

Pg 420

CITY COUNCIL MEETING

MAY 4, 1983

COUNCIL OPPOSES
S.66 (GOLDWATER)

RES. NO. 83-33

Following introduction of the matter by City Manager Graves, Council, on motion of Mayor Pro Tempore Snider, Pinkerton second, adopted Resolution No. 83-33 opposing S.66 (Goldwater) which bill seeks to usurp local authority over cable television.

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
ROBERT C. MURPHY
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

F U S I Y
HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

May 9, 1983

League of California Cities
1400 "K" Street
Sacramento, CA 95814

Gentlemen:

Enclosed herewith please find a Certified copy of Resolution No. 83-33 of the City Council of the City of Lodi opposing S.66 (Goldwater), which bill seeks to usurp local authority over Cable Television which was adopted by the Lodi City Council at its regular meeting of May 4, 1983.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

Fu 3/4

RESOLUTION NO. 83-33

RESOLUTION OPPOSING S.66 (GOLDWATER),
WHICH BILL SEEKS TO USURP LOCAL AUTHORITY
OVER CABLE TELEVISION

WHEREAS, the National League of Cities (NLC) and the National Cable Television Association (NCTA) has negotiated a compromise on S.66 (Goldwater).

WHEREAS, the compromise is inconsistent with California Policy in the following areas:

- (a) The buyout provisions conflict with our position that these are properly the subject of franchise negotiations;
- (b) The non-grandfathering will invalidate existing contracts freely negotiated;
- (c) The renewal standards virtually guarantee renewal of any franchise;
- (d) The rate deregulation provisions contain no consumer protection provisions; and
- (e) The preclusion of local regulation of service may be so broad as to preclude regulation of even access to adult programming.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby oppose S.66 (Goldwater) and the compromise as approved by the Board of the National League of Cities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby urge the League of California Cities to work with its member cities to develop specific legislative provisions to protect the ability of local jurisdictions to negotiate and enforce local cable franchises.

Dated: May 4, 1983

I hereby certify that Resolution No. 83-33 was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 4, 1983 by the following vote:

Ayes: Council Members - Snider, Murphy, Pinkerton, and Olson (Mayor)

Noes: Council Members - None

Absent: Council Members - Reid

Alice M. Reimche
Alice M. Reimche
City Clerk

12-1-80

11/1/80

11/1/80

CONCERNS re S.66

Renewal

- protect ability to get up-to-date or "state-of-the art" systems
- protect indirect avoidance of the grandfather clause (which becomes non-effective when franchise is renewed) provided that operator may apply for renewal no sooner than 36 months before expiration
- protect cities from antitrust suits if they go through the renewal procedure
- clarify standard of court's review of nonrenewal

Grandfather Clause

- make sure the "significant change of circumstances" escape clause is not a loophole a loop may be driven through
- clarify whether &/or how the bill applies to 2-way service

Rate Deregulation

- protect California's law, or, as a fallback, get consumer protection authority in federal law

Preemption

- clarify the non-preemption clause
- provide a non-preemption or grandfather clause for stricter local standards on consumer privacy protection

Franchise Fees

- clarify that the definition does not preclude levying or collection of utility user taxes, or possessory/interest taxes

- *collected fees to be returned to the state*

Purchases

- make sure the "fair market value" does not give the operator a premium for holding a franchise.

Regulation

010

LAW OFFICES OF
BRENTON A. BLEIER

RECEIVED

1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994

1983 MAY -4 AM 8 50

May 3, 1983

ALICE H. REIMCHE
CITY CLERK
CITY OF LODI

Mrs. Alice Reimche
City Clerk, City of Lodi
221 West Pine
Lodi, California 95240

Dear Alice:

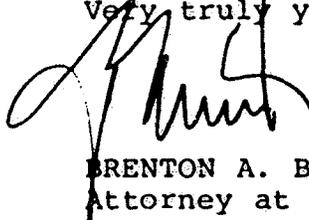
I have received word that the National League of Cities' board unanimously endorsed a resolution opposing the National League of Cities' compromise on the Goldwater Bill.

I believe this action by the League's board is in the best interests of the California cities and in the best traditions of League representation of those cities.

I particularly want to thank you for your support in this critical area. I am sure that your support will have a dramatic effect upon the California Congressional delegation at a minimum and more probably the House of Representatives at large.

Thanks again for your support.

Very truly yours,



BRENTON A. BLEIER
Attorney at Law

BAB/sk

cc: Robert E. Smith,
Executive Director
Sacramento Metropolitan
Cable Television Commission

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
ROBERT C. MURPHY
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

5/15/4
HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

May 9, 1983

Honorable Senator
Alan Cranston
229 Russell Senate Office Bldg.
Washington, D. C. 20510

Dear Senator Cranston:

Enclosed herewith please find a Certified copy of Resolution No. 83-33 of the City Council of the City of Lodi opposing S.66 (Goldwater), which bill seeks to usurp local authority over Cable Television which was adopted by the Lodi City Council at its regular meeting of May 4, 1983.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R (Randy) SNIDER
Mayor Pro Tempore
ROBERT C MURPHY
JAMES W. PINKERTON, Jr.
FRED M REID

 CITY OF LODI 

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

Fu 5/4
HENRY A. GLAVES, Jr
City Manager

ALICE M REIMCHE
City Clerk

RONALD M STEIN
City Attorney

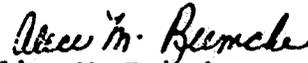
May 9, 1983

Honorable Congressman
Norman Shumway
1150 West Robinhood, Dr., Suite 1-A
Stockton, CA 95207

Dear Congressman Shumway:

Enclosed herewith please find a Certified copy of Resolution No. 83-33 of the City Council of the City of Lodi opposing S.66 (Goldwater), which bill seeks to usurp local authority over Cable Television which was adopted by the Lodi City Council at its regular meeting of May 4, 1983.

