



20 February 2024

**MEMO TO:** Sen. Anne Cummings and Members of Senate Finance Committee

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**RE:** S.181 - Community Media Public Benefit Fund

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Thank you for the opportunity to provide additional information in support of S. 181 - Community Media Public Benefit Fund. Vermont Access Network (VAN) is working to secure a long term funding source for public, educational and government (PEG) access services in light of the decline of cable “franchise fees”<sup>1</sup> required by the Vermont Public Utility Commission to fund PEG as a condition of cable operators’ Certificates of Public Good (CPGs).

Reflecting a national trend, Vermonters are canceling cable subscriptions in favor of internet services (replacing one “cord” with another). While Vermont cable operators will only provide this industry information under seal, national data<sup>2</sup>

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<sup>1</sup> Vermont does not use the term “franchise fee” but does base its PEG operating and capital funding upon the federal definition found in the 1984 Cable Act: *8.417 Funding (A) Basis. PEG access funding shall be calculated based on the cable operator’s gross revenues generated by “cable services” as defined by 47 U.S.C. § 522, unless otherwise agreed by a cable company and the AMO to which the funding would be provided. PEG access funding of an AMO shall be calculated based upon the corresponding PEG AMO’s service territory.*

<sup>2</sup> According to Nielsen, cable penetration reached its high-water mark in May 2011 when 90.7% of all TV households (105.1 million) had subscribed to cable television. Fast forward to September 2023, Nielsen counts 75.3 million multi-channel households accounting for 60.8% of all TV homes. In Nielsen’s Gauge Report for August 2023, cable TV had an audience share of 30.2% compared to 38.3% for streaming. By comparison, in August 2022, cable TV’s audience share stood at 34.5% with 35.0% for streaming. [“With Cord-Cutting, Cable TV Industry Is Facing Financial Challenges”, Forbes, Brad Adgate, October 10, 2023.](#)

backs up the financial impact on the budgets of Vermont's 24 access management organizations (AMOs).

With the support of this Committee, the "PEG Study"<sup>3</sup> was completed (2021) to investigate legal avenues and policy alternatives open to the Vermont Legislature. Legislative Counsel confirms that S. 181, as drafted, lies within the Legislature's jurisdiction.

### **Vermont Access Management Organizations' (AMOs) Current and Projected Revenue Gap Under the Existing Cable Franchise Model**

The Community Media Public Benefit Fund mechanism in S.181 is designed to address the collective revenue gap for Vermont's 24 Access Management Organizations. This revenue gap is due to three key factors:

- Steady flattening and decline of Vermont cable revenue;
- Modest but steady annual increases in community media operating costs (cost of inflation);
- Costs related to the expansion of PEG services such as hybrid meeting coverage.

**Recent History:** Taking total statewide cable revenue into account for the four years between 2019 (\$7.6M) and 2022 (\$8M) combined with combined inflation rates during this period (17%)<sup>4</sup>, PEG services in all corners of the state have been impacted by revenue gaps.

AMOs consistently work to address the funding gap through revenue diversification and seeking a long term funding source with the support of the Legislature to modernize how PEG funding is collected.

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<sup>3</sup> "Analysis of the Financial Viability for Public, Educational and Government Access Television in Vermont", per the requirements of Act 137, Section 19 of the 2020 Session of the Vermont General Assembly. Act 137 required the Agency to, "retain a consultant to review the current business model for Vermont Public, Educational, and Governmental Access (PEG) television channels and provide recommendations concerning how to ensure the future financial stability and viability of PEG channels."

