



SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

799 G Street, 4th Floor, Sacramento, CA 95814 • (916) 874-6661 • Fax: (916) 854-9666 • www.sacmetroable.tv

A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA

SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION REGULAR BOARD MEETING

Sacramento County Administrative Center
700 H Street, S. 1450
Sacramento, California

THURSDAY, DECEMBER 1, 2016

2:30 p.m.

Board Members: Larry Carr, Steve Detrick, Eric Guerra, Steve Hansen, Patrick Kennedy, Roberta MacGlashan, Andy Morin, Don Nottoli, Susan Peters, Phil Serna, Mel Turner

Ex Officio: Dan Skoglund

Elected Alternates: Gary Davis, Sue Frost

Appointed Alternates: Matthew Bryant (Larry Carr), Isaac Gonzalez (Kennedy) – Vice Chair, Consuelo Hernandez (Hansen), Lisa Nava (Serna), Sarah Pollo (Guerra), Howard Schmidt (Peters), Ted Wolter (MacGlashan) – Chair

The Board may take up any agenda item at any time, regardless of the order listed. Members of the public coming for a specific agenda item are encouraged to arrive earlier than the scheduled time. Public comment will be taken on the item at the time that it is taken up by the Board. We ask that members of the public complete a Request to Speak form, submit it to the Clerk of the Board, and keep their remarks brief. If several persons wish to address the Board on a single item, the Chair may impose a time limit on individual remarks at the beginning of the discussion. Action may be taken on any item on this agenda.

Presentations supplemented with media (video, DVD, PowerPoint, laptop hookup, etc.) must be coordinated in advance with the meeting Clerk. All media must be tested prior to the meeting date by Metro Cable at (916) 874-7685. Untested media will not be allowed on the date of the meeting. It is also highly advisable to bring a paper copy of presentations to the meeting as back up.

Meeting facilities are accessible to persons with disabilities. Requests for alternative agenda document formats, meeting assistive listening devices, or other considerations should be made through the Commission office at (916) 874-6662.

The meeting of the Commission is cablecast live on Metro Cable 14, the local government affairs channel and webcast at www.sacmetroable.tv. The meeting is closed captioned and will be repeated the following Saturday at Noon on Channel 14.

CALL TO ORDER

- A) Roll Call
- B) Pledge of Allegiance
- C) Introduction of Board Alternate Matthew Bryant

ITEM NO. 1) CONFERENCE WITH LEGAL COUNSEL

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of Case: SMCTC v. Pacific Bell Telephone Company
Case No: 34-2015-00181803
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code Section 54956.9
Name of Case: Comcast of Sacramento I, LLC, ET AL. v. SMCTC
Case No. 2:16-CV-01264-WBS-EFB
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code, section 54956.9) – Initiation of litigation pursuant to
Section 54956.9(d)(4): No. of Cases 2

Action

Adjourn to a closed session to discuss the items.

ITEM NO. 2) REVIEW OF FRANCHISE AND PEG FEES REMITTED BY CONSOLIDATED COMMUNICATIONS, INC. FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2014

Action

Receive and file the review of franchise and PEG fees remitted by Consolidated Communications, Inc. for the Period January 1, 2013 through December 31, 2014.

ITEM NO. 3) REVIEW OF FRANCHISE AND PEG FEES REMITTED BY COMCAST COMMUNICATIONS, INC. FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2014

Action

Receive and file the review of franchise and PEG fees remitted by Comcast Communications, Inc. for the Period January 1, 2013 through December 31, 2014, and direct staff to issue an invoice to Comcast for the unpaid fees identified.

ITEM NO. 4) RESOLUTION NO. 2016-019, AUTHORIZING THE ISSUANCE OF A SUBPOENA RELATING TO AN ANALYSIS OF CABLE TELEVISION FRANCHISE & PEG FEES PAID BY AT&T, INC. FOR THE PERIOD JANUARY 1, 2014 THROUGH DECEMBER 31, 2015

Action

Adopt Resolution No. 2016-019, Authorizing the Issuance of a Subpoena Relating to an Analysis of Cable Television Franchise and PEG Fees Paid by AT&T, Inc. for the Period January 1, 2014 through December 31, 2015.

- ITEM NO. 5) RESOLUTION NO. 2016-020, REAUTHORIZING A FEE TO SUPPORT PUBLIC, EDUCATION, AND GOVERNMENT CHANNEL FACILITIES IN THE AMOUNT OF ONE PERCENT OF GROSS REVENUES ON CABLE TELEVISION STATE FRANCHISEES HOLDING STATE FRANCHISES WITHIN THE JURISDICTION OF THE COMMISSION

Action

Adopt Resolution No. 2016-020, Reauthorizing a Fee to Support Public, Education, and Government (PEG) Channel Facilities in the Amount of One Percent (1%) of Gross Revenues on Cable Television State Franchisees Holding State Franchises Within the Jurisdiction of the Commission.

- ITEM NO. 6) RESOLUTION NO. 2016-021, ADOPTING THE PARENTAL LEAVE POLICY

Action

Approve Resolution No. 2016-021, Adopting the Parental Leave Policy.

- ITEM NO. 7) GENERAL ADMINISTRATION REPORT

Action

Receive a verbal report from staff regarding general administration matters:

- A. Access Sacramento's High Definition Truck
- B. Telecom Advocacy Coalition

- ITEM NO. 8) STATE FRANCHISEE REPORTS

Action

Receive verbal reports from State Franchisee representatives:

- A. AT&T, Inc.
- B. Comcast
- C. Consolidated Communications, Inc.

- ITEM NO. 9) CHANNEL LICENSEE REPORTS

Action

Receive verbal reports from Channel Licensee representatives:

- A. ACCESS Sacramento
- B. Capital Public Radio
- C. KVIE, Inc.
- D. Sacramento Faith TV
- E. Sacramento Educational Cable Consortium

ITEM NO. 10) PUBLIC COMMENTS

ADJOURNMENT



SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

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A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 1

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: CONFERENCE WITH LEGAL COUNSEL

RECOMMENDATION:

It is recommended the Board adjourn to a closed Executive Session to discuss the following items and report out, if necessary:

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of Case: SMCTC v. Pacific Bell Telephone Company
Case No: 34-2015-00181803
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code Section 54956.9
Name of Case: Comcast of Sacramento I, LLC, ET AL. v. SMCTC
Case No. 2:16-CV-01264-WBS-EFB
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code, section 54956.9) - Initiation of litigation pursuant to
Section 54956.9(d)(4): No. of Cases 2

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission



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A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 2

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: REVIEW OF FRANCHISE & PEG FEES REMITTED BY CONSOLIDATED COMMUNICATIONS, INC. FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2014

RECOMMENDATION:

It is recommended the Board receive and file the report of the review of franchise and Public, Educational, and Government Fees paid by Consolidated Communications, Inc., to the Sacramento Metropolitan Cable Television Commission for the period January 1, 2013 through December 31, 2014.

BACKGROUND/DISCUSSION:

The review of franchise and Public, Educational, and Government (PEG) fees remitted to the Commission by Consolidated Communications, Inc. (CCI) for the period January 1, 2013 through December 31, 2014 was performed by Carolyn Sculco, with Ashpaugh & Sculco, CPAs, PLC (A&S). The review was performed under the authority of the Digital Infrastructure and Video Competition Act (DIVCA) of 2006. The purpose of the review was to determine whether CCI was in conformance with its franchise and PEG fee obligations pursuant to its state franchise under the DIVCA.

In accordance with the DIVCA, the franchise fee obligation is 5% of gross revenues and the PEG fee obligation is 1% of gross revenues. Based on the scope of work performed, as outlined on page 3 of the review, A&S has identified the total amount due to the Commission for underpayment of franchise fees, PEG fees, and interest charges over the period reviewed is \$7,413 (see Table 1 of report).

