



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Governor of Guam
Hagåtña, Guam

DEC 31 2004

TIME 4:38 PM
RECEIVED: [Signature]

31 DEC 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Lihesiaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 149 (COR), "AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED, AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED. TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE," now designated as Public Law 27-131.

Sincerely,
Vicente C. Pangelinan

[Signature of Felix P. Camacho]

FELIX P. CAMACHO
Mina' Bente Siete Na Lihesiaturan Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Muna-Burnes
Senator and Legislative Secretary

1096

[Signature]

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2004 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

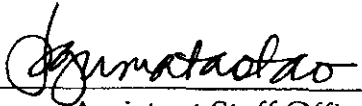
This is to certify that Substitute Bill No. 149 (COR), "AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED, AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE," was on the 20<sup>th</sup> day of December, 2004, duly and regularly passed.

Attested:


  
Tina Rose Muña Barnes  
Senator and Legislative Secretary

  
vicente (ben) c. pangelinan  
Speaker

-----  
This Act was received by *I Maga'lahen Guåhan* this 20 day of December, 2004,  
at 5:50 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
FELIX P. CAMACHO  
*I Maga'lahen Guåhan*

Date: December 30, 2004

Public Law No. 27-131

**I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session**

**Bill No. 149 (COR)**

As substituted by the Committee on  
Judiciary & Transportation, and amended  
on the Floor.

Introduced by:

J. A. Lujan  
T. R. Muña Barnes  
L. F. Kasperbauer  
F. B. Aguon, Jr.  
J. M.S. Brown  
F. R. Cunliffe  
Carmen Fernandez  
Mark Forbes  
R. Klitzkie  
L. A. Leon Guerrero  
v. c. pangelinan  
J. M. Quinata  
R. J. Respicio  
Toni Sanford  
Ray Tenorio

**AN ACT TO ADD SECTION 43.55 TO ARTICLE 1,  
CHAPTER 43, OF TITLE 9 OF THE GUAM CODE  
ANNOTATED, AND SECTION 32604 TO ARTICLE 6,  
CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM  
CODE ANNOTATED, TO PROVIDE CRIMINAL AND  
CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED  
USE OF CABLE SERVICE.**

1        **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2        Section 1. Legislative Statement. *I Liheslaturan Guåhan* finds that there  
3 has been a proliferation of theft of cable service in Guam, the effect of which  
4 results in increased operating costs and expenses of cable operators being

1 passed on to consumers. To remedy this negative economic impact, *I*  
2 *Liheslaturan Guåhan* must enact appropriate legislation consistent with Federal  
3 law to deter the unauthorized use and theft of cable service, and to protect the  
4 economic rights and interests of consumers and cable operators.

5 *I Liheslaturan Guåhan* further finds that existing Guam law is inadequate  
6 to address the likely situation where the theft of services has been occurring  
7 for an extended period of time. Since the average monthly fee for cable  
8 services is Thirty-five Dollars (\$35.00), if a theft of services is discovered,  
9 existing Guam law would only qualify such a theft, at the time of discovery,  
10 as a petty misdemeanor even though the theft may have been occurring for  
11 extended periods of times, possibly even years. Accordingly, *I Liheslaturan*  
12 *Guåhan* does not feel that existing Guam law provides a deterrent for the theft  
13 of such services nor does it provide adequate punishment. *I Liheslaturan*  
14 *Guåhan* finds that it is appropriate and consistent with Federal law to classify  
15 the unauthorized use of cable service as a misdemeanor for a first offense and  
16 as a felony of the third degree for subsequent offenses, and to classify the  
17 unauthorized use of cable service for commercial advantage or private  
18 financial gain as a felony of the third degree for a first offense and as a felony  
19 of the second degree for subsequent offenses.

20 It is the intent of *I Liheslaturan Guåhan* to address the issue of  
21 unauthorized use of cable service by enacting criminal and civil remedies that  
22 are consistent with Federal law. Passage of this Act will deter such conduct  
23 and protect the rights and interests of consumers and cable operators.

24 **Section 2.** This Act shall be known as the "*Unauthorized Reception of*  
25 *Cable Service Act of 2004.*"

1 Section 3. §43.55 is hereby *added* to Article 1, Chapter 43, of Title 9 of  
2 the Guam Code Annotated, to read as follows:

3 "§43.55. **Unauthorized Reception of Cable Service. (a)**  
4 **Unauthorized Interception or Receipt or Assistance in Intercepting or**  
5 **Receiving Service; Definition of 'Assist in Intercepting or Receiving'.**

6 (1) *No* person shall intercept or receive or assist in  
7 intercepting or receiving any communications service offered over  
8 a cable system, *unless* specifically authorized to do so by a cable  
9 operator or as may otherwise be specifically authorized by law.

10 (2) For the purpose of this Section, the term 'assist in  
11 intercepting or receiving' shall include the manufacture or  
12 distribution of equipment intended by the manufacturer or  
13 distributor (as the case may be) for unauthorized reception of any  
14 communications service offered over a cable system in violation of  
15 Subparagraph (1).

16 **(b) Penalties for Willful Violation.**

17 (1) Any person who willfully violates Subsection (a)(1)  
18 shall be guilty of a misdemeanor and shall be punished by a fine of  
19 *not more than* One Thousand Dollars (\$1,000.00) or imprisoned for  
20 *not more than* one (1) year, or both, for the first such offense and  
21 shall be guilty of a felony of the third degree and shall be punished  
22 by a fine of *not more than* Three Hundred Dollars (\$300.00) or  
23 imprisoned for *not more than* three (3) years, or both, for any  
24 subsequent offense.

1           (2) Any person who violates Subsection (a)(1) willfully  
2 and for purposes of commercial advantage or private financial  
3 gain shall be guilty of a felony of the third degree and shall be  
4 punished by a fine of *not more than* Three Thousand Dollars  
5 (\$3,000.00) or imprisoned for *not more than* three (3) years, or both,  
6 for the first such offense and shall be guilty of a felony of the  
7 second degree and shall be punished by a fine of *not more than* Five  
8 Thousand Dollars (\$5,000.00) or imprisoned for *not more than* five  
9 (5) years, or both, for any subsequent offense.

10           (3) For purposes of all penalties and remedies established for  
11 violations of Subsection (a)(1), the prohibited activity established  
12 herein, as it applies to each such device, shall be deemed a  
13 separate violation."

