



House of Representatives

General Assembly

File No. 706

January Session, 2007

Substitute House Bill No. 7182

House of Representatives, May 2, 2007

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CERTIFIED COMPETITIVE VIDEO SERVICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-1 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Terms used in this title and in chapters 244, 244a, 244b, 245, 245a
4 and 245b* and in sections 2 to 24, inclusive, of this act, shall be
5 construed as follows, unless another meaning is expressed or is clearly
6 apparent from the language or context:

7 (1) "Authority" means the Public Utilities Control Authority and
8 "department" means the Department of Public Utility Control;

9 (2) "Commissioner" means a member of said authority;

10 (3) "Commissioner of Transportation" means the Commissioner of
11 Transportation appointed under section 13b-3;

12 (4) "Public service company" includes electric, electric distribution,
13 gas, telephone, telegraph, pipeline, sewage, water and community
14 antenna television companies and holders of a certificate of cable
15 franchise authority, owning, leasing, maintaining, operating,
16 managing or controlling plants or parts of plants or equipment, and all
17 express companies having special privileges on railroads within this
18 state, but shall not include telegraph company functions concerning
19 intrastate money order service, towns, cities, boroughs, any municipal
20 corporation or department thereof, whether separately incorporated or
21 not, a private power producer, as defined in section 16-243b, or an
22 exempt wholesale generator, as defined in 15 USC 79z-5a;

23 (5) "Plant" includes all real estate, buildings, tracks, pipes, mains,
24 poles, wires and other fixed or stationary construction and equipment,
25 wherever located, used in the conduct of the business of the company;

26 (6) "Railroad company" includes every person owning, leasing,
27 maintaining, operating, managing or controlling any railroad, or any
28 cars or other equipment employed thereon or in connection therewith,
29 for public or general use within this state;

30 (7) "Street railway company" includes every person owning, leasing,
31 maintaining, operating, managing or controlling any street railway, or
32 any cars or other equipment employed thereon or in connection
33 therewith, for public or general use within this state;

34 (8) "Electric company" includes, until an electric company has been
35 unbundled in accordance with the provisions of section 16-244e, every
36 person owning, leasing, maintaining, operating, managing or
37 controlling poles, wires, conduits or other fixtures, along public
38 highways or streets, for the transmission or distribution of electric
39 current for sale for light, heat or power within this state, or, engaged in
40 generating electricity to be so transmitted or distributed for such
41 purpose, but shall not include (A) a private power producer, as
42 defined in section 16-243b, (B) an exempt wholesale generator, as
43 defined in 15 USC 79z-5a, (C) a municipal electric utility established
44 under chapter 101, (D) a municipal electric energy cooperative

45 established under chapter 101a, (E) an electric cooperative established
46 under chapter 597, or (F) any other electric utility owned, leased,
47 maintained, operated, managed or controlled by any unit of local
48 government under any general statute or any public or special act;

49 (9) "Gas company" includes every person owning, leasing,
50 maintaining, operating, managing or controlling mains, pipes or other
51 fixtures, in public highways or streets, for the transmission or
52 distribution of gas for sale for heat or power within this state, or
53 engaged in the manufacture of gas to be so transmitted or distributed
54 for such purpose, but shall not include a person manufacturing gas
55 through the use of a biomass gasification plant provided such person
56 does not own, lease, maintain, operate, manage or control mains, pipes
57 or other fixtures in public highways or streets, a municipal gas utility
58 established under chapter 101 or any other gas utility owned, leased,
59 maintained, operated, managed or controlled by any unit of local
60 government under any general statute or any public or special act;

61 (10) "Water company" includes every person owning, leasing,
62 maintaining, operating, managing or controlling any pond, lake,
63 reservoir, stream, well or distributing plant or system employed for
64 the purpose of supplying water to fifty or more consumers. A water
65 company does not include homeowners, condominium associations
66 providing water only to their members, homeowners associations
67 providing water to customers at least eighty per cent of whom are
68 members of such associations, a municipal waterworks system
69 established under chapter 102, a district, metropolitan district,
70 municipal district or special services district established under chapter
71 105, chapter 105a or any other general statute or any public or special
72 act which is authorized to supply water, or any other waterworks
73 system owned, leased, maintained, operated, managed or controlled
74 by any unit of local government under any general statute or any
75 public or special act;

76 (11) "Consumer" means any private dwelling, boardinghouse,
77 apartment, store, office building, institution, mechanical or

78 manufacturing establishment or other place of business or industry to
79 which water is supplied by a water company;

80 (12) "Sewage company" includes every person owning, leasing,
81 maintaining, operating, managing or controlling, for general use in any
82 town, city or borough, or portion thereof, in this state, sewage disposal
83 facilities which discharge treated effluent into any waterway of this
84 state;

85 (13) "Pipeline company" includes every person owning, leasing,
86 maintaining, operating, managing or controlling mains, pipes or other
87 fixtures through, over, across or under any public land, water,
88 parkways, highways, parks or public grounds for the transportation,
89 transmission or distribution of petroleum products for hire within this
90 state;

91 (14) "Community antenna television company" includes every
92 person owning, leasing, maintaining, operating, managing or
93 controlling a community antenna television system, in, under or over
94 any public street or highway, for the purpose of providing community
95 antenna television service for hire and shall include any municipality
96 which owns or operates one or more plants for the manufacture or
97 distribution of electricity pursuant to section 7-213 or any special act
98 and seeks to obtain or obtains a certificate of public convenience and
99 necessity to construct or operate a community antenna television
100 system pursuant to section 16-331 or a certificate of cable franchise
101 authority pursuant to section 14 of this act. "Community antenna
102 television company" does not include a certified competitive video
103 service provider;

104 (15) "Community antenna television service" means (A) the one-way
105 transmission to subscribers of video programming or information that
106 a community antenna television company makes available to all
107 subscribers generally, and subscriber interaction, if any, which is
108 required for the selection of such video programming or information,
109 and (B) noncable communications service. "Community antenna
110 television service" does not include video service provided by a

111 certified competitive video service provider;

112 (16) "Community antenna television system" means a facility,
113 consisting of a set of closed transmission paths and associated signal
114 generation, reception and control equipment that is designed to
115 provide community antenna television service which includes video
116 programming and which is provided in, under or over any public
117 street or highway, for hire, to multiple subscribers within a franchise,
118 but such term does not include (A) a facility that serves only to
119 retransmit the television signals of one or more television broadcast
120 stations; (B) a facility that serves only subscribers in one or more
121 multiple unit dwellings under common ownership, control or
122 management, unless such facility is located in, under or over a public
123 street or highway; (C) a facility of a common carrier which is subject, in
124 whole or in part, to the provisions of Subchapter II of Chapter 5 of the
125 Communications Act of 1934, 47 USC 201 et seq., as amended, except
126 that such facility shall be considered a community antenna television
127 system and the carrier shall be considered a public service company to
128 the extent such facility is used in the transmission of video
129 programming directly to subscribers; or (D) a facility of an electric
130 company which is used solely for operating its electric company
131 systems. "Community antenna television system" does not include a
132 facility used by a certified competitive video service provider to
133 provide video service;

134 (17) "Video programming" means programming provided by, or
135 generally considered comparable to programming provided by, a
136 television broadcast station;

137 (18) "Noncable communications service" means any
138 telecommunications service, as defined in section 16-247a, and which is
139 not included in the definition of "cable service" in the Communications
140 Act of 1934, 47 USC 522, as amended. Nothing in this definition shall
141 be construed to affect service which is both authorized and preempted
142 pursuant to federal law;

143 (19) "Public service motor vehicle" includes all motor vehicles used

144 for the transportation of passengers for hire;

145 (20) "Motor bus" includes any public service motor vehicle operated
146 in whole or in part upon any street or highway, by indiscriminately
147 receiving or discharging passengers, or operated on a regular route or
148 over any portion thereof, or operated between fixed termini, and any
149 public service motor vehicle operated over highways within this state
150 between points outside this state or between points within this state
151 and points outside this state;

