

## **An Act To Support Municipal Franchise Agreements**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 30-A MRSA §3008, sub-§1, ¶C**, as amended by PL 2007, c. 548, §1, is further amended to read:

C. To provide adequate statutory authority to municipalities to make franchising and regulatory decisions to implement this policy and to avoid the costs and uncertainty of lawsuits challenging that authority; ~~and~~

**Sec. 2. 30-A MRSA §3008, sub-§1, ¶D**, as enacted by PL 2007, c. 548, §1, is amended to read:

D. To ensure that all ~~cable television operators~~ video service providers receive the same treatment with respect to franchising and regulatory processes and to encourage new providers to provide competitive pressure on the pricing of such services;

**Sec. 3. 30-A MRSA §3008, sub-§1, ¶E** is enacted to read:

E. Consistent with the applicable requirements of this section, to prohibit a video service provider from offering or providing its services within a municipality unless it has entered into a franchise agreement or contract with the municipality pursuant to this section; and

**Sec. 4. 30-A MRSA §3008, sub-§1, ¶F** is enacted to read:

F. In accordance with the oversight and enforcement authority granted to the Public Utilities Commission pursuant to subsection 8, to provide regulatory oversight of video service providers in the State.

**Sec. 5. 30-A MRSA §3008, sub-§1-A**, as enacted by PL 2007, c. 548, §1, is amended to read:

**1-A. Definitions.** ~~For purposes of~~ As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Cable system operator" has the same meaning as "cable operator," as that term is defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008;

B. "Cable television service" has the same meaning as "cable service," as that term is defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; ~~and~~

C. "Cable television system" has the same meaning as "cable system," as that term is defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008.

D. "Facility support transmission equipment" means the equipment associated with the interconnection between public, educational and governmental facility equipment and the transmission to the headend of a video service provider's system, beginning at the point at which a public, educational and governmental signal enters transmitting equipment, which must be owned, maintained and upgraded for signal quality or other reasons by the video service provider. Any new transmission equipment installed shall be at the current resolution technology afforded to broadcast stations. "Facility support transmission equipment" includes, but is not limited to, the equipment and facilities associated with signal transmission and carriage methodologies employed to send, receive, manage, troubleshoot and maintain audio and video signals; all physical wires, fiber lines and related connectivity medium or device; and all equipment associated with the formatting of public, educational and governmental programming for transmission to a video service subscriber.

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E. "Public, Educational and Governmental (PEG) facility equipment" means, with respect to any public, educational and governmental access channel, the equipment used to capture and process programming in the field or PEG studio including all equipment used prior to the point at which that signal enters the private network of the video service provider.

F. "Public, educational and governmental programming" means content produced or provided by any person, group or public or private agency or organization that is used in conjunction with public, educational and governmental access channels and facility support equipment.

G. "Public, educational and governmental signal" means any transmission of electromagnetic or optical energy that carries audio or video from one location to another for the purposes of providing public, educational and governmental programming.

H "Video service provider" means any person that sells in the State access to video, audio or computer-generated or computer-augmented entertainment services and, directly or through one or more affiliates, owns or operates facilities located in whole or in part in public rights-of-way that are used to provide such services, irrespective of the technology used to deliver such services. "Video service provider" includes, but is not limited to, a cable system operator and a common carrier that operates a cable television system.

"Video service provider" does not include:

- (1) A commercial mobile service provider, as defined in 47 United States Code, Section 332(d); or
- (2) A provider of an Internet access service, as defined in 47 United States Code, Section 231(e)(4), with respect to the provision of the Internet access service by the provider.

**Sec. 6. 30-A MRSA §3008, sub-§3, ¶B,** as amended by PL 2007, c. 548, §1, is further amended to read:

B. Notwithstanding any provision in a franchise, a ~~cable system operator~~ video service provider may not abandon service or a portion of that service without having given 6 months' prior written notice to the franchising municipality, if any, and to the municipalities affected by that abandonment. When abandonment of any service is prohibited by a municipal franchise, a ~~cable system operator~~ video service provider may not abandon that service without written consent of the municipal officers. Any ~~cable system operator~~ video service provider that violates this paragraph commits a civil violation for which a fine of \$50 a day for each day that the violation continues may be adjudged.

