

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 529

6  
7 S.P. 174

In Senate, February 1, 1983

8 Received by the Secretary of the Senate on February 1, 1983. Referred to  
9 the Committee on Public Utilities, and ordered printed pursuant to Joint Rule  
10 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Dutremble of York.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT Concerning Cable Television.  
18

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

21 Sec. 1. 30 MRSA §2151, sub-§2, ¶H, as amended by  
22 PL 1975, c. 623, §45-C, is repealed and the following  
23 enacted in its place:

24 H. Subject to Title 35, chapter 451 and applica-  
25 ble federal law, the municipal officers may con-  
26 tract on such terms and conditions and impose  
27 such fees as are in the best interests of the  
28 municipality, including the grant of franchises  
29 for initial periods not to exceed 10 years and  
30 renewal periods not to exceed 5 years, for the  
31 placing and maintenance of community antenna  
32 television systems and appurtenances, or parts  
33 thereof, along public ways, and including con-  
34 tracts with operators of those systems which

1 receive the services of television signal trans-  
2 mission offered by any public utilities using  
3 public ways for that transmission. Systems  
4 located in accordance with these ordinances and  
5 contracts are not defects in public ways.

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

10 A municipality is entitled to injunctive relief  
11 in addition to any other remedies available by  
12 law to protect any rights conferred upon the  
13 municipality by this section or any ordinances  
14 enacted under the authority of this section.

15 The municipal officers of towns have exclusive  
16 power to enact all ordinances authorized by this  
17 subsection. Seven days' notice of the meeting at  
18 which these ordinances are to be proposed shall  
19 be given in the manner provided for town meet-  
20 ings, and these ordinances shall be effective  
21 immediately.

22 Sec. 2. 35 MRSA Pt. 10 is enacted to read:

23 PART 10

24 COMMUNITY ANTENNA TELEVISION

25 CHAPTER 451

26 BUREAU OF COMMUNITY ANTENNA TELEVISION

27 §5051. Declaration of legislative findings and  
28 intent

29 Upon consideration of the public interest associ-  
30 ated with community antenna television services to  
31 the people of Maine, the Legislature has determined:  
32 That this interest is one of paramount importance to  
33 public welfare and, in view of the continuing exten-  
34 sion of community antenna services to both new uses  
35 and additional members of the public, will assume  
36 increasing importance with the passage of time; that  
37 presently the public interest in receiving the best

1 available community antenna service under reasonable  
2 terms and conditions is not fully protected; that the  
3 State should be adequately prepared to represent the  
4 people of Maine before the Federal Communications  
5 Commission and other federal agencies on community  
6 antenna television matters; that many local govern-  
7 ments in Maine are hampered in their efforts to  
8 assure adequate community antenna television services  
9 to local citizens by a lack of the necessary informa-  
10 tion, technical expertise and administrative  
11 resources; that while cable television serves in part  
12 as an extension of interstate broadcasting, it also  
13 involves the offering and sale to Maine residents of  
14 an important service, the dissemination of television  
15 broadcasts and other programming originating within  
16 and outside Maine, public right-of-way, significant  
17 contractual obligations by Maine municipalities and  
18 vital community services and, therefore, is of state  
19 concern; that federal communications law calls for  
20 state and municipal regulation of many aspects of  
21 community antenna television, and that in view of the  
22 continued need for close local participation in the  
23 development of cable television, the franchising of  
24 community antenna television systems by local author-  
25 ities under state guidelines and review constitutes  
26 the optimum regulatory framework for Maine; that  
27 while community antenna television operations shall  
28 be subject to state review consistent with federal  
29 law, they also shall be protected from undue  
30 restraint and regulation; that municipalities and the  
31 State would benefit from valuable educational and  
32 public services through cable television systems; and  
33 that the community antenna television industry is in  
34 a period of rapid growth, technological innovation  
35 and corporate consolidation and that the extension of  
36 community antenna television services should proceed  
37 in accord with regional and statewide service objec-  
38 tives.

