

### **REPORT TO MACC MEMBER JURISDICTIONS RECOMMENDATION COMCAST CABLE FRANCHISE TERM EXTENSION DECEMBER 2013**

Your jurisdiction is a member of the Metropolitan Area Communications Commission (MACC), an intergovernmental agency which administers and regulates cable television franchises for fourteen cities and Washington County. MACC currently administers Comcast's cable television franchises (Comcast Franchise) on behalf of its members, as well as a Frontier Cable Franchise for eleven jurisdictions where they offer those services.

**MACC Recommendation** – On December 11, 2013, the MACC Board of Commissioners (Commissioners) unanimously passed a resolution (copy attached as Exhibit A) recommending its fifteen member jurisdictions extend the current Comcast Franchise terms until December 31, 2014, in order to provide time to complete the ongoing process to renew the Comcast Franchise. According to the Intergovernmental Agreement (IGA) that created MACC, in order for this extension to be effective, all 15 of member jurisdiction's governing bodies (city councils and the County Commission) must approve this extension – if any member jurisdiction fails to pass the requested extension as recommended by MACC, that would "veto" the action of the other members.

#### **Background**

Comcast was granted a 15 year renewal of its cable television franchise in 1999 (then held by TCI Cable) – that Franchise expires on January 31, 2014. On March 9, 2011 Comcast requested MACC and its member jurisdictions renew that Franchise. That request for renewal from Comcast triggered a 3-year renewal process governed by Federal Law (47 U.S.C. 546). That Law sets forth a prescribed Formal Renewal process which requires the completion of an extensive community needs assessment by the Franchising Authority (MACC) and from that assessment the development of a Request for Renewal Proposal (RFRP) which contains a proposed new cable franchise agreement based on those community needs. After development of the RFRP by MACC, it is provided to Comcast which then has a set period of time in which to respond. After receiving and evaluating that response, MACC would hold hearings to determine whether Comcast's response "adequately fulfills the needs of the MACC communities taking into consideration the costs thereof." The Formal Process does not preclude additional company/MACC discussions, but it does place the process in a time-limited structure. After Comcast's response, MACC would make a recommendation to its member jurisdictions to either grant Comcast a renewal based on its response, or deny a renewal due to Comcast's failure to meet the established needs. Either recommendation by the Commission would go back to the

jurisdictions (no different than this request to extend the franchise term) where each member would vote to accept or reject the Commission's recommendation.

The Federal Law also provides for informal negotiations that typically are used to reach agreement on a new franchise. Informal negotiations follow many of the Formal Process steps (i.e., development of a needs assessment), but are conducted in the manner like most negotiations, and with considerable more flexibility than the more structured Formal Process.

MACC/Comcast Informal Renewal Process – After completing its needs assessment and presenting it to the MACC Board of Commissioners in January 2013, the MACC staff was directed to begin negotiations with Comcast under the Informal Process. Actual negotiations between MACC staff and Comcast local government affairs staff members began in February 2013. At that time the parties agreed to a series of negotiation sessions (one about every two weeks) through July/August with the plan for the final proposed franchise agreement to be brought back to the Commission in September. This mutually-agreed upon plan expected a Commission recommendation to the jurisdictions that would be presented to each jurisdictional governing body between November and early January. This timeline would allow the new franchise to be in place by the expiration of the current agreement. MACC and Comcast also agreed to tackle the more difficult franchise issues up front, leaving the other sections of the franchise for the later part of the proposed negotiations time line.

At the Commission's June 5<sup>th</sup> meeting, staff reported delays it was experiencing in getting Comcast to provide timely "red-line" sections in advance of scheduled sessions and that more negotiation sessions had been added to handle these delays. The Commission decided to vest its Executive Committee (the Commission's 3 officers) to act on its behalf to monitor the progress of negotiations and to invoke the Formal Renewal Process if problems continued during Informal Negotiations.

In spite of the additional negotiation sessions, by the end of August many issues remained unresolved. This was reported to the MACC Executive Committee in early September and again on October 10<sup>th</sup>, where the Executive Committee unanimously directed staff to either: 1) complete informal negotiations with Comcast by the end of October, or 2) bring legislation to an Executive Committee meeting in November to move negotiations from the Informal to the Formal Process.

By October 25<sup>th</sup>, after over 30 meetings on the renewal (seven in October), it was clear to MACC staff that the negotiations would not be completed by the end of the month or in time for the jurisdictions to act before the current franchise expired at the end of January 2014. As a result, the MACC Executive Committee on November 22<sup>nd</sup> adopted a MACC Resolution which moved negotiations to the Formal Process and recommended that the full Commission request that the member jurisdictions extend the current franchise agreements to the end of 2014 to accommodate the Formal Renewal steps.

### **Action Requested**

Today, MACC asks you to extend the term of the Comcast Cable Franchise Agreement until the end of December, 2014 in order to accommodate the time needed to complete the

Formal Renewal Process (Comcast Legal has agreed with the terms of this extension). We have worked with your staff and legal counsel to prepare a resolution or ordinance to effect this change in your jurisdiction. All 15 MACC member jurisdictions must pass similar legislation in order for this change to be effective. Extensions may be granted after the January termination date without any adverse effects.

In addition to this report and a copy of MACC's recommending resolution, we have also enclosed a "Question & Answer" memorandum that addresses expected questions about this action.

MACC staff would be happy to answer any questions you have about this recommended action.

Enclosures:

- MACC Resolution 2013-08
- MACC "Questions & Answers"