

Denver - Comcast Cable Franchise Agreement Renewal Executive Summary

May 2023

Denver's cable franchise agreement with Comcast expires on December 31, 2023. Technology Services' Media Policy team (TS) has worked over the past year to analyze and consider the community's cable-related needs, as well as the best path forward for the city in a time when the future of cable franchise agreements and the cable industry are uncertain. Comcast has formally proposed renewing the current franchise agreement for five more years and TS strongly recommends the city formalize this offer. Below are some key points we considered to conclude that keeping the current agreement through December 31, 2028 is in the city's best interest.

- A year-and-a-half of research and networking with peers nationwide found that cities with expiring franchises ultimately renewed their franchise agreement rather than renegotiating. This reflects the uncertainty around the sustainability and growth of cable service, which directly impacts franchise models in a time when consuming television and video content on streaming services has soared in popularity.
- [Protecting Community Television Act](#) legislation is currently pending and would not allow cable providers to put a price tag on in-kind contributions they provide to communities, including Public, Educational, and Government access (PEG) channels, which helps ensure resources to continue producing local content for the community.
- Maintaining the current franchise agreement through 2028 allows us to familiarize incoming elected officials with the cable franchise agreement and provides new city leadership the opportunity to guide a full renegotiation effort. With a new mayoral administration and City Council body seated, we will shift our focus to a formal ascertainment process, which will explore current PEG needs, review Comcast's performance, and solicit public comment and participation in a new franchise agreement.
- In talking to Comcast leaders and tracking the company's national media coverage, we also know Comcast is shifting its business focus from cable TV service to their over-the-top (OTT) streaming platform, Flex Box, and broadband services. (For reference: [Xfinity Flex – 4K Streaming Box Free with Xfinity Internet](#) and <https://cordcuttersnews.com/how-comcast-plans-to-fight-cord-cutting-in-2023/>.)
- Over the last 10 years, satellite television, numerous television and video streaming services, and on-demand content applications have provided Denver consumers with options to move away from Comcast cable TV service.

- In 2013, the Comcast subscriber count was just under 132,000. At the end of 2022, the count was just below 77,000 – in nine years, a 42% decrease. Over each of the last three years, the average annual decline is 14%.
- Over the course of the current 10-year agreement, franchise fee revenue paid to the city was at its highest in 2017 at \$8.1 million. In 2022, revenue to the city was just under \$6.3 million. The decline in revenue over the last 10 years averages approximately 9%, with an average annual decrease of 3% over each of the last three years.
- PEG fee revenue declined by an average of 13% annually over the last three years. In 2020, the city received \$1.25 million in PEG fee revenue; in 2022, revenue was just over \$946,000.
- A full cable franchise renegotiation is a long and expensive undertaking for the city that has historically taken more than a year to complete and requires the involvement of outside consultants. If we fully renegotiate the franchise, the initial cost is \$150,000 for outside consultants (this figure came from a recent RFP) and more than that amount in the cost of city personnel time allocated to this work as negotiations drag on. We would very likely get equal or less beneficial contract terms negotiating with Comcast based on peer research from other municipality renewals. Launching such an effort in the 2023 cable franchise landscape would not be cost effective for the city, bringing serious risk to expending city resources and maintaining current revenue in a time when Denver is challenged with solving critical civic issues.
- The deal negotiated in 2013 and required in the city's existing cable franchise agreement includes extensive provisions that are now considered standard cable franchise terms. Further, because franchise negotiation parameters for cable companies and local governments are set by the Federal Communications Commission (FCC), these terms will most likely remain unchanged even after a comprehensive ascertainment and full renegotiation. Local governments do not have broad powers of negotiation with cable franchises, which is why the [Protecting Community Television Act](#) legislation could benefit a future negotiation.
- The franchise fees paid to the city are currently at the maximum percentage permitted by federal law (5%).
- The PEG fees currently paid to the city are the highest of any community in Colorado (\$1.05 per month per subscriber).
- The city currently has the most PEG access television channels of any community in Colorado (five standard definition channels and three high-definition channels).

- The current franchise agreement contains extensive provisions addressing all cable-related issues, including detailed governance of Comcast's use of the city's public right-of-way, customer service standards based on federal criteria, insurance requirements, and performance assurances.
- The existing agreement includes technical requirements for the cable system to ensure that Comcast's technology and performance within the city are consistent with the products and services Comcast offers.
- Comcast's agreement with Denver is often considered a model by other cities in the region and beyond and is leveraged by other cities in negotiating their own cable franchise agreements.
- We recently engaged a marketing firm to collect data and sentiment from the community about Comcast's customer service practices. Ratings in customer service-specific categories ranked average to above average. The detailed survey results are attached to the City Council briefing email.

These data points, combined with the overall uncertainty of the cable industry and future of cable franchise agreements, have brought us to the conclusion that maintaining the city's current franchise agreement through December 31, 2028 is in the city's best interest. With your support, we are submitting the cable franchise contract for renewal in late May.

If we gain consensus from City Council on the agreement, the renewal agreement will supersede the previous Cable Franchise. If we cannot gain consensus from City Council on a renewed agreement, we will decline Comcast's offer to continue with the same deal. In that case, we will enter into a month-to-month agreement when the current contract expires, which will remain in place until a new deal can be reached through a full renegotiation.