

December 11, 2006

Ex Parte

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

FILED/ACCEPTED

DEC 13 2006

Federal Communications Commission
Office of the Secretary

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 our ex parte meetings with staff of the following FCC Commissioners: Commissioner MacDowell, Commissioner Tate, Commissioner Adelstein, Commissioner Copps and Chairman Martin. We stated our concerns via voicemail on December 11, 2006. Our comments are summarized as follows:

We unite with Alliance for Community Media members in calling for competition without destruction of local, community controlled media.

1) The proposed rule eliminates incentive for providers to negotiate in good faith. If the city and the provider do not come to agreement within 90 days, the provider can proceed without an agreement. They can then make billions of dollars using our public land without considering local needs. This framework would be unreasonable.

2) The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access, 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 in our community, not just those in an area lucky enough to be served. We believe that inevitable market imbalances must be anticipated by the FCC, as they were by Congress, and that any rule-making 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 reduction would eliminate a valued community resource with no demonstrated effect on either subscriber price or level of competition.

4) The changes being proposed to the law are dramatic. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by

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CORNING
Discovering Beyond Imagination

Federal Communications Commission
File # 06-311 Secretary
FACSIMILE COVER PAGE
DELIVER AS SOON AS RECEIVED

To: Kevin Martin, Chairman, FCC

FAX 202-418-2801

From: Tim Regan
Company: Corning Incorporated
325 7th Street NW, Suite 600
Washington, DC 20004

Phone: 202/661-4155
Fax: 202/661-4165

Date: 12/13/06

Subject: Socket 06-311

Pages including this cover page

- 3 -

See attached letter filed today.

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Timothy J. Regan
Senior Vice President
Government Affairs

Corning Incorporated
325 7th Street, NW
Suite 600
Washington, DC 20004

t 202 661 4155
f 202 661 4165

regantj@corning.com
www.corning.com

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DEC 13 2006

Federal Communications Commission
Office of the Secretary

December 13, 2006

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

Re: Implementation of Section 621(a) of the Cable Communications
Policy Act of 1984, MB Docket No. 05-311

Dear Ms. Dortch:

As the inventor and world's largest manufacturer of optical fiber and cable, and as a leading manufacturer of hardware and equipment used in fiber-to-the-premise networks, Corning is writing in support of AT&T's request that the Commission establish a streamlined competitive video franchising process.¹ Corning, TIA, the Fiber-to-the-Home Council and others have established beyond dispute that the ability to offer competitive video services is critical to expanding and expediting the deployment of next-generation broadband technology. And a streamlined franchise approval process has a direct and substantial impact on the pace of such deployment: From 2005 through November 2006, Corning shipped 34 percent more FTTP ports in states with streamlined franchising.² In comparison, FTTP port shipments in states without streamlined franchising were flat.

AT&T has proposed a simple and reasonable means for assuring that competitive video franchises are granted in a timely fashion. In particular, the Commission would establish the essential features of a competitive video franchise and would prohibit certain provisions and practices that violate Section 621(a)(1) of the Act. A local franchising authority would have 30 days to grant an application containing the features specified by the Commission or to negotiate a mutually agreeable alternative agreement. If the local authority fails to approve the application within that 30-day period, the applicant automatically would obtain an interim federal franchise, which would remain in effect until the applicant and the local franchising authority enter a local franchise agreement on negotiated or litigated terms.

¹ See letter from Jim Lamoreux, AT&T, to Marlene H. Dortch, MB Docket NO. 05-311, dated Dec. 4, 2006.

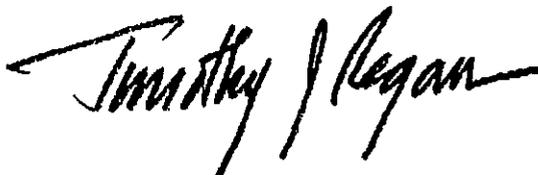
² Each FTTP port is an access point to the network, and ports are indicative of the number of homes passed.

