

## VERMONT ACCESS NETWORK

19 July 2019

**TO: PEG (Public, Educational & Government) Access Study Committee**

**FROM: Lauren-Glenn Davitian, CCTV, [davitian@cctv.org](mailto:davitian@cctv.org)**

**RE: Overview of Public, Educational & Government Access in Vermont**

**Cable Television in Vermont:** Cable television emerged as an important service for rural communities without adequate TV reception in the early 1950s. Because of its hilly terrain, Vermont was one of the first states to feature cable television as a communications option for its residents. Local entrepreneurs set up antennas that piped in strong city signals (12 channels) to rural homes linked by coaxial cables hung on poles, and were sometimes buried underground.

During the 1980s, 50 cable Vermont companies offered between 20-35 channels to roughly 70,000 cable subscribers. The largest, Cox Cable, an Atlanta based company, served the state's largest communities of Burlington, Rutland, Middlebury, Montpelier.

Cox's Vermont properties were bought by Green Mountain Cable (a limited partnership put together by its regional managers) in 1985 for \$35 million. Two years later, Green Mountain sold its assets in Vermont and the Berkshires to Adelphia Cable for \$113 million.

Adelphia quickly consolidated the Vermont cable industry as part of a national buying spree, increasing its subscriber base from 45,000 to 450,000+ by the mid 1990's. Following its bankruptcy, Adelphia was split by Time Warner and Comcast in 2005. In 2007, Comcast was awarded its first CPG as the digital cable transition took hold in Vermont.

Today there are fewer than ten cable companies serving over 100,000 cable subscribers in Vermont with dozens, even hundreds of channels and advanced services. According the Vermont Department of Public Service, 65% of Vermonters either have cable TV service or cable facilities running by their homes, which means they could subscribe if they chose to do so.<sup>1</sup>

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<sup>1</sup> <https://publicservice.vermont.gov/cabletv>

Vermont cable companies are now in the business of providing both cable TV service (Title 6) and internet / VOIP service, which is classified as an information service (Title 1) under the Communications Act of 1934. Comcast is the largest communications/media company in the nation, with control of networks, media properties and ancillary business interests.

Comcast contracts with 22 of Vermont's Access Management Organizations (AMOs, also known as community media centers). Other Vermont cable operators include:

- Charter Communications, d/b/a Spectrum (contracts with 2 AMO).
- VTel (contracts with 6 AMOs that also contract with Comcast).
- Burlington Telecom (contracts with 3 AMOs that also contract with Comcast).
- Southern Vermont Cable (contracts with 1 Center that also contracts with Comcast).
- Waitsfield Communications (contracts with 1 Center).

**PEG Access Legislative and Regulatory History:** Prior to the 1980's, public access was required (and excluded) through a series of FCC proceedings.<sup>2</sup> One of the first references to public access TV is made in two Rand Reports published in 1970 and 1973.<sup>3</sup>

In the early 1980's, the U.S. cable industry competed for big city cable franchises, leading to bidding wars and promises made to secure exclusive contracts. Not coincidentally, the industry sought Congressional help to standardize the cable franchising process. The Cable Communications Act of 1984<sup>4</sup>, passed in July of that year, was, in part, a compromise between cable operators and the National League of Cities and Towns, representing most of franchising authorities at that time.

The Cable Act of 1984's Legislative History provides the policy framework for PEG Access nationwide and, in Vermont, empowers the Public Utility Commission (PUC) to order specific conditions when issuing a Certificate of Public Good (CPG).

