

CLARK COUNTY STAFF REPORT

DEPARTMENT: City/County Cable TV Office

DATE: June 26, 2018

REQUESTED ACTION:

On June 26, 2018, approve a resolution adopting the City/County Telecommunications Commission Biennial Report regarding franchise compliance by the cable television operator, Qwest Broadband Services, Inc. d/b/a CenturyLink ("CenturyLink").

Consent Hearing County Manager

BACKGROUND

The City/County Telecommunications Commission ("Commission") has prepared progress reports regarding franchise compliance by the cable television operators beginning with completion of the first year of the franchise term, January 1983. This is the first Biennial Report since a 5-year franchise agreement with CenturyLink was adopted in January 2016. The reports have been forwarded to the legislative bodies of the Clark County Council and the Vancouver City Council.

As noted in the attached Resolution, the Cable Communications Policy Act of 1984 (the "Act"), which was amended in 1992 and currently in effect, requires that franchising authorities provide written notice of any franchise deficiencies and that the cable operators be given the opportunity to correct any violations, if such factors are to be considered during the franchise renewal process.

The Progress Reports prepared by the Commission clearly meet and exceed the requirements of the Act. Legal counsel advises staff, however, that the legislative bodies of the franchising authorities should take affirmative action in adopting the reports for the reviews to be binding on the cable operator at the time of renewal.

As of the date of the Biennial Progress Report, the Commission finds CenturyLink in full compliance with the terms and conditions of the franchise. The City/County Cable Television Office only fielded two complaints regarding CenturyLink's service in 2016-2017. CenturyLink reports a total of 276 cable TV subscribers in Vancouver and Clark County. Because of competitive pressure and rising programming costs, CenturyLink has ceased actively marketing their Prism cable TV service in Clark County and Vancouver.

COUNCIL POLICY IMPLICATIONS

None.

ADMINISTRATIVE POLICY IMPLICATIONS

None.

COMMUNITY OUTREACH

The City/County Telecommunications Commission held public hearings on March 7, 2018 and June 6, 2018 regarding this issue.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	
Grant Fund Dollar Amount	
Account	General Fund
Company Name	

DISTRIBUTION:

Council staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Jim Demmon
 Jim Demmon
 City/County Cable TV Manager

Primary Staff Contact: Jim Demmon Ext.360.487.8700

APPROVED: *Jim Rumpeltes*
 CLARK COUNTY, WASHINGTON
 CLARK COUNTY COUNCIL

DATE: *6-26-18*

SR# 11718

APPROVED: _____
 Jim Rumpeltes, Interim County Manager

DATE: _____



BUDGET IMPACT ATTACHMENT

Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Total						

II. A – Describe the type of revenue (grant, fees, etc.)

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
Total							

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total						

RESOLUTION NO. 2018-06-13

A RESOLUTION adopting the City/County Telecommunications Commission (“Commission”) Biennial Report regarding cable television franchise compliance by the cable operator Qwest Broadband Services, Inc. d/b/a CenturyLink (“CenturyLink”).

1 **WHEREAS**, the Commission has regularly reviewed the performance of CenturyLink
2 and compliance with the terms and conditions of the cable television franchise; and

3 **WHEREAS**, the Commission has documented its review and findings regarding
4 compliance by CenturyLink with the provisions of the cable television franchise by submitting a
5 biennial report to the Clark County Council and Vancouver City Council; and


6 **WHEREAS**, the Cable Communications Policy Act of 1984 (Public Law 98-549), 47
7 U.S.C Section 546(d), requires that franchise authorities, in this case Clark County and the City
8 of Vancouver, provide cable operators with written notice and the opportunity to correct any
9 franchise violations which may occur during the course of the franchise, if such violations are to
10 be considered during the franchise renewal process; now, therefore,

11 **BE IT ORDERED AND RESOLVED BY THE COUNTY COUNCIL OF CLARK**
12 **COUNTY, STATE OF WASHINGTON as follows:**

13 1. That the Clark County Council adopts, ratifies, and affirms the Commission Progress
14 Report (January 2016 – December 2017) on the performance of CenturyLink and
15 compliance with the terms and conditions of the cable television franchise.

ADOPTED this 26th day of June, 2018.

