CITY OF LODI
130 S. Main St.
Lodi, Wisconsin 53555-1120

Tel (608) 592-3247
Fax (608) 592-3271

Senator Plale, Representative Montgomery, Members of the Committee:

I wish to thank you for providing this forum. As a general statement telecommunication and cable service are vital to the economic success of Wisconsin in the twenty-first century and beyond. This legislation does nothing to ensure that success. This proposal is designed to benefit one industry at the expense of the entire community. As I read the analysis by the Legislative Reference Bureau, I am unable to find anything that will benefit the residents of the City of Lodi or any other rural community. As currently written this proposal does more harm than good. The beneficiaries of this change in law are those in the industry who are attempting to gain entry into Wisconsin communities while simultaneously avoiding dealing with the communities they desire to serve.

FRANCHISE FEES

Under current law the individual communities in Wisconsin grant franchises for cable service. This allows for each community to safe guard its' unique interests. This is important to the residents of our communities. This proposal does not recognize the uniqueness of each of our communities and the desire to retain it. Local standards are important. This proposal provides for the State of Wisconsin to be the sole franchising authority within its' borders. This effectively puts the concerns of the corporate entity over the concerns of the local community and its' residents.

This proposal also changes the definition of gross receipts. This change will lower municipal revenues by exempting advertising revenue from the calculation. It has been estimated that this could result in a 30% reduction in franchise fee revenue for the communities of Wisconsin. Currently federal law allows local governments to collect a fee of up to 5%. This bill requires a fee of the lower of 5% or the current fee which ever is lower. Does this

legislation permit the municipality to change the fee in the future? Under the Lodi's current contract any provider that seeks entry must be bound to the same contract conditions as our current provider, Charter Communications. Franchise fees would be an identical percentage; service standards would be identical, as would all other requirements. Identical terms and conditions are not barriers to entry. They are basic fairness. Our current contract requires annual examination of records for the purpose of verifying accuracy in calculating the franchise fee. This legislation limits this to once every three years. It is unacceptable.

MUNICIPAL AUTHORITY

This bill appears to eliminate all local governments from the regulation of their rights of way with respect to this industry. The bill also prohibits the collection of fees normally collected for street openings or other work in the right of way. These fees are collected from all parties, individual or corporate. This bill provides an exception for one industry. This again violates the principles of fair treatment to all. From the work of the Reference Bureau, it appears that pole attachment fees would also be eliminated. These fees are charged when other entities attach their equipment to our municipal electric utility poles. We also require all electric telephone and cable (video) infrastructure be put into the same trench with cost sharing on the trenching work. Am I correct in assuming this will also be prohibited?

CUSTOMER RIGHTS

Under this bill the customer has no rights. Rule making by Department of Financial Institutions is prohibited. The Department may not issue rules interpreting the law or establishing procedures for monitoring the requirement contained therein. It requires a court action to resolve disputes. This costs money and will just add to an already crowded court calendar. The bill repeals subscriber rights currently enforced by DATCP and the District Attorney.

This bill also contains tax exemptions from the personal property tax. With the residential property tax payer paying 70% of the total property tax, we should not be creating or extending any more exemptions.

The 90-day requirement to comply with customer service requirements promulgated by the FCC is too long. Operators should comply with existing regulation immediately. It appears that all basic consumer protection is repealed in this bill. Who can the consumer turn to in the event of poor service or high fees? The industry has all of the power if our customer service standards are eliminated.

The bill analysis states that the franchise granted by DFI does not expire. This will cause areas of no service or poor service in Wisconsin. In Lodi we have found that our provider is most amenable to modernizing the system when it is time for franchise renewal. If there is no renewal and no competition the rural areas of the state will have poor service. The providers will abandon these areas because of the high cost to serve them. If this happens the economic growth attributed to the communications economy will bypass much of the state.

AB207/SB107 is bad public policy. It benefits one industry while harming the consumer and local communities.

Wisconsin State Assembly and Senate Energy and Utilities Committees
March 27, 2007

I am Molly Butz, 3935 Summerview Drive, Oshkosh WI and Program Coordinator at the Oshkosh Seniors Center. I'm here speaking on behalf of the Oshkosh Seniors Center to voice opposition to language in AB 207 that reduces existing funding for community PEG channels.

It is rare that a day goes by that a senior in the Oshkosh community does not make a point to stop me and tell me about a program they watched on Channel 2 or Channel 10 (our local PEG channels) that enrich seniors in our community. The shows they are referring to are "Senior Savvy" and "Fit and Over 50". Our senior programming on OCAT has made a tremendous impact on the amount of seniors we are able to reach, educate and serve in our community.

Not all seniors are physically or financially able to participate in activities or programs that we have on-site at our Senior Center facilities. However, seniors have found our OCAT PEG programming to be a valuable way for them to receive education on a variety of senior issues in addition to physical exercise classes, right from the comfort of their own home or place of residency. Many area nursing homes and assisted living facilities have used our OCAT PEG programming as a time of day for everyone to come together in a common meeting place to either learn from a topic of discussion on "Senior Savvy" or to exercise with "Fit and Over 50". This programming helps many seniors remain educated and active and allows them to maintain a strong quality of life in the Oshkosh community.

Please save PEG access -- Preserve dedicated PEG funding, free transmission, and local control over content. Thank you.

Sun Prairie Cable Access

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www.sunprairiecableaccess.com

To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

From: Lindsy Giese, Program Coordinator Sun Prairie Cable Access
Rachel Packard, Program Coordinator Sun Prairie Cable Access

Date: March 27, 2007

Re: **Video Competition Act AB207/SB107, Statewide Video Franchising Bill**

First off we would like to thank all the Committee members for allowing us to speak today. My name is Lindsy Giese and I'm here with Rachel Packard, both of us work as Program Coordinators for Sun Prairie Cable Access. As you've heard from some of the testimonials this morning, KIDS-4 television has had an important impact on the lives of many children in Sun Prairie. Whether it has been learning the skilled craft of television production or the social and life skills kids have gained such as teamwork, cooperation, and self-confidence. KIDS-4 is an important part of each of their lives and they prove that each week with the hard work they do inside of crew and outside of crew in their schools and within their community. Fortunately some of our young reporters are here today to show their support for KIDS-4 and PEG Access, but many others were not able to miss out on a whole day of school. Though they are not in attendance today those other KIDS-4 crewmembers wanted to share their concerns about the future of KIDS-4 with all of you. We have two short video segments we want to share with members of the committee and this audience today. In the first clip the kids shared their thoughts on "What Does KIDS-4 Mean to You?" I will let them tell you themselves what they were thinking.

As proposed in AB207/SB107- Sun Prairie Cable Access will lose funding. Currently KIDS-4 serves over eighty children on a weekly basis, with a reduction in funding the number of children we could realistically serve would dramatically change. We asked the kids how they would feel if they were unable to participate in KIDS-4. The following video is a sampling of a few of their responses.

Thank you for you time and we hope you will consider amending this bill to allow worthwhile programs like KIDS-4 to continue.

Comments of City of De Pere to AB207/SB107
March 27, 2007
412 East
State Capitol

Good Morning Senate Committee Chair Plale, Assembly Committee Chair Montgomery, Members of the Senate Committee on Utilities and Rail, and Members of the Assembly Committee on Energy and Utilities. I am Judy Schmidt-Lehman, City Attorney for the City of De Pere, and I am here on behalf of the City of De Pere this morning. Thank you for allowing me to speak on Senate Bill 107 and Assembly Bill 207.

Technology is changing more rapidly than probably any of us could have guessed 20 years ago. The City of De Pere recognizes that, for the well being of our residents and businesses, we have to be adaptive to changing technologies and embrace new and innovative ideas. The City of De Pere welcomes the opportunity to provide our residents and businesses with market-based competition for video services. The companion bills of AB 207 and SB 107 do just that, open the market for these cutting edge services to our residents and businesses. However these bills also have some troubling consequences for cities like De Pere, which we hope you will address before the bill becomes law.

I would like to address five areas in these bills which are of concern to the City of De Pere.

First, we believe the definition of "gross receipts" in these bills will mean less revenue paid by each video service provider to the City of De Pere. We urge you to adopt a

broader definition of "gross receipts" so that video service providers are required to pay their franchise fee on all income, not just a select portion. Specifically exempt under the bills from the definition of "gross receipts" are sources of income which De Pere currently receives from its cable franchise operator and which De Pere believes should be included in the definition of "gross receipts" in these bills:

- Advertising income
- Late payment fees
- Maintenance charges
- Revenue from the sale of equipment
- Marketing cost reimbursement

We realize the theory is that with increased competition will mean more subscribers and therefore more revenue. However, municipalities including the City of De Pere need to be kept whole for revenue currently being generated by cable franchise fees. We do not think that limiting sources of revenue will result in our being kept whole.

Second, the current version of these bills requires PEG (Public Access, educational and government channel) channels to provide at least 12 hours of programming, of which 80% must be locally produced and non-repeating. With this standard, the City of De Pere will lose its PEG channel if the video service provider decides to take it over for their own programming. Loss of the PEG channel will harm De Pere residents. I am consistently amazed at the number of persons who watch broadcasts of De Pere Common Council meetings, scan the bulletin board, and other programming on De Pere's PEG

channel. De Pere urges you to remove the programming requirements or we will be forced to become program producers rather than the provider of government programming.

Third, in conjunction with maintaining our PEG channels is the need for video service providers to be required to carry PEG programming from the source to the head end or video hub. De Pere believes it should be the responsibility of the video service provider to get our government programming to its video service.

Fourth, free connections to schools and government buildings to the video service provider are not only economically justified, but the right thing to do. It makes no sense for the taxpayers in De Pere to be required to pay for installation of a connection to government or school buildings. New video service providers should honor the same public service requirements as cable operators have in the past and provide these connections without charge.

Fifth, the bill currently calls for relief from right-of-way permit and infrastructure degradation fees for video service providers. We hope that generally accepted principles for right-of-way management and cost recovery for street degradation will continue to prevail. As the committees are well aware, the Public Service Commission already has established rules for airing complaints over right-of-way management fees. We urge you to remove from this bill issues regarding right-of-way management that have no place in

video franchising regulations. The proper place for those regulations is in the already existing Public Service Commission rules.

As stated earlier, the City of De Pere welcomes the opportunity to provide our residents and businesses with market-based competition for video services. We are ready to embrace new technology. However, providing a new entryway into the market for video service providers should not be at the expense of municipalities. This bill can be revised so that both video service providers and municipalities are treated fairly in the legislation.

Thank you again for the opportunity to speak with you this morning.

Judith Schmidt-Lehman
De Pere City Attorney
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Sun Prairie Cable Access

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To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

From: Cameron Thompson, Program Coordinator Sun Prairie Cable Access

Re: **Video Competition Act AB207/SB107, Statewide Video Franchising Bill**

Committee members, thank you for allowing me to speak. My name is Cameron Thompson. I am a Program Coordinator for Sun Prairie Cable Access. I am before you to address two specific areas from the Video Competition Act.

