

# ASSEMBLY, No. 2139

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywoman Murphy and Assemblyman Mukherji**

**SYNOPSIS**

Requires cable television company to commit to principle of “net neutrality” as condition of approval of application for municipal consent or system-wide franchise.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/13/2018)**

1 AN ACT concerning cable television service and amending  
2 P.L.1972, c.186.

3

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

6

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

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

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

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

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

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

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

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

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

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

**Matter underlined thus is new matter.**

1 provisions of subsection b. of section 11 of P.L.1972, c.186  
2 (C.48:5A-11).

3 h. (1) With regard only to applications for a system-wide  
4 franchise, a commitment as to those municipalities that are served  
5 by a CATV company at the time of the application, to match or  
6 surpass any line extension policy operative at the time the system-  
7 wide franchise is granted and placed into effect prior to the  
8 enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.) by a local  
9 franchise or certificate of approval, for the duration of the system-  
10 wide franchise. In any event, the CATV company shall extend its  
11 plant along public rights-of-way to all residences and businesses  
12 within 150 aerial feet of the CATV company's existing plant at no  
13 cost beyond the normal installation rate, and to all residences and  
14 businesses within 100 underground feet of the CATV company's  
15 plant at no cost beyond the normal installation rate, and shall set a  
16 minimum house per mile density of not less than 35 homes per  
17 square mile.

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

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

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

44 k. With regard only to applications for a system-wide  
45 franchise, a commitment to provide free Internet service, without  
46 charge, through one service outlet activated for basic service to any  
47 and all fire stations, public schools, police stations, public libraries,  
48 and other such buildings used for municipal purposes.

1       l. With regard only to applications for a system-wide  
2 franchise, a commitment to provide equipment and training for  
3 access users, without charge, on a schedule to be agreed upon  
4 between the municipality and the CATV company.

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

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

22       o. If the CATV company provides Internet service in this State,  
23 a commitment to provide Internet service that shall include:

24       (1) public disclosure to customers located in this State of  
25 accurate information regarding the network management practices  
26 and performance, and commercial terms of its Internet service;

27       (2) the prohibition of paid prioritization; and

28       (3) the grant of permission to customers located in this State to:

29       (a) access all lawful Internet content, applications, and services,  
30 and to use non-harmful Internet-enabled devices, without  
31 discrimination, subject to reasonable network management; and

32       (b) access all lawful Internet content, applications, and services,  
33 and to use non-harmful Internet-enabled devices, without the  
34 impairment or degradation of Internet access speeds, subject to  
35 reasonable network management.

36       (4) As used in this subsection: "paid prioritization" means the  
37 management of a CATV company's Internet network to directly or  
38 indirectly favor some traffic over other traffic, including through  
39 use of techniques such as traffic shaping, prioritization, resource  
40 reservation, or other forms of preferential traffic management,  
41 either in exchange for consideration from a third party or to benefit  
42 an affiliated entity.

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

44  
45       2. This act shall take effect immediately.

1 STATEMENT

2

3 This bill requires a cable television company (CATV company)  
4 to commit to the principle of “net neutrality” for all Internet service  
5 customers as a condition of approval of an application filed with the  
6 Board of Public Utilities for a municipal consent or a system-wide  
7 franchise for the provision of CATV service.

8 Under the bill, a CATV company that provides Internet service  
9 in this State is to commit to provide Internet service that is to  
10 include: public disclosure to customers located in this State of  
11 accurate information regarding the network management practices  
12 and performance, and commercial terms of its Internet service; the  
13 prohibition of paid prioritization; and the grant of permission to  
14 customers located in this State to: (1) access all lawful Internet  
15 content, applications, and services, and to use non-harmful Internet-  
16 enabled devices, without discrimination, subject to reasonable  
17 network management; and (2) access all lawful Internet content,  
18 applications, and services, and to use non-harmful Internet-enabled  
19 devices, without the impairment or degradation of Internet access  
20 speeds, subject to reasonable network management.

21 Under the bill, “paid prioritization” means the management of a  
22 CATV company’s Internet network to directly or indirectly favor  
23 some traffic over other traffic, including through use of techniques  
24 such as traffic shaping, prioritization, resource reservation, or other  
25 forms of preferential traffic management, either in exchange for  
26 consideration from a third party or to benefit an affiliated entity.