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December 13, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington D.C. 20554

Re: MB Docket No. 05-311
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

Dear Secretary Dortch:

The Indiana Utility Regulatory Commission (IURC) appreciates the opportunity to offer its views in the above-referenced proceeding. The Federal Communications Commission (FCC) is seeking comments on how to implement Section 621(a)(1) of the Communications Act of 1934, as amended (the Act) in addition to other related policy matters. First, the IURC would like to commend the FCC for recognizing the need to maintain open markets for multichannel video programming distributors (MVPD) at the state and local levels. Indiana believes that states share the same sentiments that an open and competitive video marketplace provides choices to consumers at reasonable and affordable prices.

This economic opportunity benefits not only consumers, but also video providers because it enables them to continue to make investments in communities across the nation. Second, Indiana believes that because approximately half of states have already completed substantial reform work in this regard, they and their efforts should be recognized and preserved before any additional federal regulatory intervention occurs.

Technology is advancing, enabling service providers to deliver multiple services (voice, data and broadband for example) to retail and wholesale consumers over one single

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network, thus offering service providers an opportunity to recover their investments in a more economically efficient manner. Encouraging this type of competitive environment is in fact an explicit goal of Title VI¹. To that end, many states have recognized the economic benefits of maintaining open video markets and have moved aggressively to open them.

Several states have taken the initiative to streamline video franchising processes through legislative or regulatory action in an effort to address the concerns of many MVPDs that seek to enter the video marketplace. In March of 2006, Indiana became the first state in the Midwest to enact groundbreaking legislation that opens our video service markets for all MVPDs. House Enrolled Act 1279² (HEA 1279) provides in part, that the IURC become the sole video franchising authority for the State of Indiana, enabling all providers that seek to enter the video market an opportunity to avoid lengthy and protracted negotiations with individual, local jurisdictions. In Indiana, the providers simply submit their completed applications to the IURC for approval within fifteen (15) business days to receive their franchising authority over a designated service area (DSA).

Indiana would like to underscore the critical importance of the progressive state work that has already been done and which continues to occur in other states across the nation. For example, at the close of 2005, Puerto Rico and the states of Alaska, Connecticut, Hawaii, Delaware, Massachusetts and on a more limited basis West Virginia had some type of state oversight of local franchising. California, Kansas, New Jersey, North and South Carolina and Texas have enacted state-issued video franchising laws. Currently, Michigan has pending legislation on this matter³. In March 2006 Virginia passed legislation that maintains local involvement in franchising but streamlines the process and establishes time limits for approval. Other states that have considered cable franchising legislation include Florida, Georgia, Iowa, Minnesota, Missouri, New York, and Tennessee⁴.

While the IURC agrees that there are likely to be some areas that continue to resist opening their markets to competition because of various concerns, we believe that the

¹ See 47 U.S.C. §521(6)

² House Enrolled Act 1279 is a product of the Indiana General Assembly who passed this comprehensive telecommunications reform package in March 2006. This package contained extensive telecommunications and video franchising reforms designed to enable all types of intermodal service providers a fair and unfettered opportunity to compete.

³ HB 6456 is pending in the Michigan House of Representatives. This bill known as the "Uniform Video Services Local Franchise Act," contemplates a system of uniform local franchising for providers of video service. Currently, a provider seeking to offer cable television (also called video services) must obtain a separate franchise agreement from each local unit of government in which it wishes to operate. Under House Bill 6456, the Public Service Commission (PSC) would develop a standardized 10-year uniform local franchise agreement to be used by providers and local units of government throughout the state. The bill mandates a number of provisions that must be included in the uniform agreement. If presented with a franchise agreement, a local unit of government would have to notify the provider within 15 days whether the agreement was complete. A local unit would have to approve a complete uniform franchise agreement within 30 days of its submission.

⁴ www.consumers4choice.org/site

continuing groundswell of state action best addresses these and other concerns outlined in the NPRM⁵. Simply put, states are in the best position to deal with their markets.

Preserving existing state authority while streamlining and expediting the administration and granting of video franchises is already supported by several associations of State and local government officials. Adoption of a single monolithic Federal standard increases the risk that such a policy will result in unanticipated and/or dysfunctional results and many times, locks in such a policy over long periods.

In a recent speech, Chairman Martin observed the need to encourage phone company entry into the video market to promote deployment of broadband services. Indiana knows from first hand experience that, numerous initiatives across the country regarding video franchising reform achieve this goal. Indiana, like other states, is enjoying the fruits of enhanced broadband commitments from its major phone companies like AT&T and Verizon, who had rigorously advocated for video franchise reform on a state level, as well as by smaller LECs (local exchange carriers). These commitments have translated into more than \$300 million in new incremental investment dollars in Indiana, as well as additional jobs and increased consumer choices. These opportunities should also materialize in other “early adopter” states as well.

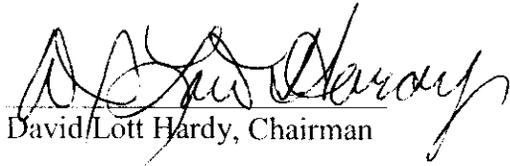
To Chairman Martin’s point that the video market is not sufficiently competitive, Indiana argues that it is only with a *hands-off* approach to regulating from the Federal level that this can be rectified. The fact that states have already responded to this issue proves that when states have the ability, absent Federal intervention, to streamline the process and open their markets, competition will thrive. Reforming current video franchising rules and processes is exactly what states have been engaged in for the last 18-24 months. Indiana is just one example of this effort.

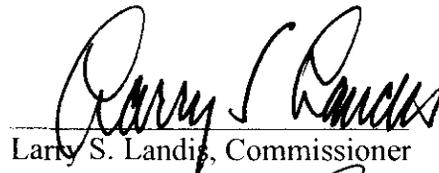
The NRPM specifically seeks comments related to the impact of state-wide franchising and the access to the market. Because of the breadth and scope of HEA 1279, Indiana’s video markets have been ubiquitously opened to competitors. Since July of 2006, Indiana has awarded ten video franchises. The ten franchises include four existing video service providers and six new competitors. Indiana’s streamlined approach to video franchising reform represents a positive affirmation of competition and consumer choice in the video market. These video franchises that have been recently awarded by the IURC comprise over 740 communities and unincorporated areas across the State of Indiana. The expedited time frame (15 business days) in which applications are reviewed for completeness and approved by the IURC provides economic certainty and predictability for new market entrants.

⁵ Notice of Proposed Rulemaking released November 18, 2005.

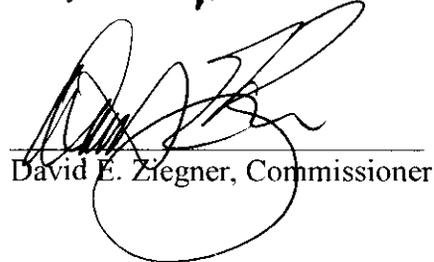
The IURC welcomes the continuing dialogue on this important issue and the opportunity to provide its views in the context of this and future proceedings.

Sincerely,


David Lott Hardy, Chairman


Larry S. Landis, Commissioner


Gregory D. Server, Commissioner


David E. Ziegner, Commissioner

cc: The Honorable Mitchell E. Daniels, Jr., Governor
The Honorable Brandt Hershman, State Senator
The Honorable Michael B. Murphy, State Representative