



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3808

Introduced 2/17/2023, by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

220 ILCS 5/21-201
220 ILCS 5/21-801

Amends the Public Utilities Act. Provides that "video service" means video programming provided by a video service provider and subscriber interaction that is required for the selection or use of video programming services. Provides that the definition of "video service" does not include direct-to-home satellite services defined in federal law. In provisions concerning applicable fees payable to the local unit of government, "gross revenues" shall include any revenues received from video programming accessed via a service that enables users to access content, information, electronic mail, or other services offered over the Internet, including Internet streaming content.

LRB103 30973 AMQ 57562 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 21-201 and 21-801 as follows:

6 (220 ILCS 5/21-201)

7 (Section scheduled to be repealed on December 31, 2026)

8 Sec. 21-201. Definitions. As used in this Article:

9 (a) "Access" means that the cable or video provider is
10 capable of providing cable services or video services at the
11 household address using any technology, other than
12 direct-to-home satellite service, that provides 2-way
13 broadband Internet capability and video programming, content,
14 and functionality, regardless of whether any customer has
15 ordered service or whether the owner or landlord or other
16 responsible person has granted access to the household. If
17 more than one technology is used, the technologies shall
18 provide similar 2-way broadband Internet accessibility and
19 similar video programming.

20 (b) "Basic cable or video service" means any cable or
21 video service offering or tier that includes the
22 retransmission of local television broadcast signals.

23 (c) "Broadband service" means a high speed service

1 connection to the public Internet capable of supporting, in at
2 least one direction, a speed in excess of 200 kilobits per
3 second (kbps) to the network demarcation point at the
4 subscriber's premises.

5 (d) "Cable operator" means that term as defined in item
6 (5) of 47 U.S.C. 522.

7 (e) "Cable service" means that term as defined in item (6)
8 of 47 U.S.C. 522.

9 (f) "Cable system" means that term as defined in item (7)
10 of 47 U.S.C. 522.

11 (g) "Commission" means the Illinois Commerce Commission.

12 (h) "Competitive cable service or video service provider"
13 means a person or entity that is providing or seeks to provide
14 cable service or video service in an area where there is at
15 least one incumbent cable operator.

16 (i) "Designated market area" means a designated market
17 area, as determined by Nielsen Media Research and published in
18 the 1999-2000 Nielsen Station Index Directory and Nielsen
19 Station Index United States Television Household Estimates or
20 any successor publication. For any designated market area that
21 crosses State lines, only households in the portion of the
22 designated market area that is located within the holder's
23 telecommunications service area in the State where access to
24 video service will be offered shall be considered.

25 (j) "Footprint" means the geographic area designated by
26 the cable service or video service provider as the geographic

1 area in which it will offer cable services or video services
2 during the period of its State-issued authorization. Each
3 footprint shall be identified in terms of either (i)
4 exchanges, as that term is defined in Section 13-206 of this
5 Act; (ii) a collection of United States Census Bureau Block
6 numbers (13 digit); (iii) if the area is smaller than the areas
7 identified in either (i) or (ii), by geographic information
8 system digital boundaries meeting or exceeding national map
9 accuracy standards; or (iv) local units of government.

10 (k) "Holder" means a person or entity that has received
11 authorization to offer or provide cable or video service from
12 the Commission pursuant to Section 21-401 of this Article.

13 (l) "Household" means a house, an apartment, a mobile
14 home, a group of rooms, or a single room that is intended for
15 occupancy as separate living quarters. Separate living
16 quarters are those in which the occupants live and eat
17 separately from any other persons in the building and that
18 have direct access from the outside of the building or through
19 a common hall. This definition is consistent with the United
20 States Census Bureau, as that definition may be amended
21 thereafter.

22 (m) "Incumbent cable operator" means a person or entity
23 that provided cable services or video services in a particular
24 area under a franchise agreement with a local unit of
25 government pursuant to Section 11-42-11 of the Illinois
26 Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the

1 Counties Code (55 ILCS 5/5-1095) on January 1, 2007.

2 (n) "Local franchising authority" means the local unit of
3 government that has or requires a franchise with a cable
4 operator, a provider of cable services, or a provider of video
5 services to construct or operate a cable or video system or to
6 offer cable services or video services under Section 11-42-11
7 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section
8 5-1095 of the Counties Code (55 ILCS 5/5-1095).

