To promote the deployment of broadband networks and services.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2006

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

MAY 17, 2006

Additional sponsors: Mr. Bass, Mr. Fossella, Mrs. Bono, Mr. Hall, Mr. Wynn, Mr. Meeks of New York, Mr. Thompson of Mississippi, Mr. Butterfield, Mr. Scott of Georgia, Mr. Clay, Mr. Crowley, Mr. Wilson of South Carolina, Mr. Baker, Mr. Oxley, Mr. Boyd, Mr. Lewis of Kentucky, Mr. Jefferson, Mr. Alexander, Mr. Clyburn, Mr. Lincoln Diaz-Balart of Florida, Mr. Bonner, Mr. Spratt, Mr. Everett, Mr. Brown of South Carolina, Mr. Hastings of Florida, Mr. Foley, Mr. Meek of Florida, Mr. Miller of Florida, Mr. Wexler, Mr. Wicker, Mr. Mario Diaz-Balart of Florida, Mr. Feeney, Mr. Rogers of Alabama, Mr. Baca, Mr. Davis of Tennessee, Mr. Barrow, Mr. Hayes, Mr. Mack, and Mr. Bishop of Georgia

MAY 17, 2006

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

A BILL

To promote the deployment of broadband networks and services.
Be it enacted by the Senate and House of Representa-
tives 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 Enhance-
ment Act of 2006”.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—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.

TITLE I—NATIONAL CABLE FRANCHISING

SEC. 101. NATIONAL CABLE FRANCHISING.

(a) AMENDMENT.—Part III of title VI of the Com-
munications Act of 1934 (47 U.S.C. 541 et seq.) is
amended by adding at the end the following new section:
SEC. 630. NATIONAL CABLE FRANCHISING.

“(a) NATIONAL FRANCHISES.—

“(1) ELECTION.—A person or group that is eligible under subsection (d) may elect to obtain a national franchise under this section as authority to provide cable service in a franchise area in lieu of any other authority under Federal, State, or local law to provide cable service in such franchise area. 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 sub-
section (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 certifi-
cation 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) Revocation.—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 Commis-
sion 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 provision 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 de-
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 pro-
viding 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 fran-
chise for such franchise area.

“(ii) The Commission shall provide
public notice and opportunity to comment
on such petition. If it finds that the re-
quirements 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, section 621, or any other law, if and when eligible.

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

“(1) Franchise Fee.—A cable operator authorized under this section to provide cable service in a franchise area shall pay to the franchising authority in such franchise area a franchise fee of up to 5 percent (as determined by the franchising authority) 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 section.
“(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 fran-
chise 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 sub-
section (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 EN-
ACTMENT.—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, another 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 franchise area under this section shall provide channel capacity for public, educational, and governmental use that is not less than the channel capacity required of the cable operator with the most subscribers 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, educational, 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 sec-
tion 621 or any other law. Notwithstanding section 621(b)(3)(D), a franchising authority may not re-
quire 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 in-
crease 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 PRO-
GRAMMING.—

“(A) A cable operator franchised under this section shall ensure that all subscribers re-
ceive 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 governmental 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 providing for—

“(i) the interconnection between two cable operators in a franchise area for transmission of public, educational, or governmental 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 programming in the franchise area. The cable operator shall not omit such public, educational, or governmental 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 operator shall ensure that—
“(A) the safety, functioning, and appearance of the property and the convenience and
the safety of other persons not be adversely affected by the installation or construction of fa-
cilities necessary for a cable system;

“(B) the cost of the installation, construction, 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 management, such charges, and paragraphs (1)(A), (B), and (C).

“(g) Consumer Protection and Customer Service.—

“(1) National Standards.—Notwithstanding section 632(d), no State or local law (including any regulation) shall impose on a cable operator franchised 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 fran-
chising authority may issue an order requiring com-
pliance with any of such regulations prescribed by
the Commission, but a franchising authority may
not create any new standard or regulation, or ex-
pand upon or modify the Commission’s standards or
regulations.

“(6) Access to records.—In such a pro-
ceeding, the franchising authority may issue an
order requiring the filing of any contract, agree-
ment, 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.—Un-
less appealed to the Commission, an order of a fran-
chising authority under this subsection shall be en-
forced by the Commission. Any such appeal shall be
resolved by the Commission within 30 days after re-
ceipt of the appeal by the Commission.

“(8) Cost of franchising authority or-
ders.—A franchising authority may charge a pro-
vider 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 be-
cause of the income of that group.

“(2) ENFORCEMENT.—

“(A) COMPLAINT.—If a franchising au-
thority 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 com-
plying with subparagraph (B), file a complaint
with the Commission alleging such violation.

“(B) NOTICE BY FRANCHISING AUTHORITY.—Before filing a complaint with the Com-
mission 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 re-
spond to such allegations; and

“(iii) during such period, may require
the cable operator to submit a written re-
sponse stating the reasons why the oper-
ator has not violated this subsection.
“(C) BIANNUAL 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 subsection 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 Commission shall promulgate regulations to require a cable operator with a national franchise under this section to prevent 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 qualified 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 impose 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 (e)), 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 subsections (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, respectively.

“(3) Franchising Authority Audit Procedure.—A franchising authority may, upon reasonable 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 inde-
ependent 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 consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or goods) received by the cable operator from the provision of cable service within the franchise area.

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

“(A) all charges and fees paid by subscribers for the provision of cable service, including fees attributable to cable service when sold individually or as part of a package or bundle, 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 operator as compensation for carriage of video programming 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 programming; 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 integrated functionally with other services, capabilities, or applications, the portion of the cable operator’s revenue attributable to such other services, capabilities, or applications shall be included in gross revenue unless the cable operator can reasonably identify the division or exclusion of such revenue from its books and records that are kept in the regular course of business.
“(5) AFFILIATE REVENUE.—Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of such revenue as revenue of the affiliate has the effect (whether intentional or unintentional) of evading the payment of franchise fees which would otherwise be paid for cable service.

“(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 sec-
tion 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 fran-
chise 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 STATEMENT

SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATEMENT.

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 STATEMENT.

“(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 enforce 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 reg-
ulations 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 fol-
lowing new sections:

“SEC. 716. EMERGENCY SERVICES.

“(a) 911 AND E–911 SERVICES.—

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

“(2) USE OF EXISTING REGULATIONS.—A
VOIP service provider that complies with the Com-
mission’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 regula-
tions are modified or superseded by subsequent reg-
ulations.

“(b) NON-DISCRIMINATORY ACCESS TO CAPABILI-
ties.—

“(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 nondiscrim-
inatory 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 requirements:

“(1) Connection to selective router.—For all new customers not within the geographic areas where a VOIP service provider can immediately provide 911 service to the geographically appropriate 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 customer 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 cus-
tomer 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 emer-
ergency 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 nondialable pseudo-automatic number identification numbers for 9–1–1 routing purposes on a national scale. The Commission may adopt such rules and practices as are necessary to guide such administrator in the fair and expeditious assignment of these numbers.

“(i) Emergency Response Systems.—

“(1) Notice prior to installation or number activation of VOIP service.—Prior to installation 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 customer premises equipment installed in connection with the VOIP service in order for the signaling of such system to function in the event of a power outage.

“(2) DEFINITION.—In this subsection:

“(A) The term ‘emergency response system’ means an alarm or security system, or personal 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 sec-
tion, 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, databases, interfaces, and related capabilities specified by the Commission.

“(4) NON-DIALABLE PSEUDO-AUTOMATIC NUMBER 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 SERV-
ICE.—A telecommunications carrier may use inter-
connection, services, and network elements obtained
pursuant to sections 251 and 252 from an incum-
bent local exchange carrier (as such term is defined
in section 251(h)) to exchange VOIP service traffic
with such incumbent local exchange carrier regard-
less of the provider originating such VOIP service
traffic, including an affiliate of such telecommuni-
cations 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 service 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 exclusive 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 pro-
hibiting 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, in-
formation service, and cable service by States and political subdivisions thereof.

(c) 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.
A BILL

To promote the deployment of broadband networks and services.

MAY 17, 2006

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

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