

BoS Mail
09-14-07

John Murray

From: Frits Riep
Sent: Wednesday, September 12, 2007 12:32 PM
To: Board of Selectmen
Cc: Manager Department; Bill Ryan; Cable Advisory Committee; Dore' Hunter
Subject: Proposed Outline for BoS Cable Workshop on 9/17

Dear Board of Selectmen,

The Cable Advisory Committee met last night, 9/11, and discussed the items we think need to be covered during the 9/17 workshop, and developed an outline. I wanted to provide you with an advance copy.

Plans for the BoS Cable Workshop on 9/17:

Introduction:

Renewal window opened June 30th, 2007

Background section (Current setup (PEG Station, INet, PEG channels, likely changes, cable regulations, PEG history, existing licenses)

Renewal process:

Timeline
Participants

Overview of transfer of operation of PEG access

Cable operators want out of PEG access operation
Increase license fee in exchange

Issues with current setup

Interconnect
Unused capacity

Municipal Access Corporation basics

Organization
Funding
Staffing
Oversight
Examples

Open issues:

Education channel rebroadcast to Boxborough.
Public access station remaining in the high school

We intend to provide information which we believe will be useful, and answer questions and receive input.

We look forward to meeting with you on Monday.

Best regards,

Frits Riep
Chair, Acton Cable Advisory Committee

No virus found in this outgoing message.

Checked by AVG Free Edition.

Version: 7.5.485 / Virus Database: 269.13.15/1003 - Release Date: 9/12/2007

10:56 AM

Christine Joyce

From: Frits Riep
Sent: Thursday, September 13, 2007 7:27 AM
To: Dore' Hunter; Board of Selectmen
Cc: Manager Department; Bill Ryan; Cable Advisory Committee
Subject: RE: Proposed Outline for BoS Cable Workshop on 9/17

Dore,

Thanks for reviewing the outline and adding this option to the list of items to be reviewed and discussed. We will add this option to the outline with pros and cons for discussion and consideration.

The Committee has not made a recommendation on what is the best way to run Public Access for the town. The reason we are researching Municipal Access Corporations is that this is the way the overwhelming majority of cities and towns run public access, and every town we are aware of in the surrounding area run it this way (except for Comcast run public access). I know Shrewsbury owns its own Cable system and must run public access as a town operated function.

Thanks again.

Frits

Frits Riep
Chair, Cable Advisory Committee

From: DoreHunter@aol.com [mailto:DoreHunter@aol.com]
Sent: Wednesday, September 12, 2007 5:41 PM
To: riep@comcast.net; bos@acton-ma.gov
Cc: manager@acton-ma.gov; Bill_Ryan@mail.ab.mec.edu; CAC@acton-ma.gov
Subject: Re: Proposed Outline for BoS Cable Workshop on 9/17

Frits,

Thank you for your outline for what you see as the appropriate outline for discussion during the major part of the Selectmen's special meeting next Monday. (Note that we will probably have to devote a small amount of time to other pressing issues.) I have understood that some time ago the CAC determined that it believes the Town should create some sort of a municipal corporation to run the cable business, and we certainly should carefully consider that recommendation. However, the Town will presumptively be better served if the alternate, i.e. having the Town directly manage the cable business receives the same level of attention. I believe that both possibilities should be fully considered and discussed. Accordingly I would appreciate your being able to also advise the BOS as to the details, including pros and cons of potential direct management during out Monday discussions.

Regards,
Dore' Hunter
Chairman of the Board of Selectman & VSO, Town of Acton, MA

9/13/2007



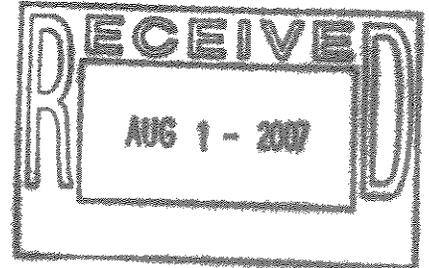
8/3/07 / 9/17/07
Mail
08/24/07
Agenda
#

Comcast Cable
676 Island Pond Road
Manchester, NH 03109
T: 603-695-1400
F: 603-628-3303
www.comcast.com

July 31, 2007

Via Overnight Delivery

Board of Selectmen
Town of Acton
472 Main Street
Acton, MA 01720



Re: Commencement of Renewal Process

Dear Chairman and Members of the Board:

Over the years, we at Comcast have appreciated the opportunity to serve the citizens of the Town of Acton (the "Town"). We have done our best to provide the high quality cable television service the Town and its residents demand, and we anticipate being able to provide that service to our subscribers in Acton for many years to come. Therefore, we are taking this step to ensure the renewal of our license with you.

