

Union Calendar No.

109TH CONGRESS
2^D SESSION

H. R. 5252

[Report No. 109-]

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 --, 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”.



1 (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

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

4 **SEC. 101. NATIONAL CABLE FRANCHISING.**

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

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

9 “(a) NATIONAL FRANCHISES.—

10 “(1) ELECTION.—A person or group that is eli-
11 gible under subsection (d) may elect to obtain a na-
12 tional franchise under this section as authority to
13 provide cable service in a franchise area in lieu of
14 any other authority under Federal, State, or local



1 law to provide cable service in such franchise area.
2 A person or group may not provide cable service
3 under the authority of this section in a franchise
4 area unless such person or group has a franchise
5 under this section that is effective with respect to
6 such franchise area. A franchising authority may not
7 require any person or group that has a national
8 franchise under this section in effect with respect to
9 a franchise area to obtain a franchise under section
10 621 or any other law to provide cable service in such
11 franchise area.

12 “(2) CERTIFICATION.—To obtain a national
13 franchise under this section as authority to provide
14 cable service in a franchise area, a person or group
15 shall—

16 “(A) file with the Commission a certifi-
17 cation for a national franchise containing the
18 information required by paragraph (3) with re-
19 spect to such franchise area, if such person or
20 group has not previously obtained a national
21 franchise; or

22 “(B) file with the Commission a subse-
23 quent certification for additional franchise areas
24 containing the information required by para-
25 graph (3) with respect to such additional fran-



1 chise areas, if such person or group has pre-
2 viously obtained a national franchise.

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

6 “(A) the name under which such person or
7 group is offering or intends to offer cable serv-
8 ice;

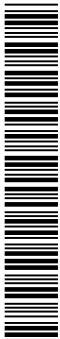
9 “(B) the names and business addresses of
10 the directors and principal executive officers, or
11 the persons performing similar functions, of
12 such person or group;

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

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

18 “(E) a declaration by such person or group
19 that such person or group is eligible under sub-
20 section (d) to obtain a national franchise under
21 this section;

22 “(F) an identification of each franchise
23 area in which such person or group intends to
24 offer cable service pursuant to such certifi-
25 cation, which franchise area shall be—



1 “(i) the entirety of a franchise area in
2 which a cable operator is, on the date of
3 the filing of such certification, authorized
4 to provide cable service under section 621
5 or any other law (including this section);
6 or

7 “(ii) a contiguous geographic area
8 that covers the entirety of the jurisdiction
9 of a unit of general local government, ex-
10 cept that—

11 “(I) if the geographic area within
12 the jurisdiction of such unit of general
13 local government contains a franchise
14 area in which a cable operator is, on
15 such date, authorized to provide cable
16 service under section 621 or any other
17 law, the contiguous geographic area
18 identified in the certification under
19 this clause as a franchise area shall
20 not include the area contained in the
21 franchise area of such cable operator;
22 and

23 “(II) if such contiguous geo-
24 graphic area includes areas that are,
25 respectively, within the jurisdiction of



1 different franchising authorities, the
2 certification shall specify each such
3 area as a separate franchise area;

4 “(G) a declaration that such person or
5 group transmitted, or will transmit on the day
6 of filing such declaration, a copy of such certifi-
7 cation to the franchising authority for each
8 franchise area for which such person or group
9 is filing a certification to offer cable service
10 under this section;

11 “(H) a declaration by the person or group
12 that the person or group will comply with the
13 rights-of-way requirements of the franchising
14 authority under subsection (f); and

15 “(I) a declaration by the person or group
16 that—

17 “(i) the person or group will comply
18 with all Commission consumer protection
19 and customer service rules under section
20 632(b) and subsection (g) of this section;
21 and

22 “(ii) the person or group agrees that
23 such standards may be enforced by the
24 Commission or by the franchising author-



1 ity in accordance with subsection (g) of
2 this section.

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

5 “(A) COPY TO FRANCHISING AUTHOR-
6 ITY.—On the day of filing any certification
7 under paragraph (2)(A) or (B) for a franchise
8 area, the person or group shall transmit a copy
9 of such certification to the franchising authority
10 for such area.

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

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



1 “(6) PUBLIC AVAILABILITY OF CERTIFI-
2 CATIONS.—The Commission shall provide for the
3 public availability on the Commission’s Internet
4 website or other electronic facility of all current cer-
5 tifications filed under this section.

6 “(b) EFFECTIVENESS; DURATION.—

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

12 “(2) DURATION.—

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

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

21 “(C) PUBLIC HEARING.—At the request of
22 a franchising authority in a franchise area, a
23 cable operator authorized under this section to
24 provide cable service in such franchise area
25 shall, within the last year of the 10-year period



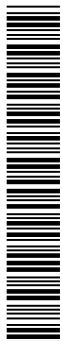
1 applicable under subparagraph (A) to the cable
2 operator's franchise for such franchise area,
3 participate in a public hearing on the cable op-
4 erator's performance in the franchise area, in-
5 cluding the cable operator's compliance with the
6 requirements of this title. The hearing shall af-
7 ford the public the opportunity to participate
8 for the purpose of identifying cable-related com-
9 munity needs and interests and assessing the
10 operator's performance. The cable operator
11 shall provide notice to its subscribers of the
12 hearing at least 30 days prior to the hearing.

13 “(D) REVOCATION.—A franchise under
14 this section for a franchise area may be revoked
15 by the Commission—

16 “(i) for willful or repeated violation of
17 any Federal or State law, or any Commis-
18 sion regulation, relating to the provision of
19 cable service in such franchise area;

20 “(ii) for false statements or material
21 omissions knowingly made in any filing
22 with the Commission relating to the provi-
23 sion of cable service in such franchise area;

24 “(iii) for willful or repeated violation
25 of the rights-of-way management laws or



1 regulations of any franchising authority in
2 such franchise area relating to the provi-
3 sion of cable service in such franchise area;
4 or

5 “(iv) for willful or repeated violation
6 of the antidiscrimination requirement of
7 subsection (h) with respect to such fran-
8 chise area.

9 “(E) NOTICE.—The Commission shall
10 send a notice of such revocation to each fran-
11 chising authority with jurisdiction over the
12 franchise areas for which the cable operator’s
13 franchise was revoked.

14 “(F) REINSTATEMENT.—After a revoca-
15 tion under subparagraph (D) of a franchise for
16 a franchise area of any person or group , the
17 Commission may refuse to accept for filing a
18 new certification for authority of such person or
19 group to provide cable service under this section
20 in such franchise area until the Commission de-
21 termines that the basis of such revocation has
22 been remedied.

