

IN THE SENATE

SENATE BILL NO. 1100

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO VIDEO SERVICE ACT; AMENDING TITLE 50, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 50, IDAHO
3 CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE
4 FOR FRANCHISING AUTHORITY, USE OF PUBLIC RIGHTS-OF-WAY AND
5 MODIFICATIONS OF EXISTING FRANCHISE AGREEMENTS, TO PROVIDE
6 FEES OF THE SECRETARY OF STATE, TO REQUIRE THE HOLDER OF A
7 CERTIFICATE TO PROVIDE SERVICE WITHIN A CERTAIN PERIOD AND
8 TO PROVIDE FOR REVOCATION OF CERTIFICATE FOR NONCOMPLIANCE,
9 TO PROVIDE CUSTOMER ACCESS TO COMMUNITY PROGRAMMING, TO
10 PROVIDE A VIDEO SERVICE PROVIDER FEE WITH DEFINITIONS, TO PROVIDE
11 FOR NONDISCRIMINATION BY GOVERNMENTAL ENTITIES RELATING TO
12 USE OF PUBLIC RIGHTS-OF-WAY, TO PROHIBIT DISCRIMINATION AMONG
13 POTENTIAL RESIDENTIAL SUBSCRIBERS, TO PROVIDE FOR CUSTOMER
14 SERVICE STANDARDS, TO PROVIDE FOR APPLICABILITY OF OTHER LAW;
15 AND TO PROVIDE SEVERABILITY.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 50, Idaho Code, be, and the same is hereby amended by the
19 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 50,
20 Idaho Code, and to read as follows:

21 CHAPTER 30
22 IDAHO VIDEO SERVICE ACT

23 50-3001. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho
24 Video Service Act."

25 50-3002. DEFINITIONS. As used in this chapter:

26 (1) "Access to video service" means the capability of a video service provider to provide
27 video service at a household address irrespective of whether a subscriber has ordered the
28 service or whether the service is actually provided at that address.

29 (2) "Actual competition" means the physical installation and activation of a network to
30 provide video service by a nonincumbent video service provider anywhere within a political
31 subdivision.

32 (3) "Cable service" has the meaning ascribed to it in 47 U.S.C. section 522, as that
33 section existed on January 1, 2009.

34 (4) "Cable system" has the meaning ascribed to it in 47 U.S.C. section 522, as that
35 section existed on January 1, 2009.

36 (5) "Certificate of franchise authority" means a certificate issued by the Idaho secretary
37 of state to a video service provider pursuant to the provisions of this chapter.

1 (6) "Franchise" has the meaning ascribed to it in 47 U.S.C. section 522, as that section
2 existed on January 1, 2009. However, a certificate of franchise authority issued pursuant to
3 section 50-3003, Idaho Code, shall constitute a franchise for the purposes of 47 U.S.C. section
4 522.

5 (7) "Franchising entity" means the city, county or state authorized by state or federal law
6 to grant a franchise.

7 (8) "Incumbent cable service provider" means a person who provides cable service and
8 holds a franchise issued by a franchising entity prior to July 1, 2009.

9 (9) "Local unit of government" means a city, county or other governmental entity of the
10 state of Idaho having maintenance and operation responsibility over the public rights-of-way
11 within an area for which a franchise or certificate of franchise authority has been issued by a
12 franchising entity.

13 (10) "Nonincumbent video service provider" means:

14 (a) A person authorized under the provisions of this chapter to provide video service in
15 an area in which cable service is being provided by an incumbent cable service provider;

16 or

17 (b) A person authorized under the provisions of this chapter to provide video service
18 in an area in which, on the effective date of this chapter, there was no incumbent cable
19 service provider providing cable service.

20 (11) "Political subdivision" means a city or county of the state of Idaho.

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

24 (13) "System operator" means any person or group of persons who provide video service
25 and directly, or through one (1) or more affiliates, own a significant interest in the system
26 or facilities through which the video service is provided and which person has been issued a
27 certificate of franchise authority pursuant to the provisions of this chapter.

