

SB1564



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1564

Introduced 2/26/2021, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

220 ILCS 5/21-201
220 ILCS 5/21-1101

Amends the Public Utilities Act. Provides that the holder of a State-issued authorization shall not impose data caps on broadband service provided to households. Provides that "data caps" means a limit on the amount of bits or the speed at which a user of broadband service may upload or download bits during a period of time.

LRB102 16513 SPS 21907 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 21-201 and 21-1101 as follows:

6 (220 ILCS 5/21-201)

7 (Section scheduled to be repealed on December 31, 2021)

8 Sec. 21-201. Definitions. As used in this Article:

9 (a) "Access" means that the cable or video provider is
10 capable of providing cable services or video services at the
11 household address using any technology, other than
12 direct-to-home satellite service, that provides 2-way
13 broadband Internet capability and video programming, content,
14 and functionality, regardless of whether any customer has
15 ordered service or whether the owner or landlord or other
16 responsible person has granted access to the household. If
17 more than one technology is used, the technologies shall
18 provide similar 2-way broadband Internet accessibility and
19 similar video programming.

20 (b) "Basic cable or video service" means any cable or
21 video service offering or tier that includes the
22 retransmission of local television broadcast signals.

23 (c) "Broadband service" means a high speed service

1 connection to the public Internet capable of supporting, in at
2 least one direction, a speed in excess of 200 kilobits per
3 second (kbps) to the network demarcation point at the
4 subscriber's premises.

5 (d) "Cable operator" means that term as defined in item
6 (5) of 47 U.S.C. 522.

7 (e) "Cable service" means that term as defined in item (6)
8 of 47 U.S.C. 522.

9 (f) "Cable system" means that term as defined in item (7)
10 of 47 U.S.C. 522.

11 (g) "Commission" means the Illinois Commerce Commission.

12 (h) "Competitive cable service or video service provider"
13 means a person or entity that is providing or seeks to provide
14 cable service or video service in an area where there is at
15 least one incumbent cable operator.

16 (h-5) "Data caps" means a limit on the amount of bits or
17 the speed at which a user of broadband service may upload or
18 download bits during a period of time.

19 (i) "Designated market area" means a designated market
20 area, as determined by Nielsen Media Research and published in
21 the 1999-2000 Nielsen Station Index Directory and Nielsen
22 Station Index United States Television Household Estimates or
23 any successor publication. For any designated market area that
24 crosses State lines, only households in the portion of the
25 designated market area that is located within the holder's
26 telecommunications service area in the State where access to

1 video service will be offered shall be considered.

2 (j) "Footprint" means the geographic area designated by
3 the cable service or video service provider as the geographic
4 area in which it will offer cable services or video services
5 during the period of its State-issued authorization. Each
6 footprint shall be identified in terms of either (i)
7 exchanges, as that term is defined in Section 13-206 of this
8 Act; (ii) a collection of United States Census Bureau Block
9 numbers (13 digit); (iii) if the area is smaller than the areas
10 identified in either (i) or (ii), by geographic information
11 system digital boundaries meeting or exceeding national map
12 accuracy standards; or (iv) local units of government.

13 (k) "Holder" means a person or entity that has received
14 authorization to offer or provide cable or video service from
15 the Commission pursuant to Section 21-401 of this Article.

16 (l) "Household" means a house, an apartment, a mobile
17 home, a group of rooms, or a single room that is intended for
18 occupancy as separate living quarters. Separate living
19 quarters are those in which the occupants live and eat
20 separately from any other persons in the building and that
21 have direct access from the outside of the building or through
22 a common hall. This definition is consistent with the United
23 States Census Bureau, as that definition may be amended
24 thereafter.

25 (m) "Incumbent cable operator" means a person or entity
26 that provided cable services or video services in a particular

1 area under a franchise agreement with a local unit of
2 government pursuant to Section 11-42-11 of the Illinois
3 Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the
4 Counties Code (55 ILCS 5/5-1095) on January 1, 2007.

