

## 2021 MHCRC Annual Retreat Week One Packet Contents

We are providing a packet for the first week with some grounding documents to help you prepare for the conversations ahead.

1.	Retreat Outline Week One .....	2
	Preview the agenda details and community agreement for the first day.	
2.	Copy of the Intergovernmental Agreement .....	6
	We will be doing trivia based on the IGA so brush up on your knowledge of the agreement to improve your chances of winning.	
3.	MHCRC FAQ: Informational .....	15
4.	MHCRC flow of funds chart: Informational .....	17
5.	Trends in Communications Technology and Public Policy 2021 .....	18
	Review the current industry landscape to help inform your ideas for the vision and programmatic direction for the direction in FY 21-22 and beyond.	
6.	2020-21 Goals and Objectives .....	25
	Review the goals and objectives for this fiscal year and start thinking about what you would like to achieve in FY 21-22.	
7.	MHCRC Program Area Summary .....	28
	Review the summary and proposed goals for the following fiscal year.	
8.	MHCRC FY 18-20 Expenses.....	30
	For review and discussion for FY 21-22 budget preparation.	



**Mt. Hood Cable Regulatory Commission / Office for Community Technology**

**RETREAT AGENDA**

*February 20, 2021*

**DAY 1 – Saturday, 1-5 p.m.**

- 1:00 p.m. Day 1 Kick Off (Elisabeth & Carol)
- 1:10 p.m. Agenda Review / Goals / Community Agreements (Martha)
- Retreat Goals
    - Deepen relationships on the Commission and with staff
    - Set the vision and programmatic direction for the Commission in 2021
    - Finalize the budget for 2021-2022
    - Deepen the Commission's commitment to equity in operations and programming
    - Have fun!
  - Community Agreements (draft attached)
- 1:25 p.m. Introductions (All)
- 1:45 p.m. Community Building / Small Groups (All) x 2 Rounds (draft attached)
- 2:30 p.m. Break (5 min.)
- 2:35 p.m. Staff & Commission Reports/Work – Part 1
- Director's Report / Update on Comcast Renewal / Grounding in Mission (Elisabeth)
  - Report from Jurisdictions (Commissioners)(2-3 mins each)
    - Address major issues each community is facing in telecommunications and community technology.
      - Can include innovations or challenges.
      - Do local staff have sufficient capacity to address their top issues?
- 3:45 p.m. Break (5 min.)



- 3:50 p.m. MHCRC Trivia: How Well Do You Know the IGA?  
(Cinthia, Elisabeth & All)
  
- 4:00 p.m. Staff Reports/Work Sections – Part 2
  - Policy and Industry Report (Bea)
    - o Q & A
  - Finance Report / Last 3 years + future trends (Michael)
    - o Q & A
  
- 4:50 p.m. Recap of the day / Preview of Next Week (Martha)
  
- 4:55 p.m. Evaluation - TBD (All)
  
- 5:00 p.m. Adjourn



## MHCRC 2021 RETREAT COMMUNITY AGREEMENTS - DRAFT

- Confidentiality – build trust with each other by keeping personal or sensitive info confidential.
- Stay present and engaged throughout the retreat. Begin by minimizing distractions around you.
  - Be on time each day and after breaks and lunches.
  - Keep video on whenever possible.
  - Hold off on sending emails and returning phone calls for breaks whenever possible.
- Create a safe and balanced space for your colleagues to show up authentically.
  - Create space for everyone to actively participate – if you typically participate a lot, try sitting back and creating space to hear from others; if you typically sit back and listen, bring your ideas forward and share.
  - Practice deep listening. Try to focus on hearing and understand someone's comments prior to asking for clarification or making a comment, even if it means sitting with your thoughts for a while and taking time to process.
  - Assume positive intent in others. Be curious and ask open ended questions to clarify.
  - Be accountable for the impact of your words and actions.
- Be kind to yourself and your body. If you've been sitting too long, stand up, stretch, and move around.



### Community Building Questions (draft):

(Will pre-assign zoom room groups for Round 1.)

#### 1<sup>st</sup> Round:

- Where did you grow up and what's an early memory you have about that place?
- If you could meet any famous person in the world, living or dead, who would it be and why?
- What is your favorite dish to cook and/or eat?
- What is your favorite technology tool you use everyday and what does it enable you to do?
- What is a special or unique talent you have?

(Will change up zoom room groups for Round 2.)

#### 2<sup>nd</sup> Round:

- What's the first job you ever had and what did you like about it?
- What is a book you've read, movie you've seen, or podcast you've listened to recently that has inspired you?
- What's the best concert you've ever attended?
- Talk about a time that someone gave you the resources to do something you wanted to do. How did it impact your life?
- What's a superpower that you bring to your work with the MHCRC?

**MT. HOOD CABLE REGULATORY COMMISSION  
INTERGOVERNMENTAL AGREEMENT  
AS AMENDED MARCH 1998**

THIS AGREEMENT is between each of the cities of Fairview, Wood Village, Troutdale, Gresham and Portland, all municipal corporations duly incorporated under the laws of the State of Oregon, and Multnomah County, a home rule county formed under the laws of the State of Oregon, hereinafter referred to as the "Jurisdictions." This Agreement is made pursuant to ORS 190.003 to ORS 190.110, the general laws and constitution of the State of Oregon, and the laws and charters of the Jurisdictions.

Section 1. General Purposes. The Jurisdictions have each separately entered into various franchise agreements providing for the construction and operation of cable communications systems within their boundaries. The City of Portland created the Portland Cable Regulatory Commission, and Multnomah County, Gresham, Troutdale, Fairview and Wood Village created the Multnomah Cable Regulatory Commission, each with the general purpose to regulate and administer cable franchise agreements for the Jurisdictions. The Jurisdictions wish to form a unified cable regulatory commission. The formation of a unified regulatory commission serves the public interest in that the boundaries of the Jurisdictions do not necessarily coincide with the service areas of the Grantees, or with the needs of the citizens within each Jurisdiction or franchise, regarding cable communications. In addition, a unified commission can provide enhanced public benefits in franchising and regulation, and economies of scale in its operation.

To further this public interest and these purposes, the Jurisdictions desire to create a unified cable regulatory commission to jointly regulate and administer franchise agreements within their boundaries. The commission will further serve as an advisory body to the Jurisdictions on matters relating to cable communications and function as the Jurisdictions' representative for regional, state or national cable communications policy matters.

Section 2. Definitions.

A. "Cable Communications System" or "System" - any system of antennas, cables, amplifiers, towers, microwave links, cable casting studios, and any other conductors, receivers, home terminals, convertors, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic or electrical signals.

B. "Commission" means the Mt. Hood Cable Regulatory Commission as formed under this Intergovernmental Agreement.

C. "Grantee" - any person who is authorized by a franchise agreement or seeks authority to construct, operate and maintain a cable communications system operated within the territories of the Jurisdictions.

D. "Jurisdiction" - any municipality or county which enters into this Agreement.

E. "Multnomah Community Television" means the designated provider of PEG access for the cities of Fairview, Gresham, Troutdale and Wood Village, and Multnomah County.

F. "PEG" means public, educational and governmental cable access within the meaning of franchise agreements administered by the Commission, and applicable law.

G. "Person" - any corporation, partnership, proprietorship, association, individual or organization authorized to do business in the State of Oregon, or any natural person.

