

# MAINE STATE LEGISLATURE

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(New Title)  
New Draft of S. P. 263, L. D. 910

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1808

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S. P. 515

In Senate, May 25, 1977

Reported by Minority from Committee on Public Utilities. Sent down for concurrence and ordered printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Create the Office of Community Antenna Television  
within the Public Utilities Commission.**

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

Sec. 1. 35 MRSA c. 269 is enacted to read:

CHAPTER 269

OFFICE OF COMMUNITY ANTENNA TELEVISION

§ 3501. Declaration of legislative findings and intent

Upon consideration of the public interest associated with community antenna television services to the people of Maine, the Legislature has determined that this interest is one of paramount importance to public welfare and, in view of the continuing extension of community antenna services to both new uses and additional members of the public, will assume increasing importance with the passage of time; that presently the public interest in receiving the best available community antenna service under reasonable terms and conditions is not fully protected; that the State should be adequately prepared to represent the people of Maine before the Federal Communications Commission and other federal agencies on community antenna television matters; that many local governments in Maine are hampered in their efforts to assure adequate community antenna television services to local citizens by a lack of the necessary information, technical expertise and administrative resources; while cable television serves in part as an extension of interstate broadcasting, it also involves the offering and sale to Maine

residents of an important service, the dissemination of television broadcasts and other programming originating within and outside Maine, public right-of-way, significant contractual obligations by Maine municipalities and vital community services and, therefore, is of state concern; that federal communications law calls for state and municipal regulation of many aspects of community antenna television, and that in view of the continued need for close local participation in the development of cable television, the franchising of community antenna television systems by local authorities under state guidelines and review constitutes the optimum regulatory framework for Maine; that while community antenna television operations shall be subject to state review consistent with federal law, they also shall be protected from undue restraint and regulation; that municipalities and the State would benefit from valuable educational and public services through cable television systems; and that the community antenna television industry is in a period of rapid growth, technological innovation and corporate consolidation and that the extension of community antenna television services should proceed in accordance with regional and statewide service objectives.

There is, therefore, a need to develop a state cable television policy; to represent the interest of the people of Maine before federal agencies with respect to cable television matters, to assist municipalities in cable television matters, including franchising of cable television systems; to promote the rapid development of the cable television systems, responsive to community and public interest and consonant with state policy; to assure that cable television service in Maine is adequate, economical and efficient; and to encourage the endeavors of public and private institutions, municipalities, associations and organizations in developing community antenna television services and programming for the public interest.

It is the intent of the Legislature in the enactment of this chapter to vest authority in the Public Utilities Commission through the Office of Community Antenna Television to develop a statewide cable television policy taking full account of the needs of Maine people and local governments, federal and local policies, laws and regulations, technological and structural changes within the cable television industry; to recommend standards for cable television systems and franchise practices; to encourage provisions and utilization of public, local government and educational access channels, program diversity, local expression and other program and communications content services; to provide assistance to municipalities in cable television matters; and to stimulate the development of diverse instructional, educational, community interest and public affairs television programming with full access thereto by educational broadcasters and public and private institutions.

#### § 3502. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Cable television company or community antenna television company. Both "cable television company" and "community antenna television company" shall mean any person or persons owning, controlling, operating,

managing or leasing a cable television system or a community antenna 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 or community antenna television system shall be presumed to control such system.

2. Cable television system or community antenna television system. Both "cable television system" and "community antenna television system" shall mean any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signals or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such service. Such facility shall constitute a public utility. 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 Public Utilities Commission.

4. Director. "Director" shall mean the Director of the Office of Community Antenna Television.

5. 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 within the State.

6. 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 or transmitted, or both, advertising and carrier service revenue. 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.

7. 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.

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

9. **Office.** "Office" means the Office of Community Antenna Television.

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

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

12. **State.** "State" shall mean the State of Maine.

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

#### § 3503. Office created

A State Office of Community Antenna Television is established. The office is constituted a public instrumentality, and performance by the office of the duties assigned by this chapter shall be deemed to be the performance of an essential governmental function.

The commission shall appoint a director and a coordinator and may appoint such other employees, agents and consultants as it deems necessary to carry out the duties of the bureau. The commission shall prescribe their duties and fix their compensation within the amounts received to defray the costs and expenses of the bureau.

