



VIA ELECTRONIC AND U.S. MAIL

May 4, 2015

Mr. Michael Reardon
Cable Communications Officer
City of St. Paul
68 City Hall
15 Kellogg Blvd. West
St. Paul, MN 55102

Re: CenturyLink Video Franchise Application

Dear Mr. Reardon:

The City of St. Paul (“the City”) issued a Notice of Intent to Franchise (herein the “Notice”) an additional cable system operator last month. The Notice states that the City will hold a public hearing on May 6 at 5:30 p.m. regarding all applications that it receives. It is our understanding that this public hearing is to establish the record for the City’s vote regarding whether it will commence franchise negotiation discussions, and under what terms, with the applicants based on the applicant’s response to the Notice. I am writing to provide you with Comcast’s position in regard to the process going forward and limited record in front of you today.

At the outset, let me state clearly that Comcast welcomes a fair and robust competitive marketplace made up of responsible competitors, and we do not oppose the granting of an equitable cable franchise to CenturyLink. Consumers can choose from numerous video options today, including Comcast, DirectTV, DISH Network, and “over the top”-services like Netflix, Amazon, Apple TV and Hulu. This fiercely competitive landscape is challenging, but it brings out the best in each company – at least when competitors face a level playing field that treats similar providers in a similar manner.

I. Comcast’s Interest in This Proceeding.

Comcast has made substantial financial investments in its cable system over the years to serve the City with a state-of-the-art network. In order to provide cable services and locate its cable system within public rights-of-way, Comcast has operated under a cable franchise most recently renewed by the City in February of 2015. The Franchise Agreement has required much of Comcast, including notably:

- A requirement that Comcast offer cable service to customers throughout St. Paul (Comcast Franchise Section 108), specifically to every residential dwelling unit within 200 feet of Comcast’s feeder cable (Comcast Franchise Section 403.(a).1);
- A requirement to ensure that at least 17% of its Twin Cities workforce works within the

- City of St. Paul (Comcast Franchise Section 204.(c).);
- A requirement to provide half of the rent, property taxes, and operating charges for the City's designated PEG entity at 375 Jackson Street through December 31 2015 (Comcast Franchise Sections 304.(c).1-3.);
 - A discount of \$1 per month or 10% per month, whichever is greater, on Basic service for Senior citizens, Persons with disabilities, or the Economically disadvantaged (Comcast Franchise Section 111.(g).);
 - A customer service center located in the City of St. Paul (Comcast Franchise Section 208.(b)(1)); and
 - Courtesy cable services to approximately 200 schools, municipal buildings and government offices in St. Paul (Comcast Franchise Section 305).

CenturyLink's franchise application either rejects or is silent regarding whether and to what extent it will agree to many of the franchise obligations that have been required of Comcast.

II. Level Playing Field Requirements and the FCC's 621 Order.

Minnesota's extensive cable franchising statutory scheme is clear that: "No municipality shall grant an additional franchise for cable service for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees." Minn. Stat. § 238.08, subd. 1(b).

Since "applicant is still finalizing its initial footprint for the deployment of cable services within the St. Paul service area," the applicant did not provide any information regarding the area it is proposing to serve. Comcast, therefore cannot comment on if CenturyLink's franchise proposal is "more favorable or less burdensome" than Comcast's franchise obligations. It is concerning, however, that it does not appear that CenturyLink's buildout commitment will be consistent with the Minnesota Cable Act. Even more concerning is that CenturyLink hasn't accepted even the minimal obligations that it has made in its own applications. For example, in the application submitted to the City of Minneapolis, CenturyLink proposed an initial 30% buildout; in the actual franchise, however, CenturyLink committed to building only 15% of the City.

We want to be very clear that the FCC's 621 Orders that CenturyLink relies upon in its response does not preempt Minnesota's Cable Act. As recently as January 2015 the FCC explained again:

We clarify that those rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level.¹

¹ *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Order on Reconsideration, at para.7 (rel. Jan 21, 2015).

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It is inaccurate to say that the City must choose between following state law and policy or following federal law and policy – the two coexist. The FCC expressly allows build out requirements in franchise agreements so long as they are “reasonable.” What constitutes “reasonable” is left to the franchising authority to determine.

While we have not yet seen an actual draft CenturyLink franchise, we expect it to contain a reasonable full-service requirement – consistent with Minnesota law and the FCC’s 621 Order – so that, eventually, all neighborhoods in St. Paul would have the same availability of service and access to cable competition, and so that all providers bear similar obligations.

Imposing reasonable, binding, and enforceable requirements to serve the entirety of St. Paul will protect competitive and consumer equity and prevent selective service deployment. It will equalize the investment that all providers will be required to make in return for access to the public rights of way. It will ensure that competition develops according to which provider can best serve subscribers and not according to which provider enjoys the most advantageous regulatory requirements.

IV. Conclusion.

Again, Comcast does not oppose CenturyLink’s entry into the local market. We are concerned that competing providers who make use of the same rights-of-way as Comcast, and who are subject to the same federal law, the same state law and the same local regulatory authority, should be held to the same reasonable level of due diligence and procedure, as well as member city-wide service requirement standards, similar to what Comcast has been held to.

There are many factual and legal questions raised by CenturyLink’s franchise application. Comcast has important interests at stake in this proceeding and requests that St. Paul establish a fair, orderly, and open process that allows for meaningful public review and input.

Again, thank you for the opportunity to share our views with you on this important issue. Please do not hesitate to contact me if you have any questions, or if you need any additional information.

Sincerely,



Karly Baraga Werner
Director Government Affairs