 CORNING
Discovering Beyond Imagination

As AT&T explains, the Commission has authority to adopt such a regime under Sections 4(i) and 303(r) of the Act and under the definition of "franchising authority" in 47 U.S.C. § 522(10). That definition expressly includes governmental entities, such as the Commission, which are empowered by federal law to exercise franchising authority. Moreover, the Commission's authority must be read broadly in light of Congress's directive in § 706 of the 1996 Act to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capabilit[ies]."

By following AT&T's recommendation, the Commission can build on the tremendous success of its deregulatory policies with respect to broadband services. In the 2003 *Triennial Review Order*, the Commission excluded fiber networks from unbundling obligations, and fiber-to-the-home investment skyrocketed in response.³ In the 2005 *Wireline Broadband Order*, the Commission deregulated wireline broadband Internet access services, further stimulating deployment and triggering even more intense competition between telephone and cable companies with respect to those services. The Commission can and should complete a deregulatory trifecta as 2006 draws to a close by eliminating antiquated barriers to deployment of competitive video networks.

Respectfully submitted,



Cc: Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Deborah Taylor Tate

³ In the three years since adoption of the *Triennial Review Order*, FTTP deployment has expanded roughly 30-fold, to six million homes passed. See TIA Dec. 7, 2006 *ex parte*, MB Docket No. 05-311, at 4.

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Thomas Horan

Subject: FW: comment on MB 05-311

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DEC 13 2006

Federal Communications Commission
Office of the Secretary

From: Kleiner [mailto:clayshapes@citlink.net]
Sent: Wednesday, December 13, 2006 4:31 PM
To: Demetrice Bess
Subject: comment on MB 05-311

Dear Demetrice,

Thank you for offering to forward my comments to Ms. Dixon for Chairman Martin, as all the voicemails of all the Commissioners are currently full.

Chairman Martin
Federal Communications Commission

Dear Chairman Martin,

I am writing to voice my opposition to proposed rule MB 05-311 on municipal franchising.

I am an Alderman in the City of Middletown, NY, and Chairman of the Communications Committee.

We have been negotiating a renewal of our franchise agreement with Time Warner Cable. Our current 10 year agreement expired last December and Time Warner has been operating on 6 month temporary operating authority grants from the NYS Public Service Commission.

Our renewal contract with Time Warner went through public hearing and was ready for a vote last Demember, 2005, but we delayed for one month to ask for a simple additional sentence that would guarantee our 2 public access channels, plus a third if need was demonstrated, *regardless* of any change in the minimum set by future rule or statute, unless specifically prohibited.

Think of that. We asked for no monetary considerations, no help with direct broadcast of City Council meetings, no equipment, no studio use, NOTHING additional.

Yet that simple request has us, one year later, with no contract proposal, and delay after delay. Time Warner has shown bad faith in our negotiations, and our only conclusion, agreed with by the NYSPSC Consumer Affairs specialist, is that they have been waiting for your prosed rule change!

Please, we see the chilling effect this is already having on our Public Access to our public broadcasting. Do not change these most necessary rules, so crucial for our democracy.

Thank you for your consideration,

Gerald P. Kleiner

13 Randall Hts,
Middletown NY 10940

845-343-8125

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List ABCDE

12/13/2006

NOV 13 2006

Federal Communications Commission

Cambridge Community Television

Fax cover Sheet



05-311

Send to: FCC	From: Jason Crow
Attention: Commissioner Martin	Date: 12.13.06
Fax number: 202-418-2801	Fax number: (617) 661-6927
Phone number: 202-418-1001	Phone number: (617) 661-6900

TOTAL PAGES, INCLUDING COVER: 2

Comments: RE: MB - 05-311 on video franchising.

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List ABOVE

Should you have questions regarding this transmittal please call (617) 661-6900.

