

# SOUTH CAROLINA CABLE TELEVISION ASSOCIATION NEWSLETTER

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4<sup>TH</sup> QUARTER 2010



## *GOVERNMENT-OWNED BROADBAND OPERATIONS*

In 2002 several bills were introduced to allow municipalities and other government entities to provide telecommunications services. During the Senate Judiciary subcommittee hearings, the telecommunications industry expressed its concerns that a level playing field be created and that municipalities not be allowed to use tax revenues to subsidize telecommunications services. The *Government-Owned Telecommunications Service Providers Act* (“Act”) became law in July 2002. The Act prohibited government providers from receiving any tax exemptions or governmental subsidies. As a result tax exempt capital financing can be used by government entities only if it is consistent with certain statutory restraints. The Act prohibits governmental entities from subsidizing the cost of providing the services with funds from other non-telecommunications revenue sources. The Act also restricts rates and cost calculations, requires separate books to be maintained, and requires an annual independent audit. The governmental entity must impute to its own operations any taxes or fees that are imposed on existing telecommunications providers.

AT&T-backed legislation was introduced in the House of Representatives on January 27, 2011, that amends the Act. Companion legislation was introduced in the Senate on February 1, 2011. House Bill 3508/Senate Bill 483 (“Bill”) would impose the same requirements on government-owned broadband operations that are currently imposed on telecommunications operations. The amendments include an exception from the requirements for operations in an “unserved area.” The “unserved area” is defined as a 2000 Census block in which at least 90% of households have either no access to broadband or only have access from a satellite provider.

The Bill gives the Public Service Commission jurisdiction to determine whether an area is unserved. The procedure proposed in the bill limits those that can object to service providers and residents. They have 30 days to file an objection once the government provider’s petition for  
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## ***NEWS FROM THE EXECUTIVE DIRECTOR***

The first regular session of the 119<sup>th</sup> SC General Assembly commenced weeks ago. The state appropriations bill and reapportionment (reassigning legislative districts due to new census reporting) are expected to dominate the 2011 session.

The SC Board of Economic Advisors has projected a 380 million dollar deficit this year with budget deficits expected through FY 13/14. Legislative leaders expect to tackle the budget deficit with a number of reforms such as consolidating school districts, school funding formula changes, consolidation of similar state agencies (ex: Corrections, Juvenile Justice & Probation, Pardon, Parole), furloughs and lay-offs. The House has already planned two furlough weeks, March 21 and April 18.

In her first State of the State speech before the SC General Assembly, SC Governor Nikki Haley suggested the timing is right to restructure state Government, including no longer funding smaller agencies, naming SC ETV and the SC Arts Commission. Beaufort Senator Tom Davis has prefiled legislation to create a new cabinet agency, replacing the SC Budget & Control Board. Former SC Governor Mark Sanford spent 8 years unsuccessfully trying to create a Department of Administration.

The TRAC report was released last fall but we expect no major tax overhauls as a result of this report. If many TRAC recommendations were implemented, fees and services would increase in many cases, which legislative leaders do not support.

The utility and telecommunications industries continue to meet with Carolina's AGC to work on a compromise before the 2011 bill to update SC's Damage Prevention Act is filed. AGC filed a bill last year updating this act but did not include input from SC utilities. Public Utilities Subcommittee Chairman, Senator Luke Rankin requested that all parties work toward a compromise.

We continue to monitor bills filed that affect the cable industry and we will report on these through e-mail updates and our Friday SCCTA conference calls. I sincerely appreciate your continued input as we continue to promote and protect South Carolina's cable industry!

*Ray Sharpe*

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## **Government-Owned Broadband Legislation (continued from page 1)**

designation is posted on the Commission's website. Testimony must be filed with the objection, a hearing held, and a ruling issued within 45 days. Once an area is designated as "unserved," a broadband provider or resident may petition the Commission to determine that the area is no longer "unserved."

The Public Utilities Subcommittee of the House Labor Commerce and Industry Committee held a hearing on House Bill 3508 on February 2, 2011. The SCCTA indicated that it supports the bill as a way of ensuring a level playing field for any governmental entities that might try to enter the broadband market. The SCCTA also expressed reservations about some of the provisions of the bill regarding the procedures at the PSC for determining whether areas are "unserved." It is likely that the bill will be revised as it moves through the legislative process.