23 “(G) RETURN TO LOCAL FRANCHISING IF
24 CABLE COMPETITION CEASES.—



1 “(i) If only one cable operator is pro-
2 viding cable service in a franchise area,
3 and that cable operator obtained a national
4 franchise for such franchise area under
5 subsection (d)(2), the franchising authority
6 for such franchise area may file a petition
7 with the Commission requesting that the
8 Commission terminate such national fran-
9 chise for such franchise area.

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

23 “(iii) A cable operator whose national
24 franchise is terminated for such franchise
25 area under this subparagraph may obtain



1 new authority to provide cable service in
2 such franchise area under this section, sec-
3 tion 621, or any other law, if and when eli-
4 gible.

5 “(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A
6 national franchise shall contain the following require-
7 ments:

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

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

23 “(3) RIGHTS-OF-WAY.—A cable operator au-
24 thorized under this section to provide cable service
25 in a franchise area shall comply with the rights-of-



1 way requirements of the franchising authority under
2 subsection (f).

3 “(4) CONSUMER PROTECTION AND CUSTOMER
4 SERVICE STANDARDS.—A cable operator authorized
5 under this section to provide cable service in a fran-
6 chise area shall comply with the consumer protection
7 and customer service standards established by the
8 Commission under section 632(b).

9 “(5) CHILD PORNOGRAPHY.—A cable operator
10 authorized under this section to provide cable service
11 in a franchise area shall comply with the regulations
12 on child pornography promulgated pursuant to sub-
13 section (i).

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

17 “(1) COMMENCEMENT OF SERVICE AFTER EN-
18 ACTMENT.—A person or group that is not providing
19 cable service in a franchise area on the date of en-
20 actment of this section under section 621 or any
21 other law may obtain a national franchise under this
22 section to provide cable service in such franchise
23 area.

24 “(2) EXISTING PROVIDERS OF CABLE SERV-
25 ICE.—A person or group that is providing cable



1 service in a franchise area on the date of enactment
2 of this section under section 621 or any other law
3 may obtain a franchise under this section to provide
4 cable service in such franchise area if, on the date
5 that the national franchise becomes effective, an-
6 other person or group is providing cable service
7 under this section, section 621, or any other law in
8 such franchise area.

9 “(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
10 USE.—

11 “(1) IN GENERAL.—Subject to paragraph (3), a
12 cable operator with a national franchise for a fran-
13 chise area under this section shall provide channel
14 capacity for public, educational, and governmental
15 use that is not less than the channel capacity re-
16 quired of the cable operator with the most sub-
17 scribers in such franchise area on the effective date
18 of such national franchise. If there is no other cable
19 operator in such franchise area on the effective date
20 of such national franchise, or there is no other cable
21 operator in such franchise area on such date that is
22 required to provide channel capacity for public, edu-
23 cational, and governmental use, the cable operator
24 shall provide the amount of channel capacity for
25 such use as determined by Commission rule.

1 “(2) PEG AND I-NET FINANCIAL SUPPORT.—A
2 cable operator with a national franchise under this
3 section for a franchise area shall pay an amount
4 equal to 1 percent of the cable operator’s gross reve-
5 nues (as such term is defined in this section) in the
6 franchise area to the franchising authority for the
7 support of public, educational, and governmental use
8 and institutional networks (as such term is defined
9 in section 611(f)). Such payment shall be assessed
10 and collected in a manner consistent with section
11 622, including the authority of the cable operator to
12 designate that portion of a subscriber’s bill attrib-
13 utable to such payment. A cable operator that pro-
14 vided cable service in a franchise area on the date
15 of enactment of this section and that obtains a na-
16 tional franchise under this section shall continue to
17 provide any institutional network that it was re-
18 quired to provide in such franchise area under sec-
19 tion 621 or any other law. Notwithstanding section
20 621(b)(3)(D), a franchising authority may not re-
21 quire a cable operator franchised under this section
22 to construct a new institutional network.

23 “(3) ADJUSTMENT.—Every 10 years after the
24 commencement of a franchise under this section for
25 a franchise area, a franchising authority may require

1 a cable operator authorized under such franchise to
2 increase the channel capacity designated for public,
3 educational, or governmental use, and the channel
4 capacity designated for such use on any institutional
5 networks required under paragraph (2). Such in-
6 crease shall not exceed the higher of—

7 “(A) one channel; or

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

11 “(4) TRANSMISSION AND PRODUCTION OF PRO-
12 GRAMMING.—

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

18 “(B) The production of any programming
19 provided under this subsection shall be the re-
20 sponsibility of the franchising authority.

21 “(C) A cable operator franchised under
22 this section shall be responsible for the trans-
23 mission from the signal origination point (or
24 points) of the programming, or from the point
25 of interconnection with another cable operator



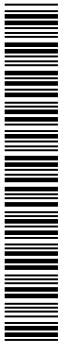
1 under subparagraph (D), to the cable operator's
2 subscribers, of any public, educational, or gov-
3 ernmental programming produced by or for the
4 franchising authority and carried by the cable
5 operator pursuant to this section.

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

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

17 “(ii) the reasonable allocation of the
18 costs of such interconnection between such
19 cable operators.

20 “(E) A cable operator shall display the
21 program information for public, educational, or
22 governmental programming carried under this
23 subsection in any print or electronic program
24 guide in the same manner in which it displays
25 program information for other video program-



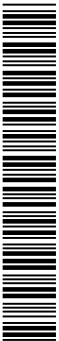
1 ming in the franchise area. The cable operator
2 shall not omit such public, educational, or gov-
3 ernmental programming from any navigational
4 device, guide, or menu containing other video
5 programming that is available to subscribers in
6 the franchise area.

7 “(f) RIGHTS-OF-WAY.—

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

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

21 “(B) the cost of the installation, construc-
22 tion, operation, or removal of such facilities be
23 borne by the cable operator or subscriber, or a
24 combination of both; and



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

6 “(2) MANAGEMENT OF PUBLIC RIGHTS-OF-
7 WAY.—Nothing in this Act affects the authority of
8 a State or local government (including a franchising
9 authority) over a person or group in their capacity
10 as a cable operator with a franchise under this sec-
11 tion to manage, on a reasonable, competitively neu-
12 tral, and non-discriminatory basis, the public rights-
13 of-way, and easements that have been dedicated for
14 compatible uses. A State or local government (in-
15 cluding a franchising authority) may, on a reason-
16 able, competitively neutral, and non-discriminatory
17 basis—

18 “(A) impose charges for such management;

19 and

20 “(B) require compliance with such man-
21 agement, such charges, and paragraphs (1)(A),
22 (B), and (C).