Very truly yours,


Alice M. Reimche
City Clerk

AMR:jj

SACRAMENTO METROPOLITAN

K4



Cable
Television
Commission

RECEIVED
APR 11 11 28 9 97

SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

ROBERT E. SMITH
EXECUTIVE DIRECTOR

April 7, 1983

Dear Cable Television Officer:

Pending federal legislation may threaten to erode the ability of your City Council to negotiate and enforce cable television franchises. The Board of Directors of the Sacramento Metropolitan Cable Television Commission has authorized its staff to actively work with other cities to defeat S.66, the Goldwater Bill, which seeks to usurp local authority over cable television.

The Board of the National League of Cities recently approved compromise language for S.66. Many cities feel as we do, that this compromise is not in the best interest of cable subscribers. Member cities of the NLC were not consulted prior to the approval of this compromise.

In a hastily called meeting in Washington D.C., over 25 cities met to discuss the NLC compromise. A second meeting of cities is scheduled for April 20th in Washington D.C.

It is critical that cities join together in opposition to the NLC compromise. If, after conducting your own analysis, you wish to express your opposition, the following steps are recommended:

- 1) Adopt a Resolution similar to the attached sample opposing the NLC compromise and articulating your specific concerns with S.66 and the compromise language. Send copies of this Resolution to the NLC, the League of California Cities, the Senate and House Communication Sub-Committees, and your congressional delegation. Please forward copies of your approved Resolutions to my office.
- 2) Attend a meeting in Los Angeles on April 22nd to discuss developments in Washington and further action California cities and the League of California Cities could take. This meeting is being coordinated by Michael Stover, Assistant City Manager for Lakewood, and will take place in the City of El Segundo. Directions are attached.

The Board of the League of California Cities is meeting on April 29th and will be discussing S.66 and the NLC compromise. It is important that the Board hear from member cities regarding the potential impact of federal cable deregulation.

If you have any questions or need more information, please call me at (916) 440-6661 or Michael Stover at (213) 866-9771 ext. 214.

Sincerely,

Handwritten signature of Speranza Avram.

SPERANZA AVRAM, Cable Coordinator
Sacramento Metropolitan Cable
Television Commission

SA:ab
Attachments

KT

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF _____
OF THE STATE OF CALIFORNIA EXPRESSING OPPOSITION
TO LANGUAGE ENTITLED "COMPROMISE BETWEEN NATIONAL
LEAGUE OF CITIES AND NATIONAL CABLE TELEVISION
ASSOCIATION ON FEDERAL CABLE LEGISLATION".

WHEREAS, under the existing state law, the governing body of a city, county, or city and county may grant a cable television franchise; and

WHEREAS, the City (or County) of _____ has issued (will issue) a franchise to a cable operator to provide cable services;

WHEREAS, on March 4, 1983, the National League of Cities and the National Cable Television Association agreed to compromise language regarding federal cable legislation which substantially impacts said franchise agreement; and

WHEREAS, the Board of the National League of Cities approved this language on March 6, 1983; and

WHEREAS, the Board of the National League of Cities did not consult with member cities before approving said compromise language; and

WHEREAS, specific provisions in said compromise language are in direct conflict with local laws which have been enacted by the City of (County of) _____:

- 1) The definition of concurrent jurisdiction between local franchising authorities and the federal government removes the areas of access, service and facility requirements, renewal or extension of franchises, among the other areas from exclusive local jurisdiction.
- 2) Cable operator will no longer be contractually bound to provide services originally offered.

K4

- 3) Renewal tests as outlined are vague and will result in essentially automatic renewal of franchise.
- 4) Requirement that all franchises be brought into compliance within one year impairs contracts fairly and voluntarily negotiated and is a usurpation of local government's rights, and
- 5) (Specific areas of concern to your franchise agreement)

WHEREAS, the Board of the National League of Cities should have consulted with its member cities prior to approving said compromise language.

NOW, THEREFORE, BE IT RESOLVED, that the City of (County of) _____ opposes the compromise language as approved by the Board of the National League of Cities.

BE IT FURTHER RESOLVED, that the City of (County of) _____ urge the Board of the League of California Cities to oppose the compromise as approved by the National League of Cities on March 6, 1983.

BE IT FURTHER RESOLVED, that the City of (County of) _____ forward it's specific concerns to the NLC, it's congressional delegation and urge the League of California Cities to work with its member cities to develop specific legislative provisions to protect the ability of local jurisdictions to negotiate and enforce local cable franchises.

On a motion by _____, seconded by _____, the foregoing Resolution was passed and adopted by _____ on this _____ day of _____,

1983, by the following vote, to wit:

3/22/83

COMPARISON OF KEY ELEMENTS OF S. 66 AND SUBSTITUTE BILL

	S. 66	Substitute Bill ^{a/}	City Position
1. Interference with Existing Contractual Relations	Franchisees must be brought into compliance with Bill within 90 days.	Franchisees must be brought into compliance with Bill within 1 year. (incorporates compromise)	
2. Federal Standards/Exclusive Federal Jurisdiction	Exclusive federal jurisdiction over matters in Bill	Exclusive federal jurisdiction over matters in Bill; local authorities have jurisdiction over matters strictly of local concern and within the police power. (incorporates compromise in part)	
3. Municipal Ownership/Renewal	City required to pay fair market value for system based on on-going business value of system; city prohibited from denying renewal if franchisee satisfies federally-imposed standards.	At expiration of term, city required to pay fair market value for system, to be determined by arbitration. Upon termination for material breach, court reviews termination <i>de novo</i> and determines purchase price to be paid by city. City prohibited from denying renewal if franchisee satisfies federally-imposed standards; denial of renewal subject to court review. (incorporates compromise)	
4. Rate Regulation	City may regulate rates for basic service (defined as broadcast signals) and for public, government, and access channels; FCC may remove rate regulatory authority if there are reasonably available alternatives to basic service.	For existing franchisees, city with 4 t.v. stations (at least 3 network affiliates) prohibited from regulating basic service rates after 5 years or after half the remaining term of franchise. If franchise awarded after effective date of Bill (6 mos. after enactment), city with 4 t.v. stations prohibited from all rate regulation. While rates are regulated, operator may automatically increase rates 5% or the regional CPI. (incorporates compromise)	

