

RESOLUTION 2006-2**AUTHORIZING FURTHER DISCUSSIONS CONCERNING SECTION 16(2)(F) OF THE FRANCHISES AND SETTING CONDITIONS FOR THOSE DISCUSSIONS**

WHEREAS, Lane County and the cities of Eugene and Springfield, the local franchising authorities, have entered into franchises with Comcast Cable Communications, LLC, for the operation of a cable communication system and have designated the Commission as the representative of the local franchising authorities in administration of the franchise; and

WHEREAS, Section 16(2)(f) of the franchise provides “[a]nytime between May 1, 2005 and October 31, 2005, upon reasonable demonstration by Grantee to commission that Grantee is in substantial compliance with the material terms of the franchise as it then exists, the Commission shall renew the franchise for an additional ten year term commencing July 1, 2008. A denial of renewal by the commission shall be made if it reasonably initially determines that the Grantee has not substantially complied with the material terms of the franchise. In the event of such a denial, the commission shall also immediately proceed under Section 626 of the Federal Act. If the commission conducts the hearing required in subpart 626(c)(2) of the Federal Act, a decision by the commission to deny the renewal or Grantee’s proposal shall be the final decision of the franchising authority”; and

WHEREAS, the provision similar to Section 16(2)(f) in the preceding cable television franchise was used successfully to clarify, update and renew the previous franchise with Lane County, Eugene and Springfield; and

WHEREAS, on October 21, 2005, Comcast submitted a letter requesting an extension of the current franchises, and accompanied that letter with a list of what Comcast considered to be the material terms of the franchise and assertions of Comcast’s compliance with the listed provisions of the franchises; and

WHEREAS, the December 15, 2005, letter from Comcast invoking the provisions of Section 626 of the Federal Cable Communications Policy Act of 1984 does not involve the Commission nor affect the proceedings pursuant to Section 16(2)(f) at this time.

NOW, THEREFORE, BE IT RESOLVED:

1. For purposes of moving forward pursuant to Section 16(2)(f) of the franchise, the Commission assents to Comcast’s interpretation of Section 16(2)(f) that the process for franchise renewal described in that Section can be initiated at any time prior to October 30, 2005 by the submission of a request from Comcast, with additional documentation of substantial compliance with material provisions of the franchise to be supplied after October 30, 2005.

2. That the Commission and local franchising authority staff may work to assist Comcast, pursuant to Section 16(2)(f), to bring to the Commission documentation regarding Comcast's performance so as to allow the Commission to determine if Comcast has made a reasonable demonstration that it is in substantial compliance with the material provisions of the franchise.
3. That this resolution regarding discussions of franchise renewal pursuant to Section 16(2)(f) does not constitute an acceptance that Comcast made a reasonable demonstration of substantial compliance with the material provisions of the franchise or an acceptance that such a demonstration will be made, only an agreement that the process described in Section 16(2)(f) of the franchise has been initiated.
4. That the Commission does not regard a continuation of the discussions set forth in Section 16(2)(f) of the franchise to be a waiver of any party's rights under Section 16(2)(f) or Section 626 of the Federal Cable Communications Act, and the Commission, as the body delegated administrative responsibilities by the franchise, expressly reserves all rights and authority granted under the franchise or Federal Act for itself and for the local franchising authorities.
5. That, without any waiver of any rights, the Commission expects that this matter will be resolved and information prepared for Commission consideration no later than the normally scheduled time for the Commission meeting in June 2006.

PASSED AND APPROVED THIS 12th DAY OF JANUARY, 2006, BY THE METROPOLITAN POLICY COMMITTEE.

ATTEST:

George Kloeppe
Executive Director
Lane Council of Governments

Bobby Green, Chair
Metropolitan Policy Committee