

Office of Telecommunications & Regulatory Affairs

Public, Educational, and Government (PEG) Program & Legislative - Regulatory Update

October 12, 2016

Cable/Video PEG Issues:

- Austin Public in coordination with Building Services, is conducting a major renovation of the facility including carpet replacement, studio floor tile installation, repainting, ceiling tile replacement, and conversion of internal/external lights to LED. The work begins this week and should be completed in November.
- For a complete update of Austin Public activities, visit <https://www.austinpublicaccess.org/>.

CITY REGULATIONS

Wireless Communications Regulatory Coordination

The interdepartmental wireless study group and outside consultant are updating City management on 10/12 and City Council on 10/18 on policy recommendations for wireless small installations in the downtown ROW and on City poles and other infrastructure and Small Cell Fee Ordinance scheduled for approval by Council on 10/20. Affected City departments are working with an outside technical consultant to develop the equipment specifications, terms, fee proposal, processes and procedures to accept permit applications for wireless installations in early December.

STATE ACTIVITY

TARA staff is working with Government Relations to prepare for the 2017 Texas Legislative Session.

FEDERAL ACTIVITY:

H.R. 2666, the No Rate Regulation of Broadband Internet Access Act

On April 15, 2016, the U.S. House of Representatives voted 241 to 173 to pass H.R. 2666, the No Rate Regulation of Broadband Internet Access Act, a bill that would restrict the FCC's ability to enforce key net neutrality protections. The bill was placed on Senate Legislative Calendar under General Orders Calendar No. 431. According to the Electronic Frontier Foundation, the White House has promised to veto the bill if it passes the Senate.

Set Top Box Competition

The FCC removed an item from its 9/29 open meeting agenda for a vote on a rule to require cable providers to allow subscribers to change their source of cable boxes and related apps. By a 3-2 vote, at its February 18 open meeting, the FCC approved issuing a Notice of Public Rule Making to let consumers change out their cable boxes for cheaper devices and apps, and the approval was endorsed by the White House. Consumer groups generally support the proposed rule, providing that the rules protecting viewer privacy rights are also applied to third party device manufacturers and suppliers. The Rule Making Notice that gave industry and consumer stakeholders a 60-day comment period expired May 16. A final vote on the FCC order was set for September 29, and if approved, the industry would then have two-years for full implementation.

S 2644 – FCC Reauthorization Act of 2016

(Thune – R-SD)(reauthorized FCC for FY 2017-2018; provisions include: require FCC to begin proceeding on cramming; promote broadband access for veterans; report on impact of Universal Service Fund (USF) on tribes; require report on Rural Health Care Program; require report on broadband deployment and subscription data collection services); Unanimously passed by the Senate Commerce Committee on April 27, 2016; includes S 2553 and S 2558. Placed on Senate Legislative Calendar under General Orders Calendar No. 637 on September 20, 2016.

HR 5893 - No Regulation Without Representation Act of 2016- No recent developments

A bill introduced by Rep. Jim Sensenbrenner, R-Wis., that would not require merchants to collect sales tax or report sales unless the person or company is "physically present in that state" during the tax period. The bill is in the Committee on Finance.

Net Neutrality – No recent developments

On June 14th, the DC Federal Court of Appeals ruled in a 2-1 decision that internet service should be treated as a telecommunications service allowing the FCC to prevent broadband providers from restricting internet access. AT&T and others have said they will continue to appeal this ruling.

On December 4th, the DC Federal Court of Appeals heard initial arguments between the FCC and industry groups who are opposed to allowing the FCC to prevent undue restrictions to internet access by broadband providers. The court will rule on the case later in 2016.

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>.