

Union Calendar No. 259

109TH CONGRESS
2^D SESSION

H. R. 5252

[Report No. 109–470]

To promote the deployment of broadband networks and services.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2006

Mr. BARTON of Texas introduced the following bill; which was referred to the
Committee on Energy and Commerce

MAY 17, 2006

Additional sponsors: Mr. BASS, Mr. FOSSELLA, Mrs. BONO, Mr. HALL, Mr. WYNN, Mr. MEEKS of New York, Mr. THOMPSON of Mississippi, Mr. BUTTERFIELD, Mr. SCOTT of Georgia, Mr. CLAY, Mr. CROWLEY, Mr. WILSON of South Carolina, Mr. BAKER, Mr. OXLEY, Mr. BOYD, Mr. LEWIS of Kentucky, Mr. JEFFERSON, Mr. ALEXANDER, Mr. CLYBURN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BONNER, Mr. SPRATT, Mr. EVERETT, Mr. BROWN of South Carolina, Mr. HASTINGS of Florida, Mr. FOLEY, Mr. MEEK of Florida, Mr. MILLER of Florida, Mr. WEXLER, Mr. WICKER, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, Mr. ROGERS of Alabama, Mr. BACA, Mr. DAVIS of Tennessee, Mr. BARROW, Mr. HAYES, Mr. MACK, and Mr. BISHOP of Georgia

MAY 17, 2006

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To promote the deployment of broadband networks and
services.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Communications Opportunity, Promotion, and Enhance-
 6 ment Act of 2006”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 101. National cable franchising.

Sec. 102. Definitions.

Sec. 103. Monitoring and reporting.

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

Sec. 201. Enforcement of broadband policy statement.

TITLE III—VOIP/911

Sec. 301. Emergency services; interconnection.

TITLE IV—MUNICIPAL PROVISION OF SERVICES

Sec. 401. Government authority to provide services.

TITLE V—BROADBAND SERVICE

Sec. 501. Stand-alone broadband service.

Sec. 502. Study of interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

Sec. 601. Development of seamless mobility.

8 **TITLE I—NATIONAL CABLE**
 9 **FRANCHISING**

10 **SEC. 101. NATIONAL CABLE FRANCHISING.**

11 (a) AMENDMENT.—Part III of title VI of the Com-
 12 munications Act of 1934 (47 U.S.C. 541 et seq.) is
 13 amended by adding at the end the following new section:

1 **“SEC. 630. NATIONAL CABLE FRANCHISING.**

2 “(a) NATIONAL FRANCHISES.—

3 “(1) ELECTION.—A person or group that is eli-
4 gible under subsection (d) may elect to obtain a na-
5 tional franchise under this section as authority to
6 provide cable service in a franchise area in lieu of
7 any other authority under Federal, State, or local
8 law to provide cable service in such franchise area.
9 A person or group may not provide cable service
10 under the authority of this section in a franchise
11 area unless such person or group has a franchise
12 under this section that is effective with respect to
13 such franchise area. A franchising authority may not
14 require any person or group that has a national
15 franchise under this section in effect with respect to
16 a franchise area to obtain a franchise under section
17 621 or any other law to provide cable service in such
18 franchise area.

19 “(2) CERTIFICATION.—To obtain a national
20 franchise under this section as authority to provide
21 cable service in a franchise area, a person or group
22 shall—

23 “(A) file with the Commission a certifi-
24 cation for a national franchise containing the
25 information required by paragraph (3) with re-
26 spect to such franchise area, if such person or

1 group has not previously obtained a national
2 franchise; or

3 “(B) file with the Commission a subse-
4 quent certification for additional franchise areas
5 containing the information required by para-
6 graph (3) with respect to such additional fran-
7 chise areas, if such person or group has pre-
8 viously obtained a national franchise.

9 “(3) CONTENTS OF CERTIFICATION.—Such cer-
10 tification shall be in such form as the Commission
11 shall require by regulation and shall contain—

12 “(A) the name under which such person or
13 group is offering or intends to offer cable serv-
14 ice;

15 “(B) the names and business addresses of
16 the directors and principal executive officers, or
17 the persons performing similar functions, of
18 such person or group;

19 “(C) the location of such person or group’s
20 principal business office;

21 “(D) the name, business address, elec-
22 tronic mail address, and telephone and fax
23 number of such person or group’s local agent;

24 “(E) a declaration by such person or group
25 that such person or group is eligible under sub-

1 section (d) to obtain a national franchise under
2 this section;

3 “(F) an identification of each franchise
4 area in which such person or group intends to
5 offer cable service pursuant to such certifi-
6 cation, which franchise area shall be—

7 “(i) the entirety of a franchise area in
8 which a cable operator is, on the date of
9 the filing of such certification, authorized
10 to provide cable service under section 621
11 or any other law (including this section);
12 or

13 “(ii) a contiguous geographic area
14 that covers the entirety of the jurisdiction
15 of a unit of general local government, ex-
16 cept that—

17 “(I) if the geographic area within
18 the jurisdiction of such unit of general
19 local government contains a franchise
20 area in which a cable operator is, on
21 such date, authorized to provide cable
22 service under section 621 or any other
23 law, the contiguous geographic area
24 identified in the certification under
25 this clause as a franchise area shall

1 not include the area contained in the
2 franchise area of such cable operator;
3 and

4 “(II) if such contiguous geo-
5 graphic area includes areas that are,
6 respectively, within the jurisdiction of
7 different franchising authorities, the
8 certification shall specify each such
9 area as a separate franchise area;

10 “(G) a declaration that such person or
11 group transmitted, or will transmit on the day
12 of filing such declaration, a copy of such certifi-
13 cation to the franchising authority for each
14 franchise area for which such person or group
15 is filing a certification to offer cable service
16 under this section;

17 “(H) a declaration by the person or group
18 that the person or group will comply with the
19 rights-of-way requirements of the franchising
20 authority under subsection (f); and

21 “(I) a declaration by the person or group
22 that—

23 “(i) the person or group will comply
24 with all Commission consumer protection
25 and customer service rules under section

1 632(b) and subsection (g) of this section;
2 and

3 “(ii) the person or group agrees that
4 such standards may be enforced by the
5 Commission or by the franchising author-
6 ity in accordance with subsection (g) of
7 this section.

8 “(4) LOCAL NOTIFICATION; PRESERVATION OF
9 OPPORTUNITY TO NEGOTIATE.—

10 “(A) COPY TO FRANCHISING AUTHOR-
11 ITY.—On the day of filing any certification
12 under paragraph (2)(A) or (B) for a franchise
13 area, the person or group shall transmit a copy
14 of such certification to the franchising authority
15 for such area.

16 “(B) NEGOTIATED FRANCHISE AGREE-
17 MENTS PERMITTED.—Nothing in this section
18 shall prevent a person or group from negoti-
19 ating a franchise agreement or any other au-
20 thority to provide cable service in a franchise
21 area under section 621 or any other law. Upon
22 entry into any such negotiated franchise agree-
23 ment, such negotiated franchise agreement shall
24 apply in lieu of any national franchise held by

1 that person or group under this section for such
2 franchise area.

3 “(5) UPDATING OF CERTIFICATIONS.—A person
4 or group that files a certification under this section
5 shall update any information contained in such cer-
6 tification that is no longer accurate and correct.

7 “(6) PUBLIC AVAILABILITY OF CERTIFI-
8 CATIONS.—The Commission shall provide for the
9 public availability on the Commission’s Internet
10 website or other electronic facility of all current cer-
11 tifications filed under this section.

12 “(b) EFFECTIVENESS; DURATION.—

13 “(1) EFFECTIVENESS.—A national franchise
14 under this section shall be effective with respect to
15 any franchise area 30 days after the date of the fil-
16 ing of a completed certification under subsection
17 (a)(2)(A) or (B) that applies to such franchise area.

18 “(2) DURATION.—

19 “(A) IN GENERAL.—A franchise under this
20 section that applies to a franchise area shall be
21 effective for that franchise area for a term of
22 10 years.