Cambridge Community Television
675 Massachusetts Avenue
Cambridge, MA 02139

Phone: (617) 661-6900
Fax: (617) 661-6927
Website: www.CCTVCambridge.org

NOV 13 2006

Federal Communications Commission
Office of the Secretary**CCTV**

the voice and vision

of Cambridge

Cambridge Community Television
CHANNELS 9·10·22

12.13.06

Hello, my name is Jason Crow. I am the Access Coordinator for Cambridge Community Television located in Cambridge, MA.

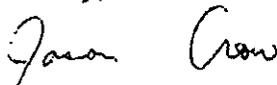
I am writing about MB 05-311 on video franchising. The following are our concerns:

We unite with Alliance for Community Media members in calling for competition without destruction of local, community-controlled media.

- 1) The proposed rule eliminates incentive for providers to negotiate in good faith. If the city and the provider do not come to agreement in 90 days, the new provider can proceed without agreement. They can then make billions of dollars in our public land without considering local needs.
- 2) The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access, or PEG, are tools to engage our local communities in democracy. Democratic participation should be for all, not based on a company business rule.
- 3) The proposed rule reduces the support for PEG, institutional networks and other in-kind services from that allowed by current Federal law. It is in direct contradiction to language written by the telephone companies and already passed in key states. This reduction would eliminate a valued community resource with no demonstrated effect on either price or competition.
- 4) The changes being proposed are dramatic and over-step the FCC's authority. We believe that Congress, not the FCC, should make such changes to the law. These changes will slow competition by confusing the legal framework. Changes to the law should be decided by lawmakers, not the FCC.

I can be reached at 617-661-6900 x128. Thank you for your consideration.

Sincerely,



Jason Crow



675 Massachusetts Avenue · Cambridge, MA 02139 · ph 617.661.6900 · fx 617 661.6927 · www.cctvcambridge.org

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NOV 13 2006

Federal Communications Commission
Office of the Secretary

Commissioner Martin 1-202-418-2801

This communiqué is in reference to MB-05-311 Video
Franchising

My family and I support Alliance for Community Media
members in calling for competition without destruction of
local, community controlled media.

05-311

The proposed rule eliminates incentives for providers to
negotiate in good faith. This restricted 90 day window, for the
provider and the city to come to an agreement is obviously
unfair on its face and absolutely undemocratic.

The proposed rule reduces the support for PEG, Again
undemocratic. And eliminates a needed local resource.
This is an obvious tilt to business interests only.

The changes being proposed, definitely overstep the FCC's
authority. We believe that such changes to the law, are within
the province only, of Congress. The FCC has no authority to
pursue this course and a post defacto review will certainly
support this position.

Dec. 12, 06
Reynold R. Elkins
902 Cottonwood Rd.
Kettering, Ohio 45419-1217

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Federal Communications Commission

118 W. Maple P. O. Box 609
Centralia, WA 98531
(360)330-7674 FAX (360)330-7673
citymanager@localaccess.com

**City of Centralia
City Manager's Office**

FAX

To: Chairman Martin - FCC.

From: J.D. Fouts, City Manager

Fax # 202-418-2801

Pages: 1 (this page only)

05-311

Date: 12/12/06

Re: MB 05-311

I am contacting you regarding MB 05-311 on video franchising. We join with the Alliance for Community Media members in calling for competition without destruction of local, community controlled media. The following are our concerns.

The proposed rule eliminates incentive for providers to negotiate in good faith. If the City and the provider do not come to agreement in 90 days, the new provider can proceed without agreement. They can then make billions of dollars in our public land without considering local needs.

The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access (PEG) are tools to engage our local communities in democracy. Democratic participation should be for all, not based on a company business rule.

The proposed rule reduces the support for PEG, institutional networks and other in-kind services from that allowed by current Federal law. It is in direct contradiction to language written by the telephone companies and already passed in key states. This reduction would eliminate a valued community resource with no demonstrated effect on either price or competition.