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## TRAC REPORT

The South Carolina Taxation Realignment Commission (“TRAC”) issued its final report in December. Given the current political and economic climate, no major tax changes are expected as a result of the report. With few exceptions, TRAC found that South Carolina is a low tax state compared to its neighbors, the region and the nation. According to the report, the structural deficiencies in the current tax structure challenge both the fairness of the system and its ability to produce stable revenues.

The report indicated that one of the few areas where the state does not rank as a low tax state is sales tax. South Carolina’s 6% rate is tied for 13<sup>th</sup> highest nationally. The Commission recommended broadening the sales tax base by repealing or amending more than 60 of the 80 sales and use tax exemptions, exclusions, maximum taxes and/or discounts. The Commission recommended eliminating the exemptions for toll charges and for sales of supplies, machinery and electricity to television, cable television stations, and radio stations. The report noted that South Carolina is one of the lowest corporate income tax states in the region and the nation, both in terms of its rate and its tax burden. The state is annually ranked by numerous publications as one of the most “friendly” for companies to “do business.” TRAC did not recommend an adjustment to the current corporate income tax rate.

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### Federal Court Rules Amazon.com Does Not Have to Turn Over Detailed Records

U.S. District Judge Pechman issued a decision in October holding that Amazon.com did not have to turn over detailed information on nearly 50 million purchases by N.C. customers to the N.C. Department of Revenue (“DOR”). *Amazon.com LLC v Kenneth Lay, Secretary of N.C. Department of Revenue*, Case No. C10-664 MJP, (W.D.Wa. 10/25/10). The company and DOR have long disputed whether Amazon.com must collect and remit N.C. sales and use taxes. As part of an audit, the DOR sought “all information for all sales to customers with a North Carolina shipping address by month in an electronic format for all dates between August 1, 2003, and February 28, 2010.” Amazon responded with product codes that revealed the items purchased, but did not include any personally identifiable information of any customer. When DOR threatened to file a summons, Amazon.com filed a complaint in U.S. District Court in the State of Washington. Amazon pursues two main claims: (1) that the First Amendment and the Washington State Constitution bar them from revealing the identities and any specifics as to the contents of the purchases and (2) that the Video Privacy Protection Act bars the company from complying with the request.

The Court agreed with Amazon.com that DOR’s request violated the First Amendment which protects a buyer from having the content of his purchase of books, music and audiovisual materials disclosed to the government. The Court noted that “the fear of the government tracking and censoring one’s reading, listening, and viewing choices chills the exercise of First Amendment rights.” The Court also agreed with Amazon.com that disclosure of personal identifiable information to DOR would violate the Video Privacy Protection Act.

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## **MEMBER NEWS**

### **Happy New Year from Charter Communications!**

Charter ended the 4<sup>th</sup> quarter of 2010 with a great deal of donations and contributions to our customers in our South Carolina service area. South Carolina Food Banks received over \$20,000 in donations to help continue their mission of fighting hunger in our communities.

Miracle Hill Ministries and Bethlehem Food Pantry each received a check from Charter in the amount of \$11,000 and were appreciative of Charter's ability to help them change the lives of thousands of hungry people.

By the end of the 4<sup>th</sup> Quarter, Charter reached its goal of membership for our *Live it With Charter* program, and here are some winners! Cindy McMaster of Simpsonville won the VIP Golf Clinic Sweepstakes with an estimated value of \$3,200. The prize package included a TaylorMade Bomb Away Burner Driver along with a golf lesson for four at a golf course of the winner's choosing, as well as a set of a dozen Wilson Eco Golf Balls.

Thomas H. Becking of Taylors was the Grand Prize winner of a \$500 gift card to Zappos.com. Overall, South Carolina closed the year having fulfilled its "Good Neighbor" program of adding joy

and helping change the lives of those in the communities we serve.

### **Comcast Receives Regulatory Approval for Merger**

Just this month, Comcast Corporation received final regulatory clearance for the Comcast and General Electric joint venture for NBC Universal. Comcast may now proceed to close this transaction which was announced in December 2009.

This venture represents a natural and exciting evolution in the world of communications and entertainment, a marketplace that becomes more open, more competitive, and more global every day. The opportunity to combine the assets of Comcast and NBC Universal makes possible innovative programming and distribution opportunities that will permit the new company to better serve the interests of many key segments of the viewing audience, including local viewers in the markets served by NBC Universal's owned-and-operated NBC and Telemundo stations, and the particular interests of Hispanics, African Americans, Asian Americans, children and families, and other key audience segments. Comcast is also committed to launch a comprehensive new program to promote broadband adoption by low-income families in our footprint around the country.