23 “(B) RENEWAL.—A franchise under this
24 section for a franchise area shall be renewed

1 automatically upon expiration of the 10-year
2 period described in subparagraph (A).

3 “(C) PUBLIC HEARING.—At the request of
4 a franchising authority in a franchise area, a
5 cable operator authorized under this section to
6 provide cable service in such franchise area
7 shall, within the last year of the 10-year period
8 applicable under subparagraph (A) to the cable
9 operator’s franchise for such franchise area,
10 participate in a public hearing on the cable op-
11 erator’s performance in the franchise area, in-
12 cluding the cable operator’s compliance with the
13 requirements of this title. The hearing shall af-
14 ford the public the opportunity to participate
15 for the purpose of identifying cable-related com-
16 munity needs and interests and assessing the
17 operator’s performance. The cable operator
18 shall provide notice to its subscribers of the
19 hearing at least 30 days prior to the hearing.

20 “(D) REVOCATION.—A franchise under
21 this section for a franchise area may be revoked
22 by the Commission—

23 “(i) for willful or repeated violation of
24 any Federal or State law, or any Commis-

1 sion regulation, relating to the provision of
2 cable service in such franchise area;

3 “(ii) for false statements or material
4 omissions knowingly made in any filing
5 with the Commission relating to the provi-
6 sion of cable service in such franchise area;

7 “(iii) for willful or repeated violation
8 of the rights-of-way management laws or
9 regulations of any franchising authority in
10 such franchise area relating to the provi-
11 sion of cable service in such franchise area;

12 or

13 “(iv) for willful or repeated violation
14 of the antidiscrimination requirement of
15 subsection (h) with respect to such fran-
16 chise area.

17 “(E) NOTICE.—The Commission shall
18 send a notice of such revocation to each fran-
19 chising authority with jurisdiction over the
20 franchise areas for which the cable operator’s
21 franchise was revoked.

22 “(F) REINSTATEMENT.—After a revoca-
23 tion under subparagraph (D) of a franchise for
24 a franchise area of any person or group , the
25 Commission may refuse to accept for filing a

1 new certification for authority of such person or
2 group to provide cable service under this section
3 in such franchise area until the Commission de-
4 termines that the basis of such revocation has
5 been remedied.

6 “(G) RETURN TO LOCAL FRANCHISING IF
7 CABLE COMPETITION CEASES.—

8 “(i) If only one cable operator is pro-
9 viding cable service in a franchise area,
10 and that cable operator obtained a national
11 franchise for such franchise area under
12 subsection (d)(2), the franchising authority
13 for such franchise area may file a petition
14 with the Commission requesting that the
15 Commission terminate such national fran-
16 chise for such franchise area.

17 “(ii) The Commission shall provide
18 public notice and opportunity to comment
19 on such petition. If it finds that the re-
20 quirements of clause (i) are satisfied, the
21 Commission shall issue an order granting
22 such petition. Such order shall take effect
23 one year from the date of such grant, if no
24 other cable operator offers cable service in
25 such area during that one year. If another

1 cable operator does offer cable service in
2 such franchise area during that one year,
3 the Commission shall rescind such order
4 and dismiss such petition.

5 “(iii) A cable operator whose national
6 franchise is terminated for such franchise
7 area under this subparagraph may obtain
8 new authority to provide cable service in
9 such franchise area under this section, sec-
10 tion 621, or any other law, if and when eli-
11 gible.

12 “(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A
13 national franchise shall contain the following require-
14 ments:

15 “(1) FRANCHISE FEE.—A cable operator au-
16 thorized under this section to provide cable service
17 in a franchise area shall pay to the franchising au-
18 thority in such franchise area a franchise fee of up
19 to 5 percent (as determined by the franchising au-
20 thority) of such cable operator’s gross revenues from
21 the provision of cable service under this section in
22 such franchise area. Such payment shall be assessed
23 and collected in a manner consistent with section
24 622 and the definition of gross revenues in this sec-
25 tion.

1 “(2) PEG/I-NET REQUIREMENTS.—A cable op-
2 erator authorized under this section to provide cable
3 service in a franchise area shall comply with the re-
4 quirements of subsection (e).

5 “(3) RIGHTS-OF-WAY.—A cable operator au-
6 thorized under this section to provide cable service
7 in a franchise area shall comply with the rights-of-
8 way requirements of the franchising authority under
9 subsection (f).

10 “(4) CONSUMER PROTECTION AND CUSTOMER
11 SERVICE STANDARDS.—A cable operator authorized
12 under this section to provide cable service in a fran-
13 chise area shall comply with the consumer protection
14 and customer service standards established by the
15 Commission under section 632(b).

16 “(5) CHILD PORNOGRAPHY.—A cable operator
17 authorized under this section to provide cable service
18 in a franchise area shall comply with the regulations
19 on child pornography promulgated pursuant to sub-
20 section (i).

21 “(d) ELIGIBILITY FOR NATIONAL FRANCHISES.—
22 The following persons or groups are eligible to obtain a
23 national franchise under this section:

24 “(1) COMMENCEMENT OF SERVICE AFTER EN-
25 ACTMENT.—A person or group that is not providing

1 cable service in a franchise area on the date of en-
2 actment of this section under section 621 or any
3 other law may obtain a national franchise under this
4 section to provide cable service in such franchise
5 area.

6 “(2) EXISTING PROVIDERS OF CABLE SERV-
7 ICE.—A person or group that is providing cable
8 service in a franchise area on the date of enactment
9 of this section under section 621 or any other law
10 may obtain a franchise under this section to provide
11 cable service in such franchise area if, on the date
12 that the national franchise becomes effective, an-
13 other person or group is providing cable service
14 under this section, section 621, or any other law in
15 such franchise area.

16 “(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
17 USE.—

18 “(1) IN GENERAL.—Subject to paragraph (3), a
19 cable operator with a national franchise for a fran-
20 chise area under this section shall provide channel
21 capacity for public, educational, and governmental
22 use that is not less than the channel capacity re-
23 quired of the cable operator with the most sub-
24 scribers in such franchise area on the effective date
25 of such national franchise. If there is no other cable

1 operator in such franchise area on the effective date
2 of such national franchise, or there is no other cable
3 operator in such franchise area on such date that is
4 required to provide channel capacity for public, edu-
5 cational, and governmental use, the cable operator
6 shall provide the amount of channel capacity for
7 such use as determined by Commission rule.

8 “(2) PEG AND I-NET FINANCIAL SUPPORT.—A
9 cable operator with a national franchise under this
10 section for a franchise area shall pay an amount
11 equal to 1 percent of the cable operator’s gross reve-
12 nues (as such term is defined in this section) in the
13 franchise area to the franchising authority for the
14 support of public, educational, and governmental use
15 and institutional networks (as such term is defined
16 in section 611(f)). Such payment shall be assessed
17 and collected in a manner consistent with section
18 622, including the authority of the cable operator to
19 designate that portion of a subscriber’s bill attrib-
20 utable to such payment. A cable operator that pro-
21 vided cable service in a franchise area on the date
22 of enactment of this section and that obtains a na-
23 tional franchise under this section shall continue to
24 provide any institutional network that it was re-
25 quired to provide in such franchise area under sec-

tion 621 or any other law. Notwithstanding section 621(b)(3)(D), a franchising authority may not require a cable operator franchised under this section to construct a new institutional network.

“(3) ADJUSTMENT.—Every 10 years after the commencement of a franchise under this section for a franchise area, a franchising authority may require a cable operator authorized under such franchise to increase the channel capacity designated for public, educational, or governmental use, and the channel capacity designated for such use on any institutional networks required under paragraph (2). Such increase shall not exceed the higher of—

“(A) one channel; or

“(B) 10 percent of the public, educational, or governmental channel capacity required of that operator prior to the increase.

“(4) TRANSMISSION AND PRODUCTION OF PROGRAMMING.—

“(A) A cable operator franchised under this section shall ensure that all subscribers receive any public, educational, or governmental programming carried by the cable operator within the subscriber’s franchise area.

1 “(B) The production of any programming
2 provided under this subsection shall be the re-
3 sponsibility of the franchising authority.