Attest:


Clerk to the Board

BOARD OF COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

By: 
Marc Boldt, Chair

Approved as to form only:
ANTHONY F. GOLIK
Prosecuting Attorney

By: *Emily Sheldrick*
Deputy Prosecuting Attorney

By: _____
Jeanne E. Stewart, Councilor

By: _____
Julie Olson, Councilor

By: _____
John Blom, Councilor

By: _____
Eileen Quiring, Councilor



City/County Telecommunications Commission

RESOLUTION 2018 – 01

**Regarding Adoption of the Biennial Progress Report
on the CenturyLink Corporation Vancouver/Clark County Franchise Agreement**

Section 1. Findings

- 1.1 Pursuant to Section 4.5 “Performance Evaluation Sessions” of the current cable television franchise agreement between The City of Vancouver (“City”), Clark County (“County”) and Qwest Broadband Services, Inc. d/b/a CenturyLink (“CenturyLink”), the City/County Telecommunications Commission (“Commission”) may conduct performance reviews of the cable operator to insure franchise compliance every two years.
- 1.2 Court rulings indicate that legislative bodies of the franchising authorities must formally accept and adopt written reports regarding franchise compliance by the cable operator in order for such reviews as prepared by the Commission to be binding on the cable operator.
- 1.3 As part of the review process, the Commission requested specific information from CenturyLink, via a letter dated January 9, 2018 (attached as EXHIBIT A), to reach the Commission no later than February 16, 2018.
- 1.4 CenturyLink provided the Commission with the requested information on February 16, 2018.
- 1.5 The Commission conducted a Public Review of CenturyLink’s performance during the regular March 7, 2018, meeting.
- 1.6 The Commission has reviewed and documented its findings of the information provided by CenturyLink in relation to their performance and franchise compliance and prepared a Biennial Progress Report for the years 2016-2017 (attached as EXHIBIT B).
- 1.7 Included in the Biennial Progress Report is a review of Commission activity during 2017 and major work items for 2018.
- 1.8 As of the date of the Biennial Progress Report, the Commission finds CenturyLink in full compliance with the terms and conditions of the franchise.
- 1.9 The City/County Cable Television Office only fielded two complaints regarding CenturyLink’s service in 2016-2017.

- 1.10 Because of competitive pressure and rising programming costs, CenturyLink has ceased actively marketing their Prism cable TV service in Vancouver and Clark County.

NOW, THEREFORE BE IT RESOLVED:

Section 2.

- 2.1 The Commission, through this Resolution, adopts the 2016-2017 Biennial Progress Report on the Qwest Broadband Services, Inc. d/b/a CenturyLink Vancouver/Clark County Franchise Agreement.
- 2.2 The Commission directs staff to forward finalized copies of the 2016-2017 Biennial Progress Report to the Vancouver City Council and the Clark County Council.
- 2.3 The Commission recommends that the Vancouver City Council and the Clark County Council adopt, ratify, and affirm the 2016-2017 Biennial Progress Report.

Approved (Date): June 6, _____, 2018



Chair, Paul Dicker, City/County Telecommunications Commission

Exhibits:

Exhibit A – Formal notification from the City/County Cable Television Office to CenturyLink regarding the biennial review process, dated January 9, 2018

Exhibit B – Biennial Progress Report on the Qwest Broadband Services, Inc. d/b/a CenturyLink Vancouver/Clark County Franchise Agreement, submitted June 6, 2018

CITY · COUNTY

CABLE TELEVISION OFFICE

January 9, 2018

SENT VIA E-MAIL & USPS

Samantha Ridderbusch
State and Local Government Affairs Director – Oregon/SW Washington
CenturyLink
310 SW Park Avenue, Fl. 11
Portland, OR 97205

RE: CenturyLink 2016-2017 Bi-Annual Franchise Performance Review

Dear Ms. Ridderbusch:

The City of Vancouver and the Clark County Telecommunications Commission is conducting its bi-annual performance review of CenturyLink. In preparation for the review, we are requesting the following information itemized below. All information should be as of December 31, 2017, unless otherwise indicated or appropriate.

Please provide:

1. System plant mileage for the Vancouver and Clark County cable system and the number of homes passed. Please include the number of miles of subscriber cable plant. Please attach current maps detailing constructed areas, delineating the aerial and underground plant for each. Also, please include a map suitable for duplication and distribution to the Commission and the public.
2. Current rate schedules for cable services as of January 2018.
3. Subscriber count, by programming service tier, as of January 1, 2018.
4. Average response time to customer complaints in 2016 and 2017. Please provide the response time from when the customer initially calls to complain until the repair is made. If these times are not currently tracked, please clarify what times are reported.
5. Average response time to requests for installation and cable service in both constructed and new construction areas in 2016 and 2017.
6. Average number and duration of outages during 2016 and 2017.
7. Actions taken by CenturyLink to comply with the Federal Cable Policy Act of 1984 and the Cable Act of 1992 in the areas of:
 - a. Equal Employment Opportunity
 - b. Security and privacy provisions
 - c. Leased Access

