

1 State of Arkansas *As Engrossed: S2/6/13 S2/20/13 S2/25/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

SENATE BILL 101

4

5 By: Senators Files, Bookout, J. Dismang, J. Key, Rapert, D. Sanders, J. Woods

6 By: Representatives Wright, D. Altes, Branscum, Cozart, Gillam, Linck, Perry, Ratliff, Slinkard, Steel,

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8

9

## For An Act To Be Entitled

10 AN ACT TO ESTABLISH THE ARKANSAS VIDEO SERVICE ACT;

11 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

12

13

14

## Subtitle

15 TO ESTABLISH THE ARKANSAS VIDEO SERVICE

16 ACT; AND TO DECLARE AN EMERGENCY.

17

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 *SECTION 1. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended*  
22 *to add an additional section to read as follows:*

23 19-6-819. Arkansas Video Service Fund.

24 (a) There is created on the books of the Treasurer of State, Auditor  
25 of State, and Chief Fiscal Officer of the State a special revenue fund to be  
26 known as the "Arkansas Video Service Fund".

27 (b)(1) All moneys collected under § 23-19-204 shall be deposited into  
28 the State Treasury to the credit of the fund as special revenues.

29 (2) The fund shall also consist of any other revenues as may be  
30 authorized by law.

31 (c) The fund shall be used by the Secretary of State to review and  
32 issue certificates of franchise authority.

33

34 SECTION 2. Arkansas Code Title 23 is amended to add an additional  
35 chapter to read as follows:

36



1 CHAPTER 19

2 CABLE AND VIDEO COMMUNICATIONS

3 Subchapter 1 – General Provisions

4 [Reserved]

5  
6 Subchapter 2 – Arkansas Video Service Act

7  
8 23-19-201. Title.

9 This subchapter shall be known and may be cited as the "Arkansas Video  
10 Service Act".

11  
12 23-19-202. Definitions.

13 As used in this subchapter:

14 (1) "Access to video service" means the capability of a video  
15 service provider to provide video service at a household address irrespective  
16 of whether a subscriber has ordered the service or the service is provided at  
17 the address;

18 (2) "Books and records" includes without limitation:

19 (A) Records kept in the regular course of business and  
20 that are not limited to accounting records;

21 (B) Billing detail records; and

22 (C) Tax billing detail records;

23 (3) "Cable service" means the same as defined in 47 U.S.C. §  
24 522, as it existed on January 1, 2013;

25 (4) "Certificate of franchise authority" means a certificate  
26 issued by the Secretary of State to a video service provider under this  
27 subchapter;

28 (5)(A)(i) "Franchise" means the same as defined in 47 U.S.C. §  
29 522, as it existed on January 1, 2013.

30 (ii) A certificate of franchise issued under § 23-  
31 19-203 shall constitute a franchise for the purpose of 47 U.S.C. § 542, as it  
32 existed on January 1, 2013.

33 (B) "Franchise" also means any agreement between a video  
34 service provider and a political subdivision under which a video service  
35 provider is authorized or otherwise permitted to provide video service in the  
36 political subdivision;

1           (6) "Franchising entity" means this state or a city or county in  
2 this state authorized by state or federal law to grant a franchise;

3           (7) "Governing body" means the city council or the county quorum  
4 court of a political subdivision;

5           (8) "Incumbent video service provider" means a person that  
6 provides cable or video service and holds a franchise issued by a political  
7 subdivision before July 1, 2013;

8           (9) "Nonincumbent video service provider" means:

9           (A) A person authorized under this subchapter to provide  
10 video service in an area in which video service is being provided by an  
11 incumbent video service provider;

12           (B) A person authorized under this subchapter to provide  
13 service in a geographical area in which on July 1, 2013, there was no  
14 incumbent video service provider providing video service; or

15           (C) Any other person that provides video service after the  
16 effective date of this act that is not an incumbent video service provider;

17           (10) "Political subdivision" means a city, county, or other  
18 governmental entity of the state having maintenance and operation  
19 responsibility over the public rights-of-way in a geographical area for which  
20 a franchise or certificate of franchise authority has been issued by a  
21 franchising entity;

