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BILL ANALYSIS

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Senate Bill 637 (as introduced 7-17-07)  
Sponsor: Senator Buzz Thomas  
Committee: Energy Policy and Public Utilities

Date Completed: 9-19-07

### **CONTENT**

**The bill would amend the Uniform Video Services Local Franchise Act to do the following:**

- Require a video service provider to notify customers of its dispute resolution process annually and include the process on its website.**
- Establish a process that the Public Service Commission (PSC) would have to use to resolve disputes that providers and customers were unable to resolve through the provider's resolution process.**
- Establish a process that the PSC would have to use to resolve disputes between providers, or between a provider and a franchising entity.**
- Require the process in each case to begin with an informal resolution process.**
- Allow a party to file a formal written complaint with the PSC if the informal resolution process were unsuccessful.**
- Provide for a formal complaint to be resolved through mediation or a contested case hearing.**
- In a dispute between providers or between a provider and a franchising entity, require a party that rejected a recommended settlement to pay the other party's costs, unless the PSC's final order were more favorable to the rejecting party than the recommended settlement.**

(The Act required the PSC, by June 1, 2007, to submit to the Legislature a proposed process to be added to the Act that would allow the Commission to review disputes that were not resolved between a customer and a provider using the provider's dispute resolution process (described below), disputes between a provider and a franchising entity, and disputes between providers.)

#### **Dispute Between Customer & Provider**

The Act requires each video service provider (e.g., a provider of video programming or cable services) to establish a dispute resolution process for its customers. Each provider must maintain a local or toll-free telephone number for customer service contact, and notify its customers of the process. The bill specifies that each provider would have to notify customers of the process at least once a year, and include the process on its website.

Under the bill, before a customer could file a complaint with the PSC, the customer first would have to attempt to resolve the dispute through the provider's established resolution process. If the dispute could not be resolved, the customer could file a complaint with the

PSC. The provider would have to give the customer the PSC's toll-free customer service number and website address.

The PSC would have to handle a filed complaint as described below.

An attempt to resolve the dispute first would have to be made through an informal resolution process. Upon receiving a complaint, the PSC would have to forward it to the provider and attempt to mediate a resolution informally. The provider would have 10 business days to respond and offer a resolution. If the dispute could not be resolved through the informal process, the customer could file a formal complaint.

A formal complaint would have to be in writing and state the section or sections of the Act that the customer alleged the provider had violated, sufficient facts to support the allegations, and the exact relief sought from the provider. The formal complaint would have to comply with the requirements for a written complaint filed under the Michigan Telecommunications Act (MTA). The complaint would have to be resolved as described below, depending on the amount involved.

If the dispute involved an amount of \$5,000 or less, the PSC would have to appoint a mediator within seven business days of the date the complaint was filed. The mediator would have to make recommendations for resolution within 30 days from the date of appointment. Within 10 days after the mediator's recommendations, any named party in the complaint could request a contested case in the same manner as provided in the MTA.

If the dispute involved an amount over \$5,000, the case would have to be resolved by a contested case hearing in the same manner as provided in the MTA.

#### Dispute Between Providers or Provider & Franchising Entity

A dispute between a provider and a franchising entity or between two or more providers would have to be resolved as described below. (A franchising entity is the local unit of government in which a provider offers video services through a franchise agreement.)

An attempt to resolve the dispute first would have to be made through an informal resolution process. If a provider or franchising entity believed that a violation of the Act or the franchising agreement had occurred, the provider or franchising entity could begin an informal complaint process with the PSC. The provider or the franchising entity would have to file with the PSC a written notice of dispute identifying the nature of the dispute, request an informal dispute resolution, and serve the notice of dispute on the other party. Commission staff would have to conduct an informal mediation in an attempt to resolve the dispute. If a satisfactory resolution were not achieved, any named party in the complaint could file a formal complaint.

A formal complaint would have to be in writing and state the section or sections of the Act or parts of the franchising agreement that the party alleged had been violated, sufficient facts to support the allegations, and the relief requested. A provider's or franchising entity's attorney would have to submit to the PSC a formal written complaint containing all information, testimony, exhibits, or other documents and information within the moving party's possession on which the party intended to rely to support the complaint. For 60 days after the complaint was filed, the parties would have to attempt alternative means of resolving it. If the parties could not agree on an alternative means within 10 days after the complaint was filed, the PSC would have to order mediation. Within 60 days from the date mediation was ordered, the mediator would have to issue a recommended settlement. If the parties accepted the recommendation, it would become the final order in the contested case. If a party rejected or failed to respond within seven days to the recommended settlement, the complaint would proceed to a contested case hearing in the same manner

as provided in the MTA. A party that rejected the recommended settlement would have to pay the opposing party's actual costs of proceeding to a contested case hearing, including attorney fees, unless the PSC's final order were more favorable to the rejecting party than the recommended settlement. A final order would be considered more favorable if it differed by at least 10% from the recommended settlement in favor of the rejecting party. If the recommendation were not accepted, the individual commissioners could not be informed of the recommended settlement until they had issued their final order.

MCL 484.3310

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### **FISCAL IMPACT**

The Act created a fund source to cover the administrative costs associated with the implementation of the video service local franchise program. Any costs related to the proposed dispute resolution process would be covered by the fund source.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.