Serving the citizens of Vancouver and Clark County since 1982

d. Parental Lock Box Devices

8. An updated list of key CenturyLink personnel in the Vancouver/Portland metropolitan area, including key personnel that deal with the City/County Cable Office on franchise related issues (including those located in regional and/or the corporate CenturyLink offices). Please indicate their title, area(s) of responsibility and organizational relationship to CenturyLink, CenturyLink's regional office in Portland, Oregon and CenturyLink's regional office in Washington State.
9. The number of CenturyLink employees in the Vancouver/Portland metropolitan area.
10. A brief description of the emergency broadcasting capabilities of the cable system and how CenturyLink is linked with Vancouver/Clark County emergency service providers.
11. Please provide any other information on services or activities including community activities and sponsorships, which you may wish to communicate to the Commission.

The information provided by CenturyLink will serve as the basis of the Bi-annual Performance Review, along with public testimony and Commission comments received at the March 7, 2018, Telecommunications Commission meeting. We anticipate the Commission will consider a draft of the Annual Report at the June 6, 2018, Commission meeting.

Accordingly, response to the Cable Television Office with the above requested information on or before February 16, 2018, will be greatly appreciated.

Your cooperation in this process is, as always, appreciated. Please contact Tracie Looney or me if you have any questions or need clarification on any issue.

Sincerely,

Jim Demmon, Video Services Manager
Vancouver/Clark County Cable Television Office

Cc: City of Vancouver/Clark County Cable Telecommunications Commission
Jan Bader, Program and Policy Development Manager, City of Vancouver
Michael Nigrey, Assistant City Attorney, City of Vancouver
Christine Cook, Clark County Prosecutor

**Report to the
Clark County Council
And
Vancouver City Council
From the
City/County Telecommunications Commission**

**PROGRESS REPORT ON THE CENTURYLINK
VANCOUVER/CLARK COUNTY FRANCHISE AGREEMENT**

May 2018

I. INTRODUCTION - BACKGROUND

This is the first report by the Vancouver/Clark County Telecommunications Commission ("Commission") reviewing the status of the Cable Television System Franchise Agreement ("franchise agreement") with the cable television operator, Qwest Broadband Services, Inc. (QBSI) d/b/a CenturyLink, since a 5-year franchise agreement was adopted in January 2016.

The 2016-17 Report is biennial, as agreed to in the franchise agreement. The bulk of the report is consistent with the format for the previous evaluations of Comcast's performance. The Commission's review focuses on calendar years 2016-17 although, as appropriate, more recent developments and issues are noted.

The Commission recognizes the importance of conducting reviews – not only as a franchise obligation, but also in light of changes in the marketplace, ever evolving technologies, population growth in the Vancouver and Clark County area and the requirements of the Federal Cable Act – to give an operator the opportunity to correct any franchise violations. The Commission understands that as a citizen advisory board it is responsible for the efficient and effective management and enforcement of the franchise. In addition, one of the most effective roles of the Commission through the years has been to inform various stakeholders, including the cable operator, Education and Government access providers, elected officials, and cable subscribers, about the needs and issues of interest to the community. This report also summarizes the activities of the Commission during 2017.

As noted in this report, CenturyLink's performance during the past two years has met all of the conditions of the City and County franchises. Review of the cable operator's overall performance as well as a status report regarding Commission activities are contained in this review.

II. PURPOSE/GOALS

As set forth in the current franchise agreement with CenturyLink, Section 4.5, provides for performance evaluation sessions which are intended to assess the cable operator's performance as well as compliance with the terms and conditions of the franchise and compliance with state and federal laws and regulations during the previous two years. Evaluation of past performance by the cable operator(s) is of critical importance under federal law as the franchising authorities look to the future. In addition, this biennial review outlines the efforts and focus of the Commission during the past year and priorities for the current year.

III. METHODOLOGY

CenturyLink's performance was evaluated by reviewing the following information pertaining to performance and related cable service information:

- A. Correspondence, phone calls, electronic mail and inquiries received by the City/County Cable Television Office ("Cable TV Office");
- B. Minutes and video records of Commission meetings;
- C. Formal exchange of correspondence between CenturyLink and the Cable TV Office;
- D. Press reports and the experience of other communities, especially in the Vancouver/Portland area, regarding the delivery of cable television services; and
- E. Testimony received from the public during regularly-scheduled Commission meetings where public testimony on CenturyLink's performance was solicited, the most recent being March 7, 2018.