The Cable Communications Policy Act of 1984 encourages issuing authorities and cable companies to reach agreement on a renewal license at any time through an informal process of discussion. However, Section 626 of the Act also provides for a contemporaneous alternative formal renewal procedure with specific substantive and procedural requirements. If either the issuing authority or the cable company does not initiate the formal process within a certain time frame, the protections of that process may be lost. To that end, Comcast hereby notifies the Town that the renewal period for our license under Section 626 is now open, and we request the start of renewal proceedings pursuant to the Section 626(a)(1).

This letter is not intended to preclude informal negotiations, but instead is intended only to preserve the rights of Comcast under the formal renewal process. Comcast has every reason to believe that the Town and Comcast will reach a mutually agreeable renewal of the cable television license through good-faith negotiations, thus making many of the Act's formal procedures unnecessary. The relevant provision of Section 626 on the informal process is brief and reads as follows:

"(h) . . . [A] cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after formal proceedings pursuant to this section have commenced) . . ."

The “formal” process generally includes the following steps:

1. Within six (6) months of the submission of this letter, the Town conducts an ascertainment proceeding which affords residents an opportunity to a) identify the future cable-related needs, and b) review Comcast’s performance under the current license.
2. At your request or on our own, Comcast submits a renewal proposal with a draft cable television license.
3. Within four (4) months of the Town’s receipt of Comcast’s proposal, the public is afforded “adequate notice and opportunity to comment on the renewal proposal” and the Town must choose to renew the license or issue a preliminary denial, which triggers a further formal process.

I am attaching a copy of Section 626 of the Cable Act for your review. Tim Kelly will be in contact with you soon to arrange a meeting with the Town to discuss informally negotiating a renewal license. Please feel free to contact Tim at (978)692-1906 X2052 at any time. Comcast looks forward to meeting with the Town in the near future and continuing the long relationship that, we believe, has benefited both the community and the residents of Acton.

Sincerely,



Nick Leuci
Vice President of Franchising
& Community Investment

NL/dmm
Attachment

cc: Cable Advisory Committee - c/o Town Hall
Catrice Williams – Massachusetts Cable Television Division Municipal Liaison
John Fouhy – Comcast Senior Director of Government and Community Relations
Tim Kelly – Comcast Manager of Government & Community Relations

The Communications Act of 1934, as amended
(47 USC Sec. 546-Renewal)

Section 626. Renewal

(a) Commencement of proceedings; public notice and participation -

(1) A franchising authority may, on its own initiative during the 6-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term. If the cable operator submits, during such 6-month period, a written renewal notice requesting the commencement of such a proceeding, the franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted.

(2) The cable operator may not invoke the renewal procedures set forth in subsections (b) through (g) of this section unless -

- (A) such a proceeding is requested by the cable operator by timely submission of such notice; or
- (B) such a proceeding is commenced by the franchising authority on its own initiative.

(b) Submission of renewal proposals; contents; time -

(1) Upon completion of a proceeding under subsection (a) of this section, a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.

(2) Subject to section 544 of this title, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.

(3) The franchising authority may establish a date by which such proposal shall be submitted.

(c) Notice of proposal; renewal; preliminary assessment of nonrenewal; administrative review; issues; notice and opportunity for hearing; transcript; written decision -

(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise pursuant to subsection (b) of this section, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the date of the submission of the cable operator's proposal pursuant to subsection (b) of this section, renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether -

- (A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
- (B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;
- (C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and
- (D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

(2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a) of this section), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

(3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

(d) Basis for denial -

Any denial of a proposal for renewal that has been submitted in compliance with subsection (b) of this section shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section, pursuant to the record of the proceeding under subsection (c) of this section. A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) of this section or on events considered under subsection (c)(1)(B) of this section in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) of this section occur after the effective date of this subchapter unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or the cable operator gives written notice of a failure or inability to cure and the franchising authority fails to object within a reasonable time after receipt of such notice.

(e) Judicial review; grounds for relief

(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 555 of this title.

(2) The court shall grant appropriate relief if the court finds that -

- (A) any action of the franchising authority, other than harmless error, is not in compliance with the procedural requirements of this section; or

- (B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c) of this section.

(f) Finality of administrative decision -

Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

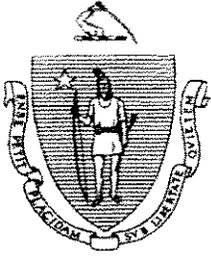
(g) "Franchise expiration" defined -

For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on October 30, 1984.

(h) Alternative renewal procedures -

Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g) of this section.

(i) Effect of renewal procedures upon action to revoke franchise for cause - Notwithstanding the provisions of subsections (a) through (h) of this section, any lawful action to revoke a cable operator's franchise for cause shall not be negated by the subsequent initiation of renewal proceedings by the cable operator under this section.