4 “(C) A cable operator franchised under
5 this section shall be responsible for the trans-
6 mission from the signal origination point (or
7 points) of the programming, or from the point
8 of interconnection with another cable operator
9 under subparagraph (D), to the cable operator’s
10 subscribers, of any public, educational, or gov-
11 ernmental programming produced by or for the
12 franchising authority and carried by the cable
13 operator pursuant to this section.

14 “(D) Unless two cable operators otherwise
15 agree to the terms for interconnection and cost
16 sharing, such cable operators shall comply with
17 regulations prescribed by the Commission pro-
18 viding for—

19 “(i) the interconnection between two
20 cable operators in a franchise area for
21 transmission of public, educational, or gov-
22 ernmental programming, without material
23 deterioration in signal quality or
24 functionality; and

1 “(ii) the reasonable allocation of the
2 costs of such interconnection between such
3 cable operators.

4 “(E) A cable operator shall display the
5 program information for public, educational, or
6 governmental programming carried under this
7 subsection in any print or electronic program
8 guide in the same manner in which it displays
9 program information for other video program-
10 ming in the franchise area. The cable operator
11 shall not omit such public, educational, or gov-
12 ernmental programming from any navigational
13 device, guide, or menu containing other video
14 programming that is available to subscribers in
15 the franchise area.

16 “(f) RIGHTS-OF-WAY.—

17 “(1) AUTHORITY TO USE.—Any franchise under
18 this section for a franchise area shall be construed
19 to authorize the construction of a cable system over
20 public rights-of-way, and through easements, which
21 is within the area to be served by the cable system
22 and which have been dedicated for compatible uses,
23 except that in using such easements the cable oper-
24 ator shall ensure that—

1 “(A) the safety, functioning, and appear-
2 ance of the property and the convenience and
3 the safety of other persons not be adversely af-
4 fected by the installation or construction of fa-
5 cilities necessary for a cable system;

6 “(B) the cost of the installation, construc-
7 tion, operation, or removal of such facilities be
8 borne by the cable operator or subscriber, or a
9 combination of both; and

10 “(C) the owner of the property be justly
11 compensated by the cable operator for any dam-
12 ages caused by the installation, construction,
13 operation, or removal of such facilities by the
14 cable operator.

15 “(2) MANAGEMENT OF PUBLIC RIGHTS-OF-
16 WAY.—Nothing in this Act affects the authority of
17 a State or local government (including a franchising
18 authority) over a person or group in their capacity
19 as a cable operator with a franchise under this sec-
20 tion to manage, on a reasonable, competitively neu-
21 tral, and non-discriminatory basis, the public rights-
22 of-way, and easements that have been dedicated for
23 compatible uses. A State or local government (in-
24 cluding a franchising authority) may, on a reason-

1 able, competitively neutral, and non-discriminatory
2 basis—

3 “(A) impose charges for such management;
4 and

5 “(B) require compliance with such man-
6 agement, such charges, and paragraphs (1)(A),
7 (B), and (C).

8 “(g) CONSUMER PROTECTION AND CUSTOMER SERV-
9 ICE.—

10 “(1) NATIONAL STANDARDS.—Notwithstanding
11 section 632(d), no State or local law (including any
12 regulation) shall impose on a cable operator fran-
13 chised under this section any consumer protection or
14 customer service requirements other than consumer
15 protection or customer service requirements of gen-
16 eral applicability.

17 “(2) PROCEEDING.—Within 120 days after the
18 date of enactment of this section, the Commission
19 shall issue a report and order that updates for cable
20 operators franchised under this section the national
21 consumer protection and customer service rules
22 under section 632(b), taking into consideration the
23 national nature of a franchise under this section and
24 the role of State and local governments in enforcing,
25 but not creating, consumer protection and customer

1 service standards for cable operators franchised
2 under this section.

3 “(3) REQUIREMENTS OF NEW RULES.—

4 “(A) Such rules shall, in addition to the
5 requirements of section 632(b), address, with
6 specificity, no less than the following consumer
7 protection and customer service issues:

8 “(i) Billing, billing disputes, and dis-
9 continuation of service, including when and
10 how any late fees may be assessed (but not
11 the amount of such fees).

12 “(ii) Loss of service or service quality.

13 “(iii) Changes in channel lineups or
14 other cable services and features.

15 “(iv) Availability of parental control
16 options.

17 “(B) Such rules shall require forfeiture
18 penalties or customer rebates, or both, as deter-
19 mined by the Commission, that may be imposed
20 for violations of such Commission rules in a
21 franchise area, and shall provide for increased
22 forfeiture penalties or customer rebates, or
23 both, for repeated violations of the standards in
24 such rules.

1 “(C) The Commission’s rules shall also es-
2 tablish procedures by which any forfeiture pen-
3 alty assessed by the Commission under this
4 subsection shall be paid by the cable operator
5 directly to the franchising authority.

6 “(D) The Commission shall report to the
7 Congress no less than once a year—

8 “(i) on complaints filed, and penalties
9 imposed, under this subsection; and

10 “(ii) on any new consumer protection
11 or customer service issues arising under
12 this subsection.

13 “(E) The Commission’s rules established
14 under this subsection shall be revised as needed.

15 “(4) COMPLAINTS.—Any person may file a
16 complaint with respect to a violation of the regula-
17 tions prescribed under section 632(b) in a franchise
18 area by a cable operator franchised under this sec-
19 tion—

20 “(A) with the franchising authority in such
21 area; or

22 “(B) with the Commission.

23 “(5) LOCAL FRANCHISING ORDERS REQUIRING
24 COMPLIANCE.—In a proceeding commenced with a
25 franchising authority on such a complaint, a fran-

1 chising authority may issue an order requiring com-
2 pliance with any of such regulations prescribed by
3 the Commission, but a franchising authority may
4 not create any new standard or regulation, or ex-
5 pand upon or modify the Commission's standards or
6 regulations.

7 “(6) ACCESS TO RECORDS.—In such a pro-
8 ceeding, the franchising authority may issue an
9 order requiring the filing of any contract, agree-
10 ment, or arrangement between the subscriber and
11 the provider, or any other data, documents, or
12 records, directly related to the alleged violation.

13 “(7) COMMISSION REMEDIES; APPEALS.—Un-
14 less appealed to the Commission, an order of a fran-
15 chising authority under this subsection shall be en-
16 forced by the Commission. Any such appeal shall be
17 resolved by the Commission within 30 days after re-
18 ceipt of the appeal by the Commission.

19 “(8) COST OF FRANCHISING AUTHORITY OR-
20 DERS.—A franchising authority may charge a pro-
21 vider of cable service under this section a nominal
22 fee to cover the costs of issuing such orders.

23 “(h) ANTIDISCRIMINATION.—

24 “(1) PROHIBITION.—A cable operator with a
25 national franchise under this section to provide cable

1 service in a franchise area shall not deny access to
2 its cable service to any group of potential residential
3 cable service subscribers in such franchise area be-
4 cause of the income of that group.

5 “(2) ENFORCEMENT.—

6 “(A) COMPLAINT.—If a franchising au-
7 thority in a franchise area has reasonable cause
8 to believe that a cable operator is in violation
9 of this subsection with respect to such franchise
10 area, the franchising authority may, after com-
11 plying with subparagraph (B), file a complaint
12 with the Commission alleging such violation.

13 “(B) NOTICE BY FRANCHISING AUTHOR-
14 ITY.—Before filing a complaint with the Com-
15 mission under subparagraph (A), a franchising
16 authority—

17 “(i) shall give notice of each alleged
18 violation to the cable operator;

19 “(ii) shall provide a period of not less
20 than 30 days for the cable operator to re-
21 spond to such allegations; and

22 “(iii) during such period, may require
23 the cable operator to submit a written re-
24 sponse stating the reasons why the oper-
25 ator has not violated this subsection.

1 “(C) BIENNIAL REPORT.—A cable oper-
2 ator with a national franchise under this section
3 for a franchise area, not later than 180 days
4 after the effective date of such national fran-
5 chise, and biennially thereafter, shall submit a
6 report to the Commission and the franchising
7 authority in the franchise area—

8 “(i) identifying the geographic areas
9 in the franchise area where the cable oper-
10 ator offers cable service; and

11 “(ii) describing the cable operator’s
12 progress in extending cable service to other
13 areas in the franchise area.