Information requested by the Commission from CenturyLink specifically for the purpose of preparing this report is on file and available for review at the Cable TV Office.

IV. FRAMEWORK FOR EVALUATION

The framework for evaluation has been governed by Section 4.5 "Performance Evaluation Sessions" of the franchise agreement. The agreement provides that evaluation "shall deal with the Grantee's [CenturyLink's] performance of the terms and conditions of the Franchise and compliance with state and federal laws and regulations."

In addition, findings and recommendations criteria presented to the Vancouver City Council and Clark County Council by the Commission in Resolution 2015 – 05, November 4, 2015, in recommending the franchise agreement are also part of the framework for evaluation of CenturyLink's performance:

- A. Commitment to maintain current programmed PEG channels;
- B. CenturyLink's commitment to simultaneously carry six (6) of the existing PEG access channels in high-definition ("HD") and include up to twenty-four (24) hours of PEG access programming on CenturyLink's video-on-demand ("VOD") platform;
- C. Preserve PEG channel access to the lowest tier available to subscribers;
- D. Washington State and local programming identified as broad programming categories to be provided by the operator;
- E. Capital and operational funding support for public, education, and government access programming;
- F. Responsiveness to the special and unique qualities of Vancouver and Clark County.

V. **HIGHLIGHTS OF 2016-17 PERFORMANCE REVIEW**

The Report chronicles the first and second full years of service by CenturyLink as a cable operator. The Commission notes that the company has shown a good commitment to the community. Examples of CenturyLink's ongoing commitment include:

- A. Hosting annual "Backpack Buddies Food Drives," which provided the SHARE Inc. Food Bank in Vancouver with over \$396,000 between 2016-17;
- B. Sponsorship of the Greater Vancouver Chamber of Commerce.

Darrion Bowers oversees CenturyLink operations in Vancouver and Clark County, as well as the Oregon market. Rick Gutierrez serves as the Regulatory Operations Manager. Samantha Ridderbusch, State and Local Government Affairs Director for Oregon and SW Washington, serves as the primary contact for the Cable TV Office and the Telecommunications Commission. CenturyLink reports there are 475 company employees in the Vancouver/Portland area.

Commission activities during 2017 included:

- A. Biennial review of Comcast performance;
- B. Re-designation of Educational and Governmental access providers;
- C. Review and forwarding of recommendations regarding the Public, Educational and Governmental ("PEG") Capital Support Fund.

In 2016, the Cable TV Office received two complaint calls regarding CenturyLink. One complaint was about their Internet service and the second was regarding a CenturyLink

contractor who was trimming trees in preparation for a fiber installation. The Cable TV Office did not receive any complaint calls regarding CenturyLink in 2017.

CenturyLink reports a total of 276 cable TV subscribers in Vancouver and Clark County. Nationally, cable operators are battling to keep customers from migrating to satellite and/or Internet television or dropping pay TV all together. Because of competitive pressure and rising programming costs, CenturyLink has ceased actively marketing their Prism cable TV service in Vancouver and Clark County.

The Commission conducted a public review session regarding CenturyLink's performance at the March 7, 2018, regular meeting. The meeting was publicized in local newspapers and on the City of Vancouver's and Clark County's web pages. One e-mail, regarding CenturyLink's Internet service, was received as part of the public testimony. Written testimony and phone calls to the Cable TV Office were also accepted through April 7, 2018.

VI. CENTURYLINK 2016-2017 PERFORMANCE REVIEW – SUMMARY ANALYSIS

A. Construction

CenturyLink reported they have Prism service available to 12% of Vancouver and 5% of Clark County. The franchise agreement outlines extension offers of three years if the company reaches 20% of Vancouver/Clark County by December 31, 2018, and an additional two years if 30% is reached by December 31, 2021.

On February 22, 2018, staff and the Executive Committee of the Commission met with CenturyLink representatives to review progress on the fiber network buildout by the company. The company reported making significant progress in building a fiber network throughout the city and major areas of the county.

B. Rates

As of January 1, 2018, the Basic Service, which includes local broadcast and PEG channels, has a monthly rate of \$31.49 (including a 5% franchise fee). The Essential tier, which includes Basic Service and other selected channels, costs \$91.34 (including a 5% franchise fee).

A table of CenturyLink rates and other charges as of **January 2018** is attached to this report. (Exhibit A)

C. Consumer Services

1. During 2016-2017, CenturyLink met nearly all the telephone answering performance requirements of the franchises and of FCC customer service standards, answering 90% of calls within thirty (30) seconds. CenturyLink's

reporting shows the following percentage of calls answered within thirty (30) seconds in 2016: 2nd Quarter – 98%; 3rd Quarter – 96.3%; 4th Quarter – 96.3% and 2017: 1st Quarter – 89%; 2nd Quarter – 91%; 3rd Quarter – 93.6%; 4th Quarter – 91.6%.