9 (o) "Local unit of government" means a city, village,
10 incorporated town, or county.

11 (p) "Low-income household" means those residential
12 households located within the holder's existing telephone
13 service area where the average annual household income is less
14 than \$35,000, based on the United States Census Bureau
15 estimates adjusted annually to reflect rates of change and
16 distribution.

17 (q) "Public rights-of-way" means the areas on, below, or
18 above a public roadway, highway, street, public sidewalk,
19 alley, waterway, or utility easements dedicated for compatible
20 uses.

21 (r) "Service" means the provision of cable service or
22 video service to subscribers and the interaction of
23 subscribers with the person or entity that has received
24 authorization to offer or provide cable or video service from
25 the Commission pursuant to Section 21-401 of this Act.

26 (s) "Service provider fee" means the amount paid under

1 Section 21-801 of this Act by the holder to a municipality, or
2 in the case of an unincorporated service area to a county, for
3 service areas within its territorial jurisdiction, but under
4 no circumstances shall the service provider fee be paid to
5 more than one local unit of government for the same portion of
6 the holder's service area.

7 (t) "Telecommunications service area" means the area
8 designated by the Commission as the area in which a
9 telecommunications company was obligated to provide
10 non-competitive local telephone service as of February 8, 1996
11 as incorporated into Section 13-202.5 of this Act.

12 (u) "Video programming" means that term as defined in item
13 (20) of 47 U.S.C. 522.

14 (v) "Video service" means video programming provided by a
15 video service provider and subscriber interaction, if any,
16 that is required for the selection or use of such video
17 programming services, and that is provided through wireline
18 facilities located at least in part in the public
19 rights-of-way without regard to delivery technology, including
20 Internet protocol technology. This definition does not include
21 the following: (1) any video programming provided by a
22 commercial mobile service provider defined in subsection (d)
23 of 47 U.S.C. 332; (2) direct-to-home satellite services
24 defined in subsection (v) of 47 U.S.C. 303; or (3) any video
25 programming ~~provided solely as part of, and accessed via a~~
26 service that enables users to access content, information,

1 electronic mail, or other services offered over the ~~public~~
2 Internet, including Internet streaming content.

3 (Source: P.A. 100-20, eff. 7-1-17.)

4 (220 ILCS 5/21-801)

5 (Section scheduled to be repealed on December 31, 2026)

6 Sec. 21-801. Applicable fees payable to the local unit of
7 government.

8 (a) Prior to offering cable service or video service in a
9 local unit of government's jurisdiction, a holder shall notify
10 the local unit of government. The notice shall be given to the
11 local unit of government at least 10 days before the holder
12 begins to offer cable service or video service within the
13 boundaries of that local unit of government.

14 (b) In any local unit of government in which a holder
15 offers cable service or video service on a commercial basis,
16 the holder shall be liable for and pay the service provider fee
17 to the local unit of government. The local unit of government
18 shall adopt an ordinance imposing such a fee. The holder's
19 liability for the fee shall commence on the first day of the
20 calendar month that is at least 30 days after the holder
21 receives such ordinance. For any such ordinance adopted on or
22 after the effective date of this amendatory Act of the 99th
23 General Assembly, the holder's liability shall commence on the
24 first day of the calendar month that is at least 30 days after
25 the adoption of such ordinance. The ordinance shall be sent by

1 mail, postage prepaid, to the address listed on the holder's
2 application provided to the local unit of government pursuant
3 to item (6) of subsection (b) of Section 21-401 of this Act.
4 The fee authorized by this Section shall be 5% of gross
5 revenues or the same as the fee paid to the local unit of
6 government by any incumbent cable operator providing cable
7 service. The payment of the service provider fee shall be due
8 on a quarterly basis, 45 days after the close of the calendar
9 quarter. If mailed, the fee is considered paid on the date it
10 is postmarked. Except as provided in this Article, the local
11 unit of government may not demand any additional fees or
12 charges from the holder and may not demand the use of any other
13 calculation method other than allowed under this Article.

14 (c) For purposes of this Article, "gross revenues" means
15 all consideration of any kind or nature, including, without
16 limitation, cash, credits, property, and in-kind contributions
17 received by the holder for the operation of a cable or video
18 system to provide cable service or video service within the
19 holder's cable service or video service area within the local
20 unit of government's jurisdiction.