The changes being proposed are dramatic and over-step the FCC's authority. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by confusing the legal framework. Changes to the law should be decided by law-makers, not the FCC.

If you would like to discuss this further, I can be reached at 360-330-7674 or jdfouts@cityofcentralia.com. Thank you for your consideration.

Yours truly,

J.D. Fouts
City Manager
City of Centralia (Washington State)

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Federal Communications Commission
Office of the Secretary

FAX COVER SHEET

 TAMPA EDUCATIONAL
 CABLE CONSORTIUM
 703 NORTH WILLOW AVE
 TAMPA, FL 33606
 PHONE: 813-254-2253
 FAX: 813-253-3267

05-311

SEND TO: FCC Commissioner Chairman Martin	FROM: LUCY GRIGGS, PROGRAM DIRECTOR TAMPA EDUCATIONAL CABLE CONSORTIUM
ATTENTION: FCC VIDEO FRANCHISE RULES	DATE: 12/12/06
FAX NUMBER: (202) 418-2801	PHONE NUMBER: 813+254-2253

TOTAL PAGES, INCLUDING COVER: 2

COMMENTS:

DEC. 12, 2006

COMMENTS REGARDING MB DOCKET No. 05-311

THANK YOU,

LUCY GRIGGS
PROGRAM DIRECTOR
TAMPA EDUCATIONAL CABLE CONSORTIUM

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December 12, 2006

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 Chairman Martin,

My name is Lucy Griggs. I am the Program Director at The Education Channel in Tampa, Florida.

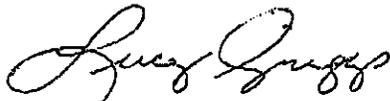
I am concerned about MB 05-311 on video franchising. I believe that competition is possible (it already exists in my area!) without a national franchise that benefits only a few giant telecommunications companies, and could even do harm to local communities.

The proposed rules reduce the support for non commercial educational channels like ours that provide local services a national network would never dream of offering – services like free tutoring for math students, access to college level courses for credit, reading programs for preschoolers, student created films and general information on events and classes offered in local communities. These channels are important community resources that must be preserved and supported.

The FCC's role is to protect the public interest by regulating the public airwaves. Reducing the public presence there, hampering local oversight over how huge corporations operate within communities, and destroying local assets are not in the public interest. Please do your job by communicating to Congress the importance of the "last mile." That's where local communities live, learn and grow, and that's where local channels make a difference in a commercial sea of monotony.

I can be reached at 813-254-2253. Thank you for your consideration.

Sincerely,



Lucy Griggs

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Quote... Unquote, Inc.
 415 Tijeras, NW
 Albuquerque, NM 87125
 Phone 505.243.0027
 Fax 505.346-1635

NOV 13 2006
 Federal Communications Commission
 Office of the Secretary

facsimile transmittal

05-311

To: FCC
CHAIRMAN MARTIN Fax: 202-418-2801

From: STEVE RANFAL, QUOTE UNQUOTE Date: 12-12-06

Re: MB NO. 05-311 Pages: 3 INCLUDING THIS SHEET

CC:

Urgent For Review Please Comment Please Reply Please Recycle

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12-12-06

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 our ex parte meeting(s) with the staff for Commissioners Adelstein, MacDowell, Tate, Martin, and Copps. We stated our concerns directly via phone, via voicemail and by fax on December 12th. Our comments are summarized as follows:

We unite with Alliance for Community Media members in calling for competition without destruction of local, community controlled media.

1) The proposed rule eliminates incentive for providers to negotiate in good faith. If the city and the provider do not come to agreement within 90 days, the provider can proceed without an agreement. This would lead to providers stalling on negotiations and then they can then make billions of dollars using our public land without considering local needs. This framework would be unreasonable.