14 “(D) NOTICE BY COMMISSION.—Upon re-
15 ceipt of a complaint under this paragraph alleg-
16 ing a violation of this subsection by a cable op-
17 erator, the Commission shall give notice of the
18 complaint to the cable operator.

19 “(E) INVESTIGATION.—In investigating a
20 complaint under this paragraph, the Commis-
21 sion may require a cable operator to disclose to
22 the Commission such information and docu-
23 ments as the Commission deems necessary to
24 determine whether the cable operator is in com-
25 pliance with this subsection. The Commission

1 shall maintain the confidentiality of any infor-
2 mation or document collected under this sub-
3 paragraph.

4 “(F) DEADLINE FOR RESOLUTION OF
5 COMPLAINTS.—Not more than 60 days after
6 the Commission receives a complaint under this
7 paragraph, the Commission shall issue a deter-
8 mination with respect to each violation alleged
9 in the complaint.

10 “(G) DETERMINATION.—If the Commis-
11 sion determines (in response to a complaint
12 under this paragraph or on its own initiative)
13 that a cable operator with a franchise under
14 this section to provide cable service in a fran-
15 chise area has denied access to its cable service
16 to a group of potential residential cable service
17 subscribers in such franchise area because of
18 the income of that group, the Commission shall
19 ensure that the cable operator extends access to
20 that group within a reasonable period of time.

21 “(H) REMEDIES.—

22 “(i) IN GENERAL.—This subsection
23 shall be enforced by the Commission under
24 titles IV and V.

1 “(ii) MAXIMUM FORFEITURE PEN-
 2 ALTY.—For purposes of section 503, the
 3 maximum forfeiture penalty applicable to a
 4 violation of this subsection shall be
 5 \$500,000 for each day of the violation.

6 “(iii) PAYMENT OF PENALTIES TO
 7 FRANCHISING AUTHORITY.—The Commis-
 8 sion shall order any cable operator subject
 9 to a forfeiture penalty under this sub-
 10 section to pay the penalty directly to the
 11 franchising authority involved.

12 “(i) CHILD PORNOGRAPHY.—Not later than 180
 13 days after the date of enactment of this section, the Com-
 14 mission shall promulgate regulations to require a cable op-
 15 erator with a national franchise under this section to pre-
 16 vent the distribution of child pornography (as such term
 17 is defined in section 254(h)(7)(F)) over its network.

18 “(j) LEASED ACCESS.—The provisions of section
 19 612(i) regarding the carriage of programming from a
 20 qualified minority programming source or from any quali-
 21 fied educational programming source shall apply to a cable
 22 operator franchised under this section to provide cable
 23 service in a franchise area.

24 “(k) APPLICABILITY OF OTHER PROVISIONS.—The
 25 following sections shall not apply in a franchise area to

1 a person or group franchised under this section in such
 2 franchise area, or confer any authority to regulate or im-
 3 pose obligations on such person or group: Sections 611(a),
 4 611(b), 611(c), 613(a), 617, 621 (other than subsections
 5 (b)(3)(A), (b)(3)(B), (b)(3)(C), and (c)), 624(b), 624(c),
 6 624(h), 625, 626, 627, and 632(a).

7 “(l) EMERGENCY ALERTS.—Nothing in this Act shall
 8 be construed to prohibit a State or local government from
 9 accessing the emergency alert system of a cable operator
 10 with a franchise under this section in the area served by
 11 the State or local government to transmit local or regional
 12 emergency alerts.

13 “(m) REPORTING, RECORDS, AND AUDITS.—

14 “(1) REPORTING.—A cable operator with a
 15 franchise under this section to provide cable service
 16 in a franchise area shall make such periodic reports
 17 to the Commission and the franchising authority for
 18 such franchise area as the Commission may require
 19 to verify compliance with the fee obligations of sub-
 20 sections (c)(1) and (e)(2).

21 “(2) AVAILABILITY OF BOOKS AND RECORDS.—

22 Upon request under paragraph (3) by a franchising
 23 authority for a franchise area, and upon request by
 24 the Commission, a cable operator with a national
 25 franchise for such franchise area shall make avail-

1 able its books and records to periodic audit by such
2 franchising authority or the Commission, respec-
3 tively.

4 “(3) FRANCHISING AUTHORITY AUDIT PROCE-
5 DURE.—A franchising authority may, upon reason-
6 able written request, but no more than once in any
7 12-month period, review the business records of such
8 cable operator to the extent reasonably necessary to
9 ensure payment of the fees required by subsections
10 (c)(1) and (e)(2). Such review may include the meth-
11 odology used by such cable operator to assign por-
12 tions of the revenue from cable service that may be
13 bundled or functionally integrated with other serv-
14 ices, capabilities, or applications. Such review shall
15 be conducted in accordance with procedures estab-
16 lished by the Commission.

17 “(4) COST RECOVERY.—

18 “(A) To the extent that the review under
19 paragraph (3) identifies an underpayment of an
20 amount meeting the minimum percentage speci-
21 fied in subparagraph (B) of the fee required
22 under subsections (c)(1) and (e)(2) for the pe-
23 riod of review, the cable operator shall reim-
24 burse the franchising authority the reasonable
25 costs of any such review conducted by an inde-

1 pendent third party, as determined by the Com-
2 mission, with respect to such fee. The costs of
3 any contingency fee arrangement between the
4 franchising authority and the independent re-
5 viewer shall not be subject to reimbursement.

6 “(B) The Commission shall determine by
7 rule the minimum percentage underpayment
8 that requires cost reimbursement under sub-
9 paragraph (A).

10 “(5) LIMITATION.—Any fee that is not reviewed
11 by a franchising authority within 3 years after it is
12 paid or remitted shall not be subject to later review
13 by the franchising authority under this subsection
14 and shall be deemed accepted in full payment by the
15 franchising authority.

16 “(n) ACCESS TO PROGRAMMING FOR SHARED FA-
17 CILITIES.—

18 “(1) PROHIBITION.—A cable programming ven-
19 dor in which a cable operator has an attributable in-
20 terest shall not deny a cable operator with a national
21 franchise under this section access to video program-
22 ming solely because such cable operator uses a
23 headend for its cable system that is also used, under
24 a shared ownership or leasing agreement, as the
25 headend for another cable system.

1 “(2) DEFINITION.—The term ‘cable program-
2 ming vendor’ means a person engaged in the produc-
3 tion, creation, or wholesale distribution for sale of
4 video programming which is primarily intended for
5 the direct receipt by cable operators for their re-
6 transmission to cable subscribers.

7 “(o) GROSS REVENUES.—As used in this section:

8 “(1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), the term ‘gross revenues’ means all consid-
10 eration of any kind or nature, including cash, cred-
11 its, property, and in-kind contributions (services or
12 goods) received by the cable operator from the provi-
13 sion of cable service within the franchise area.

14 “(2) INCLUDED ITEMS.—Subject to paragraph
15 (3), the term ‘gross revenues’ shall include the fol-
16 lowing:

17 “(A) all charges and fees paid by sub-
18 scribers for the provision of cable service, in-
19 cluding fees attributable to cable service when
20 sold individually or as part of a package or bun-
21 dle, or functionally integrated, with services
22 other than cable service;

23 “(B) any franchise fee imposed on the
24 cable operator that is passed on to subscribers;

1 “(C) compensation received by the cable
2 operator for promotion or exhibition of any
3 products or services over the cable service, such
4 as on ‘home shopping’ or similar programming;

5 “(D) revenue received by the cable oper-
6 ator as compensation for carriage of video pro-
7 gramming or other programming service on
8 that operator’s cable service;

9 “(E) all revenue derived from the cable op-
10 erator’s cable service pursuant to compensation
11 arrangements for advertising; and

12 “(F) any advertising commissions paid to
13 an affiliated third party for cable services ad-
14 vertising.

