



CHAPTER 83

AN ACT concerning the regulation of cable television service, amending and supplementing P.L.1972, c.186 (C.48:5A-1 et seq.) and amending P.L.1985, c.356, P.L.1991, c.412, and P.L.2003, c.38.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1972, c.186 (C.48:5A-2) is amended to read as follows:

C.48:5A-2 Legislative findings, determinations, and declarations.

2. The Legislature finds, determines and declares:

a. That, after careful investigation, it appears that the rates, services and operations of cable television companies in this State are affected with a public interest;

b. That it should be, and is hereby declared, the policy of this State to provide fair regulation of cable television companies in the interest of the public;

c. That the objects of such regulation are (1) to promote adequate, economical and efficient cable television service to the citizens and residents of this State, (2) to encourage the optimum development of the educational and community-service potentials of the cable television medium, (3) to provide just and reasonable rates and charges for cable television system services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices, (4) to promote and encourage harmony between cable television companies and their subscribers and customers, (5) to protect the interests of the several municipalities of this State in relation to the issuance of municipal consents for the operation of cable television companies within their several jurisdictions, and to secure a desirable degree of uniformity in the practices and operations of cable television companies in those several jurisdictions; and (6) to cooperate with other states and with the Federal Government in promoting and coordinating efforts to regulate cable television companies effectively in the public interest;

d. That to secure such regulation and promote the objectives thereof, authority to regulate cable television companies generally, and their rates, services and operations, in the manner and in accordance with the policies set forth in P.L.1972, c.186 (C.48:5A-1 et seq.) (the "act"), shall be vested in the Board of Public Utilities;

e. That the Federal Communications Commission (the "FCC") reported in its 2005 assessment of video programming competition that increased competition in the multichannel video programming distributor ("MVPD") market has led to improvements in cable television services, including more channels of video programming and increased service options for consumers, and in the case of facilities-based competition, lower prices for customers;

f. That, as a result of ongoing technological innovations, non-traditional providers of MVPD services such as local telephone common carriers are offering or preparing to offer MVPD services over existing telephone lines or over newly-installed high-speed fiber lines to customers in their local telephone service areas, and such developments have the potential for stimulating additional competition in the MVPD market that should lead to further improvements for MVPD customers;

g. That, in order to afford an equal opportunity for non-traditional MVPD providers such as local telephone common carriers to compete with existing providers, and to ensure that customers receive the benefits of a more competitive MVPD market, it is in the public interest to encourage common carriers to enter the MVPD market by adapting the existing regulatory framework to the changed circumstances brought about by recent technological

developments while allowing the State to retain its necessary and appropriate regulatory oversight with regard to consumer protection and customer service elements; and

h. That nothing in this act shall be seen to limit or otherwise reduce the protection afforded to cable television customers, and it is in the public interest to include additional provisions in this act to ensure that customers continue to be provided a high level of consumer protection and customer service in a more competitive MVPD market.

2. Section 3 of P.L.1972, c.186 (C.48:5A-3) is amended to read as follows:

C.48:5A-3 Definitions.

3. As used in this act, except as the context may otherwise clearly require or indicate:

a. "Board" means the Board of Public Utilities.

b. "Office" means the Office of Cable Television established by the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.).

c. "Director" means the Director of the Office of Cable Television.

d. "Cable television system", "CATV system" or "cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable television service which includes video programming, without regard to the technology used to deliver such video programming, including Internet protocol technology or any successor technology, and which is provided to multiple subscribers within a community, but such term does not include: (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves subscribers without using any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to regulation by the board pursuant to Title 48 of the Revised Statutes, except that such facility shall be considered a CATV system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (4) an open video system that has been certified by the Federal Communications Commission as being in compliance with the provisions of Part 76, "Multichannel Video and Cable Television Service," of Title 47 of the Code of Federal Regulations; (5) any facilities of any electric public utility used solely for operating its electric utility systems; or (6) a facility of an electric public utility which is subject, in whole or in part, to regulation by the board pursuant to Title 48 of the Revised Statutes, except that such facility shall be considered a CATV system solely to the extent that such facility is used in the transmission of video programming directly to the subscribers. The term "facility" as used in this subsection is limited to the optical spectrum wavelengths, bandwidth, or other current or future technological capacity used for the transmission of video programming directly to subscribers.

e. "Cable television reception service" means the simultaneous delivery through a CATV system of the signals of television broadcast stations to members of the public subscribing to such service for a fee or other consideration, which service may include additional nonbroadcast signals delivered as a part of the service with no additional charge.

f. (Deleted by amendment, P.L.2006, c.83).

g. "Cable television company" or "CATV company" means any person or group of persons (1) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (2) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a

cable system.

h. "Highway" includes every street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public.

i. "Certificate" means a certificate of approval issued by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.).

j. "Cable television service", "CATV service" or "cable service" means (1) the one-way transmission to subscribers of (a) video programming, or (b) other programming service; and (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, regardless of the technology utilized by a cable television company to enable such selection or use.

k. "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals and any public, educational and governmental channels.

l. "Hearing impaired individual" means an individual who, because of injury to, disease of, or defect in the inner, middle or outer ear, or any combination thereof, has suffered a loss of hearing acuity such that the individual cannot receive linguistic information without amplification, dubbing or captions.

m. "In series connection" means a connection where the coaxial service wire entering the residence of a subscriber connects first to a television receiver or monitor, with the television receiver or monitor being connected by coaxial wire to a video cassette recorder or other auxiliary equipment or where the coaxial service wire connects first to a video cassette recorder or auxiliary equipment, with the equipment being connected to a television receiver or monitor and where no external splitting device is used.

n. "Municipality" means one municipality acting singularly or two or more municipalities acting jointly in the granting of municipal consent for the provision of cable television service in accordance with the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.

o. "Open video system" means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service to multiple subscribers within a municipality and which has been certified by the Federal Communications Commission as being in compliance with Part 76 "Multichannel Video and Cable Television Service" of Title 47 of the Code of Federal Regulations.

p. "Private aggregator" means a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with two or more municipalities for the purpose of facilitating the joint action of those municipalities in granting municipal consent for the provision of cable television service to those municipalities.

q. "Franchise" means an initial authorization, or renewal thereof, issued by a franchising authority in accordance with the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.), whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the construction or operation of a cable television system.

r. "System-wide franchise" means a competitive franchise issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) which authorizes a CATV company to construct or operate a cable television system in any location within this State in which the CATV company, at the time of the issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service, including telephone

service, or has proposed to place such plant or equipment into use to provide such service.

s. "Local franchising authority" or "franchising authority" means a governmental entity empowered by federal, State, or local law to grant a franchise.

t. "Telecommunications service provider" or "telecommunications provider" means any owner of facilities and equipment located in public rights-of-way used to provide telecommunications services, except that such term does not include aggregators of telecommunications services.

u. "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

v. "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

w. "Other programming service" means information other than video programming that a CATV company makes available to all subscribers generally.

