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Federal Communications Commission
Office of the Secretary

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Ex Parte

Ms. Marilyn Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: 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, MB Docket No. 05-311

Dear Ms. Dortch,

This notice is to record my ex parte meetings with FCC Commissioner Copps via staffer Bruce Gottlieb, Commissioner Adelstein via staffer Rudy Briocche, Commissioner Martin via staffer Heather Dixon. I stated our concerns via voicemail on December 12, 2006, since the lines were unanswered. Other Commissioners' boxes were full when contact was attempted on December 12, 2006. Our comments are summarized as follows:

We unite with Alliance for Community Media members in calling for provider competition without the loss of the local, community controlled media our residents have come to depend upon.

1) The 90 day deadline for agreement between the city and the provider is woefully inadequate since it would not allow for good faith negotiation. Letting the potential provider proceed with servicing the community if an agreement is not reached in 90 days serves only the industry and is not our citizens' best interest. Surely the financial gain of the service provider should not come before the local needs of our communities and their control over their own public property. This is inconceivable.

2) With no requirement for Universal Service, the proposed rule lacks a remedy for geographic discrimination and denys competition to all of our citizens. Public, Education and Government Access Television Channels, or PEG, are tools to engage our local communities in democracy. Democratic participation should be for all, not based on a company business rule. The public-right-of-way is owned by all of our citizens, not just those the provider chooses to serve. Such market imbalances were anticipated by Congress and so must the FCC, with rule-making that must provide these three elements:

- A) A standard for identifying imbalances in service.
- B) A party responsible for identifying the imbalance—logically, the municipality.
- C) A means for prevention or remedy of the imbalance.

3) The proposed rule reduces the support for PEG or other community media services from what is allowed by current Federal law. We believe this is an arbitrary reduction which will hurt our communities. It is in direct contradiction to language authored by telephone companies and already passed in key states such as California and Texas. This

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Stop FCC Cable Order
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I am asking you to (1) call Chairman Kevin Martin of the FCC and the other FCC Commissioners and ask them to delay the order until Congress can address these issues, (2) call Representative John Dingell and Senator Daniel Inouye asking them to oppose the FCC order as well.

This order would infringe on Congressional turf--Both Houses of Congress dealt with legislation on this during the current session, and will likely address it again next year. If this issue is to be addressed, the scope of the changes can only be done by legislation, not by the FCC within existing laws.

It also violates Congressional intent; In the Cable Act, Congress made municipalities the key entity in issuing franchises, and said that denials of competitive franchises go to the Courts. The FCC is violating both aspects of Congressional intent by attempting to have the FCC set the rules for franchising through this end-around scheme to benefit telephone companies and provide them an unfair edge in the marketplace.

The order denies service, competition to residents--The proposed rule would deny benefits of competition to many residents, by eliminating requirements that phone companies (and maybe cable companies) provide cable service to ALL residents. This would be the only utility without an obligation to serve. Congress, in the Cable Act, left it to municipalities to address situations where providing service everywhere would be impossible, or uneconomic.

It also harms government, school channels and public safety--The Cable Act allows municipalities to obtain in kind services in addition to a 5% franchise fee. The FCC's proposed change would violate the Act, and harm public, government and school channels by restricting their funding and the services they get. It would also eliminate service to city buildings and municipal fiber networks which often are essential for municipal operations, such as for connecting fire stations or controlling traffic lights. For this reason, proposed Senate legislation expressly grandfathered such services, which again shows why this issue requires legislation, and the order is beyond the FCC's authority.

Sincerely,



Todd Schmidt
City Administrator

Cc: Mayor Nathan Bruce
Common Council
City Attorney