

**Fort Worth Mayor Mike Moncrief
Testimony before the FCC
Friday, February 10, 2006
Keller Pointe Community Center, 405 Rufe Snow**

REMARKS

First and foremost, I want to welcome you to North Texas and to the DFW area. I hope you enjoy your visit to our state and to Tarrant County.

Keller, Texas is a beautiful place to live and a great neighbor to Fort Worth. I enjoy working with my colleague, Mayor Tandy, on local issues.

So we welcome you.

Secondly, I appreciate the opportunity to appear before this prestigious Commission...and the opportunity to share "the city" perspective regarding cable franchise reform.

I find it appropriate for the Federal Communications Commission to visit Texas given all the hard work and effort we have already invested in this issue. As you know, we passed a piece of legislation all sides can live with. I believe the new Texas law is a great model for your Commission's deliberations.

To begin, I want to be clear: The City of Fort Worth, and Texas cities in general, support competition in the cable market. In fact, we want competition in the cable market. As you know, competition brings innovation to the market. New technology translates into a host of positive developments. New technologies mean new jobs. It means new investment. It means more choice and lower rates for our citizens.

In Fort Worth, the cable rates have increased 38 percent over the last five years and I believe this is because there is no competition in the local market.

Bottom line, competition makes for an attractive business environment and benefits the citizens. In short, cities support competition just as I know your Commission does.

Unfortunately the previous regulatory system in Texas was not spurring competition. That said, in my remaining time, I want to share a few observations that stem from the debate we had last Spring.

As you know, Texas has been very proactive regarding the issue of cable franchising reform. I think it is important for you to understand from the outset of my comments, that it was not easy for us to pass a bill that cities could live with.

However, I am proud to share with you that we did. Cities across Texas worked with our state legislature to finally produce a compromise piece of legislation known as Senate Bill 5.

Although cities opposed several versions of this bill—and, I will confess, that the opposition was sometimes at my urging—the final version of SB 5 was a bill that Texas cities accepted as a balanced compromise that protected the key city issues.

I would like to share those key city issues with you to convey what Texas cities need in order to support federal cable reform. Specifically, Texas cities need three main protections within any franchise reform bill.

First, we need a bill that protects city right-of-way revenues. Cities need to be ensured that any cable franchise reform will not create a fiscal hardship on them or their citizens. I do not know how it works in other states, but cities in Texas are bound by our state constitution to collect fair market value for the use of public lands by a private entity. As a result of this legal requirement, cities receive “rental” payments when utility companies locate their wires and equipment on public land. These rental payments are a fundamental part of the cities’ budget and helps fund the basic city services we are expected to provide our citizens. Any proposed change to the right-of-way compensation system that puts cities at a financial disadvantage or that creates a financial hardship for our taxpayers would be met with stern opposition.

And to be clear, the “compensation system” includes in-kind compensation as well as direct rental payments. We must account for items such as cable drops to our libraries and network equipment for the police departments in order to make cities financially whole.

Secondly, cities need to be ensured that the physical management of the public rights-of-way remains a local responsibility. We absolutely must maintain local control of our public lands in order to protect the health, safety, and welfare of our citizens. During the SB 5 debate, local elected officials were adamant that we maintained our long-standing control of the local right-of-way. The bottom line is that cities cannot cede any management authority of the public lands within our cities to a state or federal agency.

And lastly, we need a bill that protects what I call “the social obligations”. For example, we need to ensure that public access channels are still offered to our citizens. Additionally, we need to ensure that cities have the proper recourse if it is shown that providers are discriminating on the basis of income. These social obligations are common in local cable franchises and cities enforce them vigorously. If the state, or the federal government, takes over the franchising process, then these obligations must be accounted for.

Commissioners, those three objectives—revenue neutrality, local control of the public rights-of-way, and protecting the social obligations—are the most important issues to Texas cities. I am proud to say you can find all three principles in the language of SB 5.

Cities were made financially whole in SB5. Cities maintained police power control of the local rights-of-way in SB 5. And finally, SB 5 afforded cities the protections they needed to ensure basic social obligations were met.

Again, it is important to state there were provisions in SB 5 that cities were less than enthusiastic about. I am sure, there were provisions the phone and cable industry also objected to. However, taken as a whole, SB 5 offers a very balanced compromise to a very complicated issue.

As a former state Senator, I understand the give-and-take of the legislative process. During my 11 years in the Texas Senate, I always believed the best bill was one all sides had something they liked and disliked. I am proud to say we were able to pass a bill that nearly everyone could live with.

Commissioners, in closing, I appreciate the opportunity to go on record as testifying that SB 5 represents an excellent model for Congress and the FCC as you begin reforming the cable and telecommunications laws.

Please know, from the cities' perspective in Texas, SB 5 is the basis upon which we will judge all future proposals. Since this bill also gained widespread support from the telecommunications industry, it would be hard for Texas cities to accept a step backward from the protections and provisions afforded in SB 5.

So I urge you, the FCC, and I urge my friends in Congress like Chairman Barton and my dear friend Senator Hutchison to use SB 5 as the model to shape the federal debate.

I wish you luck and I appreciate the opportunity to be here this afternoon.

I hope you will call on me if we can be of assistance as you continue to address this important issue.

Thank you.