CCM-101

City of Cambridge

54.

IN CITY COUNCIL

September 8, 1997

COUNCILLOR GALLUCCIO
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR DUEHAY
COUNCILLOR REEVES
MAYOR RUSSELL
COUNCILLOR SULLIVAN
COUNCILLOR TRIANTAFILLOU

WHEREAS: The Cambridge City Council seeks to assure quality cable television service and to protest local community television for its residents; and

WHEREAS: Acting Governor Paul Cellucci has recently filed with the legislature two bills, copies of which are attached to this order, which would authorize the state Department of Public Utilities to grant Cable TV licenses and reorganize state regulation; now therefore be it

RESOLVED: That the City Council go on record urging the Cambridge legislative delegation to reject any legislation that restricts the ability of local to control, regulate and franchise Cable TV for the benefit of local residents; and be it further

RESOLVED: That this proposed legislation be referred to the Cable TV and Telecommunications Committee.

In City Council September 8, 1997.
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk.

A true copy; D. Margaret Drury

ATTEST:-
D. Margaret Drury
City Clerk

#54

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 727-3600

ARGEO PAUL CELLUCCI
GOVERNOR

August 18, 1997

To the Honorable Senate and House of Representatives:

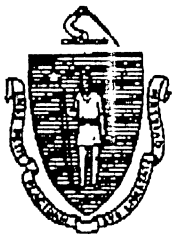
I am filing for your consideration the attached reorganization plan entitled "An Act Reorganizing the Department of Public Utilities to Transfer the Functions of the Director of the Division of Community Antenna Television to the Commissioners of the Department of Public Utilities." The purpose of this plan is to complete the movement toward reorganization initiated by Chapter 43 of the Acts of 1997.

This plan would integrate regulation of telecommunications, whether telephone, telegraph, or cable, under a division of communications within the Department of Public Utilities (DPU). It would also change the present statutory lines of authority for cable regulation and vest in the DPU Commissioners themselves, rather than in the gubernatorial appointee who directs the present division of community antenna television, all statutory authority to regulate the cable industry in Massachusetts. As formerly separate ventures in telecommunications have begun to merge, it is important to industry and to consumers that the state's telecommunications regulators speak with one voice. Integrated regulation is essential to a sound future for this industry, whose health is vital to the Commonwealth's economy.

Accordingly, acting pursuant to Article LXXXVII of the Amendments to the Constitution of the Commonwealth, I hereby submit this message accompanied by a reorganization plan, which is to take effect after the expiration of sixty days unless disapproved by a majority of the members of either of the two branches of the General Court and which shall be designated as Plan Number 1997-1.

Respectfully submitted,

Argeo Paul Cellucci
Governor



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- SEVEN

AN ACT

REORGANIZING THE DEPARTMENT OF PUBLIC UTILITIES TO TRANSFER THE FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF COMMUNITY ANTENNA TELEVISION TO THE COMMISSIONERS OF THE DEPARTMENT OF PUBLIC UTILITIES

Be it approved by the Senate and House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the authority of the same, as follows:

[redacted]

SECTION 1. Chapter 25 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 12N the following new section:-

Section 12O. There is hereby established within the department and under the supervision and control of the commission, appointed pursuant to section 2, a division of communications. The division, subject to such supervision and control, shall perform such functions as the commission may determine in relation to the administration, implementation, and enforcement of the department's authority over the telecommunications industry, including, but not limited to, the authority granted by chapters 25, 30A, 159, 166, and 166A. The chairman of the commission, appointed pursuant to section 4, shall appoint and may remove a director of the division. The job group classification of the director's position, in accordance with section 46C of chapter

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

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30, shall be determined by the chairman in consultation with the commissioner of administration, appointed pursuant to section 4 of chapter 7, and the director of the office of consumer affairs and business regulation, appointed pursuant to section 1 of chapter 24A. The commission shall annually prepare and submit to the governor and the general court, on or before the first Wednesday of November, a report of the division s activity and of the condition of the telecommunications industry within the commonwealth during the preceding fiscal year, together with recommendations which the commission considers necessary or desirable.

SECTION 2. Section 1 of chapter 166A of the General Laws, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by inserting before the definition of "Community antenna television system" the following definition:- "Commission", the commission appointed pursuant to section 2 of chapter 25.

SECTION 3. Said section 1 of said chapter 166A, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by striking out the definition of "Director" and inserting in place thereof the following definition:- "Department", the department of public utilities established by chapter 25.

SECTION 4. Section 2 of said chapter 166A, as amended by sections 111, 112, and 113 of chapter 43 of the acts of 1997, is hereby further amended by striking out the first, second, and third paragraphs.

SECTION 5. Said section 2 of said chapter 166A, as amended by sections 111, 112, and 113 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "director" each time it appears and inserting in place thereof, in each instance, the following word:- commission.