152 (21) "Cogeneration technology" means the use for the generation of
153 electricity of exhaust steam, waste steam, heat or resultant energy from
154 an industrial, commercial or manufacturing plant or process, or the use
155 of exhaust steam, waste steam or heat from a thermal power plant for
156 an industrial, commercial or manufacturing plant or process, but shall
157 not include steam or heat developed solely for electrical power
158 generation;

159 (22) "Renewable fuel resources" means energy sources described in
160 subdivisions (26) and (27) of this subsection;

161 (23) "Telephone company" means a telecommunications company
162 that provides one or more noncompetitive or emerging competitive
163 services, as defined in section 16-247a;

164 (24) "Domestic telephone company" includes any telephone
165 company which has been chartered by or organized or constituted
166 within or under the laws of this state;

167 (25) "Telecommunications company" means a person that provides
168 telecommunications service, as defined in section 16-247a, within the
169 state, but shall not mean a person that provides only (A) private
170 telecommunications service, as defined in section 16-247a, (B) the
171 one-way transmission of video programming or other programming
172 services to subscribers, (C) subscriber interaction, if any, which is
173 required for the selection of such video programming or other
174 programming services, (D) the two-way transmission of educational or

175 instructional programming to a public or private elementary or
176 secondary school, or a public or independent institution of higher
177 education, as required by the department pursuant to a community
178 antenna television company franchise agreement, or provided
179 pursuant to a contract with such a school or institution which contract
180 has been filed with the department, or (E) a combination of the services
181 set forth in subparagraphs (B) to (D), inclusive, of this subdivision;

182 (26) "Class I renewable energy source" means (A) energy derived
183 from solar power, wind power, a fuel cell, methane gas from landfills,
184 ocean thermal power, wave or tidal power, low emission advanced
185 renewable energy conversion technologies, a run-of-the-river
186 hydropower facility provided such facility has a generating capacity of
187 not more than five megawatts, does not cause an appreciable change in
188 the river flow, and began operation after July 1, 2003, or a sustainable
189 biomass facility with an average emission rate of equal to or less than
190 .075 pounds of nitrogen oxides per million BTU of heat input for the
191 previous calendar quarter, except that energy derived from a
192 sustainable biomass facility with a capacity of less than five hundred
193 kilowatts that began construction before July 1, 2003, may be
194 considered a Class I renewable energy source, or (B) any electrical
195 generation, including distributed generation, generated from a Class I
196 renewable energy source;

197 (27) "Class II renewable energy source" means energy derived from
198 a trash-to-energy facility, a biomass facility that began operation before
199 July 1, 1998, provided the average emission rate for such facility is
200 equal to or less than .2 pounds of nitrogen oxides per million BTU of
201 heat input for the previous calendar quarter, or a run-of-the-river
202 hydropower facility provided such facility has a generating capacity of
203 not more than five megawatts, does not cause an appreciable change in
204 the riverflow, and began operation prior to July 1, 2003;

205 (28) "Electric distribution services" means the owning, leasing,
206 maintaining, operating, managing or controlling of poles, wires,
207 conduits or other fixtures along public highways or streets for the

208 distribution of electricity, or electric distribution-related services;

209 (29) "Electric distribution company" or "distribution company"
210 means any person providing electric transmission or distribution
211 services within the state, including an electric company, subject to
212 subparagraph (F) of this subdivision, but does not include: (A) A
213 private power producer, as defined in section 16-243b; (B) a municipal
214 electric utility established under chapter 101, other than a participating
215 municipal electric utility; (C) a municipal electric energy cooperative
216 established under chapter 101a; (D) an electric cooperative established
217 under chapter 597; (E) any other electric utility owned, leased,
218 maintained, operated, managed or controlled by any unit of local
219 government under any general statute or special act; (F) after an
220 electric company has been unbundled in accordance with the
221 provisions of section 16-244e, a generation entity or affiliate of the
222 former electric company; or (G) an electric supplier;

223 (30) "Electric supplier" means any person, including an electric
224 aggregator or participating municipal electric utility that is licensed by
225 the Department of Public Utility Control in accordance with section
226 16-245, that provides electric generation services to end use customers
227 in the state using the transmission or distribution facilities of an
228 electric distribution company, regardless of whether or not such
229 person takes title to such generation services, but does not include: (A)
230 A municipal electric utility established under chapter 101, other than a
231 participating municipal electric utility; (B) a municipal electric energy
232 cooperative established under chapter 101a; (C) an electric cooperative
233 established under chapter 597; (D) any other electric utility owned,
234 leased, maintained, operated, managed or controlled by any unit of
235 local government under any general statute or special act; or (E) an
236 electric distribution company in its provision of electric generation
237 services in accordance with subsection (a) or, prior to January 1, 2004,
238 subsection (c) of section 16-244c;

239 (31) "Electric aggregator" means (A) a person, municipality or
240 regional water authority that gathers together electric customers for

241 the purpose of negotiating the purchase of electric generation services
242 from an electric supplier, or (B) the Connecticut Resources Recovery
243 Authority, if it gathers together electric customers for the purpose of
244 negotiating the purchase of electric generation services from an electric
245 supplier, provided such person, municipality or authority is not
246 engaged in the purchase or resale of electric generation services, and
247 provided further such customers contract for electric generation
248 services directly with an electric supplier, and may include an electric
249 cooperative established pursuant to chapter 597;

250 (32) "Electric generation services" means electric energy, electric
251 capacity or generation-related services;

252 (33) "Electric transmission services" means electric transmission or
253 transmission-related services;

254 (34) "Generation entity or affiliate" means a corporate affiliate or, as
255 provided in subdivision (3) of subsection (a) of section 16-244e, a
256 separate division of an electric company after unbundling has occurred
257 pursuant to section 16-244e, that provides electric generation services;

258 (35) "Participating municipal electric utility" means a municipal
259 electric utility established under chapter 101 or any other electric
260 utility owned, leased, maintained, operated, managed or controlled by
261 any unit of local government under any general statute or any public
262 or special act, that is authorized by the department in accordance with
263 section 16-245c to provide electric generation services to end use
264 customers outside its service area, as defined in section 16-245c;

265 (36) "Person" means an individual, business, firm, corporation,
266 association, joint stock association, trust, partnership or limited
267 liability company;

268 (37) "Regional independent system operator" means the "ISO - New
269 England, Inc.", or its successor organization as approved by the
270 Federal Energy Regulatory Commission;

271 (38) "Certified telecommunications provider" means a person

272 certified by the department to provide intrastate telecommunications
273 services, as defined in section 16-247a, pursuant to sections 16-247f to
274 16-247h, inclusive;

275 (39) "Gas registrant" means a person registered to sell natural gas
276 pursuant to section 16-258a;

277 (40) "Customer-side distributed resources" means (A) the generation
278 of electricity from a unit with a rating of not more than sixty-five
279 megawatts on the premises of a retail end user within the transmission
280 and distribution system including, but not limited to, fuel cells,
281 photovoltaic systems or small wind turbines, or (B) a reduction in the
282 demand for electricity on the premises of a retail end user in the
283 distribution system through methods of conservation and load
284 management, including, but not limited to, peak reduction systems
285 and demand response systems;

286 (41) "Federally mandated congestion charges" means any cost
287 approved by the Federal Energy Regulatory Commission as part of
288 New England Standard Market Design including, but not limited to,
289 locational marginal pricing, locational installed capacity payments, any
290 cost approved by the Department of Public Utility Control to reduce
291 federally mandated congestion charges in accordance with section 7-
292 233y, this section, sections 16-19ss, 16-32f, 16-50i, 16-50k, 16-50x, 16-
293 243i to 16-243q, inclusive, 16-244c, 16-244e, 16-245m, 16-245n [,] and 16-
294 245z, and section 21 of public act 05-1 of the June special session** and
295 reliability must run contracts;

296 (42) "Combined heat and power system" means a system that
297 produces, from a single source, both electric power and thermal energy
298 used in any process that results in an aggregate reduction in electricity
299 use;