It is recommended the Board receive and file this report. Staff has contacted CCI of the underpayment finding and was informed by its representative that a check will be issued to the Commission for \$7,413. The Commission will continue the practice of conducting bi-annual audits of franchise and PEG fees remitted by CCI as well as other cable companies operating in the County.

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission

Attachment:

Review of Franchise & PEG Fees Remitted by CCI for the Period January 1, 2013 to December 31, 2014

**Ashpaugh & Sculco, CPAs PLC:
Review of Franchise & PEG Fees Paid
by Consolidated Communications, Inc.
to the SMCTC, CA.**



ASHPAUGH & SCULCO, CPAs, PLC
Certified Public Accountants and Consultants

November 2, 2016

Robert Davison, Executive Director
Sacramento Metropolitan Cable TV Commission
799 G Street, 4th Floor
Sacramento, CA 95814

**Subject: Review of Franchise and PEG Fees Paid by CCI to the Sacramento
Metropolitan Cable Television Commission, California**

Dear Mr. Davison:

Ashpaugh & Sculco, CPAs, PLC was engaged by the Sacramento Metropolitan Cable Television Commission, California ("SMCTC") to perform a review of the franchise and PEG fees paid by Consolidated Communications, Inc. ("CCI"). Please find enclosed our findings for the review period of January 1, 2013 through December 31, 2014. To review the franchise and PEG fees paid by CCI, A&S performed the Scope of Work included on page two of this letter report.

This letter report is intended solely for the information and use of SMCTC, is not intended to be, and should not be used by anyone other than these specified parties. It is our opinion that the total amount due to SMCTC from CCI for underpayment of franchise fees, PEG fees and interest, totals \$7,413, as shown on page two of this letter report.

We appreciate the opportunity to be of service to you. If you have any questions, please let us know. We can be reached at (407) 645-2020.

Sincerely,

ASHPAUGH & SCULCO, CPAS, PLC

Ashpaugh & Sculco, CPAs, PLC

ANALYSIS OF FRANCHISE & PEG FEES PAID BY CCI TO THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

SUMMARY

Ashpaugh & Sculco, CPAs, PLC was engaged by the Sacramento Metropolitan Cable Television Commission, California ("SMCTC") to perform a review of the franchise and PEG fees paid by Consolidated Communications, Inc. ("CCI"). The review period was from January 1, 2013 through December 31, 2014 ("review period").

The purpose of our review was to determine whether CCI was in conformance with CCI's state franchise under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) enacted in California. In accordance with DIVCA, franchise fees are 5.00% of gross revenues and the PEG fee obligation is 1.00% of gross revenues. A&S has identified the total amount due to SMCTC for underpayment of franchise fees, PEG fees, and interest charges is \$7,413.

TABLE 1

Description	Franchise Fees Due to SMCTC	PEG Fees Due to SMCTC	Total Due to SMCTC
Franchise and PEG Fees Paid by CCI	\$2,015,866	\$404,232	\$2,240,097
<u>Adjustments</u>			
A PEG Fee Revenues	\$4,944	\$989	\$5,933
B Non-Subscriber Revenues	348	70	418
Total Adjustments by A&S	\$5,293	\$1,059	\$6,351
Franchise & PEG Fees Calculated by A&S	\$2,021,158	\$405,290	\$2,426,448
Franchise and PEG Fees Paid by CCI	(2,015,866)	(404,232)	(2,420,097)
Amount Due to SMCTC	\$5,293	\$1,059	\$6,351
C Interest Charges	795	267	1,062
Total Amount Due to SMCTC	\$6,088	\$1,325	\$7,413

SCOPE OF WORK

A&S was not engaged to and did not perform an audit of CCI, the objective of which would be the expression of an opinion that the financial statements provide a representation of the operations for the period reviewed. Accordingly, we do not express such an opinion. Had A&S performed such additional procedures, other matters might have come to our attention that would have been reported to SMCTC. This report relates only to a review of CCI's gross revenues used to calculate franchise fees and does not extend to any financial statements of CCI or SMCTC. A&S has relied solely on information provided to us by SMCTC and CCI. This report is intended solely for the information and use of SMCTC, is not intended to be, and should not be used by anyone other than this specified party.

A&S performed a review of the franchise and PEG fees paid by CCI to SMCTC to determine whether CCI complied with franchise and PEG fee obligations of DIVCA. The analysis was performed solely to assist SMCTC with respect to evaluating franchise and PEG fees owed by CCI to SMCTC for the review period. All conclusions and recommendations are based on data responses, accounting records, and interviews provided by SMCTC and CCI. A&S performed the following Scope of Work:

ANALYSIS OF FRANCHISE & PEG FEES PAID BY CCI TO THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

1. Submitted initial data request to CCI, on behalf of SMCTC, requesting information for the review period.
2. Reviewed DIVCA, to gain an understanding of the terms, conditions, and requirements for the determination of franchise and PEG fees.
3. During the course of the project, submitted data requests to CCI to follow-up and resolve outstanding items and questions.
4. Corresponded with CCI and SMCTC's staff, if needed, to obtain additional information.
5. Reconciled revenues reported in franchise and PEG fee payments to supporting data provided by CCI.
6. For the review period, determined whether all categories of revenues were properly included in the calculation of franchise and PEG fees.
7. Summarized the dollar impact of any exceptions noted for each year.
8. Calculated interest charges associated with the underpayment of franchise and PEG fees.
9. Prepared draft and final reports for SMCTC summarizing our findings and recommendations.

ANALYSIS OF SUBSCRIBER REVENUES

CCI earns the substantial portion of its revenues from cable television subscriber fees. Cable subscriber revenues include amounts received for programming, premium channels, franchise fees, pay-per-view, installation charges, equipment lease rentals, late fees, returned check fees and other miscellaneous charges. A&S reconciled the subscriber revenues to the franchise and PEG fee payments, on a test basis, utilizing the same data as CCI for reporting revenues to SMCTC. Our adjustment to subscriber revenues is due to the following:

PEG Fee Revenues (Item A)

CCI did not include the revenues collected from subscribers related to the pass-through of PEG fees in the gross revenues reported to SMCTC for the first six months of the review period. These are revenues received from subscribers and billed on their cable bills. A&S included the amounts collected from subscribers for PEG fees in the gross revenues reported to SMCTC, as shown on Table 1.

ANALYSIS OF NON-SUBSCRIBER REVENUES

CCI included non-subscriber revenues generated from advertising, home shopping and other revenues. A&S obtained and reviewed the amounts from supporting documentation provided by CCI. Based on our review, we noted the following exception.

Non-Subscriber Revenues (Item B)

CCI allocated the non-subscriber revenues to SMCTC based on an allocation of revenues. However, the allocation of non-subscriber revenues should be based instead on the number of

ANALYSIS OF FRANCHISE & PEG FEES PAID BY CCI TO THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

subscribers. In addition, some non-subscriber revenues were omitted from the calculation. A&S recalculated the non-subscriber revenues, and compared it to the non-subscriber revenues reported by CCI. A&S made an adjustment for the unreported difference, as shown on Table 1.

INTEREST CHARGES (Item C)

Interest charges are defined in DIVCA, Section 5860, paragraph (h) as follows:

The state franchise fee shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the state franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus 1 percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment.

A&S calculated interest charges, compounded annually, for the underpayment of franchise fees utilizing the prime rate plus 1.00%. The prime rate was 3.25% through December 31, 2015, and increased to 3.50% on January 1, 2016. A&S assumed that payment of the outstanding amount would be on October 31, 2016. If payment is subsequent to October 31, 2016, additional interest charges would accrue. Interest charges would be recalculated based on when actual payment is expected to be received.

