



MT. HOOD CABLE REGULATORY COMMISSION

1120 SW Fifth Ave. #1305 • Portland, OR 97204

Phone: (503) 823-5385 • Fax (503) 823-5370

Email: www.mhcr.org

Serving Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale and Wood Village

MT. HOOD CABLE REGULATORY COMMISSION

Portland Community Media, Studio A

April 19, 2010 Meeting Minutes -- **APPROVED**

SUMMARY MINUTES

MINUTES AS APPROVED AT THE MAY 24, 2010 MHCRC MEETING.

Call to Order: 7:00pm

- Roll Call

Commissioners present: Alan Alexander (Chair); Rich Goheen; Leif Hansen; Sue Dicile; John Kilian

Commissioners absent: Norm Thomas; Andrea Cano; Clark Santee.

Staff: David C. Olson, Director (via telephone for Agenda Items R1 & R2); Julie Omelchuck, Program Manager; Ben Walters, Legal Counsel; Rebecca Gibbons, Program Specialist

- Agenda Review: none.
- Disclosures: Alexander disclosed his involvement in a music performance benefiting MetroEast's radio station, KZME.
- Public Comment: none.
- **CONSENT AGENDA**

1. February 22, 2010 Meeting Minutes
2. Service Contract Amendment: MetroEast Community Media

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

DISCUSSION: none.

VOTE: 5-0 passed.

- **REGULAR AGENDA**

R1. CBG Communications, Inc. Community Communications Technology Needs Ascertainment Report

Omelchuck gave an overview of the process undertaken by the Commission, Ascertainment Committee, staff and consultants to research, conduct and produce the Community Communications Technology Needs Ascertainment report.

- CBG Presentation

Tom Robinson, CBG Communications, presented an overview of the final Community Communications Technology Needs Ascertainment findings based on the six Categories established in consultation with the Ascertainment Committee:

- Access to Technology
 - Multnomah County residents face equity issues in access to communications technology similar to other communities across the country
 - Affordability is the biggest factor across Communities of Interest concerning the ability to access necessary communications technologies
 - The affordability of the network bandwidth provided on the Institutional Network (I-Net) has enabled schools, libraries and local governments to expand related network services
 - Community Access Capital Grantees indicate that the funding they receive has helped resolve inequities in access to communications technology
- Content
 - Lack of perceived relevancy is the second largest factor contributing to non-adoption of communications technology in Multnomah County
 - Local community media, local community programming and other local content is seen as highly important across Communities of Interest
 - Capacity for local community access is needed across multiple distribution platforms
 - PCM and MetroEast provide the facilities, training and assistance needed to successfully create content
 - Significant investment in capital equipment and advanced technologies will be needed to successfully continue facilitation of content creation
 - Cloud computing will be increasingly utilized to access content in the future
- System Capacity
 - Communications networks need substantial increases in bandwidth capacity to handle the current and future applications demonstrated/documentated by Multnomah County populations
 - Exponential expansion in bandwidth is needed for networks in general (as much as 10 to 100 times the current capacity)
 - Fiber-to-the-Premises (FTTP) is the current and future infrastructure which is able to meet the full range of demonstrable needs of the community in terms of interactive, scalable, network capacity
 - The Institutional Network has provided the network connectivity that school districts and government locations need to facilitate both administrative operations and services to students, residents, businesses and customers
- Economic Development
 - Multiple Communities are utilizing communications technologies to contribute to workforce development
 - Communications technologies are very important to the operation of a home-based business
 - The Community Access Capital Grant program is helping to increase multimedia skills and contribute to local employment
- Civic/Community Engagement
 - Existing public benefit resources available through the cable services franchises have contributed to civic participation and community engagement

- Greater use of assistive technologies will help enable broader civic participation
- Regulation in the Public Interest
 - Local government has a critical role in consumer protection
 - Certain cable franchise customer service standards are not being met
 - Local government has a local planning role in order to meet the community's communications technology needs
 - The high value of the franchise is well documented by its impact on the multiple communities who receive, or are the beneficiaries of, the public benefits under the franchise
- Cable Company/Public Comment

Inouye, Comcast, said Comcast received a copy of the Ascertainment report in March. Inouye said Comcast submitted preliminary comments to staff earlier today and handed copies of the letter out at the meeting. Inouye said Comcast anticipates flushing out issues during negotiation meetings with staff.

- Commission Discussion

In response to a question from Dicile about access by non-adapters to computers at local libraries, Robinson said 20% of respondents that don't have access at home use the public library to access computers and the internet.