300 (43) "Grid-side distributed resources" means the generation of
301 electricity from a unit with a rating of not more than sixty-five
302 megawatts that is connected to the transmission or distribution system,
303 which units may include, but are not limited to, units used primarily to

304 generate electricity to meet peak demand;

305 (44) "Class III renewable energy source" means the electricity output
306 from combined heat and power systems with an operating efficiency
307 level of no less than fifty per cent that are part of customer-side
308 distributed resources developed at commercial and industrial facilities
309 in this state on or after January 1, 2006, or the electricity savings
310 created at commercial and industrial facilities in this state from
311 conservation and load management programs begun on or after
312 January 1, 2006; [and]

313 (45) "Sustainable biomass" means biomass that is cultivated and
314 harvested in a sustainable manner. "Sustainable biomass" does not
315 mean construction and demolition waste, as defined in section 22a-
316 208x, finished biomass products from sawmills, paper mills or stud
317 mills, organic refuse fuel derived separately from municipal solid
318 waste, or biomass from old growth timber stands, except where (A)
319 such biomass is used in a biomass gasification plant that received
320 funding prior to May 1, 2006, from the Renewable Energy Investment
321 Fund established pursuant to section 16-245n, or (B) the energy
322 derived from such biomass is subject to a long-term power purchase
323 contract pursuant to subdivision (2) of subsection (j) of section 16-244c
324 entered into prior to May 1, 2006, or (C) prior to July 1, 2007, such
325 biomass is used in a renewable energy facility that was approved by
326 the department prior to October 1, 2005;

327 (46) "Video service" means video programming services provided
328 through wireline facilities, a portion of which are located in the public
329 right-of-way, without regard to delivery technology, including Internet
330 protocol technology. "Video service" does not include any video
331 programming provided by a commercial mobile service provider, as
332 defined in 47 USC 332(d), any video programming provided as part of
333 community antenna television service, any video programming
334 provided as part of and via a service that enables users to access
335 content, information, electronic mail or other services over the public
336 Internet;

337 (47) "Certified competitive video service provider" means an entity
338 providing video service pursuant to a certificate of video franchise
339 authority issued by the department in accordance with section 2 of this
340 act. "Certified competitive video service provider" does not mean an
341 entity issued a certificate of public convenience and necessity in
342 accordance with section 16-331 or the affiliates, successors and assigns
343 of such entity or an entity issued a certificate of cable franchise
344 authority in accordance with section 13 of this act or the affiliates,
345 successors and assignees of such entity;

346 (48) "Certificate of video franchise authority" means an
347 authorization issued by the Department of Public Utility Control
348 conferring the right to an entity or person to own, lease, maintain,
349 operate, manage or control facilities in, under or over any public
350 highway to offer video service to any subscribers in the state; and

351 (49) "Certificate of cable franchise authority" means an authorization
352 issued by the Department of Public Utility Control pursuant to section
353 14 of this act conferring the right to a community antenna television
354 company to own, lease, maintain, operate, manage or control a
355 community antenna television system in, under or over any public
356 highway to (A) offer community antenna television service in a
357 community antenna television company's designated franchise area, or
358 (B) use the public rights-of-way to offer video service in a designated
359 franchise area. The certificate of cable franchise authority shall be
360 issued as an alternative to a certificate of public convenience and
361 necessity pursuant to section 16-331 and shall only be available to a
362 community antenna television company under the terms specified in
363 sections 14 to 24, inclusive, of this act.

364 (b) Notwithstanding any provision of the general statutes, [to the
365 contrary, as used in the general statutes,] the terms "utility", "public
366 utility" and "public service company" shall be deemed to include a
367 community antenna television company and a holder of a certificate of
368 cable franchise authority, except (1) as otherwise provided in sections
369 16-8, 16-27, 16-28 and 16-43, (2) that no provision of the general

370 statutes, including but not limited to, the provisions of sections 16-6b
371 and 16-19, shall subject a community antenna television company to
372 regulation as a common carrier or utility by reason of providing
373 community antenna television service, other than noncable
374 communications service, as provided in Subchapter V-A of Chapter 5
375 of the Communications Act of 1934, 47 USC 521 et seq., as amended,
376 and (3) that no provision of the general statutes, including but not
377 limited to, sections 16-6b and 16-19, shall apply to community antenna
378 television companies to the extent any such provision is preempted
379 pursuant to any other provision of the Communications Act of 1934, 47
380 USC 151 et seq., as amended, any other federal act or any regulation
381 adopted thereunder.

382 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) An entity or person, other
383 than a community antenna television company certified to provide
384 community antenna television service pursuant to section 16-331 of the
385 general statutes on or before October 1, 2007, or an affiliate, successor
386 or assign of such community antenna television company, seeking to
387 provide video service in the state on and after October 1, 2007, shall file
388 with the Department of Public Utility Control an application for a
389 certificate of video franchise authority, containing such information as
390 required by this section. The application shall be accompanied by a fee
391 of one thousand dollars.

392 (b) Notwithstanding subsection (a) of this section, any entity, other
393 than a community antenna television company certified to provide
394 community antenna television service pursuant to section 16-331 of the
395 general statutes on or before October 1, 2007, that was offering video
396 service in the state on or before October 1, 2007, shall be required to file
397 its application for a certificate of video franchise authority on or before
398 October 31, 2007, and shall be allowed to continue to offer such video
399 service while its application for a certificate of video franchise
400 authority is pending.

401 (c) The application shall include a completed affidavit submitted by
402 the applicant and signed by an officer or general partner of the

403 applicant, affirming: (1) The location of the applicant's principal place
404 of business and the names of the applicant's principal executive
405 officers; (2) that the applicant has filed or will timely file with the
406 Federal Communications Commission all forms required by said
407 commission in advance of offering video service in the state; (3) that
408 the applicant agrees to comply with all applicable federal and state
409 statutes and regulations and with all applicable orders of the
410 department, including, but not limited to, those statutes, regulations
411 and orders regarding the provision of video service by certified
412 competitive video service providers and the use and occupation of
413 public rights-of-way in the delivery of the video service by such
414 providers; (4) that the applicant shall comply with the requirements of
415 sections 4 to 12, inclusive, of this act. The affidavit shall also include a
416 description of the service area footprint to be served within the state,
417 and such description shall be updated by the applicant before the
418 expansion of video service to a previously undesignated service area,
419 and a general description of the type or types of technologies the
420 applicant will use to provide video service in its service area footprint,
421 which may include wire line, satellite or any other alternative
422 technology.

423 (d) The department shall notify the applicant whether the
424 application is complete or incomplete on or before the fifteenth
425 calendar day after the applicant submits the application. The
426 department shall limit its review of the application to whether it
427 provides the information required pursuant to subsection (c) of this
428 section. In reviewing such application, the department shall not
429 conduct a hearing or contested case proceeding in accordance with
430 chapter 54 of the general statutes. The department may submit written
431 questions to the applicant and require written answers regarding the
432 information provided, and may accept written comments and reply
433 comments from the applicant, the Office of Consumer Counsel, the
434 Attorney General and other interested companies, organizations and
435 individuals. These written comments and reply comments shall be
436 limited solely to the issue of whether the application complies with the
437 requirements set forth in subsection (c) of this section.

438 (e) The department shall issue a certificate of video franchise
439 authority not later than thirty calendar days after notifying the
440 applicant that the application was complete. The certificate issued by
441 the department shall provide: (1) A grant of authority to provide video
442 service as requested in the application; (2) a grant of authority to own,
443 lease, maintain, operate, manage or control facilities in, under or over
444 any public highway in the delivery of such service, subject to the laws
445 of the state; and (3) a statement that the grant of authority is subject to
446 lawful operation of the video service by the applicant or its successor
447 in interest.

448 (f) If the department finds that the applicant's application is
449 incomplete, it shall specify with particularity the items in the
450 application that are incomplete and permit the applicant to amend the
451 application to cure any deficiency. The department shall issue a
452 certificate of video franchise authority on or before thirty calendar
453 days from its receipt of the amended and completed application.