39 There is a need to develop a state cable tele-  
40 vision policy: To represent the interest of the  
41 people of Maine before federal agencies with respect  
42 to cable television matters; to assist municipalities  
43 in cable television matters, including franchising of  
44 cable television systems; to promote the rapid devel-  
45 opment of the cable television services, responsive  
46 to community and public interest and consonant with

1 state policy; to assure that cable television service  
2 in Maine is adequate, economical and efficient; and  
3 to encourage the endeavors of public and private  
4 institutions, municipalities, associations and organiza-  
5 tions in developing community antenna television  
6 services and programming for the public interest.

7       It is the intent of the Legislature in this chap-  
8 ter to vest authority in the Public Utilities Commis-  
9 sion through the Bureau of Community Antenna Tele-  
10 vision: To develop a statewide cable television  
11 policy, taking full account of the needs of Maine  
12 people and local governments, federal and local poli-  
13 cies, laws and regulations, technological and struc-  
14 tural change within the cable television industry; to  
15 set and enforce standards for cable television sys-  
16 tems and franchise practices; to encourage provision  
17 and utilization of public, local government and edu-  
18 cational access channels, program diversity, local  
19 expression and other program and communications con-  
20 tent services; to provide assistance to municipali-  
21 ties in cable television matters; and to stimulate  
22 the development of diverse instructional, educa-  
23 tional, community interest and public affairs tele-  
24 vision programming with full access thereto by educa-  
25 tional broadcasters and public and private insti-  
26 tutions.

27 §5052. Definitions

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

31       1. Bureau. "Bureau" means the Bureau of Commu-  
32 nity Antenna Television.

33       2. Cable television company or community antenna  
34 television company. Both "cable television company"  
35 and "community antenna television company" mean any  
36 person or persons owning, controlling, operating,  
37 managing or leasing a cable television system or a  
38 community antenna television system within the State.  
39 For purposes of this definition, "control" means  
40 effective control, whether direct or indirect, and  
41 however exercised. A person or affiliated group of  
42 persons owning or controlling directly or indirectly

1 25% of the stock or assets of a cable or community  
2 antenna television system is presumed to control that  
3 system.

4 3. Cable television system or community antenna  
5 television system. Both "cable television system"  
6 and "community antenna television system" mean any  
7 facility that, in whole or in part, receives,  
8 directly or indirectly over the air and amplifies or  
9 otherwise modifies, signals transmitting programs  
10 broadcast by one or more television or radio sta-  
11 tions, or originates its own signals or signals pro-  
12 duced through any of its community access channels  
13 and distributes the signals by wire or cable to sub-  
14 scribing members of the public who pay for the ser-  
15 vice. That facility constitutes a public utility.  
16 The term does not include:

17 A. Any system which serves fewer than 50 sub-  
18 scribers; or

19 B. Any master antenna television system.

20 4. Commission. "Commission" means the Public  
21 Utilities Commission.

22 5. Director. "Director" means the Director of  
23 the Bureau of Community Antenna Television.

24 6. Franchise. "Franchise" means and includes  
25 any authorization granted by a municipality or asso-  
26 ciation of municipalities, whether in terms of a  
27 franchise, privilege, permit, license or other  
28 authorization to construct, operate, maintain or man-  
29 age a cable television system within the State.

30 7. Gross annual receipts. "Gross annual  
31 receipts" means any and all compensation received  
32 directly or indirectly by a cable television company  
33 from its operations within the State, including, but  
34 not limited to, sums received from subscribers or  
35 users in payment for programs received or trans-  
36 mitted, or both, advertising and carrier service rev-  
37 enue. "Gross annual receipts" does not include any  
38 taxes on services furnished by a cable television  
39 company imposed directly on any subscriber or user by  
40 any municipality, state or other governmental unit

1 and collected by the company for that governmental  
2 unit.

3 8. Master antenna television system. "Master  
4 antenna television system" means any television sys-  
5 tem which serves only the residents of one or more  
6 apartment dwellings under common ownership, control  
7 or management and which transmits only signals broad-  
8 cast over the air by stations which may be normally  
9 viewed or heard locally without objectionable inter-  
10 ference, and which does not provide any additional  
11 service.

12 9. Municipality. "Municipality" means any town  
13 or city or other political subdivision in Maine  
14 authorized by state law to issue a franchise.

15 10. Person. "Person" means any individual,  
16 trustee, partnership, association, corporation,  
17 municipality or other legal entity.

18 11. Program. "Program" means any broadcast-type  
19 program, signal, message, graphics, data or communi-  
20 cation content service.