28 (14) "Video service" means video programming service provided primarily through
29 equipment or facilities located in part within the public rights-of-way without regard to the
30 delivery technology. The term includes cable service, but excludes any video programming
31 provided to persons in their capacity as subscribers to commercial mobile service as defined in
32 47 U.S.C. section 332(d), or video programming provided as a part of and via a service that
33 enables end users to access content, information, electronic mail or other services offered over
34 the public internet.

35 (15) "Video service provider" means a provider of video service, and includes an
36 incumbent cable or multichannel video service provider, a nonincumbent video service provider
37 or a system operator, unless the context in which the term is used indicates otherwise.

38 (16) "Video service provider fee" means the amount paid by a system operator pursuant
39 to section 50-3005, Idaho Code.

40 50-3003. FRANCHISING AUTHORITY – USE OF PUBLIC RIGHTS-OF-WAY –
41 MODIFICATIONS OF EXISTING FRANCHISE AGREEMENTS. (1) On and after July 1,
42 2009, no person shall offer video service within the state of Idaho unless such person:

43 (a) Is an incumbent cable service provider providing cable service within an existing
44 franchise area by permission of, or pursuant to, a franchise from a political subdivision in
45 effect on the effective date of this chapter or a subsequent renewal thereof; or

1 (b) Has been granted a certificate of franchise authority to do business in the state of
2 Idaho as a system operator by the Idaho secretary of state as required in this chapter.

3 (2) Any person that meets the requirements of subsection (13) of this section seeking a
4 certificate of franchise authority to provide video service shall submit an application that sets
5 forth the following information:

6 (a) The name of the applicant and the address of its principal place of business within the
7 state of Idaho and the names of the applicant's principal executive officers and its primary
8 Idaho representative;

9 (b) A specific identification of the political subdivision(s), or portion thereof, wherein the
10 applicant intends to provide video service;

11 (c) The date on which the applicant intends to begin providing video service in each
12 political subdivision or portion thereof;

13 (d) Verification signed by an officer or general partner of the applicant that:

14 (i) The applicant has filed with the federal communications commission all forms
15 required by that agency in advance of offering video service in this state; and

16 (ii) That the applicant is legally, financially and technically qualified to provide
17 video service; provided however, that a cable operator that was providing service
18 in Idaho pursuant to a franchise in effect on the day before the effective date of
19 this section shall be deemed to be legally, financially and technically qualified to
20 provide service;

21 (e) Verification that the applicant has procured and will maintain comprehensive general
22 liability insurance coverage and automobile liability insurance coverage underwritten by
23 one (1) or more companies licensed to do business in the state of Idaho in an amount
24 not less than the minimum insurance requirement amount for governmental entities as
25 established in section 6-924, Idaho Code.

26 (3) The application shall be accompanied by a filing fee as established in section
27 50-3004, Idaho Code. Within thirty (30) days after its filing or within thirty (30) days after the
28 filing of supplemental information necessary to make it complete, the secretary of state shall
29 determine the completeness of an application and, as applicable, shall notify the applicant of an
30 incompleteness of determination, state the basis for that determination, and inform the applicant
31 that it may resubmit a correct application. The secretary of state shall issue a certificate of
32 franchise authority within fifteen (15) days after the secretary of state's determination that the
33 filed application is complete and in compliance. Promptly, upon issuance of a certificate of
34 franchise authority, the secretary of state shall provide written notice of such issuance to the
35 clerk(s) of the political subdivision(s) wherein service is to be provided.

36 (4) Persons that have received a certificate of franchise authority as set forth in this
37 section may use the public rights-of-way of the state and any political subdivision, subject to
38 provisions of state law and applicable local ordinance.

39 (5) A certificate of franchise authority is subject to the system operator's maintaining
40 the qualifications necessary to initially obtain a certificate of franchise authority. Any holder
41 of a certificate of franchise authority issued pursuant to this chapter shall immediately notify
42 the secretary of state of its failure to meet the standards established for initial qualification for
43 a certificate of franchise authority and the holder's certificate of franchise authority shall be
44 deemed to be revoked by operation of law without the need for any notice, hearing or action by
45 the secretary of state. Use and occupancy by a system operator of the public right-of-way in
46 the delivery of video service shall be subject to the laws of this state and the police powers of

1 the political subdivision having jurisdiction over the public right-of-way in which the service is
2 to be delivered.