THE COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
TELECOMMUNICATIONS and CABLE**

QC BOS

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

ONE SOUTH STATION
BOSTON, MA 02110
(617) 305-3580

SHARON E. GILLETT
COMMISSIONER

July 24, 2007

NOTICE TO TELECOMMUNICATIONS AND CABLE PROVIDERS

By this Notice, the Department of Telecommunications and Cable ("DTC") informs all telecommunications and cable providers under its jurisdiction that it has appointed a new Secretary. Please note that filings made to the DTC should now be directed to the attention of:

Catrice Williams
Department of Telecommunications and Cable
One South Station
Boston, MA 02110

In addition, any questions related to the filing process or docketing should be directed to Secretary Williams (phone: 617-305-3580; email: Catrice.Williams@state.ma.us). However, telecommunication tariff questions should continue to be directed to Ursula Estremera (phone: 617-305-3580; email: Ursula.Estremera@state.ma.us).

The push is on to bring broadband to whole state

On the Hot Seat

Sharon E. Gillett,
commissioner,
Department of
Telecommunications
and Cable

Before Sharon E. Gillett took charge of the state's newly formed Department of Telecommunications and Cable in May, she wrote reports about broadband access and policy. Now, she is shaping the state's telecom landscape, starting with the Patrick administration's \$25 million initiative to bring high-speed Internet to 32 unserved communities, which she discussed with *Globe* reporter Carolyn Y. Johnson.



PAT GREENHOUSE/GLOBE STAFF

Q. You just took the helm of the new Department of Telecommunications and Cable. What is the plan?

A. I have three hot priorities, one of which is broadband. The idea that in the 21st century we still have communities with no broadband is just unacceptable, and we have to fix it.

The second thing is, my agency is part of the Office of Consumer Affairs. We answer the phones when consumers call with problems. It helps us put the "consumer" back in consumer affairs.

The third priority is market monitoring. The great thing about telecommunications and cable is they have become much more competitive industries over the last decade. As our role becomes less and less about price regulation, I think our role is to morph more into market monitoring. We think we have competition, but where is it working? Where isn't it?

Q. The big news is the state's \$25 million broadband incentive fund, which will help bring broad-

band access to 32 towns that don't have high-speed Internet. What are the details?

A. [The fund] is to be used to invest in hard capital assets with long lives — things like conduits, fiber, wireless towers. Those are big parts of the up-front capital required to serve communities, and the idea is having the state invest in those assets lowers the cost for private companies to come in and do the rest of the job. The state is not a service provider... We're also technology neutral — whatever works.

Q. Do you think there is enough competition in the state?

A. The map for broadband starts at red with unserved [towns]; it goes to orange with underserved — red is the 32 [communities] with nothing, but there are also 63 that are orange which means some part of the community has broadband, but not 100 percent. One of the other goals of the broadband fund is to give more detailed analysis of where the gaps exist. We're expecting out of \$25 million we'll get a better understanding.

Q. Some cities and towns are setting up their own wireless projects. In general, what role do you think the public sector has to play?

A. It is entirely appropriate for cities to be trying to find ways to use [information technology] efficiently — and in fact they would be remiss if they weren't doing it. If there are synergies between doing that and benefits to the public, I think that's terrific. In Brookline they've now got free access in the parks — free zones and paid service — I think that's a great model.

There are communities where lack of access and affordability are real issues. We learned in the Boston process that 80 percent of Boston public schoolchildren had no broadband in their homes. It's not an access issue; it's an affordability issue. That's a huge number — way too big. The intent [with the Boston municipal wireless pilot program] is to see what happens when you try and make this much more accessible, price-wise, to lower income communities.

Q. Verizon has been pushing controversial legislation that would ease its entrance into new cable markets. What is the state's position?

A. Verizon opened a proceeding with us, and because that proceeding is still open I can't comment. The second piece is the Legislature has considered [Verizon's] proposal, and it has been put up for further study.

Q. The upcoming FCC auction of radio spectrum is seen as a way to increase competition. Will you be tracking wireless service in the state, too?

A. I don't regulate wireless services, so there are limits to what I can do. The issue is cellphones are increasingly a competitor to conventional landline telephone service. In broadband, the competi-

tive landscape includes things like wireless broadband services. We have no intention or authority to regulate those things, but we have to understand them.

Q. Do you have broadband?

A. When we first moved to Lexington in 1998, there was no broadband yet in the town. We

looked into satellite broadband and said it's really expensive up front and not very fast. We chose to wait. I find that particularly touching today — in Becket and other places like it, people say — why can't those people just use satellite? And I say when it was my only choice, I didn't take it either. It's expensive and slow — second class.