454 (g) The failure of the department to notify the applicant of the
455 completeness or incompleteness of the application pursuant to
456 subsection (d) of this section shall be deemed to constitute issuance of
457 the certificate of video franchise authority.

458 (h) The certificate of video franchise authority issued by the
459 department is fully transferable to any successor in interest to the
460 applicant to which it was initially granted. A notice of transfer shall be
461 filed with the department not later than fourteen business days after
462 the completion of such transfer. The certificate of video franchise
463 authority issued by the department may be terminated by the certified
464 competitive video service provider by submitting notice to the
465 department.

466 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) Each certified
467 competitive video service provider shall not be required to comply
468 with any facility build-out requirements or be required to provide
469 video service to any customer using any specific technology. The
470 Department of Public Utility Control shall initiate a contested case

471 proceeding, in accordance with the provisions of chapter 54 of the
472 general statutes, three years after the issuance of the certificate of video
473 franchise authority to such provider to investigate the availability of
474 the certified competitive video service provider's video services and
475 report its findings to the joint standing committee of the General
476 Assembly having cognizance of matters relating to energy and
477 technology.

478 (b) The department shall not impose any provision regulating rates
479 charged by certified competitive video service providers, or impose
480 any other requirements or conditions, except as set forth in sections 2
481 to 12, inclusive, of this act.

482 Sec. 4. (NEW) (*Effective October 1, 2007*) A certified competitive video
483 service provider shall not deny access to service to any group of
484 potential residential subscribers based solely upon the income of the
485 residents in the local area in which such group resides. An affected
486 person may seek enforcement of this requirement by filing a complaint
487 with the Department of Public Utility Control. A municipality within
488 which the potential residential video service subscriber resides may be
489 considered an affected person for purposes of this section.

490 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) Not later than one
491 hundred twenty days after the certified competitive video service
492 provider begins offering service in a designated area pursuant to its
493 certificate of video franchise authority, such provider shall provide
494 capacity over its video service to allow community access
495 programming, in its basic service package, in accordance with the
496 following: (1) The certified competitive video service provider shall
497 provide capacity equal to the number of community access channels
498 currently offered by the incumbent community antenna television
499 company in the given area; (2) the certified competitive video service
500 provider shall provide funds for community access operations, as
501 provided in subsection (k) of section 16-331a of the general statutes; (3)
502 the certified competitive video service provider shall provide the
503 transmission of community access programming with connectivity up

504 to the first two hundred feet from the competitive video service
505 provider's activated wireline video programming distribution facility
506 located in the provider's designated service area and shall not provide
507 additional requirements for the creation of any content; and (4) the
508 community access programming shall be submitted to the certified
509 competitive video service provider in a manner or form that is
510 compatible with the technology or protocol utilized by said
511 competitive video service provider to deliver video services over its
512 particular network, and is capable of being accepted and transmitted
513 by the provider, without requirement for additional alteration or
514 change in the content by the provider.

515 (b) A certified competitive video service provider and a community
516 antenna television company or nonprofit organization providing
517 community access operations shall engage in good faith negotiation
518 regarding interconnection of community access operations where such
519 interconnection is technically feasible or necessary. Interconnection
520 may be accomplished by direct cable, microwave link, satellite or other
521 reasonable method of connection. At the request of a competitive video
522 service provider, community antenna television company or provider
523 of community access operations, the Department of Public Utility
524 Control may facilitate the negotiation for such interconnection.

525 (c) Not later than one hundred twenty days after the certified
526 competitive video service provider begins offering service in a
527 designated area pursuant to its certificate of video franchise authority,
528 such provider shall provide transmission of the Connecticut Television
529 Network to all its subscribers, including real-time transmission as
530 technically feasible, under the same conditions as set forth in
531 subdivisions (3) and (4) of subsection (a) of this section.

532 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) There shall be a state-
533 wide video advisory council, whose membership is made up of one
534 representative from each of the existing advisory councils established
535 pursuant to section 16-331 of the general statutes. A certified
536 competitive video service provider shall biannually convene a meeting

537 of said council. No member of the state-wide video advisory council
538 shall be an employee of a community antenna television company or a
539 certified competitive video service provider. For the purpose of this
540 subsection, an employee includes any person working full time or part
541 time or performing any subcontracting or consulting services for a
542 community antenna television company or a certified competitive
543 video service provider.

544 (b) The certified competitive video service provider shall provide
545 funding to such state-wide video advisory council in the amount of
546 two thousand dollars per year.

547 (c) Members of the state-wide video advisory council shall serve
548 without compensation. For the purpose of this subsection,
549 compensation shall include the receipt of any free or discounted video
550 service.

551 (d) The Department of Public Utility Control shall designate the
552 state-wide video advisory council as an intervenor in any contested
553 case proceeding before the department involving the certified
554 competitive video service provider it advises. Such certified
555 competitive video service provider shall provide to the chairperson of
556 the state-wide video advisory council a copy of any report, notice or
557 other such document it files with the department in any applicable
558 proceeding.

559 (e) A certified competitive video service provider shall, every six
560 months, provide on bills, bill inserts or letters to subscribers, a notice
561 indicating the name and an address of the chairperson of the state-
562 wide video advisory council and describing the responsibilities of such
563 advisory council. The state-wide video advisory council shall have an
564 opportunity to review such notice prior to its distribution.

565 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) At the time of initial
566 subscription, and annually thereafter, or upon request, each certified
567 competitive video service provider shall provide subscribers with a
568 description of (1) the video service offerings and current rates, (2) the

569 provider's credit policies, including any finance charges or late
570 payment charges, and (3) the provider's billing practices and complaint
571 procedures.

572 (b) Consistent with the provisions of 47 USC 551, at the time of
573 entering into an agreement to provide video service to a subscriber, a
574 certified competitive video service provider shall inform the subscriber
575 of the provider's practices regarding the collection and use of
576 personally identifiable customer information, including (1) the type of
577 information collected, (2) the purposes for which it is used, (3) the
578 extent and manner in which it is shared with unaffiliated third parties
579 for purposes of enabling delivery of video service, and (4) the
580 procedures in place to ensure the subscriber's right to privacy. A
581 certified competitive video service provider shall not disclose
582 personally identifiable customer information other than anonymous or
583 aggregate data to unaffiliated third parties for their own marketing
584 purposes without the consent of the subscriber.

585 (c) A certified competitive video service provider shall implement
586 an informal process for handling Department of Public Utility Control
587 and customer inquiries, billing issues, service issues and other
588 complaints. In the event an issue is not resolved through such informal
589 process, a customer may request of the department a confidential,
590 nonbinding mediation with the competitive video service provider,
591 and a designated member of the department staff shall serve as the
592 mediator. If the mediation is unsuccessful, the customer may file a
593 formal complaint with the department. The department's sole
594 jurisdiction over the complaint is to determine if the certified
595 competitive video service provider is in compliance with sections 3 to
596 11, inclusive, of this act. If the provider is found to be in
597 noncompliance, the department shall order the certified competitive
598 video service provider to cure such noncompliance within a reasonable
599 period of time. Failure to comply may subject the certified competitive
600 video service provider to civil penalties and revocation of the
601 certificate, as provided in section 12 of this act.

602 (d) A certified competitive video service provider shall comply with
603 the customer service requirements of 47 CFR 76.309(c) for its video
604 services. A company issued a certificate of video franchise authority
605 shall not be subject to any other state law or regulation or department
606 order to the extent it imposes customer service requirements in excess
607 of or more stringent than 47 CFR 76.309(c).

608 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) Except when otherwise
609 required by federal law, a certified competitive video service provider
610 shall inform the Department of Public Utility Control of any planned
611 programming or rate changes not less than thirty days before
612 implementing such changes unless (1) such changes are required by
613 law to be made in less than thirty days, or (2) in appropriate
614 circumstances where such a shorter notice period is in the best interest
615 of the company's subscribers.

