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An Act To Ensure Nondiscriminatory Treatment of Public, Educational and Governmental Access Channels by Cable System Operators

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

Sec. 1. 30-A MRSA §3008, sub-§5, ¶¶B and C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

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 will make cable television service available to every residence;

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;

Sec. 2. 30-A MRSA §3008, sub-§5, ¶D, as amended by PL 2007, c. 548, §1, is further amended to read:

D. Procedures for the investigation and resolution of complaints by the cable system operator; and

Sec. 3. 30-A MRSA §3008, sub-§5, ¶D-1 is enacted to read:

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

Sec. 4. 30-A MRSA §3008, sub-§7, as enacted by PL 2007, c. 548, §1, is 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 that mutually choose to adopt the model franchise agreement or any of its provisions. A cable system operator 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 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 service.

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

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

This section applies to every franchisee. For purposes of this section, "franchisee" means a cable system operator 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" have the same meanings as in section 3008, except that "cable system operator" includes 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. 6. 30-A MRSA §3010, sub-§§5-A, 5-B and 5-C are enacted to read:

5-A. Public, educational and governmental access channels. A cable system operator shall carry public, educational and governmental access channels on the cable system operator's basic cable or video service offerings or tiers. A cable system operator may not separate public, educational and governmental access channels numerically from other local broadcast channels carried on the cable system operator'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, unless prohibited by federal law. After the initial designation of public, educational and governmental access channel numbers, a cable system operator may not change the channel numbers without the agreement of the originator, unless the change is required by federal law.

A cable system operator 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.

5-B. Transmission. A cable system operator 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 may not diminish, down convert or otherwise tamper with the signal quality or format provided by the originator. A cable system operator 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 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, 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 same manner as that in which they view, select and record local broadcast channels. In addition, a cable system operator 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 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 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 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.

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 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 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 shall make available upon reasonable notice. If information is proprietary, the municipality may execute a nondisclosure agreement with the cable system operator.

Sec. 7. Automatic renewal. Notwithstanding the Maine Revised Statutes, Title 30-A, section 3010, subsection 5-C, paragraph B, an automatic renewal provision in a franchise agreement in effect between a municipality and a cable system operator on the effective date of this Act remains in effect if the renewal date is less than 36 months after the effective date of this Act.

SUMMARY

This bill extends cable television service to rural areas by requiring all cable television franchises to provide line extensions with a minimum homes-per-mile requirement not to exceed 15 homes per mile.

The bill prohibits automatic franchise renewals beyond the initial term of the franchise renewal period, except for automatic franchise renewals in effect on the effective date of this legislation, which require advance notification of expiration from the cable system operator to the municipality. A cable system operator may not refuse to provide the municipality with required information to complete the renewal process.

The bill prohibits a cable system operator from modifying or amending the State's model franchise agreement without the consent of the municipality as arrived at during negotiations.

The bill includes provisions for the use and support of public, educational and governmental access channels and requires that these channels be placed in the same numerical sequence location as the local commercial network broadcast channels. The bill also requires all cable system operators in the State to carry public, educational and governmental access channels on the basic cable or video service offerings or tiers and specifies that the channels may not be separated or moved numerically from other channels carried on the basic cable or video service offerings or tiers without the agreement of the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels, unless the change is required by federal law. In the event of transfer of the franchise license, the same channel numbers used by the incumbent cable system operator must be retained. The bill provides that any public, educational or governmental access channel that has been moved within the 24 months preceding the effective date of this legislation and without the consent of the originator must be restored within 60 days to its original location and number.

The bill requires all cable system operators in the State to work with the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels to ensure that the signal sent from the point of origination to the cable system operator and delivered to the cable subscriber is of the same quality and format as originally created. A cable system operator is required to set up a toll-free telephone number for requests to resolve a signal quality problem.

The bill requires all cable system operators in the State to provide the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels access to the entity that controls the electronic program guides in the same manner as the local broadcast channels if requested by the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels. In addition, if channels are selected through a menu system, public, educational and governmental access channel designations must be displayed in a similar manner as local broadcast channel designations on the electronic program guide are displayed.