
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

<u>Member City</u>	<u>Votes Per City</u>
▪ Inver Grove Heights	12
▪ Lilydale	2
▪ Mendota Heights	6
▪ Mendota	2
▪ Sunfish Lake	2
▪ South St. Paul	10
▪ West St. Paul	10
▪ TOTAL VOTES	<u>44</u>

Federal Cable Act

- 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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