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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. SW - TW- A325
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

I am writing in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. I have enclosed six (6) copies of this letter, in addition to the original.

I believe that, if enacted, the actions proposed by the FCC will effect a taking of my property without just compensation. Such actions will not only interfere with my business operations and give my property to large and wealthy telecommunications firms, such actions will unnecessarily and unfairly hurt my business, place the residents at a competitive disadvantage for the purchase of telecommunications services, and needlessly raise additional legal problems as a result of this unprecedented government action.

My company, Etkin & Co. is in the business of providing rental multifamily homes in Oakland County, Michigan. We manage 5 apartment properties, as well as a shopping center.

Issues Raised by FCC Notice

I am concerned about and disappointed with the proposed rule. It seeks to give a permanent easement to any telecommunications provider that has an interest in selling services to my tenants without my consent. It purports to do this in the name of consumer protection, hoping to provide less expensive services to tenants through a system you have called "non-discriminatory access." I believe this practice is misguided, is unnecessary, and will harm the residents in my properties.

First, let me assure you that my company is doing everything it can to meet our tenants' needs and demands for access to a wide range of telecommunications services. Ours is an extremely competitive industry. We compete with other multifamily properties in every community in which our properties are located. In addition to competing on unit size, location and lay-out, one of the primary areas of competition is the set of amenities we can provide to our tenants. One of the most important of these is telecommunication services.

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incumbents: they were established in monopoly environment. The only fair solution is to let the new competitive market decide and allow owners to renegotiate terms of all contracts.

3. Scope of Easements

- The FCC cannot and should not expand the scope of easements already provided to existing telecommunications providers to allow every competitor to use the same easement or right-of-way. Grants in some buildings may be broad enough to allow other providers in, but others are narrow and limited to facilities owned by the grantee.
- If owners had known governments would allow other companies to piggy-back, they would have negotiated different terms. Expanding rights now would be a taking of private property.

4. Exclusive Contracts

- We currently have two exclusive contracts with one provider, who would only wire our building if we gave them an exclusive contract for a set period. This is for cable television. The other three properties we have are non-exclusive contracts where we have two providers in , a cable company and a satellite company.?
- Because two of our properties are new the exclusive contract was the only way we could get the local provider in to wire the building, and provide that service for our residents. In the other three markets, we were able to negotiate contracts with the cable company at a much more competitive basis because they knew they were competing with satellite providers, giving our residents the best of both worlds.
Additionally, as part of the satellite provider package, we are able to offer satellite internet service to our residents, which is a very attractive package for them.

5. Expansion of Satellite Dish~Rule

- I oppose the existing rule because do not believe that Congress meant to interfere with our ability to manage our property.
- The FCC should not expand the satellite rule to include data and other services, because the law only applies to antennas used to receive video programming.
- We have had problems with people installing their own satellites on our buildings. We have had them installed on balconies in an unsafe manner, where they may fall and injure those walking below the balconies. We have also had residents install satellites through our roofs, doing damage to the roof and the attic. We have also had people put holes through exterior walls, causing leaks into the building. We are very concerned about residents installing satellite dishes on our buildings, and the damage that it causes both to the interior and exterior of the buildings. .

In summary, I am very much opposed to the proposed rule and urge the FCC to refrain from issuing it in final form. Thank you for your consideration of my views.

Sincerely,
Etkin & Co

Helen B. Etkin

In each of my properties, in each market in which we are located, my company studies the market, analyzes the best package of telecommunications services available, determines what our tenants want and negotiates vigorously with providers of these services. If tenants with month-to-month or one year tenancies are forced to negotiate directly with national or international telecommunications firms, they will be at a decided disadvantage. My company has the negotiating strength afforded one who represents , thousands of tenants. No individual can strike as good a deal as we can in this collective manner.

Furthermore, once a telecommunications firm has entered and wired one of our buildings, other providers may be less interested in incurring the cost to compete. Thus, it is likely that one or more of the large firms will obtain an effective monopoly on providing services to our tenants at what will be far from an arms-length, negotiated rate. We have all seen what has happened to cable TV rates where cable TV companies have acquired monopolies in communities across the country. Is it necessary to create such a system when we already have the incentive to negotiate for, and provide the most effective, extensive and competitive set of services in our competitive business?

I must note that the proposed rule raises the following additional concerns: it would expand the scope of existing easements; in some instances it will interfere with existing exclusive contracts; and it may expand the satellite dish rules to include non-video services.

1. FCC Action is Not Necessary

In addition to the above, you may want to know that we have given competitive providers access to the buildings that we can, in an attempt to give our tenants the best options at the best prices. For example, we have a number of Japanese and Canadian residents who have requested special broadcasts. We were able to negotiate with a satellite company and arrange for them to carry those stations. This is not something that an individual would be able to accomplish.

2. Nondiscriminatory Access

- Also, I would like to point out that there is in fact no such thing as "nondiscriminatory access." There are dozens of providers out there, but limited space in our buildings means that only one or two providers can install their facilities in our buildings. Nondiscriminatory access discriminates in favor of the first few entrants.
- We must have control over space occupied by telecommunications providers, especially when there are multiple providers involved. This is to protect the tenants and to protect the integrity of the building itself as well as its appearance.
- We must also have control over who enters their buildings. We have secure buildings, where the only access is by key, and we do not give out the key to non tenants, except for service providers that we have contracts with. We face liability for damage to our buildings, to the leased premises, ; and for personal injury to tenants and visitors. We are also liable for safety code violations. Qualifications and reliability of providers are a real issue.
- What does "nondiscriminatory" mean? Deal terms vary because each deal is different. A new company without a track record poses greater risks than an established one, for example, so indemnity, insurance, security deposit, remedies and other terms may differ. Value of space and other terms also depends on many factors.
- Building owners often have no control over terms of access for Bell companies and other