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### **Comcast Celebrates Black History Month with Special Xfinity TV Programming On Demand and Online**

Comcast is celebrating Black History Month with special programming On Demand and online at [www.XfinityTV.com](http://www.XfinityTV.com) to recognize African American culture and contributions. Comcast also marks the first anniversary of Black Cinema On Demand, a video-on-demand offering dedicated to the celebration of black films, filmmakers and actors past and present, with award-winning films such as *Amistad* and *The Color Purple*.

"Comcast is proud to celebrate Black History Month with special programming that highlights the many accomplishments, experiences, and perspectives of African Americans," said Payne Brown, Vice President of Strategic Initiatives for Comcast. "After launching Black Cinema On Demand just one year ago, we are excited about building on that foundation to increase the quality and diversity of African American programming across multiple platforms for our customers." Comcast Black History Month programming is available On Demand and online\* throughout the month of February. Highlights include:

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## MEMBER NEWS (continued from page 4)

- **Biographies:** Barack Obama; Maya Angelou; Condoleezza Rice; Aretha Franklin; Jamie Foxx; Bill Cosby; Halle Berry; Stevie Wonder; Frederick Douglas; Queen Latifah; and Tyra Banks.
- **Documentaries and Specials:** *Brick City*; *Barack Obama - A Man and His Journey*; Kareem Abdul - Jabbar's *On the Shoulder of Giants*; *500 Years Later*; *The Injustice Files*; *MLK Boulevard*; *Black Girls Rock*; *Roots: The Mini Series*; and *Stand Up*.
- **Films:** *Ray*; *The Last King of Scotland*; *Friday*; *She's Gotta Have It*; *Crooklyn*; *Night Catches Us*; *For Colored Girls*; *Gospel Hill*; *Lilies of the Field*; *Amistad*; *Boyz N the Hood*; *The Color Purple*; *The Lewis Story*; *Miracle at St. Anna*; *Antwone Fisher*; *Death at a Funeral*; *Pride*; *Blood Diamond*; *Jackie Brown*; *A Huey P. Newton Story*; and *Just Cause*.
- **Sports Specials:** Sports replays including Ali verses Quarry I; Ali verses Blin; Davis verses Boetsch; Guillard verses Lowe; Foreman verses Norton; and other specials such as *Black Athlete Image*; *A Race Story*; *The Secret Game* and a Magic Johnson featurette.
- **Music:** *New Orleans Music in Exile* and music by artists such as Michael Jackson, Lenny Kravitz, Macy Gray, Jay-Z, Usher, Snoop Dogg, Janet Jackson, Jamie Foxx, Beyoncé, and Bruno Mars.

Comcast has had a longstanding commitment to diversity since its founding nearly 50 years ago and focuses its efforts in four key areas: attracting and retaining a multicultural workforce, developing a diverse supplier group, offering a wide selection of multicultural programming and pledging significant community investments.

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## Ohio Satellite TV Sales Tax Decision

The Ohio Supreme Court issued a decision in late December holding that taxation of sales of satellite-broadcasting services but not of cable broadcasting services does not violate the U.S. Commerce Clause. *Directv v Levin*, Tax Commissioner, Ohio Sup. Ct. Slip Opinion No. 2010-Ohio-6279, (12/27/10). The differential tax treatment of these two categories is constitutional when the difference results solely from the nature of the business and not from the location of the companies' activities, and it does not favor in-state interests at the expense of out-of-state interests.

In 2003 the Ohio General Assembly, passed a bill to enact a sales tax on "satellite broadcasting service," but not on cable broadcasting service. Directv and EchoStar Satellite filed a declaratory judgment complaint arguing that the tax had both the purpose and effect of favoring in-state economic interests in violation of the Commerce Clause. Directv argued that the tax gave preferential treatment to cable companies that have invested a fortune in building and maintaining a network of distribution equipment in Ohio while satellite service is taxed because its providers found a way to deliver the same service without installing any distribution equipment in Ohio. The Court concluded that the statute's application depends on the technological mode of operation, not geographic location. While the statute distinguishes between different types of interstate firms, it does not favor in-state interests at the expense of out-of-state ones; therefore, it does not violate the Commerce Clause. The sale of satellite services is subject to tax regardless of whether the provider is in-state or out-of-state and it does not consider the amount of local economic activity or investment in facilities that the satellite companies bring to Ohio. The Court also noted that the cable industry was not a local interest that benefited at the expense of out-of-state competitors. Both satellite and cable companies serve Ohio customers, own property in Ohio, and employ Ohio residents, but no major cable provider is headquartered in Ohio or could otherwise be considered more local than any other.

