



CALIFORNIA PUBLIC UTILITIES COMMISSION

Communications Division

Executive Summary & Table of Contents Only

Video Franchising and Broadband Deployment:
The Digital Infrastructure and Video Competition Act of 2006
(DIVCA)

“To promote competition, the state should establish a state-issued franchise authorization process that allows market participants to use their networks and systems to provide video, voice, and broadband services to all residents of the state. . .”

DIVCA § 5810

First Annual Report to the Governor and the Legislature

Submitted March 12, 2009



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Executive Summary

This is the first annual Report under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA).¹ It is submitted on behalf of the California Public Utilities Commission (CPUC) to the Legislature and Governor. As indicated by the Act's title, the purpose of DIVCA is twofold:

- 1) Promote widespread competition in the video and broadband markets.
- 2) Accelerate the deployment of video and advanced broadband infrastructure and services within California, especially in unserved and underserved areas.

DIVCA fundamentally changed video franchising within California by transferring the authority for issuing video franchises from municipalities and counties to the State. The Legislature named the CPUC as the sole franchising authority for issuing state video franchises as of January 1, 2007.

During 2008, the CPUC began executing all of the tasks delegated to it in order to reach the goals described in the DIVCA legislation. The complete list of tasks and goals are included in Appendix A of this Report.

The data used in this Report were submitted by state-issued video franchise holders, on or before April 1, 2008, as required by DIVCA. The data indicate how many households were offered broadband and video services, by census tract, as well as the number of households that subscribed to those services. CPUC staff aggregated and analyzed the submitted data to determine the extent of broadband and video availability by state franchise holders and their affiliates throughout the state.

DIVCA's reporting requirements were designed to enable the CPUC to track the success of the Legislature's goals over time. To that end, this report aggregates and analyzes data reported to the CPUC by the 28 service providers that were granted state video franchises through March 31, 2008. Approximately 50% of the incumbent cable operators made the transition to state-issued franchises by March 31, 2008, while the remaining cable operators continue to operate under local franchises. Video and broadband services offered in the State by entities which have not been granted state video franchises are not included in this Report. While this first annual Report largely serves as a baseline from which to measure progress, it illustrates the following key points:

- Incumbent cable operators offer video programming to 96% of the households in their state & locally-issued franchise territories.
- Incumbent Local Exchange Carriers (ILECs) AT&T and Verizon have already invested billions in recent years upgrading their network infrastructure in California to provide video, broadband and wireless services.² However, as DIVCA authorized the CPUC to begin issuing state video

¹ A.B. 2987, 2005-2006 Session, (Ca. 2006); Cal. Pub. Util. Code, Division 2.5, The Digital Infrastructure and Video Competition Act of 2006. ("DIVCA").

² On March 31, 2008, AT&T issued a press release stating that "by the end of 2008, the company will have invested more than \$1 Billion as part of the first phase of its network upgrade, adding more fiber-optics to bring advanced services to California.... Currently, customers in parts of more than 140 cities and counties across California have access to AT&T U-verse services." On February 2, 2009, Verizon issued a press release stating "The company's ongoing network investment now totals more than \$5.2 billion in California since 2000."

franchises in 2007, ILEC progress toward DIVCA's build-out requirements for the delivery of video programming is still in an early stage.

Consequently, by year end, ILECs offered video programming to 6% of the households in their telephone service areas.³ We anticipate the 2008 data will show an increase in the number of households receiving video service from AT&T and Verizon. We look forward to receiving their 2008 data in April 2009.