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



1 “(1) NATIONAL STANDARDS.—Notwithstanding
2 section 632(d), no State or local law (including any
3 regulation) shall impose on a cable operator fran-
4 chised under this section any consumer protection or
5 customer service requirements other than consumer
6 protection or customer service requirements of gen-
7 eral applicability.

8 “(2) PROCEEDING.—Within 120 days after the
9 date of enactment of this section, the Commission
10 shall issue a report and order that updates for cable
11 operators franchised under this section the national
12 consumer protection and customer service rules
13 under section 632(b), taking into consideration the
14 national nature of a franchise under this section and
15 the role of State and local governments in enforcing,
16 but not creating, consumer protection and customer
17 service standards for cable operators franchised
18 under this section.

19 “(3) REQUIREMENTS OF NEW RULES.—

20 “(A) Such rules shall, in addition to the
21 requirements of section 632(b), address, with
22 specificity, no less than the following consumer
23 protection and customer service issues:

24 “(i) Billing, billing disputes, and dis-
25 continuation of service, including when and



1 how any late fees may be assessed (but not
2 the amount of such fees).

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

4 “(iii) Changes in channel lineups or
5 other cable services and features.

6 “(iv) Availability of parental control
7 options.

8 “(B) Such rules shall require forfeiture
9 penalties or customer rebates, or both, as deter-
10 mined by the Commission, that may be imposed
11 for violations of such Commission rules in a
12 franchise area, and shall provide for increased
13 forfeiture penalties or customer rebates, or
14 both, for repeated violations of the standards in
15 such rules.

16 “(C) The Commission’s rules shall also es-
17 tablish procedures by which any forfeiture pen-
18 alty assessed by the Commission under this
19 subsection shall be paid by the cable operator
20 directly to the franchising authority.

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

23 “(i) on complaints filed, and penalties
24 imposed, under this subsection; and



1 “(ii) on any new consumer protection
2 or customer service issues arising under
3 this subsection.

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

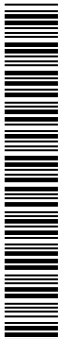
6 “(4) COMPLAINTS.—Any person may file a
7 complaint with respect to a violation of the regula-
8 tions prescribed under section 632(b) in a franchise
9 area by a cable operator franchised under this
10 section—

11 “(A) with the franchising authority in such
12 area; or

13 “(B) with the Commission.

14 “(5) LOCAL FRANCHISING ORDERS REQUIRING
15 COMPLIANCE.—In a proceeding commenced with a
16 franchising authority on such a complaint, a fran-
17 chising authority may issue an order requiring com-
18 pliance with any of such regulations prescribed by
19 the Commission, but a franchising authority may
20 not create any new standard or regulation, or ex-
21 pand upon or modify the Commission’s standards or
22 regulations.

23 “(6) ACCESS TO RECORDS.—In such a pro-
24 ceeding, the franchising authority may issue an
25 order requiring the filing of any contract, agree-



1 ment, or arrangement between the subscriber and
2 the provider, or any other data, documents, or
3 records, directly related to the alleged violation.

4 “(7) COMMISSION REMEDIES; APPEALS.—Un-
5 less appealed to the Commission, an order of a fran-
6 chising authority under this subsection shall be en-
7 forced by the Commission. Any such appeal shall be
8 resolved by the Commission within 30 days after re-
9 ceipt of the appeal by the Commission.

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

14 “(h) ANTIDISCRIMINATION.—

15 “(1) PROHIBITION.—A cable operator with a
16 national franchise under this section to provide cable
17 service in a franchise area shall not deny access to
18 its cable service to any group of potential residential
19 cable service subscribers in such franchise area be-
20 cause of the income of that group.

21 “(2) ENFORCEMENT.—

22 “(A) COMPLAINT.—If a franchising au-
23 thority in a franchise area has reasonable cause
24 to believe that a cable operator is in violation
25 of this subsection with respect to such franchise



1 area, the franchising authority may, after com-
2 plying with subparagraph (B), file a complaint
3 with the Commission alleging such violation.

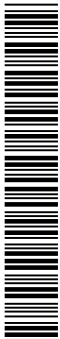
4 “(B) NOTICE BY FRANCHISING AUTHOR-
5 ITY.—Before filing a complaint with the Com-
6 mission under subparagraph (A), a franchising
7 authority—

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

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

13 “(iii) during such period, may require
14 the cable operator to submit a written re-
15 sponse stating the reasons why the oper-
16 ator has not violated this subsection.

17 “(C) BIENNIAL REPORT.—A cable oper-
18 ator with a national franchise under this section
19 for a franchise area, not later than 180 days
20 after the effective date of such national fran-
21 chise, and biennially thereafter, shall submit a
22 report to the Commission and the franchising
23 authority in the franchise area—



1 “(i) identifying the geographic areas
2 in the franchise area where the cable oper-
3 ator offers cable service; and

4 “(ii) describing the cable operator’s
5 progress in extending cable service to other
6 areas in the franchise area.

7 “(D) NOTICE BY COMMISSION.—Upon re-
8 ceipt of a complaint under this paragraph alleg-
9 ing a violation of this subsection by a cable op-
10 erator, the Commission shall give notice of the
11 complaint to the cable operator.

12 “(E) INVESTIGATION.—In investigating a
13 complaint under this paragraph, the Commis-
14 sion may require a cable operator to disclose to
15 the Commission such information and docu-
16 ments as the Commission deems necessary to
17 determine whether the cable operator is in com-
18 pliance with this subsection. The Commission
19 shall maintain the confidentiality of any infor-
20 mation or document collected under this sub-
21 paragraph.

22 “(F) DEADLINE FOR RESOLUTION OF
23 COMPLAINTS.—Not more than 60 days after
24 the Commission receives a complaint under this
25 paragraph, the Commission shall issue a deter-



1 mination with respect to each violation alleged
2 in the complaint.

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

14 “(H) REMEDIES.—

15 “(i) IN GENERAL.—This subsection
16 shall be enforced by the Commission under
17 titles IV and V.

