

Quad Cities Cable Communications Commission
Anoka City Hall – Council Chambers

September 21, 2017, 11:00 AM

Agenda

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Administrative Reports**
 - 4.1. Secretary
 - 4.1.1. Approval of the August 17, 2017, commission minutes.
 - 4.2. Treasurer
 - 4.2.1. July Financial Reports – Quarterly Investments
 - 4.3. Executive Director
- 5. General Business**
 - 5.1. Audit Engagement Contract
 - 5.2. Comcast Presentation
- 6. Adjourn**

MINUTES OF THE REGULAR MEETING OF AUGUST 17, 2017

CALL TO ORDER – 1

Acting Chair Ulrich called the meeting to order at 11:03 a.m. at the Anoka City Hall.

ROLL CALL– 2

Commissioners present were: Carl Anderson, Anoka; Kurt Ulrich, Ramsey; Jim Dickinson, Andover; and Jim Goodrich, Andover

Commissioners absent and excused: Bret Heitkamp, Champlin; Greg Lee, Anoka; John LeTourneau, Ramsey; and Jessica Tesdall, Champlin.

Others present included Karen George, Executive Director.

APPROVAL OF AGENDA – 3

Motion was made by Anderson and seconded by Dickinson to approve the agenda as presented.

4 ayes – 0 nays. Motion carried.

ADMINISTRATIVE REPORTS – 4

4.1 Secretary

4.1.1. Approval of meeting minutes from July 20, 2017

Motion was made by Dickinson and seconded by Anderson to approve the July 20, 2017 minutes as presented.

4 ayes – 0 nays. Motion carried.

4.2 Treasurer

4.2.1. June Financial Reports

Commissioner Dickinson reported that the June Financial Report was included in the packet and provided information on the investment accounts, budget to actual comparison, expenditures, and capital improvement expenditures.

Motion was made by Anderson and seconded by Goodrich to accept the June Financial Report.

4 ayes – 0 nays. Motion carried.

4.3 Executive Director

Ms. George stated that July was another busy month at QCTV. She noted that the annual technology work session will occur in September and a new look at the five-year capital improvement plan will be discussed. She reported that the HD upgrade is on track at each of the member city halls and provided a brief update. She stated that the iPhone video boot camp is scheduled for September and member city staff members have been registered. She reported that another great PSA Day took place this summer and 11 new non-profits participated. She reported that the State filed a complaint against CenturyLink for some of their marketing techniques and noted that details were provided in her report.

Commissioner Dickinson asked for information on the HD upgrade for member city halls.

Ms. George provided more information on the HD upgrade process. She noted that all of the cameras have been received and tested. She stated that the cameras have been installed in Champlin and the bugs have been worked out, so the installation will continue to roll out at the other city halls. She provided additional details, noting that the process should be complete by the end of the year as Comcast has a three-month response period after the organization requests an HD channel for the city channels. She noted that the consultant is also reviewing each city hall to determine the additional needs and customization that will be desired by each city. She noted that once the meetings are held with each city individually, the group will meet together to discuss the needs.

Acting Chair Ulrich noted that the communication he noticed was asking that facilities staff attend the meetings at the city hall and suggested that the user groups be included as well, such as planning staff that actually use the meeting space most often.

Commissioner Dickinson stated that the consultant met with Andover staff this week and provided input, noting that it was a good interaction and the users were included.

Ms. George noted that one point person has been included for each member city and that person would then ensure that the correct people are included in the meeting.

Acting Chairperson Ulrich asked if the law suit with CenturyLink has taken up much staff time.

Ms. George noted that because the lawsuit is from the State, she has not been involved outside the extent of reading the information.

GENERAL BUSINESS – 5

5.1 Liability Coverage Waiver

Ms. George stated that this is an annual action item. She noted that the Commission typically does not waive the monetary limits and recommended the same action.

Motion was made by Dickinson and seconded by Anderson to designate that QCCCC does not waive the monetary tort liability established by Minnesota Statutes 466.04.

4 ayes – 0 nays. Motion carried.

ADJOURN – 6

Time of adjournment 11:16 a.m.

Respectfully submitted,

Reviewed for approval,

Amanda Staple
Recording Secretary
TimeSaver Off Site Secretarial, Inc.

Karen George
Executive Director

Quad Cities Communications Commission
Balance Sheet Summary
As of July 31, 2017

	<u>Total</u>
ASSETS	
Current Assets	
Bank Accounts - QCTV	956,996.77
- PayPay acct	554.30
- US Bank Reserve	5,000.00
- Petty Cash	250.00
- Investments	1,243,266.67
Accounts Receivable	0.00
Other current assets	0.00
Total Current Assets	\$ 2,206,067.74
Fixed Assets	<u>0.00</u>
TOTAL ASSETS	\$ 2,206,067.74
	<hr/>
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	9,299.75
Other Current Liabilities	0.03
Total Current Liabilities	\$ 9,299.78
Equity	<u>2,196,767.96</u>
TOTAL LIABILITIES AND EQUITY	\$ 2,206,067.74
	<hr/>

Quad Cities Communications Commission
Budget vs. Actuals: Budget 2017 - FY17 P&L
January - December 2017

	Jul 2017				YTD			
	Actual	Budget	over Budget	% of Budget	Actual	Budget	over Budget	% of Budget
Income								
Duplication Revenue	\$ 205.90	\$ 125.00	\$ 80.90	164.72%	\$ 1,443.25	\$ 1,500.00	\$ (56.75)	96.22%
Equipment Grant		4,748.00	(4,748.00)	0.00%	56,428.75	56,980.00	(551.25)	99.03%
Franchise Fees		72,854.00	(72,854.00)	0.00%	272,223.06	874,248.00	(602,024.94)	31.14%
Interest Income	997.75	8.00	989.75	12471.88%	5,296.43	100.00	5,196.43	5296.43%
Miscellaneous Income	2,388.80		2,388.80		2,409.49	0.00	2,409.49	
PEG Fee	40,148.46	36,427.00	3,721.46	110.22%	176,402.82	437,125.00	(260,722.18)	40.36%
Total Income	43,740.91	114,162.00	(70,421.09)	38.31%	514,203.80	1,369,953.00	(855,749.20)	37.53%
Expenses								
A-PERA Expense	2,496.23	3,443.00	(946.77)	72.50%	21,598.41	41,320.00	(19,721.59)	52.27%
A-SS/Medicare Expense	3,042.45	3,952.00	(909.55)	76.99%	22,125.27	47,432.00	(25,306.73)	46.65%
A-Wages - Full-time	37,090.30	41,075.00	(3,984.70)	90.30%	258,619.79	492,900.00	(234,280.21)	52.47%
A-Wages - Part-time	3,622.69	9,993.00	(6,370.31)	36.25%	36,358.18	119,922.00	(83,563.82)	30.32%
Accounting / HR Services	1,049.62	1,275.00	(225.38)	82.32%	8,750.78	15,300.00	(6,549.22)	57.19%
Ads/Promos/Sponsorships	2,326.47	916.00	1,410.47	253.98%	5,328.36	11,000.00	(5,671.64)	48.44%
Andover Capital Equipment		416.00	(416.00)	0.00%	157.03	5,000.00	(4,842.97)	3.14%
Announcers Fees	360.00	1,250.00	(890.00)	28.80%	5,786.77	15,000.00	(9,213.23)	38.58%
Anoka Capital Equipment	155.94	416.00	(260.06)	37.49%	1,211.98	5,000.00	(3,788.02)	24.24%
Audit		1,166.00	(1,166.00)	0.00%	14,150.00	14,000.00	150.00	101.07%
AV Equip / Repair / Supply / Software	5.99		5.99		1,922.98	0.00	1,922.98	
Bank Fees / CC Fees		41.00	(41.00)	0.00%	0.00	500.00	(500.00)	0.00%
Brand Apparel		208.00	(208.00)	0.00%	1,449.00	2,500.00	(1,051.00)	57.96%
Building - Cleaning	500.00	583.00	(83.00)	85.76%	3,535.63	7,000.00	(3,464.37)	50.51%
Building - Insurance		208.00	(208.00)	0.00%	1,488.00	2,500.00	(1,012.00)	59.52%
Building - Maintenance	105.00	833.00	(728.00)	12.61%	8,249.97	10,000.00	(1,750.03)	82.50%
Building - Supplies	200.08	208.00	(7.92)	96.19%	595.06	2,500.00	(1,904.94)	23.80%
Car Allowance	250.00	250.00	0.00	100.00%	1,750.00	3,000.00	(1,250.00)	58.33%
Cell Phone - Allowance		578.00	(578.00)	0.00%	1,250.00	6,940.00	(5,690.00)	18.01%
Champlin Capital Equipment	84.90	416.00	(331.10)	20.41%	679.20	5,000.00	(4,320.80)	13.58%

Quad Cities Communications Commission
Budget vs. Actuals: Budget 2017 - FY17 P&L
January - December 2017

	Jul 2017				YTD			
	Actual	Budget	over Budget	% of Budget	Actual	Budget	over Budget	% of Budget
City Sewer & Water	375.35	216.00	159.35	173.77%	1,143.17	2,600.00	(1,456.83)	43.97%
Commission Expense		600.00	(600.00)	0.00%	1,080.63	7,200.00	(6,119.37)	15.01%
Computer Equip / Repair / Supply / Software	227.75		227.75		4,289.75	0.00	4,289.75	
Consulting Services	1,638.75	6,250.00	(4,611.25)	26.22%	9,080.00	75,000.00	(65,920.00)	12.11%
Contingency Fund		2,551.00	(2,551.00)	0.00%	0.00	30,622.00	(30,622.00)	0.00%
Duplication Expenses		83.00	(83.00)	0.00%	29.27	1,000.00	(970.73)	2.93%
Electric Service	1,468.53	1,596.00	(127.47)	92.01%	8,222.67	19,152.00	(10,929.33)	42.93%
Emp / Comm Appreciation		208.00	(208.00)	0.00%	0.00	2,500.00	(2,500.00)	0.00%
Equip/Repair/Supply/Software	415.00	3,817.00	(3,402.00)	10.87%	10,399.53	45,812.00	(35,412.47)	22.70%
Federal Unempl Expense		70.00	(70.00)	0.00%	0.00	850.00	(850.00)	0.00%
Health Insurance	5,586.30	6,221.00	(634.70)	89.80%	39,048.80	74,652.00	(35,603.20)	52.31%
Insurance - Deductibles		41.00	(41.00)	0.00%	0.00	500.00	(500.00)	0.00%
Insurance - Liability / Bonds		541.00	(541.00)	0.00%	3,727.00	6,500.00	(2,773.00)	57.34%
Lawn Service	645.00	458.00	187.00	140.83%	2,500.00	5,500.00	(3,000.00)	45.45%
Legal Fees	3,396.75	1,250.00	2,146.75	271.74%	5,153.25	15,000.00	(9,846.75)	34.36%
Licenses and Permits		83.00	(83.00)	0.00%	625.00	1,000.00	(375.00)	62.50%
Meals		83.00	(83.00)	0.00%	292.00	1,000.00	(708.00)	29.20%
Memberships - NATOA / Others		666.00	(666.00)	0.00%	4,855.00	8,000.00	(3,145.00)	60.69%
Mileage	840.36	600.00	240.36	140.06%	5,074.38	7,200.00	(2,125.62)	70.48%
Miscellaneous Expenses		83.00	(83.00)	0.00%	0.00	1,000.00	(1,000.00)	0.00%
Natural Gas	52.12	333.00	(280.88)	15.65%	2,623.66	4,000.00	(1,376.34)	65.59%
Office Supplies / Equipment	298.73	500.00	(201.27)	59.75%	1,537.07	6,000.00	(4,462.93)	25.62%
Parking Lot Maintenance		266.00	(266.00)	0.00%	0.00	3,200.00	(3,200.00)	0.00%
Payroll Expenses	73.20		73.20		464.55	0.00	464.55	
Payroll Expenses (ADP/HSA)		491.00	(491.00)	0.00%	612.15	5,900.00	(5,287.85)	10.38%
Postage	232.71	83.00	149.71	280.37%	764.13	1,000.00	(235.87)	76.41%
Printing / Copy Services		83.00	(83.00)	0.00%	0.00	1,000.00	(1,000.00)	0.00%
Professional Development	551.58	1,500.00	(948.42)	36.77%	9,059.03	18,000.00	(8,940.97)	50.33%
Publications		41.00	(41.00)	0.00%	0.00	500.00	(500.00)	0.00%
Ramsey Capital Equipment	131.31	416.00	(284.69)	31.56%	1,024.31	5,000.00	(3,975.69)	20.49%

