H. R. 5252

To promote the deployment of broadband networks and services.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2006

Mr. Barton of Texas (for himself, Mr. Rush, Mr. Upton, Mr. Pickering, Mr. Stearns, Mr. Buyer, Mrs. Blackburn, Mr. Gillmor, Mr. Shadegg, Mr. Radanovich, Mr. Rogers of Michigan, Mr. Ferguson, Mr. Norwood, Mr. Whitfield, Mr. Shimkus, Mrs. Myrick, and Mr. Burgess) introduced the following bill; which was referred to the Committee on Energy and Commerce.

A BILL

To promote the deployment of broadband networks and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Communications Opportunity, Promotion, and Enhancement Act of 2006”.

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING
3 Sec. 101. National cable franchising.
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3 TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT
3 Sec. 201. Enforcement of broadband policy statement.

3 TITLE III—VOIP/911
3 Sec. 301. Emergency services; interconnection.

3 TITLE IV—MUNICIPAL PROVISION OF SERVICES
3 Sec. 401. Government authority to provide services.

3 TITLE V—BROADBAND SERVICE
3 Sec. 501. Stand-alone broadband service.
3 Sec. 502. Study of interference potential of broadband over power line systems.

3 TITLE VI—SEAMLESS MOBILITY
3 Sec. 601. Development of seamless mobility.

1 TITLE I—NATIONAL CABLE FRANCHISING

1 SEC. 101. NATIONAL CABLE FRANCHISING.
1 (a) AMENDMENT.—Part III of title VI of the Com-
1 munications Act of 1934 (47 U.S.C. 541 et seq.) is
1 amended by adding at the end the following new section:
1 “SEC. 630. NATIONAL CABLE FRANCHISING.
1 “(a) NATIONAL FRANCHISES.—
1 ““(1) ELECTION.—A person or group that is eli-
1 gible under subsection (d) may elect to obtain a na-
1 tional franchise under this section as authority to
1 provide cable service in a franchise area in lieu of
1 any other authority under Federal, State, or local
1 law to provide cable service in such franchise area.
1 A person or group may not provide cable service
under the authority of this section in a franchise area unless such person or group has a franchise under this section that is effective with respect to such franchise area. A franchising authority may not require any person or group that has a national franchise under this section in effect with respect to a franchise area to obtain a franchise under section 621 or any other law to provide cable service in such franchise area.

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

“(A) file with the Commission a certification for a national franchise containing the information required by paragraph (3) with respect to such franchise area, if such person or group has not previously obtained a national franchise; or

“(B) file with the Commission a subsequent certification for additional franchise areas containing the information required by paragraph (3) with respect to such additional franchise areas, if such person or group has previously obtained a national franchise.
“(3) CONTENTS OF CERTIFICATION.—Such certification shall be in such form as the Commission shall require by regulation and shall contain—

“(A) the name under which such person or group is offering or intends to offer cable service;

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

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

“(D) the name, business address, electronic mail address, and telephone and fax number of such person or group’s local agent;

“(E) a declaration by such person or group that such person or group is eligible under subsection (d) to obtain a national franchise under this section;

“(F) an identification of each franchise area in which such person or group intends to offer cable service pursuant to such certification, which franchise area shall be—

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

“(ii) a contiguous geographic area that covers the entirety of the jurisdiction of a unit of general local government, except that—

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

“(II) if such contiguous geographic area includes areas that are, respectively, within the jurisdiction of different franchising authorities, the
certification shall specify each such area as a separate franchise area;

“(G) a declaration that such person or group transmitted, or will transmit on the day of filing such declaration, a copy of such certification to the franchising authority for each franchise area for which such person or group is filing a certification to offer cable service under this section;

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

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

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

“(ii) the person or group agrees that such standards may be enforced by the Commission or by the franchising authority in accordance with subsection (g) of this section.
“(4) Local notification; preservation of opportunity to negotiate.—

“(A) Copy to franchising authority.—On the day of filing any certification under paragraph (2)(A) or (B) for a franchise area, the person or group shall transmit a copy of such certification to the franchising authority for such area.

“(B) Negotiated franchise agreements permitted.—Nothing in this section shall prevent a person or group from negotiating a franchise agreement or any other authority to provide cable service in a franchise area under section 621 or any other law. Upon entry into any such negotiated franchise agreement, such negotiated franchise agreement shall apply in lieu of any national franchise held by that person or group under this section for such franchise area.

