



## MT. HOOD CABLE REGULATORY COMMISSION

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### MT. HOOD CABLE REGULATORY COMMISSION

MetroEast Community Media, Studio A

February 22, 2010 Meeting Minutes -- **APPROVED**

### SUMMARY MINUTES

MINUTES AS APPROVED AT THE April 19, 2010 MHCRC MEETING.

Call to Order: 6:42 pm

- Roll Call

Commissioners present: Alan Alexander (Chair), Sue Dicile, Clark Santee, Leif Hansen, John Kilian

Commissioners absent: Rich Goheen, Norm Thomas and Andrea Cano

Staff: Mary Beth Henry, Deputy Director; Julie Omelchuck, Program Manager; Ben Walters, Legal Counsel; Rebecca Gibbons, Program Specialist

- Agenda Review: A revised agenda was handed out at the meeting.
- Disclosures: none.
- Public Comment: none.
- Chair Appointment: Comcast Franchise Renewal Liaisons: Alexander appointed Commissioners Dicile, Hansen and Kilian as liaisons between staff and the Commission on Comcast franchise renewal negotiations.
- CONSENT AGENDA
  1. December 7, 2009 Meeting Minutes and Public Hearing Minutes (Verizon/Frontier Transfer)
  2. January 23, 2010 Retreat Minutes

**MOTION:** Dicile moved to approve the Consent Agenda as presented. Santee seconded.

**DISCUSSION:** none.

**VOTE:** 5-0 passed.

- REGULAR AGENDA

R1. Community Access Capital Grant: Special Grant Request: 2010 Funding – I-Net Stakeholder Edge Devices

Dicile said the Grant Committee met to review and discuss the staff recommendation to consider special grant funding for stakeholder edge devices. Dicile said Portland Public Schools, MESD, and some County sites are unable to take advantage of the increased bandwidth that resulted from recent switch upgrades. Dicile said the Committee is recommending that the Commission allocate up to \$134,000 from the FY09-10 Community Access Capital Grant funds to support the purchase of the upgraded edge devices. Dicile said the three stakeholder agencies will fund the cost of purchasing, installing and testing the devices for their sites.

**MOTION:** Dicile moved to approve up to \$134,000 from FY09-10 Community Access Capital Grant funds to support the purchase of upgraded stakeholder-owned devices at 50 current I-Net user sites in order for the stakeholders to take advantage of the increased capacity available through the 2009 upgrade of all I-Net switches and to authorize the Chair to sign contracts on behalf of the Commission in substantially similar format to the sample contract included in the packet. Kilian seconded.

**DISCUSSION:** none.

**VOTE:** 5-0 passed.

R2. Community Access Capital Grant: Special Grant Request: 2010 Contract Agreements

Dicile said that while the Commission decided not to undertake a competitive grant round in FY09-10 the Commission has established a process by which special grant funding can be considered. Dicile said staff discussions with some of the Commission’s community stakeholders surfaced several potential projects that the Committee believed were worthy of discussion and funding. Dicile said the Grant Committee believes that the grant applications included in the meeting packet qualify for funding under the MHCRC’s established “Special Grant Request” process and criteria. Dicile said the Committee recommends that the Commission fund the applications from grant funds available for FY09-10 and approve the attached contracts.

Omelchuck said the MHCRC’s approved budget includes \$1.5 million for the grant program. In response to a question from Kilian, Omelchuck said any grant funds not spent in a fiscal year are retained in that account and carried over to the following fiscal year.

**MOTION:** Santee moved to approved Special Grant funding from FY09-10 budgeted grant funds for Multnomah County, Portland Public Schools, Gresham-Barlow School District, Parkrose School District, Riverdale School District and the City of Portland. Hansen seconded.

**DISCUSSION:** none.

**VOTE:** 5-0 passed.

R3. Community Access Capital Grant: Special Grant Request: 2010 Funding – Contingent Request – BTOP

Dicile said the Grant Committee also discussed the BTOP proposed project and the possibility of the MHCRC grant funds providing a portion of the required “matching” funds for the project. Dicile said the Committee believes the project would meet the criteria established for the MHCRC’s grant program once the details are finalized. Dicile said the Committee is recommending that the Commission approve allocation of \$200,000 from the current year budget. Dicile said that if BTOP were to approve the MultnomahComputes Public Computer Center Project, staff would bring a grant contract to the Commission for final approval.

**MOTION:** Dicile moved to allocate \$200,000 from FY09-10 grant funds to serve as a portion of the match for a \$3 million Broadband Technology Opportunity Program Grant (BTOP) application and to authorize the Chair to sign a letter committing these funds for this purpose for inclusion in the grant application. Santee seconded.

**DISCUSSION:** none.

**VOTE:** 5-0 passed.

#### R4. Authorize 2010 I-Net Funds for New I-Net Connections

Omelchuck said that for the past several years the Commission has allocated a certain amount from the I-Net Capital Fund to construct new I-Net connections. Omelchuck said the Commission authorized staff to review and approve new I-Net site builds under an established approval and funding process with Comcast. Omelchuck said staff recommends that the Commission approve up to \$200,000 for disbursement of 2010 I-Net Capital Funds to fund new I-Net connections.

