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Wisconsin Association of PEG Channels

Serving the needs of public, education, and government cable access television stations since 1998.

Cable Consumer Repair Bill Informational Meeting Tuesday, November 17, 2009

Good morning. I'm Mary Cardona, Executive Director of the Wisconsin Association of PEG Channels. I appreciate the opportunity to talk with you today about community television, how Act 42 has damaged it, and how the Cable Consumer Repair Bill restores support.

Act 42 made two fundamental changes to cable television franchising. It changed the process by moving it from the local level where municipalities and cable operators negotiated agreements based on community needs, to the state level, where a standardized state licensing procedure was set in place. This new state law also for the first time allowed video providers to make no commitment to serve whole communities. These two major changes were touted as the way Wisconsin consumers would see competition and most importantly lower rates. The state legislature supported that goal and passed the Cable Competition bill. However, the bill crafted by industry representatives had an additional purpose: to end support for community television. Promoters of the bill insisted the bill "protected" community television and neither the public nor legislators fully understood the extent to which Act 42 would damage community television.

While leaving the major components of Act 42 in place, the Cable Consumer Repair Bill improves the environment for community television in the state by making three changes. It restores a small PEG fee as a local option, it moves the responsibility for transmission equipment back to video providers, and it requires providers to carry community channels on the most basic tier of service.

PEG fees are a very significant source of funding for thirty communities in the state. Six stations rely on these fees for over one-third of their annual budgets including West Allis Community Television, Chippewa Valley Community Television (Eau Claire), Jefferson JPEG, Madison City Channel, Wausau Area Access Channels and WYOU. On January 1, 2011, this funding ends. In Madison, last week, WYOU became Act 42's first victim. Citing the loss of PEG fees in 2011, the city council cut the allocation for WYOU in half for fiscal year 2010 and completely in 2011. WYOU may be the first station to close as a result of Act 42.

The Cable Consumer Repair Bill would change the dire financial picture for community television by enabling local governments to pass ordinances adding a PEG fee onto cable subscriber bills. PEG fee revenue would be limited to 1% of video provider gross revenues or to about 60 cents per subscriber per month. This revenue would stay in the community, and be spent on the development of local programming for the benefit of cable television subscribers and the community.

Transmission equipment, under Act 42, can be charged to local governments. This provision chiefly benefits AT&T, since cable companies long ago made the investment. Unlike the transmission equipment used by cable companies, AT&T's equipment has a short lifespan, is expensive, and requires more engineering. The expensive cost has been discouraging nearly all stations in AT&T's coverage area from seeking carriage on U-Verse. Besides the Milwaukee stations that received free equipment only seven Wisconsin community channels are now seen on U-Verse.

The Cable Consumer Repair Bill requires video providers to pay for the transmission equipment necessary to put community channels on their systems, which prior to Act 42 was the industry standard practice.

Finally, the Cable Consumer Repair Bill does one more very important thing for community television. It requires companies to carry community television channels as they would carry local broadcast channels. Weak language in Act 42 is allowing video providers to bury community channels in hard to find places. Charter Communications has been using Act 42 as justification for first entirely removing community television channels from the basic analog

tier, and then, after receiving a significant protest from our organization, moving them to remote areas of the digital and analog line-up where they are plagued by black outs and interference problems. On the Charter system, the community channels are now carried in the analog 90's for analog customers and digital 900's for digital customers. I recently learned Charter is planning to do the same thing in Traverse City Michigan. The City Commission has just voted to take legal action to prevent Charter from moving the community channels to 96 and 97. AT&T carries the community channels as websites, not channels. These websites are found on Channel 99 under several layers of menus. It takes a subscriber 45 seconds to navigate the menu system and see a community channel. It takes another 20 seconds to go back to the commercial channel line-up.

The Cable Consumer Repair bill requires video providers to carry community channels on a tier that all subscribers receive in a manner that mirrors the type of carriage local broadcasters receive on the basic tier. Again, this was the legal and industry standard practice prior to Act 42.

Under the guise of increased competition for the benefit of consumers, cable companies and AT&T crafted the cable competition bill to decrease the services offered to subscribers and their communities. The Cable Competition Bill attempted to end all support for community channels in an effort to squeeze out a very marginal profit gain for the industry. The Cable Consumer Repair Bill strives to restore support for community television and gives the legislature a chance to inject some balance back into the state's cable television law so that it serves the needs and interests of our communities.

