



General Assembly

February Session, 2008

Raised Bill No. 5814

LCO No. 2680

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Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING COMMUNITY ACCESS TELEVISION.

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

1 Section 1. (NEW) (*Effective from passage*) On and after June 1, 2009,
2 any third-party nonprofit community access provider serving six
3 municipalities, one of which has a population of more than one
4 hundred thirty thousand, shall dedicate one channel of exclusive
5 town-specific programming to each of the towns represented in their
6 assigned service provider area. The Department of Public Utility
7 Control shall terminate the service agreement between a community
8 antenna television company and any such third-party nonprofit
9 community access provider that does not dedicate channels pursuant
10 to this section or amend the service agreement to require such third-
11 party provider to provide town-specific programming. If the
12 department terminates such an agreement, the department shall
13 reopen the application process to secure a third-party nonprofit
14 community access provider for each of the affected towns within the
15 service area.

16 Sec. 2. Subsection (i) of section 16-331 of the 2008 supplement to the
17 general statutes is repealed and the following is substituted in lieu

18 thereof (*Effective from passage*):

19 (i) Notwithstanding the provisions of subsections (b) and (d) of this
20 section, the department [shall] may not renew a franchise [for a term of
21 more than five years] if the department determines that the person,
22 association or corporation, during the term of the prior franchise, has
23 substantially failed to (1) deal effectively with consumer requests,
24 complaints and billing or service questions and disputes; (2) provide
25 quality and diversity of programming; (3) maintain fair and reasonable
26 rates for basic and extended basic service, and associated equipment,
27 taking into consideration the quality of service and programming
28 provided to consumers; (4) provide quality town-specific community
29 access programming, including public access, educational access,
30 governmental access programming and the Connecticut Television
31 Network or its successor; or (5) meet commitments for service
32 extension to customers within the franchise area. Nothing in this
33 subsection shall authorize the department to set specific rates for
34 service or associated equipment.

35 Sec. 3. Section 16-331a of the 2008 supplement to the general statutes
36 is repealed and the following is substituted in lieu thereof (*Effective*
37 *from passage*):

38 (a) As used in this section, "multichannel video programming
39 distributor" means a multichannel video programming distributor, as
40 defined in 47 CFR 76.1300, as from time to time amended, and includes
41 an owner of an open video system, as defined in 47 CFR 76.1500, as
42 from time to time amended.

43 (b) Each company or organization selected pursuant to subsection
44 (c) of this section, in consultation with the franchise's advisory council,
45 shall provide facilities, equipment, and technical and managerial
46 support to enable the production of meaningful community access
47 programming within its franchise area. Each company shall include all
48 its community access channels in its basic service package. Each
49 company or organization shall annually review its rules, regulations,

50 policies and procedures governing the provision of community access
51 programming. Such review shall include a period for public comment,
52 a public meeting and consultation with the franchise's advisory
53 council.

54 (c) If a community-based nonprofit organization in a franchise area
55 desires to assume responsibility for community access operations, it
56 shall, upon timely petition to the department, be granted intervenor
57 status in a franchise proceeding held pursuant to this section. The
58 department shall assign this responsibility to the most qualified
59 community-based nonprofit organization or the company based on the
60 following criteria: (1) The recommendations of the advisory council
61 and of the municipalities in the franchise area; (2) a review of the
62 organization's or the company's performance in providing town-
63 specific community access programming; (3) the operating plan
64 submitted by the organization and the company for providing
65 community access programming; (4) the experience in community
66 access programming of the organization; (5) the organization's and the
67 company's proposed budget, including expenses for salaries,
68 consultants, attorneys, and other professionals; (6) the quality and
69 quantity of the programming to be created, promoted or facilitated by
70 the organization or the company; (7) a review of the organization's
71 procedures to ensure compliance with federal and state law, including
72 the regulations of Connecticut state agencies; and (8) any other criteria
73 determined to be relevant by the department. If the department selects
74 an organization to provide community access operations, the company
75 shall provide financial and technical support to the organization in an
76 amount to be determined by the department. On petition of the Office
77 of Consumer Counsel or the franchise's advisory council or on its own
78 motion, the department shall hold a hearing, with notice, on the ability
79 of the organization to continue its responsibility for community access
80 operations. In its decision following such a hearing, the department
81 may reassign the responsibility for community access operations to
82 another organization or the company in accordance with the
83 provisions of this subsection.

