

109TH CONGRESS
2D SESSION

H. R. _____

To [purpose to be supplied].

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To [purpose to be supplied].

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 “_____ Act of 2006”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 101. National cable franchising.

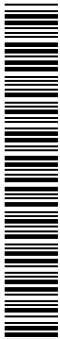
Sec. 102. Definition.

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.

1 **TITLE I—NATIONAL CABLE**
2 **FRANCHISING**

3 **SEC. 101. NATIONAL CABLE FRANCHISING.**

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

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

8 “(a) NATIONAL FRANCHISES.—

9 “(1) ELECTION.—A cable operator that is eligi-
10 ble under subsection (d) may elect to obtain a na-
11 tional franchise under this section for a franchise
12 area in lieu of a franchise for a franchise area under
13 section 621. A cable operator may not provide cable
14 service in a franchise area without a franchise under
15 either this section or section 621. A franchising au-
16 thority may not require any cable operator that has
17 a national franchise under this section in effect with
18 respect to the franchise area of that franchising au-
19 thority to obtain a franchise under section 621 or
20 any other law.

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



1 “(A) file with the Commission a certifi-
2 cation for a national franchise containing the
3 information required by paragraph (3) with re-
4 spect to such franchise area, if such person or
5 group has not previously obtained a national
6 franchise; or

7 “(B) file with the Commission a subse-
8 quent certification for additional franchise areas
9 containing the information required by para-
10 graph (3) with respect to such additional fran-
11 chise areas, if such operator has previously ob-
12 tained a national franchise.

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

16 “(A) with respect to the cable operator, a
17 statement of—

18 “(i) the name under which the oper-
19 ator is doing or intends to do business;

20 “(ii) the names and business address-
21 es of the directors and principal executive
22 officers, or the persons performing similar
23 functions, of the operator;

24 “(iii) the location of the operator’s
25 principal business office; and



1 “(iv) the name, business address, elec-
2 tronic mail address, and telephone and fax
3 number of its local agent;

4 “(B) a declaration by the cable operator
5 that the operator is eligible under subsection
6 (d) to obtain a national franchise under this
7 section;

8 “(C) a description of the service to be of-
9 fered by the cable operator under this section,
10 including the franchise areas in which cable
11 service will be offered pursuant to such certifi-
12 cation; and

13 “(D) a declaration that the cable operator
14 transmitted, or will transmit on the day of fil-
15 ing such declaration, a copy of such certifi-
16 cation to the franchising authority for each
17 such franchise area.

18 “(4) LOCAL NOTIFICATION; PRESERVATION OF
19 OPPORTUNITY TO NEGOTIATE.—

20 “(A) COPY TO LOCAL FRANCHISING AU-
21 THORITY.—On the day of filing any certifi-
22 cation under paragraph (2)(A) or (B) for a
23 franchise area, the cable operator shall transmit
24 a copy of such certification to the local fran-
25 chising authority for such area.



1 “(B) NEGOTIATED FRANCHISE AGREE-
2 MENTS PERMITTED.—Nothing in this section
3 shall prevent a person or group from negoti-
4 ating a local franchise agreement with a local
5 franchising authority under section 621. Upon
6 entry into any such negotiated franchise agree-
7 ment, such negotiated franchise agreement shall
8 apply in lieu of any national franchise held by
9 that person or group under this section for such
10 franchise area.

11 “(5) UPDATING OF CERTIFICATIONS.—A cable
12 operator that files a certification under this section
13 shall update any information contained in such cer-
14 tification that is no longer accurate and correct.

15 “(6) PUBLIC AVAILABILITY OF CERTIFI-
16 CATIONS.—The Commission shall provide for the
17 public availability on the Commission’s Internet
18 website or other electronic facility of all current cer-
19 tifications and updated information filed under this
20 section.

21 “(b) EFFECTIVENESS; DURATION.—

22 “(1) EFFECTIVENESS.—A national franchise
23 under this section shall be effective with respect to
24 any franchise area—



1 “(A) 30 days after the date of the filing of
2 a completed certification under subsection
3 (a)(2)(A) or (B) that applies to such franchise
4 area; or

5 “(B) in the case of a person or group that
6 is eligible under subsection (d)(2)(B), the later
7 of—

8 “(i) 30 days after such date of filing;
9 or

10 “(ii) the date that the person or
11 group’s local franchise under section 621
12 to provide cable service in such franchise
13 area is no longer in effect.