616 (b) Except when otherwise required by federal law, a certified
617 competitive video service provider shall inform each subscriber, the
618 chairpersons of the joint standing committee of the General Assembly
619 having cognizance of matters relating to technology and the
620 chairperson of the state-wide video advisory council of any planned
621 elimination or reduction in any programming or any planned rate
622 increases not less than thirty days before implementing such changes
623 unless (1) such changes are required by law to be made in less than
624 thirty days, or (2) the department prescribes a longer or shorter notice
625 period in appropriate circumstances where such longer or shorter
626 notice period is in the best interest of the company's subscribers. The
627 state-wide video advisory council may hold an advisory public
628 hearing concerning the planned changes and may then make a
629 recommendation to the company before the planned date of
630 implementing the change.

631 Sec. 9. (NEW) (*Effective October 1, 2007*) If video service provided by
632 a certified competitive video service provider to a subscriber is
633 interrupted for more than twenty-four continuous hours, such
634 subscriber shall receive a credit or refund from the certified

635 competitive video service provider in an amount that represents the
636 proportionate share of such service not received in a billing period,
637 provided such interruption is not caused by the subscriber.

638 Sec. 10. (NEW) (*Effective October 1, 2007*) (a) A certified competitive
639 video service provider shall make closed captioning available when
640 simultaneously broadcast with video signals carried by the provider.

641 (b) A certified competitive video service provider shall offer the
642 concurrent rebroadcast of local television broadcast channels, or utilize
643 another economically or technically feasible process for providing an
644 appropriate message through the provider's video service in the event
645 of a public safety emergency issued over the emergency broadcast
646 system.

647 Sec. 11. (NEW) (*Effective October 1, 2007*) A certified competitive
648 video service provider shall provide any library serving the public and
649 any school system, college or university, located in a part of the
650 certified competitive video service provider's franchise area where
651 service is available, with one drop for basic video service at no charge
652 if such library, school system, college or university participates in
653 educational or public access programming offered throughout the
654 company's franchise area. The Department of Public Utility Control
655 may exempt any provider from providing such service at no charge if
656 it would have an adverse impact on the provider. No certified
657 competitive video service provider shall be required to provide this
658 free service if the library or school is receiving community antenna
659 television service or video service from another provider.

660 Sec. 12. (NEW) (*Effective October 1, 2007*) A certified competitive
661 video service provider, and its officers, agents and employees, shall
662 comply with sections 2 to 12, inclusive, of this act and each applicable
663 order made by the Department of Public Utility Control pursuant to
664 sections 2 to 12, inclusive, of this act. Any certified competitive video
665 service provider which the department finds has failed to comply with
666 sections 2 to 12, inclusive, of this act, or any applicable order made by
667 the department, may be fined, by order of the department, not more

668 than ten thousand dollars for each offense. Each distinct violation of
669 any such order shall be a separate offense and, in the case of a
670 continued violation, each day thereof shall be deemed a separate
671 offense. The department shall impose any such civil penalty in
672 accordance with the procedure established in section 16-41 of the
673 general statutes and if such penalty is imposed, it shall be the sole
674 remedy for such violation. The department shall also have the
675 authority to revoke the certificate of video franchise authority if the
676 certified competitive video service provider is found, after a
677 department hearing with notice to all interested parties, to be in
678 substantial noncompliance with the requirements of law or
679 department orders.

680 Sec. 13. (NEW) (*Effective October 1, 2007*) (a) Thirty days after a
681 certified competitive video service provider offers video service in a
682 community antenna television company's existing franchise area
683 pursuant to a certificate of video franchise authority, the community
684 antenna television company may seek a certificate of cable franchise
685 authority from the Department of Public Utility Control.

686 (b) A certificate of cable franchise authority issued by the
687 department pursuant to subsection (a) of this section shall become
688 effective immediately upon issuance by the department.

689 (c) A community antenna television company seeking a certificate of
690 cable franchise authority shall file an application with the department.
691 Such application shall include the information required in this section
692 and shall be accompanied by a fee of one thousand dollars.

693 (d) Said application shall include a completed affidavit submitted
694 by the applicant and signed by an officer or general partner of the
695 applicant, affirming: (1) The location of the applicant's principal place
696 of business and the names of the applicant's principal executive
697 officers; (2) that the applicant has filed or will timely file with the
698 Federal Communications Commission all forms required by said
699 commission in advance of offering community antenna television
700 service or video service in such franchise area; (3) that the applicant

701 agrees to comply with all applicable federal and state statutes and
702 regulations and with all department orders applicable to community
703 antenna television companies, except as exempted by sections 14 to 24,
704 inclusive, of this act; and (4) that the applicant agrees to comply with
705 the requirements of sections 14 to 24, inclusive, of this act. The affidavit
706 shall also include a description of the community antenna television
707 company's current franchise area and a general description of the type
708 or types of technologies the community antenna television company is
709 using and intends to use in providing community antenna television
710 programming or video service in the franchise area, which may
711 include wireline, satellite or any other alternative technology.

712 (e) The department shall notify the applicant whether the
713 applicant's application is complete or incomplete on or before the
714 fifteenth calendar day after the applicant submits the application. The
715 department's review of the completeness of the application is limited
716 to whether the application complies with the requirements set forth in
717 subsection (d) of this section. In reviewing the application, the
718 department shall not conduct a hearing or a contested case proceeding
719 pursuant to chapter 54 of the general statutes. The department may
720 submit written questions to the applicant and require written answers
721 regarding the information provided and may accept written comments
722 and reply comments from the applicant, the Office of Consumer
723 Counsel, the Attorney General and other interested persons.

724 (f) The department shall issue a certificate of cable franchise
725 authority not later than thirty calendar days from finding the
726 application complies with the requirements of subsection (d) of this
727 section. The certificate issued by the department shall provide: (1) A
728 grant of authority to provide community antenna television service or
729 video service as requested in the application; (2) a grant of authority to
730 own, lease, maintain, operate, manage or control facilities in, under or
731 over any public highway in the delivery of such service, subject to the
732 laws of the state; and (3) a statement that the grant of authority is
733 subject to lawful operation of the community antenna television
734 service or video service by the applicant or its interest.

735 (g) If the department finds that the applicant's application is
736 incomplete, it shall specify with particularity the items in the
737 application that are incomplete and permit the applicant to amend the
738 application to cure any deficiency. The department shall issue a
739 certificate of cable franchise authority not later than thirty calendar
740 days from its receipt of the amended and completed application.

741 (h) The failure of the department to notify the applicant of the
742 completeness or incompleteness of the application within the
743 timeframes set forth above shall be deemed to constitute issuance of
744 the certificate of cable franchise authority.

745 Sec. 14. (NEW) (*Effective October 1, 2007*) (a) A company issued a
746 certificate of cable franchise authority shall not be required to comply
747 with any facility build-out requirements or be required to provide
748 community antenna television service or video service to any customer
749 using any specific technology.

750 (b) The Department of Public Utility Control shall not impose any
751 provision regulating rates charged by a community antenna television
752 company holding a certificate of cable franchise authority, except as set
753 forth in federal law.

754 Sec. 15. (NEW) (*Effective October 1, 2007*) A company holding a cable
755 franchise authority certificate shall not deny access to service to any
756 group of potential residential subscribers based solely upon the
757 income of the residents in the local area in which such group resides.
758 An affected person may seek enforcement of this requirement by filing
759 a complaint with the Department of Public Utility Control. A
760 municipality within which the potential residential community
761 antenna television service or video service subscriber resides may be
762 considered an affected person for purposes of this section.

763 Sec. 16. (NEW) (*Effective October 1, 2007*) (a) A company issued a
764 certificate of cable franchise authority shall be subject to the
765 community access programming and operations provisions set forth in
766 subsections (b) to (i), inclusive, and subsections (k), (l) and (n) of

767 section 16-331a of the general statutes and any regulations pursuant
768 thereto, and subsection (c) of section 16-333 of the general statutes and
769 any regulations pursuant thereto.

770 (b) A company issued a cable franchise authority certificate shall
771 provide transmission of the Connecticut Television Network to all its
772 subscribers, including real-time transmission as technically feasible.