84 (d) Each company or organization shall conduct outreach programs
85 and promote its community access services. Each organization shall
86 develop a community outreach plan each year detailing how it can
87 better reach and serve the communities in the organization's region.
88 Such outreach and promotion may include, but not be limited to (1)
89 broadcasting cross-channel video announcements, (2) distributing
90 information throughout the franchise area and not solely to its
91 subscribers, (3) including community access information in its regular
92 marketing publications, (4) broadcasting character-generated text
93 messages or video announcements on barker or access channels, (5)
94 making speaking engagements, (6) holding open receptions at its
95 community access facilities, and (7) in multitown franchise areas,
96 encouraging the formation and development of local community
97 access studios operated by volunteers or nonprofit operating groups.

98 (e) Each company or organization shall adopt for its community
99 access programming a scheduling policy which encourages
100 programming diversity. Said scheduling policy shall include (1)
101 limiting a program, except instructional access and governmental
102 access programming, to thirteen weeks in any one time slot when a
103 producer of another program requests the same time slot, (2)
104 procedures for resolving program scheduling conflicts, and (3) other
105 measures which the company or organization deems appropriate. A
106 company or organization may consider the availability of a
107 substantially similar time slot when making community access
108 programming scheduling decisions.

109 (f) In the case of any initial, transfer or renewal franchise proceeding
110 held on or after October 1, 1990, the department may, on its own
111 initiative, in the first six months of the second, fifth, eighth and
112 eleventh years of the franchise term, review and evaluate the
113 company's or the organization's provision of community access
114 programming. The department shall conduct such review or
115 evaluation in any such proceeding held on or after October 1, 1990, if
116 the Consumer Counsel or any interested party petitions the

117 department for such a review during the first six months of the review
118 year. During any such review year, if an organization desires to
119 provide community access operations it shall petition the department
120 and the department shall follow the procedures and standards
121 described in subsection (c) of this section in determining whether to
122 assign to the organization the responsibility to provide such
123 operations. No community access programming produced using the
124 facilities or staff of an organization or company providing community
125 access operations shall be utilized for commercial purposes without
126 express prior written agreement between the producer of such
127 programming and the organization or company providing community
128 access operations the facilities or staff of which were used in the
129 production of the programming. Such an agreement may include,
130 without limitation, a provision regarding the producer and the
131 company or organization sharing any profit realized from such
132 programming so utilized. An organization providing community
133 access operations shall consult with the company in the franchise area
134 prior to making such an agreement.

135 (g) No organization or company providing community access
136 operations shall exercise editorial control over such programming,
137 except as to programming that is obscene and except as otherwise
138 allowed by applicable state and federal law. This subsection shall not
139 be construed to prohibit such organization or company from limiting
140 the hours during which adult programs may be aired. Such
141 organization or company may consult with the advisory council in
142 determining what constitutes an adult program for purposes of this
143 subsection.

144 (h) Upon the request of the Office of Consumer Counsel or the
145 franchise's advisory council, and for good cause shown the department
146 shall require an organization responsible for community access
147 operations to have an independent audit conducted at the expense of
148 the organization. For purposes of this subsection, "good cause" may
149 include, but not be limited to, the failure or refusal of such

150 organization (1) to account for and reimburse the community access
151 programming budget for its commercial use of community access
152 programming facilities, equipment or staff, or for the allocation of such
153 facilities, equipment or staff to functions not directly related to the
154 community access operations of the franchise, (2) to carry over
155 unexpended community access programming budget accounts at the
156 end of each fiscal year, (3) to properly maintain community access
157 programming facilities or equipment in good repair, or (4) to plan for
158 the replacement of community access programming equipment made
159 obsolete by technological advances. In response to any such request,
160 the department shall state, in writing, the reasons for its determination.