Section 3. Commission Creation and Powers. A unified regulatory commission, the Commission is created to carry out the purposes set forth in this Agreement and to administer the cable communications franchises granted by the Jurisdictions. The Commission is vested with all the powers, rights and duties necessary to carry out these purposes that are vested by law in each Jurisdiction, its officers and agencies, subject only to the limitations contained in this Agreement and in the cable communications franchise agreements. "Law" includes the federal laws and Constitution, the Oregon constitution and laws as well as the charters, ordinances and other regulations of each Jurisdiction.

A. Regulatory Authority. The Commission has the authority to act on behalf of the Jurisdictions jointly and separately, and in its own right, to oversee and regulate any cable communications system operated pursuant to the cable communications franchise agreements entered into by the Jurisdictions. The Commission has full authority to take any action necessary to enforce or administer franchise agreements for operation of cable communications systems, except where the power to take a specific action is either limited or reserved to the Jurisdictions by the provisions of Section 4 of this Agreement.

B. Contracting Authority. The Commission may make such contracts, grants, and take such other action as it deems necessary and appropriate to accomplish the general purposes of this Agreement. All contracts made shall conform to the requirements of Oregon law.

Section 4. Powers Retained by Jurisdictions.

A. Discretionary Review. Commission action to; (1) find a Grantee in violation of its franchise agreement, or; (2) impose any penalty or financial remedy, or; (3) regulate, establish or approve any Grantee rate or charge, or; (4) determining PEG capital grant purposes and evaluation criteria as set forth in Section 9.E.2 of this Agreement, shall become effective 30 days after the Commission's final decision. Any such Commission final decision shall not be effective unless a copy of the final decision is filed with the Recorder of each affected Jurisdiction within 10 days of such action. Such final decisions are subject to review by the governing body of each affected Jurisdiction. Within a 30-day period, any affected Jurisdiction may notify the Commission of its intent to exercise review authority. The Commission shall notify all affected Jurisdictions within 10 days of receiving the review notice. If a majority of the affected Jurisdictions acts within 60 days to overturn the Commission's final decision, such decision shall not become effective, and the matter

shall be returned to the Commission for further proceedings as directed by the affected Jurisdictions.

1. Affected Jurisdiction means any Jurisdiction which is a party to the franchise agreement with the Grantee to which the Commission's final decision applies.

2. Recorder means a Jurisdiction's Clerk, Recorder or Auditor.

B. Full Authority. As set forth herein, the Jurisdictions reserve the authority to act on their own behalf. Each Jurisdiction agrees to make a good faith effort to weigh the impact of such actions on the overall operation of a cable system and the continuity of the Commission. Each Jurisdiction agrees to take no action in these areas until the Commission has had a prior opportunity to consider the matter.

Authority retained by the Jurisdictions includes:

1. Any decision to grant, revoke, terminate, extend, amend, renew or refuse to renew a franchise agreement.

2. Any decision concerning a change of ownership or control of a cable communications system or a Grantee.

3. Any decision to purchase or condemn a Grantee's interest, in part or in whole, whether or not pursuant to a termination, revocation or expiration of a franchise agreement.

4. Any decision regarding cable regulation which requires adoption of any ordinance or resolution by the Jurisdictions.

5. Any decision which requires the amendment of this Agreement.

6. Any authority which is reserved to or retained by the Jurisdictions by franchise agreement and which may not otherwise be delegated to the Commission.

#### Section 5. Commission Members.

A. The Composition. The Commission shall be composed of Commissioners appointed by the Jurisdictions. Each Jurisdiction, except Portland, shall select and appoint one representative to serve as its Commissioner. Portland shall select and appoint three representatives to serve as its Commissioners.

B. Quorum and Voting. The majority of the members of the Commission shall constitute a quorum. No Commission action shall be in effect except on a majority vote by those Commissioners present.

C. Term of Office and Succession. Commissioners shall be appointed to serve until their successors are appointed and assume their responsibilities, but shall serve under procedures



authorized by the governing body of the Jurisdiction appointing them. However, a Jurisdiction's appointee shall not have any ownership interest in a Grantee. A vacancy on the Commission shall be filled by the governing body of the Jurisdiction whose position on the Commission is vacant.

Section 6. Meetings, Rules of Procedure and Officers.

A. Meetings to be Public. Meetings of the Commission shall be conducted pursuant to the Oregon Public Meetings law.

B. Rules of Procedure. At the first organizational meeting, or as soon thereafter as practicable, the Commission shall adopt rules governing its procedures including, but not limited to:

1. Times and places of regular meetings;
2. The method and manner of calling special meetings;
3. The method, term and manner of election of officers;
4. The responsibilities and duties of officers; and
5. The procedures for execution of writings and legal documents.

C. Officers. At the first organizational meeting, the Commission shall elect from among its members an interim chairperson and an interim vice-chairperson. The chairperson, and in his or her absence the vice-chairperson, shall preside at all meetings, call special meetings, and determine the order of business, until such time as rules requiring otherwise are adopted.

Section 7. Administration and Staffing Services. The Commission shall contract with the City of Portland (the City) for administrative services as described in the attached Administrative Services Agreement (Exhibit 1). The Commission is authorized to amend, extend, or terminate the Administrative Services Agreement.

Section 8. Transfer of Staff and Assets.

A. Transferred Employees.

1. Upon termination of the administrative services agreement between the Commission and Multnomah County (the County), the County shall transfer Julie S. Omelchuck to the City's Office of Cable Communications and Franchise Management (Cable Office), providing that the County is no longer performing any cable regulatory services. Pursuant to ORS 236.630, Julie S. Omelchuck shall be placed in a position found by the City to be comparable to the position she enjoyed under the County's employment. The City shall consider Julie S. Omelchuck's education and physical qualifications, experience, and the salary, duties and responsibilities of her prior employment. The County shall furnish all of Julie S. Omelchuck's employment records to the City at the time of transfer. No affected employee shall be deprived of their employment by the County solely

because of the transfer of administrative cable regulatory services to the City. The County shall find positions of employment within the County for all other affected employees.

2. The County shall pay each transferred employee all holiday and compensatory time, and any vacation leave time in excess of eighty hours, accumulated by such employee up to the date of the transfer. In addition, funds shall be transferred to the City from within the existing County cable office budget to cover accumulated sick leave, up to the date of transfer, for each transferred employee. The final amount of the payment for accumulated sick leave shall be determined by mutual agreement between the City and the Commission. The County shall reimburse the City for insurance premium costs, if any, resulting from health insurance coverage of preexisting conditions for any transferred employees. If at any time in the future Julie S. Omelchuck transfers back to the County by operation of the terms of Section 8A, the obligations for holiday, compensatory time and vacation leave time under this subsection shall apply equally to the City.

3. Any employees transferred by the County to the Cable Office shall be returned to the County if the transferred employee remains in a comparable employment position within the Cable Office and any one of the following events occurs: 1. The administrative services agreement between the City and the Commission is terminated; 2. The City withdraws from this Agreement; 3. The County withdraws from this Agreement; or 4. The Commission is dissolved under the terms of this Agreement.

4. This consolidation has presented unique circumstances resulting in the employee transfer provisions set forth in this Section. Due to these unique circumstances, the agreements contained in this Section shall not serve as precedent for any future employee transfer discussions between the City and the County.

