

Cable Franchise Renewal Process

Questions and Answers

Q: Does the City of Laconia need a Franchise Agreement?

A: New Hampshire law requires that a franchise be in place for provision of cable services. RSA 53-C:2 I states: "No company shall construct, commence construction, or operate a cable television system in any municipality without first obtaining a written franchise from the franchising authority of each municipality in which such system is installed or to be installed."

Q: What happens if the City just lets the existing franchise expire?

A: The quick answer here is that federal law protects the franchise rights of a cable operator. If the operator preserves its rights under section 626 of the federal cable act, which MetroCast has, the City can only terminate those franchise rights by denying a renewal in a formal process which is designed to be reviewed by a federal judge and which denial must be based on a standard stated in section 626.

Q: Is the cable franchise in Laconia exclusive to MetroCast?

A: Federal law and New Hampshire law prohibit exclusive franchises. What has prevented competing franchises in Laconia and other New Hampshire municipalities is not the law but economics. In short, the monopoly status of the cable operator is de facto, not de jure, or based in law. However, the economics are shifting and it is possible that Fairpoint, if it regains its financial balance, could seek a competing cable franchise in Laconia and most other municipalities. What's changed is that companies now derive three revenue streams from their facilities: cable service revenue, telephone revenue and internet access revenue. Competing franchises granted shall no more favorable or less burdensome than the terms of the existing franchise agreement.

Q: Does the cable franchise with MetroCast cover telephone and internet services too?

A: The cable franchise pertains only to cable television.

Q: What is the franchise fee and where does it get used?

A: Franchisees may be charged up to a maximum of 5% of their Gross Annual Revenues derived from cable television. MetroCast, under the current agreement, pays Laconia a 5% franchise fee. The 2010 franchise fee paid by MetroCast was \$269,391.15. That fee is applied to the General Fund and covers the City's contribution to Lakes Region Public Access Television, which was \$35,525 in 2010.

Q: What types of items can we negotiate in the franchise renewal?

A: Items regularly negotiated in franchise renewals include customer service standards, build-out criteria, equipment upgrades, free services to public buildings, and PEG Channels (Public, Educational and Governmental) for municipal programming. **Cost of cable services and programming may NOT be negotiated.**

Examples of items negotiated on last franchise agreement include; annual payments to the PEG Access studio for the purchase of equipment and supplies and/or operating costs associated with the facility, a cable link between LRPATV studios and the headend for PEG Access programming and construction of a fiber optic network connecting city buildings (not to exceed \$10,000).

Q: What is the renewal process and where are we in the process?

A: Under Federal Law there are two processes by which cable franchises may be renewed, formal and informal. The formal process is one where a proposal is developed by the provider and either accepted or rejected outright. The informal process utilizes back and forth negotiations to reach an acceptable agreement for both parties. While maintaining our rights to a formal process under the Communications Act of 1934, we have begun the informal process described in the attached "Cable Franchise Renewal Process" handout.

Audit questions, regarding the performance of MetroCast under the current franchise agreement, have been drafted and sent to Metrocast with a requested response date of January 20, 2012. The City is required to hold Public Hearings to ascertain the future cable-related needs and interests of the community. The City held its first Public Hearing on August 22, 2011 and has a second Public Hearing scheduled for December 12, 2011. In an effort to get a broad spectrum of public participation in the process, invitations to the 12/12 Public Hearing have been sent to School, Library, Police, Fire, City Administration, Health Care Providers and Chamber of Commerce representatives.

The Lakes Region Cable Consortium (consisting of Alton, Belmont, Franklin, Gilmanton, Laconia, Meredith, New Durham, Northfield, Tilton and Pittsfield) has requested MetroCast make the first offer of a franchise agreement renewal, which is expected before the next consortium meeting scheduled for January 26, 2012. It is anticipated that the Consortium will take results from Public Hearings and Audits and formulate a response to the MetroCast proposal.

Invitation to Public Ascertainment Hearing

Date: 11/23/11

Re: METROCAST Cable Franchise Renewal

To Whom It May Concern:

The City of Laconia is currently in the process of negotiating a renewal of its cable franchise agreement with METROCAST. The renewal process is an opportunity for the CITY to ascertain the future cable-related needs and interests of the community, and to negotiate with METROCAST, the incumbent cable operator, to meet these needs in the renewal franchise agreement. As part of that process, the CITY will be conducting a public hearing to ascertain the future cable-related needs and interests of the community. It is helpful to have as broad a spectrum of public participation in the process as possible.