15 “(3) EXCLUDED ITEMS.—The term ‘gross reve-
16 nues’ shall not include the following:

17 “(A) any revenue not actually received,
18 even if billed, such as bad debt net of any re-
19 coveries of bad debt;

20 “(B) refunds, rebates, credits, or discounts
21 to subscribers or a municipality to the extent
22 not already offset by subparagraph (A) and to
23 the extent such refund, rebate, credit, or dis-
24 count is attributable to the cable service;

1 “(C) subject to paragraph (4), any reve-
2 nues received by the cable operator or its affili-
3 ates from the provision of services or capabili-
4 ties other than cable service, including tele-
5 communications services, Internet access serv-
6 ices, and services, capabilities, and applications
7 that may be sold as part of a package or bun-
8 dle, or functionally integrated, with cable serv-
9 ice;

10 “(D) any revenues received by the cable
11 operator or its affiliates for the provision of di-
12 rectory or Internet advertising, including yellow
13 pages, white pages, banner advertisement, and
14 electronic publishing;

15 “(E) any amounts attributable to the pro-
16 vision of cable service to customers at no
17 charge, including the provision of such service
18 to public institutions without charge;

19 “(F) any tax, fee, or assessment of general
20 applicability imposed on the customer or the
21 transaction by a Federal, State, or local govern-
22 ment or any other governmental entity, col-
23 lected by the provider, and required to be remit-
24 ted to the taxing entity, including sales and use
25 taxes and utility user taxes;

1 “(G) any forgone revenue from the provi-
2 sion of cable service at no charge to any person,
3 except that any forgone revenue exchanged for
4 trades, barters, services, or other items of value
5 shall be included in gross revenue;

6 “(H) sales of capital assets or surplus
7 equipment;

8 “(I) reimbursement by programmers of
9 marketing costs actually incurred by the cable
10 operator for the introduction of new program-
11 ming; and

12 “(J) the sale of cable services for resale to
13 the extent the purchaser certifies in writing
14 that it will resell the service and pay a franchise
15 fee with respect thereto.

16 “(4) FUNCTIONALLY INTEGRATED SERVICES.—
17 In the case of a cable service that is bundled or inte-
18 grated functionally with other services, capabilities,
19 or applications, the portion of the cable operator’s
20 revenue attributable to such other services, capabili-
21 ties, or applications shall be included in gross rev-
22 enue unless the cable operator can reasonably iden-
23 tify the division or exclusion of such revenue from
24 its books and records that are kept in the regular
25 course of business.

1 “(5) AFFILIATE REVENUE.—Revenue of an af-
2 filiate shall be included in the calculation of gross
3 revenues to the extent the treatment of such revenue
4 as revenue of the affiliate has the effect (whether in-
5 tentional or unintentional) of evading the payment
6 of franchise fees which would otherwise be paid for
7 cable service.

8 “(6) AFFECT ON OTHER LAW.—Nothing in this
9 section is intended to limit a franchising authority’s
10 rights pursuant to section 622(h).

11 “(p) ADDITIONAL DEFINITIONS.—For purposes of
12 this section:

13 “(1) CABLE OPERATOR.—The term ‘cable oper-
14 ator’ has the meaning provided in section 602(5) ex-
15 cept that such term also includes a person or group
16 with a national franchise under this section.

17 “(2) FRANCHISE FEE.—

18 “(A) The term ‘franchise fee’ includes any
19 fee or assessment of any kind imposed by a
20 franchising authority or other governmental en-
21 tity on a person or group providing cable serv-
22 ice in a franchise area under this section, or on
23 a subscriber of such person or group, or both,
24 solely because of their status as such.

1 “(B) The term ‘franchise fee’ does not in-
2 clude—

3 “(i) any tax, fee, or assessment of
4 general applicability (including any such
5 tax, fee, or assessment imposed on both
6 utilities and a person or group providing
7 cable service in a franchise area under this
8 section (or the services of such person or
9 group) but not including a fee or assess-
10 ment which is unduly discriminatory
11 against such person or group or the sub-
12 scribers of such person or group);

13 “(ii) any fee assessed under sub-
14 section (e)(2) for support of public, edu-
15 cational, and governmental use and institu-
16 tional networks (as such term is defined in
17 section 611(f));

18 “(iii) requirements or charges under
19 subsection (f)(2) for the management of
20 public rights-of-way, including payments
21 for bonds, security funds, letters of credit,
22 insurance, indemnification, penalties, or
23 liquidated damages; or

24 “(iv) any fee imposed under title 17,
25 United States Code.

1 “(3) INTERNET ACCESS SERVICE.—The term
2 ‘Internet access service’ means a service that enables
3 users to access content, information, electronic mail,
4 or other services offered over the Internet.

5 “(4) UNIT OF GENERAL LOCAL GOVERN-
6 MENT.—The term ‘unit of general local government’
7 means—

8 “(A) a county, township, city, or political
9 subdivision of a county, township, or city;

10 “(B) the District of Columbia; or

11 “(C) the recognized governing body of an
12 Indian tribe or Alaskan Native village that car-
13 ries out substantial governmental duties and
14 powers.”.

15 (b) IMPLEMENTING REGULATIONS.—The Federal
16 Communications Commission shall prescribe regulations
17 to implement the amendment made by subsection (a) with-
18 in 120 days after the date of enactment of this Act.

19 **SEC. 102. DEFINITIONS.**

20 Section 602 of the Communications Act of 1934 (47
21 U.S.C. 522) is amended—

22 (1) in paragraph (4), by inserting before the
23 semicolon at the end the following: “, or its equiva-
24 lent as determined by the Commission”;

1 (2) in paragraph (5)(A), by inserting “(regard-
2 less of whether such person or group provides such
3 service separately or combined with a telecommuni-
4 cations service or information service)” after “over
5 a cable system”; and

6 (3) by striking paragraph (6) and inserting the
7 following:

8 “(6) the term ‘cable service’ means—

9 “(A)(i) the one-way transmission to sub-
10 scribers of (I) video programming, or (II) other
11 programming service; and

12 “(ii) subscriber interaction, if any, which is
13 required for the selection or use of such video
14 programming or other programming service; or

15 “(B) the transmission to subscribers of
16 video programming or other programming serv-
17 ice provided through wireline facilities located
18 at least in part in the public rights-of-way,
19 without regard to delivery technology, including
20 Internet protocol technology, except to the ex-
21 tent that such video programming or other pro-
22 gramming service is provided as part of—

23 “(i) a commercial mobile service (as
24 such term is defined in section 332(d)); or

1 “(ii) an Internet access service (as
2 such term is defined in section 630(p)).”.

3 **SEC. 103. MONITORING AND REPORTING.**

4 (a) REPORT ON CABLE SERVICE DEPLOYMENT.—

5 The Federal Communications Commission shall, com-
6 mencing not later than one year after the date of enact-
7 ment of this Act, issue a report annually on the deploy-
8 ment of cable service. In its report, the Commission shall
9 describe in detail—

10 (1) with respect to deployment by new cable op-
11 erators—

12 (A) the progress of deployment of such
13 service within the telephone service area of
14 cable operators, if the operator is also an in-
15 cumbent local exchange carrier, including a
16 comparison with the progress of deployment of
17 broadband services not defined as cable services
18 within such telephone service area;

19 (B) the number of franchise areas in which
20 such service is being deployed and offered;

21 (C) where such service is not being de-
22 ployed and offered; and

23 (D) the number and locations of franchise
24 areas in which the cable operator is serving only

1 a portion of the franchise area, and the extent
2 of such service within the franchise area;

3 (2) the number and locations of franchise areas
4 in which a cable operator with a franchise under sec-
5 tion 621 of the Communications Act of 1934 (47
6 U.S.C. 541) on the date of enactment of this Act
7 withdraws service from any portion of the franchise
8 area for which it previously offered service, and the
9 extent of such withdrawal of service within the fran-
10 chise area;

11 (3) the rates generally charged for cable service;

12 (4) the rates charged by overlapping, competing
13 multichannel video programming distributors and by
14 competing cable operators for comparable service or
15 cable service;

16 (5) the average household income of those fran-
17 chise areas or portions of franchise areas where
18 cable services is being offered, and the average
19 household income of those franchise areas, or por-
20 tions of franchise areas, where cable service is not
21 being offered;

22 (6) the proportion of rural households to urban
23 households, as defined by the Bureau of the Census,
24 in those franchise areas or portions of franchise
25 areas where cable service is being offered, and the

1 proportion of rural households to urban households
2 in those franchise areas or portions of franchise
3 areas where cable service is not being offered, in-
4 cluding a State-by-State breakdown of such data
5 and a comparison with the overall ratio of rural and
6 urban households in each State; and

7 (7) a comparison of the services and rates in
8 areas served by national franchisees under section
9 630 of the Communications Act of 1934 (as added
10 by section 101 of this Act) and the services and
11 rates in other areas.