21 12. State. "State" means the State of Maine.

22 13. State agency. "State agency" means any  
23 office, department, board, commission, bureau, divi-  
24 sion, public corporation, agency or instrumentality  
25 of this State.

26 §5053. Bureau created

27 The Bureau of Community Antenna Television is  
28 established. The bureau is constituted a public  
29 instrumentality and performance by the bureau of the  
30 duties assigned by this chapter shall be deemed to be  
31 the performance of an essential governmental func-  
32 tion.

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

1        §5054. Duties of the bureau

2            1. Duties. The bureau shall:

3            A. Develop, publicize and maintain a statewide  
4            community antenna television policy for develop-  
5            ment of cable television services to Maine resi-  
6            dents;

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

9                    (1) Prescribe standards for procedures and  
10                   practices which municipalities shall follow  
11                   in granting franchises, which standards  
12                   shall provide for the issuance of a public  
13                   invitation to compete for the franchise; the  
14                   filing of all franchise applications and  
15                   related documents as public records, with  
16                   reasonable notice to the public that the  
17                   records are open to inspection and examina-  
18                   tion during reasonable business hours; the  
19                   holding of a public hearing, upon reasonable  
20                   notice to the public and the bureau, at  
21                   which the applicants and their proposals  
22                   shall be examined and the members of the  
23                   public and interested parties shall be  
24                   afforded a reasonable opportunity to express  
25                   their views thereon; the rendition of a  
26                   written report by the municipality, made  
27                   available to the public setting forth the  
28                   reasons for its decision in awarding the  
29                   franchise; and such other procedural stan-  
30                   dards as the bureau may deem necessary or  
31                   appropriate to assure maximum public parti-  
32                   cipation and competition and to protect the  
33                   public interest;

34                   (2) Prescribe minimum standards for inclu-  
35                   sion in franchises, including: Maximum ini-  
36                   tial and renewal terms; minimum channel  
37                   capacity; provisions regarding access to,  
38                   and facilities to make use of, channels for  
39                   local government, educational and public  
40                   service programs; a requirement that no such  
41                   franchise may be exclusive; and such other  
42                   standards as the bureau shall deem necessary  
43                   or appropriate to protect the interest;



1           (3) Prescribe standards by which municipal-  
2           ities shall determine whether an applicant  
3           possesses the technical ability, the finan-  
4           cial ability, the good character and other  
5           qualifications necessary to operate a cable  
6           television system in the public interest;

7           (4) Prescribe standards for the construc-  
8           tion and operation of community antenna sys-  
9           tems, which standards shall be designed to  
10          promote safe, adequate and reliable service  
11          to subscribers, the construction and opera-  
12          tion of systems, reflecting the most  
13          advanced state of the art of communication  
14          to the masses consistent with the needs and  
15          resources of the communities to be served,  
16          construction schedules providing for as  
17          rapid as possible extension of service  
18          within the limitations of economic feasi-  
19          bility, the construction of systems with the  
20          maximum practicable channel capacity, facil-  
21          ities for local program origination, facili-  
22          ties to provide service in areas conforming  
23          to various community interests, facilities  
24          with the technical capacity for interconnec-  
25          tion with other systems within regions as  
26          established in the bureau's statewide policy  
27          and facilities capable of transmitting  
28          signals from subscribers to other points;  
29          and

30          (5) Prescribe such standards for the pro-  
31          hibition or limitation of concentration of  
32          control over mass media and communication  
33          companies and facilities and methods of  
34          enforcing such standards as the bureau may  
35          determine to be necessary or appropriate to  
36          protect the public interest;

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

40          D. Review and act upon applications for certifi-  
41          cates of confirmation as provided in this chap-  
42          ter;

1           E. Represent the State before the Federal Commu-  
2           nications Commission and other federal agencies  
3           in respect to community antenna television mat-  
4           ters;

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

8           G. Cooperate with municipalities to facilitate  
9           the undertaking of multiple community cable tele-  
10          vision systems;

11          H. Encourage the franchising of public and non-  
12          profit cable television systems;

13          I. Maintain liaison with the communications  
14          industry and parties, both public and private,  
15          having an interest therein, and with other states  
16          and agencies of this State to promote the rapid  
17          and harmonious development of cable television  
18          services as set forth in the legislative findings  
19          and intent; and

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

22          §5055. Additional powers of the commission

23           1. Additional powers. In addition to those  
24           powers already vested in the commission by this  
25           Title, it has the following additional powers.