14       **Section 4.** §32604 is hereby *added* to Article 6, Chapter 32, Division 3  
15 of Title 5 of the Guam Code Annotated, to read as follows:

16           "**§32604. Unauthorized Reception of Cable Service. (a)**  
17 **Unauthorized Interception or Receipt or Assistance in Intercepting or**  
18 **Receiving Service; Definition of 'Assist in Intercepting or Receiving'.**

19           (1) *No* person shall intercept or receive or assist in  
20 intercepting or receiving any communications service offered over  
21 a cable system, *unless* specifically authorized to do so by a cable  
22 operator or as may otherwise be specifically authorized by law.

23           (2) For the purpose of this Section, the term 'assist in  
24 intercepting or receiving' shall include the manufacture or  
25 distribution of equipment intended by the manufacturer or

1 distributor (as the case may be) for unauthorized reception of any  
2 communications service offered over a cable system in violation of  
3 Subparagraph (1).

4 **(b) Civil Action in Superior Court; Injunctions; Damages;**  
5 **Attorney's Fees and Costs.**

6 (1) Any person aggrieved by any violation of Subsection (a)(1)  
7 may bring a civil action in the Superior Court of Guam.

8 (2) The court may:

9 (A) grant temporary and final injunctions on such terms as  
10 it may deem reasonable to prevent or restrain violations of  
11 Subsection (a)(1);

12 (B) award damages as described in paragraph (3); and

13 (C) direct the recovery of full costs, including awarding  
14 reasonable attorneys' fees to an aggrieved party who  
15 prevails.

16 (3)(A) Damages awarded by any court under this Section shall be  
17 computed in accordance with either of the following clauses:

18 (i) the party aggrieved may recover the actual  
19 damages suffered by him as a result of the violation and any  
20 profits of the violator that are attributable to the violation  
21 which are not taken into account in computing the actual  
22 damages; in determining the violator's profits, the party  
23 aggrieved shall be required to prove only the violator's gross  
24 revenue, and the violator shall be required to prove his

1 deductible expenses and the elements of profit attributable  
2 to factors other than the violation; or

3 (ii) the party aggrieved may recover an award of  
4 statutory damages for all violations involved in the action, in  
5 the sum of the dollar value of the services stolen, but in no  
6 event should the award exceed Ten Thousand Dollars  
7 (\$10,000.00).

8 (B) In any case in which the court finds that the violation  
9 was committed willfully and for purposes of commercial  
10 advantage or private financial gain, the court in its discretion may  
11 increase the award of damages, whether actual or statutory under  
12 Subparagraph (A), by an amount of *not more than* Fifty Thousand  
13 Dollars (\$50,000.00).

14 (C) In any case where the court finds that the violator was  
15 not aware and had no reason to believe that his acts constituted a  
16 violation of this Section, the court in its discretion may reduce the  
17 award of damages to a sum of *not less than* One Hundred Dollars  
18 (\$100.00)."

19 **Section 5.** The effective date of this Act will be forty-five (45) days from  
20 its passage during which time every provider of cable service will conduct a  
21 public relations campaign including advertisements in local media outlets  
22 including, *but not limited to*, a paper of general circulation. The campaign will  
23 include information on potential penalties detailed in the Act for failure to  
24 comply with the new Act.





# Committee on Judiciary & Transportation

*I Mina' Bente Siete Na Liheslaturan Guåhan*

DEC 15 2004

*Twenty-Seventh  
Guam Legislature*

**CHAIRMAN:**  
**Senator F Randall  
Cunliffe**

**Vice Chairman:**  
**Senator John M.  
Quinata**

**Members:**  
**Senator Robert  
Klitzkie**

**Senator Lou A.  
Leon Guerrero**

**Senator Jesse  
Anderson Lujan**

**Senator Tina R.  
Muña-Barnes**

**Senator Rory J.  
Respicio**

**Senator Antoinette  
(Toni) D. Sanford**

The Honorable Vicente C. Pangelinan  
Speaker  
I Mina' Bente Siete Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

The Committee on Judiciary & Transportation, to which **Bill 149 (COR) – AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE** was referred, wishes to report its findings and recommendations **TO DO PASS.**

The voting record is as follows:

TO PASS

5

NOT TO PASS

0

TO ABSTAIN

0

Copies of the Committee Report and other pertinent documents are attached with this correspondence. Thank you for your consideration.

Sincerely,

F RANDALL CUNLIFFE  
CHAIRMAN

Attachments

cc: Senator Lou Leon Guerrero, Chairperson  
Committee on Rules & Health

*Office Address:*  
Ada's  
Commercial &  
Professional Center

138 E. Marine Dr.  
Hagatna, Guam  
(USA) 96910

*Mailing Address:*  
155 Hessler St.  
Hagåtña, Guam 96910

Tel: 671.477.5310  
Fax: 671.477.5300

*Email:*  
frcunliffe@netpci.com



# Committee on Judiciary & Transportation

*I Mina' Bente Siete Na Lihelaturan Guåhan*

DEC 15 2004

*Twenty-Seventh  
Guam Legislature*

## MEMORANDUM

**CHAIRMAN:**  
Senator F Randall  
Cunliffe

**TO:** MEMBERS, COMMITTEE ON JUDICIARY & TRANSPORTATION

**FROM:** CHAIRMAN

**SUBJECT:** COMMITTEE REPORT – BILL NO. 149 (COR)

**Vice Chairman:**  
Senator John M.  
Quinata

Transmitted for your information and action is the committee report on **BILL NO. 149 (COR) – AN ACT TO AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE.**

**Members:**  
Senator Robert  
Klitzkie

Senator Lou A.  
Leon Guerrero

Senator Jesse  
Anderson Lujan

This memorandum is accompanied by the following:

Senator Tina R.  
Muña-Barnes

1. Committee Voting Sheet
2. Committee Report
3. Public Hearing Sign-in Sheet
4. Notice of Public Hearing.

Senator Rory J.  
Respicio

Senator Antoinette  
(Toni) D. Sanford

Please review the attached Committee Report and take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or the accompanying documents, please do not hesitate to contact me or my Committee Director, Joshua Tenorio.

**Office Address:**  
Ada's  
Commercial &  
Professional Center

Sincerely,

138 E. Marine Dr.  
Hagatna, Guam  
(USA) 96910

F RANDALL CUNLIFFE

**Mailing Address:**  
155 Hessler St.  
Hagatna, Guam 96910

Attachments

**Tel:** 671.477.5310  
**Fax:** 671.477.5300

**Email:**  
frcunliffe@netpci.com

# COMMITTEE ON JUDICIARY & TRANSPORTATION

## Voting Record Sheet

COMMITTEE MEMBERS	TO PASS	NOT TO PASS	TO ABSTAIN
<i>F Randall Cunliffe</i> CUNLIFFE, F RANDALL, Chairman	✓		
<i>John M. Quinata</i> QUINATA, JOHN M., Vice Chairman	✓		
KLITZKIE, ROBERT			
<i>Lou A. Guerrero</i> LEON GUERRERO, LOU A.	✓		
<i>Jesse A. Lujan</i> LUJAN, JESSE A.			
<i>Tina R. Muña-Barnes</i> MUÑA-BARNES, TINA R.	✓		
<i>Rory J. Respicio</i> RESPICIO, RORY J.	✓		
SANFORD, ANTOINETTE D.			

