



November 9, 2018

FCC Chair, Ajit Pai
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel

C/O: Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: MB Docket No. 05-311. Second Further Notice of Proposed Rulemaking.
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.

Honorable Chairman Pai and Commissioners O'Rielly, Carr, and Rosenworcel:

On behalf of the City of Hayward, CA, I am writing to express our City's **OPPOSITION** to the [Second Further Notice of Proposed Rulemaking \(FNPRM\), MB Docket No. 05-311](#). If approved, this action will not only 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, it will also serve to undermine the City's ability to control the manner and location of small wireless facility installations in our community.

In 2006, California passed the Digital Infrastructure and Video Competition Act, which streamlined the deployment of cable services by making the California Public Utilities Commission (CPUC) the sole franchising authority in the state and preserved many of the provisions commonly found in local franchise ordinances. The California state legislature took this action to streamline deployment while keeping local government revenues intact, ensuring that local public rights-of-way remained under control of cities and counties, and that a sufficient amount of capacity on cable networks was preserved for public, educational, and government (PEG) access channels.

While the FCC typically exempts from their Orders those states that have a centralized franchising authority, this FNPRM provides no such exemption, and so threatens to undermine our community's interests. By allowing cable companies to deduct the "fair market value" of PEG channel capacity and transmission from their franchise fee obligations, the FCC's proposed rulemaking threatens to limit or eliminate public, educational, and government access channels which help inform and empower the public. And while the limitations, or possible elimination, of PEG services alone are problematic,

Office of Mayor Barbara Halliday

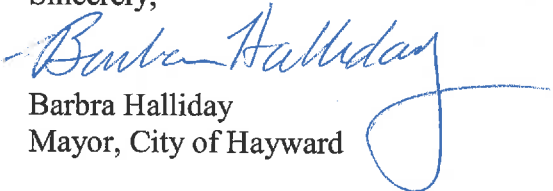
777 B Street • Hayward • CA • 94541-5007
Tel: 510/583-4340 • Fax: 510/583-3601 • TDD: 510/247-3340
EMAIL: Barbara.Halliday@hayward-ca.gov

this proposed rulemaking, if approved, will prohibit our local government from regulating the facilities and equipment used by cable operators in the provision of non-cable services, such as wireless communications services. Under this proposal, cable companies could potentially install “small wireless facilities” with little to no public input, and without having to meet aesthetic or equipment size requirements established by the City to mitigate blight and preserve our community’s unique character. This action will also severely reduce franchise fee revenues, revenues that allow cable companies to use the public right-of-way, in the City of Hayward and in other local communities.

In California, cities, including the City of Hayward, overwhelmingly opposed similar past efforts from both the cable and telecommunications industry that undermine the ability of local governments to exercise their responsibility to protect the public health and safety of their own communities. In the end, our residents stand to lose most in terms of the public benefits they receive, and the input they can provide, for facilities installed in their own backyards. The FCC should instead consider ways that cable operators can: improve their services, help close digital divides based on income status, and expand deployment to rural and lower income communities.

Unfortunately, this proposed rulemaking continues a recent pattern of lowering standards and public responsibility for the communications industry as a whole. Consequently, the City of Hayward strongly urges you to deny this proposed rulemaking, MB Docket No. 05-311, which if approved will deteriorate PEG services and the fair use of the public right-of-way in our, and other, local communities.

Sincerely,


Barbra Halliday
Mayor, City of Hayward

Cc:

Senator Diane Feinstein, c/o: anant_raut@judiciary-dem.senate.gov
Senator Kamala Harris, c/o: Lartease.tiffith@harris.senate.gov
Representative Eric Swalwell, c/o: Andrew.ginsburg@mai.house.gov
Representative Barbara Lee, c/o: liz.lee@mail.house.gov
Representative Ro Khanna, c/o: kevin.fox@mail.house.gov
Representative Mike Thompson, c/o: Jennifer.goedke@mail.house.gov
Representative Jerry McNerney, c/o: Svetlana Matt@mail.house.gov
Representative Mark DeSaulnier, c/o: <https://desaulnier.house.gov/contact>

Capitol Advocacy Partners, c/o: ddebeaumont@CapitolAdvocacyPartners.com
California League of Cities, c/o: scaygill@cacities.org
Townsend Public Affairs, c/o: rharmmon@townsendpa.com