B. Equipment assets, as listed in Exhibit 2, and general office supplies of the Multnomah Cable Regulatory Commission shall physically transfer to the City and shall become assets of the Commission.

C. The Jurisdictions shall share in the start up costs of the Commission proportionate to the FY 1993-94 budget contribution percentage of the respective Jurisdictions.

#### Section 9. Receiving and Distributing Funds.

A. The Commission shall comply with applicable state and local laws as to budget preparation and for audit of its books and records. The Jurisdictions may inspect all Commission books and records.

B. The annual budget adopted by the Commission shall be transmitted to the Jurisdictions by April 1. Each Jurisdiction shall review the Commission adopted budget prior to June 1 of each year. Upon approval by all Jurisdictions, the Commission-adopted budget shall become effective. If one or more Jurisdictions does not approve, the budget shall be returned to the Commission for

modification and resubmitted to the Jurisdictions for approval. If all Jurisdictions do not approve a Commission budget by July 1, the previous fiscal year budget, less 10 percent, shall continue in effect until all Jurisdictions approve a Commission budget.

The Commission shall have the authority, subject to its approved annual budget, to expend funds for any lawful purpose up to the total amount of the approved budget. The Commission must seek approval by the Jurisdictions of budget amendments over the total amount of the approved budget. All Jurisdictions must approve such budget amendments for them to become effective. No Jurisdiction may amend, reduce or increase the approved Commission budget.

C. The cost allocation of each Jurisdiction in support of the Commission's approved budget shall be determined by the Commission during the annual budget process. The annual approved budget shall establish the specific cost allocation of each Jurisdiction and a schedule for all payments.

D. 1. The Commission is authorized to receive and collect cable franchise fees for all the Jurisdictions except Portland. The Commission shall distribute such franchise fees according to the terms of the franchise agreements with the Grantees, and the Commission budgets approved by the Jurisdictions. However, the Commission shall allocate, on an annual basis, sixty percent (60%) of cable franchise fees received from the cities of Fairview, Gresham, Troutdale, and Wood Village, and Multnomah County, to Multnomah Community Television for the provision of PEG access services within those Jurisdictions as the designated PEG provider. Fees collected in excess of budgeted amounts shall be returned to the Jurisdictions from which such fees are attributable.

2. The Commission shall not collect the City of Portland cable franchise fees. The City of Portland agrees to transfer quarterly its share of the cost allocation in accordance with the approved Commission budget.

3. All other funds arising out of cable franchise agreements shall be collected by the Commission. The Commission shall allocate such funds in accordance with the franchise agreements and the Commission budgets approved by the Jurisdictions.

E. 1. The Commission shall serve as the Grantmaking Board for decisions on distributing PEG capital funds as grants, as provided in the cable franchise agreements administered by the Commission under this Agreement. The Commission shall establish procedures and timelines for decisions on distributing such grant funds.

2. The Commission shall establish the purposes for PEG capital grants, and evaluation criteria for grant applications, compatible with the terms and conditions of the cable franchise agreements. The Commission shall review such purposes and evaluation criteria at least biennially. Commission determinations of such purposes and evaluation criteria under this Section 9.E.2 shall be subject to review by the Jurisdictions under Section 4 of this Agreement.

3. The Commission shall distribute grants of PEG capital funds based upon such

purposes and evaluation criteria as have been developed under Section 9.E.2.

4. The total amount of PEG capital funds, including the total amount of grant funds to be distributed by the Commission under this Section 9.E., shall be included in the Commission's annual budget as transmitted to the Jurisdictions under Section 9.B.

Section 10. Effective Date. This Agreement shall become effective upon its adoption by all Jurisdictions. Any Jurisdiction entering into this shall adopt an authorizing ordinance and shall forward a certified copy to the City of Portland. Within 30 days of the effective date of this Agreement, the City of Portland shall forward copies of the authorizing ordinances to the Secretary of State.

Section 11. Duration and Termination.

A. Duration. The duration of this Agreement is perpetual and the Commission shall continue from year to year, subject to subsection 11.B. The Commission shall forward this Agreement to the Jurisdictions every three years for their review.

B. Termination. In order for any Jurisdiction to withdraw from this Agreement and to prevent obligations for its financial contribution to the Commission for the ensuing year, a Jurisdiction may only withdraw from the Commission by filing a written notice of withdrawal with the Commission by November 1 of any year, effective at the end of that fiscal year. Membership shall continue until the effective date of the withdrawal. However, the withdrawing Jurisdiction shall not take action on the Commission's annual budget. Prior to the effective date, the member Jurisdiction may rescind its withdrawal notice at any time.

Section 12. Assets. If a Jurisdiction withdraws before dissolution of the Commission, the Jurisdiction shall have no claim against the assets of the Commission. In the event of dissolution, all remaining assets of the Commission, after payment of obligations, shall be distributed among the then existing Jurisdictions in proportion to the most recent budget cost allocation percentage of the respective Jurisdictions. Jurisdictions may agree to buy out each others portion of assets.

Section 13. Dissolution. The Jurisdictions may dissolve the Commission and terminate this Agreement at any time by mutual agreement of all Jurisdictions. The Commission shall continue to exist after the dissolution for such period, no longer than three months, as is necessary to wind up its affairs but for no other purposes.

Section 14. General Terms.

A. Severability. The terms of this Agreement are severable and a determination by any Court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of this Agreement.

B. Interpretation. The terms and provisions of this Agreement shall be liberally construed in accordance with its general purposes.

C. Increasing Member Units of Government. The Commission may develop a method for allowing other units of local government to enter into this Agreement, subject to the full authority provision of subsection 4.B. A fee or cost for such entrance may be imposed.

D. Amendments. The terms of this Agreement shall not be amended without the written authorization of the governing bodies of all Jurisdictions.

E. 1. General Indemnification. Each Jurisdiction shall be responsible for the negligent acts or omissions of the Jurisdiction, or its officers, agents or employees, in carrying out the terms of this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260, et seq., and the Oregon Constitution, Article XI, Section 9.

2. By entering into this Agreement, the Jurisdictions are creating a public body under ORS Chapter 190 which is separately responsible for providing coverage for its officers, agents and employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260, et seq.

APPROVED AND EXECUTED by the appropriate officer(s) who are duly authorized to execute this Agreement on behalf of the governing body of each Jurisdiction.

**City of Fairview**

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

**City of Gresham**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Manager

**Multnomah County**

REVIEWED BY:

\_\_\_\_\_  
County Chair

\_\_\_\_\_  
County Counsel

**City of Portland**

APPROVED AS TO FORM:

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
City Attorney

**City of Troutdale**

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

**City of Wood Village**

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

## Mt. Hood Cable Regulatory Commission Frequently Asked Questions

### What is the Mt. Hood Cable Regulatory Commission?

The Mt. Hood Cable Regulatory Commission negotiates and enforces cable service franchise agreements; manages the public benefit resources and assets derived from the franchises; and advocates on behalf of the public interest on communications policy issues at local, state and federal levels.

The MHCRC serves the communities, residents and local governments of Fairview, Gresham, Portland, Troutdale and Wood Village and Multnomah County, Oregon (its member “Jurisdictions”).