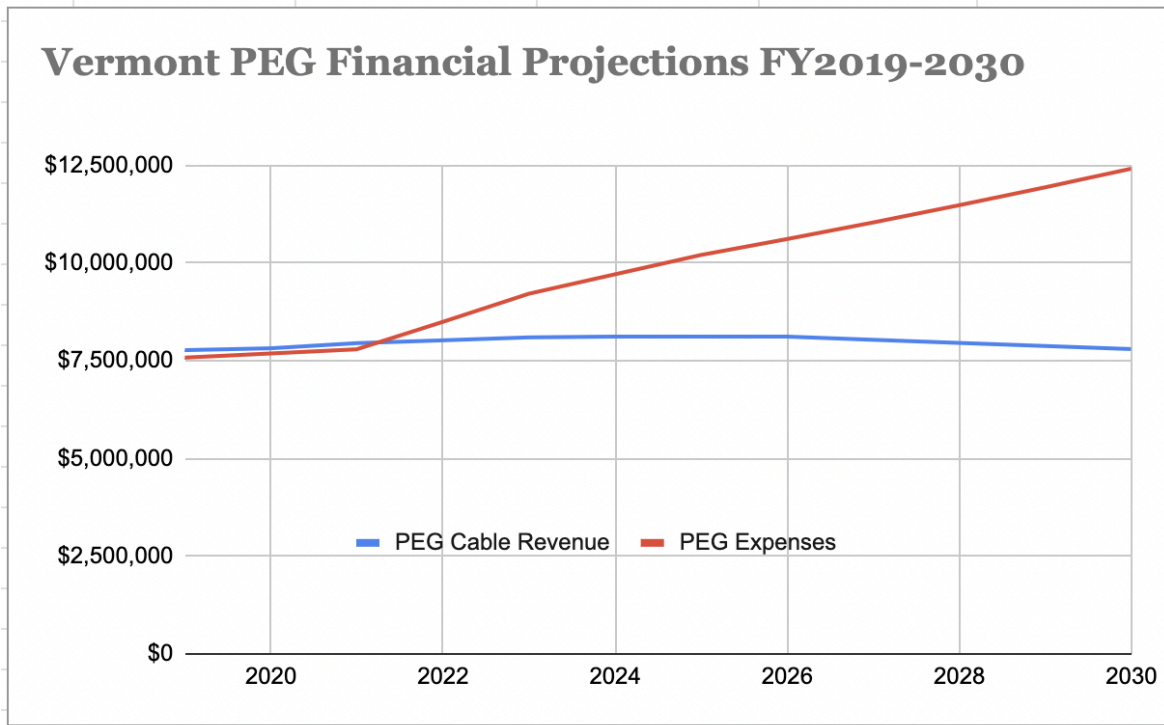
<https://legislature.vermont.gov/assets/Legislative-Reports/Report-2021-02-07.docx.pdf>

<sup>4</sup> U.S. Inflation Calculation: FY 2019 (2.3%), 2020 (1.4%), 2021 (7%), 2022 (6.5%) = 17.2%  
Based on [https://www.usinflationcalculator.com/inflation/current-inflation-rates/#google\\_vignette](https://www.usinflationcalculator.com/inflation/current-inflation-rates/#google_vignette)

| <b>VT Cable Revenue - Expenses + Inflation between 2019 - 2022</b> | <b>%</b>    |
|--|-------------|
| <b>Vermont AMO</b>   |             |
| BCTV - Brattleboro   | 1%          |
| CATV - White River   | -18%        |
| CAT-TV - Bennington  | -13%        |
| CH17 - Burlington  | -19%        |
| CVTV - Barre   | -19%        |
| FACT-TV - Bellows Falls  | -13%        |
| GMATV - Hyde Park  | -6%         |
| GNAT - Manchester  | -10%        |
| HCTV - Hardwick  | -7%         |
| KATV - St. Johnsbury   | -17%        |
| LCATV - Colchester   | -12%        |
| OVTV - Ludlow  | -11%        |
| MCTV - Middlebury  | -7%         |
| Media Factory - Burlington   | -19%        |
| MMCTV - Mt. Mansfield  | -12%        |
| MRVTV - Mad River  | -39%        |
| NEAT - Bristol   | -9%         |
| NEK-TV - Newport   | -4%         |
| NWA-TV - St. Albans  | -3%         |
| ORCA - Montpelier  | -16%        |
| RRCTV - Rutland  | -16%        |
| SAPA-TV - Springfield  | -15%        |
| WCTV - Woodstock   | -28%        |
| WOA8TV - Windsor   | -13%        |
| <b>Total Overall Revenue Gap</b>                                   | <b>-14%</b> |

**Looking Ahead:** While national reports project a steep drop in cable revenue, VAN offers a *conservative* estimate of statewide cable revenues remaining flat or declining at 1% per year through 2030. Calculations include PEG AMO costs, driven largely by labor and including operation costs, forecast to increase at the rate of inflation.<sup>5</sup> Calculations also include a nominal 2% increase for expansion of community media services to towns beyond traditional cable service territories.

