



City of Bellingham, Washington

Cable Television Franchise Renewal Informal Needs Assessment Report

**Prepared by City staff with input from Moss & Barnett
As part of Comcast Cable Franchise Renewal Project**

AUGUST 10, 2010

CITY OF BELLINGHAM, WASHINGTON
CABLE TELEVISION FRANCHISE RENEWAL
Informal Needs Assessment Report – August 10, 2010

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I. EXECUTIVE SUMMARY

The purpose of this report is to provide City policy makers and the community at large with information about the future cable related needs and interests of Bellingham in response to Comcast's request for renewal of its cable television franchise. The report provides summary information in the Executive Summary, further information in the body of the report, and also provides comprehensive information received from the public in a series of exhibits.

The current cable franchise agreement with Comcast was signed almost 15 years ago and expires in February 2011. This report will serve as a source of information about community needs and interests related to Comcast's franchise and services.

After reviewing this report with City Elected Officials, the City project team will prepare franchise documentation in the form of a Cable Television Franchise Ordinance ("Proposed Franchise") which will incorporate appropriate language to address all of the City's identified needs and interests. Policy makers will subsequently provide direction to the City project team negotiating with Comcast on the cable franchise renewal.

Inspection of Comcast Physical Plant

A physical plant inspection of Bellingham's Comcast cable system was conducted in May 2010.

The inspection was incorporated into the City's project plan because City staff were unaware of any prior review of Comcast's cable system in the community. The inspection was conducted by the Kramer.Firm, which has significant expertise and experience in conducting this type of inspection.

Following is an excerpt from the Executive Summary version of the Kramer.Firm final report:

Introduction

At the direction of the City of Bellingham, Kramer.Firm, Inc. conducted an outside plant safety compliance inspection of Comcast Cable. The inspection was conducted from May 24, 2010 through May 26, 2010.

The purpose of this inspection was to gauge Comcast's level of compliance with the National Electrical Safety Code, governing outside plant construction (i.e., pole-to-pole, and underground systems), and the National Electrical Code, governing construction and installation safety issues at homes and businesses attached to Comcast's system.

Summary of Findings

Based on our inspection of hundreds of thousands of miles of cable plant in over 500 communities around the United States over the past twenty-six years we find that the Comcast system in City of Bellingham, Washington to be ABOVE average.

We found relatively few outside distribution plant infractions, indicating a system that is well built and for the most part, properly maintained. Power supplies and distribution plant were properly bonded to the electrical network as required. Although some infractions were observed, cable sag control and grounding installation and maintenance in the Comcast system were generally superior to other comparable systems we have inspected.

While the distribution plant was generally well maintained, we found numerous subscriber installation infractions. Specifically, Comcast's use of power masts as a point of connection for their coaxial cables is of serious concern. The number of installations affected by these problems is significant and may range in the thousands. These infractions are indications of systemic problems stemming from current or past installation practices.

We recommend that the City of Bellingham direct Comcast Communications to make the entire outside cable plant system, including without limitation all physical plant attachments; enclosures; drops; drop grounding; and structure installations, safe and code compliant with all applicable safety codes including the National Electrical Safety Code and the National Electric Code.

Comcast should be directed to develop a corrective action plan to address the plant and installation issues addressed in this report.

The City of Bellingham should consider the option of conducting periodic interim inspections of the work in progress to ensure compliance with legal requirements and to provide timely feedback to Comcast of discrepancies found.

Follow-up: The final Kramer.Firm report was received by the City in early July, and was provided to Comcast representatives a few weeks later. The report recommends that the City send notice to Comcast requesting response and a correction plan. City staff will pursue appropriate follow-up with Comcast related to the findings in the report.

Public Input Process and Results – May/June 2010

The City of Bellingham is committed to providing quality, responsive services, including using transparent processes and involving stakeholders in decisions. Numerous methods were used to engage area residents, key stakeholders and others in identifying cable-related community needs and interests in the Comcast franchise renewal.

