

**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 2010

I. INTRODUCTION - BACKGROUND

This is the Twenty-Eighth 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 thirteenth 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 2009 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 February 2003 – Present, Comcast Corporation). The Commission's review focuses on calendar year 2009 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, ever evolving technologies, 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, including the cable operator, Public, Education, and Government (PEG) access providers, elected officials, and cable subscribers, about the needs and issues of interest to the community. This report also summarizes the activities of the Commission during 2009.

As noted in this report, Comcast's performance during the past year has met all of the conditions of the City and County franchises, except for telephone response times during the first quarter of 2009. Comcast was in violation of the customer telephone response standards from January 1 through March 31, 2009. The company quickly responded to the issue and met the telephone response standards in the second quarter, April 2 through

June 30, 2010, and continues to do so. The number of customer complaints regarding Comcast's service, including but not limited to the company's high-speed Internet service, declined by 25% in 2009 from 2008. This follows a 40% increase in customer complaints during 2008. The 2009 complaints regarded a number of issues, including rates, customer service, channel line-up changes, and technical services. Review of the cable operator's overall performance as well as a status report regarding Commission activities are contained in this review.

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");
- 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 March 3, 2010.

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 part of the framework for evaluation of Comcast's performance:

- A. System upgrade to at least 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 connections 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 2009 PERFORMANCE REVIEW

The Year Twenty-Eight Report chronicles the seventh 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. Comcast is also exploring the market and interest in 3-D technology for home computers and televisions and provided an impressive demonstration during the Masters Golf Tournament this year. The Masters was the first national sporting event telecast in "Next Generation 3D". While 3D technology and equipment are expensive and available on a limited basis, it is clearly an avenue that will be expanded in the future.
- E. Extensive involvement in the Vancouver/Clark County community including continued sponsorship through 2009 of the Fort Vancouver National Trust, Vancouver Wine and Jazz Festival, Share Vancouver, Clark County Loaves and Fishes, annual Comcast Cares Day projects and other community functions.

During the past twelve months, there have been some major changes in local and regional leadership at Comcast. Early in 2009 Curt Henninger, Senior Vice President/General Manager, Beaverton, Oregon, was elevated the Regional Senior Vice President of the San Francisco Bay area and Central California. The new Senior Vice President/General Manager of the Oregon/SW Washington is Hank Fore, who had been Area Vice President from California's East Bay Area. Deborah M. Luppold who served as Vice President, Government Affairs, West Division, overseeing Washington, Oregon, Idaho, Colorado, California and Utah, passed away in September 2009. Ms. Luppold's untimely death was not only a loss for Comcast, but for the Vancouver/Clark County community. Ms. Luppold oversaw the negotiations for TCI Communications during the cable franchise renewal in 1996-97 for Vancouver/Clark County. Debbie was always a firm and forceful negotiator for TCI in representing the company's interests but was also creative and supportive partner with Vancouver/Clark County in addressing issues unique to our community, especially for public, education, and government (PEG) channels. At this point, her replacement has not been named. 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 serves 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 approximately 1,700 company employees in the Vancouver/Portland area.

Commission activities during 2009 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 2009, the total number of actual complaint calls to the Cable TV Office *decreased* to one-hundred seventeen (117) (26 total “other calls/correspondence”) compared to one-hundred fifty-six (156) (11 total “other calls/correspondence”) in 2008. When compared to a total of 85,256 subscribers Comcast reported in December 31, 2009, the 117 complaint calls represented 0.14% of total Comcast subscribers.

While subscriber growth has slowed along with growth in the community, the Monthly Comcast Subscriber Report details the gain of 299 subscribers or a 0.35% increase during 2009, from 84,957 as of December 31, 2008, to 85,256 as of December 31, 2009. The 299 increase in subscribers compares to increases of 1,686 subscribers in 2008 and 2,147 subscribers in 2007.

The Commission conducted a public review session regarding Comcast’s performance at the March 3, 2010, 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, one telephone call, and seven e-mails were received as part of the public testimony. The Cable TV Office and/or Comcast followed up directly with customers regarding their specific issues in the days after the meeting.

Specific testimony and comments were received regarding the following subjects:

- Request to add C-SPAN 3 (it is in fact available on channel 106);
- Request to add Washington-based broadcast news (KIRO from Seattle is carried on CVTV 21);
- Loud audio on commercials (not within control of cable operator);
- Rebates for significant service interruptions (Comcast does extend on request);
- Norton Virus Protection provided at no charge by Comcast;
- Price of cable services, despite excellent quality;
- Request for internet service near Washougal;
- Request for a la carte programming (only pay for channels you watch);
- Damage claim during installation;
- Network management of internet service;
- FIOS service provided by Verizon in east county;

- Comcast purchase of NBC;
- Request for a “family friendly” channel on basic line up.