x. "Gross revenues" means all revenues actually received by the holder of a system-wide franchise or certificate of approval derived during the calendar year from all the charges or fees paid by subscribers in the municipality to the CATV company for providing basic cable service, cable programming service, as that term is defined in 47 C.F.R. s.76.901, and premier tier programming service, for pay-per-view events, seasonal or sporting events of limited duration, and for all similar programming or channels, but gross revenues shall not include: (1) amounts not actually received, even if billed, such as bad debt; refunds, rebates or discounts to subscribers or other third parties; or revenue imputed from the provision of cable services for free or at reduced rates to any person as required or allowed by law, including, without limitation, the provision of such services to public institutions, public schools, governmental entities, or employees, other than forgone revenue chosen not to be received in exchange for trades, barter, services, or other items of value; (2) any revenue from any charges or fees derived from services classified as non-cable services under federal law, including, without limitation, revenue derived from telecommunications services and information services and any other revenues attributed by the holder of a certificate of approval or system-wide franchise to non-cable services in accordance with Federal Communications Commission rules, regulations, standards, or orders; (3) amounts billed to and collected from subscribers to recover any tax, fee or surcharge of general applicability imposed by any governmental entity on the holder of a certificate of approval or a system-wide franchise, including without limitation, sales and use taxes, gross receipts taxes, excise taxes, utility users taxes, public service taxes, communication taxes, and any other fee not imposed by section 30 of P.L.1972, c.186 (C.48:5A-30). In the case of cable service that may be bundled or integrated functionally with other services, capabilities or applications, the gross revenues shall only include those charges or fees derived from or attributable to the provision of cable service, as reflected on the books and records of the holder of a certificate of approval or a system-wide franchise, as the case may be, in accordance with the rules, regulations, standards and orders of the Federal Communications Commission.

3. Section 4 of P.L.1972, c.186 (C.48:5A-4) is amended to read as follows:

C.48:5A-4 Office of Cable Television; establishment; inapplicability of Title 48 to cable television.

4. There is hereby established in the Board of Public Utilities an Office of Cable

Television; but nothing in P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed as declaring or defining cable television to be a public utility or subjecting it to the application of any of the provisions of Title 48 of the Revised Statutes, except as otherwise specifically provided in P.L.1972, c.186 (C.48:5A-1 et seq.).

4. Section 6 of P.L.1972, c.186 (C.48:5A-6) is amended to read as follows:

C.48:5A-6 Director; powers and duties.

6. The director under the supervision of the President of the Board shall organize the work of the office and establish therein such administrative subdivisions as may be deemed necessary, proper and expedient. The director may formulate rules and regulations for the board's consideration and prescribe duties for the efficient conduct of the business, work and general administration of the office. The director may delegate to subordinate officers or employees in the office such powers as may be deemed desirable, to be exercised under the supervision and direction of the director.

5. Section 7 of P.L.1972, c.186 (C.48:5A-7) is amended to read as follows:

C.48:5A-7 Officers and employees; appointment; terms of employment.

7. Subject to the provisions of Title 11A of the New Jersey Statutes, and within the limits of funds appropriated or otherwise made available, the director with the approval of the President of the Board may appoint such officers and employees of the office as may be deemed necessary for the performance of its duties, and may fix and determine their qualifications, duties and compensation, and may retain or employ engineers and private consultants on a contract basis or otherwise for rendering professional or technical service or assistance.

6. Section 9 of P.L.1972, c.186 (C.48:5A-9) is amended to read as follows:

C.48:5A-9 Board and director; power, authority and jurisdiction.

9. The board, which is empowered pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) to be the local franchising authority in this State, and the director under the supervision of the board, shall have full right, power, authority and jurisdiction to:

- a. Receive or initiate complaints of the alleged violation of any of the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) or of any of the rules and regulations made pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) or of the terms and conditions of any municipal consent or franchise granted pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.); and for this purpose and all other purposes necessary to enable the director to administer the duties of the office as prescribed by law may hold hearings and shall have power to subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter under investigation at any such hearing;

- b. Supervise and regulate every CATV company operating within this State and its property, property rights, equipment, facilities, contracts, certificates and franchises so far as may be necessary to carry out the purposes of P.L.1972, c.186 (C.48:5A-1 et seq.), and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction;

- c. Institute all proceedings and investigations, hear all complaints, issue all process and

orders, and render all decisions necessary to enforce the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.), of the rules and regulations adopted thereunder, or of any municipal consents issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.);

d. Institute, or intervene as a party in, any action in any court of competent jurisdiction seeking mandamus, injunctive or other relief to compel compliance with any provision of P.L.1972, c.186 (C.48:5A-1 et seq.), of any rule, regulation or order adopted thereunder or of any municipal consent or franchise issued thereunder, or to restrain or otherwise prevent or prohibit any illegal or unauthorized conduct in connection therewith.

7. Section 10 of P.L.1972, c.186 (C.48:5A-10) is amended to read as follows:

C.48:5A-10 Rules and regulations; promulgation; subject matter; cooperation with federal regulatory agencies.

10. The director with the approval of the board shall establish, consistent with federal law, for the purpose of assuring safe, adequate and proper cable television service, after hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing:

a. Technical standards of performance for CATV systems and the equipment and facilities thereof, including standards of maintenance and safety, not inconsistent with applicable Federal regulations;

b. The prohibition and prevention of the imposition of any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, charge or schedule for any service supplied or rendered by a CATV company within this State, or the adoption or imposition of any unjust or unreasonable classification in the making or as the basis of any individual or joint rate, charge or schedule for any service rendered by a CATV company within this State;

c. Requirements for the reasonably prompt and complete exercise of the rights conferred by any certificate, subject to revocation thereof or other penalty provided under P.L.1972, c.186 (C.48:5A-1 et seq.);

d. Procedures and forms for the application by a CATV company for municipal consents or for a franchise required under P.L.1972, c.186 (C.48:5A-1 et seq.);

e. Procedures and forms for review by the director of municipal consents or franchises issued pursuant to the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.);

f. Procedures and forms for the application by CATV companies to municipalities for amendment of rates or other terms and conditions of municipal consents or franchises and, for the review by the director of the terms of such amendments, and for the resolution by the director of disputes between municipalities and CATV companies over such applications;

g. Procedures and forms for submission to and resolution by the director of complaints or disputes by or between CATV companies, municipalities or citizens regarding proper compliance with the implementation of the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) or the rules and regulations made or municipal consents or franchises issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.); provided, however, that, notwithstanding the foregoing provisions of this section or any of the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.), it is the intent of P.L.1972, c.186 (C.48:5A-1 et seq.) that all the provisions, regulations and requirements imposed by or pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall be operative only to the extent that the same are not in conflict with the laws of the United States or with any rules, regulations or orders adopted, issued or promulgated pursuant

thereto by any Federal regulatory body having jurisdiction. No requirement, regulation, term, condition, limitation or provision imposed by or pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) which is contrary to or inconsistent with any such Federal law, regulation or order now or hereafter adopted shall be enforced by the director or shall be authority for the granting, denial, amendment or limitation of any municipal consent or certificate of approval which may be applied for or issued under the terms of P.L.1972, c.186 (C.48:5A-1 et seq.).

The board through the office is hereby empowered and directed to cooperate with any Federal regulatory agency in the enforcement within this State of all Federal laws, rules, regulations and orders relating to CATV systems and CATV companies, and therein to act as agent for such Federal regulatory body to the extent authorized by or pursuant to Federal law, and to enter into agreements for said purpose.

8. Section 11 of P.L.1972, c.186 (C.48:5A-11) is amended to read as follows:

C.48:5A-11 Rates, charges and classifications for services; filing; publication; notice; review; hearings; limitation on revenues; effective competition.

