



CITY OF MOORPARK

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October 24, 2018

SUBMITTED ELECTRONICALLY

Chairman Ajit Pai
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: COMMENTS ON SECOND FURTHER NOTICE OF PROPOSED RULEMAKING IN THE MATTER OF IMPLEMENTATION OF SECTION 621(a)(1) OF THE CABLE COMMUNICATIONS POLICY ACT OF 1984 AS AMENDED BY THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Honorable Chairman Pai and Commissioners O'Rielly, Carr, and Rosenworcel:

Thank you for the opportunity to provide comments on this proposed rulemaking regarding implementation of Section 651(a)(1) of the Cable Communications Policy Act of 1984, as amended. The City of Moorpark offers comments on two matters for which the Federal Communications Commission is seeking comments.

The City, in part, agrees with the FCC's tentative conclusions in Section 19, in which the FCC finds that Section 622(g)(2)(C) provides that PEG capital costs required by a franchise granted after 1984 are not cable-related, in-kind contributions. As such, PEG capital costs are excluded from the five percent cap on franchise fees under the Act.

However, the City strongly disagrees with the FCC's tentative conclusion in Section 20, which states that franchising authorities should not be permitted to require "a cable operator to pay franchise fees equal to five percent of its gross revenues for cable services and also assume the costs of cable-related, in-kind contributions." As stipulated in Section 147, "franchise fees" are defined very broadly and include general taxes and fees for general purposes. These are distinct from cable-related, in-kind contributions, which are assessed not for general purposes, but for specific impacts related to the provision of cable services.

The City reminds the FCC that cable franchise agreements exist because cable companies have direct impacts on publicly-owned, publicly maintained physical infrastructure, such as streets and utility poles. The Act recognizes that cable operators must mitigate the financial impacts their activities impose on the public. For example, when a cable operator digs into a public street to lay or replace cable, the cable operator damages the street. Even when patched, the useful life of the street pavement is diminished. This results in a monetary cost to taxpayers responsible for maintaining public infrastructure. Cable-related, in-kind contributions are intended to mitigate damage to the publicly-owned infrastructure and make it whole. Insofar as the degree of damage and associated monetary costs to taxpayers is not readily calculable, if only because the age of the affected pavement will vary with locations, cable-related in-kind contributions are designed to account for these costs in order to, again, make whole the taxpayers responsible public infrastructure.

In contrast, franchise fees are defined, as described above, as general taxes and fees for general purposes. These are in addition to cable-related, in-kind contributions, and Congress capped those franchise fees at five percent. Had Congress intended to apply the five percent cap to both, then Congress would have specified that in the Act. Congress did not do so.

The City of Moorpark respectfully requests that the Commission reconsider its tentative conclusions regarding the applicability of cable-related, in-kind contributions to the five percent cap on franchise fees provided for in the Act. These contributions serve a different purpose and should not be applied toward the franchise fee cap.

Yours truly,

A handwritten signature in blue ink that reads "Janice Parvin". The signature is fluid and cursive, with the first name "Janice" and last name "Parvin" clearly distinguishable.

Janice Parvin
Mayor

cc: City Council
Troy Brown, City Manager
The Honorable Julia Brownley, Congresswoman, California's 26th District