### How does the Mt. Hood Cable Regulatory Commission operate?

The MHCRC was formed by the member jurisdictions through an [Intergovernmental Agreement \(IGA\)](#) which was most recently amended in March 1998. The IGA gives authority to the MHCRC to negotiate and enforce franchise agreement on behalf of the jurisdictions. However, each jurisdiction separately enters into franchise with cable providers after the MHCRC presents recommendations to the jurisdictions.

The City of Portland provides administrative support services to the MHCRC. This was solidified in a 1992 [agreement](#) between the two entities. This currently is structured with three full time employees and three employees who dedicate part of their time to service to the MHCRC.

The [Rules of Procedure](#), last amended in 1997, governs the administrative actions of the Commission. The Commission’s rules of procedures not provided in the “Rules of Procedure” are determined using the latest edition of “[Roberts Rules of Order Newly Revised](#).”

### What is the charge of the MHCRC?

This unified regulatory commission carries out cable regulation by:

- Providing consumer protection for citizens and subscribers in cable television matters, including complaint resolution
- Determining grant recipients for the Community Access Capital Grant, a competitive grant program which allocates about \$1.5 million annually to libraries, schools, local governments and non-profit community organizations
- Directing the Institutional Network (I-Net) and the related \$1.5 million annually to ensure reliable and affordable fiber connectivity and network resources are available to local public institutions such as schools, libraries and public safety sites
- Enforcing cable company compliance with franchise agreements
- Conducting franchise negotiations, renewals and transfers of ownership
- Overseeing and monitoring two community media organizations
- Promoting community and institutional uses of cable-based technologies
- Participating in advocacy efforts for legislative activities and FCC proceedings

Over the years, the Commission has further defined their role to incorporate equity to the disbursement of PEG/I-Net funds. The convergence of technology has also led the Commission to explore and research additional telecommunications issues as it related to the cable system.

### How does the MHCRC receive funding?

The Commission is authorized to receive and collect cable franchise fees for all jurisdictions except Portland. For the jurisdictions in which the Commission does collect cable franchise fees, the commission allocates sixty percent (60%) of fees to MetroEast for the provision of PEG access services. Fees collected in excess of budgeted amounts shall be returned to the Jurisdictions from which such fees are attributable.

The Commission does not collect City of Portland cable franchise fees. The City of Portland transfers its share of the cost allocation in accordance with the approved Commission budget. The City of Portland funds the MHCRC through a special allocation determined annually in the fall. The City of Portland funds sixty-five (65%) of the annual administrative budget while the rest of the jurisdictions fund the remaining thirty-five (35%).

### What funds is the MHCRC responsible for?

All other funds arising out of cable franchise agreements is collected by the Commission. The Commission allocates funds in accordance with the franchise agreements and the Commission budget.

The Commission submits an [annual budget](#) to the Jurisdictions for approval by June 1. If any jurisdiction does not approve, the budget returns to the Commission for modification and resubmitted to the jurisdictions. If all Jurisdictions do not approve the Commission budget by July 1, the previous fiscal year budget, less 10 percent continues in effect until all Jurisdictions approve.

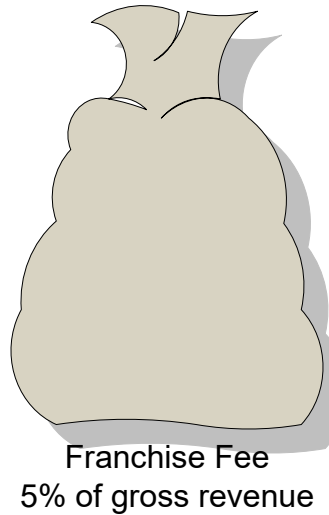
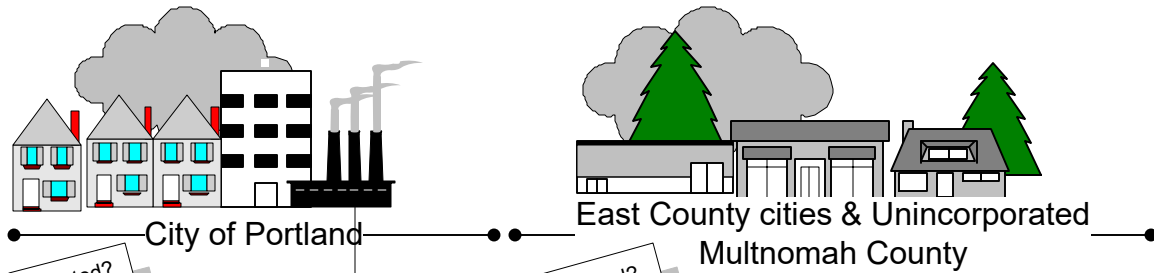
The Commission administers a grant program for the distribution of PEG capital funds which includes funding the Community Access Centers, MetroEast and Open Signal. The Commission reviews the purpose and evaluation criterial of the grants at least biennially. Total amount of PEG capital funds, including the total amount of grant funds to be distributed by the Commission are included in the Commission's annual budget as transmitted to the Jurisdictions.

### What is the role of an MHCRC Commissioner?

- Provide direction to MHCRC staff on financial and policy objectives
- Oversee financial matters of the Commission, including developing and presenting an annual budget for recommendation to the member jurisdictions
- Attend Commission meetings (about 10 per year) and participate on at least one committee
- Attend annual, one-day Commission planning retreat (usually a Saturday in the Spring)
- Provide regular reports and liaison to elected officials of appointing jurisdiction
- Keep informed and educated about issues related to Commission activities



Flow of Cable Franchise-Related Funds to MHCRC, Programs, and Jurisdictions



**The money comes in**  
Per the franchise the cable company pays the whole amount directly to the City of Portland General Fund.

**Cable side of OCT and MHCRC is funded via**  
The City funds the Office for Community Technology (OCT) just like it does any other bureau. When other bureaus suffer across-the-board cuts so does OCT

**Access Center operational funding comes from**  
The City Council decides on PCM's proposed budget and funds it. There have been years where the City gave PCM less than they requested.

**Restricted? Primarily**  
Per the franchise, the cable company pays the whole amount to the MHCRC

Each jurisdiction's pro-rata share of the operating costs for OCT & MHCRC are deducted for each jurisdiction

60% of the East County franchise fees are paid directly to MetroEast.

After all the costs are deducted the pro-rata balance is paid to each jurisdiction

**PEG Capital Funds**  
1% of gross revenues

**Restricted? YES**  
Because of federal law these funds can ONLY be used for capital expenses. Per the franchise they are only for use by the jurisdictions' designated access organizations. Distributed between PCM and MetroEast based on a service area/subscribership formula.

**I-Net Funds**  
1% of gross revenues

**Restricted? YES**  
The MHCRC, based on staff and I-Net liaison recommendations, uses this money to fund connection infrastructure for new and upgrading customers.

**Community Access Grants**  
1% of gross revenues

**Restricted? YES**  
Because of federal law these funds can ONLY be used for capital expenses. Per the franchise they can only be used for projects that will make use of the cable system. The MHCRC awards these grants annually. There is no set distribution formula among the jurisdictions. One of the evaluation criteria for the MHCRC's evaluation is "geographic distribution." We usually keep an eye on that but it has never been a point of contention when awarding grants.