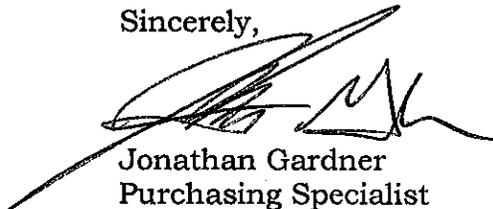
The CITY has scheduled a public ascertainment hearing on December 12, 2011 at City Hall, to take place during the scheduled Council Meeting, at 7:00pm. At this time, the City Council cordially invites you, or a representative from your organization, to attend that hearing. In preparation of your attendance and for providing information to the City Council, we enclose a list of questions. Please circulate the questions to as many members of your office or organization as you think appropriate, and use those questions as a guide in shaping your response to the Council. Please try to attend the hearing, or send a representative, and provide live testimony and/or written responses to the questions.

The questions on the attached list are not intended to be exhaustive. We encourage you, or any of the people who are providing responses to the questions, to not only respond, but to formulate additional questions, and then to answer them. The purpose of this hearing and these advance questions is to get your organization to focus on the types of functions and services that it plans, or seeks, to provide and what it would like to see in the way of services from METROCAST. This will provide the CITY with the most robust record for negotiating a new franchise with the company.

We hope that you will be able to attend the hearing. If you are not able to do so, you are welcome to provide written testimony in lieu of appearing yourself.

Thank you again for your assistance in this important process for the CITY.

Sincerely,



Jonathan Gardner
Purchasing Specialist

cc: Mayor and Council – City of Laconia
Scott Myers, City Manager
Robert D. Ciandella, Esq., Special Counsel
Katherine B. Miller, Esq.

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For Each Public School, Charter School and Private School

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan in place for your schools that can be shared with the City?
2. What plans do you have or what interests do you anticipate in developing curriculum which will incorporate or could utilize the cable system?
3. What plans exist or what interests do you anticipate in originating programming for distribution on the residential cable network? For example, with respect to the access programming capability which currently exists in the City, how would your work relate to such capabilities and how could your work take advantage of such capabilities? Would your programs include training students on production of programming for a public access channel?
4. What are the plans to incorporate into any of the schools a studio and corresponding curriculum relating to broadcast media?
5. In conjunction with any studio or broadcast media curriculum, is there an interest in utilizing or accessing training or practical experience through MetroCast?
6. Is there any way that the administration of the educational functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
7. Do plans exist for, or is there any interest in exploring, the distribution of school library resources through the cable system?
8. Do plans exist for, or is there any interest in exploring, the distribution of public library resources through the cable system to schools?
9. Do any plans exist for, or is there any interest in, wiring schools for cable or other cable related services in existing or proposed physical plants?
10. Do any plans exist for, or is there any interest in, distance learning programs including “virtual” schools or other such programs which could utilize the cable system for educational purposes?

City of Laconia

11. Have you identified, either through the technology plan or otherwise, specialized telecommunications services or products you would like to see provided to the community?
12. Do any plans exist for utilizing, to the fullest extent possible, high speed internet access as a part of the school's curriculum or in any other manner?
13. Do any plans exist for using educational access programming over the cable system to communicate with parents of students or with students at home?
14. Do any plans exist for utilizing the cable system to evaluate or otherwise test students who are home-schooled?
15. Would your school be interested in exploring the options for a regional local access channel, shared by the schools in the same SAU and served by the same cable operator and from the same cable system "head end"?

For Libraries

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan in place that can be shared with the City?
2. Do plans exist for, or is there any interest in exploring, the distribution of library resources through the cable system?
3. Do plans exist for, or is there any interest in exploring, creating an “electronic” library of digitally-scanned books which can be accessed over the cable system?
4. Do plans exist for providing a dedicated space within the library which can be used to broadcast meetings, book clubs, presentations by authors, or similar types of gatherings?
5. Do plans exist for utilizing such a dedicated space to allow citizens to view City meetings or other programming broadcast over an access channel?
6. Do you currently provide or do plans exist for providing a dedicated space within the library to be used specifically for accessing the internet via MetroCast’s high speed internet access?
7. Have you identified, either through the technology plan or otherwise, specialized telecommunications services or products you would like to see provided to the community?
8. Is there any way that the administration of the library functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
9. Do plans exist for, or is there any interest in exploring, the distribution of University of New Hampshire resources through the cable system?
10. Do you have plans to acquire training for production of programming for a public access channel?