Hearing no further discussion and no objection, Alexander said the MHCRC acknowledges receipt of and accepts the Community Communications Technology Needs Ascertainment Report.

R2. MuniCom Comcast Franchise Compliance Report

- Staff Presentation

Olson said the Commission contracted with Steve Jolin, MuniCom, to conduct a review of Comcast's performance under existing franchise terms. Olson said the review of the company's past performance is mandated under federal law when in renewal negotiations. Olson said the report documents the fact that the Commission is not actively pursuing any formal compliance issues with Comcast at this time. Olson said this is a credit to Comcast's good corporate citizenship, the Commission's working relationship with Comcast and the robust regulatory requirements included in the franchise. Olson said the report also documents a number of issues that have not been formally resolved and that the renewal process affords the Commission and Comcast the opportunity to address ambiguities, areas of doubt and resolve compliance issues, etc. Olson gave a summary of the issues as outline on pages 2 and 3 of the compliance report. Olson said staff intends on working with the Commission liaisons to the renewal process to set priority negotiation topics and to negotiate terms that set a clean slate going forward.

- Comcast/Public Comment

Inouye said Comcast submitted preliminary comments to staff earlier today (letter handed out at the meeting). Inouye said Comcast anticipates flushing out issues during negotiation meetings with staff.

- Commission Discussion

Hansen asked staff to comment on the information contained in the compliance report and the information contained in the ascertainment report with regard to customer service satisfaction.

Olson said that while there are no formal compliance issues with regard to Comcast's compliance with current customer service standards, both the compliance report and the ascertainment identified areas for improvement and/or clarification.

Hearing no further discussion and no objection, Alexander said the MHCRC acknowledges receipt of and accepts the Comcast Franchise Compliance Report.

R3. Comcast Franchise Renewal Process & Timeline Update

Omelchuck gave an overview of the renewal process and timeline. Omelchuck said the Commission needs to take action in October in order to meet the deadlines established by the Jurisdictions to consider the MHCRC's recommendation.

R4. Alleged Verizon Franchise Noncompliance - Monthly Subscriber Bills

Omelchuck said staff issued a noncompliance notice to Verizon in February stating that Verizon failed to meet the applicable franchise requirements regarding inclusion of the MHCRC contact information on subscribers' bills and related provisions for Verizon to provide the MHCRC a monthly subscriber bill. Omelchuck said Verizon assured the MHCRC and staff, both in writing and verbally during the February MHCRC meeting that this issue had been corrected.

Omelchuck said staff received monthly subscriber bills on March 3 and on March 31, 2010, neither of which included the franchising authority contact information. Omelchuck said staff provided Verizon a follow up letter notifying it of staff's intent to request that the Commission establish a formal hearing date to consider this issue. Omelchuck said staff recommends that the Commission tentatively schedule a formal hearing, in accordance with MHCRC Rules of Procedure, for the June 21, 2010, MHCRC meeting in order to make a determination on a potential franchise violation. Omelchuck said staff also recommends that the Commission cancel the scheduled formal hearing if staff, in consultation with the Commission Chair, issues a written confirmation to Verizon by May 21 that Verizon cured the violation. Omelchuck said this approach will hopefully motivate Verizon to successfully cure the noncompliance.

Ray Deede, Verizon, said he has received assurances from highest level that a sample customer bill including Commission contact information and the appropriate inserts will be provided to staff in early May.

MOTION: Goheen moved to establish a formal hearing at the June 21, 2010 MHCRC meeting, in accordance with MHCRC Rules of Procedure, in order to make a determination on a potential franchise violation with respect to Verizon's failure to provide the MHCRC with a sample subscriber bill and to include the MHCRC contact information on subscriber bills. Dicile seconded.

DISCUSSION: none.

VOTE: 5-0 passed.

R5. Verizon/Frontier Transfer Costs - Fund Appropriation

Omelchuck said Verizon and Frontier agreed to reimburse the MHCRC for costs associated with the transfer. Omelchuck said the Commission's action on this item simply meets standard budgetary procedures to appropriate the reimbursement to the corresponding budget line item.

MOTION: Hansen moved to appropriate up to \$49,500 to Professional Services to cover the costs incurred for the transfer of Verizon Communications, Inc. (Verizon) to Frontier Communications Corporation (Frontier). Kilian seconded.

DISCUSSION: none.