11. a. The board through the office shall, consistent with federal law, prescribe just and reasonable rates, charges and classifications for the services rendered by a CATV company, and the tariffs therefor shall be filed and published in such manner and on such notice as the director with the approval of the board may prescribe, and shall be subject to change on such notice and in such manner as the director with the approval of the board may prescribe.

b. The board shall from time to time cause the established rates and rate schedules of each CATV company for cable TV reception service to be reviewed, and if upon such review it shall appear to the board that, under federal law, such rates, or any of them, are or may be excessive, unreasonable, unjustly discriminatory or unduly preferential, the board shall require the CATV company to establish to its satisfaction that such rates are just, reasonable and not excessive or unjustly preferential or discriminatory, and for such purpose shall order the director to hold a hearing thereon. After a hearing upon notice and full opportunity to be heard afforded to the CATV company, the director may recommend amendment of the schedule of cable television subscription rates charged by such company, and such amended schedule if approved by the board shall supersede and replace the schedule so amended.

c. Any hearing held pursuant to this section shall be open to the public, and notice thereof shall be published by the cable television company at least 10 days prior thereto in a newspaper or newspapers of general circulation in the certificated area wherein the rate schedule which is the subject of the hearing applies. Every municipality may intervene in any hearing held by the director pursuant to this section affecting the municipality or the public within the municipality.

d. No CATV company shall derive from the operations of cable television reception service or cable communications systems any revenues other than the fees, charges, rates and tariffs provided for in subsection a. of this section and in subsection g. of section 28 of this act.

e. Whenever pursuant to the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) the board or the director is required to determine whether any of the rates, charges, fees, tariffs and classifications of a CATV company are unjust, unreasonable, discriminatory or unduly preferential, there shall be taken into consideration any fees which are charged for the use of a CATV system, or part thereof, as an advertising medium, or for services ancillary to such use, and from which the CATV system derives revenue, directly or indirectly, and the effect

thereof upon, the company's requirements for revenue from such fees, rates, charges, tariffs and classifications subject to the provisions of this section.

f. The provisions of this section shall not apply in any area where there is effective competition as that term is used in 47 U.S.C. s.543.

9. Section 2 of P.L.1985, c.356 (C.48:5A-11.2) is amended to read as follows:

C.48:5A-11.2 Discounted CATV rates; qualifications.

2. Notwithstanding the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) or of any other State law to the contrary, any CATV company providing service may establish rates or schedules which provide for a reduction or discount in rates for cable television reception service for senior citizens, disabled citizens, or other economically disadvantaged citizens who meet the eligibility requirements of either the "Pharmaceutical Assistance to the Aged and Disabled" program pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), as amended and supplemented; or are receiving or are eligible to receive benefits under the Supplemental Security Income program, as defined in section 1 of P.L.1973, c.256 (C.44:7-85); or are receiving disability insurance benefits under Title II of the federal Social Security Act, 42 U.S.C. s.401 et seq., and meet the income and residency requirements of the "Pharmaceutical Assistance to the Aged and Disabled Program," established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

The Board of Public Utilities through the Office of Cable Television shall adopt regulations for the prompt, fair and efficient establishment and maintenance of these reduced or discounted rates and schedules. Subscription to the "Tenants' Lifeline Assistance Program," established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), or to the "Lifeline Credit Program," established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), shall not be a basis for exclusion from any reduction or discount provided under this section, nor shall subscription to any cable television service from such provider be a basis for exclusion from the Tenants' Lifeline Assistance Program or the Lifeline Credit Program.

"Senior citizen" means any person 62 years of age or older who subscribes for CATV service and who does not share the subscription with more than one other person in the same dwelling unit who is less than 62 years of age.

10. Section 3 of P.L.1985, c.356 (C.48:5A-11.3) is amended to read as follows:

C.48:5A-11.3 Discount in rates not mandatory.

3. A cable television company shall not be required, as part of any franchising agreement, or renewal thereof, or as part of any negotiations leading up to a franchising agreement, or renewal thereof, or pursuant to order, rule or regulation of the office or the board, to provide the reduction or discount in rates which is permitted under section 2 of P.L.1985, c.356 (C.48:5A-11.2).

11. Section 15 of P.L.1972, c.186 (C.48:5A-15) is amended to read as follows:

C.48:5A-15 Certificate of approval or system-wide franchise for extension, operation of CATV system; exceptions.

15. No person shall hereafter begin the construction or extension of a CATV system, or begin the operation of a CATV system, or acquire ownership or control thereof, without first



obtaining from the board a certificate of approval or franchise issued in accordance with the provisions and procedures specified in P.L.1972, c.186 (C.48:5A-1 et seq.); except that the director may, by order, rule or regulation, exempt a CATV company from the above requirement in a case in which the CATV company's temporary acts or operations do not require the issuance of a certificate of approval or a system-wide franchise in the public interest. The issuance of a certificate of approval or a system-wide franchise by the board to a CATV company shall be deemed to confer a franchise upon the CATV company. A telecommunications service provider holding authority, granted prior to the enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.), to utilize the public rights-of-way to construct, upgrade, operate or maintain a communications network shall not be required to obtain a certificate of authority, system-wide franchise or any other authorization, except for being subject to generally applicable non-discriminatory permit requirements, to construct, upgrade, operate or maintain a communications network capable of providing cable service, and a certificate of authority or a system-wide franchise shall be required only prior to the actual provision of cable service on a commercial basis to the general public.

12. Section 16 of P.L.1972, c.186 (C.48:5A-16) is amended to read as follows:

C.48:5A-16 Application for certificate of approval, system-wide franchise, fees; decision; appeal; hearings.

16. a. Any entity that seeks to provide cable service in this State after the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.) may apply for either individual certificates of approval or a system-wide franchise. The application for a certificate of approval or a system-wide franchise from the board shall be in writing.

b. (1) If the application is for an individual certificate of approval, it shall have attached thereto the municipal consents required under section 22 of P.L.1972, c.186 (C.48:5A-22), except that a CATV company which is authorized under section 25 of P.L.1972, c.186 (C.48:5A-25) to continue operations after the expiration of a municipal consent and pending municipal action upon application made for renewal or reissuance of such consent may in lieu of such municipal consent attach to its application a statement regarding its authorization to continue operations under the provisions of section 25 of P.L.1972, c.186 (C.48:5A-25); and shall contain such other information as the director may from time to time prescribe by duly promulgated rule, regulation or order. Each such application shall be accompanied by a filing fee of \$200.

