



November 7, 2018

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

E. Warren Gubler
Mayor

Bob Link
Vice Mayor

Gregory F. Collins
Councilmember

Steven A. Nelsen
Councilmember

Phillip Cox
Councilmember

RE: MB Docket No. 05-311 Implementation of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992

Dear Ms. Dortch,

On behalf of the City of Visalia, California, thank you for the opportunity to comment on the Federal Communication Commission's (FCC) recent proposals regarding cable franchising issues. The City of Visalia is a community of approximately 136,000 residents in California's Central Valley. The City relies on franchise fees to reimburse our expenses for the deployment of cable infrastructure.

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. Unfortunately, while the FCC typically exempts states with a centralized franchising authority, this rulemaking does not include this exemption.

The City of Visalia is concerned with the FCC's proposal to conclude that the mixed-use network ruling should be applied to incumbent cable operators. By limiting the fees to cable services only, the FCC is preventing state and local governments from recouping the full cost of the impact to our roads and rights of way. Over the past several years, we have seen a decline in the number of customers for traditional cable service, however, many of those customers are increasing their use of broadband or telephone services offered by cable companies. These services run over the same equipment and should be subject to the same fee structure as cable. Whether the incumbent cable operator is occupying the right of way or needing to access their buried lines to respond to cable, broadband or telephone related issues, it all has the same impact on our infrastructure and we need to be able to cover our costs and ensure all providers, regardless of their services, are treated equally.

The rulemaking 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.

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. We strongly encourage you to reconsider these issues and take into account the broad impact that these changes would have on cities and the telecommunications industry.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Gubler', written in a cursive style.

Mayor Warren Gubler
City of Visalia