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TOPIC TITLE: Comcast Cable Filing for Effective Competition with the FCC.

SUMMARY:

Comcast has filed a petition with the FCC stating that 15.4% of City of Kent households subscribe to another service other than Comcast for their television services. The FCC regulations state that:

- 15% penetration constitutes **Effective Competition**.
- Effective Competition is when other service providers, such as Dish or Direct TV, provide 12 channels of television programming.
- Effective Competition allows Comcast to file for **relief from regulation**.
- The City has **20 days from the date of filing to contest** the filing **or relief is automatically granted**.

Note: Comcast filed for Effective Competition in 11 other WA cities: Airway Heights, Liberty Lake, Millwood, Spokane, Spokane Valley, Burien, Covington, Enumclaw, Federal Way, Maple Valley and SeaTac. Last summer Comcast filed against sixteen other Washington cities beyond those mentioned above.

CURRENT REGULATORY AUTHORITY AND PROCESS

LIMITED BASIC

Under FCC regulations, the City regulates the **lowest tier of service offered by Comcast**. This tier is currently called "Limited Basic". Limited basic provides the following:

- 37 channels
- Local broadcast stations (ABC, CBS, NBC, FOX, PBS, etc.)
- PEG/Public, Education & Government:
 - *Included in the 37 channels
 - Kent TV21
 - UWTV/University of Washington TV
 - King County TV
 - TVW/ Olympia Legislative channel
 - PSA/Puget Sound Access Channel 77

Cost for limited basic (excluding taxes and equipment rental):

- 2011/2012 \$16.25
- 2012/2013 \$16.50
- 2013/2014 \$16.74 (effective 10-1-13)

Our regulatory authority is defined by the FCC. They also set the reporting requirements and the formulas used to determine the "Maximum Allowable Rate" for *Limited Basic, Installation and Equipment*. Comcast submits FCC Form 1240 and Form 1205 annually which details their proposed rate and their calculated "Maximum Allowable Rate".

We regulate Comcast by annually reviewing their FCC rate filing.

I personally perform the following activities as part of the regulatory review process:

- Review the documents for completion.
- Contact other cities to see if any other agencies found any issues or concerns in their filings that would warrant a full audit as it relates to Kent.
- Verify that the amount of the rate increase, when it is applied, does not exceed the allowable maximum rate.
- In the event an issue or concern is raised I would do the following:
 - Consult with related experts to review our filing.

Note: in 2008 the City retained Attorney Mike Bradley, of Bradley and Guzzetta, LLC, to review Comcast's rate filing for potentially overcharging customers. This resulted in approximately \$1 per month per customer reduction in rates and a back settlement.



DEREGULATION IMPACT

Anecdotal evidence both in Kent and nationally suggest the majority of people who have *Limited Basic* are:

- Low or limited income.
- Elderly or disabled.
- Unable to pay for the higher cost services.
- Dependent on cable television service for their entertainment; especially if they are partially or completely housebound.
- Not computer literate and don't have internet service at home (so cannot watch internet television).

In Kent we receive a 5% franchise and a 6% cable utility taxes from the *Limited Basic* tier as follows:

- Approximately 6,000 of the 27,000 households in Kent are on *Limited Basic* only.
- They generate about \$4,000,000 of Comcast cable television revenues in Kent.
- This provides Kent about \$440,000 in revenue annually (11% of \$4,000,000).

If Comcast becomes deregulated via this filing the following events are probable:

- At some point Comcast will stop carrying the ***Limited Basic*** tier and begin their offerings with the ***Expanded Basic*** Tier currently at \$34.95 per month (rate does not include taxes or equipment rental).
 - Expanded basic packages include:
 - 30-50 channels including Disney, ESPN, MTV and Fox news
- Comcast will be able to offer any services or combinations of services and charge whatever price they want.
- *Note: Comcast pricing has not gone down as they have gotten more competition.
- Our most vulnerable lowest income citizens will be the most financially impacted group.
- The city may experience a loss in cable and utility tax revenues as low income subscribers stop their service.
- Kent will lose the ability to determine where the PEG channels reside; potentially resulting in being moved to a higher tier; for example, instead of Channel 21; Channel 721.



OPTIONS CONSIDERED:

1. Contest the filing with a bare minimum effort.
2. Contest the filing with a little more detail and effort.
3. Contest the filing with a maximum effort (possibly in conjunction with other cities).
4. Ignore the filing and allow Effective Competition to automatically take effect.

OPTION 1: Contest the filing with bare minimum effort

Challenge on the basis that dish and direct TV do not have Kent TV21 (PEG channels) and there is not true competition if other providers do not have PEG programming.

Pros	Cons
<ul style="list-style-type: none"> • Cost - \$1,000 for legal fees. • Little to no internal staff time invested 	<ul style="list-style-type: none"> • This is a stopgap measure which will only delay the change. • As soon as Comcast files a rebuttal the FCC may immediately grant effective competition. • This argument has not prevailed when used by other agencies.

OPTION 2: Contest the filing with a medium effort

Pros	Cons
<ul style="list-style-type: none"> • Cost - \$3-\$4,000 for legal fees and data gathering • Limited city staff time • Demonstrates that we are trying to work on the needs of our lower income and vulnerable citizens. • This option has more substance to it; it is a more serious rebuttal. • Potential to result in an additional 2 to 3 years of Limited Basic for Kent citizens. 	<ul style="list-style-type: none"> • We are still not as likely to prevail as in Option 3, but our opposition would have more “teeth” than Option 1.

OPTION 3: Contest the filing with a study of our own, possibly in conjunction with other cities.

Pros	Cons
<ul style="list-style-type: none"> • More chance of prevailing since Comcast used 2010 census data and Panther Lake was not included in their study. • Possible negotiating leverage during Franchise Negotiations. • Demonstrates strong commitment to our citizens interests and needs • Retains franchise fees on the basic level for longer 	<ul style="list-style-type: none"> • Cost is \$25,000 to \$35,000. (Study and legal fees). (Possibly could share with another agency – Spokane?) • Time is very limited • More city staff time. • Down the road Comcast may refile, if we do prevail.

OPTION 4: Ignore the filing and allow the automatic Effective Competition to take effect.

Pros	Cons
<ul style="list-style-type: none"> • No Cost 	<ul style="list-style-type: none"> • <i>Limited Basic</i> tier will be eliminated. • <i>Expanded Basic</i> (currently at \$34.95 before taxes or equipment rental) will be the lowest tier. • Comcast will charge whatever price they want for all services. (Note*Comcast pricing has <u>not gone down</u> as they have gotten more competition). • Our most vulnerable low income citizens will be the most financially impacted group. • The city may experience a loss in cable and utility tax revenues as low income subscribers stop their service. • Kent will lose the ability to determine where the PEG channels reside; resulting in being moved to a higher tier; for example, instead of Channel 21; Channel 721

IT RECOMMENDATION: Option 2:

Although we consider Option 3 a valid and achievable option, we agree that the cost and timing is a significant hindrance to accomplishment. Option 2 is achievable within our existing budget and should preserve *Limited Basic* for several more years for the low income, underserved population. We anticipated Option 2 providing up to three year additional years of this service. We feel that within that period there is a strong potential to see additional lower tier television options emerge.