

PUBLIC SERVICE COMMISSION OF WISCONSIN

REPORT ON PUBLIC ACCESS BROADCAST CHANNELS TO THE JOINT COMMITTEE ON INFORMATION POLICY

The Public Service Commission respectfully submits this report to the Joint Committee on Information Policy as required by Wis. Stat. § 196.218(5r)(b).

December 2000

REPORT ON PUBLIC ACCESS BROADCAST CHANNELS BY THE PUBLIC SERVICE COMMISSION OF WISCONSIN

Executive Summary

Pursuant to Wis. Stat. § 196.218(5r)(b), this report is being submitted to inform the Joint Committee on Information Policy (Joint Committee) of the Commission's findings as to whether the state Universal Service Fund should be used to support public access broadcast channels (commonly called PEG) as advanced telecommunications services, and on the effect of recent changes in federal law on funding for those channels.

The Commission has studied the issue, and surveyed an extensive list of providers of PEG channels and interested parties. The responses were remarkably uniform in commending the value of PEG channels, but also in showing that universal service funds were not an appropriate or effective method of supporting PEG channels. The federal legislation, which was pending when Wis. Stat. § 196.218(5r)(b) was passed, did not have the negative impacts on PEG funding that were then expected. Public access broadcast channels are not an advanced telecommunications service and do not qualify for funding under the Universal Service rules.

I. Introduction

As required by Wis. Stat. § 196.218(5r)(b), this report is being submitted by the Commission to the Joint Committee on Information Policy (Joint Committee). The statute reads:

(b) The commission shall prepare a report to determine if public access broadcast channels may receive funding from the universal service fund as an advanced telecommunications service or other service and the effect of federal law on public access broadcast channel funding eligibility. The results of the report shall be included in the 2nd annual report submitted by the commission under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=102869&infobase=stats.nfo&jump=196.218%285r%29%28a%29&softpage=Document - JUMPDEST_196.218\(5r\)\(a\)par. a.](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=102869&infobase=stats.nfo&jump=196.218%285r%29%28a%29&softpage=Document - JUMPDEST_196.218(5r)(a)par. a.)

The statute does not define "Public Access Broadcast Channels". The Commission interprets the term to mean the "public, educational, and government" (PEG) channels that are typically available on cable TV systems for use by schools, government, and the public to produce or broadcast programs of local community interest. These channels have frequently been supplied without charge by cable TV providers as part of the package of consideration they offer municipalities in exchange for a cable franchise and use of public property.

The Commission does not regulate cable access television (CATV) providers, except when those providers enter the two-way telecommunications market, and then that regulation extends only to those telecommunications services.

II. Commission Actions

The Commission opened an investigation in this matter in 1996. It requested comments from all active cable access TV providers in Wisconsin, from municipalities and from interested parties. The questions the Commission asked included:

1. The legislature did not define "public access broadcast channels." The staff interprets this phrase to mean the public, educational, and government (PEG) channels often provided to municipalities by cable TV providers as part of franchise agreements. Is this a reasonable definition?
2. Why have some municipalities chosen not to have PEG channels? What factors prevent more widespread use of PEG channels?
3. Is it in the public interest to provide subsidies to existing PEG channels, either to support their operations or to make particular enhancements more widely available? If the latter, which enhancements should be supported?
4. Is it in the public interest to take actions, including providing subsidies, to make PEG channels available in more areas of the state? What benefits could PEG channels bring to unserved areas, especially rural areas?
5. What impact will the federal 1996 Telecommunications Act have on PEG financing? Specifically, will PEG be eligible for funding from the national universal service fund?
6. Should support for PEG be limited to telecommunications services used by PEG channels? Do such services exist? Would subsidizing them have any effect on expanding PEG coverage?
7. Can PEG be considered a telecommunications service or an information service under Wis. Stat. § 196.218(5)(a)3.? If not, should USF monies be used to support PEG or would another funding source be more appropriate? If the latter, what funding source should be used?
8. If USF monies are used to support PEG channels, should CATV providers be assessed for payments into the USF? Would this require a statutory change?
9. What impact will the federal 1996 Telecommunications Act have on current sources of PEG financing, such as franchise fees?
10. What other factors or information should be considered in preparing this report?

The Commission also sent a separate survey to all cable access TV providers in Wisconsin, asking whether the CATV was providing PEG channels, and if not, why not.

III. Findings

The respondents were comfortable with defining “public access broadcast channels as PEG channels.

A wide variety of respondents spoke on the importance of PEG channels in providing a more informed citizenry through the coverage of local government, the open exchange of viewpoints and opinions, and coverage of local events. Some respondents also discussed the value of PEG channels as an educational tool.

PEG channels are currently funded through the franchise fees paid by cable access providers. A franchising authority may require the CATV to provide a PEG channel as part of its franchise fee. CATV providers have also been required to provide additional revenues to cover production costs, or have provided cameras, production equipment and other support.

