TOWN OF EAST LONGMEADOW

60 CENTER SQUARE

EAST LONGMEADOW, MA 01028

**\_\_\_\_\_**

***TOWN COUNCIL***  (413) 525-5400 ext. 1100

|  |  |  |
| --- | --- | --- |
| Kathleen G. Hill, President | | |
| Michael J. Kane, Vice President |  | *Patrick Henry* |
| Donald J. Anderson |  | Thomas C. O’Connor |
| Joseph A. Ford |  | Ralph Page |

Ms. Marlene H. Dortch, Secretary

Federal Communications Commission

445 12th Street, SW

Washington DC 20554

Dear Ms. Dortch,

On behalf of the Town Council and the residents of the Town of East Longmeadow, Massachusetts, I am writing to formally oppose the implementation of the proposed rules under the FCC's Third Report and Order, and Section 621(a)(1) under the proposed order, MB Docket Number 05-311.

East Longmeadow is a modestly sized suburban community in Western Massachusetts, adjacent to the City of Springfield and the Connecticut River Valley “Knowledge Corridor.” Our proximity to the major fiber-backbone hub in Springfield and the technology and communications providers based there allows our municipality, residents and businesses potential access to a variety of robust communications networks and service providers.

East Longmeadow cable subscribers are served solely by Charter Communications, operating as Spectrum. Of 5500 households in town, approximately 4800 are cable television subscribers, and almost all of those are bundled subscriptions that include phone and broadband Internet. East Longmeadow is a rate-regulated community for basic tier cable service, as defined by the Massachusetts Department of Telecommunications & Cable, as more than 50% of the subscribers receive cable television service from Charter.

Other telecommunications companies and wireless providers, including AT&T, Verizon, and T-Mobile, also have a robust presence in town. The Town maintains a municipal fiber network for the operation of schools, public safety and town government. The Town does not provide Internet service to residences or businesses. In no instance has it been the case in East Longmeadow that any of the 'obstacles' cited in the Commission's *Declaratory Report* exists, or has ever existed, as an impediment to investment by any communications technology company in this municipality. In fact, the truth is quite to the contrary.

Nevertheless, the FCC's rule will impose on this local government unreasonable limitations on its authority in the future to negotiate in the best interest of its voters and taxpayers with companies whose products and services they may or may not subscribe to, but whose business costs they have no obligation whatsoever to underwrite through municipal taxation. We strongly disagree with the notion that the FCC better understands a determination of a 'fair and reasonable ' fee for permitting or use of rights-of-way, than the local officials and department heads whose job it is to maintain them day in, day out at taxpayer cost. It makes no sense for the Commission to try to mitigate what it contends are burdensome regulations for private enterprise, by shifting the burden of them onto local governments and taxpayers.

With respect to the interpretations and proposed rule changes for cable franchising, we disagree with the commission's analysis of defined business costs such as PEG Channel capacity and negotiated PEG payments as *contributions* by the cable providerto the Local Franchising Authority. In the first instance, the requirement for provision of PEG Channel space *was* specifically intended by Congress, the value of which was, and still is, offset by the obligation imposed on *licensed* broadcasters to (ostensibly) “operate over the public airwaves in the public interest.”

In the second instance, payments negotiated in our franchise agreements with the cable provider to support PEG programming in East Longmeadow are passed through directly to the subscribers on their monthly bills. Any rule defining those pass-through payments from subscribers as *contributions* by the operator, deductible from its other franchise fee obligations (which in East Longmeadow are minimal) defies the very 'common sense' the Commission wishes to impart to its proposed rules.

Finally, Section 22 of the Commission's *Declaratory Report* states “*the Commission found that the existing operation of the local franchising process constituted an unreasonable barrier to new entrants in the marketplace for cable services and to their deployment of broadband.*” This is entirely contrary to the reality in East Longmeadow, and I would safely surmise in virtually every other community – suburban and urban - in our half of the state. The fact is, the proposed rules would only make it harder, not easier, for new entrants to compete with Charter in East Longmeadow for cable customers, something subscribers *and* Town officials have long encouraged.

The prohibitive costs of entry into a cable TV market of 4800 subscribers have nothing to do with onerous franchise fees or burdensome regulations at the local level, which I can certify it to be the case in East Longmeadow, because we impose neither. Over the past ten to fifteen years, to my knowledge, not a single cable provider has even sought information from the town about entering this market.

In actuality, market forces and technology drive those investment decisions, and will continue to do so for the foreseeable future. My experience in local government, and an analysis of the actual impact of the FCC's proposals on the market in East Longmeadow, compels us to oppose the implementation of the Third Rule and Order and its associated provisions as being solely in the best interests of the incumbent provider, rather than the local taxpayers this Council was elected to represent, and I submit these comments for the record on their behalf.

Sincerely,

Kathleen G Hill

President