18 “(ii) MAXIMUM FORFEITURE PEN-
19 ALTY.—For purposes of section 503, the
20 maximum forfeiture penalty applicable to a
21 violation of this subsection shall be
22 \$500,000 for each day of the violation.

23 “(iii) PAYMENT OF PENALTIES TO
24 FRANCHISING AUTHORITY.—The Commis-
25 sion shall order any cable operator subject



1 to a forfeiture penalty under this sub-
2 section to pay the penalty directly to the
3 franchising authority involved.

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

10 “(j) LEASED ACCESS.—The provisions of section
11 612(i) regarding the carriage of programming from a
12 qualified minority programming source or from any quali-
13 fied educational programming source shall apply to a cable
14 operator franchised under this section to provide cable
15 service in a franchise area.

16 “(k) APPLICABILITY OF OTHER PROVISIONS.—The
17 following sections shall not apply in a franchise area to
18 a person or group franchised under this section in such
19 franchise area, or confer any authority to regulate or im-
20 pose obligations on such person or group: Sections 611(a),
21 611(b), 611(c), 613(a), 617, 621 (other than subsections
22 (b)(3)(A), (b)(3)(B), (b)(3)(C), and (c)), 624(b), 624(c),
23 624(h), 625, 626, 627, and 632(a).

24 “(l) EMERGENCY ALERTS.—Nothing in this Act shall
25 be construed to prohibit a State or local government from

1 accessing the emergency alert system of a cable operator
2 with a franchise under this section in the area served by
3 the State or local government to transmit local or regional
4 emergency alerts.

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

6 “(1) REPORTING.—A cable operator with a
7 franchise under this section to provide cable service
8 in a franchise area shall make such periodic reports
9 to the Commission and the franchising authority for
10 such franchise area as the Commission may require
11 to verify compliance with the fee obligations of sub-
12 sections (c)(1) and (e)(2).

13 “(2) AVAILABILITY OF BOOKS AND RECORDS.—
14 Upon request under paragraph (3) by a franchising
15 authority for a franchise area, and upon request by
16 the Commission, a cable operator with a national
17 franchise for such franchise area shall make avail-
18 able its books and records to periodic audit by such
19 franchising authority or the Commission, respec-
20 tively.

21 “(3) FRANCHISING AUTHORITY AUDIT PROCE-
22 DURE.—A franchising authority may, upon reason-
23 able written request, but no more than once in any
24 12-month period, review the business records of such
25 cable operator to the extent reasonably necessary to

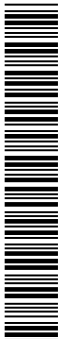


1 ensure payment of the fees required by subsections
2 (c)(1) and (e)(2). Such review may include the meth-
3 odology used by such cable operator to assign por-
4 tions of the revenue from cable service that may be
5 bundled or functionally integrated with other serv-
6 ices, capabilities, or applications. Such review shall
7 be conducted in accordance with procedures estab-
8 lished by the Commission.

9 “(4) COST RECOVERY.—

10 “(A) To the extent that the review under
11 paragraph (3) identifies an underpayment of an
12 amount meeting the minimum percentage speci-
13 fied in subparagraph (B) of the fee required
14 under subsections (c)(1) and (e)(2) for the pe-
15 riod of review, the cable operator shall reim-
16 burse the franchising authority the reasonable
17 costs of any such review conducted by an inde-
18 pendent third party, as determined by the Com-
19 mission, with respect to such fee. The costs of
20 any contingency fee arrangement between the
21 franchising authority and the independent re-
22 viewer shall not be subject to reimbursement.

23 “(B) The Commission shall determine by
24 rule the minimum percentage underpayment



1 that requires cost reimbursement under sub-
2 paragraph (A).

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

9 “(n) ACCESS TO PROGRAMMING FOR SHARED FA-
10 CILITIES.—

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

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

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



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

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

10 “(A) all charges and fees paid by sub-
11 scribers for the provision of cable service, in-
12 cluding fees attributable to cable service when
13 sold individually or as part of a package or bun-
14 dle, or functionally integrated, with services
15 other than cable service;

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

18 “(C) compensation received by the cable
19 operator for promotion or exhibition of any
20 products or services over the cable service, such
21 as on ‘home shopping’ or similar programming;

22 “(D) revenue received by the cable oper-
23 ator as compensation for carriage of video pro-
24 gramming or other programming service on
25 that operator’s cable service;

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

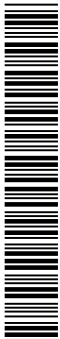
4 “(F) any advertising commissions paid to
5 an affiliated third party for cable services ad-
6 vertising.

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

9 “(A) any revenue not actually received,
10 even if billed, such as bad debt net of any re-
11 coveries of bad debt;

12 “(B) refunds, rebates, credits, or discounts
13 to subscribers or a municipality to the extent
14 not already offset by subparagraph (A) and to
15 the extent such refund, rebate, credit, or dis-
16 count is attributable to the cable service;

17 “(C) subject to paragraph (4), any reve-
18 nues received by the cable operator or its affili-
19 ates from the provision of services or capabili-
20 ties other than cable service, including tele-
21 communications services, Internet access serv-
22 ices, and services, capabilities, and applications
23 that may be sold as part of a package or bun-
24 dle, or functionally integrated, with cable serv-
25 ice;



1 “(D) any revenues received by the cable
2 operator or its affiliates for the provision of di-
3 rectory or Internet advertising, including yellow
4 pages, white pages, banner advertisement, and
5 electronic publishing;

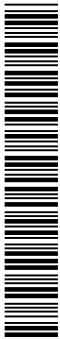
6 “(E) any amounts attributable to the pro-
7 vision of cable service to customers at no
8 charge, including the provision of such service
9 to public institutions without charge;

10 “(F) any tax, fee, or assessment of general
11 applicability imposed on the customer or the
12 transaction by a Federal, State, or local govern-
13 ment or any other governmental entity, col-
14 lected by the provider, and required to be remit-
15 ted to the taxing entity, including sales and use
16 taxes and utility user taxes;

17 “(G) any forgone revenue from the provi-
18 sion of cable service at no charge to any person,
19 except that any forgone revenue exchanged for
20 trades, barter, services, or other items of value
21 shall be included in gross revenue;

22 “(H) sales of capital assets or surplus
23 equipment;

24 “(I) reimbursement by programmers of
25 marketing costs actually incurred by the cable

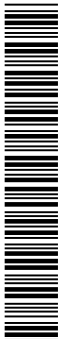


1 operator for the introduction of new program-
2 ming; and

3 “(J) the sale of cable services for resale to
4 the extent the purchaser certifies in writing
5 that it will resell the service and pay a franchise
6 fee with respect thereto.