For Police and Fire Departments

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan in place for existing police and fire stations and substations that can be shared with the City?
2. Are there any plans to construct new police and/or fire substations?
3. Are there any new protocols that the police and fire departments use in the wake of 9/11 to enhance the safety of the City which could be expedited more effectively by using the cable system?
4. Are there plans in place, or has it been considered, to utilize the cable system or high speed internet access to either broadcast police or fire personnel training or to access such training?
5. Are there plans in place, or has it been considered, to utilize the cable system to broadcast police or fire personnel training using a City access channel?
6. Is there any way that the administration of the police or fire functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
7. Would improved communication among public service providers – municipal administration, fire and police departments, public schools, shelters, hospitals and libraries – assist you in executing your professional functions?
8. Are the police or fire departments interested in producing programming concerning general safety issues and preventative measures to be broadcast on an access channel for general viewing?
9. Would the community as a whole benefit from and/or are you interested in training programs for local service providers such as the fire and police, EMT, etc., through cable television?

City Administration and General Issues

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Would the job performance of government staff or community social service organizations be enhanced by an ability to provide information to subscribers of cable or other services provided by MetroCast? Please explain.
2. Are you interested in producing video programming for viewing by City residents?
3. Is there a technology plan in place for City administration that can be shared?
4. Is there any way that the administration of the governmental functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
5. Are there plans in place, or has it been considered, to utilize the cable system or high speed internet access to either broadcast personnel training or to access such training?
6. Are there plans in place, or has it been considered, to utilize the cable system to provide government services, i.e., paying bills due to the City or obtaining certain types of licenses?

For Health Care Facilities and Providers

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan in place for existing health care facilities that can be shared with the City?
2. What plans do you have or what interests do you anticipate in developing seminars on wellness or other topics which will incorporate or could utilize the cable system?
3. What plans exist or what interests do you anticipate in originating programming for distribution on the residential cable network? For example, with respect to the access programming capability which currently exists in the City, how would your work relate to such capabilities and how could your work take advantage of such capabilities? Would your programs include production of programming for a public access channel?
4. Is there any way that the administration of the health care functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
5. Do plans exist for, or is there any interest in exploring, the distribution of a health care library or information resources through the cable system?
6. Do any plans exist for, or is there any interest in, wiring health care facilities for cable or other cable related services in existing or proposed physical plants?
7. Do any plans exist for, or is there any interest in, distance learning programs or other such programs which utilize the cable system for educational purposes?
8. Have you identified, either through the technology plan or otherwise, specialized telecommunications services or products you would like to see provided to the community?

**For Chamber of Commerce/Economic Development Interests
and Local Businesses**

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan or vision in place that can be shared with the City?
2. Do plans exist for, or is there any interest in exploring, promoting commerce or e-commerce through the cable system?
3. Do plans exist for, or is there any interest in exploring, utilizing leased access or public access channels on the cable system to promote local businesses? Would your programs include production of programming for a public access channel?
4. Do plans exist for, or is there any interest in exploring, utilizing leased access or public access channels to broadcast business seminars or other types of events over the cable system?
5. Do plans exist for, or is there any interest in exploring, broadcasting business seminars or other types of events over the cable system on a pay-per-view basis?
6. Have you identified, either through the technology plan, or otherwise, specialized telecommunications services or products you would like to see provided to the community?
7. Is there any way that the administration of the business or Chamber of Commerce functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?

For Arts and Cultural Organizations

Please use these questions as a starting point – feel free to elaborate or venture into other cable-related services.

1. Is there a technology plan in place that can be shared with the City?
2. Are there any plans to construct new arts or cultural facilities?
3. Do plans exist for, or is there any interest in exploring, utilizing leased access or public access channels on the cable system to promote artistic and cultural events in the City?
4. Do plans exist for, or is there any interest in exploring, utilizing leased access or public access channels to broadcast artistic and cultural events or other types of events over the cable system?
5. Have you identified, either through the technology plan, or otherwise, specialized telecommunications services or products you would like to see provided to the community?
6. Is there any way that the administration of the arts and cultural organization functions and/or facilities management would be improved through the use of the cable system, or is there any way that you could foresee such improvement taking place?
7. Are there plans in place, or has it been considered, to utilize the cable system to broadcast arts and cultural workshops or seminars using the City's access channel?