant to section 12005 or that approval would be in violation of law or any regulation or standard promulgated by the commission or the public interest, provided, that failure to conform to the standards embodied in the regulations promulgated by the commission shall not preclude approval of any such application if the commission finds that such approval would serve the public interest.

4. Contingency. The commission may approve the application, contingent upon compliance with standards, terms or conditions set by the commission.

5. **Reasons.** In the event the commission refuses to approve the application, it shall set forth in writing the reasons for its refusal.

6. **Limitation.** Approval of a transfer, renewal or amendment under this section shall not preclude invalidation of a franchise illegally obtained.

§ 12012. Interconnection and system coordination

Whenever the commission finds it to be in the public interest, the commission may, either upon application of an interested party or on its own initiative, and after public notice and opportunity for hearing, order the interconnection of cable television systems and facilities or the coordinated operation of such systems and facilities. The commission may append to such order such reasonable terms and conditions as will best promote the public interest.

§ 12013. Requirement for adequate service

1. **Service.** Every cable television company shall provide safe, adequate and reliable service in accordance with applicable laws, regulations and franchise requirements.

2. **Orders.** Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that, despite its economic feasibility, the construction or operation of a franchised or certificated cable television system has been unreasonably delayed or that the extension of service to any persons or area within a cable television company's territory has been unreasonably withheld, it may order such construction, operation or extension on such terms and conditions as it deems reasonable and in the public interest.

3. **Compliance.** Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that a cable television company is not meeting the service requirements and obligations imposed by this chapter, by the regulations promulgated hereunder or by its franchise, it may order compliance therewith on such terms and conditions as it deems reasonable and in the public interest.

4. **Penalty.** Failure to comply with an order of the commission issued under subsections 2 or 3 shall be grounds for denial, suspension or revocation of the right to exercise a franchise or to operate pursuant to a certificate of confirmation.

§ 12014. Rates

1. **Rates.** Except as otherwise provided in this section, the rates charged by a cable television company shall be those specified in the franchise which may establish, or provide for the establishment of reasonable classifications of service and categories of subscribers, or charge different rates for differing services or for subscribers in different categories.

2. —changes. Such rates may not be changed except by amendment of the franchise.

3. —effect. Notwithstanding subsection 1 :

A. No rate provision in any franchise shall bind a municipality for more than 10 years and no rate provision in any renewed franchise shall bind a municipality for more than 5 years. In the event that an existing franchise purports to bind a municipality with respect to rates for a period to expire after January 1, 1986, such provisions shall have no further force or effect after January 1, 1986; and

B. Any rate or rates found by the commission, after public notice and opportunity for hearing, to be discriminatory or preferential as between subscribers similarly situated shall thereafter be void. Reduced rates or free service to government, educational or charitable institutions shall not be considered unduly discriminatory or preferential.

4. —new. In the event the commission finds that any rate is discriminatory or preferential pursuant to subsection 3, paragraph B or that any cable television company is in violation of an order issued by the commission pursuant to section 12005 requiring adequate service, it may issue an order requiring the municipality or the cable television company, or both, to provide for new rates which are nondiscriminatory and nonpreferential or reduced to reflect the inadequate service, as the case may be.

5. —additional. In addition to other powers, the commission may, after public notice and opportunity for hearing, prescribe rates for cable television service whenever :

A. Existing rates have been found discriminatory or preferential and, after reasonable opportunity, the municipality or the cable television company or both, have not provided for new rates which are nondiscriminatory or nonpreferential, as provided in subsection 4 ;

B. A cable television company is in violation of an order issued by the commission pursuant to section 12005 requiring adequate service and, after reasonable opportunity, the municipality or the cable television company, or both, have not provided for new rates reduced to reflect the inadequate service, in which case the commission may require appropriate rate reductions ;

C. Having reduced rates pursuant to paragraph B, the commission finds that the cable television company has substantially remedied the deficiencies, in which case the commission shall return the rates to those rates stipulated in the franchise.

D. Upon complaint by any interested party and after reasonable opportunity for negotiation between the municipality and the cable television company concerned, it finds that rates are not established by or pursuant to the terms of the franchise, in which event, the commission shall fix rates at a level comparable to rates fixed in comparable franchises requiring comparable service for comparable service areas ; and

E. Upon request by a municipality and cable television company that the commission prescribe applicable rates, in which event the commission

shall fix rates at a level comparable to rates currently being fixed in franchises for comparable service in comparable service areas, provided that if the municipality and the company thereafter agree upon rates, such agreed rates shall become effective.

§ 12015. Abandonment of service

1. Abandonment. No cable television company, notwithstanding any provision in a franchise, may abandon any service or portion thereof without having given 6 months' prior written notice to the commission and to the franchising authority if any, and to each of the municipalities it serves.

2. Consent. When abandonment of any service is prohibited by a franchise, no cable television company may abandon such service without written consent of the franchising authority, if any, and the commission. In granting such consent, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

§ 12016. Termination of franchises

1. Termination. A franchise shall terminate at the expiration of its term or otherwise in accordance with the provisions thereof, unless, prior thereto, the commission otherwise orders. The commission may so order only if it finds, after public notice and opportunity for a hearing, that the franchisee:

A. Has committed a material breach of its franchise or any applicable provisions of this chapter or of the regulations promulgated hereunder and has failed, without reasonable justification, to cure said breach within 60 days after having received written notice thereof from the commission, or

B. Has been adjudicated a bankrupt or has filed a voluntary petition for bankruptcy or reorganization or for an order protecting its assets from the claims of creditors and the commission finds that termination of the franchise or certificate of confirmation under such conditions is in the best interests of the public.