26           A. The commission may promulgate, issue, amend  
27           and rescind such orders and rules as it may find  
28           necessary or appropriate to carry out the pur-  
29           poses of this chapter. These orders and rules  
30           may classify persons and matters within the  
31           jurisdiction of the commission and prescribe dif-  
32           ferent requirements for different classes of per-  
33           sons or matters. These classifications shall be  
34           fair and reasonable. A copy of any order and  
35           rule promulgated under this chapter is subject to  
36           public inspection during reasonable business  
37           hours.

1 B. The commission may require cable television  
2 companies to maintain and file reports, contracts  
3 and statements, including, but not limited to,  
4 ownership, accounting, auditing and operating  
5 statements, engineering reports and other data as  
6 the commission may deem necessary or appropriate  
7 to administer this chapter. The commission,  
8 including members of its staff, may make reason-  
9 able inspections of the records and facilities of  
10 any cable television company.

11 C. The commission may examine, under oath, all  
12 officers, agents, employees and stockholders of  
13 any cable television company, municipal officials  
14 and any other persons and compel the production  
15 of papers and the attendance of witnesses to  
16 obtain the information necessary to administer  
17 this chapter.

18 D. The commission may require and receive from  
19 any agency of the State or any political subdivi-  
20 sion thereof, such assistance and data as may be  
21 necessary to enable the commission to administer  
22 this chapter. The commission may enter into such  
23 cooperative arrangements with state agencies and  
24 municipalities, each of which is authorized to  
25 enter into such cooperative arrangements as shall  
26 be necessary or appropriate to assure that there  
27 is maximum utilization of existing expertise in  
28 communications technology, and that the purposes  
29 of this chapter are furthered. Upon request of  
30 the commission, any state agency can transfer to  
31 the commission such officers and employees as the  
32 commission may deem necessary from time to time  
33 to assist the commission in carrying out its  
34 functions and duties. Officers and employees so  
35 transferred shall not lose their status or rights  
36 under the Personnel Law.

37 E. The commission, upon the request of any  
38 municipality which has issued a franchise or  
39 whose residents subscribe to cable television  
40 service may, after due hearing and investigation,  
41 fix and establish for the applicable cable tele-  
42 vision system or systems the rates to be charged  
43 to subscribers, the rates to be fair, reasonable,  
44 not discriminatory and to provide a fair rate of

1 return to the cable television company or compa-  
2 nies operating the cable television system or  
3 systems.

4 F. The commission may exercise all other powers  
5 necessary or appropriate to carry out the pur-  
6 poses of this chapter.

7 §5056. Costs and expenses of the bureau

8 1. Payment in first instance to be from General  
9 Fund. All costs and expenses of the bureau shall be  
10 paid pursuant to appropriation in the first instance  
11 from the General Fund, on the certification of the  
12 chairman of the commission and upon the audit and  
13 warrant of the Treasurer of State. The General Fund  
14 shall be reimbursed therefor by payments to be made  
15 thereto from moneys collected pursuant to this  
16 section.

17 2. Payments from cable television companies to  
18 bureau. On or before May 1st of each year, the com-  
19 mission shall estimate the total costs and expenses  
20 necessary to operate and administer the bureau for  
21 the current state fiscal year, including the repay-  
22 ment of any first instance appropriations outstanding  
23 on March 31st immediately preceding that fiscal year.  
24 The commission shall, at such time or times and pur-  
25 suant to such procedure as it shall determine by  
26 regulation, bill and collect from each cable tele-  
27 vision company the greater of either \$100 or an  
28 amount computed by taking 1% of the gross annual  
29 receipts of that company during the 12-month period  
30 designated by the commission. A cable television  
31 company may elect to make partial payments equal to  
32 1/4 or more of the total amount billed. These pay-  
33 ments shall be made on June 30th, September 30th,  
34 December 31st and March 10th of the fiscal year to  
35 which the billing relates. On or before October 15th  
36 of that year, the commission shall send to each cable  
37 television company a statement setting forth the  
38 amount due and payable by, or the amount standing to  
39 the credit of the cable television company computed  
40 on the basis of the formula set out in this subsec-  
41 tion. Any amount owing by any cable television com-  
42 pany shall be payable not later than 30 days follow-  
43 ing the date of the statement. Any amount standing

1 to the credit of any cable television company shall  
2 be applied as a credit against any succeeding payment  
3 due.

