

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	)	MB Docket No. 05-311
as amended by the Cable Television Consumer	)	
Protection and Competition Act of 1992	)	

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**COMMENTS OF THE CITY OF VISTA, CALIFORNIA**

These Comments are filed by the City of Vista in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, Vista 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.

**Summary**

The *Notice* was initiated as the result of complaints by wireline telephone companies that the local franchise requirements constitute an unreasonable barrier to the timely deployment of internet protocol (IP) based services.<sup>1</sup> The *Notice* asks if local franchise authorities (LFAs) are "carrying out legitimate policy objectives" or "hindering" the Commission's policy objectives of increased competition and accelerated broadband deployment.<sup>2</sup>

Franchise rules are intended to ensure the public health, safety and welfare, prevent economic red-lining, provide for reasonable build-out requirements and ensure provision of public, educational and government channels. They also promote competition by providing an equitable framework for entry into the video market and reasonable compensation for the use of the public right-of-way. The time, money and effort now being spent by the wireline telephone companies to avoid franchise rules exceeds that necessary to obtain a local franchise.

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<sup>1</sup> *In the Matter of Annual Assessment of the Status of Competition in the Market for the delivery of Video Programming*, MB Docket No. 05-255 ("Video Competition Docket:").

<sup>2</sup> *Notice* ¶ 10.

### **Cable Franchising in Our Community**

The City of Vista is a governmental jurisdiction in San Diego County, California, with a population of 94,109.<sup>3</sup> Our franchised cable provider(s) are Cox Communications, Inc. (“Cox”), with approximately 19,300 subscribers, Adelphia Communications Corporation (“Adelphia”), with approximately 4,400 subscribers, and Orion Cablesystems (“Orion”), with approximately 300 subscribers. Wireline telephone service in Vista is provided by AT&T (formerly SBC Communications, Inc. and hereinafter called “AT&T”). Our community has negotiated cable franchises since 1966.

### **Competitive Cable Systems**

Our community has granted competitive franchises to Cox, Adelphia and Orion, and those providers continue to provide service in the City of Vista today. The City of Vista has not been approached by a Bell Operating Company to provide service. Vista believes that having advanced telecommunications services available to our citizens and businesses is a quality of life issue to which we are fully committed. However, to allow a company to enter the cable market in the City of Vista without a franchise could leave the City open to accusations, by any or all of our current franchise-holders, of preferential treatment towards the non-franchised company. In addition, California has enacted a “level playing field” statute that requires competitive entrants to agree to the same terms and conditions as the incumbent provider.<sup>4</sup> This requirement ensures that any company wishing to provide cable services is held to the same standards as incumbent providers, and reduces the risk of time-consuming disputes raised by incumbent operators. City of Vista invites any company wishing to provide cable services in the community to contact the City in order to develop a mutually negotiated franchise agreement for its proposed television services, pursuant to our current Municipal Code requirements.<sup>5</sup>

### **Conclusions**

The local cable franchising process functions well in Vista. 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.

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<sup>3</sup> Source: State of California Department of Finance, 2005 population figures

<sup>4</sup> Cal. Govt. Code § 53066 *et seq.*

<sup>5</sup> Vista Municipal Code Section 5.28

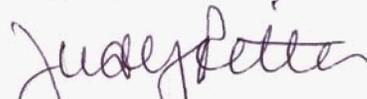
Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken 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 a new Federal bureaucracy in Washington 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 local franchising requirement has not prevented incumbent cable providers from being competitive. The argument advanced by the wireline telephone companies that negotiating agreements with municipalities is a hindrance is completely without merit. The City of Vista 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,



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