773 Sec. 17. (NEW) (*Effective October 1, 2007*) (a) A company issued a
774 certificate of cable franchise authority shall, twice a year, convene a
775 meeting with the advisory council established pursuant to its previous
776 certificate of public convenience and necessity issued pursuant to
777 section 16-331 of the general statutes. Members shall be appointed in
778 accordance with section 16-331d of the general statutes. No member of
779 the advisory council shall be an employee of a company providing
780 community antenna television service or video service. For the
781 purposes of this subsection, an employee includes any person working
782 full or part time or performing any subcontracting or consulting
783 services for a company providing community antenna television
784 service or video service.

785 (b) A company issued a cable franchise authority certificate shall
786 provide funding to the advisory council in the amount of two
787 thousand dollars per year.

788 (c) Members of the advisory council shall serve without
789 compensation. For the purposes of this section, compensation shall
790 include the receipt of any free or discounted community antenna
791 television service or video service.

792 (d) The Department of Public Utility Control shall designate the
793 advisory council as an intervenor in any contested case proceeding
794 before the department involving the company it advises. Such
795 company shall provide to the chairperson of the advisory council a
796 copy of any report, notice or other document it files with the
797 department in any applicable proceeding.

798 (e) Any company issued a certificate of cable franchise authority
799 shall, every six months, provide on bills, bill inserts or letters to
800 subscribers, a notice indicating the name and address of the
801 chairperson of the advisory council and describing the responsibilities
802 of such advisory council. The advisory council shall have an
803 opportunity to review such notice prior to its distribution.

804 Sec. 18. (NEW) (*Effective October 1, 2007*) (a) At the time of initial
805 subscription, and annually thereafter, a company issued a certificate of
806 cable franchise authority shall provide subscribers with a description
807 of the community antenna television service or video service offerings
808 and current rates, a description of the company's credit policies,
809 including any finance charges or late payment charges and a
810 description of the company's billing practices and complaint
811 procedures upon request.

812 (b) In accordance with 47 USC 551, at the time of entering into an
813 agreement to provide community antenna television or video service
814 to a subscriber, a company issued a certificate of cable franchise
815 authority shall inform the subscriber of its practices regarding the
816 collection and use of personally identifiable customer information,
817 including (1) the type of information collected, (2) the purposes for
818 which it is used, (3) the extent and manner in which it is shared with
819 unaffiliated third parties for purposes of enabling delivery of the
820 community antenna television or video service, and (4) its procedures
821 to ensure the subscriber's right to privacy. A holder of a certificate of
822 cable franchise authority shall not disclose personally identifiable
823 customer information other than anonymous or aggregate data to
824 unaffiliated third parties for their own marketing purposes without the
825 consent of such subscriber.

826 (c) A company issued a certificate of cable franchise authority shall
827 implement an informal process for handling Department of Public
828 Utility Control and customer inquiries, billing issues, service issues
829 and other complaints. In the event an issue is not resolved through this
830 informal process, a customer may request from the department a

831 confidential, nonbinding mediation with the company, and a
832 designated member of the department staff shall serve as the mediator.
833 If the mediation is unsuccessful, the customer may file a formal
834 complaint with the department. The department's sole jurisdiction
835 over the complaint is to determine if the company is in compliance
836 with sections 14 to 24, inclusive, of this act, or any other laws,
837 regulations or orders applicable to companies holding a certificate of
838 cable franchise authority. If the company is found to be in
839 noncompliance, the department shall order the company to remedy
840 such noncompliance within a reasonable period of time. Failure to
841 comply may subject the company to civil penalties and revocation of
842 the certificate, as provided in section 24 of this act.

843 (d) A company issued a certificate of cable franchise authority shall
844 comply with the customer service requirements of 47 CFR 76.309(c) for
845 its community antenna television or video services. A company issued
846 a certificate of cable franchise authority shall not be subject to any
847 other state law or regulation or department order to the extent it
848 imposes customer service requirements in excess of or more stringent
849 than 47 CFR 76.309(c).

850 Sec. 19. (NEW) (*Effective October 1, 2007*) (a) Except when otherwise
851 required by federal law, a company issued a certificate of cable
852 franchise authority shall inform the Department of Public Utility
853 Control of any planned programming or rate changes not less than
854 thirty days before implementing such changes unless (1) such changes
855 are required by law to be made in less than thirty days, or (2) in
856 appropriate circumstances where a shorter notice period is in the best
857 interest of the company's subscribers.

858 (b) Except when otherwise required by federal law, a company
859 issued a certificate of cable franchise authority shall inform each of its
860 subscribers, the chairpersons of the joint standing committee of the
861 General Assembly having cognizance of matters relating to technology
862 and the chairperson of the applicable advisory council of any planned
863 elimination or reduction in programming or planned rate increases not

864 less than thirty days before implementing such changes unless (1) such
865 changes are required by law to be made in less than thirty days, or (2)
866 the department prescribes a longer or shorter notice period in
867 appropriate circumstances where such longer or shorter notice period
868 is in the best interest of the company's subscribers. The advisory
869 council may hold an advisory public hearing concerning the planned
870 changes and may then make a recommendation to the company before
871 the planned implementation date.

872 Sec. 20. (NEW) (*Effective October 1, 2007*) If community antenna
873 television service or video service provided to a subscriber by a
874 company holding a certificate of cable franchise authority experiences
875 a service outage for more than twenty-four continuous hours, such
876 subscriber shall receive a credit or refund from such company in an
877 amount that represents the proportionate share of such service not
878 received in a billing period, provided such interruption is not caused
879 by the subscriber.

880 Sec. 21. (NEW) (*Effective October 1, 2007*) (a) A company issued a
881 certificate of cable franchise authority shall make closed captioning
882 available when simultaneously broadcast with video signals carried by
883 the company.

884 (b) A company issued a certificate of cable franchise authority shall
885 offer the concurrent rebroadcast of local television broadcast channels,
886 or utilize another economically and technically feasible process for
887 providing an appropriate message through the company's community
888 antenna television service or video service in the event of a public
889 safety emergency issued over the emergency broadcast system.

890 Sec. 22. (NEW) (*Effective October 1, 2007*) A company issued a
891 certificate of cable franchise authority shall provide any library serving
892 the public and any school system, college or university, located in a
893 part of the company's franchise area where service is available, with
894 one drop for basic community antenna television service or video
895 service at no charge if such library, school system, college or university
896 participates in educational or public access programming offered

897 throughout the company's franchise area. The Department of Public
898 Utility Control may exempt any company with a certificate of cable
899 franchise authority from providing such service at no charge if it
900 would have an adverse impact on such company. No company issued
901 a certificate of cable franchise authority shall be required to provide
902 this free service if the library or school is receiving community antenna
903 television service or video service from another provider.

904 Sec. 23. (NEW) (*Effective October 1, 2007*) (a) Nothing in sections 14 to
905 24, inclusive, of this act shall be construed to relieve a company issued
906 a certificate of cable franchise authority from such company's
907 obligations under any federal or state laws or regulations or
908 Department of Public Utility Control orders applicable to community
909 antenna television companies or public service companies, or from any
910 other federal or state laws or regulations or department orders unless
911 specified in sections 14 to 24, inclusive, of this act.

912 (b) A company issued a certificate of cable franchise authority shall
913 not be subject to subdivisions (1), (2), (3), (5) and (6) of subsection (d)
914 of section 16-331 of the general statutes, subsections (f) and (h) of
915 section 16-331 of the general statutes, and subsections (e) and (f) of
916 section 16-333 of the general statutes or to any regulations or
917 department orders implemented or arising from said sections.

