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TESTIMONY OF WILLIAM D. DURAND
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NEW ENGLAND CABLE & TELECOMMUNICATIONS ASSOCIATION

THE ENERGY & TECHNOLOGY COMMITTEE

HB 5473: AAC PUBLIC ACCESS OPERATIONS AND THE PERIODIC
REVIEW OF VIDEO PROVIDERS

THURSDAY, MARCH 15, 2012

My name is Bill Durand and I am the Executive Vice President and Chief Legal Counsel for the New England Cable & Telecommunications Association (NECTA). NECTA represents Connecticut's cable companies that compete to provide advanced broadband, voice and video products and services to our state's business and residential consumers. NECTA respectfully submits testimony in opposition to House Bill 5473.

While we have some questions and concerns about several public access (PEG) provisions contained in this bill (most notably Section 4), the primary basis for our opposition relates to the video provider review concept that is contained in Section 1.

Section 1 would mandate that Public Utility Regulatory Authority (PURA) periodically conduct a performance review of each entity holding a video certificate to ensure that these entities are meeting the terms and conditions of their certificates. This review would include, but not be limited to, issues concerning customer service, community access support and management of outages. NECTA strongly opposes the passage of this section for the following reasons:

1) *Competitive Video Market Makes Regulatory Review Unnecessary.*

The Connecticut video marketplace is highly competitive, with customers able to choose from a wide range of different service providers, including cable operators, satellite providers and telephone companies. In order to retain existing customers and attract new ones, these video providers must work to deliver quality products and services each and every day.

2) *Existing Law Provides Authority for Appropriate PURA Oversight.*

In the past, concerns about PEG regulatory oversight have served as the primary basis for establishing this review mechanism. As demonstrated by its recent decision establishing a new comprehensive regulatory review process for PEG providers, PURA already has sufficient authority to exercise such oversight if it believes that facts and circumstances warrant such a review. As for regularly scheduled review, PURA's recent draft decision in Docket 11-08-08 provides that

the "Authority agrees with participants who recommended that hearings should be conducted on an as-needed basis only (Draft Decision at page 5).

3) *PURA Should Have Discretion on Timing & Scope of Review.*

NECTA believes that PURA is in the best position to make informed decisions as to when and how it should exercise its regulatory oversight over video providers. To the best of our knowledge, there is no evidence that suggests that a mandatory industry-wide review process would be the most effective or efficient manner in which to assess the conduct of the state's video providers. Rather, it is more likely that issue-specific or provider-specific reviews that are conducted on a case-by-case basis would be a more appropriate way to conduct such reviews.

4) *Review Unfairly Focuses on One Segment of Video Market.*

Currently, state franchised video providers face significant competition in the marketplace, most notably from satellite video providers who already serve many Connecticut consumers. Dramatic and rapid changes continue to occur in the video marketplace as more and more consumers view video content from so-called over-the-top video providers (delivered over broadband connections) like Netflix, YouTube and Hulu. Both satellite and over-the-top video providers are not subject to any state regulatory oversight. In addition, consumers are continuing to migrate to mobile devices (smart phones & I-Pads) to view video content. In this increasingly diverse competitive market, it is not equitable or appropriate to subject only one segment of providers to costly and burdensome regulatory reviews.

Conclusion

For the reasons outlined in this testimony, NECTA respectfully requests that the Committee should not adopt Section 1 of House Bill 5473