14 “(2) DURATION.—

15 “(A) IN GENERAL.—A franchise under this
16 section that applies to a franchise area shall be
17 effective that franchise area for a term of 10
18 years.

19 “(B) RENEWAL.—A franchise under this
20 section for a franchise area shall be renewed
21 automatically upon expiration of the 10 year
22 period described in subparagraph (A).

23 “(C) REVOCATION.—A franchise under
24 this section for a franchise area may be revoked
25 by the Commission—



1 “(i) for willful or repeated violation of
2 any Federal or State law, or any Commis-
3 sion regulation, relating to the provision of
4 cable service in such franchise area;

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

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

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

19 “(D) REINSTATEMENT.—After a revoca-
20 tion of a franchise for a franchise area of any
21 group or person under subparagraph (C), the
22 Commission may refuse to accept for filing a
23 new certification for authority of such person or
24 group to provide cable service under this section
25 in such franchise area until the Commission de-



1 termines that the basis of such revocation has
2 been remedied.

3 “(E) RETURN TO LOCAL FRANCHISING IF
4 CABLE COMPETITION CEASES.—On petition to
5 the Commission by the appropriate franchising
6 authority, a franchise granted to an eligible per-
7 son or group under subsection (d)(2) for a fran-
8 chise area shall cease to be effective one year
9 after the filing of the petition if no other cable
10 operator provides cable service in such franchise
11 area during that one year. A cable operator
12 whose national franchise for such franchise area
13 is terminated under this subparagraph may ob-
14 tain a new franchise under section 621 or this
15 section, if otherwise eligible.

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

21 “(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A
22 national franchise shall contain the following require-
23 ments:

24 “(1) FRANCHISE FEE.—A cable operator au-
25 thorized under this section to provide cable service



1 in a local franchise area shall pay a franchise fee in
2 accordance with section 622 and the definition of
3 gross revenues in this section.

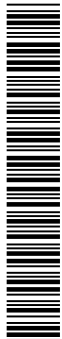
4 “(2) PEG/I-NET REQUIREMENTS.—A cable op-
5 erator authorized under this section to provide cable
6 service in a local franchise area shall comply with
7 the requirements of subsection (e).

8 “(3) RIGHTS-OF-WAY.—A cable operator au-
9 thORIZED under this section to provide cable service
10 in a local franchise area shall comply with the
11 rights-of-way requirements of the franchising au-
12 thority under subsection (f).

13 “(4) CONSUMER PROTECTION AND CUSTOMER
14 SERVICE STANDARDS.—A cable operator authorized
15 under this section to provide cable service in a local
16 franchise area shall comply with the consumer pro-
17 tection and customer service standards established
18 by the Commission under section 632(b).

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

22 “(1) NEW CABLE OPERATORS.—A person or
23 group that commences the provision of cable service
24 in a franchise area on or after the date of enactment
25 of the _____ Act of 2006 (in this section



1 referred to as a ‘new cable operator’) may obtain a
2 national franchise under this section for any fran-
3 chise area.

4 “(2) EXISTING PROVIDERS OF CABLE SERV-
5 ICE.—

6 “(A) A person or group that is providing
7 cable service in a franchise area on the date of
8 enactment of the _____ Act of 2006
9 may obtain a national franchise under this sec-
10 tion to provide cable service in such franchise
11 area if a new cable operator as described in
12 paragraph (1) is providing cable service in such
13 franchise area under this section.