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN  
COMMITTEE ON JUDICIARY & TRANSPORTATION

F. RANDALL CUNLIFFE, CHAIRMAN

COMMITTEE REPORT

ON

BILL: 149CORJ As Substituted by the  
Committee on Judiciary & Transportation

AN ACT TO *ADD* SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE.

December 15, 2004

## I. OVERVIEW

The Committee on Judiciary and Transportation held a public hearing on November 14, 2003 on the following measure:

Bill No. 149 – AN ACT TO AN ACT TO *ADD* SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE.

INTRODUCED BY: J.A. Lujan, T.R. Muna Barnes  
DATE INTRODUCED: July 10, 2003  
DATE REFERRED: August 15, 2003  
PUBLICATION DATES: - Pacific Daily News

SENATORS PRESENT AT THE PUBLIC HEARING WERE:

Chairman F. Randall Cunliffe  
Vice Chairman John M. Quinata  
Senator Tina R. Muña Barnes  
Senator Jesse Anderson Lujan  
Senator Robert Klitzkie  
Senator Rory J. Respicio  
Senator Lou A. Leon Guerrero

## II. SYNOPSIS OF BILL

If passed into law Bill 149(COR) would establish civil and criminal penalties for the unauthorized use of cable service on Guam. The bill establishes misdemeanor violations for the unauthorized interception or receipt or assistance in intercepting or receiving cable services.

The intent of the legislation is to deter theft of cable services and to preserve the economic interests of legitimate cable consumers and operators. Bill 149 is consistent with federal laws relative to theft of cable services and will provide a local remedy for this problem.

## III. SUMMARY OF TESTIMONY

Testimony was received from the following:

- Mr. Avery Ferreras, Marianas Cable Vision (MCV), provided oral testimony IN FAVOR
- Mr. Robert Nauta, MCV, provided oral testimony IN FAVOR
- Mr. Shawn Mesa, MCV, provide oral testimony IN FAVOR

- Mr. Gil Franquez, private contractor, provided oral testimony IN FAVOR
- Mr. James Herron, private contractor, provided oral testimony IN FAVOR
- Ms. Therese San Nicolas, private contractor, provided oral testimony IN FAVOR

\*\*\* A Transcript of the hearing is included in this committee report.

#### IV. FINDINGS AND RECOMMENDATION

The Committee on Judiciary & Transportation finds that Bill No. 149(COR) as substituted by the Committee on Judiciary & Transportation is in the best interests of the people of Guam and does hereby recommend its passage by / *Liheslaturan Guåhan*.

**Committee on Judiciary & Transportation**  
**November 14, 2003**  
**Testimony on Bill No. 149**

**Bill No. 149 (COR) –AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE. (J.A. Lujan)**

**Chairman:** The next bill is for discussion is Bill 149, an act to add §43.55 to Article 1, Chapter 43 of Title 9 of the Guam Code Annotated, and §32604 to Article 6, Chapter 32, Division 3 of Title 5, Guam Code Annotated, to provide criminal and civil remedies relative to the unauthorized use of cable service. I have Avery Ferreras, Robert Nauta, Gil Franquez, Shawn Mesa, James Herron, and Therese San Nicolas, who have signed up to testify, please step forward. ...We'll call you in the order you've signed up. The first person is Avery Ferreras, when you testify please give us your name before you testify.

**Ferreras:** Good morning, Senator, Mr. Chairman, thank you very much for giving us this opportunity to come before you today to talk about cable theft. My name is Avery Ferreras, I am the general sales manager of Marianas Cable Vision. I've been in the cable industry since 1985 with Guam Cable TV, and joined Marianas CableVision back in 1995. We come before you today to talk about cable theft and the adverse impact it has on our company as well as our government, and our community. After Typhoon Pongsona, we had decided to conduct an audit of every line running from pole to house, and we crossed check that information with our subscriber listing. During the restoration schedule, it ran from the period of December 22, 2002 to May 8, 2003. Upon the completion of the audit, we identified 2,714 unauthorized cable connections. My definition, unauthorized cable services, a resident or household that's receiving cable service, but not paying first for that service to the cable operator, if you run the numbers right, a \$50 value per subscriber, we're looking at roughly \$140,000 in loss revenue to our company. One can argue that of that number, you could not expect 100% to come back in, so yes, but being conservative, say 50%, that's about \$70,000 monthly to the .... \$700,000 to our company, and that relates to the GRT. When we look at that burden that puts in our system, with that subscriber load taken from our system and our ability to maintain our system with that load that takes away from our company as well. It also allows us the opportunity to provide opportunity for that particular ... when we don't have the revenue we can't create the jobs that are necessary to maintain in our system. It does have an impact all around, from community to company and to our local people. I've been in the cable industry since 1985 on island, and noticed that .... I always ask myself why is it that this type of activity is so rampant, and it's coming to understand that the reason for this, because of the fact that the way the law is today. What we're hoping to achieve today, coming before you today, is asking for your support and consideration of this bill to do the right thing and it also encourages our citizens to be honest citizens. We come before you asking for your support in this bill, because of the impact it has or adverse impact it has in our company and our community. I brought with me today some friends and colleagues within our organization, we have contractors, Robert Nauta, who is our bill service manager, who is very knowledgeable about this activity that goes on, as he oversees that type of operation. Mr. Shawn Mesa, who is also in our sales side, he's brought with him some contractors as well, who will like to also testify. Our president is with us, Mr. John Cruikshank, who also supports what we're doing today, we hope to get some good testimony in today and get your support and get this bill on the books.

**Chairman:** Thank you very much, Mr. Ferreras. Mr. Nauta.

**Nauta:** Good morning Senators, Mr. Chairman, my name is Robert C. Nauta, I'm the field service manager for Marianas CableVision, and like Mr. Ferreras stated, I oversee the field service side on MCV, and this is a problem that we've been having ever since Guam Cable. I was employed by Guam Cable also and joined up with MCV. We see this problem everyday, I have contractors working for me, they go out to

the field, they do their task on installing, upgrading, and they report back to me with the illegal that they find out there. With this bill, we're here to testify and see if we could get your support on this. I've brought in a contractor also to testify on this behalf and what he finds out there. If we focus on this, it really puts damp on everybody involved, from MCV Company down to our contractors, and also the customers out there. Because when somebody is tapping into our system, it just ... the service becomes distorted because of illegal services that has been going on out there.

