



PUBLIC NOTICE

Federal Communications Commission
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DA 17-318

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MEDIA BUREAU ACTION

MEDIA BUREAU SEEKS COMMENT ON PETITION FOR PREEMPTION OF ARTICLE 52 OF THE SAN FRANCISCO POLICE CODE FILED BY THE MULTIFAMILY BROADBAND COUNCIL

MB Docket No. 17-91

Comment Date: May 4, 2017

Reply Comment Date: May 19, 2017

The Multifamily Broadband Council (“MBC”) has filed a petition to seek a declaratory ruling that Article 52 of the San Francisco Police Code “is preempted in full by federal law and policy.”¹ MBC states that Article 52 requires the owner of a multiple occupancy building to permit competing “communications service provider[s] onto his or her property upon the request of an ‘occupant,’ and to permit the additional providers to use the property owner’s existing wiring even if another provider is already using it.”² MBC argues that Article 52 conflicts with the Commission’s policies on (1) competitive access to inside wiring in multiple dwelling unit buildings,³ (2) bulk billing arrangements,⁴ and (3) network unbundling.⁵ MBC also asserts that federal laws with respect to inside wiring are so dominant as to preempt the field of law that Article 52 occupies.⁶ We seek comment on MBC’s petition.

¹ Petition for Preemption Filed by the Multifamily Broadband Council at 1 (filed Feb. 24, 2017) (citing Article 52 of the San Francisco Police Code, Ordinance No. 250-16). MBC claims that Article 52 is preempted by Sections 251, 624, and 628 of the Communications Act of 1934, Sections 64.2500, 68.105(d), 76.605, 76.802, and 76.2000 of the Commission’s Rules, and several Commission orders. *Id.* at 14-32.

² *Id.* at ii.

³ *Id.* at 14-21.

⁴ *Id.* at 21-25.

⁵ *Id.* at 26-29.

⁶ *Id.* at 29-32.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

This proceeding will be treated as "permit but disclose" for purposes of the Commission's ex parte rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, ex parte presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁷

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

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Filings are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, telephone (202) 418-0270.

For further information, contact Brendan Murray of the Media Bureau, (202) 418-2120. Press inquiries should be directed to Janice Wise, (202) 418-8165 or Janice.Wise@fcc.gov. TTY: (202) 418-7172 or (888) 835-5322.

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⁷ 47 C.F.R. § 1.1206.