**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

In the Matter of )

)

Implementation of Section 621(a)(1) of the Cable ) MB Docket No. 05-311

Communications Policy Act of 1984 as Amended )

by the Cable Television Consumer Protection and )

Competition Act of 1992 )

**COMMENTS OF THE MAYOR OF THE CITY OF NORTHAMPTON, MASSACHUSETTS**

The City of Northampton appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket. The City of Northampton is in western Massachusetts and our local cable provider operates three channels that provide local programming covering local governmental meetings and events of interest to our citizens. Our local cable channels are essential to our governmental mission in that an informed citizenry facilitates good governmental outcomes. We are located in western Massachusetts and public transportation is not available in many locations where are citizens live. The ability to access a City Council or School Committee meeting, for example, via cable is extremely important and we know that our citizens watch the local broadcasts by the phone calls and letters we get following meetings. Our city, with a population of over 28,000 people, relies on the excellent programming provided over the three local cable channels and any change to the rules that reduces and/or eliminates the funding that supports these efforts is an outright theft of resources our citizens are owed under our negotiated cable agreement.

We forcefully and loudly oppose the conclusion in the FNPRM that the value of cable franchise obligations, such as those that allow our programming to be viewed on the cable system, can be deducted from franchise fees. This is in direct conflict with our current contract which was negotiated in good faith. Any change that alters the fundamental obligations agreed to in our existing contract makes a mockery of the contract negotiations that were conducted in good faith.

The long standing agreement outlining the cable operator’s obligations under the contract must not be dismantled. These obligations are provided to our community because we grant the cable operator access to our roads and infrastructure which are essential for the cable operator’s operations and in return we are provided with funds that support local programming. The proposed change which would reduce or eliminate these operating funds for local programming by calculating a fair market value for the value of the channels will lead to arbitrary decisions and reduce public benefit. The city will no longer receive due consideration for the vast amount of infrastructure that we provide to the cable operator. The loss to our community would be enormous.

It is ludicrous to imply in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or the PEG provider, rather than the public. As demonstrated above, our local cable television provider, Northampton Cable TV, provides valuable local programming that is not otherwise available on the cable system. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated by the LFA and therefore should not be considered contributions to an LFA.”[[1]](#footnote-1) PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public and cable subscribers.

The public and specifically the Citizens of Northampton, MA are the sole beneficiaries of local cable programming. For a governmental agency to conclude otherwise is a severe deviation from the mission to serve the public. It will be a dark day, when the lights and sound of local cable programming disappears from the landscape of civic engagement. Any encroachment on our ability to provide information to our citizenry is viewed as a threat against democracy itself.

We invite the Commission to view for themselves the important benefits provided by our local PEG programming stations. The link below is to our local PEG programming website: <http://northamptontv.org/about/>

Again, I wish to reiterate my forceful opposition to the proposed rules in the FNPRM. When you threaten the public’s ability to access information, you diminish the power of the free, independent and local press to inform people’s lives and you ultimately threaten our democracy.

Respectfully submitted,

David J. Narkewicz

Mayor

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1. FNPRM ¶ 21. [↑](#footnote-ref-1)