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SECTION 6. Said section 2 of said chapter 166A, as amended by sections 111, 112, and 113 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 7. Said chapter 166A is hereby amended by striking section 2A and inserting in place thereof the following section:-

Section 2A. Subject to the provisions of section 4 of chapter 25, the chairman of the commission may designate an employee of the division and assign to that employee the conduct of any hearing, examination, or investigation conducted under this chapter. Except as otherwise provided in this chapter, appeals taken from orders of the commission or actions of the department shall be governed by section 5 of chapter 25.

SECTION 8. Section 3 of said chapter 166A, as amended by section 117 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" and inserting in place thereof the following word:- department.

SECTION 9. Section 4 of said chapter 166A, as amended by section 118 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 10. Section 5 of said chapter 166A, as amended by section 119 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

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SECTION 11. Section 7 of said chapter 166A, as amended by section 120 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" and inserting in place thereof the following word:- department.

SECTION 12. Section 8 of said chapter 166A, as amended by section 121 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 13. Section 10 of said chapter 166A, as amended by section 122 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 14. Section 11 of said chapter 166A, as amended by section 123 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 15. Section 12 of said chapter 166A, as amended by section 124 of chapter 43 of the acts of 1997, is hereby further amended by striking out the words "division and the consumer's council" and inserting in place thereof the following word:- department.

SECTION 16. Section 13 of said chapter 166A, as amended by section 125 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" and inserting in place thereof the following word:- department.

SECTION 17. Section 14 of said chapter 166A, as amended by section 126 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each

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time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 18. Section 15 of said chapter 166A, as amended by section 127 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 19. Section 16 of said chapter 166A, as amended by section 128 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 20. Section 17 of said chapter 166A, as amended by section 129 of chapter 43 of the acts of 1997, is hereby further amended by striking out the word "division" each time it appears and inserting in place thereof, in each instance, the following word:- department.

SECTION 21. Any petition or other matter pursuant to said chapter 166A before the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or before the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, which is pending on July 1, 1997 or on the effective date of this act, shall be deemed to constitute a petition to or other matter within the jurisdiction of the department of public utilities.

SECTION 22. All employees of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or of the division of community antenna television, established by section 111 of chapter 43 of the

acts of 1997, transferred by this act or by said chapter 43 to the department of public utilities, who immediately prior to July 1, 1997 or to the effective date of this act, either hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions by reason of section 9A of chapter 30 of the General Laws, are hereby transferred to the department of public utilities, every such transfer to be without impairment of civil service status, seniority, retirement, or other rights of the employee and without interruption of service within the meaning of said chapter 31 or said section 9A and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer, subject to the provisions of said chapter 31 and the rules and regulations adopted thereunder; provided, however, that the position of executive director of said community antenna television commission and said division of community antenna television, established by section 2 of said chapter 166A, as amended by sections 111, 112, and 113 of chapter 43 of the acts of 1997, shall become a managerial position of the department.

All employees of said community antenna television commission and said division of community antenna television who, immediately prior to July 1, 1997 or to said effective date, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the department of public utilities, every such transfer to be without impairment of seniority, retirement, or other rights of such employees, and without interruption of services within the meaning of said section 9A of chapter 30 and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

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Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited prior to said July 1, 1997 or to said effective date.

SECTION 23. All petitions, hearings, and other proceedings duly brought before and all prosecutions and legal and other proceedings duly begun by the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, and by the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, prior to July 1, 1997 or to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act and shall thereafter be completed before or by the department of public utilities.

All orders, rules, and regulations duly made, and all licenses or other approvals granted, and all legal and decisional precedents established by said community antenna television commission and said division of community antenna television shall continue in force under said department; and the provisions thereof shall be enforced, until superseded, revised, rescinded, or cancelled in accordance with law by said department.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, and other approvals, and regarding the completion or enforcement of matters so transferred, shall be determined by the chairman of said department.

SECTION 24. All books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities, and other property, both personal and real, which, immediately prior to July 1, 1997 or to the effective date of this act, are in the custody of

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the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or of the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, are hereby transferred to the department of public utilities. All questions regarding the identification and disposition of such property shall be determined by the chairman of said department in accordance with applicable law.

SECTION 25. All existing contracts, memoranda of understanding, leases and obligations of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or of the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, which are in force immediately prior to July 1, 1997 or to the effective date of this act, shall thereafter be performed by the department of public utilities, in accordance with applicable law and as the chairman of said department may determine. No existing right or remedy of any character shall be lost, impaired, or affected by the provisions of this act.

SECTION 26. All monies heretofore appropriated for the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or of the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, remaining unexpended on the effective date of this act are hereby transferred to the department of public utilities and shall be available for expenditure by said department for the purposes for which such funds were originally appropriated. All questions regarding the identification and use of such monies shall be determined by the chairman of said department.

