Town of Oxford
Board of Selectmen
Memorial Hall - 325 Main Street
Oxford, Massachusetts 01540-1797

Dennis E. Lamarche, Chairman
Cheryll A. LeBlanc, Vice Chairman
Meaghan E. Troiano, Secretary
Michael F. Daniels
John G. Saad

Jennifer E. Warren-Dyment,
Administrative Assistant
Phone (508) 987-6027
Fax (508) 987-6248
Email: jwarren@town.oxford.ma.us

July 23, 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, Third Report and Order - MB Docket No. 05-311*

Dear Ms. Dortch:

On behalf of the Town of Oxford, the Oxford Board of Selectmen is writing to formally express our grave concerns and disagreement with the Federal Communications Commission's ("FCC") proposed Third Report and Order ("Order") requiring Local Franchising Authorities ("LFA") to treat cable-related, in-kind contributions as franchise fees subject to the statutory five percent franchise fee cap, and regarding the LFA's ability to use its cable franchising authority to regulate the mixed-use network of an incumbent cable operator that is not a common carrier.

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 thus unduly interferes with long-term contracts freely and consensually negotiated between two parties.

Additionally, private sector cable operators in Massachusetts are set up for an FCC-granted windfall. Because cable operators pass through the costs they incur by paying franchise fees, they recoup the costs from cable subscribers. This Order would also allow them to subtract the

"fair market value" from the franchise fee, but does not require any change in what is charged to subscribers, essentially allowing cable operators to double recover.

Adding insult to injury, this Order further preempts LFAs from regulating non-cable services and equipment of franchised cable operators, including the imposition of any fees on non-cable services. This regulation effectively impacts the exercise of municipal authority to regulate placement of facilities in their own rights-of-way. This Order combined with the FCC's Declaratory Ruling and Third Report and Order creates a federally-set race to the bottom between telecommunications providers and cable companies providing non-cable services and further limiting what Oxford will be able to charge for the use of their public rights-of-way. The FCC's position would effectively mandate an unjustified public subsidy of private commercial interests.

Specifically in the Town of Oxford, the effects of the Order could have significant consequences. Oxford has an outstanding cable contract that will not expire until November 2023. The Order would allow for interference in our contract, opening the door to loss of municipal control and loss of resident services. If power is reallocated unequally to the cable company, the Town is left vulnerable to financial losses and even costly litigation. None of these outcomes are in the public interest.

We fervently oppose this Third Report and Order and ask you to reconsider. We ask you to safeguard the public interest by maintaining the current franchise fee structure and honoring the authority of cities and towns to control their public rights-of-way.
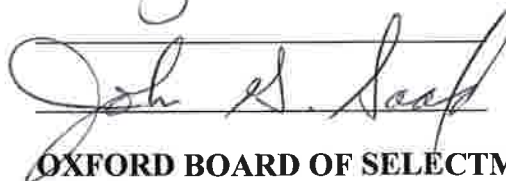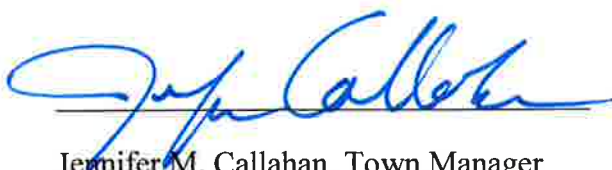
Sincerely,

_____ Chairman

_____ Vice Chairman

_____ Secretary

_____

OXFORD BOARD OF SELECTMEN

Jennifer M. Callahan, Town Manager