14 “(B) A person or group that is providing
15 cable service in a franchise area on the date of
16 enactment of the _____ Act of 2006
17 may obtain a national franchise under this sec-
18 tion to provide cable service in such franchise
19 area when the person or group’s local franchise
20 under section 621 to provide cable service in
21 such franchise area is no longer in effect if—

22 “(i) such person or group is an in-
23 cumbent local exchange carrier (as such
24 term is defined in section 251(h)) or its af-
25 filiate, and another cable operator that was



1 providing cable service in such franchise
 2 area on the date of enactment of the
 3 _____ Act of 2006 is providing
 4 cable service in such franchise area on the
 5 date that the national franchise of the per-
 6 son or group becomes effective; or

7 “(ii) such person or group is not an
 8 incumbent local exchange carrier (as such
 9 term is defined in section 251(h)) or its af-
 10 filiate, and such an incumbent local ex-
 11 change carrier or affiliate that was pro-
 12 viding cable service in such franchise area
 13 on the date of enactment of the
 14 _____ Act of 2006 is providing
 15 cable service in such franchise area on the
 16 date that the national franchise of the per-
 17 son or group becomes effective.

18 “(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
 19 USE.—

20 “(1) IN GENERAL.—Subject to paragraph (3), a
 21 cable operator obtaining a national franchise for a
 22 franchise area under this section shall provide chan-
 23 nel capacity for public, educational, and govern-
 24 mental use that is not less than the channel capacity
 25 required of the cable operator with the most sub-



1 scribers in such franchise area on the effective date
2 of such national franchise. If there is no other cable
3 operator in such franchise area on the effective date
4 of such national franchise, the cable operator shall
5 provide the amount of channel capacity for such use
6 as determined by Commission rule.

7 “(2) PEG AND I-NET FINANCIAL SUPPORT.—A
8 cable operator with a national franchise under this
9 section for a franchise area shall pay an amount
10 equal to 1 percent of the cable operator’s gross reve-
11 nues (as such term is defined in this section) in the
12 franchise area to the franchising authority for the
13 support of public, educational, and governmental use
14 and institutional networks (as such term is defined
15 in section 611(f)). Such payment shall be assessed
16 and collected in a manner consistent with section
17 622. A cable operator that previously held a fran-
18 chise under section 621 and that obtains a national
19 franchise under this section shall continue to provide
20 any institutional network that it was required to
21 provide under such section 621 franchise. Notwith-
22 standing section 621(b)(3)(D), a local franchise au-
23 thority may not require a cable operator franchised
24 under this section to construct a new institutional
25 network.



1 “(3) ADJUSTMENT.—Every 10 years after the
2 commencement of a franchise under this section for
3 a franchise area, a franchising authority may require
4 a cable operator franchised under this section to in-
5 crease the channel capacity designated for public,
6 educational, or governmental use, and the channel
7 capacity designated for such use on any institutional
8 networks required under paragraph (2). Such in-
9 crease shall not exceed the higher of—

10 “(A) one channel; or

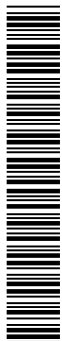
11 “(B) 10 percent of the public, educational,
12 or governmental channel capacity required of
13 that operator prior to the increase.

14 “(4) TRANSMISSION AND PRODUCTION OF PRO-
15 GRAMMING.—

16 “(A) A cable operator franchised under
17 this section shall ensure that all subscribers re-
18 ceive any public, educational, or governmental
19 programming carried by the cable operator
20 within the subscriber’s franchise area.

21 “(B) The production of any programming
22 provided under this subsection shall be the re-
23 sponsibility of the franchising authority.

24 “(C) The cable operator shall be respon-
25 sible for the transmission from the signal origi-



1 nation point (or points) of the programming, or
2 from the point of interconnection with another
3 cable operator under subparagraph (D), to the
4 cable operator's subscribers, of any public, edu-
5 cational, or governmental programming pro-
6 duced by or for the franchising authority and
7 carried by the cable operator pursuant to this
8 section.

9 “(D) Unless two cable operators otherwise
10 agree to the terms for interconnection and cost
11 sharing, such cable operators shall comply with
12 regulations prescribed by the Commission pro-
13 viding for—

14 “(i) the interconnection between two
15 cable operators in a franchise area for
16 transmission of public, educational, or gov-
17 ernmental programming, without material
18 deterioration in signal quality or
19 functionality; and

20 “(ii) the reasonable allocation of the
21 costs of such interconnection between such
22 cable operators.

23 “(E) The cable operator shall display the
24 program information for public, educational, or
25 governmental programming in any print or elec-



1 tronic program guide in the same manner in
2 which it displays program information for other
3 video programming in the franchise area. The
4 cable operator shall not omit public, edu-
5 cational, or governmental programming from
6 any navigational device, guide, or menu con-
7 taining other video programming that is avail-
8 able to subscribers in the franchise area.