Written testimony and phone calls to the Cable TV Office were also accepted through April 3, 2010. Three e-mails were received. Subjects addressed included rates (too high), number of commercials (too many), and customer service (good).

A Comcast follow up report, dated April 2, 2010, regarding the customer complaints and comments received during the development of this annual review is attached. (Exhibit A)

VI. COMCAST YEAR TWELVE PERFORMANCE REVIEW – SUMMARY ANALYSIS

A. Construction

System mileage as of December 2009 was 763.99 miles of subscriber, cable plant in the city of Vancouver service area and 1,196.59 in the Clark County service area. In Vancouver a total of 78,746 homes are now passed by the cable system and 65,509 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.

System design and reliability are in compliance with franchise requirements.

B. Rates

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 \$61.35 (including franchise fee, digital converter box and remote.) The Limited Basic Service monthly rate was \$13.31 (including 5.79% franchise fee). In July 2009 Comcast introduced a “Digital Economy” tier, which includes Limited Basic Service in addition to 19 selected Digital Starter channels for \$42.26 (including franchise fee) or \$31.68 if a customer subscribes to another Comcast service.

In October 2009, Comcast announced a monthly rate increase of \$1.96 for the Digital Starter Package, bringing the total monthly costs to \$63.42 (including franchise fee), effective January 1, 2010. The Limited Basic Service monthly rate was increased by \$1.19, bringing the total monthly costs to \$14.57 (including franchise fee). The Digital Economy tier rate was unchanged.

Nationally, the research firm Centris reported that the average digital customer in the United States pays \$75 a month (an increase from \$71 in 2008). Many subscribers pay

more than \$100 a month for enhanced digital services from “The Daily Show” to “Jersey Shore”! Centris reported satellite TV bills averaged \$99 - \$110 per month in 2009, depending upon services offered. (Note average prices for cable and satellite TV do not reflect special promotional offers.) An analysis by CNN.Money.Com in January of this year noted that consumers can continue to expect to pay at least 5% more annually for cable TV in the foreseeable future. The increases are due in part to operators’ programming costs, including broadcast channels, and system technical upgrades to accommodate enhance picture quality. In addition, CNN Money.com observes that cable operators continue to lose subscribers to web-based TV as well as satellite and other providers and they must make up lost revenue by generating more revenue from existing customers through offering enhances services as well as the complex balancing of rate increases.

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 2009.

A table of Comcast rates and other charges as of **January 2010** is attached to this report. (Exhibit B)

C. Programming

1. During 2009, Comcast added six (6) standard definition digital channels, thirty-two (32) High-Definition channels, twenty-three (23) Spanish-language channels and four (4) International channels. As of December 31, 2009, approximately 71% of local Comcast subscribers received digital cable - which is consistent with the national average. Comcast made the following changes to the channel lineup in 2009:

- a. **Added** six (6) channels to the standard-definition digital lineup, *ESPNU*, *This TV*, *NFL Red Zone*, *Halogen TV*, *Nick Too*, and *Retirement Living*.
- b. **Added** thirty-two (32) High Definition channels, *Biography HD*, *MLB Network HD*, *QVC HD*, *CNBC HD*, *E! HD*, *Cartoon Network HD*, *G4 HD*, *Lifetime HD*, *Lifetime Movie Network HD*, *Nickelodeon HD*, *Spike HD*, *The Weather Channel HD*, *Travel Channel HD*, *WE HD*, *WGN HD*, *Bravo HD*, *Encore HD*, *ESPNNews HD*, *Fox Business Channel HD*, *Fuse HD*, *Hallmark Movie Channel HD*, *IFC HD*, *MGM HD*, *Style HD*, *Toon Disney HD*, *TVOne HD*, *Green Planet HD*, *KPXG HD*, *NBA TV HD*, *NHL Network HD*, *NBA League Pass HD PPV* and *NHL/MLB Sports HD PPV*.
- c. **Deleted** one (1) digital channel, *NBC WeatherPlus*, Channel 308. The channel was discontinued.
- d. **Relocated** ten (10) HD channels, *NFL Network HD*, *Starz HD*, *CNN HD*, *HBO HD*, *Universal HD*, *Cinemax HD*, *Palladia HD*, *Showtime HD*, *TMCH HD*, *TMC Xtra HD*, seven (7) Pay-Per-View channels and forty-six (46) music channels.