918 Sec. 24. (NEW) (*Effective October 1, 2007*) A holder of a certificate of
919 cable franchise authority, and the officers, agents and employees of
920 such cable franchise authority, shall obey, observe and comply with
921 sections 14 to 24, inclusive, of this act and each applicable order made
922 by the Department of Public Utility Control pursuant to sections 14 to
923 24, inclusive, of this act. A holder of a cable franchise authority
924 certificate that the department finds has failed to obey or comply with
925 sections 14 to 24, inclusive, of this act or any applicable order made by
926 the department pursuant thereto may be fined, by order of the
927 department, not more than ten thousand dollars for each offense. Each
928 distinct violation of any such order shall be a separate offense and, in
929 the case of a continued violation, each day thereof shall be deemed a

930 separate offense. The department shall impose any such civil penalty
 931 in accordance with the procedure established in section 16-41 of the
 932 general statutes. If such penalty is imposed, it shall be the sole remedy
 933 for such violation. The department shall also have the authority to
 934 revoke the certificate of cable franchise authority if the holder of the
 935 certificate is found, after a department hearing with notice to all
 936 interested parties, to be in substantial noncompliance with the
 937 requirements of law or department orders.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	16-1
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>October 1, 2007</i>	New section
Sec. 13	<i>October 1, 2007</i>	New section
Sec. 14	<i>October 1, 2007</i>	New section
Sec. 15	<i>October 1, 2007</i>	New section
Sec. 16	<i>October 1, 2007</i>	New section
Sec. 17	<i>October 1, 2007</i>	New section
Sec. 18	<i>October 1, 2007</i>	New section
Sec. 19	<i>October 1, 2007</i>	New section
Sec. 20	<i>October 1, 2007</i>	New section
Sec. 21	<i>October 1, 2007</i>	New section
Sec. 22	<i>October 1, 2007</i>	New section
Sec. 23	<i>October 1, 2007</i>	New section
Sec. 24	<i>October 1, 2007</i>	New section

ET

Joint Favorable Subst. C/R

FIN

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Public Utility Control, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in revenue, since it provides a \$10,000 civil penalty per violation of provisions set forth in the bill. Violations are expected to be minimal.

The \$1,000 application fee for entities seeking to provide video services and the \$2,000 annual fee that providers must remit to the newly established statewide video advisory council are not state revenues. These fees would fund the council and its operations.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis

sHB 7182

AN ACT CONCERNING CERTIFIED COMPETITIVE VIDEO SERVICE.

SUMMARY:

This bill requires companies, other than cable TV companies and their affiliates, that provide video programming to be certified by the Department of Public Utility Control (DPUC). It subjects these "certified competitive video services providers," to some of the requirements that apply to cable TV companies, notably requirements regarding community access and customer information. But the providers are not subject to other requirements that currently apply to cable TV companies, including obtaining and renewing a franchise for a specified number of years and being subject to rate regulation.

Once one of these providers enters the territory of a cable TV company, the bill allows the cable TV company to apply for a new certificate in lieu of its existing franchise certificate. The cable TV company is generally subject to the same application requirements and DPUC review as a provider. Once DPUC grants the new certificate, the cable TV company becomes subject to a similar type of regulation as the provider. Among other things, this means that it will no longer need to have its franchise renewed and its rates will apparently not be subject to DPUC regulation. The bill also makes minor changes in the laws concerning cable TV advisory councils.

The bill establishes a statewide video advisory council, whose membership consists of one representative from each of the existing cable TV advisory councils.

EFFECTIVE DATE: October 1, 2007

COMPETITIVE VIDEO SERVICE PROVIDERS

The bill excludes from the definitions that apply to cable TV companies, and many of the laws that apply to them, "certified competitive video service providers." It defines such providers as entities that provide video service under a certificate granted by DPUC. Video services, for these purposes, include those provided by wireline facilities, part of which must be in the public right-of-way. These services can be provided by any technology, including Internet protocol technology. On the other hand, they do not include any services provided by commercial mobile service providers such as personal communications services (PCS) companies, any programming provided by a cable TV company, or services that allow users to access content, information, e-mail, or other services over the Internet.

Application Requirements

The bill requires any entity, other than a cable TV company or its affiliates, that seeks to provide video services to file a certificate application with DPUC. The application must be accompanied by a \$1,000 fee. A company that is already providing video services by October 1, 2007 (e.g., AT&T) must file its application by October 31, 2007, but can continue to offer video services while its application is pending.

The application must be signed by an officer or general partner of the applicant. It must (1) identify the applicant's principal place of business and the names of its principal executive officers; (2) affirm that it has filed or will timely file with the Federal Communications Commission all forms the commission requires before offering video service in the state; (3) affirm that it agrees to comply with all applicable federal and state statutes and regulations and with all applicable DPUC orders, including those regarding the provision of video service and the use and occupation of public rights-of-way in delivering video service; and (4) affirm that it will comply with the bill's requirements. The application must also include (1) a description of the area the company will serve in the state, which the applicant must update before it can expand to a previously undesignated service

area and (2) a general description of the types of technologies the applicant will use to provide video programming in its service area, which may include wire line, satellite, or any other technologies.

DPUC must notify the applicant whether the application is complete within 15 days after the applicant submits it. DPUC's failure to do so is considered to be an issuance of the certificate. If DPUC finds that an application is incomplete, it must specify the items that are incomplete and allow the applicant to amend the application. DPUC must issue a certificate within 30 calendar days of receiving an amended and completed application.

DPUC Review of the Application

DPUC must limit its review of the application to whether it provides the information required by the bill. DPUC may not conduct a contested case but may submit written questions to the applicant and require written answers regarding the information provided. DPUC may accept written comments and reply comments from the applicant, the Office of Consumer Counsel, the attorney general, and other interested companies, organizations, and individuals. The comments must be limited solely to the issue of whether the application complies with the filing requirements described above.

DPUC must issue a certificate within 30 days after notifying the applicant that its application is complete. The certificate must provide: a grant of authority to (1) provide video service as requested in the application and (2) use and occupy the public rights-of-way in the delivery of such service, subject to state law. The certificate must also include a statement that the grant of authority is subject to lawful operation of the video service by the applicant or its successor.

The certificate allows the provider to own, lease, maintain, operate, manage, or control facilities in, under, or over a public highway to offer video service to its customers in the state. The certificate is fully transferable to any successor of the applicant. A notice of transfer must be filed with DPUC within 14 business days after the completion of

such a transfer. The certificate holder can terminate it by submitting notice to DPUC.

Restrictions on DPUC's Regulatory Authority

DPUC cannot require the provider to build out its facilities on a set schedule or to provide video service to any customer using any specific technology. Nor can DPUC regulate the provider's rates, except as provided in the bill. (The bill does not have any provisions regarding regulating the provider's rates, other than requiring it to provide a credit if its service is interrupted for 24 hours or more.) DPUC must begin a contested case three years after issuing the certificate to the provider to investigate the availability of its services and report its findings to the Energy and Technology Committee.

Obligations of Providers

Community Access. Within 120 days after a provider begins offering service in an area under its certificate, it must provide capacity over its video service to allow community access programming in its basic service package. The provider must provide (1) the same number of community access channels as the incumbent cable TV company in the area currently offers; (2) funds for community access operations in the same way as cable TV companies; and (3) for the transmission of community access programming with connectivity up to at least 200 feet from its activated wireline distribution facility and must do so without imposing additional requirements for the creation of any content. The community access programming must be submitted to the provider in a form compatible with the technology or protocol it uses to deliver video services over its network, and must be capable of being accepted and transmitted by the provider, without requirement for additional alteration or change in the content by the provider.

A provider and a cable TV company or nonprofit organization providing community access operations must negotiate in good faith regarding interconnection of community access operations where technically feasible or necessary. Interconnection may be accomplished

by direct cable, microwave link, satellite, or other reasonable method. At the request of a provider, cable TV company, or provider of community access operations, DPUC may facilitate the negotiation for such an interconnection.

Customer Information. When a customer initially subscribes to the provider's service, and annually thereafter or upon request, each provider must give each customer a description of (1) its video service offerings and current rates; (2) the provider's credit policies, including any finance charges or late payment charges; and (3) its billing practices and complaint procedures.

The bill requires providers to inform a customer, when he enters an agreement for video service, of the provider's practices regarding the collection and use of personally identifiable information. Consistent with federal law, the provider must inform the customer of its practices regarding (1) the type of information collected, (2) the purposes for which it is used, (3) the extent and manner in which it is shared with unaffiliated third parties for purposes of enabling delivery of video service, and (4) the provider's procedures to ensure the customer's right to privacy. A provider may not disclose personally identifiable customer information other than anonymous or aggregate data to unaffiliated third parties for their own marketing purposes without the customer's consent.

