Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
Implementation of Section 621(a)(1) of	)	
The Cable Communications Policy Act	)	MB Docket No. 05-311
Of 1984 as Amended by the Cable	)	
Television Consumer Protection and	)	
Competition Act of 1992	)	

COMMENTS OF TELCO RETIREES ASSOCIATION, INC.

I. INTRODUCTION

TelCo Retirees Associations, Inc. is an organization dedicated to protecting, enhancing and assuring the continuation of retirees' pensions and other benefits promised by the company at the time of their retirement. We represent over 2,100 Pacific Bell and Nevada Bell (SBC) retirees, all who have a vested interest in the viability of the companies. Out of growing concern for the lack of cable competition, TelCo Retirees Association joined Consumers for Cable Choice (C4CC),[1] an alliance of consumer organizations committed to the creation of an open, diverse, pro-consumer market for cable subscribers that will stimulate price, choice and service options through a more competitive cable communications environment.

Many of the TelCo Retirees Association members are senior citizens on fixed incomes. A portion of that income is supplied by the retirees' pension and other benefits promised by their company. For this reason, it is crucial that their companies have access to new markets and new sources of revenue for increased profitability. Our members have suffered because of an overdue pension increase that has yet to come. Without alternative sources of revenue these companies may continue struggling to keep the agreements promised to their retirees.

By opening up the video market competitive entrants will finally be able to offer a diverse range of services that will expand business opportunities and benefit consumers simultaneously. Under the current system it is difficult for new players to enter the market, and it could take some 30 years to apply for the proper franchising authority in municipalities

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[1] Consumers for Cable Choice, Inc. is a not-for-profit corporation formed under Section 501(c)(4) of the Internal Revenue Code.

nationwide. Our members don't have 30 years. The have paid their dues, worked hard and are ready to enjoy the fruits of their labor, but outdated, excessive regulations are standing in the way. If the Commission does not work to change the existing franchise system it will cause irreparable damage to our members and their companies.

TelCo Retirees Association asks the Commission to look at the current franchising system and recognize how it hurts consumers. We believe the Commission holds the power to change the franchising system and break up the monopoly that has defined the cable industry for too long.

Our members and the country as a whole would greatly benefit from a market that is open to competition and innovation. TelCo Retirees Association provides the following comments to urge the Commission to remove regulatory barriers and facilitate a competitive video service market:

- For the security of our members it is crucial that their companies have access to new sources of revenue to ensure their continued success and vitality.
- For any of our members, or the greater public that live on a fixed income, current cable rates provide an unnecessary burden.
- As consumers, our members will benefit from the lower prices that increased competition brings.
- Reform can occur in a way that will benefit all those involved.

II. DISCUSSION

After years of loyal service our members deserve the comfort of knowing their finances are stable and secure. For this to happen their companies have to be able to compete in the marketplace. The gratuitous franchising process effectively blocks new competitors from providing cable service or entering the video arena in any way. To individually apply to the 33,000 jurisdictions across the country would drain resources and offset any profitability the new entrant stood to gain.[2] In such a fast-paced environment it is difficult for a company to operate and succeed with these obstacles.

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[2] Brian T. Grogan, Esq., "*Franchise Renewal: Industry Consolidation Creates New Challenges for Franchise Negotiations,*" March 6, 2003. Online: http://www.municipalcommunicationslaw.com/WhatsNew/568377.htm

A closed market does not only affect business, it hurts consumers. Cable providers continuously raise rates and no competition is available to stop them. Rates increased by 7.8% in 2003, 5.4% in 2004 and 7.5% for the 5-year period of July 1998 to January 2004. This rate is well over the rate of inflation, which increased an average of 2.1% for the same 5-year period. [3] In fact, some communities saw price hikes of over 10 % in 2005. For example, in San Francisco, California a customer who paid $36.20 for cable three years ago is today paying $47.93 for the exact same service.[4] In addition, price increases also far exceeded the increase in programming costs.[5] Based on this information it appears the only reason cable rates have risen over 56% since 1996 is a gross exploitation of the monopoly cable providers posses over the market.[6]

Under reformed franchise, consumers will save money and have access to new, more advanced services. Each American household could save as much as $75 dollars a year with new franchising processes that promote competition. [7] For a retiree or an individual on a fixed income this could mean the difference between the ability to afford cable service or not.

