

BACKGROUND DISCUSSION OF FINE CAPS

Verizon proposal:

Initial proposal: Cap fines at \$200 incident/\$20,000/yr

Revised proposal: Cap fines at \$400 incident/\$40,000/yr

Current Franchise provisions: Comcast (E. Co. subs 29,071/MHCRC subs 147,715; & Cascade Access (150 subs anticipated)

- Up to \$1,000 per day, incident or other measure of violation
- No annual caps

History of MHCRC financial sanctions against Cable Franchisees

The MHCRC has assessed fines against an incumbent cable operator 3 times:

1. 2001 \$180,000 assessed against AT&T
2. 2002 \$120,000 assessed against AT&T
3. 2008 \$43,899 assessed against Comcast

1. **ORDER 2001-01 – passed by the MHCRC on February 26, 2001**

Following a formal hearing process, the MHCRC found AT&T in material violation of the franchise customer services standards regarding telephone answering standards for the period 3rd Quarter 1999 to 2nd Quarter 2000. The MHCRC assessed a total of \$180,000 fine which was paid by AT&T in full in October 2001. The fines were waivable if and only if ATT met the '90%' phone answering standard through June 2002.

2. **ORDER 2002-01 – passed by the MHCRC on January 28, 2002**

The MHCRC found AT&T in material violation of the franchise customer services standards regarding telephone answering standards for 3rd & 4th Quarter 2001. AT&T WAIVED ITS RIGHTS TO GO THROUGH A FORMAL HEARING PROCESSES AND ACCEPTED THE FINDING AND PAID THE FINE. The MHCRC assessed a total of \$120,000 fine which was paid by AT&T in full on March 5, 2001.

3. **ORDER 2008-01 – passed by the MHCRC on March 17, 2008**

The MHCRC found Comcast in material violation of the franchise customer services standards for failure to provide 30-day advance written notice to subscribers of service changes during its October 2007 programming services changes. The MHCRC assessed a \$43,899 fine that was paid by Comcast on April 4, 2008.

Financial Commitments in proposed Verizon Franchise (selected)

- 5% franchise fee & 3% PEG Grant, payable quarterly (VZ expects 9-10k subs, very rough est. \$450-\$550k/yr)
- \$7.3.1 Franchise Grant for schools: \$69,780 within 60 days of Service date; \$3,480/yr afterwards
- \$14.9 Security Fund: \$50-\$100,000
- \$7.1.2 (contingent) \$2,500 per PEG channel in the event of relocation (\$20k for 8)

Advice from Elected Officials:

- Mayor Bemis (Gresham, 7-29-2008): “fines should be high enough to provide a sufficient deterrent to violating the franchise...”
- Commissioner Lonnie Roberts (Multnomah County, 8-19-08): “..cap should be great enough to be an effective deterrent to a corporation the size of Verizon.”