Information about opportunities to provide input to the City was distributed via news releases, social media, on BTV10, and on the City web site. The distribution resulted in good coverage in the local news media.

Two public meetings were held. While the public meetings drew a limited number of participants, people who spoke were enthusiastic in their participation. The meetings aired on BTV10 the following week.

An informal, non-scientific survey was available online and was completed by 412 respondents. Residents provided additional information to the City via e-mail, letter, and telephone. City staff conducted outreach to and received input from local public education institutions.

Six themes were identified during the public input process:

Theme 1: Bellingham respondents view Comcast cable television service as too expensive; this represents an area of primary concern

Theme 2: Bellingham respondents' customer service experiences with Comcast are not positive, representing another area of primary concern.

Theme 3: Bellingham respondents desire more choice in programming, opportunities for ala cart channel selection, different channel groupings in subscription packages and additional choices of service providers.

Theme 4: Many Bellingham respondents wish to see local community programming and educational opportunities represented in their cable television service.

Theme 5: Most Bellingham respondents are largely satisfied with Comcast cable audio/visual quality and response to outages, though some report considerable difficulties with technical quality.

Theme 6: Many Bellingham respondents indicated that, overall, they are not satisfied with their Comcast cable television service.

City Input as Franchising Authority

While administering the franchise, City staff are in contact with Comcast and with the public and with other stakeholders related to Comcast services. Therefore, City staff have identified issues and have made recommendations related to the future franchise agreement.

City needs as franchising authority include the following: clearer reporting requirements, particularly following annexations, improved language and clarity regarding delivery of services to public and education institutions, and continuation of the special discount program, with administration by Comcast but with identification of some customers by City.

City staff have also identified needs for improved customer service provisions.

Public, Education, and Government "PEG" Access – Definitions

Although the Cable Act provides no definition for PEG channels, the cable industry and Franchising Authorities across the country have generally recognized the following definitions.

1. Public Access Channel – sometimes referred to as a "P" channel:

Local programming created by the wide variety of individuals, groups and organizations within a community. The channel is noncommercial and each producer typically has full editorial control. Public access channels, equipment and facilities are usually available for use on a first come, first served basis and the cable operator does not exert any editorial control except over unprotected speech.

2. Education Access Channel – sometimes referred to as an "E" channel:

Channels administered and programming created by staff, faculty and students of local education institutions. Programs usually center around the activities of public schools and colleges in the community, and may include fully-televised courses of instruction.

3. Government Access Channel – sometimes referred to as a “G” channel :

Channels administered and programming produced by local government staff and volunteers. Gavel-to-gavel coverage of public meetings is the mainstay of this category, but informative programs on such topics as fire safety, health and recreational opportunities provided by local government are also offered.

Note that franchising authority has the ability to designate the type of a channel. A single channel can be designated as one type of access channel or can be designated as a combination of access channel types.

Franchise Fees and PEG fees - Definitions

Franchise fee - includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.

Capital Support/PEG fees- The City can mandate capital to support PEG access equipment and facilities but not for operational support (i.e. staff). Capital can take the form of an upfront grant, periodic grant, monthly per subscriber fee (e.g. \$0.05 - \$1.00 or a % of Gross Revenues).

Pass-through of costs = Operator can "pass-through" on subscriber monthly bills all franchise imposed costs including PEG costs.

BTV10 - Government and Education Access Needs and Interests

BTV10 is designated as a Government and Education Access channel, but is not a Public Access channel.

BTV10 is an important and well-recognized resource for Government and Education Access in Bellingham. The station is operated by the City, funded with 1.25% of the total 4.25% of franchise fees collected from Comcast. A recent scientific survey indicated 70% of City residents had heard of BTV10, with 19% of them watching at least once per week. The station films and airs 70-100 meetings per year, produces and airs 20-29 programs per year over 10 minutes in length, and airs a variety of government and education programming produced elsewhere.