First, AB207/SB107 requires that Sun Prairie Cable Access must provide to video service providers, at our cost, our programming in a format that is acceptable to them, whether we can afford to do so or not, or risk losing our station.

Connecting to just one video service provider from one channel from one origination point will run into the tens-of-thousands of dollars annually. To support our station in its current capacity the annual cost of transmission alone to just the current incumbent cable operator would be at least $65,000, and this number grows exponentially as we gain video competition. Providing this service should be a cost of entry for any video service provider or incumbent cable operator into the video service market.

Second, even if we could cover the cost of transmission, the proposed programming stipulations, if unmet mean termination of our station. The time and cost of producing the staggering amount of programming required by this bill would be virtually impossible; even for a large broadcast station. Repeating programming in a day is in some situations is a necessity, for example airing candidate debates and school referendums on election days, to allow voters the opportunity to be as informed as possible, before casting their ballot.

AB207/SB107 will greatly reduce the amount of funding Sun Prairie Cable Access has to operate, asks us to pay for transmission to video service providers and incumbent cable operators, and then imposes impossible program stipulations. The combined effort will make it impossible for Sun Prairie Cable Access to continue.

Sun Prairie Cable Access's is not opposed to video competition. I am respectfully asking this committee to consider all the impacts of this bill. I am asking the committee to one amend the bill to have the video service provider cover the cost of transmission, two, add a more favorable definition of gross revenue for funding cable access, three eliminate unrealistic programming stipulations. Changes to these three areas would allow video competition and the continuation of Sun Prairie Cable Access. Thank you for your time and consideration of this matter.

Sun Prairie Cable Access

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To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

Re: Statewide Video Franchising Bill, AB 207/SB 107

From: Pam Steitz, Executive Director Sun Prairie Cable Access

Thank you for allowing me to speak. My name is Pam Steitz, and I am the Executive Director of Sun Prairie Cable Access.

I would like to address the grave impact the proposed Video Competition Act would have on Cable Access. I am here to ask this committee to consider all the ramifications of this bill. As written, it would cripple our station. By Eliminating Funding, Adding transmission costs, and imposing extensive programming stipulations, this act threatens our ability to survive.

The proposed programming stipulation with the threat of termination would be nearly impossible to meet if funding remained at current levels. But with the decrease in revenues, this measure virtually guarantees the end of Public Access.

Since 1979, Sun Prairie Cable Access has given community members an outlet to reach a local audience with their message over our two channels, KSUN 12 and KIDS-4. KSUN 12 provides our public, educational and government programs. KIDS-4 is a unique channel dedicated to television for KIDS by KIDS. Its mission to teach media literacy to children ages 9 to 14, through hands on use of television production equipment.

These kids will tell you that they are learning about television production, and they are, but they are also learning teamwork, self confidence, public speaking, self reliance and the value of volunteerism. These are qualities that they will use everyday in school and work. I have seen hundreds of children go through the program and am proud of the adults they have become. The KIDS-4 program and public access are helping them become good citizens and future leaders in our communities.

I am asking the committee to amend the proposed bill to have the video service providers continue to cover the cost of transmission, to add a more favorable definition of gross revenue and to eliminate the programming stipulations. These changes are vital to the continued existence of Sun Prairie Public Access.

Thank you,

SUN PRAIRIE AREA SCHOOL DISTRICT

501 South Bird Street Sun Prairie, Wisconsin 53590 (608) 834-6500 Fax: (608) 834-6555

March 26, 2007

To the Energy and Utilities Committee:

I am writing to ask you to oppose the so-called "Video Competition Act," which eliminates local control and will severely negatively impact Sun Prairie Cable Access T.V. (SPCATV).

The Sun Prairie Area School District relies heavily on SPCATV to communicate with the community. SPACTV broadcasts school board meetings, special meetings and schedules of meetings, providing a key conduit for citizens to be involved in their government. They broadcast special events such as graduation, concerts, and other student performances, opening schools to the entire community. SPACTV allows us to create special programs, such as my "School Views" program. This allows community members to see schools from the perspectives of their students. Finally, SPACTV, through the Kids-4 Program, empowers our students to become video literate as well as engage in community service.

I count SPACTV a blessing to our schools and community. I cannot imagine why anyone would propose legislation that will end or severely limit Sun Prairie's local public access. To do so will limit perspectives on government, reduce the community's understanding of their schools, and limit opportunities for our children.

While the title of this bill contains an attractive catch phrase, "competition," unfortunately, hidden in the details of this bill are features that remove local control and replace it with state control--details that will reduce local funding options and flexibility; details that will require cuts in service and lowered expectations. Government works best the closer it is to the people it serves. We do not need the state to manage what local government has done very well.

Please oppose this act and allow the excellence that has developed in Sun Prairie to continue.

Sincerely,

Tim Culver
District Administrator

STATE REPRESENTATIVE
GORDON HINTZ
WISCONSIN STATE ASSEMBLY
54th DISTRICT

Statement by Rep. Gordon Hintz
Re: AB 207-Video Competition Act
March 27, 2007

I want to begin by expressing my support for competition in the cable market. I believe there are benefits in cost and quality that consumers can realize in an open cable market. I also want to acknowledge citizens frustrations with rising cable rates. In fact, after property taxes, increased cable rates are one of the biggest complaints of citizens.

However, increased competition and potential lower prices should not come at the expense of Community Access Television. Any bill that reduces existing cable franchise agreements' support for funding, infrastructure investment, and quality is not a benefit to consumers in my district. Municipal franchise agreements were made with local community access needs in mind.

Oshkosh is covered by the Green Bay media market for network television and competes with other communities in the Fox Valley for news coverage. As such, there is not the time or resources available to adequately cover city council, school board, and county board meetings and issues in a way that keeps government open and accessible to everyone. Oshkosh Community Access Television (OCAT) provides coverage of public meetings that allows people an opportunity to follow local government.

In addition, we have established a number of community programs that compliment our government meetings by providing commentary and interviews with local and state leaders that only increases access and understanding of local issues and decisions.

The Video Competition Act as proposed would not maintain the resources and quality that have enabled OCAT to provide these services to our community.

Specific amendments to the bill that should be considered include:

Enforcement of Franchise Terms with Incumbent Cable Operators
The City of Oshkosh has made future budgetary decisions based on the existing cable franchise agreement. It is important that incumbent cable operators honor the terms of their franchise until the terms expire and require new applicants to meet comparable standards or establish alternatives that make a statewide agreement revenue neutral to municipalities.

Existing contracts were negotiated in good faith by local governments throughout the state and should not be eliminated especially when competition from the new service may take months to establish. (it has been 20 months and they are still waiting for video service in Texas).

The recent agreement reached in the state of Texas addressed this.

Expanding the Definition of Gross Revenue in 5% Franchise Fee
Gross revenue should be defined to include advertising and other revenues.

State Capitol: P.O. Box 8952, Madison, WI 53708 ◆ (608) 266-2254 ◆ Toll-free: 1-888-534-0054 ◆ FAX: (608) 282-3654
E-mail: rep.hintz@legis.wi.gov ◆ Printed on recycled paper.

Not including these revenues in the 5% fee would reduce existing payments by an estimated 20-25%, especially if costs drop due to competition. The draft bill only applies the fee to subscriber revenue. Local governments will have to turn to property taxes to make up the difference at a time when local government is under state fiscal constraints.

Agreements reached in Texas, California, many existing WI cable franchises, and the recent Milwaukee-AT&T Agreement expand the definition.

Maintain Payment of Local Special Taxes and Fees
Any statewide agreement should require franchisees to pay all applicable local permit fees, right-of-way access fees and other applicable taxes, fees, etc…

Exempting franchises from these charges would not only result in a significant reduction in revenue but would allow cable providers to receive special treatment as all other entities eligible to access rights-of-way are required to pay these amounts.

Agreements reached in Texas, California, and the recent Milwaukee-AT&T maintains these payments.

Maintain Transmission Quality of PEG Channels
It is important with new technology that PEG channels are able to maintain their quality. This bill should include language that requires the franchisee to carry PEG programming to headend and to interconnect.

Not maintaining this programming connection will be another expensive cost for PEG channels, particularly with the new technology presented by AT&T.

Agreements reached in California, existing WI cable franchises, and Milwaukee-AT&T agreement maintain transmission quality.

Maintain Connections to Government Buildings
It is important that any new agreement require franchisees to provide free video service connection and basic service to all government buildings.

This has been longstanding practice for franchisees and has been maintained in recent agreements New Jersey, Virginia, existing WI cable franchises, Milwaukee-AT&T Agreement

Changes that impact these existing measures will force local government to make decisions between core public services like police and fire, and accessible, open, and informative government. I cannot overstate the importance that OCAT has played in our community in making government accessible and informative for citizens that otherwise would have no opportunity to follow and ultimately participate in the process.

Statewide cable franchise agreements reached in other states and in the recent agreement between the City of Milwaukee and AT&T addressed these concerns, demonstrating that it is possible to have establish a competitive cable market and preserve quality local cable access.

Thank you for your consideration.

Gordon Hintz
State Representative-54th Assembly District

NORTHEAST
WISCONSIN
CHAMBERS
COALITION

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Green Bay Area
Chamber of Commerce
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Oshkosh Chamber
of Commerce
120 Jackson St
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www.oshkoshchamber.com

March 22, 2007

TO: Members of the Assembly Committee on Energy & Utilities
Rep. Phil Montgomery, chair

RE: LRB #1914/3 Video Competition Act

We are writing today on behalf of the Northeast Wisconsin Chamber Coalition to formally support the proposed Video Competition Act. The coalition represents more than 5,000 businesses in Northeast Wisconsin and is committed to improving the business climate of the New North region.

We believe this bill warrants your support, because it will benefit consumers by giving them more choice and enhance competition amongst the various video providers. It will also encourage development of new technology, while maintaining important regulatory authority and local government revenues.

- We support passage of LRB #1914/3 because:
- It streamlines the franchise application process and brings it to a statewide level.
- It holds harmless the municipalities by directly sending them 5% of gross revenues and by maintaining their authority over rights-of-way.
- Competition will produce lower rates for subscribers (down 23% on average in states with competition) and create incentives for better customer service.
- It ensures a level playing field for all video service providers by allowing all of them the opportunity to opt out of current franchise agreements in favor of obtaining a statewide franchise.
- Consumers are still protected by prohibitions on service discrimination based on income or race, by FCC customer service standards and by the requirement that all new entrants into a market will have to match the incumbent provider's commitment to public, educational and government channels.

These reforms will bring millions of dollars of new infrastructure upgrades into Wisconsin as more competitors enter the marketplace.