161 (i) Each company and nonprofit organization providing community
162 access operations shall report annually to the department on or before
163 February fifteenth. Each company and nonprofit organization
164 providing community access operations shall provide such report to
165 any local government official or representative of a production
166 organization from a municipality within such company's or
167 organization's franchise area. The department shall adopt regulations,
168 in accordance with the provisions of chapter 54, to specify the
169 information which shall be required in such report. Such information
170 shall be necessary for the department to carry out the provisions of this
171 section.

172 (j) The advisory council shall review all community access
173 programming of a company or organization within the franchise area
174 which programming has been the subject of a complaint.

175 (k) The department shall establish the amount that the company or
176 organization responsible for community access operations shall receive
177 for such operations from subscribers and from multichannel video
178 programming distributors. The amount shall be five dollars per
179 subscriber per year, adjusted annually by a percentage reflecting the
180 increase or decrease of the consumer price index for the preceding
181 calendar year, provided the department may increase or decrease the

182 amount by not more than forty per cent of said amount for the
183 subscribers and all multichannel video programming distributors
184 within a franchise area after considering (1) the criteria set forth in
185 subsection (c) of this section, (2) the level of public interest in
186 community access operations in the franchise area, (3) the level of
187 community need for educational access programming, (4) the level and
188 breadth of participation in community access operations, (5) the
189 adequacy of existing facilities, equipment and training programs to
190 meet the current and future needs of the franchise area and the access
191 to such facilities, and (6) any other factors determined to be relevant by
192 the department. Prior to increasing or decreasing said amount, the
193 department shall give notice and opportunity for a hearing to the
194 company or multichannel video programming distributor and, where
195 applicable, the organization responsible for community access
196 programming. The amount shall be assessed once each year for each
197 end user premises connected to an open video system, irrespective of
198 the number of multichannel video programming distributors
199 providing programming over the open video system. When the
200 department issues, transfers or renews a certificate of public
201 convenience and necessity to operate a community antenna television
202 system, the department shall include in the franchise agreement the
203 amount that the company or organization responsible for community
204 access operations shall receive for such operations from subscribers.
205 The department shall conduct a proceeding to establish the amount
206 that the company or organization responsible for community access
207 operations shall receive for such operations from multichannel video
208 programming distributors and the method of payment of said amount.
209 The department shall adopt regulations in accordance with chapter 54
210 to implement the provisions of this subsection.

211 (l) An organization assigned responsibility for community access
212 operations which organization ceases to provide such operations shall
213 transfer its assets to the successor organization assigned such
214 responsibility or, if no successor organization is assigned such
215 responsibility, to another nonprofit organization within the franchise

216 area selected by the department.

217 (m) On petition or its own motion, the department shall determine
218 whether a franchise area is subject to effective competition, as defined
219 in 47 USC 543, as from time to time amended. Upon a determination
220 that a franchise area is subject to effective competition, the provisions
221 of this section shall apply to multichannel video programming
222 distributors operating in the franchise area, provided (1) where
223 multichannel video programming distributors provide programming
224 over a single open video system, the provisions of this section shall
225 apply jointly and not separately to all such distributors providing
226 programming on the same open video system, and (2) the provisions
227 of subsection (k) of this section shall apply to multichannel video
228 programming distributors whether or not such distributors operate in
229 a franchise area subject to such effective competition.

230 (n) No community antenna television company or nonprofit
231 organization providing community access operations shall refuse to
232 engage in good faith negotiation regarding interconnection of such
233 operations with other community antenna television companies
234 serving the same area. No school or facility owned or leased by a
235 municipal government that possesses community access operations
236 equipment shall unreasonably deny interconnection with or the use of
237 such equipment to any such company or nonprofit organization. At
238 the request of such a company or nonprofit organization providing
239 community access operations, the department may facilitate the
240 negotiation between such company or organization and any other
241 community antenna television company regarding interconnection of
242 community access operations.

