



November 8, 2018
Via Electronic Filing

Chairman Ajit Pai
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: MB Docket No. 05-311. Comments Re: Second Further Notice of Proposed Rulemaking Allowing Franchise Fee Deductions for Cable Companies

Honorable Chairman Pai,

The City of Vancouver, Washington writes to express its opposition to the Further Notice of Proposed Rulemaking (FNPRM). The FNPRM proposes to allow cable companies to deduct the fair market value for a wide range of public benefits from their franchise fee obligations, namely public, educational, and government (PEG) channel capacity and transmission, and restricts local governments from regulating the facilities and equipment used by cable operators in the public rights of way.

While we appreciate the Commission's efforts to engage with local governments on this issue, we remain deeply concerned about several provisions of the FNPRM. Local governments including the City of Vancouver have a valuable resource in PEG programming, which provides a host of community benefits, including educational and government access channels aimed at providing locally beneficial information to our residents.

As proposed, the FNPRMs broad definition of all "cable-related, in-kind contributions" other than PEG capital costs and build out requirements could be treated as "franchise fees," meaning:

- Cable operators will be able to reduce their current franchise fee payment by the fair market value of all in-kind contributions, with the exception of PEG capital costs required by the franchise associated with the construction of PEG access facilities and build out requirements.
- There will be significant reductions in cable franchise fees, depending on how the "fair market" value for PEG capacity and transmission is calculated within any given jurisdiction.
- PEG programming would be severely limited, if not altogether eliminated in some or most jurisdictions.

The FNPRM also proposes to prohibit local governments from regulating the facilities and equipment used by cable operators in the provision of non-cable services, such as wireless communications services. If preempted from regulating these installations outside the franchise (since these franchises do not generally address the use of rights of way for non-cable facilities), local governments may lose their authority to manage a cable company's deployment of non-cable facilities, such as "small cells." This preemption would threaten to extend to fees for use of the rights of way, meaning:

- Cable companies can use local rights of way for any purpose, regardless of the terms of the franchise, and avoid having to pay fair compensation to the local government for the use of publicly funded assets in the rights of way.
- Cable companies could potentially install "small wireless facilities" with little to no public input, without having to meet any aesthetic or equipment size requirements aimed to mitigate blight and preserve community character.
- Cable companies would gain a significant advantage against their competitors, including telecommunications providers even though the FCC has just adopted an order lowering their deployment standards, resulting in a race-to-the-bottom deployment strategy for both cable and telecommunications companies.

The City of Vancouver, Washington values its PEG programming and the fair and appropriate use of the public rights of way to preserve the character of our community. For these reasons, we oppose the FCC's effort to decrease PEG funding through a reduction of franchise fees, while limiting the obligations providers have to our community. We urge you to reject the potential reduction in PEG services provided to members of our community and local government autonomy.

Truly,

CITY OF VANCOUVER, WASHINGTON
City Manager's Office



Eric J. Holmes
City Manager

cc: Senator Patty Murray,
Senator Maria Cantwell,
Representative Jamie Herrera Beutler,
Vancouver Mayor Anne McEnerny-Ogle,
Vancouver Councilors Bart Hansen, Bill Turlay, Alishia Topper, Ty Stober, Linda Glover, Laurie Lebowsky,
Jan Bader, Program and Policy Development Manager,
Michael Nigrey, Assistant City Attorney