


City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 9, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: RESOLUTION PROVIDING FOR A SIX-MONTH EXTENSION OF THE CITY'S CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF VIRGINIA, INC. FROM APRIL 1, 2011 TO SEPTEMBER 30, 2011

ISSUE: Request to extend the expiration dates, based on the same terms and conditions, of the City's cable television franchise agreement with Comcast for six additional months so staff can complete the negotiations and franchise renewal.

RECOMMENDATION: That City Council:

- (1) approve the request and adopt the attached resolution (Attachment 1) which extends the expiration date of the cable television franchise agreement with Comcast of Virginia, Inc. from March 31, 2011 to September 30, 2011; and
- (2) extend the waiver of the requirement for a minimum of 10 hours of local origination programming that is produced by Comcast and intended for use in the City and is of specific local interest to the residents of the City until a new franchise agreement is executed. Comcast's temporary studio is located at its headend on Wheeler Avenue, a secure building, which makes it difficult for members of the public to access the facility.

DISCUSSION: The City Council approved the terms and conditions of the cable television franchise between the City of Alexandria and Comcast of Virginia, Inc. on June 18, 1994. The 15-year franchise was scheduled to expire on June 17, 2009. To date, Council has granted three extensions of the franchise to accommodate ongoing negotiations between the City and Comcast. On June 9, 2009, Council granted an initial six-month extension, a 10-month extension on December 9, 2009, and a four-month extension in October 2010 because of the major issues in the negotiations. Since the second extension, negotiations have been fast-tracked, per Council's request, and substantive progress has been made. However, Comcast has recently reorganized the company for a second time since the negotiations began, and the level of contract approval has changed. The most recent reorganization has resulted in some delay in finalizing key provisions in the franchise agreement. A few significant issues remain to be resolved. Staff anticipates that the negotiations and renewal process will be completed before September 30, 2011.

As of December 1, Comcast's administrative staff relocated to Arlington. The Alexandria customer service center has been relocated to 370 South Pickett Street. The temporary studio for producing local origination programming has been set up at the company's headend on Wheeler Avenue. Because of the move, Comcast has requested a continuation of the waiver of the requirement for 10 hours of original programming per week that is of interest to local residents and intended for use in the City.

The franchise agreement requires that Comcast provide 30 or more hours per week of Local Origination Programming on the Alexandria Community Channel, and at least 10 of those hours must consist of programming produced locally and of interest to City residents. Until franchise negotiations are complete, a permanent studio will not be established. Locally produced shows such as A Taste of Heaven, Reggae on the Move, and Psychiatry Today may be affected because of security concerns at the headend.

The basis for denying a cable franchise renewal is set by Federal statute. Since the franchise was awarded to Comcast in 1994, there have been changes in Virginia communications law. Only the following four factors may be considered to deny a request for renewal:

1. Whether the operator has failed to substantially comply with the material terms of the existing franchise and applicable law;
2. Whether the quality of the operator's service has been reasonable in light of community needs;
3. Whether the operator has the financial, legal and technical ability to comply with the proposed terms of the franchise; and
4. Whether the proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting those needs and interests.

Comcast officials have reviewed the attached resolution and by letter (Attachment 2) consent to the extension of the franchise agreement to September 30, 2011 with the same terms and conditions, without waiving any of its rights under Federal or Virginia law. I recommend that Council approve the proposed resolution extending the expiration date of the Comcast cable television franchise to September 30, 2011 and continue the waiver of the requirement for 10 hours of original locally produced programming that is for the use of, and of interest to, City residents. Staff continues to work with Comcast to resolve complaints about Comcast service.

FISCAL IMPACT: There is no fiscal impact at this time.

ATTACHMENTS:

Attachment 1: Proposed Resolution

Attachment 2: Letter from Comcast Vice President Robert Jacobs to Rose Williams Boyd

STAFF:

Rose Williams Boyd, Special Assistant to the City Manager

Karen Snow, Assistant City Attorney

RESOLUTION NO. _____

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until September 30, 2011, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

WHEREAS, on June 18, 1994, the City of Alexandria, Virginia (the “City”), granted a cable television franchise (the “Franchise”) to Jones Intercable of Alexandria, Inc.; and

WHEREAS, in or about December 1999, Jones Intercable of Alexandria, transferred the Franchise to Comcast of Virginia, Inc., (the “Franchisee”) who currently holds the Franchise; and

WHEREAS, the Franchise expired on June 17, 2009; and

WHEREAS, on June 9, 2009, by Resolution 2346, City Council approved the joint request of the City and Comcast to extend the franchise until December 31, 2009; and

WHEREAS, on December 9, 2009, by Resolution 2374, City Council approved the joint request of the City and Comcast to extend the Franchise until October 30, 2010; and