The channel lineup effective January 2010, 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 Cable Policy Act of 1984 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, *CNWI4*, 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* as well as the Memorial Service for the Lakewood Police officers who were killed in December 2009.

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 the state of Washington.

4. There has been limited Vancouver or Clark County programming produced or aired by Comcast in 2009. *Comcast SportsNet* Channel 37 programming consists of acquired programming from multiple sources in the local area. 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)*.

The Commission would like to explore options so that when local high schools are playing in state championships games as happened in 2009 and 2010 that those games rather than the Oregon high school state championship games could be aired on Fox Sports Northwest or another channel.

5. In January 2009, Comcast announced plans to convert the Expanded Basic channel tier (Channels 32-71) to a digital platform in the SW Washington/Oregon Market. Subscribers in Clark and Cowlitz counties were migrated to digital programming on March 18, 2009. Cable customers who received expanded cable and had TV's not connected to a digital cable box needed to acquire 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.

When the Comcast transition was announced in January 2009 the Cable TV Office 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, more than 500 inquired about the digital transition. The calls to the Beaverton Call Center rose dramatically, lowering the number of calls answered within 30 seconds for the First Quarter 2009 to 78.8%. Comcast is required by the franchise agreements to answer calls within thirty (30) seconds, ninety (90) percent of the time on a quarterly basis. The company quickly responded to the issue and met the telephone response standards in the Second Quarter, reaching 92.1%.

On a positive note, the actual Comcast digital transition went fairly smoothly technically and from a customer service perspective. The Cable TV Office only received four complaint calls regarding the transition after March 18, 2009 switch. The majority of complaints came from cable subscribers with HD televisions. Once these customers connected their HD televisions through the digital adapter, they lost access to a number of HD channels. The customers were actually picking up HD channels they were not paying for. Comcast modified the encryption of HD programming in conjunction with the digital transition. The digital migration did return a number of channels to Standard Cable subscribers, including *The Hallmark Channel*, *Oxygen*, and *MSNBC*.

D. Consumer Services

1. During 2009, Comcast met the telephone answering performance requirements of the franchises and of FCC customer service standards for three out of the four quarters of the year. Comcast's reporting shows the following percentage of calls answered within thirty (30) seconds for 2009: 1st Quarter – 78.8%; 2nd Quarter – 92.1%; 3rd Quarter – 90.6%; 4th Quarter – 92.9%. In 2009, the Cable TV Office received six complaints from subscribers regarding telephone response times.
2. Comcast's Vancouver/Clark County office continued to handle in-home installation and repair, maintenance and field technicians and system management throughout 2009. 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. The response time is also within franchise requirements.
5. Comcast provides parental lock boxes upon request, as required by the Cable Policy 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. Internet Services

1. Comcast now considers its Internet subscriber information confidential and proprietary. Therefore, we have no local subscriber numbers for 2009. On December 31, 2006, there were 56,504 Internet subscribers in the Vancouver/Clark County franchise area. Nationally, as of December 31, 2009, Comcast reported in their annual report to the Security and Exchange Commission that the company served 15.9 million Internet subscribers, experiencing a 6.7% growth rate in 2009.
2. In mid-2009, Comcast launched, "High-Speed2go," which allows customers to access the Internet from anywhere without needing to be connected to a home cable modem.
3. In January 2010, Comcast increased the monthly rental rate for high-speed cable Internet modems from \$3 to \$5 per month. The published monthly charge for standard Comcast Internet service of 12Mbps, including a leased cable modem is \$47.95 per month if the customer subscribes to cable TV and/or Comcast Digital

Voice and \$59.95 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 \$57 more per month than the standard rate). Comcast also introduced an “Economy” rate at 1Mbps at \$29.95 per month if the customer subscribes to cable TV and/or Comcast Digital Voice and \$39.95 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 7 complaints regarding Comcast Internet service in 2009, compared to 26 complaints in 2008. Of the 7 Internet complaints received in 2009, 4 regarded service interruptions, 2 dealt with customer service issues, and 1 dealt with delayed service response.

F. 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 for 2009. Nationally, as of December 31, 2009, Comcast served 7.62 million Digital Voice subscribers, experiencing a 17.8% growth rate in 2009. 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.

G. PEG Access Programming

Public Access

1. The Commission designated Fort Vancouver Community Television (“FVTV”) as the Public Access Provider on May 20, 2009. FVTV is responsible for programming channel 11. FVTV received their federal 501 (C) 3 designation in February 2005.

