

MEMORANDUM

TO: MPC  
FROM: Milo Mecham  
DATE: February 11, 2003  
RE: Matrix of Cable Service Issues

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At the last MPC meeting several members requested a matrix showing specific provisions of the ATT Broad Band franchise (ATTBB) that have been the subject of recent discussions. I understood that the request was designed to highlight the areas of dispute, or the areas where ATTBB's behavior might be viewed as contrary to the franchise requirements.

The discussion at the MPC, and the focus on four specific issues, arose out of the request by ATTBB to approve a transfer of control from ATTBB to Comcast. The review of a proposed change of control must start with the MPC, although questions about the franchises ultimately lies with the three jurisdictions. One of the results of the approval of the transfer of control was that four issues were identified as being important. As a condition of approval of the transfer, the three jurisdictions required that staff have discussions with ATTBB to try to resolve the issues, and make reports to the MPC on the progress of the discussions.

ATTBB serves approximately 60,000 subscribers (households) in the Eugene-Springfield-Lane County area. The franchise authorities do receive what might be called the "overflow" complaints regarding service, so the authorities have some sense of the overall level of satisfaction or dissatisfaction with ATTBB's service. While the number of complaints handled by the franchise authorities varies at different times, the number for the last several years has held approximately constant, with spikes whenever there is a rate change or a channel line up change, for example. Some of the complaints relieved by the franchise authorities are of a nature that can be addressed, others cannot, such as those concerning rates, or channel selections and the like. Of those that can be addressed, there are varying levels of franchise authority leverage.

In the matrix that follows I have listed disputed matters covered during the transfer process, as those the disputes relate to the franchise. The ones that are shaded are the ones that have been resolved, or have otherwise been addressed.

In several areas of dispute, the franchise calls for discussion of the issues as a part of the process for resolving disputes. The franchise is due to expire in 2008, with discussions concerning renewal or discontinuance due to start in 2005. The local franchise authorities will need a clear record of their concerns and opinions about the cable company's performance to support any decision they make concerning continuing, altering, or canceling the franchise. At this point, both sides have clearly delineated their positions on the issues listed here.

Two of the most important issues are the subject of litigation elsewhere. While the specific language of the local franchise should prevail over decisions based on other franchises, ATTBB does not want to make this a local franchise issue because they feel that they have the authority under federal law to act as they have.

The options available at this time are:

1. Continue to discuss the issue with ATTBB, seeking to provide them with information necessary to change their policies to bring them in line with the franchise.
2. If the violations of the franchise are apparently irremediable under present circumstances and constitute the necessary violation of a "material provision of the franchise," so as to initiate the franchise termination process, the MPC could recommend that the jurisdictions initiate termination proceedings. If this step does not succeed in changing ATTBB's behavior and the franchise is terminated, litigation is certain.
3. Take the issues off the MPC agenda and allow the individual jurisdictions to continue, if they wish, discussions about these issues. Taking the matter off the MPC agenda for now would still allow the situation to be monitored, and would allow the information gathered to be used to affect franchise renewal discussions when those occur in 2005.

**RECOMMENDATION:** Until other factors change, further discussion on these issues with ATTBB is not likely to change ATTBB's behavior. Given that the ultimate decision on this matter lies with the individual jurisdictions, the best course at this time would seem to be to refer the matters back to the local jurisdictions. The referral can be that the MPC has, as requested, conducted a discussion, has developed a picture of the disagreements, and has determined that little further change is likely until factors outside the control of the MPC change.

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