Chairman: Thank you very much, Mr. Nauta. Mr. Gil Franquez.

Franquez : Good morning, Senators, thank you for having us. My name is Gilbert Franquez, I've been in the industry older than these guys, 20 years. I've seen a lot of illegal hook-ups, and the importance of this bill. What Avery forgot to mention to you is the damage to equipment, people are prying out cable TV boxes, that's costing the company a lot of money, to repair and replace. They do it over, over, and over again. I was one in charge of the typhoon restoration Pongsona, and I was the one who discovered it, 2700 illegal hook-ups. If our sales people can't sell, us contractors can't work. That's our living now. We're getting paid on commission, and I speak for my fellow contracts, there's 13 of us. We've got to put a stop to this. Thank you very much.

Chairman: Thank you, Mr. Franquez. Shawn Mesa.

Mesa: Good morning, Senators and Mr. Chairman. My name is Shawn Mesa, I'm the sales supervisor for Marianas CableVision, and I've been with MCV since 1996. I was in sales before moving up into this position. I help train the team, sales people, and let them know there's opportunity out there to make money, selling cable service. Some things that can be disheartening as you build teams and get people to understand that there's a lot of opportunity out there is when you have people that refuse to pay for cable service after knowing that they don't pay for cable service, and especially when you're working door-to-door out on the field, and with our contractors, comes out of their expenses. Going door-to-door, night in night out, you get a lot of people coming and going, they just don't see the opportunity. Then you have to help them understand that, give them the tools to overcome the negativity when people shut the doors on you, because they know they don't want to pay for cable, and we just need the ammunition and the awareness out there, that if you're not paying for cable, we're not here to say, we're going to cut you off, we're here to help you become a paying subscriber. These are just some things that I face, helping people find a career or an opportunity with MCV. We've gone through as many as 15 sales reps, 7 sales reps, 6 sales reps, and one of the common dominating factors of people leaving is they don't see the time and energy invested is worth the return when they constantly face many people that don't want to pay for the cable service. Those are things that I face daily, with training, and helping people understand that there is opportunity here, being in contract with the cable company, and there is going to be a light at the end of the tunnel with your support. It's tough sometimes, when you're standing at the door to talk about cable service, and they're saying, no we don't have cable, but you could see that the cable is on, and trying to convince them. I understand that you don't have cable, but we could help you keep your cable service. With more awareness and more empowerment, more consequences to cable theft, people will be more receptive, and the attitude will change as well. That's what I wanted to share with you today, the trials and tribulations, but at the same time, it's a wonderful opportunity as a matter of support of what we're doing as well. Thank you.

Chairman: Thank you very much, Mr. Mesa. Mr. James Herron.

Herron: Mr. Speaker, Senators, thank you for this opportunity, my name is James Herron. I joined MCV with a lot of opportunities that were available, however, in current situation, when I go out night after night, and knock on the doors, I get these resistance from the people. It's hard for me to go out there and say, you got that legal, what are you going to do about it, let me help you, because there's nothing that can back me up. With this bill, I have a more of an opportunity to help, all I'm here to do is ask you to support this bill and get it passed, at least to have an opportunity ourselves. Thank you.

Chairman: Thank you, Mr. Herron. Therese San Nicolas.



San Nicolas: Good morning Senators and Mr. Chairman, I'm Therese San Nicolas, and I'm a contractor for Marianas CableVision, I've been with them since November 2002. It's really hard to go out there, and you do know that there is a consumer out there that is a non-paying one, they are very resistant, we knock on their door, and we know they're receiving unauthorized cable service, and yet they deny that they do, and the scary part about it also is we do have consumers out there that do threaten us. This is my way of life, this is how I live for me and my daughter, I do feel that you should support this bill. A lot of consumers don't realize the extent or the seriousness of unauthorized cable service, so they shut the door on our face. I would like to voice the concerns of the paying customers, where they're paying for their service, and the neighbor across them is receiving the same service, but they're non-paying, which is really unfair. I ask for your support on this bill.

Chairman: Thank you very much. You have all worked there a long time. I was the first MCV customer on Guam. I was the first one hooked up. The author of the bill, Senator Lujan.

Lujan: Thank you, Mr. Chairman. Mr. Chairman, when are you going to get your house done so you can put some more .... [background laughing].... Thank you ladies and gentlemen for coming out this morning in regards to and in support of this bill. I had the opportunity to sit down with the folks from MCV in regards to this bill, and just by the testimony and by the nonchalant actions of the community out there, that this is an exceptive form of theory out there. Based on your monthly charges of about \$50 average, if you were to walk into Kmart right now and walk out with something in your pocket for \$5, you'll be picked up for shoplifting. On a monthly basis you still service, over a year actually, you'll be convicted with a felony, based on the amounts and your monthly payments. You mentioned earlier that 2,714 unauthorized cable hook-ups, is that on a monthly basis?

Ferreras: That was the total that we found after the audit during the restoration period.

Lujan: Would you say then that because of the great amount of unauthorized cable hook-ups that's a contributing factor to cost rising?

Ferreras: I would agree to that, because of the fact of how it's done as well. We look at these types of activities being conducted, they're not just finagling with what affects the home, but they're finagling with the entire system as well. We come back from the field, and Bob can testify to this, that we see people working with our main distribution line and trying to tap off of that. Taking their service drop to their house, taking off the coding, wrapping it around the main distribution line, or taking off the coding from the main distribution line, creating more maintenance problems for our system, which creates poor service, poor perception. We have to send out trouble calls, so there's a lot of cost involved in this process, not to mention loss revenue, but the expense generated from the act.

Lujan: Based on your audit findings of 2,714 on that alone, how much revenue is that amount?

Ferreras: It's about \$140,000 a month, which ....

Lujan: On that number alone, how much GRT is that?

Ferreras: At 6% that's a substantial a lot of money back to the government over a period of time, annually about 100 some thousand dollars in revenue to the government.

Lujan: Mr. Chairman we can put that into the schools.

Ferreras: As our subscriber accounts increases, we are able to offer additional opportunities back into the community as far as employment. There's a domino effect on both ways, the adverse side and the positive side, in passing of this bill and ....[End of Side A, Tape 1].... for our government to operate.

Lujan: You can give the employees raises, too.

Ferreras: Absolutely.