22           (11) "Public rights-of-way" means the area on, below, or above a  
23 public roadway, highway, street, public sidewalk, alley, waterway, or utility  
24 easement dedicated for compatible uses;

25           (12) "Service area" means contiguous geographical territory in  
26 the state where a video service provider may provide video service under a  
27 certificate of franchise authority;

28           (13) "Service tier" means a category of video service provided  
29 by a video service provider to a subscriber and for which a separate rate is  
30 charged by the video service provider;

31           (14)(A) "Subscriber" means a person in this state that buys  
32 video service.

33           (B) "Subscriber" does not include a person that buys video  
34 service for resale and who, on resale, is required to pay a video service  
35 provider fee under this subchapter or under the terms of a franchise with a  
36 political subdivision;

1 (15)(A) "Video service" means the delivery of video programming  
2 to subscribers in which:

3 (i) The video programming is generally considered  
4 comparable to video programming delivered to viewers by a television  
5 broadcast station, cable service, or digital television service, without  
6 regard to the technology used to deliver the video service, including  
7 internet protocol technologies; and

8 (ii) The service is provided primarily through  
9 equipment or facilities located in whole or in part in, on, under, or over  
10 any public right-of-way.

11 (B) "Video service" includes cable service and video  
12 service delivered by a community antenna television system but excludes video  
13 programming:

14 (i) Provided to persons in their capacity as  
15 subscribers to commercial mobile service as defined in 47 U.S.C. § 332(d), as  
16 it existed on January 1, 2013; or

17 (ii) Provided as part of and via a service that  
18 enables end users to access content, information, electronic mail, or other  
19 services offered over the public Internet;

20 (16) "Video service provider" means a provider of video service,  
21 including without limitation a cable service provider, an incumbent video  
22 service provider, and a nonincumbent video service provider; and

23 (17) "Video service provider fee" means the amount paid by a  
24 video service provider to a political subdivision under § 23-19-206.

25  
26 23-19-203. Franchising authority – Application for certificate of  
27 franchise authority – Modification of service areas – Term of certificate of  
28 franchise authority and termination of certificate of franchise authority.

29 (a) After June 30, 2013:

30 (1) A person shall not act as a video service provider within  
31 the state unless the person:

32 (A) Is providing video service under a franchise from a  
33 political subdivision in effect on the effective date of this act or a  
34 subsequent renewal of the franchise;

35 (B) Elects to:

36 (i) Negotiate a franchise with a political

1 subdivision that establishes the terms and conditions applicable to that  
2 person to provide video service within the jurisdictional boundaries of the  
3 political subdivision and has been issued a franchise from the political  
4 subdivision for such a purpose; or

5 (ii) Adopt the terms and conditions of an existing  
6 franchise issued by a political subdivision to an incumbent video service  
7 provider providing video service within the same service area and that has  
8 been issued a franchise from the political subdivision authorizing the video  
9 service provider to provide video services within the political subdivision  
10 under the same terms and conditions as the franchise issued to an incumbent  
11 video service provider in the political subdivision; or

12 (C) Has been granted a certificate of franchise authority  
13 to do business in the state by the Secretary of State as authorized in this  
14 subchapter; and

15 (2) A franchise between a political subdivision and a video  
16 service provider described in subdivision (a)(1)(A) or (B) of this section  
17 expires on the earlier of:

18 (A) Ten (10) years from the date the franchise was  
19 effective; or

20 (B) The original expiration date of the franchise.

21 (b)(1)(A) This subchapter does not prohibit a person from holding a  
22 franchise issued by a political subdivision and holding a certificate of  
23 franchise authority issued by the Secretary of State for a different service  
24 area.

25 (B) Except as permitted under this section, a video  
26 service provider shall not hold a franchise issued by a political subdivision  
27 and a certificate of franchise authority issued by the Secretary of State for  
28 the same service area.