(2) Upon receipt of an application for a certificate of approval, the board shall review the application and shall, within 30 days of the receipt thereof, either issue the certificate of approval applied for or order the director to schedule a hearing upon the application. No application shall be denied without a hearing thereon. In determining whether a certificate of approval should be issued, the board shall consider only the requirements of sections 17 and 28 of P.L.1972, c.186 (C.48:5A-17 and C.48:5A-28).

c. (Deleted by amendment, P.L.2006, c.83).

d. If the application is for a system-wide franchise, it shall be accompanied by a filing fee of \$1,000, and shall specify the information required in section 28 of P.L.1972, c.186 (C.48:5A-28).

e. A hearing held pursuant to subsection b. of this section shall be held not later than the sixtieth day following the date of receipt of the application; it may be adjourned from time to time, but not to a date later than the sixtieth day following the date on which it

commenced, except with the consent of the applicant. If such hearing is held, the director shall within 60 days after the conclusion thereof, transmit his findings of fact and recommendations to the board, which shall either issue or deny the certificate for which application was made, or may issue a certificate with such limitations and conditions as the public interest may require. The board shall transmit notice of its decision to the applicant.

f. Upon receipt of an application for a system-wide franchise submitted pursuant to subsection a. of this section, the board shall review the application and shall, within 45 days of the receipt thereof, schedule two public hearings to be held in different geographical areas of the State during the 45-day review period to consider the application. In determining whether a system-wide franchise should be issued, the board shall consider only the requirements of sections 17 and 28 of P.L.1972, c.186 (C.48:5A-17 and C.48:5A-28). On or before the expiration of the 45-day period, the board shall issue an order in writing approving the application if the applicant has complied with the requirements for a system-wide franchise, or the board shall disapprove the application in writing citing the reasons for disapproval if the board determines that the application for a system-wide franchise does not comply with the requirements for a system-wide franchise. If, during the 45-day review period, the board determines to disapprove the application, the board shall schedule a meeting with the applicant to explain to the applicant the reasons for the board's disapproval and to allow the applicant to question the board concerning the reasons for the board's disapproval. Such meeting shall be scheduled no later than two weeks following the expiration of the 45-day review period required by this subsection. The applicant shall have 30 days following the date of the meeting with the board required by this subsection to file an appeal of the board's decision. The board shall thereafter schedule an administrative hearing not later than the thirtieth day following the date of the filing of the applicant's appeal in order to consider the applicant's appeal. The board shall issue a final decision in written form on the applicant's appeal not later than the sixtieth day following the administrative hearing, required by this subsection, on the applicant's appeal.

13. Section 17 of P.L.1972, c.186 (C.48:5A-17) is amended to read as follows:

C.48:5A-17 Certificate of approval, system-wide franchise for CATV operations.

17. a. The board shall issue a certificate of approval or a system-wide franchise, as appropriate, when, after reviewing the application, and after the required meeting and hearings have been held pursuant to section 16 of P.L.1972, c.186 (C.48:5A-16), the applicant establishes to the board's satisfaction that the applicant has all the municipal consents necessary to support the application, if such consents are required, and that such consents and the issuance thereof are in conformity with the requirements of P.L.1972, c.186 (C.48:5A-1 et seq.), and that the applicant has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the applicant's proposed CATV operations; provided, that in the case of any application for a certificate of approval which has omitted the attachment of municipal consent in the circumstance provided for in subsection a. of section 16 of P.L.1972, c.186 (C.48:5A-16), the board shall condition the issuance of the certificate upon the applicant's reasonably prompt attainment of the omitted municipal consent or reasonably prompt initiation of proceedings under subsection d. of this section.

b. In considering any application for a certificate of approval, the board shall take into consideration the probable effects upon both the area for which certification is sought and

neighboring areas not covered in the municipal consents; and if it finds that the probable effects, for technical and financial reasons, would be to impede the development of adequate cable service, or create an unreasonable duplication of services likely to be detrimental to the development of adequate cable service in any area either within or without the area for which certification is sought, it may deny the certificate or it may amend the certificate in issuing it so as to:

- (1) Direct that areas covered in the application be excluded from the area certified; or
- (2) Direct that areas not covered in the application be included in the area certified.

c. No such certificate of approval amended pursuant to subsection b. of this section shall be issued except after hearing of which each affected municipality shall be given notice and afforded opportunity to be heard. No such amended certificate of approval shall be issued which would impair the terms of any existing certificate of approval or of any municipal consent upon which such existing certificate is based, except with the consent of the holder of such existing certificate and of any municipality having issued such municipal consent.

d. If a municipality shall arbitrarily refuse to grant the municipal consent required under the terms of P.L.1972, c.186 (C.48:5A-1 et seq.) prerequisite to issuance of a certificate, or to act upon an application for such municipal consent within 90 days after such application is filed, then the applicant may avoid the necessity of first obtaining such municipal consent by showing to the satisfaction of the board that the municipal consent is being arbitrarily withheld. But any CATV company certificated without municipal consent shall nevertheless pay the franchise tax to the municipality imposed under section 30 of P.L.1972, c.186 (C.48:5A-30). An application for certificate filed pursuant to this subsection shall be accompanied by a filing fee of \$1,000.

e. If any municipality or county shall refuse to any CATV company, whether the holder of a municipal consent from that municipality or otherwise, any zoning variance or other municipal act or authorization, or any county act or authorization, necessary to permit such CATV company to locate any facility of such CATV company within such municipality or county, or to install transmission facilities through such municipality or county for the purpose of serving subscribers or customers in any area for which such CATV company has been issued a certificate or system-wide franchise by the board, the CATV company may apply to the board for an order setting aside such municipal or county refusal and permitting such location of facility or installation of transmission facilities as requested by the CATV company. An application pursuant to this subsection shall be accompanied by a filing fee of \$500. The board, after hearing upon notice and full opportunity for both the applicant and the municipality or county to be heard, shall issue such order when it appears to the board's satisfaction that such permission is necessary to enable the CATV company to provide safe, adequate and proper CATV service to its customers or subscribers in the manner required by P.L.1972, c.186 (C.48:5A-1 et seq.) and that such location or installation will not adversely affect the public health, safety and welfare.

f. The director shall issue a certificate of approval to any CATV company lawfully engaged in the construction, extension or operation of a CATV system within the boundaries of the municipality cited in the application, for the construction, extension or operation then being conducted within such municipality, without further review, if application for such certificate is filed with the board within 90 days after such effective date. The construction, extension or operation of such a CATV system may be lawfully continued pending the filing of such an application unless the director orders otherwise. An application for such certificate which is untimely shall be determined in accordance with the procedures

prescribed in subsections a. through d. of this section. A certificate of approval issued under this subsection shall expire five years from the date of issuance; and no CATV company holding such certificate shall be authorized to continue its operations after such expiration unless prior thereto it shall have obtained a certificate of approval under the procedures specified in subsections a. through d. of this section, except that such a CATV company which has initiated proceedings for certification under subsections a. through d. of this section prior to the expiration of a certificate of approval granted under this subsection may continue its operations pending the final disposition of such proceedings. An application pursuant to this subsection shall be accompanied by a filing fee of \$50.

14. Section 18 of P.L.1972, c.186 (C.48:5A-18) is amended to read as follows:

C.48:5A-18 Hearings; conduct; notice; intervention by municipalities; fees; disposition of fees and charges.

18. a. Any hearing held pursuant to the provisions of section 16 or section 17 of P.L.1972, c.186 (C.48:5A-16 or C.48:5A-17) shall be open to the public, and notice thereof shall be published by the applicant at least 10 days prior thereto in a newspaper or newspapers of general circulation throughout the State or (1) if the hearing is upon application for certification, in each municipality comprised, in whole or part, in the area for which certification is sought, or (2) if the hearing is upon an application under subsection e. of section 17 of P.L.1972, c.186 (C.48:5A-17), in each municipality whose refusal of municipal action or authorization is involved in the application.

b. Every municipality may intervene in any hearing or investigation held under the authority of P.L.1972, c.186 (C.48:5A-1 et seq.) which involves rates, charges, services or facilities affecting the municipality or the public within the municipality.

c. For the purpose of defraying the administrative expenses of hearings held pursuant to section 16 or 17 of P.L.1972, c.186 (C.48:5A-16 or C.48:5A-17), the applicant CATV company shall be required to pay to the Office of Cable Television a fee not in excess of \$500 per day of hearing or fraction thereof, according to such fee schedule as the director shall from time to time adopt by rule. Such fee shall be in addition to any filing fee imposed pursuant to sections 16 and 17 of P.L.1972, c.186 (C.48:5A-16 and C.48:5A-17); the amount shall be due and payable upon presentation of an invoice.

d. All fees and charges collected under the provisions of sections 16 and 17 of P.L.1972, c.186 (C.48:5A-16 and C.48:5A-17) shall be received by the director for the sole use of the State, and the director shall report on and return to the State Treasurer all such fees and charges collected.