9 “(f) RIGHTS-OF-WAY.—

10 “(1) AUTHORITY TO USE.—Any franchise under
11 this section for a franchise area shall be construed
12 to authorize the construction of a cable system over
13 public rights-of-way, and through easements, which
14 is within the area to be served by the cable system
15 and which have been dedicated for compatible uses,
16 except that in using such easements the cable oper-
17 ator shall ensure that—

18 “(A) the safety, functioning, and appear-
19 ance of the property and the convenience and
20 the safety of other persons not be adversely af-
21 fected by the installation or construction of fa-
22 cilities necessary for a cable system;

23 “(B) the cost of the installation, construc-
24 tion, operation, or removal of such facilities be



1 borne by the cable operator or subscriber, or a
2 combination of both; and

3 “(C) the owner of the property be justly
4 compensated by the cable operator for any dam-
5 ages caused by the installation, construction,
6 operation, or removal of such facilities by the
7 cable operator.

8 “(2) MANAGEMENT OF PUBLIC RIGHTS-OF-
9 WAY.—Nothing in this Act affects the authority of
10 a State or local government (including a franchising
11 authority) to manage the public rights-of-way, and
12 easements that have been dedicated for compatible
13 uses, on a reasonable, competitively neutral, and
14 non-discriminatory basis. A State or local govern-
15 ment (including a franchising authority) may, on a
16 reasonable, competitively neutral, and non-discrimi-
17 natory basis—

18 “(A) impose charges for such management;

19 and

20 “(B) require compliance with paragraphs
21 (1)(A), (B), and (C).

22 “(g) CONSUMER PROTECTION AND CUSTOMER SERV-
23 ICE.—

24 “(1) NATIONAL STANDARDS.—Notwithstanding
25 section 632(d), no State or local law (including any



1 regulation) shall impose on a cable operator fran-
2 chised under this section any consumer protection or
3 customer service requirements other than consumer
4 protection or customer service requirements of gen-
5 eral applicability.

6 “(2) PROCEEDING.—Within 120 days of enact-
7 ment of the _____ Act of 2006, the Com-
8 mission shall issue a report and order that updates
9 for cable operators franchised under this section the
10 national consumer protection and customer service
11 rules under section 632(b), taking into consideration
12 the national nature of a franchise under this section
13 and the role of State and local governments in en-
14 forcing, but not creating, consumer protection and
15 customer service standards for cable operators fran-
16 chised under this section.

17 “(3) COMPLAINTS.—Any person may file a
18 complaint with respect to a violation of the regula-
19 tions prescribed under section 632(b) in a local fran-
20 chise area by a cable operator franchised under this
21 section—

22 “(A) with the local franchising authority in
23 such area; or

24 “(B) with the Commission.



1 “(4) LOCAL FRANCHISING ORDERS REQUIRING
2 COMPLIANCE.—In a proceeding commenced with a
3 local franchising authority on such a complaint, a
4 local franchising authority may issue an order re-
5 quiring compliance with any of such regulations pre-
6 scribed by the Commission, but a local franchising
7 authority may not create any new standard or regu-
8 lation, or expand upon or modify the Commission’s
9 standards or regulations.

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

16 “(6) COMMISSION REMEDIES; APPEALS.—Un-
17 less appealed to the Commission, an order of a local
18 franchising authority under this subsection shall be
19 enforced by the Commission. Any such appeal shall
20 be resolved by the Commission within 30 days after
21 receipt of the appeal by the Commission.

22 “(7) COST OF LOCAL FRANCHISING AUTHORITY
23 ORDERS.—A local franchising authority may charge
24 a provider of cable service under this section a nomi-
25 nal fee to cover the costs of issuing such orders.



1 “(h) ANTIDISCRIMINATION.—

2 “(1) PROHIBITION.—A cable operator with a
3 national franchise under this section shall not deny
4 access to its cable service to any group of potential
5 residential cable service subscribers because of the
6 income of that group. If the Commission determines
7 that such a cable operator has denied access to its
8 cable service to a group of potential residential cable
9 service subscribers because of the income of that
10 group, the Commission shall ensure that the cable
11 operator extends access to that group.