“(5) Updating of certifications.—A person or group that files a certification under this section shall update any information contained in such certification that is no longer accurate and correct.

“(6) Public availability of certifications.—The Commission shall provide for the
public availability on the Commission’s Internet website or other electronic facility of all current certifications filed under this section.

“(b) EFFECTIVENESS; DURATION.—

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

“(2) DURATION.—

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

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

“(C) PUBLIC HEARING.—At the request of a franchising authority in a franchise area, a cable operator authorized under this section to provide cable service in such franchise area shall, within the last year of the 10-year period applicable under subparagraph (A) to the cable operator’s franchise for such franchise area,
participate in a public hearing on the cable operator’s performance in the franchise area, including the cable operator’s compliance with the requirements of this title. The hearing shall afford the public the opportunity to participate for the purpose of identifying cable-related community needs and interests and assessing the operator’s performance. The cable operator shall provide notice to its subscribers of the hearing at least 30 days prior to the hearing.

“(D) REVOCA TION.—A franchise under this section for a franchise area may be revoked by the Commission—

“(i) for willful or repeated violation of any Federal or State law, or any Commission regulation, relating to the provision of cable service in such franchise area;

“(ii) for false statements or material omissions knowingly made in any filing with the Commission relating to the provision of cable service in such franchise area;

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

“(iv) for willful or repeated violation of the antidiscrimination requirement of subsection (h) with respect to such franchise area.

“(E) NOTICE.—The Commission shall send a notice of such revocation to each franchising authority with jurisdiction over the franchise areas for which the cable operator’s franchise was revoked.

“(F) REINSTATEMENT.—After a revocation under subparagraph (D) of a franchise for a franchise area of any person or group, the Commission may refuse to accept for filing a new certification for authority of such person or group to provide cable service under this section in such franchise area until the Commission determines that the basis of such revocation has been remedied.

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

“(i) If only one cable operator is providing cable service in a franchise area, and that cable operator obtained a national
franchise for such franchise area under subsection (d)(2), the franchising authority for such franchise area may file a petition with the Commission requesting that the Commission terminate such national franchise for such franchise area.

“(ii) The Commission shall provide public notice and opportunity to comment on such petition. If it finds that the requirements of clause (i) are satisfied, the Commission shall issue an order granting such petition. Such order shall take effect one year from the date of such grant, if no other cable operator offers cable service in such area during that one year. If another cable operator does offer cable service in such franchise area during that one year, the Commission shall rescind such order and dismiss such petition.

“(iii) A cable operator whose national franchise is terminated for such franchise area under this subparagraph may obtain new authority to provide cable service in such franchise area under this section, sec-
tion 621, or any other law, if and when eligi-

gible.

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

“(1) FRANCHISE FEE.—A cable operator au-

thorized under this section to provide cable service in a franchise area shall pay to the franchising au-

thority in such franchise area a franchise fee of up to 5 percent (as determined by the franchising au-

thority) of such cable operator’s gross revenues from the provision of cable service under this section in such franchise area. Such payment shall be assessed and collected in a manner consistent with section 622 and the definition of gross revenues in this sec-

tion.

“(2) PEG/I-NET REQUIREMENTS.—A cable op-

erator authorized under this section to provide cable service in a franchise area shall comply with the re-

quirements of subsection (e).

“(3) RIGHTS-OF-WAY.—A cable operator au-

thorized under this section to provide cable service in a franchise area shall comply with the rights-of-

way requirements of the franchising authority under subsection (f).
“(4) Consumer Protection and Customer Service Standards.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the consumer protection and customer service standards established by the Commission under section 632(b).

“(5) Child Pornography.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the regulations on child pornography promulgated pursuant to subsection (i).

“(d) Eligibility for National Franchises.—The following persons or groups are eligible to obtain a national franchise under this section:

“(1) Commencement of Service After Enactment.—A person or group that is not providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law may obtain a national franchise under this section to provide cable service in such franchise area.

“(2) Existing Providers of Cable Service.—A person or group that is providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law
may obtain a franchise under this section to provide
cable service in such franchise area if, on the date
that the national franchise becomes effective, an-
other person or group is providing cable service
under this section, section 621, or any other law in
such franchise area.