12 (b) CABLE OPERATOR REPORTS.—The Federal Com-
13 munications Commission is authorized—

14 (1) to require cable operators to report to the
15 Commission all of the information that the Commis-
16 sion needs to compile the report required by this sec-
17 tion; and

18 (2) to require cable operators to file the same
19 information with the relevant franchising authorities
20 and State commissions.

1 **TITLE II—ENFORCEMENT OF**
2 **BROADBAND POLICY STATE-**
3 **MENT**

4 **SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATE-**
5 **MENT.**

6 Title VII of the Communications Act of 1934 (47
7 U.S.C. 601 et seq.) is amended by adding at the end the
8 following new section:

9 **“SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATE-**
10 **MENT.**

11 “(a) **AUTHORITY.**—The Commission shall have the
12 authority to enforce the Commission’s broadband policy
13 statement and the principles incorporated therein.

14 “(b) **ENFORCEMENT.**—

15 “(1) **IN GENERAL.**—This section shall be en-
16 forced by the Commission under titles IV and V. A
17 violation of the Commission’s broadband policy
18 statement or the principles incorporated therein
19 shall be treated as a violation of this Act.

20 “(2) **MAXIMUM FORFEITURE PENALTY.**—For
21 purposes of section 503, the maximum forfeiture
22 penalty applicable to a violation described in para-
23 graph (1) of this subsection shall be \$500,000 for
24 each violation.

1 “(3) ADJUDICATORY AUTHORITY.—The Com-
2 mission shall have exclusive authority to adjudicate
3 any complaint alleging a violation of the broadband
4 policy statement and the principles incorporated
5 therein. The Commission shall complete an adjudica-
6 tory proceeding under this subsection not later than
7 90 days after receipt of the complaint. If, upon com-
8 pletion of an adjudicatory proceeding pursuant to
9 this section, the Commission determines that such a
10 violation has occurred, the Commission shall have
11 authority to adopt an order to require the entity
12 subject to the complaint to comply with the
13 broadband policy statement and the principles incor-
14 porated therein. Such authority shall be in addition
15 to the authority specified in paragraph (1) to en-
16 force this section under titles IV and V. In addition,
17 the Commission shall have authority to adopt proce-
18 dures for the adjudication of complaints alleging a
19 violation of the broadband policy statement or prin-
20 ciples incorporated therein.

21 “(4) LIMITATION.—Notwithstanding paragraph
22 (1), the Commission’s authority to enforce the
23 broadband policy statement and the principles incor-
24 porated therein does not include authorization for
25 the Commission to adopt or implement rules or reg-

1 ulations regarding enforcement of the broadband
 2 policy statement and the principles incorporated
 3 therein, with the sole exception of the authority to
 4 adopt procedures for the adjudication of complaints,
 5 as provided in paragraph (3).

6 “(c) STUDY.—Within 180 days after the date of en-
 7 actment of this section, the Commission shall conduct, and
 8 submit to the House Committee on Energy and Commerce
 9 and the Senate Committee on Commerce, Science, and
 10 Transportation, a study regarding whether the objectives
 11 of the broadband policy statement and the principles in-
 12 corporated therein are being achieved.

13 “(d) DEFINITION.—For purposes of this section, the
 14 term ‘Commission’s broadband policy statement’ means
 15 the policy statement adopted on August 5, 2005, and
 16 issued on September 23, 2005, In the Matters of Appro-
 17 priate Framework for Broadband Access to the Internet
 18 over Wireline Facilities, and other Matters (FCC 05–151;
 19 CC Docket No. 02–33; CC Docket No. 01–337; CC Dock-
 20 et Nos. 95–20, 98–10; GN Docket No. 00–185; CS Dock-
 21 et No. 02–52).”.

22 **TITLE III—VOIP/911**

23 **SEC. 301. EMERGENCY SERVICES; INTERCONNECTION.**

24 Title VII of the Communications Act of 1934 (47
 25 U.S.C. 601 et seq.) is further amended by adding after

1 section 715 (as added by section 201 of this Act) the fol-
2 lowing new sections:

3 **“SEC. 716. EMERGENCY SERVICES.**

4 “(a) 911 AND E-911 SERVICES.—

5 “(1) IN GENERAL.—Each VOIP service pro-
6 vider has a duty to ensure that 911 and E-911 serv-
7 ices are provided to subscribers of VOIP services.

8 “(2) USE OF EXISTING REGULATIONS.—A
9 VOIP service provider that complies with the Com-
10 mission’s regulations requiring providers of VOIP
11 service to supply 911 and E911 capabilities to their
12 customers (Report and Order in WC Docket Nos.
13 04–36 and 05–196) and that are in effect on the
14 date of enactment of this section shall be considered
15 to be in compliance with the requirements of this
16 section, other than subsection (c), until such regula-
17 tions are modified or superseded by subsequent reg-
18 ulations.

19 “(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
20 TIES.—

21 “(1) ACCESS.—Each incumbent local exchange
22 carrier (as such term is defined in section 251(h))
23 or government entity with ownership or control of
24 the necessary E-911 infrastructure shall provide any
25 requesting VOIP service provider with nondiscrim-

1 inatory access to such infrastructure. Such carrier
2 or entity shall provide access to the infrastructure at
3 just and reasonable, nondiscriminatory rates, terms,
4 and conditions. Such access shall be consistent with
5 industry standards established by the National
6 Emergency Number Association or other applicable
7 industry standards organizations.

8 “(2) ENFORCEMENT.—The Commission or a
9 State commission may enforce the requirements of
10 this subsection and the Commission’s regulations
11 thereunder. A VOIP service provider may obtain ac-
12 cess to such infrastructure pursuant to section 717
13 by asserting the rights described in such section.

14 “(c) NEW CUSTOMERS.—A VOIP service provider
15 shall make 911 service available to new customers within
16 a reasonable time in accordance with the following require-
17 ments:

18 “(1) CONNECTION TO SELECTIVE ROUTER.—
19 For all new customers not within the geographic
20 areas where a VOIP service provider can imme-
21 diately provide 911 service to the geographically ap-
22 propriate PSAP, a VOIP service provider, or its
23 third party vendor, shall have no more than 30 days
24 from the date the VOIP provider has acquired a cus-
25 tomer to order service providing connectivity to the

1 selective router so that 911 service, or E911 service
2 where the PSAP is capable of receiving and proc-
3 essing such information, can be provided through
4 the selective router.

5 “(2) INTERIM SERVICE.—For all new customers
6 not within the geographic areas where the VOIP
7 service provider can immediately provide 911 service
8 to the geographically appropriate PSAP, a VOIP
9 service provider shall provide 911 service through—

10 “(A) an arrangement mutually agreed to
11 by the VOIP service provider and the PSAP or
12 PSAP governing authority; or

13 “(B) an emergency response center with
14 national call routing capabilities.

15 Such service shall be provided 24 hours a day from
16 the date a VOIP service provider has acquired a cus-
17 tomer until the VOIP service provider can provide
18 911 service to the geographically appropriate PSAP.

19 “(3) NOTICE.—Before providing service to any
20 new customer not within the geographic areas where
21 the VOIP service provider can immediately provide
22 911 service to the geographically appropriate PSAP,
23 a VOIP service provider shall provide such customer
24 with clear notice that 911 service will be available
25 only as described in paragraph (2).