^{a/} The summary of the provisions of the Substitute Bill is based on a Senate staff working draft that was released on Monday, March 21, 1983.



Substitute Bill

§. 66

5. Franchise Fee

FCC to establish ceiling on franchise fees to be paid to city. Fee may cover cost of regulation only. FCC may waive ceiling upon proper showing.

5X franchise fee limit; fee includes any tax, fee, or assessment of any kind except existing payments to entities to facilitate public, educational, or governmental uses; no FCC waiver; nothing in fee limit provision deemed to require operator to renegotiate existing franchise; operator may indicate franchise fees on subscriber's bill. (incorporates compromise)

6. Services/Facilities

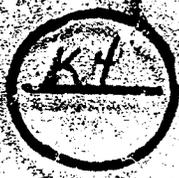
City prohibited from regulating or restricting the provision of or nature of cable services (one-way programming) and telecommunications services (all services, other than basic service and cable service, and the facilities to offer such services) offered over a cable system.

City prohibited from regulating or restricting the provision of or nature of cable services and telecommunications services offered over a system. (same as original Bill).

City may not require the provision of services, facilities, or other items of value that are not related to the provision of broadband service. In RFP, city may require governmental access capacity and construction of cable system facilities or provision of cable equipment. Operator may offer, but not be required to provide, access channels and particular video services.

Operator may remove particular services from basic service or other service if a significant change in circumstances has occurred. Operator may not be required to retain specific service unless in basic services. Except as otherwise provided, city may enforce offer to provide particular basic services, cable service, facilities, and equipment if such items are required by the franchise. (incorporates compromise)





Substitute Bill

S. 66

7. Access

Operator to dedicate 10% of available channel capacity for public, educational, and governmental uses. FCC may relieve operator of access requirement if there are reasonable available alternatives. Operator may provide additional access channels. Greater access capacity required in existing franchises is grandfathered.

Operator may offer to dedicate public, educational, governmental, and leased channels. Public, educational, governmental, and leased programming may be combined on one channel until sufficient demand for separate channels. City prohibited from imposing common carrier status on cable system. (incorporates compromise)

8. Cross-Ownership/Entry Into Other Business

Federal and local cross-ownership restrictions prohibited. FCC to set standards for entrance of foreign-owned systems into U.S. markets.

Federal and local cross-ownership restrictions prohibited, except that FCC may restrict ownership of systems by telephone companies. FCC to regulate entry by foreign-owned systems. (does not incorporate compromise except for addition of telephone companies)

Federal and local restraints on engaging in other businesses prohibited. (incorporates compromise)

9. Privacy

Unauthorized interception of signals prohibited and made a federal crime. Operator prohibited from collecting personally identifiable information except upon prior written consent of subscriber, unless such information is for billing purposes or for monitoring unauthorized interceptions. Personally identifiable information may not be disclosed except upon prior written consent or court order. Subscriber to have access to personal information and must be informed of his rights. Privacy remedy of damages is in addition to other remedies available.

No change from S. 66.

10. New and Additional Services

New services presumed to be in public interest if no technical interference problems. FCC action on petitions for new services required within 180 days after filing.

No change from S. 66.

Substitute Bill does not address:

- (1) Municipal regulation of alternative service providers (not covered in compromise)
- (2) Access to private property by cable operators
- (3) Technical standards
- (4) Pole attachment fees
- (5) Consumer protection (FTC report to Congress)

The requirement that the city may not restrict the provision of cable services or telecommunications services may, however, prevent the city from enforcing negotiated technical performance standards.



Cities Meet To Oppose Compromise Cable Bill

By Lucy Matheson
Washington Bureau Chief

WASHINGTON, D.C.—In what could eventually lead to a trial with the National League of Cities, representatives of more than 25 cities met here Mar. 31 to organize opposition to a compromise on cable legislation and

to ask the League to revive its position.

At least half of the city officials—all but one of whom were professional cable officers hired by cities to oversee local cable operations—were speaking for their mayors against the compromise, according to the

meeting's chairman, Dallas franchise director Thomas James.

Among the cities represented were New York, Los Angeles, Portland, Sanitaulah, Denver, Sacramento, Chicago, Pittsburgh, Cincinnati, Miami and the District of Columbia. Others later indicating an inclination to join the dissenters include New Orleans, St. Louis and Detroit.

The cities met in opposition to the compromise on cable regulation adopted in early Mar. by the NLC board of directors and the

National Cable Television Association. The agreement between the two groups on the controversial issue of local control over cable has been considered key to passage of cable legislation in Congress. The NLC-NCTA compromise has been endorsed by Sen. Barry Goldwater (R-AZ) and introduced as a new bill, but further progress of the measure has been stalled until mid-April.

According to city officials attending the one-day session,

complaints ranged from those opposing specific provisions of the compromise to those opposing the manner in which the compromise was reached and announced to the NLC membership to those griping the very notion of compromise itself.