15. Section 19 of P.L.1972, c.186 (C.48:5A-19) is amended to read as follows:

C.48:5A-19 Certificate of approval, system-wide franchise; transferability; duration; renewal.

19. a. A certificate of approval issued by the board shall be nontransferable, except by consent of the board and shall specify the area to which it applies and the municipal consents upon which it is based. A certificate of approval issued by the board shall be valid for 15 years from the date of issuance or 20 years from the date of issuance if the board certifies that a CATV company has implemented an open video system in accordance with 47 U.S.C. s.573 within one year after receiving a municipal consent, or until the expiration, revocation,

termination or renegotiation of any municipal consent upon which it is based, whichever is sooner. But amendment of the terms of a municipal consent by mutual consent and in conformity with the procedures specified in P.L.1972, c.186 (C.48:5A-1 et seq.) during the term for which it was issued shall not require the issuance of a new certificate of approval. A CATV company holding a certificate based upon a municipal consent with a provision for automatic renewal for a term not exceeding 10 years beyond its expiration date or 15 years beyond its expiration date if the board certifies that the CATV company has implemented an open video system in accordance with 47 U.S.C. s.573, shall be entitled to automatic reissuance of a certificate for such term, unless it shall forfeit such entitlement by violation of any terms of P.L.1972, c.186 (C.48:5A-1 et seq.), regulations issued pursuant thereto, or by the terms of the municipal consent.

b. A system-wide franchise issued by the board shall be nontransferable, except by consent of the board, and shall specify the area to which it applies. A system-wide franchise issued by the board shall be valid for seven years from the date of issuance. A system-wide franchise issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall not require: (1) a CATV company to operate outside of the areas in which the CATV company either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service, or has proposed to place into use such plant or equipment for the provision of such services; or (2) a CATV company with municipal consents issued prior to the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.) to operate outside of the areas covered by such consents. Renewal of a system-wide franchise shall be valid for a period of seven years from the date of the renewal issuance, and the board shall establish rules governing the renewal of a system-wide franchise.

16. Section 20 of P.L.1972, c.186 (C.48:5A-20) is amended to read as follows:

C.48:5A-20 Highways and rights-of-way; use; joint use with other CATV company or public utility.

20. a. Upon obtaining the prior approval of the board, if necessary, a CATV company may construct and maintain the wires, cables, and conduits necessary to its business upon, under or over any highway, and may erect and maintain the necessary fixtures, including poles and posts, for sustaining such wires and cables; provided, however, that such wires, cables and fixtures shall be so placed or constructed as not to unreasonably inconvenience public travel on the highway or the use thereof by public utilities or other persons or organizations having rights therein. This subsection shall not apply to a telecommunications service provider deploying telecommunications facilities that can be used as shared-use facilities to carry cable television service at a later date.

b. Whenever the board shall find that public convenience and necessity require the use by a CATV company or a public utility of the wires, cables, conduits, poles or other equipment, or any part thereof, on, over or under any highway or any right-of-way and belonging to another CATV company or public utility, and that such use will not result in injury to the owner or other users of such equipment or any right-of-way or in any substantial detriment to the service, and that such CATV companies or public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the board may order that such use be permitted and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use is ordered, the CATV company or public utility to which the use is permitted shall be liable to the owner or other users of

such equipment for such damage as may result therefrom to the property of such owner or other users thereof.

17. Section 7 of P.L.1991, c.412 (C.48:5A-20.1) is amended to read as follows:

C.48:5A-20.1 Notice of development applications to CATV general manager, municipal registration.

7. Within 30 days after the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.), the board shall notify the general manager of every cable television company that, in order to receive notice by an applicant pursuant to subsection h. of section 7.1 of P.L.1975, c.291 (C.40:55D-12), the cable television company shall register with any municipality in which the cable television company has plant located in a right-of-way or easement.

18. Section 21 of P.L.1972, c.186 (C.48:5A-21) is amended to read as follows:

C.48:5A-21 Lease, rental of facilities, rights-of-way.

21. Upon the prior approval of the board, any person may lease or rent or otherwise make available facilities or rights-of-way, including pole space, to a CATV company for the redistribution of television signals to or toward the customers or subscribers of such CATV company. The terms and conditions, including rates and charges to the CATV company, imposed by any public utility under any such lease, rental or other method of making available such facilities or rights-of-way, including pole space, to a CATV company shall be subject to the jurisdiction of the board in the same manner and to the same extent that rates and charges of public utilities generally are subject to the board's jurisdiction by virtue of the appropriate provisions of Title 48 of the Revised Statutes.

C.48:5A-25.1 Municipal consents, certificates of approval previously issued remain in effect, conversion to system-side franchise; conditions.

19. a. Municipal consents and certificates of approval for applications to provide cable television services in a municipality issued prior to the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.) shall remain in effect until such time as they may expire or until such time as the cable television company is granted a renewal of the franchise as a municipal franchise or converts the franchise to a system-wide franchise. Except as may otherwise be provided by subsection b. of this section and section 30 of P.L.1972, c.186 (C.48:5A-30), both the municipality and the cable television company shall be bound by the terms of the municipal consents and certificates of approval until such time as the municipal consents and certificates of approval have been converted into a system-wide franchise. A cable television company with a municipal franchise or franchises issued prior to the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.) may, if it wishes, automatically convert any or all such franchise or franchises into a system-wide franchise upon notice to the board and the affected municipality, but without the need for the consent of either the board or the affected municipality and without regard to the requirements of P.L.2006, c.83 (C.48:5A-25.1 et al.) applicable to applications for such a franchise, except that the commitments required pursuant to subsections h. through n. of section 28 of P.L.1972, c.186 (C.48:5A-28) shall be applicable to any or all such system-wide franchises and any failure of a CATV company to abide by or conform its practices to such commitments shall be considered a violation of the system-wide franchise and the board may enforce these provisions through the imposition of

monetary penalties under section 51 of P.L.1972, c.186 (C.48:5A-51), or the suspension or revocation of the system-wide franchise, or it may seek to renew such franchise or franchises as a municipal franchise or franchises pursuant to the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.). Such conversion need not take place with respect to all municipalities at the same time, but rather the cable television company may convert additional municipal franchises and add affected municipalities to the service area covered by such system-wide franchise at any time during the term of the system-wide franchise.

b. If a cable television company is granted a system-wide franchise by the board pursuant to the provisions of P.L.2006, c.83 (C.48:5A-25.1 et al.), the company shall be able thereafter to be issued a municipal franchise or franchises and the renewal of a municipal franchise or franchises which had been issued prior to the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.). Nothing herein shall preclude a municipality from enforcing its right-of-way management powers on a reasonable and non-discriminatory basis, except that such powers shall not include the authority to impose any fees, taxes, assessments or charges of any nature for the use of public rights-of-way by a CATV company except as expressly provided by P.L.2006, c.83 (C.48:5A-25.1 et al.). The provisions of this subsection shall not be construed to relieve any cable television company issued a system-wide franchise of its obligations to meet the requirements of section 20 of P.L.2006, c.83 (C.48:5A-25.2).

