



City Manager's Office
501 SW Madison Avenue
PO Box 1083
Corvallis OR 97339-1083
541-766-6901
FAX: 541-766-6780
City.Manager@corvallisoregon.gov

February 28, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: 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, MB Docket No. 05-311

Dear Ms. Dortch,

The City of Corvallis, Oregon submits this letter in response to NCTA's Reply Comments filed on December 14, 2018 in the above-referenced docket. NCTA's Reply makes reference to Corvallis in support of their position that non-cable services should not be subject to franchising and fee requirements.

NCTA's Reply is the third time the organization has inaccurately cited Corvallis to support its policy positions. First, in a previous letter filed in WD Docket No. 17-84, dated June 11, 2018, NCTA used Corvallis as an example to support the claim that local regulation is hindering broadband deployment. They wrote that a "community in Oregon...refused to issue permits allowing installation of Wi-Fi equipment..." In Corvallis' response letter, dated July 25, 2018, we strongly objected to NCTA characterizing our actions in this manner, as the facts show that Comcast failed to follow the applicable City Code and Ordinance and the terms and conditions of its negotiated franchise agreement. Each of these installations require a construction permit and, as Comcast failed to obtain such permit, they were in violation of their franchise agreement.

Corvallis continues to address Comcast's unauthorized placement of Wi-Fi equipment in the rights of way. All franchises with the City of Corvallis require obtaining a construction permit from the City prior to work within the Rights-of-Way. Regardless of service provided, Comcast placement of new facilities in the ROW without construction permits is a violation of the franchise agreement.

Next, in their Comments in this docket, dated November 14, 2018, NCTA alleged that Corvallis requires Comcast “to pay a fee of five percent of revenues for voice services, on top of the maximum franchise fee for cable service.” Corvallis responded to this allegation in a letter dated December 11, 2018, explaining that Corvallis’ Municipal Code, Ordinance and franchise agreements require all providers to obtain separate franchise agreement for telecommunications and data services. The City has not asked Comcast to do anything different from what it asks of all providers—cable and non-cable alike.

Finally, in the Reply, NCTA infers that Corvallis’ efforts to provide a competitively neutral environment for similar service providers using the City’s Rights-of-Way is unfair. As noted above, Corvallis requires that service providers of like services obtain like permission to use the ROW and are subject to comparable requirements. To allow a cable service provider to provide non-cable services, without following the same local ordinances all other service providers follow, would bestow special rights to a class of private companies. To treat Comcast otherwise would require Corvallis to ignore the terms of negotiated franchises, City codes and Ordinances.

The City of Corvallis thanks you for the opportunity to comment and asks that the FCC accept these comments and consider the impact of the proposed rulemaking on communities and for all telecommunication providers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark W. Shepard". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mark W. Shepard
City Manager