Issues that appeared to be particularly thorny, according to Mr. James, included subscriber rate deregulation and provisions allowing cable operators to expand into other lines of business, particularly TV set sales. Local officials were also concerned they will be unable to enforce existing cable franchise, and they doubt what they said was the "emerging pre-emption" of their authority.

"This compromise encroaches cable operators from their province and allows them to renege," said Mr. James.

Mr. James said the city representatives left the meeting intent on getting their city councils and elected officials to write letters to the NLC board of directors calling for special reconsideration of the compromise. Mr. James said the group has asked for a response by Apr. 8 but the deadline is not "hard and fast."

NLC legislative director Cynthia Palk, who helped put together the NLC/NCTA agreement, said the anti-compromise group "is creating substantial problems for us," but she added that so far NLC is not ready to change its position. The league's board of directors has yet to hear much of official or city council members, said Ms. Palk, but she did not rule out the possibility that some change could occur later.

At least one official at the meeting would not rule out the possibility that the cities may eventually break with the NLC if the League refuses to alter its position. "These cities were desperate to work with the NLC," said the official, who noted that NLC has a proven track record in dealing with cable matters on behalf of cities. "But if the League says no," added the official, "then they'll go in another direction."

Another avenue of support could be the U.S. Conference of Mayors, a group which sent executive assistant director Len Simon to attend the city meeting. "The Conference of Mayors was not part of the negotiations; consequently it's impossible to support the agreement at this time," said Mr. Simon, adding that it is "rare" that the two groups differ on policy matters.

Mr. Simon said the League "should be commended" for attempting negotiations, but he added that that Conference of Mayors will determine its own position during its annual meeting in June. □

84

Senior Subcommittee on Telecommunications, Consumer Protection, and Privacy—90th Congress

Thursday E. Wynn, (D-CO), Chairman, 3454 RHOB, 225-2161; apps. Gail Leach, James H. Scherer, (D-NY), 2402 RHOB, 225-5471; witness: Greg Babyst, apps. Gail Kelly

Edward J. Markey, (D-MA), 403 CHOB, 225-2836; witness: Ron Lam, apps. Nancy O'Malley, Al Smith, (D-WA), 1802 LHOB, 225-2605; witness: Scott Johnson, apps. Mickey Horvath

Henry Waxman, (D-CA), 2418 RHOB, 225-2970; witness: Phil Schirino, apps. Nora Lacey, Candice Collins, (D-IL), 2438 RHOB, 225-5006; witness: Denise Wilson, apps. Denise Ross

John D. Dingell, (D-MI), 8a Office, 2221 RHOB, 225-4071; witness: Tom Ryan, apps. Karen Moore, Jim Batta, (D-CA), 1633 LHOB, 225-5452; witness: Tim Scott, apps. Gail Melachuk, Julia Bryant, (D-TX), 506 CHOB, 225-2231; witness: Barbara Orje

Albert Gore, (D-TN), 1131 LHOB, 225-4231; witness: Larry Hampton, apps. Michael Howard, Matthew J. Studdes, (R-IN), Ranking Member

Robertus Winters—Press Secretary
Sarah Burrows—Staff Assistant
Kathy Bump—Staff Assistant
Estherine Fender—Staff Assistant
Pat Toppengrove—Staff Assistant

Minority Staff, Room 2322 RHOB, 225-2943
Bobby Jayce—Associate Minority Counsel—Consumer Issues
Cand Spedler—Associate Minority Counsel

CHOB—Cannon House Office Building
LHOB—Longworth House Office Building
RHOB—Rayburn House Office Building
House Document Room 225-3456

Senior Subcommittee on Communications
Burr Goldwater, (R-AZ), Chairman, 353 RHOB, 224-2235; witness: Ward White, (224-8144), Chris Coons, (224-8144), Riley Temple, Larry Pressler, (R-SD), 415 RSOB, 224-3442; witness: Mary Pat Burke, apps. Beth Perry

Staff Sergeant, (R-AK), 147 RSOB, 224-3004; witness: Mark Schneider, apps. Carol Hertz, Ernest Ruppberg, (D-SC), Ranking Minority Member, 153 RSOB, 224-6121; witness: Tom Clavin, (224-0411), apps. Mary Hughes, Donald Murray, (D-HI), 722 HSOB, 224-2934; witness: John Hardy, apps. Sally Wrasidlo

Minority Member, 2338 RHOB, 225-5361; witness: Peter Loflin, apps. Barry Bluth, Charles J. Mansueti, (R-CA), 2340 RHOB, 225-4176; witness: Jay Sorensen, apps. Barbara Reynolds

Thomas J. Tauler, (R-IA), 319 CHOB, 225-2911; witness: Ed Stein, apps. Gladys Heaton, James T. Broyhill, (R-NC), 1a Office, 2340 RHOB, 225-3378; witness: Susan Arnes, Lynn Clayton

Michael O'Leary, (R-OH), 1108 LHOB, 225-2676; witness: Peter Alexander, apps. Debbie Dinsling

Minority Staff, Room B-311 RHOB, 225-4934
David Ayres—Chief Counsel, Staff Director
David Lorch—Telecommunications Policy Analyst
Patty Schweitzer—Telecommunications Policy Analyst

Bob Heider—Telecommunications Policy Analyst
Mary Cochran—Staff Counsel
Sue Radloff—Staff Counsel
Dorinda Chabinsky—Economist
Tom Rogers—Staff Counsel
Howard Symas—Staff Counsel
Henry McKenna—Office Manager
Henry McHenry—Policy Analyst
Michele James—Staff Assistant
Tom Brandy—Staff Assistant

Wendell Ford, (D-KY), 173A ESOB, 224-4343; witness: Martha Mahoney, Shale Gordon, (R-WA), 513 HSOB, 224-2621; witness: Conrad Thomas, Henry Kammhuber, (R-KA), 302 RSOB, witness: and apps.: Chuck Dwyer, 224-4774

