

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended	)	
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	

**COMMENTS OF CITY OF TOPPENISH WA**

CITY OF TOPPENISH appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket.

We strongly oppose the tentative conclusions in the FNPRM that cable-related in-kind contributions are franchise fees and that local governments have no authority regarding cable operators’ use of the rights of way to provide non-cable services.

The City of Toppenish represents MidValley Television, (Community Access) and three other cities as part of an interlocal agreement, Wapato, Granger and Zillah, to provide PEG access in our communities on Charter Cable. Since 1993 the four cities have support MVTV with the 5 percent franchise fee.

The lower valley is smaller in population, and smaller in city size. The impact to our budget of reduced franchise fees would end community access for our cities.

MVTV does not currently have any build out requirements in our franchise areas. We are small cities and Charter is built out in our areas. This being said, rural communities would benefit from cable and their fiber to home program, but that is not in our jurisdiction. We do not have and emergency broadcast channel with Charter. The in-kind service we do rely on is the

connection of basic cable to the access channel to monitor the broadcast of the video and audio signal.

Public Access and Government access television is for the benefit of the whole community. School, non-profit, city, and individuals produce local programming of local interest. Our small communities do not have a voice, or representation by a local newspaper, or a local news channel. Community Access is a pure support of freedom of speech. Open to all gender, race, age, opinions. Community Access is not the voice of the Cable company or City. Community Access is a true benefit for citizens for use of their Rights of Way.

Municipalities must protect its citizens rights of way and its uses. It is their responsibility to look at all uses. Including wireless efforts by companies looking to make a profit from right of way and poles (and airway) in their cities. Any utility or company accessing the right of way must be made responsible for how they conduct business. There are many ‘players” in this right of way, and poles, and the cities must do due diligence to provide safety standards for each use, and to make sure a citizen’s “view” or adjacent property to the rights of way are not “cluttered” or made unsightly from structures, towers or boxes that could pose many issues.

We ask that the FCC not make any rule (s) that reduces current franchise fees or change rules to jeopardize local franchise authorities’ abilities to protect its local citizens rights of way.

Respectfully submitted,  
Judy Devall

Judy Devall  
Community Access TV Manager  
Lance Hoyt, Cable Communications Officer

October 30, 2018