# Trends in Communications Technology and Public Policy

Prepared February 8, 2021

This document is intended to provide the Mt. Hood Cable Regulatory Commission (MHCRC) with background on consumer trends, technological innovation, and policy so that Commissioners can determine the best direction and actions to take on behalf of the communities served by the MHCRC.

## Contents

Introduction .....	1
Definitions .....	2
State of the Pay-TV Landscape .....	4
Subscriber Trends .....	5
Community Broadband .....	5
Changes in Technology .....	5
Consumer Protections and Privacy .....	6
Policy, Legislation and Litigation .....	6
Conclusion .....	6

## Introduction

2020 began with a focus on mitigating and appealing the numerous FCC Orders that reinterpreted the Telecommunications Act, diminished local authority and control over uses of the public right-of-way, and threatened community media.

And then, our national attention was diverted to news about a new coronavirus, Covid-19. By March we were sheltering in place and our collective focus changed to ensuring our families and communities were healthy and safe. Schools, municipalities and residents struggled with the transition to online learning, telehealth, telework and what it means to be an essential employee.

Nonprofits and municipal agencies moved quickly to identify funding that would ensure all students could access affordable, high-speed internet and connected devices. Businesses quickly pivoted to adopt new systems and bolster web presences and online services. And, broadband providers rushed to expand networks and infrastructure to meet the serious and sudden increase in need.

As the pandemic raged on, we saw the failure of institutions and the federal government to keep us safe; the racial inequity of healthcare, childcare and frontline work. By May, the media exploded with graphic images of George Floyd’s death at the hands of police, and the justice system’s refusal to hold Brianna Taylor’s murderers accountable.

What had been pleas for racial and social justice grew to demands and expectations of eliminating systemic racism from our schools, governments, police, media, and so on. Protesters reinforced our understanding of the need for low-cost, publicly available communications technology and networks in sustaining a free and vigorous Democracy. And, while continuing to fight for equity and promote good policymaking, our focus' changed again to ensure all our votes counted.

And here we are today. Our Democracy, health, employment, education, communication, and human connection are reliant upon a network of antennas, transceivers and fiber optic cables owned by private, for profit corporations. This is the new normal.

For years we have understood that federal policy has not kept up with the changes in technology. While the consumer desire for cable is declining the same companies are seeing an increase in the consumer need for Internet. The limitations at the local level to regulate internet despite using the same system as cable proves frustrating and leaves little room to enact change at the local level.

The MHCRC is at a critical point in deciding the future of the Commission and taking next steps. Staff has prepared the trends document to help Commissioners understand the greater landscape and inform the Commissioners actions going forward.

## Definitions

The following table provides definitions of terms specific to the communications industry. The list includes terms used regularly in industry publications as well as terms from the Telecommunications Act:

Term	Definition
Video Programming	Programming provided by or comparable to programming provided by a television broadcast station.
Over the Air (OTA)	Broadcast television or radio distribution.
Over the Top (OTT)	Internet distribution.
Direct Broadcast Satellite	Satellite distribution.
Linear TV (also Traditional TV)	Broadcast, cable and satellite television delivery.
Multichannel Video Programming Distributor (MVPD) (also Pay TV)	Businesses including but not limited to a cable operator, multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.
Virtual MVPD (vMVPD)	An Over the Top (OTT) MVPD service provider.
Interactive, On-Demand Service	A service providing video programming to subscribers over switched network on an on-demand, point-to-point basis. This does not include services providing video programming prescheduled by the programming provider.

Term	Definition
Cable System	The facility including a set of closed transmission paths for signal generation and reception, and the equipment that is designed to provide cable service to multiple subscribers within a community. This does not include a facility that serves only to retransmit one or more broadcast television signals, or utilities, unless the utility is providing video programming (that is not solely interactive, on-demand services) directly to subscribers.
Cable Operator	Business that provides cable service over a cable system and directly or through affiliate(s) owns a significant interest in the cable system, or which controls, is responsible for, or manages a cable system.
Cable Service	One-way transmission to subscribers of video programming and other information provided by the cable operator, and that may or may not require subscriber interaction for the selection or use of the video programming or information.

The following chart identifies the distribution systems and networks utilized by broadcast, satellite, cable and other communications service providers, and the industry terms (defined above) used to reference these systems.

**Media Distribution Ecosystem**

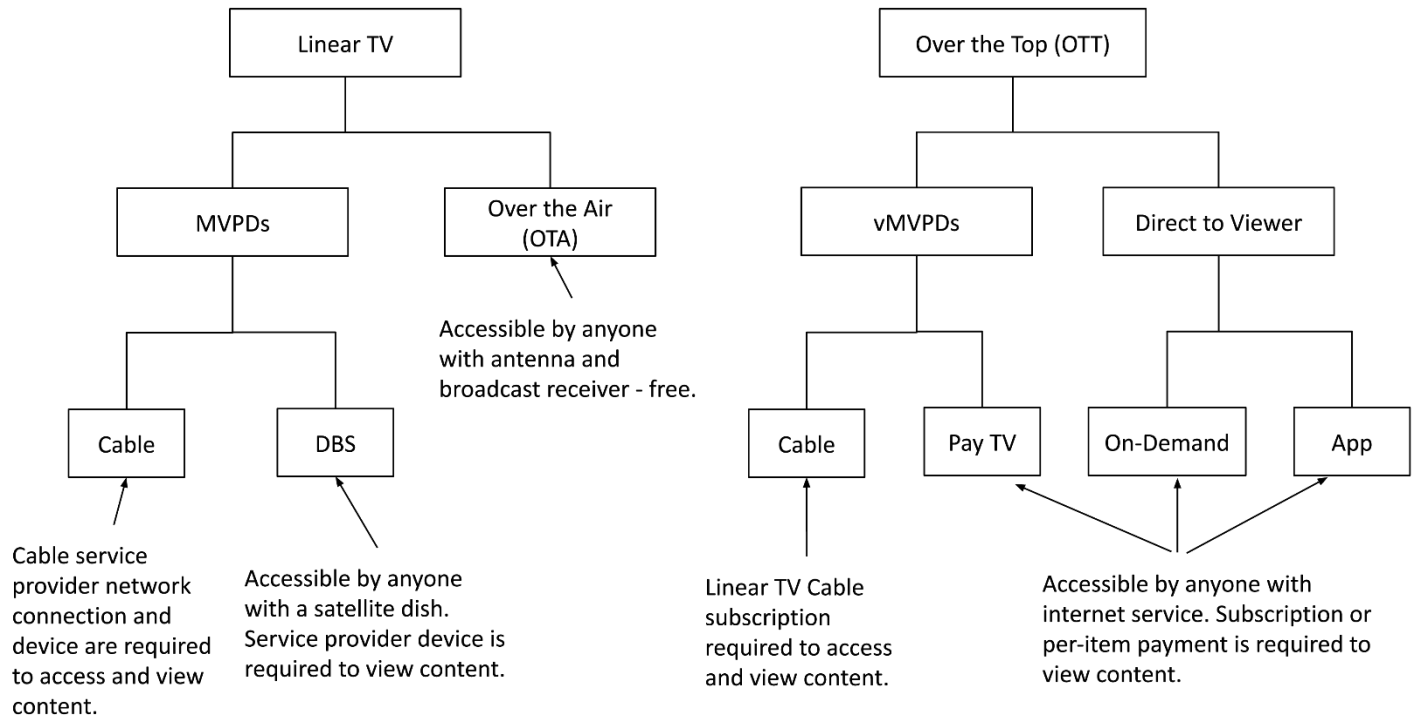


Illustration 1: Media Distribution methods including: Linear TV and Over the Top (internet delivered) systems and the associated defining technologies.

