Report to the
Clark County Board of Commissioners
And
Vancouver City Council
From the
City/County Telecommunications Commission

PROGRESS REPORT ON THE COMCAST CORPORATION VANCOUVER/CLARK COUNTY FRANCHISE AGREEMENT

May 2009

I. INTRODUCTION - BACKGROUND

This is the Twenty-Seventh Annual Report by the Vancouver/Clark County Telecommunications Commission ("Commission") reviewing the status of the franchise agreement with the cable television operator, TCI of Southern Washington ("TCI"), doing business as Comcast Corporation ("Comcast"). This is the twelfth Annual Report since a 10-year franchise agreement with TCI, now Comcast, was adopted in November 1997. In June 2002, the City of Vancouver ("City") and Clark County ("County") extended the franchise agreements with Comcast an additional 5-years, through December 31, 2012.

The 2008 Annual Report is consistent with the format for the previous evaluations of the cable operator's performance (1981-1986 Cox Cable; June 1986-1995 Columbia Cable; December 1995-1998 TCI; 1999-February 2003 AT&T Broadband; and now Comcast Corporation). The Commission's review focuses on the calendar year 2008 although, as appropriate, more recent developments and issues are noted.

The Commission recognizes the importance of conducting annual reviews – not only as a franchise obligation, but also in light of changes in the marketplace, population growth in the Vancouver and Clark County area and the requirements of the Federal Cable Act to give an operator the opportunity to correct any franchise violations. The Commission understands that as a citizen advisory board it is responsible for the efficient and effective management and enforcement of the franchise. In addition, one of the most effective roles of the Commission through the years has been to inform various stakeholders – from the cable operator, to PEG access providers, to elected officials – about the needs and issues of interest to the community.

As noted in this report, Comcast's performance during the past year has met all of the conditions of the City and County franchises. The number of customer complaints regarding Comcast's service, including but not limited to the company's high-speed Internet service, rose by 40% during 2008. This follows a 40% increase in customer complaints during 2007. Review of the cable operator's overall performance as well as a status report regarding Commission activities are contained in this review.

The Commission does note that a majority of the complaints in 2008 focused on the channel line up changes made by Comcast in late 2007 which are not regulated by the local franchise agreements, federal law, or the Commission.

II. PURPOSE/GOALS

As set forth in the current franchise agreement with Comcast, Section 4.6, the Annual Review is intended to assess the cable operator's performance as well as compliance with the terms and conditions of the franchise and compliance with state and federal laws and regulations during the previous year. Evaluation of past performance by the cable operator(s) is of critical importance under federal law as the franchising authorities look to the future. In addition, the Report outlines the efforts and focus of the Commission during the previous year and priorities for the current year.

III. METHODOLOGY

Comcast's performance was evaluated by reviewing the following information pertaining to performance and related cable service information:

A. Correspondence, phone calls, electronic mail and inquiries received by the City/County Cable Television Office ("Cable TV Office") and correspondence and phone calls;

B. Minutes and video records of Commission meetings;

C. Formal exchange of correspondence between Comcast and the Cable TV Office;

D. Press reports and the experience of other communities, especially in the Portland/Vancouver area, regarding the delivery of cable television services; and

E. Call-in comments and testimony received from the public during regularly-scheduled Commission meetings where public testimony on Comcast's performance was solicited, the most recent being February 4, 2009.

Information requested by the Commission from Comcast specifically for the purpose of preparing this report is on file and available for review at the Cable TV Office.

IV. FRAMEWORK FOR EVALUATION

As of November 1997, the framework for evaluation has been and will continue to be governed by Section 4.6 "Performance Evaluation Sessions" of the franchise agreement. Section 4.6 of the agreement provides that evaluation "shall deal with the Grantee's [Comcast's] performance of the terms and conditions of the Franchise and compliance with state and federal laws and regulations."

In addition, findings and recommendations criteria presented to the Vancouver City Council and Clark County Board of Commissioners by the Commission in Resolution 1997 – 07,

October 8, 1997, in recommending the proposed franchise agreement are also used as a framework for evaluation of Comcast's performance:

A. System upgrade to 550 MHz to increase channel capacity to offer new services in a cost effective manner;

B. Capacity of upgraded system to provide high-speed Internet services;

C. Proposed institutional network (I-NET) for public agencies and educational users established as a partnership between Comcast and users which minimizes the cost to residential subscribers;

D. Comcast's commitment to provide up to $1/month per subscriber as an addition to the monthly cable bill to support capital needs for Public, Education, and Government (PEG) access to enhance local cable video programming;

E. Commitment to maintain current programmed PEG channels, with the capacity for up to three additional channels upon completion of the upgrade based on use by the community;

F. Commitment by Comcast to continue free hookups of basic and expanded basic cable service for City and County buildings and schools and libraries;

G. Commitment to maintain Washington State and local programming as broad programming categories to be considered in the mix and quality of service;

H. Commitment to maintain TV Washington (TVW) as part of the PEG access channel allocation;

I. Commitment by Comcast to maintain a local (Vancouver/Clark County) office;

J. Commitment by Comcast to substantial performance guarantees;

K. Commitment by Comcast to address the special and unique qualities of Vancouver/Clark County.

V. HIGHLIGHTS OF 2008 PERFORMANCE REVIEW

The Year Twenty-Seven Report chronicles the sixth full year of service by Comcast as the cable operator. The Commission notes that since AT&T Broadband transitioned to the Comcast name on February 18, 2003, the company has shown a strong commitment to the community. Examples of Comcast's ongoing commitment include:

A. Support for and the expansion of the Institutional Network (I-NET) serving the City, County, Fort Vancouver Regional Library District and Clark County Fire District 5's NW Regional Training Center;

B. Continued deployment of high-speed Internet service in Vancouver and Clark County as well as Digital Telephone service;

C. Deployment of new services for Vancouver/Clark County cable subscribers. In 2003, Comcast began marketing advanced set-top boxes for receipt of High-Definition Television ("HDTV"). In early 2004, Comcast launched Video On Demand ("On Demand") services for digital cable subscribers in Vancouver and Clark County. In late 2004, the company began deploying set-top boxes with digital video recorder ("DVR") services. Comcast launched "Comcast Digital Voice," a Voice Over Internet Protocol ("VOIP") telephone service in Southwest Washington in 2005. These services continue to be aggressively marketed by Comcast and Vancouver/Clark County continues to be a growing customer base for these services;

D. Extensive involvement in the Vancouver/Clark County community including continued sponsorship through 2008 of the Vancouver National Historic Reserve Trust (Fourth of July Fireworks Spectacular & Star-Spangled Gala), Vancouver Wine and Jazz Festival, Taste of Vancouver, 'Couve Fest, annual Comcast Cares Day projects and other community functions.

During the past twelve months, there have been limited changes in local and regional leadership at Comcast. Curt Henninger, Senior Vice President/General Manager, Beaverton, Oregon, continues to oversee operations in Vancouver and Clark County. Deborah M. Luppold serves as Vice President, Government Affairs, West Division, overseeing Washington, Oregon, Idaho, Colorado, California and Utah. In addition, in 2008 the West Division was expanded to cover Montana, Kansas and portions of Minnesota and Wisconsin. Sanford Inouye serves as Vice President of Government Affairs for Oregon/SW Washington and is the primary contact for the Cable TV Office and the Telecommunications Commission. Mike Mason serves as Vice President of Technical Operations for Oregon/SW Washington. Brad Kaplan replaced Peggy Sarason as Vice President of Finance. Kelly Johns serves as Vice President of Customer Care overseeing the call center operations for Oregon/SW Washington. Comcast reports there are 1,527 company employees in the Vancouver/Portland area. The Portland Business Journal recently reported that Comcast was the top "technology service provider" in the region, with a total revenue nationally in 2008 of $34.8 billion and 100,000 employees nationwide.

Commission activities during 2008 included:

A. Re-designation of Public, Educational and Governmental access providers;

B. Review and support of the work by Fort Vancouver Community Television ("FVTV") as the Public Access Provider;

C. Review and forwarding of recommendations regarding the Public, Educational and Governmental ("PEG") Capital Support Fund.

In 2008, the total number of actual complaint calls to the Cable TV Office ***increased*** to one-fifty-six (156) (11 total "other calls/correspondence") compared to one-hundred-and-

eleven (111) (9 total "other calls/correspondence") in 2007. When compared to a total of 84,957 subscribers Comcast reported in December 31, 2008, the 156 complaint calls represented 0.18% of total Comcast subscribers.

In a positive trend, the Monthly Comcast Subscriber Report details the gain of 1,686 subscribers or a 2.02% increase during 2008, from 83,271 as of December 31, 2007, to 84,957 as of December 31, 2008. The 1,686 increase in subscribers compares to increases of 2,147 subscribers in 2007 and 1,930 subscribers in 2006.

The Commission conducted a public review session regarding Comcast's performance at the February 4, 2009, regular meeting. The meeting was publicized in local newspapers, on the cable television system, and on the City of Vancouver's and Clark County's web pages. One public comment, seven telephone calls, eleven e-mails and two letters were received as part of the public testimony. (The Cable TV Office and/or Comcast followed up directly with customers regarding their issues in the days after the meeting.) A cable subscriber requested that the Commission address the pending litigation in California regarding the separation of rental equipment versus purchased equipment. One caller expressed her frustration at needing to have a digital adapter hooked up to her television. One caller commented on the ease of picking up the digital adapter at the local Comcast office and how easy it was to hook up the box. One caller was upset because he thought that he had to purchase cable services from Comcast in order to purchase Comcast Internet service (he does not). One caller stated that he did not received a letter from Comcast regarding the digital migration. (Comcast provided him with a new letter.) One caller complained that he is unable to subscribe to Qwest services because the housing complex he lives in has an agreement with Comcast. He also commented that Comcast prices are too high. One caller complimented Comcast for their good customer service and overall quality. One caller wanted to know if she needed a digital adapter or a full featured set top box. Nine e-mailers and one letter writer expressed their frustration that they are no longer able to take full advantage of their digital HD television and recording devices with the digital adapters hook up. One e-mailer complained that Comcast has a monopoly and expressed frustration that Vancouver does not have its own local broadcast station. One e-mailer commented that the service that Comcast provides is generally good. He then complained that Comcast keeps raising the rates each year but keeps reducing the number of channels he receives. Two e-mailers complained about poor customer service. One e-mailer commented that he appreciates Comcast's fine customer service but wished rates were lower. One e-mailer complained that the volume on commercials was too loud. One e-mailer wanted Comcast to re-instate the Hallmark Channel to the expanded basic line-up. (As part of the digital conversion, Comcast has.) One customer wrote about the poor customer service he received while trying to make a payment through Comcast's web site. One e-mailer requested A la Carte programming options from Comcast. One e-mailer asked why CVTV was not available through satellite services. (Satellite companies generally do not use public right of way to deliver services and are not required to obtain local franchises. While CVTV would like to have programming delivered by satellite services there would be a prohibitive cost. The City and County cannot require satellite companies to provide CVTV programming because there is no franchise agreement or other regulatory relationship with satellite providers.)