29 (2) An incumbent video service provider may submit an  
30 application for a certificate of franchise authority for a service area in  
31 which the incumbent video service provider has an existing franchise from a  
32 political subdivision for the service area, and upon the granting of a  
33 certificate of franchise authority to the incumbent video service provider,  
34 the incumbent video service provider's franchise from the political  
35 subdivision shall no longer be of any force or effect.

36 (3) In each service area in which an incumbent video service

1 provider provides video service, the incumbent video service provider has  
2 sole discretion to determine whether or not to apply for a certificate of  
3 franchise authority or continue to provide service under an existing  
4 franchise issued by a political subdivision.

5 (c) An applicant seeking a certificate of franchise authority shall:

6 (1) Submit an application to the Secretary of State that  
7 provides:

8 (A) The name of the applicant;

9 (B) The address of the applicant's principal place of  
10 business in the state;

11 (C) The names of the applicant's principal executive  
12 officers;

13 (D) The designated Arkansas representative for the  
14 applicant;

15 (E) Identification of the political subdivisions, or parts  
16 of political subdivisions, constituting the service areas in which the  
17 applicant intends to provide video service; and

18 (F) The date on which the applicant intends to begin  
19 providing video service in the service area described in the application;

20 (2) Provide verification from an officer, general partner, or  
21 managing member of the applicant that:

22 (A) The applicant has filed with the Federal  
23 Communications Commission the applicable forms needed by the Federal  
24 Communications Commission in advance of offering video service in this state;

25 (B) The applicant is legally, financially, and technically  
26 qualified to provide video service; and

27 (C)(i) The applicant has and maintains with one (1) or  
28 more companies licensed to do business in the state comprehensive general  
29 liability insurance coverage and automobile liability insurance coverage.

30 (ii) The insurance policy shall require that the  
31 insurance carrier pay on behalf of the applicant, up to a limit of not less  
32 than one million dollars (\$1,000,000) for bodily or personal injury, death,  
33 or property damage or loss as a result of any one (1) occurrence or accident,  
34 regardless of the number of persons injured or the number of claimants,  
35 arising out of the negligent or otherwise wrongful act or omission of the  
36 applicant, or the applicant's employees or agents.

1 (iii) A certificate of automobile liability self-  
2 insurance issued to the applicant and maintained under § 27-19-207 satisfies  
3 the liability insurance coverage requirements of this subsection; and

4 (3) Submit the filing fee required under § 23-19-204.

5 (d) Upon receipt of an application for a certificate of franchise  
6 authority under this section, the Secretary of State shall:

7 (1) Notify the applicant within thirty (30) days after receipt  
8 of the application whether the application needs additional information or is  
9 complete;

10 (2) Issue a certificate of franchise authority within fifteen  
11 (15) days after the application is complete; and

12 (3) Provide written notice of a certificate of franchise  
13 authority within fifteen (15) days after issuance of a certificate of  
14 franchise authority to the governing body of each political subdivision  
15 located in the service area designated in the application for a certificate  
16 of franchise authority.

17 (e)(1) A holder of a certificate of franchise authority may change the  
18 boundaries of an existing service area authorized under the certificate of  
19 franchise authority by filing written notice of the modification with the  
20 Secretary of State with the filing fee required under § 23-19-204.

21 (2) The boundary modifications are effective on the date the  
22 written notice is filed with the Secretary of State.

23 (3) Such modifications shall not extend the term of the  
24 certificate of franchise authority as established in subsection (h) of this  
25 section.

26 (f)(1) A certificate of franchise authority is transferrable.

27 (2) To transfer a certificate of franchise authority, the  
28 successor shall:

29 (A) File an application containing the information  
30 required in subsection (c) of this section; and

31 (B) Acknowledge with the Secretary of State that the  
32 successor shall provide notice to the political subdivision with jurisdiction  
33 concerning the public rights-of-way to be used to undertake operation and  
34 maintenance of video facilities under an approved certificate of franchise  
35 authority.

36 (3) A notice of transfer is approved once received by the

1 Secretary of State.

2 (g) The holder of a certificate of franchise authority may terminate  
3 the certificate of franchise authority by submitting a written notice to the  
4 Secretary of State and an affected political subdivision.