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## REGULATORY UPDATES

### PUBLIC SERVICE COMMISSION

#### 100<sup>th</sup> Anniversary

The Public Service Commission celebrated its 100<sup>th</sup> Anniversary in a ceremony held on December 8, 2010. Former Commissioners and Executive Directors were recognized. Gary Walsh, former PSC Executive Director, and Dukes Scott, Executive Director of the Office of Regulatory Staff, gave a history of the Commission. Former Commissioner Rudolph Mitchell also shared his memories of serving on the Commission.

#### NARUC

Commissioner David Wright was elected as First Vice-President of the National Association of Regulatory Utility Commissioners (“NARUC”) during the November 17, 2010, meeting. He will serve in this capacity until next November. This position puts him in line for election as President of NARUC in the following year. Commissioner Elizabeth “Lib” Fleming was appointed to the Eastern Interconnection States Planning Council.

#### Administrative Hearing Officers

The Commission appointed Jocelyn Boyd, Joseph Melchers, and David Butler as standing hearing officers to rule on any procedural or non-dispositive matter that may arise in dockets without appointed hearing officers between Commission business meetings. Their rulings are subject to review by the Commission at the next available business meeting upon request by a party in the affected docket.

#### Prepaid Local Telecommunications Services

The Commission held its hearing on October 26, 2010, in regard to the proposed language that would expand the requirement for telephone utilities to post a performance bond as a condition of providing service in South Carolina. Companies that have invested at least \$5 million in telecommunications facilities in the State would be

exempt from the requirement. On December 1, 2010, the Commission declared the regulations promulgated and then submitted them to the General Assembly for approval.

#### AT&T Modifies Performance Measure Plan

The Florida Commission adopted a wholesale Performance Assessment Plan (“Plan”) to monitor AT&T’s performance levels of Operations Support Systems (“OSS”) provided to CLECs 2001. AT&T’s wholesale Plan provides a standard against which CLECs and the Commission can measure any degradation of service provided to CLECs. The Plan is comprised of a Service Quality Measurement Plan (“SQM”) and a Self-Effectuating Enforcement Mechanism (“SEEM”). The SQM includes a comprehensive and detailed description of AT&T’s performance measurements and SEEM details the methodology for payments when AT&T fails to meet the SQM standards. AT&T is required to participate in review cycles to evaluate AT&T’s Plan.

During the Florida review process, AT&T reached an agreement with CompSouth and the Florida Cable Telecommunications Association. The settlement contains major changes in the SQM/SEEM Plan including the elimination of Tier 2 penalties and an increase to Tier 1 remedies. The final resulting Florida Settlement Agreement provided that subject to the approval of the state regulatory authority the terms of the settlement apply to each of the nine former BellSouth States.

AT&T filed a motion with the Public Service Commission of South Carolina seeking approval of the modifications to the AT&T South Carolina SQM/SEEM Plan in October. The South Carolina SQM/SEEM Plan is subject to periodic review and has been modified periodically to reflect necessary updates to the performance measures and remedies. The proposal includes all changes to the Florida SQM/SEEM Plan approved during its most recent annual review. The South Carolina Commission issued an Order approving the proposed modifications on January 25, 2011.

**REGULATORY UPDATES (continued...)**

**S.C. DEPARTMENT OF REVENUE**

**Withholding, Sales Tax Returns to be Filed Electronically in 2011**

According to a December 29<sup>th</sup> press release, the S.C. Department of Revenue will not mail withholding or sales tax return booklets in 2011. The DOR will realize significant savings in printing and postage costs. Taxpayers will be able to file withholding and sales tax returns electronically. There are four electronic options for withholding: EPay and EWithholding allow users to submit their payments and returns online through the DOR website; Business Telefile is an interactive voice response system via telephone; and Electronic Funds Transfer can be set up through a financial institution. The DOR will be mailing a CD with forms that the taxpayer will complete, print and mail back to DOR or the taxpayer can use three electronic filing options: ESales, Business Telefile and Sales Electronic Data Interchange.