<sup>5</sup> [https://www.usinflationcalculator.com/inflation/current-inflation-rates/#google\\_vignette](https://www.usinflationcalculator.com/inflation/current-inflation-rates/#google_vignette)



| <b>PEG Financial Projections 2024-30</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> | <b>2027</b> | <b>2028</b> | <b>2029</b> | <b>2030</b> |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PEG Cable Revenue (Millions)             | \$8.1       | \$8.1       | \$8.1       | \$8.0       | \$7.9       | \$7.9       | \$7.8       |
| PEG Expenses (Millions)                  | \$9.7       | \$10.2      | \$10.6      | \$11.0      | \$11.4      | \$12.0      | \$12.4      |
| Projected Revenue GAP                    | -\$1.6      | -\$2.1      | -\$2.5      | -\$3.0      | -\$3.5      | -\$4.1      | -\$4.6      |

### Other State Legislation Underway

Massachusetts’ bill is being considered by the Legislature for a second year and is working its way through committee. *H 74/S 34 An Act to modernize funding for community media programming* would assess a five percent fee of “streaming entertainment operator’s gross annual revenues” in the Commonwealth and distribute revenues to the State, Municipalities and Community Media organizations on a 20/40/40 percent split.

See: <https://malegislature.gov/Bills/193/H74/>

New York’s *Community Media Reinvestment Act (S.2581/ A.5900)* is before

Legislative committees this year for the first time. Modeled on the Massachusetts bill, it establishes a video streaming and satellite excise tax equal to a five percent franchise fee and distributes the revenue to a statewide fund to be distributed on a 20/40/40 percent split between the State, Municipalities and Community Media organizations. Cable revenues would be exempt from the tax.

See: <https://www.nysenate.gov/legislation/bills/2023/S2581>

In 2019, Maine added High Definition and Electronic Program Guide requirements to their state franchising law, which withstood challenges in State and Federal Courts (NCTA v Frey). After cable company refusal to pay for these requirements, advocates promoted LD 1967 “An Act to Support Municipal Franchise Agreements”.

The bill, on the Governor’s desk this week, requires that (a) all video service providers with facilities in the public right-of-way have an agreement with local municipalities; (b) transmission requirements of Maine law be paid for by video service providers; (c) providers carry PEG channels regardless of the cable operator’s technical infrastructure. The bill includes rural buildout provisions for broadband and has won support from the Maine Connectivity Authority and other state associations and agencies.

See: <https://legiscan.com/ME/bill/LD1967/2023>

### **Range of PEG Access/ Community Media Service Distribution**

While Vermont AMOs are part of cable TV “service territories” that include 169 municipalities, communities across Vermont have access to PEG TV services. Many AMOs—particularly in rural areas—are serving communities that are not explicitly part of their cable service territory.

Every Vermont AMO offers access to its programming on cable *and* the internet. This is also true of the new-ish Vermont Community Television network, which airs program of regional and statewide interest on Comcast 1070 and on <https://www.vtcommunity.tv/> Training and equipment is available to people of all ages who live and work in and outside of the “cable territory”. Production services and technical support are frequently provided to communities who do not contribute franchise fee revenue that supports AMOs because they are part of a regional community of interest. School district and sporting events are a good example of this.

In the event that funding becomes available for Vermont municipalities to initiate

or improve live meeting coverage with the support of the Vermont Secretary of State, as contemplated in S.55, Vermont's AMOs are prepared to provide needed technical assistance. AMOs are also willing to extend their services to outlying communities as they are able to diversify their revenue streams. Legislative support in the form of a dependable and ongoing funding source can help to advance these interests.

**TV Coverage:** In most cases, Vermont AMOs cover public and community events outside of their "cable service area", extending to adjacent communities and overlapping districts, especially regional sports, school board meetings, and community events of wide interest. AMOs provide technical support to communities interested in setting up live meeting coverage upon request.