The respondents described a number of reasons for a community not including a PEG channel in its franchise agreement. These included a lack of the resources necessary to support a PEG channel, a desire to use franchise revenues for other public needs, a lack of community interest, the franchising authority being unaware that it could negotiate for a PEG channel and lack of programming. Several of the respondents pointed out that none of these impediments was solvable with universal service money.

PEG channels are primarily carried over the Cable access TV broadcast network. Where PEG channels are produced and edited in the cable TV center (the “head end”), no telecommunications services are required for PEG channels. Where the PEG production facilities are not located at the CATV head end (if, for example, the PEG facilities are located in a municipal building) then a connection is necessary to transport programming from the production center to the head end. Sometimes that connection is provided by the CATV and is a part of the CATV network. At other times, the connection is a broadband telecommunications service purchased from a telecommunications vendor. Since the municipal buildings and CATV head ends are generally located in more urban areas, the required broadband services are generally available. The price for these services is significant, but generally considerably less than the cost of camera, production facilities and staff for a PEG channel operation. The cost of such facilities has not been identified as a reason for a municipality not to have a PEG channel.

Municipalities have the ability to include provision of PEG channels and related support as a condition in their franchise agreements. Although the early drafts of what became the 1996 Telecommunications Act had provisions which could have impacted PEG channel funding via franchise fees, the final Act did not change that ability. The Act did include additional provisions to ensure PEG funding even with competitive CATV arrangements. The Telecommunications Act limits federal universal service funding to telecommunications services – and PEG channels do not meet the federal definition of telecommunications services. PEG channels also do not meet the definition of telecommunication services under state statutes. Telecommunications services are two-way communications. PEG channels, and other broadcast services, are essentially one way.

Many respondents pointed out that funding of PEG channels does not advance the goals of the state universal service fund, as described in statutes. The Commission concurs. The state universal service fund is intended to make telecommunications services available to groups that would otherwise

be underserved, to promote the statewide delivery of advanced services as well as a number of more specialized functions, as described in statutes¹. PEG is not a telecommunications service, and the existence of PEG will not provide additional access to telecommunications service to any underserved groups. PEG channels do not use advanced telecommunications services in areas where those services do not already exist, so PEG channels will not serve that purpose of the universal service fund. Making PEG channels more widespread would not meet the other statutory goals for the universal service fund identified in Wis. Stat. § 196.218(5).

VI. Summary

Public, Educational and Government (PEG) channels allow local access to CATV networks. PEG channels are generally funded through the franchise fees paid by CATV providers to municipalities. Some municipalities choose not to request PEG channels, for a number of reasons.

Federal legislation passed during the last few years does not affect the ability of municipalities to obtain PEG channels as part of a franchise package. PEG channels are not eligible for federal universal service funding.

Providing state universal service funding to PEG channels will not promote any of the statutory

¹ 196.218(5) **Uses of the fund.**

(a) The commission shall use the moneys in the universal service fund only for any of the following purposes:

1. To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.

2. To assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.

4. To administer the universal service fund.

5. To pay costs incurred under contracts under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=16.974%287%29&softpage=Document-IUMPDEST_16.974\(7\).s.16.974\(7\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=16.974%287%29&softpage=Document-IUMPDEST_16.974(7).s.16.974(7)) to the extent that these costs are not paid under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=44.73%282%29%28d%29&softpage=Document-IUMPDEST_44.73\(2\)\(d\).s.44.73\(2\)\(d\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=44.73%282%29%28d%29&softpage=Document-IUMPDEST_44.73(2)(d).s.44.73(2)(d)).

5m. To provide statewide access, through the Internet, to periodical reference information databases.

6. To pay the department of administration for telecommunications services provided under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=16.973%281%29&softpage=Document-IUMPDEST_16.973\(1\).s.16.973\(1\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=16.973%281%29&softpage=Document-IUMPDEST_16.973(1).s.16.973(1)) to the campuses of the University of Wisconsin System at River Falls, Stout, Superior and Whitewater.

7. To make grants awarded by the technology for educational achievement in Wisconsin board to school districts and private schools under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=44.73%286%29&softpage=Document-IUMPDEST_44.73\(6\).s.44.73\(6\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=44.73%286%29&softpage=Document-IUMPDEST_44.73(6).s.44.73(6)). This subdivision does not apply after June 30, 2002.

8. To promote access to information and library services to blind and visually handicapped individuals.

9. To make grants under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=196.218%284u%29&softpage=Document-IUMPDEST_196.218\(4u\).sub.\(4u\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=153950&infobase=stats.nfo&jump=196.218%284u%29&softpage=Document-IUMPDEST_196.218(4u).sub.(4u)).

goals for the state USF. Moreover, the cost of telecommunications facilities is not identified as an impediment to the deployment of PEG. Providing universal service funding to PEG channels is unlikely to increase the usage of PEG channels, unless the universal service fund were to pay for items such as television production facilities and staff salaries.