- Lujan: In regards to the bill itself, how much more teeth will this give you to enforce the service as provided as oppose to what's on the books now in the theft of service?
- Ferreras: With the current bill as it's structured, the bill says that once we catch the act of theft of cable service, we have to disconnect it and charge for that day of loss revenue, however, what we're finding is that cable theft is continuous, people will take service even after we gone out to disconnect it, we come back and we find out that they take it again. The Attorney General's Office doesn't want to pursue a \$1.40 charge for theft of cable. With the adoption of the new law, that would give more teeth to the law by it's not so much the dollar amount but the act being conducted, and we can prosecute based on the act. That will give us a substantial headway in prosecuting. Our goal is not to prosecute, but our goal is to prevent the act from reoccurring, and to prevent the act from occurring to begin with. That's what that bill will do for us in this industry.
- Lujan: In section 3 there's a couple of things that may be too broad in regards to our definition. In regards to companies out there that sell equipment for cable connections, how do you see that affecting your service, would people have to go to your company to buy these equipments?
- Ferreras: No. MCV services what we sell. Internally within your home, you could run the lines internally to provide for your residence. Consumers not understanding the technology don't understand that every time you cut that line, you reduce the quality, and create a poor reception. MCV is not obligated to go out and maintain your disaster, we encourage people that whatever we sell, we service. With our affordable package, we made it so affordable these days, so you don't have to buy that equipment with our packaging. Extremely affordable, for an additional \$5.40 a month, you could have up to 4 outlets in your home, and we maintain that for you.
- Lujan: If I bought just for one TV, and I go and buy an adaptor for 4 others, you service that one and not the other three?
- Ferreras: Correct.
- Lujan: I'd like to be able to come back, Mr. Chairman.
- Chairman: Certainly, Senator Lujan. Before we go on, I'd like to welcome Senator Quinata and Senator Leon Guerrero. Senator Respicio.
- Respicio: Thank you, Mr. Chairman, and good morning everyone, and thank you for being here to testify for Bill 149. 2714 people found to have illegal cable hook-ups, as you testified, and currently there's nothing exist to provide for a process by which you can recoup the laws but also to prevent anyone from having any type of unauthorized cable hook-ups. Could you tell us how effective the cable box has been for MCV, that's one of the reasons why you invested a lot of money to upgrade your system, but also by having the cable box, which will serve as a decoder at the home, and that prevents people from stealing any services from MCV.
- Ferreras: What the cable box does, it doesn't prevent stealing the basic service, the cable box brings additional premium channels, and it also serves as our way of strengthening our system. We are moving from the trap system, which we have today, and converting over to a system where we take out those two that you see attached to the poles on top, we take those out so that when the winds creates a liability for our system to fall. The converter box is part of our hardening project, so we can maintain some of our expenses with our insurance, because it's a very expensive process where we're tacking restoration for us. It doesn't prevent the act of stealing basic cable, it does help with the theft of premium services, which is also another lost of revenue for us.
- Respicio: Do you have an idea of what the numbers are for theft of premium services? People don't only steal basic services, right? If they can they will also get the premium channels?

Ferreras: Normally, in the past when they stole cable from us, just by tapping into our tap they will get all premiums as well, and that's what those tubes were for. This would at least prevent them from stealing, with the converter box, the premiums as well.

Respicio: Does MCV have any plans to also include the basic services into that cable box? It will make sense, we could legislate and pass laws all we want, but unfortunately we live in a society where people run the risk.

Ferreras: It's not technically possible with those boxes. You have to actually tap into the system to get the box to work. That will be a wireless system, which is totally not available in any industry.

Respicio: Thank you. Thank you, Mr. Chairman.

Chairman: Thank you, Senator Respicio. Senator Muna-Barnes.

Barnes: Thank you very much, Mr. Chair, and I'd like to thank all of you folks for coming and presenting oral testimony today, and I did have the opportunity to speak to you and your President. I'd like to thank the author for giving me the opportunity to co-sponsor this bill. With that in mind, Senator Lujan did bring a concept that was brought up to me by several constituents. Hearing from Senator Respicio and John saying it's technically impossible to put the services in the box to protect the basic services that are being provided. Maybe there's something that we can do to enforce, because you said that it would have to be tapped in, do you need to have some kind of expertise to ... in order to tap from the top ... I mean what kind of expertise do you need to have in order to ... are people climbing poles or ... how are they working that?

Ferreras: It's a compilation of climbing the poles and opening boxes. With expertise is just taking the ... destroying property and courage actually is the thing to do it to begin with. Expertise is just peeling off our coding on our line and sticking into ... normally it's done very maliciously ... they splice it ....

Barnes: The reason why I'm asking is you noted 2,714 is a lot of ... and subscribers, and I'm just saying maybe we should seriously think about adding more teeth to those who actually ... if you actually catch somebody in the act, maybe we can enforce more teeth into penalizing those, but if it can be generally done within the house, that would be even more difficult.

Ferreras: No not in the house, it's actually normally, you have to come out to our system to conduct the act.

Barnes: Have you guys caught anybody?

Nauta: We've taken pictures and statements, a good example was at Toto Gardens, we have telescopes, the telescope's cover has been blown off during the storm. We find these cables stripped off and stuck into a taps picket, and everyone's watching. They know how to do that.

Ferreras: The additional problem that creates, when these people are conducting this act, is leakage of our signal into the atmosphere, which we are responsible for maintaining to maintain our entity license. There's compliance things as a cable company have to maintain, this is another type of activity that creates another type of problem for us to operate.

Barnes: Something we can probably look into, especially if the evidence is there, but Mr. Chair, I had the opportunity to speak to the author of the Bill earlier, and just to note a couple of technical changes that need to be made, the act is noted as 2001 maybe it should be changed to 2003 and then the renumbering of Section 3, adds section 4355, but this number already exists, if we could just conform to the technical changes on that. Other than that, I'd like to thank all of you guys for being here, I do support the concept and I know that you have been trying for several legislations to get this on, and I just want to thank you for the opportunity to give me that. In all fairness, I have basic cable, too, and we can just do our best. Senator Lujan did bring up a good concern, because several constituents have come to me, and saying, I don't mind paying for the box, but all these other vendors are coming in

with all these accessories that can be hooked on to the main box, and extend to the rooms, and I don't think that should be a violation. I told them that I'd bring it up to folks from the cable system and ask them what their thoughts are on that.

Nauta: Senator, those boxes are for security purposes, it has chips for security, and whenever you tap into any cable outlet, you're tapping into our system. As Senator Lujan stated earlier, purchasing commercial adaptors or splitters at Kmart or any electronic store, people set up a stereo or karaoke stuff, that's the purpose of those, but not to tap into the cable system.

Ferreras: Whenever you tap into our system, there's a load that is drawn from the system, and that adds to the load, the additional charge that we have for our service covers that additional expense that we incur, that's why we charge extra for the additional outlet.