In response to a question from Hansen, Omelchuck said Comcast charges for incremental direct costs associated with the fiber construction.

**MOTION:** Dicile moved to approve up to \$200,000 for disbursement of 2010 I-Net Capital Funds to fund new I-Net connections to high capacity sites. Hansen seconded.

**DISCUSSION:** none.

**VOTE:** 5-0 passed

#### R5. Cable Companies “Annual” Activities Presentation – Information Only

**Verizon:** Renee Willer, External Affairs Manager for Verizon, said Verizon worked with staff to successfully resolve several issues in its first year of offering service to east county residents (i.e. customer service metrics issues, carriage of the PEG channels). Willer said Verizon announced the sale of its telecom assets to Frontier in May and submitted the required forms for local consideration of this transaction in June. Willer said Verizon appreciates staff’s cooperation and assistance to bring the transfer before the Commission and the Jurisdictions in a timely fashion. Willer said five states have approved the transfer and the Oregon Public Utilities Commission is expected to approve the transaction soon. Willer said Verizon expects the transaction to close by end of second quarter.

In response to the recent noncompliance notice, Willer said Verizon provided staff with a response letter addressing the missed standard installations metric (included in the packet). Willer said the letter outlines Verizon’s dispatch center realignment issues that have now been resolved. Willer said Verizon is on track to make the standard installations metric for first quarter. Willer said Verizon also received a noncompliance notice with regard to the MHCRC contact information missing from subscriber bills. Willer said the missing information impacted

only the sample bill sent to staff and that subscribers in the MHCRC franchise area were not impacted by the omission. Willer said Verizon has resolved this issue and the next sample bill staff receives will accurately represent a subscriber bill for the franchise area with the contact information listed.

Willer said she manages Verizon's involvement in the community through several foundation programs. Willer said the Verizon foundation supports a variety of social causes: education, literacy, outreach and prevention of domestic violence, internet safety programs for kids. Willer said Thinkfinity.org is an interactive website that has lesson plans, educational tools for teachers, students and parents. Willer said in 2009 the Verizon Foundation donated \$220,000 to nonprofit organizations in Oregon. Willer said some of the nonprofits Verizon has worked with include: Snow Cap Charities, East County One Stop, Mt. Hood Community College, Gresham Barlow Education Foundation, Human Solutions, the Troutdale Historical Society, and Frontier Missions. Willer said Verizon provides sponsorship grants to support the Gresham Art Walk, Gresham Sports Park Grand Opening, Troutdale Summer Fest, Wood Village Night Out and Easter Egg Hunt and Fairview Chili Festival. Willer said Verizon is a member of the Gresham and West Columbia Gorge Chamber of Commerce and the East Metro Economic Alliance. Willer said that as Verizon transitions to Frontier she is confident this tradition of involvement will continue.

**Cascade Access:** Steve Crosby, General Manager, said service launched May 12, 2009. Crosby said they have sixteen customers to date. Crosby said there have been challenges to build out. Crosby said the assessment of existing underground facilities, while extensive, showed there were gaps that needed to be filled and that connecting the gaps has been slower than anticipated. Crosby said Cascade Access holds to the assertion that anything worth doing is worth doing right; putting fiber to the home in the ground is still the right thing to do. Crosby said there is a little over five miles activated, three distribution hubs, 50 HD channels with plans for an additional 20 this year. Crosby said the company is in the process of transitioning to digital; phase 1 cutover date is next week. Crosby said Cascade Access continues to expand its fiber foot print and to expand channel lineups. Crosby said Cascade Access is in negotiations with Comcast for Comcast SportsNet. Crosby said a large hurdle to attracting more customers and a huge set back for Cascade Access's market team is the fact that subscribers are now required to lock in to year-long service contracts with the larger providers. Crosby said Cascade Access does not currently have the marketing budget to send out continuous flyers with new and different promotions to catch customers when their contracts expire. Crosby said Cascade Access employees all participated in Corbett's July 4<sup>th</sup> celebration.

In response to a question from Santee, Crosby explained that Cascade Access offers DSL, phone and TV services to Corbett residents.

In response to a question from Hansen about projected roll out, Crosby said the original goal was 100 customers by the end of year. Crosby said only sixteen customers but the company has a good report with the community.