3 (6) No provision of this chapter shall diminish or otherwise limit the authority of a
4 local unit of government to enact nondiscriminatory, competitively neutral local laws to govern
5 the use or maintenance of public rights-of-way as otherwise provided by law. No local unit
6 of government shall unreasonably deny a holder of a certificate of franchise authority the use
7 of public rights-of-way to provide video service where a system operator complies with the
8 provisions of the applicable local ordinance or ordinances governing the use of the public
9 rights-of-way, or in the absence of such ordinances, with the provisions of this chapter and
10 other provisions of state law.

11 (7) If no local ordinance regulates installation of physical facilities within public
12 rights-of-way, the following requirements shall be deemed the minimum standards for such
13 activities:

14 (a) At least thirty (30) days prior to contemplated construction within public
15 rights-of-way, a specific description of the locations where facilities are proposed
16 to be installed within the public right-of-way and the construction methods that are
17 proposed must be provided to the local unit of government responsible for right-of-way
18 procurement or maintenance.

19 (b) A certificate of franchise authority granted pursuant to this chapter carries with it an
20 obligation to respect orderly management and maintenance of public rights-of-way. Any
21 video service provider authorized hereby to use public rights-of-way shall employ sound
22 construction practices to maintain the integrity of public improvements and preexisting
23 right-of-way conditions and shall be responsible for repair or replacement of any
24 improvements or maintenance or restoration of any conditions disrupted by construction
25 activities. The video service provider shall cause any such repairs to be made promptly
26 and in a manner that complies with adopted standards or as otherwise appropriate to
27 restore the right-of-way to conditions existing before installation.

28 (c) The certificate of authority granted pursuant to this chapter also carries a duty
29 to coordinate installation of any physical plant in public rights-of-way with public
30 utilities or municipal services already using or contemplating use of the same or related
31 rights-of-way. Such coordination should endeavor to minimize conflicts and avoid
32 damage to existing or otherwise planned facilities.

33 (d) No local unit of government with authority or responsibility to procure or maintain
34 public rights-of-way shall discriminate against a holder of a certificate of franchise
35 authority issued pursuant to this chapter with respect to access to rights-of-way or
36 issuance of permits to install facilities in public rights-of-way.

37 (8) A certificate of franchise authority shall be nonexclusive and shall be for an initial
38 term of ten (10) years, subject to changes in federal law. A certificate of franchise authority
39 may be renewed for additional ten (10) year periods for system operators in compliance with
40 the requirements of section 50-3003(2), Idaho Code.

41 (9) A certificate of franchise authority may be transferred to any successor of the system
42 operator to which the certificate of franchise authority was initially issued upon the successor
43 filing an application containing the same information as required in subsection (2) of this
44 section. Any successor may only undertake operation and maintenance of video facilities
45 pursuant to an approved certificate of franchise authority upon providing notice to the local unit
46 of government with jurisdiction concerning the public rights-of-way to be used. A successor

1 shall be responsible to conform to approved plans and permits and to coordinate installation and
2 maintenance as required by the local unit of government.

3 (10) A certificate of franchise authority may be terminated by the system operator by
4 submitting a written notice to the secretary of state and any affected local unit of government.
5 No approval of the termination of the certificate of franchise authority shall be required by the
6 secretary of state or by any affected local unit of government. Termination of a certificate of
7 franchise authority shall not relieve a system operator of any subsequent obligation to mitigate
8 the effects of abandoned physical facilities remaining in any public right-of-way.

9 (11) To the extent required for the purposes of 47 U.S.C. sections 521 through 561,
10 the state of Idaho shall constitute the franchising authority for system operators in the state of
11 Idaho.

12 (12) No local unit of government or other political subdivision of the state of Idaho
13 may require a system operator to obtain a franchise, license, permit or other authorization from
14 the local unit of government or political subdivision or impose any fee or impose any other
15 requirement for the provision of video services within the geographic territory of such local unit
16 of government or political subdivision, unless such fee or requirement is expressly authorized
17 by this chapter.

