Competitive Franchising

Northern Dakota County Cable Communications Commission ("NDC4")

Full Commission Meeting
February 23, 2016
Weighted Vote

- **Action on Recommended Franchise**
  - Requires “weighted vote”
  - Approval by 2/3 of all eligible weighted votes

- **Member City**
  - Inver Grove Heights: 12 votes
  - Lilydale: 2 votes
  - Mendota Heights: 6 votes
  - Mendota: 2 votes
  - Sunfish Lake: 2 votes
  - South St. Paul: 10 votes
  - West St. Paul: 10 votes

- **TOTAL VOTES**: 44
One of the stated purposes of the Cable Act is to:

“promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems.”

See 47 U.S.C. § 521 (6) – emphasis added
Federal Cable Act

- A franchising authority may award one or more franchises within its jurisdiction:

  “except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise.”

See 47 U.S.C. § 541 (a)(1) - emphasis added
- codified in the Cable Act as Section 621
Background
Comcast Franchise

- **April 2000**
  - Comcast of St. Paul, Inc. granted
    - “non-exclusive” cable franchise
- **2012**
  - Comcast requests renewal of its franchise
  - Commission completes needs assessment
- **2014**
  - Comcast proposes transfer of franchise
- **2015**
  - Comcast agrees to one year franchise extension
  - Informal renewal negotiations
- **2016**
  - Proposed extension of Comcast franchise to 3/31/17
CenturyLink Background

- **February 2015**
  - Qwest Broadband Services, Inc.
    - d/b/a CenturyLink, Inc. (“CenturyLink”)
    - requests cable franchise

- **March 2015**
  - Commission issues
    - notice of intent to franchise
    - CenturyLink submits application

- **April 2015**
  - Commission holds hearing
    - To consider CenturyLink application
CenturyLink Background

- **May 2015**
  - Commission receives qualifications report

- **June 2015**
  - Commission finds CenturyLink qualified
  - Authorizes staff to negotiate franchise
  - Commission provides CTL mark-up of
    - Comcast renewal draft franchise

- **July 2015 – February 2016**
  - Commission staff and CTL negotiations
CenturyLink (CTL) Franchise Negotiations

- Commission/Member City Goals
  - Substantially similar franchise terms
    - for CTL and Comcast
  - Including renewal “needs and interests”
- Renewal with Comcast yet to be completed
  - Proposed extension date
    - March 31, 2017
QBSI v. QC

- **Qwest Broadband Services, Inc.**
  - DBA CenturyLink (CTL)
  - Content provider
  - Sells and provides “Cable Service”

- **Qwest Corporation**
  - Owns the facilities in the ROW
  - Owns, maintains the “Cable System”

- **QBSI to ensure QC compliance**
  - See Section 2.1(b)
Franchise Term

- 5 year franchise term
- Commission/Member City has unilateral right to
  - 5 year extension of term
    - If triggered – 10 year term
- Term tied to system build out
  - Allows the Commission/Member City to consider whether Cable System “substantially constructed”
    - During initial 5 year term
    - If not, franchise may not be renewed
Living Units

- Franchise references “Living Units”
  - Households = Living units
    - a distinct address in the QC network
      - single family homes
      - multi-dwelling units
        - apartment buildings and condominiums
      - business locations
  - Qualified Living Units
    - meets minimum technical qualifications
    - Generally a minimum of 25 Mbps downstream
System Build Out

- CTL authorized to provide cable service
  - Throughout entire Member City
  - Within 2 years CTL will serve minimum of
    - 15% of Living Units in Member City
  - A significant portion of CTL investment
    - will be targeted to areas below the median income in Member City
    - Nondiscrimination mandate

- Quarterly meetings
  - Verify compliance with build obligations
  - Confidential Maps made available by CTL

- Market success requirement
  - 27.5% of the households capable of receiving Cable Service
  - Additional 15% requirement
System Build Out

- Quarterly meetings - CTL shows
  - It is capable of serving 60% of households
  - Actually serving 30% of those households
    - CTL will agree to serve an 15% of the total households in the Member City
    - No later than 2 years after quarterly meetings
    - A total of 75% of the total households

- This additional build-out based on market success continues until every household within the Member Cities are served
Mosaic Channel

- Displays miniaturized media screens
  - Related information

- For PEG channels
  - Navigation tool for subscribers
    - Displays PEG Channels on a single channel
    - Navigation to higher channel numbers

- CTL will provide all metro PEG channels
  - To every Member City cable subscriber
    - Over 150 PEG channels
Mosaic Channel

- CTL will provide 2 NDC4 Mosaic Channels to access 7 PEG channels
  - SD = Channel # 31
  - HD = Channel # 1031

- Existing Comcast PEG Chs = 14-21
  - CenturyLink SD PEG Channels
    - 8414, 8415, 8416, 8418, 8419, 8420 and 8421
  - CenturyLink HD PEG Channels
    - 8914, 8915, 8916, 8918, 8919, 8920 and 8921
**PEG Channels**

- **Video on Demand (VOD)**
  - 25 hours of SD or HD PEG programming

- **SD and HD for all PEG channels**
  - Based on subscriber equipment in home

- **PEG fee of $1.77 per subscriber**
  - Matches Comcast
  - Annual increases allowed annually
    - Not to exceed 2.5% of gross revenues
Complimentary Commission Service

- **CTL to provide complimentary service**
  - Service to Commission
    - Highest level of SD and HD service
    - Equipment necessary to receive service at 7 TV sets
  - Service to City Halls
    - Highest level of SD and HD service
    - Equipment necessary to receive service at 7 TV sets
    - City Halls served if they are Qualified Living Units
  - Service to Designated Public Buildings
    - SD Cable service
    - Equipment necessary to receive service at 3 TV sets
    - CTL won’t duplicate Comcast served buildings
      - Commission can elect provider to serve
      - Buildings must be QLU
Indemnification

- **CTL to indemnify the City**
  - Same indemnification obligations as Comcast
  - Added agreement to indemnify City
    - If Comcast challenges City franchise award to CTL
Recommendation

- Commission to provide recommendation to Member Cities
  - In support of adoption of Model CenturyLink Cable Franchise
  - Approve recommended findings of fact for City Council consideration
  - Staff to directed to take all required actions to complete process with CenturyLink
Questions

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