

Office of Telecommunications & Regulatory Affairs

Legislative and Regulatory Update – May 8, 2013

Cable/Video Issues:

- **PEG Channel Coordination**
No changes to report.

STATE LEGISLATION

The 83rd Regular Session will end on Monday, May 27, 2013

HB 1900 – Rep. Craig Eiland & SB 1465 – Sen. Craig Estes

The bill exempts the first \$75 of cable TV service from the 6.5% state sales tax. Since City franchise fees and PEG fees are charged on state sales taxes for cable TV service, eliminating the state sales tax would reduce the City's franchise fee by \$0.24 per subscriber and the PEG fee by \$0.04875 per month or a total reduction of \$0.29 per subscriber per month. The cable providers no longer give us subscriber counts, but if we estimate total cable subscribers at 250,000, the revenue reduction would be \$72,500/month, (\$60,000 in General Revenues and \$12,500 in PEG fees), or \$870,000 per year \$720,000 in General Revenues and \$150,000 in PEG fees). The bill is still in committee in both the House and Senate and is being strongly opposed by the City and affiliate organizations.

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.

HB 889 – Rep. Pat Fallon

The bill would require City Channel 6, Travis County, and AISD to webstream all regularly scheduled open meetings and to also make available archived video and audio of these meetings over the Internet.

HB 2602 – Rep. Joe Pickett

The bill gives telecomm providers with less than 500,000 access lines the right to opt out of PUC rate regulations. Access line fees would not be affected by the bill

FEDERAL ACTIVITY:

The Broadband Adoption Act of 2013 (H.R.1685)

On April 23rd, Congresswoman Doris Matsui (D-CA-06), Member of the Energy and Commerce Subcommittee on Communications and Technology, along with Energy and Commerce Committee Ranking Member, Henry Waxman (D-CA-33) and the Ranking Member of the Communications and Technology Subcommittee, Anna Eshoo (CA-18), introduced legislation to reform and modernize the Universal Service Fund (USF) Lifeline Assistance Program. The Broadband Adoption Act of 2013 would help bridge the digital divide by making in-home broadband services more affordable across the country. The bill allows eligible Americans in rural and urban communities to use Lifeline program for broadband Internet services, and not just voice services. The bill also requires the FCC to implement a national eligibility data base to ensure only one Lifeline per eligible household, to avoid waste, fraud and abuse of the program. The bill is co-sponsored by Reps. Diana DeGette (CO-01), Zoe Lofgren (CA-19), Jan Schakowsky (IL-09), G.K. Butterfield (NC-01), and Ben Ray Lujan (NM-03).

The Marketplace Fairness Act (S.743 / H.R.684)

S. 743 passed the Senate May 6th and will be referred to the House Judiciary Committee. House approval is far from certain.

Sen. Michael Enzi, R-WY, introduced S. 336 and S. 743 on April 16th that requires collection of sales taxes on all sales and remission of the tax to the state where the purchasers reside. It now has 29 cosponsors (22D, 6R, 1I) and is set to go before the full Senate on April 24th. HR 684 is the House version being carried by Rep. Steve Womack (R-AR). S. 743 provides an exception for small online businesses and requires States to make available, at no cost to retailers, software that helps calculate the State sales tax on remote transactions, as well as administrative services. The bill is supported by the administration as well as most brick and mortar retailers and opposed by cyber-retailers and fiscal conservatives.

S. 607 - Electronic Communications Privacy Act Amendments Act of 2013

The bill was reported out of the Senate Committee on April 25th. Introduced March 19th by Sen. Patrick Leahy, (D-VT) and referred to the Judiciary Committee, the bill increases protections regarding disclosure by a provider of electronic communication service or remote computing service of the contents of a wire or electronic communication that is in electronic storage.

H.R. 624 - Cyber Intelligence Sharing and Protection Act

The bill was passed by the House on April 18th by more than a 2 to 1 majority with bi-partisan support. It has been referred to the Senate where it is unlikely to be taken up in its current form. Rep. Mike J. Rogers introduced the bill February 13, when it was referred to the House Committee on Intelligence. 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 the Stop Online Piracy Act & the Protect Intellectual Property Act.

Other privacy rights opponents of SOPA are concerned that CIPA 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.

S. 31 & H.R. 434: Permanent Internet Tax Freedom Act of 2013 (no change)

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.

S. 481 & H.R. 1123 - Unlocking Consumer Choice and Wireless Competition Act, (No recent action taken)

The legislation would undo a Library of Congress ruling from last year which stripped unlocking protections from the Digital Millennium Copyright Act. Beyond Sen. Al Franken, other politicians behind the bill include Judiciary Committee Chairman Sen. Patrick Leahy (D-Vt.), Committee Ranking Member Sen. Chuck Grassley (R-Iowa), Sen. Orrin Hatch (R-Utah), and Sen. Mike Lee (R-Utah).

House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Ranking Member John Conyers (D-Mich.) introduced similar, bipartisan legislation March 13th.

The following bill 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. The CAP Act removes the distinction between capital and operating uses of PEG support fees that currently prevent PEG fees from being used for operational expenses; ensures funding for PEG channels; requires cable operators to transmit PEG channels without charge to the local government; and requires the FCC to undertake a study of PEG operations.