5 (h) A certificate of franchise authority is:

6 (1) Nonexclusive;

7 (2) Valid for an initial term of ten (10) years, subject to  
8 changes in federal law; and

9 (3) Renewable for additional ten-year periods for video service  
10 providers in compliance with the requirements of subsection (c) of this  
11 section.

12 (i) To the extent required for the purposes of 47 U.S.C. §§ 521 – 561,  
13 as it existed on January 1, 2013, the state shall constitute the franchising  
14 authority for video service providers in the state.

15 (j) The duties of the Secretary of State under this subchapter are  
16 ministerial. The Secretary of State shall not condition or limit a  
17 certificate of franchise authority by imposing on the holder of a certificate  
18 of franchise authority any obligations or requirements that are not  
19 authorized by this subchapter.

20

21 23-19-204. Certificate of franchise authority – Fees.

22 The fees for a certificate of franchise authority to be collected by  
23 the Secretary of State include:

24 (1) An application filing fee of one thousand five hundred  
25 dollars (\$1,500) that includes the cost of issuance of a certificate of  
26 franchise authority by the Secretary of State; and

27 (2) A fee of one hundred dollars (\$100) for accepting an  
28 amendment to a certificate of franchise authority or providing a notice  
29 required by this subchapter.

30

31 23-19-205. Use of public rights-of-way by holder of certificate of  
32 franchise authority.

33 (a) A video service provider has the rights, powers, and duties  
34 provided for telephone and telegraph companies under §§ 23-17-101 -- 23-17-  
35 105.

36 (b) To enable the provision of video service, a political subdivision



1 shall allow the holder of a certificate of franchise authority to install,  
2 construct, and maintain facilities in the public rights-of-way over which the  
3 political subdivision has jurisdiction.

4 (c) A political subdivision shall provide the holder of a certificate  
5 of franchise authority with open, comparable, nondiscriminatory, and  
6 competitively neutral access to the public rights-of-way in its jurisdiction.

7 (d) This subchapter does not exempt a video service provider from  
8 compliance with all lawful political subdivision land use regulations,  
9 including without limitation zoning laws, building permit requirements, pole  
10 attachment agreements, street cut permits, and other permits required for the  
11 use of a political subdivision's right of way.

12 (e)(1) In order to construct, maintain, or remove facilities necessary  
13 to provide video services, a video service provider may peacefully enter upon  
14 the right of way of a political subdivision.

15 (2) A video service provider is liable for any damage that may  
16 result from exercising a right under subdivision (e)(1) of this section.

17  
18 23-19-206. Video service provider fee -- Definitions.

19 (a) As used in this section:

20 (1) "City subscribers" means a subscriber whose service address  
21 is in the jurisdictional limits of a city;

22 (2) "County subscribers" means a subscriber whose service  
23 address is outside the jurisdictional limits of a city;

24 (3)(A) "Gross revenue" shall be calculated in accordance with  
25 generally accepted accounting principles and means all consideration of any  
26 kind or nature, including without limitation cash, credit, property, and in-  
27 kind contributions, services or goods derived by the holder of a certificate  
28 of franchise authority from the operation of the video service provider's  
29 network to provide video service within the political subdivision.

30 (B) "Gross revenue" includes all consideration paid to the  
31 holder of a certificate of franchise authority and its affiliates only to the  
32 extent that the holder of a certificate of franchise authority or its  
33 affiliates are acting as a provider of video service under this subchapter,  
34 which includes the following:

35 (i) All fees charged to subscribers for any video  
36 services provided by the holder of a certificate of franchise authority;

1 (ii) Any fee imposed on the holder of a certificate  
2 of franchise authority by this subchapter that is passed through and paid by  
3 subscribers, including without limitation the video service fee;