Quad Cities Communications Commission
Budget vs. Actuals: Budget 2017 - FY17 P&L
January - December 2017

	Jul 2017				YTD			
	Actual	Budget	over Budget	% of Budget	Actual	Budget	over Budget	% of Budget
Repairs			0.00		23.18	0.00	23.18	
Sales Tax		41.00	(41.00)	0.00%	125.00	500.00	(375.00)	25.00%
Secretary Services	139.00	249.00	(110.00)	55.82%	624.00	2,992.00	(2,368.00)	20.86%
Snow Plowing Service		375.00	(375.00)	0.00%	1,483.75	4,500.00	(3,016.25)	32.97%
State Unemploy Exp		208.00	(208.00)	0.00%	0.00	2,500.00	(2,500.00)	0.00%
STD / LTD / Life Insurance	544.38	666.00	(121.62)	81.74%	3,835.56	8,000.00	(4,164.44)	47.94%
Studio Sets		833.00	(833.00)	0.00%	1,175.00	10,000.00	(8,825.00)	11.75%
Subscription Services	130.00	1,666.00	(1,536.00)	7.80%	12,020.31	20,000.00	(7,979.69)	60.10%
Temp Staff Services		208.00	(208.00)	0.00%	0.00	2,500.00	(2,500.00)	0.00%
Vehicle - Equipment / Repair	202.44	1,041.00	(838.56)	19.45%	5,076.63	12,500.00	(7,423.37)	40.61%
Vehicle - Insurance		333.00	(333.00)	0.00%	2,536.00	4,000.00	(1,464.00)	63.40%
Vehicle - Maintenance / Gas	224.79	500.00	(275.21)	44.96%	2,628.85	6,000.00	(3,371.15)	43.81%
Waste Removal	225.28	100.00	125.28	225.28%	898.00	1,200.00	(302.00)	74.83%
Web / VOD / Int / CaTV / Phone	1,358.37	1,833.00	(474.63)	74.11%	9,185.64	22,000.00	(12,814.36)	41.75%
Work Comp Insurance		191.00	(191.00)	0.00%	0.00	2,300.00	(2,300.00)	0.00%
Total Expenses	70,047.37	104,601.00	(34,553.63)	66.97%	546,223.68	1,255,494.00	(709,270.32)	43.51%
Net Income	\$ (26,306.46)	\$ 9,561.00	\$ (35,867.46)	-275.14%	\$ (32,019.88)	\$ 114,459.00	\$ (146,478.88)	-27.97%
 ZCIP - Andover	 345.00				 41,327.44			
ZCIP - Anoka	345.00				41,327.44			
ZCIP - Champlin	345.00				41,327.44			
ZCIP - Network Servers					6,231.72			
ZCIP - Ramsey	345.00				41,327.44			
	<u>1,380.00</u>				<u>171,541.48</u>			

QCTV Bank Reconciliation

July 2017

Beginning Balance - 4M Statement	1,040,779.94
Less: Cleared Checks/Withdrawals	(115,544.58)
Plus: 4M Fund Interest	444.68
Plus: Bank Deposits/Credits	43,547.55
Bank Balance	\$969,227.59
Book Balance	969,227.59
Adjusted Book Balance	969,227.59
Difference:	\$0.00

Completed by: MK

Quad Cities Communications Commission

BILL PAYMENT LIST

July 2017

DATE	NUM	VENDOR	AMOUNT
Quad Cities Commission			
07/07/2017	W/D	Minnesota State Retirement System	-633.80
07/07/2017	W/D	PERA	-2,770.49
07/07/2017	11822	Associated Bank N.A.	-50.00
07/07/2017	11823	HealthEquity Inc.	-255.00
07/14/2017	11824	ACE Solid Waste, Inc.	-91.12
07/14/2017	11825	Comcast Cable	-185.94
07/14/2017	11826	Prime Advertising & Design, Inc.	-1,961.37
07/14/2017	11827	U.S. Bank Corporate	-3,839.87
07/14/2017	11828	Vividly Clean Inc.	-500.00
07/14/2017	11829	Wildlife Management Services Inc.	0.00
07/14/2017	11830	Xcel Energy	-1,300.23
07/21/2017	W/D	Minnesota State Retirement System	-632.08
07/21/2017	W/D	PERA	-2,677.83
07/21/2017	11831	Associated Bank N.A.	-50.00
07/21/2017	11832	HealthEquity Inc.	-255.00
07/19/2017	11833	Amazon	-1,744.05
07/19/2017	11834	Anoka County Historical Society	-250.00
07/19/2017	11835	Broadway Awards	-85.22
07/19/2017	11836	CenterPoint Energy	-52.12
07/19/2017	11837	City of Andover	-1,035.18
07/19/2017	11838	City of Champlin	-362.48
07/19/2017	11839	Comcast 2	-463.58
07/19/2017	11840	G & B Environmental, Inc.	-134.74
07/19/2017	11841	Green Lights Recycling, Inc	-134.16
07/19/2017	11842	Greenery Enterprises, Inc.	-645.00
07/19/2017	11843	Huebsch	-200.08
07/19/2017	11844	iSpace Environments	-41,964.88
07/19/2017	11845	James Childs	-240.00
07/19/2017	11846	James R. Erickson	-60.00
07/19/2017	11847	LiveU Inc.	-500.00
07/19/2017	11848	Maza Technologies, LLC	-1,638.75
07/19/2017	11849	Monarch Pest Control	-105.00
07/19/2017	11850	The Lincoln National Life Ins. Co.	-544.38
07/28/2017	11851	Alpha Video & Audio Inc.	-415.00
07/28/2017	11852	Barna, Guzy & Steffen, LTD	-858.00
07/28/2017	11853	Preferred One Insurance Co.	-5,903.42
07/28/2017	11854	Summit Information Resources	-663.00
07/28/2017	11855	Verizon Wireless	-70.08
Total for Quad Cities Commission			\$ -73,271.85

INVESTMENT SCHEDULE

6/30/2017

Description	Cusip Number	Purchase Price	Carrying Cost	Maturity Amount	Interest Rate	Interest Paid	Maturity / Due Date
Investments - Cash Flow Reserves							
4M Fund			60.54				
4M Plus			391,482.08				
			<u>391,542.62</u>				
Investments - Building							
4M Fund			50,740.91				
CD - Wells Fargo	949763ER3	200,296.13	200,296.13	200,000.00	1.400%	monthly	8/15/2018
			<u>251,037.04</u>				
Investments - Capital							
4M Fund			51,988.67				
CD - Capital One Bank	140420W48	148,145.27	148,145.27	148,000.00	1.550%	semi-annual	2/15/2019
CD - Bremer Bank		200,000.00	200,000.00	206,743.90	1.500%	maturity	8/8/2019
CD - Discover Bank	2546723D8	200,000.00	200,000.00	200,000.00	1.700%	semi-annual	2/18/2020
			<u>600,133.94</u>				
			<u>1,242,713.60</u>				

QCCCC Agenda Item

4.3 Executive Director's Report

September 5, 2017

To: Commissioners

From: Karen George, Executive Director

Subject: Executive Director's Report

iPhone Boot Camp

QCTV is offering a free iPhone Boot Camp training for city officials. The training is scheduled for September 27 and registration is complete with staffers from member cities. We are committed to provide innovative services such as this offering.

Annual Report Infographic

Enclosed are copies of the 2016 Annual Report infographic. This is a new initiative to share data regarding QCTV services.

Presentation of Awards Received

The Telly Awards is the premier award honoring the best in TV and Cable, Digital and Streaming, and Non-Broadcast Productions. QCTV earned four honors:

- General Entertainment and Peoples' Choice – Grid Package – Como Zoo
- Live Event – Rosemount vs Champlin Park Football
- Sports – Rosemount vs Champlin Park Football

The Hometown Media awards presented by the Alliance for Community Media:

- Active Shooter Training video – collaboration with Anoka-Hennepin School District and the Anoka County Sheriff's Office.

5-Year Capital Budget Plan Underway

Staff has been working on a new 5-year capital plan for future technology and building investments 2018-2022. A draft of the plan will be presented at the technology work session in September.

City Council HD Upgrade Project

The HD upgrade to city council chambers is on track. See Technology Manager report for details of the project status. Regarding the city needs assessment, Alpha Video has met with all cities and QCTV together to present emerging trends and solicit desires.

New Associate Producer

Please join me in welcoming Ravi Butler to the role of part-time Associate Producer at QCTV. Ravi Butler is a 2015 graduate of the University of Morris with a degree in Communications Media and Rhetoric. He has worked part time for the Minnesota Vikings, KSTP, CTN and Canterbury Park. He also has government experience as he directs city meetings for the City of Osseo. Ravi has been a production assistant with QCTV since August of 2016 and crews on mobile van productions.

In his new role as associate producer he will direct live city meetings at four city halls, continue to work with the mobile production van, as well as shoot and edit segments for News and Views, At the Half, and other studio productions. His first day was August 14. Welcome, Ravi!

Insurance Renewals

General liability, workers' comp, and health insurance renewals are in process for 2018.