Written testimony and phone calls to the Cable TV Office were also accepted through March 13, 2009. Thirteen e-mails and nine phone calls were received. The majority of the complaints dealt with Comcast's migration of channels 32 - 71 to a digital signal; the increasing price of cable service; poor customer service; and Internet issues. One subscriber commented on the excellent customer service received from Comcast.

A Comcast follow up report, dated May 5, 2009, regarding the customer complaints and comments collected during the development of this annual review is attached. (Exhibit A)

VI. COMCAST YEAR ELEVEN PERFORMANCE REVIEW – SUMMARY ANALYSIS

A. Construction

1. System mileage as of December 2008 was 753.43 miles of subscriber, cable plant in Vancouver service area and 1,179.94 in the Clark County service area. In Vancouver a total of 73,142 homes are now passed by the cable system and 66,583 homes are passed in Clark County.

A current map detailing constructed areas is on file in the Cable TV Office. A smaller conceptual map is available upon request.

2. System design and reliability are in compliance with franchise requirements.

B. Rates

1. As of September 1, 1993, cable rates became subject to regulation -- the Basic Service tier is regulated by local franchising authorities. The Cable Programming Service tier ("Expanded or Enhanced Basic") was regulated by the FCC until March 31, 1999. Expanded Basic rates became deregulated at that time. Comcast discontinued offering Enhanced Cable (analog package which included channels 32 – 71) for new customers in 2008. The package was replaced with a Starter Digital Package with a monthly rate of $58.61 (including franchise fee, digital converter box and remote.) The Limited Basic Service monthly rate was reduced by $1.21 to $13.31 (including 5.79% franchise fee) on July 1, 2008.

In February 2009, Comcast announced a monthly rate increase of $3.80 for the Digital Starter Package, bringing the total monthly costs to $61.35 (including franchise fee), effective April 1, 2009. The Limited Basic Service monthly rate was unchanged.

Nationally, Centris, a research firm, reported cable TV service bills increased 7.5% in the second half of 2008, with the average US cable bill at $71 – an increase of $5 from the prior year. In contract, Centris reported satellite TV bills averaged $74 per month in the second half of 2008, up almost 9% – or $6 – from the prior year.

In 2007 Comcast filed a "Petition of Effective Competition" for Vancouver and Clark County with the Federal Communications Commission (FCC). The effect of

the Petition if granted by the FCC would be to deregulate all cable television rates in the cities of Vancouver, Camas, Washougal, and Clark County. (The other cities in Clark County are not certified for local rate regulation of basic rates.) In 2007 staff filed a response in opposition to the petition with the FCC on behalf of the City of Vancouver and Clark County stating that the filing was not in the public interest of the citizens of our community. If the FCC approves Comcast's petition, not only would the cities and the County lose the ability to regulate basic rates and equipment, they would be prohibited from enforcing uniform rates which require that all customers in a given franchise area be charged the same rates for the same services and from enforcing "anti buy-through provisions" which forbid cable operators from requiring customers to buy any tier of service other than Basic Cable in order to purchase premium and pay-per-view services. There would potentially be other impacts, including, loss of the ability to require notice to subscribers of rate increases and loss of the ability to require that the PEG channels, including CVTV, be included in the basic tier of service. Staff's response also raised questions about the validity of the methodology used by Comcast Corporate in the subscriber and household numbers used to support its filing with the FCC. As of yet, there has not been any reported action on this issue by the FCC, although it should be noted that the FCC has routinely approved effective competition petitions filed by Comcast in 2007, 2008, and First Quarter 2009.

A table of Comcast rates and other charges as of **January 2009** is attached to this report. (Exhibit B)

C. Programming

1. During 2008, Comcast added four (4) digital channels and fourteen (14) High-Definition channels. As of December 31, 2008, approximately 78% of local Comcast subscribers received digital cable - which is consistent with the national average. Comcast made the following changes to the channel lineup in 2008;

a. **Added** four (4) channels to the digital lineup, *ShopNBC, NHL Network, The Big Ten Network* and the *MLB Network.*

b. **Added** fourteen (14) High Definition channels to the digital lineup, *Disney Channel HD, ABC Family HD, Food HD, Animal Planet HD, Sci Fi HD, CNN HD, AMC HD, Science Channel HD, Golf HD, Versus HD, Speed HD, Fox News HD, FX HD* and *Travel Channel HD*.

c. **Deleted** one (1) analog channel, *PIN (Product Information Network)*, Channel 22.

d. **Deleted** three (3) digital channels, *AZN Television*, and *Canal 52MX*. Oregon Public Broadcasting combined OPB Create and The Oregon Channel. The new

channel is called OPB Plus. One digital channel was deleted with this move.

e. **Deleted** one (1) High Definition channel, *MOJO HD*.

f. **Migrated** nine (9) digital channels from Digital Preferred Tier to Digital Classic Tier, *Urge TV*, *MTV Jams*, *MTV Tr3s*, *Encore WAM!*, *Encore Love*, *Encore Mystery*, *Encore Action*, *Encore Drama* and *Encore Westerns*.

g. **Relocated** eight (8) HD channels, *Discovery HD*, *CNN HD*, *Universal HD*, *NFL Network HD*, *Starz HD*, *HBO HD*, *Cinemax HD* and *Showtime HD*.

h. **Relocated** one (1) digital channel, *Palladia*.

i. **Relocated** select HD sports programming from *Comcast SportsNet* and *Fox Sports Net* from channel 737 to channel 788.