2. Disposal of facilities. Upon termination of a franchise or certificate of confirmation, the cable television company shall dispose of its facilities in accordance with the provisions of the franchise or certificate. However, on motion of any interested party or upon its own motion, and after public notice and opportunity for hearing, if the commission finds that the continued presence of the facilities in any public way would pose a nuisance to the municipality or its residents, the cable television company shall remove its facilities within such period as the commission shall order. In the absence of any applicable franchise or certificate provision or order by the commission to the contrary, the cable television company may abandon its facilities.

§ 12017. Forfeiture

1. Violations. Every cable television company, and all officers, agents and employees of any cable television company shall obey, observe and comply with every order, direction or requirement made by the commission, under authority of this chapter so long as the same shall be and remain in force.

Except as provided in subsection 2, any cable television company which shall violate any provision of this chapter or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of the commission, shall forfeit, after notice and hearing, to the State a sum to be set by the commission not to exceed \$1,000 for each and every offense. Every violation of any such order, direction or requirement of this chapter shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be a separate and distinct offense.

2. Failure to report. Notwithstanding subsection 1, any cable television company which shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, or shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, or shall fail to submit such special reports as the commission may from time to time require, within the period specified by the commission for the submission thereof, shall forfeit to the State the sum of \$100 for each and every day such company shall continue to be in default with respect to such annual report, answer or special report.

3. Actions. An action to recover a forfeiture under subsections 1 or 2 may be brought at any time within one year after the cause of action accrues, in the Superior Court of Kennebec County, in the name of the people of the State, on the relation of the commission. In any such action all forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture. All moneys recovered in any such action, together with the costs thereof, shall be paid into the State Treasury to the credit of the General Fund.

§ 12018. Landlord-tenant relationship

1. Landlord interference. No landlord shall:

A. Interfere with the installation of cable television facilities upon his property or premises, except that a landlord may require:

(1) That the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises and the convenience and well-being of other tenants;

(2) That the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and

(3) That the cable television company and the tenant agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

B. Demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises,

or from any cable television company in exchange therefor in excess of any amount which the commission shall, by regulation, determine to be reasonable; or

C. Discriminate in rental charges, or otherwise, between tenants who receive cable television service and those who do not.

2. Prior leases. Rental agreements and leases executed prior to the effective date of this chapter may be enforced notwithstanding this section.

3. Tenant's rights. No cable television company may enter into any agreement with the owners, lessees or persons controlling or managing buildings served by a cable television, or do or permit any act that would have the effect, directly or indirectly, of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

§ 12019. Censorship prohibited.

1. Censorship. The commission may not prohibit or limit any program or any class or type of program or otherwise censor the communications or signals transmitted by any cable television company or over any cable television system, and may not promulgate any regulation or condition which would interfere with the right of free speech by means of cable television.

2. —municipality. No municipality may prohibit or limit any program or class or type of program or impose discriminatory or preferential franchise fees in any manner that would tend to encourage or discourage programming of any particular nature, directly or indirectly.

3. —company. No cable television company may prohibit or limit any program or class or type of program presented over a leased channel or any channel made available for public access or educational purposes, except as specifically permitted by federal law.

§ 12020. Liability for obscenity, defamation and invasion of privacy

Neither the cable television company whose facilities are used to transmit a program produced by a person other than such cable television company pursuant to this chapter or of federal law or of applicable regulations, nor the officers, directors or employees of any such cable television company shall be liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when such company does not originate or produce such program.

§ 12021. Application

This chapter shall apply to every cable television company and every cable television system, as defined, operating partly or entirely within the State. Any person or persons possessing a franchise which authorizes the provision of cable television service to residents of the State shall be subject to this chapter, notwithstanding that no property may have been acquired, business transacted or such franchise exercised by such person.

§ 12022. Enforcement; penalties

Any person who violates this chapter may be enjoined by a court of competent jurisdiction from continuing such violation and shall also be liable for damages representing reasonable attorneys' fees incurred by the State in obtaining compliance. The commission shall request the Attorney General to enjoin any violation of this chapter and within 15 days after such request, the Attorney General shall bring an appropriate civil action.

Sec. 2. 30 MRSA § 2151, sub-§ 2, ¶ H, as last amended by PL 1973, c. 676, § 2, is repealed and the following enacted in place thereof:

H. Subject to the provisions of Title 10, Part 14, chapter 213, regulations issued thereunder and applicable federal law, the municipal officers may contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of franchises for initial periods not to exceed 10 years and renewal periods not to exceed 5 years, for the placing and maintenance of cable television systems and appurtenances or parts thereof, along public ways and including contracts with operators of such systems which receive the services of television signal transmission offered by any public utilities using public ways for such transmission. Systems located in accordance with such ordinances and contracts are not defects in public ways.

The municipal officers may establish such charges as are necessary to defray the costs of public notice, advertising and the expenses of hearings relating to applications for a contract.

A municipality shall be entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under the authority of this section.

The municipal officers of towns shall have exclusive power to enact all ordinances authorized by this subsection. Seven days' notice of the meeting at which said ordinances are to be proposed shall be given in the manner provided for town meetings and such ordinances shall be effective immediately.

STATEMENT OF FACT

The purpose of this bill is reflected in the declaration of legislative findings and intent.