Minority Staff, Room 130 RSOB, 224-8144
Ward White—Senior Counsel
Billy Tompkins—Communications Counsel
Chris Carrasco—Assistant Communications Counsel
Mary Ann McKee—Secretary

Minority Staff, Room 554 DSOB, 224-0411
Ralph B. Everett—Chief Counsel & Staff Director, 224-0411
Elizabeth Tullerby—Senior Counsel, 224-0411
Amy Van Dornal—Consumer Issues, 224-9345
Team Colaba—Communication Issues, 224-9341
Loretta Dwyer—Consumer Trade Issues, 224-0742

RSOB—Russell Senate Office Building
DSOB—Dortch Senate Office Building
HSOB—Hart Senate Office Building
Senior Document Room—B-HSOB, 224-7701

K4

FEDERAL CABLE LEGISLATION:

TOO MUCH, TOO SOON

- * Find out what you can do to stop federal cable legislation which threatens to take away your ability to negotiate and enforce cable franchises.
- * Join with other cities to make sure cable subscribers are protected.

WHO: Mayors, Councilmembers, and Cable office staff
WHEN: FRIDAY, April 22, 1983 - 9:00 am. to 4:00 pm.
WHERE: JOSLYN CENTER - City of El Segundo - 330 Sheldon
From L.A. airport go South on Sepelveda to Grand Avenue,
West (right) on Grand Avenue to Sheldon
North (right) on Sheldon to JOSLYN CENTER - turn into
park.

For more directions, call El Segundo City Hall:

213-322-4670

For more information contact: Michael Stover, City of Lakewood

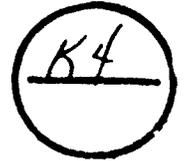
213-866-9771

CABLE MEETING RESERVATION FORM

Yes, I plan to attend the Cable meeting.

No, I cannot attend, but please keep me informed.

Please mail reservation form to: Cable Meeting, City of Lakewood
5050 Clark Avenue
Lakewood, CA. 90712



CITY OF SACRAMENTO

R. BURNETT MILLER

Mayor

City Hall, Room 205
Sacramento, California 95814
(916) 449-5407

March 31, 1983

The Honorable Charles Royer
President, National League of Cities
600 Fourth Avenue
Seattle, Washington 98704

Dear Mr. Royer:

After reviewing the NLC/NCTA compromise language regarding proposed federal cable legislation approved on March 6th, I was dismayed not only with the process utilized to reach this compromise, but also its specific terms. As written, this "compromise" could jeopardize the entire franchising process undertaken by the City of Sacramento; yet, we had no opportunity to express our views prior to its adoption.

For the past three years, and with more than 40 public hearings, our City and the County of Sacramento has negotiated a comprehensive franchise ordinance and agreement which seeks to protect the public interest of cable subscribers. The NLC compromise language, combined with the provisions of S.66, threaten to remove our ability to enforce this locally negotiated contract. Our specific concerns relate to the inability to enforce offers of service over the cable system, as well as the provision that "buy-out" must be at fair market value upon termination of the franchise.

The NLC Board approved this compromise prior to soliciting comments from member cities. I am particularly angry over this disregard of the impact such a compromise could have on our local operation.

Sacramento met with twenty-one other cities in Washington D. C. on March 24th to express its concern over the compromise. I would like to add our voice of protest and request that the Board of the NLC take the following action:

- 1) Hold a special meeting for the purpose of reconsidering and withdrawing its approval of the cable compromise.

K4

The Honorable Charles Royer
March 31, 1983
Page 2

At that meeting, views and opinions from dissatisfied cities should be heard and considered.

- 2) Solicit, through a special mailing, the responses of member cities to the compromise proposal.
- 3) Actively seek time from all appropriate congressional committees and sub-committees to allow for responses from NLC member cities on federal cable legislation.
- 4) If, after evaluating the responses of members, it is determined that there is a need for federal cable legislation, the NLC should actively sponsor and support legislation which protects the public interest, reflects the member cities' rights, and ensures that the full range of services will be made available to subscribers on economically viable broadband telecommunications systems.

I would like to hear your response to these requests by April 8th. Feel free to call me if you have any questions.

Sincerely,



BURNETT MILLER, Mayor
City of Sacramento

BM:ab

cc: NLC Board Members
Members, Senate Communications Sub-Committee
Members, House Sub-Committee on Telecommunications
California Congressional Delegation
Concerned Cities
League of California Cities
National Association of Counties
U.S. Conference of Mayors
County Supervisors Association of California

Jacqueline Rynerson
Vice Mayor

G.C. (Dee) DeBaun
Council Member



Paul E. Zeltner
Mayor

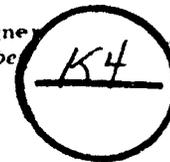
RECEIVED

APR 18 AM 8:36

ALICE M. REIMCHE
CITY CLERK
CITY OF LODI

Larry Van Nostran
Council Member

Robert G. Wagner
Council Member



April 15, 1983

Alice Reimche
City Clerk
City of Lodi
221 W. Pine Street
Lodi, CA 95240

Dear Ms. Reimche:

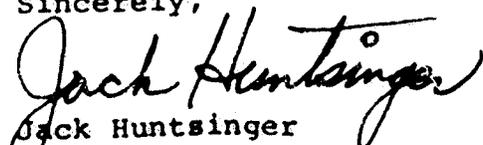
Re: S.66 - Cable Communications Legislation

The attached resolution was unanimously adopted on April 12, 1983 by the Lakewood City Council.

The City Council urges immediate action by the League of Cities to modify the S.66 "compromise" to protect freely negotiated franchise commitments and to protect cable subscribers.