Barnes: So, for that additional outlet, you said we could get for \$5 for an additional outlet?

Ferreras: A little over \$5 a month for up to 4 outlets in the home.

Barnes: And just for one additional outlet, what are you looking at?

Ferreras: Your main outlet is covered under your ....

Barnes: Right, plus the additional ...

Ferreras: Roughly about \$50 a month .... no \$52 ...

Chairman: No, just the outlet ....

Barnes: Just the outlet ....

Ferreras: About \$5.70

Chairman: Up to 4 or 5 bucks ...

Barnes: It's a package deal.

Ferreras: Right. \$5.70 a month.

Barnes: Thank you very much, Mr. Chair.

Chairman: Thank you, Senator Muna-Barnes. Senator Klitzkie.

Klitzkie: Thank you, Mr. Chairman. Mr. Chairman, I was just wonder if you got MCV way back at the very beginning, just so you wouldn't be exposed to cable forum on Sunday nights? ...[background laughing]...

Chairman: The moderator of that was just degrading on my nerves. ...and sometimes still is ...[background laughing] ...

Klitzkie: I see. Just for you information, Mr. Chairman, I've commissioned a survey to see how many people would like to have cable forum come back, so far they've interviewed about 500 people, but the statistical stand point is too small, because they haven't found one yet that wants to come back.

Chairman: They probably have to get to the older-aged group of people.

Klitzkie: This is true. Thank you very much, Mr. Chairman. For the panel, let's use our imagination, and pretend that this bill is now law, and let's say that you go to a house and knock on the door, and you

could see through the screen door that the person is watching HBO, which you can only get off MCV, and you say, would you like to subscribe to MCV, and the person says, no, I don't want cable. What happens next, if this bill became law?

Ferreras: We have a procedure in place, where we take down the information, we bring it back to our office, we disconnect the service. The law is not our first to go to, it will be something we resort to after we go through our process to eliminate the problem.

Klitzkie: So, you've done a disconnect, then what would you do?

Ferreras: We document it and keep it on file, after that we would go and do a system check and monitor and audit the system to ensure that the act is not being repeated. In the event that we do find it, that's when we go to the law and take the ....

Klitzkie: Okay, so you disconnect, do all your papers, etc., a week later you're out there and the only problem that the punitive subscriber encounter is they've missed a couple of episodes of [?], but she's back on cable again, and you find that, and you asked, do you want to subscribe to cable, and the householder says, no, I don't want cable. What do you do then?

Ferreras: Hopefully, we don't get to that level, where ....

Klitzkie: What if you do?

Ferreras: In the first step, we definitely ensure that we inform the violator of the extent of the law, and what will happen. As I mentioned earlier, our ....

Klitzkie: But let's just cut right straight to the chase here, 4 times you go through this and the person is still ... every time you disconnect the person goes out and reconnects, what happens then?

Nauta: Senator, at first when we find that out, it's reported to my department, we handle it from there. We go out and remove the drop line ... service drop ...

Klitzkie: You don't need a statute for that.

Nauta: After the second time we get the police. ...[background talking]...

Chairman: The Senator's question is what are you going to do to get this law in place? Are you going to go to the police and file a criminal case or what are you going to do?

Klitzkie: You've asked for a law, we enact a law ...

Nauta: We probably file a charge with the police department.

Klitzkie: Okay, so you're going to call the police.

Nauta: Yes.

Klitzkie: Okay, and the police are going to come out and what?

Ferreras: Do a police report on the incident and then we'll go through the court system ...

Klitzkie: If I might be ever so bold, I think you're engaging into some wishful thinking here. Somehow I don't think that this is going to be a cause for an all points bulletin to catch the cable thief.

Ferreras: Absolutely. What we're ....

Chairman: Identify yourself for the record please, John.

Cruikshank: I'm John Cruikshank, I'm the President of MCV. One of the issues that I didn't expect up here, was these types of questions, and none of my people that are up here have ever had experience in jurisdiction that actually has this type of thing. In general, how it's handled is this, Avery is quite right, the first time one of our people discover that something is illegally connected, they go through a process of explaining to the people, we actually give them a copy of the law and explains what it's about, give them the opportunity to sign up, usually, just the once they're presented with that, then they realize that it's against the law. However, because we know that we have people that actually do this professionally, that 2700 number, many of those were hooked up by people who are charging to get this done. We expect that to continue initially. ... the second time we went out, and found them illegal, we would go to the police and ask for their involvement. In general, if we follow all of our procedures, informing the people, disconnecting, doing our best to mitigate it, they will get involved and lay a charge. We do have, under the existing law, two pending charges that we're working with the Attorney General. The problem with those is that the way the law is written, the actually amount of theft is one day service, because they can't prove he's been on for 2 days, 3 days, or they've just been on for 6 months, he was disconnected. This works fairly well in most jurisdictions, once it's adopted, because when you get some charges pending, one charge and it goes into the newspaper, it goes out over the television, we would compliment it with our own theft of service ads, which we could obtain through one of our associations. The problem drops down dramatically. ...

Klitzkie: My question is the second time, what do you do, and your answer is you go to the police.

Cruikshank: Absolutely.

Klitzkie: That's what I wanted to know.

Cruikshank: Right, not the first time, because we want to go through the process ...

Klitzkie: I understand. But much of the effect depends on how interested the police are going to be in pursuing this.

Cruikshank: That's correct. I think you could say the same for almost anything, shoplifting, and whatever, you need cooperation, but the intent is not to be charging people on a daily basis, the intent is to get some press on the initial charges, to show people that it is against the law, and they shouldn't rehook themselves up once they've been disconnected, and to run the advertisement in order to ...

Klitzkie: You're looking for the deterrent...

Cruikshank: That's all we're looking for....

Klitzkie: ... more than the enforcement. Isn't MCV almost thoroughly fiber optic?

Cruikshank: We probably have more fiber than virtually any system on a per customer basis, but fiber to the home that is still several years off.

Klitzkie: So the technology is still tapping into actual cable instead of fiber optic.

Cruikshank: Co-action in the home, we're at a point now where we're getting too technical, but yes, we have fiber further into the system than most of the major players in the mainland.

Klitzkie: But the more fiber you have, the more difficult to tap in, right?

Cruikshank: That is correct.

Klitzkie: You said that there are professional moonlighting installers, how many professional moonlighting installers you suppose there are?

Cruikshank: We don't know the answer to that, we do know of a few people that have charges pending, that's what they're pending for. I'm not sure when I say pending that the Attorney General's Office is involved, but they've taken it through several of the steps ... they were at the point where they were getting ready to lay charges, and they got involved with some other issues ...