243 (o) Each company or organization shall consult with its advisory
244 council in the formation of a community access programming policy,
245 the adoption of the community access programming budget and the
246 allocation of capital equipment and community access programming
247 resources.

248 Sec. 4. (NEW) (*Effective from passage*) (a) Local cable access advisory
249 boards shall mediate customer inquiries or complaints regarding
250 public access television within their service areas. Inquiries or
251 complaints may involve public access service, public access funding
252 allocation, access to production studios, quality of programming,
253 availability of town-specific programming and other public access
254 television issues.

255 (b) If any party is unsatisfied with such board's proposed resolution
256 of such inquiry or complaint, such party may bring the party's issue to
257 the Department of Public Utility Control. The department shall adopt
258 regulations in accordance chapter 54 of the general statutes to set forth
259 the manner in which the department shall handle such issues.

260 (c) Not later than January 1, 2009, each community access provider
261 shall notify residents in its service area regarding contact information
262 for the local cable access advisory board.

263 Sec. 5. Subsection (c) of section 16-333 of the general statutes is
264 repealed and the following is substituted in lieu thereof (*Effective from*
265 *passage*):

266 (c) The Department of Public Utility Control shall adopt regulations
267 in accordance with chapter 54 requiring each community antenna
268 television company to maintain at least [one] the number of specially
269 designated, noncommercial community access [channel] channels
270 available to the public that existed as of January 1, 2008, and
271 establishing minimum standards for the equipment supplied by such
272 company for the community access programming and requirements
273 concerning the availability and operation of such channel.

274 Sec. 6. Section 16-331d of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective from passage*):

276 (a) The chief elected official from the town in which a vacant seat
277 exists on a community antenna television advisory council shall

278 appoint a member to fill such vacancy if any other appointing
279 authority fails to make an appointment within six months of the time
280 in which a vacancy occurs.

281 (b) [No] Any member of a community antenna television advisory
282 council [appointed by the chief elected official of a municipality, the
283 board of education or the public libraries shall] may be an employee of
284 a community antenna television company. For the purposes of this
285 subsection, an employee includes any person working full or part time
286 or performing any subcontracting or consulting services for the
287 company.

288 Sec. 7. Section 16-331t of the 2008 supplement to the general statutes
289 is repealed and the following is substituted in lieu thereof (*Effective*
290 *from passage*):

291 (a) A company issued a certificate of cable franchise authority shall,
292 twice a year, convene a meeting with the advisory council established
293 pursuant to its previous certificate of public convenience and necessity
294 issued pursuant to section 16-331 of the 2008 supplement to the general
295 statutes. Members shall be appointed in accordance with section 16-
296 331d. [No] A member of the advisory council [shall] may be an
297 employee of a company providing community antenna television
298 service or video service. For the purposes of this subsection, an
299 employee includes any person working full or part time or performing
300 any subcontracting or consulting services for a company providing
301 community antenna television service or video service.

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

305 (c) Members of the advisory council shall serve without
306 compensation. For the purposes of this section, compensation shall
307 include the receipt of any free or discounted community antenna
308 television service or video service.

309 (d) The Department of Public Utility Control shall designate the
310 advisory council as an intervenor in any contested case proceeding
311 before the department involving the company it advises. Such
312 company shall provide to the chairperson of the advisory council a
313 copy of any report, notice or other document it files with the
314 department in any applicable proceeding.

315 (e) Any company issued a certificate of cable franchise authority
316 shall, every six months, provide on bills, bill inserts or letters to
317 subscribers, a notice indicating the name and address of the
318 chairperson of the advisory council and describing the responsibilities
319 of such advisory council. The advisory council shall have an
320 opportunity to review such notice prior to its distribution.