2) The proposed rule lacks a remedy for geographic discrimination. Public, Education and Government Access, 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 in our community, not just those in an area lucky enough to be served. We believe that inevitable market imbalances must be anticipated by the FCC, as they were by Congress, and that any rule-making 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.

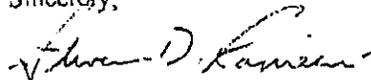
3) The proposed rule reduces the support for PEG or other community media services from what is allowed by current Federal law. We believe this is an arbitrary reduction which will hurt our communities. It is in direct contradiction to language authored by telephone companies and already passed in key states such as California and Texas. This reduction would eliminate a valued community resource with no demonstrated effect on either subscriber price or level of competition. Our organization delivers media services to thousands of individuals and organizations every year. Amongst the projects we are involved with is the delivery of educational services to public schools and charter schools in New Mexico. This legislation would

severely impact this effort that has been organized in line with the stated Federal policy of "No Child Left Behind." There is no good reason to take this action that would set back the public sector of media and community media in particular by decades and impact school programs in contradiction to stated federal government policy. Any new legislation should be looking to increase, not decrease public participation in media and educational opportunities throughout the U.S.

- 4) The changes being proposed to the law are dramatic. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by confusing the legal framework. Such changes should be decided by law-makers, not the courts. The FCC should not usurp Congressional authority.
- 5) The future of media in the U.S. is becoming a key issue for our development in this country. A new comprehensive telecommunications bill needs to be enacted that places the public interest first thus returning to the original intent of the 1934 Communications Act. We need the FCC to work with Congress to re-establish this basic principal.

We look forward to working with the FCC to establish a process which supports both genuine competition and community fairness. Please contact us if you have questions or comments.

Sincerely,



Steve Ranieri

Executive Director

415 Tijeras N.W.

Albuquerque, NM 87102

505-243-0027

sranieri@quote-unquote.org

CC: Christina Pauze

Chris Robbins

Heather Dixon

Rudy Brioche

Bruce Gottlieb

The New Mexico Congressional Delegation

ACCESS MONTGOMERY

NOV 13 2006

Federal Communications Commission
Office of the Secretary

Montgomery
COMMUNITY TELEVISION, INC.

7548 Standish Place
Rockville, MD 20855

05-311

Fax

Time: 3:08 Date: 12/12/06

To: CHAIRMAN MARTIN

Company: FCC

Phone #: Fax #: 202-468-2801

Pages (Inc. Cover Sheet): 2

From: EUGENE SMUNDERS Montgomery Community Television

Phone: 301-424-1730 ex Fax: 301-294-7476

•Comments:

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List ABCDE

Hello, my name is Eugene Saunders. I am an active member and volunteer for Access Montgomery located in Montgomery County, Maryland.

I am calling about MB 05-311 on video franchising. The following are my concerns:

I am calling in support of Access Montgomery and the Alliance for Community Media and its members in calling for competition in video franchising without destroying local, community created and controlled media.

- 1) The proposed rule eliminates incentive for video service providers to negotiate in good faith. If the city and the provider do not come to agreement in 90 days, the new provider can proceed without agreement. They can then make millions of dollars of our public land without considering local needs or the public interest, which you are here to protect.
- 2) The proposed rule lacks a remedy for geographic discrimination which in turn could result in economic discrimination when only higher income neighborhoods are wired. Public, Education and Government Access, or PEG, are tools to engage our entire local communities in the democratic process. Democratic participation should be for all, not based on a company business plan.
- 3) The proposed rule reduces the support for PEG, institutional networks and other in-kind services from that allowed by current Federal law. It is in direct contradiction to language written by the telephone companies and already passed in key states. This reduction would eliminate a valued community resource with no demonstrated effect on either price or competition.
- 4) It would be unacceptable for any further proposed rule making to give these companies a way out of providing PEG Access channels, equipment and financial support. The policies of the FCC should be to increase the diversity of programmers and protect localism.
- 5) The changes being proposed are dramatic and over-step the FCC's authority. We believe that such changes to the law should be made by Congress, not the FCC. These changes will slow competition by confusing the legal framework and worse create potential chaos as existing providers seek equal protection under the law. Changes to the law should be decided by law-makers, not the FCC.