The public access facilities, located at 4707 N.E. Minnehaha, were open 9 hours per week throughout 2009. Due to difficulties in raising operational funds, FVTV had no paid staff in 2009 and utilized volunteers for day to day operations.

2. In December 2009, Cable TV Office staff were notified that the Clark County Board of Commissioners would be reducing the County CVTV programming budget permanently by \$50,000 effective January 1, 2010, so the county could provide \$50,000 to FVTV for operational needs. The station recently hired a part-time operations manager.
3. FVTV continues to schedule public access programming. Playback of public access programs is still provided by the Cable TV Office at no charge. FVTV reported receiving between 1,040 – 1,150 hours of locally produced programming for cable channel 11 in 2008. Channel 11 averaged 20.2 hours of video programming per day in 2009. A copy of the FVTV Annual Report for 2008 is on file at the Cable TV Office.

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 20, 2009. TV ETC is responsible for programming channels 27, 28 and 29.

In April 2009, TV ETC submitted an annual report to the Commission. TV ETC continues to produce quality programming. TV ETC was recognized nationally in 2008, including a Hermes Creative Award for Evergreen School District’s *Yes-TV* and Certificates of Excellence from the Washington School Public Relations Association for Vancouver School District’s *VSD in Focus* and *Design II Strategic Planning*. A copy of the TV ETC Annual Report for 2008 is on file at the Cable TV Office.

TV ETC members produced 448 hours of local educational programming in 2008. TV ETC averaged 12 hours of programming per day on channel 27, 16 hours on channel 28 and 20 hours on channel 29. TV ETC reported 25,964 Internet users visited their web site in 2008.

Government Access

1. The Commission re-designated the City/County Cable Television Office as the Designated Access Provider for government on May 20, 2010. 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 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 193,269 visits and 541,494 page views in 2009.

CVTV produced 583 programs in 2009, offering viewers over 772 hours of locally produced programming. 49% of the programming was first aired live. CVTV averaged 23.3 hours per day of locally produced programming on channels 21 and 23. A copy of the CVTV Annual Report for 2008 is on file at the Cable TV Office.

2. Due to budget reductions from both the City of Vancouver and Clark County, CVTV services were impacted in 2009. One of two Video Playback Operator positions was eliminated in mid-2009. CVTV began charging for the public for video duplications in April 2009. The station also eliminated “free” coverage of a wide variety of community events in 2010 unless outside agencies paid for production services. A number of agencies have been able to provide funding for continued CVTV coverage but many were unable to raise the necessary funding. Examples of the loss programming include the Clark College Jazz Festival, the Vancouver Symphony Orchestra, and the Bravo! Vancouver concert series. CVTV will continue to work with these agencies to restore coverage of their events in 2011.
3. In 2009, CVTV collected \$28,045 from outside agencies for video production services. These agencies include the Port of Vancouver, Clark College, WSU Vancouver, and the Vancouver Housing Authority.

PEG Capital Support

1. A total of \$8,938,811 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 2009. The PEG payments do not include interest accrued or adjustments for grant dollars unspent. From May 1998, PEG funds awarded total \$9,962,461: \$3,050,076 for Government Access (CVTV) and \$3,496,791 for Educational Access (TV ETC), \$1,064,014 for Public Access (FVTV), and \$2,351,580 for public Institutional Network (“I-NET”) users.

PEG Capital Support provided funding for thirteen projects in 2009, including improvements to video services facilities for the Evergreen, Vancouver and Battle

Ground School Districts; an upgrade/replacement for CVTV recording equipment; 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 2009 alone, access providers cumulatively budgeted a total of \$1,176,113 in operating funds (\$530,000 – TV ETC; \$622,713 – CVTV; \$23,400 – FVTV).

2. In February 2010, designated access providers were notified that the annual PEG grant cycle was suspended in 2010 for a number of reasons: less than \$300,000 was available for grants in 2010 due to funding commitments made in previous cycles; uncertainty of PEG funding in future franchise agreement; and impacts of the economic downturn. However, in response to concerns voiced by TV ETC, the Commission invited grant applications from designated access providers to request funds for critical equipment needs. The deadline for applications is June 11. The Commission anticipates resuming the regular PEG grant cycle in 2011.

H. 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 2009 in accordance with franchise and FCC guidelines.
2. In 2009, there was an average of 51.1 outages per month, compared to 68.8 outages per month reported in 2008. The average duration of the outage was 0.96 hours. Outages are tracked by repair and maintenance technicians and logged in a technical performance log for each occurrence.

I. 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 2009. 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 by Comcast, 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 2009 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.)