12 [“(2) ENFORCEMENT.—]

13 “(i) LEASED ACCESS.—The provisions of section
14 612(i) regarding the carriage of programming from a
15 qualified minority programming source or from any quali-
16 fied educational programming source shall apply to a cable
17 operator franchised under this section to provide cable
18 service in a local franchise area.

19 “(j) APPLICABILITY OF OTHER PROVISIONS.—The
20 following sections shall not apply to cable operators fran-
21 chised under this section, or confer any authority to regu-
22 late or impose obligations on such cable operators: Sec-
23 tions 611(a), 611(b), 611(c), 613(a), 617, 621 (other than
24 subsections (b)(3)(A), (b)(3)(B), (b)(3)(C), and (c)),
25 624(b), 624(c), 624(h), 625, 626, 627, and 632(a).



1 “(k) EMERGENCY ALERTS.—Nothing in this Act
2 shall be construed to prohibit a State or local government
3 from accessing the emergency alert system of a cable oper-
4 ator with a franchise under this section in the area served
5 by the State or local government to transmit local or re-
6 gional emergency alerts.

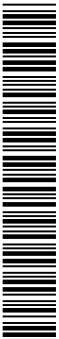
7 “(l) GROSS REVENUES.—As used in this section:

8 “(1) IN GENERAL.—Subject to paragraphs (1)
9 and (2), for purposes of this section, the term ‘gross
10 revenues’ means all consideration of any kind or na-
11 ture, including without limitation, cash, credits,
12 property, and in-kind contributions (services or
13 goods) received by the cable operator from the provi-
14 sion of cable service within the franchise area.

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

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

24 “(B) any franchise fee imposed on the
25 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 ‘home shopping’ or similar programming;

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

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

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

15 “(3) EXCLUDED ITEMS.—For purposes of this
16 section, the term ‘gross revenues’ shall not include
17 the following:

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

21 “(B) refunds, rebates, credits, or discounts
22 to subscribers or a municipality to the extent
23 not already offset by clause (i) and to the ex-
24 tent such refund, rebate, credit, or discount is
25 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, information services,
6 and services, capabilities, and applications that
7 may be sold as part of a package or bundle, or
8 functionally integrated, with cable service;

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

14 “(E) any requirements or charges for man-
15 aging the public rights-of-way with respect to a
16 franchise under this section, including payments
17 for bonds, security funds, letters of credit, in-
18 surance, indemnification, penalties, or liq-
19 uidated damages;

20 “(F) any amounts attributable to the pro-
21 vision of cable service to customers at no
22 charge, including the provision of such service
23 to public institutions without charge;

24 “(G) any tax, fee, or assessment of general
25 applicability imposed on the customer or the



1 transaction by a Federal, State, or local govern-
2 ment or any other governmental entity, col-
3 lected by the provider, and required to be remit-
4 ted to the taxing entity, including sales and use
5 taxes and utility user taxes;

6 “(H) any forgone revenue from the provi-
7 sion of cable service at no charge to any person,
8 except that any forgone revenue exchanged for
9 trades, barter, services, or other items of value
10 shall be included in gross revenue;

11 “(I) sales of capital assets or surplus
12 equipment;

13 “(J) reimbursement by programmers of
14 marketing costs actually incurred by the cable
15 operator for the introduction of new program-
16 ming; and

17 “(K) the sale of cable services for resale to
18 the extent the purchaser certifies in writing
19 that it will resell the service and pay a franchise
20 fee with respect thereto.

21 “(4) FUNCTIONALLY INTEGRATED SERVICES.—

22 In the case of a cable service that is bundled or inte-
23 grated functionally with other services, capabilities,
24 or applications, the portion of the cable operator’s
25 revenue attributable to such other services, capabili-



1 ties, or applications shall be included in gross revenue
2 unless the cable operator can reasonably identify
3 the division or exclusion of such revenue from
4 its books and records that are kept in the regular
5 course of business.