4 (iii) Compensation received by the holder of a  
5 certificate of franchise authority or its affiliates that is derived from the  
6 operation of the holder of a certificate of franchise authority's network to  
7 provide video service with respect to commissions that are paid to the holder  
8 of a certificate of franchise authority as compensation for promotion or  
9 exhibition of any products or services on the holder of certificate of  
10 franchise authority's network, including "home shopping" or a similar channel  
11 under subdivision (a)(3)(B)(v) of this section; and

12 (iv) A pro rata portion of all revenue derived by the  
13 holder of a certificate of franchise authority or its affiliates under  
14 compensation arrangements for advertising derived from the operation of the  
15 holder of a certificate of franchise authority's network to provide the video  
16 service within a political subdivision under subdivision (a)(3)(B)(iii) of  
17 this section. The allocation is based on the number of subscribers in the  
18 political subdivision divided by the total number of subscribers in relation  
19 to the relevant regional or national compensation arrangement. Advertising  
20 commissions paid to third parties shall not be netted against advertising  
21 revenue included in gross revenue. Revenue of an affiliate derived from the  
22 affiliate's provision of video service is gross revenue to the extent the  
23 treatment of such revenue as revenue of the affiliate and not of the holder  
24 of a certificate of franchise authority has the effect, whether intentional  
25 or unintentional, of evading the payment of fees that would otherwise be paid  
26 to the political subdivision. In no event shall revenue of an affiliate be  
27 gross revenue to the holder of a certificate of franchise authority if such  
28 revenue is otherwise subject to fees to be paid to the political subdivision.

29 (C) "Gross revenue" does not include:

30 (i) Any revenue not actually received even if  
31 billed, such as bad debt;

32 (ii) Non-video service revenues received by any  
33 affiliate or any other person in exchange for supplying goods or services  
34 used by the holder of a certificate of franchise authority to provide video  
35 service;

36 (iii) Refunds, rebates, or discounts made to

1 subscribers, leased access providers, or a political subdivision;

2 (iv) Any revenues from services classified as non-  
3 video service under federal law, including without limitation revenue  
4 received from telecommunications services, revenue received from information  
5 services but not excluding video services, and any other revenues attributed  
6 by the holder of a certificate of franchise authority to non-video service  
7 according to Federal Communications Commission rules, regulations, standards,  
8 or orders;

9 (v) Any revenue paid by subscribers to home shopping  
10 programmers directly from the sale of merchandise through any home shopping  
11 channel offered as part of the video services but not excluding any  
12 commissions that are paid to the holder of a certificate of franchise  
13 authority as compensation for promotion or exhibition of any products or  
14 services on the holder of a certificate of franchise authority's network,  
15 such as a "home shopping" or a similar channel;

16 (vi) The sale of video services for resale in which  
17 the purchaser is required by this subchapter to collect the fees from the  
18 purchaser's customer. This subchapter is not intended to limit state's  
19 rights under 47 U.S.C. Section 542(h);

20 (vii) The provision of video services to customers  
21 at no charge, including without limitation the provision of video services to  
22 public institutions, public schools, or governmental entities;

23 (viii) Any tax of general applicability imposed upon  
24 the holder of a certificate of franchise authority or upon subscribers by a  
25 city, state, federal, or any other governmental entity and required to be  
26 collected by the holder of a certificate of franchise authority and remitted  
27 to the taxing entity, including sales and use tax, gross receipts tax, excise  
28 tax, utility users' tax, public service tax, communication taxes, and fees  
29 not imposed by this subchapter;

30 (ix) Any foregone revenue from the holder of a  
31 certificate of franchise authority's provision of free or reduced cost video  
32 services to any person, including without limitation employees of the holder  
33 of a certificate of franchise authority, to the political subdivision and  
34 other public institutions or other institutions. However, any foregone  
35 revenue that the holder of a certificate of franchise authority chooses not  
36 to receive in exchange for trades, barters, services, or other items of value

1 is included in gross revenue;

2 (x) Sales of capital assets or sales of surplus  
3 equipment that are not used by the purchaser to receive video services from  
4 the holder of a certificate of franchise authority;

5 (xi) Directory or Internet advertising revenue,  
6 including yellow pages, white pages, banner advertisement, and electronic  
7 publishing; and

8 (xii) Reimbursement by programmers of marketing  
9 costs incurred by the holder of a franchise for the introduction of new  
10 programming that exceeds the actual costs; and

11 (4) "Provider's network" means the optical spectrum  
12 wavelengths, bandwidth, or other current or future technological capacity  
13 used for the transmission of video programming over wireline directly to  
14 subscribers within the geographic area within the political subdivision as  
15 designated by the provider in its franchise.