#### C.48:5A-25.2 Requirements for CATV system-wide franchise.

20. a. As part of any system-wide franchise issued by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a CATV company shall be required to:

(1) begin providing cable television service on a commercial basis, within three years of issuance of the system-wide franchise, in:

(a) each county seat that is within the CATV company's service area; and

(b) each municipality within the CATV company's service area that has a population density greater than 7,111 persons per square mile of land area, as determined by the most recent federal decennial census prior to the enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.).

The requirements of this paragraph shall only apply to CATV companies that on the date of the issuance of the system-wide franchise provide more than 40 percent of the local exchange telephone service market in this State;

(2) make cable television service available throughout the residential areas of any such municipalities within six years of the date the CATV company first provides cable television service on a commercial basis directly to multiple subscribers within such central office area, subject to the CATV company's line extension policy; provided, however, that such provision of service shall not be required in: (a) areas where developments or buildings are subject to claimed exclusive arrangements with other CATV companies; (b) developments or buildings that the CATV company cannot access, using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; or (c) areas in which the CATV company is unable to access the public rights-of-way under reasonable terms and conditions. The requirements of this paragraph shall only apply to CATV companies that on the date of the issuance of the system-wide franchise provide more than 40 percent of the local exchange telephone service market in this State. As used in this subsection, "central office" has the same meaning as that term is defined in 47 C.F.R. Part 36, Appendix, and "central office area" means the towns or portions of towns served by such central office;

(3) provide service within the CATV company's service area where cable television service is being offered, without discrimination against any group of potential residential cable subscribers because of the income levels of the residents of the local area in which such groups reside; and

(4) fully complete a system capable of providing cable television service to all households within the CATV company's service area where cable television service is being offered, subject to the CATV company's line extension policy and the provisions of paragraphs (1) through (3) of this subsection.

b. Any person affected by the requirements of subsection a. of this section may seek enforcement of such requirements by initiating a proceeding with the board. As used in this section, an affected person includes a municipality within which the potential residential subscribers referred to in subsection a. of this section reside.

c. If the board determines that a CATV company has denied access to cable television service to a group of potential residential subscribers because of the income levels of the residents of the local area in which such group resides or has failed to meet the requirements of paragraph (2) of subsection a. of this section, the board is authorized to, after conducting a hearing with full notice and opportunity to be heard, impose monetary penalties of not less than \$50,000, nor more than \$100,000 per municipality, not to exceed a total of \$3,650,000 per year for all violations. A municipality in which the provider offers cable television service shall be an appropriate party in any such proceeding.

d. The board shall convene proceedings within 36 months after the grant of the first issued system-wide franchise to examine the effects of the entry of system-wide franchisees into the State's cable television market, and shall, within six months of convening such proceedings, report to the Legislature on the following: (1) the extent of actual deployment of cable service by each system-wide franchisee, including the income and race of persons in the areas where such facilities were deployed; (2) the franchisee's effect on choice in the marketplace; and (3) the effect that introduction of system-wide competitors has had on consumers. The study shall be transmitted to the Governor, the President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, the Minority Leader of the General Assembly, and the members of the Senate Economic Growth Committee and the Assembly Telecommunications and Utilities Committee, or their respective successor committees.

21. Section 26 of P.L.1972, c.186 (C.48:5A-26) is amended to read as follows:

C.48:5A-26 Designation of municipal "complaint officer;" Office of CATV for system-wide franchise.

26. a. Any ordinance issuing a municipal consent pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall designate some officer, office, bureau or other agency of the municipal government as "complaint officer" to receive and act upon complaints by subscribers to cable television reception service of the CATV company to which such consent is issued; and shall provide for the establishment of procedures and methods by which such complaints shall be received, processed and acted upon, for the resolution and settlement of complaints and disputes between such subscribers and the company, and for the enforcement of decisions made by such "complaint officer." All complaints by such subscribers alleging inadequate, unsafe or improper service or failure by the company to comply with the terms of the municipal consent shall be made in the first instance to such "complaint officer." The



"complaint officer" shall, within 30 days of the receipt of such a complaint, report in writing to the subscriber the disposition or status of the subscriber's complaint. Any subscriber or CATV company aggrieved by the action of a "complaint officer" in connection with such complaint or dispute, or any subscriber who shall not have received the written report required under this section within 30 days, may petition the office for a hearing upon said complaint, under the rules promulgated by the director for the hearing and disposition of such matters.

b. Any municipality may, in lieu of complying with the terms of subsection a. of this section, provide in the ordinance issuing its municipal consent that complaints by local subscribers to cable television reception service shall be filed directly with the office, which shall thereupon be deemed the "complaint officer" for purposes of this section.

c. Each CATV company receiving a municipal consent or a system-wide franchise issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), shall provide to each subscriber to its cable television reception service, at the time that person becomes a subscriber and at least once in each calendar year thereafter while that person remains a subscriber, in a form approved by the director, information as to the identity of the "complaint officer," which for system-wide franchises shall be the Office of Cable Television, the identity and location of the local business office or agent required under subsection d. of this section, and the procedure to be followed in making and pursuing complaints to the "complaint officer" or the office pursuant to this section.

d. A municipal consent or system-wide franchise issued pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall require that the CATV company to which it is issued shall maintain local business offices or agents, for the purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters.

22. Section 8 of P.L.2003, c.38 (C.48:5A-26.1) is amended to read as follows:

C.48:5A-26.1 Record of complaints, annual report.

8. a. In addition to the requirements as provided in section 26 of P.L.1972, c.186 (C.48:5A-26), the board shall, upon notice, by order in writing require every CATV company to keep for at least a period of three years, a record of complaints received at the CATV company's office, which shall include the name and address of the subscriber, the date, the nature of the complaint, any corrective action taken if required, and the final disposition of the complaint. The record shall be available for inspection by the staff of the office. Copies of such record shall be provided to the staff of the office upon request.

b. Every CATV company shall furnish to the office annually a detailed report of the number and character of complaints made by customers and communicated to the CATV company. In meeting such requirement, the board shall establish a procedure for CATV companies to record and characterize those customer complaints using a uniform reporting methodology and containing those matters as the board may from time to time prescribe. Copies of the report shall be forwarded to the Governor and members of the Legislature. All reports submitted to the office shall comply with the provisions of the "Cable Subscriber Privacy Protection Act," P.L.1988, c.121 (C.48:5A-54 et seq.).

23. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to read as follows:

C.48:5A-28 Contents of application, commitments by system-wide franchise.

