

Donald A. Drisdell
City Solicitor

Nancy E. Glowa
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CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

November 21, 2011

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Awaiting Report No. 11-160 Re: Report on the Feasibility and Impact of the Following: Instituting a Policy That, After Ascertainment, if the City of Cambridge Takes More Than 90 Days to Negotiate a Contract With a Potential Cable Service Provider, the Potentially New Service Provider Can Operate Under the Same Terms as the Existing Incumbent Service Provider, With the Option to Continue Negotiation with the City of Cambridge While Operating Under Those Terms

Dear Mr. Healy:

The City Council has requested a report on the feasibility of instituting the above referenced policy. In response, please be advised that the City Council has previously passed Policy Order Resolutions opposing such a policy and expressing opposition to proposed state legislation that would allow municipalities to adopt such a policy. I have attached copies of Policy Order Resolution No. O-9 of May 16, 2011, Policy Order Resolution No. O-11 of April 9, 2007 and Policy Order Resolution No. O-3 of June 12, 2006. In addition, I include for your information a link to CCTV's webpage opposing such legislation proposed earlier this year: <http://www.cctvcambridge.org/node/77260>. Finally, I have attached for your information my response of September 8, 2008 to Awaiting Report Item Number 08-98 regarding a report on the impact of the conversion to digital TV and the process for recontracting for cable services, in which I outlined the process that is undertaken when a new cable television operator seeks to offer cable services in the City.

Very truly yours,

A handwritten signature in cursive script that reads "Donald A. Drisdell".

Donald A. Drisdell



City of Cambridge

O-9
IN CITY COUNCIL
May 16, 2011

VICE MAYOR DAVIS
COUNCILLOR CHEUNG
COUNCILLOR DECKER
COUNCILLOR KELLEY
MAYOR MAHER
COUNCILLOR REEVES
COUNCILLOR SEIDEL
COUNCILLOR SIMMONS
COUNCILLOR TOOMEY

WHEREAS: Senate Bill No. 1687, An Act Promoting Consumer Choice and Competition for Cable Service, has been filed on behalf of Verizon and will be the subject of a hearing before the Joint Telecommunications Committee on May 18; and

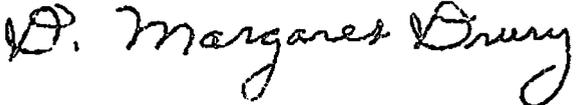
WHEREAS: This bill would limit the negotiation period for cable licensing to 90 days which is much too short given the complexity of the process, and the time limitation would essentially sidestep the community process which would result in a benefit only for Verizon to the detriment of consumers and local governments; now therefore be it

RESOLVED: That the City Council go on record as requesting that the Joint Committee on Telecommunications, Utilities, and Energy maintain the existing State laws governing cable licensing, which adequately protect cities and towns, residents of the Commonwealth, and video service providers; and be it further

RESOLVED: That the City Council go on record urging the members of the Cambridge legislative delegation to defeat the final bill; and be it further

RESOLVED: That the City Clerk be and hereby is requested to forward copies of this resolution to Representative John D. Keenan and Senator Benjamin B. Downing, Chairs of the Joint Committee on Telecommunications, Utilities and Energy, as well as the Cambridge legislative delegation on behalf of the City Council.

In City Council May 16, 2011
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk

A true copy; 

ATTEST:-
D. Margaret Drury, City Clerk



City of Cambridge

O-11
IN CITY COUNCIL
April 9, 2007

COUNCILLOR DAVIS
COUNCILLOR DECKER
COUNCILLOR GALLUCCIO
COUNCILLOR KELLEY
COUNCILLOR MURPHY
MAYOR REEVES
COUNCILLOR SIMMONS
COUNCILLOR SULLIVAN
VICE MAYOR TOOMEY

WHEREAS: The Commonwealth provides a primary role for local governments to negotiate the terms and conditions under which a wireline cable television company may provide cable television service to its residents pursuant to a municipal consent ordinance, and this requirement of law is consistent with the long-standing principle of ascertaining and addressing community cable-related needs at the local level; and

WHEREAS: The Commonwealth's wireline cable television companies constructed and now operate cable television systems under municipal consents that address the specific needs of local communities with specific agreed upon terms; and

WHEREAS: Competition in the provision of cable television service is desirable and has the potential for producing consumer benefits through increased choice and the City of Cambridge supports competition; and