SECTION 27. Wherever the name of either the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, appears in any general or special law, or in any order, rule, regulation, or other document, such name shall mean and shall be construed as referring to the department of public utilities.

SECTION 28. The regulations of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, codified in 207 Code of Massachusetts Regulations shall remain in full force and effect until such time as the department of public utilities may amend or rescind such regulations or adopt new regulations.

SECTION 29. Wherever in any general or special law or in any rule or regulation there is provided a right of appeal to the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, as amended, or the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, a right of appeal to the commissioners of the department of public utilities shall exist; and such appeal shall be made pursuant to the provisions of any applicable law, rule, or regulation or amendments thereto or, in the absence of such applicable law, rule, or regulation, pursuant to chapter 30A of the General Laws.

SECTION 30. All functions, rights, obligations, powers, duties, and statutory provisions which, prior to July 1, 1997 or to the effective date of this act, were assigned to or exercised by the community antenna television commission, established by section 1 of

chapter 1103 of the acts of 1971, as amended, or the division of community antenna television, established by section 111 of chapter 43 of the acts of 1997, shall continue to be exercised and performed by, and to be assigned to, the department of public utilities, except as such powers, duties, or other statutory duties are modified by this act.

SECTION 31. This act shall not apply to any matter over which any agency, department, or instrumentality of the federal government has exclusive jurisdiction.

SECTION 32. If any provision of this act, or the application of this act to any person or circumstance, shall be declared invalid under the constitution of the commonwealth or of the United States, such invalidity shall not affect the validity of the remaining provisions of this act.

SECTION 33. This act shall take effect on November 1, 1997.

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 727-3600

ARGEO PAUL CELLUCCI
GOVERNOR

August 18, 1997

To the Honorable Senate and House of Representatives:

I am filing for your consideration the accompanying bill entitled "An Act Authorizing the Department of Public Utilities to Issue Statewide and Regional Licenses for the Operation of Community Antenna Television Systems and Eliminating the Annual Cable License Fee." This bill supplements Plan 1997-1, also filed with you today under Amendment Article LXXXVII, and will improve the Commonwealth's licensing and regulation of telecommunications, including cable television.

This bill preserves the authority of municipalities to license cable operations within their respective communities, but supplements that power by authorizing the Department of Public Utilities (DPU) to grant applications for statewide or regional licenses. The cable industry promises to undergo major structural changes in the coming decade as formerly distinct telecommunications functions begin to merge. The Commonwealth's regulatory scheme for cable was set up in 1971. Although it has worked well for over a quarter century, it no longer tracks emergent industry patterns. Achieving the economic potential of the Commonwealth's cable industry requires the new licensing arrangements that this bill provides.

This bill also eliminates the fee that current law requires licensees to pay to the Commonwealth. This "fee" is functionally a tax on cable operations. And like all taxes on industry, this "fee" becomes yet another cost of doing business and finds its way ultimately into the price charged to customers. As the cable industry becomes increasingly competitive, rescinding the licensing fee will translate into lower prices for consumers.

I urge your prompt and favorable consideration of this important legislation.

Respectfully submitted,

Argeo Paul Cellucci
Governor

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The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- SEVEN

AN ACT

AUTHORIZING THE DEPARTMENT OF PUBLIC UTILITIES TO ISSUE STATEWIDE AND REGIONAL LICENSES FOR THE OPERATION OF COMMUNITY ANTENNA TELEVISION SYSTEMS AND ELIMINATING THE ANNUAL CABLE LICENSE FEE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of chapter 166A of the General Laws, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by striking out the definition of "Issuing authority" and inserting in place thereof the following definition:- "Issuing authority", the city manager of a city having a plan D or E charter, the mayor of any other city, the board of selectmen of a town, or the department of public utilities.

SECTION 2. Said section 1 of said chapter 166A, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by striking out the words "a municipality" at their first occurrence in the definition of "Area or areas to be served" and inserting in place thereof the following words:- one or more municipalities.

SECTION 3. Section 3 of said chapter 166A, as amended by section 117 of chapter 43 of the acts of 1997, is hereby further amended by striking out, in the first sentence, the

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words "each city or town in which such wires or cables are installed or are to be installed, a copy of which shall be forwarded to the division" and inserting in place thereof the following words:- the issuing authority.

SECTION 4. Said section 3 of said chapter 166A, as amended by section 117 of chapter 43 of the acts of 1997, is hereby further amended by inserting, after the first sentence, the following sentence:- In the event that the issuing authority is not the department, the issuing authority shall forward a copy of said license to the department within 14 days of its issuance.