WHEREAS, on October 26, 2010, by Resolution 2421, City Council approved the joint request of the City and Comcast to extend the Franchise until September 30, 2011; and

WHEREAS, the City and the Franchisee are continuing to be engaged in active discussions concerning the renewal of the Franchise and those discussions have not been completed; and

WHEREAS, by Resolution 2421, City Council granted Comcast a waiver of the Franchise’s requirement that Comcast provide a minimum of ten (10) hours of local origination programming that is produced by Comcast and intended for use in the City and is of specific local interest to the residents of the City; and

WHEREAS, Comcast has requested an extension of the waiver until a new franchise agreement has been executed because Comcast’s temporary studio is located at its headend on Wheeler Avenue in the City, which is a secure facility which restricts access by members of the public; and

WHEREAS, the City wishes to extend the term of the Franchise to allow time for the parties to complete negotiations; and

WHEREAS, the Franchisee has provided its consent to the proposed extension of the Franchise, in the form of the attached letter; and

WHEREAS, the City and the Franchisee both desire to reserve their respective rights under state and federal law, including, without limitation, 47 U.S.C. § 546.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until September 30, 2011; and
2. The extension of waiver of requirement of local origination programming is granted until a franchise agreement is executed; and
2. That this Resolution shall be effective immediately upon passage.

ADOPTED: _____

WILLIAM D. EUILLE, MAYOR

ATTEST:

Jacqueline M. Henderson, MMC, City Clerk



Comcast Cable
1301 McCormick Drive
Largo, MD 20774

March 8, 2011

Ms. Rose Boyd
Director of Citizen Assistance
City of Alexandria
301 King Street, Room 1900
Alexandria, VA 22314

RE: City of Alexandria, VA – Franchise Extension

Dear Ms. Boyd:

I am writing in regard to the City's proposal to extend through September 30, 2011 the franchise agreement currently held by Comcast of Virginia, Inc. that is currently scheduled to expire on March 31, 2011, in order to accommodate further renewal discussions between Comcast and the City, which are ongoing and active. Assuming that the extension resolution would be substantially in the form of the attached resolution, Comcast by this letter consents to extending the expiration date of the franchise agreement to September 30, 2011, without waiving any of its rights under federal or Virginia state law.

Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

COMCAST OF VIRGINIA, INC.

By:

A handwritten signature in black ink, appearing to read "Robert S. Jacobs", written over a horizontal line.

Robert S. Jacobs
Vice President, Franchising and Government Affairs
Beltway Region

cc: Matthew C. Ames, Esq.
Donna Rattley-Washington
Marie Schuler

RESOLUTION NO. 2442

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until September 30, 2011, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

WHEREAS, on June 18, 1994, the City of Alexandria, Virginia (the "City"), granted a cable television franchise (the "Franchise") to Jones Intercable of Alexandria, Inc.; and

WHEREAS, in or about December 1999, Jones Intercable of Alexandria, transferred the Franchise to Comcast of Virginia, Inc., (the "Franchisee") who currently holds the Franchise; and

WHEREAS, the Franchise expired on June 17, 2009; and

WHEREAS, on June 9, 2009, by Resolution 2346, City Council approved the joint request of the City and Comcast to extend the franchise until December 31, 2009; and

WHEREAS, on December 9, 2009, by Resolution 2374, City Council approved the joint request of the City and Comcast to extend the Franchise until October 30, 2010; and

WHEREAS, on October 26, 2010, by Resolution 2421, City Council approved the joint request of the City and Comcast to extend the Franchise until September 30, 2011; and

WHEREAS, the City and the Franchisee are continuing to be engaged in active discussions concerning the renewal of the Franchise and those discussions have not been completed; and

WHEREAS, by Resolution 2421, City Council granted Comcast a waiver of the Franchise's requirement that Comcast provide a minimum of ten (10) hours of local origination programming that is produced by Comcast and intended for use in the City and is of specific local interest to the residents of the City; and

WHEREAS, Comcast has requested an extension of the waiver until a new franchise agreement has been executed because Comcast's temporary studio is located at its headend on Wheeler Avenue in the City, which is a secure facility which restricts access by members of the public; and

WHEREAS, the City wishes to extend the term of the Franchise to allow time for the parties to complete negotiations; and

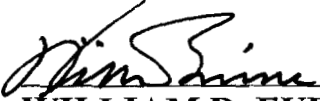
WHEREAS, the Franchisee has provided its consent to the proposed extension of the Franchise, in the form of the attached letter; and

WHEREAS, the City and the Franchisee both desire to reserve their respective rights under state and federal law, including, without limitation, 47 U.S.C. § 546.