The channel lineup effective January 2009, is attached. (Exhibit C)

2. As part of its review process, the Commission monitors the "mix and quality" of programming services offered by the cable operator. The 1984 Cable Policy Act allows local regulatory authorities to review the mix and quality of service. It is within this context that the Commission reviews programming changes made by Comcast. With the current franchise agreement a “baseline” of mix and quality of service has been established as indicated by the attached charts. (Exhibit D)

3. In 2008, when Comcast removed local channel 14, *CNW14*, local cable subscribers lost regular weekday replays of KIRO News, a CBS affiliate in Seattle. The company supported efforts by the Cable TV Office to carry KIRO News on a local government access station, *CVTV 21*. The Cable TV Office and KIRO News finalized a re-transmission agreement during the early summer of 2008. KIRO News plays daily on *CVTV 21*, including morning, noon, evening, late evening and weekends. In addition, special Seattle events, such as the hydroplane races from the Sea Fair and election programming aired on *CVTV 21*.

Comcast continues to offer Washington State programming, a franchise requirement, primarily on the Northwest Cable News Channel. *TVW* airs Washington State legislative and public affairs programming twenty-four (24) hours a day on Channel 22 which is designated a local government PEG access channel. Comcast continues to provide extensive carriage of Seattle Mariner baseball games on Fox Sports Northwest, a popular service with subscribers. KCTS, the Public Broadcast Service affiliate in Seattle, also features programming about Washington State.

4. There has been limited Vancouver or Clark County programming produced or aired by Comcast in 2008. The company did begin production of *Comcast*

Newsmakers, which featured 5-minute informational interviews with local community leaders from the SW Washington and Oregon markets. The spots aired on *CNN Headline News*, (channel 45). However, *Comcast Newsmakers* ceased production in 2009.

Comcast SportsNet Channel 37 programming consists of acquired programming from multiple sources. Regional coverage includes live coverage of Portland Trailblazer games, replays of Portland State University football games, University of Oregon sports, Oregon State sports, Portland Winterhawks, and *The Fan 1080 (AM Radio)*.

5. In January 2009, Comcast announced plans to covert the Expanded Basic channel tier (Channels 32-71) to a digital platform in the SW Washington/Oregon Market. The company migrated customers in Salem and Eugene first. Subscribers in Clark and Cowlitz counties were migrated on March 18, 2009. Customers in the Portland-area will be migrated in late Spring 2009. Cable customers who received expanded cable and had TV's not connected to a digital cable box needed to pick up a small digital adapter box to receive channels 32 and above. Households were provided one digital converter box and up to two digital adapters for free. Additional digital adapters cost $1.99 per month.

Since the Comcast transition was announced in January the Cable TV Office has received approximately 826 calls (as compared to 412 calls received during the First Quarter of 2008) from subscribers attempting to reach Comcast. Of those callers, approximately 540 have inquired about the digital transition. The calls to the Beaverton Call Center have risen dramatically, lowering the number of calls answered within 30 seconds to for the First Quarter 2009 to 78.8% through March 20. Comcast is required in the franchises to answer calls within thirty (30) seconds, ninety (90) percent of the time on a quarterly basis. If not in compliance in the Second Quarter of 2009, Comcast will be subject to sanctions under the terms of the franchise agreements.

On a positive note, the Comcast digital transition, which took place on March 18, went fairly smoothly. The Cable TV Office only received four complaint calls regarding the transition after March 18. The digital migration did return a number of channels to Standard Cable subscribers, including *The Hallmark Channel*, *Oxygen*, and *MSNBC*.

D. <u>Consumer Services</u>

1. During 2008, Comcast met the telephone answering performance requirements of the franchises and of FCC customer service standards for the entire year. Comcast's reporting shows the following percentage of calls answered within thirty (30) seconds for 2008: 1st Quarter – 93.7%; 2nd Quarter – 93.1%; 3rd Quarter – 91.2%; 4th Quarter – 91.8%. In 2008, the Cable TV Office received no complaints from subscribers regarding telephone response times. As noted, however, Comcast has not been in compliance since January 2009.

2. Comcast's Vancouver/Clark County office continued to handle in-house installation and repair, maintenance and field technicians and system management throughout 2008. Comcast's call center is located in Beaverton, Oregon.

3. As reported by Comcast, the average response time to a customer complaint was within 24-hours.

4. Standard customer installations in Comcast constructed areas were usually completed within five (5) business days after the request for cable service was received. The average response time for standard installation in new construction areas, when the home is not pre-wired for cable, was thirty (30) days. Response is still impressive given the growth in the community, as well as the addition of new services on the cable system such as digital cable, Internet service, HDTV, On Demand, Digital Video Recorders and digital telephony services. This response time is also within franchise requirements.