SECTION 5. Section 7 of said chapter 166A, as amended by section 120 of chapter 43 of the acts of 1997, is hereby further amended by inserting, after the fourth sentence, the following sentences:- At the election of the applicant, any application for transfer of a license or of control of a license may be brought before the department; and the department shall have jurisdiction over any such application so brought, regardless of whether the department was the original licensing authority or whether the original license, sought to be transferred, was issued by a city manager, mayor, or board of selectmen. An applicant may elect to bring any such application before the department or before the issuing authority of the city or town.

SECTION 6. Section 9 of said chapter 166A, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words "to the commonwealth a license fee equal to eighty cents per subscriber served and".

SECTION 7. Section 13 of said chapter 166A, as amended by section 125 of chapter 43 of the acts of 1997, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentences:- Any license issued hereunder may be

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renewed, after hearing, by the issuing authority or, at the election of the applicant for renewal, by the department, regardless of whether the department was the original issuing authority. Additional periods for each such renewal shall not exceed ten years.

SECTION 8. Section 14 of said chapter 166A, as amended by section 126 of chapter 43 of the acts of 1997, is hereby further amended by inserting at the end of the first paragraph the following sentence:- In matters where the department is the issuing authority, appeal may be taken from actions of the department or the commission in accordance with section 5 of chapter 25.

SECTION 9. Said section 14 of said chapter 166A, as amended by section 126 of chapter 43 of the acts of 1997, is hereby further amended by striking out the second sentence of the third paragraph and inserting in place thereof the following sentence:- In cases where application has not been made to the department as the issuing authority, the department shall not, in any event, order a license to be issued until the application for said license has been granted by the issuing authority to which application has been made.

SECTION 10. Said section 14 of said chapter 166A, as amended by section 126 of chapter 43 of the acts of 1997, is hereby further amended by striking out the phrase ", but" in the fifth paragraph and inserting in place thereof the following phrase:- ; but, in cases where the department is not the issuing authority,.

SECTION 11. Section 15 of said chapter 166A, as amended by section 127 of chapter 43 of the acts of 1997, is hereby further amended by striking out the third sentence of the third paragraph and inserting in place thereof the following sentences:- As the case may be, appeals from final orders and actions of the department or the commission under this section may be taken in accordance with section 5 of chapter 25 or with section 623 of

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the Communications Act of 1934, as amended, 47 United States Code section 543. In appeals taken under the General Laws, the supreme judicial court sitting in Suffolk county shall have jurisdiction, upon the petition of the commission and after summary hearing, to enforce all lawful orders of the commission.

SECTION 12. Said chapter 166A is hereby amended by inserting after section 22 the following new section:-

Section 23. Notwithstanding any general or special law to the contrary, the department, acting as issuing authority, may issue to a qualified applicant a statewide license valid in any city or town of the commonwealth or a regional license valid in a group of cities or towns or parts thereof, identified in the license application. To implement this section, the department may adopt regulations as to the form and content of applications for statewide or regional licenses and as to procedures for notice and hearing.

SECTION 13. This act shall take effect on November 1, 1997.

Replace 54

AG

Whereas: The Cambridge City Council seeks to assure ~~assure~~ quality cable television service and to protect the community television for its residents; and

Whereas: Acting Governor Paul Cellucci has recently filed with the legislature ~~the two bills~~ ~~the~~ two bills, copies of which are attached to this order, which would authorize the State Department of Public Utilities to grant Cable T.V. licenses and reorganize state regulation; now therefore be it

Resolved: That the C-C- go on record urging the Cambridge legislative delegation to reject any legislation that ~~[illegible] the~~ restricts ~~[illegible]~~ the ability of local to control, regulate and franchise cable t.v. for the benefit of local residents; and be it further

Resolved: That this proposed legislation be referred to the Cable TV and Telecommunications Committee.

CCM-101

City of Cambridge

54.

IN CITY COUNCIL

September 8, 1997

COUNCILLOR GALLUCCIO

WHEREAS: The Cambridge City Council seeks to assure quality cab le television service and to oprotest local community television for its residents; and

WHEREAS: Acting Governor Paul Cellucci has recently filed with the legislature two bills, copies of which are attached to this order, which would authorize the state Department of Public Utilities to grant Cable TV licenses and reorganize state regulation; now therefore be it

RESOLVED: That the City Council go on record urging the Cambridge legislative delegation to reject any legislation that restricts the ability of local to control, regulate and franchise cable TV for the benefit of local residents; and be it further

RESOLVED: That this proposed legislation be referred to the Cable TV and Telecommunications Committee.

CCM-101

City of Cambridge

54.

IN CITY COUNCIL

September 8, 1997

COUNCILLOR GALLUCCIO

Acting Governor Cellucci has filed proposed legislation relative to cable television issues.

Born, Davis, Duchay, Reeves, Russell
Sullivan + Triantafillou

Consent ORder #54

S-498

Councillor Galluccio re: Proposed legislation filed by Acting Governor Cellucci relative to cable television issues.

In City Council September 8, 1997

ORDER ADOPTED