We respectfully ask that you support this bill when it comes before your committee later this month. Thank you for your consideration.

Sincerely,

John A. Casper
President/CEO
Oshkosh Chamber of Commerce

Paul Jadin
President
Green Bay Area Chamber of Commerce

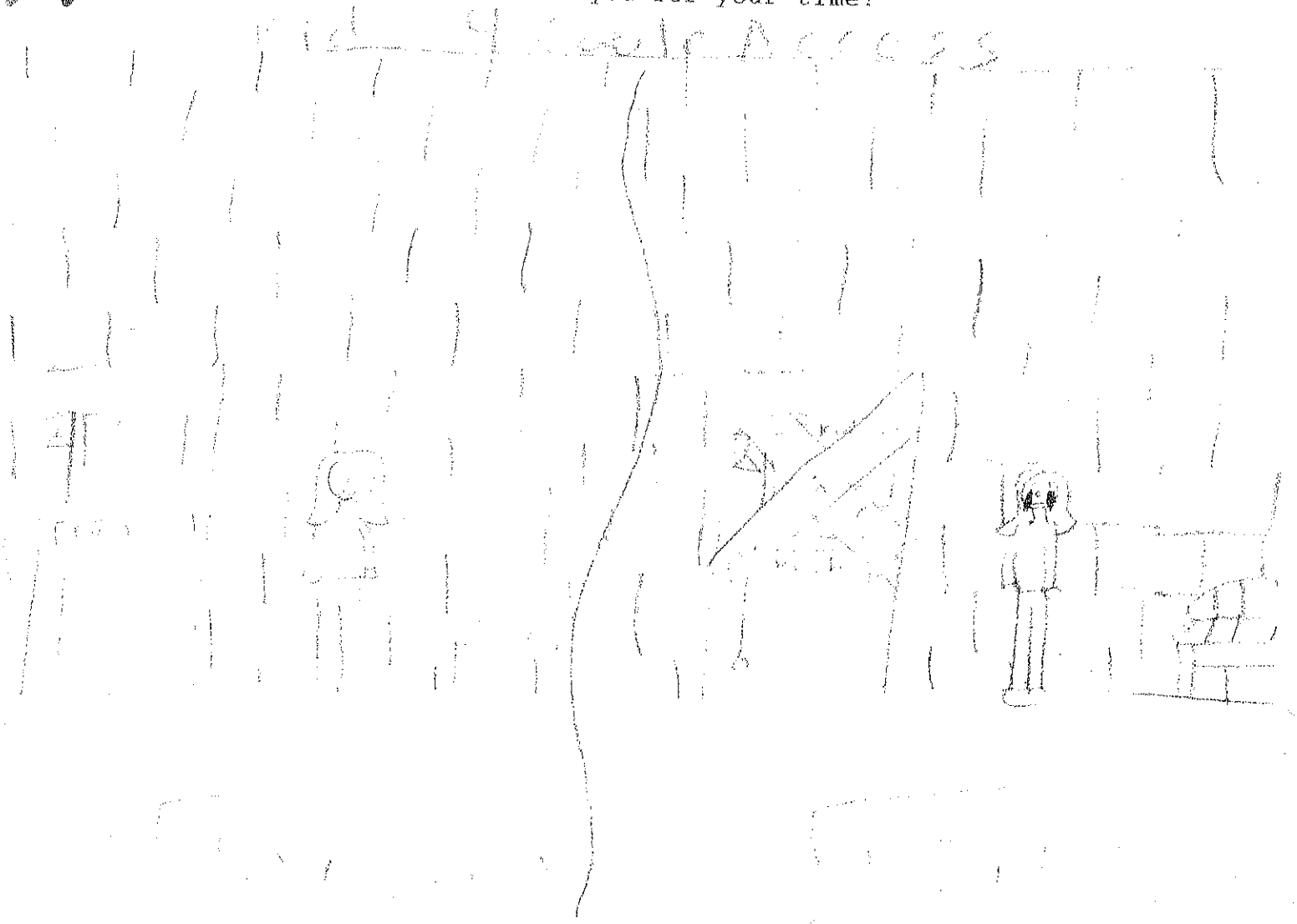
Joseph Reitemeier
President/CEO
Fond du Lac Area Association of Commerce

William J. Welch
President/CEO
Fox Cities Chamber of Commerce & Industry

Kids-4 Speech

Hello, I'm Leighla Baney, and a proud part of Kids-4. I would really hate to see anything happen to Kids-4. It's a great program that gives me something to do after school. If I didn't have Kids-4 I would come home from school on Monday do my homework, and watch t.v., and you know what? I would rather make t.v. than watch it. If you take Kids-4 away I would feel sad, because my sister and brother would like to be a part of it. Also I would not make as many friends as I do now. I would feel unappreshiated beacuase all of everyones work would go to waste. People would not be able to come up to me and say, "Hey! I saw you on t.v." Please don't make us all sad.

Thank you for your time!



CENTRO DE LA COMUNIDAD UNIDA
UNITED COMMUNITY CENTER

1028 S. 9th Street Milwaukee, WI 53204
(414) 384-3100 Fax: (414) 649-4411
Website: www.unitedcc.org

March 22, 2007

Representative Phil Montgomery
Room 129 West
State Capitol
P.O. Box 8953
Madison, WI 53708

Dear Representative Montgomery:

I wish to go on record in support of the proposed State Wide Video Legislation. I do so on my own behalf and on behalf of the thousands of people served by our agency.

I believe that competition is one of the criteria necessary to keep services and prices at a level that consumers can afford. I have often wondered why only one provider has been allowed to corner the market in Wisconsin. A single provider is all too likely to use that status to raise prices and in the process make services unaffordable for the average consumer. In addition, the average consumer cannot afford their favorites, i.e., baseball games for our elderly gentlemen because these are expensive add-ons.

The present requirements that new video service providers have to follow to secure individual franchises from each community where they want to do business would be a disservice for small communities and residents. The current franchise requirements, if maintained, will withhold competitive video services, cost savings and choices from customers.

If local franchise agreements are the main impediment to establishing more choices and lower prices for the average consumer and the Wisconsin Video Competition Act – LRB-1914 will help to bring about this change, I believe it is incumbent on the Wisconsin State Legislature to pass the bill. Let's level the playing field and provide access to good, reasonably priced services for all consumers.

Sincerely,

Ricardo Diaz

RD/at

400 S. Washington St.
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GREEN BAY AREA
CHAMBER
OF COMMERCE

March 21, 2007

TO: Members of the Assembly Committee on Energy & Utilities
Rep. Phil Montgomery, chair

RE: LRB #1914/3 Video Competition Act

I am writing you today to add the support of the Green Bay Area Chamber of Commerce to the widespread, bipartisan support already being expressed for the proposed Video Competition Act.

This bill will not only bring video choice to Wisconsin consumers by updating the current cable franchising process; it will also address the needs of new technology while still maintaining important regulatory authority and local government revenues.

We support passage of LRB #1914/3 because:

- It streamlines the franchise application process and brings it to a statewide level.
- It holds harmless the municipalities by directly sending them 5% of gross revenues and by maintaining their authority over rights-of-way.
- Competition will produce lower rates for subscribers (down 23% on average in states with competition) and create incentives for better customer service.
- It ensures a level playing field for all video service providers by allowing all of them the opportunity to opt out of current franchise agreements in favor of obtaining a statewide franchise.
- Consumers are still protected by prohibitions on service discrimination based on income or race, by FCC customer service standards and by the requirement that all new entrants into a market will have to match the incumbent provider's commitment to public, educational and government channels.

These reforms will bring millions of dollars of new infrastructure upgrades into Wisconsin as more competitors enter the marketplace.

I respectfully ask that you support this bill when it comes before your committee later this month. Thank you for your consideration.

Sincerely,

Paul F. Jadin
President

African American Chamber of Commerce
Of Greater Milwaukee
6203 W. Capitol Drive
Milwaukee, Wisconsin 53216
Phone: (414) 462-9450 • FAX (414) 462-9452

March 26, 2007

Senator Jeffrey T. Plale
Room 313 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

State Representative Phil Montgomery
Room 129 West, State Capitol
P.O. Box 8953
Madison, WI 53708

Re: **The Wisconsin Video Competition Act – LRB 1914**

Dear Senator Plate and Rep. Montgomery:

We, at the African American Chamber of Commerce (AACC) of Greater Milwaukee, would like to go on record in support of the above bill in the name of fairness, which would benefit the business community and support the many low income families as consumers, especially in southeastern Wisconsin where a large number of African American citizens reside with a burning need to become share holders as this industry continues to grow.

The AACC believes this bill will open the door for additional competition with the hope of business members getting involved in support of a leveled plain field when competitive standards are in place.

It is quite clear that southeastern Wisconsin needs an economic booster, which may be in the form of additional communication opportunities, not only just as consumers but also as stockholders who will share in the profits.

Again, we are very pleased to hear LRB-1914 has been introduced, and you may call on the Chamber if additional support is needed to move this bill forward.

Sincerely,

Dester Martin
Chairman, AACC Executive Committee

Part of The Whole ... For A Better Business Community
"Become a Sharing Partner"

March 27, 2007 Hearing AB 207/SB 107 Handout by Tom Moore WI Cable Assoc

Chapter ATCP 123

TELECOMMUNICATIONS AND CABLE TELEVISION SERVICES

Note: This chapter regulates subscription and billing practices related to telecommunications services and cable television services provided to consumers.

This chapter is adopted under authority of ss. 100.20 (2) and 100.207 (6) (e), Stats. Violations of this chapter may be subject to prosecution under ss. 100.20 (6), 100.26 (3), (6) and, in the case of telecommunications services, s. 100.207 (6) (b) and (c), Stats. Persons damaged by violations of this chapter may bring private actions against the violators under ss. 100.20 (5) and 100.207 (6) (a), Stats.

Federal law recognizes that state administrative rules may under certain circumstances be preempted by federal law or administrative action. It is the position of the department that any provision of this rule which specifically conflicts with any federal law which now exists, or is later enacted or amended, would be superseded by the federal law.

ATCP 123.01 Definitions. In this chapter:

(1) "Appointed provider of long distance telecommunications services" means a provider selected for a consumer according to procedures prescribed by the federal communications commission after the consumer fails to select a provider.

(2) "Bill" means to represent to a consumer, directly or by implication, that the consumer is obligated to pay a stated amount for telecommunications services or cable television services pursuant to an existing contract with the provider of those services.

(3) "Cable television service" has the meaning given in s. 196.01 (1p), Stats., and includes services billed to consumers by a multichannel video programming distributor as defined under 47 USC 522 (13).

(4) "Consumer" means any individual to whom a provider sells, leases, or offers to sell or lease telecommunications services or cable television services primarily for personal, family or household purposes.