## State of the Pay-TV Landscape

In 2020 we continued to see a steady decline in cable video customers while high-speed broadband subscriptions and Over the Top (OTT) service providers saw substantial gains.

According to Comcast Corporation as stated in its annual 10-K report to the Securities and Exchange Commission (SEC), the Comcast Cable Communications business segment lost 1.3 million residential video subscribers - more than any other single year during the period measured (2012 – 2020).

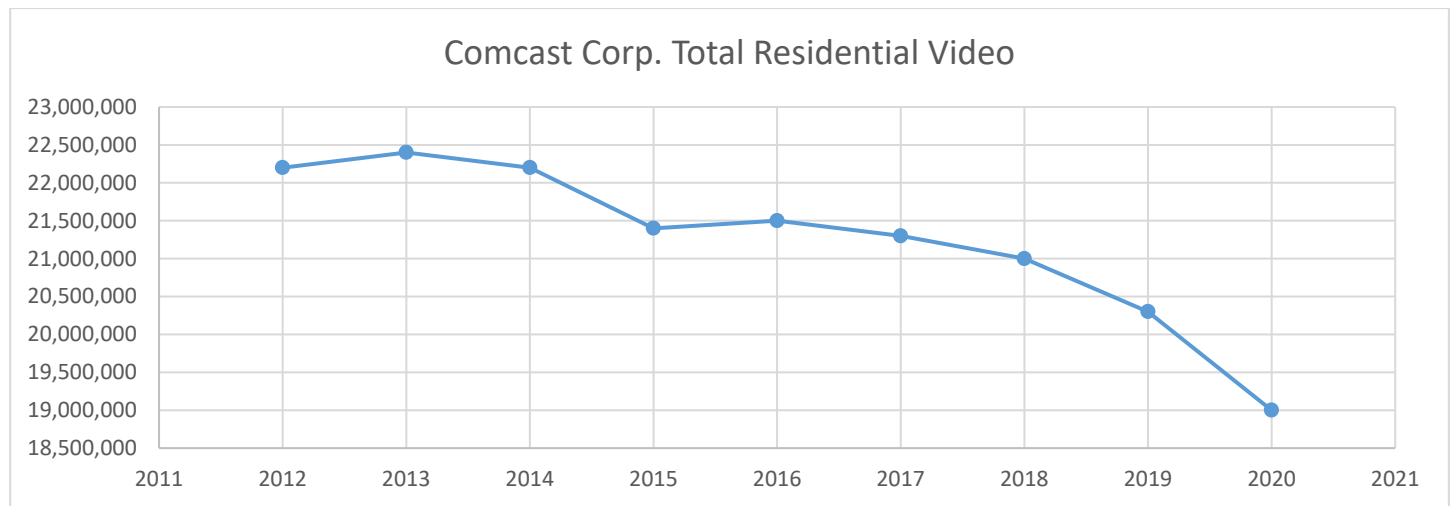


Illustration 2: Shows the decline in residential video subscribers for the period 2012-2020.

Comcast Corporation also reported growth of 2 million high-speed internet subscribers in 2020, higher than any other single year during the period measured (2012 – 2020).

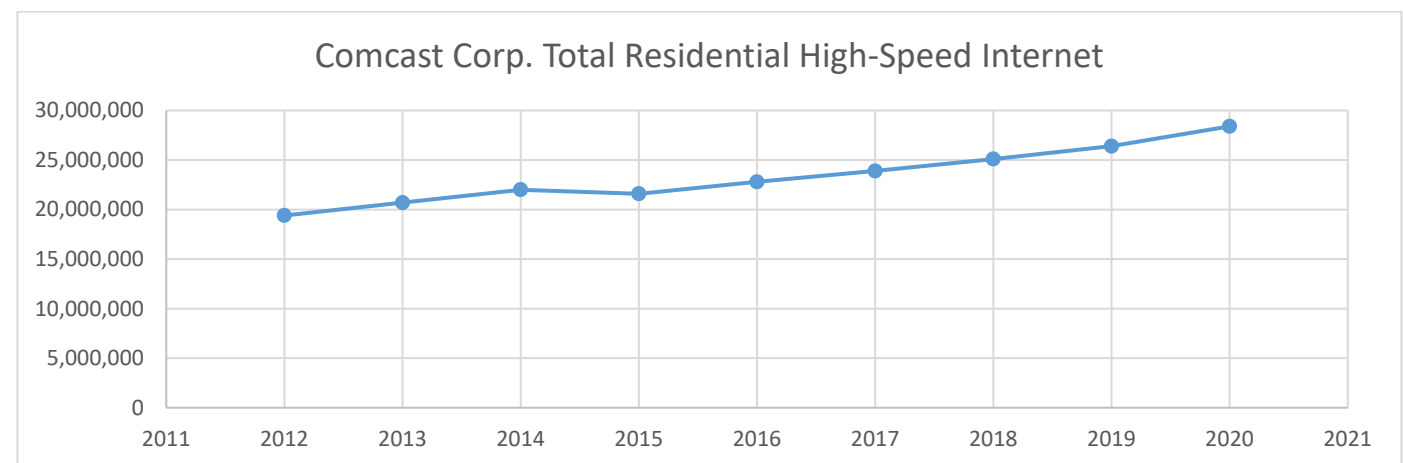


Illustration 3: Shows the increase in residential internet subscribers for the period 2012-2020.

OTT video services also made substantial gains. According to a Feb. 4, 2021 article<sup>1</sup> by Ben Munson of Fierce Video, “Amazon Advertising said it has nearly tripled its ad-supported streaming audience reach since last

<sup>1</sup> <https://www.fiercevideo.com/video/amazon-s-avod-audience-reach-tops-55m-users>

year. The company said it now reaches more than 55 million monthly active viewers of ad-supported OTT content, up from about 20 million at the same time last year and the 40 million it reported in July...”

“Amazon said its new audience reach figure includes IMDb TV, its ad-supported streaming service. It also covers network and broadcaster apps like Discovery, CW, CNNGo, and CBS, which are powered by Amazon Publisher Services, as well as its own curated News app.”

CenturyLink ended its cable television service, Prism, at the end of 2020, and had been winding down the service throughout the year. It’s currently unknown if this has had an effect on other Pay TV and cable television services.

## Subscriber Trends

As noted above, cable television subscriber numbers continue to fall despite increases in broadband adoption and OTT service subscriptions and providers. This ongoing decline in cable has been expected.

## Community Broadband

Community broadband allows a municipality to establish rates based on the needs and ability of community members to pay for the service and represents a potential revenue replacement mechanism for municipalities as cable television franchise fees continue to decline.

In 2019-2020, the City of Portland Office for Community Technology (OCT) partnered with Multnomah County on its Municipal Broadband Feasibility Study<sup>2</sup> and the MHCRC Community Needs Ascertainment shared data with the County consultants to increase efficiency. While municipal or community broadband has been successful in smaller municipalities such as Sandy, Oregon<sup>3</sup>, the study found that the initial investment for a municipal broadband in Multnomah County is about \$1 billion. The County and city partners continue to collaborate and strategize next steps to bridging the digital divide through a consortium called the Connected Community group. .