4 §5057. Municipal fees, taxes or charges

5 Nothing in this chapter limits the power of any  
6 municipality to impose upon any cable television com-  
7 pany a fee, tax or charge, provided that any such  
8 fee, tax or charge does not exceed the maximum amount  
9 permitted by applicable federal law or rules.

10 §5058. Franchise equipment

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

18 A municipality may require a franchise of any  
19 cable television system providing service within the  
20 municipality, notwithstanding that the cable tele-  
21 vision system does not occupy, use or in any way  
22 traverse a public way. The provision of any municipi-  
23 pal charter or other law authorizing a municipality  
24 to require and grant franchises is hereby amended, to  
25 the extent necessary, to authorize the franchises.

26 Nothing in this chapter prevents franchise re-  
27 quirements in excess of those prescribed by the com-  
28 mission, unless the requirement is inconsistent with  
29 this chapter or any regulation, policy or procedure  
30 of the commission.

31 §5059. Construction of systems

32 Every cable television system constructed after  
33 the effective date of this chapter shall comply with  
34 such construction standards as the commission may  
35 have prescribed pursuant to section 5054, subsection  
36 1, paragraph B.

37 §5060. Certificate of confirmation

1           1. Application. Except as provided in subsection  
2           tion 6, after the effective date of this chapter, no  
3           person may exercise a franchise, and no such franchise  
4           is effective, until the commission has confirmed that  
5           franchise. A person wishing to exercise  
6           a franchise shall file with the commission an application  
7           for a certificate of confirmation in such form  
8           and containing such information and supportive documentation  
9           as the commission may require. The application shall be  
10          accompanied by proof of service thereof upon the franchisor  
11          and by such fee as the commission may set.  
12

13           2. Hearing. The commission may hold a public hearing  
14          on any application for a certificate of confirmation, if it  
15          determines that the hearing is in the public interest. The  
16          commission shall fix the time and place for the hearing and  
17          cause notice thereof to be given to the applicant, the chief  
18          executive officer of the municipality issuing the franchise  
19          and such other persons as the commission may deem appropriate.  
20          Testimony may be taken and evidence received at the hearing  
21          pursuant to such rules and procedures as the commission may  
22          establish.  
23

24           3. Issuance. The commission shall issue a certificate  
25          of confirmation of the franchise, unless it finds that the  
26          applicant, the proposed cable television system or the proposed  
27          franchise does not conform to the standards embodied in the  
28          regulations promulgated by the commission pursuant to section  
29          5055, subsection 1, paragraph A, or that operation of the  
30          proposed cable television system by the applicant under the  
31          proposed franchise would be in violation of law or any regulation  
32          or standard promulgated by the commission.  
33  
34

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

39           5. Refusal reasons. In the event the commission refuses  
40          to issue a certificate of confirmation, it shall set forth in  
41          writing the reasons for its refusal.  
42

1           6. Existing franchise. Any cable television  
2 company which, pursuant to an existing franchise, was  
3 lawfully engaged in actual operations or had com-  
4 menced substantial construction, as the term is de-  
5 fined by the commission, of a cable television system  
6 on the effective date of this chapter may continue to  
7 exercise the franchise pursuant to the terms thereof,  
8 provided that the company files with the commission,  
9 on or before January 1, 1984, an application for cer-  
10 tification of confirmation, in such form and contain-  
11 ing such information and supporting documentation as  
12 the commission may require. The commission shall  
13 issue a certificate of confirmation to such a cable  
14 television company valid for the unexpired term of  
15 its franchise, or for 5 years, whichever is less,  
16 without further proceedings, which certificate may be  
17 renewed by the commission, on application, pursuant  
18 to section 5061.