16 (b) A video service provider offering video service in a political  
17 subdivision under a certificate of franchise authority shall pay to the  
18 political subdivision where it provides video service a video service  
19 provider fee as may be required by the political subdivision under this  
20 section.

21 (c) The video service provider's fee is:

22 (1) Paid to the political subdivision where video service is  
23 provided quarterly, forty-five (45) days after the close of each calendar  
24 quarter;

25 (2) Computed as a percentage of gross revenue; and

26 (3) Beginning on the first day after the forty-fifth day after  
27 the close of the previous calendar quarter, simple interest at a rate equal  
28 to that for judgments shall apply to video service provider fee payments past  
29 due.

30 (d) The political subdivision shall not require:

31 (1) Except as otherwise provided in this section or § 23-19-205,  
32 any additional fee or charge from the video service provider; or

33 (2) The use of a different calculation method.

34 (e)(1) The video service provider fee is a percentage of gross revenue  
35 and determined by the political subdivision.

36 (2)(A) If there is an incumbent video service provider providing

1 video service in the political subdivision, the video service provider shall  
2 pay an amount equal to the percentage of gross revenue paid by an incumbent  
3 video service provider or five percent (5%), whichever is less.

4 (B) If there is not an incumbent video service provider  
5 having a franchise agreement with the political subdivision, or if a  
6 political subdivision has not previously established and assessed a fee to an  
7 incumbent video service provider the political subdivision may establish the  
8 video service provider fee in an amount not in excess of five percent (5%) of  
9 the gross revenue.

10 (C) The percentage of gross revenue shall apply equally to  
11 all video service providers in the political subdivision, regardless of  
12 whether they provide video service under a local franchise or a certificate  
13 of franchise authority. However, a fee shall not be imposed on any video  
14 service customer except pursuant to a valid franchise or pursuant to a  
15 certificate of franchise authority.

16 (f)(1) A political subdivision shall provide ninety-days' notice to a  
17 video service provider operating in the political subdivision before  
18 establishing, increasing, or lowering a video service provider fee.

19 (2) A video service provider fee or a change to the percentage  
20 level of an existing fee is not effective until ninety (90) days after the  
21 notice required in this subsection is given to the video service provider.

22 (g) Payment of the fees required in this section shall accompany a  
23 written report that:

24 (1) Identifies the amount of gross revenues received from  
25 subscribers for the provision of video service to subscribers; and

26 (2) Allows for a proper compliance review by the political  
27 subdivision.

28 (h)(1) A political subdivision may conduct an audit of a video service  
29 provider to ensure proper and accurate payment of the video service provider  
30 fee.

31 (2) To conduct an audit, the political subdivision shall:

32 (A) Provide reasonable advance written notice;

33 (B) Audit the video service provider not more than one (1)  
34 time in a calendar year; and

35 (C) At its discretion, review the books and records at the  
36 location in the jurisdiction where the books and records are kept or consent

1 to review copies of the books and records provided electronically.

2 (3) The political subdivision and the video service provider are  
3 responsible for their respective costs of the audit.

4 (i) Payment of an undisputed amount or refund due to the political  
5 subdivision or the video service provider is required within sixty (60) days  
6 after it is recognized, plus the interest as computed on civil judgments.

7 (j) The video service provider shall keep business records showing any  
8 gross revenue, even if there is a change in ownership, for at least three (3)  
9 years after the revenue is recognized by the video service provider in its  
10 books and records.

11 (k) A video service provider may identify and collect the amount of  
12 the video service provider fee as a separate line item on the regular bill of  
13 each subscriber.