Klitzkie: I would see this as breaking down in the 2 almost totally unrelated types of offense, even though both deal with theft of service, one is the guy who gets the bright idea of climbing the pole and hooking it up, the other would be maybe a former employee or somebody who understands how to do this, and makes a lot of money off of it. The first guy, maybe 6 months in jail is a little bit too stiff, that's the penalty, the second guy, the people who actually go out and operate a business doing that, maybe 6 months in jail isn't enough.

Cruikshank: The current language was adopted from an existing piece of legislation.

Klitzkie: There's another section here that maybe we could stiffen up a little bit and that's just for the purpose of this section, "Assisting, intercepting, and receiving shall include the manufacture, distribution of equipment, etc." I suppose this stuff is freely available through the internet.

Cruikshank: Absolutely.

Klitzkie: Maybe what we ought to criminalize would be the possession of "hijacked" equipment or theft equipment, because there are probably some things that the only thing you could use it for would be illegal cable reception, there would be no other reason to have that. If it were a crime to possess, as oppose to use that stuff, it makes the enforcement easier, doesn't it?

Cruikshank: Yes. The current federal law dealing with that has a problem with enforcement, because the boxes that are sold through the internet come with a disclaimer, that says, you have been informed that although you can buy this box and own it, under federal law, you must notify your cable company, and pay all appropriate charges.

Klitzkie: Then we could criminalize possession of owning one of those boxes or some of the other stuff that couldn't be use for anything else. Pretending that this bill becomes law, I could have a panel full of all these stuff, and unless you caught me up on a pole, or a subscriber says that I did it for him, you couldn't be able to prosecute even though I had a truck-full of these stuff, right?

Cruikshank: Correct.

Klitzkie: The second area that I'm interested in would be the civil side, this is really heavy duty remedies, you anticipate ever having a situation where you could use these, ... TRO's ... etc., when will you avail yourself for those remedies.

Cruikshank: Those will be avail when someone is selling this equipment in your local market, or they're taking your signals for commercial gain. We aren't involve with this at this point, we're just introducing it, but let say a Mike Tyson fight, if somebody gets illegal equipment, hooks it up, and then charges for admission to come in and watch it, that portion was drafted for that, for those types of things. Or an apartment owner, goes in and supplies HBO to all units, being on Guam has some advantages with our programming suppliers, in that they are not quite as stringent as us ... but there are certain places where TKO productions or Don King productions fights won't even let their product go in, because they can't protect the integrity of the product.

Klitzkie: How many cable hook-ups that you disconnect in the average week?

Cruikshank: 75.

Klitzkie: There must be a pretty bountiful industry in illegal cable hook-ups, if you're dealing with 75 a week.

Cruikshank: We disconnect 75 customers a week that includes moves or non-payments. The type of program that we bring in after the storm was different from what we normally run, because we had all these players that we contracted in Guam to go do this work. In general, we have 2 individuals employed full-time that do nothing but go from tap to tap, checking for illegal, and it takes them 2-3 years to actually get through the system and then they start over again. That's all they do. In that process it varies how many we get a week, a normal system has a percentage of your paying customers, if you had 3% showing up, you'll be concerned. This 2,700 that represents close to 10%, that's 3 times of the number you would be concerned with the normal constituency.

Klitzkie: You don't have live programming like cable forum or the incidences will be higher.

Cruikshank: It'll be much higher.

Klitzkie: Thank you, John. Thank you, Mr. Chairman.

Chairman: That was live. Senator Quinata.

Quinata: Thank you, Mr. Chair. Out of your total amount of illegal hook-ups, how much of the 2,714 do you think are done by amateur or the one that climbs the pole ...

Cruikshank: That's really tough for us to tell, what I can tell you is that the investigation that we did on the 2 individuals that were accused of doing it, ... across 90 days they averaged about 50 illegal hook-ups that we've found ... we don't know how many of them that are out there. We do know in many cases it is the individual that goes out and hooks himself up the first time. It's common knowledge in Guam that if we come and knock on your door and you're actually taking service without paying for it, there is nothing we can do about it, all we can do is disconnect you. It's a small community, people know that, and they know if you can run a wire to the pole, all we able to do is disconnect you. We have all the proof in the world on the 2 individuals we're talking about, and we're still having a hard time getting it moved forward, because of the way the law reads.

Quinata: On a primary line, that goes from the service drop to the house, when an individual pays for that line is it just for one?

Cruikshank: That's correct.

Quinata: ... If they have more than 4 inside the house, when you have a drop and when it goes into the house, then it goes into different places of the house, so you're initial one is basic service is how much? ...

Cruikshank: The basic service is \$54.99 ...

Quinata: \$44.99 ... that's only for one TV ...

Cruikshank: That's you're first outlet ...

Quinata: Then any additional up to 4 is ...

Cruikshank: \$5.58

Quinata: You also do DSL?

Cruikshank: We do high-speed cable internet, it's a different technology and much better than DSL.

Quinata: Is that one the same cable line?

Cruikshank: Yes, that's correct.



Quinata: Do you of anybody stealing DSL?

Cruikshank: The high-speed cable internet services is a little different in technology, you have to go through an authorized modem to be able to receive it, and through our own technology, we're able to control that process, so our internet side is ...

Quinata: So you can't buy a modem somewhere and do something to it to ...

Cruikshank: You can buy the modems anywhere, but it's still has to talk to ... if you like the guard equipment, at our office, and if it doesn't recognize it, it's just no use, because it's a two-way product, it has to go back and forth. We're able to eliminate it, one of the effects of this cable theft ... how people tap into these lines. What that does with cable internet, which needs a fairly secured system in order to operate effectively, it adds a noise into the system which essentially will shut off if you're a cable modem subscriber, it will shut off you're ability until we get out there to trace down the illegal, take it off and correct it. That's why this is also become a much more pressing issue in the last 2 years since we went into high-speed modem, it causes people to lose their service on the internet side.

Quinata: Can you detect from the pole to a house on how many drops or TV's are connected to that cable?

Cruikshank: It's technically possible to do read through, but we don't do it. Since we drop the price on extra outlets that hasn't been an issue for us. Yes, it's an issue, and yes we do go and discover them, which we do and we talk to them, but in general, people seem to understand once it's explained to them. In order to maintain the signal level, where it has to be to get clear pictures, as people tap in within their own home, once you go over those 4 outlets, the signal starts degrading to a point where we put in these little amplifiers in order to fix it up. Most people understand that relationship.

Quinata: Thank you, Mr. Chair.

Chairman: Thank you, Senator Quinata. Senator Leon Guerrero.

Leon Guerrero: Thank you, Mr. Chair. I wanted to ask John, how accurate are your tappers, those who go out and figure out whether it's an illegal tap or not?

