

Steeg & Clift, L.L.P.

Attorneys at Law
124 Main Street
Bristol, Connecticut 06010

Jeffrey R. Steeg
Wyland Dale Clift

Of Counsel
Howard R. Steeg
Originator of the Firm 1955

Telephone (860) 583-1316
Facsimile (860) 589-0884

Email address:
JSteeg@SteegCliftLaw.com
WClift@SteegCliftLaw.com

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Energy and Technology Committee
Connecticut General Assembly
Room 3900, Legislative Office Building
Hartford, CT 06106

TESTIMONY ON PROPOSED RAISED BILL, No. 5814, AN ACT CONCERNING
COMMUNITY ACCESS TELEVISION

WITNESS: WYLAND DALE CLIFT – ON BEHALF OF SOUND VIEW COMMUNITY
MEDIA, INC.

Senator John W. Fonfara and Representative Steve Fontana, Co-Chairmen:

REFERENCE SECTIONS 1 and 2 – Lines 1-34.

SECTION 3 – Lines 61-63

Sections 1 and 2 are a direct attack on the quasi-judicial role of one of our most important administrative agencies, the Connecticut Department of Public Utility Control. These provisions will undermine all regulated parties' confidence that the DPUC is a place where disputed administrative matters can be heard fully and fairly, and then decided by an impartial decision-maker without outside political influence. Sound View Community Media, an incumbent community access television organization, followed all proper

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adjudicatory procedures in presenting a case involving a dispute it had with three local municipalities during a recent cable franchise renewal proceeding. The Department heard days of testimony, reviewed voluminous exhibits, and considered several legal briefs and oral arguments in the course of resolving the many legal issues this dispute presented. When the Department rendered its decision, no party got everything it wanted. But the parties did get a detailed and carefully-reasoned decision that provided guidance and principles that would govern the relationship of the parties going forward.

As part of its decision, the Department ordered mediation that was conducted by its Alternative Dispute Resolution Unit. The ADR Unit successfully mediated written agreements between Sound View and two of the three municipalities. Presently, Sound View has a motion pending before the Department asking that the final dispute be resolved. To approve this legislation now will cause legal turmoil that the more deliberative adjudicative process is better equipped to handle. The unintended consequences of passing these provisions is a further complication of an already complex legal environment involving the rights, responsibilities, and duties involving competitive video service providers and the programs their subscribers are entitled to access. We urge you not to take this precipitous action and derail a dispute resolution process at this eleventh hour.

In addition, the bill pre-supposes that there presently is no town-specific dissemination of local government programming in the targeted franchise area. Actually, all of the municipalities presently have this capability and can be made “town-specific.” The largest municipalities, Bridgeport, Stratford and Fairfield, presently do not desire town-specific dissemination. They prefer to be linked together in a way that allows their cable

subscribers access to more programming than if their residents were limited to viewing only what can be produced within their own municipalities.

Sound View is not opposed to Town Specific dissemination where it is desired by the municipality, provided that there is enough original programming to warrant excluding any other programming from being viewed by the municipality's subscribers. However, mandating a particular dissemination pattern for groups of subscribers, whether on a town-specific basis or otherwise, regardless of whether there is enough original programming to warrant "keeping out" programming produced from "outside sources", is inappropriate and suspect. We submit that it is inappropriate for a political subdivision to mandate that only content it creates and produces may be disseminated to those subscribers.

REFERENCE SECTION 3 – Lines 85-87. This provision would mandate an annual community outreach plan, but it is already a requirement that each community access organization's community outreach efforts be included in the annual report required by the Department from each community access provider.

REFERENCE SECTION 3 – Lines 95-97. This provision encourages the formation of additional studios across multi-town franchise areas. While this may be appropriate in certain circumstances, this constitutes a policy preference that does not have universal validity. In many areas of the State, pooling of resources and having conveniently-located, albeit fewer regional studios is the better solution. They generally are better equipped and better staffed due to economies of scale. Encouraging duplication of equipment and other resources so that a particular group has an exclusive facility at its disposal could prove costly,

particularly if each facility is to be adequately staffed. Fewer and busier, professionally-run and technically advanced studios should be encouraged, not discouraged.

REFERENCE SECTION 3 – Lines 163-167. This provision requires each company and nonprofit organization providing community access operations to provide its annual report to any local government official or representative of a production organization. This provision, in addition to being unclear as to what constitutes a “production organization”, is onerous, burdensome and unnecessary. The reports filed annually by companies and organizations are voluminous, often times running hundreds of pages. These reports are already received and posted by the DPUC on its website, and available to anyone with the click of a button.

REFERENCE SECTION 3 – Lines 190-191. This provision adds “and the access to such facilities” to the criteria the Department will consider when deciding the amount of funding the company or organization responsible for community access will receive. When a company or organization presents to the Department its proposal for an access center, the accessibility of the facility has always been considered. In addition, a floor plan and handicapped accessibility are required components of each community access provider’s annual report. This provision is unnecessary.

REFERENCE SECTION 4. Lines 248-262. This provision assigns local cable access advisory “boards” a role in mediating customer inquiries or complaints regarding public access television. The cable access councils particularly are unsuited for this role for the following reasons. (1) Cable councils are comprised of “seats” that are filled by

appointment by the chief elected officials of the franchise towns based on population, plus one appointment by each school board and one appointment by the largest library in the franchise area. Historically, only a handful of the appointments are made, raising the very legitimacy of any actions taken by these councils. (2) The cable council members are volunteers who do not have to demonstrate any knowledge, technical or legal, regarding the issues that they would face. They also generally meet infrequently and have high turnover in membership. In Sound View's own franchise area, historically 50% or more of the advisory council seats have been vacant. The largest municipality, Bridgeport, has been unrepresented on the Council for several years. (3) The cable council members often are active public access producers themselves, which inherently strips them of any impartiality that a mediator would need in order to propose a resolution to a dispute. Their mediations will directly affect their own, personal relationships with the public access organization and/ or its management.

REFERENCE SECTION 6 – Lines 281-287. This provision permits an employee of the cable company to be a member of the cable advisory board. An employee or independent contractor whose livelihood depends on the cable company cannot be expected to be impartial when mediating a subscriber complaint. This is a conflict of interest.

REFERENCE SECTION 7 – Lines 296—301. This provision similarly allows a direct conflict of interest as in Section 6. An employee or independent contractor whose livelihood depends on the cable company or video service provider cannot be expected to be impartial or ever advocate a position that favors a subscriber over a cable company or video service provider.

REFERENCE SECTION 10 – Lines 381-387. This provision forever “locks in” any presently-existing proportionate funding factor for town-specific programming. There would be no ability on the part of a community access provider or the Department to make adjustments in the proportionate allocations for other towns that come “on line” with programming. It further penalizes those towns and cities who presently do not have enough programming to warrant dissemination of their programming on a town-specific basis, but who might later have sufficient programming. This mandates the “status quo” where future flexibility is needed within a very dynamic and changing industry.

Wherefore, in light of the following issues and deficiencies, and the introduction of matters that will have unintended consequences that will further unsettle this already complex area of regulation, we strongly urge rejection of this bill.

Respectfully Submitted,

SOUND VIEW COMMUNITY MEDIA, INC.

BY:  _____

Wyland Dale Clift
of the Law Firm Steeg & Clift, LLP
Its Attorney