**Sec. 7. 30-A MRSA §3008, sub-§3, ¶C,** as amended by PL 2007, c. 548, §1, is further amended to read:

C. Neither the ~~cable system operator~~ video service provider whose ~~facilities are~~ facility support transmission equipment is used to transmit a program produced by a person other than that ~~operator~~ provider, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any ~~such cable system operator~~ that provider are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that ~~cable system operator~~ provider does not originate or produce the program.

**Sec. 8. 30-A MRSA §3008, sub-§3, ¶F,** as enacted by PL 2019, c. 308, §1, is amended to read:

F. Notwithstanding any provision in a franchise, a ~~cable system operator~~ video service provider shall offer subscribers the option of purchasing access to cable channels, or programs on cable channels, individually.

**Sec. 9. 30-A MRSA §3008, sub-§3, ¶G** is enacted to read:

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G. Notwithstanding any provision in a franchise, a video service provider is responsible for all costs associated with PEG facility equipment shown by the franchising municipality to be reasonably necessary in light of community needs and interests for the capture, processing and delivery to the video service provider of public, educational and governmental access channels within the franchising municipality, including, but not limited to, technology upgrade costs for signal quality improvement or for other reasons. A video service provider may not offset any such costs through the payment of any franchise fees in accordance with 30-A MRSA §3008, subsection 5-A. but may recover such costs from subscribers to the extent permitted by applicable law as negotiated with the municipality. This section does not apply to section 5, 30-A, §3008, sub-§1-A Definitions, ¶ D Facility Support Transmission Equipment which is owned and maintained by the Video Service Provider.

**Sec. 10. 30-A MRSA §3008, sub-§4**, as amended by PL 2007, c. 548, §1, is further amended to read:

**4. Franchise procedures.** Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting franchises to ~~cable system operators~~ video service providers. These ordinances must be enacted before granting any such franchise or franchises and must be designed to ensure that the terms and conditions of a franchise will adequately protect the needs and interests of the municipality. The ordinances must include, but are not limited to, provisions for the following:

- A. A mechanism for determining special local needs or interests before issuing a request for proposals, whether by actively seeking to determine those needs or interests or by allowing a period for public comment on a proposed request for proposals;
- B. The filing of franchise applications and related documents as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours;
- C. A reasonable opportunity for public input before granting franchises; and
- D. The assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications.

**Sec. 11. 30-A MRSA §3008, sub-§5**, as amended by PL 2019, c. 245, §§1 to 3, is further amended to read:

**5. Franchise agreements or contracts.** The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as ~~are in the best interests of the municipality~~ provided for under this subsection, including the grant of ~~exclusive or~~ nonexclusive franchises for a period not to exceed 15 years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, ~~along in~~ public ways and including contracts with ~~cable system operators~~ video service providers that receive the services of television signal transmission offered by any public utilities using public ways for such transmission. A video service provider may not offer or provide its services within a municipality unless it has entered into a franchise agreement or contract with the municipality pursuant to this subsection. A public utility may not be required to contract with the municipal officers under this subsection. Each franchise must contain the following provisions:

- A. The area or areas to be served;
- B. A line extension policy, which must specify a minimum density requirement of no more than 15 residences per linear strand mile of aerial cable for areas in which the ~~cable system operator~~ video service provider will make cable television service available to every residence with no mandatory preconditions, and a strand mile is measured from the end of the current cable system strand installation;

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C. A provision for renewal, the term of which may not exceed 15 years. A provision for automatic renewal or other provision for extending the initial term is prohibited. Franchise renewal is governed by section 3010, subsection 5-C;

'C-1. Provisions regarding the payment or remittance of any franchise fees by the video service provider as may be required under the agreement or contract between the municipality and the video service provider and in accordance with subsection 5-A;'

D. Procedures for the investigation and resolution of complaints by the ~~cable system operator~~ video service provider;

D-1. A provision for the use and support of public, educational and governmental access channels, which must be carried in the same manner and numerical location sequence as are the local broadcast channels originating from the State and carried on the cable television system pursuant to section 3010, subsection 5-A; and

E. Any other terms and conditions that are in the best interests of the municipality.

**Sec. 12. 30-A MRSA §3008, sub-§5-A** is enacted to read:

**5-A. Franchise fees.** Beginning January 1, 2024, any new or renewed franchise agreement or contract between a municipality and a video service provider that includes provisions requiring payment of any franchise fees by the video service provider to the municipality must include the following provisions.