2. Standard customer installations in constructed areas were completed within seven (7) days after the request for cable service was received 95.6% of the time.
3. CenturyLink provides parental control, as required by the Cable Communications Policy Act of 1984, allowing users to block out any channel. There is no additional charge for this feature.
4. On May 3, 2016, CenturyLink opened a state-of-the-art customer experience store at 2707 N.E. 114th Avenue, Suite C-3. The showroom includes TV screens where customers can test CenturyLink products and services.

D. PEG Capital Support

1. A total of \$3,845 in PEG Capital Support payments collected by CenturyLink and paid to the City and County has been placed in the PEG Capital Support Fund from August 2016 through the 4th quarter of 2017.

E. Technical Performance

1. In 2016, there was an average of 6 outages per month, averaging 0.06 hours in length. In 2017, there was an average of 4 outages per month, averaging 0.10 hours in length. Outages are tracked by repair and maintenance technicians and logged in a technical performance log for each occurrence.

F. Emergency Alert System

1. As required by the Federal Communications Commission, CenturyLink operates and regularly tests an Emergency Alert System (“EAS”).
2. CenturyLink monitors three Vancouver/Portland EAS sources for alert information.
3. CenturyLink tests their EAS system a minimum of twelve times per year

G. Community Involvement

1. As noted by CenturyLink, in 2016-17 the company gave over \$400,000 in cash to numerous local community organizations in SW Washington/Oregon. The Commission acknowledges with appreciation CenturyLink's local sponsorships,

participation, and charitable contributions in the Vancouver/Clark County community. These include the Share, Inc., Greater Vancouver Chamber of Commerce and the Clark County Fair.

H. Overall Performance

1. The Commission is pleased to report that CenturyLink was in compliance with all provisions of the franchise agreements through December 2017.
2. The reliability and customer service for CenturyLink's Prism cable service was consistently strong throughout 2017.
3. CenturyLink has increased its fiber network throughout the majority of Vancouver and major portions of Clark County.
4. The Commission is disappointed to learn that CenturyLink has made the business decision to not actively market their cable service.

VII. TELECOMMUNICATIONS COMMISSION ACTIVITIES

Paul Dicker served as Chair of the Commission through 2017.

The Commission held three (3) regular meetings in 2017. In addition, the PEG Committee met twice to review PEG capital grant applications.

In 2017, the Commission focused on PEG issues, including designation of access providers and channels, and recommendations on PEG capital grants.

Major work items and accomplishments for 2017 included:

- A. Review and re-designation of PEG Access Providers for government and education;
- B. Coordination of the PEG Capital Support Fund program;
- C. Assisted citizens and cable television subscribers for both Comcast and CenturyLink in resolving 41 complaints regarding cable and Internet services during 2017;

Major work items for 2018 include:

- A. Administer the cable television franchise agreement for the City of Vancouver and Clark County and insure current grantees' (Comcast & CenturyLink) continued compliance with franchise requirements;
- B. Provide assistance to citizens and cable television subscribers in cable television matters by facilitating complaint resolution and enforcing franchise compliance by

the cable operator in all matters pertaining to consumer issues;

- C. Review proposals for cable television franchise with alternative providers and make recommendations to the legislative bodies when they are received;
- D. Provide recommendations to legislative bodies on awards of PEG Capital Support funding for designated access providers and Institutional Network subscriber;
- E. Review and recommend re-designation of PEG Access Providers for government and education;
- F. Review work plan for 2019/2020.

VIII. SUMMARY

The Commission is pleased to present a positive report to the legislative bodies in this report on the progress of cable television in Vancouver/Clark County. CenturyLink is in full compliance with the terms and conditions of the franchise.

The current five-year cable franchise with CenturyLink expires on December 31, 2020. Though it appears unlikely that CenturyLink will seek any available extension opportunities, company representatives have pledged to meet all requirements through the five-year franchise. With the video market pressures of industry consolidation and “Over the Top” video delivery from companies, such as Netflix, accelerating the number of “cord cutters,” CenturyLink has ceased marketing their Prism cable service and focused more on providing customers with broadband connectivity. Though the decision to cease marketing Prism cable service is disappointing, the Commission is pleased to see the progress CenturyLink has made deploying an extensive fiber network for Vancouver\Clark County future telecommunications needs.