



RECEIVED

WC 16701

RECEIVED BY

Erf

APR 2 10 54 AM '85

APR 1 1985

INTELLIGENCE
BRANCH
COMMON CARRIER BUREAU

MAIL BRANCH

MICHIGAN CABLE TELEVISION ASSOCIATION
601 East Grand River Avenue, East Lansing, Michigan 48823

(517) 351-5800

John R. Liskey
Executive Director & General Counsel

March 29, 1985

DOCKET FILE COPY ORIGINAL

Commissioner James Quello
Federal Communications Commission
1919 M Street NW
Washington, D. C. 20554

Dear Commissioner Quello,

In 1978, Congress passed legislation that allowed the FCC to resolve disputes over the amount of money cable companies pay utility companies to attach to their utility poles. However, the Act allowed state utility commissions to take jurisdiction from the FCC regarding these matters.

Congress amended the Act in 1984 because some state commissions (like Michigan's PSC) had asserted jurisdiction but failed to process any disputes. Specifically, the MPSC has allowed pole attachment matters to linger for over four years where there are currently over 70 proceedings pending.

The 1984 Amendment requires states to have "effective" rules and regulations implementing their authority over pole attachment matters and requires them to process these disputes within 180 days. The FCC has initiated a rulemaking to interpret and implement this new Congressional mandate. The rulemaking is scheduled for decision April 3, 1985.

At the same time the FCC is conducting this rulemaking, the Common Carrier Bureau (Enforcement Division-pole attachments) has released a public notice (February 11, 1984) stating that the Michigan Public Service Commission has adequately complied with the new federal mandate. The Bureau came to this conclusion by asking each state utility commission if they had effective rules and regulations in place. The Michigan PSC submitted its 1968 rules and regulations which make absolutely no reference to cable pole attachment disputes or procedures. The Common Carrier Bureau has adopted a position of taking a state utility commission's word at face value and has not looked beyond their assertion. It is clear to even the casual observer that the MPSC does not have effective rules and regulations in place. Because of the position taken by the Common Carrier Bureau and the public notices which they have released, the cable industry in Michigan

March 29, 1985
Page Two

is without an effective forum to challenge the MPSC's assertion that its 1968 rules satisfy the 1984 Congressional mandate.

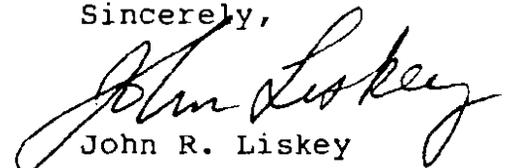
The Michigan Cable Television Association in its comments filed with the FCC has asked that the FCC provide a forum in which cable companies can contest a state utility commission's assertion that they have "effective" rules in place. The present disposition of the FCC Staff is to avoid any such forum or action for fear that a floodgate of cases would come before them. However, there are perhaps only four states that have this problem.

The Michigan Cable Television Association is asking you, Commissioner Quello, to look into this matter and give your approval to the concept of allowing cable operators a forum at the FCC to challenge a state utility commission's claim that they have "effective" rules in place in compliance with the 1984 Congressional mandate.

Any such procedure or forum must be spelled out in the Rules which are to be adopted by the FCC on April 3, 1985. Mr. Tom Herwitz of Chairman Fowler's office has been previously apprised of this situation.

Thank you for your attention and consideration.

Sincerely,



John R. Liskey

JRL/cp
cc: William J. Tricarico