Responses to our online survey related to Government and Education Access include:

- 60% rated community news, events and announcements as “high” interest. (See Chart 7 below)
- 42% rated government meetings as “high” interest
- 41% rated educational programs as “high” interest
- 32% rated area performing arts events as “high” interest

- 26% rated information about local non-profit organizations “high” interest
- 81% selected “community programming” as a “high” or “medium” importance as the City considers Comcast renewal

Recommendations in this report include a need to plan for an upgrade for channel 10 to a high definition channel, preservation of channel 10’s placement and identity, and the need to implement PEG fees to support capital equipment needs over the life of any renewed franchise.

Recommendations include provisioning of Internet services to a maximum of 5 city facilities and to schools. Internet services would be used to offset city operating expenses, provide redundancy in communications in event of an emergency, and provide services in targeted locations.

Public Access

The City received interest in increased community programming. Interest in public access came from a small but enthusiastic group of residents.

Responses to our online survey related to Public Access include:

- 60% rated community news, events and announcements as “high” interest
- 32% rated area performing arts events as “high” interest
- 26% rated information about local non-profit organizations “high” interest
- 81% selected “community programming” as a “high” or “medium” importance as the City considers Comcast renewal.

Survey open-ended remarks and other comments received by email, letter and telephone also supported Public Access interests in our community. Some open-ended remarks in the online survey reflected opposition to Public Access television.

The City received a proposal from Whatcom Community Television Communications, requesting a channel and funding for provision of Public Access television. Highlights of the proposal include the following:

- Requesting .75% of franchise fees as funding source
- Indicating that in year 3 of the start-up effort WCTC would request .75% from Whatcom County franchise fees as an additional source of revenue
- WCTC would provide a variety of programming
- Specifying proposed equipment and staffing needs

Recommendations in the report include channel provisioning and options for implementation of Public Access over the life of the future franchise period.

Education Access

BTV10 is currently a Government and Education Access station. BTV10 receives and airs some education programming from publicly funded education institutions. Programming received is described in the report.

Responses to our online survey related to Education Access include:

- 60% rated community news, events and announcements as “high” interest
- 41% rated educational programs as “high” interest
- 32% rated area performing arts events as “high” interest
- 21% rated school sporting events as “high” interest”

Interest from Universities

City received interest in a joint “E” channel to be operated by University of Washington (UW) and Western Washington University (WWU). UW already operates a channel and offers programming 24 hours per day. That channel is not available to Whatcom County Comcast subscribers. UW and WWU would collaborate to provide programming from both institutions on a shared channel.

UW did not request funding support. WWU requested ongoing financial support of \$118,100/year for staff, plus \$10,000/year for equipment replacement.

Bellingham School District Interest

The City also received input from Bellingham school district. Bellingham Schools identified three areas of need, including

- a) Priority 1- Improved language in the franchise agreement related to cable drops at school facilities.
- b) Priority 2- Bellingham Schools requested an “E” channel that would be programmed up to 5 hours per day, that could be used by other local education institutions.
- c) Priority 3- Bellingham Schools requested installation of Internet services at each school facility.

The report includes additional information about these requests, and letters of interest and support are included in report exhibits.

Recommendations are made in response to the needs of the public education institutions in Bellingham.

Conclusion and Recommendations

Based on the needs assessment as summarized above, the City has identified eleven issues below, and related recommendations, as those of significant importance to a future franchise with Comcast.

