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City of Wilmington

Briefing For New Commissioners

- Recently Executed Comcast Cable Franchise Extension
- Summary of Emerging Telecommunications Matters of Concern/Opportunity

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Franchise Status

- 12-year franchise with Comcast expired on November 18, 2024.
 - (Implications -- No PEG support payments in 3 years.)
- Wilmington and Comcast agreed to a 5 year extension, ***not a renewal***.
 - Rationale:
 - Robust terms in existing franchise; better than Comcast is offering in other communities of Wilmington's size.
 - Multiple moving parts that City seeks to address in a longer term franchise.
 - Extensions have been employed in other communities governed by a strong franchise— See e.g. Boston.
- Compliance with Existing Franchise
 - Before recommending extension, City team required documentation that Comcast is currently in compliance with insurance, indemnification and performance bond obligations.

Extension Terms

Kept strong terms that we had; improved on what we needed.

Extension Terms

1. Buildout

Section 2(c): Comcast shall offer Cable Service to any new residences or commercial subscribers within the initial franchise area and any additional area annexed to the City where *there are at least forty (40) residences* per proposed linear mile of cable plant.

AGREEMENT: Every resident in Wilmington will have access to Comcast service without any contribution to construction.

Proposed Extension Language



Amends Section 2(c) to read.

1. Comcast shall offer Cable Service to any residences within the initial franchise area.
2. **Should any area be annexed** to the City, Comcast shall offer Cable Service to any residences **where the density of home is at least 20 homes per mile** within 1320 feet of existing cable distribution plant.
3. All other terms of Section 2(c) remain in full force.

PEG Support



1. All PEG support had expired under franchise – no new payments in past three years.
2. Comcast offered \$90k per year, then changed to 85 cents per sub per month.
 1. Support level is actually higher number than \$90k per year at current sub rate, but makes us vulnerable in future.

AGREEMENT: 95 cents per sub per month – but NO LESS THAN \$90k .

Extension Provides

Comcast shall provide, on a quarterly basis, with the first payment to accompany the first franchise payment of 2025, a PEG support grant in an amount ***equivalent to ninety-five cents (\$0.95) per subscriber, per month.***

- 1) The number of subscribers shall be established in the first month of every quarter.
- 2) It is further agreed that the annual ***PEG support grant shall never be less than Ninety Thousand (\$90,000) Dollars,*** and that Comcast may adjust its collection from customers as needed to meet this minimum amount of funding.

H.D.



Section 6(G) provides “G. Comcast agrees ... [f]ollowing the fifth anniversary of this agreement, the parties will meet to review the availability of access channels in HD format ... on ... other Comcast cable systems in Pennsylvania, Delaware, and New Jersey and ... will make that HD Access Channel programming available to Wilmington subscribers in HD format....”

AGREEMENT: Removes uncertainty and establishes schedule for HD conversion. Upon 90 days of request.

Extension Provides



Upon written notice, Comcast shall make the Governmental (Education and Public) Access channel available in High Definition subject to the provisions in subsection K below **within 90-days**.

(k) High Definition Channels. It is understood that when a channel is launched in High Definition it may need to be assigned a channel number among other High Definition channels instead of the current Standard Definition channel number. Based on available unused High Definition channel numbers, Comcast will make a reasonable effort to locate the Access High Definition channels together and in as close proximity to other local or news/informational type channels as possible, or as may otherwise be agreed with the City. Comcast may discontinue the Standard Definition version of a channel at its option once the High Definition channel is launched. Franchisee may implement HD carriage of the PEG Channels in any manner (including selection of compression, utilization of IP (Internet Protocol), or other processing characteristics) that produce a signal for the viewer that is substantially equivalent to similar commercial HD channels on the Cable System.

1) In no case will any SD PEG Channel be reclaimed before the HD channel has been operating for at least two (2) years; and

2) If Comcast discontinues carriage of the SD versions of the PEG channels, it shall make available to any basic service customer who does not already have an HD device, one HD capable device at no additional cost upon request.

621 Recognition



The FCC in 2018 promulgated an order to say that “In-Kind’ benefits that Comcast must provide the City under the 2012 franchise are eligible for offset against franchise fees.

1. Appeal of the ORDER, supported by Wilmington, reversed ORDER to extent rate level is at cost to cable operator, not market rate.

AGREEMENT: Provides for continuation of In-Kind benefits, but does so in a manner to ensure Comcast and the City are in compliance with Trump 1 era FCC rules that have not been changed.

Summary



1. Provides for the maximum allowed cable franchise fee (approximately \$3.5 million per year)
2. Provides for continued financial support for community programming (no less than \$450,000 over the term)
3. Provides for community programming to be carried in High Definition
4. Ensures that all residents have non-discriminatory access to services and service is extended to any new annexed areas with at least 20 homes per mile.
5. Maintains all existing franchise benefits including complimentary services and customer service standards.

Seeking Competitor(s)



While City is pleased to present extension terms, we are committed to seeking additional cable providers.

Summary of Emerging Telecommunications Matters of Concern



1. Potential loss of Universal Service Funds

- Matter is before Supreme Court
- BBK filed an Amicus brief

2. BEAD AND DIGITAL INTEGRATION FUNDING

- City should explore digital integration efforts with Delaware State

3. Model Low Income Broadband Legislation

- New York State Model

Audit



As part of the franchise renewal/extension process, City engaged auditor to review the accuracy of Comcast franchise fee payments.

- Auditor found substantial (not perfect) compliance.
- City needs to sit down with Comcast and come to an agreement on audit settlement.
- Wilmington team will be meeting with auditor to explore additional issues.



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Questions?

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