

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 )  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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MB Docket No. 05-311

**COMMENTS OF THE CITY OF POWAY, CALIFORNIA**

These comments are respectfully submitted by the City of Poway ("Poway" or "the City") in support of the comments filed by the National League of Cities ("NLC") and the National Association of Telecommunications Officers and Advisors ("NATOA") in response to the Notice of Proposed Rulemaking adopted by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding. Like NLC and NATOA, the City of Poway believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

**Cable Franchising in Our Community**

**Community Information**

Poway is a city with a population of 50,675, located in North San Diego County, California. San Diego County has a population of approximately three million citizens (nearly 1.06 million households) who are served by three major cable providers: Adelphia Communications Corporation ("Adelphia"), with approximately 75,000 subscribers; Time Warner, Inc. ("Time Warner"), with nearly 200,000 subscribers; and Cox Communications, Inc. ("Cox") with about 500,000 subscribers.

Poway is currently served by two franchised cable providers, Cox and Time Warner, which provide video, high speed internet, and digital telephone service to their customers. Though each franchise is non-exclusive, neither operator provides service where the other operator is so providing. Cox serves approximately 95% of households in Poway, while Time Warner serves the remainder. Wireline telephone service in Poway is provided by AT&T (formerly SBC Communications, Inc. and hereinafter referred to as "AT&T").

**Competitive Cable Systems**

Poway has negotiated cable franchises since incorporation in 1980. Prior to the City of Poway's incorporation, cable franchise negotiations were handled by the County of San Diego. Records indicate that Cox has held a franchise agreement in Poway

since at least 1962. The current franchise agreements have been in place since 1989 (Time Warner, formerly known as Southwestern Cable) and 1992 (Cox, formerly known as Mission Cable).

AT&T has recently notified the City of Poway of their intent to meet with staff to discuss building a fiber to the node (“FTTN”) system to provide IPTV and broadband services to citizens and businesses in Poway, also known as *Project Lightspeed*. Thus far, conversations with AT&T have been very preliminary.

As Poway begins negotiations with AT&T, the City’s primary objectives will be to:

- Promote market competition, which benefits consumers, while maintaining a level playing field between all types of providers;
- Provide equal access to all types of available services for all residents versus select areas;
- Protect control over public right-of-ways;
- Ensure the stability and availability of the public access channel for all residents, regardless of their mode of television service; and
- Preserve franchise fees.

The City of Poway has not denied any provider the opportunity to serve in our community.

### **Conclusions**

The local cable franchising process functions well in the City of Poway. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create new Federal oversight to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Poway therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise

impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

City of Poway

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