14 (l)(1) Any city annexing lands shall notify a video service provider  
15 in writing of any such annexation, including a description of the territory  
16 annexed.

17 (2) Beginning the first day of the calendar quarter occurring  
18 after the video service provider has received at least ninety-days' notice of  
19 annexation of customers into the city's corporate limits, subscribers within  
20 the annexed territory shall be considered city subscribers for purposes of  
21 this section.

22  
23 23-19-207. Prohibited activity – Remedies for noncompliance.

24 (a) A video service provider shall not deny access to video service to  
25 any group of potential residential subscribers based on the income of the  
26 residents in the local area in which such a group resides.

27 (b) A franchising authority or political subdivision shall not impose  
28 on a video service provider any build-out or other requirements for the  
29 construction, placement, or installation of facilities used to provide video  
30 services.

31 (c)(1) If a court of competent jurisdiction finds that the holder of a  
32 certificate of franchise authority is not in compliance with this subchapter,  
33 the court shall order the holder of the certificate of franchise authority to  
34 cure the noncompliance within a reasonable time.

35 (2) If the holder of a certificate of franchise authority fails  
36 to cure the noncompliance as ordered by a court under subdivision (c)(1) of

1 this section, the court may remedy the noncompliance.

2  
3 23-19-208. Customer service standards.

4 (a) A video service provider shall comply with the customer service  
5 requirements under 47 C.F.R. § 76.309(c), as it existed on January 1, 2013.

6 (b)(1) A video service provider shall maintain a local or toll-free  
7 number for customer service contact.

8 (2)(A) A video service provider shall implement an informal  
9 process for handling political subdivision or customer inquiries, billing  
10 issues, service issues, and other complaints.

11 (B) If an issue is not resolved through the informal  
12 process under subdivision (b)(2)(A) of this section, a political subdivision  
13 may request a confidential, nonbinding mediation with the video service  
14 provider, with the costs of the mediation to be shared equally between the  
15 political subdivision and the video service provider.

16 (c)(1) A video service provider shall notify customers in writing of a  
17 change in rates, programming services, or channel positions as soon as  
18 possible.

19 (2) Written notice shall be given to subscribers at least thirty  
20 (30) days in advance of the change if the change is within the control of the  
21 video service provider.

22  
23 23-19-209. Designation and use of channel capacity for public,  
24 educational, or governmental use.

25 (a) As used in this section, "public, education, and government access  
26 channels", also known as "PEG channels", means channels used for  
27 noncommercial local interest programming.

28 (b)(1) A video service provider, on the date that it first provides  
29 video service to a subscriber in the service area of a political subdivision  
30 or within a reasonable time, shall:

31 (A) Designate a sufficient amount of capacity on its video  
32 service network to allow PEG channels for noncommercial programming; and

33 (B) Designate a sufficient amount of capacity on its  
34 network to allow up to three (3) PEG channels or channels equal in number to  
35 those that have been activated by an incumbent video service provider, if  
36 any, on the date that the video service provider first provides video service

1 to a subscriber in a political subdivision, whichever is less.

2 (2)(A) A political subdivision served by an incumbent video  
3 service provider that opts to provide service under a certificate of  
4 franchise authority issued under § 23-19-203 is entitled to PEG channels  
5 under this section.

6 (B) If the political subdivision was not served by an  
7 incumbent video service provider, the video service provider shall provide  
8 one (1) PEG channel for the use of the political subdivision.

9 (3) A political subdivision may waive its rights to a PEG  
10 channel.

11 (c)(1) A video service provider is responsible for:

12 (A) The transmission of the programming on each channel to  
13 subscribers; and

14 (B) Providing one (1) point of connectivity to each PEG  
15 channel distribution point in the political subdivision to be served.

16 (2) A video service provider may:

17 (A) Provide PEG channels on a service tier subscribed to  
18 by more than fifty percent (50%) of a video service provider's subscribers;

19 (B) Consolidate PEG channels to a single channel location;  
20 and

21 (C) Provide PEG channels through an application on a menu  
22 or as a choice on an assigned channel.

