

## City/County Telecommunications Commission

### RESOLUTION 2024 – 01

#### **Regarding Findings and Recommendations to the Vancouver City Council and the Clark County Council Regarding Approval of a Renewed Franchise Agreement with Comcast Cable Communications Management, LLC**

##### **Section 1. Findings**

- 1.1 The City of Vancouver (“City”), Washington and Clark County (“County”), Washington granted separate, but parallel, non-exclusive ten-year franchises for cable television services to Comcast of Washington V, LLC, for the period July 1, 2013, through July 1, 2023.
- 1.2 In order to provide additional time to complete the renewal process in an orderly manner, a twelve-month extension of the current cable franchise was granted to Comcast of Washington V, LLC, not to exceed June 30, 2024.
- 1.3 The Commission is established by Vancouver Municipal Code (“VMC”) Chapter 5.19 and Clark County Code (“CCC”) Chapter 36 to, among other duties, review and make recommendations on all applications for franchises (including renewed franchises) to provide cable television service within the City or the unincorporated County, and in such connection to hold public hearings thereon and to make written reports and recommendations to the Vancouver City Council (“City Council”) and the Clark County Council (“County Council”).
- 1.4 Section 626 of the Federal Cable Act of 1984 (“Act”) as amended in 1992 and 1996 (47 USC 546) identifies specific procedures to be followed by local franchising authorities (in this case the City and County) in order to renew a cable franchise.
- 1.5 Factors the franchise authorities may consider in renewing a franchise with an existing cable operator (in this case, Comcast Cable Communications Management, LLC) pursuant to Section 626 of the Act are limited to the following areas:
  - 1.5.1 Whether the current cable operator has substantially complied with material terms of the existing franchise and with applicable law;
  - 1.5.2 The quality of the operator’s service including signal quality, response to consumer complaints and billing practices, and whether the services provided have been reasonable in light of community needs;
  - 1.5.3 Whether the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment proposed in a new agreement; and

- 1.5.4 Whether the proposed agreement is reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.
- 1.6 In 2020 – 2024, continuing through this date, the Commission initiated an informal process (under the definition of the Act) that provided for public education as well as ascertainment of the community’s needs and interests in preparing for franchise renewal discussions with Comcast.
- 1.7 The public education and community ascertainment process included workshop sessions of the Commission as well as more conventional ascertainment surveys, focus groups and public hearings. The majority of public sessions were televised on CVTV Channel 23, the government access channel. Details of the Commission’s public education and ascertainment efforts are outlined in Exhibit 1.
- 1.8 To assist with the community ascertainment process in determining the future cable-related needs and interests of the community, the Commission retained the services of CBG Communications, Inc. (“CBG”). This report is available as appendices to this Resolution and their findings and recommendations are hereby incorporated as part of the Commission’s Findings and Recommendations.
- 1.9 Based upon the expressed needs and interests of the community as determined through the ascertainment process outlines above, the Commission identified the following priorities which must be met or exceeded in a renewed franchise agreement with Comcast:
  - 1.9.1 Expand customer service provisions;
  - 1.9.2 Improve density buildout requirements;
  - 1.9.3 Increase number of High-Definition (“HD”) simulcast channels for Public, Education and Governmental (“PEG”) programming;
  - 1.9.4 Retain or expand the current level of Washington State programming;
  - 1.9.5 Assure adequate funding for PEG capital needs;
  - 1.9.6 Update, modify and clarify certain language in the agreement.
- 1.10 Franchise renewal negotiations proceeded between Comcast and representatives of the City and County. The City/County negotiation team was composed of Jim Demmon, Cable Television Manager of the City/County Cable Television Office; Taylor Hallvik, Assistant City Attorney; and Stephen Archer, Deputy County Prosecutor. Additional support was provided to the negotiation team by Tracie Ramirez, Support Specialist III from the City/County Cable Television Office and Cary Driskell, Assistant City Attorney. Samantha Ridderbusch, Director of

Government and Regulatory Affairs, for the Pacific Northwest Region and Tim Goodman, Senior Director of Government and Regulatory Affairs, for the Pacific Northwest Region represented Comcast.