7 “(4) FUNCTIONALLY INTEGRATED SERVICES.—
8 In the case of a cable service that is bundled or inte-
9 grated functionally with other services, capabilities,
10 or applications, the portion of the cable operator’s
11 revenue attributable to such other services, capabili-
12 ties, or applications shall be included in gross rev-
13 enue unless the cable operator can reasonably iden-
14 tify the division or exclusion of such revenue from
15 its books and records that are kept in the regular
16 course of business.

17 “(5) AFFILIATE REVENUE.—Revenue of an af-
18 filiate shall be included in the calculation of gross
19 revenues to the extent the treatment of such revenue
20 as revenue of the affiliate has the effect (whether in-
21 tentional or unintentional) of evading the payment
22 of franchise fees which would otherwise be paid for
23 cable service.



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

4 “(p) ADDITIONAL DEFINITIONS.—For purposes of
5 this section:

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

10 “(2) FRANCHISE FEE.—

11 “(A) The term ‘franchise fee’ includes any
12 fee or assessment of any kind imposed by a
13 franchising authority or other governmental en-
14 tity on a person or group providing cable serv-
15 ice in a franchise area under this section, or on
16 a subscriber of such person or group, or both,
17 solely because of their status as such.

18 “(B) The term ‘franchise fee’ does not
19 include—

20 “(i) any tax, fee, or assessment of
21 general applicability (including any such
22 tax, fee, or assessment imposed on both
23 utilities and a person or group providing
24 cable service in a franchise area under this
25 section (or the services of such person or



1 group) but not including a fee or assess-
2 ment which is unduly discriminatory
3 against such person or group or the sub-
4 scribers of such person or group);

5 “(ii) any fee assessed under sub-
6 section (e)(2) for support of public, edu-
7 cational, and governmental use and institu-
8 tional networks (as such term is defined in
9 section 611(f));

10 “(iii) requirements or charges under
11 subsection (f)(2) for the management of
12 public rights-of-way, including payments
13 for bonds, security funds, letters of credit,
14 insurance, indemnification, penalties, or
15 liquidated damages; or

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

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

22 “(4) UNIT OF GENERAL LOCAL GOVERN-
23 MENT.—The term ‘unit of general local government’
24 means—

1 “(A) a county, township, city, or political
2 subdivision of a county, township, or city;

3 “(B) the District of Columbia; or

4 “(C) the recognized governing body of an
5 Indian tribe or Alaskan Native village that car-
6 ries out substantial governmental duties and
7 powers.”.

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

12 **SEC. 102. DEFINITIONS.**

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

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

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

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

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

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

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

7 “(B) the transmission to subscribers of
8 video programming or other programming serv-
9 ice provided through wireline facilities located
10 at least in part in the public rights-of-way,
11 without regard to delivery technology, including
12 Internet protocol technology, except to the ex-
13 tent that such video programming or other pro-
14 gramming service is provided as part of—

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

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

19 **SEC. 103. MONITORING AND REPORTING.**

20 (a) **REPORT ON CABLE SERVICE DEPLOYMENT.**—

21 The Federal Communications Commission shall, com-
22 mencing not later than one year after the date of enact-
23 ment of this Act, issue a report annually on the deploy-
24 ment of cable service. In its report, the Commission shall
25 describe in detail—

1 (1) with respect to deployment by new cable
2 operators—

3 (A) the progress of deployment of such
4 service within the telephone service area of
5 cable operators, if the operator is also an in-
6 cumbent local exchange carrier, including a
7 comparison with the progress of deployment of
8 broadband services not defined as cable services
9 within such telephone service area;

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

12 (C) where such service is not being de-
13 ployed and offered; and

14 (D) the number and locations of franchise
15 areas in which the cable operator is serving only
16 a portion of the franchise area, and the extent
17 of such service within the franchise area;

18 (2) the number and locations of franchise areas
19 in which a cable operator with a franchise under sec-
20 tion 621 of the Communications Act of 1934 (47
21 U.S.C. 541) on the date of enactment of this Act
22 withdraws service from any portion of the franchise
23 area for which it previously offered service, and the
24 extent of such withdrawal of service within the fran-
25 chise area;

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

2 (4) the rates charged by overlapping, competing
3 multichannel video programming distributors and by
4 competing cable operators for comparable service or
5 cable service;

6 (5) the average household income of those fran-
7 chise areas or portions of franchise areas where
8 cable services is being offered, and the average
9 household income of those franchise areas, or por-
10 tions of franchise areas, where cable service is not
11 being offered;

12 (6) the proportion of rural households to urban
13 households, as defined by the Bureau of the Census,
14 in those franchise areas or portions of franchise
15 areas where cable service is being offered, and the
16 proportion of rural households to urban households
17 in those franchise areas or portions of franchise
18 areas where cable service is not being offered, in-
19 cluding a State-by-State breakdown of such data
20 and a comparison with the overall ratio of rural and
21 urban households in each State; and

22 (7) a comparison of the services and rates in
23 areas served by national franchisees under section
24 630 of the Communications Act of 1934 (as added



1 by section 101 of this Act) and the services and
2 rates in other areas.

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

5 (1) to require cable operators to report to the
6 Commission all of the information that the Commis-
7 sion needs to compile the report required by this sec-
8 tion; and

9 (2) to require cable operators to file the same
10 information with the relevant franchising authorities
11 and State commissions.

12 **TITLE II—ENFORCEMENT OF**
13 **BROADBAND POLICY STATE-**
14 **MENT**

15 **SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATE-**
16 **MENT.**

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

20 **“SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATE-**
21 **MENT.**

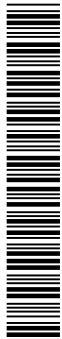
22 “(a) AUTHORITY.—The Commission shall have the
23 authority to enforce the Commission’s broadband policy
24 statement and the principles incorporated therein.

25 “(b) ENFORCEMENT.—

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

6 “(2) MAXIMUM FORFEITURE PENALTY.—For
7 purposes of section 503, the maximum forfeiture
8 penalty applicable to a violation described in para-
9 graph (1) of this subsection shall be \$500,000 for
10 each violation.

