

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 ORION NEIGHBORHOOD TELEVISION

These Comments are filed by Orion Neighborhood 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, Orion Neighborhood 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. 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

The Charter Township of Orion and the Village of Lake Orion have a combined population of approximately 37,300. Our franchised cable provider is Comcast. Our community has negotiated cable franchises since 1984.

Our Current Franchise

Our current franchise began on May 8, 2000 and expires on June 30, 2015.

Our franchise requires the cable operator to pay a franchise fee to the municipalities through the Orion Community Cable Communications Commission 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 (or capacity) devoted to public access; 1 channel (or capacity) devoted to educational access; and 1 channel (or capacity) devoted to government access.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator: One (1) \$10,000 equipment maintenance grant; Four (4) \$25,000 capital grants over the term of the franchise. The Company voluntarily makes quarterly payments of 1% of Company's gross revenues. The Company provided an access facility at no cost for the first two years of the franchise and also provided equipment.

Our franchise contains the following requirements regarding emergency alerts: "The Cable System shall include an Emergency Alert System ("EAS")(or successor to that system) as prescribed by the FCC and the 1992 Cable Act, as amended." The Emergency Alert System is accessed by local officials in an emergency and overrides the audio on all channels. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency. An example of when this function was helpful was following a lengthy power outage, before our community's water supply from Detroit had been re-established, local officials were able to direct residents to sites in the community to obtain bottled water. Once water service was functioning, officials were able to advise residents to boil water before consumption.

PEG Access Services

Orion Neighborhood Television (previously Orion Community Television) has provided access services in our community for 20 years. The number of access channels we operate is 3. In our most recently completed fiscal year, Orion Neighborhood Television provided 3,880 hours of new original local programming to the cable subscribers. Below are the highlights of our services to the community.

- Video bulletin board with text and graphics for community announcements.
- 340 messages were placed on the public access channel in 2004, 225 meeting agendas and public notices were placed on the government access channel in the same time period. Messages on the educational access channel include calendars of events for each school in the district and school board agendas.
- 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.
- Hotline studios for live, interactive programs that allow local experts to answer viewer questions.
- Grants to produce community programming.
- Media literacy and production training for neighborhood based community organizations and individuals.
- Video production courses.

- Video production facilities including studio, field, editing, and suitcase studio.
- Support to Media Training Centers in local schools, enhancing learning opportunities for students.
- Satellite program reception and redistribution.
- Local political coverage and candidate platform statements during campaign season.
- Gavel-to-gavel coverage of educational governance proceedings.
- Gavel-to-gavel coverage of local government meetings/hearings and other select "local" governmental proceedings.
- Election night coverage.

The Franchising Process

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. For instance: our franchise requires that a survey of residents be conducted no more than every three years of the franchise, with questions agreed upon by the Orion Community Cable Communications Commission and the Company. The surveys are designed to elicit constructive criticism and identify unmet needs amongst both subscribers and non-subscribers. Response cards are returned directly to the Orion Cable Commission. The entire cost is borne by the Company.

Competitive Cable Systems

Our community has actively sought out competitive providers, but has not been successful. Our community has not denied any provider the opportunity to serve in our community.

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 the Charter Township of Orion and the Village of Lake Orion. 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.

Orion Neighborhood 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,

Orion Neighborhood Television

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cc: Alliance for Community Media, Getup@alliancecm.org
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