Please indicate your response to our request.

Sincerely,


Jack Huntsinger
City Clerk

Attachment

Lakewood

K4

14

RESOLUTION NO. 83-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD EXPRESSING OPPOSITION TO THE COMPROMISE BETWEEN NATIONAL LEAGUE OF CITIES AND NATIONAL CABLE TELEVISION ASSOCIATION ON FEDERAL CABLE LEGISLATION

WHEREAS, under the existing state law, the governing body of a city may grant a cable television franchise; and

WHEREAS, the City of Lakewood has issued a franchise to a cable operator to provide cable services; and

WHEREAS, on March 4, 1983, the National League of Cities and the National Cable Television Association agreed to compromise language regarding federal cable legislation which substantially impacts said franchise agreement; and

WHEREAS, the Board of the National League of Cities approved this language on March 6, 1983; and

WHEREAS, the Board of the National League of Cities did not consult with member cities before approving said compromise language; and

WHEREAS, specific provisions in said compromise language are in direct conflict with Lakewood cable Ordinances No. 81-18 and 82-13, including:

1. The definition of concurrent jurisdiction between local franchising authorities and the federal government removes the areas of access, service and facility requirements, renewal or extension of franchises, among the other areas from exclusive local jurisdiction.
2. A cable operator may no longer be contractually bound to provide services originally offered.
3. Renewal tests as outlined are vague and will result in essentially automatic renewal of franchise.
4. Requirement that all franchises be brought into compliance within one year impairs contracts fairly and voluntarily negotiated and is a usurpation of local government's rights; and

WHEREAS, the Board of the National League of Cities should have consulted with its member cities prior to approving said compromise language;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lakewood opposes the compromise language as approved by the Board of the National League of Cities; and

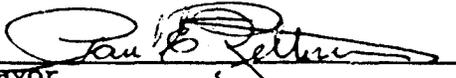
BE IT FURTHER RESOLVED, that the City Council of the City of Lakewood hereby requests the Board of the League of California Cities to modify the compromise as approved by the National League of Cities on March 6, 1983; and

14

Resolution No. 83-32

BE IT FURTHER RESOLVED, that the City Council of the City of Lakewood forward its specific concerns to the National League of Cities, its congressional delegation and urge the League of California Cities to work with its member cities to develop specific legislative provisions to protect the ability of local jurisdictions to negotiate and enforce local cable franchises.

ADOPTED AND APPROVED this 12th day of April, 1983.


Mayor

ATTEST:


City Clerk

LAW OFFICES OF
BRENTON A. BLEIER

1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994

April 27, 1983

RECEIVED

1 33 APR 28 AM 7:34

ALICE M. REIMCHE
CITY CLERK
CITY OF LODI

Mrs. Alice Reimche
City Clerk, City of Lodi
221 West Pine
Lodi, California 95240

Dear Alice:

It was a pleasure to talk with you again on Monday regarding the forthcoming consideration by the Board of the League of California Cities of a resolution pertaining to the NLC-NCTA compromise on cable television.

As I indicated, I strongly believe that the restriction on local discretion and enforcement as contained in the so-called compromise by the National League will be devastating not only to the larger cities who have detailed and enforceable contracts with cable operators but also with smaller cities such as Lodi. In defense of their federal legislation, the cable operators are prone to portray it as deregulation of a free enterprise activity. However, with the exception of those very few localities which have let multiple franchises, this is simply not true. Most cable operators, including the operator in Lodi, operate in a monopolistic market with no competition. This means that the only restraint upon their pricing is the total elasticity of demand or, in ordinary terms, "whatever the market will bear". As a result, the approach used by cities with increasing degrees of sophistication in recent years has been that of contractual enforcement. Increasingly, cities have entered into highly structured and enforceable contracts with the cable operators to ensure their compliance with the promises they make to the community at the time they enter the community and use the community streets. For example, the contract which I have recently drafted for the City and County of Sacramento runs some three hundred pages.

Now, by "lubricating" the Congress, the cable industry proposes to unilaterally cancel these contractual arrangements. This of course would leave the cable operators in the larger cities in much the same situation which they already have in the smaller older franchises, with a monopoly position and no restraints, either competitive or governmental.

LAW OFFICES OF
BRENTON A. BLEIER

1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994

April 27, 1983

RECEIVED

1983 APR 28 AM 7:34

ALICE M. REIMCHE
CITY CLERK
CITY OF LODI

Mrs. Alice Reimche
City Clerk, City of Lodi
221 West Pine
Lodi, California 95240

Dear Alice:

It was a pleasure to talk with you again on Monday regarding the forthcoming consideration by the Board of the League of California Cities of a resolution pertaining to the NLC-NCTA compromise on cable television.

As I indicated, I strongly believe that the restriction on local discretion and enforcement as contained in the so-called compromise by the National League will be devastating not only to the larger cities who have detailed and enforceable contracts with cable operators but also with smaller cities such as Lodi. In defense of their federal legislation, the cable operators are prone to portray it as deregulation of a free enterprise activity. However, with the exception of those very few localities which have let multiple franchises, this is simply not true. Most cable operators, including the operator in Lodi, operate in a monopolistic market with no competition. This means that the only restraint upon their pricing is the total elasticity of demand, or, in ordinary terms, "whatever the market will bear". As a result, the approach used by cities with increasing degrees of sophistication in recent years has been that of contractual enforcement. Increasingly, cities have entered into highly structured and enforceable contracts with the cable operators to ensure their compliance with the promises they make to the community at the time they enter the community and use the community streets. For example, the contract which I have recently drafted for the City and County of Sacramento runs some three hundred pages.

