City of Sonora
"Queen of the Southern Mines"
94 North Washington Street
Sonora, California 95370

City Hall
Administration 532-4541
Community Development . 532-3508
Finance 532-4541
Human Resources....... 588-8946
Opera Hall 532-7725
Special Programs 532-7725
Fire..................... 532-7432
Police.................. 532-8143
Public Works............ 532-2922
Cemetery.............. 532-4492

Area Code 209
www.sonoraca.com

November 13, 2018

Chairman Ajit Pai
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

VIA: **Electronic Filing - https://www.fcc.gov/ecfs/filings**

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:

The City of Sonora is strongly opposed to the Further Notice of Proposed Rulemaking (FNPRM), which 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.

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. It was the intent of the state legislature 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 would normally exempt from their Orders states with a centralized franchising, this FNPRM provides no such exemption. 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 currently paying the typical five percent franchise fee permitted by federal law will be able to reduce their current franchise fee payment by the fair market value of all in-kind contributions.
- 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.

PEG programming offers a host of community benefits, including public access channels, educational access channels, and government access channels all aimed at providing locally beneficial information.
The "fair market value" of such services may be impossible to discern and would likely be a source of litigation between cable operators and local governments. However, this FNPRM threatens to limit or eliminate public, educational, and government access channels all meant to better help inform and empower the public. The potential loss of this public benefit should be concerning enough for the FCC to reject this FNPRM. However, the FNPRM further threatens the use of local right of ways for non-cable related purposes as well.

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 and avoid having to pay fair compensation
- Cable companies could potentially install "small wireless facilities" with little to no public input
- Cable companies would gain a significant advantage against their competitors

The FCC should instead consider ways that cable operators can: improve their services, help close digital divides, and expand deployment to rural and lower income communities.

For these reasons, the City of Sonora opposes the FNPRM and respectfully urges the FCC to reject the deterioration of PEG services and fair use of the public right-of-way.

Sincerely,

Timothy A. Miller, City Administrator

cc: Tom McClintock, US Congress, District 4
Stephen Qualls, Central Valley Division Regional Public Affairs Manager, squalls@cacities.org
Meg Desmond, League of California Cities, cityletters@cacities.org