

Office of Telecommunications & Regulatory Affairs

PEG, Legislative and Regulatory Update – September 9, 2015

Cable/Video PEG Issues:

- The Purchasing Department is finalizing the contract to upgrade the public access studio lighting to LED as approved by Council at its August 6th meeting. Installation is expected in October.
- Purchasing has also executed a contract to purchase and install a major upgrade of the master control equipment in the City Hall basement telecommunications room which was approved by Council August 6th. The equipment will provide the seven Public, Educational, and Governmental, (PEG), Access channels to Time Warner Cable, Grande Communications, AT&T, and Google Fiber.
- The RFP for the Public Access TV management contract closed April 30. The five submitted proposals were evaluated June 5th. The Austin Film Society was selected as the vendor for the new management contract. At the August 20th meeting, Council approved staff request to negotiate and execute a new management contract with AFS effective October 1st. Purchasing and AFS are negotiating the contract terms.

CITY REGULATIONS

Wireless Regulatory Coordination

TARA continues its coordination activities with affected departments to develop consistent policies on commercial wireless services including the fees associated with the various applications. Wireless cellular and Wi-Fi proposals are pending from Extenet, Crown Castle, AT&T, Verizon, Mobilitie, and Google Fiber. The City departments are also coordinating development of these policies with CPS and the City of San Antonio.

FEDERAL ACTIVITY:

FCC Proposed Rulemaking (DN 14-261)

TARA is joining several other cities and national organizations to express the City's concerns to the FCC over the impact that the proposed rulemaking could have on our ability to provide Public, Educational and Government (PEG) Access services to our community. Specifically, the rulemaking has the potential to classify over-the-top (OTT) video services provided by cable franchise holders as something other than a "cable service." Such a designation would allow cable franchise holders to undercut their public interest obligations including support for the City's seven PEG channels.

Charter – Time Warner Merger-

The FCC opened Docket No. 15-149, and we are still waiting for FCC's "informal" 180-day review clock on the proposed merger to start. On May 26th, the two companies announced an agreement to a \$56 billion merger. Initial media reports indicate less regulatory opposition to the merger than was seen in the failed Comcast – Time Warner merger. If approved, the merger would probably be completed in the next twelve months, and the resulting company would have

17.4 million video subscribers and 20 million broadband subscribers, compared with Comcast who has 22.4 million video subscribers and 22 million broadband subscribers.

H.R. 235 & S 431 Internet Tax Freedom Act (currently extended through October 1, 2015) No recent developments

HR 235 was introduced by Rep Bob Goodlatte (R-Va) on 02/02/2015 and passed by the full House June 9th. The Senate version, S 431 was introduced by Sen. John Thune with 50 co-sponsors is in the Senate Committee on Finance. The bills prohibit state and local governments from levying discriminatory taxes on Internet products and services.

S.698 Marketplace Fairness Act of 2015 No recent developments

Senator Enzi (R-WY) introduced the bill March 10, 2015, to require remote sellers to collect and remit sales taxes for their sales transactions. The bill now has 22 co-sponsors and is in the Committee on Finance.

CAP Act - S.1244 – No recent developments

The Community Access Preservation (CAP) Act was reintroduced in the U.S. Senate by Senators Tammy Baldwin (WI) and Edward Markey (MA) May 7, 2015. It is now pending action in the Senate Committee on Commerce, Science, and Transportation.

H.R. 734 & S 253: Federal Communications Commission Consolidated Reporting Act of 2015 - No recent developments

H.R. 734 by Rep. Steve Scalise passed the House unanimously on February 24 and was referred to the Senate Committee on Commerce, Science, and Transportation February 25. S.253 by Sen. Dean Heller, is the Senate companion bill that was reported out of committee and is waiting for action by the full Senate. The bills would amend the Communications Act of 1934 to require the FCC to publish on its website and submit to Congress a biennial report on the state of the communications marketplace assessing: (1) competition, including intermodal, facilities-based, and new and emergent services competition and addressing the provision of content, as well as communications using the Internet; (2) deployment of communications capabilities, including whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion; and (3) whether laws, regulations, or regulatory practices pose a barrier to competitive entry or expansion of existing providers of communications services.

Net Neutrality –No recent developments

On February 26, 2015, the FCC ruled in favor of net neutrality by reclassifying broadband access as a telecommunications service and thus applying Title II (common carrier) of the Communications Act of 1934 to Internet service providers.

Major Provisions of Title II that will apply to broadband providers:

- The proposed Order applies “core” provisions of Title II: Sections 201 and 202 (e.g., no “unjust and unreasonable practices”
- Allows investigation of consumer complaints under section 208 and related enforcement provisions, specifically sections 206, 207, 209, 216 and 217
- Protects consumer privacy under Section 222
- Ensures fair access to poles and conduits under Section 224, which would boost the deployment of new broadband networks
- Protects people with disabilities under Sections 225 and 255
- Bolsters universal service fund support for broadband service in the future through partial application of Section 254.

Major Provisions of Title II that are Subject to Forbearance (would not apply to broadband):

- the Order makes clear that broadband providers shall not be subject to tariffs or other form of rate approval, unbundling, or other forms of utility regulation
- Universal Service Contributions: the Order DOES NOT require broadband providers to contribute to the Universal Service Fund under Section 254
- The Order will not impose, suggest or authorize any new taxes or fees – there will be no automatic Universal Service fees applied and the congressional moratorium on Internet taxation applies to broadband.

On February 26, Angele A. Gilroy with the Congressional Research Service issued an extensive report on the Net Neutrality Debate that can be found at <http://fas.org/sgp/crs/misc/R40616.pdf>.

H.R. 1212, - Internet Freedom Act – No recent developments

Congressman Marsha Blackburn (R-TN), supported by Senator Thom Tillis (R-NC), has reintroduced legislation-- H.R. 1212, on February 26, 2015, the Internet Freedom Act, that would block the FCC's Net Neutrality rules by stating that they shall have no force or effect and prohibits the FCC from reissuing new Net Neutrality rules.

Wilson, NC and Chattanooga, TN FCC Petition to restore local broadband authority now prohibited by state law – No recent developments

The Federal Communications Commission (FCC) on Feb. 26 approved petitions filed by the Electric Power Board of Chattanooga, Tennessee, and Wilson, North Carolina, to preempt state laws which prevent expansion of their networks. The petitions were approved on a 3-2 party-line vote. On March 20, Tennessee Attorney General Herbert Slatery filed a petition with the 6th U.S. Circuit Court of Appeals to overturn the FCC ruling.

H.R. 1106: States' Rights Municipal Broadband Act of 2015 - No recent developments

The bill, sponsored by Marsha Blackburn, (R-TN), would amend section 706 of the Telecommunications Act of 1996 to provide that such section does not authorize the Federal Communications Commission to preempt the laws of certain States relating to the regulation of municipal broadband. The bill has been referred to the House Energy and Commerce Communications and Technology.

H.R. 279, - No recent developments

On January 12, 2015, Rep. Bob Latta (R-Ohio) introduced H.R. 4752 to prevent the FCC from reclassifying broadband as, at least in part, a Title II common carrier service. The bill would define Internet access as an information service, and would not allow an information service to be classified as a common carrier. It has been referred to the House Committee on Energy and Commerce