(5) "Disclose" means to make a clear and conspicuous statement which is designed to be readily noticed and understood by the consumer and, if the disclosure is made in writing, which is designed to be retained by the consumer.

(6) "Final stage receiving device" means a telephone, television or other device that transforms an electronic signal into a user–recognizable service used by a consumer.

(7) "Individual" means a human being.

(8) "Long distance telecommunications service" means a long distance toll service provided on a direct–dialed, single message, dial–1 basis between local exchanges.

(9) "Person" means an individual, corporation, cooperative, partnership, limited liability company, business trust, or business association or entity.

(10) "Provider" means a person who sells, resells, leases, or offers to sell, resell or lease telecommunications services or cable television services to consumers. "Provider" includes an employee or agent who is authorized to act on behalf of and in the name of a provider.

Note: "Provider" includes a telemarketer or other person who sells telecommunications services or cable television services on behalf of and in the name of a provider.

(11) "Service offering" means a telecommunication service or cable television service that is offered under a single name or at a single price. A "service offering" includes a cable television "service tier," as defined in 47 USC 522.

(12) "Subscribe" means to enter into a subscription.

(13) "Subscription" means a contract between a provider and a consumer for telecommunications services or cable television services, or both, which are provided or billed to the consumer on a continuing or periodic basis. "Subscription" includes an oral, written or electronically recorded contract, and includes any material amendment to an existing contract.

(14) "Telecommunications carrier" has the meaning given in s. 196.01 (8m), Stats.

(15) "Telecommunications service" has the meaning given in s. 196.01 (9m), Stats.

(16) "Telecommunications utility" has the meaning given in s. 196.01 (10), Stats.

(17) "Written" or "in writing" means legibly printed on a tangible non–electronic medium, such as paper, which is delivered to a consumer, or legibly printed in electronic form on a television screen or computer monitor if the consumer can readily retrieve, store or print the video image for future reference. "Written" or "in writing" does not include presentation on a medium, such as a billboard, which cannot be conveniently retained by a consumer.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97; correction in (3) made under s. 13.93 (2m) (b) 7., Register November 2002 No. 563.

ATCP 123.02 Disclosure to subscriber. (1) SUBSCRIPTION TERMS. Except as provided under sub. (4) or (5), a provider shall disclose to a consumer the material terms of a proposed subscription at or before the time that the consumer subscribes. The disclosure shall include all of the following:

(a) A clear identification of each service offering included in the subscription, including the material consumer features, functions or capabilities which comprise that service offering.

Note: For example, the identification of a cable television service tier should identify the channels which comprise that tier.

(b) The price which the consumer must pay for each service offering. Prices may be disclosed as price schedules, rates or formulas, provided that the consumer can readily determine the total amount which he or she must pay. The price shall include the price for all goods and services which the provider bills to the consumer in connection with the service offering.

(c) All incidental charges that may affect the total amount payable by the consumer, including charges for connecting, changing or disconnecting service. This paragraph does not apply to finance charges or late payment charges if the provider discloses all of the following in writing when the provider first bills the consumer for the principal amount to which those finance charges or late payment charges apply:

1. The circumstances under which the finance charges or late payment charges will apply.

2. The amount of the finance charges or late payment charges, or the method for computing those charges if their amount is not yet known.

(d) The effective date of the subscription unless all of the following apply:

1. The effective date depends on the action of a third party outside the provider's control.

2. The provider discloses a good faith estimate of the effective date and a means by which the consumer may verify the effective date.

(e) The expiration date of the subscription, if any.

(f) Any limitations on the consumer's right to cancel the subscription at any time.

(2) DISCLOSURE IN WRITING. Except as provided under sub. (3), a provider shall make the disclosures under sub. (1) in writing. The provider shall disclose the material terms of the subscription in context with each other, and shall not separate those material terms by promotional information.

(3) ORAL OR ELECTRONIC DISCLOSURE; WRITTEN CONFIRMATION. If a consumer subscribes orally or electronically, the provider may make the disclosure under sub. (1) orally or electronically, provided that both of the following apply:

(a) The provider confirms the disclosure in writing on or before the 15th day after the consumer subscribes, or on or before the day that the provider first bills the consumer under the subscription, whichever is later. The provider may confirm the disclosure as part of a regular billing statement to the consumer.

Note: A provider may incorporate by reference, in its written confirmation under par. (a), information contained in a telephone book or other periodic reference document provided to the subscriber.

(b) The provider does one of the following:

1. Notifies the consumer that the consumer may cancel the subscription at any time without incurring any cancellation charge or disconnect fee.

2. Notifies the consumer that the consumer may cancel the subscription, without incurring any cancellation charge or disconnect fee, prior to a specified cancellation deadline which is not less than 3 days after the consumer receives the written confirmation under par. (a).

(4) LONG DISTANCE TELECOMMUNICATIONS RATES; EXEMPTION. A provider of long distance telecommunications services need not disclose specific long distance rates under sub. (1) if the provider discloses all of the following under sub. (1):

(a) A method by which the consumer may readily determine, without cost to the consumer, the specific rate for long distance telecommunications service between two points. Rates disclosures under this paragraph need not include discounts under par. (b) that will apply.

(b) Any discounts that will apply to long distance rates disclosed to the consumer under par. (a).

(5) PAY-PER-VIEW CABLE TELEVISION CHARGES; EXEMPTION. A provider of pay–per–view cable television service need not disclose per–view charges under sub. (1) if all of the following apply:

(a) The consumer does not incur the per–view charges unless the consumer specifically orders the services to which those charges pertain.

(b) The provider discloses the per–view charges at or before the time that the consumer orders the services to which those charges pertain.

(c) The provider discloses under sub. (1) any subscription charges which the consumer must pay for the right to order pay–per–view services under par. (a).

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.04 Subscription changes. (1) DISCLOSURE REQUIRED. Except as provided under sub. (2), no provider may initiate any price increase or other subscription change without giving the consumer prior notice of that price increase or subscription change. The provider shall give the notice at least 25 days, but not more than 90 days, prior to the subscription change. The provider may give the notice as part of a regular billing statement to the consumer.

Note: Section 134.42 (2), Stats., requires a cable television provider to give a consumer at least 30 days advanced written notice before deleting a service or instituting a rate increase. 47 USC 76.309 (3) (i) (B) requires a cable television provider to give consumers a 30–day advance notice of any changes in rates or services regulated under 47 USC 543.

(2) EXEMPTIONS. Subsection (1) does not apply if any of the following apply:

(a) The consumer orders the subscription change, and the provider complies with s. ATCP 123.02 in connection with that order.

(b) The subscription change does not alter the price of the service offering or the total amount billed to the consumer, and does not materially alter the consumer features, functions or capabilities which comprise the service offering.

(c) The subscription change merely expands a service offering currently billed to the consumer without doing any of the following:

1. Increasing the price of that service offering or increasing the total amount billed to the consumer.

2. Combining that service offering with another service offering which the consumer can order separately, but which the consumer has not affirmatively ordered.

3. Making other material changes to the consumer features, functions or capabilities which comprise that service offering.

(d) The subscription change results from the expiration of terms granted to the consumer under an introductory or other promotional offer, provided that the provider disclosed both of the following to the consumer at or before the time that the consumer subscribed:

1. The duration of the promotional offer.

2. The terms that would apply after the promotional offer expired.

(e) The subscription change is limited to a change in long distance rates that are exempt from disclosure under s. ATCP 123.02 (4).

(f) The subscription change is limited to a change in pay–per–view cable television charges that are exempt from disclosure under s. ATCP 123.02 (5).

(g) Section ATCP 123.12 exempts the subscription change from coverage under this chapter.

(3) DISCLOSURE FORM AND CONTENTS. A provider shall make the disclosure under sub. (1) in writing. The disclosure shall do all of the following:

(a) Clearly describe the proposed subscription change, including any change in price, and any material change in consumer features, functions or capabilities.

Note: See s. ATCP 123.06 related to negative option billing.

(b) Specify the effective date of the proposed change.

(c) Disclose that the consumer may cancel any service offering directly or indirectly affected by the change, without incurring a cancellation charge or disconnect fee, effective not later than the effective date of the subscription change. This disclosure is not required if, under the terms of the subscription, the consumer may cancel service offerings at any time without incurring a cancellation charge or disconnect fee.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.06 Negative option billing. (1) PROHIBITION. Except as provided under subs. (2) or (3), no provider may bill a consumer for a service offering that the consumer has not affirmatively ordered. A consumer's failure to reject a service offering is not an affirmative order for service. A consumer's affirmative order for service may be made orally, electronically or in writing, subject to s. ATCP 123.02.

(2) EXPANDED SERVICE OFFERING; EXEMPTION. A provider need not obtain an affirmative order from a consumer before expanding a service offering currently billed to that consumer unless the expansion has the effect of combining that service offering with another service offering which the consumer can order separately but has not affirmatively ordered.

Note: See s. ATCP 123.04 related to advance notice of price increases and other subscription changes, including expansions of service offerings.

(3) LONG DISTANCE TELECOMMUNICATIONS SERVICES; EXEMPTIONS. (a) Subsection (1) does not prohibit a provider of telecommunications services from billing a consumer for services which that provider is required by law to deliver to that consumer.

(b) Subsection (1) does not prohibit a consumer's appointed provider of long distance telecommunications services, merely because that consumer did not affirmatively select that provider, from billing that consumer for services used by that consumer.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.08 Automatic renewal or extension. No subscription for a definite period of time may be renewed or extended beyond its scheduled termination date, pursuant to an automatic renewal or extension provision in the contract, unless one of the following applies:

(1) The consumer is free to cancel the contract at any time.

(2) The provider gives the consumer a written notice reminding the consumer of the scheduled automatic renewal or extension. The reminder notice shall be designed to be readily noticed and understood by the consumer. The notice shall be given at least 30 days but not more than 60 days prior to the scheduled effective date of the automatic renewal or extension.

Note: A written notice under this section may be included as part of any billing statement given to the consumer at least 30 days but not more than 60 days prior to the effective date of the automatic renewal.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.10 Prohibited practices. No provider may do any of the following:

(1) Offer to a consumer any prize, prize opportunity, or free or reduced price goods or services whose receipt is conditioned upon an agreement to purchase or lease telecommunications services or cable television services unless the provider discloses that a purchase is required in connection with every public announcement or advertisement of the prize, prize opportunity, or free or reduced price goods or services.

Note: See also s. 134.74, Stats., and ATCP 123.02.

(2) Misrepresent the provider's identity to a consumer.

(3) Misrepresent that a consumer has subscribed to or received a telecommunications service or cable television service.

(4) Misrepresent the terms of a subscription.

(5) Fail to identify, in each bill presented to a consumer, the service offerings for which the provider is billing the consumer.

(6) Fail to honor, on a timely basis, a consumer's request to cancel a telecommunications service or cable television service according to this chapter and the terms of the subscription for that service.

