

Office of Telecommunications & Regulatory Affairs

Legislative and Regulatory Update – February 13, 2013

Cable/Video Issues:

- **PEG Channel Coordination**
The additional license and equipment for ACC to provide its channel feed to Time Warner Cable, Grande, and AT&T U-Verse has been installed in the GAATN Room at City Hall. The PEG managers met earlier today and discussed the purchase of a mobile wireless video unit as well as additional GAATN Room gear to improve signal redundancy and reliability for the channel feeds.
- **ChannelAustin PEG Equipment Purchase**
The ChannelAustin automated playback system, studio cameras, and audio system are installed and fully operational.
- **AISD PEG Equipment Purchase**
The City contributed \$250,000 to AISD to assist in the purchase of a new \$550,000 video playback system to replace its system that is plagued by reliability and quality issues. AISD has issued a request for proposal for the new system.
- **Public Information Request on PEG Fees**
We have not heard anything further following the City's response to the October 10, 2012, letter from the Texas Cable Association requesting detailed information on the City's use of the 1% PEG fees it receives from cable/video providers.

STATE LEGISLATION

SB 259 – Sen. John Carona

The bill reduces PUC regulatory requirements for non-dominant, deregulated companies, and transitioning companies that provide telecommunications services such as prior approval for pricing, marketing, quality of service standards or reporting requirements.

SB 327 – Sen. John Carona

The bill allows all cable and video providers to obtain a State Issued Certificate of Franchise Authority, removing the last restrictions based on city size and prior city franchises. This does not affect the City since all providers are already under SICFAs.

SB 494 – Sen. John Carona

The bill requires the PUCT to make sure that any funding methods for the universal service fund are feasible, adequate, and competitively neutral and neutral as to communications technology on all local exchange access lines or their equivalent.

FEDERAL ACTIVITY:

FCC Basic Tier Encryption

The FCC rules allowing basic tier encryption became effective December 10, 2012. On October 12, 2012, the Federal Communications Commission ("FCC") released a Report and Order ("R&O") amending its rules to allow (but not require) all-digital cable systems to encrypt basic cable service provided that they comply with certain consumer protection measures. These measures include (1) offering certain subscribers free descrambling/decrypting equipment for a limited period of time and (2) giving consumers notice of their right to obtain free equipment as well as notice in advance of the expiration of the free equipment period. In addition, in order to address the potential impact that basic tier encryption could have on a small number of subscribers that use third-party devices that are not CableCARD compatible (e.g., Boxee), the FCC is requiring the six largest incumbent cable operators (i.e., Comcast, Time Warner Cable, Cox, Charter, Cablevision, and Bright House) to honor a commitment they made to address the compatibility issue through additional equipment offers and/or software upgrades.

S. 31 & H.R. 434: Permanent Internet Tax Freedom Act of 2013

Sen. Kelly Ayotte [R-NH] introduced the Senate bill, and Rep. Steve Chabot [R-OH1] introduced the bill in the House. The bills would make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

The following bills died in committee at the end of the last session. Action in the current session is still pending

CAP Act -

Work is ongoing by municipal associations and individual cities to inform elected officials and to gain support for the Community Access Preservation ("CAP") Act and to obtain a replacement sponsor for Republican co-sponsor Steven LaTourette, who retired from Congress at the end of the last session.

H.R. 3523: Cyber Intelligence Sharing and Protection Act (CISPA) of 2011 (Still pending action in the Senate)

The bill, introduced by Rep. Michael Rogers, (R. MI), with 106 co-sponsors, was passed by the House on April 26th and is now pending action in the Senate. It amends the National Security Act of 1947 to add provisions concerning cyber threat intelligence and information sharing.

The bill has broad-based industry support by many of the same firms who opposed SOPA & PIPA.

Other privacy rights opponents of SOPA are concerned that CISPA goes much further, permitting ISPs to funnel private communications and related information back to the government without adequate privacy protections and controls. The bill does not specify which agencies ISPs could disclose customer data to, but the structure and incentives in the bill raise a very real possibility that the National Security Agency or the DOD's Cybercommand would be the primary recipient.

FCC Reform Act Legislation

The House Committee on Energy and Commerce on March 7th, completed markup of H.R.3309, the "Federal Communications Commission Process Reform Act of 2011" and the full House passed the bill on March 27th, when it was referred to the Senate Committee on Commerce, Science, and Transportation where it is still pending action. The bill would prevent the FCC from setting limits on a merging company's behavior that aren't related to the transaction. It also would require the FCC to identify a harm to be remedied before adopting rules, and to publish regulations before it votes upon them.

The bill was sponsored by Representative Greg Walden, an Oregon Republican, who said "we need to lock in reform." Democrats criticized the bill, with Representative Henry Waxman of California saying it would "disable the FCC, not reform it."

The bill which would restructure the regulatory process at the Federal Communications Commission (FCC) is opposed by Consumers Union who fears that the changes would make it harder for the FCC to protect consumers and promote the public interest and ultimately would do more harm than good.

Republican supporters say the bill will improve the FCC by "increasing transparency, predictability, and consistency as part of Republicans' ongoing effort to ensure the commission's work encourages job creation, investment, and innovation."

The bill is also supported by the National Cable & Telecommunications Association and the National Association of Broadcasters

H.R.1002 -- Wireless Tax Fairness Act of 2011

The bill is still pending action by the Senate Committee on Finance after being passed by the House in November.

The bill sponsored by Zoe Lofgren D. Cal. prohibits any State or local jurisdiction from imposing a new discriminatory tax on or with respect to mobile services, mobile service providers, or mobile service property, during the 5-year period beginning on the date of enactment of this Act. The bill was passed overwhelmingly in the House last week and referred to the Senate. The bill would limit the City's authority to collect fees from the mobile service industry.

An identical Senate companion bill was introduced by Senators Ron Wyden (D-Ore.) and Olympia Snowe (R-Maine), where it also seems to be getting bipartisan support.

Texas state and local taxes on wireless service is 12.43%, the tenth highest rate in the country.