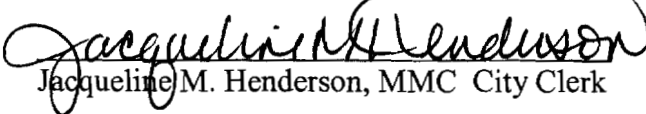
NOW, THEREFORE, BE IT RESOLVED by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until September 30, 2011; and
2. The extension of waiver of requirement of local origination programming is granted until a franchise agreement is executed; and
2. That this Resolution shall be effective immediately upon passage.

Adopted: March 22, 2011


WILLIAM D. EULLE MAYOR

ATTEST:


Jacqueline M. Henderson, MMC City Clerk

15
3-22-11

Jackie Henderson

From: Patricia Ann Hennig <p.hennig@att.net>
Sent: Tuesday, March 22, 2011 11:38 AM
To: William Eulle; Frank Fannon; Kerry Donley; Alicia Hughes; delpepper@aol.com; Del Pepper; paulcsmedberg@aol.com; Rose Boyd; Jackie Henderson; Elaine Scott; Rob Krupicka; Linda Owens; Elizabeth Jones
Subject: COA Contact Us: Comcast Franchise Renewal
Attachments: 6ddd65abb593b8aa33dfac482005fca0.doc; ATT00001..txt

COA Contact Us: Mayor, Vice Mayor, and Council Members

Time: [Tue Mar 22, 2011 11:37:50] Message ID: [28642]

Issue Type: Mayor, Vice Mayor, and Council Members
First Name: Patricia Ann
Last Name: Hennig
Street Address: 451 North Armistead Street
#4
City: Alexandria
State: VA
Zip: 22312
Phone: 7038507537
Email Address: p.hennig@att.net
Subject: Comcast Franchise Renewal
I would greatly appreciate the Members of Council reading this item before
Comments: you vote tonight. It details the lack of service, non-responsiveness and
disrepect for customers on the part of Comcast.
Attachment: 6ddd65abb593b8aa33dfac482005fca0.doc

Patricia A. Hennig
451 No. Armistead Street, # 4
Alexandria, VA 22312

March 21, 2011

To The Mayor and Members of the City Council:

It has come to my attention that you will be voting on an extension of the Comcast Franchise Agreement at the March 22, 2011 meeting of the Council. Prior to your action on this matter, I felt that I should bring a recent problem with Comcast to your attention as it bears directly on two of the four factors listed on the Franchise Renewal document.

I believe that the recent lack of service and response from Comcast for me and approximately 45 of my neighbors lends doubt on Comcast's abilities in several areas. **Factor 2** states "Whether the quality of the operator's service has been reasonable in the light of the community's needs" and **Factor 3** states "Whether the operator has the financial, legal and technical ability to comply with the proposed terms of the franchise."

Allow me to provide you with a timeline of the problems, Comcast's lack of customer service response and apparent deliberate misinformation with regard to the problem and a lack of any attempts to clear the service problem.

1. On February 15, 2011, when I returned home, I turned on my television set and attempted to get the "On Demand" channel from Comcast with no success. I called the Comcast Customer Service number to report a service problem and was told by the Comcast employee that there was an "area problem" with that channel and it was being worked on. I thanked the young man and figured service would be restored shortly. I was wrong.
2. On February 17, 2011, I again tried to tune in the "On Demand" channel with no success and called Comcast to report the continuing trouble and was again told that this was an "area problem" and was being worked on. I enquired as to when it was estimated the service would be restored, and got the answer that they (Comcast) were working on it.
3. February 20, 2011 came and went with no service on the particular channel. It was on this date that I discovered that seven (7) other tenants in our building had no "On Demand" service either, and that at least four (4) other tenants in adjoining buildings were also unable to get the channel.
4. February 22, 2011, I again called Comcast when I still had no service on the particular channel. I was again told that it was an "area problem" but that the Comcast technicians at the main office could "send a signal" to my cable box and try to get it working. I was told not to turn to the "On Demand" channel for at least 45 minutes to allow the signal to work. Guess what? Nothing again.
5. On February 24, 2011 I again called Comcast to enquire as to why this continuing outage was not yet repaired. The young lady with whom I spoke once again provided the apparent Comcast company line about the "area problem". Honestly, I was not pleasant in my response as it had now been nine (9) days without service or a reasonable explanation or attempt to fix it.
6. I also called on February 26, 2011 and told the Comcast Customer Service employee that there was still no service and the count of paying customers who were without service

was now at 24 – no response, no concern. One could only assume the term “customer service” was a standing joke at Comcast.

