



February 1, 2006

To: Metropolitan Policy Committee
From: Milo Mecham
Subject: Item 5: Metropolitan Cable Franchise Renewal

Action Recommended: Adoption of Resolution 2006-2 regarding Cable Franchise Renewal Discussions

Issue Summary

You have before you a draft resolution, a revision of the resolution presented in January.

As directed by the MPC, staff, along with staff from Springfield, Eugene and Lane County have had preliminary discussions with Comcast representatives. These discussions arose from Comcast's request to renew the current cable TV franchise, pursuant to section 16(2)(f) of the franchise. The language of Section 16(2)(f) is set forth in the recitals of the proposed resolution.

While generally some progress was made, there were several issues where the two sides could not agree on what progress might involve. Two of the issues concerned how the Section 16(2)(f) process was intended to be started and how much of the discussion under the Section 16(2)(f) process might involve discussions about changes to the current franchise language.

The question with regard to the initiation of Section 16(2)(f) process ended up focusing on whether the MPC needed to acknowledge that Comcast's interpretation of how the process was initiated was correct before substantive discussions could proceed. This is a procedural question, but it is also a substantive question because compliance with Section 16(2)(f) is one of the material provisions of the franchise that falls within the range of matters that Section 16(2)(f) has the MPC reviewing to determine compliance.

The question of whether discussions within the Section 16(2)(f) process might include or lead to changes in portions of the franchise is also procedural and substantive. It is staff's perception that Comcast is unwilling to reveal its position on this matter, instead wanting to eliminate any discussion of this question until a later time. This might mean that it can be discussed as a part of the Section 16(2)(f) process, or it might mean that Comcast believes that the Section 16(2)(f) process should not include such matters.

It is staff's understanding that this question is one of the most important questions to be resolved at the start of the Section 16(2)(f) process. This is based several factors, including the observation that is a necessary way to address the questions that have been raised by MPC members during these preliminary discussions about beginning the Section 16(2)(f) process. For that reason staff felt that it was a better approach, instead of asking the MPC to start making substantive decisions about compliance to ask the MPC to go on record as to how it viewed the process as a whole. This would leave resolution of the issue about how Section 16(2)(f) was invoked to a part of the process as a whole, allowing the MPC to consider that question along with other questions of compliance as the Section 16(2)(f) process moved forward. It would inform Comcast officially that, if it should prove necessary for a determination that Comcast is in compliance to clarify certain parts of the franchise, the MPC will expect that such clarifications will be done, even if they must be done in the form of a change in wording.

For this reason, staff has withdrawn the resolution proposed in January, and proposes substituting the alternative resolution presented here. This proposed resolution does not make the concession to Comcast regarding initiation of the process. It reserves that question for resolution at a later time. This proposed resolution is intended to describe what the MPC thinks the process as a whole should include.

Comcast objects to this proposed approach. When the question of compliance with the Section 16(2)(f) process was first raised, Comcast indicated that this question must be resolved before they would proceed within the Section 16(2)(f) process. The explanation was that they could not justify the expenditure of resources if it was still the possibility that they MPC could stop the process without completing it as described in Section 16(2)(f). At the time of packet completion, Comcast submitted a letter, which is attached as attachment 3.

Attachments: Proposed Resolution
Letter to Comcast
Letter from Comcast