A. The municipality must be authorized to use the fees for costs associated with the regulation of the operation of the video service provider within the municipality; to support the provision of public, educational and governmental programming within the municipality; to offset municipal property taxes; or for any other purpose identified by the municipality.

B. The fees must be paid by the video service provider to the municipality or its designee on a quarterly basis and must be received by the municipality or designee no later than 45 days after the end of the calendar quarter for which the payment is made. The repeated failure to timely pay such fees as stipulated is a material breach of the terms of the franchise agreement or contract. If the video service provider fails to timely pay the fees to the municipality or its designee:

(1) Interest must accrue on the required, unpaid fees at the rate of 12% simple interest per annum; and

(2) The municipality may at its discretion terminate the agreement or contract for the repeated failure of the video service provider to timely pay such fees.

C. Each payment under paragraph B must include a statement prepared by a financial representative or agent of the video service provider, testified and verified as correct, identifying the total amount of gross annual revenue generated by all activities of the provider within the municipality for that payment period and describing the calculations used to determine the amount of the payment. The video service provider shall prepare and maintain the financial information and records necessary to provide the information required under this paragraph in accordance with accounting principles and auditing standards generally accepted within the video service industry.

D. The municipality may request that the information provided by the video service provider pursuant to paragraph C be subject to audit by a qualified 3rd party to be selected by the municipality. The costs of the audit are to be paid by the municipality except when the results of the audit demonstrate that the video service provider underpaid by more than 4%, any franchise fees required under the franchise agreement or contract, in which case the video service provider must reimburse the municipality for the costs of the audit.

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E. A municipality's or its designee's acceptance of franchise fees paid by the video service provider does not constitute an agreement by the municipality that the amount of the fee is correct unless the municipality has not initiated a process to challenge or audit the amount of the fee paid within 36 months of receipt or, in the case of a fee not accompanied by a statement under paragraph C that is verified as correct, 48 months of receipt. Prior to the expiration of such time period, the municipality may inspect relevant financial information and records of the video service provider and initiate a process to seek compensation for any underpayment.'

**Sec. 13. 30-A MRSA §3008, sub-§7**, as amended by PL 2019, c. 245, §4, is further amended to read:

**7. Model franchise agreement.** The Department of Administrative and Financial Services, Office of Information Technology, or a successor state agency, referred to in this subsection as "the office," shall develop and may update and amend a model franchise agreement for use by any municipality and any ~~cable system operator~~ video service provider that mutually choose to adopt the model franchise agreement or any of its provisions. A ~~cable system operator~~ video service provider may not modify or amend the model franchise agreement without the consent of the municipality. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

- A. Franchise fees;
- B. Build-out requirements;
- C. Public, educational and governmental access channels and reasonable facility support equipment for such channels;
- D. Customer service standards;
- E. The disparate needs of the diverse municipalities in this State; and
- F. The policy goal of promoting competition in the delivery of ~~cable television~~ video service.

This subsection does not allow the office to establish prices for any video service or to regulate the content of ~~cable television~~ video services.

**Sec. 14. 30-A MRSA §3008, sub-§8** is enacted to read:

**8. Oversight and enforcement; rulemaking.** Except as provided in subsection 9, the Public Utilities Commission shall oversee and enforce the provisions of this section and may adopt rules as necessary for those purposes. Rules adopted by the Public Utilities Commission pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 15. 30-A MRSA §3008, sub-§9** is enacted to read:

**9. Authorized judicial actions; statute of limitations.** In accordance with the authority provided in Title 5, chapter 10, the Attorney General may bring an action to enforce the provisions of this section, including, but not limited to, an action to recover any unpaid franchise fees and an action to enjoin the operation of an entity not in compliance with the requirements of this section.

A municipality that has suffered an adverse impact due to the action of an entity not in compliance with the requirements of this section may bring an action against that entity to recover any unpaid franchise fees or to enjoin the operation of that entity.

Notwithstanding any provision of law to the contrary, an action brought under this section must be commenced within 7 years of the date that the cause of action arose.