The tables below provide summary of recommendations made throughout the report. The recommendations are presented in two table and grouped as follows:

- Table 1 – Recommendations made based on technical inspection of Comcast infrastructure and City experience as franchising authority and as Government & Education Access operator; and

- Table 2 – Recommendations made based on public and stakeholder input and review of current franchise agreement provisions

Table 1: Summary of Recommendations for next franchise – based on City inspection and City experience as franchise authority, government and education access operator

Recommendation Category	Recommendations and/or Options
1. Follow-up on Plant Inspection	• City should communicate with Comcast and direct Comcast to develop a corrective action plan to address plant and installation issues identified in the report. • City staff will pursue notification to and follow-up with Comcast as a planned next step related to the plant inspection, including a follow-up inspection paid for by Comcast to ensure that compliance has been achieved.
2. Needs as Franchising Authority	• Proposed franchise agreement should clarify Comcast obligations following annexations, including timeframe to provide services to residents in newly-annexed areas. ○ New franchise should provide for reporting and timely update of subscriber addresses within annexation area. • Line extension criteria should be clear and should describe criteria for provision of services both within the City limits and following annexations ○ New franchise should describe clear line extension criteria, including clear description of installation cost responsibilities. • Proposed franchise agreement should clarify franchise language regarding services to public and education institutions ○ Service should be provided at no cost to all government buildings and schools within the franchise area, provided to the point of demarcation within each facility ○ Service should include all but premium channels, and include High Definition signals • Discount program for some low-income residents should continue. Comcast should take over responsibility of qualifying residents and providing customer service. City will refer City-qualified utility customers to Comcast. ○ Comcast should increase outreach efforts to lower-income residents. ○ In annual report prepared by Comcast, Comcast should provide statistics about participation rates. • Proposed agreement should eliminate the franchise provision related to joint PEG operations for the City and County, and allow policy makers from each entity to make determinations about PEG operations and channel distribution separately.
3. Needs as Government and	• Upgrade BT10 to High Definition during franchise period ○ Comcast should be prepared to provide channel 10 in High Definition on a 2nd channel, or,

Recommendation Category	Recommendations and/or Options
Education Access Operator	○ If sufficient percentage of the subscribers are receiving signals in High Definition, move channel 10 to a High Definition channel. • The City should maintain the BTV10 identity in the community. ○ No change in channel 10 number or placement should occur without express notice and written approval by the City. • BTV10 channel identity and programming schedule information should be available in interactive programming guides. ○ Comcast should label channel 10 as BTV10 on any online or interactive programming guides. ○ Comcast should be required to provide tools for City to populate interactive programming guides with current programming schedule. • Enhance programming on BTV10 where possible ○ City staff should enhance outreach efforts to other publicly funded government and education institutions to increase programming levels of government and access programming. • City should maintain funding allocation level at 1.25% of franchise fees (outside of franchise agreement) to maintain current operations and replace existing station equipment. ○ Funding for PEG operations should be established by policy makers and not be “set in stone” for the duration of the future franchise agreement • Proposed franchise agreement should authorize use of PEG fees to provide for more robust equipment replacement, including replacement of Council Chambers systems and conversion to High Definition equipment. To accommodate these and other equipment needs, provide for PEG fee rate up to a maximum \$.50/subscriber/month, with up to three one-time capital grants of \$150,000 each.
4. Provisioning of Internet Services	• To the extent legally permissible ○ Add Internet services to a maximum of 5 city facilities, to be named by the City ○ Add Internet services to each school (need of Bellingham Schools)

Table 2: Summary of Recommendations for next franchise – based on public and stakeholder input, and based on review of current franchise provisions

Recommendation Category	Recommendations and/or Options
1. Subscriber Costs – Community Needs	• City policy and code should continue to remain open to competitors, City should participate in programs that might provide for rate reduction due to competition. • City should improve communications to clarify and inform residents that franchise is not exclusive, per current City of Bellingham Municipal Code. • City elected officials should support initiatives that would might provide