- Availability of broadband Internet access services in the state is estimated to be more widespread than video programming, with substantial portions of the state subject to broadband competition among ILECs, incumbent cable operators and others.
- Using data provided by state-issued video franchise holders, CPUC staff estimates that 99.3% of California's 12.5 million households are located in census tracts where at least one video franchise holder offers wireline broadband service.⁴ This finding is based on the census tract method of reporting availability data, as defined in DIVCA.⁵
- The Governor's Broadband Task Force Report,⁶ which was published in January 2008, concluded that 96% of California households were offered broadband service by at least one provider. Because the Task Force was able to gather broadband deployment data at the street address level, it was able to calculate the number of households served by broadband with greater accuracy than this Report. In contrast, DIVCA requires franchise holders to report data on a census tract basis and provide subscriber data in addition to availability data. The limitations of the data submitted under DIVCA are described in the section of this Report titled "Census Tract Data Limitations" on page 7.

Because of these differences, the broadband availability findings in the Governor's Broadband Task Force Report are more accurate in terms of specific location than this DIVCA Report's findings about broadband availability. However, because DIVCA requires the provision of data not collected by the Task Force, this Report contains information that is not included in the Task Force Report. Examples include findings about wireless and wireline broadband subscribers, as well as video availability and video subscribers.

- 55% of the state's households currently subscribe to wireline broadband from holders of state-issued video franchises. This 55% figure does not include customers of cable operators that are not affiliated with a state franchisee or the state's small local exchange carriers, who provide DSL service but are not state video franchisees at this time, or other independent satellite, wireless or broadband providers.

³ These are aggregated numbers based on the most current data provided by AT&T and Verizon, as of 12/31/07. They will provide updated data through 12/31/08 in April 2009.

⁴ This DIVCA Report only analyzes the services offered by state video franchisees and their affiliates. This Report does not include the services offered by unaffiliated Internet service providers, or unaffiliated cable, satellite or wireless service providers, as DIVCA does not compel them to provide data to the state.

⁵ The limitations associated with the census tract basis of reporting data are described on page 7 of this Report.

⁶ Created by Executive Order S-23-06, the Task Force was charged with identifying opportunities for and challenges to broadband deployment and adoption. In January, 2008, the Task Force released a report that included maps of broadband availability by speed and recommendations to achieve ubiquitous access throughout California. The full report is available at http://www.calink.ca.gov/pdf/CBTF_FINAL_Report.pdf.

- The level of broadband subscribership varies significantly from county to county. The highest penetration levels occur in urban areas and tend to drop as counties become less densely populated and more rural in nature. Six counties have broadband penetration rates over 70%⁷ and ten have penetration rates of below 10%⁸. These county by county penetration rates are described in more detail on pages 21-25 of this Report.
- 33% of the state's 7,115 census tracts are served by two or more state-issued video franchisees. However, limitations caused by the census tract method of reporting and analyzing data make it impossible for us to determine, in areas with multiple providers serving the same census tracts, if they are in fact competing with each other for the same customers. For details about these census tract data limitations, see page 7 of this Report.
- Eighty or 1.1% of the total 7,115 census tracts in the state are not offered wireline broadband by any holders of state-issued video franchises. These unserved 80 census tracts contain only 81,973 households. Of those, 42,550 or 51.9% are low income households.⁹ These 42,550 low income households that do not have broadband service available, make up less than 1% of the total low income households in the state.
- Guarding against discrimination by applying deployment metrics specified in DIVCA is one of the Act's goals. All of these franchises were granted in 2008 and none of the discrimination metrics apply until two years after franchises have been granted. Therefore we do not have any specific conclusions or recommendations about discrimination at this time. However, we have begun to analyze video and broadband penetration data in lower income and higher income census tracts. Those analyses are contained in the sections analyzing the broadband and video digital divide beginning on pages 14 and 31.

⁷ Contra Costa (80%), Santa Clara (77%), San Mateo (76%), Marin (76%), Solano (75%), Alameda (71%).

⁸ Humboldt (20%), Amador (20%), Lake (18%), Mono (18%), Plumas (17%), Inyo (17%), Sierra (9%), Mariposa (4%), Colusa (3%), Lassen (0%), Modoc (0%), Trinity (0%).

⁹ Low income households are defined as those earning less than \$35,000 in household income per year. See Cal. Pub. Util. Code §5890 (j)(4).