

88.23 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. OXLEY:

Page 9, beginning on line 1, strike all of section 3 through line 18 on page 28 and insert the following:

SEC. 3. RATE REGULATION.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

REGULATION OF RATES

SEC. 623. (a) COMPETITION PREFERENCE; STATE COMMISSION REGULATION.—

(1) IN GENERAL.—No Federal agency or franchising authority may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any State commission (as such term is defined in section 3(t) of this Act) may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State commission under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of cable service by such system shall be subject to regulation by a State commission pursuant to a law of such State.

(b) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

(1) prohibiting discrimination among subscribers or potential subscribers with regard to the services offered or the rates charged for such services, or

(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

(c) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

(d) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

(2) cable systems that the Commission has found are not subject to such effective competition.

(e) DEFINITION.—As used in this section, the term 'effective competition' means that—

(1) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

(2) the franchise area is—

(A) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

(B) the number of households subscribing to programming services offered by multi-

channel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

(3) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area."

It was decided in the } Yeas ..... 83
negative ..... } Nays ..... 327

88.24 [Roll No. 308]
AYES—83

- Allan Fawell
Anderson Fields
Archer Franks (CT)
Armedy Gallegly
Baker Gallo
Barnard Gillmor
Barrett Green
Barton Gunderson
Bentley Hastert
Bibley Hergert
Boehner Hobson
Broomfield Horton
Burton Houghton
Campbell (CA) Hunter
Chandler Inhofe
Clinger Johnson (CT)
Coble Klug
Cox (CA) Kolbe
Crane Kyl
Dannemeyer Lagomarsino
DeLay Lent
Dickinson Lewis (CA)
Doolittle Lowery (CA)
Dornan (CA) Martin
Dreier McCandless
Duncan McCrery
Emerson McEwen
Ewing McMillan (NC)

NOES—327

- Abercrombie Costello
Ackerman Cox (IL)
Alexander Coyne
Allard Cramer
Andrews (ME) Cunningham
Andrews (NJ) Darden
Andrews (TX) Davis
Annunzio de la Garza
Anthony DeFazio
Applegate DeLauro
Aspin Dellums
Atkins Derrick
AuCoin Dicks
Bacchus Dingell
Ballenger Dixon
Bateman Donnelly
Beilenson Dooley
Bennett Dorgan (ND)
Bereuter Downey
Bevill Durbin
Bilbray Dwyer
Bilirakis Early
Blackwell Eckart
Boehlert Edwards (CA)
Bonior Edwards (OK)
Borski Edwards (TX)
Boucher Engel
Boxer English
Brewster Erdreich
Brooks Espy
Browder Evans
Brown Fascell
Bruce Fazio
Bryant Fish
Bunning Flake
Bustamante Foglietta
Byron Ford (MI)
Callahan Ford (TN)
Camp Frank (MA)
Campbell (CO) Frost
Cardin Gaydos
Carper Gejdenson
Carr Gekas
Chapman Gephardt
Clay Geren
Clement Gibbons
Coleman (MO) Gilchrist
Coleman (TX) Gilman
Collins (IL) Gingrich
Collins (MI) Glickman
Combest Gonzalez
Condit Goodling
Cooper Gordon

- Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta

- Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Ridge
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs

NOT VOTING—24

- Berman
Conyers
Coughlin
Dymally
Feighan
Hansen
Hatcher
Hyde
Ireland
Kolter
Laughlin
Lehman (FL)
Levine (CA)
McDade
Olin
Peterson (FL)
Ray
Tallon
Thomas (GA)
Thomas (WY)
Washington
Weber
Wilson
Yates

So the amendment was not agreed to. After some further time,

88.25 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendments en bloc submitted by Mr. DINGELL:

Page 17, after line 12, insert the following new subparagraph (and redesignate the succeeding subparagraph accordingly):

(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

Page 26, strike out lines 14 through 22, and insert the following:

(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising au-