DIVCA does not address the issue of interest charges for the underpayment of PEG fees. Therefore, A&S utilized the language from the California Constitution, Article 15, Section 1, to determine the PEG fee interest charges. A&S calculated interest charges at 7.00%, compounded annually, through October 31, 2016. A&S assumed that payment of the outstanding amount would be on October 31, 2016. If payment is subsequent to October 31, 2016, additional interest charges will accrue. Interest charges would be recalculated based on when actual payment is expected to be received.

AUDIT FEES

In accordance with DIVCA, Section 5860(i), "If the examination discloses that the holder has underpaid franchise fees by more than 5 percent during the examination period, the holder shall pay all of the reasonable and actual costs of the examination." The identified underpayment due to SMCTC from our review did not exceed the 5.00% threshold for the review period. Thus, reimbursement of the audit fee is not included on Table 1.

CONCLUSION

A&S recommends that SMCTC pursue payment of \$7,413 from CCI for the underpayment of franchise fees, PEG fees and interest charges.



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AGENDA ITEM NO. 3

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: REVIEW OF FRANCHISE & PEG FEES REMITTED BY COMCAST COMMUNICATIONS, INC. FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2014

RECOMMENDATION:

It is recommended the Board receive and file the report of the review of franchise and Public, Educational, and Government fees remitted to the Sacramento Metropolitan Cable Television Commission (Commission) by Comcast Cable Communications, Inc. (Comcast) for the period January 1, 2013 through December 31, 2014; and direct staff to issue an invoice to Comcast for the unpaid fees identified.

DISCUSSION:

The attached report of the review of the franchise and Public, Educational, and Government (PEG) fees remitted to the Commission by Comcast for the period January 1, 2013 through December 31, 2014 was performed by Carolyn Sculco, with Ashpaugh & Sculco, CPAS, PLC (A&S). The review was performed under the authority of the Digital Infrastructure and Video Competition Act (DIVCA) of 2006. The purpose of the review was to determine whether Comcast was in conformance with its franchise and PEG fee obligations pursuant to its state franchise under the DIVCA.

In accordance with the DIVCA, the franchise fee obligation is 5% of gross revenues and the PEG fee obligation is 1% gross revenues. Based on the scope of work performed, A&S has identified the total amount now due to the Commission for underpayment of franchise, PEG fees, and interest charges over the period reviewed is \$789,451 (see Table 1 of report).

It is recommended the Board receive and file this report, and direct staff to issue an invoice to Comcast for the unpaid fees identified over the time period reviewed to include interest charges. The Commission will continue the practice of conducting bi-annual reviews, with a concentrated focus on the accurate reporting of gross revenues to insure proper amounts are remitted to the Commission.

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission

Attachment:

Review of Franchise & PEG Fees Remitted by Comcast from January 1, 2013 through December 31, 2014

Ashpaugh & Sculco, CPAs PLC:
Review of Franchise & PEG Fees Paid
by Comcast Communications, Inc. to
the SMCTC, CA.



ASHPAUGH & SCULCO, CPAs, PLC
Certified Public Accountants and Consultants

November 2, 2016

Robert Davison, Executive Director
Sacramento Metropolitan Cable TV Commission
799 G Street, 4th Floor
Sacramento, CA 95814

Subject: Review of Franchise and PEG Fees Paid by Comcast to the Sacramento Metropolitan Cable Television Commission, California

Dear Mr. Davison:

Ashpaugh & Sculco, CPAs, PLC was engaged by the Sacramento Metropolitan Cable Television Commission, California ("SMCTC") to perform a review of the franchise and PEG fees paid by Comcast. Please find enclosed our findings for the review period of January 1, 2013 through December 31, 2014. To review the franchise and PEG fees paid by Comcast, A&S performed the Scope of Work included on page two of this letter report.

This letter report is intended solely for the information and use of SMCTC, is not intended to be, and should not be used by anyone other than these specified parties. It is our opinion that the total amount due to SMCTC from Comcast for underpayment of franchise fees, PEG fees and interest, totals \$789,451, as shown on page two of this letter report.

We appreciate the opportunity to be of service to you. If you have any questions, please let us know. We can be reached at (407) 645-2020.

Sincerely,

ASHPAUGH & SCULCO, CPAS, PLC

Ashpaugh & Sculco, CPAs, PLC

ANALYSIS OF FRANCHISE & PEG FEES PAID BY COMCAST TO THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

SUMMARY

Ashpaugh & Sculco, CPAs, PLC was engaged by the Sacramento Metropolitan Cable Television Commission, California ("SMCTC") to perform a review of the franchise and PEG fees paid by Comcast. The review period was from January 1, 2013 through December 31, 2014 ("review period").

The purpose of our review was to determine whether Comcast was in conformance with Comcast's state franchise under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) enacted in California. In accordance with DIVCA, franchise fees are 5.00% of gross revenues and the PEG fee obligation is 1.00% of gross revenues. A&S has identified the total amount due to SMCTC for underpayment of franchise fees, PEG fees, and interest charges is \$789,451.

TABLE 1

Item No.	Description	Franchise Fees Due to SMCTC	PEG Fees Due to SMCTC	Total Due to SMCTC
	Franchise & PEG Fees Paid by Comcast	\$19,599,011	\$3,928,914	\$23,527,925
	<u>Adjustments</u>			
A	Subscriber Revenues	\$98,048	\$19,610	\$117,657
B	Multi-Service Revenues	192,358	38,472	230,829
C	Late Fees	44,032	8,806	52,839
D	Insufficient Funds Fees	11,563	2,313	13,875
E	Video Installation/Activation	17,131	3,426	20,557
F	Video Revenues in HSD Service	8,564	1,713	10,277
G	Bad Debt - Incomplete	-	-	-
H	PEG Fee Revenues	194,282	38,856	233,139
I	Tower Rentals	788	158	946
J	Home Shopping	1,225	245	1,470
K	Launch Incentives	14,587	2,917	17,504
	Total Adjustments	\$582,578	\$116,516	\$699,093
	Franchise & PEG Fees Calculated by A&S	\$20,181,589	\$4,045,429	\$24,227,018
	Franchise & PEG Fees Paid by Comcast	(19,599,011)	(3,928,914)	(23,527,925)
	Amount Due to SMCTC	\$582,578	\$116,516	\$699,093
L	Interest Charges	67,876	22,481	90,358
	Total Amount Due to SMCTC	\$650,454	\$138,997	\$789,451

SCOPE OF WORK

A&S was not engaged to and did not perform an audit of Comcast, the objective of which would be the expression of an opinion that the financial statements provide a representation of the

ANALYSIS OF FRANCHISE & PEG FEES PAID BY COMCAST TO THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

operations for the period reviewed. Accordingly, we do not express such an opinion. Had A&S performed such additional procedures, other matters might have come to our attention that would have been reported to SMCTC. This report relates only to a review of Comcast's gross revenues used to calculate franchise fees and does not extend to any financial statements of Comcast or SMCTC. A&S has relied solely on information provided to us by SMCTC and Comcast. This report is intended solely for the information and use of SMCTC, is not intended to be, and should not be used by anyone other than this specified party.

