



HOFFMAN ESTATES

OFFICE OF THE MAYOR

Received & Inspected William D. McLeod
MAYOR

March 4, 2009

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FCC Mail Room

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

Re: Petitions for Declaratory Ruling Regarding Public, Educational and Governmental Access Channels, MB Docket No. 09-13, CSR-8126 (ACM *et al.*), CRS-8127 (City of Lansing, MI), and CSR-8128 (City of Dearborn, MI *et al.*)

Dear Ms. Dortch:

The Village of Hoffman Estates strongly urges the Commission to grant all three of the above-captioned petitions concerning public, educational and governmental ("PEG") access channels. The common principle in all three petitions is an essential one in order to preserve the vital purpose of PEG channels: to enable local residents to have unimpeded and non-discriminatory access to programming concerning their local government, the educational opportunities afforded by local educational institutions, local civic, cultural and sports events, and the views and voices of their fellow local residents

The principle that should guide the Commission with respect to all three petitions is straightforward and critical: Cable operators and all other landline multichannel video programming distributors ("MVPDs") may not discriminate against PEG channels vis-à-vis local broadcast and other commercial video channels on their systems in terms of accessibility, price, viewability, functionality or signal quality. Anything less than that would give cable operators and other MVPDs the power to frustrate viewers' ability to find and watch PEG channels, defeating the entire purpose of PEG channels under the Federal Cable Act.

1. PEG Programming in Hoffman Estates

Hoffman Estates, HETV, provides one PEG channel to its 53,000 residents. Surveys indicate that approximately 66% of those who get the channel watch it from time to time. We have subsequently added several programs to improve the quality of the channel.

HETV produces a monthly video magazine program containing general information about the Village, as well as quarterly programs from both the Police and Fire Departments. We also provide coverage of special events, such as our September 11 remembrance, Fourth of July parade and activities, Martin Luther King Day observance, Pakistani Day observance, etc. In addition, we broadcast educational programming from the Federal Government (Education

News, in English and Spanish), the Pentagon (Army NewsWatch, American Veteran, Recon Sentinel, Grill Sergeants), the Illinois Channel, local School Board meetings, NASA programming (Sci Files, Connect and Destination Tomorrow, in English and Spanish), Sea World programs, etc. (Our full schedule is available at www.hoffmanestates.org/index.aspx?page=433). We are currently having equipment installed to televise our Board and Committee meetings.

While the Village cannot afford to closed caption its programs, we do receive and air programs that are closed captioned from sources like NASA and the National Gallery of Art.

Hoffman Estates also provides for a Public and Educational Access channel, which is used by Harper College, and is exploring a second Educational Access channel for use by our high schools and grade schools.

The PEG programming in Hoffman Estates provides local residents with informational, public safety, educational, and cultural programming of local interest that cannot be obtained elsewhere.

2. The Commission Should Grant the Petitions Concerning AT&T's PEG Product (CSR-8126 & CSR-8127)

Both petitions concerning AT&T's manner of delivering PEG leave no doubt about AT&T's glaring deficiencies. AT&T's U-verse system fails to pass-through closed captioning in PEG programming, in clear violation of FCC rules. More generally, AT&T's PEG product systematically discriminates against all PEG programming compared to local broadcast and all other popular commercial programming channels on its system. In virtually every conceivable way that matters to a viewer, PEG channels are markedly inferior to all other channels on AT&T's U-verse system, including picture quality, ease of finding PEG channels, ease of access, the time it takes to reach the channel, channel surfing, ability to record using DVR, closed captioning capability, SAP capability, and a host of other channel functionalities and qualities that all viewers have come to expect of PEG and other video channels.

AT&T is the local telephone company in Hoffman Estates. It has obtained a state agreement, and is providing U-verse service in Hoffman Estates. Due to the deficiencies listed above, and our belief that the manner in which AT&T provides PEG programming is not in compliance with either State or Federal law, Hoffman Estates does not provide its PEG programming to AT&T.

We fear that unless the Commission makes clear that AT&T's discriminatory treatment is unacceptable, other cable operators and MVPDs, seeing an opportunity to elevate commercial channels and their other proprietary interests above PEG, are likely to eventually follow suit.

Accordingly, to preserve PEG as envisioned in the Cable Act, the Commission should grant the petitions in CSR-8126 and CSR-8127.

3. The Dearborn Petition and Comcast's PEG Digital Channel-Slamming (CSR-8128).

Hoffman Estates also supports Dearborn's petition in CSR-8128. Dearborn is clearly correct that discriminatory treatment of PEG violates the Cable Act and that digitalizing PEG channels and shunting them off to the channel 900-range effectively, and impermissibly, removes PEG channels from the basic tier.

Comcast is a franchised cable operator in Hoffman Estates. While Comcast has not yet implemented the channel 900 PEG digitalization practice in our community, it has indicated that it is highly probable that they will be relocating HETV from its very desirable location on channel 6 in the future.

Conclusion

Our PEG channels are a critical and irreplaceable resource for our community. They are a key medium of communication for our local government to communicate with residents, for local educational institutions to communicate with our residents, and for residents to communicate among themselves and to watch and participate in a dialogue about our community. In light of the decreasing amount of truly local programming available on broadcast and other commercial channels, PEG is the only genuinely local source of television programming available to our residents. At issue in these three petitions is whether this vital asset in our community is to survive in a useful state. We strongly urge the Commission to grant all three petitions.

Sincerely,



William D. McLeod
Mayor

WDM/ds

cc: James N. Horwood, Spiegel & McDiarmid LLP
Teresa S. Decker, Varnum
Joseph Van Eaton, Miller & Van Eaton P.L.L.C.
Senator Dick Durbin
Senator Roland Burris
Congressman Mark Steven Kirk
Congresswoman Melissa Bean