J. 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.

K. 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: Comcast Cares Day, Vancouver National Historic Reserve, Share Vancouver, Vancouver Wine and Jazz Festival, Clark County Loaves and Fishes, and many others.

L. Overall Performance

1. The Commission is pleased to report that Comcast was in compliance with nearly all provisions of the franchise agreements through December 2009. Comcast did miss the 90% telephone answering performance requirements of the franchises and of the FCC during the first quarter of 2009, reaching 78.8%. The company quickly corrected the issue to come back in compliance by the second quarter of 2009.
2. The reliability and customer service for Comcast's cable and high-speed Internet were consistently strong throughout 2009.

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 thirty-two (32) High-Definition channels.
4. 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 2009 were directly related to changes in the television channel line up made by the company to reclaim bandwidth needed for enhanced services.

VII. TELECOMMUNICATIONS COMMISSION ACTIVITIES

Fred Bateman served as Chair of the Commission through 2009. The non-voting position for small cities remains vacant.

The Commission held four (4) regular meetings in 2009; in addition, numerous subcommittee and task force meetings were held. The majority of the Commission's attention was focused on FVTV public access issues and the PEG Capital Support Fund. The Commission organized into three (3) subcommittees or task forces in 2009: 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 2009 included:

- A. Comcast's Annual Performance Review for 2008;
- 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 \$268,117, the City/County Cable TV Office for \$170,190, FVTV for \$211,693, 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 117 complaints regarding cable and Internet services during 2009;
- F. Reviewed work plan for 2010.

Major work items for 2010 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 oversee the PEG Capital Support Fund;
- 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. Begin preparation for franchise renewal proceedings with Comcast in 2012.
- J. Develop work plan and review budget recommendations with the Commission for 2011-2012 budget cycle for the City of Vancouver and Clark County.

VIII. SUMMARY

In the Conclusion and Summary section of the Year 27 Annual Report on Comcast's performance the Commission noted concerns about missteps in direction by the Company at the start of 2009, including not meeting telephone response standards in the first quarter, communications with subscribers, and increasing rates. The Commission is pleased to note, however, that 2009 ended on a positive note and 2010 is off to a strong start for Comcast nationally as well as locally. We are quite pleased to note that the Oregon/Southwest Washington service area has received high marks from Comcast Corporate in Philadelphia for its customer service ratings and customers in Vancouver have taken the time to express their appreciation for excellent customer service directly to Executives at Comcast headquarters. These are achievements that should be recognized and appreciated for all area subscribers benefit from the quality service provided by Comcast.

It has been a smooth 12 months with few issues or concerns between the Commission and the Cable Operator. Comcast is in compliance with all franchise requirements and local staff continues to be responsive to concerns as they arise.

The Commission does want to note again the deep loss it feels by the death of Deborah Luppold as noted earlier and the uncertain future her absence presents in terms of the approaching re-franchising process. The current franchise will expire in December 2012 and the City, the County and Comcast are within the 3-year “window” under federal law when franchise renewal proceedings normally begin.

The uncertainty of who will be leading the renewal negotiations for Comcast with the City and the County is further compounded by the evolving technical and regulatory landscape. Ever changing and expanding technological initiatives mean that the delivery of voice, video, and data services will continue to evolve and the way that customers receive these services promises to be very different even five years from now, even though we don’t know what that future will hold. There are a number of regulatory and legal proceedings in Congress, the federal courts, and before the Federal Communications Commission that could dramatically impact the franchising process in the coming three to five years. These include, but are not limited to, changes in the federal Cable Policy Acts of 1984 and 1996, court decisions regarding requirements of cable systems in a number of arenas and how services are defined, and what evolves out of the federal proceedings regarding the National Broadband Plan.

Until there are more definite answers or specific changes, the City and the County will continue to proceed within the legal framework provided by the current Federal laws and FCC rulings and procedures.

The only certainty is change and the Commission, the City, the County, Comcast, and the community must continue to work together in partnership to insure that whatever new technologies are made available and implemented in Vancouver/Clark County meet the information needs and requirements of Vancouver and Clark County residents. Community partners, including the educational and public access providers must be prepared for a different regulatory and service delivery models as the community prepares for a new franchise agreement with Comcast and to be open to the possibilities those changes may bring. Despite all the unknown changes, however, localism and responsiveness to the local community are at the heart of cable television and are its strength in meeting the “special and unique needs” of Vancouver/Clark County. We think this community, the Commission, the legislative bodies, and Comcast are prepared to embrace the future and ensure that Vancouver/Clark County continue to receive state of the art telecommunications services delivered by the cable television system.

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