7. On March 1, 2011 I made another call – same results and same story: “area problem” yadda, yadda, yadda.
8. On March 2, 2011, the last straw in the lack of customer service response to customer concerns and plain common courtesy occurred. I called again and was again told about the area problem. I then said to the Customer Service representative that I thought there should be a bill adjustment for the customers as this was now almost seventeen (17) days with out service. The response was “You do not deserve any bill adjustments. “On Demand” is a free service.” I told him to look at the bills, as there was a charge for it and then hung up the phone before I further lost my temper.
9. On March 2, 2011, I called the Alexandria City Cable Office and spoke with Mr. Darryl Edwards about the problem, and the fact that it was not just me but now approximately 28 Comcast customers who had been without service for this period of time. Mr. Edwards was totally appalled at the problem and the lack of response. He assured me that he would immediately call the General Manager for Alexandria and attempt to have this situation resolved.
10. Unfortunately, Mr. Edwards got the same run-around as the Comcast customers did and no answers. In fact, he was told that there was no “area problem” showing. So, who was telling the truth here, eight Comcast customer service employees or the General Manager?
11. The next day, March 3, 2011, I received a telephone call from a Mr. Johnson, who informed me that he was in the Comcast regional office. I asked him which lie he was going to tell me – area problem, no area problem, or the customers are the problem. I also told him I had no desire to hear any more lies and that as far as I was concerned I was about to write not only the City Council, Alexandria newspapers and the FCC. I also told him that he had 24 hours to fix the problem before I started writing.
12. On March 4, 2011, there was still no service for the “On Demand” channel. I received a telephone from Mr. Rusty McGuiness, who identified himself as a Regional Manger for Comcast and told me that he had heard there “was some kind of problem” with my service. Unfortunately, Mr. McGuiness also had an extremely condescending attitude and I am afraid that I really lost my temper. I told him about the “area problem” excuse that I had been receiving for 17 days – he replied that there was no record of any problem in the area. I then asked him who in Comcast told the customer service employees to lie and say that there was an “area problem”.

I informed him that I had seen more Verizon trucks in the neighborhood than Comcast and I could not wait for FIOS to come into Alexandria and that the inefficiency and downright dishonesty on Comcast’s part had left more than 28 customers in my development, and who knew how many more in the two condos on the street without service for the “On Demand” channel for more than 17 days. At no time had Comcast offered to send service technicians, and then I told him about the customer service representative who said that no one deserved a bill adjustment. He seemed taken aback by the statement, and said he would arrange for me to have a technician at my home on Saturday and all would be totally fixed on that day.

He also told me that there would be “an internal investigation” on this matter. I replied that I would like a copy of the results. No response. We ended the call and I immediately telephoned Mr. Darryl Edwards and informed him of the conversation. Mr. Edwards said that he would e-mail Mr. McGuiness for a copy of the “internal investigation” results for the City files on this incident.

On Saturday, March 5, 2011 the Comcast technician arrived – John # 3056- and began the task of determining the nature of the problem. He checked every hookup on my set, the cable box and then went to the cables themselves. He gave me a strange look and said “Mrs. Hennig, there is no signal coming into the building at all” – I replied that I knew that and I was glad that he had just confirmed that I was not a raving lunatic on the topic of the “area problem”.

John then proceeded to go to the outside connections to our building – after some time, he came in and said that he was pretty sure he had corrected the problem “at the box” – turned on the set and there was service for the “On Demand” channel – amazing. I thanked him for his efforts and then told him about the other 3 buildings without the service and he said he would check them as soon as he was finished with my service call. Finally a Comcast employee who did his job! Of course while I was signing the service call sheet, I noticed the printing in red at the top of the page “Must be fixed today!”

Mister McGuiness called me on Monday, March 7, 2011. I was unable to return the call until Tuesday, the 8th. He enquired as to the service call and I listed all the things that John had done, the problem that he fixed, not only at my building, but at 3 others in the development. I informed him that John was knowledgeable, pleasant and efficient and was the only Comcast technician that I wanted for the foreseeable future. The reply was “I guess you think I should let his supervisor know.”– Not just the customers, but the employees get no respect.

Mister McGuiness then told me that he was authorizing a “reduced rate” on my service for a period of one year to make up for “the aggravation and stress” I has undergone. Fine, I’ll take the discount, but there should be some adjustment for all the other customers who were affected by this “area problem”.

You are reviewing the extension of the Comcast agreement, and as far as I can tell, there has been no publicity to the citizens of the City of Alexandria so that any concerns, complaints and interactions with Comcast could be brought to your attention at this time.

I am not the only citizen who has had this kind of problem with Comcast. I am, however, the one that you, Members of Council, can be sure to hear from on these issues.

Yours truly,

Patricia A. Hennig