Many states, at the petitioning of the cable and broadband industry, have enacted legislation limiting or eliminating the ability for cities to establish municipal broadband services. Oregon has not enacted this legislation. The MHCRC and OCT staff continue to monitor legislation at the state and federal level.

## Changes in Technology

Broadband and cable operators are currently assessing implementation of DOCSIS 4, a new technology for hybrid fiber and coax (HFC) cable systems that makes more efficient use of the existing network. According to CableLabs<sup>4</sup>, “Cable broadband networks, consisting of both fiber optic and coaxial cable, already crisscross multiple countries, and in the U.S. reach over 90% of American households. DOCSIS 4.0 technology allows us to increase the efficiency of this existing infrastructure without the need to lay more cable. In addition to the significant cost savings, we are also future-proofing our cable networks and ensuring that our customers have access to cutting-edge services for years to come. It’s a major step to making 10G a reality.”

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<sup>2</sup> <https://multco.us/file/92615/download>

<sup>3</sup> <https://www.ci.sandy.or.us/sandynet>

<sup>4</sup> [www.cablelabs.com](http://www.cablelabs.com) Technology research and development company serving the cable industry.

Low latency systems that provide a substantial bandwidth connection both down and up will be necessary to support future intended uses of the internet including VR medicine, advances in video conferencing, Internet of Things (IoT) automation, smart homes and driverless cars. CableLabs website<sup>5</sup> includes some examples of what may be possible with network improvements.

## Consumer Protections and Privacy

In 2020, the FCC adopted an Order that removes the federal requirement for cable providers to notify the local franchise authority (LFA) of system, service, channel line-up or rate changes 30 days in advance unless the franchise agreement specifically includes a requirement, or that requirement exists in city code. The Order reinforced language that allows the cable provider to notify the cable customer “as soon as practical” of changes in channel carriage agreements.

These changes do not impact MHCRC member jurisdictions because the MHCRC has prioritized consumer protections within franchise agreements, and some member jurisdictions have included these protections in city code.

In 2019-2020, the MHCRC conducted a Community Technology Needs Ascertainment. The YourVoice 2020<sup>6</sup> campaign resulted in a comprehensive report setting priorities for the Comcast cable franchise negotiations, as well as reinforcing the City of Portland Digital Equity Action Plan (DEAP). Maintaining existing consumer protections was a priority outcome from the ascertainment.

## Policy, Legislation and Litigation

At the time of writing we are awaiting the introduction of a slate of communications bills focusing on broadband connectivity, connected devices, and funding for digital inclusion training.

Currently, the FCC is developing the Emergency Broadband Benefit Program<sup>7</sup> funded by the most recent appropriations act. The program will provide \$3.2 billion in reimbursements to high-speed broadband service providers to connect residents who continue to go without internet access.

The FCC 621 Order Appeal is still under way and we are awaiting the scheduling of oral arguments. Initially and prior to the pandemic emergency, oral arguments had been anticipated to occur in February 2021, but no date has been set.

## Conclusion

Understanding the policy and technology landscape is critical to jurisdictions effectively managing the right-of-way. The MHCRC has the ability to assist jurisdictions in understanding the rapidly changing cable environment to best ensure residents are well-served and companies are paying their fair share for use of the right-of-way.

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<sup>5</sup> <https://www.cablelabs.com/thenearfuture>

<sup>6</sup> <https://www.yourvoice2020.mhcr.org/>

<sup>7</sup> <https://www.fcc.gov/broadbandbenefit>

The decline in cable revenues should not mean a decline in fairly compensating the jurisdictions we serve. Rather, the MHCRC can partner with jurisdictions to find the best path forward.

MHCRC staff will continue to track policy and legislation and will continue to provide you with the data you need to establish direction for the Commission, and to best represent MHCRC jurisdiction partner needs.



## MISSION

The Mt. Hood Cable Regulatory Commission advocates for and protects the public interest in the regulation and development of cable communications systems in Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale and Wood Village; provides consumer protection and complaint resolution assistance to cable subscribers; and participates in the planning and implementation of community uses of communications technologies.

## GOALS AND OBJECTIVES

**Effective: July 1, 2020 – June 30, 2021**

The Commission acknowledges that its policy and regulatory work is undertaken in a dynamic communications technology environment. Consequently, the Commission retains flexibility to modify or revise these Goals and Objectives as may be required from time to time.

**Goal I:** *Effectively administer cable services franchise agreements to serve our member jurisdictions and their residents.*

### Objectives

1. Identify and address franchise compliance issues in response to and, when possible, prior to cable company actions.
2. Provide consumer protection for citizens and subscribers in cable service matters by helping to resolve complaints, enforcing customer service standards and addressing other consumer-related franchise compliance issues.
3. Conduct three-year franchise and PEG/I-Net fees review of payments from Comcast, Century Link and Frontier.
4. Develop franchise terms and community benefits responsive to findings of the Community Technology Needs Ascertainment for inclusion in a renewal franchise with Comcas, which expires December 2021.
5. Ensure cable TV subscribers' and City of Portland interests are addressed with CenturyLink related to expiration of its cable services franchise agreement in December 2021.

**Goal II:** *Focus the community grants program on key impacts for addressing needs and equity issues identified through the MHCRC's Your Voice, Our Communications Technology initiative to guide the financial investment of capital funds in the community.*

### Objectives

1. Conduct the annual Community Technology Grants round to continue development of public, educational and governmental uses of cable system technology.
2. Continue TechSmart Initiative grant partnerships with school districts in Multnomah County to implement and share effective instructional practices and strategies, which

- use technology to foster improvement in student academic outcomes and reduce the achievement gap.
3. Conduct the annual TechSmart Initiative evaluation for school year 2019-20.
  4. Organize and facilitate the annual TechSmart “shared learning” work session among school districts.
  5. Utilize the grants management system, financial models and evaluation tools to provide efficiencies overall in managing fund allocation, accountability and evaluation of impact.
  6. Monitor grant projects to ensure accountability for grant funds and project activities.

**Goal III:** *Ensure access to and use of current and new services available through the cable system technology by citizens, local governments and community institutions.*

Objectives

1. Facilitate Community Institutional Network (I-Net) partnership for public organizations to communicate, inform and deliver services to their constituencies.
2. Work with public agencies, schools, and libraries to develop I-Net obligations in the Comcast renewal franchise responsive to findings in the Community Needs Ascertainment.
3. Monitor and ensure accountability for capital funds paid to Open Signal and MetroEast Community Media.
4. Collaborate with organizations, at the federal, state and local levels, to advocate for the community’s access to cable system technology.
5. Participate in the Digital Inclusion Network and other efforts focused on digital inclusion to aide in capacity-building and partnerships to address findings of the Community Needs Ascertainment.

**Goal IV:** *Communicate, educate, and respond in a timely, accurate, and clear manner to our jurisdictions, cable subscribers and the general public regarding communications technology policy and regulatory issues.*

Objectives

1. Communicate with jurisdictions’ elected officials and key staff in order to educate and support them about cable franchising regulatory and funding issues and what’s at stake for our communities.
2. Support our member jurisdictions in implementing FCC rules and federal laws related to cable communications systems.
3. Support and provide resources for the development of Commissioners’ education and expertise.
4. Engage Jurisdictions in strategic planning to review the Commission’s role, authority, and structure responsive to the findings of the Community Technology Needs Ascertainment and the changing policy and technology landscape.