28. Each application for a municipal consent or system-wide franchise shall contain:
- a. A description of the initial area to be served.
  - b. A description of the proposed service in terms of the number of channels of cable television reception service.
  - c. Sufficient evidence that the applicant has the financial and technical capacity and the legal, character and other qualifications to construct, maintain and operate the necessary installations, lines and equipment and to provide the service proposed in a safe, adequate and proper manner.
  - d. Evidence of sufficient bond, or commitment therefor, with sureties to be approved by the office, in the penal sum of not less than \$25,000 for the faithful performance of all undertakings by the applicant as represented in the application; the sufficiency of which shall be subject to review by the director and approval by the board.
  - e. An undertaking to hold the board and all municipalities served harmless from any liability arising out of the applicant's operation and construction of its CATV system.
  - f. Evidence of sufficient insurance insuring the board, all municipalities served and the applicant with respect to all liability for any death, personal injury, property damage or other liability arising out of the applicant's construction and operation of its CATV system; the sufficiency of which shall be subject to review by the director and approval by the board. Such insurance shall be no less than: (1) \$150,000 for bodily injury or death to any one person, within the limit, however, of \$500,000 for bodily injury or death resulting from any one accident, (2) \$100,000 for property damage resulting from any one accident, and (3) \$50,000 for all other types of liability; the sufficiency of which shall be subject to review by the director and approval by the board.
  - g. A schedule of proposed rates for cable television reception service, which rates shall not be altered during the term for which the municipal consent is issued, except by application to the board for amendment of the terms and conditions of said consent after public hearing, subject to the rules of the office, review by the director and approval by the board, or amendment pursuant to the provisions of subsection b. of section 11 of P.L.1972, c.186 (C.48:5A-11).
  - h. (1) With regard only to applications for a system-wide franchise, a commitment as to those municipalities that are served by a CATV company at the time of the application, to match or surpass any line extension policy operative at the time the system-wide franchise is granted and placed into effect prior to the enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.) by a local franchise or certificate of approval, for the duration of the system-wide franchise. In any event, the CATV company shall extend its plant along public rights-of-way to all residences and businesses within 150 aerial feet of the CATV company's existing plant at no cost beyond the normal installation rate, and to all residences and businesses within 100 underground feet of the CATV company's plant at no cost beyond the normal installation rate, and shall set a minimum house per mile density of not less than 35 homes per square mile.  
(2) This commitment shall be in addition to any and all board orders and rules that impact upon the extension of plant, except that such commitment shall supersede the board's regulations adopted as N.J.A.C. 14:3-8.1 et seq., which shall not apply to CATV companies, including telecommunications service providers that have obtained a system-wide franchise.
  - i. With regard only to applications for a system-wide franchise, a commitment to provide to each municipality that is served by a CATV company, with two public, educational and governmental access channels. In the event that two or more access

channels are requested by a municipality, the municipality shall demonstrate that its cable-related needs require the provision of such additional access channels. Any and all CATV companies operating in a municipality shall provide interconnection to all other CATV companies on reasonable terms and conditions, and the board shall adopt regulations for procedures by which disputes between such CATV companies shall be determined and expeditiously resolved. Each municipality or its non-profit designee shall assume responsibility for the management, operations and programming of the public, educational and governmental access channels.

j. With regard only to applications for a system-wide franchise, a commitment to install and retain or provide, without charge, one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes.

k. With regard only to applications for a system-wide franchise, a commitment to provide free Internet service, without charge, through one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes.

l. With regard only to applications for a system-wide franchise, a commitment to provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company.

m. With regard only to applications for a system-wide franchise, a commitment to provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the cable television system for public, educational or governmental use, which return feed, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality. No CATV company is responsible for providing a return access feed unless a municipality requests such a feed in writing. A CATV company that has interconnected with another CATV company may require the second CATV company to pay for half of the CATV company's absorbed costs for extension.

n. With regard only to applications for a system-wide franchise, a commitment to meet any consumer protection requirements applicable, pursuant to board regulations, to cable television companies operating under certificates of approval.

C.48:5A-28.1 Rules for dispute resolution between companies and municipalities.

24. The board shall adopt rules for procedures for resolving disputes between CATV companies and between CATV companies and municipalities concerning the provisions of subsections i. through m. of section 28 of P.L.1972, c.186 (C.48:5A-28).

C.48:5A-28.2 Application requirements relevant to board's decision on applications; enforcement of commitments.

25. a. All of the elements required to be included in the franchise application pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.) shall form, in part, the foundation for the board's decision as to the certificate of approval or system-wide franchise.

b. The failure of a cable television company to abide by or conform its practices to the commitments in the application shall be considered a violation of the certificate of approval or system-wide franchise, and the board may enforce these provisions through any appropriate method, including the imposition of monetary penalties under section 51 of

P.L.1972, c.186 (C.48:5A-51), or the suspension or revocation of the certificate of approval or system-wide franchise.

26. Section 29 of P.L.1972, c.186 (C.48:5A-29) is amended to read as follows:

C.48:5A-29 Conformance of proposals, representations to rules, regulations.

29. All proposals and representations included in an application for municipal consent or a system-wide franchise shall conform to applicable rules and regulations of the office; except that nothing in P.L.1972, c.186 (C.48:5A-1 et seq.) shall be construed to prevent an applicant from exceeding minimum requirements set by the office, or offering facilities and services not required or forbidden by such rules and regulations.

27. Section 30 of P.L.1972, c.186 (C.48:5A-30) is amended to read as follows:

C.48:5A-30 Payment from CATV company to municipality; system-wide franchise fees, local and State.

30. a. Except as provided in subsection d. of this section, in consideration of a municipal consent issued under P.L.1972, c.186 (C.48:5A-1 et seq.), the CATV company to which the municipal consent is issued shall annually pay to each municipality served by the CATV company, in lieu of all other franchise taxes and municipal license fees, a sum equal to two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in such municipality. Each CATV company shall, on or before the twenty-fifth day of January each year, file with the chief fiscal officer of each municipality in the territory in which it is certificated to operate a statement, verified by oath, showing the gross receipts from such charges, and shall at the same time pay thereon to the chief fiscal officer of the municipality the two percent charge hereby imposed on those receipts as a yearly franchise revenue for the use of the streets.

b. Any CATV company which, pursuant to any agreement in effect prior to December 15, 1972, paid or had agreed to pay to any municipality in fees or other charges in consideration of the consent of such municipality to the use of streets, alleys and public places thereof for the installation and operation of a CATV system, or similar consideration, a sum or rate exceeding that which it would pay pursuant to this section shall, in applying for a certificate of approval show to the satisfaction of the board that the reduction in such payments effectuated by the application of this section shall be reflected in (1) commensurate reduction of rates to subscribers to cable television reception service or (2) commensurate improvements in such service made available to such subscribers. If the board is not so satisfied it shall amend, as excessive, the rate schedule contained in the application so that such rates shall be reduced to a degree commensurate with the reduction in payments by the CATV company to the municipality.

c. In consideration of a municipal consent issued to a CATV company pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a municipality may petition the board for permission to charge a yearly franchise fee exceeding that prescribed in subsection a. of this section. A municipal consent setting such a fee in excess of the amount prescribed in subsection a. of this section shall be deemed to constitute such a petition when filed with the board pursuant to section 16 of P.L.1972, c.186 (C.48:5A-16) as part of an application for a certificate of approval. A hearing pursuant to the provisions of section 16 of P.L.1972, c.186 (C.48:5A-16) shall be held upon any application containing such petition, or upon any such petition

separately filed, and at such hearing full notice and opportunity to be heard upon the matter shall be accorded to both the municipality and any CATV company affected thereby. The board after such hearing and upon recommendation of the director may grant such petition and allow the imposition of a franchise revenue exceeding that prescribed in subsection a. of this section, and at a rate to be prescribed by the board, when the board is satisfied that the same is warranted by the expenses to the municipality with respect to the regulation or supervision within its territory of cable television, or any other expenses caused by the existence and operation within its territory of cable television service.