In select communities where competition exists, cable rates were an average of 7.3% lower than in non-competitive communities in 2003. The Commission itself found in its 2005 *Report on Cable Industry Prices* that in communities with a wireline cable competitor, average cable rates for basic and expanded services were 15.7% lower than in communities with no competition.[8] And in three cities where Verizon's FIOS service is available, the incumbent cable provider lowered their prices to comparable levels with Verizon.[9]

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[3] Federal Communications Commission, *Report on Cable Industry Prices,* In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service and Equipment. MM Docket No, 92-266, February 4, 2005.

[4] See Testimony of Robert Johnson before Communications, Technology and Interstate Commerce Committee of the National Conference of State Legislatures, November 2005. http://www.consumers4choice.org/site/DocServer/Johnson.pdf?docID=361

[5] Consumer Federation of America and Consumers Union. *The Continuing Abuse of Market Power By the Cable Industry: Rising Prices, Denial of Customer Choice, and Discriminatory Access to Content*. February 2004. Online: http://www.consumerfed.org/pdfs/mpcableindustry.pdf

[6] Report on Cable Industry Prices, FCC Rcd 2718, 2721, at 12 (2005).

[7] Ford, George S. and Koutsky, Thomas M. *"In Delay There Is No Plenty:" The Consumer Welfare Cost of Franchise Reform Delay.* Phoenix Center Policy Bulletin No.13. January 2006.

[7] Report on Cable Industry Prices, FCC Rcd 2718, 2721, at 12 (2005).

[9] Bank of America Securities estimates.

The Commission has the authority to ensure that the benefits enjoyed by these few communities are realized all over the county. By placing several limitations on the ways that Local Franchise Authorities (LFA) can exercise their authority, the Commission has moved towards an open video market. Congress has taken the next step by revising Section 621 of the 1992 Cable Act. The factors to be considered in awarding a franchise state that an LFA (1) must permit a new entrant "a reasonable period of time to become capable of providing cable service" within the franchise area, (2) may "require adequate assurance" that the new entrant will "will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support", and (3) may "require adequate assurance" that the new entrant "has the financial, technical, or legal qualifications to provide cable service."[10] These guidelines should be applied to the current cable franchising system to help guarantee a smooth transition.

TelCo Retirees Association recognizes the importance of franchise fees for local municipalities and the communities they serve. Additional fees from competitive entrants will actually increase the LFA's revenue and leverage their negotiating power to protect the interests of their residents. It is possible for franchise reform to occur in a way that benefits the community, the individual and the entrant.

III. CONCLUSION

The members of TelCo Retirees Association would gain multiple benefits from franchise reform and increased competition. As retirees of the Pacific and Nevada Bells, a healthier company means a more secure future. As consumers, the competition would drive down costs – an important advantage to those who live on fixed incomes. For the first time ever, many would have access to an array of new technologies that could improve or simplify their lives.

Under the current barriers to entry, consumers can not yet enjoy the bonuses of expanded competition. It is evident that cable providers have no intention of easing consumer's hardships in the future and so, as it has done in the past, the Commission must be proactive in its effort to protect individuals from unfair monopolies.

We believe that the Commission has the authority to reform regulations and facilitate competition for the vitality of the industry, the economy and the country. In few instances do corporate and public needs

[10] *id.* § 541(a)(4)

run parallel; it would be unfortunate to delay reform that is a win-win for business and consumer.

Respectfully submitted,

By: <u>Sumner K. Emery, President</u>

February 7, 2006