

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 466**

H. P. 350

House of Representatives, February 8, 1979

Referred to the Committee on Public Utilities. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Kelleher of Bangor.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Create the Bureau 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**Sec. 1.** 30 MRSA § 2151, sub-§ 2, ¶ H, as last amended by PL 1975, c. 623, § 45-C, is repealed and the following enacted in its place:

**H.** Subject to the provisions of Title 10, 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 period not to exceed 5 years, for the placing and maintenance of community antennae television systems and appurtenances or parts thereof, along public ways and including contracts with operators of those systems which receive the services of television signal transmission offered by any public utilities using public ways for that transmission. Systems located in accordance with these 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 these ordinances are to be proposed shall be given in the manner provided for town meetings and these ordinances shall be effective immediately.

Sec. 2. 35 MRSA Pt. 9 is enacted to read:

## PART 9

### COMMUNITY ANTENNA TELEVISION

#### CHAPTER 303

#### BUREAU OF COMMUNITY ANTENNA TELEVISION

#### § 3361. 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 accord 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 services, 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 Bureau 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 change within the cable television industry; to set and enforce standards for cable television systems and franchise practices; to encourage provision 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.

#### § 3362. Definitions

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

1. Bureau. "Bureau" means the Bureau of Community Antenna Television.
2. 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 that system.
3. 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 the signals by wire or cable to subscribing members of the public who pay for the service. That facility shall constitute a public utility. The term shall not include:

- A. Any system which serves fewer than 50 subscribers; or
  - B. Any master antenna television system.
4. Commission. "Commission" shall mean the Public Utilities Commission.
  5. Director. "Director" shall mean the Director of the Bureau of Community Antenna Television.
  6. 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.
  7. 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 that governmental unit.
  8. 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.
  9. Municipality. "Municipality" shall mean any town or city or other political subdivision in Maine authorized by state law to issue a franchise.
  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.

**§ 3363. Bureau created**

The Bureau of Community Antenna Television is established. The bureau is constituted a public instrumentality and performance by the bureau 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.

**§ 3364. Duties of the bureau****1. Duties. The bureau 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, 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 the 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 bureau, 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 bureau 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 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) 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 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, facilities with the technical capacity for interconnection with other systems within regions as established in the bureau's statewide policy and facilities capable of transmitting signals from subscribers to other points; and

(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 bureau 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 community antenna television services;

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

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

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

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

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

I. 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

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

#### § 3365. 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 commissioner 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. These 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. These classifications shall be fair and reasonable. 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 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 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.

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, the rates to be fair, reasonable, not discriminatory and to provide a fair rate of return to the cable television company or companies operating the 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.

§ 3366. Costs and expenses of the bureau

1. Payment in first instance to be from General Fund. All costs and expenses of the bureau 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 bureau. On or before May 1st of each year, the commission shall estimate the total costs and expenses necessary to operate and administer the bureau for the current state fiscal year, including the repayment of any first instance appropriations outstanding on March 31st immediately preceding that 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. These 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 that 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 the cable television company computed on the basis of the formula set out in this subsection. Any amount owing by any cable television company shall be payable not later than 30 days following the date of the statement. Any amount standing to the credit of any cable television company shall be applied as a credit against any succeeding payment due.

§ 3367. 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.

§ 3368. Franchise equipment

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 chapter, expand the area it serves after the effective date of this chapter 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 the 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 the franchises.

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

**§ 3369. Construction of systems**

Every cable television system constructed after the effective date of this chapter shall comply with such construction standards as the commission may have prescribed pursuant to section 3364, subsection 1, paragraph B.

**§ 3370. Certificate of confirmation**

1. **Application.** Except as provided in subsection 6, after the effective date of this chapter, no person shall exercise a franchise, and no such franchise shall be effective, until the commission has confirmed that 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 the hearing is in the public interest. The commission shall fix the time and place for the 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 the 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 3365, 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 franchise.** Any cable television company which, pursuant to an existing franchise, was lawfully engaged in actual operations, or had commenced substantial construction, as the term is defined by the commission, of a cable television system on the effective date of this chapter may continue to exercise the franchise pursuant to the terms thereof, provided that company files with the commission, on or before January 1, 1980, 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 3371.

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, 1979, shall be deemed contrary to the public interest; and the 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 the 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 3 years, to any cable television company engaged in actual and lawful nonfranchised cable television operations on June 30, 1979, if application for such a certificate is made to the commission on or before January 1, 1980, 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, 1979, as determined by the commission. The certificate of confirmation may be renewed by the commission on application for 3-year terms pursuant to section 3371.

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 chapter. No confirmation under this section shall preclude invalidation of any franchise illegally obtained.

§ 3371. Transfer, renewal or amendment of franchises and transfer of control over franchise 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. This 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 the 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 the 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 3370, 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 3365, or that approval would be in violation of law or any regulation or standard promulgated by the commission.

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.

#### § 3372. Interconnection and system coordination

Whenever the commission finds it to be in the public interest, the commission may, either upon the 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 the systems and facilities. The commission may append to the order such reasonable terms and conditions as will best promote the public interest.

#### § 3373. Requirement for adequate service

1. **Service.** Every cable television service 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 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 the construction, operation or extension on the 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.

**§ 3374. 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.** The 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, 1990, the provision shall have no further force or effect after January 1, 1990; 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 3373, 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 3373, 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. A request is received from 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, those agreed upon rates shall become effective.

§ 3375. 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 the service without written consent of the franchising authority, if any, and the commission. In granting the consent, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

§ 3376. 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 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 the 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 the 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. 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 municipality 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.

§ 3377. **Landlord-tenant relationship**

No cable television company may enter into any agreement with the owners, lessees or person controlling or managing buildings served by a cable television system, 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 the building to use or avail himself of master or individual antenna equipment.

§ 3378. **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. **Prohibited to 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. **Prohibited to any 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 local government, public access or educational purposes, except as specifically permitted by federal law.

§ 3379. **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 the 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 that company does not originate or produce that program.

**§ 3380. 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 the franchise exercised by that person.**

**§ 3381. Enforcement; penalties**

**Any person who violates this chapter may be enjoined by a court of competent jurisdiction from continuing the 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 the request, the Attorney General shall bring an appropriate civil action.**

**Sec. 3. Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1979-80	1980-81
<b>PUBLIC UTILITIES COMMISSION</b>		
Bureau of Community Antenna Television		
Personal Services	(2) \$20,000	(2) \$20,000
All Other	10,000	10,000
	<hr/>	<hr/>
Total	\$30,000	\$30,000

**STATEMENT OF FACT**

The purpose of this bill is to create a Bureau of Community Antenna Television within the Public Utilities Commission. The purpose for creating this bureau is reflected in the declaration of legislative findings and intent portions of the bill.