House Report No. 98-934 memorializes the Congressional "Committee's intent that the franchise process take place at the local level where city officials have the best

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<sup>2</sup> [https://en.wikipedia.org/wiki/Public-access\\_television](https://en.wikipedia.org/wiki/Public-access_television)

<sup>3</sup> <http://vermontaccess.net/wp-content/uploads/2013/04/1973-Rand-Report-on-Public-Access.pdf>

<sup>4</sup> [https://en.wikipedia.org/wiki/Cable\\_Communications\\_Policy\\_Act\\_of\\_1984](https://en.wikipedia.org/wiki/Cable_Communications_Policy_Act_of_1984) The Cable Communications Act of 1984, established a national policy for federal, state, and local regulation of the cable industry. As Title 6, it is included in the Communications Act of 1934, codified at 47 U.S.C. sec. 521 et seq.

understanding of local communications needs and can require cable operators to tailor the cable system to meet those needs.” H.R. Rep. 98-934 at 24.

In exchange for granting permission to use the public rights of way, franchising authorities are authorized by the Act to require public benefit/ reinvestment in the form of channel set asides, franchise fees (up to 5% of gross revenue), and additional capital amount.<sup>5</sup> Until the 1990’s, the cable operators paid for these expenses. Since then, they’ve opted to pass franchise related costs on to subscribers as a line item charge, known as the PEG fee.

Among the stated purposes of the Cable Act are the establishment of franchise procedures and standards to encourage the growth and development of cable systems and to assure that *cable systems were responsive to the needs and interests of the local community*, 47U.S.C. sec. 521(2); the establishment of guidelines for the exercise of federal, state, and local authority with respect to the regulation of cable systems, 47 U.S.C. sec. 521(3); and *the assurance that cable systems would provide the widest possible diversity of information sources and services to the public*, 47 U.S.C. sec. 521(4).<sup>6</sup> (Italics added)

Rule 8.000 (V.S.A. 30),<sup>7</sup> first adopted in 1991, spells out how Vermont complies with the Cable Act and outlines the responsibilities of a cable operator seeking to provide cable television in the state. Rule 8.000 is grounded in the EMCO Criteria,<sup>8</sup> adopted by the Vermont Supreme Court in 1982.

The EMCO criteria guided Vermont’s Public Service Board from even before the 1984 Cable Act and establish the foundation for issuing Certificates of Public Good (CPGs) and PEG requirements. Of particular concern to PEG advocates is the second criteria, specifying cable operator’s “proposed service offerings to customers, including the number of channels and the ability and capacity of the system to offer additional varied services in the future, and the ability to provide public access.”

In addition, Rules 8.4000 detail public, educational, and government (PEG) access requirements, including designation and obligations of AMOs, protocols for requesting new channels and applications, inclusion in service tiers, contemplation

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<sup>5</sup> 47 US Code 611 (a-e) and 622 (a).

<sup>6</sup> The Cable Act of 1984 Legislative History, July 9, 2007. [HTTP://WWW.BBKLaw.COM/?T=40&AN=18382](http://www.bbkLaw.com/?T=40&AN=18382)

<sup>7</sup> Rule 8.000, <https://puc.vermont.gov/document/board-rule-8000-cable-television>

<sup>8</sup> 30 V.S.A. Chapter 13

of statewide channel and statewide AMO, operating and capital funding, and annual reporting requirements.

**Short History of PEG in VT:** Some of the first public access channels in the US were launched in Vermont, including Brattleboro and St. Johnsbury, which ran local government meetings in the early-mid 1970's.<sup>9</sup>

George Stoney, “the godfather of public access” inspired the national use of video as a community development tool from his stint as Executive Producer of the Canadian Film Board’s “Challenge for Change” project. Later, at New York University’s Alternative Media Center, Stoney trained the first of many generations of “media activists with cameras” who went forth to negotiate and start up the nation’s first public access TV channels.<sup>10</sup> His partner at NYU, Red Burns, worked to establish the statutory basis for PEG in FCC rulings prior to the passage of the Cable Act in 1984.<sup>11</sup>

In 1983, inspired by examples of public access channels across the northeast and a clear statement of “community needs and interests”, CCTV filed with the Vermont Public Service Board (now PUC) to require Cox Cable to provide and pay for public access channels, equipment, studio, paid staff, training workshops and funding.<sup>12</sup> Cox agreed to provide these resources to fund the first PEG channels in Burlington (Williston), Montpelier, Rutland and Middlebury. The funds at that time were borne by the cable operator and not passed on to subscribers.