“(e) Public, Educational, and Governmental
Use.—

“(1) In general.—Subject to paragraph (3), a
cable operator with a national franchise for a fran-
chise area under this section shall provide channel
capacity for public, educational, and governmental
use that is not less than the channel capacity re-
quired of the cable operator with the most sub-
scribers in such franchise area on the effective date
of such national franchise. If there is no other cable
operator in such franchise area on the effective date
of such national franchise, or there is no other cable
operator in such franchise area on such date that is
required to provide channel capacity for public, edu-
cational, and governmental use, the cable operator
shall provide the amount of channel capacity for
such use as determined by Commission rule.

“(2) PEG and I–Net Financial Support.—A
cable operator with a national franchise under this
section for a franchise area shall pay an amount equal to 1 percent of the cable operator’s gross revenues (as such term is defined in this section) in the franchise area to the franchising authority for the support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f)). Such payment shall be assessed and collected in a manner consistent with section 622, including the authority of the cable operator to designate that portion of a subscriber’s bill attributable to such payment. A cable operator that provided cable service in a franchise area on the date of enactment of this section and that obtains a national franchise under this section shall continue to provide any institutional network that it was required to provide in such franchise area under section 621 or any other law. Notwithstanding section 621(b)(3)(D), a franchising authority may not require a cable operator franchised under this section to construct a new institutional network.

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

“(A) one channel; or

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

“(4) TRANSMISSION AND PRODUCTION OF PROGRAMMING.—

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

“(B) The production of any programming provided under this subsection shall be the responsibility of the franchising authority.

“(C) A cable operator franchised under this section shall be responsible for the transmission from the signal origination point (or points) of the programming, or from the point of interconnection with another cable operator under subparagraph (D), to the cable operator’s subscribers, of any public, educational, or gov-
ernmental programming produced by or for the
 franchising authority and carried by the cable
 operator pursuant to this section.

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

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

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

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

“(f) Rights-of-Way.—

“(1) Authority to use.—Any franchise under
this section for a franchise area shall be construed
to authorize the construction of a cable system over
public rights-of-way, and through easements, which
is within the area to be served by the cable system
and which have been dedicated for compatible uses,
except that in using such easements the cable oper-
ator shall ensure that—

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

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

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

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

“(A) impose charges for such management;

and

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

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

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

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

“(3) REQUIREMENTS OF NEW RULES.—

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

“(i) Billing, billing disputes, and discontinuation of service, including when and how any late fees may be assessed (but not the amount of such fees).

“(ii) Loss of service or service quality.
“(iii) Changes in channel lineups or other cable services and features.

“(iv) Availability of parental control options.

“(B) Such rules shall require forfeiture penalties or customer rebates, or both, as determined by the Commission, that may be imposed for violations of such Commission rules in a franchise area, and shall provide for increased forfeiture penalties or customer rebates, or both, for repeated violations of the standards in such rules.

“(C) The Commission’s rules shall also establish procedures by which any forfeiture penalty assessed by the Commission under this subsection shall be paid by the cable operator directly to the franchising authority.

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

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

“(ii) on any new consumer protection or customer service issues arising under this subsection.
“(E) The Commission’s rules established under this subsection shall be revised as needed.

“(4) COMPLAINTS.—Any person may file a complaint with respect to a violation of the regulations prescribed under section 632(b) in a franchise area by a cable operator franchised under this section—

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

“(B) with the Commission.

“(5) LOCAL FRANCHISING ORDERS REQUIRING COMPLIANCE.—In a proceeding commenced with a franchising authority on such a complaint, a franchising authority may issue an order requiring compliance with any of such regulations prescribed by the Commission, but a franchising authority may not create any new standard or regulation, or expand upon or modify the Commission’s standards or regulations.

“(6) ACCESS TO RECORDS.—In such a proceeding, the franchising authority may issue an order requiring the filing of any contract, agreement, or arrangement between the subscriber and the provider, or any other data, documents, or records, directly related to the alleged violation.
“(7) Commission remedies; appeals.—Unless appealed to the Commission, an order of a franchising authority under this subsection shall be enforced by the Commission. Any such appeal shall be resolved by the Commission within 30 days after receipt of the appeal by the Commission.

