

# MEDIAVOX

369 South Union Street  
Burlington, VT 05401  
802.861.7364 [Greg@Mediavox.TV](mailto:Greg@Mediavox.TV)

The Honorable Ajit V. Pai, Chairman  
The Honorable Michael O’Rielly, Commissioner  
The Honorable Brendan Carr, Commissioner  
The Honorable Jessica Rosenworcel, Commissioner  
Federal Communications Commission  
455 12<sup>th</sup> Street SW  
Washington, DC 20544

RE: MB Docket No. 05-311

December 14, 2018

Dear Chairman Pai,

I write in support of the comments filed on November 14, 2018 by the Cable Act Preservation Alliance (“CAPA”), a collaboration of The Alliance for Communications Democracy (“ACD”); the Alliance for Community Media (“ACM”); and the Cities of Bowie, Maryland; Eugene, Oregon; Palo Alto, California; and Portland, Maine in response to the Commission’s Second Further Notice of Proposed Rulemaking (“*Second FNPRM*”) in this docket.

I have been a strong supporter of, and for many years a manager and leader of PEG Access since before its inclusion as a permissive condition in cable television franchises in the Cable Communications Policy Act of 1984. I have also been a first-hand witness of several efforts of the cable television industry to marginalize and resist PEG Access’ deployment and sustainability, often very successfully, around the country.

Fortunately, the State of Vermont as the Franchising Authority, supported by many our communities of concerned citizens, understood, and still understands how important PEG Access’ contribution is to Vermonters’ civic, educational and social engagement, and to their quality of rural life.

That said, I agree with CAPA that for the cable industry to argue that cable-related in-kind obligations such as channel space are subject to monetization and should count toward the Franchise Fee is, in my words, specious and devious. This argument is yet another attempt by the cable industry to evade its obligations, clearly stated in the Cable Act, to provide for PEG Access if it is part of a cable franchise agreement, there with the intent to allow citizens, residents and community institutions to express their First Amendment voices.

PEG Access has had to rely on strictly cable television revenues for its existence over the decades, but at the same time the cable industry has successfully avoided its franchise fee and PEG Access obligations by migrating its commercial programming over to broadband. This in spite of the fact that it has been using the same public rights of way for the same cables, fibers and vehicles to carry the same electronic information it always has for half a century. Many here in Vermont realize that it is cable television subscribers, among all our telecommunication rate payers, who have exclusively seen PEG Access fees included on their bills; however, poll after survey poll taken of cable TV subscribers—even one done by Comcast in 2009—indicate an acceptance and awareness of PEG Access and its contribution to their respective communities.

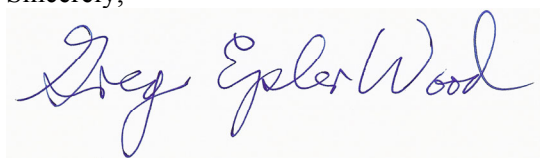
All 100% of monies of what would be called a “franchise fee” in other municipalities, here in Vermont go directly from cable operators to 25 not-for-profit PEG Access management organizations

under our PUC Rule 8.000. In my opinion, the FCC should have no jurisdiction or legal ability to override the explicit and implicit intent of the Cable Communications Act of 1984 with regard to franchising, PEG Access obligations, PEG channel requirements and the First Amendment rights of the non-commercial “speakers” on those channels.

I am certain you’re already aware of how the U.S. Supreme Court Justice Anthony Kennedy, with Justice Ruth Bader Ginsberg concurring, regarded PEG Access in his Concur/Dissent opinion in *Denver Area Educ. Telecommunications Consortium v. FCC*: that it is a *public forum*. Twelve years earlier, the House Report for the 1984 Cable Act itself said that public access channels are “the video equivalent of the speaker's soapbox or the electronic parallel to the printed leaflet. They provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas.” H. R. Rep. No. 98–934, at 30.

I urge the FCC Commissioners to protect the basic principles and the explicit conditions of current law, as well as the rights of states and franchising authorities to protect and sustain their PEG Access operations. There is no documented and settled proof of any PEG Access abuses by LFAs from which cable operators need protection. Rather, it is PEG Access itself that needs protection.

Sincerely,



Gregory EplerWood

Cc: Michael Wassenaar, Alliance for Community Media  
Kevin Christopher, Vermont Access Network