(7) Charge a consumer a fee for canceling a subscription or service offering unless the fee is disclosed to the consumer according to ss. ATCP 123.02 and 123.04.

Note: Section ATCP 123.04 (2) limits cancellation charges and disconnect fees in some cases, regardless of whether those fees are disclosed.

(8) Bill a consumer for telecommunications services or cable television services in violation of this chapter.

(9) Propose or enter into any contract with a consumer that purports to waive a consumer's rights under this chapter, or that purports to authorize any violation of this chapter.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.12 Activities regulated by public service commission. (1) This chapter does not apply to any of the following:

(a) Any activity, including any notice to a consumer of a subscription change, that is specifically authorized under ss. 196.194 (1), 196.207, 196.20, or 196.499 (4), Stats., or under a rule or order issued by the state of Wisconsin public service commission.

Note: For example, s. PSC 165.043 (5) requires a telecommunications utility to disclose specific information before providing a new non–basic service. Therefore, the more extensive disclosure requirements under s. ATCP 123.02 (1) do not apply. However, if the disclosures required by the PSC are made orally, the disclosures must be confirmed in writing pursuant to s. ATCP 123.02 (3).

(b) A subscription change which a telecommunications provider implements by means of a tariff under ch. 196, Stats., other than a tariff change under s. 196.196 (3) or 196.499 (2), Stats.

(2) This chapter does not authorize any activity prohibited by ch. 196, Stats., or by the state of Wisconsin public service commission under ch. 196, Stats.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

ATCP 123.14 Initial applicability. This chapter first applies to contracts, subscriptions, contract changes and subscription changes that take effect on or after January 1, 1997.

History: Cr. Register, July, 1996, No. 487, eff. 1–1–97.

to the primary business of that organization.

(d) For the purposes of paragraph (c) *lottery* means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(e) For purposes of paragraph (c)(3)(i) of this section, the term "not-for-profit organization" means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

[37 FR 3278, Feb. 12, 1972, as amended at 40 FR 6210, Feb. 10, 1975; 42 FR 13947, Apr. 13, 1977; 54 FR 20856, May 15, 1989; 55 FR 18888, May 7, 1990]

§76.225 Commercial limits in children's programs.

(a) No cable operator shall air more than 10.5 minutes of commercial matter per hour during children's programming on weekends, or more than 12 minutes of commercial matter per hour on weekdays.

(b) The display of Internet Web site addresses during program material is permitted only if the Web site:

(1) Offers a substantial amount of bona fide program-related or other noncommercial content;

(2) Is not primarily intended for commercial purposes, including either e-commerce or advertising;

(3) The Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and

(4) The page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled "store" and no links to another page with commercial material).

(c) The display of Web site addresses in children's programs is prohibited during both program material and commercial material when the site uses characters from the program to sell products or services.

(d) This rule shall not apply to programs aired on a broadcast television channel which the cable operator passively carries, or to access channels over which the cable operator may not exercise editorial control, pursuant to 47 U.S.C. 531(e) and 532(c)(2).

NOTE 1 TO §76.225: Commercial matter means air time sold for purposes of selling a product or service and promotions of television programs or video programming services other than children's educational and informational programming.

NOTE 2 TO §76.225: For purposes of this section, children's programming refers to programs originally produced and broadcast primarily for an audience of children 12 years old and younger.

NOTE 3 TO §76.225: Section 76.1703 contains recordkeeping requirements for cable operators with regard to children's programming.

[56 FR 19616, Apr. 29, 1991, as amended at 65 FR 53615, Sept. 5, 2000; 70 FR 38, Jan. 3, 2005]

EFFECTIVE DATE NOTE: At 71 FR 5177, Feb. 1, 2006, in §76.225, paragraphs (b) and (c) and Note 1 were stayed until further notice, effective Feb. 1, 2006.

§76.227 [Reserved]

Subpart H—General Operating Requirements

§76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service

that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) *Normal business hours*—The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal

business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) *Normal operating conditions*—The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are *not* within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) *Service interruption*—The term "service interruption" means the loss of picture or sound on one or more cable channels.

NOTE TO §76.309: Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996; 65 FR 53615, Sept. 5, 2000; 67 FR 1650, Jan. 14, 2002]

Subpart I—Forms and Reports

§76.403 Cable television system reports.

The operator of every operational cable television system that serves 20,000 or more subscribers shall file with the Commission a Form 325 soliciting general information and frequency and signal distribution information on a Physical System Identification Number ("PSID") basis. These forms shall be completed and filed with (returned to) the Commission within 60 days after the Commission notifies the operator that the form is due.

NOTE: The Commission retains its authority to require Form 325 to be filed by a sampling of cable operators with less than 20,000 subscribers.

[64 FR 28108, May 25, 1999, as amended at 68 FR 27003, May 19, 2003]

Subpart J—Ownership of Cable Systems

§76.501 Cross-ownership.

(a)–(c) [Reserved]

(d) No cable operator shall offer satellite master antenna television service ("SMATV"), as that service is defined in §76.5(a)(2), separate and apart from any franchised cable service in any portion of the franchise area served by that cable operator's cable system, either directly or indirectly through an affiliate owned, operated, controlled, or under common control with the cable operator.

(e)(1) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer SMATV service within its franchise area if the cable operator's SMATV system was owned, operated, controlled by or under common control with the cable operator as of October 5, 1992.

(2) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer service within its franchise area through SMATV facilities, provided such service is offered in accordance with the terms and conditions of a cable franchise agreement.

(f) The restrictions in paragraphs (d) and (e) of this section shall not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

NOTE 1 TO §76.501: Actual working control, in whatever manner exercised, shall be deemed a cognizable interest.

NOTE 2 TO §76.501: In applying the provisions of this section, ownership and other interests in an entity or entities covered by this rule will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(a) Except as otherwise provided herein, partnership and direct ownership interests and any voting stock interest amounting to

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Testimony to the Wisconsin Assembly Committee on Energy and Utilities
March 27, 2007

Relating to the Regulation of Cable Television and Video Service Providers

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Mr. Chairman and distinguished committee members:

I serve as Senior Fellow for Information Technology and Telecom at The Heartland Institute in Chicago and Telecom Policy Analyst for the Reason Foundation in Los Angeles. Both are non-profit, non-partisan organizations that support ideas and public policies that promote free market-based approaches to commerce, with an emphasis on minimal government intrusion, low taxation and respect for market mechanisms.

Bills like AB 207 recognize how cable TV service in Wisconsin has evolved from its obsolete past of regulated monopoly into an era of competition and consumer choice, and they take positive steps to bring consumer choice in cable to more Wisconsin consumers more quickly.

Let's state this as simply as possible: Video franchise reform means more competition for cable TV service. Competition means lower prices and improved service for consumers.

Texas became the first state to pass video franchising reform last August. Because they were able to go directly to the state capital for permission to deploy video services anywhere in the state, Verizon and AT&T were able to accelerate their rollout of new video services. Consumers saw quick results.

With a statewide video franchise in hand, Verizon in January rolled out its FiOS fiber-optic video service in Keller, Plano and Lewisville, three communities near Dallas. The local cable provider, Charter Communications, immediately dropped its prices. Verizon priced its

- continued -

FiOS TV service at $43.95 a month for 180 video and music channels. The company also offered a 35-channel plan for $12.95 a month. Shortly thereafter, Charter began offering a bundle of 240 channels and fast Internet service for $50 a month, compared to $68.99 it had been charging for the TV package alone.[1]

Consumers noticed. Market researchers noticed.

According to a Bank of America research report, *Battle for the Bundle: Consumer Wireline Services Pricing,* "The rollout of Verizon's FiOS service in select markets has elicited thinly advertised, yet highly competitive pricing responses for incumbent cable providers."

For the purposes of their market research, the authors took the role of Texas consumers inquiring about area cable TV service. They discovered that when they mentioned the competing FiOS service to cable competitors, those cable companies were willing to quote lower prices on the phone.

The consumer experience in Texas followed the trend in other markets where cable competition has been introduced. Because franchise reform can cut months off process by which competitors attain permission to enter markets, it is a terrific idea. Where ever there is video competition, consumers see a break. In Florida, for the first time in a decade, Comcast is not raising rates in Manatee and Sarasota counties, according to a report last week in the Miami Herald. The reason: Verizon already has introduced cable services in Manatee and is close to a franchise agreement in Sarasota.

In a recent study, Thomas W. Hazlett, professor of Law and Economics at George Mason University, explains "Were head-to-head wireline video rivalry, now offered to just under five percent of U.S. households, to extend nationwide, annual benefits to consumers are estimated to approximate $9 billion, with overall economic welfare increasing about $3 billion per year."[2]

Unfortunately, in most states today, including Wisconsin, video service providers are faced with the prospect of negotiating individual franchises in scores, if not hundreds, of individual cities, towns, and villages. Despite the documented consumer benefits of cable competition, local officials appear bent on preserving the older, much slower processes.

In arguing for local control of franchising, local governments stoke fears that the city or town will lose a valuable revenue stream, that they will lose control of right-of-way, that they will lose local programming, or that new entrants will discriminate against less affluent communities.

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[1] Vince Vasquez and Sonia Arrison, "Cutting the Cord," Pacific Research Institute, April 2006, p. 11.
[2] Thomas W. Hazlett, "Cable TV Franchises as a Barrier to Competition," George Mason University School of Law, March 5, 2006, p. i.

But let's look at these objections a little more closely.

AB 207 does not take franchise funds away from local franchise authorities. Local franchising authorities still receive payments directly. Local authorities also retain their right to audit franchisee accounting data. Local authorities may lose some of the "perks" that have come from their leverage as exclusive franchise authority—free cable service for City Hall, a parking lot, and other so-called "nonprice concessions" that could once be passed on to consumers without fear of consequences because of the franchise monopoly regime. At the same time, however, competitive entry does mean new revenues from another "franchisee." It's hard to see local revenues being choked off under this bill.

AB 207 does not pre-empt any local authority or jurisdiction over use of right-of-way.

AB 207 calls for statewide franchisees to provide public, educational and government (PEG) channels and franchisees must provide a means of connection from PEG studio facilities to the head-end.

The most controversial aspect of franchise reform bills, including AB 207, is the absence of build-out requirements for new entrants. But this is no flaw or oversight. It is a necessary and valuable part of the new regulatory environment in which cable services should now operate.

For cable companies, build-out requirements were a condition of exclusivity. Although we use the term rather freely now, that's what "franchises" were once all about. The term franchise itself implies exclusivity over a certain territory. The entry of competition ends that exclusivity.

Market mechanisms will now take over – delivering services to all segments of the population, just as competitive businesses do in other sectors. Local governments do not impose build out requirements on supermarkets, video stores, chain restaurants or other retailing establishments.