19           7. Not exercised. Notwithstanding any other  
20 provision of this chapter, any franchise which has  
21 not been exercised as indicated by substantial per-  
22 formance within one year after June 30, 1983, shall  
23 be deemed contrary to the public interest; and the  
24 franchise and any certificate of confirmation previ-  
25 ously issued by the commission shall be invalidated,  
26 unless the cable television company can make an ade-  
27 quate showing that substantial performance was pre-  
28 cluded by circumstances beyond the reasonable control  
29 of the company. Any subsequent application for a  
30 certificate of confirmation shall be determined in  
31 accordance with this section.

32           8. Nonfranchised. The commission shall issue a  
33 certificate of confirmation, valid for an initial  
34 term of 3 years, to any cable television company  
35 engaged in actual and lawful nonfranchised cable  
36 television operations on June 30, 1983, if applica-  
37 tion for such a certificate is made to the commission  
38 on or before January 1, 1984, in such form and con-  
39 taining such information and supporting documentation  
40 as the commission may require. Notwithstanding any  
41 other provisions of this chapter, any such company  
42 which obtains a certificate of confirmation may con-  
43 tinue to operate within the limits of the area in  
44 which it was actually rendering service on June 30,  
45 1983, as determined by the commission. The certifi-

1 cate of confirmation may be renewed by the commission  
2 on application for 3-year terms pursuant to section  
3 5061.

4 9. Further validation. Nothing in this section  
5 may be deemed to validate a franchise not granted in  
6 accordance with law or affect any claims in litigation  
7 on the effective date of this chapter. No confir-  
8 mation under this section may preclude  
9 invalidation of any franchise illegally obtained.

10 §5061. Transfer, renewal or amendment of franchises  
11 and transfer of control over franchise and  
12 facilities

13 1. Approval. No transfer, renewal or amendment  
14 of any franchise, or any transfer of control of a  
15 franchise or certificate of confirmation or of facil-  
16 ities constituting a substantial part of any cable  
17 television system in Maine is effective without the  
18 prior approval of the commission. This approval is  
19 required in addition to any municipal approval re-  
20 quired under the franchise or by law. For the pur-  
21 poses of this section, a transfer of ownership or  
22 control of any cable television company and a merger  
23 or consolidation of 2 or more cable television compa-  
24 nies constitutes a transfer of the franchises or cer-  
25 tificates granted to the company or companies.

26 2. Application. A person wishing to transfer,  
27 renew or amend a franchise, or to transfer control of  
28 a franchise or of facilities constituting a substan-  
29 tial part of a cable television system shall file  
30 with the commission an application for approval of  
31 the change, in such form and containing such informa-  
32 tion and supporting documents as the commission may  
33 require. The application shall be accompanied by  
34 such fee as the commission may set. The commission  
35 may hold a public hearing on any such application as  
36 set forth in section 5060, subsection 2.

37 3. Nonconforming. The commission shall approve  
38 the application unless it finds that the applicant,  
39 or in the case of a transfer application, the pro-  
40 posed transferee or the cable television system does  
41 not conform to the standards embodied in the regula-  
42 tions promulgated by the commission pursuant to



1 section 5055, or that approval would be in violation  
2 of law or any regulation or standard promulgated by  
3 the commission.

4 4. Contingency. The commission may approve the  
5 application contingent upon compliance with stan-  
6 dards, terms or conditions set by the commission.

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

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

13 §5062. Interconnection and system coordination

14 Whenever the commission finds it to be in the  
15 public interest, the commission may, either upon  
16 application of an interested party or on its own ini-  
17 tiative, and after public notice and opportunity for  
18 hearing, order the interconnection of cable tele-  
19 vision systems and facilities or the coordinated  
20 operation of the systems and facilities. The commis-  
21 sion may append to the order such reasonable terms  
22 and conditions as will best promote the public inter-  
23 est.

24 §5063. Requirement for adequate service

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

29 2. Orders. Whenever, upon complaint or upon its  
30 own motion, and after public notice and opportunity  
31 for hearing, the commission finds that the construc-  
32 tion or operation of a franchised or certificated  
33 cable television system has been unreasonably delayed  
34 or that the extension of service to any persons or  
35 area within a cable television company's territory  
36 has been unreasonably withheld, it may order the con-  
37 struction, operation or extension on the terms and  
38 conditions as it deems reasonable and in the public  
39 interest.

