



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
978-465-4413 PHONE
978-465-4402 FAX

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, Third Report and Order - MB Docket No. 05-311

July 18, 2019

Dear Secretary Dortch:

On behalf of the City of Newburyport, MA, I am writing to express my strong opposition to Federal Communications Commission's (FCC) proposed Third Report and Order (Order). In this Order, the FCC would allow cable operators to deduct the fair market value of the noncapital obligations associated with public, educational and governmental (PEG) channels from the five percent franchise fee cap. This is a radical change, undermining decades of common interpretation and implementation of federal law. While this Order is considered to be prospective, meaning that cable operators cannot recoup past franchise fee payments, the FCC makes clear that the Order would apply to existing franchise agreements. This Order undermines the extensive timeframe of good-faith negotiations to develop long-term contracts with our cable operator. This is very unsettling as the FCC is attempting to overtly interfere with long-term contracts freely and consensually negotiated between two parties. The FCC order would ignore the entire negotiation process, tip the scales, and give industry an unearned financial benefit.

My understanding is that after the effective date of this ill-conceived Order, a cable operator will be able to request modification of an existing franchise agreement to conform with this Order, and cities and towns will have 120 days to make a final decision about the request. If the community rejects or disputes the value the cable operator assigns, the cable operator may bring suit.

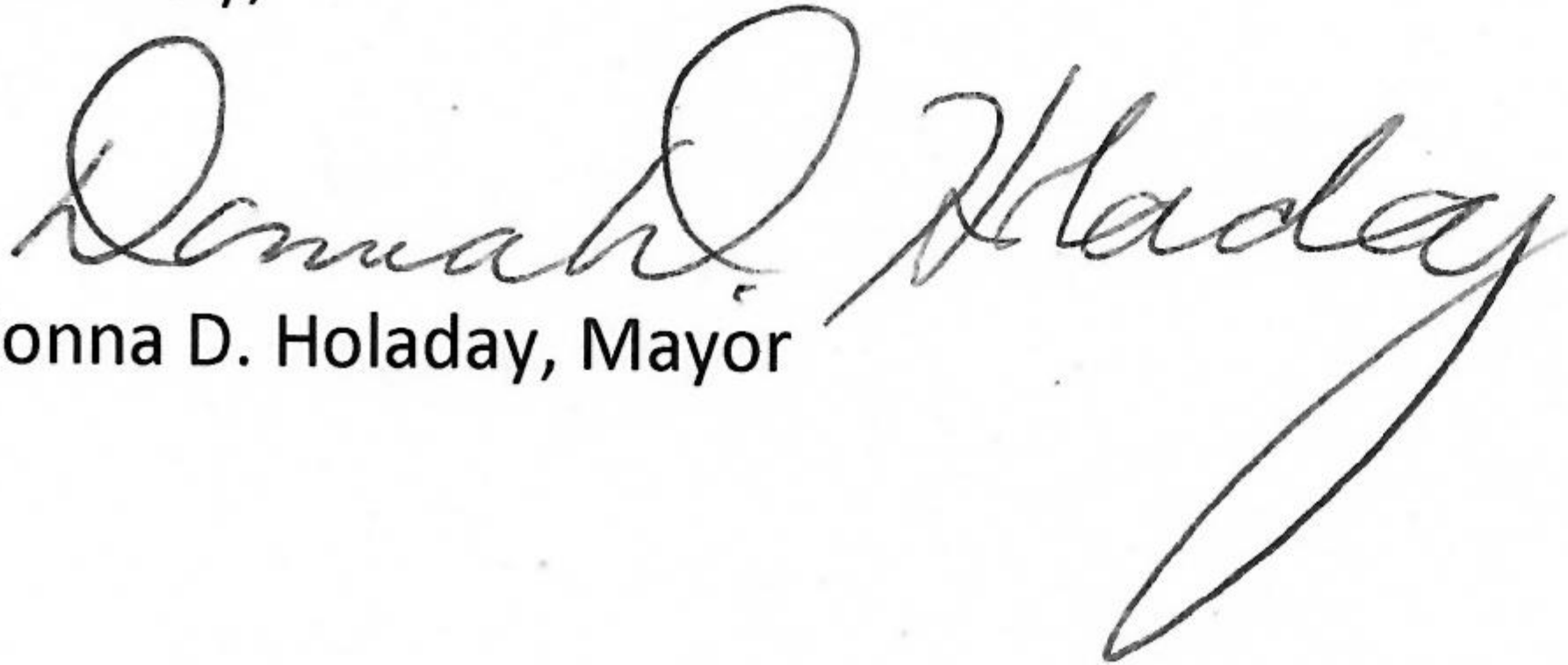
Communities currently struggle to ensure quality PEG service and programs valued by our citizens. The loss of revenue triggered by the FCC Order would force municipalities to either divert resources away from core municipal and educational services in order to maintain existing PEG programming, suffer a dramatic reduction in the scope of PEG channels, or lose them altogether.

In addition, the Order would prohibit and preempt Massachusetts cities and towns from using their cable franchising authority to regulate or charge for non-cable services offered by cable companies, including the use

of public rights-of-way for non-cable equipment and services. This includes the ability to impose any fees or to require service quality or performance standards for the provision of information services via cable systems.

The FCC needs to understand the negative impact the Third Order and Report would have on communities and their valued PEG programming.

Sincerely,


Donna D. Holaday, Mayor