The same holds true with competitive cable services. Despite worries about "cherry-picking" and "red-lining," there is little evidence of it. Phone companies have been just as aggressive rolling out service in poor communities as rich ones. In Indiana, which passed statewide franchising rules last year, Verizon began its Ft. Wayne build-out in the blighted Hanna-Creighton section, not in the upper-class neighborhoods. Texas franchise reform let Consolidated Communications, a small phone company, launch IPTV in rural Lufkin, offering residents some 200 local and premium TV channels as well as video-on-demand.

Where video franchises are still negotiated locally, the phone companies are not simply applying in only the richest communities. Verizon, for example, in October began offering FiOS service across Nassau and Suffolk counties, the two counties that make up suburban Long Island outside

New York City. To be sure, Verizon is offering FiOS in Laurel Hollow, where per capita income is $83,366. But the company is also offering service in Massapequa, Mineola, Valley Stream and Roosevelt, where per capita incomes are $32,532, $28,840, $25,636 and $16,950 respectively.[3]

To analysts who follow the market, this is not surprising. Studies show that low-income households purchase cable services at the same rates at higher-income households. Opponents of franchise reform seem to believe that the low-income demographic is an undesirable market segment, when in truth, it's very much in play.

There is demand for cable TV services in all income brackets. New companies are investing billions in new infrastructure to meet it, not ignore it. Every opportunity for a sale is important because they are beginning with zero market share.

In creating a statewide video franchising structure, Wisconsin will join legislatures in nine other states that have passed statewide franchise reform since the summer of 2005—with bi-partisan support increasing with each vote. It's because legislators—and their constituents—don't have to look far to see the benefits. The choice is straightforward: Lower rates for consumers accompanied by greater choice of services, or retention of an obsolete system that reinforces a regulated market with accompanying high rates and unnecessary barriers to entry.

I urge the Wisconsin legislature to support competition and consumer choice. AB 207 is the right way to go.

Thank you.

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[3] The information in this paragraph is culled from two sources. Per capital income is from U.S. Census data for 2000, as published by *Newsday* at http://www.newsday.com/business/realestate/ny-census-percapitaincome,0,2080483.htmlstory. Information on Verizon's Long Island deployment is from Verizon Communications press release "Verizon Launches FiOS TV Service in Mineola, N.Y.," Oct. 19, 2006.

March 26, 2007

Representative Phil Montgomery
State Capitol – Room 129 West
PO Box 8953
Madison, Wisconsin 53708

By Email: Rep.Montgomery@legis.wisconsin.gov
By Fax: 608-282-3604

Dear Representative Montgomery:

The Hispanic Chamber of Commerce of Wisconsin (HCCW) is the premier Hispanic business association that represents the interests of over 5,500 Hispanic-owned small businesses throughout the State of Wisconsin. Nationally recognized for its outstanding achievement and success, the mission of the HCCW is to promote, support, and advance the growth and development of Hispanic enterprises. In addition, the HCCW is widely identified as a respected voice of the Hispanic community; promotes a network for political issues; addresses community needs; and provides opportunities for the Hispanic population and community at large.

As such, the HCCW unequivocally supports the Wisconsin Video Competition Act-LRB 1914. It is my understanding that this legislation would establish market competition with cable service providers by removing barriers and requirements of local franchise agreements. It is further understood that the legislation would help to lower prices for video and cable services thereby allowing more choices for the consumer; and would increase competition and provide employment opportunities.

The HCCW applauds your sponsorship of the legislation and commends your goal of creating a new, faster and cheaper process at the state level. The bill promises to be of genuine benefit to Wisconsin consumers by allowing more choices, fair competition, better prices and new options for video entertainment. No secret, telecommunications services are no longer a luxury but rather a crucial part of our economy.

You have already demonstrated your leadership by placing a high priority on this telecommunications bill. Please continue to use your considerable influence to convince your colleagues of the importance of LRB 1914.

As always your attention and support are sincerely appreciated, as is the opportunity to comment.

Sincerely,

Maria Monreal-Cameron
HCCW President & CEO

CITY OF MERRILL

Office of the Mayor

Douglas C. Williams, Mayor
1004 East First Street • Merrill, Wisconsin • 54452
Phone (715) 536-5595 • FAX (715) 539-2668

MERRILL
WISCONSIN
City Of Parks

Date: March 27, 2007

To: Senate Committee on Commerce, Utilities, and Rail
Assembly Committee on Energy and Utilities

From: Mayor Douglas C. Williams

RE: Senate Bill 107/Assembly Bill 207 – Regulation of cable television and video service providers

The City of Merrill, in partnership with the Merrill Area Public Schools, operates Merrill Productions Three (MP3) - a local educational and governmental access television channel. This local channel is an important contributor to open government and an informed citizenry. This channel is fiscally possible only through the $71,500 received annually from cable franchise fees.

The City's CATV Committee on March 22nd recommended the attached resolution for consideration at the April 10th Merrill Common Council meeting.

The City of Merrill supports the Wisconsin Alliance of Cities proposals to preserve video franchising including:

- Maintaining franchising authority of local governments over cable and video services;
- Requirement for payment of franchise fees by all video and cable providers based upon a broad definition of gross revenues;
- Requirement for Public, Educational, and Government (PEG) channels be offered and supported by all providers;
- Requires reasonable levels of "build out" by new and existing providers within the municipality to guarantee investment, jobs, competition and choice for all neighborhoods;
- Allows a cable company to opt into a streamlined franchise only if it faces competition from another provider operating under a streamlined franchise; and
- Retains local authority to manage rights-of-way and protect local property taxpayers and cable customers.

As City of Merrill Mayor, I urge you to consider the concerns expressed by the Wisconsin Association of PEG Channels and local governments to preserve local control of public right-of-ways and essential franchise fee funding for public, education, and governmental channels.

RESOLUTION NO. _____

A RESOLUTION REGARDING LOCAL EDUCATIONAL AND GOVERNMENTAL ACCESS TELEVISION CHANNELS

WHEREAS, Educational and Governmental Access television channels, such as MP3 are an important contributor to open government in Merrill, the State of Wisconsin, and throughout the nation; and,

WHEREAS, franchise fees paid by cable television providers constitute an important source of revenues for Wisconsin communities such as Merrill for financing public education governmental access channels and other governmental functions in return for their use of public rights of way; and,

WHEREAS, there have been presented to Congress and Wisconsin Legislature a variety of proposals which could threaten such channels, local regulation, and would remove local authority over local rights of way and would provide only limited oversight of cable and other broadband video services.

NOW THEREFORE, BE IT RESOLVED BY THE CABLE TELEVISION COMMITTEE OF THE CITY OF MERRILL, WISCONSIN this 10th day of April, 2007, that it urges Congress and Wisconsin Legislature, in any legislation that is adopted, to preserve local franchising revenues, provide for local oversight of rights of way and the local service that cable and other broadband video services provide, and foster the funding of the essential access to the workings of government, schools, and community activities that Education and Governmental channels represent.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to U.S. Representative Obey, U.S. Senators Kohl and Feingold, State Representative Friske and State Senator Breske and the Wisconsin Association of PEG Access Channels.

Recommended by: CATV Committee

CITY OF MERRILL, WISCONSIN

_____
Douglas C. Williams
Mayor

Moved: _____

Passed: _____

_____
William N. Heideman
City Clerk

March 27, 2007

Norman R. Aulabaugh
2541 S. Tollefson Rd.
Orfordville, WI 53576

Representative Phil Montgomery
Chairman – Committee on Energy and Utilities
PO Box 8593
Madison, WI 53708

Dear Representative Montgomery and the committee on Energy and Utilities:

I am opposed to Assembly Bill 207. I believe it will hurt Public Access Television in Wisconsin. This bill will reduce monetary support for public access stations. It creates restrictions that will negatively impact public access. It requires public access stations pay for a video feed over 200 feet in length and contains provisions where public access stations can be blocked from access for 90 days if bill provisions are not followed to the letter. The bill allows video service providers to reprogram channel capacity if such capacity is not "substantially utilized." The definition for substantial utilization is 12 hours of programming a day that is 80% locally produced and not repeated. Few public access stations can meet this requirement. As a volunteer public access producer, I just completed a one hour United Way program. Taping and editing this program required fourteen hours of my time. Extrapolate the numbers. Twelve hours a day, times 14 hours per production hour equals 168 hours a day or 61,320 hours a year. Each access station would need 30 **full time** volunteer producers to create such programming.

I started a program for the Rock County Humane Society nine years ago. Thousands of animals have found homes and hundreds of lost pets have been reunited with their owners because of this weekly half hour program. No humane society could afford to produce such a show on commercial television. This program **is repeated** six times a week with excellent results.

JATV covers Janesville city council meetings. Myself and other volunteers tape neighborhood listening sessions conducted by city management. JATV covered the candidate forums for the April 3 city council and school board elections. **And yes, these forums have been repeated many times on JATV so voters can have a chance to see the candidates express their views on the issues.** Viewing candidate forums on JATV enables voters to become informed voters.

I have produced programs for the Community Foundation of Southern Wisconsin to promote their charitable programs. I covered the activities of Summertime Kids, an excellent summer youth program in Janesville. I helped Janesville Toastmasters and Kiwanis clubs in Janesville promote their programs and recruit new members. None of this would be possible unless there was public access, properly funded and available to volunteer producers like myself. Assembly Bill 207 will severely curtail public access; access which gives organizations without huge financial resources, a way to communicate. Such communication strengthens our democracy. As such, we need to support public access television.

Please save PEG access. Preserve dedicated PEG funding, free transmission, and local control over content. If you have any questions, please contact me.

Sincerely,

Norman R. Aulabaugh
608 879-2841
nra@ticon.net

37 YEARS
1970 - 2007
Professor Bassam Z. Shakhashiri
William T. Evjue Distinguished Chair for the Wisconsin Idea

UNIVERSITY OF WISCONSIN - MADISON

DEPARTMENT OF CHEMISTRY
1101 UNIVERSITY AVENUE
MADISON, WISCONSIN 53706-1396

Telephone: 608-262-0538
Facsimile: 608-262-8634
E-Mail: bassam@chem.wisc.edu
Web: www.scifun.org

March 27, 2007

To the Wisconsin State Senate and Assembly Energy and Utilities Committees:

Whatever action you take on LRB-1914/3, I hope you will ensure that there will be no degradation in the technical quality of community access cable channels, and that they receive adequate funding. These channels provide a valuable service to their communities.

The Madison Metropolitan School District has recorded and presented several of our Wisconsin Initiative for Science Literacy programs on its cable channel 10 in Madison. One such program is a series called Conversations in Science for Teachers. The series is open to all teachers in Dane County, who can earn continuing education credit. Each school year, WISL arranges for eight distinguished University of Wisconsin researchers to share their expertise with the teachers. The series is intended to re-invigorate the teachers by exposing them to cutting-edge research and to encourage researchers to communicate with a broader audience. This year's topics have included performance-enhancing drugs, the links between calories, cancer, and aging, and the production of hydrogen and liquid fuels from biomass.