5. Comcast provides parental lock boxes upon request, as required by the Cable Act of 1984, to block out any channel. There is no additional charge for the device. Extensive parental control features are included as part of the digital cable service.

E. <u>Internet Services</u>

1. Comcast now considers its Internet subscriber information confidential and proprietary. Therefore, we have no local subscriber numbers in 2008. On December 31, 2006, there were 56,504 Internet subscribers in the Vancouver/Clark County franchise area. Nationally, as of December 31, 2008, Comcast reported in their annual report to the Security and Exchange Commission that the company served 14.9 million Internet subscribers, experiencing a 10% growth rate in 2008.

2. In late 2008, Comcast launched DOCIS 3.0, which doubled customers' Internet speeds with no additional charge. However, in 2008, the Cable TV Office did receive twelve complaints from customers regarding Internet service interruptions and slower than advertised speeds.

3. The published monthly charge for standard Comcast Internet service of 12Mbps, including a leased cable modem is $45.95 per month if the customer subscribes to cable TV and/or Comcast Digital Voice and $57.95 if the customer does not. For those customers who purchase their own cable modem, the monthly rate is $42.95 with cable TV and/or Comcast Digital Voice and $54.95 without either service.

4. In 2008, Comcast expanded its offering of "Speed Tiers" to "Blast" (16Mbps for $10 more per month than the standard rate); "Ultra" (22Mbps for $20 more per month than the standard rate); and "Extreme" (50Mbps for $97 more per month than the standard rate). Comcast also introduced an "Economy" rate at 1Mbps at $27.95 per month if the customer subscribes to cable TV and/or Comcast Digital Voice and $37.95 if the customer does not.

5. In March 2002, the Federal Communications Commission ruled that high-speed cable modem Internet connections were considered an "information service," not a "cable service." Therefore, under the FCC ruling cable operators determined that Internet service was not subject to any oversight by local franchising authorities. Comcast declined to pay franchise fees on Internet services after March 2002 as a result of the ruling. Vancouver and Clark County joined the National Association of Telecommunications Officers and Advisers ("NATOA") in appealing the FCC ruling on cable modem services, however the FCC position was sustained by the U.S. Supreme Court. Though Internet customers are not paying local franchise fees and local government has no regulatory authority over Internet services, the Cable TV Office continues to assist customers who are unable to resolve service issues with the company.

6. The Cable TV Office received 26 complaints regarding Comcast Internet service in 2008, compared to 21 complaints in 2007. Of the 26 Internet complaints received in 2008, 12 regarded service interruptions, 10 dealt with customer service issues, 2 dealt with e-mail delivery troubles, and 2 focused on rates.

E. Voice Services

1. In 2005, Comcast launched "Comcast Digital Voice," a Voice Over Internet Protocol ("VOIP") telephone service in Southwest Washington. Customers receive unlimited local and nationwide long distance voice mail and the standard calling features.

2. The published monthly charge for Comcast Digital Voice service, including a leased cable modem is $39.95 per month if the customer subscribes to cable TV and Internet, $44.95 if the customer subscribes to either cable TV or Internet service or does not subscribe to any additional Comcast services.

3. Comcast considers its Digital Voice subscriber information confidential and proprietary. Therefore, we have no local subscriber numbers in 2008. Nationally, as of December 31, 2008, Comcast served 6.47 million Digital Voice subscribers, experiencing a 45% growth rate in 2008. Comcast reported in a March 11, 2009 company press release that they are now the third largest provider in the United States for primary home phone service.

F. PEG Access Programming

Public Access

1. The Commission designated Fort Vancouver Community Television ("FVTV") as the Public Access Provider on May 7, 2008. FVTV is responsible for programming channel 11. FVTV received their federal 501 (C) 3 designation in February 2005.

The public access facilities were open 10 hours per week throughout 2008. On November 17, 2007, FVTV moved to a larger facility at 4707 N.E. Minnehaha, Suite C-309. Due to continued difficulties in raising operational funds, FVTV still has no paid staff and utilizes volunteers for day to day operations.

2. FVTV continues to schedule public access programming. Playback of public access programs is still provided by the Cable TV Office at no charge to FVTV. The designated access provider did apply for PEG grant funds for purchasing video playback equipment in 2008. However, due to concerns over lack of paid staff and limited resources, the Commission recommended declining funding the entire video playback package but did recommend funding for a live Comcast cable connection to the FVTV studio. FVTV began producing a live studio program, *Clark County Connects*, on a bi-monthly basis.

3. FVTV reported receiving between 10 – 15 hours of locally produced programming for cable channel 11 each week in 2007. Channel 11 averaged 14.51 hours of video programming per day in 2008.

Educational Access

1. TV ETC is an educational consortium with members representing all public and private educational institutions in Vancouver and Clark County. The Commission re-designated TV ETC as the Education Access Provider on May 7, 2008. TV ETC is responsible for programming channels 27, 28 and 29.