5 (n) "Local franchising authority" means the local unit of
6 government that has or requires a franchise with a cable
7 operator, a provider of cable services, or a provider of video
8 services to construct or operate a cable or video system or to
9 offer cable services or video services under Section 11-42-11
10 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section
11 5-1095 of the Counties Code (55 ILCS 5/5-1095).

12 (o) "Local unit of government" means a city, village,
13 incorporated town, or county.

14 (p) "Low-income household" means those residential
15 households located within the holder's existing telephone
16 service area where the average annual household income is less
17 than \$35,000, based on the United States Census Bureau
18 estimates adjusted annually to reflect rates of change and
19 distribution.

20 (q) "Public rights-of-way" means the areas on, below, or
21 above a public roadway, highway, street, public sidewalk,
22 alley, waterway, or utility easements dedicated for compatible
23 uses.

24 (r) "Service" means the provision of cable service or
25 video service to subscribers and the interaction of
26 subscribers with the person or entity that has received

1 authorization to offer or provide cable or video service from
2 the Commission pursuant to Section 21-401 of this Act.

3 (s) "Service provider fee" means the amount paid under
4 Section 21-801 of this Act by the holder to a municipality, or
5 in the case of an unincorporated service area to a county, for
6 service areas within its territorial jurisdiction, but under
7 no circumstances shall the service provider fee be paid to
8 more than one local unit of government for the same portion of
9 the holder's service area.

10 (t) "Telecommunications service area" means the area
11 designated by the Commission as the area in which a
12 telecommunications company was obligated to provide
13 non-competitive local telephone service as of February 8, 1996
14 as incorporated into Section 13-202.5 of this Act.

15 (u) "Video programming" means that term as defined in item
16 (20) of 47 U.S.C. 522.

17 (v) "Video service" means video programming and subscriber
18 interaction, if any, that is required for the selection or use
19 of such video programming services, and that is provided
20 through wireline facilities located at least in part in the
21 public rights-of-way without regard to delivery technology,
22 including Internet protocol technology. This definition does
23 not include any video programming provided by a commercial
24 mobile service provider defined in subsection (d) of 47 U.S.C.
25 332 or any video programming provided solely as part of, and
26 via, service that enables users to access content,

1 information, electronic mail, or other services offered over
2 the public Internet.

3 (Source: P.A. 100-20, eff. 7-1-17.)

4 (220 ILCS 5/21-1101)

5 (Section scheduled to be repealed on December 31, 2021)

6 Sec. 21-1101. Requirements to provide video services.

7 (a) The holder of a State-issued authorization shall not
8 deny access to cable service or video service to any potential
9 residential subscribers because of the race or income of the
10 residents in the local area in which the potential subscribers
11 reside.

12 (b) (Blank).

13 (c) (1) If the holder of a State-issued authorization is
14 using telecommunications facilities to provide cable or video
15 service and has more than 1,000,000 telecommunications access
16 lines in this State, the holder shall provide access to its
17 cable or video service to a number of households equal to at
18 least 35% of the households in the holder's telecommunications
19 service area in the State within 3 years after the date a
20 holder receives a State-issued authorization from the
21 Commission and to a number not less than 50% of these
22 households within 5 years after the date a holder receives a
23 State-issued authorization from the Commission; provided that
24 the holder of a State-issued authorization is not required to
25 meet the 50% requirement in this paragraph (1) until 2 years

1 after at least 15% of the households with access to the
2 holder's video service subscribe to the service for 6
3 consecutive months.

4 The holder's obligation to provide such access in the
5 State shall be distributed, as the holder determines, within 3
6 designated market areas, one in each of the northeastern,
7 central, and southwestern portions of the holder's
8 telecommunications service area in the State. The designated
9 market area for the northeastern portion shall consist of 2
10 separate and distinct reporting areas: (i) a city with more
11 than 1,000,000 inhabitants, and (ii) all other local units of
12 government on a combined basis within such designated market
13 area in which it offers video service.