R6. Commission Response to Right-of-Way Preemption Efforts in the National Broadband Plan

Henry said many communications companies place poles and facilities in the right of way in order to serve their customers. Henry said the right of way is very valuable public property. Henry said Congress, in the Communications Act, preserved local authority to charge fair rent for use of the right of way. Henry said the FCC, though the national Broadband Plan which is due to Congress by March 17, is being urged to establish a uniform compensation methodology for public property that requires that localities show that the compensation is directly reflective of the actual cost of managing the right of way. Henry said this would be a shift from fair rent (locally 5% of gross revenue) to a cost-based methodology. Henry said the shift would prohibit charges based on the fair market value. Henry said this action would immediately scorch local government budgets and result in a new wave of staff lay-offs and service cuts. Henry said, in Oregon, franchise fees constitute the second highest source of general fund revenue. Henry said the communications companies are lobbying heavily in favor. Henry said staff prepared two letters (one to Vice President Biden and one to FCC Chairman Julius Genachowski; handed out at the meeting) that are part of a national local government advocacy effort. Henry said staff is encouraging the Oregon Congressional delegation to send letters on behalf of local government position to the FCC as well.

In response to a question from Kilian about the actual dollar impact to the local jurisdictions, Henry said staff does not know the exact formula that the FCC is proposing, therefore cannot provide an actual dollar amount at this time. Henry said staff does know that it would be less than the fair market value. Kilian said he would like the letters, particularly to Vice President Biden, to give some scenarios to show the potential impact. Henry said the Mayor of Portland will be sending his own letter and can detail the potential impact. Santee suggested detailing the potential percentage loss as opposed to dollars if it was too complicated to determine dollar impact. Henry said the difficulty lies with the fact that staff does not do utility telecom revenue monitoring for each of the Jurisdictions so staff is not privy to information that would help calculate the impact. Henry said NATOA and the League of Oregon Cities are mobilizing individual cities to write letters and that these organizations can encourage each municipality to be as specific as possible about the potential impact. Omelchuck said staff will be in touch with the Jurisdictions to assist with crafting letters.

Dicile said she supports this effort on the basis that local governments should have the right to control their own assets and allowed to leverage the local investment. Dicile said the transportation system is the highest asset the City owns.

Alexander believes there needs to be separation of the right of way issue from the broadband issue at the national level.

Walters said the right of way compensation issue was the crux of the litigation between the City of Portland and Qwest. Walters said the City of Portland prevailed in the case. Walters said that providing an estimate of potential impact is difficult as the value, or the cost, is a moving target.

**MOTION:** Kilian moved to authorize the Chair to send letters to Vice President Biden and to FCC Chairman Julius Genachowski opposing the inclusion of a federal standard for compensation for use of public property in the National Broadband Plan. Dicile seconded.

**VOTE:** 5-0 passed.

- Staff Activity Reports and Updates
  1. Franchise Noncompliance Notices: Omelchuck said Verizon plans to provide staff with cure period installation metrics by March 15. Omelchuck said a sample subscriber bill is expected at the beginning of March and staff will be looking to verify MHCRC contact information has been added back onto the bill. Omelchuck said staff understands that it is difficult for Verizon to have the Commission as a subscriber because the Commission's address is not in Verizon's service area, however the sample subscriber bill is the only way staff can gauge compliance with several customer service standard obligations. Omelchuck said Comcast provided corrected quarterly statistics and staff is in the process of drafting a letter to accept the cure.
  2. Ascertainment Update: Omelchuck said staff is in the final throws with CBG to produce the final report. Omelchuck said the report has been reformatted to reflect categories and elements and the key questions section will become part of an overview and the conclusion, per Commissioner comments at the annual retreat.
  3. FCC/Legislative Developments: Henry said she has been appointed to the Broadband Advisory Council. Henry said the U.S. House of Representatives is scheduled to vote on a bill called the Community Access Preservation Act, which was introduced by Tammy Baldwin of Wisconsin. Henry said the bill proposes to allow community access centers to use PEG funding as operating or capital. Henry said funding is currently restricted to capital costs.
  4. FY10-11 Budget Process: Henry said the City of Portland requested staff prepare a 3.8% reduction package for the coming FY budget. Henry said the Finance Committee met and reviewed staff's proposed reductions. Henry said staff is preparing to present the proposed reductions at a work session on March 30 to the Portland City Council. Henry said Commissioner Thomas will represent the City Budget Advisory Committee.
  5. Other: Henry said Google issued an RFI to cities interested in being a fiber test bed. Henry said staff is developing a response on behalf of the City of Portland.

- Committee Reports
  1. Finance Committee: none.
  2. Community Needs Ascertainment: none.
  3. Grant Committee: none.
  4. I-Net Liaison: none.
  5. PCM Liaison: Dicile said PCM, in response to the down economy, has had to reduce staff and public access hours. Dicile said PCM is considering liquidating assets to make up its financial shortfall.
  6. MetroEast Liaison: none.

- New Business; Commissioner Open Comment
 

Alexander said both he and Cano (Vice Chair) are unable to attend the March meeting. The Commission unanimously accepted Commissioner Dicile stepping in to chair the March meeting.

Kilian asked the Commission's permission to write a letter to the Oregonian about the Commission's funding of the domestic violence grant submitted by the City of Portland. The Commission supported Kilian's efforts.

- Franchisee Activity Report

None.

- PEG Provider Activity Report

None.

- Public Comment

None.

- Adjourn: 8:07 pm

Respectfully submitted,

Rebecca Gibbons  
Program Specialist