Over the past thirty-five years, working with many cable operators, Vermont developed 25 community media centers serving all corners of the state.<sup>13</sup> Each of these centers are recognized as Access Management Organizations (AMOs) by the State of Vermont, based on proposals for meeting “community needs and interests”, approved by the Public Utility Commission (PUC) and maintained

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<sup>9</sup> <https://www.brattleborotv.org/about>

<sup>10</sup> Goddard’s Community Media Center was also active at this time, generating journalists and media makers actively engaged in community level communication.

<sup>11</sup> [https://en.wikipedia.org/wiki/Public-access\\_television](https://en.wikipedia.org/wiki/Public-access_television)

<sup>12</sup> For the early history and blueprint for statewide PEG access, including a legislative coverage and statewide distribution, see [\*Building the Empire: Access as Community Animation, Journal of Film and Video, Summer 1987\*](#)

<sup>13</sup> <http://vermontaccess.net/about/> and DPS Map of Comcast Headend and AMO Territories [https://drive.google.com/file/d/1854f\\_2qJ5YgyZvakLv8Ghc-f6rCRWzPf/view?usp=sharing](https://drive.google.com/file/d/1854f_2qJ5YgyZvakLv8Ghc-f6rCRWzPf/view?usp=sharing)

through side agreements with the cable operators. These AMOs are members of a statewide mutual aid society known as Vermont Access Network (VAN).<sup>14</sup>

Vermont Access Network members (AMOs) now operate 81 commercial free channels (67 in Standard Definition and 14 in High Definition), help to produce 18,000 hours of original local programming annually (49 programs a day), and employ more than 100 full and part time employees, aided by hundreds of volunteers. Twenty-four of the AMOs provide web streaming of their programming, either live or on-demand.<sup>15</sup>

Vermont cable subscribers pay between \$8 million each year to support substantial community coverage, training, and the operation of non-commercial media dedicated to local community development and free speech. VAN calculates that the market rate equivalent of AMO services to be in the neighborhood of \$74 million (a factor of 8.5).

**PEG and Assessments of Community Needs:** Ongoing assessment of community needs and interests is the bedrock of all PEG planning and budgeting in Vermont. Surveys, interviews, focus groups, evaluation, and strategic planning efforts influence the scope of services delivered by AMOs/ community media centers, including public meeting and event coverage, training opportunities, range of equipment packages, studio and mobile facilities, distribution and storage solutions, engagement strategies, hours of operation, annual budgets, and long term funding requirements.

Community needs assessments are conducted by individual AMOs and the Department of Public Service as part of every CPG renewal. In the most recent Comcast CPG (Docket 8301), VAN also compiled a statewide assessment of community needs and interests from public hearings and testimony.<sup>16</sup>

Public assessments, conducted by Comcast, the Department of Public Service, and third parties, consistently indicate an high level of recognition, respect and important regard of PEG Access by people and organizations in all parts of Vermont. Schools, libraries, municipal governments, nonprofit corporations,

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<sup>14</sup> VAN Fact Sheet

[https://drive.google.com/file/d/1hUib84zw3cXbMl1eMUe\\_KrI2\\_GdQXuqh/view?usp=sharing](https://drive.google.com/file/d/1hUib84zw3cXbMl1eMUe_KrI2_GdQXuqh/view?usp=sharing)

<sup>15</sup> Comcast Vermont Cable Headend of PEG Access Territories by Town

<https://drive.google.com/file/d/11GT7H7d8Ypt2TUDjWKSTftjMRrF-mo9z/view?usp=sharing>

<sup>16</sup> Vermont Public Service Board Docket 8301, Prefiled Testimony of Lauren-Glenn Davitian, Exhibit 2: Vermont PEG Access Related Community Needs & Interests.

churches, clubs, seniors, youth and individuals from all walks of life regard PEG AMOs, where they exist, as anchor institutions that provide government transparency, educational opportunity, and first amendment forum for community presentations and discussion.