A&S performed a review of the franchise and PEG fees paid by Comcast to SMCTC to determine whether Comcast complied with franchise and PEG fee obligations of DIVCA. The analysis was performed solely to assist SMCTC with respect to evaluating franchise and PEG fees owed by Comcast to SMCTC for the review period. All conclusions and recommendations are based on data responses, accounting records, and interviews provided by SMCTC and Comcast. A&S performed the following Scope of Work:

1. Submitted initial data request to Comcast, on behalf of SMCTC, requesting information for the review period.
2. Reviewed DIVCA, to gain an understanding of the terms, conditions, and requirements for the determination of franchise and PEG fees.
3. During the course of the project, submitted data requests to Comcast to follow-up and resolve outstanding items and questions.
4. Corresponded with Comcast and SMCTC's staff, if needed, to obtain additional information.
5. Reconciled revenues reported in franchise and PEG fee payments to supporting data provided by Comcast.
6. For the review period, determined whether all categories of revenues were properly included in the calculation of franchise and PEG fees.
7. Summarized the dollar impact of any exceptions noted for each year.
8. Calculated interest charges associated with the underpayment of franchise and PEG fees.
9. Prepared draft and final reports for SMCTC summarizing our findings and recommendations.

REVIEW OF FRANCHISE AND PEG FEES

In accordance with the DIVCA, franchise fees are 5.00% of gross revenues and PEG fees are 1.00% of gross revenues. A&S reviewed franchise and PEG fees paid by Comcast to SMCTC for the review period of January 1, 2013 through December 31, 2014. The total amount due to SMCTC for underpayment of franchise and PEG fees is \$789,451. We explain our adjustments and reference them by item number in the remainder of this report, using the same item numbers listed on Table 1.

ANALYSIS OF SUBSCRIBER REVENUES

Comcast earns the substantial portion of its revenues from cable television subscriber fees. Cable subscriber revenues include amounts received for programming (basic, digital, high-definition), premium channels, franchise fees, pay-per-view, installation charges, channel guides, equipment lease rentals, late fees, returned check fees and other miscellaneous charges. A&S reconciled the subscriber revenues to the franchise and PEG fee payments, on a test basis, utilizing the same data as Comcast for reporting revenues to SMCTC.

Subscriber Revenues (Item A)

A&S reviewed the monthly subscriber revenues to determine which revenues were properly included or excluded from the revenues reported to SMCTC. Comcast provided us with a detailed reconciliation schedule for December 2014. We used the sample month as guidance to review and reconcile the remaining months, and to determine whether Comcast correctly reported revenues to SMCTC.

Comcast made a decision to exclude certain subscriber revenues because, in Comcast's opinion, they were not revenues in accordance with the definition of gross revenues. We reviewed the revenues and determined they were either incorrectly excluded from gross revenues reported to SMCTC or we did not receive an adequate explanation as to why the revenue was excluded.

Due to the confidential nature of the subscriber revenues, we have not provided any additional detail in this report. At Comcast's request and SMCTC's approval, we will submit supporting calculations to Comcast for their subsequent review and discussion.

"Multi-Service" Revenues, Late Fees, and Insufficient Funds Fees (Items B, C and D)

Comcast classifies the following revenues as "multi-service", i.e., related to more than just video: late fees, NSF fees, convenience fees, service protection plan fees, administrative fees, and early termination fees. Comcast allocates the "multi-service" revenues based on an allocation factor of video revenues to total service revenues (video revenues divided by the sum of video, high-speed, voice and security revenues). Each of these charges are associated with the bill or the service package and are not related to a line of business (i.e., video, HSD, voice or security). For example, the late fee charged is the same whether the subscriber takes only video or takes multiple services.

Comcast has proposed an argument that, according to generally accepted accounting principles ("GAAP"), these revenues are "multiple products" and should be allocated. This argument is without merit. None of the late fees, NSF fees, convenience fees and administrative fees are products. As stated above, the fee is the same in every instance when the situation arises, i.e., when the bill is late or the subscriber contacts Comcast, and holds no relationship to any line of business.

We have identified the late fees and non-sufficient funds fees separately on Table 1. These fees as these fees are specifically referred to in the definition of gross revenues under DIVCA. A&S disagrees that the "multi-service" revenues should be allocated and made an adjustment to include 100% of the revenues collected from subscribers in the gross revenues reported to SMCTC.

Video Installation/Activation (Item E)

Comcast provides customers with an on-time guarantee and gives a customer a credit on their bill if Comcast is late or fails to show up for an appointment. In addition, if Comcast fails to repair a problem on the first visit and has to make repeated trouble calls, Comcast often times gives customers a credit on their bills. Comcast decreased the revenues reported to SMCTC for credits related to failed on-time guarantees, installations and repairs. It is our opinion that these are business expenses and should not decrease the gross revenues reported to SMCTC. A&S made an adjustment to reverse all of the deductions.

Video Revenues Recorded in HSD Revenues (Item F)

Comcast records subscriber revenues on the CPSM318 third party billing reports. The reports are segregated by type of service revenues: video, high-speed data ("HSD"), and telephone. It appears that Comcast collected franchise fees from subscribers for a portion of the revenues recorded in the HSD revenues. Although these revenues are recorded in the HSD section of the CPSM318 billing reports, they are revenues received from subscribers and billed on cable bills. Comcast could not identify which revenues were incorrectly included in the section of HSD revenues or were allocable from HSD revenues. A&S made an adjustment to gross-up the franchise fees recorded in the HSD section of the CPSM318 billing reports.

Bad Debt (Item G) - Incomplete

Subscriber bad debt reported to SMCTC should include only actual video write-offs and recoveries. Historically, the CPSM-318 billing reports utilized by Comcast did not provide the breakout of write-offs and recoveries by line of business. Comcast estimated video write-offs based on an allocation of video revenues to total subscriber revenues. Based on our review of the billing reports, A&S noted that the billing reports listed actual bad debt write-offs and recoveries by line of business for the review period.

Based on our review of the bad debt and actual video write-offs from the billing reports, we submitted additional questions to Comcast to obtain a better of understanding of what items are included or excluded from bad debt and whether those items are in compliance with DIVCA.

As of the date of this report, we have not received a response from Comcast. Once we receive the data, we will review bad debt and make an adjustment.

PEG Fee Revenues (Item H)

Comcast did not include the revenues collected from subscribers related to the pass-through of PEG fees in the gross revenues reported to SMCTC for the review period. These are revenues received from subscribers and billed on their cable bills. A&S included the amounts collected from subscribers for PEG fees in the gross revenues reported to SMCTC.

ANALYSIS OF NON-SUBSCRIBER REVENUES

Comcast included non-subscriber revenues generated from advertising, home shopping and other revenues. A&S obtained and reviewed the amounts from supporting documentation provided by Comcast. Based on our review, we noted the following exceptions.

Tower Rentals (Item I)

Comcast did not include the revenues from tower rentals in the gross revenues reported to SMCTC. Based on our review of the definition of gross revenues, we do not see any exclusion for tower rentals. A&S made an adjustment to include tower rentals in the gross revenues reported to SMCTC.

Home Shopping Revenues (Item J)

A&S recalculated home shopping revenues and compared them to home shopping revenues reported by Comcast. Comcast reported incorrect amounts for October and December 2014. A&S adjusted home shopping revenues to reflect the revised amounts.

Launch Incentives (Item K)

Comcast received launch incentives from programming suppliers as reimbursement of costs incurred in support of the launch or promotion of new programming. Comcast records launch incentives as "contra-expenses" and does not recognize them as revenues. There is no exclusion of any payments from the definition of gross revenues, as defined in Section 5860(d) of DIVCA.

However, Comcast may deduct from launch incentives associated with "specific, identifiable marketing costs incurred by the holder of a state franchise for the introduction of new programming", as defined in Section 5860(e)(9). If Comcast can provide any specific, identifiable marketing costs, we will review the data to determine whether it is an offset to the launch incentives. A&S made an adjustment to include launch incentives.

INTEREST CHARGES (Item L)

Interest charges are defined in DIVCA, Section 5860, paragraph (h) as follows:

The state franchise fee shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the state franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus 1 percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment.

