

RESOLUTION NO. 035-19R

A RESOLUTION URGING THE FCC TO RECONSIDER ITS PROPOSED THIRD REPORT AND ORDER ON THE IMPLEMENTATION OF SECTION 621 (a)(1) OF THE CABLE COMMUNICATIONS POLICY ACT OF 1984 AS AMENDED BY THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 (MB DOCKET NO. 05-311); AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Federal Communications Commission (“FCC”) has rule making authority; and

WHEREAS, the FCC is currently accepting comments as to its proposed changes to Section 621 (a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05-311); and

WHEREAS, there are two changes that could drastically affect Local Franchising Authorities (“LFA”). The first being, treating in-kind contributions as subject to the 5% franchise fee cap. The second being, pre-empting LFAs from regulating non-cable services and equipment of franchised cable operators (often referred to as the “Mixed-Use” proposal); and

WHEREAS, the first change that could drastically affect local governments and LFAs is the proposed requirement to treat any cable related in-kind contributions as part of the 5% statutory franchise fee cap. Historically, local governments and LFAs have received 5% of the cable operator’s gross revenues as well as in-kind contributions such as Emergency Alert capabilities, cable service to schools and public buildings, and public, educational, and governmental (“PEG”) access channel capacity. Under the proposed rule change, things such as PEGs will be assessed a value and that value will counted towards the 5% franchise fee cap. Thus, the proposed rule change poses a serious threat to PEG channel support and other traditionally provided services such as Emergency Alert and the like; and

WHEREAS, the second change that could drastically affect local governments and LFAs is the proposed amendment to preempt LFAs from regulating non-cable services and equipment of franchised cable operators, including the imposition of any fees on non-cable services. This proposed change would negatively impact the exercise of municipal authority to regulate placement of facilities in their own right of ways; and

WHEREAS, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to express our concerns prior to the closing of the comment period for this proposed rule change; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the

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aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission, due to the concerns set forth above, hereby urges the FCC to reconsider its proposed Third Report and Order on the implementation of Section 621 (a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05-311).

Section 2. The Clerk of this City Commission is hereby directed to provide a certified copy of this Resolution to the Honorable Ajit V. Pai, Chairman for the Federal Communications Commission, each Senator and Representative in the Ohio Congressional Delegation, and to the State Senators and Representatives in the Ohio Legislature.

Section 3. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST:



KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: September 9, 2019