The recent Vermonter Poll, conducted in February 2019, reports that 80% of respondents watch public access TV, largely to see public events, meetings and educational programs. Respondents believe that it is important (37%) or very important (41%) for a community to have public access television, and would support funding through a variety of revenue streams including local government budgets (39%), state government (49%), subscriptions (42%), local fundraising efforts (55%).<sup>17</sup>

AMOs also engage in regular strategic planning. For example, RETN and VCAM, serving Chittenden County, recently collaborated on a joint plan that has set them on a path to pursue innovative projects and organizational merger.

RETN Executive Director Jess Wilson elaborates: “Besides the takeaways about needing to better market ourselves and the value of public meeting coverage - we heard that folks really value the training and access to gear - especially the ability to try new pieces of equipment they couldn't afford to buy or rent.

We also heard repeatedly that strategic partnerships with other nonprofits and arts organizations are certainly part of the sustainability picture.

As a result we budget for continued investment in the BAMO tech core project, alignment of VCAM/RETN educational programs and joint marking of the programs under the Media Factory brand. Some 2019 initiatives based on the plan: launch of a merged database for community equipment reservations and usage tracking, a virtual reality & 360 production education program (and corresponding equipment) and plans to explore the feasibility of a citizen journalism program.”

Assessments of community needs and interests remain the foundation of AMO planning and budgeting.

**PEG Access Financing:** PEG Access Budgets include operating and capital costs. Vermont AMO annual combined budgets range from less than \$50,000 in Hardwick

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<sup>17</sup> Vermonter Poll 2019, PEG Questions  
<https://drive.google.com/file/d/1vjwWBWwWChAQaPRRtgpkjQtTTSYRozRg/view?usp=sharing>

to \$1 million in Rutland (the state's largest service territory). The median budget operating/ capital ranges between \$200,000 - 300,000. These are found in Newport, St. Johnsbury, Brattleboro, White River, and Barre.

Cable franchise fees remain the primary revenue source for Vermont AMOs. Per Rule 8.000, up to 5% of cable operator's gross revenue is set aside for operating expenses. Most AMOs (with two exceptions) also negotiate a .5% +/- capital fund to purchase and support equipment and facilities.

Due to the slow decline in cable revenue (in most but not all Vermont cable territories) and a significant 2018 drop in Comcast revenue due to GAAP reclassification, Vermont AMOs have stepped up their revenue diversification activities. Increasingly, cable revenues are supplemented by municipal contributions, memberships, underwriting, fees for production services, and grant writing.<sup>18</sup> Here are some examples of entrepreneurial Vermont AMOs:

BCTV - <https://www.brattleborotv.org/support-bctv>

GNAT - <https://gnat-tv.org/donate/underwriting/>

Okemo Valley TV - <http://okemovalley.tv/underwriting>

Collectively, VAN has applied to the Vermont Community Foundation to assist with Business Planning/ Revenue Diversification training. AMOs are also beginning to look seriously at regional resource sharing.

While these efforts are essential for the operation of any healthy nonprofit enterprise, it will be challenging to replace franchise fees, which is, in part, why VAN has asked the Legislature to convene the PEG Study Committee.

**Scope of PEG Access Services:** Vermont's AMOs/ community media centers open the doors of local government, support life long learning, and provide a forum for diverse ideas. In so doing, PEG budgets supplement the operating budgets of Vermont's public institutions, including: municipalities, regional and state government (through free or reduced cost coverage of public meetings); public schools and educational institutions (through coverage of school board meetings, graduations, teacher in service, media literacy programs, internships, etc.); and nonprofits (through no/ low cost coverage of community events and expanded

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<sup>18</sup> Vermont AMO Fees Survey March 2019

[https://docs.google.com/spreadsheets/d/1z1tALlyz2SAK08SBWzb6\\_eWT1XxUYnaqbae1ONnWnQU/edit#gid=1263758865](https://docs.google.com/spreadsheets/d/1z1tALlyz2SAK08SBWzb6_eWT1XxUYnaqbae1ONnWnQU/edit#gid=1263758865)



reach for mission driven organizations); not to mention the provision of free expression for all community members on a first come, first served basis.