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**Sec. 16. 30-A MRSA §3010**, as amended by PL 2019, c. 657, §§1 and 2, is further amended by amending the section headnote to read:

**§3010. Consumer rights and protection relating to ~~cable television service~~ services provided by video service providers**

**Sec. 17. 30-A MRSA §3010, first ¶**, as amended by PL 2019, c. 245, §5, is further amended to read:

This section applies to every franchisee. For purposes of this section, "franchisee" means a ~~cable system operator~~ video service provider that is granted a franchise by a municipality in accordance with section 3008. For purposes of this section, "cable system operator," ~~and~~ "cable television service" ~~and~~ "video service provider" have the same meanings as in section 3008, ~~subsection 1-A~~, except that "cable system operator" "video service provider" includes a cable system operator that is a multichannel video programming distributor as defined in 47 United States Code, Section 522(13). For purposes of this section, "originator" means a local unit of government or the entity to which a local unit of government has assigned responsibility for managing public, educational and governmental access channels.

**Sec. 18. 30-A MRSA §3010, sub-§1**, as amended by PL 2007, c. 548, §2, is further amended to read:

**1. Credits and refunds for interruption of service.** Credits and refunds for interruption of ~~cable television service of~~ video services provided by a franchisee must be as follows.

- A. In the event service to any subscriber is interrupted for 6 or more consecutive hours in a 30-day period, the franchisee will, upon request, grant that subscriber a pro rata credit or rebate.
- B. An office of the franchisee must be open during usual business hours, have a listed toll-free telephone and be capable of receiving complaints, requests for adjustments and service calls.
- C. The franchisee shall provide subscribers with 30 days' advance written notice of an increase in rates, changes in billing practices, the movement of a channel to a different location or service tier or the deletion of a channel.

**Sec. 19. 30-A MRSA §3010, sub-§2**, as amended by PL 2007, c. 548, §2, is further amended to read:

**2. Notice to subscribers regarding quality of service.** Notice to subscribers regarding quality of service must be as follows.

- A. For each new subscriber, and annually thereafter, every franchisee shall cause to be mailed to each of its subscribers a notice that:
  - (1) Informs subscribers of how to communicate their views and complaints to the ~~cable system operator~~, video service provider, the proper municipal official, and to the Attorney General;
  - (2) States the responsibility of the Department of the Attorney General to receive, investigate and resolve consumer complaints or complaints raised by the franchising authority under section 3008 concerning matters other than ~~channel selection~~ program choices and rates;
  - (3) States the policy regarding and method by which subscribers may request rebates or pro rata credits as described in subsection 1, paragraph A; and
  - (4) Informs subscribers of their right to request basic-tier, non-premium programming service and the cost of that service.

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B. The notice must be in nontechnical language, understandable by the general public and in a convenient format. On or before January 30th of each year, the franchisee shall certify to the franchising authority and to the Public Utilities Commission, and the Department of the Attorney General that it has distributed the notice during the previous calendar year as required by this section.

**Sec. 20. 30-A MRSA §3010, sub-§5**, as amended by PL 2007, c. 548, §2, is further amended to read:

**5. Franchises.** All franchises must be nonexclusive. All franchises must include provisions for access to, ~~and facilities~~ facility support transmission equipment and PEG facility equipment necessary to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or related requirements or regulations of the Federal Communications Commission.

As used in this subsection, "facility support transmission equipment" and "PEG facility equipment" has the same meaning as in section 3008, subsection 1-A, paragraph D and E.

**Sec. 21. 30-A MRSA §3010, sub-§5-A**, as enacted by PL 2019, c. 245, §6, is amended to read:

**5-A. Public, educational and governmental access channels.** A ~~cable system operator~~ video service provider shall carry public, educational and governmental access channels on the ~~cable system operator's~~ provider's basic cable or video service offerings, ~~or tiers, or apps.~~ A ~~cable system operator~~ video service provider may not separate public, educational and governmental access channels numerically from other local broadcast channels carried on the ~~cable system operator's~~ provider's basic cable or video service offerings or tiers and, in the event of a franchise license transfer, shall use the same channel numbers for the public, educational and governmental access channels as used for those channels by the incumbent ~~cable system operator~~ video service provider, unless prohibited by federal law. After the initial designation of public, educational and governmental access channel numbers, a ~~cable system operator~~ video service provider may not change the channel numbers without the agreement of the originator, unless the change is required by federal law.

A ~~cable system operator~~ video service provider shall restore a public, educational or governmental access channel that has been moved without the consent of the originator within the 24 months preceding the effective date of this subsection to its original location and channel number within 60 days after the effective date of this subsection.

