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June 10, 2002

Federal Communications Commission Chair
Michael K. Powell
445 12th St SW
Rm 8-A204
Washington, DC 20554

Re: GN Docket No. 00-185

Dear Chair Powell:

Throughout the United States, thousands of local cities and towns collect franchise fees as permitted under federal law, and in many instances use them to support Public, Educational and Government (PEG) access or community media centers. PEG access centers exist solely because cable operators provide channel capacity, services, facilities and equipment as partial compensation to communities for their use of public rights-of-way (streets, highways, parks and other government owned property). This compensation provides access to media for the local population.

Local community groups, public schools, religious institutions, colleges and universities, government officials, the disabled, and second language communities as well as national institutions such as NASA, the US Department of Education, and the US Army, to name a few, all use PEG facilities and equipment to advance their causes through cable television and the Internet. With the emergence of media mergers and technology convergence, PEG access centers continue to provide communities with a diverse, independent and local voice

Since Internet service over cable began, the additional revenues to cable operators have resulted in increased amounts of franchise fee payments. Many municipalities have used such additional amounts to help citizens gain access to the Internet, learn how to navigate and publish on the web, build enterprise and institutional broadband networks, and obtain information on how to protect children and families from some of the less beneficial aspects of the unregulated Internet. All of these activities were funded from cable subscriber fees on cable modem revenue and other cable services.

The Commission's declaratory ruling that cable modem service is not a "cable service," but rather an "information service" will have an extremely deleterious economic impact on thousands of small governmental jurisdictions and small organizations. In addition, the tentative conclusions set forth in the Proposed Rulemaking regarding the jurisdiction of local governments to regulate and impose franchise fees on cable modem service stand to detrimentally impact PEG operations across the country.

If cable modem revenues are excluded from the gross revenues in calculating franchise fee payments, local municipalities and communities will lose a significant source of funding for their operations. Every community with a PEG access center, community media center or community computing center that has relied on these funds will be forced to cut back services to the community, residents, businesses, non-profits and schools. Also, many communities use these fees to administer safety and public convenience in the public rights of way with respect to cable operators' equipment installations and maintenance.

I/We urge the commission to consider the public interest benefits that may be lost, threatened or greatly reduced by removing cable modem revenue from the calculation of franchise fees. I/We strongly urge the Commission to

maintain local jurisdiction over the regulation of public rights-of-way for cable modem service, including the continued inclusion of cable modem revenues as a viable source of franchise fees.

Sincerely,

Benjamin Davis