



Bradley

# City of Minneapolis

## Public Hearing CenturyLink Franchise

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# CenturyLink Franchise Process

- Notice of Intent to Franchise
- CenturyLink Cable Franchise Application
- Public Hearing
- Cable Officer Report
- City Receives and Files Report and Authorizes Staff to Negotiate Cable Franchise with CenturyLink
  - Consistent with Cable Officer Report



# CenturyLink Franchise Process

## ➤ Cable Franchise Considerations

- Reasonable Build-Out of the City
- Prohibiting Cherry Picking
- Level Playing Field
  - Franchise Fees
  - PEG Requirements
  - Area Served
- Diverse Programming
- Comcast Franchise



# Significant Issues

- Federal Preemption of Minnesota's 5-Year Build Statute
  - Good Faith Basis
  - Indemnification
  
- Reasonable Build-Out of the City



# Reasonable Build-Out of the City

## ➤ Complete Equitable Build-Out

- Goal is to Build-Out the entire City over 5-year term
- Based on market success
- Significant investment targeted to areas below the median income in the City.
- See Section 1.2(a)(i).



# Reasonable Build-Out of the City

## ➤ Initial Minimum Build-Out Commitment

➤ 15% of the City over 2 years.

➤ See Section 1.2(a)(ii).

- CenturyLink must make its best effort to complete the initial deployment in a shorter period of time.
- Deployment to households in every Ward.
- Must include a significant number of households below the medium income of the City.
- CenturyLink permitted to serve more households.



# Reasonable Build-Out of the City

## ➤ Quarterly Meetings

- Starting January 1, 2016, CenturyLink must meet with Cable Officer and show to the City's satisfaction (See Section 1.2(a)(iii)):
- Number of households capable of being served and actually served.
- Compliance with anti-redlining requirements.
- Maps and documentation "showing exactly where within the City the Grantee is currently providing cable service."



# Reasonable Build-Out of the City

## ➤ **Additional Build-Out Based on Market Success.**

- Starting January 1, 2016, CenturyLink Build-Out Commitment will increase if its penetration rate is at least 27.5% in the areas that it is offering service. See Section 1.2(a)(iv).
  - Example: If offering service to 60% of the City and CenturyLink has penetration of 30% in that area, then the Build-Out commitment will increase 15% to 75% of the City.
- Additional Build-Out commitment continues until all households are served.



# Reasonable Build-Out of the City

## ➤ Line Extension

- No initial mandatory line extension, unless CenturyLink becomes the dominate cable provider.
- Then the City decides CenturyLink's build-out schedule, including a density requirement that is the same or similar to Comcast's density requirement. See Section 1.2(a)(v).



# Economic Redlining or “Cherry Picking” Prohibited

- Cherry Picking is prohibited by the Federal Cable Act. See 47 U.S.C. § 541(a)(3).
- Franchise prohibits Cherry Picking. See Section 1.3 (Identical to Comcast Franchise).
- CenturyLink has additional \$500 per day penalty/liquidated damage for violating Section 1.3. See Section 5.4(b)(ix).



# Level Playing Field

## ➤ Franchise Fees

- CenturyLink required to pay a franchise fee of 5% of its Gross Revenues. See Section 4.1 (Identical to Comcast Franchise).

## ➤ Area Served

- The Franchise Area is the entire City. See Section 1.2 (Identical to Comcast Franchise).



# Level Playing Field

## ➤ PEG Access Requirements

- Number of Access Channels. CenturyLink will provide 9 Access Channels. See Section 2.1(z) (same number of Access Channels as Comcast).
- Format of Access Channels. CenturyLink will provide all 9 Access Channels in HD if the City sends them in HD format. See Section 2.1(z) (Comcast will provide up to 3 Access Channels in HD over time).
- Electronic Programming Guide. CenturyLink will pay for EPG costs. See Section 2.1(z)(2) (Identical to Comcast).
- Channel Placement. CenturyLink will make all Access Channels accessible at Channel 14 through the “Minneapolis Mosaic.” The Access Channels will be physically located at 8001-8009. See Section 2.1(z)(1) (Comcast has no mosaic and is required to have all the HD Access Channels located near the broadcast channels).

# Level Playing Field

## ➤ PEG Access Requirements

- Public Service Announcements. CenturyLink will allow the City to air PSA on non-Access channels during periods of unsold/unused air time. See Section 2.1(z)(4) (Identical to Comcast).
  - Video On-Demand. CenturyLink will provide 25 hours of VOD per Access Channel for a total of 225 VOD hours. See Section 2.1(z)(7) (Comcast has a commitment of providing 10 hours, which may increase to 20 over time).
  - PEG Support. CenturyLink will pay a PEG Fee in support of the Access Channels of \$1.50 adjusted by CPI starting in 2016. See Section 2.1(aa) (Amount of funding identical to Comcast).
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# Diverse Programming

- City may enforce franchise provisions that require broad categories of video programming. See 47 U.S.C. § 544(b)(2)(B).
- CenturyLink Franchise has requirements for broad categories of programming, including culturally diverse programming. See Section 3.8
- Comcast franchise does not have such a provision.



# Comparison to Comcast Franchise

- Substantially Similar. CenturyLink Franchise and Comcast Franchise are identical in most respects.
- Term. CenturyLink's Franchise term is 5 years. Comcast's term is 12.
- Customer Service. CenturyLink has committed to having a customer service office within the City. Comcast has not.
- Indemnification of the City. CenturyLink has an additional indemnification commitment that Comcast does not have.

# Comparison to Comcast Franchise

## ➤ Access Channel Commitments.

- May provide up to 6 more HD channels.
- Will Provide over 200 hours more of VOD programming
- PEG support may be used for capital and operational support under the CenturyLink Franchise and is silent in the Comcast Franchise.

## ➤ Cable Service to Public Buildings.

- CenturyLink will provide service to all outlets at all government buildings with service and equipment. Comcast's commitment is limited to up to 3 outlets at certain government buildings, plus 40 additional HD converter boxes.



# Comparison to Comcast Franchise

## ➤ Penalties/Liquidated Damages.

- Additional damages for violating the Build-Out and Economic Redlining provisions of the Franchise
- Not in the Comcast Franchise.

## ➤ Build-Out.

- CenturyLink Franchise has a reasonable build-out commitment based on market success.
- Comcast does not have a build-out provision,
  - It built-out the City many years ago.



# Comparison to Comcast Franchise

## ➤ Line Extension.

- No immediate line extension requirement.
- The City will determine a line extension obligation similar to Comcast's line extension if CenturyLink obtains a 50% penetration level in the City.
- Comcast does have a line extension requirement.

## ➤ Broad Categories of Service.

- The CenturyLink Franchise requires broad categories of programming service, including culturally diverse programming.
- The Comcast Franchise does not.



# Next Steps

- Committee acts on whether to approve or deny the cable franchise
- Direct Staff to Draft Findings consistent with Recommendation
- Council Cannot Act until 7 days after the Public Hearing on the Cable Franchise Ordinance
- Council will issue a decision