We have received a lot of positive feedback from people who have seen the programs on cable channel 10. The channel gets a sizable audience, and the technical level of the presentations is accessible to a reasonably well-educated lay person.

Another series co-sponsored by WISL and recorded and presented by the school district was "Conversation on Creativity," which invited distinguished faculty from the sciences, arts, and humanities to discuss what creativity means to them, and how it applies to their field.

We are very pleased that the school district's cable channel has allowed us to reach a wider audience, and we hope that the pending legislation will do nothing to hamper the ability of schools, cities, and other organizations to use the cable channels for the benefit of their communities.

Sincerely,

Bassam Z. Shakhashiri

Bassam Z. Shakhashiri
Professor of Chemistry
Director, Wisconsin Initiative for Science Literacy

Competitive Wisconsin, Inc.

22 N. Carroll St., Ste. 200 Madison, WI 53703
608-258-8411 competitivewi.com

March 27, 2007

Members of the Assembly Committee on Energy and Utilities and Senate Committee on Commerce, Utilities and Rail
State Capitol
Madison, Wisconsin

Dear Committee Members:

Competitive Wisconsin, Inc. (CWI) is a membership organization comprised of private businesses, agriculture, academia and organized labor whose core mission it is to cumulatively advocate for public policy that both improves the competitiveness of and removes barriers for growth of Wisconsin's economy.

On behalf of the Board of CWI, I urge you to support AB 207 regarding the regulation of cable television and video service providers. While this bill is ultimately aimed at providing more choice and potential price relief for consumers, the bill also will provide Wisconsin's economy overall with some very beneficial outcomes.

Leveling the playing field in the video delivery market will allow more entrants into this market than currently exist. In other states where similar legislation has been passed, one of the results has been new entrants into the video market investing in infrastructure improvements and creating new jobs to support the new service. A secondary affect of similar legislation in other states has been dramatic improvements to broadband access as many companies involved with video delivery are also broadband providers and when they improve and expand their infrastructure for video service, broadband comes in tow. This type of job growth, economic development and infrastructure improvement are all key to growing Wisconsin's economy and should be fostered. AB 207 does this.

Finally, we have long talked about the need to streamline permitting processes in our state in all areas of government. Streamlining a permitting process such as that for video franchising sends a good signal to out of state companies about the general business climate in Wisconsin. It shows a progressive attitude toward the role of government in business, something companies look at when making relocation decisions.

Thank you for your consideration of this important legislation and we hope you support the legislation and allow it to move forward. Should you have any further questions regarding CWI's position on this bill, please do not hesitate to call.

Sincerely,

Tom O'Neill
Senior Vice President
M&I Corp. and
President, CWI

Jim Peterson
President
James Peterson Sons Inc. and
Chair, Infrastructure Committee, CWI

WISCONSIN
TECHNOLOGY
COUNCIL

March 27, 2007

TO: Members of the Senate and Assembly Utilities Committees
FROM: Tom Still, president, Wisconsin Technology Council
RE: Statewide video franchising (SB 107/AB 207)

Thank you for this opportunity to offer a few thoughts on "the new media" and how this phenomenon is affecting Wisconsin.

For better and sometimes worse, the Internet has been the most disruptive technology of our time. When Communism fell and use of personal computers and the Internet began to catch fire, a revolution of political, economic and cultural importance quietly spread. The democratization of communications accelerated at a pace unseen since the dawn of television. The days when only those with huge amounts of working capital (newspaper owners, television and radio station owners) could communicate with mass audiences were pretty much over. Today, anyone with a laptop, a web site and some compelling content can potentially reach the world.

That's why despots hate the Internet. It's one thing for a dictator to control a relative handful of newspaper plants and television stations, but it's quite another for a totalitarian regime to block information that may be easily called up on a wireless laptop.

Even in a representative democracy, however, the emergence of the new Internet media is having profound effects. One example in Wisconsin is the debate over "statewide video franchising."

Before you today is a proposal to allow AT&T, the world's largest telecommunications company, to enter the subscription television market, improve its Internet services and provide computer-linked telephone service. That would essentially set up competition between AT&T and cable companies, the largest of which in Wisconsin are Time Warner Cable and Charter.

The Wisconsin Technology Council supports the core concepts behind the bill, the Video Competition Act. The bill is consistent with the Tech Council's general call for a more level playing field in telecom regulation, which our board believes will enhance competition, create jobs, encourage innovation and lower costs for consumers. Please read our 2007-2008 white papers at **www.wisconsintechnologycouncil.com** to learn more.

In the world of visual media, the only constant is constant change. Think back to 1980 and the flick of the switch that turned on CNN's television light. Overnight, the three main networks –

ABC, NBC and CBS – were not alone. Today, there is a news and information traffic jam on television screens across the land. The television industry itself, whether traditional or cable, is now facing competition from outside. The Internet, websites such as YouTube, portable e-mail devices such as Blackberries, cell phone, iPods and other mediums are readily accessible to tens of millions of Americans.

An Associated Press story in today's Wisconsin State Journal offered a perfect example. The Onion, a Wisconsin-born publication that is a leading provider of fake news, is bringing its brand of humor to the hot medium of the moment: online video. Clips from the Onion News Network will also be available for downloads on Apple's iTunes store.

All of this adds up to a competitive environment within the visual media – and the need for a regulatory system that reflects that reality.

As members of the Legislature consider statewide "video franchising," they should recognize that the Internet is changing the telecom world. Governments need to create regulatory frameworks that anticipate change; that expect new technologies. They should not be clinging to regulatory frameworks that lock them into a specific technology, because such an approach will ultimately impede innovation.

The Tech Council has not taken a position on whether the Video Competition Act should continue or discontinue payments to local governments to support Public, Educational and Government (PEG) channels. However, there are distinct types of PEG channels.

- Local government channels function essentially as a community "C-Span," often providing gavel-to-gavel coverage of specific meetings or broadcasts of broad public interest. There may be a legitimate public purpose in providing franchise-related financing for these channels.

- Other PEG channels exist to make the medium of television accessible to citizens for a variety of purposes that may not directly serve matters of broad public interest. For example, these channels might carry entertainment or social and cultural commentary. While all such discourse is important in a democracy, there may be questions about how to finance those channels which do not directly serve the broad public interest.

In Gainesville, Fla., late last year, both the Gainesville City Commission and the Alachua County Commissioners declined to create a local access channel because they didn't think it was needed. They cited the growth of the Internet and its rapidly expanding array of video choices such as YouTube, which has profoundly changed how people make videos available to a wider audience.

The Video Competition Act is an important recognition that technology has changed – and will continue to change – access to visual media. To the extent it is possible, the Legislature should ensure there is a level playing field for competing technologies and mediums.

###

AB 207/SB 107
March 27, 2007
Hearing

I am Jeanne Gerg from Sun Prairie. I was a member of the cable access commission for 4 years when I was on City Council. Now I am a common citizen but because of my involvement then and my continued interest, I am here speaking to you.

Sun Prairie is fortunate enough to not only have a community access channel but a learning channel for kids called Kids4. Kids 4 was the first channel in the nation to be run entirely by kids. My Granddaughter has been involved for 4 years. This involvement has given her and 80 other kids an opportunity for self expression in a non competitive environment unlike most after school activities. Jessika went to the EAA with a full press pass, did interviews with pilots, representatives of the various government agencies and the military. She now is on a live show on Thursday night where the kids produce, direct, film and star in their own shows. She learned how to produce her own film for the Sun Prairie film festival. Plus she was given the opportunity to speak in front of you today. Training, experience, opportunity and life lessons…all groundwork for a well rounded kid and a possible television career…that's kids 4.

Frankly I am surprised that this body would railroad in a bill without first learning what ramifications it would have on public access television. The way it is written now would put them out of business. They wouldn't have sufficient funds to pay the charges proposed. Please take the time to reconsider this bill. Please remember how many people this would affect negatively and please remember the huge number of kids this would impact now and in the future. We all are counting on you.

Gary L. Smith
1036 Morningside Drive
Janesville, Wisconsin 53546

March 23, 2007

Rep. Phil Montgomery, Chair
Committee on Energy and Utilities

Dear Representative Montgomery and Committee:

For the past several years, I have been on the board for Friends of JATV-12, the public access channel serving the Janesville area. On many occasions I have participated in programs aired on our public, education and government channels. After each airing, it is amazing how many people comment on the program. This is an indication of strong viewership and interest in our community programming.

JATV-12 provides an array of services to the citizens of our community. Some of those services are educational programs, broadcast of city council meetings, candidate forums, taping and broadcasting of community events and meetings, airing non-profit organization programs informing the community of available services, to name a few.

Whereas I believe competition with cable companies would be beneficial, without safeguards for local access channels, valuable community benefits are in jeopardy. Allowing municipalities to collect a PEG (public, education and government) fee of 1-2% of gross revenues earmarked to preserve local access television would safeguard this important and needed service in the local community.

Without the assurance of the PEG fee, I cannot support opening the cable market to competition. Please take into consideration the worthwhile and essential service public access television channels provide to local communities. Please save PEG access—preserve dedicated PEG funding, free transmission and local control over content.

Thank you for taking this concern into consideration.

Sincerely,

Gary L. Smith

Phone: 608 752 5623 E-Mail: smithwi@charter.net Cell: 608 751 6087

Donald Allison
731 N. Garfield Ave.
Janesville, WI 53545
608 754-5090
March, 27, 2007

RE: AB 207

Thank you Chairman Montgomery, Vice-chairman Peterson, members of the committee. Thank you for this opportunity to address this committee. My name is Donald Allison, and I am a volunteer producer of television programs for Public Access television in Janesville, Wisconsin, and I wish to speak as a citizen in opposition to LRB-1914.

Since my retirement nine years ago, after 34 years with General Motors, in Janesville, I have been involved with Janesville's Public Access station. As a hobbyist, I have produced over forty programs for the community, and have served on my city's Cable Advisory Committee.

My programs have covered a wide variety of programs including fishing, hunting, and the environment; Wisconsin Wildlife Hearings, programs with retired game warden and naturalist George Bachay, Wisconsin Watershed Management Specialist Doug Risch, and Certified Wildlife Biologist Tom Howard.

My other programs have dealt with Medicare, AMTRAK, clubs, churches and organizations, interviews with authors, cooking and musical programs, Janesville's Rotary Gardens, programs featuring senior citizen center and high school groups, and programs featuring individuals and their hobbies.

Currently I am working with members of the Rock Trail Coalition, Friends of Riverside Park, and the Ice Age Trail Park and Foundation on a program describing their work with the city of Janesville in a major project that is now underway. Also I am discussing, with Janesville's City Clerk, a proposed project about the election process.