Now, by "lubricating" the Congress, the cable industry proposes to unilaterally cancel these contractual arrangements. This of course would leave the cable operators in the larger cities in much the same situation which they already have in the smaller older franchises, with a monopoly position and no restraints, either competitive or governmental.

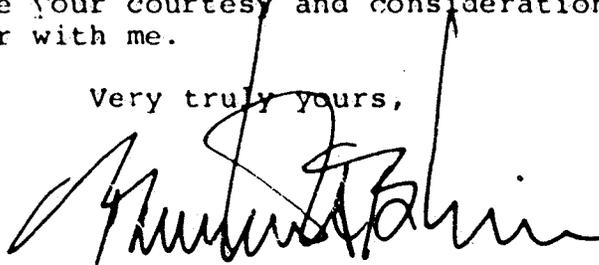
Mrs. Alice Reimche
April 27, 1983
Page Two

Worse yet, one of the key provisions which the cable industry has sought and the National League of Cities approved was automatic renewal of a franchise. By shifting the burden to the City to show repeated and material breaches of the franchise agreement (keeping in mind that most of the older agreements such as that of Lodi are quite minimal) the cable operator is assured of the continuance of his monopoly position. Thus, in situations like Lodi with technologically antiquated systems, the cable operator is removed from any pressure to upgrade his system to provide better service to the community. After all, he is now assured that he is "the only game in town". Thus, the irresponsible action of the National League has doomed smaller cities like Lodi to nonresponsive, second-rate cable operations for the foreseeable future.

For all of these reasons, I encourage you to give careful consideration to the resolution which will be proposed to your Board to encourage reconsideration of the National League's so-called compromise with the cable industry. We believe that such reconsideration will stop the cable industry's legislative steamroller and give all cities the opportunity to preserve some semblance of control over the cable operators using their streets.

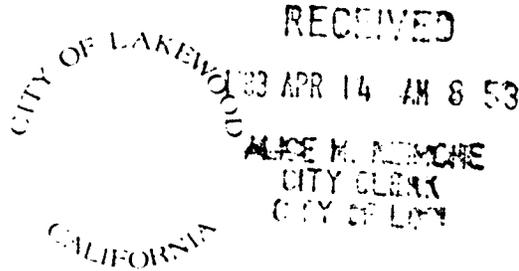
I very much appreciate your courtesy and consideration in discussing this matter with me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brenton A. Bleier". The signature is written in a cursive style with a large, sweeping initial "B".

BRENTON A. BLEIER
Attorney at Law

BAB/sk



April 12, 1983

Dear Colleague:

Re: Emergency Meeting on Federal Cable Legislation

I request you join me and other concerned local government officials for an emergency meeting on the impact of pending federal cable communications legislation on Friday, April 22, 9 a.m. - noon.

The meeting will be held at the Joslyn Center, 339 Sheldon, El Segundo.

We will discuss in detail the recent compromise on federal cable communications legislation. The compromise was reached between the National League of Cities and the National Cable Television Association. Unfortunately, the compromise seriously undermines cable franchises in California. Quick action is needed since the federal legislation is on a "fast-track" in Washington.

The League of California Cities will consider taking a position later this month in support -- or opposition -- to the NLC cable compromise. It is important that we meet to exchange views and develop a common strategy.

Please join us for this ad hoc strategy meeting on Friday, April 22. RSVP to Barbara Gore at Lakewood City Hall, phone 866-9771, ext. 216. Enclosed is a map to the Joslyn Center.

