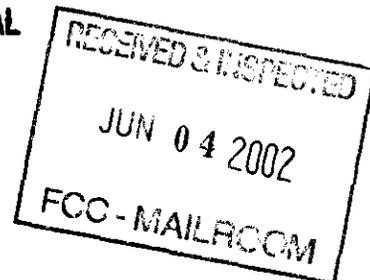


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Guy McDonald, Chairman

02-52

William R. Felege, Vice-Chairman

Sandra L. Anderson, Supervisor

May 23, 2002



Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

Re: FCC Declaratory Ruling and Wireline Broadband NPRM Cable Modem Service

Honorable Commissioners:

As a small municipality, we rely on the income derived from cable service franchise fees, as do many municipalities across the nation. We take issue with the Federal Communications Commission's [FCC] Declaratory Ruling of March 14, 2002, wherein the FCC determined that cable modem service is not a "cable service" as defined by the Communications Act.

It should go without saying that definition semantics have not kept up with the ever-increasing pace of technology. The narrow definition of cable service needs to be expanded to encompass all services conveyed via cable, whether the signals are propagated electronically, optically or otherwise through physical infrastructure situated within public rights of way within any municipality. Let us not forget that the occupation of the public rights of way was and should continue to be, the basis for the enablement of the franchise fees imposition. The same physical infrastructure is required whether an end user is watching television, surfing the net, chatting on-line, video conferencing or downloading files. Parsing of words does not change the physical basis for franchise.

With regard to the term "cable modem", the new cable television boxes are in fact, modems in that they modulate and demodulate signals to enable communications between the cable office and the customer (i.e. pay-per-view ordering, monitoring of viewer preference profiles, etc.). As technology merges computers and television, which is the end-game of manufacturers and providers, the FCC would eliminate billions of dollars of municipal income. Further, you would again in several years, be faced with the issue of whether or not basic television service is a cable service since all TVs will be served via a digital modem.

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In light of the advancement of technologies, it may be wise to revisit the definitions of the three statutory classifications of "telecommunications service" as defined in 47 U.S.C. § 153(46), "cable service" as defined in Section 602(6) and "information service" as defined in the United States Code in Section 153(20).

We implore you to consider the aforesaid in your final rulemaking.

Sincerely,

The Girard Township Board of Supervisors

BOS/las

Cc: The Pennsylvania State Association of Township Supervisors
The Erie County Association of Township Officials
Congressman Phil English
The Honorable, Senator Jane Earll