WHEREAS: Verizon Communications is seeking state legislation that would exempt it from the municipal consent process to which all cable television companies now operate and, if such legislation were enacted, would be permitted to offer competitive cable services under a state-issued franchise that would bypass municipal authorization and approval; and

WHEREAS: The process for award of such a state-issued franchise would have the effect of eliminating any meaningful opportunity for the City of Cambridge to address the specific cable-related needs that otherwise might be fulfilled by Verizon Communications and deprive the City of Cambridge the ability to ensure competition is offered on equal terms; and

WHEREAS: Municipalities and their residents have a significant and specific interest in the terms and conditions attendant to the award of a cable television franchise; now therefore be it

RESOLVED: That the Cambridge City Council hereby urges the Massachusetts Legislature, in the strongest possible manner, to oppose any effort to eliminate the municipal consent process for competitive providers of cable television service until, at a minimum, a thorough evaluation is completed of the current system and the effect of any proposed changes on local governments, residents, competitors and incumbents is analyzed; and be it further

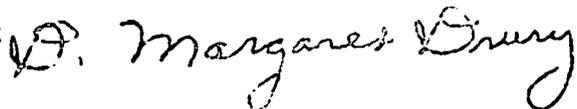
RESOLVED: That a suitably engrossed copy of this resolution shall be forwarded to Governor Patrick, Lieutenant Governor Murray, Senate President Murray, House Speaker DiMasi and Attorney General Coakley, members of the legislative Joint Committee on Telecommunications, Utilities and Energy, and the Cambridge delegation to the Great and General Court.

In City Council April 9, 2007

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk

A true copy;



ATTEST:-

D. Margaret Drury, City Clerk



City of Cambridge

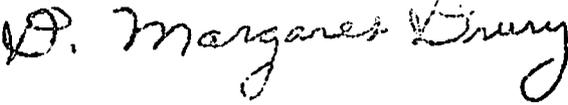
O-3
IN CITY COUNCIL
June 12, 2006

COUNCILLOR DAVIS
COUNCILLOR MURPHY
COUNCILLOR SIMMONS
COUNCILLOR DECKER
VICE MAYOR TOOMEY

- WHEREAS:** It has come to the attention of the Cambridge City Council that on March 16, 2006, Verizon filed a rulemaking petition with the Cable Division of the Department of Telecommunications and Energy (DTE); and
- WHEREAS:** Verizon's petition proposes extremely unreasonable rules; and
- WHEREAS:** The proposed rules would require a municipality to hold a public hearing on an initial cable television license application within 60 days of the application filing, and would allow only 30 days from the time of the public hearing for the municipality to approve or disapprove the application, and issue the actual license in case of approval; and
- WHEREAS:** It is impossible to conclude a proper initial license application review, negotiation, license drafting and issuance within 30 days of the public hearing. Such an initial licensing time frame would be untenable in the best of circumstances, and is particularly untenable now in light of the many questions of first impression and complex issues raised by the non-standard terms and conditions commonly reported to be included in Verizon-proposed cable licenses; and
- WHEREAS:** The existing license timetables constitute a fair and reasonable licensing process and have worked well for decades; they should not be changed at the behest of a single proponent; now therefore be it
- RESOLVED:** That the City Council go on record expressing its strong opposition to Verizon's March 16, 2006 rulemaking petition filed with DTE; and be it further
- RESOLVED:** That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to the Department of Telecommunications and Energy to be included as a public comment in the hearing process; and be it further

RESOLVED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to the Massachusetts legislative delegation to the State House and Governor Mitt Romney.

In City Council June 12, 2006
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk

A true copy; 

ATTEST:-
D. Margaret Drury, City Clerk



CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager *Richard C. Rossi, Deputy City Manager*

795 Massachusetts Avenue, Cambridge, Massachusetts 02139

Voice: 617.349.4300 Fax: 617.349.4307 TTY: 617.349.4242 Web: www.cambridgema.gov

September 8, 2008

To the Honorable, the City Council:

In response to Awaiting Report Item Number 08-98, regarding a report on the impact of the conversion to digital TV and the process for recontracting for cable services, please be advised of the following:

In Cambridge, the City Manager is the Issuing Authority for renewal of cable television licenses, pursuant to state law (MGL c. 166A, § 1(d)). The Cable Division of the Department of Telecommunications and Energy (DTE) oversees the process and issues regulations, which supplement federal law and regulations in this area. Under Massachusetts law, cable licenses are subject to renewal every 10 years. Cambridge's cable license with Comcast is up for renewal in 2010. [The current license expires on 12/29/2010.]

