



## **Request for City Council Committee Action from the Department of Communications**

**Date:** March 13, 2015

**To:** Council Member John Quincy, Chair of Ways & Means

**Subject:** CenturyLink cable franchise application

**Recommendation:** That the City Council (1) receive and file the cable officer's report on the CenturyLink cable franchise application, (2) direct staff to engage in negotiations with CenturyLink regarding a cable franchise, and (3) give notice of intent to introduce a cable franchise ordinance.

**Previous Directives:** Feb. 23, 2015, public hearing before Ways & Means on CenturyLink's cable franchise application to the City

### **Department Information**

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Approved by: \_\_\_\_\_  
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Presenter in Committee: Mike Bradley, Bradley Hagen & Gullikson, LLC

### **Supporting information**

In January, 2015, the City received a cable franchise application from CenturyLink. Comcast Cable currently has a non-exclusive franchise agreement with Minneapolis, which means that other entities can also seek franchises to provide cable service in Minneapolis.

A public hearing on the application was held on Feb. 23, and additional written comment from the public was accepted through Feb. 27. Based on the record, which includes CenturyLink's application and supporting information, as well as public comment, the Cable Officer is required to make a recommendation to City Council on whether to move forward with the franchise application.

Upon review of the public record on CenturyLink's application materials, it is the Cable Officer's recommendation that staff now be directed to negotiate a cable franchise with CenturyLink, consistent with the report. This action does not approve a franchise. Any

franchise agreement that is negotiated through this process will be brought back to City Council after an additional public hearing at which point the Council will decide whether to grant the franchise.

It is recommended that any CenturyLink cable franchise contain commitments that taken as a whole are comparable (but not necessarily identical) to those in the existing franchise with Comcast. This approach should permit the City to promote its interest in developing competition for cable service, while preventing CenturyLink or Comcast from obtaining an unfair competitive advantage. A cable franchise is a valuable privilege to use the public rights to provide residents cable service.

Any franchise, while recognizing that CenturyLink would be the second wire-line franchised cable operator in the city, must adequately address the following issues:

- Adequate protections to the public to prevent economic redlining or “cherry picking.”
- The provision of culturally diverse programming.
- Fair and reasonable build-out requirements with the goal of CenturyLink providing competitive cable services throughout the entire city within a reasonable time and in an equitable manner.
- Provisions consistent with Level Playing Field requirements under applicable law addressing:
  - Area to be served
  - Public, Educational, and Governmental (“PEG”) Television
  - Payment of a Franchise Fee to the City
- Indemnification from any litigation resulting from the grant of a franchise

If this recommendation is adopted by the City Council, City staff should be directed to commence negotiating a cable franchise with CenturyLink immediately, and the City Council should issue a notice of intent to award a cable franchise by ordinance.

Once a cable franchise ordinance is introduced, a public hearing on the ordinance will be scheduled before the Ways and Means Committee. The City Council may act on the cable franchise ordinance any time after seven days following that public hearing. At the time of the City Council decision to award a cable franchise by ordinance or to deny the award of a cable franchise, it will need to make findings of fact in support of its decision.