d. In consideration of a system-wide franchise issued under P.L.1972, c.186 (C.48:5A-1 et seq.), once the CATV company receiving such system-wide franchise serves one or more residents within a municipality, then such CATV company shall pay the fees as provided in paragraphs (1) and (2) of this subsection, and once such CATV company files a certification with the board certifying that the company is capable of serving 60 percent or more of the households within such municipality that are served by a CATV company that has received a municipal consent issued under P.L.1972, c.186 (C.48:5A-1 et seq.) and the board approves such certification, both the CATV company receiving such system-wide franchise and a CATV company in such municipality that has received a municipal consent issued under P.L.1972, c.186 (C.48:5A-1 et seq.), shall annually pay:

(1) to such municipality served by the CATV company, in lieu of all other franchise taxes and municipal license fees, and for the purpose of providing local property tax relief, a sum equal to three and one half percent of the gross revenues, as this term is defined in section 3 of P.L.1972, c.186 (C.48:5A-3), that the company derives during the calendar year from cable television service charges or fees paid by subscribers in the municipality to the company; and

(2) to the State Treasurer, on behalf of persons residing in the municipality who are eligible for the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), a sum equal to the amount that such eligible persons pay as charges or fees to the company for providing basic cable service to such persons, provided that the yearly total of such payments from the company shall not exceed one half of one percent of the gross revenues, as this term is defined in section 3 of P.L.1972, c.186 (C.48:5A-3), that the company derives during the calendar year from cable television service charges or fees paid by subscribers in the municipality to the company. The State Treasurer shall establish a "CATV Universal Access Fund," for the purposes described in this paragraph.

e. Each CATV company shall, on or before the twenty-fifth day of January each year, file with the chief fiscal officer of each municipality in the territory in which it is certificated to operate a statement, verified by oath, showing the gross receipts from the charges described in subsection d. of this section, and shall at the same time pay thereon: (1) to the chief fiscal officer of the municipality the three and one-half percent charge hereby imposed on those receipts as a yearly franchise revenue for the purpose of providing local property tax relief; and (2) to the State Treasurer, for deposit into the "CATV Universal Access Fund," for the purpose of providing payment to eligible subscribers residing in the municipality an amount equal to the charges or fees paid by such subscribers during the preceding calendar year to the company for providing basic cable service to such subscribers, provided that the yearly total of such payments by the company to such subscribers does not exceed the one half of one percent charge hereby imposed.

f. For the purposes of this section, in the case of a cable service that may be bundled or

integrated functionally with other services, capabilities or applications, the fee required by this section shall be applied only to the gross revenue from charges or fees derived from revenues attributable to the provision of cable service, as reflected on the books and records of the holder in accordance with Federal Communications Commission rules, regulations, standards or orders.

g. For the purposes of this section, within 45 days of the date of receipt of the certification filed pursuant to subsection d. of this section, the board shall issue an order in writing approving the certification, or the board shall disapprove the certification in writing citing the reasons for disapproval. If the board fails to either approve or disapprove the certification within the 45-day period, the certification shall be deemed to be approved. If, during the 45-day period, the board determines to disapprove the certification, the board shall schedule a meeting with the CATV company to explain to the CATV company the reasons for the board's disapproval and to allow the CATV company to question the board concerning the reasons for the board's disapproval. Such meeting shall be scheduled no later than two weeks following the expiration of the 45-day period required by this subsection. The CATV company shall have 30 days following the date of the meeting with the board required by this subsection to file an appeal of the board's decision. The board shall thereafter schedule an administrative hearing not later than the thirtieth day following the date of the filing of the CATV company's appeal in order to consider the CATV company's appeal. The board shall issue a final decision in written form on the CATV company's appeal not later than the sixtieth day following the administrative hearing, required by this subsection, on the CATV company's appeal.

28. Section 47 of P.L.1972, c.186 (C.48:5A-47) is amended to read as follows:

C.48:5A-47 Revocation, suspension, alteration of certificate, franchises.

47. The board may, after affording the holder an opportunity to be heard, revoke, suspend or alter any certificate of approval or franchise for the violation of any provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) or the rules, regulations or orders made under authority of P.L.1972, c.186 (C.48:5A-1 et seq.), or for other reasonable cause, upon a finding that the revocation, suspension or alteration will not adversely affect the public interest in the provision of safe, adequate and proper cable television service in this State.

29. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to read as follows:

C.48:5A-51 Penalties, enforcement.

51. a. Any person or any officer or agent thereof who shall knowingly violate any of the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.) or aid or advise in such violation, or who, as principal, manager, director, agent, servant or employee knowingly does any act comprising a part of such violation, is guilty of a misdemeanor.

b. Any person who shall violate any provision of P.L.1972, c.186 (C.48:5A-1 et seq.) or any rule, regulation or order duly promulgated hereunder, shall be liable to a penalty of not more than \$1,000 for a first offense, not less than \$2,000 nor more than \$5,000 for a second offense, and not less than \$5,000 nor more than \$10,000 for a third and every subsequent offense. The penalties provided in this subsection may be enforced by summary proceedings instituted by the board in the name of the State in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). For the purposes of the fines imposed

pursuant to this subsection, a "cable television company" shall include all of the affiliates of such company.

c. Whenever it shall appear to the board that any person has violated, intends to violate, or will violate any provisions of this act or any rule, regulation or order duly promulgated hereunder, the board may institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate in the circumstances, and the said court may proceed in any such action in a summary manner.

30. a. The Commissioner of Community Affairs, in consultation with the Board of Public Utilities, shall develop and conduct a study to investigate how CATV companies can overcome the technical, physical and other barriers to the provision of cable television services to residents of multiple dwellings in New Jersey. The Commissioner is directed to consider the relevant experiences of those CATV companies that have received a certificate of approval, those CATV companies that have received a system-wide franchise, or any other new or existing entrants to the cable television market in this State.

b. In preparing the study, the commissioner shall investigate any model codes, such as the "BOCA National Existing Structures Code of 1987," the New Jersey Housing Rehabilitation code promulgated pursuant to P.L.1995, c.78 (C.52:27D-123.7 et seq.) and experiences of other code enforcement jurisdictions, to consult with individuals and organizations experienced in the construction or rehabilitation of multiple dwellings in this State and conduct research as may be relevant to the purposes of P.L.1972, c.186 (C.48:5A-1 et seq.).

c. The commissioner shall, within 18 months of the date of enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.), submit a written report to the Governor and Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), setting forth the findings and recommendations of this study as well as making such recommendations for further legislative action as the commissioner may deem likely to remove those barriers.

31. Except as otherwise provided in paragraph (2) of subsection h. of section 28 of P.L.1972, c.186 (C.48:5A-28), the provisions of P.L.2006, c.83 (C.48:5A-25.1 et al.) shall not be construed to in any way conflict with any obligations that may exist under any and all applicable board orders and rules that are in place on the effective date of P.L.2006, c.83 (C.48:5A-25.1 et al.).

32. This act shall take effect immediately, but sections 1 through 31 shall be inoperative until the 90th day after enactment, except that the board may take such anticipatory administrative action as may be necessary to effectuate the purposes of P.L.2006, c.83 (C.48:5A-25.1 et al.).

Approved August 4, 2006.