#### § 3504. Duties of the office

1. **Duties.** The office shall:

A. Develop, publicize and maintain a statewide community antenna television policy for development of cable television services to Maine residents;

B. To the extent permitted by, and not contrary to applicable federal law, advise municipalities with respect to the following:

(1) Standards for procedures and practices which municipalities shall follow in granting franchises, which standards shall provide for the issuance of a public invitation to complete 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 office, at which the applicants and their proposals shall be examined and the members of the public and interested parties shall be 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 office may deem necessary or appropriate to assure maximum public participation and competition and to protect the public interest;

(2) 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 local government, educational and public service programs; a requirement that no such franchise may be exclusive; and such other standards as the bureau shall deem necessary or appropriate to protect the interest;

(3) 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) Standards for the construction and operation of community antenna 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 of communication to the masses 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 and facilities with the technical capacity for interconnection with other systems within regions as established in the office of statewide policy and facilities capable of transmitting signals from subscribers to other points; and

(5) 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 office may determine to be necessary or appropriate to protect the public interest;

C. Provide technical assistance to municipalities and others in matters relating to community antenna television services;

D. Represent the State before the Federal Communications Commission and other federal agencies in respect to community antenna television matters;

E. Encourage cooperative arrangements in the development of regional educational and public affairs cable television programming;

F. Cooperate with municipalities to facilitate the undertaking of multiple community cable television systems;

G. Encourage the franchising of public and nonprofit cable television systems;

H. Maintain liaison with the communications industry and parties, both public and private, having an interest therein, and with 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; and

I. Undertake such studies as it finds necessary to further the objectives of this chapter.

**§ 3505. Additional powers of the commission**

1. Additional powers. In addition to those powers already vested in the commission by this Title, it shall have the following additional powers.

A. 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.

B. 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.

C. The commission may require and receive from any agency of the State, or any political subdivisions 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 is maximum utilization of existing expertise in communications technology, and that the purposes of this chapter are furthered. Upon request of the commission, any state agency can 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.

D. 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, recommend for the applicable cable television system or systems the rates to be charged to subscribers, the rates to be fair, reasonable, not discriminatory and to provide a fair rate of return to the cable television company or companies operating such cable television system or systems.

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

**§ 3506. Costs and expenses of the office**

1. Payment in first instance to be from General Fund. All costs and expenses of the office shall be paid pursuant to appropriation in the first instance from the General Fund, on the certification of the chairman of the commission and upon the audit and warrant of the Treasurer of State. The General Fund shall be reimbursed therefor by payments to be made thereto from moneys collected pursuant to this section.

2. Payments from cable television companies to office. On or before May 1st of each year, the commission shall estimate the total costs and expenses necessary to operate and administer the office for the current state 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 either \$100 or an amount computed by taking 1% of the gross annual receipts of that company during the 12-month period designated by the commission. A cable television company may elect to make partial payments equal to  $\frac{1}{4}$  or more of the total amount billed. Such payments shall be made on June 30th, September 30th, December 31st and March 10th of the fiscal year to which the billing relates. On or before October 15th of such year, the commission shall 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 formula stated in this subsection. Any amount owed 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.

§ 3507. 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 does not exceed the maximum amount permitted by applicable federal law, rules or regulations.

§ 3508. 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, recommend the interconnection of cable television systems and facilities or the coordinated operation of such systems and facilities. The commission may append to such recommendation such reasonable terms and conditions as will best promote the public interest.

§ 3509. Recommendation 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 the construction or operation of a franchised 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 recommend 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 its franchise, it may recommend compliance therewith on such terms and conditions as it deems reasonable and in the public interest.

### § 3510. Rates

1. Rates. 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. Such rates may not be changed except by amendment of the franchise.

2. Role of commission. The commission may, after public notice and hearing, recommend rates to municipalities for cable television services 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; and

B. Upon complaint by any interested party and after reasonable opportunities 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 recommend rates at a level comparable to rates fixed in comparable franchises requiring comparable service for comparable services areas.

3. Requests to fix rates. Upon request by both 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.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Public Utilities Commission, Office of Community Antenna Television the sum of \$50,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1977-78	1978-79
PUBLIC UTILITIES COMMISSION		
Office of Community Antenna Television		
Personal Services	(2) \$20,000	(2) \$20,000
All Other	5,000	5,000
Total	\$25,000	\$25 000

### STATEMENT OF FACT

The intent of this new draft is to transform the regulatory powers of the Public Utilities Commission over cable television companies into advisory assistance to municipalities. Presently, there are no state guidelines or agencies to help municipalities negotiate with or regulate cable television companies. According to this new draft, the Office of Community Antenna Television will advise and provide technical expertise to municipalities which provide franchises to cable television systems.