

MICHAEL TUBBS
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CITY OF STOCKTON

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November 7, 2018

Chairman Ajit Pai
Federal Communications Commission
425 12th Street, SW
Washington, DC 20554

RE: Opposition to FCC Cable Franchise Fee Deductions Proposed Rule

(MB Docket No. 05-31)

Dear Chairman Pai:

On behalf of the City of Stockton, California, I oppose the Federal Communications Commission's (FCC) Second Further Notice of Proposed Rulemaking (FNPRM). In 2006, the California State Legislature enacted the Digital Infrastructure and Video Competition Act, making the California Public Utilities Commission (CPUC) the sole franchising authority. The measure kept local government revenues intact, protected local public rights-of-way, and ensured a suitable amount of capacity on cable networks was preserved for PEG access channels. The FCC's FNPRM adopts none of these safeguards and fails to exempt states with centralized franchising authority.

The proposed rule would allow cable companies to deduct the fair market value for a wide range of public benefits from their franchise fee obligations. This deduction is problematic for two reasons. First, the deduction threatens the fair use of public rights-of-way, not only in Stockton, but also in communities throughout the state of California and the country. The FNPRM's reckless preemption of local jurisdiction is likely to result in cable companies using local public's rights-of-way as they see fit. Permitting these highly profitable private enterprises to avoid having to pay fair compensation to local governments for the use of publicly funded assets is unacceptable. Second, this deduction would include public, educational, and government (PEG) channel capacity and transmission. This directly threatens to limit, if not eliminate, PEG channels, which are supported by the franchise fees.

Furthermore, the proposed rule would also prohibit local governments from regulating the facilities and equipment used by cable operators in the provision of non-cable services. Many non-cable services, such as those provided by the wireless communications industry, would be exempt from local oversight. Under this proposal, cable companies could potentially install "small wireless facilities" without public input or

having to meet any aesthetic or equipment size requirements aimed at mitigating blight and preserving community character.

The City of Stockton receives \$2.3 million from cable franchises that are used to support essential services such as police and fire. An additional \$450,000 from PEG fees is also collected annually supporting transparent government services. The net effect of the FNPRM will be a significant reduction of PEG services, a sharp decline in franchise fee revenues, and the elimination of local discretion over cable and non-cable facilities. None of this serves the public interest.

Rather than preempting state and local jurisdictions as outlined by the FNPRM, the City of Stockton suggests the FCC should encourage cable operators to improve their services, help close digital divides, and expand deployment to rural and lower-income communities. Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in blue ink that reads "Michael Tubbs". The signature is fluid and cursive, with the first name "Michael" and last name "Tubbs" clearly legible.

MICHAEL TUBBS
MAYOR

MT:cc

cc: FCC Commissioners
Senator Dianne Feinstein
Senator Kamala Harris
Representative Jerry McNerney
League of California Cities
National League of Cities