321 Sec. 8. Section 16-331h of the 2008 supplement to the general statutes
322 is repealed and the following is substituted in lieu thereof (*Effective*
323 *October 1, 2008*):

324 (a) Not later than one hundred twenty days after the certified
325 competitive video service provider begins offering service in a
326 designated area pursuant to its certificate of video franchise authority,
327 such provider shall provide capacity over its video service to allow
328 community access programming, in its basic service package, in
329 accordance with the following: (1) The certified competitive video
330 service provider shall provide capacity equal to the number of
331 community access channels currently offered by the incumbent
332 community antenna television company in the given area; (2) the
333 certified competitive video service provider shall provide funds for
334 community access operations, as provided in subsection (k) of section
335 16-331a of the 2008 supplement to the general statutes; (3) the certified
336 competitive video service provider shall provide the transmission of
337 community access programming [with connectivity up to the first two
338 hundred feet] from the competitive video service provider's activated
339 wireline video programming distribution facility located in the
340 provider's designated service area and shall not provide additional

341 requirements for the creation of any content; and (4) the community
342 access programming shall be submitted to the certified competitive
343 video service provider in a manner or form that is compatible with the
344 technology or protocol utilized by said competitive video service
345 provider to deliver video services over its particular network, and is
346 capable of being accepted and transmitted by the provider. [, without
347 requirement for additional alteration or change in the content by the
348 provider.] The competitive video service provider shall be responsible
349 for any changes in the form of transmission necessary to make it
350 compatible with the technology or protocol used by a competitive
351 video service provider to deliver services. If the competitive video
352 service provider is required to change the form of the transmission, the
353 provider of community access programming shall permit the
354 competitive video service provider to do so in a manner that is most
355 economical to the competitive video service provider.

356 (b) A certified competitive video service provider and a community
357 antenna television company or nonprofit organization providing
358 community access operations shall engage in good faith negotiation
359 regarding interconnection of community access operations where such
360 interconnection is technically feasible or necessary. Interconnection
361 may be accomplished by direct cable, microwave link, satellite or other
362 reasonable method of connection. At the request of a competitive video
363 service provider, community antenna television company or provider
364 of community access operations, the Department of Public Utility
365 Control may facilitate the negotiation for such interconnection.

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

373 Sec. 9. (NEW) (*Effective from passage*) Notwithstanding any order of
374 the Department of Public Utility Control, no community antenna
375 television company or its affiliate shall provide service as a
376 competitive video service provider in any area or municipality where
377 it or an affiliate was providing service as a community antenna
378 television company pursuant to section 16-331 of the 2008 supplement
379 to the general statutes, as amended by this act, on or before October 1,
380 2007.

381 Sec. 10. (NEW) (*Effective from passage*) Any community antenna
382 television company or nonprofit organization providing community
383 access operations that supplied original programming from locally run
384 operations and provided funding to town-specific programming shall
385 continue to fund town-specific programming in such proportions to
386 funding for original programming from locally run operations as of
387 January 1, 2008.

388 Sec. 11. Section 16-331s of the 2008 supplement to the general
389 statutes is repealed and the following is substituted in lieu thereof
390 (*Effective from passage*):

391 (a) A company issued a certificate of cable franchise authority shall
392 be subject to the community access programming and operations
393 provisions set forth in subsections (b) to [(i), inclusive, and subsections
394 (k),] (l), inclusive, and (n) of section 16-331a of the 2008 supplement to
395 the general statutes, as amended by this act, and any regulations
396 pursuant thereto, and subsection (c) of section 16-333, as amended by
397 this act, and any regulations pursuant thereto.

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

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|------------------------|-------------|
| Section 1 | <i>from passage</i> | New section |
| Sec. 2 | <i>from passage</i> | 16-331(i) |
| Sec. 3 | <i>from passage</i> | 16-331a |
| Sec. 4 | <i>from passage</i> | New section |
| Sec. 5 | <i>from passage</i> | 16-333(c) |
| Sec. 6 | <i>from passage</i> | 16-331d |
| Sec. 7 | <i>from passage</i> | 16-331t |
| Sec. 8 | <i>October 1, 2008</i> | 16-331h |
| Sec. 9 | <i>from passage</i> | New section |
| Sec. 10 | <i>from passage</i> | New section |
| Sec. 11 | <i>from passage</i> | 16-331s |

Statement of Purpose:

To improve community access television in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]