11 “(3) ADJUDICATORY AUTHORITY.—The Com-
12 mission shall have exclusive authority to adjudicate
13 any complaint alleging a violation of the broadband
14 policy statement and the principles incorporated
15 therein. The Commission shall complete an adjudica-
16 tory proceeding under this subsection not later than
17 90 days after receipt of the complaint. If, upon com-
18 pletion of an adjudicatory proceeding pursuant to
19 this section, the Commission determines that such a
20 violation has occurred, the Commission shall have
21 authority to adopt an order to require the entity
22 subject to the complaint to comply with the
23 broadband policy statement and the principles incor-
24 porated therein. Such authority shall be in addition
25 to the authority specified in paragraph (1) to en-



1 force this section under titles IV and V. In addition,
2 the Commission shall have authority to adopt proce-
3 dures for the adjudication of complaints alleging a
4 violation of the broadband policy statement or prin-
5 ciples incorporated therein.

6 “(4) LIMITATION.—Notwithstanding paragraph
7 (1), the Commission’s authority to enforce the
8 broadband policy statement and the principles incor-
9 porated therein does not include authorization for
10 the Commission to adopt or implement rules or reg-
11 ulations regarding enforcement of the broadband
12 policy statement and the principles incorporated
13 therein, with the sole exception of the authority to
14 adopt procedures for the adjudication of complaints,
15 as provided in paragraph (3).

16 “(c) STUDY.—Within 180 days after the date of en-
17 actment of this section, the Commission shall conduct, and
18 submit to the House Committee on Energy and Commerce
19 and the Senate Committee on Commerce, Science, and
20 Transportation, a study regarding whether the objectives
21 of the broadband policy statement and the principles in-
22 corporated therein are being achieved.

23 “(d) DEFINITION.—For purposes of this section, the
24 term ‘Commission’s broadband policy statement’ means
25 the policy statement adopted on August 5, 2005, and



1 issued on September 23, 2005, In the Matters of Appro-
2 priate Framework for Broadband Access to the Internet
3 over Wireline Facilities, and other Matters (FCC 05–151;
4 CC Docket No. 02–33; CC Docket No. 01–337; CC Dock-
5 et Nos. 95–20, 98–10; GN Docket No. 00–185; CS Dock-
6 et No. 02–52).”.

7 **TITLE III—VOIP/911**

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

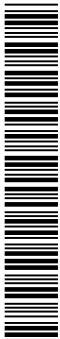
9 Title VII of the Communications Act of 1934 (47
10 U.S.C. 601 et seq.) is further amended by adding after
11 section 715 (as added by section 201 of this Act) the fol-
12 lowing new sections:

13 **“SEC. 716. EMERGENCY SERVICES.**

14 “(a) 911 AND E–911 SERVICES.—

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

18 “(2) USE OF EXISTING REGULATIONS.—A
19 VOIP service provider that complies with the Com-
20 mission’s regulations requiring providers of VOIP
21 service to supply 911 and E911 capabilities to their
22 customers (Report and Order in WC Docket Nos.
23 04–36 and 05–196) and that are in effect on the
24 date of enactment of this section shall be considered
25 to be in compliance with the requirements of this



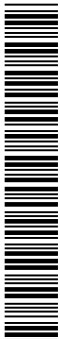
1 section, other than subsection (c), until such regula-
2 tions are modified or superseded by subsequent regu-
3 lations.

4 “(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
5 TIES.—

6 “(1) ACCESS.—Each incumbent local exchange
7 carrier (as such term is defined in section 251(h))
8 or government entity with ownership or control of
9 the necessary E-911 infrastructure shall provide any
10 requesting VOIP service provider with nondiscrim-
11 inatory access to such infrastructure. Such carrier
12 or entity shall provide access to the infrastructure at
13 just and reasonable, nondiscriminatory rates, terms,
14 and conditions. Such access shall be consistent with
15 industry standards established by the National
16 Emergency Number Association or other applicable
17 industry standards organizations.

18 “(2) ENFORCEMENT.—The Commission or a
19 State commission may enforce the requirements of
20 this subsection and the Commission’s regulations
21 thereunder. A VOIP service provider may obtain ac-
22 cess to such infrastructure pursuant to section 717
23 by asserting the rights described in such section.

24 “(c) NEW CUSTOMERS.—A VOIP service provider
25 shall make 911 service available to new customers within



1 a reasonable time in accordance with the following require-
2 ments:

3 “(1) CONNECTION TO SELECTIVE ROUTER.—

4 For all new customers not within the geographic
5 areas where a VOIP service provider can imme-
6 diately provide 911 service to the geographically ap-
7 propriate PSAP, a VOIP service provider, or its
8 third party vendor, shall have no more than 30 days
9 from the date the VOIP provider has acquired a cus-
10 tomer to order service providing connectivity to the
11 selective router so that 911 service, or E911 service
12 where the PSAP is capable of receiving and proc-
13 essing such information, can be provided through
14 the selective router.

15 “(2) INTERIM SERVICE.—For all new customers
16 not within the geographic areas where the VOIP
17 service provider can immediately provide 911 service
18 to the geographically appropriate PSAP, a VOIP
19 service provider shall provide 911 service through—

20 “(A) an arrangement mutually agreed to
21 by the VOIP service provider and the PSAP or
22 PSAP governing authority; or

23 “(B) an emergency response center with
24 national call routing capabilities.



1 Such service shall be provided 24 hours a day from
2 the date a VOIP service provider has acquired a cus-
3 tomer until the VOIP service provider can provide
4 911 service to the geographically appropriate PSAP.

5 “(3) NOTICE.—Before providing service to any
6 new customer not within the geographic areas where
7 the VOIP service provider can immediately provide
8 911 service to the geographically appropriate PSAP,
9 a VOIP service provider shall provide such customer
10 with clear notice that 911 service will be available
11 only as described in paragraph (2).

12 “(4) RESTRICTION ON ACQUISITION OF NEW
13 CUSTOMERS.—A VOIP service provider may not ac-
14 quire new customers within a geographic area served
15 by a selective router if, within 180 days of first ac-
16 quiring a new customer in the area served by the se-
17 lective router, the VOIP service provider does not
18 provide 911 service, or E911 service where the
19 PSAP is capable of receiving and processing such in-
20 formation, to the geographically appropriate PSAP
21 for all existing customers served by the selective
22 router.

23 “(5) ENFORCEMENT: NO FIRST WARNINGS.—
24 Paragraph (5) of section 503(b) shall not apply to



1 the assessment of forfeiture penalties for violations
2 of this subsection or the regulations thereunder.