AED Project

The project has been completed and all fulltime staff and most part-time staff has been trained. Leslie has been doing a good job coordinating this project.



Champlin 169 Construction

Please note that there is a major road construction project planned for the Highway 169 corridor through Champlin. This will affect travel time to attend shoots at the QCTV Studios.

6th Circuit Court Ruling on FCC 621 Order

NATOA, ACM and a number of local governments led by Montgomery County and Boston have long fought the FCC's decisions on franchising. Specifically, this case challenged those portions of the FCC's franchising orders that seemed to say that captured as part of the franchise fee are in-kind services that are included in many franchises such as PEG channels or service to schools. The FCC's order also seemed to embolden cable operators that they need not provide I-Nets, but that managed services could meet their obligations. The case also challenged the FCC's confusion about retaining authority over mixed use networks that traditional cable systems have become. Finally, the case sought clarification on whether the orders applied to state issued franchises. "Good day for local government..." Gerard Lavery Lederer, Partner, BB&K Law Firm

Copy of the ruling enclosed.
ACM Public Policy Recap enclosed.

Customer Comments

Baseball

"Thank you so much Katherine. It was a great day for all the kids, what an experience to play at Target Field." – Tom Tupy, Anoka Ramsey Baseball Coach

Food Program

"Katherine, I am so proud to send the "Power of Food" to people. Please thank your whole team for the way they finished my presentation. This is by far the most professional looking show I have been a part of." – Dick Ogren

AED

"Thank you Katherine- you have a great group of people there which makes my job easy! Looking forward to coming back out next week." – Renee Hamdorf, EMT, Allina Heart Safe Communities

Quilts

"Such fun working with you Katherine and Winter- very relaxing. Thank you for coming and we look forward to the completed story." – Ann Pollard, Quilts of Valor

Running

"They are the best kids in school! Thanks for coming out. They really got a kick out of being on TV." – Tim Peters, Anoka Cross Country Team

Action Requested: None.



2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.

STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's
been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and
I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE

SPORTS PAGE

QCTV PROGRAM GUIDE

QCTV COMMUNITY
CHANNEL GUIDE

GOVERNMENT
MEETING PAGE

CHAMPLIN

ANOKA

ANDOVER

QCTV PROGRAMS TAB

RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUN-
CIL CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDI-
DATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day
increased in October and
November due to Election
coverage

FOUNDATION OF QUALITY

COLLABORATION

COMMUNITY
CONNECTIONS

STAFF DEVELOPMENT

PROCESS
IMPROVEMENT

2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

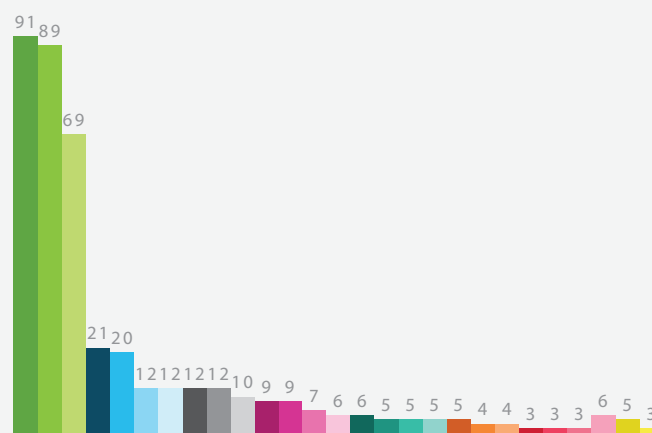
78% RELIGIOUS
PROGRAMS

17% LIVE SPORTS

.03% DEMOCRATIC
VISIONS

.04% ALL OTHERS

2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS



QCTV programs are watched by nearly
50% of cable subscribers – the highest
in the metro area!

FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW



2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.
STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE

SPORTS PAGE

QCTV PROGRAM GUIDE

QCTV COMMUNITY
CHANNEL GUIDE

GOVERNMENT
MEETING PAGE

CHAMPLIN

ANOKA

ANDOVER

QCTV PROGRAMS TAB

RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUNCIL
CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDI-
DATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day
increased in October and
November due to Election
coverage

FOUNDATION OF QUALITY

COLLABORATION

COMMUNITY
CONNECTIONS

STAFF DEVELOPMENT

PROCESS
IMPROVEMENT

2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

78% RELIGIOUS
PROGRAMS

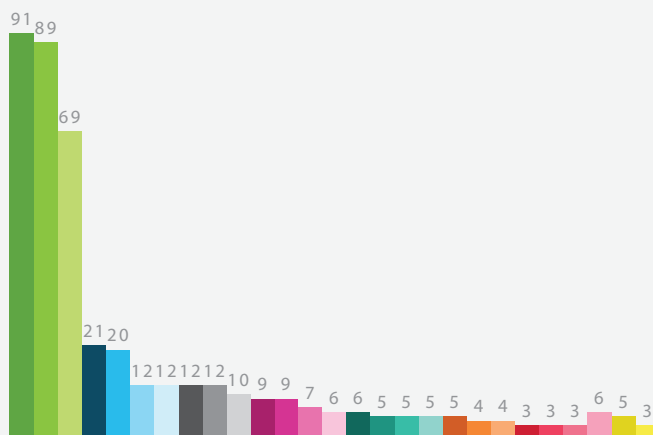
17% LIVE SPORTS

.03% DEMOCRATIC
VISIONS

.04% ALL OTHERS

2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS

- SPORTS
- SPORTS PROMOS
- SLOW TV
- QCTV PROMOS
- ELECTIONS
- THE CHAMBER REPORT
- NEWS & VIEWS
- PSAs
- QCTV SPECIALS
- DISTRICT COURT SHOW
- AT THE HALF
- WHAT'S NEW AT THE Q
- PROMOS
- PARADES AND CORONATIONS
- QCCC COMMISSION
- GRADUATIONS
- THE GRID
- LAW ENFORCEMENT
- IT'S YOUR HISTORY
- THE LOCAL SHOW
- THE SHERIFF SHOW
- LIVE & LOCAL
- PUBLIC SAFETY TALK
- QC COOKS
- MASTER GARDENERS
- LIBRARY
- ANSWERS TO AGING

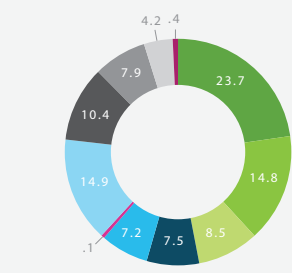


QCTV programs are watched by nearly
50% of cable subscribers – the highest
in the metro area!

FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW

2016 CITY OF ANDOVER CHANNEL PROGRAMMING STATS

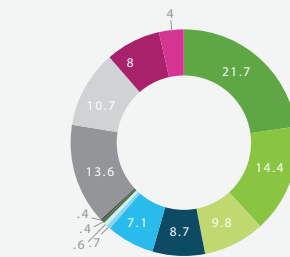
- CITY COUNCIL COMMISSION
- PLANNING & ZONING COMMISSION
- PARK & RECREATION COMMISSION
- ANDOVER NEWS & VIEWS
- BULLETIN BOARD
- NEWS & VIEWS
- ANDOVER STAFF PROMOS
- PUBLIC SAFETY TALK
- SHERIFF SHOW
- QCCC COMMISSION
- PSAs
- QCTV PROMO
- MEETING PROMO



NUMBER OF UNIQUE SHOWS

2016 CITY OF ANOKA CHANNEL PROGRAMMING STATS

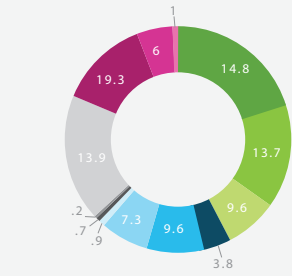
- CITY COUNCIL COMMISSION
- PLANNING COMMISSION
- HRA
- BULLETIN BOARD
- ANOKA NEWS & VIEWS
- EDC
- HERITAGE
- FIRE BOARD
- RIVER WALK
- QCTV NEWS & VIEWS
- PUBLIC SAFETY
- THE SHERIFF SHOW
- QCCC COMMISSION
- QCTV PROMO
- MEETING PROMO



NUMBER OF UNIQUE SHOWS

2016 CITY OF CHAMPLIN CHANNEL PROGRAMMING STATS

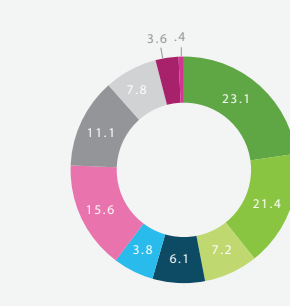
- PLANNING COMMISSION
- CHAMPLIN NEWS & VIEWS
- CITY COUNCIL COMMISSION
- CITY COUNCIL AND EDA
- BULLETIN BOARD
- PARK & RECREATION COMMISSION
- FIRE BOARD
- ERC
- CHAMPLIN PSAs
- QCTV NEWS & VIEWS
- PUBLIC SAFETY TALK
- QCCC COMMISSION
- QCTV PROMO



NUMBER OF UNIQUE SHOWS

2016 CITY OF RAMSEY CHANNEL PROGRAMMING STATS

- CITY COUNCIL COMMISSION
- PLANNING COMMISSION
- BULLETIN BOARD
- RAMSEY NEWS & VIEWS
- PARK & RECREATION COMMISSION
- COR MARKET PANEL
- QCTV NEWS & VIEWS
- PUBLIC SAFETY TALK
- THE SHERIFF SHOW
- QCCC COMMISSION
- PROMOS



NUMBER OF UNIQUE SHOWS



2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.

STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE
SPORTS PAGE
QCTV PROGRAM GUIDE
QCTV COMMUNITY CHANNEL GUIDE
GOVERNMENT MEETING PAGE
CHAMPLIN
ANOKA
ANDOVER
QCTV PROGRAMS TAB
RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUNCIL CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDIDATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day increased in October and November due to Election coverage

FOUNDATION OF QUALITY

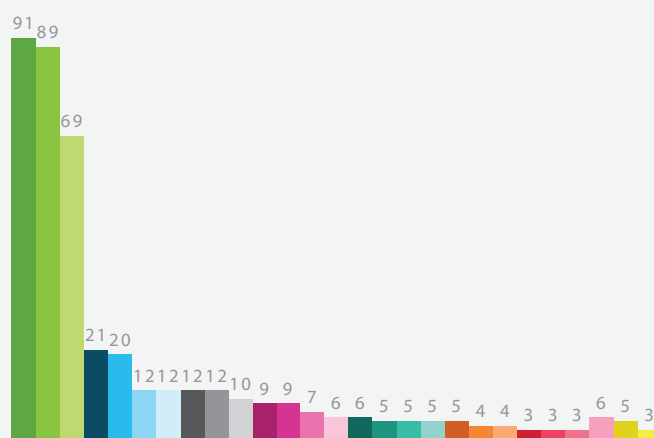
COLLABORATION
COMMUNITY CONNECTIONS
STAFF DEVELOPMENT
PROCESS IMPROVEMENT

2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

78% RELIGIOUS PROGRAMS
17% LIVE SPORTS
.03% DEMOCRATIC VISIONS
.04% ALL OTHERS

2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS

SPORTS
SPORTS PROMOS
SLOW TV
QCTV PROMOS
ELECTIONS
THE CHAMBER REPORT
NEWS & VIEWS
PSAs
QCTV SPECIALS
DISTRICT COURT SHOW
AT THE HALF
WHAT'S NEW AT THE Q
PROMOS
PARADES AND CORONATIONS
QCCC COMMISSION
GRADUATIONS
THE GRID
LAW ENFORCEMENT
IT'S YOUR HISTORY
THE LOCAL SHOW
THE SHERIFF SHOW
LIVE & LOCAL
PUBLIC SAFETY TALK
QC COOKS
MASTER GARDENERS
LIBRARY
ANSWERS TO AGING

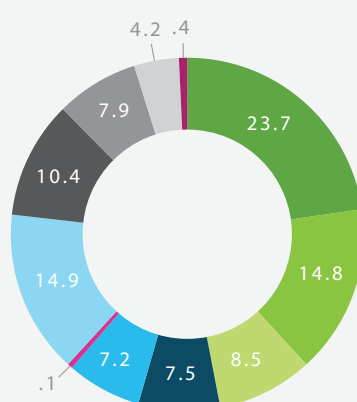


QCTV programs are watched by nearly 50% of cable subscribers – the highest in the metro area!

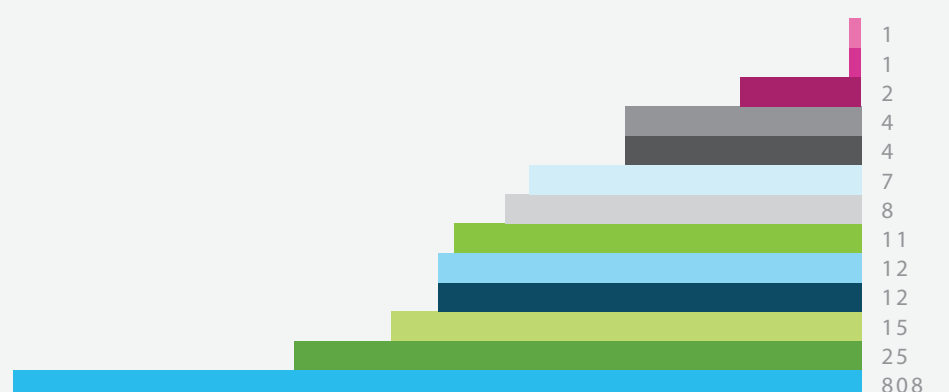
FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW

2016 CITY OF ANDOVER CHANNEL PROGRAMMING STATS

CITY COUNCIL
PLANNING & ZONING COMMISSION
PARK & RECREATION
ANDOVER NEWS & VIEWS
BULLETIN BOARD
QCTV NEWS & VIEWS
ANDOVER STAFF PROMOS
PUBLIC SAFETY TALK
THE SHERIFF SHOW
QCCC COMMISSION
PSAs
QCTV PROMO
MEETING PROMO



PERCENTAGE OF
PROGRAMMING PLAYBACK



NUMBER OF UNIQUE SHOWS



2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.

STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE
SPORTS PAGE
QCTV PROGRAM GUIDE
QCTV COMMUNITY
CHANNEL GUIDE
GOVERNMENT
MEETING PAGE
CHAMPLIN
ANOKA
ANDOVER
QCTV PROGRAMS TAB
RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUNCIL
CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDI-
DATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day
increased in October and
November due to Election
coverage

FOUNDATION OF QUALITY

COLLABORATION

COMMUNITY
CONNECTIONS

STAFF DEVELOPMENT

PROCESS
IMPROVEMENT

2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

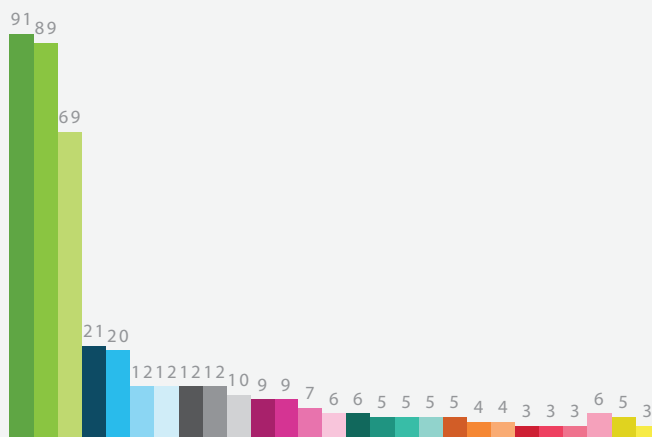
78% RELIGIOUS
PROGRAMS

17% LIVE SPORTS

.03% DEMOCRATIC
VISIONS

.04% ALL OTHERS

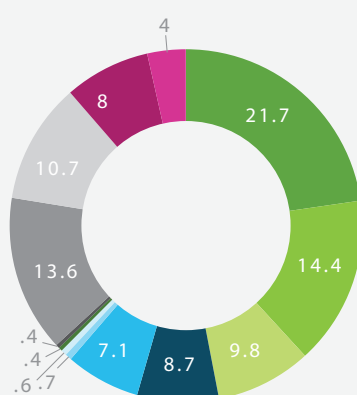
2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS



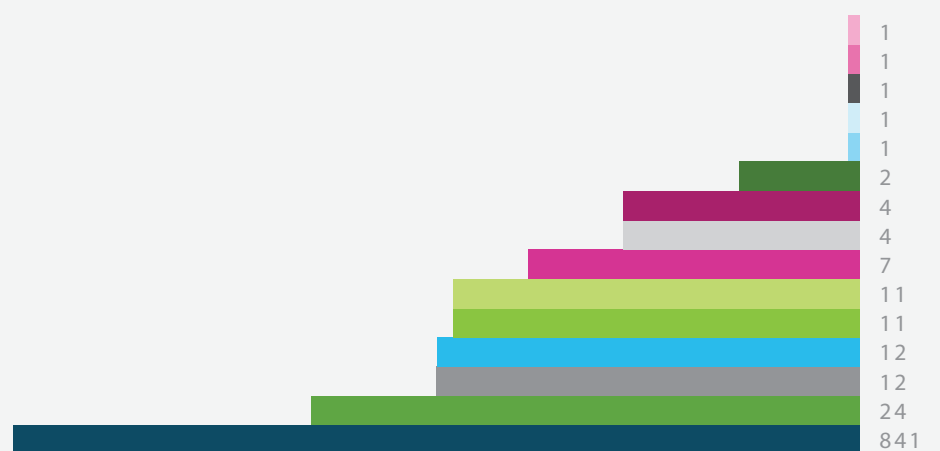
QCTV programs are watched by nearly
50% of cable subscribers – the highest
in the metro area!

FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW

2016 CITY OF ANOKA CHANNEL PROGRAMMING STATS



PERCENTAGE OF
PROGRAMMING PLAYBACK



NUMBER OF UNIQUE SHOWS



2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.

STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE

SPORTS PAGE

QCTV PROGRAM GUIDE

QCTV COMMUNITY
CHANNEL GUIDE

GOVERNMENT
MEETING PAGE

CHAMPLIN

ANOKA

ANDOVER

QCTV PROGRAMS TAB

RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUN-
CIL CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDI-
DATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day
increased in October and
November due to Election
coverage

FOUNDATION OF QUALITY

COLLABORATION

COMMUNITY
CONNECTIONS

STAFF DEVELOPMENT

PROCESS
IMPROVEMENT

2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

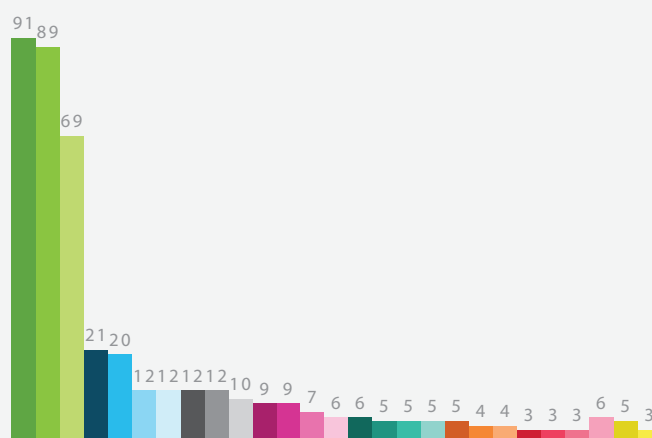
78% RELIGIOUS
PROGRAMS

17% LIVE SPORTS

.03% DEMOCRATIC
VISIONS

.04% ALL OTHERS

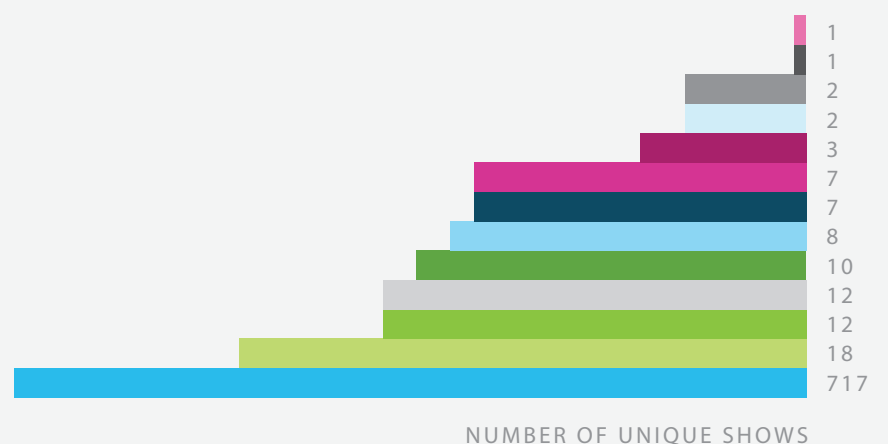
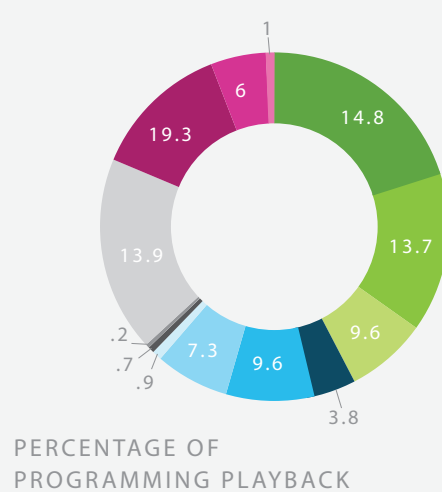
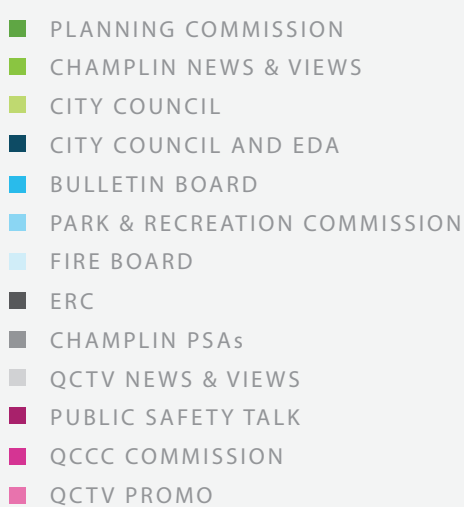
2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS



QCTV programs are watched by nearly
50% of cable subscribers – the highest
in the metro area!

FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW

2016 CITY OF CHAMPLIN CHANNEL PROGRAMMING STATS





2016 PROGRAM REVIEW

QUAD CITIES COMMUNITY TELEVISION
SERVING THE CITIES OF ANDOVER, ANOKA, CHAMPLIN, AND RAMSEY
WWW.QCTV.ORG

OUR APPRECIATION TO THE
COMMISSION FOR THEIR VISION
AND STRATEGIC PLAN.

STAFF IS COMMITTED TO DELIVERING
QUALITY PROGRAMMING FOR
OUR MEMBER CITIES.

TESTIMONIALS

"I look forward to working with you in the future and it's been neat to see so many library related segments."

MAGGIE SNOW, ANOKA COUNTY LIBRARY DIRECTOR

"The program is very nice. Your staff did a great job and I am impressed with the newest talents at QCTV!"

JULIE TRUDE, ANDOVER MAYOR

TOP 10

MOST VISITED
WEB PAGES

QCTV HOMEPAGE
SPORTS PAGE
QCTV PROGRAM GUIDE
QCTV COMMUNITY
CHANNEL GUIDE
GOVERNMENT
MEETING PAGE
CHAMPLIN
ANOKA
ANDOVER
QCTV PROGRAMS TAB
RAMSEY

ELECTION COVERAGE

POWER UP YOUR VOTE

GET READY TO VOTE

ANDOVER MAYOR & CITY COUNCIL
CANDIDATE FORUMS

LEAGUE OF WOMEN VOTERS
CANDIDATE FORUMS FOR MN
SENATE AND HOUSE

NORTH METRO MAYORS
ASSOCIATION MEET THE CANDI-
DATES

ANOKA COUNTY
COMMISSIONER FORUM

MEET THE CANDIDATES:
MN SUPREME COURT AND
CONNEXUS ENERGY

Website page views per day
increased in October and
November due to Election
coverage

FOUNDATION OF QUALITY

COLLABORATION

COMMUNITY
CONNECTIONS

STAFF DEVELOPMENT

PROCESS
IMPROVEMENT

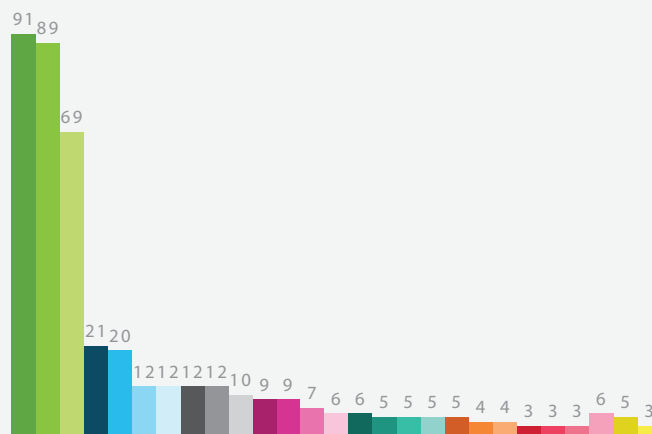
2016 QCTV SUBMITTED PROGRAMS PERCENTAGES

78% RELIGIOUS
PROGRAMS
17% LIVE SPORTS
.03% DEMOCRATIC
VISIONS
.04% ALL OTHERS

2016 QCTV COMMUNITY CHANNEL PROGRAMMING STATS

SPORTS
SPORTS PROMOS
SLOW TV
QCTV PROMOS
ELECTIONS
THE CHAMBER REPORT
NEWS & VIEWS
PSAs
QCTV SPECIALS
DISTRICT COURT SHOW
AT THE HALF
WHAT'S NEW AT THE Q
PROMOS
PARADES AND CORONATIONS

QCCC COMMISSION
GRADUATIONS
THE GRID
LAW ENFORCEMENT
IT'S YOUR HISTORY
THE LOCAL SHOW
THE SHERIFF'S SHOW
LIVE & LOCAL
PUBLIC SAFETY TALK
QC COOKS
MASTER GARDENERS
LIBRARY
ANSWERS TO AGING

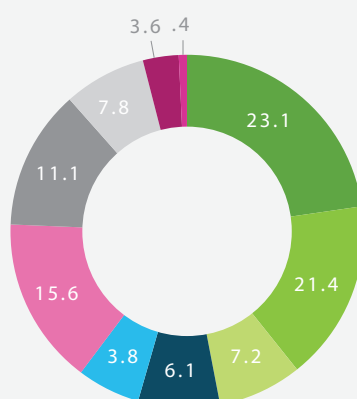


QCTV programs are watched by nearly
50% of cable subscribers – the highest
in the metro area!

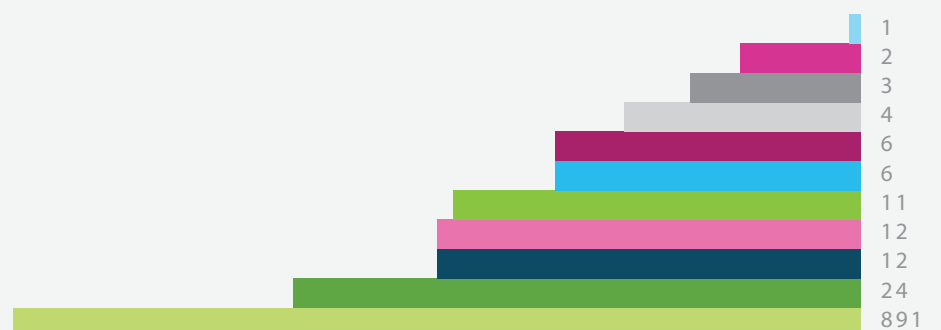
FAN FAVORITES:
CITY COUNCIL MEETINGS
NEWS & VIEWS
PARADES
GRADUATIONS
SPORTS
THE CHAMBER REPORT
IT'S YOUR HISTORY
LIVE & LOCAL
DISTRICT COURT SHOW

2016 CITY OF RAMSEY CHANNEL PROGRAMMING STATS

CITY COUNCIL
PLANNING COMMISSION
BULLETIN BOARD
RAMSEY NEWS & VIEWS
PARK & RECREATION COMMISSION
COR MARKET PANEL
QCTV NEWS & VIEWS
PUBLIC SAFETY TALK
THE SHERIFF SHOW
QCCC COMMISSION
PROMOS



PERCENTAGE OF
PROGRAMMING PLAYBACK



NUMBER OF UNIQUE SHOWS

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 17a0147p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MONTGOMERY COUNTY, MARYLAND, et al.

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION, et al.,

Respondents,

UNITED STATES TELECOM ASSOCIATION, et al.,

Intervenors.

Nos. 08-3023/15-3578

On Petitions for Review of Orders of the
Federal Communications Commission.

Nos. 07-190; 15-3.

Argued: December 8, 2016

Decided and Filed: July 12, 2017

Before: McKEAGUE, GRIFFIN, and KETHLEDGE, Circuit Judges.

COUNSEL

ARGUED: Joseph Van Eaton, BEST BEST & KRIEGER LLP, Washington, D.C., for Petitioners. Mary K. Flood, FEDERAL COMMUNICATIONS COMMISSION, Washington, D.C., for Respondents. **ON BRIEF:** Joseph Van Eaton, BEST BEST & KRIEGER LLP, Washington, D.C., for Petitioners. Mary K. Flood, FEDERAL COMMUNICATIONS COMMISSION, Washington, D.C., Robert B. Nicholson, Robert J. Wiggers, UNITED STATES DEPARTMENT OF JUSTICE, for Respondents. Robert G. Kidwell, Tara M. Corvo, MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C., Washington, D.C., Bennett L. Ross, Brett A. Shumate, Dwayne D. Sam, WILEY REIN LLP, Washington, D.C., William H. Johnson, VERIZON, Washington, D.C., for Intervenors. James N. Horwood, Tillman L. Lay, SPIEGEL & MCDIARMID LLP, Washington, D.C., for Amici Curiae.

OPINION

KETHLEDGE, Circuit Judge. In this case we have one set of regulators litigating against another. Over the last ten years, the Federal Communications Commission has published three written orders that together establish a series of rules governing how local governments may regulate cable companies and cable services. Several local governments have petitioned our court to review the FCC’s two most recent orders, arguing among other things that the FCC misinterpreted the Communications Act, 47 U.S.C. § 151 *et seq.*, and failed to explain the bases for some of its decisions. We agree with some of those criticisms, and thus grant the petition in part and deny it in part.

I.

A.

Our opinion in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), sets forth the relevant history of the Communications Act and cable regulation generally. In short, the Act regulates the way cable services, which include video programming, reach viewers nationwide. Under the Communications Act, cable companies may provide cable services only if their local or state governmental authorities (which we call “franchising authorities”) grant them a “cable franchise.” 47 U.S.C. § 541(b)(1). But those authorities do not have unlimited discretion in negotiating, granting, and denying franchises. *See id.* § 541(a)(1). For example, those authorities may not “grant an exclusive franchise” to any operator, or “unreasonably refuse to award an additional competitive franchise.” *Id.* And they may not require a cable company to pay a “franchise fee” that exceeds five percent of the company’s gross revenues for any 12-month period. *Id.* § 542(b).

As a condition of granting a franchise, local government authorities may demand, among other things, that a cable operator provide certain services or equipment for public, educational, or governmental purposes. *See id.* §§ 541(a)(3)-(4), 544(b)(1), 546(c)(1)(D). In return, some cable operators demand concessions like “most-favored-nation clauses,” which allow incumbent

franchisees to adjust the terms of their franchise agreements whenever a competing cable provider secures more favorable contract terms. Once a company has a franchise, it may provide cable services to subscribers via an infrastructure that the Act calls a “cable system[.]” *Id.* § 522(7). Franchises generally expire every ten to fifteen years, at which time the cable companies and franchising authorities can renegotiate. *See id.* § 546; *Denver Area Educ. Telecomm. Consortium, Inc. v. FCC*, 518 U.S. 727, 792-93 (1996) (Kennedy, J., concurring in part).