23 (3) A video service provider shall not:

24 (A) Change a channel location assigned to a PEG channel  
25 without providing written notice to the affected political subdivision at  
26 least thirty (30) days before the date on which the change is to become  
27 effective; or

28 (B) Be required to provide an institutional network or  
29 equivalent capacity on its video service network.

30 (4) When technically and economically possible, a video service  
31 provider shall:

32 (A) Use reasonable efforts to interconnect its video  
33 network to share PEG channel programming with other video service providers  
34 through direct cable, microwave link, satellite, or other reasonable method  
35 of connection;

36 (B) Negotiate in good faith to provide interconnection of



1 PEG channels; and

2 (C) If requesting to interconnect its video network to  
3 share PEG channel programming with another video service provider, pay for  
4 the cost of the interconnection.

5 (d)(1) The operation, production, and content of any programming aired  
6 on a PEG channel is solely the responsibility of the public, educational, and  
7 governmental agencies receiving the benefit of the capacity.

8 (2) The entity producing the PEG channel programming and sending  
9 it to the video service provider shall ensure that transmissions, content, or  
10 programming to be sent to the video service provider is:

11 (A) Provided in a manner that is capable of being accepted  
12 and sent by the video service provider over its video service network without  
13 alteration or change in the content or transmission signal; and

14 (B) Compatible with the technology or protocol used by the  
15 video service provider to deliver its video service.

16 (3) Governmental entities utilizing PEG channels shall make the  
17 programming available to video service providers providing service in the  
18 governmental entity's jurisdiction in a nondiscriminatory manner.

19 (4) The governmental entity providing programming for use on a  
20 channel designated for public, education, and government access use may  
21 request a change of the point of connectivity but shall pay the video service  
22 provider for costs associated with the change of the point of connectivity.

23  
24 23-19-210. Applicability of other laws.

25 (a) The General Assembly intends that this subchapter be consistent  
26 with the Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq.,  
27 as it existed on January 1, 2013.

28 (b) Except as otherwise stated in this subchapter, this subchapter  
29 shall not be interpreted to prevent a video service provider, a political  
30 subdivision, or a franchising entity from entering into a negotiated  
31 franchise agreement with a political subdivision or seeking clarification of  
32 its rights and obligations under federal or state law or to exercise a right  
33 or authority under federal or state law.

34 (c) This subchapter does not limit, abrogate, or supersede Title 23,  
35 Chapter 17, regarding telecommunications service in the state, and does not  
36 require a telephone corporation to get a certificate of franchise authority

1 or local authorization under this subchapter to permit the telephone  
2 corporation to construct, upgrade, operate, or maintain its  
3 telecommunications system to provide telecommunications service.

4 (d) The regulation of a person holding a certificate of franchise  
5 authority issued under this subchapter shall be exclusive to the Secretary of  
6 State as provided under this subchapter.

7 (e) A person holding a certificate of franchise, with respect to any  
8 political subdivision identified by the video service provider in its  
9 application or modifications filed under § 23-19-203, shall not be required  
10 to obtain any authorization, permit, franchise, or license from, or pay  
11 another fee or franchise tax to, or post bond in any political subdivision of  
12 this state to engage in the business or perform any service authorized under  
13 this subchapter.

14  
15 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly of the State of Arkansas that perhaps the lack of uniformity  
17 in the laws governing video service providers is inequitable to certain  
18 citizens and government entities; that this act establishes uniform  
19 regulation of video service providers and a simplified process for the  
20 issuance of a state franchise that will encourage entry of new video service  
21 providers to the state marketplace; and that this act is immediately  
22 necessary because it ensures uniform regulation of video service providers,  
23 assures equality of treatment of video service providers, and encourages new  
24 video service providers to enter the state. Therefore, an emergency is  
25 declared to exist, and this act being immediately necessary for the  
26 preservation of the public peace, health, and safety shall become effective  
27 on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,  
30 the expiration of the period of time during which the Governor may veto the  
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is  
33 overridden, the date the last house overrides the veto.

34  
35 */s/Files*

36 **APPROVED: 03/06/2013**