**Sec. 22. 30-A MRSA §3010, sub-§5-B**, as enacted by PL 2019, c. 245, §6, is amended to read:

**5-B. Transmission.** A ~~cable system operator~~ video service provider shall retransmit public, educational and governmental access channel signals in the format in which they are received from the originator and at the same signal quality as that provided to all subscribers of the cable television service for local broadcast channels. A ~~cable system operator~~ video service provider may not diminish, down convert or otherwise tamper with the signal quality or format provided by the originator. A ~~cable system operator~~ video service provider shall deliver a public, educational or governmental access channel signal to the subscriber in a quality and format equivalent to the quality and format of local broadcast channel signals carried on the cable television service if provided as such by the originator. A ~~cable system operator~~ video service provider shall carry each public, educational or governmental access channel in both a high definition format and a standard digital format in the same manner as that in which local broadcast channels are provided, unless prohibited by federal law.

A ~~cable system operator~~ video service provider, when requested, shall assist in providing the originator with access to the entity that controls the cable television service's electronic program guide so that subscribers may view, select and record public, educational and governmental access channels in the

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same manner as that in which they view, select and record local broadcast channels. In addition, a ~~cable system operator~~ video service provider shall identify public, educational and governmental access channels on the electronic program guide in the same manner as that in which local broadcast channels are identified. This subsection does not obligate a ~~cable system operator~~ video service provider to list public, educational and governmental access channel content on channel cards and channel listings. If channels are selected by a viewer through a menu system, the ~~cable system operator~~ video service provider shall display the public, educational and governmental access channels' designations in a similar manner as that in which local broadcast channel designations are displayed.

A ~~cable system operator~~ video service provider shall make available to the originator a toll-free telephone number with a direct line to a service technician who is familiar with the signal path and equipment associated with public, educational and governmental access channels on the cable television system for resolution of a signal quality problem.

**Sec. 23. 30-A MRSA §3010, sub-§5-C**, as enacted by PL 2019, c. 245, §6, is amended to read:

**5-C. Franchise renewals.** The franchise renewal process must be conducted in compliance with 47 United States Code, Section 546 and this subsection.

A. A ~~cable system operator~~ video service provider shall maintain adequate personnel and resources to respond to municipal requests for renewal information in a timely manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade Practices Act.

B. If an automatic renewal provision exists in a franchise agreement on the effective date of this subsection, the automatic renewal provision remains in effect until that franchise agreement expires. The ~~cable system operator~~ video service provider shall notify the franchising authority of the automatic renewal no later than 36 months in advance of the expiration of the franchise.

C. A municipality may require maps, diagrams, annual reports and franchise fee statements at renewal, which the ~~cable system operator~~ video service provider shall make available upon reasonable notice. If information is proprietary, the municipality may execute a nondisclosure agreement with the ~~cable system operator~~ video service provider.

**Sec. 24. 30-A MRSA §3010, sub-§6**, as amended by PL 2007, c. 548, §2, is further amended to read:

**6. Rights of individuals.** A ~~cable system operator~~ video service provider may not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, race, religion, sex, physical handicap or country of natural origin.

**Sec. 25. 30-A MRSA §3010, sub-§6-A**, as amended by PL 2007, c. 548, §2, is further amended to read:

**6-A. Subscriber privacy.** A ~~cable system operator~~ video service provider may not intrude upon the privacy of a subscriber by installing or using any equipment that allows the ~~cable system operator~~ video service provider to observe or to listen to what is occurring in an individual subscriber's household or to monitor the viewing habits of the subscriber without express, prior written consent of the subscriber. A ~~cable system operator~~ video service provider may not sell, disclose or otherwise make available, or permit the use of, lists of the names or addresses of its subscribers, or any list or other information that identifies by name or address subscribers or subscriber viewing habits, to any person or agency for any purpose whatsoever without the prior written consent of the subscriber except that the ~~cable system operator~~ video service provider may make such lists available to persons performing services for the ~~cable system operator~~ video service provider in connection with its business or operations, such as a billing service,



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when the availability of such lists is necessary to the performance of such services if, in either case, the persons or entity receiving such lists agree in writing that they will not permit them to be made available to any other party.

**Sec. 26. 30-A MRSA §3010, sub-§6-B**, as amended by PL 2007, c. 548, §2, is further amended to read:

**6-B. Late fees.** A ~~cable system operator~~ video service provider may not charge a late fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of the amount due in the bill. If the bill includes separate charges for different levels of service, a late fee or other penalty or charge must be calculated on the total amount overdue for all levels of service and may not be calculated separately for each level of service. A payment is not late under this subsection until at least 30 days after those services to which the late fee applies have been received by the consumer.