21 (1) Gross revenues shall include the following:

22 (i) Recurring charges for cable service or video
23 service.

24 (ii) Event-based charges for cable service or
25 video service, including, but not limited to,
26 pay-per-view and video-on-demand charges.

1 (iii) Rental of set-top boxes and other cable
2 service or video service equipment.

3 (iv) Service charges related to the provision of
4 cable service or video service, including, but not
5 limited to, activation, installation, and repair
6 charges.

7 (v) Administrative charges related to the
8 provision of cable service or video service, including
9 but not limited to service order and service
10 termination charges.

11 (vi) Late payment fees or charges, insufficient
12 funds check charges, and other charges assessed to
13 recover the costs of collecting delinquent payments.

14 (vii) A pro rata portion of all revenue derived by
15 the holder or its affiliates pursuant to compensation
16 arrangements for advertising or for promotion or
17 exhibition of any products or services derived from
18 the operation of the holder's network to provide cable
19 service or video service within the local unit of
20 government's jurisdiction. The allocation shall be
21 based on the number of subscribers in the local unit of
22 government divided by the total number of subscribers
23 in relation to the relevant regional or national
24 compensation arrangement.

25 (viii) Compensation received by the holder that is
26 derived from the operation of the holder's network to

1 provide cable service or video service with respect to
2 commissions that are received by the holder as
3 compensation for promotion or exhibition of any
4 products or services on the holder's network, such as
5 a "home shopping" or similar channel, subject to item
6 (ix) of this paragraph (1).

7 (ix) In the case of a cable service or video
8 service that is bundled or integrated functionally
9 with other services, capabilities, or applications,
10 the portion of the holder's revenue attributable to
11 the other services, capabilities, or applications
12 shall be included in gross revenue unless the holder
13 can reasonably identify the division or exclusion of
14 the revenue from its books and records that are kept in
15 the regular course of business.

16 (x) The service provider fee permitted by
17 subsection (b) of this Section.

18 (2) Gross revenues do not include any of the
19 following:

20 (i) Revenues not actually received, even if
21 billed, such as bad debt, subject to item (vi) of
22 paragraph (1) of this subsection (c).

23 (ii) Refunds, discounts, or other price
24 adjustments that reduce the amount of gross revenues
25 received by the holder of the State-issued
26 authorization to the extent the refund, rebate,

1 credit, or discount is attributable to cable service
2 or video service.

3 (iii) Regardless of whether the services are
4 bundled, packaged, or functionally integrated with
5 cable service or video service, any revenues received
6 from services not classified as cable service or video
7 service, including, without limitation, revenue
8 received from telecommunications services, information
9 services, or the provision of directory or Internet
10 advertising, including yellow pages, white pages,
11 banner advertisement, and electronic publishing, or
12 any other revenues attributed by the holder to
13 noncable service or nonvideo service in accordance
14 with the holder's books and records and records kept
15 in the regular course of business and any applicable
16 laws, rules, regulations, standards, or orders.

17 (iv) The sale of cable services or video services
18 for resale in which the purchaser is required to
19 collect the service provider fee from the purchaser's
20 subscribers to the extent the purchaser certifies in
21 writing that it will resell the service within the
22 local unit of government's jurisdiction and pay the
23 fee permitted by subsection (b) of this Section with
24 respect to the service.

25 (v) Any tax or fee of general applicability
26 imposed upon the subscribers or the transaction by a

1 city, State, federal, or any other governmental entity
2 and collected by the holder of the State-issued
3 authorization and required to be remitted to the
4 taxing entity, including sales and use taxes.

5 (vi) Security deposits collected from subscribers.

6 (vii) Amounts paid by subscribers to "home
7 shopping" or similar vendors for merchandise sold
8 through any home shopping channel offered as part of
9 the cable service or video service.

10 (viii) Any revenues received from video
11 programming accessed via a service that enables users
12 to access content, information, electronic mail, or
13 other services offered over the Internet, including
14 Internet streaming content.

15 (3) Revenue of an affiliate of a holder shall be
16 included in the calculation of gross revenues to the
17 extent the treatment of the revenue as revenue of the
18 affiliate rather than the holder has the effect of evading
19 the payment of the fee permitted by subsection (b) of this
20 Section which would otherwise be paid by the cable service
21 or video service.