A&S calculated interest charges, compounded annually, for the underpayment of franchise fees utilizing the prime rate plus 1.00%. The prime rate was 3.25% through December 31, 2015, and increased to 3.50% on January 1, 2016. A&S assumed that payment of the outstanding amount would be on October 31, 2016. If payment is subsequent to October 31, 2016, additional interest charges would accrue. Interest charges would be recalculated based on when actual payment is expected to be received.

DIVCA does not address the issue of interest charges for the underpayment of PEG fees. Therefore, A&S utilized the language from the California Constitution, Article 15, Section 1, to determine the interest charges associated with PEG fees. A&S calculated interest charges at 7.00%, compounded annually, through October 31, 2016. A&S assumed that payment of the outstanding amount would be on October 31, 2016. If payment is subsequent to October 31,

ANALYSIS OF FRANCHISE & PEG FEES PAID BY COMCAST TO THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

2016, additional interest charges will accrue. Interest charges would be recalculated based on when actual payment is expected to be received.

AUDIT FEES

In accordance with DIVCA, Section 5860(i), "If the examination discloses that the holder has underpaid franchise fees by more than 5 percent during the examination period, the holder shall pay all of the reasonable and actual costs of the examination." The identified underpayment due to SMCTC from our review did not exceed the 5.00% threshold for the review period. Thus, reimbursement of the audit fee is not included on Table 1.

RECOMMENDATIONS

A&S recommends that SMCTC pursue payment of \$789,451 due from Comcast for the underpayment of franchise and PEG fees, including interest charges. Based on our review, it is reasonable to assume that some of the findings noted in this report could be applicable to franchise and PEG fees paid to SMCTC in future quarters. A&S proposes that SMCTC request that Comcast maintain all relevant financial records in case SMCTC decides to review additional years later. The financial records should include accounting records, general ledgers, number of subscribers, and data for advertising revenues. It is imperative to maintain these records because clerical errors, changes in accounting methods, or unique situations that would not surface during the course of the year may be discovered under direct questions and analyses.



SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

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A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 4

DATE: December 1, 2016

TO: Chair and Board of Directors

FROM: Robert A. Davison, Executive Director

SUBJECT: RESOLUTION NO. 2016-019, AUTHORIZING THE ISSUANCE OF A SUBPOENA RELATING TO AN ANALYSIS OF CABLE TELEVISION FRANCHISE & PEG FEES PAID BY AT&T, INC. FOR THE PERIOD JANUARY 1, 2014 THROUGH DECEMBER 31, 2015

RECOMMENDATION:

Adopt Resolution No. 2016-019, Authorizing the Issuance of a Subpoena Relating to an Analysis of Cable Television Franchise and Public Education and Governmental Fees paid by AT&T, Inc. for the period January 1, 2014 through December 31, 2015.

BACKGROUND/DISCUSSION:

Public Utilities Code section 5860(i) permits a local agency to “examine the business records of a holder of a state franchise” to ensure that compensation is in compliance with state law.

AT&T, Inc. is a holder of a state franchise within the Commission’s jurisdiction and earns the substantial portion of its revenues from monthly cable television subscriber fees. Monthly subscriber revenues are generated from revenues including basic service, premium service, franchise fees, pay-per-view service, installations, guides, converter rental, late fees, non-sufficient funds fee, and other miscellaneous charges. These amounts are subject to a 5% franchise fee. In addition, it is subject to a 1% public, education and governmental (PEG) fee.

The Commission has retained the services of Ashpaugh & Sculco, CPAs, PLC (Consultant) to perform an analysis of franchise and Public Education and Governmental (PEG) fees paid to the Commission by AT&T California for the period of January 1, 2014 through December 31, 2015. This analysis is to determine if any of the subscriber revenue categories have been improperly excluded by AT&T from fee payments made to the Commission for the period identified. The scope of work is identified in Attachment A of the enclosed Letter of Agreement with Ashpaugh & Sculco.

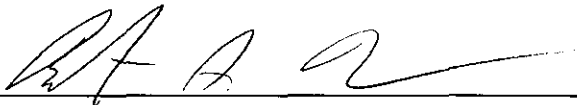
Agenda Item No. 4

Resolution No. 2016-019, Authorizing the Issuance of a Subpoena Relating to an Analysis of Cable Television Franchise & PEG Fees Paid by AT&T, Inc. for the Period January 1, 2014 through December 31, 2015

Page 2

Since AT&T has historically refused the Commission's request for audits until a subpoena is issued, staff recommends the Board adopt Resolution No. 2016-019, Authorizing the Issuance of a Subpoena Relating to an Analysis of the Franchise & PEG Fees paid to the Commission by AT&T, Inc. for the period January 1, 2014 through December 31, 2015.

Respectfully submitted,



ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission

Attachments:

Resolution No. 2016-019

Ashpaugh & Sculco Letter of Agreement for Analysis of Franchise & PEG Fees Paid by AT&T
(Calendar Years 2014-2015)

RESOLUTION NO. 2016-019

**A RESOLUTION OF THE SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION AUTHORIZING THE ISSUANCE OF A SUBPOENA
RELATING TO AN ANALYSIS OF CABLE TELEVISION FRANCHISE & PEG FEES PAID BY AT&T, INC.
FOR THE PERIOD JANUARY 1, 2014 THROUGH DECEMBER 31, 2015**

WHEREAS, AT&T, Inc. (“AT&T”) holds a state franchise and provides cable television services within the areas of the Sacramento Metropolitan Cable Television Commission’s (“Commission”) jurisdiction;

WHEREAS, the Commission has asked AT&T to make available for inspection its business records pertaining to franchise & PEG fees for the company’s U-Verse product for the purpose of conducting an audit as authorized by Public Utilities Code section 5860(i);

WHEREAS, AT&T has historically refused to make available such records absent a subpoena;

WHEREAS, the Commission has subpoena power to the same extent that the City of Sacramento has subpoena power;

WHEREAS, Government Code section 37104 authorizes cities to issue subpoenas requiring the attendance of a person or the production of books or other documents for evidence in any action or proceeding pending before it; and

WHEREAS, the City of Sacramento Charter Article III, Section 34 grants subpoena authority for investigations.

NOW, THEREFORE, the Sacramento Metropolitan Cable Television Commission does hereby resolve as follows:

Section 1. The Commission’s Consultant (“Ashpaugh & Sculco, CPAs, PLC”) shall specifically describe the information or records required for the analysis in accordance with Public Utilities Code section 5860(i).

Section 2. The Commission authorizes its Chair or the Chair’s designee to execute a subpoena for AT&T’s business records, in whatever form such records are kept, whether written, electronic or otherwise, for the purpose of conducting an analysis in accordance with Public Utilities Code section 5860(i). A subpoena may also require the attendance of the custodian of records or other person knowledgeable about the business records sought.

Section 3. The authority to issue the subpoena discussed herein shall expire upon the completion of the analysis pertaining to franchise & PEG fees for AT&T’s state video franchise for the territory within the jurisdiction of the Commission for the period of January 1, 2014 through December 31, 2015.

On a motion by Director _____, seconded by Director _____, the foregoing Resolution was passed and adopted by the Governing Board of the Sacramento Metropolitan Cable Television Commission, State of California, this 1st day of December 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair of the Board

ATTEST:

Clerk of the Board

Ashpaugh & Sculco, CPAs PLC:
Letter Agreement for an Analysis of
the Franchise & PEG Fees Paid by AT&T
to the SMCTC, CA.