Except when otherwise required by federal law, a provider must inform DPUC, each customer, the chairpersons of the Energy and Technology Committee, and the chairperson of the statewide video advisory council of any planned rate changes at least 30 days before implementing the changes unless (1) the law requires the changes to be made in less than 30 days or (2) DPUC prescribes a longer or shorter notice period in appropriate circumstances when in the best interest of customers. The same notice provisions apply when the provider plans to eliminate or reduce programming, except that notice does not have to be sent to DPUC. In the latter case, the council may hold an advisory public hearing concerning the planned changes and may then make a

recommendation to the company prior to the planned implementation date.

Most of these requirements currently apply to cable TV companies.

Customer Complaints. A provider must implement an informal process for handling DPUC and customer inquiries, billing issues, service issues, and other complaints. If an issue is not resolved through this process, a customer may request DPUC provide a confidential, nonbinding mediation with the provider with a designated DPUC staff member serving as the mediator. If the mediation is unsuccessful, the customer may file a formal complaint with DPUC. DPUC's sole jurisdiction over the complaint is to determine if the provider is complying with the bill's requirements. If the provider is not complying, DPUC must order it to cure the noncompliance within a reasonable period of time. Failure to comply may subject the provider to civil penalties and revocation of the certificate.

The provider must comply with the customer service requirements of federal law for its video services, but is not subject to any state laws, regulations, or DPUC orders that impose more stringent requirements.

Redlining. The provider may not deny access to service to any group of potential residential customers based solely upon the income of the residents in the area where they live. An affected person or the affected municipality may seek to enforce this requirement by filing a complaint with DPUC.

Other Obligations. Within 120 days after the provider begins offering service in a designated area, it must transmit the Connecticut Television Network (CTN) to all its customers, including real-time transmission as technically feasible, provided (1) these transmissions are supplied in a way that is consistent with the provider's technology or delivery protocol and (2) CTN's connection is within 200 feet of the providers activated facilities.

A provider must provide any public library and any school system,

college, or university located in a part of its franchise area where service is available with one drop for basic video service at no charge if the institution participates in educational or public access programming offered throughout the area. DPUC may exempt a provider from providing this service at no charge if it would harm the provider. A provider is not required to provide this free service if the library or school is receiving cable TV or video service from another provider.

If video service provided by a provider to a customer is interrupted for more than 24 continuous hours, the provider must give the customer a credit or refund in an amount that represents the proportionate share of the service not received in a billing period, so long as the interruption was not caused by the customer.

A provider must make closed captioning available when simultaneously broadcast with video signals carried by the provider.

A provider must also offer the concurrent rebroadcast of local television broadcast channels, or use another economically or technically feasible process, in order to provide an appropriate message through its video service when a public safety emergency alert is issued over the emergency broadcast system.

A provider and its officers, agents, and employees must comply with the relevant portions of the bill and each applicable DPUC order made under the bill. DPUC may fine any provider that DPUC finds has failed to comply with these provisions up to \$10,000 per offense. Each distinct violation of an order is a separate offense and, in the case of a continued violation, each day is a separate offense. DPUC must follow the procedures specified in existing law in imposing such penalties. If the penalty is imposed, it is the sole remedy for such violations. DPUC can also revoke the provider's certificate if the DPUC finds, after notifying all interested parties and holding a hearing, that the provider is in substantial noncompliance with law or DPUC orders.

Most of these requirements currently apply to cable TV companies.

CABLE TV COMPANIES

Under the bill, 30 days after a certified competitive video service provider offers video service in a cable TV company's franchise area, the company may seek a certificate of cable franchise authority from DPUC. The application fee is \$1,000. The application requirements are the same as for the certificate granted to a video provider. The DPUC application review requirements are similar, although in this case the Office of Consumer Counsel and other interested parties can submit comments that go beyond whether the application complies with the bill's requirements.

A certificate of cable franchise authority becomes effective immediately upon being issued. The certificate must provide: (1) authority to provide cable TV or video services as requested in the application; (2) authority to own, lease, maintain, operate, manage or control facilities in, under or over any public highway in the delivery of such service, subject to state law; and (3) a statement that the grant of authority is subject to lawful operation of the cable TV or video service by the company or its "interest" (apparently its successor in interest).

Once the company obtains a certificate of cable franchise authority, it is subject to the same general requirements that apply to video providers. However, the company continues to be subject to most of the current law's requirements regarding community access. Among other things, these provisions require cable TV companies that are responsible for community access to:

1. provide facilities, equipment, and technical and managerial support to enable the production of meaningful community access programming;
2. carry all of the community access channels on its basic service tier;

3. conduct various outreach programs;
4. adopt scheduling policies that promote program diversity;
5. comply with DPUC standards regarding community access equipment; and
6. pay an annual charge set by DPUC to support community access.

Like a video provider, the company would not be subject to franchising and build-out requirements. However, if DPUC approved the transfer of an existing franchise, the transferee's franchise term would be the remainder of the original franchise term unless DPUC grants a different term. A company would no longer have to (1) fund the cost of community needs assessment, which currently takes place in connection with franchising; (2) provide financial and infrastructure information to DPUC upon request; or (3) comply with DPUC customer services regulations, including those dealing with responding to customer complaints and inquiries that subject companies to civil penalties if they did not meet DPUC standards in these areas. Nor would a company be subject to rate regulation except as "set forth in federal law." Federal law allows but does not require franchising authorities (in Connecticut, the DPUC) to regulate basic service rates. Thus, the bill appears to terminate DPUC's ability to regulate a cable TV company's basic service rates once it obtains a new certificate.

Under the bill, once the company receives its new certificate, it must continue to meet with its existing advisory council at least twice per year. Under current law, members of the council cannot be cable TV company employees or contractors, and cannot receive free or discounted cable TV service. The bill extends these provisions to prohibit council members from being employees or contractors of a video service provider or receiving free or discounted video services.

Under current law, the cable TV company must provide at least

\$2,000 in funding to the council each year, which can take the form of in-kind contributions at the council's option. The bill instead requires the company to provide \$2,000 in funding per year. The bill eliminates provisions that (1) allow a council to file a written petition with DPUC if a company fails to provide adequate service to a customer, (2) require DPUC to hold a hearing on the petition and issue a written decision, and (3) require the company to provide service as prescribed by DPUC in the decision.

Except as provided by the bill, the company would continue to be subject to the current requirements of federal and state cable TV laws and relevant DPUC orders.

STATEWIDE VIDEO ADVISORY COUNCIL

The bill establishes a statewide video advisory council, whose membership consists of one representative from each of the existing cable TV advisory councils. A provider must biannually convene a meeting of the council. No member of the council can be an employee of a cable TV company, i.e., anyone working full-time or part-time or performing any subcontracting or consulting services for a cable TV company. Members of the council must serve without compensation, including free or discounted video service.

Each video service provider must give the council \$2,000 in funding annually.

DPUC must designate the council as an intervenor in any contested case proceeding before it involving the provider it advises. The provider must give the council's chairperson a copy of any report, notice, or other such document it files with DPUC.

A provider must, every six months, provide on bills, bill inserts, or letters to customers, a notice indicating the name and an address of the council chairperson and describing the council's responsibilities. The council must be given an opportunity to review the notice prior to its distribution.

BACKGROUND***Related DPUC Decision***

In Docket 05-06-12, DPUC concluded that the Southern New England Telephone Company d/b/a AT&T Connecticut had demonstrated that, from a regulatory perspective, its planned Internet Protocol-based video product was distinguishable from cable television service. DPUC found that the service merely transmits data over the Internet, and as such is not subject to cable franchising requirements. The Office of Consumer Counsel and others have appealed the decision in federal court.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute Change of Reference
Yea 19 Nay 2 (03/13/2007)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 53 Nay 0 (04/17/2007)