3 “(d) STATE AUTHORITY.—Nothing in this Act or any
4 Commission regulation or order shall prevent the imposi-
5 tion on or collection from a VOIP service provider, of any
6 fee or charge specifically designated or presented as dedi-
7 cated by a State, political subdivision thereof, or Indian
8 tribe on an equitable, and non-discriminatory basis for the
9 support of 911 and E-911 services if no portion of the
10 revenue derived from such fee or charge is obligated or
11 expended for any purpose other than support of 911 and
12 E-911 services or enhancements of such services.

13 “(e) FEASIBILITY.—In establishing requirements or
14 obligations under subsections (a) and (b), the Commission
15 shall ensure that such standards impose requirements or
16 obligations on VOIP service providers and entities with
17 ownership or control of necessary E-911 infrastructure
18 that the Commission determines are technologically and
19 operationally feasible. In determining the requirements
20 and obligations that are technologically and operationally
21 feasible, the Commission shall take into consideration
22 available industry technological and operational standards.

23 “(f) PROGRESS REPORTS.—To the extent that the
24 Commission concludes that it is not technologically or
25 operationally feasible for VOIP service providers to comply

1 with E-911 requirements or obligations, then the Com-
2 mission shall submit reports to the Committee on Energy
3 and Commerce of the House of Representatives and the
4 Committee on Commerce, Science, and Transportation of
5 the Senate on the progress in attaining and deploying E-
6 911 service. Such reports shall be submitted semiannually
7 until the Commission concludes that it is technologically
8 and operationally feasible for all VOIP service providers
9 to comply with E-911 requirements and obligations. Such
10 reports may include any recommendations the Commission
11 considers appropriate to encourage the migration of emer-
12 gency services to TCP/IP protocol or other advanced serv-
13 ices.

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

21 “(h) EMERGENCY ROUTING NUMBER ADMINIS-
22 TRATOR.—Within 30 days after the date of enactment of
23 this section, the Federal Communications Commission
24 shall establish an emergency routing number adminis-
25 trator to enable VOIP service providers to acquire non-

1 dialable pseudo-automatic number identification numbers
2 for 9–1-1 routing purposes on a national scale. The Com-
3 mission may adopt such rules and practices as are nec-
4 essary to guide such administrator in the fair and expedi-
5 tious assignment of these numbers.

6 “(i) EMERGENCY RESPONSE SYSTEMS.—

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

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

15 “(B) such customer should notify his or
16 her emergency response system provider after
17 VOIP service is installed; and

18 “(C) a battery backup is required for cus-
19 tomer premises equipment installed in connec-
20 tion with the VOIP service in order for the sig-
21 naling of such system to function in the event
22 of a power outage.

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

24 “(A) The term ‘emergency response sys-
25 tem’ means an alarm or security system, or per-



1 sonal security or medical monitoring system,
2 that is connected to an emergency response cen-
3 ter by means of a telecommunications carrier or
4 VOIP service provider.

5 “(B) The term ‘emergency response center’
6 means an entity that monitors transmissions
7 from an emergency response system.

8 “(j) MIGRATION TO IP-ENABLED EMERGENCY NET-
9 WORK.—

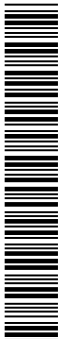
10 “(1) NATIONAL REPORT.—No more than 18
11 months after the date of the enactment of this sec-
12 tion, the National 911 Implementation and Coordi-
13 nation Office shall develop a report to Congress on
14 migrating to a national IP-enabled emergency net-
15 work capable of receiving and responding to all cit-
16 izen activated emergency communications.

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

19 “(A) outline the potential benefits of such
20 a migration;

21 “(B) identify barriers that must be over-
22 come and funding mechanisms to address those
23 barriers;

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



1 “(D) provide recommendations on specific
2 legislative language,

3 “(E) provide recommendations on any leg-
4 islative changes, including updating definitions,
5 to facilitate a national IP-enabled emergency
6 network; and

7 “(F) assess, collect, and analyze the expe-
8 riences of the PSAPs and related public safety
9 authorities who are conducting trial deploy-
10 ments of IP-enabled emergency networks as of
11 the date of enactment of this section.

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

17 “(k) IMPLEMENTATION.—

18 “(1) DEADLINE.—The Commission shall pre-
19 scribe regulations to implement this section within
20 120 days after the date of enactment of this section.

21 “(2) LIMITATION.—Nothing in this section
22 shall be construed to permit the Commission to issue
23 regulations that require or impose a specific tech-
24 nology or technological standard.

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

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

3 “(A) provides real-time 2-way voice com-
4 munications transmitted through customer
5 premises equipment using TCP/IP protocol, or
6 a successor protocol (including when the voice
7 communication is converted to or from TCP/IP
8 protocol by the VOIP service provider and
9 transmitted to the subscriber without use of cir-
10 cuit switching), for a fee;

11 “(B) is offered to the public, or such class-
12 es of users as to be effectively available to the
13 public (whether part of a bundle of services or
14 separately); and

15 “(C) has the capability so that the service
16 can originate traffic to, and terminate traffic
17 from, the public switched telephone network.

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

21 “(3) NECESSARY E-911 INFRASTRUCTURE.—
22 The term ‘necessary E-911 infrastructure’ means
23 the selective routers, selective router databases,
24 automatic location information databases, master
25 street address guides, trunk lines between selective



1 routers and PSAPs, trunk lines between automatic
2 location information databases and PSAPs, and
3 other 911 and E-911 equipment, facilities, data-
4 bases, interfaces, and related capabilities specified
5 by the Commission.

6 “(4) NON-DIALABLE PSEUDO-AUTOMATIC NUM-
7 BER IDENTIFICATION NUMBER.—The term ‘non-
8 dialable pseudo-automatic number identification
9 number’ means a number, consisting of the same
10 number of digits as numbers used for automatic
11 number identification, that is not a North American
12 Numbering Plan telephone directory number and
13 that may be used in place of an automatic number
14 identification number to convey special meaning.
15 The special meaning assigned to the non-dialable
16 pseudo-automatic number identification number is
17 determined by nationally standard agreements, or by
18 individual agreements, as necessary, between the
19 system originating the call, intermediate systems
20 handling and routing the call, and the destination
21 system.