**Goal V:** *Advocate for continued local authority regarding cable franchises and use of the public right-of-way by communication providers.*

Objectives

1. Continue cross-jurisdictional collaborations for information-sharing and coordinated strategies on issues of common concern.
2. Participate in statewide committees or groups that address local government authority, management and control of public rights of way, such as the Oregon Broadband Advisory Council and League of Oregon Cities committee.
3. Participate in FCC proceedings on behalf of our jurisdictions' and citizens' interests.
4. Advocate for local authority and public interest benefits at the federal legislative level.

**Goal VI:** *Lead Commission operations efficiently and effectively.*

Objectives

1. Fulfill Intergovernmental Agreement and Rules of Procedure administrative responsibilities.
2. Continue to engage with the City of Portland on the placement and structure of the MHCRC staff services within the City of Portland to ensure transparency and continued provision of a high level of service to MHCRC's stakeholders and communities.
3. Plan and conduct Commission meetings in a way that respects the volunteer nature of Commission positions and is in accordance with Oregon Open Meeting laws.
4. Conduct annual strategic planning and goal-setting process.
5. Conduct annual MHCRC evaluation of staff services.
6. Conduct annual MHCRC Fund Audit and transmit it to the Oregon Secretary of State's Office.
7. Present an annual budget request to the Jurisdictions that supports the Commission's mission and respects the Jurisdictions' budget considerations.
8. Conduct a review of the MHCRC Fund balance within the City of Portland financial system to ensure accurate records and Fund balance.

# MHCRC PROGRAM AREA SUMMARIES

Updated: February 2021

## Franchise Management and Compliance

The Commission is charged with negotiating, overseeing and enforcing cable services franchise agreements - areas include: public benefits (such as grants, I-Net, community media), customer service standards and consumer protection, subscriber complaint resolution, insurance and bonding issues, emergency override requirements, line extension policies, universal service issues, etc. The Commission conducts community technology needs ascertainments, which forms the legal basis for public benefits contained in cable services franchises.

### Proposed Goals:

- Complete Comcast franchise negotiation within the necessary time frame keeping provisions generally intact
- Ensure all jurisdictions are included in franchise negotiation updates and approve the final franchise.
- Begin Zply franchise negotiations within the necessary time frame and ensure provisions are substantially similar to the Comcast franchise.

## Institutional Network (I-Net)

The Community Institutional Network (I-Net) is a fiber communications network, interconnected to Portland's IRNE network, serving over 18 public agencies with about 300 sites throughout Multnomah County (including local governments, libraries, K-12 schools, community colleges, public access providers, Metro and state courts – referred to as "I-Net Stakeholders"). Comcast is obligated, under its franchises to provide data transport services (I-Net facilities and fiber infrastructure) and the City of Portland's Bureau of Technology Services (BTS) provides service to the I-Net Stakeholders. Commission staff facilitate the I-Net partnership and network planning with BTS and I-Net Stakeholders. The Commission also manages I-Net capital funds and compliance with capital expense restrictions under the franchises. The funds are used for I-Net infrastructure, connections, and other capital expenses related to use of the I-Net.

### Proposed Goals:

- Reach a deal with Comcast regarding the I-Net end fund.

## MHCRC Community Grants

The Commission is the grant-making body for the Community Grants program which provides funds to community organizations, libraries, educational institutions and local government agencies for capital expenses of technology projects. Projects must use the community access channels or the Institutional Network. The program includes two funding opportunities: Community Technology Grants (about 32 active grants) - an annual, competitive grant round open to nonprofits, local public agencies, schools, and libraries – and the TechSmart Initiative for Student Success – a 10-year, \$17 million investment in local school districts to identify and share learnings about effective instructional strategies that use technology to improve outcomes for all students.

### Proposed Goals:

- Continue to expand the outreach for Community Grants.
- Use the Community Grants evaluation to inform and follow through on improvements to meet community needs and expand equity goals.

## **Community Media**

The Commission manages and oversees the community access resources provided under the cable services franchise agreements. The Commission has a grant agreement with MetroEast Community Media, for both operational and capital funding, to provide media and digital literacy services in Gresham and the other East County jurisdictions. Open Signal provides similar services in Portland. Open Signal has a grant agreement with the City of Portland for operations funding and with the Commission for capital funding. The cable services franchises also include other access resources provided through the companies, such as digital and HD channels on the cable system, live video transport capabilities, listing of local programs in subscriber guides and video-on-demand. Portland Community College and the Portland Public School District also run educational access channels in Portland.

### Proposed Goals:

- Engage community media centers on updates to their annual grant contract to focus on priority areas.
- Engage community media centers on updates to reporting requirements to simplify the process and ensure essential information is transmitted efficiently.

## **Advocacy and Legal**

The Commission advocates for and protects the public's and Jurisdiction's interests at federal and state policy and regulatory bodies related to the scope of authority localities have to manage use and receive compensation (or similar value) for use of the public right-of-way (ROW) for cable services. On national and statewide levels, the communications companies advocate for their corporate interests and work to narrow the local jurisdiction's scope of authority and to rid themselves of public interest requirements and obligations. In addition to national and state legislative bodies, the Federal Communications Commission (FCC) and the Oregon Public Utility Commission (PUC) are regulatory bodies that implement policies in ways which may impact the Jurisdiction's scope of authority and ability to provide for community technology benefits.

This program area incorporates the broader regulatory policy work of the Commission and staff. The Commission and staff engage in discussions, national debates and local processes about the intersections and changing landscape of broader media, telecommunications, digital equity, and cable-related policies and issues that impact our local communities. In the past, this program area has included work on the Open Access (Net Neutrality), hybrid franchises, and broadband issues.

### Proposed Goals:

- Begin annual legislative priority planning.

## **MHCRC Administration**

The Commission retains fiscal accountability for about \$12 million annually. The Jurisdictions have entrusted the Commission with oversight responsibilities for nearly all financial resources collected under the franchise agreements. As part of this responsibility, the Commission must receive approval by all six Jurisdictions of its annual fund budget. The Commission also engages an annual audit of its fund.

### Proposed Goals:

- Ensure internal controls meet audit standards.
- Pass an FY 21-22 annual MHCRC with every jurisdiction and provide regular reporting on funds.
- Continue monthly newsletter to provide regular updates to Commissioner members.
- Update MHCRC website.

# MHCRC FY 2018 – 2020 Expenses

	FY 2018 – 2019	FY 2019 - 2020
Admin & Regulation	\$265,871	\$396,341
Capital Compliance	\$231,303	\$561,599
Community Grants	\$2,937,777	\$4,729,390
Community Media Capital	\$1,841,314	\$1,508,259
Community Technology	-	(\$136,028)
East County Franchise	\$1,398,970	\$1,302,391
I-Net Capital	\$568,179	\$838,278
Mult West Franchise	\$106,701	\$91,773
<b>Total</b>	<b>\$7,350,116</b>	<b>\$9,292,004</b>

*\*FY 2017-2018 currently unavailable in SAP*