22 (d) (1) Except for a holder providing cable service that is
23 subject to the fee in subsection (i) of this Section, the
24 holder shall pay to the local unit of government or the entity
25 designated by that local unit of government to manage public,
26 education, and government access, upon request as support for

1 public, education, and government access, a fee equal to no
2 less than (i) 1% of gross revenues or (ii) if greater, the
3 percentage of gross revenues that incumbent cable operators
4 pay to the local unit of government or its designee for public,
5 education, and government access support in the local unit of
6 government's jurisdiction. For purposes of item (ii) of
7 paragraph (1) of this subsection (d), the percentage of gross
8 revenues that all incumbent cable operators pay shall be equal
9 to the annual sum of the payments that incumbent cable
10 operators in the service area are obligated to pay by
11 franchises and agreements or by contracts with the local
12 government designee for public, education and government
13 access in effect on January 1, 2007, including the total of any
14 lump sum payments required to be made over the term of each
15 franchise or agreement divided by the number of years of the
16 applicable term, divided by the annual sum of such incumbent
17 cable operator's or operators' gross revenues during the
18 immediately prior calendar year. The sum of payments includes
19 any payments that an incumbent cable operator is required to
20 pay pursuant to item (3) of subsection (c) of Section 21-301.

21 (2) A local unit of government may require all holders of a
22 State-issued authorization and all cable operators franchised
23 by that local unit of government on June 30, 2007 (the
24 effective date of this Section) in the franchise area to
25 provide to the local unit of government, or to the entity
26 designated by that local unit of government to manage public,

1 education, and government access, information sufficient to
2 calculate the public, education, and government access
3 equivalent fee and any credits under paragraph (1) of this
4 subsection (d).

5 (3) The fee shall be due on a quarterly basis and paid 45
6 days after the close of the calendar quarter. Each payment
7 shall include a statement explaining the basis for the
8 calculation of the fee. If mailed, the fee is considered paid
9 on the date it is postmarked. The liability of the holder for
10 payment of the fee under this subsection shall commence on the
11 same date as the payment of the service provider fee pursuant
12 to subsection (b) of this Section.

13 (e) The holder may identify and collect the amount of the
14 service provider fee as a separate line item on the regular
15 bill of each subscriber.

16 (f) The holder may identify and collect the amount of the
17 public, education, and government programming support fee as a
18 separate line item on the regular bill of each subscriber.

19 (g) All determinations and computations under this Section
20 shall be made pursuant to the definition of gross revenues set
21 forth in this Section and shall be made pursuant to generally
22 accepted accounting principles.

23 (h) Nothing contained in this Article shall be construed
24 to exempt a holder from any tax that is or may later be imposed
25 by the local unit of government, including any tax that is or
26 may later be required to be paid by or through the holder with

1 respect to cable service or video service. A State-issued
2 authorization shall not affect any requirement of the holder
3 with respect to payment of the local unit of government's
4 simplified municipal telecommunications tax or any other tax
5 as it applies to any telephone service provided by the holder.
6 A State-issued authorization shall not affect any requirement
7 of the holder with respect to payment of the local unit of
8 government's 911 or E911 fees, taxes, or charges.

9 (i) Except for a municipality having a population of
10 2,000,000 or more, the fee imposed under paragraph (1) of
11 subsection (d) by a local unit of government against a holder
12 who is a cable operator shall be as follows:

13 (1) the fee shall be collected and paid only for
14 capital costs that are considered lawful under Subchapter
15 VI of the federal Communications Act of 1934, as amended,
16 and as implemented by the Federal Communications
17 Commission;

18 (2) the local unit of government shall impose any fee
19 by ordinance; and

20 (3) the fee may not exceed 1% of gross revenue; if,
21 however, on the date that an incumbent cable operator
22 files an application under Section 21-401, the incumbent
23 cable operator is operating under a franchise agreement
24 that imposes a fee for support for capital costs for
25 public, education, and government access facilities
26 obligations in excess of 1% of gross revenue, then the

1 cable operator shall continue to provide support for
2 capital costs for public, education, and government access
3 facilities obligations at the rate stated in such
4 agreement.

5 (Source: P.A. 99-6, eff. 6-29-15; 100-20, eff. 7-1-17.)