**> Production Services:** To get a sense of production scale, Okemo Valley (approximately \$200,000 annual budget) televised over 1,200 shows in the year that ended 6/30/19. More than half of the programs (635) were locally produced. In the past nine months, Channel 17/ Town Meeting TV in Chittenden County (\$681,000 annual budget) produced 1015 original programs, including 312 public meetings, 96 election events, about 500 (half) produced with the help of community producers, plus 135 imported programs and events. Embedded in statewide production data are countless community partnerships, hours of training, and community building.

Supplementing today's public testimony of Vermont Youth Orchestra Association Executive Director Rosina Cannizzaro, here is a good example of how PEG AMOs add value to community institutions. RETN has produced an shared 95 VYO concerts since 1998. Produced with multiple cameras and high production values, these concerts are typically aired by 18 AMOs to audiences across the state (and beyond). RETN estimates that the cost for the last 21 years of coverage exceeds \$250,000 (not including distribution), a major contribution to VYO operations. While this serves as a great example of how community media expands the reach and impact of a nonprofit, it also shows how PEG helps to enrich our community with the arts, and support our young people in important ways.

**> Training:** PEG AMOs are important partners in public education and life long learning. For example, in the last year, RETN, an educational access AMO based in Burlington delivered 319 training events in the past year, including: Monthly workshops (59), Special workshop series (10), Youth Camps (5), College & High School Internships (5), College Course Support: 30 (Champlain College & CCV), Middle & High School Support (118), Consultations with Educators and Community Groups (10), and Professional Development Workshops (82).

**PEG Viewership/ Internet Stats:** PEG content has relevance in communities of all sizes. While none of the Vermont AMOs have access to cable viewing statistics, internet viewing has grown on multiple platforms, including websites, YouTube, Facebook, Instagram, and other forms of social media.

In 2018 BCTV, in Windham County, reported 27,889 online website users and 63,909 unique page views. During the same period, VCAM in Chittenden County reported 76,000 unique page views.



Channel 17/ Town Meeting TV internet audiences vary based on community relevance. For example, Town of Essex meeting statistics from 2018 show that the 3/5/18 Essex Selectboard garnered 61 YouTube views, the 5/21/18 Selectboard meeting was watched by 635 people, and the June 4th meeting (on gun control) had an audience of 1,982 viewers.

RETN also provided some examples of online viewing statistics from the past six months from the Burlington School Board, Champlain Valley School District, and the State Board of Education monthly meetings:

Between January and June 2019, the Vermont State Board of Education meeting was viewed online by 1414 people, an average of 236 views per meeting.

The Champlain Valley School District averages about 74 live views per meeting with 382 occurring on Facebook. Overall, CVSD featured 834 total views during this period, an average of 139 per meeting.

The Burlington School District garners most of its views from live internet streaming. In the past six months, regular monthly meetings garnered 1117 live views (1031 on Facebook) or 186 views per meeting average. After the fact, 838 viewers watched (140 per meeting) watched the archived or “video on demand” version of the meeting.

**Looking Ahead:** Since their inception, Vermont’s AMOs have remained forward looking. As we consider the changing technical landscape of cable television and its regulatory environment, it is necessary for community media centers to continue to deliver community value, diversify revenue sources, examine cost savings, and seek out partnerships that leverage PEG’s unique strengths.

We see potential in the development of statewide legislative coverage, the revival of Vermont Interactive TV, and closer relationships with state government. We see the necessity of business planning for a changing future. And we think it is prudent to explore on-going statewide revenue sources that will help to subsidize the production, training and distribution of non-commercial local content that builds community and advances democracy. Thank you for this opportunity.