“(8) Cost of franchising authority orders.—A franchising authority may charge a provider of cable service under this section a nominal fee to cover the costs of issuing such orders.

“(h) Antidiscrimination.—

“(1) Prohibition.—A cable operator with a national franchise under this section to provide cable service in a franchise area shall not deny access to its cable service to any group of potential residential cable service subscribers in such franchise area because of the income of that group.

“(2) Enforcement.—

“(A) Complaint.—If a franchising authority in a franchise area has reasonable cause to believe that a cable operator is in violation of this subsection with respect to such franchise area, the franchising authority may, after complying with subparagraph (B), file a complaint with the Commission alleging such violation.
“(B) NOTICE BY FRANCHISING AUTHORITY.—Before filing a complaint with the Commission under subparagraph (A), a franchising authority—

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

“(ii) shall provide a period of not less than 30 days for the cable operator to respond to such allegations; and

“(iii) during such period, may require the cable operator to submit a written response stating the reasons why the operator has not violated this subsection.

“(C) BIENNIAL REPORT.—A cable operator with a national franchise under this section for a franchise area, not later than 180 days after the effective date of such national franchise, and biannually thereafter, shall submit a report to the Commission and the franchising authority in the franchise area—

“(i) identifying the geographic areas in the franchise area where the cable operator offers cable service; and
“(ii) describing the cable operator’s progress in extending cable service to other areas in the franchise area.

“(D) NOTICE BY COMMISSION.—Upon receipt of a complaint under this paragraph alleging a violation of this subsection by a cable operator, the Commission shall give notice of the complaint to the cable operator.

“(E) INVESTIGATION.—In investigating a complaint under this paragraph, the Commission may require a cable operator to disclose to the Commission such information and documents as the Commission deems necessary to determine whether the cable operator is in compliance with this subsection. The Commission shall maintain the confidentiality of any information or document collected under this subparagraph.

“(F) DEADLINE FOR RESOLUTION OF COMPLAINTS.—Not more than 60 days after the Commission receives a complaint under this paragraph, the Commission shall issue a determination with respect to each violation alleged in the complaint.
“(G) DETERMINATION.—If the Commission determines (in response to a complaint under this paragraph or on its own initiative) that a cable operator with a franchise under this section to provide cable service in a franchise area has denied access to its cable service to a group of potential residential cable service subscribers in such franchise area because of the income of that group, the Commission shall ensure that the cable operator extends access to that group within a reasonable period of time.

“(H) REMEDIES.—

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

“(ii) MAXIMUM FORFEITURE PENALTY.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation of this subsection shall be $500,000 for each day of the violation.

“(iii) PAYMENT OF PENALTIES TO FRANCHISING AUTHORITY.—The Commission shall order any cable operator subject to a forfeiture penalty under this sub-
section to pay the penalty directly to the 
franchising authority involved.

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

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

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

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

“(m) REPORTING, RECORDS, AND AUDITS.—

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

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

“(3) FRANCHISING AUTHORITY AUDIT PROCE-
DURE.—A franchising authority may, upon reason-
able written request, but no more than once in any
12-month period, review the business records of such
cable operator to the extent reasonably necessary to
ensure payment of the fees required by subsections
(c)(1) and (e)(2). Such review may include the methodology used by such cable operator to assign portions of the revenue from cable service that may be bundled or functionally integrated with other services, capabilities, or applications. Such review shall be conducted in accordance with procedures established by the Commission.

“(4) COST RECOVERY.—

“(A) To the extent that the review under paragraph (3) identifies an underpayment of an amount meeting the minimum percentage specified in subparagraph (B) of the fee required under subsections (c)(1) and (e)(2) for the period of review, the cable operator shall reimburse the franchising authority the reasonable costs of any such review conducted by an independent third party, as determined by the Commission, with respect to such fee. The costs of any contingency fee arrangement between the franchising authority and the independent reviewer shall not be subject to reimbursement.

“(B) The Commission shall determine by rule the minimum percentage underpayment that requires cost reimbursement under subparagraph (A).
“(5) LIMITATION.—Any fee that is not reviewed by a franchising authority within 3 years after it is paid or remitted shall not be subject to later review by the franchising authority under this subsection and shall be deemed accepted in full payment by the franchising authority.

