

CENTURYLINK CABLE TV FRANCHISE RECOMMENDATION TO THE CITY OF TIGARD

Prepared by the Metropolitan Area Communications Commission
August 2015

On July 8, 2015, the Board of Commissioners of the Metropolitan Area Communications Commission (MACC) recommended, by a unanimous vote, that your City and four other affected MACC member jurisdictions grant Qwest Broadband Services, Inc. d/b/a CenturyLink (CenturyLink) a new, competitive franchise agreement (Exhibit A) to provide cable television services within the City. A copy of the Commission's Recommending Resolution and a Comparison of that agreement to the recommended Comcast franchise (Exhibits B and C) are enclosed with this report.

By the terms of the MACC Intergovernmental Agreement, to which your jurisdiction is a party, every affected MACC jurisdiction must adopt the franchise, as recommended, to renew the Comcast franchise – if one of the five jurisdictions votes no, it vetoes the franchise for the others.

The Recommended Agreement – The recommended franchise agreement includes all of the important financial, service and regulatory benefits of the new Comcast franchise, but is structured to provide a series of incentives to expand CenturyLink service throughout the area.

BACKGROUND

In February 2015, MACC received a completed cable services application from CenturyLink and began negotiations for a franchise to serve the MACC member jurisdictions of Lake Oswego, North Plains, Tigard, West Linn and unincorporated Washington County (the Affected Jurisdictions). These areas overlay the telecommunications footprint of CenturyLink – those areas where the state PUC has granted CenturyLink the ability to provide telephone service. CenturyLink's fiber and copper technology is being upgraded to carry video programming.

The MACC Intergovernmental Agreement provides for a franchise for a limited-area cable franchise (in this case, five of the fifteen MACC member jurisdictions), and MACC previously granted such a cable franchise to Frontier Communications (originally Verizon), in 2007 for eleven member jurisdictions (including Lake Oswego, Tigard and Washington County).

Throughout March, April and May, CenturyLink met with MACC staff to negotiate a franchise. Those discussions proceeded relatively quickly and negotiations were generally concluded by late May. A proposed franchise agreement was finalized on June 22, 2015. The proposed franchise is based on the Affected Jurisdictions' needs and interests as well as the similarly-situated Frontier cable television franchise as well as a recent CenturyLink franchise granted to the company by the City of Portland. (CenturyLink began providing cable service in portions of Portland in May, 2015.)

Significant sections of the proposed CenturyLink agreement mirror the obligations in the Comcast franchise, including the definition of Gross Revenue, the Customer Service Standards,

Public, Education and Government (PEG) Access requirements and complementary cable services to public buildings. Other requirements, specifically those tied to the technology and design of the system, as well as the regulation of the public Right of Way (ROW) are the same as those set out in the Frontier franchise.

The proposed CenturyLink franchise is granted to CenturyLink's corporate relative, Qwest Broadband Services, Inc. (QBSI). Qwest Corporation owns the facilities in the Affected Jurisdictions' ROW, and QBSI d/b/a CenturyLink will provide cable services over those facilities. The enforceability of the franchise is not negatively affected by this corporate structure.

If adopted, CenturyLink indicates that it will begin service later this year in some small portions of the five franchised jurisdictions, and has plans to add to those areas in the near future.

Staff Analysis and Discussion of Key Elements of the CenturyLink Franchise Agreement

Term. The term of the proposed franchise is similar to the Portland CenturyLink agreement and structured to incentivize the company to build out its network as it gains confidence that this competitive service is viable.

The franchise will expire in just over five years, on December 31, 2020, if the company cannot or will not expand its network beyond that initial service area. If CenturyLink does expand its network to 20% of the service area by 2018, the franchise provides for an additional three years (expiring in 2023). If CenturyLink can expand to 50% of the service area by 2021, the franchise will expire on December 31, 2025 – slightly more than a full ten year franchise.

At the same time, there are significant provisions in the franchise assuring that the company cannot discriminate in any way. The company must offer service to any customer, residential or business in the franchise area where it is technically feasible.

Gross Revenue Definition. The Gross Revenue definition is identical to the new Comcast franchise. CenturyLink will pay five percent on the same basis as Comcast and Frontier.

Right of Way Regulation. CenturyLink will use the facilities of its corporate relative, Qwest Corporation. Qwest Corp. owns the telecommunications facilities in the Affected Jurisdictions' Rights of Way (ROW) and has a license or franchise if appropriate with the affected jurisdictions. All ROW codes and requirements of those jurisdictions will continue to apply to the Qwest/QBSI/CenturyLink facilities. This is the same regulatory structure that the Frontier cable franchise has with MACC and the member jurisdictions served by that company.

PEG Access. All key Public, Education and Government (PEG) Access commitments in the Comcast franchises are contained in the CenturyLink franchise – and improves upon them. There are no HD requirements in the Frontier franchise, and Comcast has a phased-in PEG HD programming commitment. By contrast, CenturyLink will provide all HD-provided PEG programming to its customers in HD. CenturyLink has also agreed to provide its customers with PEG Video on Demand programming. Neither Comcast nor Frontier has that requirement.

PEG/PCN Fund. CenturyLink will match the new Comcast franchise PEG Fund commitment of \$0.80 per month per subscriber.

Customer Service. CenturyLink will match Comcast's (and Frontier's) Customer Service requirements. All three MACC-franchised cable operators will provide service under this same set of standards.

Franchise Violations and Remedies. The Commission's ability to levy fines against CenturyLink is capped in this Franchise Agreement at \$25,000 per year, commensurate with the level in the Comcast and Frontier franchises.

PUBLIC COMMENT

MACC solicited public comments in local area newspapers, as well as on the maccor.org website.

CONCLUSION

Your MACC representative, along with the other MACC Commissioners, has recommended granting the CenturyLink Franchise Agreement. If granted, area residences and businesses will be able to choose from an additional cable television service provider. Like the recommended Comcast franchise, the CenturyLink Franchise Agreement retains the basic elements and long-term benefits of the cable television franchises on which the Member Jurisdictions have come to rely — financial stability, the ability to meaningfully respond to customer service deficiencies, and superior PEG Access programming and support. MACC and CenturyLink staff will be available at your meeting for any questions.

A reminder: All 5 Affected MACC Jurisdictions must approve the Franchise Agreement for it to become effective.

Attachment: Exhibit A – Recommended CenturyLink Franchise Agreement
Exhibit B – MACC Recommending Resolution 2015-07
Exhibit C – Comparison of the recommended franchises
Exhibit D – MACC Questions & Answers about the Recommended Franchises