

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Notice of Proposed Rulemaking)	
)	
)	CS Docket No. 02-52
Appropriate Regulator Treatment for)	
Broadband Access to the Internet Over)	
Cable Facilities)	
.)	

COMMENTS OF THE CITY OF SULPHUR SPRINGS, TEXAS

These comments are filed by the City of Sulphur Springs, TX, in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, the City of Sulphur Springs believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public right of way to provide non-cable services; (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

1. Our community and the status of cable modem service.

Sulphur Springs is a City with a population of 14,551. It is served by Cox Communications Inc., which has approximately 4,940 subscribers. The cable system serving our community offers subscribers 185 channels. The cable system in our community is being upgraded, and once it is upgraded, with the estimated completion date of December 2002, cable modem service should be offered throughout this community.

2. Our franchise and cable modem service.

Our franchise was issued in December 1993, and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service, which was stipulated in Ordinance 2108. Pursuant to that provision, will be entitled to receive franchise on cable modem service. We estimate that the city could lose a substantial amount of revenues if we cannot charge a fee on revenues from cable modem service. The franchise fee has not prevented or delayed the roll-out of cable modem service in our community.

3. Future regulation of cable modem service.

We regularly receive complaints from customers regarding traditional video programming services and anticipate the same or larger volumes of complaints concerning cable modem service. Responding to these complaints requires significant staff time and effort.

It is our understanding that there are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is usually marketed jointly with cable service.
- When we get complaints about promotional practices, the complaints may involve both.
- A single bill is usually sent for cable modem and cable services, so billing complaints may involve both.
- Customer service calls go to a single number, so telephone answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installation and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive currently about traditional video programming, we estimate the customer complaints will continue to escalate with the offering of cable modem service.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. Sulphur Springs Library offers Internet access and training to those using the public network within our library. The funds anticipated from cable modem franchise fees will help support these and other activities. If we lose the opportunity to collect future revenues from cable modem fees, it will be more difficult to protect consumers, and promote broadband deployment in this community.

Respectfully submitted,

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July 10, 2002