**Sec. 27. 30-A MRSA §3010, sub-§8**, as enacted by PL 2007, c. 548, §2, is amended to read:

**8. Filing of franchise agreements.** A ~~cable system operator~~ video service provider that maintains a publicly accessible website shall post on that website a copy of the most recently executed franchise agreement for each franchise that it has been granted by a municipality in the State.

**Sec. 28. 35-A MRSA §102, sub-§13**, as amended by PL 2019, c. 298, §1, is further amended to read:

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, video service provider, utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature; [PL 1991, c. 342, §2 (RPR).]

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services; [PL 1991, c. 342, §2 (RPR).]

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and [PL 1991, c. 342, §2 (RPR).]

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility

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to a company providing radio paging or mobile telecommunications services. [PL 1991, c. 342, §2 (RPR).]

[PL 2019, c. 298, §1 (AMD).]

**Sec. 29. 35-A MRSA §102, sub-§21-B** is enacted to read:

21 21-B. Video service provider. "Video service provider" has the same meaning as in 22 Title 30-A, section 3008, subsection 1-A, paragraph H.'

**Sec. 30. 35-A MRSA §103, sub-§2, ¶E** is enacted to read:

E. The commission shall enforce the provisions of Title 30-A, section 3008.

**Sec. 31. 35-A MRSA §116**, as amended by PL 2019, c. 226, §1 and c. 298, §2, is further amended to read:

**§116. Funding of the commission**

**1. Entities subject to assessments.** Every transmission and distribution, gas, telephone and water utility, video service provider and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility, video service provider or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility, video service provider or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's, video service provider's or qualified telecommunications provider's gross intrastate operating revenues. The commission shall determine the assessments annually prior to May 1st and assess each utility, video service provider or qualified telecommunications provider for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility, video service provider or qualified telecommunications provider shall pay the assessment charged to the utility, video service provider or qualified telecommunications provider on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities, video service providers and qualified telecommunications providers under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means:

(1) In the case of all utilities except telephone utilities, revenues derived from filed rates except revenues derived from sales for resale;

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(2) In the case of a telephone utility, all intrastate revenues, except revenues derived from sales for resale, whether or not the rates from which those revenues are derived are required to be filed pursuant to this Title; and

(3) In the case of a video service provider or a qualified telecommunications provider, all intrastate revenues except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not subject to any assessment.

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities, video service providers or qualified telecommunications providers in the current year.

E. The commission may exempt utilities, video service providers or qualified telecommunications providers with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

For purposes of this section, "video service provider" has the same meaning as in Title 30-A, section 3008, subsection 1-A, paragraph H and "qualified telecommunications provider" means a provider of interconnected voice over Internet protocol service that paid any assessment under this subsection, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012.

**3. Deposit of funds.** All revenues derived from assessments levied against utilities, video service providers or qualified telecommunications providers described in this section must be deposited with the Treasurer of State in a separate account to be known as the Public Utilities Commission Regulatory Fund.

**Sec. 32. 35-A MRSA §2503, sub-§20**, as amended by PL 1995, c. 254, §5, is further amended to read:

**20. Exclusive method.** Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply with or be subject to any other law, including, but not limited to, Title 30-A, chapter 165 provided, however, that a person subject to Title 30-A, section 3008 must comply with the requirements of that section with respect to the location of its facilities.

**Sec. 33. 35-A MRSA §8303** is enacted to read:

**§8303. Dispute resolution; cable television franchises**

**1. Petition.** If a municipality has entered into a franchise agreement or contract with a video service provider pursuant to Title 30-A, section 3008, subsection 5 and the municipality or provider disputes their respective obligations under that agreement or contract, the municipality or provider may petition the commission under this section to investigate and resolve the dispute or request binding arbitration by a mutually agreed upon arbitrator from the Maine Association of Mediators. The arbitration shall be conducted consistent with the general procedures set forth in sections 5931 to 5948 of the Maine Uniform Arbitration Act, 14 MRSA §§ 5931-5948. If the municipality and the provider are unable to agree on an arbitrator, they may request that the Maine Association of Mediators select an arbitrator.

