

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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)

COMMENTS OF FITCHBURG ACCESS COMMUNITY TELEVISION

These Comments are filed by Fitchburg Access Community Television in support of the comments filed by the Alliance for Community Media (“Alliance”), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors (“NATOA”), and other national local government organizations. Like the Alliance, Fitchburg Access Community Television 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. **We have created and offered such franchises to TDS recently.** In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access (“PEG”) services in our community.

Cable Franchising in Our Community

Community Information

Fitchburg Wisconsin is a city with a population of 22,000. Our current franchised cable provider is Charter Cable. Our community has negotiated 5 cable franchises since the early ‘80’s.

Our Current Franchise

Our current 15 year franchise with Charter Cable began on March 28, 2001.

Our franchise requires the cable operator to pay a franchise fee to Fitchburg in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have 1 channel devoted to public access, 2 channels devoted to educational access, and 1 channel devoted to government access. We cover all of our city government meetings from council and plan commission to public safety, human services, court, finance, etc... and hope to have all 3 of the area school districts our children are assigned to represented on our school channels which have been very active for many years. Our public access channel is kept full of programming from a true diversity of our city.

Our franchise requires that our PEG channels be supported by the cable operator: A financial settlement rolling together several processes including Transfer of Ownership and Franchise Renewal adds significant support for our PEG Channels here in Fitchburg. Charter Cable also assists in our connections with adjoining community's school channels and in optimal signal quality from our site. They provide live drop sites at numerous points throughout our city including schools, municipal buildings and even city parks. We may use their subscriber mailings to insert information to subscribers also. Several satellite dishes were also provided to the city by our provider. Charter is also a frequent contributor to local events and activities.

PEG Access Services

Fitchburg Access Community Television has provided access services in our community for 20+ years. The number of access channels we operate is 3 going to 4. In our most recently completed fiscal year, Fitchburg Access Community Tv provided over 700 hours of new original local programming to the cable subscribers. The community used our equipment and facility approximately 350 times for 1100 hours of use. Below are the highlights of our services to the community.

- Video bulletin board with text and graphics for community announcements. We can give local weather and a news crawl dedicated to the use of that channel be it public, government or educational. Our city departments, groups and residents can create their own pages with templates we provide over the internet for publishing back to us and to our own PEG television channels for community wide
- Extensive coverage of a variety of community forums and events, city hall meetings, and neighborhood meetings, parades, markets, celebrations.
- Community-produced television programming for special interests (such as - seniors, non-English-speaking, ethnic and cultural groups, youth, people with disabilities, advocacy groups, health care, etc.)

- Staff-produced television programming on topics of interest to the local community.
- Dedicated channel capacity specifically for non-profit organizations to air locally-produced programming.
- Call In shows for live, interactive programs letting local experts answer viewer questions.
- Television production training for neighborhood based community organizations like Allied Drive and individuals.
- Video training for court assigned community service youth – FACT Crew. The cover many court and city government meetings and special events.
- Video production facilities for residents of all ages and abilities.
- Support to Media Training in local schools, enhancing learning opportunities for students.
- Technical design, installation, and maintenance support to schools
- Open mic format service such as a free speech soap box.
- Local political coverage, candidate platform statements and candidate debates during campaign season for local city council, county board, and school boards.
- Distribution of UW university classes video programs for-credit instruction.
- Gavel-to-gavel coverage of educational governance proceedings.
- Production, support, and distribution for classes and job training.
- Distribution University of Wisconsin Hospital educational programming.
- Gavel-to-gavel coverage of Dane County legislative sessions, hearings, and other select proceedings.
- Gavel-to-gavel coverage of local City of Fitchburg meetings/hearings and other select "local" governmental proceedings.
- Viewer questions answered during live call-in segments of certain government meetings.

- Interactive participation in government meetings at community sites.
- Local Church services and other programs from several congregations

The Franchising Process

As Director of our Dane County Consortium of PEG Channel communities – The Inter-Comm Network, I personally assisted in the process of franchise renewal negotiations with several communities served by the same provider. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law.

Fitchburg's Competitive Cable System Environment

- Our community of Fitchburg fast tracked the process to facilitate competitive entry
for TDS investing great amounts of money and effort while creating a requested OVS –Open Video System Ordinance for franchising.
- offered both an OVS Franchise and a Cable Franchise to TDS in the last year although that provider is not providing service in our community today.
- has not denied any provider the opportunity to serve in our community.
- does have mechanisms in place to offer the same or a comparable franchises to a competitor upon request.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in Fitchburg. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests 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 can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

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 primarily local interest.

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.

Fitchburg Access Community Television therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of “Community Reinvestment” through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community’s property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

Television

Fitchburg Access Community

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