22 **“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE**
23 **PROVIDERS.**

24 “(a) IN GENERAL.—

1 “(1) FACILITIES-BASED VOIP SERVICE PRO-
2 VIDERS.—A facilities-based VOIP service provider
3 shall have the same rights, duties, and obligations as
4 a requesting telecommunications carrier under sec-
5 tions 251 and 252, if the provider elects to assert
6 such rights.

7 “(2) VOIP SERVICE PROVIDERS.—A VOIP serv-
8 ice provider that is not a facilities-based VOIP serv-
9 ice provider shall have only the same rights, duties,
10 and obligations as a requesting telecommunications
11 carrier under sections 251(b), 251(e), and 252, if
12 the provider elects to assert such rights.

13 “(3) CLARIFYING TREATMENT OF VOIP SERV-
14 ICE.—A telecommunications carrier may use inter-
15 connection, services, and network elements obtained
16 pursuant to sections 251 and 252 from an incum-
17 bent local exchange carrier (as such term is defined
18 in section 251(h)) to exchange VOIP service traffic
19 with such incumbent local exchange carrier regard-
20 less of the provider originating such VOIP service
21 traffic, including an affiliate of such telecommuni-
22 cations carrier.

23 “(b) DISABLED ACCESS.—A VOIP service provider
24 or a manufacturer of VOIP service equipment shall have
25 the same rights, duties, and obligations as a telecommuni-

1 cations carrier or telecommunications equipment manufac-
2 turer, respectively, under sections 225, 255, and 710 of
3 the Act. Within 1 year after the date of enactment of this
4 Act, the Commission, in consultation with the Architec-
5 tural and Transportation Barriers Compliance Board,
6 shall prescribe such regulations as are necessary to imple-
7 ment this section. In implementing this subsection, the
8 Commission shall consider whether a VOIP service pro-
9 vider or manufacturer of VOIP service equipment pri-
10 marily markets such service or equipment as a substitute
11 for telecommunications service, telecommunications equip-
12 ment, customer premises equipment, or telecommuni-
13 cations relay services.

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

15 “(1) FACILITIES-BASED VOIP SERVICE PRO-
16 VIDER.—The term ‘facilities-based VOIP service
17 provider’ means an entity that provides VOIP serv-
18 ice over a physical facility that terminates at the end
19 user’s location and which such entity or an affiliate
20 owns or over which such entity or affiliate has exclu-
21 sive use. An entity or affiliate shall be considered a
22 facilities-based VOIP service provider only in those
23 geographic areas where such terminating physical
24 facilities are located.

1 “(2) VOIP SERVICE PROVIDER; VOIP SERVICE.—
2 The terms ‘VOIP service provider’ and ‘VOIP serv-
3 ice’ have the meanings given such terms by section
4 716(j).”.

5 **TITLE IV—MUNICIPAL** 6 **PROVISION OF SERVICES**

7 **SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERV-**
8 **ICES.**

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

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

1 any such provider as compared to other providers of such
2 services.

3 (c) COMPLIANCE WITH OTHER LAWS NOT AF-
4 FECTED.—Nothing in this section shall exempt a public
5 provider from any law or regulation that applies to pro-
6 viders of telecommunications service, information service,
7 or cable service.

8 (d) REPORT.—Not later than 1 year after the date
9 of the enactment of this Act, the Federal Communications
10 Commission shall submit to the Congress a report on the
11 status of the provision of telecommunications service, in-
12 formation service, and cable service by States and political
13 subdivisions thereof.

14 (e) DEFINITION OF PUBLIC PROVIDER.—For pur-
15 poses of this section, the term “public provider” means
16 a State or political subdivision thereof, or any agency, au-
17 thority, or instrumentality of a State or political subdivi-
18 sion thereof, that provides telecommunications service, in-
19 formation service, or cable service, or any entity that is
20 owned, controlled, or is otherwise affiliated with such
21 State or political subdivision thereof, or agency, authority,
22 or instrumentality of a State or political subdivision there-
23 of.



1 **TITLE V—BROADBAND SERVICE**

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

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 717 (as added by section 301 of this Act) the fol-
6 lowing new section:

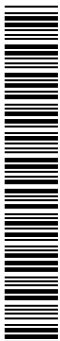
7 **“SEC. 718. STAND-ALONE BROADBAND SERVICE.**

8 “(a) PROHIBITION.—A broadband service provider
9 shall not require a subscriber, as a condition on the pur-
10 chase of any broadband service the provider offers, to pur-
11 chase any cable service, telecommunications service, or
12 VOIP service offered by the provider.

13 “(b) DEFINITIONS.—In this section:

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

19 “(2) The term ‘broadband service provider’
20 means a person or entity that controls, operates, or
21 resells and controls any facility used to provide
22 broadband service to the public, by whatever tech-
23 nology and whether provided for a fee, in exchange
24 for an explicit benefit, or for free.



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

3 **SEC. 502. STUDY OF INTERFERENCE POTENTIAL OF**
4 **BROADBAND OVER POWER LINE SYSTEMS.**

5 Within 90 days after the date of enactment of this
6 Act, the Federal Communications Commission shall con-
7 duct, and submit to the Committee on Energy and Com-
8 merce of the House of Representatives and the Committee
9 on Commerce, Science, and Transportation of the Senate,
10 a study of the interference potential of broadband over
11 power line systems.

12 **TITLE VI—SEAMLESS MOBILITY**

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

14 (a) STREAMLINED REVIEW.—

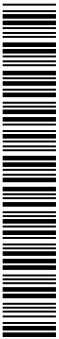
15 (1) The Commission shall further the develop-
16 ment of seamless mobility.

17 (2) Within 120 days after the date of enact-
18 ment of this Act, the Commission shall implement a
19 process for streamlined review and authorization of
20 multi-mode devices that permit communication
21 across multiple Internet protocol-enabled broadband
22 platforms, facilities, and networks.

23 (b) STUDY.—The Commission shall undertake an in-
24 quiry to identify barriers to the achievement of seamless
25 mobility. Within 180 days after the date of enactment of

1 this Act, the Commission shall report to the Congress on
2 its findings and its recommendations for steps to eliminate
3 those barriers.

4 (c) DEFINITIONS.—For purposes of this section, the
5 term “seamless mobility” means the ability of a commu-
6 nications device to select between and utilize multiple
7 Internet protocol-enabled technology platforms, facilities,
8 and networks in a real-time manner to provide a unified
9 service.



Union Calendar No.

109TH CONGRESS
2D Session

H. R. 5252

[Report No. 109-]

A BILL

To promote the deployment of broadband networks
and services.