**2. Commission procedure.** If the commission receives a petition pursuant to subsection 1, it shall investigate the dispute and, in an adjudicatory proceeding, may issue an order directing the parties to take any actions the commission finds reasonable to resolve the dispute.

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As used in this section, "video service provider" has the same meaning as in Title 30-A, section 3008, subsection 1-A, paragraph H.

**Sec. 34. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities - Administrative Division 0184**

Initiative: Provides allocations for \_\_\_ Staff Attorney and \_\_\_ Utility Analyst positions and related All Other costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
5POSITIONS - LEGISLATIVE COUNT		
Personal Services		
All Other		
<b>OTHER SPECIAL REVENUE FUNDS</b>	_____	_____
<b>TOTAL</b>		

[First year estimated cost per subscriber: \_\_\_ cents per month based on current 300,000 cable subscribers, less as additional VSP's are franchised and regulated.]

**Fiscal Detail and Notes**

This bill defines video service providers as public utilities and subjects them to oversight by the Public Utilities commission (PUC) in compliance with the Telecommunications Act, Federal and State Statutes relating to cable TV and other Video Service Providers. The PUC has indicated that the additional regulatory activity of this oversight will require additional staffing. The bill includes ongoing allocations to the PUC of \$\_\_\_\_\_ starting in fiscal year 2023-24 for \_\_\_ Staff Attorney positions, \_\_\_ Utility Analyst positions and associated All Other costs. Since the PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC, the increased allocations in this bill require a corresponding increase in revenue from the assessment on the intrastate gross operating revenues of video service providers. The bill allows the PUC to collect this assessment in the same manner as it does with other public utilities.

**SUMMARY**

This bill amends the State's laws governing municipal cable television systems ordinances as follows.

1. It adds definitions for the terms "facility support transmission equipment"; "public, educational and governmental facility equipment"; "public, educational and governmental programming," "public, educational and governmental signal" and Video Service Provider."
2. It clarifies the responsibility of a video service provider with respect to the costs associated with public, educational and governmental facility transmission equipment. It amends those laws to clarify the regulation under those laws of video service providers, which included cable system operators.
3. It removes language authorizing municipalities to enter into exclusive franchise agreements or contracts with a video service provider.

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4. It prohibits video service providers from providing services within a municipality unless the provider has entered into a franchise agreement or contract with that municipality and is licensed by the PUC.
5. It requires all Video Service providers to carry public, educational and governmental access channels on the provider's basic cable or video service offerings, tiers or apps.
6. It eliminates mandatory preconditions for implementing the 15 residences per linear strand mile.
7. It makes a technical correction to a provision in statute relating to liability of certain entities with respect to obscene or defamatory statements or actions or invasion of privacy occurring during any program.
8. It requires video service providers to pay the franchise fee on a quarterly basis to each municipality with which it has such fee requirement.
9. It clarifies that all costs associated with public, educational and governmental facility equipment used for the operation of public, educational and governmental access channels within a franchising municipality, including technology upgrade costs for signal quality improvement, are the responsibility of the video service provider that holds the franchise agreement. The video service provider may not offset such costs through the payment of required franchise fees but may recover such costs through other means as permitted by law with the exception of Facility Support Transmission Equipment which is the responsibility of the Video Service Provider.
10. It authorizes the Public Utilities Commission to oversee and enforce provisions relating to the municipal franchising of video service providers and authorizes the Public Utilities Commission to offset its oversight and enforcement costs related to video service providers through an assessment on the intrastate gross operating revenues of video service providers in the same manner that the commission requires the payment of such assessments by public utilities.
11. It authorizes the Attorney General to bring an enforcement action against a noncompliant video service provider in accordance with its authority under the Maine Unfair Trade Practices Act. It also authorizes a municipality to bring a similar enforcement action. Both types of actions must be brought within 7 years of the date the cause of action arose.
12. It clarifies that the consumer protection provisions in law currently available to consumers with respect to cable television service apply to the services provided by video service providers.
13. It excludes from otherwise applicable permitting requirements under the laws regulating facilities in the public way the provision of services by a video service provider that are instead regulated under the laws governing municipal cable television systems ordinances, as amended by this legislation.
14. It establishes a dispute resolution process, to be overseen by the Public Utilities Commission, for disputes that arise between a franchising municipality and a video service provider over their respective obligations under a franchise contract or agreement and may be arbitrated under the provisions of the Maine Uniform Arbitration Act.