18 (13) Any person may submit an application for a certificate of franchise authority,
19 including an incumbent cable service provider, when such incumbent cable service provider
20 faces actual competition by another system operator, upon the expiration of a franchise
21 agreement held by an incumbent cable service provider, or in a political subdivision where an
22 incumbent cable service provider does not hold a certificate of franchise authority as of the
23 date of this chapter. Upon the granting of a certificate of franchise authority to an incumbent
24 cable service provider, the provider's existing certificate of franchise authority shall no longer
25 be of any force or effect and shall not be enforceable by the local unit of government of this
26 state. The local unit of government shall promptly return to the video service provider any
27 letter of credit, performance bond, security deposit, certificate of insurance or any other similar
28 instrument. It shall be in an incumbent cable operator's sole discretion to determine, in each
29 area where it provides cable service, whether or not to apply for a certificate of franchise
30 authority or continue to provide service under an existing certificate of franchise authority.

31 50-3004. FEES. (1) In carrying out the provisions of this chapter, the secretary of state
32 shall charge and collect the fees set forth in this section.

33 (2) The filing fee for accepting an application for a certificate of franchise authority shall
34 be two hundred dollars (\$200).

35 (3) The filing fee for accepting an amendment to a certificate of franchise authority shall
36 be thirty dollars (\$30.00).

37 50-3005. HOLDER OF CERTIFICATE – PROVISION OF SERVICE WITHIN
38 CERTAIN PERIOD – REVOCATION OF CERTIFICATE FOR NONCOMPLIANCE. (1) Not
39 later than twenty-four (24) months after the date on which the secretary of state issues a
40 certificate of franchise authority pursuant to section 50-3003, Idaho Code, the holder of the
41 certificate must have the capability to offer and to provide video service to at least one (1)
42 subscriber who resides within the territorial boundaries of each service area identified in and
43 authorized by the certificate.

1 (2) If a holder fails to comply with the provisions of subsection (1) of this section, the
2 holder's certificate of franchise authority shall be deemed to be revoked by operation of law
3 without the need for any notice, hearing or action by the secretary of state.

4 50-3006. CUSTOMER ACCESS TO COMMUNITY PROGRAMMING. (1) A system
5 operator shall designate one (1) or more channels to allow the provision of noncommercial
6 public, educational and governmental (PEG) noncommercial programming, as follows:

7 (a) Designate the same number of channels equal to that which has been activated by
8 an incumbent cable service provider on July 1, 2009. Such channels shall be located on
9 the same channel location on the system operator's channel lineup as the incumbent cable
10 service provider.

11 (b) If there is no incumbent cable service provider or no PEG channels have been
12 activated within the jurisdictional limits of the political subdivision on July 1, 2009,
13 the system operator shall provide a maximum of two (2), in total, public, educational
14 and government channels for a political subdivision with a population of at least fifty
15 thousand (50,000), and one (1), in total, public, educational and governmental channel
16 for a political subdivision with a population of less than fifty thousand (50,000); provided
17 however, that a local unit of government may waive the PEG requirements of this section.

18 (c) The limits set forth in paragraphs (a) and (b) of this subsection (1) shall constitute the
19 total number of PEG channels that may be required of a system operator using a common
20 headend to provide video service to customers in one (1) or more political subdivisions,
21 regardless of the number of political subdivisions served by such headend. The respective
22 populations of all political subdivisions served by such video service networks shall be
23 aggregated for the purpose of applying such limits.

24 (d) The PEG channels provided pursuant to subsection (1)(c) of this section may be
25 located by the system operator on any tier of service viewed by more than fifty percent
26 (50%) of a video provider's subscribers. The PEG access channel capacity provided shall
27 be of similar quality and functionality to that offered by commercial channels on such tier
28 of service unless the signal is provided to the video service provider at a lower quality or
29 with less functionality.

30 (2) The production and content of any programming aired on any PEG access channel
31 shall be solely the responsibility of the public, educational and governmental agencies
32 receiving the benefit of such capacity. The system operator shall bear the responsibility
33 for the transmission of such content only to the extent that such content complies with the
34 requirements of subsection (5) of this section.