1 “(4) RESTRICTION ON ACQUISITION OF NEW
2 CUSTOMERS.—A VOIP service provider may not ac-
3 quire new customers within a geographic area served
4 by a selective router if, within 180 days of first ac-
5 quiring a new customer in the area served by the se-
6 lective router, the VOIP service provider does not
7 provide 911 service, or E911 service where the
8 PSAP is capable of receiving and processing such in-
9 formation, to the geographically appropriate PSAP
10 for all existing customers served by the selective
11 router.

12 “(5) ENFORCEMENT: NO FIRST WARNINGS.—
13 Paragraph (5) of section 503(b) shall not apply to
14 the assessment of forfeiture penalties for violations
15 of this subsection or the regulations thereunder.

16 “(d) STATE AUTHORITY.—Nothing in this Act or any
17 Commission regulation or order shall prevent the imposi-
18 tion on or collection from a VOIP service provider, of any
19 fee or charge specifically designated or presented as dedi-
20 cated by a State, political subdivision thereof, or Indian
21 tribe on an equitable, and non-discriminatory basis for the
22 support of 911 and E-911 services if no portion of the
23 revenue derived from such fee or charge is obligated or
24 expended for any purpose other than support of 911 and
25 E-911 services or enhancements of such services.

1 “(e) FEASIBILITY.—In establishing requirements or
2 obligations under subsections (a) and (b), the Commission
3 shall ensure that such standards impose requirements or
4 obligations on VOIP service providers and entities with
5 ownership or control of necessary E–911 infrastructure
6 that the Commission determines are technologically and
7 operationally feasible. In determining the requirements
8 and obligations that are technologically and operationally
9 feasible, the Commission shall take into consideration
10 available industry technological and operational standards.

11 “(f) PROGRESS REPORTS.—To the extent that the
12 Commission concludes that it is not technologically or
13 operationally feasible for VOIP service providers to comply
14 with E–911 requirements or obligations, then the Com-
15 mission shall submit reports to the Committee on Energy
16 and Commerce of the House of Representatives and the
17 Committee on Commerce, Science, and Transportation of
18 the Senate on the progress in attaining and deploying E–
19 911 service. Such reports shall be submitted semiannually
20 until the Commission concludes that it is technologically
21 and operationally feasible for all VOIP service providers
22 to comply with E–911 requirements and obligations. Such
23 reports may include any recommendations the Commission
24 considers appropriate to encourage the migration of emer-

1 gency services to TCP/IP protocol or other advanced serv-
2 ices.

3 “(g) ACCESS TO INFORMATION.—The Commission
4 shall have the authority to compile a list of PSAP contact
5 information, testing procedures, and classes and types of
6 services supported by PSAPs, or other information con-
7 cerning the necessary E-911 infrastructure, for the pur-
8 pose of assisting providers in complying with the require-
9 ments of this section.

10 “(h) EMERGENCY ROUTING NUMBER ADMINIS-
11 TRATOR.—Within 30 days after the date of enactment of
12 this section, the Federal Communications Commission
13 shall establish an emergency routing number adminis-
14 trator to enable VOIP service providers to acquire non-
15 dialable pseudo-automatic number identification numbers
16 for 9-1-1 routing purposes on a national scale. The Com-
17 mission may adopt such rules and practices as are nec-
18 essary to guide such administrator in the fair and expedi-
19 tious assignment of these numbers.

20 “(i) EMERGENCY RESPONSE SYSTEMS.—

21 “(1) NOTICE PRIOR TO INSTALLATION OR NUM-
22 BER ACTIVATION OF VOIP SERVICE.—Prior to instal-
23 lation or number activation of VOIP service for a
24 customer, a VOIP service provider shall provide
25 clear and conspicuous notice to the customer that—

1 “(A) such customer should arrange with
2 his or her emergency response system provider,
3 if any, to test such system after installation;

4 “(B) such customer should notify his or
5 her emergency response system provider after
6 VOIP service is installed; and

7 “(C) a battery backup is required for cus-
8 tomer premises equipment installed in connec-
9 tion with the VOIP service in order for the sig-
10 naling of such system to function in the event
11 of a power outage.

12 “(2) DEFINITION.—In this subsection:

13 “(A) The term ‘emergency response sys-
14 tem’ means an alarm or security system, or per-
15 sonal security or medical monitoring system,
16 that is connected to an emergency response cen-
17 ter by means of a telecommunications carrier or
18 VOIP service provider.

19 “(B) The term ‘emergency response center’
20 means an entity that monitors transmissions
21 from an emergency response system.

22 “(j) MIGRATION TO IP-ENABLED EMERGENCY NET-
23 WORK.—

24 “(1) NATIONAL REPORT.—No more than 18
25 months after the date of the enactment of this sec-

1 tion, the National 911 Implementation and Coordi-
2 nation Office shall develop a report to Congress on
3 migrating to a national IP-enabled emergency net-
4 work capable of receiving and responding to all cit-
5 izen activated emergency communications.

6 “(2) CONTENTS OF REPORT.—The report re-
7 quired by paragraph (1) shall—

8 “(A) outline the potential benefits of such
9 a migration;

10 “(B) identify barriers that must be over-
11 come and funding mechanisms to address those
12 barriers;

13 “(C) include a proposed timetable, an out-
14 line of costs and potential savings;

15 “(D) provide recommendations on specific
16 legislative language,

17 “(E) provide recommendations on any leg-
18 islative changes, including updating definitions,
19 to facilitate a national IP-enabled emergency
20 network; and

21 “(F) assess, collect, and analyze the expe-
22 riences of the PSAPs and related public safety
23 authorities who are conducting trial deploy-
24 ments of IP-enabled emergency networks as of
25 the date of enactment of this section.

1 “(3) CONSULTATION.—In developing the report
2 required by paragraph (1), the Office shall consult
3 with representatives of the public safety community,
4 technology and telecommunications providers, and
5 others it deems appropriate.

6 “(k) IMPLEMENTATION.—

7 “(1) DEADLINE.—The Commission shall pre-
8 scribe regulations to implement this section within
9 120 days after the date of enactment of this section.

10 “(2) LIMITATION.—Nothing in this section
11 shall be construed to permit the Commission to issue
12 regulations that require or impose a specific tech-
13 nology or technological standard.

14 “(l) DEFINITIONS.—For purposes of this section:

15 “(1) VOIP SERVICE.—The term ‘VOIP service’
16 means a service that—

17 “(A) provides real-time 2-way voice com-
18 munications transmitted through customer
19 premises equipment using TCP/IP protocol, or
20 a successor protocol (including when the voice
21 communication is converted to or from TCP/IP
22 protocol by the VOIP service provider and
23 transmitted to the subscriber without use of cir-
24 cuit switching), for a fee;

1 “(B) is offered to the public, or such class-
2 es of users as to be effectively available to the
3 public (whether part of a bundle of services or
4 separately); and

5 “(C) has the capability so that the service
6 can originate traffic to, and terminate traffic
7 from, the public switched telephone network.

8 “(2) VOIP SERVICE PROVIDER.—The term
9 ‘VOIP service provider’ means any person who pro-
10 vides or offers to provide a VOIP service.

11 “(3) NECESSARY E-911 INFRASTRUCTURE.—
12 The term ‘necessary E-911 infrastructure’ means
13 the selective routers, selective router databases,
14 automatic location information databases, master
15 street address guides, trunk lines between selective
16 routers and PSAPs, trunk lines between automatic
17 location information databases and PSAPs, and
18 other 911 and E-911 equipment, facilities, data-
19 bases, interfaces, and related capabilities specified
20 by the Commission.

21 “(4) NON-DIALABLE PSEUDO-AUTOMATIC NUM-
22 BER IDENTIFICATION NUMBER.—The term ‘non-
23 dialable pseudo-automatic number identification
24 number’ means a number, consisting of the same
25 number of digits as numbers used for automatic

1 number identification, that is not a North American
2 Numbering Plan telephone directory number and
3 that may be used in place of an automatic number
4 identification number to convey special meaning.
5 The special meaning assigned to the non-dialable
6 pseudo-automatic number identification number is
7 determined by nationally standard agreements, or by
8 individual agreements, as necessary, between the
9 system originating the call, intermediate systems
10 handling and routing the call, and the destination
11 system.