ASHPAUGH & SCULCO, CPAs, PLC
Certified Public Accountants and Consultants

November 14, 2016

Robert Davison, Executive Director
Sacramento Metropolitan Cable TV Commission
799 G Street, 4th Floor
Sacramento, CA 95814

Subject: Letter Agreement for an Analysis of the Franchise and PEG Fees Paid by AT&T to the Sacramento Metropolitan Cable Television Commission, California

Dear Mr. Davison:

Ashpaugh & Sculco, CPAs, PLC ("A&S") is pleased to provide this engagement letter to the Sacramento Metropolitan Cable Television Commission ("SMCTC") to set forth the scope and terms for providing consulting services. A&S has been engaged by SMCTC to perform Agreed-Upon Procedures, specifically, an analysis of the franchise fees and public, education, and governmental access ("PEG") fees paid by AT&T for the period of January 1, 2014 through December 31, 2015 (the "Review Period") in conformance with AT&T's state franchise under the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA") enacted in California.

A&S will perform the services listed in the attached Scope of Work (Attachment A). This letter agreement authorizes and obligates: (i) A&S to perform the tasks set forth in the Scope of Work (the "Tasks"); and, (ii) SMCTC to promptly submit A&S's valid invoices for this project for payment, payable within thirty days of receipt. During the course of this project, the Tasks may be modified by written authorization of SMCTC and any impact on the estimated budget will be addressed.

A&S shall submit a report to SMCTC listing the procedures services and the findings. This report is intended solely for the information and use of SMCTC, and is not intended to be and should not be used by anyone other than these specified parties.

A&S agrees to perform an analysis of the franchise and PEG fees paid by AT&T for the period of January 1, 2014 through December 31, 2015 for the not-to-exceed budget of \$7,500.00.

All work undertaken in performing the Tasks shall be billed to SMCTC at A&S's standard hourly billing. The budget is based on anticipated cooperation from SMCTC and AT&T personnel, and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, A&S shall first obtain consent of SMCTC and provide a new fee estimate before any additional costs are incurred.

Additional and optional tasks requested by SMCTC, and agreed to by A&S, shall be performed by A&S at the hourly billing rates. A&S may also bill SMCTC for analytical time, administrative time and all out-of-pocket expenses directly chargeable to any additional and

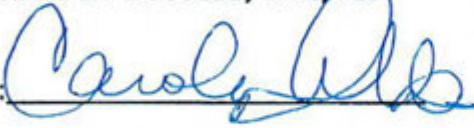

Robert Davison, Executive Director
November 14, 2016
Page 2 of 2

optional tasks mutually agreed to by SMCTC and A&S.

We appreciate your assistance and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of this engagement as described, please sign the enclosed copy and return it to us.

This project shall be commenced as soon as practicable upon execution of this letter agreement, and shall be completed as soon as good practice and due diligence will permit. This letter agreement shall be deemed executed and accepted on the date it is signed by SMCTC.

AGREED AND ACCEPTED:

ASHPAUGH & SCULCO, CPAs, PLC By:  Name: <u>CAROLYN SCULCO</u> Title: <u>VICE - PRESIDENT</u> Date: <u>11-15</u> , 2016	SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION By:  Name: <u>Robert A. Davison</u> Title: <u>Executive Director</u> Date: <u>11-14</u> , 2016
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SCOPE OF WORK

Ashpaugh & Sculco, CPAs, PLC ("A&S") is pleased to provide this Scope of Work to the Sacramento Metropolitan Cable Television Commission ("SMCTC") for an analysis of the franchise and PEG fees paid by AT&T to SMCTC. The review period will be for the period of January 1, 2014 through December 31, 2015 (the "Review Period").

The Scope of Work, set forth below, is for "Agreed Upon Procedures" and not a traditional audit of financial statements as defined by Generally Accepted Auditing Standards ("GAAS"). A traditional audit includes the issuance of an opinion stating whether the financial statements are presented fairly in conformity with Generally Accepted Accounting Principles ("GAAP"). Because the procedures listed in Scope of Work do not constitute a traditional audit, A&S will not express an opinion on AT&T or SMCTC's financial statements or any elements, accounts, or items thereof. Our analysis and report are Agreed-Upon Procedures and will relate only to a review of AT&T's gross revenues and related elements of expenses.

Our Scope of Work identifies the steps that we would perform to ensure that gross revenues are accurately reported by AT&T in accordance with DIVCA. A&S will perform a limited analysis of AT&T's franchise and PEG fee payments to SMCTC for the review period as follows:

1. A&S will assume that the same procedures are used to calculate franchise and PEG fee payments owed to every community in California, so that no errors will be made in SMCTC Service Area which consists of the County of the Sacramento and the Cities of Sacramento, Elk Grove, Folsom, Citrus Heights, Galt and Rancho Cordova (hereinafter "SMCTC Service Area") that are unique to SMCTC, and errors made elsewhere are also made in SMCTC Service Area.
2. A&S will ask AT&T for information related to the number of subscribers and products taken in the SMCTC Service Area, and where possible, quantify the errors for SMCTC.
3. Where AT&T does not maintain information in a way that allows A&S to easily quantify the amount of the error in the SMCTC Service Area (e.g., where the error can only be identified on a regional or statewide basis), it will assume that the same percentage error is being made in every community. For example, if work by AT&T shows that AT&T underpaid by X% in one region, it will assume that AT&T underpaid by the same percentage in the SMCTC Service Area.
4. A report will be prepared showing the results of the analysis.

PLEASE NOTE

We caution that AT&T should, but may not agree to the procedures described above. As to item 1, for example, there is every reason to believe that AT&T uses a uniform methodology to calculate franchise and PEG fees throughout the State. So, for example, if an analysis of bills for one community indicated certain categories of revenues were being excluded from the franchise and PEG fee calculation, then it could be assumed the same error is being made elsewhere. However, if AT&T refuses to concede that the same procedures are followed everywhere, A&S would be required to obtain and review data for each individual community and there would be an additional audit cost for SMCTC.

PROPOSED BUDGET

Ashpaugh & Sculco, CPAs, PLC ("A&S") proposes to perform a limited analysis of the franchise and PEG fees paid by AT&T to SMCTC for the period of January 1, 2014 through December 31, 2015 (the "Review Period") for a not-to-exceed budget of \$7,500. A&S will issue a report that will discuss our findings, plus any applicable interest and penalties due to SMCTC.

The proposed budget does not include any travel or travel-related costs and does not include any additional services. We have based the budget on anticipated cooperation from staff of AT&T, and the assumption that we will not encounter any unexpected circumstances during the project. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur any additional costs.

STANDARD HOURLY BILLING RATES

The following table sets forth our current hourly billing rates. While it is anticipated that Garth Ashpaugh and Carolyn Sculco will be primarily responsible for conducting and overseeing the work, we have also included the hourly billing rates for other personnel categories.

Position	Hourly Billing Rates
Garth T. Ashpaugh	\$150.00
Carolyn A. Sculco	\$150.00
Senior Analyst/AT&T	\$90.00 to \$105.00
Staff Analyst I	\$45.00 to \$65.00
Administration/Secretary	\$35.00 to \$40.00

TRAVEL COSTS & OTHER EXPENSES

The proposed budget is exclusive of travel and travel-related costs, and assumes that SMCTC and AT&T will submit responses to our information requests directly to our offices and not require any out-of-town visits. It has been our experience that it is more cost effective and less cumbersome to all parties, including AT&T, to communicate via fax, email and courier rather than perform extensive on-site visits.

If AT&T requires out-of-town visits, we will need to adjust the budget. SMCTC would only be billed the actual costs of any trip. A&S bills clients at cost for directly incurred expenses such as travel (accommodations, airfare, car rental, meals, and other incidental charges) and overnight delivery charges. Any travel time required during the normal business day will be charged to the client at our normal hourly billing rates.

