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September 8, 2017

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: In the Matter of Improving Competitive Broadband Access to
Multiple Tenant Environments – GN Docket No. 17-142

In the Matter of Petition for Preemption of Article 52 of the San Francisco
Police Code – MB Docket No. 17-91

Dear Ms. Dortch,

On September 6, 2017, the following individuals (collectively, “Attendees”) met with representatives of the Wireline Competition Bureau regarding the above-captioned proceedings:

John Lyons
Cable Administrator
Anne Arundel County, Maryland

Mitsuko Herrera
Program Director, ultraMontgomery
Montgomery County, Maryland

Ann Goldenberg (via phone)
Division Manager
Office for Community Technology
City of Portland, Oregon

Michael Lynch (via phone)
Boston Dept. of Innovation and Technology
City of Boston, Massachusetts
President-Elect, NATOA

Ed Fineran
President
Atlantech Online, Inc.

Gerard Lederer
John Gasparini (by phone)
Best Best & Krieger LLP
Counsel to the Local Governments

The Wireline Competition Bureau was represented by: Lisa Hone, Associate Bureau Chief; Daniel Kahn, Division Chief, Competition Policy Division; Adam Copeland, Assistant Division Chief, Competition Policy Division; and John Visclosky, Attorney Advisor, Competition Policy Division.


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Attendees discussed in detail the Reply Comments submitted by the local governments in the MTE Notice of Inquiry proceeding.¹ Attendees reiterated their view that preserving and protect local laws that promote competitive broadband access in MTEs would be a good first step toward the Commission's stated goal of improving competitive broadband access in MTEs. While guaranteeing monopoly access to MTEs may make good business sense for incumbent providers, such a result is fundamentally at odds with the underlying purpose of the Telecommunications Act of 1996, and the purpose for which the Commission itself was established.

Local governments have a strong interest in promoting broadband availability, affordability, and competition in their communities, and can be particularly impactful in doing so by addressing dense populations of residents and businesses who occupy MTEs. The Commission has historically recognized and protected efforts state and local governments have undertaken to advance these objectives, and neither the Commission's NOI nor any submission in the record points to any example of local policies actually prohibiting any deployment.

Attendees reiterated their view that the Commission lacks the legal authority to insert itself into the relationship between local governments and property owners via Section 253 preemption authority, and pointed out that in any event, the Commission will have no ability to exercise any Title II authority if it adopts its proposal to reclassify broadband as a non-Title II service.

Also attached to this submission is a letter from Richard Oldenburg, System Manager of Anne Arundel Broadband/Broadstripe, an Anne Arundel County-based competitive cable provider. Mr. Oldenburg was unable to attend the meeting, but this letter was shared with Commission staff in attendance and is accordingly included in this submission.

Finally, the local government attendees reiterated their position that the Commission must include additional local voices in the Broadband Deployment Advisory Committee. Local voices are essential to ensuring that the BDAC's work product serves all interests fairly, and is not diminished in its usefulness by serious questions about the integrity of the process involved. Furthermore, the BDAC should be sure to include, as part of any set of successful practices which communities might use to help inform, but not dictate, local policy, a broad array of successful practices, including but not limited to those adopted by the Cities of Boston and Portland and Anne Arundel and Montgomery Counties. Each community faces unique needs and challenges, and no one-size-fits-all national solution, while perhaps desirable from the perspective of dominant nationwide service providers, is unlikely to be successful in efficiently bridging the digital divide if it comes at the expense of local authority, autonomy, and flexibility.

¹ Reply Comments of the Cities of Boston, Massachusetts and Portland, Oregon, and Anne Arundel and Montgomery Counties, Maryland, GN Docket No. 17-142 (Aug. 22, 2017).



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In accordance with Section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed in the above-captioned proceedings, Please contact me with any questions regarding this submission.

Sincerely,

Gerard Lavery Lederer
of BEST BEST & KRIEGER LLP

cc by email: Lisa Hone
Daniel Kahn
Adam Copeland
John Visclosky



September 1, 2017

Federal Communications Commission

Washington, DC 20554

Re: [MTE Docket **[GN Docket No. 17-142]**

To Whom It May Concern:

In reference to the docket listed above, I am not able to attend the ex parte meeting in person but would request that my comments be included as part of the ex parte presentation.

I manage a cable TV and broadband provider in Anne Arundel County, Maryland. It is one of the most competitive markets in the country with the vast majority of our footprint having a choice between Comcast, Verizon and my company (WOW!, dba Anne Arundel Broadband). Many years ago, the Anne Arundel County government had the foresight to enact legislation that prevented owners of Multiple Tenant Environments (MTE) to allow exclusive service to one of the three (3) franchised operators. However, this has not prevented Comcast from establishing "exclusive marketing" agreements with the majority of the MTE's that we service. The County statute prevents the owner from denying us the ability to continue to service the MTE, but the "exclusive marketing" agreements with Comcast prevent us from utilizing many sales and marketing tactics to continue to compete on a "level playing field" with Comcast. We are not allowed access to the property to sell on a "door to door" basis and our sales literature doesn't get inserted into the lease packets to inform new tenants of a competitive service provider. Our only real source of marketing opportunity is direct mail to the tenants mailbox.

My understanding of the "exclusive marketing" agreements between the MTE owner and Comcast include an upfront "door fee" (a one-time payment for each MTE unit), and a recurring payment for a share % of the revenue generated from the tenants to Comcast in the MTE. Due to the high level of turnover in most MTE's, new tenants rarely have the opportunity to choose between competing providers because our sales literature is not inserted into the lease packet. The result after a number of years of these "exclusive marketing" agreements being in place, is that our customer market share has decreased from an average of 50-60% in the MTE's we service to a current average of 5-15%.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "RMS", is written over the printed name "Richard Oldenburg".

Richard Oldenburg

System Manager

WOW! (dba Anne Arundel Broadband)