In April 2008, TV ETC submitted an annual report to the Commission. TV ETC continues to make significant advances in program development. TV ETC was recognized numerous times in 2007, including the Regional Emmy Nomination for *Services for Adults and Children with Developmental Disabilities*; Videographer Awards for *Services for Adults and Children with Developmental Disabilities, Foster Grandparents Program, Heritage Biodiesel Project* and *Yes TV;* and Telly Awards for *Heritage Biodiesel Project* and *Much Ado About Nothing*. A copy of the TV ETC Annual Report for 2007 is on file at the Cable TV Office.

TV ETC members produced 507 hours of local educational programming in 2007. TV ETC averaged 16 hours of programming per day on channel 27, 16 hours on channel 28 and 20 hours on channel 29. TV ETC reported 23,459 Internet users visited their web site in 2007.

Government Access

1. The Commission re-designated the City/County Cable Television Office as the Designated Access Provider for government on May 7, 2008. Through the government access channel, Clark/Vancouver Television (CVTV) Channel 23, the City and County continue their service of providing local government and community programming. Clark/Vancouver Television also airs programming on

Channel 21 through a grandfathered agreement with Comcast.

Clark/Vancouver Television completed an upgrade of its playback facility in April 2005, using City General Funds, to provide web-streaming of the channel and on-demand replays of hearings, meetings and events to all Internet users. The CVTV website received 152,665 visits and 531,269 page views in 2008.

CVTV produced 606 programs in 2008, offering viewers over 780 hours of locally produced programming. 55% of the programming was first aired live. CVTV averaged 23.3 hours per day of locally produced programming on channels 21 and 23.

PEG Capital Support

1. A total of $7,671,349 in PEG Capital Support payments collected by Comcast and paid to the City and County has been placed in the PEG Capital Support Fund from May 1998 through the 4th quarter of 2008. From May 1998, PEG funds awarded total $8,313,646: $2,400,886 for Government Access (CVTV) and $3,163,737 for Educational Access (TV ETC), $852,321 for Public Access (FVTV), and $1,896,702 for public Institutional Network ("I-NET") users. The above figures do not include interest accrued or adjustments for grant dollars unspent.

PEG Capital Support provided funding for fourteen projects in 2008, including improvements to video services facilities for the Evergreen, Vancouver and Battle Ground School Districts; upgrades of video playback equipment for TV ETC and the CVTV; a CVTV video production booth to be housed in the yet-to-be-constructed new downtown branch of the Fort Vancouver Library District; and video production equipment for FVTV.

The access providers have exceeded the franchise requirement for a dollar match between operating revenue and capital support from the PEG Fund. In 2008 alone, access providers cumulatively budgeted a total of $1,465,956 in operating funds ($830,000 – TV ETC; $613,756 – CVTV; $22,200 – FVTV)

G. Technical Performance

1. Comcast reports meeting or exceeding FCC standards for continuity of service, signal quality, Cumulative Leakage Index (CLI), and related standards. Semi-annual Proof-of-Performance tests were performed in January and July of 2008 in accordance with franchise and FCC guidelines.

2. In 2008, there was an average of 68.8 outages per month, compared to 33.1 outages per month reported in 2007. The average duration of the outage was 1.08 hours. Outages are tracked by repair and maintenance technicians and logged in a technical performance log for each occurrence. The large increase in outages was mainly due to the launch of DOCSIS 3.0 and the digital transition, These planned outages mainly took place in the 3rd and 4th Quarters of 2008.

H. Institutional Network

1. In July 2001, AT&T signed contracts with the City of Vancouver, Clark County, the Evergreen School District and the Fort Vancouver Regional Library District for the development of an optical fiber based Institutional Network ("I-NET").

2. The Commission, in Resolution 2001-03 Regarding Recommendation for PEG Fund Budget for 2001, recommended to the elected officials that $200,000 be reserved annually from the PEG Fund for I-NET use for the next 6 years. The Commission's recommendations were later approved by the City and County.

3. Construction of the system began in September 2001 and was completed by the end of the first quarter of 2002.

4. I-NET users have reported that the system functioned extremely well throughout 2008. The City of Vancouver currently connects seven (7) different sites to the I-NET for data transfer, including City Hall, Vancouver Police Department's Central and East Precincts and Vancouver Fire Department's Station 81. Clark County connects ten (10) sites for data transfer, including the Clark County Health Department, the Clark County Sheriff's Office Central Precinct, and the North County Resource Center. Clark County Fire District 5 connects one (1) site the NW Regional Training Center. After conducting a formal RFP process, Evergreen School District elected to discontinue utilizing the I-NET at the start of 2008, and to subscribe to a different provider for their network services.

5. Initial contracts expired for I-NET subscribers in 2007 requiring all of the original users to renegotiate contracts with Comcast. Due to the loss of the Evergreen School District and cost increases from the companies, the I-NET users requested additional PEG funding to cover operational costs. The PEG Committee recommended to the Commission a yearly increase of $27,439 for I-NET users from the PEG Fund. The Commission's recommendations were later approved by the City and County. A total of $227,439 in PEG Grant Funds was distributed in 2008 to I-NET users ($92,400 – Clark County, $64,680 – City of Vancouver, $61,119 – Fort Vancouver Regional Library District, and $9,240 – NW Regional Training Center.)

I. Emergency Alert System

1. As required by the Federal Communications Commission, Comcast operates and regularly tests an Emergency Alert System ("EAS"). In the event of an alert a crawl message is inserted over all channels indicating that an emergency exists and viewers should switch to Channel 24, C-SPAN, for more information.