“(n) ACCESS TO PROGRAMMING FOR SHARED FACILITIES.—

“(1) PROHIBITION.—A cable programming vendor in which a cable operator has an attributable interest shall not deny a cable operator with a national franchise under this section access to video programming solely because such cable operator uses a headend for its cable system that is also used, under a shared ownership or leasing agreement, as the headend for another cable system.

“(2) DEFINITION.—The term ‘cable programming vendor’ means a person engaged in the production, creation, or wholesale distribution for sale of video programming which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers.

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

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

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

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

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

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

“(D) revenue received by the cable oper-
ator as compensation for carriage of video pro-
gramming or other programming service on
that operator’s cable service;
“(E) all revenue derived from the cable operator’s cable service pursuant to compensation arrangements for advertising; and

“(F) any advertising commissions paid to an affiliated third party for cable services advertising.

“(3) EXCLUDED ITEMS.—The term ‘gross revenues’ shall not include the following:

“(A) any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt;

“(B) refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subparagraph (A) and to the extent such refund, rebate, credit, or discount is attributable to the cable service;

“(C) subject to paragraph (4), any revenues received by the cable operator or its affiliates from the provision of services or capabilities other than cable service, including telecommunications services, Internet access services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with cable service;
“(D) any revenues received by the cable operator or its affiliates for the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing;

“(E) any amounts attributable to the provision of cable service to customers at no charge, including the provision of such service to public institutions without charge;

“(F) any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a Federal, State, or local government or any other governmental entity, collected by the provider, and required to be remitted to the taxing entity, including sales and use taxes and utility user taxes;

“(G) any forgone revenue from the provision of cable service at no charge to any person, except that any forgone revenue exchanged for trades, barters, services, or other items of value shall be included in gross revenue;

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

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

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

“(4) FUNCTIONALLY INTEGRATED SERVICES.—
In the case of a cable service that is bundled or inte-
grated functionally with other services, capabilities,
or applications, the portion of the cable operator’s
revenue attributable to such other services, capabili-
ties, or applications shall be included in gross rev-
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“(6) AFFECT ON OTHER LAW.—Nothing in this section is intended to limit a franchising authority’s rights pursuant to section 622(h).

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

“(1) CABLE OPERATOR.—The term ‘cable operator’ has the meaning provided in section 602(5) except that such term also includes a person or group with a national franchise under this section.

“(2) FRANCHISE FEE.—

“(A) The term ‘franchise fee’ includes any fee or assessment of any kind imposed by a franchising authority or other governmental entity on a person or group providing cable service in a franchise area under this section, or on a subscriber of such person or group, or both, solely because of their status as such.

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

“(i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and a person or group providing cable service in a franchise area under this section (or the services of such person or
group) but not including a fee or assessment which is unduly discriminatory against such person or group or the subscribers of such person or group);

“(ii) any fee assessed under subsection (e)(2) for support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f));

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

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

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

“(4) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ‘unit of general local government’ means—
“(A) a county, township, city, or political subdivision of a county, township, or city;

“(B) the District of Columbia; or

“(C) the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.”.

(b) IMPLEMENTING REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendment made by subsection (a) within 120 days after the date of enactment of this Act.

SEC. 102. DEFINITIONS.

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

(1) in paragraph (4), by inserting before the semicolon at the end the following: “, or its equivalent as determined by the Commission”;

(2) in paragraph (5)(A), by inserting “(regardless of whether such person or group provides such service separately or combined with a telecommunications service or information service)” after “over a cable system”; and

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

“(6) the term ‘cable service’ means—
“(A)(i) the one-way transmission to subscribers of (I) video programming, or (II) other programming service; and

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

“(B) the transmission to subscribers of video programming or other programming service provided through wireline facilities located at least in part in the public rights-of-way, without regard to delivery technology, including Internet protocol technology, except to the extent that such video programming or other programming service is provided as part of—

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

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

SEC. 103. MONITORING AND REPORTING.