35 (3) The public, educational or governmental agency producing the PEG programming
36 and transmitting it to the system operator shall ensure that all transmissions, content or
37 programming are provided or submitted in a manner or form that is compatible with the video
38 service provider's network, as that may change from time to time. Governmental entities
39 utilizing PEG access channels shall make the programming of any PEG access channels
40 available to all video service providers providing service within such governmental entity's
41 jurisdiction in a nondiscriminatory manner. Each system operator shall be responsible for
42 providing one (1) point of connectivity to the governmental entity's PEG access channel
43 distribution point within the jurisdiction to be served. The governmental entity providing
44 PEG programming may request a change of the point of connectivity but shall pay the system
45 operators all costs associated with the change of the point of connectivity.

1 (4) Notwithstanding any franchise or ordinance in effect as of the date of this chapter,
2 no franchising entity may hereafter require a video service provider to provide any institutional
3 network or equivalent capacity on its video service network.

4 (5) Where technically feasible, a video service provider shall use reasonable efforts
5 to interconnect its video network for the purpose of sharing PEG programming with other
6 video service providers. Interconnection may be accomplished by direct cable, microwave link,
7 satellite or other reasonable method of connection. Video service providers shall negotiate in
8 good faith to provide interconnection of PEG access channels. The video service provider
9 requesting interconnection shall pay all costs for such interconnection.

10 (6) Notwithstanding any franchise or ordinance in effect as of the date of this chapter,
11 a political subdivision may not require a video service provider to provide any funds, services,
12 programming, facilities or equipment related to public, educational or governmental use of
13 PEG access channel capacity. The operation of any PEG access channel provided pursuant to
14 this section and the production of any programming that appears on each such channel shall
15 be the sole responsibility of the governmental entity receiving the benefit of such channel,
16 and the video service provider shall bear only the responsibility for the transmission of the
17 programming on each such channel to subscribers and the initial cost of connecting to existing
18 and obligated PEG access channels.

19 50-3007. VIDEO SERVICE PROVIDER FEE. (1) Every system operator acting
20 pursuant to authorization provided in this chapter shall pay to the political subdivision in which
21 it provides video service a fee as required in this section. For the purposes of this section,
22 subscribers whose service address is within the jurisdictional limits of a city shall be deemed
23 city subscribers and those subscribers whose service address is outside the jurisdictional limits
24 of a city shall be deemed county subscribers.

25 (2) The obligation to pay such fee shall commence upon commencement of the provision
26 of video service to subscribers. The video service provider's fee shall be paid to the political
27 subdivision in which it provides video service on a quarterly basis, forty-five (45) days after
28 the close of each calendar quarter, and shall be calculated as a percentage of gross revenues,
29 as defined in subsection (4) of this section. Except as provided in section 50-3008, Idaho
30 Code, the political subdivision may not require any additional fees or charges from the system
31 operator and may not require the use of any other calculation method.

32 (3) The percentage to be applied against gross revenues pursuant to this section shall
33 be set annually by the political subdivision in an amount equal to the percentage paid by
34 an incumbent cable service provider or five percent (5%), whichever is less. If there is no
35 incumbent cable service provider having a franchise agreement with the political subdivision, or
36 if a political subdivision has not previously established and accessed such fee to an incumbent
37 cable service provider, the fee to be paid shall be established annually by ordinance by the
38 political subdivision, but shall in no event be in excess of five percent (5%) of the gross
39 revenues, as set forth in subsection (4) of this section. Nothing herein prohibits a political
40 subdivision from applying a fee percentage that is less than five percent (5%) so long as such
41 fee is applicable to all video service providers within the political subdivision, regardless of
42 whether they provide video service pursuant to a local franchise or a certificate of franchise
43 authority.