**New Business Personal Property Filing Procedure for SC Businesses**

Beginning January 1, 2011, all businesses with account closing periods of December 31, 2010, must file their business personal property tax returns online through the South Carolina Business One Stop (“SCBOS”), the official business portal for the State of South Carolina. Through online filing, users may upload a prepared file or manually enter their return information on the website. The information is then distributed by DOR to local governments for tax purposes. Users may find out more about the new process by visiting the SCBOS website at [www.scbos.sc.gov](http://www.scbos.sc.gov). In addition to the new business personal property tax filing, business users may add and pay for many other licenses, permits and registrations, such as Alcohol Beverage Licensing, Wage and Contribution Reports, Incorporation filings, among others.

**STATE-ISSUED CERTIFICATES OF FRANCHISE AUTHORITY**

On November 10, 2010, AT&T filed an application to amend its state-issued certificate of franchise authority to include the following areas: Newberry, Chapin, Gaffney, Travelers Rest, Walhalla, Williamston, Little Mountain, Fountain Inn, Clover, Reidville, Laurens and Bamberg. As of December, 2010, the South Carolina Secretary of State has issued the following certificates of franchise authority. New areas/certificates are highlighted in red:

- ATLANTIC BROADBAND..... Aiken, Aiken County, Allendale, Bamberg, Bamberg County, Barnwell, Burnetown, Denmark, Fairfax, Jackson, New Ellenton, Snelling, Williston
- BALDWIN COUNTY INTERNET/..... Beaufort County, Charleston County, Greenville, Greenville County  
DSSI SERVICE, LLC
- BELLSOUTH TELECOMMUNICATIONS, ... Anderson, Anderson County, Arcadia Lakes, Berkeley County, Blythewood,  
INC. d/b/a AT&T SOUTH CAROLINA Calhoun County, Camden, Cayce, Central, Charleston, Charleston County, Cherokee County, Clemson, Columbia, Cordova, Dorchester County, Duncan, Easley, Elgin, Folly Beach, Forest Acres, Fountain Inn, Gaffney, Gaston, Goose Creek, Greenville, Greenville County, Greer, Hanahan, Hollywood, Irmo, James Island, Kiawah Island, Kershaw County, Laurens, Lexington County, Liberty, Lincolnville, Little Mountain, Lyman, Mauldin, McConnells, Mount Pleasant, Newberry, North Charleston, Oconee County, Orangeburg, Orangeburg County, Pickens, Pickens County, Pine Ridge, Ravenel, Reidville, Richland County, Seneca, Spartanburg, Spartanburg County, Springdale, Summerville, Travelers Rest, Walhalla, West Columbia, Williamston, York, York County
- BERKELEY CABLE TV, INC..... Berkeley County, Harleyville, Jamestown, Moncks Corner, St. Stephens

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**State-Issued Certificates of Franchise Authority *continued...***

BROADBAND EXPERIENCE.....	Central, Clemson, Pickens County d/b/a FAMILY VIEW CABLEVISION
CAROLINA TELECOM SERVICES.....	Hickory Grove, Sharon
CATAWBA, INC.....	Rock Hill
CHARTER COMMUNICATIONS, LLC.....	Abbeville, Chesnee, Clinton, Easley, Greer, Greenville, Greenville County, Honea Path, Laurens, Mauldin, Newberry County, Oconee County, Pelzer, Pickens County, Salem, Six Mile, Spartanburg, Spartanburg County, Starr, Travelers Rest, Union, West Pelzer, Whitmire, Woodruff
CHESNEE COMMUNICATIONS.....	Cherokee County, Chesnee, Spartanburg County
CHESTER COMMUNICATIONS, LLC DBA TRUVISTA.....	Chester (effective 11/1/10)
COMCAST OF CAROLINA.....	Edisto Beach, Goose Creek, Hampton County, Hanahan, Isle of Palms, James Island, Sullivan's Island, Summerville
COMCAST OF GEORGIA/SC II.....	Beaufort County, Charleston, Edisto Beach, Hampton County, Hollywood, Meggett, Town of Seabrook Island
COMCAST OF GEORGIA/SC INC.....	Aiken County, Burnetown, Hampton County, <b>North Augusta</b>
COMCAST OF THE SOUTH.....	Calhoun Falls, Prosperity
ELK COMMUNICATIONS, LLC.....	Gaston, Lexington County, Swansea
FALCON VIDEO COMMUNICATIONS.....	Beaufort, Beaufort County
FARMERS TELEPHONE..... COOPERATIVE	Andrews, Clarendon County, Coward, Florence County, Georgetown County, Greeleyville, Lane, Lee County, Lynchburg, Mayesville, Paxville, Pinewood, Scranton, Sumter, Sumter County, Turbeville, Williamsburg County
FTC DIVERSIFIED SERVICES, INC.....	Bishopville, Clarendon County, Florence County, Georgetown County, Kingstree, Lake City, Lee County, Manning, Olanta, Summerton, Sumter, Sumter County, Williamsburg County
GREAT FALLS CABLEVISION, INC..... d/b/a TRUVISTA	Town of Great Falls
HARGRAY CATV CO., INC.....	Bluffton, Estill, Hampton, Hardeeville, Hilton Head Island, Jasper County
HOME TELECOM.....	Charleston, Goose Creek, North Charleston
HORRY TELEPHONE COOPERATIVE.....	Conway, Surfside Beach
HPI ACQUISITION CO., LLC.....	Anderson, Anderson County, Due West
MANAGED SERVICES INC.....	Berkeley County, Horry County, Jasper County, Richland County
METROCAST COMMUNICATIONS..... OF MISSISSIPPI, LLC	Marlboro County, McColl
NORTHLAND CABLE TELEVISION.....	Laurens County, Pendleton, Pickens County, Seneca, West Union
PALMETTO CABLE TV, LLC.....	Fort Mill, Lancaster County