ADDITIONAL SERVICES

A&S is available to assist in recovery of any underpayment of franchise and PEG fees and associated interest charges and penalties. Additional services would include assisting SMCTC in its negotiations with AT&T. Typically, we participate in conference calls, discuss our findings with AT&T, and assist SMCTC in negotiating a settlement with AT&T. We are also available to perform other additional services, such as: meet with SMCTC to discuss our findings; make presentations of our report to SMCTC; and provide support and testimony if this matter is

litigated.

These additional services are not included in our proposed budget. We will perform these services at our hourly billing rates at a budget mutually agreed to by SMCTC and A&S. These services will be provided under the contract only after SMCTC approves a written proposal provided by A&S.

TIMELINE & DELIVERABLES

A&S will endeavor to complete this project within 6 months of the award of the contract. However, our work depends on data provided by SMCTC and AT&T. We will submit a data request to AT&T within fourteen (14) business days of notice to proceed. The time estimate assumes timely and complete responses from AT&T. If the responses are not complete and or not provided timely, they may impact our anticipated schedule. We will notify SMCTC if our schedule is affected in such a manner.



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A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 5

DATE: December 1, 2016

TO: Chair and Board of Directors

FROM: Robert A. Davison, Executive Director

SUBJECT: RESOLUTION NO. 2016-020, REAUTHORIZING A FEE TO SUPPORT PUBLIC, EDUCATION, AND GOVERNMENT ("PEG") CHANNEL FACILITIES IN THE AMOUNT OF ONE PERCENT (1%) OF GROSS REVENUES ON CABLE TELEVISION STATE FRANCHISEES HOLDING STATE FRANCHISES WITHIN THE JURISDICTION OF THE COMMISSION

RECOMMENDATION:

Adopt Resolution No. 2016-020, Reauthorizing a Fee to Support Public, Education, and Government ("PEG") Channel Facilities in the Amount of One Percent (1%) of Gross Revenues on Cable Television State Franchisees Holding State Franchises within the Jurisdiction of the Commission.

BACKGROUND/DISCUSSION:

Public Utilities Code section 5870 allows local agencies to impose a fee (PEG Fee) to support public, education, and government channel facilities on state franchisees. The Commission's member agencies previously delegated authority to the Commission to adopt and impose a PEG Fee, and the Commission requires all state franchisees to pay a PEG Fee of one percent of gross revenues to fund PEG facilities.

State franchises under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) have a ten-year term. The first franchises were issued by the California Public Utilities Commission in 2007 and will be expiring next year. This includes the franchise issued to AT&T.

In addition, a number of franchises will be expiring in 2018, including Comcast's and Consolidated's franchises. It is anticipated that these franchisees will be renewing their state franchises for another ten-year term.

In light of this, staff prepared a resolution reauthorizing the PEG Fee. This will ensure that the Commission can collect the PEG Fee from state franchisees after their first franchise expires and assuming they renew it.

Agenda Item No. 5

Resolution No. 2016-020, Reauthorizing a Fee to Support PEG Channel Facilities in the Amount of One Percent (1%) of Gross Revenues on Cable Television State Franchisees Holding State Franchises within the Jurisdiction of the Commission

Page 2

Staff recommends the Board approve Resolution No. 2016-020, Reauthorizing a Fee to Support PEG Channel Facilities in the Amount of One Percent (1%) of Gross Revenues on Cable Television State Franchisees Holding State Franchises within the Jurisdiction of the Commission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Davison", written over a horizontal line.

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission

Attachment:

Resolution No. 2016-020

RESOLUTION NO. 2016-020

A RESOLUTION OF THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION
REAUTHORIZING A FEE TO SUPPORT PUBLIC, EDUCATION, AND GOVERNMENTAL ("PEG")
CHANNEL FACILITIES IN THE AMOUNT OF ONE PERCENT (1%) OF GROSS REVENUES
ON CABLE TELEVISION STATE FRANCHISEES HOLDING STATE FRANCHISES
WITHIN THE JURISDICTION OF THE COMMISSION

WHEREAS, the Sacramento Metropolitan Cable Television Commission ("SMCTC") is a joint powers agency that administers cable franchises for its member jurisdictions; and

WHEREAS, SMCTC's member agencies authorized SMCTC to adopt and impose a public, education, and governmental ("PEG") fee on state franchisees as authorized in the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA"); and

WHEREAS, Public Utilities Code section 5870(n) provides that the PEG fee be reauthorized upon the expiration of an applicable state franchisee; and

WHEREAS, state franchisees operating within SMCTC's jurisdiction, including Comcast, Consolidated Communications, Inc., and AT&T, Inc., will expire and are expected to be renewed in 2017 and 2018.

NOW, THEREFORE, the Sacramento Metropolitan Cable Television Commission does resolve as follows:

Section 1. PEG Fee Reauthorization. To the extent required by Public Utilities Code section 5870(n), SMCTC hereby reauthorizes the Public, Education, and Governmental channel facilities fee ("PEG Fee") adopted by SMCTC on or about May 1, 2009. As such, all state franchisees operating within the jurisdiction of SMCTC whose state franchise are renewed after the date of this Resolution shall continue to collect the PEG Fee in the amount of one percent (1%) of gross revenues of the franchisee from the cable/video franchise. The PEG Fee shall apply to all state cable television franchisees within the jurisdiction of the Commission. The PEG Fee shall be paid to SMCTC at the same time and in the same manner as franchise fees are paid to SMCTC.

Section 2. Effective Date. This Resolution shall be effective upon its adoption.

On a motion by Director _____, seconded by Director _____, the foregoing Resolution was passed and adopted by the Governing Board of the Sacramento Metropolitan Cable Television Commission, State of California, this 1st day of December 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Chair of the Board

Clerk of the Board



SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

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A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 6

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: RESOLUTION NO. 2016-021, APPROVING THE PARENTAL LEAVE POLICY

RECOMMENDATION:

It is recommended the Board adopt Resolution No. 2016-021, approving the Parental Leave Policy.

BACKGROUND/DISCUSSION:

The Commission Board approved a Pregnancy Related Leaves and Transfer Privileges Policy at its September 1, 2016 meeting. At that same meeting, the Commission Board directed staff to research and draft a parental leave policy, similar to the County of Sacramento policy.

After evaluating the parental leave benefits provided by the County of Sacramento, staff prepared a draft Parental Leave policy for the Commission (a copy of which is attached). The specifics of the draft policy include the following:

- The Parental Leave Policy applies to eligible employees with more than one year of continuous service to the Commission;
- Eligible employees include full-time employees and part-time employees who are regularly scheduled to work more than 1,000 hours per year (part-time employees are eligible for a pro rata amount of paid leave);
- The Parental Leave Policy provides 160 hours of paid leave, to be taken within the first four months after the birth or adoption of a child;
- The Policy also provides that Paid Family Leave provided by the State of California and administered by the California Employment Development Department

By way of procedure, employees should submit a written leave request at least thirty (30) calendar days prior to the anticipated start of parental leave. Employees are expected to use parental leave on a full-time basis (meaning that the four weeks taken consecutively as a leave of absence from the employee's position). Employees can, however, request the ability to use leave on a part-time or intermittent basis if doing so would not unduly disrupt Commission operations. The Commission may require supporting documentation of the employee's eligibility for leave.

Agenda Item No. 6

Resolution No. 2016-021, Approving the Parental Leave Policy

Page 2

In appropriate circumstances, the Commission reserves the right to deny or postpone usage of Parental Leave if it interferes with or causes severe hardship on Commission operations. Wherever possible, the Commission shall make reasonable accommodations to permit the usage of Parental Leave on either a full-time or part-time basis.