1           3. Compliance. Whenever, upon complaint or upon  
2 its own motion, and after public notice and oppor-  
3 tunity for hearing, the commission finds that a cable  
4 television company is not meeting the service re-  
5 quirements and obligations imposed by this chapter,  
6 by the regulations promulgated pursuant to this chap-  
7 ter, or by its franchise, it may order compliance  
8 therewith on such terms and conditions as it deems  
9 reasonable and in the public interest.

10           4. Penalty. Failure to comply with an order of  
11 the commission issued under subsection 2 or 3 shall  
12 be grounds for denial, suspension or revocation of  
13 the right to exercise a franchise or to operate pur-  
14 suant to a certificate of confirmation.

15           §5064. Rates

16           1. Rates. Except as otherwise provided in this  
17 section, the rates charged by a cable television com-  
18 pany shall be those specified in the franchise which  
19 may establish, or provide for the establishment of,  
20 reasonable classifications of service and categories  
21 of subscribers, or charge different rates for differ-  
22 ing services or for subscribers in different catego-  
23 ries.

24           2. Changes. The rates may not be changed except  
25 by amendment of the franchise.

26           3. Effect. Notwithstanding subsection 1:

27           A. No rate provision in any franchise may bind a  
28 municipality for more than 10 years and no rate  
29 provision in any renewed franchise may bind a  
30 municipality for more than 5 years. In the event  
31 that an existing franchise purports to bind a  
32 municipality with respect to rates for a period  
33 to expire after January 1, 1992, the provision  
34 shall have no further force or effect after Janu-  
35 ary 1, 1992; and

36           B. Any rate or rates found by the commission,  
37 after public notice and opportunity for hearing,  
38 to be discriminatory or preferential as between  
39 subscribers similarly situated shall thereafter  
40 be void. Reduced rates or free service to gov-

1 ernment, educational or charitable institutions  
2 shall not be considered unduly discriminatory or  
3 preferential.

4 4. New. In the event the commission finds that  
5 any rate is discriminatory or preferential pursuant  
6 to subsection 3, paragraph B, or that any cable tele-  
7 vision company is in violation of an order issued by  
8 the commission pursuant to section 5063, requiring  
9 adequate service, it may issue an order requiring the  
10 municipality or the cable television company, or  
11 both, to provide for new rates which are nondiscrim-  
12 inatory and nonpreferential or reduced to reflect the  
13 inadequate service, as the case may be.

14 5. Additional. In addition to other powers, the  
15 commission may, after public notice and opportunity  
16 for hearing, prescribe rates for cable television  
17 service whenever:

18 A. Existing rates have been found discriminatory  
19 or preferential and, after reasonable oppor-  
20 tunity, the municipality or the cable television  
21 company, or both, have not provided for new rates  
22 which are nondiscriminatory or nonpreferential,  
23 as provided in subsection 4;

24 B. A cable television company is in violation of  
25 an order issued by the commission pursuant to  
26 section 5063, requiring adequate service and,  
27 after reasonable opportunity, the municipality or  
28 the cable television company, or both, have not  
29 provided for new rates reduced to reflect the  
30 inadequate service, in which case the commission  
31 may require appropriate rate reductions;

32 C. Having reduced rates pursuant to paragraph B,  
33 the commission finds that the cable television  
34 company has substantially remedied the deficien-  
35 cies, in which case, the commission shall return  
36 the rates to those rates stipulated in the fran-  
37 chise;

38 D. Upon complaint by any interested party and  
39 after reasonable opportunity for negotiation  
40 between the municipality and the cable television  
41 company concerned, the commission finds that

1 rates are not established by or pursuant to the  
2 terms of the franchise, in which event, the com-  
3 mission shall fix rates at a level comparable to  
4 rates fixed in comparable franchises requiring  
5 comparable service for comparable service areas;  
6 and

7 E. A request is received from a municipality and  
8 cable television company that the commission pre-  
9 scribe applicable rates, in which event the com-  
10 mission shall fix rates at a level comparable to  
11 rates currently being fixed in franchises for  
12 comparable service in comparable service areas,  
13 provided that if the municipality and the company  
14 thereafter agree, those agreed upon rates shall  
15 become effective.

16 §5065. Abandonment of service

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

23 2. Consent. When abandonment of any service is  
24 prohibited by a franchise, no cable television com-  
25 pany may abandon the service without written consent  
26 of the franchising authority, if any, and the commis-  
27 sion. In granting the consent, the commission may  
28 impose such terms, conditions or requirements as in  
29 its judgment are necessary to protect the public  
30 interest.