Recommendation Category	Recommendations and/or Options
	for more competition or provide cost containment opportunities to cable subscribers. • Ala cart programming options are a strong interest and need of this community. City negotiating team should stress the community's strong interest in "ala carte" programming and cost control interests. • Annual ascertainment survey performed by Comcast should identify subscriber programming preferences. Results should be included in annual report to the City. • The proposed franchise agreement should preserve a low-cost programming tier with an appropriate blend of programming. • Proposed franchise agreement should maintain the discount program, with Comcast providing point of contact and customer service responsibilities.
2. Customer Service Needs	• FCC's customer service standards should be incorporated into the City's future franchise agreement as a baseline but should be enhanced to include reporting and other provisions as follows: ○ Comcast should provide clearer reporting on hold time experiences for Bellingham customers. The hold-times reported by Bellingham customers does not reflect adequate customer service. ○ Comcast's phone system is cumbersome and should be adjusted to provide an easier way to reach a "real" person. A "Dial 0" option is recommended as an immediate option for getting callers to the right person. ○ The annual ascertainment survey conducted by Comcast should identify problems with sound or picture quality, in a manner that would provide Comcast with sufficient information to follow up and correct issues.
3. Local Office and local service information needs	• Comcast should maintain a local service office in Bellingham • Comcast should include local service address and hours of operation on the bill. • City should ask Comcast to review the customer service sections of the bill currently being sent to Bellingham customers. Comcast should make changes so that customer service information can be interpreted simply and easily.
4. Maximize franchise fee rate at 5%	• City should incorporate a five percent (5%) franchise fee in the Proposed Franchise along with a Franchise Fee Payment Worksheet, which requires Comcast to document and submit its revenue sources to make sure the appropriate franchise fee is paid. • The proposed franchise agreement should remove reference to allocation of franchise fee revenues within the agreement. Any allocation of franchise fee revenues should be made by City Council action in the future.
5. Expanded Public,	There is clear need and interest in expanding PEG Access over the life of the future franchise.

Recommendation Category	Recommendations and/or Options
Education, and Government Access	- Proposed franchise agreement should include provision for one E channel – to be implemented at time sufficient community readiness is determined by City Council - Proposed franchise agreement should include provision for 2nd E channel – to be implemented at time sufficient community readiness is determined by City Council, and after first E channel has sufficient first-run programming - Proposed franchise agreement should include provision for one P channel – to be implemented at time sufficient community readiness is determined by City Council - Access channel operators should be provided with tools to populate any interactive programming guides, so that current programming is available for public access just as it is for other channels - Channel number and placement for additional PEG channels should be logical and intuitive to subscribers. Changes to channel numbers and placement cannot occur without express notice and written approval by the City. - Capital equipment needs are substantial and will increase depending on the number of PEG channels authorized in the future franchise period. Proposed franchise agreement should authorize use of PEG fees up to a maximum \$.50/subscriber/month based on these and other equipment needs, with up to three one-time capital grants of \$150,000 each. If PEG fees are shown on subscriber bill, show in one line only.
6. Maintain or improve important franchise provisions	- Utilize existing franchise agreement as base document with revisions based on needs and changes in law - Grant of authority - The City should strictly condition the grant of a non-exclusive franchise to Comcast for the purpose of erecting, constructing, operating, maintaining and repairing all necessary fixtures and facilities to operate a "cable system" providing "cable service" within the City. - Operational reports - Incorporate into a franchise agreement language that allows the City to keep and maintain a current system map, review the performance of a cable operator during the term of the franchise, including methods to resolve noncompliance, review provisions, update the agreement. - Transfer or assignment - A provision should be included within the Franchise to prevent the sale, assignment, or other transfer of the system in whole or in part to any other entity unless it is first approved by the City. - Categories of programming - City should communicate to Comcast that these customer concerns should be taken into consideration when determining its programming line-up. - Insurance requirements, indemnification, bonds, letters of credit, damages - Include provisions in the franchise that are designed to (a) ensure that the City, and the City's citizens, bears no risk as a result of a

Recommendation Category	Recommendations and/or Options
	Comcast's use of rights-of-way; and (b) ensure that Comcast complies with applicable requirements, and if it does not, the City can complete the required work and obtain compensation for the damages caused.
7. Franchise term	• Length of next franchise term should be 10 years.