14 If any state, in which a holder subject to this subsection
15 (c) or one of its affiliates provides or seeks to provide cable
16 or video service, adopts a law permitting state-issued
17 authorization or statewide franchises to provide cable or
18 video service that requires a cable or video provider to offer
19 service to more than 35% of the households in the cable or
20 video provider's service area in that state within 3 years,
21 holders subject to this subsection (c) shall provide service
22 in this State to the same percentage of households within 3
23 years of adoption of such law in that state.

24 Furthermore, if any state, in which a holder subject to
25 this subsection (c) or one of its affiliates provides or seeks
26 to provide cable or video service, adopts a law requiring a

1 holder of a state-issued authorization or statewide franchises
2 to offer cable or video service to more than 35% of its
3 households if less than 15% of the households with access to
4 the holder's video service subscribe to the service for 6
5 consecutive months, then as a precondition to further
6 build-out, holders subject to this subsection (c) shall be
7 subject to the same percentage of service subscription in
8 meeting its obligation to provide service to 50% of the
9 households in this State.

10 (2) Within 3 years after the date a holder receives a
11 State-issued authorization from the Commission, at least 30%
12 of the total households with access to the holder's cable or
13 video service shall be low-income.

14 Within each designated market area listed in paragraph (1)
15 of this subsection (c), the holder's obligation to offer
16 service to low-income households shall be measured by each
17 exchange, as that term is defined in Section 13-206 of this Act
18 in which the holder chooses to provide cable or video service.
19 The holder is under no obligation to serve or provide access to
20 an entire exchange; however, in addition to the statewide
21 obligation to provide low-income access provided by this
22 Section, in each exchange in which the holder chooses to
23 provide cable or video service, the holder shall provide
24 access to a percentage of low-income households that is at
25 least equal to the percentage of the total low-income
26 households within that exchange.

1 (d) (1) All other holders shall only provide access to one
2 or more exchanges, as that term is defined in Section 13-206 of
3 this Act, or to local units of government and shall provide
4 access to their cable or video service to a number of
5 households equal to 35% of the households in the exchange or
6 local unit of government within 3 years after the date a holder
7 receives a State-issued authorization from the Commission and
8 to a number not less than 50% of these households within 5
9 years after the date a holder receives a State-issued
10 authorization from the Commission, provided that if the holder
11 is an incumbent cable operator or any successor-in-interest
12 company, it shall be obligated to provide access to cable or
13 video services within the jurisdiction of a local unit of
14 government at the same levels required by the local
15 franchising authorities for that local unit of government on
16 June 30, 2007 (the effective date of Public Act 95-9).

17 (2) Within 3 years after the date a holder receives a
18 State-issued authorization from the Commission, at least 30%
19 of the total households with access to the holder's cable or
20 video service shall be low-income.

21 Within each designated exchange, as that term is defined
22 in Section 13-206 of this Act, or local unit of government
23 listed in paragraph (1) of this subsection (d), the holder's
24 obligation to offer service to low-income households shall be
25 measured by each exchange or local unit of government in which
26 the holder chooses to provide cable or video service. Except

1 as provided in paragraph (1) of this subsection (d), the
2 holder is under no obligation to serve or provide access to an
3 entire exchange or local unit of government; however, in
4 addition to the statewide obligation to provide low-income
5 access provided by this Section, in each exchange or local
6 unit of government in which the holder chooses to provide
7 cable or video service, the holder shall provide access to a
8 percentage of low-income households that is at least equal to
9 the percentage of the total low-income households within that
10 exchange or local unit of government.