VOTE: 5-0 passed

R6. Resolution 2010-01: Allocating the Franchise Grant under the Verizon Franchise to MetroEast Community Media in Order to Enhance Video Transport and Distribution of PEG Programming

Omelchuck said Verizon franchise includes a Franchise Grant that was negotiated with Verizon as an “in lieu of” requirement for certain franchise obligations regarding PEG Access in order to be commensurate with the incumbent franchisees. Omelchuck said that during the negotiations, the most prominent “in lieu of” requirement discussed was for the provision of live origination video transport and distribution from and among sites throughout the Verizon Franchise area. Omelchuck said the agreed upon amount in the franchise was based on the intent to provide the funds to MetroEast to broaden its live video and distribution capabilities by potentially using the Internet (and possibly the I-Net) for transport. Omelchuck said the one-time and annual payments were to cover the costs for MetroEast to implement some of the possible options. Omelchuck said MetroEast Community Media has expressed its intent and tentative plans to enhance its video transport and distribution capabilities through upgraded digital and online platforms. Omelchuck said staff recommends the Commission approve Resolution 2010-01.

MOTION: Dicile moved to approve Resolution 2010-01 allocating the Franchise Grant under the Verizon Franchise to MetroEast Community Media in order to enhance video transport and distribution of PEG programming. Kilian seconded.

DISCUSSION: none.

VOTE: 5-0 passed.

R7. Comcast “Annual” Activities Presentation – Information Only

- XFINITY re-branding

Inouye, Comcast, said Comcast, in the past year, launched 64 HD channels, 23 new Spanish network channels, 4 international network channels, and a digital economy tier geared for subscribers impacted by the rough economy. Inouye said Comcast contributed \$1.5 million contributed to nonprofits within Multnomah County. Inouye said Comcast views its partnerships with the local community as vital and an essential aspect of the Company’s responsibility. Inouye said Comcast Cares Day, a day of employee volunteerism, drew over 400 employees and their friends and family members together to perform community service projects throughout the county last year. Inouye said Comcast Cares Day this year is scheduled for April 25. Inouye invited Commissioners to join Comcast at Benson High School where Comcast will present a \$25,000 grant award. Inouye said some of Comcast’s nonprofit partners in the community include Film Action Oregon, Portland Schools Foundation, Urban League of Portland and Friends of Children. Inouye said Comcast also seeks out deserving high school students who have shown leadership achievements. Inouye said Comcast gave out \$1000 scholarships to sixteen deserving students last year. Inouye said Comcast launched a rebranding of its services last year. Inouye said Comcast services are now known as XFINITY TV, XFINITY Internet and XFINITY phone. Inouye said that the rebranding is coupled with improved services (e.g. more channels and faster speeds).

Dicile said she rarely attends a community function without seeing Comcast represented. Dicile thanked Comcast for its good corporate citizenship. Alexander and Kilian affirmed and said the partnership with Comcast and the community benefits of the franchises have had a tremendous positive impact on the community.

- Staff Activity Reports and Updates
 - Franchise Noncompliance Cures: Omelchuck said staff accepted the cure responses from Verizon and Comcast in response to potential noncompliance notices that staff issued in January. Staff acceptance of the cure response was included in the meeting packet.
 - Verizon/Frontier Transfer: Omelchuck said the transfer appears to be proceeding on schedule. Omelchuck said a main underlying financial transaction was accomplished last week and that East County Verizon subscribers should be receiving notices about the transfer to Frontier. Omelchuck said a copy of the text of this notice was previously furnished to MHCRC by Frontier, and also distributed to the Jurisdictions. Omelchuck said there are some late-breaking labor issues in West Virginia, involving union concerns regarding loss of jobs, but this is not expected to delay the transaction. Omelchuck said Frontier has identified a regional manager, but we have not met this gentleman yet. Omelchuck said other required regulatory items have been accomplished in a timely manner (e.g. certification of programming content, included in the packet). Omelchuck said staff has no reason at this point to believe this transaction will not proceed toward closure before July 1st, but staff does not have the exact closing date as of yet. Omelchuck said that once a date is identified, pursuant to the transfer conditions approved by the Jurisdictions, there will be several transfer conditions (e.g. guarantee and other matters) that Frontier will be responsible for providing, and staff will monitor this.
 - Comcast Customer Service – Exemplary Service by Comcast Customer Advocates, Cindy Cook and Jane Bain: Omelchuck said staff wished to formally acknowledge the exemplary customer service provided by Comcast’s executive escalations team. Letter to the team included in the packet.
 - Comcast-NBCU Merger: Omelchuck, referring to packet enclosures, said Comcast's announced (but not-yet-approved) purchase of NBC raises a number of issues. Omelchuck said the increased concentration of media ownership, and horizontal integration between a major US content provider and the largest USA content "deliverer" (i.e. Comcast) raises a host of issues that are under federal jurisdiction and are being addressed at a federal level. Omelchuck said one issue is if or how Comcast might favor its own content at the expense of other content (e.g. PEG and other public interest programming). Omelchuck said staff is monitoring this merger, and will keep the Commission informed.
 - FCC/Legislative Developments: Omelchuck said staff continues to be engaged in or is monitoring a variety of FCC/Legislative developments, e.g. wireless preemption, National Broad Plan, etc. Omelchuck said the FCC's loss of jurisdiction over Net Neutrality in the Comcast vs. FCC case is playing out in a variety of ways. Omelchuck said the court has stated that the FCC's legal underpinning for net neutrality has no basis in the statute. Omelchuck said that to continue forward on its pro-net-neutrality initiative the FCC will need to find some other basis for its authority or else receive additional authority from Congress, which is a much longer-term proposition. Omelchuck said the decision is interesting because the FCC's claimed basis for authority over net neutrality is the same as its basis for preempting regulation of broadband Internet open access.