6 “(5) AFFILIATE REVENUE.—Revenue of an affiliate
7 shall be included in the calculation of gross
8 revenues to the extent the treatment of such revenue
9 as revenue of the affiliate has the effect (whether intentional
10 or unintentional) of evading the payment
11 of franchise fees which would otherwise be paid for
12 cable service.

13 “(6) AFFECT ON OTHER LAW.—Nothing in this
14 section is intended to limit a franchising authority’s
15 rights pursuant to section 622(h) of the 1934 Act
16 (47 U.S.C. 542(h)).”.

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

21 **SEC. 102. DEFINITION.**

22 Section 602(4) of the Communications Act of 1934
23 (47 U.S.C. 522(4)) is amended by inserting before the
24 semicolon at the end the following: “, or its equivalent as
25 determined by the Commission”.



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) **LIMITATION.**—The Commission’s authority
16 to enforce the broadband policy statement and the
17 principles incorporated therein is limited to the adju-
18 dicatory authority specified in paragraph (2) of this
19 subsection, and the Commission shall not have rule-
20 making authority with respect to such enforcement.

21 “(2) **ADJUDICATORY AUTHORITY.**—The Com-
22 mission shall have exclusive authority to adjudicate
23 any complaint alleging a violation of the broadband
24 policy statement or the principles incorporated there-
25 in. If, upon completion of an adjudicatory pro-



1 ceeding under this section, the Commission deter-
2 mines that such a violation has occurred, the Com-
3 mission shall have authority to adopt an order to re-
4 quire the entity subject to the complaint to comply
5 with the broadband policy statement and the prin-
6 ciples incorporated therein.

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

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



1 **TITLE III—VOIP/911**

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

3 Title VII of the Communications Act of 1934 (47
4 U.S.C. 601 et seq.) is further amended by adding after
5 section 715 (as added by section 201 of this Act) the fol-
6 lowing new sections:

7 **“SEC. 716. EMERGENCY SERVICES.**

8 “(a) 911 AND E-911 SERVICES.—

9 “(1) IN GENERAL.—Each VOIP provider has a
10 duty to ensure that—

11 “(A) unless the provider is a receive-only
12 provider, 911 services are provided to sub-
13 scribers of VOIP services; and

14 “(B) if the provider is a send-and-receive
15 provider, 911 and E-911 services are provided
16 to subscribers of VOIP services.

17 “(2) USE OF EXISTING REGULATIONS.—Until
18 the Commission’s regulations to implement para-
19 graph (1) take effect, a VOIP service provider that
20 complies with the Commission’s regulations that
21 apply to a VOIP services provider and that are in
22 effect on the date of enactment of the
23 _____ Act of 2006 shall be considered to
24 be in compliance with the requirements of this sec-
25 tion. The Commission shall prescribe regulations to



1 implement paragraph (1) within 120 days after such
2 date of enactment.

3 “(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
4 TIES.—Each entity with ownership or control of the nec-
5 essary E-911 infrastructure shall provide any requesting
6 VOIP service provider with nondiscriminatory access to
7 such infrastructure. Such entity shall provide access to the
8 infrastructure at just and reasonable, nondiscriminatory
9 rates, terms, and conditions as determined by the Com-
10 mission. In determining such access terms and conditions,
11 the Commission shall take into consideration appropriate
12 industry standards established by applicable industry
13 standard-setting organizations.

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

24 “(d) FEASIBILITY.—In establishing requirements or
25 obligations under subsections (a) and (b), the Commission



1 shall ensure that such standards impose requirements or
2 obligations on providers of VOIP service and entities with
3 ownership or control of necessary E-911 infrastructure
4 that the Commission determines are technologically and
5 operationally feasible. In determining the requirements
6 and obligations that are technologically and operationally
7 feasible, the Commission shall take into consideration
8 available industry technological and operational standards.

9 “(e) SUBSCRIBER NOTICE.—A receive-only provider
10 of VOIP services and any other VOIP service provider
11 whose compliance with this section is determined by the
12 Commission to not be technologically or operationally fea-
13 sible in any geographic area shall provide a clear and con-
14 spicuous notice of the unavailability of such service to each
15 subscriber in such area at the time of entering into a serv-
16 ice agreement for VOIP service with that subscriber.