The FCC is authorized to make “such rules and regulations as may be necessary” to carry out the purposes of the Communications Act. 47 U.S.C. § 201(b); *see Alliance*, 529 F.3d at 773-74. Under the Administrative Procedure Act (or APA), the FCC must provide the public with notice of any proposed rule and an opportunity to comment on it. *See* 5 U.S.C. § 553. When the FCC promulgates a final rule, it must also publish a “final regulatory flexibility analysis” responding to the comments and explaining, among other things, the rationale for the rule and its effects on “small entities.” *Id.* § 604.

B.

In early 2007, the FCC issued an order establishing several new rules designed to encourage competition in the cable markets by allowing applicants for a cable franchise to get franchises more easily. *See* Implementation of Section 621(a)(1) of the Cable Communications Policy Act, 22 FCC Rcd. 5101 (March 5, 2007) (hereinafter *First Order*). These rules barred franchising authorities from, among other things, imposing unreasonable demands on franchise applicants or requiring new cable operators to provide non-cable services. *Alliance*, 529 F.3d at 771 & n.6. In that same order, the FCC also read narrowly the phrase “requirements or charges incidental to the awarding . . . of [a] franchise” as used in 47 U.S.C. § 542(g)(2)(D), which had the effect of limiting the monetary fees that local franchising authorities can collect from cable operators. Certain local franchising authorities challenged the order on various grounds, but we denied their petition. *See Alliance*, 529 F.3d at 775-87.

Meanwhile, the FCC sought comment on whether it should expand the application of some of the First Order’s rules—which applied only to new applicants for a cable franchise—to

incumbent cable providers as well. *See* Implementation of Section 621(a)(1) of the Cable Communications Policy Act, 72 Fed. Reg. 13230-01 (proposed March 21, 2007) (to be codified at 47 C.F.R. pt. 76). In its Second Order, the FCC then expanded the First Order’s application as proposed. *See* Implementation of Section 621(a)(1) of the Cable Communications Policy Act, 22 FCC Rcd. 19633 (Nov. 6, 2007) (hereinafter *Second Order*). Various local franchising authorities again objected, and by early 2008 the FCC had received three petitions for reconsideration. The FCC neglected to respond to those petitions for nearly seven years, but finally rejected them for the most part in 2015, in its Order on Reconsideration (which we call the “Reconsideration Order”). *See* Implementation of Section 621(a)(1) of the Cable Communications Policy Act, 30 FCC Rcd. 810 (January 21, 2015). In that order the FCC adhered to the Second Order, with two exceptions. First, the FCC clarified that the Second Order applied to only local (rather than state) franchising processes. *Id.* ¶¶ 6-7. Second, the FCC adopted and published a “Supplemental Final Regulatory Flexibility Act Analysis” as part of the Reconsideration Order to replace the Second Order’s analysis, which the FCC conceded was inadequate in some respects. *Id.* at App’x ¶¶ 1-17.

Several local governments and franchising authorities (whom we call the “Local Regulators”) then petitioned this court for review of the Second Order and the Reconsideration Order. The United States Telecom Association, National Cable & Telecommunications Association, and Verizon (collectively, the “Intervenors”) filed a brief in support of the FCC.

II.

The Local Regulators challenge five aspects of the Second Order and the Reconsideration Order. In some of those challenges, the Local Regulators argue that the FCC interpreted the relevant statutory provisions incorrectly; in others, the Local Regulators argue that the orders were entered in violation of the Administrative Procedure Act. As to the interpretative challenges, if the relevant statutory text is unambiguous, “we give effect to Congress’s answer without regard to any divergent answers offered by the agency or anyone else.” *Hadden v. United States*, 661 F.3d 298, 301 (6th Cir. 2011). But if the statute is “silent or ambiguous” on the question presented, then we determine “whether the agency’s answer is based on a permissible construction of the statute.” *Id.* (citation omitted). As for the APA challenges, we

determine whether the agency rules at issue are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A); *Nat’l Truck Equip. Ass’n v. Nat’l Highway Traffic Safety Admin.*, 711 F.3d 662, 667 (6th Cir. 2013) (citation omitted).

A.

The Local Regulators challenge the FCC’s interpretation of “franchise fee” as defined by 47 U.S.C. § 542(g)(1). That subsection provides: “the term ‘franchise fee’ includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such[.]” Section 542(g)(2)(D) separately provides: “the term ‘franchise fee’ does not include . . . requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages[.]” Requirements or charges that fall within the scope of § 542(g)(2)(D) thus do not count towards the five-percent cap (as measured against a “cable operator’s gross revenues” from its provision of cable services) on the franchise fees that the Local Regulators may charge a cable operator. *See id.* § 542(b).

Specifically, the Local Regulators challenge the FCC’s inclusion of (i) noncash exactions and (ii) cable-related exactions (as opposed to exactions unrelated to the provision of cable service) in the FCC’s interpretation of “franchise fee.” By way of background, the FCC stated in its First Order—which again applied only to new applicants for a cable franchise, *i.e.*, “new entrants”—that the incidental “requirements or charges” covered by § 542(g)(2)(D) (and thus not counted toward the five-percent cap for a franchise fee) are only the requirements or charges expressly enumerated in that provision. That order also stated, in relevant part, that “[e]xamples of other items” that do count toward the cap “include application and processing fees that exceed the reasonable cost of processing the application, acceptance fees, free or discounted services provided to an LFA [*i.e.*, local franchising authority], any requirement to lease or purchase equipment from an LFA at prices higher than market value, and in-kind payments as discussed below.” *First Order* ¶ 104. The order did not define “in-kind payments”—though, as examples of them, it cited “a request for video hookup for a Christmas celebration and money for wildflower seeds in New York[.]” *Id.* ¶ 107. But the order did conclude that “any requests made

by LFAs that are unrelated to the provision of cable services” are franchise fees that count toward the five-percent cap. The FCC’s Second Order then applied its definition of franchise fee to incumbent cable providers as well as to new applicants. *See Second Order* ¶¶ 10-11 & n.32. Finally, in its Reconsideration Order, the FCC stated that its interpretation of “franchise fee” includes all “in-kind payments” regardless of whether they are related to cable services. *See Recon. Order* ¶¶ 11-13.

So now we turn to the challenges themselves. As an initial matter, the FCC and the Intervenor argue that the Local Regulators’ challenges to the FCC’s inclusion of noncash and cable-related exactions in its interpretation of “franchise fee” are barred by res judicata, because, the FCC says, our court rejected those same challenges in *Alliance*. But there are two problems with that argument. First, the relevant part of our opinion in *Alliance* analyzed (and approved) only the FCC’s interpretation of the term “incidental” as used in § 542(g)(2)(D). *See* 529 F.3d at 783. The opinion nowhere analyzed or approved the idea that every cost or expense that a cable operator bears in complying with the terms of its franchise is a “franchise fee” under § 542(g)(1). Hence we have not in fact already decided the issues presented here. *See Georgia-Pac. Consumer Prods. LP v. Four-U-Packaging, Inc.*, 701 F.3d 1093, 1098 (6th Cir. 2012). Second, the First Order did not make clear that cable-related exactions are franchise fees under § 542(g)(1). Indeed, the FCC itself told us the contrary was true: in opposing a motion to stay its First Order during the pendency of the *Alliance* appeal, the FCC told this court that the First Order’s “analysis of in-kind payments was expressly limited to payments that do *not* involve the provision of cable service.” *Opposition of Federal Communications Commission to Joint Motion for Stay Pending Judicial Review*, 2007 WL 2041325, at *14 n.16 (emphasis in original). And for good reason: the First Order rather pointedly concluded that exactions “*unrelated* to the provision of cable services” are franchise fees, *First Order* ¶ 105 (emphasis added), which yields a plain negative inference that, so far as the First Order was concerned, exactions that *are* related to the provision of cable services are *not* franchise fees. The FCC responds that this interpretation of its First Order renders its reference to “free or discounted services” in ¶ 104 of the Order superfluous in light of the FCC’s reference in the same paragraph to “in-kind payments as discussed below.” But that assumes that these (undefined) terms have some objectively discernable meaning as used in the Order—which they do not. The FCC’s current (as opposed to

prior) interpretation of the First Order on this point is therefore plainly erroneous. *See In re AmTrust Fin. Corp.*, 694 F.3d 741, 754 (6th Cir. 2012).

Thus we turn to the merits of the two challenges. First, the Local Regulators and their *amici* argue that noncash exactions are not “franchise fees” under § 542(g)(1)—because that section defines franchise fees as a “tax, fee or assessment[.]” and those things are almost always monetary in nature. But § 542(g)(1) more specifically defines “franchise fee” to include “any tax, fee, or assessment of any kind[.]” (emphasis added), which requires us to give those terms maximum breadth. And the terms “tax” and “assessment,” in particular, can include nonmonetary exactions. The definition of “tax,” for example, includes “a burdensome charge, obligation, duty, or demand.” *The Random House College Dictionary* 1347 (rev. ed. 1982); *see also Black’s Law Dictionary* 106-07 (5th ed. 1979) (“[a]n enforced contribution of money or other property . . . [or] any contribution imposed by government upon individual, for the use and service of the state” (emphasis added)). And Justice Scalia, for one, has recognized that assessments need not be monetary—by referring to “in-kind assessments[.]” which closely tracks the FCC’s usage of the phrase “in-kind payments” here. *See Austin v. United States*, 509 U.S. 602, 623-24 (1993) (Scalia, J., concurring); *Recon. Order* ¶ 11. Thus we conclude that “franchise fee” as defined by § 542(g)(1) can include noncash exactions.

That the term “franchise fee” can include noncash exactions, of course, does not mean that it necessarily *does* include every one of them. The Local Regulators argue that “franchise fee” does not include “in-kind” cable-related exactions in particular. On that point the Local Regulators offer two contentions, one substantive and one procedural. The substantive argument is that the FCC’s interpretation of franchise fee would undermine various provisions of the Act that allow or even require the Local Regulators to impose cable-related obligations as part of their cable franchises. For example, the Local Regulators may require “that channel capacity be designated for public, educational, or governmental [or “PEG”] use,” and that “channel capacity on institutional networks [or “I-Nets”] be designated for educational and governmental use[.]” 47 U.S.C. §§ 531(b), 541(b)(3)(D). And the Local Regulators must “assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides[.]” *id.* § 541(a)(3)—a

mandate that often brings with it expensive “build-out” obligations for cable operators. *See Alliance*, 529 F.3d at 771 n.6. The Local Regulators assert that, if the costs of these requirements count toward the five-percent cap, the Regulators will not be able to impose these requirements in the first place, thereby thwarting Congress’s intent in enacting these provisions.