44 (4) (a) For purposes of this section:

1 (i) "Gross revenues" means all revenues, calculated in accordance with generally
2 accepted accounting principles (GAAP), that are received by the system operator
3 from subscribers for providing video service to video subscribers within the
4 jurisdictional limits of the political subdivision. Gross revenues shall include the
5 following:

- 6 1. All recurring charges and fees paid by subscribers for the provision of
7 video service, including equipment rental, late fees, insufficient funds fees
8 and fees attributable to video service when sold individually or as part of
9 a package or bundle, or functionally integrated, with services other than
10 video services;
- 11 2. Event-based charges for video service, including pay-per-view and
12 video-on-demand;
- 13 3. Any other consideration a video service provider receives from its
14 subscribers for providing video service when it is received in a transaction
15 that would evade imposition of a franchise fee if such consideration is not
16 included in revenue, except for revenue excluded pursuant to subparagraph
17 (ii) of this subsection (4)(a).

18 (ii) "Gross revenues" does not include:

- 19 1. Any revenues not actually received, even if billed, such as bad debt net
20 of any recoveries of bad debt;
- 21 2. Refunds, rebates, credits or discounts to subscribers or a local unit of
22 government to the extent not already offset by subparagraph (i) of this
23 subsection (4)(a) and to the extent the refund, rebate, credit or discount
24 is attributable to the video service;
- 25 3. Any revenues received by the system operator or its affiliates from the
26 provision of services or capabilities other than video service, including
27 advertising sales, telecommunications services, information services, home
28 shopping or similar programming advertising, and services, capabilities,
29 and applications that may be sold as part of a package or bundle, or
30 functionally integrated, with video service;
- 31 4. Any revenues received by the provider or its affiliates for the provision
32 of directory or internet advertising, including yellow pages, white pages,
33 banner advertisement and electronic publishing;
- 34 5. Any amounts attributable to the provision of video service to customers
35 at no charge, including the provision of such service to public institutions
36 without charge;
- 37 6. Amounts billed to video service subscribers to recover taxes, fees,
38 surcharges or assessments imposed on a video service provider or a
39 video customer or otherwise collected by a video service provider from
40 video service subscribers for pass-through to any federal, state or local
41 government agency, including the franchise fee and the FCC user fee;
- 42 7. Any foregone revenue from the provision of video service at no charge
43 to any person, except that any foregone revenue exchanged for trade, barter,
44 service or other item of value shall be included in gross revenue;
- 45 8. Sales of capital assets or surplus equipment;

1 9. Reimbursement by programmers of marketing costs actually incurred by
2 the provider for the introduction of programming; or

3 10. The sale of video service for resale to the extent the purchaser certifies
4 in writing that it will resell the service and pay a video service provider fee
5 with respect to the service.

6 (b) In the case of a video service that is bundled or integrated functionally with
7 other services, capabilities or applications, the portion of the system operator's revenue
8 attributable to the other services, capabilities or applications shall be included in gross
9 revenues unless the provider can reasonably identify the division or exclusion of the
10 revenue from its books and records that are kept in the regular course of business.

11 (c) Revenue of an affiliate shall be included in the calculation of gross revenues to the
12 extent the treatment of the revenue as revenue of the affiliate would have the effect of
13 evading the payment of the video service provider fee that would otherwise be paid for
14 video service.

15 (5) Payment of the fees as required in this section shall be accompanied by a written
16 report identifying the amount of revenues by category of service and the number of customers
17 receiving each category of service, if any. A political subdivision may, upon reasonable
18 advance written notice, but not more frequently than once in any calendar year, review the
19 business records of a system operator to the extent necessary to ensure proper and accurate
20 payment of the video service provider fee. A video service provider shall provide sufficient
21 information about such revenues to a political subdivision to allow a proper compliance review
22 by such political subdivision. The system operator shall keep all business records reflecting
23 any gross revenues, even if there is a change in ownership, for at least three (3) years after
24 those revenues are recognized by the system operator on its books and records. All records
25 reasonably necessary for the audit shall, at the discretion of the political subdivision, be made
26 available by the system operator at the location within the jurisdiction where the records are
27 kept in the ordinary course of business, or may be provided electronically to the political
28 subdivision with its consent. The political subdivision and the system operator shall each be
29 responsible for their respective costs of the audit, unless the audit discloses that the system
30 operator has underpaid the video service provider fee by more than seven percent (7%) during
31 the examination period, in which case the system operator shall pay all of the reasonable and
32 actual costs of the audit. Any undisputed amount or refund due to the political subdivision or
33 the system operator shall be paid within sixty (60) days, plus interest at the statutory rate on
34 civil judgments.