17 “(f) PROGRESS REPORTS.—To the extent that the
18 Commission concludes that it is not technologically or
19 operationally feasible for VOIP service providers to comply
20 with E-911 requirements or obligations, then the Com-
21 mission shall submit reports to the Committee on Energy
22 and Commerce of the House of Representatives and the
23 Committee on Commerce, Science, and Transportation of
24 the Senate on the progress in attaining and deploying E-
25 911 service. Such reports shall be submitted semiannually



1 until the Commission concludes that it is technologically
2 and operationally feasible for all VOIP service providers
3 to comply with E-911 requirements and obligations. Such
4 reports may include any recommendations the Commission
5 considers appropriate to encourage the migration of emer-
6 gency services to TCP/IP protocol or other advanced serv-
7 ices.

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

15 “(h) DEFINITIONS.—For purposes of this section:

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

18 “(A) is offered with or without a fee to the
19 public, or to such classes of users as to be effec-
20 tively available directly to the public, regardless
21 of the facilities used;

22 “(B) enables a subscriber to send or re-
23 ceive voice communications in TCP/IP protocol
24 or a successor protocol to or from any sub-
25 scriber with—



1 “(i) a telephone number under the
2 North American Numbering Plan; or

3 “(ii) such other identification method
4 as is designated by the Commission to be
5 a significant alternative or successor to
6 such Plan; and

7 “(C) assigns to the subscriber such a num-
8 ber or other identification method.

9 “(2) VOIP SERVICE PROVIDER.—The term
10 ‘VOIP service provider’ means any person who pro-
11 vides or offers to provide a VOIP service, either di-
12 rectly or through an affiliate.

13 “(3) RECEIVE-ONLY PROVIDER.—The term ‘re-
14 ceive-only provider’ means a VOIP service provider
15 that enables a subscriber to receive voice commu-
16 nications in TCP/IP protocol or a successor protocol
17 from, but not to send to such communications to—

18 “(A) a telephone number under the North
19 American Numbering Plan; or

20 “(B) such other identification method as is
21 designated by the Commission to be a signifi-
22 cant alternative or successor to such Plan.

23 “(4) SEND-AND-RECEIVE PROVIDER.—The term
24 ‘send-and-receive provider’ means a VOIP service
25 provider that directly or indirectly enables a sub-



1 subscriber to both send and receive voice communica-
2 tions in TCP/IP protocol or a successor protocol to
3 and from any subscriber with such a telephone num-
4 ber or other identification method.

5 “(5) NECESSARY E-911 INFRASTRUCTURE.—
6 The term ‘necessary E-911 infrastructure’ means
7 the selective routers, selective router databases,
8 automatic location information databases, master
9 street address guides, trunk lines between selective
10 routers and PSAPs, trunk lines between automatic
11 location information databases and PSAPs, and
12 other 911 and E-911 equipment, facilities, data-
13 bases, interfaces, and related capabilities specified
14 by the Commission.

15 **“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP PROVIDERS.**

16 “(a) IN GENERAL.—A VOIP service provider shall
17 have the same rights, duties, and obligations as a request-
18 ing telecommunications carrier under sections 251 and
19 252 of the Communications Act of 1934 (47 U.S.C. 251,
20 252) with respect to interconnection, including associated
21 rights, duties, and obligations necessary to effectuate such
22 interconnection, if the provider elects to assert such rights.

23 “(b) DEFINITION.—For purposes of this section, the
24 term ‘VOIP service provider’ has the meaning given such
25 term by section 716(h). ”.



1 **TITLE IV—MUNICIPAL**
 2 **PROVISION OF SERVICES**

3 **SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERV-**
 4 **ICES.**

5 (a) IN GENERAL.—Neither the Communications Act
 6 of 1934 nor any State statute, regulation, or other State
 7 legal requirement may prohibit or have the effect of pro-
 8 hibiting any public provider of telecommunications service,
 9 information service, or cable service (as such terms are
 10 defined in sections 3 and 602 of such Act) from providing
 11 such services to any person or entity.

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

24 (c) COMPLIANCE WITH OTHER LAWS NOT AF-
 25 FECTED.—Nothing in this section shall exempt a public



1 provider from any law or regulation that applies to pro-
2 viders of telecommunications service, information service,
3 or cable service.

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