Omelchuck said the FCC, however, is still considering its regulatory options and it will be awhile before the implications of this case settle out.

- FY10-11 Budget Process: Omelchuck said the Cable office (OCCFM) budget (in which the MHCRC budget is included) will likely need to absorb some substantial Materials & Services cuts from the City of Portland. Omelchuck said the release of the Mayor's Proposed Budget is expected before the end of the month, and staff hopes some of these issues will be addressed in the Mayor's Proposed Budget without necessitating the need for additional advocacy by the MHCRC.
- 1st Quarter 2010 Complaint Reports: Included in the meeting packet.
- Other: Omelchuck said staff attended a 3D TV demonstration sponsored by Comcast.

- Committee Reports

1. Finance Committee: none.
2. Community Needs Ascertainment: none.
3. Grant Committee: none.
4. I-Net Liaison: Hansen met with Omelchuck and Brian Nordlund, former MHCRC technical consultant, on the design of the I-Net.
5. PCM Liaison: Dicile said the Board is addressing a budgetary shortfall. Dicile said PCM producers have been informed. Dicile said PCM will likely liquidate assets to meet the shortfall.
6. MetroEast Liaison: none.
7. Comcast Franchise Renewal Liaisons: none.

- New Business; Commissioner Open Comment

Alexander acknowledged Santee's reappointment to the Commission for a term expiring 5/31/2013.

Alexander reviewed the meeting scheduled.

- Franchisee Activity Report

Deede, Verizon, said Verizon continues to dig deep to identify reasons for customer service metrics compliance issues and believes this approach will result in significant improvements going forward.

Ken Gaffga, Frontier Regional Manager, introduced himself as the new state Vice President. Gaffga said the transfer is going as expected and that the regulatory proceedings continue in a few states. Gaffga said Frontier anticipates placing four general managers across geographic areas throughout the state once the transfer is complete. Gaffga said a general manager for the MHCRC franchise area will be hired separate from the Beaverton market general manager. Gaffga said Frontier has met the requirement under the transfer agreement to enter into contracts that support at least 75% of Verizon existing channel lineup. Gaffga said he would provide another update prior to closing the transfer.

- PEG Provider Activity Report

Brading, MetroEast, said MetroEast held a successful volunteer appreciation event. Brading said KZME radio will be holding an event on April 28 to mark the beginning of studio construction in the facility opposite Gresham regional library. Brading said the Community Hotline, an

opportunity for public benefit nonprofit organizations to talk about what they do, has continued to be a success.

Hughley Noel, Chief Operating Officer and Interim Executive Director at PCM, said that under the SmartAccess grant, PCM anticipated bringing on two community partners per year. Hughley Noel said PCM has been successful at signing partnership agreements with four organizations including the Office of Neighborhood Involvement SW Neighborhoods Inc., Central NE Neighbors and Sisters of the Road. Hughley Noel said classes are scheduled in November. Hughley Noel reporting the SmartAccess project is on target to meeting its demographic targets. Hughley Noel said the Access 2.0 grant is close to wrapping up with a final push to implement automated playback. Hughley Noel said the Producers Circle has been kept abreast of the organization's financial challenges. Hughley Noel said the difficult economic times have provided the opportunity to look closely at existing financial systems and to implement additional internal controls. Hughley Noel report operational cash flow shortfalls.

Dicile asked how PCM would manage the SmartAccess grant moving forward with four new community partners in light of budgetary shortfalls that will most likely impact staff availability. Hughley Noel said Sharon Thomas has been hired as a dedicated technical staff person on the project.

- Public Comment: none.
- Adjourn: 9:09 pm

Respectfully submitted,

Rebecca Gibbons
Program Specialist