1.11 Between October 18, 2023, and November 20, 2023, the City/County negotiation team briefed the Commission, City Council and County Council separately on the progress of negotiations. In addition, separate briefings were provided to representatives of TV ETC, the educational access provider, and public users of Comcast Business Services. The City/County negotiation team received direction and feedback during these sessions.

1.12 Based upon review and deliberations of the community ascertainment process, public testimony, and review of the written and oral record of all proceedings, the Commission evaluates the proposed franchise agreement draft, Exhibit 2, and side letter agreement, Exhibit 3, with Comcast as follows:

1.12.1 Past Performance

Based upon the Commission’s most recent review of Comcast performance as documented in the June 7, 2023 “Progress Report on the Comcast Corporation Vancouver/Clark County Franchise Agreement,” Comcast was, and remains, in compliance with all requirements of the current franchise agreement.

1.12.2 Quality of Service

Records on file with the Commission indicate that fewer than 1% of total subscribers have registered complaints about Comcast service, billing and related customer service issues since Comcast received a renewed cable television franchise in July 2013.

1.12.3 Financial, Technical and Legal Ability

Comcast has the legal ability to operate the cable system in Vancouver/Clark County. The performance guarantees outlined in the proposed renewed agreement demonstrate that Comcast has the financial, technical and legal ability to continue to operate a cable system in Vancouver/Clark County.

1.12.4 Meeting Future Cable-Related Community Needs and Interests

Based upon the community ascertainment process, testimony received during Commission proceedings, and a total review of the record, the Commission finds that the proposed new franchise agreement would meet the Future Cable-Related Needs and Interests of the Community as follows:

- i) Comcast’s commitment to simultaneously carry five (5) of the existing PEG access channels in High-Definition (“HD”) by November 2024;
- ii) Expansion of customer service provisions within the cable television franchise;
- iii) Preserve PEG channel access to the lowest tier available to subscribers;
- iv) Washington State and local programming identified as broad programming categories to be provided by the operator;
- v) Maintenance and potential increase to capital funding support for education, and government access programming.

1.13 Based upon the foregoing findings, the Commission concludes that the proposed renewed franchise agreement with Comcast Cable Communications Management, LLC as detailed in the cable franchise draft and side letter agreement, would meet or exceed the criteria established by federal law and would meet or exceed the Commission’s identified priorities for a renewed franchise agreement with Comcast.

**NOW, THEREFORE BE IT RESOLVED:**

**Section 2.**

- 2.1 The City/County Telecommunications Commission adopts the findings and recommendations as presented in Section 1 above, including all attachments, and incorporations by reference regarding a proposed renewed franchise agreement with Comcast Cable Communications Management, LLC.
- 2.2 The Commission unanimously recommends that after all appropriate and required public hearings that the Vancouver City Council and the Clark County Council respectively award Comcast Cable Communications Management, LLC a renewed franchise effective July 1, 2024, through June 30, 2034, by ordinance to be based upon the proposed franchise agreement and these findings.
- 2.3 The Commission is confident of its recommendation; however it realizes that the final decision will be made by the legislative bodies after hearings and realizes that this Resolution will only be one factor in the final decisions of the Councils and that they are not bound by the findings and/or conclusions herein, which are advisory only.
- 2.4 The Commission expresses its sincere appreciation to Comcast for listening to and hearing the concerns of the residents of Vancouver/Clark County in preparing to agree to a renewed franchise agreement that will meet the needs and interests of the community.

- 2.5 The Commission directs staff to immediately forward a copy of this Resolution 2024 – 01 and its attachments to the Vancouver City Council and Clark County Council.

**Approved (Date):** \_\_\_\_\_, 2024

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**Chair, Paul Dicker, City/County Telecommunications Commission**

**Exhibits:**

**Exhibit 1** – City of Vancouver/Clark County Cable Television Franchise Renewal Process – Community Ascertainment Public Process, submitted April 3, 2024

**Exhibit 2** – Draft of Cable Television Franchise Agreement with Comcast Cable Communications Management, LLC, dated April 3, 2024

**Exhibit 3** – Draft of Letter Agreement between Clark County and Comcast