Renewal of the cable license involves an assessment of the cable operator's performance and ability to meet the community's needs and interests. Congress established a formal renewal process that considers these interests. The renewal process consists of two phases: (1) reviewing the cable operator's performance under the current license and ascertaining the needs and interests of the community ("Ascertainment") and (2) applying the results of the first phase to review of the cable operator's proposal.

The ascertainment process will include some or all of the following steps: a municipal survey; meetings with community organizations (schools, senior centers, police and fire services, etc.) to determine needs; review of the current license to determine which terms and conditions have been beneficial to the community; review of the cable operator's financial forms; review of consumer complaint records; review a map of the service areas to determine whether there are unserved needs; and a review of licenses granted by other communities in Massachusetts. A public hearing may be held as part of the ascertainment process, but one is required after receipt of the cable operator's proposal.

The DTE's Cable Division has determined that the ascertainment process must be completed no later than six months prior to the expiration of the current license (i.e. by June 29, 2010). The Issuing Authority's ascertainment results are issued as part of its Request For Proposal (RFP) for a cable license renewal. The Issuing Authority provides for a reasonable time for the cable operator to review and respond to the RFP, in a submission known as a Formal Renewal Proposal. Generally, a period of 30 days is considered a reasonable response time, although the length of time remaining in the existing license must be taken into account.

Under federal law, the cable operator may not submit a formal renewal proposal until the Issuing Authority has completed its ascertainment. This allows the cable operator to respond to the results of the ascertainment studies.

Upon receipt of the cable operator's formal renewal proposal, the Issuing Authority has four months, or until the expiration of the current license (whichever occurs first) to make a determination on the proposal. Prolonging ascertainment reduces the amount of time during which an Issuing Authority may review and deliberate on the proposal.

The cable operator submits its Renewal Proposal on the Cable Division's Form 100 and typically supplements that filing with additional information. Upon receipt of the proposal, the Issuing Authority must: (1) provide public notice that the cable operator has submitted a renewal proposal; and (2) during the four month period that begins upon receipt of the proposal, renew the franchise or, issue a preliminary assessment that the franchise should not be renewed; and (3) at the request of the cable operator or on its own, commence an administrative proceeding to consider whether:

The cable operator has substantially complied with material terms of the existing franchise and with applicable law;

The quality of the cable operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the cable system, has been reasonable in light of community needs;

The cable operator has the legal, financial and technical ability to provide the services, facilities and equipment set forth in the cable operator's proposal; and

The cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

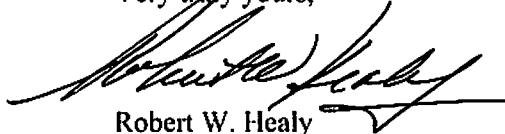
However, if the Issuing Authority determines, upon initial review of the proposal, that it will accept the cable operator's proposal and grant the license, there is no need to commence the administrative hearing. Nonetheless, under the Cable Division's regulations, the Issuing Authority must conduct a public hearing to allow the public an opportunity to comment on the cable operator's proposal.

If the Issuing Authority determines that the cable operator satisfies each of the four criteria (a-d above), and decides to grant a renewal license, the Issuing Authority must issue a written public statement detailing the reasons for grant of the renewal. The Issuing Authority must file a copy of the issuing statement, renewal license and license application (Form 100) with the Cable Division within seven days of granting the license.

The formal renewal process, outlined above, does not preclude the Issuing Authority and cable operator from entering into informal negotiations. When negotiating informally, the cable operator may submit a proposal for license renewal at any time, and the Issuing Authority may, after affording the public adequate notice and an opportunity to be heard, grant or deny such a proposal. There is no regulatory requirement that an Issuing Authority conduct ascertainment if it chooses to negotiate with the cable operator rather than follow the formal process.

Nevertheless, the Issuing Authority's negotiating position can only be enhanced if it has ascertainment results to substantiate its requests. Typically, an informal negotiating process will be undertaken, while conducting the formal process, to achieve mutually beneficial results, while retaining the safeguards of the formal process.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", with a stylized flourish at the end.

Robert W. Healy
City Manager

RWH/mec