2. Comcast monitors two Portland/Vancouver EAS sources for alert information, KXL 750AM radio and KGON 92.3 FM radio.

3. On June 8, 2008, an Emergency Alert was sent over the cable system regarding a thunderstorm in the area. The graphic portion of the message was received by viewers but the main portion of the alert, the audio message, was not heard by viewers. The Cable TV Office and the Clark Regional Emergency Services Agency ("CRESA") received multiple complaints from cable customers. Comcast reported that faulty equipment was to blame and that the equipment was replaced.

On July 8, 2008, staff monitored a test alert over the cable system. The same issue arose. The audio portion of the message was not heard by viewers. Comcast blamed faulty wiring and corrected the issue.

Following this issue, the Cable TV Office began monitoring the EAS tests on a quarterly basis. There were no further issues with EAS alerts for the remainder of 2008.

J. Community Involvement

1. As noted previously, the Commission acknowledges with appreciation Comcast's local sponsorships, participation, and charitable contributions in the Vancouver/Clark County community. These include: Fourth of July Fireworks for the Vancouver National Historic Reserve Trust, Taste of Vancouver, Wine and Jazz Festival, and many others.

K. Overall Performance

1. The Commission is pleased to report that Comcast was in compliance with all provisions of the franchise agreements through December 2008.

2. The reliability and customer service for Comcast's cable and high-speed Internet were consistently strong throughout 2008.

3. The cable provider continues to keep the system robust with expanded services for Vancouver and Clark County subscribers, including doubling Internet speeds through the deployment of DOCIS 3.0 and the addition of fourteen (14) High-Definition channels.

4. As detailed in this report, the expansion of Comcast's popular services has impacted customers who subscribe to the lower tiers of services. A large portion of complaints received by the Cable Office in 2008 and the beginning of 2009 are directly related to changes in the television channel line up made by the company to reclaim bandwidth needed for higher-end services.

5. While Comcast is in compliance with the franchise requirements of the City of Vancouver and Clark County as of January 1, 2009, recent decisions by the company are of concern to the Commission. While these actions are like clouds on the horizon that may or may not develop into serious storms, they

are very troubling and may lead to far more contentious relationships between customers, the franchising authorities, and Comcast in the months ahead. These include:

a. Increasing centralization by Comcast of financial transactions in either Philadelphia or Denver. For example, effective this year franchise fee and PEG capital support payments will originate from the Philadelphia corporate headquarters rather than locally and franchise fee audits are now coordinated out of Denver regional offices rather than in the Oregon/Southwest Washington offices. While these decisions may be more cost effective for the company, especially in this time of national financial turmoil and business realignments, they are of concern because they further remove the cable operator from the Vancouver/Clark County community. The city and county, and its customers, become account numbers rather than real people and it makes community concerns that much more challenging to address. It also adds another layer of corporate bureaucracy between local franchising authorities and company management. As but one example, the City and County notified Comcast in August 2008 of their intent to conduct a franchise fee audit as allowed by the franchise agreements. After several delays, the City and County were informed that audits are now coordinated out of Denver. The communication with the corporate office is much more formal and rigid than with local Comcast staff and corporate personnel are not familiar with the Vancouver/Clark County franchise agreements. To date the audit has yet to begin because of procedural, policy and communication difficulties between Denver and city/county auditors. The Commission is confident such delays would not have occurred had the audit function remained in Portland/Beaverton.

b. Of even greater concern is Comcast's escalating rate increases. Vancouver/Clark County customers are beginning to experience "consumer whiplash" of significant proportions. There was notice of the "digital migration" referenced earlier which was implemented concurrent with the federal digital transition and related issues; just as people started understanding the changes and equipment requirements they learned that much of the "high tech" equipment they'd purchased would not work as intended with Comcast equipment; then came elimination of the Standard Service Tier or Expanded Basic; concurrent with the latter decision was the announcement of yet another rate increase. Although technically, on the Standard Service Tier which became the Digital Starter Tier the increase was around 6.5%, for a number of people with enhanced services and programming options, the increase in fact was closer to 28%. These increases would be difficult enough in the best of times, but in a period of job layoffs, furloughs, reduced incomes and other economic challenges, the size of the increases seems unreasonable at best and insensitive at worst. While the Commission understands the need to have adequate revenue to cover the cost of operations and system maintenance and upgrades, the

specific reasons for the size of the increases are not fully understood by us or subscribers. Customers see their bills increase, but do not see new programming or other options or understand the reasoning that led to the new rates.

c. As has been indicated consistently in previous reviews, the Commission is very committed to the success of the cable operator in our community. However, we are concerned that recent decisions, the timing of those decisions, and the often confusing communications surrounding those actions will make it harder for Comcast to be the success we believe it should and can be. The Vancouver/Clark County community has an even larger stake in the health of the cable operator than most communities because it has become our local/Washington State information "life line" over the past 27 years. It is essential that as Comcast continues to provide the state-of-the- art communications system the community wants, needs, and deserves that it not leave its subscribers "in the dust". The Commission and staff are committed to continuing to work with the company to insure that does not happen. We are all aware that being Number 1 in size does not automatically translate to Number 1 in service or the hearts and minds of subscribers. The Commission hopes that we can continue to be a partner with Comcast to help the company achieve Number 1 status in every way possible for our community.