This concludes my review of the Cable Consumer Repair Bill. But I'd like to make one final note. Industry detractors of community television are fond of saying no one watches community channels and no one wants to pay for them. Recently, it came to my attention that Oak Creek, a city in Senator Plale's district, has purchased \$55,000 worth of video production equipment to cablecast their common council meetings on their government access channel, which until now has never been used. Fresh interest in community television is not surprising given that experts say consumers have been showing an increasing interest in local television programming over the last 10 years as commercial media coverage of localities has dwindled. Local radio news departments have disappeared and local newspapers have been folding. Today the public's appetite for local content is greater than ever before. Even the Wall Street Journal points out that video providers are looking to provide what they call "hyper local content". It would seem that community channels do offer what consumers want. It's time the industry in Wisconsin catches up.

For more information: www.saveaccessstv.wisconsin.org 608-215-5594

PEG-related provisions of Act 42 that do not change in the Cable Consumer Repair Bill

Video service providers must continue to provide PEG channel capacity that existed before January 9, 2008. The Act's provisions make it unlikely that municipalities will be able to require additional PEG channels. (Section (5)(a))

Video service providers may reprogram PEG channels that do not meet the "substantial utilization" requirement, the definition of which remains unchanged. To restore a channel, municipalities must certify that they will be able to meet the substantial utilization requirement. (Section (5)(b))

All notice requirements municipalities must follow to receive the video provider fee, PEG fee, and channel capacity remain. (Section (5)(b) 2.)

Municipalities may not require any support for PEG except as spelled out in Wisconsin state law. (Section (5)(c))

Municipalities must make PEG programming available to operators "in a nondiscriminatory manner." ((5)(c) 3. b.)

Municipalities are responsible for the construction cost of transmission lines after the first 200 feet from an origination point if the origination point is moved. Municipalities also continue to be fully responsible for the cost of any additional origination lines. (Section (5)(d))

Current PEG fees end January 1, 2011. (Section (7)(em))

PEG-related provisions in the Cable Consumer Repair Bill that would change current law

Changes from current law are emphasized with underlining. Please refer to the bill for actual language.

Section 26 (page 11 lines 19 – 23)

PEG channel capacity shall be provided on a service tier that is viewed by 100 percent of subscribers rather than more than 50%.

Section 27 (page 11 line 24 – page 12 line 10)

If a PEG channel is not substantially utilized and an operator reprograms it and later restores it because a municipality has certified that it will meet the substantial utilization standard, the operator may no longer place that restored PEG channel on any service tier it wants.

Section 29 (page 12 line 18 – page 13 line 11)

If a video service provider uses a video format on its system that is incompatible with the format a PEG station uses, it is no longer the municipality's responsibility to make the PEG signal compatible with the video service provider's system.

Section 30 (page 13 line 12 – page 13 line 21)

The video service provider is responsible for transmitting PEG programming by providing both the transmitting equipment and transmission line capacity to origination points existing as of January 9, 2008.

Section 30 (page 13 line 21 – page 14 line 9)

The change in this section simply clarifies the intent of the legislature in Act 42 by making it clear that if an origination line is MOVED, the video service provider is responsible for the construction costs of the first 200 feet beginning from the origination point and the municipality is responsible for any remaining construction costs to connect to the cable operator's facilities.

Section 31 (page 14 lines 10 – 22)

Video service providers shall provide PEG channel capacity that is equivalent to the capacity provided to local commercial television stations in terms of accessibility, functionality, and audio and visual quality.

Section 31 (page 14 line 23 – page 15 line 11)

Video service providers shall provide PEG channel capacity a) within 10 channel numbers of local commercial stations, b) viewable by every subscriber without additional service or equipment charges, and c) without any material degradation, alteration, or removal of content from the origination point.

Section 33 (page 15 line 19 – page 16 line 10; Section 35 repeals old language that froze fee amounts)

Municipalities may collect a video service provider fee of no more than 5% of the provider's gross receipts as specified by each municipality.

Section 34 (page 16 line 11)

Cost-based permit fees charged to video service providers may no longer be deducted from the video service provider fee, enabling the 5% video service provider fee to remain whole.

Section 38 (page 17 lines 1 – 10)

Beginning on January 1, 2011, a municipality, by ordinance, for the purposes of supporting PEG channels, may require video service providers to pay a fee equal to no more than 1 percent of the provider's annual gross receipts.

Section 39 (page 17 line 11 – 15)

The fee required for the support of PEG channels may be shown as a separate line item on customer bills. Language describing the fee as support for access facilities for PEG channels is deleted.