The FCC’s Second Order and Reconsideration Order do not reflect any consideration of this concern, which leads to the Local Regulators’ second contention: that those orders contain scarcely any explanation at all for the FCC’s decision to expand its interpretation of “franchise fee” to include so-called “in-kind” cable-related exactions. We agree with that contention. The Second Order says nothing at all in support of this expansion. And the Order on Reconsideration merely asserts that its First Order had already treated “in-kind” cable-related exactions as franchise fees, and that our court had approved that treatment in *Alliance*. *See Recon. Order* ¶¶ 11-13. As explained above, however, both assertions are wrong. Thus, the FCC has offered no explanation as to why the statutory text allows it to treat “in-kind” cable-related exactions as franchise fees. The FCC likewise has offered no explanation as to why the Local Regulators’ structural arguments are, as an interpretive matter, incorrect. And apart from a fleeting reference in the Reconsideration Order, the FCC has not even defined what “in-kind” means.

“One of the basic procedural requirements of administrative rulemaking is that an agency must give adequate reasons for its decisions.” *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016). Thus, if an agency wants the federal courts to adopt (much less defer to) its interpretation of a statute, the agency must do the work of actually interpreting it. The FCC’s orders reflect none of that work as to the question whether “in-kind” cable-related exactions are “franchise fees” under § 541(g)(1). We therefore vacate, as arbitrary and capricious, the orders to the extent they treat “in-kind” cable-related exactions as “franchise fees” under § 541(g)(1). On remand, the FCC should determine and explain anew whether, and to what extent, cable-related exactions are “franchise fees” under the Communications Act. And the FCC should do so expeditiously, rather than take another seven years to issue a proper order under the law.

B.

The Local Regulators next challenge the FCC’s so called “mixed-use” rule, which in essence states that local franchising authorities can regulate only the provision of cable services over “cable systems” as defined by the Act. *See Second Order* ¶¶ 16-17; *see also* 47 U.S.C. § 522(7).

By way of background, the infrastructure that supports cable services—which the Act refers to as “cable systems”—can also support at least two other kinds of services: “telecommunications services[,]” such as telephone service offered directly to the public, and “information services[,]” such as certain internet add-on applications and other ways to make information available via telecommunications. *See generally* 47 U.S.C. § 153(24), (53); *In the Matter of Protecting & Promoting the Open Internet*, 30 FCC Rcd. 5601, 5614-15 (2015). The Act also makes clear that local franchising authorities can regulate so-called “Title II carriers” (basically, providers of phone services) only to the extent that Title II carriers provide cable services. *See* 47 U.S.C. § 522(7)(C).

The Local Regulators’ biggest concern about the mixed-use rule—and the biggest indicator, in their view, that the rule is wrong—is that it apparently would prevent them from regulating so-called “institutional networks,” or “I-Nets.” Institutional networks provide various services to non-residential subscribers, rather than just video services to residential subscribers (which is all that the mixed-use rule seems to allow local franchising authorities to regulate). *See id.* § 531(f). Yet the Act makes clear that local franchising authorities can regulate I-Nets. *See id.* §§ 531(b); 541(b)(3)(D).

The FCC now concedes that its mixed-use ruling was not meant to prevent local franchising authorities from regulating institutional networks. And that concession, the Local Regulators say, resolves “90 percent” of their concern about the mixed-use rule. But that still leaves a dispute about whether local franchising authorities can regulate other services, like “information services” as defined by 47 U.S.C. § 153(24). Thus we turn to the merits of the Local Regulators’ challenge.

The Communications Act bars franchising authorities from regulating the “services, facilities, and equipment provided by a cable operator except to the extent consistent with” the Act. *Id.* § 544(a). The Act in turn permits authorities to impose various franchise requirements to the extent that those requirements are “related to the establishment or operation of a cable system[.]” *Id.* § 544(b) (emphasis added). Section 522(7) defines a “cable system” as “a facility . . . that is designed to provide cable service,” including video programming, “to multiple subscribers within a community[.]” *Id.* § 522(7).

The Local Regulators admit that the FCC’s mixed-use decision is “defensible as applied to Title II carriers,” since the Act expressly states that local franchising authorities may regulate Title II carriers only to the extent they provide cable services. *See id.* § 522(7)(C). And as a practical matter that was how the FCC applied the mixed-use rule in the First Order, since that order concerned new entrants to the cable market, most of whom apparently were Title II carriers. *See First Order* ¶¶ 22, 39, 118, 121 (indicating that new entrants generally are “local exchange carriers” (LECs) or other telephone companies); *see also MetroPCS California, LLC v. FCC*, 644 F.3d 410, 411, 412 (D.C. Cir. 2011) (describing LECs and noting that they are common carriers). Understandably, then, the FCC invoked § 522(7)(C) as the statutory basis—indeed as the only statutory basis—for its decision to apply the mixed-use rule to new entrants. *See First Order* ¶¶ 121-23 & nn.401-04.

Where the trouble began, in the Local Regulators’ view, is in the FCC’s Second Order, which applied the mixed-use rule to incumbent cable operators—most of whom are not Title II carriers, and thus to whom § 522(7)(C) does not apply. The FCC’s statutory basis for the mixed-use rule in the First Order, therefore, does not by its terms support the FCC’s extension of the mixed-use rule to incumbent cable operators in the Second Order. Yet the FCC chose not to cite any other statutory basis for its application of the mixed-use rule to incumbent providers in the Second Order. *See Second Order* ¶¶ 16-17.

Instead, the FCC merely relied on the First Order’s statutory interpretation of § 522(7)(C), noting that § 522 “does not distinguish between incumbent providers and new entrants.” *Id.* But that reasoning is not an affirmative basis for the FCC’s decision in the Second Order to apply the mixed-use rule to incumbent cable operators. Section 522(7)(C) by its terms

applies only to Title II carriers. And many incumbent cable operators are not Title II carriers. Nor does the Reconsideration Order offer any statutory explanation for the FCC’s decision; instead that order merely “adhere[s]” to the Second Order on this point. *Recon. Order* ¶ 15.

In sum, the FCC’s orders offer no valid basis—statutory or otherwise—for its application of the mixed-use rule to bar local franchising authorities from regulating the provision of non-telecommunications services by incumbent cable providers. Thus, on the record now before us, the FCC’s extension of the mixed-use rule to incumbent cable providers that are not common carriers is arbitrary and capricious. *See Teva Pharm. USA, Inc. v. Food & Drug Admin.*, 441 F.3d 1, 5 (D.C. Cir. 2006). We therefore vacate the mixed-use rule as applied to those incumbent cable operators, and remand for the FCC to set forth a valid statutory basis, if there is one, for the rule as so applied.

C.

We make shorter work of the Local Regulators’ remaining three arguments.

1.

The Local Regulators argue that the FCC should have preempted, in its Second Order, so-called “most-favored-nation” (“MFN”) clauses in franchise agreements. By way of background, in the First Order the FCC invalidated so-called “level-playing-field” rules, which were state or local rules that barred franchising authorities from granting new cable franchises on terms that were better than those in existing franchise agreements. *See First Order* ¶ 138. The FCC also forbade franchising authorities from unreasonably denying a new franchise based on an applicant’s inability to meet certain excessive requirements. For example, franchising authorities could not require “a franchisee [to] deploy cable services to all households in a given franchise area” within an unreasonably short timeframe. *Alliance*, 529 F.3d at 771 & n.6. In the Second Order, the FCC recognized that these parts of the First Order might permit some “competitive providers to enter markets with franchise provisions more favorable” than incumbent cable providers, and thus might trigger the application of some MFN clauses. *Second Order* ¶ 20. But the FCC saw no reason to invalidate those clauses themselves. *Id.*; *see also Recon. Order* ¶¶ 8-10.

According to the Local Regulators, the FCC's decision to strike down the level-playing-field rules while leaving the MFN clauses in place will create a downward spiral that the Regulators rather vaguely say is "inconsistent" with the Act. The downward spiral, as the Local Regulators see it, has two steps. In the first step, the First Order will cause new entrants to obtain better terms than incumbent operators have. In the second step, the incumbents' MFN clauses will entitle them to those better terms. The Local Regulators assert that this cycle would repeat with each new franchise granted, causing a downward spiral and eventually preventing authorities from making reasonable demands of franchisees.

The theory presumes that the First Order effectively requires franchising authorities to give every new wave of cable providers a better deal than the last. But the First Order does not do that. Instead it merely *allows* franchising authorities to give better terms to new entrants if they so choose, so long as the authorities impose only reasonable requirements. Meanwhile, nothing prevents franchising authorities from refusing to agree to MFN clauses when incumbent franchises come up for renewal. *See Second Order* ¶ 20; *Recon. Order* ¶¶ 8-10. Nor have the Local Regulators provided any evidence, as opposed to speculation, that the FCC's decisions in this area will somehow thwart Congress's intent as expressed by the Act's plain terms. Moreover, analysis of these kinds of market dynamics is primarily the FCC's province, not ours. *See Wis. Pub. Power, Inc. v. FERC*, 493 F.3d 239, 260-61 (D.C. Cir. 2007). Nor, suffice it to say, was the FCC's decision on this point arbitrary and capricious in any way. Hence we reject this challenge to the FCC's orders.

2.

The Local Regulators next argue that the FCC should make clear that the Second Order does not bind state franchising authorities (as opposed to local ones). But the FCC has already made that clear, by expressly stating that the Second Order was "intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level." *Recon. Order* ¶ 7.

Still, the Local Regulators worry about the following footnote in the Reconsideration Order:

Nothing in this *Order on Reconsideration*, of course, changes the fact that in litigation involving a cable operator and a franchising authority, a court anywhere in the nation would be required to apply the FCC's interpretation of any provision of [the Communications Act] that would be pertinent (e.g., [47 U.S.C. § 542]), including those interpretations set forth in the *First Report and Order* and *Second Report and Order*.

Id. ¶ 7 n.33 (citing, for example, *Mais v. Gulf Coast Collection Bureau, Inc.*, 768 F.3d 1110, 1119 (11th Cir. 2014)). According to the Local Regulators, this footnote would require a district court to apply the First and Second Orders in any case where, for example, a prospective new entrant claims that the relevant franchising authority has imposed unreasonable conditions on the new entrant in violation of § 541(a)(1). And some of those cases might involve state franchising authorities, in which case, the Regulators seem to fear, a district court (per the footnote) might think itself bound to apply the FCC's First and Second Orders to the state authority. The Local Regulators thus assert that the Reconsideration Order is internally inconsistent and therefore arbitrary and capricious. *See Cincinnati Bell Tel. Co. v. FCC*, 69 F.3d 752, 768 (6th Cir. 1995).