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**State-Issued Certificates of Franchise Authority *continued...***

PALMETTO RURAL TELEPHONE..... COOPERATIVE, INC.	Bamberg County, Colleton County, Cottageville, Lodge, Smoaks, Walterboro, Williams
PASSPORT COMMUNICATIONS.....	Fort Mill
PINE TREE CABLEVISION.....	Aiken County, Bamberg County, Barnwell County, Bethune, Cottageville, Gaston, Jefferson, Kershaw County, Lamar, McBee, Orangeburg County, Perry, Salley, Wagener
PBT COMMUNICATIONS.....	Gilbert, Lexington, Lexington County, Pelion, Summit, Wagener
RST COMMUNICATIONS, INC.....	Gaffney
TECHCORE CONSULTANTS II.....	Bowman, Dorchester County, Earhardt, Eutawville, Holly Hill, Orangeburg County
<b>TELECOMMUNICATIONS MANAGEMENT LLC, DBA NEWWAVE COMMUNICATIONS</b>	<b>Pageland</b>
TIME WARNER CABLE, LLC.....	Andrews, Charleston County, Georgetown County, Summerville
TIME WARNER ENTERTAINMENT..... ADVANCE/NEWHOUSE PRTSHP	Cayce, Columbia, Conway, Florence County, Forest Acres, Georgetown County, Hemingway, Lane, Lee County, Lexington, Lexington County, Myrtle Beach, Myrtle Beach Air Force Base, Orangeburg, Orangeburg County, Pamplico, Quinby, Richland County, Springdale, Surfside Beach, Sumter, Sumter County, West Columbia
TIME WARNER ENTERTAINMENT ADVANCE/NEWHOUSE PTRSHP..... -CHARLOTTE DIVISION	Clover, Fort Mill, York County
TIME WARNER NY CABLE, LLC.....	Bluffton, Darlington County, Dillon County, , Georgetown County, Goose Creek, Hardeeville, Hilton Head, Jasper County, Lakeview, Marion County, McBee, Moncks Corner, Nichols
VIDEO VISION, INC.....	Fort Lawn, Heath Springs, Kershaw, Lancaster County
YRT2, INC.....	Berkeley County, Columbia, Dorchester County, Greenville, Greenville County, Horry County, Myrtle Beach, Summerville

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**SOUTH CAROLINA  
LEGISLATIVE UPDATE**



The first session of the General Assembly convened on January 11, 2011. Following is a list of bills of interest that have been introduced:

**Senate Bill 11 – Taxpayer Fairness Act**

The S.C. Department of Revenue must interpret tax statutes on the plain meaning of text and legislative intent. Statutory terms may not be given a broader meaning in policy documents or department regulations beyond the meaning of the statute and ambiguity must be resolved in favor of the taxpayer. Senate Finance Committee.

**Senate Bill 43 – Misrepresentation of Geographic Location**

It would be an unlawful trade practice to publish in a telephone assistance database or a print advertisement an intentionally misleading representation of the geographical location of a business. Senate Judiciary Committee.

