

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

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

REPLY COMMENTS OF THE CITY OF FRIENDSWOOD, TEXAS

These comments are filed by the City of Friendswood, Texas in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, the City of Friendswood 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 rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act. These comments will also provide information regarding the status of cable modem service in our community.

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

Friendswood, Texas is a City with a population of approximately 33,000. It is served by AOL Time Warner, Inc., which has approximately 5,299 subscribers. Cable modem service is offered in our community with approximately 1,192 subscribers.

2. Our franchise and cable modem service.

Our franchise was written to permit the operator to provide both cable services and other services, so long as the operator complied with the franchise terms (Ord. 95-6 § 2.01-A). As amended in 2000, our franchise required that all revenues collected from the provision cable modem service be included in the definition of gross revenues. (Ord. 2000-15 § 3.00-c). Pursuant to that provision, we are entitled to receive franchise fees on cable modem service. We received approximately \$23,000 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. We estimate that we will lose \$ 126,000 over the next 5 years if we cannot charge a fee on revenues from cable

modem service. Neither the franchise requirements nor the fees have prevented or delayed the roll-out of cable modem service in our community.

3. How we regulate cable modem service.

We receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort. 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

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, and because of its close tie to video services.

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 devote significant resources to take advantage of the information highway and to extend its benefits to all. Friendswood Public Library offers Internet access and training to library patrons. The City of Friendswood continues to deliver services to residents, provide critical information, and promote citizen inquiry and feedback via our website. The funds that we obtain from cable modem franchise fees can help support these and other activities. If we lose those funds, it will be more difficult to protect consumers and to promote broadband deployment in this community.

Respectfully submitted,

Ronald E. Cox, City Manager
City of Friendswood
910 South Friendswood Drive
Friendswood, TX 77546
281-996-3250

July 15, 2002