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To the City of Houston Congressional Delegation,

The City of Houston (City) appreciates the opportunity to share our concerns about proposed language in HR 3291/3557. The bill contains language that would result in unnecessary federal preemption of existing local government authority to regulate telecommunication and cable companies that operate for profit within public rights-of-way.

In particular, the bill expands the definition of a telecommunication facility to include components and hardware that could be used to provide services beyond those authorized for facilitating communications. This expanded definition grants operators the ability to use public rights-of-way for ambiguous purposes and prevents local governments from regulating these “other” services. The City recommends that the Committee amend the definition of Telecommunications Service Facility by removing 47 USC 253(j)(2)(B)(page 36 lines 8-10) and 47 USC 1455(7)(E) (page 47, lines 19-21).

The bill also makes major changes to the way cable franchises are modified or eliminated. The bill would grant the ability for cable franchisees to obtain the elimination or modification of any requirement, including fee requirements, of the franchise agreement by submitting a request. The City recommends that the Committee add an exception to 47 USC 625(a) (page 65, lines 5-6) and 47 USC 654(a)(B)(3) (page 66, lines 13-17) to read as follows:

- 1 “SEC. 625. ELIMINATION OR MODIFICATION OF REQUIRE-
2 MENT IN FRANCHISE.
3 “(a) IN GENERAL.—During the period in which a
4 franchise is in effect, the cable operator may obtain the
5 elimination or modification of any requirement, except as provided in subsection (b)(3), in the fran-
6 chise by submitting to the franchising authority a request
7 for the elimination or modification of such requirement.
- 13 “(3) EXCEPTIONS. - (A) A cable operator may not obtain
14 modification under this section of any requirement for service
15 relating to public, educational, or governmental access.
16 (B) a cable operator may not obtain elimination of
17 franchise fee and fees defined under section 624(j)(3).

In addition, the bill completely bypasses all state and local administrative remedies that are currently in place regarding the revocation of a cable franchise. Before state or local cable franchise issues are sent to the Federal Communications Commission for review, all state and local administrative remedies applicable should apply. The City recommends that the Committee add the following language to 47 USC 626(c)(1) (page 70, lines 9-10):

- 6 “(1) ADMINISTRATIVE OR JUDICIAL REVIEW.—
7 With respect to a determination by a franchising au-
8 thority to revoke a franchise under subsection
9 (b)(2)(B), a cable operator, who has exhausted all state
10 administrative remedies, may -

Finally, the bill is silent about the complicated issues that arise when a cable franchise is terminated or non-renewed. The City recommends that the Committee add the following language to 47 USC 626(c)(3)(C) (page 71, lines 13-32):

- 13 (C) Post-Termination
14 Within 60 days of receiving the final determination
15 of revocation of the franchise by whichever
16 authority makes the final determination, the cable
17 operator shall remove all facilities from the
18 franchising authority's rights-of-way, unless the
19 franchising authority agrees in writing to a later date or to
20 non-removal. The cable operator shall complete
21 removal of its facilities from the franchising
22 authority's rights-of-way no later than 365 days
23 from the first day of the removal.
24 If the cable operator does not comply with this
25 section's removal requirements, the facilities shall be
26 considered abandoned by the cable operator.
27 The covered entity may take control and ownership of
28 abandoned facilities in its public right-of-way.
29 The cable operator shall be liable for paying or reimbursing
30 the covered entity for cost of any removal of cable facility.
31 Nothing in this title shall prohibit a covered entity from imposing
32 penalties for non-compliance with this section.

Thank you for considering our proposed changes to HR 3291/3557.

Respectfully submitted,

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