Sincerely,

Howard L. Chambers
City Administrator

HLC:kp

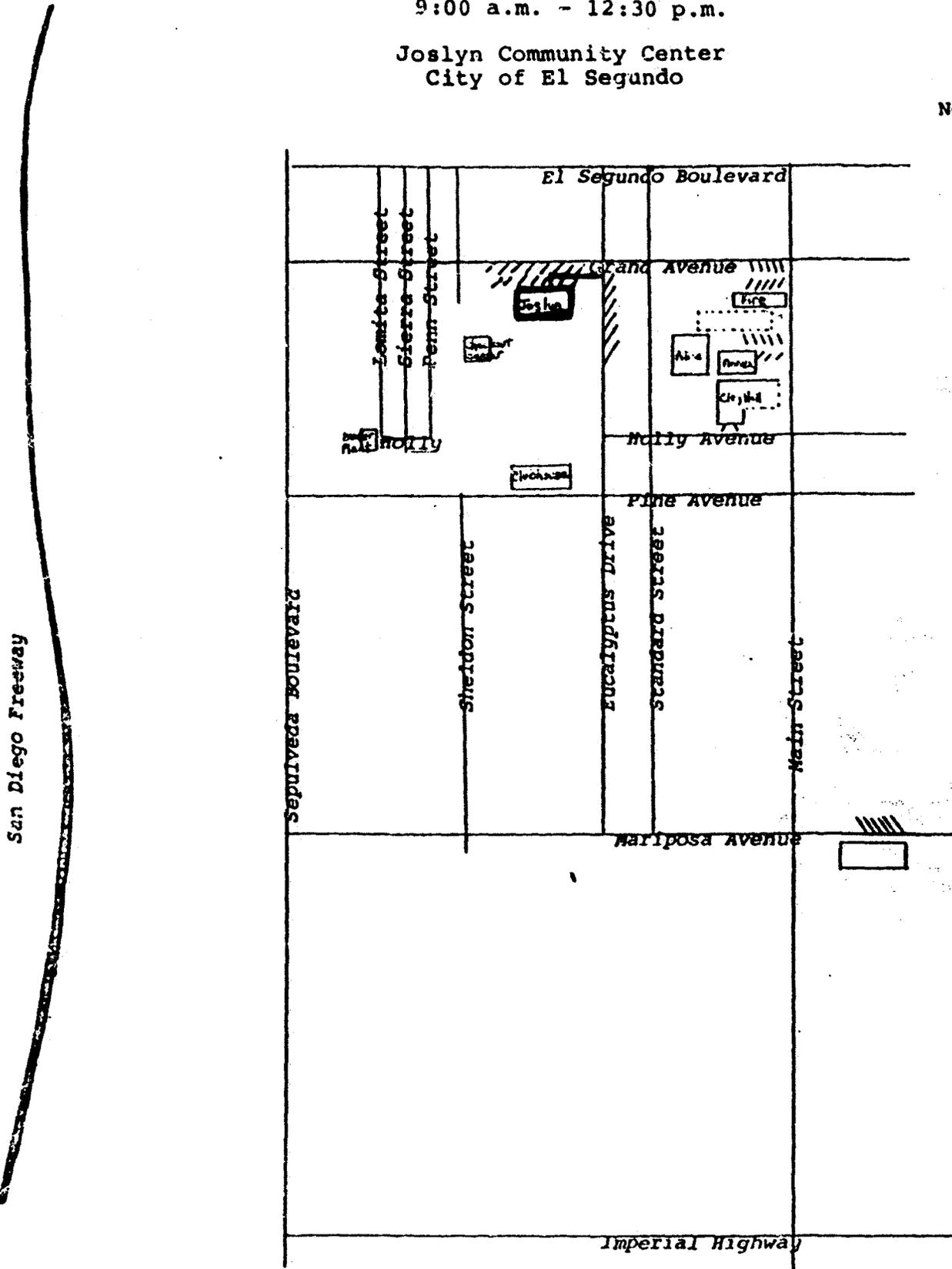
Lakewood

Directions to Emergency Cable Meeting

Friday, April 22
9:00 a.m. - 12:30 p.m.

Joslyn Community Center
City of El Segundo

North



(LOS ANGELES INTERNATIONAL AIRPORT)

Enter Joslyn Center parking from Eucalyptus near Grand.

NLC-NCTA Cable Pact Draws City Opposition

By Stewart Siskley
West Coast Bureau Chief
LOS ANGELES—Several major U.S. cities last week vowed to work to defeat legislation incorporating provisions of a National League of Cities-National Cable Television Association compromise that would weaken local governments' powers over cable franchisees (see *Multichannel News*, Mar. 14, 1983, p. 1).
Quickly formed movements involving a host of recently or soon-to-be franchised cities were

taking shape by mid-week in efforts one municipal cable official dubbed "the little revolution among cities."

In Sacramento, a joint city-county cable commission passed a resolution opposing the compromise and voted to delay adoption of a belabored cable contract for two months to assess the impact of potential federal law on Sacramento's ability to enforce cable franchise agreements.
In Texas, several city cable of-

Please turn to page 3A

Cities Join To Oppose Compromise Cable Bill

Continued from page one
ficers were planning to meet this week in Austin to come up with common grounds for discussion of the compromise, with at least one city, Fort Worth, proposing to lobby 15388 members of the U.S. House against a potential compromise-based bill.
Local cable officials in Pittsburgh and several other major cable markets as well declared a philosophical opposition to the cable compromise adopted Mar. 6 by the NLC's board of directors.

"The NLC did not ask their member cities what they thought of the compromise," said Sacramento cable coordinator Esperanza Aviam, arguing that provisions included in the agreement would strip Sacramento of the ability to enforce several franchise commitments—including some \$97 million dedicated to community programming—offered by United-Tribune Cable of Sacramento.

Barry Orton, cable consultant to the city of Milwaukee and a founder of the National Association of Telecommunications Officers and Advisors, called the NLC "an organization which is very badly split."

The compromise part in question, scheduled to be adopted by the NCTA this week, would prohibit local franchising authorities from regulating basic cable rates in communities with at least four over-the-air television signals available. It would also grant cable operators renewal of their franchises unless they violated a set of predetermined standards. Franchisors, in addition, would have to pay operators fair market value for cable systems in the event of a buyout.

Local regulators under the compromise would be allowed to receive five percent of gross system revenues per year as franchise fees, payable to general funds.

Officials from several large cities last week argued that the compromise, if passed into law, would deny them the ability to enforce franchise commitments. Franchise agreements already in force would be required under the new law within a year of its passage.

"We fully understood in 1980 what we were giving away to the cable company on behalf of the public, and we expect something in return," said cable officer Brother Richard Emenecker last week in Pittsburgh, where Warner Amex Cable Communications Co. serves approximately 60,000 customers. "We're not interested in changing any of the rules."

In Dallas, another city wined by Warner, the city council last Wednesday voted to pursue amendments to the compromise or enacting legislation that would allow the city to retain regulatory authority.

"To be quite frank about it," said Dallas director of consumer services Tom Jansen of the NLC-NCTA pact, "it appears that it compromises all in one direction."

NLC representatives, however, countered in interviews last week that the compromise language was approved partly out of concern that without it, legislators might pass a bill even less amicable to cities.

Atlanta telecommunication officer David Zaccaria, a member of the League's negotiating team on the cable issue, said the compromise "is the difference between being still in the ballgame and being taken completely out of the picture by [Senate bill] 60."

Los Angeles city councilman John Ferraro said the accord was "like a typical compromise—everybody's not happy but it is a compromise."

Still, cable officials in three cities contacted last week said they would press for amendments to provisions in the compromise language that would weaken local leverage and regulatory authority over cable operations. (Atlanta's Mr. Zaccaria noted the NLC is asking member cities for input on the agreement's wording before legislative language is drafted.)

Other cities reached said they might work to defeat outright any bill containing provisions to diminish or curtail their ability to regulate systems locally. □