Cruikshank: They're pretty accurate. The first time they go through it, they find somebody who they think is unauthorized, the line has a numbering system on it, so they take that number out, they call into our office and cross-check on the computer system before they do anything. Once it's been established that it's unauthorized, then they proceed to the disconnect. If by chance they disconnected somebody, or the numbers got switched ... that person is going to call us pretty quick, the person that's paying, then we correct it, but that's a very small percentage.

Leon Guerrero: I think the illegal hook-ups that you mentioned is pretty high. I'm wondering if it's cost-related issue, maybe if the rates are lower you wouldn't have that many illegal hook-ups, have you looked at doing something like that. Times are pretty .... and people want to get entertained by cable and HBO and maybe the crime wouldn't be there if the cost was more affordable for your low-income or moderate-income individuals.

Cruikshank: We think that it's very affordable today for the package that we provide. I don't have any problem comparing my rates here on Guam with rates in the mainland for the same services. Basic cable in the mainland doesn't come any where near providing what we provide on basic cable. We've also taken and packaged our premiums, with internet, the overall pricing is more than competitive. The problem here is when the rates were lower. People will steal cable who would never think of picking up a \$1.00 chocolate bar out of a drugstore, but when it comes to cable it's an accepted form of theft to many people. I spend a career dealing with people, although the numbers are higher here, there is no penalty, we believe that's why the numbers are higher here than some place else. It's kind of a joke for us to start running ads and talk about this is against the law, when everybody is stealing it. What you're doing is your going after the people who's taking not the honest people. Our sitting back with the full

knowledge that there is nothing you can do about it. Talking about lowering rates, this company gives clear value for what we put out there, all we're asking for us some way to have some teeth in it so that when we do talk to somebody and tell one of our people to take a hike, that if we go back and catch them, then there's some penalty. We'll take care of the advertising to get that word out, and we'll work with the police, and we'll work with the courts. We're not trying to jam things up and get a whole bunch of people with felony records, because they're stilling cable, what we're trying to do is stop the drain.

Leon Guerrero: I'm not against catching people who are dishonest, it's a sad commentary of our community, about people think that this is their right, so they just go in and take it without any kind of guilty conscience behind them, and that they feel more guilty stealing a dollar candy bar than tapping into the cable system. I think that's just a very sad commentary, if in fact that is what the case is, but be that as it may, I certainly don't have a problem or disagree at all in doing some kind of disciplinary action for people that do take things that don't rightly belong to them. This also includes splicing inside the house, correct? ... you know where you have one outlet ....

Cruikshank: It's our cable lines, right?

Leon Guerrero: So, that includes that also.

Cruikshank: Absolutely. I want to stress this again, when people go in to tap into that, what they do is they create problems for their neighbors, that's what happens.

Leon Guerrero: So, how do you monitor that inside violation, do you know that that's happening in the home by your ...

Cruikshank: Absolutely, if we could, if we want to go to the trouble. ... when you go in and you tap in, it creates a problem for the gentlemen next door to you, it creates a problem because of the egress signal from the cable, which goes out when you have these faulty connections ... it goes out on the aviation band way... so we're monitored by the FAA and by the FCC, and we have to maintain a certain level of egress. When people go in and tap in themselves, they'll cause radiating [?] from the lines, egress, it causes for cable modem customers, for example, it causes their boxes not to work, we get the complaints, we have testers that we patrol the streets with that detects leakage. When they find it, they isolate down to that house, so we know it's coming from that house. Once we know that, we terminate the line, and we have to do that to protect our license. Then we go to the people, we talk to the people, and say, you can't do that, we'll do it, we're professionals, we'll make sure everything is right, but you can't tap into our line. The argument we get to day is so what, it's not illegal. Technically it's against federal law, but everybody knows that we're not going to get a federal prosecutor involved in something like this, so it just dies. You continually go back and do whatever, it's a very frustrating process, because there is nothing there.

Leon Guerrero: Thank you.

Chairman: Thank you, Senator Leon Guerrero. I'm next door to her, so I'm the one that's causing the problem. ...[background talking and laughing] ....

Cruikshank: I heard the Chairman was the first subscriber and that would mean that he would be the most honest one, because he signed up and started paying right at the very beginning.

Chairman: ...[background talking and laughing] .... Senator Lujan you wanted the opportunity to address them again.

Lujan: Thank you, Mr. Chairman. I just wanted to thank the ladies and gentlemen who came out this morning. There are concerns and I'd like to work with the Committee to address some of the concerns, but I think you brought forth some great arguments with this. It's tough economic times, and as I asked earlier in regards to rates, that definitely the amount of theft that goes on in regards to cable services is a factor into the pricing, and hopefully we'll be able to address this once and for all, and our residents

will benefit in lower pricing or maintaining of pricing for a much longer time. We look forward to working with the Committee with these concerns and hopefully getting it to the floor and voting. Thank you.

**Cruikshank:** Thank you on behalf of me and all of the others that are here and some of the people from our company who came down to see what's happening.

**Chairman:** Thank you all very much, and this matter will be acted on fairly quickly I believe.

**COMMITTEE ON JUDICIARY & TRANSPORTATION**  
**SENATOR F RANDALL CUNLIFFE, CHAIRMAN**

**Public Hearing**  
 9:00 a.m, November 14, 2003  
 Public Hearing Room, Guam Legislature

**BILL NO. 149 (COR): - AN ACT TO ADD SECTION 43.55 TO ARTICLE 1, CHAPTER 43, OF TITLE 9 OF THE GUAM CODE ANNOTATED AND SECTION 32604 TO ARTICLE 6, CHAPTER 32, DIVISION 3 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO PROVIDE CRIMINAL AND CIVIL REMEDIES RELATIVE TO THE UNAUTHORIZED USE OF CABLE SERVICE.**

Name (Please Print)	Agency/Organization	Contact #	Oral Testimony	Written Testimony	In Favor	Not in Favor
1. <i>Uvery Ferreras</i>	<i>MCV</i>	<i>635-406</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
2. <del><i>John Cruz</i></del>	<del><i>MCV</i></del>	<del><i>635-446</i></del>			<input checked="" type="checkbox"/>	
3. <i>Robert Nauta</i>	<i>MCV</i>	<i>635-406</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
4. <i>Gil Franquez</i>	<i>Contractor</i>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
5. <i>Sharon Mesa</i>	<i>MCV</i>	<i>635-406</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
6. <i>James Herron</i>	<i>Contractor</i>	<i>688-2872</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
7. <i>Therese San Nicolas</i>	<i>Contractor</i>	<i>688-433</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
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