Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
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

COMMENTS OF
THE METROPOLITAN AREA COMMUNICATIONS COMMISSION
IN RESPONSE TO THE FURTHER NOTICE
OF PROPOSED RULEMAKING

The Metropolitan Area Communications Commission (MACC) submits these comments on behalf if its member jurisdictions in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1. The Metropolitan Area Communications Commission (hereinafter "MACC") represents thirteen (13) cities (Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard, Tualatin) and Washington County, in the State of Oregon. There is one incumbent franchised cable operator, Comcast, within our jurisdiction with two separate franchise agreements. The franchises will expire on January 31,2014 and December 31, 2009. A 15-year franchise with Verizon Northwest, Inc. for competitive cable services was recently granted by our jurisdictions and will become effective in May 2007.

2. We support and adopt the comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the Alliance for Community Media, and the Alliance for Communications Democracy, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4, We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s]," not to incumbent cable operators. Those operators are by definition already in the

market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice's tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from "prempt[ing] state or local customer service laws that exceed the Commission's standards," and from "preventing LFAs and cable operators from agreeing to more stringent [customer service] standards" than the FCC's.

6. MACC prides itself on negotiating and strictly enforcing customer service standards that clarify FCC customer service standards at 47 CFR 76.309 and elsewhcre. As a result, the 122,000 subscribers MACC represents receive superior customer service from Comcast. It is MACC's experience that, without clarification and strict monitoring, FCC customer service standards can be evaded and otherwise disregarded by cable operators. Therefore, MACC believes that preemption of local governments' ability to negotiate and enforce customer service requirements that may exceed FCC basic requirements would interfere with meaningful and vigilant local enforcement.

Respectfully submitted on behalf of the
Metropolitan Area Communications Commission

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