(a) Report on Cable Service Deployment.—

The Federal Communications Commission shall, commencing not later than one year after the date of enactment of this Act, issue a report annually on the deployment of cable service. In its report, the Commission shall describe in detail—
(1) with respect to deployment by new cable operators—

(A) the progress of deployment of such service within the telephone service area of cable operators, if the operator is also an incumbent local exchange carrier, including a comparison with the progress of deployment of broadband services not defined as cable services within such telephone service area;

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

(C) where such service is not being deployed and offered; and

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

(2) the number and locations of franchise areas in which a cable operator with a franchise under section 621 of the Communications Act of 1934 (47 U.S.C. 541) on the date of enactment of this Act withdraws service from any portion of the franchise area for which it previously offered service, and the extent of such withdrawal of service within the franchise area;
(3) the rates generally charged for cable service;

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

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

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

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

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

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

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

TITLE II—ENFORCEMENT OF
BROADBAND POLICY STATE-
MENT

SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATE-
MENT.

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

“SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATE-
MENT.

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

“(b) ENFORCEMENT.—
“(1) In General.—This section shall be enforced by the Commission under titles IV and V. A violation of the Commission’s broadband policy statement or the principles incorporated therein shall be treated as a violation of this Act.

“(2) Maximum Forfeiture Penalty.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation described in paragraph (1) of this subsection shall be $500,000 for each violation.

“(3) Adjudicatory Authority.—The Commission shall have exclusive authority to adjudicate any complaint alleging a violation of the broadband policy statement and the principles incorporated therein. The Commission shall complete an adjudicatory proceeding under this subsection not later than 90 days after receipt of the complaint. If, upon completion of an adjudicatory proceeding pursuant to this section, the Commission determines that such a violation has occurred, the Commission shall have authority to adopt an order to require the entity subject to the complaint to comply with the broadband policy statement and the principles incorporated therein. Such authority shall be in addition to the authority specified in paragraph (1) to en-
force this section under titles IV and V. In addition, the Commission shall have authority to adopt procedures for the adjudication of complaints alleging a violation of the broadband policy statement or principles incorporated therein.

“(4) LIMITATION.—Notwithstanding paragraph (1), the Commission’s authority to enforce the broadband policy statement and the principles incorporated therein does not include authorization for the Commission to adopt or implement rules or regulations regarding enforcement of the broadband policy statement and the principles incorporated therein, with the sole exception of the authority to adopt procedures for the adjudication of complaints, as provided in paragraph (3).

“(c) STUDY.—Within 180 days after the date of enactment of this section, the Commission shall conduct, and submit to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation, a study regarding whether the objectives of the broadband policy statement and the principles incorporated therein are being achieved.

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

TITLE III—VOIP/911

SEC. 301. EMERGENCY SERVICES; INTERCONNECTION.

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

“SEC. 716. EMERGENCY SERVICES.

“(a) 911 and E–911 Services.—

“(1) In General.—Each VOIP service provider has a duty to ensure that 911 and E–911 services are provided to subscribers of VOIP services.

“(2) Use of Existing Regulations.—A VOIP service provider that complies with the Commission’s regulations requiring providers of VOIP service to supply 911 and E911 capabilities to their customers (Report and Order in WC Docket Nos. 04–36 and 05–196) and that are in effect on the date of enactment of this section shall be considered to be in compliance with the requirements of this
section, other than subsection (c), until such regulations are modified or superseded by subsequent regulations.

“(b) **NON-DISCRIMINATORY ACCESS TO CAPABILITIES.**—

“(1) **ACCESS.**—Each incumbent local exchange carrier (as such term is defined in section 251(h)) or government entity with ownership or control of the necessary E–911 infrastructure shall provide any requesting VOIP service provider with nondiscriminatory access to such infrastructure. Such carrier or entity shall provide access to the infrastructure at just and reasonable, nondiscriminatory rates, terms, and conditions. Such access shall be consistent with industry standards established by the National Emergency Number Association or other applicable industry standards organizations.

“(2) **ENFORCEMENT.**—The Commission or a State commission may enforce the requirements of this subsection and the Commission’s regulations thereunder. A VOIP service provider may obtain access to such infrastructure pursuant to section 717 by asserting the rights described in such section.

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

“(1) Connection to selective router.—
For all new customers not within the geographic areas where a VOIP service provider can imme-
diately provide 911 service to the geographically ap-
propriate PSAP, a VOIP service provider, or its third party vendor, shall have no more than 30 days
from the date the VOIP provider has acquired a cus-
tomer to order service providing connectivity to the selective router so that 911 service, or E911 service
where the PSAP is capable of receiving and proc-
essing such information, can be provided through
the selective router.

