

July 1, 2004

To: Metropolitan Policy Committee

From: Milo Mecham

Subject: Item 5a: Cable Television Franchise Fee Review

Action Requested: None – Information Only

Issue Summary

In 2003 the MPC initiated a limited franchise review of the franchise with Comcast, as a means to have an outside professional review of Comcast's franchise fee payments to the franchise authorities, Eugene, Lane County and Springfield. The reviewer found several places where Comcast (and its franchise predecessor, AT&T) had interpreted the franchise differently than did the reviewer, using an interpretation based on the franchise authorities' intention.

Comcast strongly disputed the findings, arguing that any interpretation except theirs would be inconsistent with long time industry practices and their understanding of federal laws. Staff for the MPC and the local franchise authorities repeatedly discussed the issues with Comcast. While some of the smaller issues were clarified and could be set aside, the major issues remained unresolved.

When it became clear that further attempts to resolve the disputed interpretations would be useless, staff for Eugene, Lane County and Springfield reported the impasse to their governing bodies and received instructions on the next steps. The franchise specifies that if such a disagreement as this cannot be resolved through negotiations, the parties must go to binding arbitration for a resolution.

While in the midst of possible initiation of binding arbitration, Comcast proposed a compromise that would put aside the disputed questions for the remainder of the franchise period (until 2008). Given the uncertainties that always accompany litigation, the potential cost of arbitration, and the relatively small amount in dispute (\$112,897 total) there are advantages to any resolution that avoids litigation.

Comcast has requested that the details of the compromise be kept confidential until after the compromise is agreed to. Because the basic issue and the compromise affects potential revenues of the three jurisdictions, the final decision on the compromise will be made by Eugene, Lane County and Springfield using procedures advised by their respective legal counsel.

For these reasons, the MPC can regard the matter of Comcast's payment of franchise fees as having been successfully prosecuted, leading to an answer that should, when completed, resolve cable television service franchise fee payment questions for the remainder of the franchise fee period.