31 §5066. Termination of franchises

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

38 A. Has committed a material breach of its fran-  
39 chise or any applicable provisions of this chap-  
40 ter or of the regulations promulgated in this

1 chapter and has failed, without reasonable justifi-  
2 cation, to cure the breach within 60 days after  
3 having received written notice thereof from the  
4 commission; or

5 B. Has been adjudicated a bankrupt or has filed  
6 a voluntary petition for bankruptcy or reorgan-  
7 ization or for an order protecting its assets  
8 from the claims of creditors and the commission  
9 finds that termination of the franchise or cer-  
10 tificate of confirmation under the conditions is  
11 in the best interests of the public.

12 2. Disposal of facilities. Upon termination of  
13 a franchise or certificate of confirmation, the cable  
14 television company shall dispose of its facilities in  
15 accordance with the provisions of the franchise or  
16 certificate. On motion of any interested party or  
17 upon its own motion, and after public notice and  
18 opportunity for hearing, if the commission finds that  
19 the continued presence of the facilities in any  
20 public way would pose a nuisance to the municipality  
21 or its residents, the cable television company shall  
22 remove its facilities within such period as the  
23 municipality shall order. In the absence of any  
24 applicable franchise or certificate provision or  
25 order by the commission to the contrary, the cable  
26 television company may abandon its facilities.

27 §5067. Landlord-tenant relationship

28 No cable television company may enter into any  
29 agreement with the owners, lessees or person control-  
30 ling or managing buildings served by a cable tele-  
31 vision system, or do or permit any act that would  
32 have the effect, directly or indirectly, of diminish-  
33 ing or interfering with existing rights of any tenant  
34 or other occupant of the building to use or avail  
35 himself of master or individual antenna equipment.

36 §5068. Censorship prohibited

37 1. Censorship. The commission may not prohibit  
38 or limit any program or any class or type of program  
39 or otherwise censor the communications or signals  
40 transmitted by any cable television company or over  
41 any cable television system, and may not promulgate

1 any regulation or condition which would interfere  
2 with the right of free speech by means of cable tele-  
3 vision.

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

10 3. Prohibited to any company. No cable tele-  
11 vision company may prohibit or limit any program or  
12 class or type of program presented over a leased  
13 channel or any channel made available for local gov-  
14 ernment, public access or educational purposes,  
15 except as specifically permitted by federal law.

16 §5069. Liability for obscenity, defamation and inva-  
17 sion of privacy

18 Neither the cable television company whose facil-  
19 ities are used to transmit a program produced by a  
20 person other than the cable television company pur-  
21 suant to this chapter or of federal law or of appli-  
22 cable regulations, nor the officers, directors or  
23 employees of any such cable television company shall  
24 be liable for damages arising from any obscene or  
25 defamatory statements or actions or invasion of pri-  
26 vacancy occurring during any program when that company  
27 does not originate or produce that program.

28 §5070. Application

29 This chapter shall apply to every cable tele-  
30 vision company and every cable television system, as  
31 defined, operating partly or entirely within the  
32 State. Any person or persons possessing a franchise,  
33 which authorizes the provision of cable television  
34 service to residents of the State, shall be subject  
35 to this chapter, notwithstanding that no property may  
36 have been acquired, business transacted or the fran-  
37 chise exercised by that person.

38 §5071. Enforcement; penalties

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

10           Sec. 3. Appropriation. The following funds are  
11           appropriated from the General Fund to carry out the  
12           purposes of this Act.

13   1983-84   1984-85

14           PUBLIC UTILITIES COMMISSION

15           Bureau of Community Antenna  
16           Television

17	Positions	(2)	(2)
18	Personal Services	\$20,000	\$20,000
19	All Other	10,000	10,000
20		<hr/>	<hr/>
21	Total	\$30,000	\$30,000

22   STATEMENT OF FACT

23           The purpose of this bill is to create a Bureau of  
24           Community Antenna Television within the Public Utili-  
25           ties Commission. The purpose for creating this  
26           bureau is reflected in the declaration of legislative  
27           findings and intent portions of the bill.

28   1937012483