VII. TELECOMMUNICATIONS COMMISSION ACTIVITIES

Fred Bateman served as Chair of the Commission through 2008. The Commission lost two members, Doug Dwyre and John Grismore, who both moved out of area. The non-voting position for small cities remains vacant.

The Commission held four (4) regular meetings in 2008; in addition, numerous subcommittee and task force meetings were held. The majority of the Commission's attention was focused on FVTV public access issues, the PEG Capital Support Fund, and the continued review of potential federal and/or state legislation regarding local cable franchising. The Commission organized into three (3) subcommittees or task forces in 2008: Executive Committee (Fred Bateman and Jane Jacobsen); Cable Service/New Technology (Jane Jacobsen and Joseph Raabe); and PEG (Fred Bateman and Robert Mealey).

Major work items and accomplishments for 2008 included:

A. Comcast's Annual Performance Review for 2007;

B. Review and re-designation of PEG Access Providers for government, public and education;

C. Coordination of the PEG Capital Support Fund program, including recommending the award of grants to TV ETC for $402,202, the City/County Cable TV Office for $330,675, FVTV for $79,226, and $227,439 for I-NET users;

D. Reviewed the development of potential federal and state legislation regarding local cable franchising;

E. Assisted citizens and cable television subscribers in resolving 156 complaints regarding cable and Internet services during 2008;

F. Reviewed budget and work plan for 2009-2010.

Major work items for 2009 include:

A. Administer the cable television franchise agreement for the City of Vancouver and Clark County and insure current grantee's (Comcast) continued compliance with franchise requirements;

B. Continue to monitor Comcast's customer telephone response;

C. Provide assistance to citizens and cable television subscribers in cable television matters by facilitating complaint resolution and enforcing franchise compliance by the cable operator in all matters pertaining to consumer issues;

D. Review rate filings and related matters as appropriate;

E. Review proposals for cable television franchise with alternative providers and make recommendations to the legislative bodies as/if they are received;

F. Refine the processes regarding PEG Access programming and channel designations, and continue to implement the PEG Capital Support Fund project and fund distribution;

G. Review and re-designation of PEG Access Providers for public, government and education;

H. Orientation for new Commission members as people are appointed by the City and County to fill current vacancies;

I. Preparations for franchise renewal proceedings in 2010 if Comcast does not request a franchise extension.

VIII. SUMMARY

Considering the events of the past years and concerns regarding previous cable provider performances, the Commission notes areas of improvement in customer service and responsiveness from Comcast to the "special and unique qualities" of Vancouver/Clark County through 2008. These include: 1) meeting the telephone response standards for the entire year; 2) launching DOCIS 3.0 which doubled Internet speeds in 2008 for no additional cost; 3) assisting the Cable TV Office in bringing back Seattle's KIRO News coverage for local cable subscribers However, the Commission is concerned the company is taking a step

back at the start of 2009. Examples include: 1) not meeting the telephone response standards for the First Quarter of 2009; 2) migrating analog channels (32-71) to digital which resulted in hundreds of calls to the Cable Office from confused subscribers; 3) continuing with yearly rate increases during a time of great economic upheaval.

Despite bumps mostly centered around programming and rising rates along the way, Vancouver and Clark County have worked diligently to nurture a vibrant partnership with past cable providers, including TCI of Southern Washington and AT&T Broadband. These strong relationships have benefited both the companies and our community. The Vancouver/Clark County cable system was the first in the greater Portland/SW Washington market to be fully upgraded to 750 MHz and the first to offer local telephone service. The upgrade not only allowed for an expansion of cable programming but also the deployment of telephony, Internet service, the establishment of an Institutional Network, HDTV, On Demand, and Digital Video Recorders. Subscribers in Vancouver/Clark County responded by aggressively purchasing these new services. It is the Commission's goal that Vancouver/Clark County continue to be on the forefront of technological advances by cultivating partnerships with Comcast Corporation.

Nationally, cable operators are facing ever growing competition and economic challenges. According to the National Cable and Telecommunications Association, in 1992 there were fewer than 70,000 direct broadcast satellite ("DBS") subscribers. Today there are 32.1 million DBS subscribers. Cable's market share has fallen to 68% of multichannel video households. In addition, Verizon began offering cable and Internet service through a direct fiber connection to area homes/businesses in the Camas/Washougal area in 2008, as well as the Beaverton/Tigard area in 2007. The Commission is pleased to report Comcast has been aggressively marketing their service and providing enhanced products, such as HDTV, On Demand and Digital Video Recorders. Providing outstanding customer service, competitive prices and locally produced programming, are essential for the continued success of cable operators. Our sense is that the cable industry, and Comcast specifically as the largest operator, are at a technological, economic, and a regulatory cross-roads as to what will be a successful business model for the next generation of video/high speed data/voice services. We hope that the Vancouver/Clark County community will be at the forefront of that evolution as a partner rather than an adversary with Comcast.

The cable/broadband system in Vancouver/Clark County not only represents a substantial economic investment, but it is also an essential component in building and nurturing the social capital of the community. It is not an essential service for our physical health, but it is a vital service in maintaining and improving the civic health of Vancouver/Clark County.

The Commission hopes most sincerely that local and regional Comcast Corporation officials remember the challenges of the past and, by working with this Commission and subscribers, continue to nurture the company's vital and productive relationship with our community.

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