Staff recommends the Board adopt Resolution No. 2016-021, approving the Parental Leave Policy. The Parental Leave Policy will be in full force and effect from and immediately upon the adoption of the Resolution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. A. Davison', written over a horizontal line.

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission

Attachments:

Resolution No. 2016-021, Approving the Parental Leave Policy
Parental Leave Policy

SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

RESOLUTION NO. 2016-021

A RESOLUTION APPROVING THE PARENTAL LEAVE POLICY

WHEREAS, the Board of Directors (“Board”) directed staff of the Sacramento Metropolitan Cable Television Commission (“Commission”) at its September 1, 2016 meeting to research whether to provide some or all Commission employees with paid parental leave benefits; and

WHEREAS, the Board has considered and determined to provide eligible Commission employees with paid parental leave benefits, as further described in the Parental Leave policy presented to the Board.

NOW, THEREFORE, BE IT RESOLVED by the Commission Board on this 1st day of December 2016 that the attached “Parental Leave Policy” is hereby approved for inclusion in the Commission’s Personnel Rules and Procedures.

FURTHER BE IT RESOLVED the Parental Leave Policy is in full force and effect from and immediately upon the adoption of this Resolution.

On a motion by Director _____, seconded by Director _____, the foregoing Resolution was passed and adopted by the Governing Board of the Sacramento Metropolitan Cable Television Commission, State of California, this 1st day of December 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair of the Board

ATTEST BY:

Clerk of the Board

**Sacramento Metropolitan Cable
Television Commission:
Parental Leave Policy**

SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

PARENTAL LEAVE POLICY

Eligibility: Eligible employees with at least one (1) year of continuous service with the Commission shall be entitled to take paid parental leave ("Parental Leave") upon the birth of the employee's child, the birth of a child to the employee's registered domestic partner, or during the process of an adoption of a minor child. In the case of an adoption, the entitlement shall arise upon both: (1) the placement of the child in the employee's home; and (2) the employee initiating or having completed an adoptive home study for the adoption of the child. The purposes of Parental Leave are to facilitate parental bonding, family adjustment, and child care, and such leave shall be used consistent with these purposes. Eligible employees include full-time employees and part-time employees who are regularly scheduled to work more than 1,000 hours per year.

Amount of Leave and Time for Taking It: The maximum paid Parental Leave for full-time regular employees shall be 160 hours. Parental Leave shall be prorated for eligible part-time employees. Parental Leave shall not extend beyond and must be taken within four (4) months from either (1) the date of birth of the employee's child or the child of the employee's registered domestic partner, or (2) in the case of adoption, the initial date of residence of such child with the employee. The maximum 160 hours shall apply to each birth or adoption, regardless of the number of children born or adopted (twins, triplets, etc.). Parental Leave can be taken on a full-time basis or, with management approval, can be taken on an intermittent or part-time basis, so long as leave is completed within the four month period identified above. Commission management reserves the right to grant or deny requests for leave on anything other than a full-time basis, based on the present needs of the Commission. Employees are not eligible to receive in cash or as accrued leave any portion of the Parental Leave not taken within the four month period identified above.

Distinct Entitlement: Parental Leave is separate and distinct from the use of sick leave for pregnancy, since Parental Leave is not conditioned on or based upon disability. Parental Leave is available to be scheduled at the conclusion of the use of any sick leave for pregnancy and at the conclusion of any period of disability.

Process for and Timing of Request: Employees must make a written request to use Parental Leave. The written request shall be made at least thirty (30) calendar days prior to the anticipated start of the Parental Leave, except in cases of an unanticipated early childbirth or adoption, in which case the employee shall make the written request with as much advance notice as possible. The written request shall also provide supporting documentation as may be required by the Executive Director. The usage and timing of Parental Leave shall be approved by the Executive Director. Where granting Parental Leave would unduly interfere with or cause severe hardship on Commission operations, the Commission reserves the right to deny or postpone usage of Parental Leave. Wherever possible, the Commission shall make reasonable accommodations to permit Parental Leave, either on a full-time or part-time basis.

Parental Leave Policy

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Usage of Sick Leave During Parental Leave. An employee who while on Parental Leave is incapacitated for one (1) or more days due to personal illness or injury may charge such days to sick leave, if the employee has accrued sick leave available. In such event, the employee shall promptly notify the Executive Director, and shall submit substantiation of the need for and use of sick leave in the form of a doctor's note. Even in instances of illness, the Parental Leave must still be concluded within the four month period identified above.

Continuation of Benefits. During Parental Leave, employees will continue to receive all benefits of employment and will continue to accrue paid time off, including vacation and sick leave in accordance with Commission policies regarding those paid leave benefits. During Parental Leave, employees will be able to continue participation in all group health insurance benefits, provided employees continue to pay their portion (if any) of such benefits.

Return to Work. When Parental Leave ends, the employee will be reinstated to the employee's original position or to a comparable position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee on Parental Leave would have been laid off had he/she not gone on leave, or if the employee's position has been eliminated during the leave and there is no comparable position available, then the employee is not entitled to reinstatement. An employee's use of Parental Leave will not result in the loss of any employment benefit that the employee earned or was entitled to before the leave. If an employee fails to report to work promptly at the end of the Parental Leave, the Commission will assume that the employee has resigned.

Usage of Paid Family Leave. Parental Leave is not to be confused with Paid Family Leave ("PFL"). PFL benefits are provided by the State of California and are administered by the California Employment Development Department. In general, the PFL program provides wage replacement benefits to eligible employees for a six-week period within the first year after childbirth or adoption. PFL benefits are not provided or paid by the Commission; instead, they are paid by the state and are funded by way of mandatory payroll deduction. While the Commission provides all legally required leaves of absence and voluntarily provides paid Parental Leave to eligible employees, the Commission is not required to provide a job-guaranteed leave of absence to employees to enable employees to receive PFL benefits. If an employee wishes to take leave from their position with the Commission in order to obtain PFL benefits before or after the receipt of Parental Leave, the employee can submit a leave of absence request. Given the relative small size of the Commission and the anticipated impact on operations, the Commission may not grant such requests. The Commission will, however, consider the request in light of all relevant factors, including workload, number of employees, coverage, performance, and length of employment.



SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

799 G Street, 4th Floor, Sacramento, CA 95814 • (916) 874-6661 • Fax: (916) 854-9666 • www.sacmetrocbable.tv

A Joint Powers Agency Representing Sacramento County and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento

AGENDA ITEM NO. 7

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: GENERAL ADMINISTRATION REPORT

RECOMMENDATION:

It is recommended the Board receive a verbal report from staff regarding the following administration matters:

- 1) Access Sacramento's High Definition Truck
- 2) Telecom Advocacy Coalition

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission



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AGENDA ITEM NO. 8

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: STATE FRANCHISEE REPORTS

RECOMMENDATION:

It is recommended the Board receive verbal reports from representatives of the following state franchisees who may be present:

- A) AT&T, Inc.
- B) Comcast
- C) Consolidated Communications, Inc.

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission



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AGENDA ITEM NO. 9

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: CHANNEL LICENSEE REPORTS

RECOMMENDATION:

It is recommended the Board receive verbal reports from the representatives of the following Channel Licensees who may be present:

- A) Access Sacramento
- B) Capital Public Radio
- C) KVIE, Inc.
- D) Sacramento Faith TV
- E) Sacramento Educational Cable Consortium

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission



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AGENDA ITEM NO. 10

DATE: December 1, 2016
TO: Chair and Board of Directors
FROM: Robert A. Davison, Executive Director
SUBJECT: PUBLIC COMMENTS

RECOMMENDATION:

Receive comments from the public on matters that are not on the agenda.

Respectfully submitted,

ROBERT A. DAVISON, Executive Director
Sacramento Metropolitan Cable Television Commission