35 (6) Any system operator may identify and collect the amount of the video service
36 provider fee as a separate line item on the regular bill of each subscriber.

37 (7) Any city annexing lands shall notify a system operator in writing of any such
38 annexation, including a description of the territory annexed. Beginning the first day of the
39 calendar quarter occurring after the system operator has received at least forty-five (45) days'
40 notice of annexation of customers into the city's corporate limits, subscribers within such
41 annexed territory shall, for purposes of this section, be considered to be city subscribers.

42 50-3008. NONDISCRIMINATION BY GOVERNMENTAL ENTITIES RELATING
43 TO USE OF PUBLIC RIGHTS-OF-WAY. (1) A local unit of government shall allow the holder
44 of a certificate of franchise authority to install, construct and maintain facilities within public
45 rights-of-way, over which the local unit of government has jurisdiction, to enable the provision

1 of video services to subscribers to such services. The local unit of government shall provide
 2 the holder of such certificate of franchise authority open, comparable, nondiscriminatory and
 3 competitively neutral access to the public rights-of-way within its jurisdiction.

4 (2) A local unit of government may not discriminate against the holder of a certificate of
 5 franchise authority in any manner, including:

6 (a) The authorization or placement of facilities in public rights-of-way that is necessary
 7 for the provision of video services;

8 (b) Access to a public building; or

9 (c) The terms or conditions for access to any utility pole within control of the
 10 jurisdiction.

11 (3) A local unit of government may impose a permit fee on a system operator relating
 12 to the opening, closing, inspection or repair of public rights-of-way over which rights-of-way
 13 the local unit of government has jurisdiction, but only to the extent it imposes such a fee
 14 on incumbent cable service providers or others accessing the public rights-of-way relating to
 15 the opening, closing, inspection or repair thereof. Any fee authorized in this section may not
 16 exceed the actual costs incurred by the local unit of government issuing the permit that are
 17 directly related to the system operator's activity in the right-of-way with which the permit is
 18 associated. In no event may a fee under this subsection (3) be charged:

19 (a) If the system operator already has paid a permit fee in connection with the same
 20 activity in the public rights-of-way that would otherwise be covered by the permit fee
 21 under this section; or

22 (b) For general revenue purposes.

23 50-3009. DISCRIMINATION AMONG POTENTIAL RESIDENTIAL SUBSCRIBERS
 24 PROHIBITED. A system operator may not deny access to video service to any group of
 25 potential residential subscribers because of the income of the residents in the local area in
 26 which such group resides. The office of the attorney general is hereby authorized to investigate
 27 and enforce the nondiscrimination requirements as provided for in this chapter.

28 50-3010. CUSTOMER SERVICE STANDARDS. A system operator shall comply with
 29 the customer service requirements set forth in 47 CFR 76.309(c), as amended from time to
 30 time, and shall maintain a local or toll-free telephone number for customer service contact.

31 50-3011. APPLICABILITY OF OTHER LAW. (1) The provisions of this chapter are
 32 intended to be construed to be consistent with the federal cable communications policy act of
 33 1984, 47 U.S.C. sections 521 through 573.

34 (2) Except as otherwise stated herein, nothing in this chapter shall be interpreted to
 35 prevent an incumbent cable service provider, a nonincumbent video service provider, a system
 36 operator, a local unit of government or a franchising entity from seeking clarification of its
 37 rights and obligations under federal or state law or to exercise any right or authority under
 38 federal or state law.

39 (3) Nothing in this chapter shall be construed to limit, abrogate or supersede the
 40 provisions of titles 61 and 62, Idaho Code, regarding telecommunications service within
 41 the state of Idaho, nor to require a telephone corporation to obtain a certificate of franchise
 42 authority or local authorization pursuant to this chapter for the purpose of permitting
 43 or authorizing the telephone corporation to construct, upgrade, operate or maintain its
 44 telecommunications system to provide telecommunications service.

1 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be
2 severable and if any provision of this act or the application of such provision to any person or
3 circumstance is declared invalid for any reason, such declaration shall not affect the validity of
4 the remaining portions of this act.