I can be reached at 301-424-1730. Thank you for your consideration.

FROM: Duluth PACT

FAX NO. : 218 723 3688

Dec. 12 2006 02:36PM P1

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NOV 13 2006

Federal Communications Commission
Office of the Secretary



328 City Hall
Duluth, MN 55802
(218) 723-3686

Community Television, Inc.

05311

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NOV 13 2006

Federal Communications Commission
Office of the Secretary

FAX COVER SHEET

To: FCC
ATTN: Commissioner Martin
Fax Number: 202-418-2801
Voice Number: _____
Document: _____
Date: 12-12-06
Time: _____

From: _____
Company: PACT
Fax Number: (218) 723-3688
Voice Number: (218) 723-3686
of pages including cover 2

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Duluth Public Access
 328 City Hall
 Duluth, MN 55802
 (218) 723-3686

Community Television, Inc.

December 11, 2006

We have all been employed by Duluth Public Access Community for a combined 10 years. We have strong concerns regarding MB 05-311.

1. This would eliminate a city's right to negotiate with a service provider in any meaningful way. All the provider would have to do is wait 90 days and he/she gets what he/she wants. This is a very strange way to run any city or business.
2. A company is free to discriminate geographically - cherry picking the more favorable part of a city to serve. This is unfair and makes the difference between the haves and have-nots in our society even greater than it is now.
3. This will reduce support for public, educational and government access - eliminating support that has already been agreed to by a local government and the provider. Instead of reducing support for public access, the FCC should be INCREASING support by requiring ALL providers of ANY video services to carry PEG programming on channels reserved for this purpose. We are on the brink of having a capacity of thousands of channels entering a home. Why would you not reserve a small percentage of those for use by the public and by institutions?
4. The FCC rule-making seems to be simply taking over where Congress was unable to act. These are matters of policy and belong in the Congressional arena, not the FCC.

We join proudly with other members of the Alliance for Community Media in asking you to examine ways that PEG can be supported by the FCC, rather than being practically eliminated.

Sincerely,
 the Employees of Duluth Public Access
 Community Television, Inc. - Duluth, Minnesota

Jerry Moscatelli, Executive Director; Phil Wright, Studio Coordinator; Liz Minette, Administrative Assistant; Jon Donahue, Cablecaster; Jim Wisniewski, Gear and Technical Coordinator

Four handwritten signatures in black ink, corresponding to the names listed in the text above. From left to right: Jerry Moscatelli, Liz Minette, Phil Wright, and Jim Wisniewski.

ACCESS MONTGOMERY

NOV 13 2006

Federal Communications Commission
Office of the Secretary

Montgomery
COMMUNITY TELEVISION, INC.

7548 Standish Place
Rockville, MD 20855

05-311

Fax

Time: 12:10 **Date:** 12/12/06

To: CHAIRMAN MARTIN

Company: FCC

Phone #: **Fax #:** 202-418-~~4~~ 2801

Pages (Inc. Cover Sheet): 2

From: Alysia Thaxton **Montgomery Community Television**

Phone: 301-424-1730 ex **Fax:** 301-294-7476

Comments:

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List ABCDE

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NOV 13 2006

Federal Communications Commission
Office of the Secretary

Hello, my name is Alysia Thaxton. I am an active member and volunteer for Access Montgomery located in Montgomery County, Maryland.

I am calling about MB 05-311 on video franchising. The following are my concerns:

I am calling in support of Access Montgomery and the Alliance for Community Media and its members in calling for competition in video franchising without destroying local, community created and controlled media.

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I can be reached at 301-424-1730. Thank you for your consideration.