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August 18, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. SW - TW -A325
Washing ton, DC 20554

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

Dear Ms. Salas:

This letter contains comments regarding the FCC's Notice of Proposed Rulemaking dated 7/7/1999 regarding forced access to buildings. Six copies of this letter are enclosed in addition to the original.

If enacted, this rule will allow the expropriation of my property without just compensation. Worse, this rule will have UNINTENDED CONSEQUENSCES THAT WILL UNDERMINE THE VERY PURPOSE FOR WHICH THE RULE IS DESIGNED. Contrary to its purpose, this rule will place my residents/customers at a competitive disadvantage in their purchase of telecommunication services. The rule interferes with my ability to serve and protect my customers and my property, and place me, my, customers, and my property at the disposal of large and wealthy telecommunications firms.

My company, C & G/Nestling Properties, owns and manages approximately 800 apartment homes in Columbus, Ohio.

I. Competition

The purpose of this rule is to increase competition and thereby improve service and reduce cost to the consumer. Allowing unrestricted access will actually reduce tenants access to t-c service and price competition because of the nature of multifamily buildings and the multifamily business. In order to attract and retain tenants in our buildings, we must offer a wide range of amenities. These run the gamut form off-street parking to concierge services. One of the critical amenities is the telecommunication service availability. Because of this, the owner of an apartment building or community devotes considerable effort to researching and evaluating the various t-c choices available. The owner then uses his buying power, which may represent hundreds or thousands of apartment units, to negotiate a very competitive system, both form the standpoint of price and quality. The selected t-c provider can price the system more competitively because it knows that its investment in infrastructure will cover a large number of end users.

An individual tenant will never be in an equivalent competitive position vis-a-vis a t-c company that the building owner is. In fact once a t-c company gets a foothold in a building by signing up a few tenants, no other tenants will have any negotiating power with that

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provider or any other provider at all. As the fist provider gains market share in a building, other providers will have a disincentive to incur the expense of entering to wire the building, thus creating a higher cost to prospective tenants. This enable the first company to raise prices and reduce service without fear of being replaced. The owner of the building then faces losing tenants who may move to buildings that have a preferred service.

IN ORDER TO ACHIEVE COMPETITION IN MULTIFAMILY BUILDINGS AND COMMUNITIES, THE OWNER MUST BE THE PURCHASING ENTITY AND CONTROL THE ACCESS.

II. Non-discriminatory Access

This benign-sounding term means that we will have to allow any t-c provider carte blanche to enter and wire our property. This is not a cost effective means of providing t-c services to tenants of a multifamily building. Economies of scale, physical limitations, and safety concerns require that the owners and managers of these buildings have control of any physical access or changes to the building and its mechanical and electrical components. We cannot delegate our responsibility for the safety of our properties and our residents, so it is unconscionable to force us allow unrestricted access to our property and systems.

III. Easements and Contracts

Access to multifamily buildings has been accomplished by formal easements which are granted to specific providers. Operating contracts have been negotiated which detail the responsibilities and privileges of the various parties. There are equitable rights involved in these instruments and relationships. This rule would interfere with those rights and would therefore amount to a public taking of property without just compensation. The government will be sued in every jurisdiction in the country and the damages will be significant.

IV. Expansion of the Satellite Dish Rule

This existing rule on satellite dishes creates a serious for for building management in terms of safety and aesthetics. Any expansion of the rule to include data transmission would only make it worse. Also, the t-c law only refers to antennas for video programming so expansion to data and other services is outside the scope of the law.

I hope the commission can see that this rule, while well intended, will not accomplish its objectives and will cause less competition and service in multifamily buildings and communities. I hope the FCC will refrain from issuing it in final form.

Sincerely,

John W. Connor
General Manager