It is programs like these, programs for the community that I fear we may lose. These are beneficial programs produced by volunteers, none of whom are paid for their time or talent. They are people, like me, independent producers and hobbyists, who have invested time and money in efforts to inform and support our community in ways a larger, professional producer never would.

The value of this effort is difficult to determine, and I fear its loss. With at least forty channels across Wisconsin, multiplied by the number of people affected, I very much doubt any gain if support for local access stations is diminished. I have invested several thousands of dollars in cameras and editing equipment. And today, literally today, for just yesterday (March 26, 2007) I assisted in installing new equipment in my church for its television ministry. All of this may be in jeopardy. I fear that not just the investment in dollars may be threatened, but our ability to communicate and to provide important programming to our communities may be threatened.

Therefore, it is my purpose to express to you the importance of preserving public access television for the citizens and for Wisconsin. Please preserve dedicated PEG funding, free transmission, and local control over content.

I thank you for this opportunity.

Donald Allison

Hi my name is Gefjon Garat. KIDS 4 is a place for me to learn about how to use TV cameras along with learning about what it's like to be at a real T.V. studio.

Also I have learned to do voice overs, green screen, editing, media awareness and much more.

Without KIDS 4, not many kids in Sun Prairie would know anything about television and how it works.

If Kids-4 were to close tomorrow, I would feel sorry for the younger kids in Wisconsin because they might never get the chance I did.

I would also feel bad for our community because they ~~might~~ would no longer be able to view all the performances and events their children participate in, that they were unable to attend. Thank you

So Please Save Cable Access!

LEAGUE OF WOMEN VOTERS® OF WISCONSIN

122 State Street, #405 Madison, WI 53703-2500
Phone: (608) 256-0827 Fax: (608) 256-1761
http://www.lwvwi.org lwvwisconsin@lwvwi.org

March 27, 2007

To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

Re: Opposition to Assembly Bill 207 / Senate Bill 107

The League of Women Voters of Wisconsin is strongly opposed to AB 207 and SB 107 based on our support of citizens' right to know and local municipalities' right to govern.

The League understands that a viable democracy relies on an informed electorate. Only with in-depth information and open decision-making can citizens make wise choices. We advocate for open meetings, open airwaves and open discussion, regardless of the issue or technology involved.

Public, Education and Government (PEG) Access is committed to such openness. The League of Women Voters avails itself of PEG Access around Wisconsin and the nation, all for the purpose of providing the in-depth information about issues and governmental practices and policies so critical to a healthy democracy in our complex 21st century world. PEG Access is the only true "public" forum among current media options.

PEG Access should be provided sufficient funds from franchise and per-subscriber fees to purchase and maintain equipment, employ staff, and enhance training programs. In addition, PEG Access should remain free from distributors' up-streaming charges. Franchise and per-subscriber fees are a necessary means to a desired end – a healthy democracy in which all voices are heard. This legislation clearly would result in reduced funding for PEG Access.

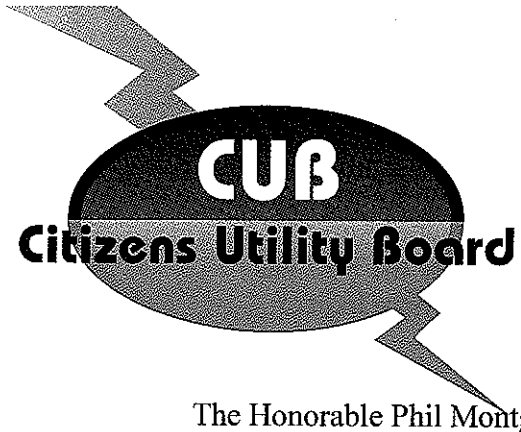
Equally troubling about this bill is that it would remove local municipalities' authority to grant cable franchises to operators, instead requiring providers to obtain a video service franchise from the state Department of Financial Institutions (DFI). The bill would allow existing cable operators to opt out of their current local franchise agreements and become subject to the state franchise.

Yet this bill does not empower state government to act in the interests of the public. If DFI does not issue a franchise within 10 days of receiving a complete application, the franchise is deemed automatically approved. Franchises may be transferred to other parties without government approval. Neither the state nor the municipality is allowed to regulate rates.

Municipalities would continue to receive the same percentage of gross revenue from providers, but the definition of revenue to which this applies has significant exclusions, resulting in reduced local revenues. Although no funding for PEG channels is required, municipalities would be required to pay all costs of connecting PEG channels to a video service provider's network, costs that are currently paid by cable operators.

Under this bill, local municipalities are prohibited from charging fees for right of way access, although utility boxes take space and may result in lost parking revenues.

This bill takes control away from local governments and denies citizens access to needed public affairs programming. It is a bad bill, and we urge you to vote against it.



March 27, 2007

The Honorable Phil Montgomery
Chair, Assembly Committee on Energy & Utilities
State Capitol
Madison, WI 53707

The Honorable Jeff Plale
Chair, Senate Committee on Commerce, Utilities, & Rail
State Capitol
Madison, WI 53707

RE: Video Franchise Legislation AB 207 and SB 107

Dear Representative Montgomery and Senator Plale:

The Citizens Utility Board would like to provide you with comments concerning Video Franchise Legislation AB 207 and SB 107.

The Citizens Utility Board of Wisconsin is a member-supported nonprofit organization that advocates for reliable and affordable utility service and that represents the interests of residential, farm, and small business customers of electric, natural gas, and telecommunication utilities before regulatory agencies and the courts.

CUB is opposed to the legislation as drafted, which fails to provide adequate consumer protections for video service customers. Although we have concerns with other aspects of the draft bill, our main concerns are:

- having the Department of Financial Institutions become the state-wide franchise authority;
- the prohibition of rule making by the franchise authority;
- the repeal of the "Cable Television Subscriber Rights Law;" and
- unnecessary restrictions on the applicability of federal consumer protections.

Department of Financial Institutions is the Wrong Agency

The draft legislation would have the Department of Financial Institutions issue franchises for video service providers. However, DFI is not the right agency to provide oversight for the video services industry. DFI regulates and licenses financial service providers, such as banks, credit unions, securities advisors, mortgage bankers and brokers, loan originators, and payday lenders. DFI has no experience with cable, video, or telecommunication services.

16 N. Carroll St., Suite 720 • Madison, WI 53703 • 608.251.3322 • fax 608.251.7609
e-mail: staff@wiscub.org • website: www.wiscub.org

The Public Service Commission of Wisconsin should be given the authority to issue and enforce state-wide franchises for video service. The Department of Trade, Agriculture, and Consumer Protection could also be given this authority, but because the PSC has experience regulating telecommunication services, the PSC seems the more logical choice.

In addition, the draft legislation would prohibit the franchise authority from issuing any rules regarding franchise issues; this prohibition is found in Section 7, 66.0420(13) p. 30, ll. 6-8. Ironically, the paragraph's title is "Rule-Making; Enforcement," even though the paragraph prohibits the franchise authority from issuing any rules regarding enforcement of issues related to video service. This paragraph should be deleted.

Wrongful Repeal of Customer Service Standards

Another major problem with this draft legislation is that it repeals the "Cable Television Subscriber Rights Law," Wis. Stats 100.209. The repeal occurs in Section 27, p. 33, l. 22.

The subscriber rights law provides the following rights to cable customers:

- Cable companies have to repair cable service in 72 hours (except for natural disasters);
- Customers are to receive credit for interrupted service;
- Customers must be given written notice 30 days before a cable company deletes a program service;
- Customers must be give written notice 30 days before a cable company increases rates;
- Customers are protected from unreasonable disconnection of service; customers can't be disconnected until an unpaid bill is at least 45 days past due, and the customer must be given written notice 10 days before service is disconnected;
- Cable companies can be penalized monetarily for violating these consumer rights;
- DATCP and state district attorneys can enforce these provisions through civil proceedings.

Subscriber rights are needed, as shown by the recent outage to services provided by Charter Communications on the evening of Sunday, February 11, as reported in the Capital Times and the Wisconsin State Journal. At some time around 6:00 PM, a fiber cable was cut at a location on Madison's southeast side, and Charter's cable, internet, and phone services were out until early Monday morning, February 12. Because of the subscriber rights law, Charter's cable customers are entitled to receive a day's credit for this cable service disruption.

However, Charter customers that receive internet phone or broadband services aren't covered by the subscriber rights law, and therefore are not eligible for a refund (unless Charter voluntarily decides to provide refunds to these customers).

The subscriber rights law should not be repealed. Indeed, the scope of these rights should be expanded to cover customers of broadband internet service, or of any other service similar to cable, video service, internet telephone, or broadband internet services.

Wrongful Prohibition of Customer Service Standards

In Section 7, 66.0420(9)(a), pp. 29-30, ll. 23-24 & 1-3, the draft legislation prohibits the state-wide franchise authority and municipalities from imposing customer service standards beyond those specified by the Federal Communications Commission in 47 CFR 76.309, paragraph (c). This paragraph only provides limited standards concerning:

- cable system office hours and telephone availability;
- installations, outages, and service calls; and
- communications between cable operators and subscribers.

Ironically, the customer service standards found in 47 CFR 76.309 are supposed to be implemented and enforced by local franchise authorities. This authority is found in 47 CFR 76.309 paragraph (a). Paragraph (b) of the same rule allows franchise authorities and cable operators to agree to "customer service requirements that exceed the standards set forth in paragraph (c)..."

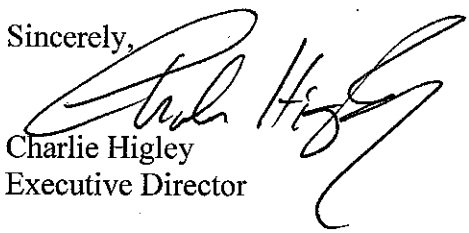
As mentioned, the Public Service Commission should be the franchise authority. Further, the PSC should be allowed to develop and enforce rules that carry out the intent of all paragraphs of 47 CFR 76.309.

Finally, Section 7, paragraph 66.0420(9)(b) (p. 30, ll. 4-8) would remove the federal customer service standards of 47 CFR 76.309 if there are two or more video service providers serving a municipality. Basic customer service standards should apply to all video service providers, regardless of whether there is one or 100 providers, and therefore, this portion of paragraph (b) should be deleted.

Although paragraph (b) also states that the Department of Trade, Agriculture, and Consumer Protection can issue customer service standards, this portion of the paragraph should be pulled out and placed at the top of the subsection dealing with customer service standards. If the PSC becomes the franchise authority, as recommended by CUB, then the PSC should also be given authority to issue rules to protect consumers.

These are just some of our main concerns regarding AB 207 and SB 107. CUB looks forward to working with you and members of your respective committees to make improvements to this bill, so the video service customers are treated fairly by video service providers.

Sincerely,



Charlie Higley
Executive Director