11 (e) A holder subject to subsection (c) of this Section
12 shall provide wireline broadband service, defined as wireline
13 service, capable of supporting, in at least one direction, a
14 speed in excess of 200 kilobits per second (kbps), to the
15 network demarcation point at the subscriber's premises, to a
16 number of households equal to 90% of the households in the
17 holder's telecommunications service area by December 31, 2008,
18 or shall pay within 30 days of December 31, 2008 a sum of
19 \$15,000,000 to the Digital Divide Elimination Infrastructure
20 Fund established pursuant to Section 13-301.3 of this Act, or
21 any successor fund established by the General Assembly. In
22 that event the holder is required to make a payment pursuant to
23 this subsection (e), the holder shall have no further
24 accounting for this payment, which shall be used in any part of
25 the State for the purposes established in the Digital Divide
26 Elimination Infrastructure Fund or for broadband deployment.

1 (f) The holder of a State-issued authorization may satisfy
2 the requirements of subsections (c) and (d) of this Section
3 through the use of any technology, which shall not include
4 direct-to-home satellite service, that offers service,
5 functionality, and content that is demonstrably similar to
6 that provided through the holder's video service system.

7 (g) In any investigation into or complaint alleging that
8 the holder of a State-issued authorization has failed to meet
9 the requirements of this Section, the following factors may be
10 considered in justification or mitigation or as justification
11 for an extension of time to meet the requirements of
12 subsections (c) and (d) of this Section:

13 (1) The inability to obtain access to public and
14 private rights-of-way under reasonable terms and
15 conditions.

16 (2) Barriers to competition arising from existing
17 exclusive service arrangements in developments or
18 buildings.

19 (3) The inability to access developments or buildings
20 using reasonable technical solutions under commercially
21 reasonable terms and conditions.

22 (4) Natural disasters.

23 (5) Other factors beyond the control of the holder.

24 (h) If the holder relies on the factors identified in
25 subsection (g) of this Section in response to an investigation
26 or complaint, the holder shall demonstrate the following:

1 (1) what substantial effort the holder of a
2 State-issued authorization has taken to meet the
3 requirements of subsection (a) or (c) of this Section;

4 (2) which portions of subsection (g) of this Section
5 apply; and

6 (3) the number of days it has been delayed or the
7 requirements it cannot perform as a consequence of
8 subsection (g) of this Section.

9 (i) The factors in subsection (g) of this Section may be
10 considered by the Attorney General or by a court of competent
11 jurisdiction in determining whether the holder is in violation
12 of this Article.

13 (j) Every holder of a State-issued authorization, no later
14 than April 1, 2009, and annually no later than April 1
15 thereafter, shall report to the Commission for each of the
16 service areas as described in subsections (c) and (d) of this
17 Section in which it provides access to its video service in the
18 State, the following information:

19 (1) Cable service and video service information:

20 (A) The number of households in the holder's
21 telecommunications service area within each designated
22 market area as described in subsection (c) of this
23 Section or exchange or local unit of government as
24 described in subsection (d) of this Section in which
25 it offers video service.

26 (B) The number of households in the holder's

1 telecommunications service area within each designated
2 market area as described in subsection (c) of this
3 Section or exchange or local unit of government as
4 described in subsection (d) of this Section that are
5 offered access to video service by the holder.

6 (C) The number of households in the holder's
7 telecommunications service area in the State.

8 (D) The number of households in the holder's
9 telecommunications service area in the State that are
10 offered access to video service by the holder.

11 (2) Low-income household information:

12 (A) The number of low-income households in the
13 holder's telecommunications service area within each
14 designated market area as described in subsection (c)
15 of this Section, as further identified in terms of
16 exchanges, or exchange or local unit of government as
17 described in subsection (d) of this Section in which
18 it offers video service.

19 (B) The number of low-income households in the
20 holder's telecommunications service area within each
21 designated market area as described in subsection (c)
22 of this Section, as further identified in terms of
23 exchanges, or exchange or local unit of government as
24 described in subsection (d) of this Section in the
25 State that are offered access to video service by the
26 holder.

1 (C) The number of low-income households in the
2 holder's telecommunications service area in the State.