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## **Legislative Update (continued)**

### **Senate Bill 50 – Lobbyists**

Former public officials or public employees would be prohibited from serving as a lobbyist or representing clients before the agency or department on which he/she formerly served or was employed for at least one year. Senate Judiciary Committee.

### **Senate Bill 82, 259 / House Bill 3175 – Lobbyists**

This bill prohibits a state agency, instrumentality or department from using public funds to employ a lobbyist. Senate Judiciary Committee.

### **Senate Bill 99 – Fair Tax Resolution**

Establishes a Fair Tax Study Commission to study the implementation of the Fair Tax in South Carolina. Senate Finance Committee.

### **Senate Bill 118 – South Carolina Economic Recovery Act**

This bill temporarily provides “bonus” state income tax expensing deductions for new depreciable business property, by excluding for S.C. taxable income net capital gains attributable to the sale or exchange of depreciable business property receiving that bonus deduction, and provides a tax credit for employers hiring a new full-time employee who was formerly unemployed. Senate Finance Committee.

### **Senate Bill 120/ House Bill 3411 – Department of the State Chief Information Officer**

Establishes the Department whose head is appointed by the Governor with the advice and consent of the Senate. The Department would provide leadership and direction for the use of information technology within S.C. Government. Senate Judiciary Subcommittee.

### **Senate Bill 124 – South Carolina Business Debt Recovery Act of 2011**

Establishes the right for those who have recovered a judgment in a court against another person for a commercial debt to garnish income, wages, bonuses and commissions of the debtor and establishes procedures to apply for a writ of garnishment. Senate Judiciary Committee.

### **Senate Bill 125 – Magistrate Court**

Increases the magistrate court’s civil jurisdiction from \$7500 to \$10,000. Except for landlord and tenant cases, any case over \$5000 must be ordered for mandatory mediation. Senate Judiciary Committee.

### **Senate Bill 128 – Boards and Commissions Election Reform Act**

This bill defines “campaign contribution report” and requires candidates for election by the General Assembly to file a campaign contribution report. Senate Judiciary Committee.

### **Senate Bill 134, 238 / House Bill 3066 – S.C. Restructuring Act**

Creates the Department of Administration controlled by the Executive Branch. Numerous offices, divisions and components of the Budget & Control Board, the Governor and other agencies would be transferred to the newly created Department. Senate Judiciary subcommittee.

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## **Legislative Update (continued)**

### **Senate Bill 142 – South Carolina Business Tax Elimination Act**

Allows the owner of a pass-through business eligible for the 5% tax rate on active trade or business income to defer taxes otherwise due on retained active trade or business income until the retained income is distributed. Senate Finance Committee.

### **Senate Bill 155 – Corporate Income Tax & Tax Credits**

Phases out the corporate income tax over ten years and repeals certain tax credits after 2020. Senate Finance Committee.

### **Senate Bill 225 / House Bills 3115 & 3160 – Text Messages**

Makes it illegal for drivers to use a wireless device to send or read text messages. Senate Judiciary Subcommittee.

### **Senate Bill 274 – South Carolina Fair Tax Act**

The S.C. Fair Tax Act would tax all non-federal government consumption of goods and services without exception. The purpose is to prevent double, multiple or cascading taxation and to simplify the tax law. Senate Finance Committee.

### **Senate Bill 289 – PACs**

Prohibits statewide officials, members of the General Assembly, and directors of state departments appointed by the Government from establishing political action committees. Senate Judiciary Committee.

### **Senate Bill 296 / House Bill 3130 – Sexting**

Creates the offense of “sexting” and provides for a civil fine, establishes an educational program for offenders, and provides for restriction of a minor’s driving privileges under certain circumstances. Senate Judiciary Committee.

### **Senate Bill 483 / House Bill 3508 – Government-Owned Broadband**

See article on front page.

### **House Bill 3011 – Freedom of Choice in Health Care Act**

Individuals must not be required to obtain or maintain an individual health care policy. House Labor, Commerce & Industry Committee

### **House Bill 3058 – Business License Tax**

Business license tax amount must be based on size of business in terms of number of employees and not on its gross income. House Ways & Means Committee.

### **House Bill 3119 – Text Messaging**

Illegal to drive motor vehicle or school bus while texting or using a hand held mobile telephone. House

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## Legislative Update (continued)

Education & Public Works Committee.