“(2) Interim service.—For all new customers not within the geographic areas where the VOIP service provider can immediately provide 911 service to the geographically appropriate PSAP, a VOIP service provider shall provide 911 service through—

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

“(B) an emergency response center with
national call routing capabilities.
Such service shall be provided 24 hours a day from the date a VOIP service provider has acquired a customer until the VOIP service provider can provide 911 service to the geographically appropriate PSAP.

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

“(4) Restriction on acquisition of new customers.—A VOIP service provider may not acquire new customers within a geographic area served by a selective router if, within 180 days of first acquiring a new customer in the area served by the selective router, the VOIP service provider does not provide 911 service, or E911 service where the PSAP is capable of receiving and processing such information, to the geographically appropriate PSAP for all existing customers served by the selective router.

“(5) Enforcement: no first warnings.— Paragraph (5) of section 503(b) shall not apply to
the assessment of forfeiture penalties for violations of this subsection or the regulations thereunder.

“(d) STATE AUTHORITY.—Nothing in this Act or any Commission regulation or order shall prevent the imposition on or collection from a VOIP service provider, of any fee or charge specifically designated or presented as dedicated by a State, political subdivision thereof, or Indian tribe on an equitable, and non-discriminatory basis for the support of 911 and E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 and E–911 services or enhancements of such services.

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

“(f) PROGRESS REPORTS.—To the extent that the Commission concludes that it is not technologically or operationally feasible for VOIP service providers to comply
with E–911 requirements or obligations, then the Commission shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress in attaining and deploying E–911 service. Such reports shall be submitted semiannually until the Commission concludes that it is technologically and operationally feasible for all VOIP service providers to comply with E–911 requirements and obligations. Such reports may include any recommendations the Commission considers appropriate to encourage the migration of emergency services to TCP/IP protocol or other advanced services.

“(g) Access to Information.—The Commission shall have the authority to compile a list of PSAP contact information, testing procedures, and classes and types of services supported by PSAPs, or other information concerning the necessary E–911 infrastructure, for the purpose of assisting providers in complying with the requirements of this section.

“(h) Emergency Routing Number Administrator.—Within 30 days after the date of enactment of this section, the Federal Communications Commission shall establish an emergency routing number administrator to enable VOIP service providers to acquire non-
dialable pseudo-automatic number identification numbers
for 9–1-1 routing purposes on a national scale. The Com-
mission may adopt such rules and practices as are nec-
essary to guide such administrator in the fair and expedi-
tious assignment of these numbers.

“(i) Emergency Response Systems.—

“(1) Notice prior to installation or num-
ber activation of VOIP service.—Prior to instal-
lation or number activation of VOIP service for a
customer, a VOIP service provider shall provide
clear and conspicuous notice to the customer that—

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

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

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

“(2) Definition.—In this subsection:

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

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

“(j) MIGRATION TO IP-ENABLED EMERGENCY NETWORK.—

“(1) NATIONAL REPORT.—No more than 18 months after the date of the enactment of this section, the National 911 Implementation and Coordination Office shall develop a report to Congress on migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

“(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall—

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

“(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

“(C) include a proposed timetable, an outline of costs and potential savings;
“(D) provide recommendations on specific legislative language;

“(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and

“(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of this section.

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

“(k) IMPLEMENTATION.—

“(1) DEADLINE.—The Commission shall prescribe regulations to implement this section within 120 days after the date of enactment of this section.

“(2) LIMITATION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

“(l) DEFINITIONS.—For purposes of this section:
“(1) VOIP SERVICE.—The term ‘VOIP service’ means a service that—

“(A) provides real-time 2-way voice communications transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol (including when the voice communication is converted to or from TCP/IP protocol by the VOIP service provider and transmitted to the subscriber without use of circuit switching), for a fee;

“(B) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

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

“(2) VOIP SERVICE PROVIDER.—The term ‘VOIP service provider’ means any person who provides or offers to provide a VOIP service.

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

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

“SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE
PROVIDERS.

“(a) IN GENERAL.—
“(1) Facilities-based VOIP service providers.—A facilities-based VOIP service provider shall have the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251 and 252, if the provider elects to assert such rights.

“(2) VOIP service providers.—A VOIP service provider that is not a facilities-based VOIP service provider shall have only the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251(b), 251(e), and 252, if the provider elects to assert such rights.