12 **“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE**
13 **PROVIDERS.**

14 “(a) IN GENERAL.—

15 “(1) FACILITIES-BASED VOIP SERVICE PRO-
16 VIDERS.—A facilities-based VOIP service provider
17 shall have the same rights, duties, and obligations as
18 a requesting telecommunications carrier under sec-
19 tions 251 and 252, if the provider elects to assert
20 such rights.

21 “(2) VOIP SERVICE PROVIDERS.—A VOIP serv-
22 ice provider that is not a facilities-based VOIP serv-
23 ice provider shall have only the same rights, duties,
24 and obligations as a requesting telecommunications

1 carrier under sections 251(b), 251(e), and 252, if
2 the provider elects to assert such rights.

3 “(3) CLARIFYING TREATMENT OF VOIP SERV-
4 ICE.—A telecommunications carrier may use inter-
5 connection, services, and network elements obtained
6 pursuant to sections 251 and 252 from an incum-
7 bent local exchange carrier (as such term is defined
8 in section 251(h)) to exchange VOIP service traffic
9 with such incumbent local exchange carrier regard-
10 less of the provider originating such VOIP service
11 traffic, including an affiliate of such telecommuni-
12 cations carrier.

13 “(b) DISABLED ACCESS.—A VOIP service provider
14 or a manufacturer of VOIP service equipment shall have
15 the same rights, duties, and obligations as a telecommuni-
16 cations carrier or telecommunications equipment manufac-
17 turer, respectively, under sections 225, 255, and 710 of
18 the Act. Within 1 year after the date of enactment of this
19 Act, the Commission, in consultation with the Architec-
20 tural and Transportation Barriers Compliance Board,
21 shall prescribe such regulations as are necessary to imple-
22 ment this section. In implementing this subsection, the
23 Commission shall consider whether a VOIP service pro-
24 vider or manufacturer of VOIP service equipment pri-
25 marily markets such service or equipment as a substitute

1 for telecommunications service, telecommunications equip-
 2 ment, customer premises equipment, or telecommuni-
 3 cations relay services.

4 “(c) DEFINITIONS.—For purposes of this section:

5 “(1) FACILITIES-BASED VOIP SERVICE PRO-
 6 VIDER.—The term ‘facilities-based VOIP service
 7 provider’ means an entity that provides VOIP serv-
 8 ice over a physical facility that terminates at the end
 9 user’s location and which such entity or an affiliate
 10 owns or over which such entity or affiliate has exclu-
 11 sive use. An entity or affiliate shall be considered a
 12 facilities-based VOIP service provider only in those
 13 geographic areas where such terminating physical
 14 facilities are located.

15 “(2) VOIP SERVICE PROVIDER; VOIP SERVICE.—
 16 The terms ‘VOIP service provider’ and ‘VOIP serv-
 17 ice’ have the meanings given such terms by section
 18 716(j).”.

19 **TITLE IV—MUNICIPAL** 20 **PROVISION OF SERVICES**

21 **SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERV-** 22 **ICES.**

23 (a) IN GENERAL.—Neither the Communications Act
 24 of 1934 nor any State statute, regulation, or other State
 25 legal requirement may prohibit or have the effect of pro-

1 hibiting any public provider of telecommunications service,
2 information service, or cable service (as such terms are
3 defined in sections 3 and 602 of such Act) from providing
4 such services to any person or entity.

5 (b) COMPETITION NEUTRALITY.—Any State or polit-
6 ical subdivision thereof, or any agency, authority, or in-
7 strumentality of a State or political subdivision thereof,
8 that is, owns, controls, or is otherwise affiliated with a
9 public provider of telecommunications service, information
10 service, or cable service shall not grant any preference or
11 advantage to any such provider. Such entity shall apply
12 its ordinances, rules, and policies, including those relating
13 to the use of public rights-of-way, permitting, performance
14 bonding, and reporting without discrimination in favor of
15 any such provider as compared to other providers of such
16 services.

17 (c) COMPLIANCE WITH OTHER LAWS NOT AF-
18 FECTED.—Nothing in this section shall exempt a public
19 provider from any law or regulation that applies to pro-
20 viders of telecommunications service, information service,
21 or cable service.

22 (d) REPORT.—Not later than 1 year after the date
23 of the enactment of this Act, the Federal Communications
24 Commission shall submit to the Congress a report on the
25 status of the provision of telecommunications service, in-

1 formation service, and cable service by States and political
2 subdivisions thereof.

3 (e) DEFINITION OF PUBLIC PROVIDER.—For pur-
4 poses of this section, the term “public provider” means
5 a State or political subdivision thereof, or any agency, au-
6 thority, or instrumentality of a State or political subdivi-
7 sion thereof, that provides telecommunications service, in-
8 formation service, or cable service, or any entity that is
9 owned, controlled, or is otherwise affiliated with such
10 State or political subdivision thereof, or agency, authority,
11 or instrumentality of a State or political subdivision there-
12 of.

13 **TITLE V—BROADBAND SERVICE**

14 **SEC. 501. STAND-ALONE BROADBAND SERVICE.**

15 Title VII of the Communications Act of 1934 (47
16 U.S.C. 601 et seq.) is further amended by adding after
17 section 717 (as added by section 301 of this Act) the fol-
18 lowing new section:

19 **“SEC. 718. STAND-ALONE BROADBAND SERVICE.**

20 “(a) PROHIBITION.—A broadband service provider
21 shall not require a subscriber, as a condition on the pur-
22 chase of any broadband service the provider offers, to pur-
23 chase any cable service, telecommunications service, or
24 VOIP service offered by the provider.

25 “(b) DEFINITIONS.—In this section:

1 “(1) The term ‘broadband service’ means a two-
 2 way transmission service that connects to the Inter-
 3 net and transmits information at an average rate of
 4 at least 200 kilobits per second in at least one direc-
 5 tion.

6 “(2) The term ‘broadband service provider’
 7 means a person or entity that controls, operates, or
 8 resells and controls any facility used to provide
 9 broadband service to the public, by whatever tech-
 10 nology and whether provided for a fee, in exchange
 11 for an explicit benefit, or for free.

12 “(3) The term ‘VOIP service’ has the meaning
 13 given such term by section 716(j). ”.

14 **SEC. 502. STUDY OF INTERFERENCE POTENTIAL OF**
 15 **BROADBAND OVER POWER LINE SYSTEMS.**

16 Within 90 days after the date of enactment of this
 17 Act, the Federal Communications Commission shall con-
 18 duct, and submit to the Committee on Energy and Com-
 19 merce of the House of Representatives and the Committee
 20 on Commerce, Science, and Transportation of the Senate,
 21 a study of the interference potential of broadband over
 22 power line systems.

23 **TITLE VI—SEAMLESS MOBILITY**

24 **SEC. 601. DEVELOPMENT OF SEAMLESS MOBILITY.**

25 (a) STREAMLINED REVIEW.—

1 (1) The Commission shall further the develop-
2 ment of seamless mobility.

3 (2) Within 120 days after the date of enact-
4 ment of this Act, the Commission shall implement a
5 process for streamlined review and authorization of
6 multi-mode devices that permit communication
7 across multiple Internet protocol-enabled broadband
8 platforms, facilities, and networks.

9 (b) STUDY.—The Commission shall undertake an in-
10 quiry to identify barriers to the achievement of seamless
11 mobility. Within 180 days after the date of enactment of
12 this Act, the Commission shall report to the Congress on
13 its findings and its recommendations for steps to eliminate
14 those barriers.

15 (c) DEFINITIONS.—For purposes of this section, the
16 term “seamless mobility” means the ability of a commu-
17 nications device to select between and utilize multiple
18 Internet protocol-enabled technology platforms, facilities,
19 and networks in a real-time manner to provide a unified
20 service.

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A BILL

To promote the deployment of broadband networks
and services.

MAY 17, 2006

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed