ASSEMBLY, No. 194

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Assemblyman KEVIN J. ROONEY
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS
Requires cable television companies to provide cable television service and broadband Internet speed to all committed service areas before cable television companies allow paid prioritization of Internet network traffic.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning cable television companies and broadband infrastructure and amending P.L.1972, c.186.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 28 of P.L.1972, c.186 (C.48:5A-28) is amended to read as follows:

28. Each application for a municipal consent or system-wide franchise shall contain:

a. A description of the initial area to be served.

b. A description of the proposed service in terms of the number of channels of cable television reception service.

c. Sufficient evidence that the applicant has the financial and technical capacity and the legal, character and other qualifications to construct, maintain and operate the necessary installations, lines and equipment and to provide the service proposed in a safe, adequate and proper manner.

d. Evidence of sufficient bond, or commitment therefor, with sureties to be approved by the office, in the penal sum of not less than $25,000 for the faithful performance of all undertakings by the applicant as represented in the application; the sufficiency of which shall be subject to review by the director and approval by the board.

e. An undertaking to hold the board and all municipalities served harmless from any liability arising out of the applicant’s operation and construction of its CATV system.

f. Evidence of sufficient insurance insuring the board, all municipalities served and the applicant with respect to all liability for any death, personal injury, property damage or other liability arising out of the applicant’s construction and operation of its CATV system; the sufficiency of which shall be subject to review by the director and approval by the board. Such insurance shall be no less than: (1) $150,000 for bodily injury or death to any one person, within the limit, however, of $500,000 for bodily injury or death resulting from any one accident, (2) $100,000 for property damage resulting from any one accident, and (3) $50,000 for all other types of liability; the sufficiency of which shall be subject to review by the director and approval by the board.

g. A schedule of proposed rates for cable television reception service, which rates shall not be altered during the term for which the municipal consent is issued, except by application to the board for amendment of the terms and conditions of said consent after public hearing, subject to the rules of the office, review by the director and approval by the board, or amendment pursuant to the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
provisions of subsection b. of section 11 of P.L.1972, c.186
(C.48:5A-11).

h. (1) With regard only to applications for a system-wide
franchise, a commitment as to those municipalities that are served
by a CATV company at the time of the application, to match or
surpass any line extension policy operative at the time the system-
wide franchise is granted and placed into effect prior to the
franchise or certificate of approval, for the duration of the system-
wide franchise. In any event, the CATV company shall extend its
plant along public rights-of-way to all residences and businesses
within 150 aerial feet of the CATV company's existing plant at no
cost beyond the normal installation rate, and to all residences and
businesses within 100 underground feet of the CATV company's
plant at no cost beyond the normal installation rate, and shall set a
minimum house per mile density of not less than 35 homes per
square mile.

(2) This commitment shall be in addition to any and all board
orders and rules that impact upon the extension of plant, except that
such commitment shall supersede the board's regulations adopted as
N.J.A.C. 14:3-8.1 et seq., which shall not apply to CATV
companies, including telecommunications service providers that
have obtained a system-wide franchise.

i. With regard only to applications for a system-wide
franchise, a commitment to provide to each municipality that is
served by a CATV company, with two public, educational and
governmental access channels. In the event that two or more access
channels are requested by a municipality, the municipality shall
demonstrate that its cable-related needs require the provision of
such additional access channels. Any and all CATV companies
operating in a municipality shall provide interconnection to all other
CATV companies on reasonable terms and conditions, and the
board shall adopt regulations for procedures by which disputes
between such CATV companies shall be determined and
expeditiously resolved. Each municipality or its non-profit
designee shall assume responsibility for the management,
operations and programming of the public, educational and
governmental access channels.

j. With regard only to applications for a system-wide
franchise, a commitment to install and retain or provide, without
charge, one service outlet activated for basic service to any and all
fire stations, public schools, police stations, public libraries, and
other such buildings used for municipal purposes.

k. With regard only to applications for a system-wide
franchise, a commitment to provide free Internet service, without
charge, through one service outlet activated for basic service to any
and all fire stations, public schools, police stations, public libraries,
and other such buildings used for municipal purposes.
l. With regard only to applications for a system-wide franchise, a commitment to provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company.

m. With regard only to applications for a system-wide franchise, a commitment to provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the cable television system for public, educational or governmental use, which return feed, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality. No CATV company is responsible for providing a return access feed unless a municipality requests such a feed in writing. A CATV company that has interconnected with another CATV company may require the second CATV company to pay for half of the CATV company's absorbed costs for extension.

n. With regard only to applications for a system-wide franchise, a commitment to meet any consumer protection requirements applicable, pursuant to board regulations, to cable television companies operating under certificates of approval.

o. (1) A commitment to provide CATV service to the entire territory of a municipality, pursuant to subsection e. of section 23 of P.L.1972, c.186 (C.48:5A-23), or to fully complete a system capable of providing cable television service to all households within the CATV company’s service area, pursuant to subsection a. of section 20 of P.L.2006, c.83 (C.48:5A-25.2), and, if applicable, to provide notice to customers pursuant to 47 C.F.R. ss. 51.325-51.335, and to provide at least broadband Internet service speed, as defined in federal law, subject to reasonable network management, before the CATV company may allow paid prioritization of Internet network traffic to the franchise area. As used in this subsection, “paid prioritization” means the management of a CATV company’s Internet service network speed to directly or indirectly favor certain Internet network traffic over other Internet network traffic, including, but not limited to, use of techniques such as Internet network traffic shaping, prioritization, resource reservation, or other forms of preferential Internet network traffic management, either in exchange for consideration from a third party or to benefit an affiliated entity.

(2) Nothing in this subsection shall prohibit a CATV company from offering tiered Internet speed packages to customers prior to fulfilling the commitments pursuant to paragraph (1) of this subsection.

(cf: P.L.2006, c.83, s.23)

2. This act shall take effect immediately.
This bill requires a cable television (CATV) company, in an application for municipal consent or a system-wide franchise, to commit to providing CATV service to the entire territory of a municipality or to all households within the CATV company’s service territory, and to provide at least broadband Internet service speed, as defined in federal law, before the CATV company may allow paid prioritization of Internet network traffic to the franchise area. “Paid prioritization” is defined as the management of a CATV company’s Internet service network speed to directly or indirectly favor certain Internet network traffic over other Internet network traffic, including, but not limited to, use of techniques such as Internet network traffic shaping, prioritization, resource reservation, or other forms of preferential Internet network traffic management, either in exchange for consideration from a third party or to benefit an affiliated entity.

Nothing in this bill is to prohibit a CATV company from offering tiered Internet speed packages to customers prior to fulfilling the commitments under the bill.

Current law allows the BPU to impose fines or revoke or suspend a CATV company’s franchise for the failure of a CATV company to conform to the commitments made in a franchise application. Current law also allows the board to enforce the provisions of the application through any appropriate method.