- ***Okemo Valley TV (Windsor County):*** We serve the Town of Reading even though we don't have the PEG designation from Comcast. We actually do a lot of work for that Town, providing AV and tech services for their hybrid meetings for Selectboard and Planning Commission. We also have had some volunteers & producers who live outside of our PEG designated towns. Another example would be regional and statewide organizations or agencies. We support the work of a lot of different orgs. who might be located in an adjacent or nearby town but whose service area includes ours.
- ***LCATV (Chittenden, Franklin, Grand Isle):*** Coverage of the meetings and activities of several supervisory unions (namely Franklin West SU and Grand Isle SU) provide towns both inside and outside of our service with a connection to district and school activities.
- ***At Northwest Access TV (Franklin),*** internet users are some of the most common consumers of our services. This became evident during the high point of the pandemic from 2020-2022 when thousands of community members and families across Vermont relied on our live streaming services to watch local high school sports. Our digital footprint has continued to climb steadily since 2022 not just with our community in Franklin County but across the entire state. We have seen our viewership increase by 100% from 2021 to 2022 and average 150,000 views per year since. Our service allows families and friends supporting their local teams to watch from afar and not make the two-plus hour trek to St. Albans, Swanton and Highgate. With our no-cost to viewers online streaming service, community members in our coverage area have the ability to watch their loved ones compete at the high school level. Without proper funding, this mechanism would fall on the school districts to support, trickling down to the community as whole.



- **PEG-TV (Rutland):** We are not the designated AMO for 5 towns in our service area (Mount Tabor, Tinmouth, Middletown Springs, Wells & Shrewsbury), but they are part of the Mill River Union School District, which is a meeting we cover regularly. We have also covered some events in those towns.
- **NEK TV (Orleans)** services include filming town meetings or candidate forums, select board meetings, musical events, etc. We also provide the use of our equipment to community producers in those areas should they wish to film/produce their own programs for cablecast/online distribution. Towns like Morgan, Barton, Orleans, etc. only have limited cable availability on main roads so much of those communities are without cable service. We offer the same services to them as well.
- **GNAT-TV (Bennington)** serves Landgrove, Danby, Pawlet, Wells and Bennington, which are communities of interest to our region. Our regional services include: online distribution of local, county wide and regional news. <https://gnat-tv.org/news/> Online distribution of a comprehensive regional community calendar. <https://gnat-tv.org/events/> School Coverage and content to Danby and Pawlet. These towns are in our school district, but are not in our AMO cable territory.
- **Town Meeting TV (Chittenden):** Our municipal coverage and services are available to the entire community and are paid for by cable subscribers. It's not an evenly distributed tax. And yes, for internships, equipment usage, etc our policies don't require you to be a cable subscriber to use the service.

**Other Services:** Vermont AMOs deliver media access and education in the form of equipment availability, media production training for all ages, including summer camps. There are no residency requirements for these services and AMOs frequently serve community members who live and work in and outside of the cable service territory.

- **LCATV:** We serve three of the five towns of Grand Isle County. However, any youth camps/classes offered in collaboration with community partners in the Islands are open to participants from all five towns. Beginning in 2004, LCATV started working with an organization called Music-COMP (né the Vermont MIDI Project). They pair student composers (K-12) with professional composer mentors to guide the students through the creation of original musical work. A few years in, they started taking some of these events on the road and we've collaborated with several AMOs on co-productions or, when they're in an unserved area, traveled there to produce coverage. We provide coverage where no other coverage is available and also help to make the documents of these events accessible to participating students who do not live in areas with cable services.

**Program Distribution:** Vermont's AMOs have been distributing content via the internet since the mid 2000's. Program content that is of interest to regional or statewide audiences may be found through the online channels of every Vermont AMO. This includes websites, YouTube. The number of AMOs using internet apps such as Roku, FireTV and AppleTV are steadily increasing as online distribution outlets.

### **Rural Equity and Costs to Rural Telcos**

Testimony by the CUDs and rural telcos have raised issues about the equity of S. 181's funding mechanism, the pole attachment excise tax. Additional points to consider:

- CUDs are exempt from the excise tax proposed in S.181, and because CUDs largely serve rural areas, this should help ensure rural areas are not bearing more of the costs of the tax.
- The excise tax is proposed for pole attachers, not customers. For private providers that are not exempt, the tax will impact customers only if these providers can and do pass the tax on to customers. If so, we would assume they would take the total cost of the tax state-wide and allocate it evenly to all customers in the state, which would mean that rural customers pay the same amount in a pass-through of the tax as non-rural customers.

Thank you for your consideration.