3 (D) The number of low-income households in the
4 holder's telecommunications service area in the State
5 that are offered access to video service by the
6 holder.

7 (j-5) The requirements of subsection (c) of this Section
8 shall be satisfied upon the filing of an annual report with the
9 Commission in compliance with subsection (j) of this Section,
10 including an annual report filed prior to this amendatory Act
11 of the 98th General Assembly, that demonstrates the holder of
12 the authorization has satisfied the requirements of subsection
13 (c) of this Section for each of the service areas in which it
14 provides access to its cable service or video service in the
15 State. Notwithstanding the continued application of this
16 Article to the holder, upon satisfaction of the requirements
17 of subsection (c) of this Section, only the requirements of
18 subsection (a) of this Section 21-1101 of this Act and the
19 following reporting requirements shall continue to apply to
20 such holder:

21 (1) Cable service and video service information:

22 (A) The number of households in the holder's
23 telecommunications service area within each designated
24 market area in which it offers cable service or video
25 service.

26 (B) The number of households in the holder's

1 telecommunications service area within each designated
2 market area that are offered access to cable service
3 or video service by the holder.

4 (C) The number of households in the holder's
5 telecommunications service area in the State.

6 (D) The number of households in the holder's
7 telecommunications service area in the State that are
8 offered access to cable service or video service by
9 the holder.

10 (E) The exchanges or local units of government in
11 which the holder added cable service or video service
12 in the prior year.

13 (2) Low-income household information:

14 (A) The number of low-income households in the
15 holder's telecommunications service area within each
16 designated market area in which it offers video
17 service.

18 (B) The number of low-income households in the
19 holder's telecommunications service area within each
20 designated market area that are offered access to
21 video service by the holder.

22 (C) The number of low-income households in the
23 holder's telecommunications service area in the State.

24 (D) The number of low-income households in the
25 holder's telecommunications service area in the State
26 that are offered access to video service by the

1 holder.

2 (j-10) The requirements of subsection (d) of this Section
3 shall be satisfied upon the filing of an annual report with the
4 Commission in compliance with subsection (j) of this Section,
5 including an annual report filed prior to this amendatory Act
6 of the 98th General Assembly, that demonstrates the holder of
7 the authorization has satisfied the requirements of subsection
8 (d) of this Section for each of the service areas in which it
9 provides access to its cable service or video service in the
10 State. Notwithstanding the continued application of this
11 Article to the holder, upon satisfaction of the requirements
12 of subsection (d) of this Section, only the requirements of
13 subsection (a) of this Section and the following reporting
14 requirements shall continue to apply to such holder:

15 (1) Cable service and video service information:

16 (A) The number of households in the holder's
17 footprint in which it offers cable service or video
18 service.

19 (B) The number of households in the holder's
20 footprint that are offered access to cable service or
21 video service by the holder.

22 (C) The exchanges or local units of government in
23 which the holder added cable service or video service
24 in the prior year.

25 (2) Low-income household information:

26 (A) The number of low-income households in the

1 holder's footprint in which it offers cable service or
2 video service.

3 (B) The number of low-income households in the
4 holder's footprint that are offered access to cable
5 service or video service by the holder.

6 (k) The Commission, within 30 days of receiving the first
7 report from holders under this Section, and annually no later
8 than July 1 thereafter, shall submit to the General Assembly a
9 report that includes, based on year-end data, the information
10 submitted by holders pursuant to subdivisions (1) and (2) of
11 subsections (j), (j-5), and (j-10) of this Section. The
12 Commission shall make this report available to any member of
13 the public or any local unit of government upon request. All
14 information submitted to the Commission and designated by
15 holders as confidential and proprietary shall be subject to
16 the disclosure provisions in subsection (c) of Section 21-401
17 of this Act. No individually identifiable customer information
18 shall be subject to public disclosure.

19 (l) The holder of a State-issued authorization shall not
20 impose data caps on broadband service provided to households.

21 (Source: P.A. 100-20, eff. 7-1-17.)