### House Bill 3142 – Safe Schools Climate Act

Adds penalty for violations of the Safe Schools Climate Act regarding harassment, intimidation or bullying. House Education & Public Works Committee.

### House Bill 3183 – Lobbyist Registration

Enables State Ethics Commission to enforce filing requirements and assess penalties. Requires lobbyists and principals to pay all outstanding penalties before resuming lobbying activities. House Judiciary Committee.

### House Bill 3213 – Computer Crime

Illegal to access a computer or computer network without authorization for purpose of obtaining and releasing state or federal classified or confidential information to the public. House Judiciary Committee.

### House Bill 3316 – Caller ID Fraud

Creates offense of unlawfully altering the identification of a caller's number or caller identification spoofing. House Judiciary Committee.

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## FCC BRIEFS

The following documents can be downloaded from the FCC's website at <http://www.fcc.gov>

On January 11, 2011, the FCC released the 3<sup>rd</sup> *Local Telephone Competition* report that includes information about VoIP service as well as more traditional telephone lines.

On January 7, 2011, the FCC released its first in a series of reports by the Office of Engineering & Technology Laboratory that looked at trends in cutting edge wireless devices.

On January 6, 2011, the FCC released a report on the state of broadband connectivity at schools and libraries receiving funds from the E-Rate program. Nearly 80% indicated faster speeds were needed.

On January 5, 2011, the FCC announced the Open Internet Challenge. Challenge.gov website outlines how entrepreneurs, innovators and citizen solvers can compete for prizes by providing novel solutions to problems. Submission deadline is June 1, 2011.

On January 3, 2011, the FCC released its latest report on telephone number utilization based on December 2009 data. Since wireless number portability began in 2003, over 85 million numbers moved to new wireline carriers.

On December 30, 2010, Federal-State Joint Board on Universal Service released its most recent monitoring report reflecting 2009 data and 2010 projections.

On December 21, 2010, issued its order in the Preserving the Open Internet Broadband Industry Practices docket. All broadband providers must publicly disclose network management practices, restrict providers from blocking Internet content and applications, and bar fixed broadband providers from engaging in unreasonable discrimination.

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## FCC BRIEFS (continued from page 12)

On December 21, 2010, the FCC adopted a notice of inquiry on how Next Generation 911 can enable the public to obtain emergency assistance by means of advanced communications technologies.

On December 8, 2010, the FCC released its latest report on Internet Access Services: Status as of December 31, 2009.

On December 7, 2010, the FCC issued *Broadband Satisfaction: What Consumers Report About Their Broadband Internet Provider* and *Broadband Decisions: What Drives Consumers to Switch-or Stick with-Their Broadband Internet Provider*. These papers summarize April 2010 survey results.

On November 30, 2010, the FCC launched two proceedings to help promote investment and create jobs in developing innovative spectrum-efficient technologies and services to help meet the growing demand for wireless broadband services. The first seeks to expand the FCC's existing Experimental Radio Service rules and the second seeks to promote wireless innovation to provide more intensive and efficient use of spectrum.

On November 30, 2010, the FCC proposed initial steps in its Notice of Proposed Rulemaking to open TV spectrum to new wireless broadband services.

On October 29, 2010, the FCC released new FCC Staff Working Papers entitled *Transformative Choices: A Review of 70 Years of FCC Decision* and

*Maximum Impact for Minimum Subsidy: Reverse Auctions for Universal Access in Chile and India.*

On October 28, 2010, the FCC's Enforcement Bureau announced a consent decree in the mystery fee Verizon Wireless case with a record \$25 million payment and \$52.8 million refund to customers.

On October 14, 2010, the FCC issued a NPR that proposes creating a new Mobility Fund using a portion of USF funding relinquished by Verizon Wireless and Sprint. The fund would provide one-time support to accelerate ongoing efforts to close gaps in mobile wireless service.

On October 14, 2010, the FCC issued a 3<sup>rd</sup> Report and Order to promote innovation and consumer choice in the video device marketplace. The adopted rules promote the statutory goal of creating a competitive retail market for devices that can access cable video services.

On October 14, 2010, the FCC proposed new rules that would require mobile service providers to provide usage alerts and related information to help consumers to avoid unexpected charges on their bills.

On October 13, 2010, the FCC released a white paper on complaints received on wireless "bill shock." 764 people complained about wireless bill shock in the first half of 2010. 67% about amounts of \$100 or more. 20% had complaints of \$1000 or more. The largest complaint received was for \$68,505.