“(3) Clarifying treatment of VOIP service.—A telecommunications carrier may use interconnection, services, and network elements obtained pursuant to sections 251 and 252 from an incumbent local exchange carrier (as such term is defined in section 251(h)) to exchange VOIP service traffic with such incumbent local exchange carrier regardless of the provider originating such VOIP service traffic, including an affiliate of such telecommunications carrier.

“(b) Disabled Access.—A VOIP service provider or a manufacturer of VOIP service equipment shall have the same rights, duties, and obligations as a telecommuni-
cations carrier or telecommunications equipment manufac-
turer, respectively, under sections 225, 255, and 710 of
the Act. Within 1 year after the date of enactment of this
Act, the Commission, in consultation with the Architec-
tural and Transportation Barriers Compliance Board,
shall prescribe such regulations as are necessary to imple-
ment this section. In implementing this subsection, the
Commission shall consider whether a VOIP service pro-
vider or manufacturer of VOIP service equipment pri-
marily markets such service or equipment as a substitute
for telecommunications service, telecommunications equip-
ment, customer premises equipment, or telecommunications relay services.

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

“(1) FACILITIES-BASED VOIP SERVICE PROVIDER.—The term ‘facilities-based VOIP service provider’ means an entity that provides VOIP serv-
ience over a physical facility that terminates at the end
user’s location and which such entity or an affiliate
owns or over which such entity or affiliate has exclu-
sive use. An entity or affiliate shall be considered a
facilities-based VOIP service provider only in those
geographic areas where such terminating physical
facilities are located.
“(2) VOIP service provider; VOIP service.—

The terms ‘VOIP service provider’ and ‘VOIP service’ have the meanings given such terms by section 716(j).”.

**TITLE IV—MUNICIPAL PROVISION OF SERVICES**

**SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERVICES.**

(a) In General.—Neither the Communications Act of 1934 nor any State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider of telecommunications service, information service, or cable service (as such terms are defined in sections 3 and 602 of such Act) from providing such services to any person or entity.

(b) Competition Neutrality.—Any State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that is, owns, controls, or is otherwise affiliated with a public provider of telecommunications service, information service, or cable service shall not grant any preference or advantage to any such provider. Such entity shall apply its ordinances, rules, and policies, including those relating to the use of public rights-of-way, permitting, performance bonding, and reporting without discrimination in favor of
any such provider as compared to other providers of such services.

(c) **Compliance With Other Laws Not Affected.**—Nothing in this section shall exempt a public provider from any law or regulation that applies to providers of telecommunications service, information service, or cable service.

(d) **Report.**—Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the Congress a report on the status of the provision of telecommunications service, information service, and cable service by States and political subdivisions thereof.

(e) **Definition of Public Provider.**—For purposes of this section, the term “public provider” means a State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that provides telecommunications service, information service, or cable service, or any entity that is owned, controlled, or is otherwise affiliated with such State or political subdivision thereof, or agency, authority, or instrumentality of a State or political subdivision thereof.
TITLE V—BROADBAND SERVICE

SEC. 501. STAND-ALONE BROADBAND SERVICE.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is further amended by adding after section 717 (as added by section 301 of this Act) the following new section:

“SEC. 718. STAND-ALONE BROADBAND SERVICE.

“(a) PROHIBITION.—A broadband service provider shall not require a subscriber, as a condition on the purchase of any broadband service the provider offers, to purchase any cable service, telecommunications service, or VOIP service offered by the provider.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘broadband service’ means a two-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction.

“(2) The term ‘broadband service provider’ means a person or entity that controls, operates, or resells and controls any facility used to provide broadband service to the public, by whatever technology and whether provided for a fee, in exchange for an explicit benefit, or for free.
“(3) The term ‘VOIP service’ has the meaning given such term by section 716(j).”.

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

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall conduct, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a study of the interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

SEC. 601. DEVELOPMENT OF SEAMLESS MOBILITY.

(a) STREAMLINED REVIEW.—

(1) The Commission shall further the development of seamless mobility.

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

(b) STUDY.—The Commission shall undertake an inquiry to identify barriers to the achievement of seamless mobility. Within 180 days after the date of enactment of
this Act, the Commission shall report to the Congress on its findings and its recommendations for steps to eliminate those barriers.

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