



VIA ELECTRONIC MAIL

April 15, 2015

Ms. Jodie Miller
Executive Director
Northern Dakota County Cable Communications Commission
5845 Blaine Ave
Inver Grove Heights, MN 55076

Re: CenturyLink Video Franchise Application

Dear Ms. Miller:

The Northern Dakota County Cable Communications Commission (NDC4) issued a Notice of Intent to Franchise (herein the “Notice”) an additional cable system operator last month. The Notice states that NDC4 will hold a public hearing on April 15, at 7:00 p.m. regarding all applications that it receives. It is our understanding that this public hearing is to establish the record for NDC4’s vote regarding whether it will commence franchise negotiation discussions, and under what terms, with the applicants based on the applicant’s response to the Notice of Intent. I am writing to provide you with Comcast’s position in regard to the process going forward and limited record in front of you today.

At the outset, let me state clearly that Comcast welcomes a fair and robust competitive marketplace made up of responsible competitors, and we do not oppose the granting of an equitable cable franchise to CenturyLink. Consumers can choose from numerous video options today, including Comcast, DirectTV, DISH Network, and “over the top”-services like Netflix, Amazon, Apple TV and Hulu. This fiercely competitive landscape is challenging, but it brings out the best in each company – at least when competitors face a level playing field that treats similar providers in a similar manner.

I. Comcast’s Interest in This Proceeding.

Comcast has made substantial financial investments in its cable system over the years to serve NDC4 with a state-of-the-art network. In order to provide cable services and locate its cable system within public rights-of-way, Comcast has operated under a cable franchise issued by NDC4 in January of 2000. The Franchise Agreement has required much of Comcast, including notably:

- A requirement that Comcast offer cable service to customers throughout the NDC4 area boundaries, specifically to every residential dwelling unit within 125 feet of Comcast’s feeder cable (Comcast Franchise Section 1.2(ff)) and to any new development within those boundaries where the density is at least seven (7) dwelling units per one-quarter

(1/4) mile of feeder cable (when aerial construction is required) and at least ten (10) dwelling units per one-quarter (1/4) mile of feeder cable (when underground construction is required) (Comcast Franchise, section 4.8 (a));

- \$1,000,000 in periodic capital grants for PEG access over the term of the franchise (Comcast Franchise, Exhibit B, section 6); and
- Courtesy cable services to approximately 47 schools, municipal buildings and government offices in the NDC4 member cities (Comcast Franchise, Exhibit B-1).

CenturyLink's franchise application either rejects or is silent regarding whether and to what extent it will agree to many of the franchise obligations that have been required of Comcast.

II. Level Playing Field Requirements and the FCC's 621 Order.

Minnesota's extensive cable franchising statutory scheme is clear that: "No municipality shall grant an additional franchise for cable service for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees." Minn. Stat. § 238.08, subd. 1(b).

Since "applicant is still finalizing its initial footprint for the deployment of cable services within the NDCCC service area," the applicant did not provide any information regarding the area it is proposing to serve. Comcast, therefore cannot comment on if CenturyLink's franchise proposal is "more favorable or less burdensome" than Comcast's franchise obligations. It is concerning, however, that it does not appear that CenturyLink's buildout commitment will be consistent with the Minnesota Cable Act.

We want to be very clear that the FCC's 621 Orders that CenturyLink relies upon in its response does not preempt Minnesota's Cable Act. As recently as January 2015 the FCC explained again:

We clarify that those rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level.¹

It is inaccurate to say that NDC4 must choose between following state law and policy or following federal law and policy – the two coexist. The FCC expressly allows build out requirements in franchise agreements so long as they are "reasonable." What constitutes "reasonable" is left to the franchising authority to determine.

While we have not yet seen an actual draft CenturyLink franchise, we expect it to contain a

¹ *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Order on Reconsideration, at para.7 (rel. Jan 21, 2015).

Ms. Jodie Miller

April 15, 2015

Page 3 of 3

reasonable full-service requirement – consistent with Minnesota law and the FCC’s 621 Order – so that, eventually, all neighborhoods in NDC4 would have the same availability of service and access to cable competition, and so that all providers bear similar obligations.

Imposing reasonable, binding, and enforceable requirements to serve the entire NDC4 service area will protect competitive and consumer equity and prevent selective service deployment. It will equalize the investment that all providers will be required to make in return for access to the public rights of way. It will ensure that competition develops according to which provider can best serve subscribers and not according to which provider enjoys the most advantageous regulatory requirements.

IV. Conclusion.

Again, Comcast does not oppose CenturyLink’s entry into the local market. We are concerned that competing providers who make use of the same rights-of-way as Comcast, and who are subject to the same federal law, the same state law and the same local regulatory authority, should be held to the same reasonable level of due diligence and procedure, as well as member city-wide service requirement standards, similar to what Comcast has been held to.

There are many factual and legal questions raised by CenturyLink’s franchise application. Comcast has important interests at stake in this proceeding and requests that NDC4 establish a fair, orderly, and open process that allows for meaningful public review and input.

Again, thank you for the opportunity to share our views with you on this important issue. Please do not hesitate to contact me if you have any questions, or if you need any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Emmett V. Coleman". The signature is written in black ink and is positioned above the typed name and title.

Emmett V. Coleman

Vice President Government Affairs