The Local Regulators misread the footnote, which merely makes the jurisdictional point that district courts cannot review the substantive validity of the FCC's orders. *See* 28 U.S.C. § 2342(1); 47 U.S.C. § 402(a); *see also Mais*, 768 F.3d at 1119. And part of the substance of the First and Second Orders themselves, per the express terms of the First and Reconsideration Orders, is that they do not apply to state franchising authorities. *See First Order* ¶ 126; *Recon. Order* ¶ 7. Hence a district court could not disregard that limitation either.

Moreover, the FCC's decision not to regulate, and thus to leave a gap in its regulatory regime, is not arbitrary and capricious. Agencies may "proceed one step at a time[.]" *Cincinnati Bell Tel. Co.*, 69 F.3d at 767. And the FCC has offered to undertake a future rulemaking, if requested, to consider whether its orders should apply to state-level franchises. *See Recon. Order* ¶ 7. Hence this challenge, to the extent it is one, is meritless.

3.

Finally, the Local Regulators argue that the FCC's Supplemental Final Regulatory Flexibility Analysis (which it attached to the Reconsideration Order) was defective because it putatively failed to meet the "purely procedural" requirements of the Regulatory Flexibility Act. *See Nat'l Tel. Co-op. Ass'n v. FCC*, 563 F.3d 536, 540 (D.C. Cir. 2009) (alteration and citation omitted). Under the Act, an agency must publish, for each rule that it promulgates, a "final regulatory flexibility analysis" that assesses the rule's effects on "small entities" and describes any steps the agency has taken to "minimize the significant economic impact" on them. *See* 5 U.S.C. § 604. We review these analyses to ensure only that the agency made a "reasonable, good-faith effort" to comply with the requirements of § 604. *See Zero Zone, Inc. v. United States Dep't of Energy*, 832 F.3d 654, 683 (7th Cir. 2016) (gathering cases).

Here, the FCC identified specific comments that raised the same objections that the Local Regulators now raise in the petition. And the FCC explained that, in its view, its rules in the relevant orders would "not impose a significant impact on any small entity" because the FCC "did not disturb many portions of the existing franchise requirements, such as MFN clauses, build-out requirements, time limits for franchise negotiations or customer service laws." *Recon. Order* at App'x ¶ 16. The agency's analysis of the relevant orders' effects upon small entities was procedurally adequate. *See Nat'l Tel. Co-op. Ass'n*, 563 F.3d at 540. And to the extent that the Petitioners argue that the FCC's regulatory analysis made its other rules arbitrary and capricious, we have dealt with those arguments above.

* * *

We grant the petition in part, deny it in part, and remand to the agency for further proceedings consistent with this opinion.



Alliance for Community Media

www.allcommunitymedia.org | info@allcommunitymedia.org

Minnesota Headquarters

4248 Park Glen Road

Minneapolis, MN 55416

p: 952 928 4643

Washington DC Office

8817 2nd Avenue

Silver Spring, MD 20910

August 2017

This is a summary of issues discussed on ACM Public Policy calls this month. For more information about the issues, to get copies of background documents, or to get invites to future calls, please contact Mike Wassenaar at 612-298-3805 or email mwassenaar@allcommunitymedia.org.

Montgomery County, MD *et al.* v. FCC

The 6th Circuit Court of Appeals ruled last month that two aspects of the FCC's 621 Orders in 2007 and 2008 regarding local cable franchising be vacated and remanded to the Commission.

The first aspect vacated by the Court was the Order's determination that "in-kind" services provided to communities be counted as included in franchise fees. The petitioners argued this determination ran counter to the Cable Act and that there was no adequate ("scarcely any") explanation given for the rule. ACM in our amicus brief supported the position, as facility costs, line extensions and "free" cable services to schools and PEG channels would all be subject to being counted as part of franchise fees under the rule. The Court agreed with the petitioners.

The second aspect vacated by the Court was the "mixed-use" rule for Institutional Networks provided by cable franchises to communities which ruling was used bar local authorities from regulating the provision of non-telecommunications services by incumbent cable providers. The Court held that the FCC had no valid statutory authority for the rule, as it was derived from Title II and I-Net provision falls under Cable franchising which is not subject to Title II.

ACM is talking with the FCC to determine their next steps. The decision means that in-kind support of studios, line extensions, free drops, promotion (and so on) can no longer be claimed against franchise fees.

Rank v Mount Hood Cable Commission, et al.

This class action lawsuit brought by a Portland OR cable subscriber against local franchising authorities was dismissed with prejudice in Circuit Court. At issue was the question of how PEG fees were being spent. The plaintiff claimed they had been harmed by how PEG fees were being managed.

The Court ruled against the plaintiff as no harm was demonstrated and the cable subscriber had no standing. The court found that the franchising authority was the determining party in how PEG fees should be spent.

State of Vermont PUC Ruling

The Vermont Public Utility Commission rejected Comcast's appeal of the PUC's January ruling on the renewal of the company's Certificate of Public Good.

Specifically, the PUC rejected the claim that the company did not violate their current agreement by not providing Electronic Program Guide access to the 22 organizations that are on their systems in the entire state, and said that ratepayers should not be penalized for Comcast's bad behavior – its "system design choices" which do not support local channels.

The decision also rejects claims that remedies would hurt Comcast's profits in the state, stating that their profit margins were being dictated by other factors and they were making enough profit already.

Comcast has not stated whether they will appeal the decision in court, and we are monitoring the situation because the issue is important to many channels across the country.

QCCCC Agenda Item

4.3.1 Operations Report

September 1, 2017

To: Karen George, Executive Director

From: Katherine Lenaburg, Operations Manager

Subject: Operations Update

August productions included an episode of News and Views that featured 8 guests. We also did 8 packages that included features on the “Night to Unite” evenings in each of our member cities. We produced live coverage of 19 city meetings.

Our production van was at Target Field in Minneapolis to cover the MYAS Championship 15 AAA Baseball game between New Prague and the Anoka/ Ramsey team. It was the first time for our crew at Target Field and it went very well. Our van was also used for “Live and Local: Getting Hitched”, a live hour show all about weddings in our area.

We produced a facilitated access show called “The Power of Food with Dick Ogren”. Dick is a local resident who lectures on the benefits of a vegan diet. We had a studio audience and it was well received. We carried live coverage of several St. Paul Saints games that were produced by a sister station.

Our regular productions included: The Chamber Report, The Sheriff’s Show, and The District Court Show. We produced 3 Slow TV’s featuring local areas of interest.

We worked on our upcoming fall sports programming which included producing a new open and new graphics. We also are in the midst of producing “At the Half” which included three segments from each of our high schools. We cover activities and sports that don’t often get coverage like the marching band, tennis, and cross country. Our deadline is for half time at fall football games which start in early September. Local coverage of soccer and volleyball started and will continue throughout the fall with football game coverage starting in early September.

Staff time was spent on the 5 Year Capital Budget plan and we had several meetings to determine what we will need in the next several years.

Our staff- both fulltime and part time- went through AED training with an Allina representative and people are confident that in an emergency we know how to use the equipment properly- both in the office and on location.

One of our production assistant's, Ravi Butler, was promoted to associate producer and began in his new position August 14th. He will direct city meetings at all four cities, continue working with our mobile production crew on sports and community events, as well as produce packages for News and Views and The Local Show.

QCCCC Agenda Item

4.3.2 Technology Report

September 21, 2017

To: Karen George, Executive Director

From: John Sommer, Technology Manager

Subject: August Technology Report

Equipment Issues:

QCTV Equipment

Staff Checkout Camera 6. Zoom control from the server hand grip switch is not functional on Camera 6. The replacement part ordered was not the right part and we need to return that and obtain the correct part. Camera 6 is back in circulation for the short term but with manual zoom control. Tripod six had a broken spreader and that was repaired.

Server AD. Monday, August 14th we had a USN (update sequence number) rollback on our primary Active Directory machine. Our IT consultant came in that day and had seen this problem before. He restored to a previously good back-up point but we were without network share-point access for the better part of the day. The next day at about 8:30 in the morning many of the phones in the building lost their IP addresses because the DHCP services on the Server AD had stopped working. By the later afternoon all of the phones were back on line and DHCP services were restored.

City Equipment

No major issues reported for August.

Comcast Equipment

No issues reported for August.

CenturyLink Equipment

No issues reported for August.

Current Projects:

City Hall HD Updates

The four installed cameras at Champlin are working smoothly with all aspects of the Rushworks VDesk video switcher/ controller. For the transition from the current analog 4x3 standard definition system, once the cameras are a native 16x9 1080i signal we will need to convert the existing analog signal from the presentation system to match the new cameras. A \$200 to \$300 unit at each city hall will accomplish this task. The future

upgrades to the presentation system will obviate the need for these devices will then be repurposed in the QCTV studio, the truck and with the remote system.

The next two things to test are HD signal transmission and HD file encoding. At Champlin we have dedicated fiber running from city hall to QCTV, there are many devices that would work. We will start testing with some equipment used with the truck. I would also like to try encoding the HD file as an h.264 (MPEG-4) file instead of an MPEG-2 file. This should keep the quality high, but cut the file size and subsequent transfer time to QCTV. The h.264 encoding profile is much more recent and more efficient than the venerable MPEG-2. The concrete block construction of Champlin City Hall will present some challenges in running cables from the basement fiber room to the TV control room, but I am working with Champlin staff to get the cables installed.

Action Requested: None.

QCCCC Agenda Item

5.1 Audit Services

August 31, 2017

To: Commissioners

From: Karen George, Executive Director

Subject: Audit Services

The Quad Cities Cable Communications Commission completes an annual audit. The three-year audit service contract with Redpath and Company has expired. Staff consulted with Commission treasurer Dickinson regarding a contract extension. Redpath and Company provided an update of services fees and proposed contract for auditing services for fiscal years 2017, 2018, and 2019. The proposed fee structure is \$14,150 for 2017 (the same as 2016 audit fees), \$14,460 for 2018, and \$14,750 for 2019.

Treasurer Dickinson and staff recommend the commission approve a three-year contract with Redpath and Company.

Action Recommendation:

Approve Redpath and Company contract for audit services for 2017, 2018, and 2019.



August 15, 2017

Karen George, Executive Director
Quad Cities Cable Communications Commission
12254 Ensign Ave. N.
Champlin, MN 55316

Dear Karen:

Enclosed are two copies of our engagement letter for auditing services for the years ending December 31, 2017, 2018 and 2019 for the Quad Cities Cable Communications Commission.

Services

The scope of services are the same as for 2016 and are summarized as follows:

- Audit the basic financial statements of the Quad Cities Cable Communications Commission as of and for the years ending December 31, 2017, 2018 and 2019.
- Preparation, copying and binding of the Annual Financial Report.
- State Legal Compliance Audit.
- Preparation of OSA Reporting Form.
- Assistance with GASB 68 (Pension) workpapers.

Fees

We are proposing to complete the services described above for an estimated fee of \$14,150, \$14,460, and \$14,750 for the years ending December 31, 2017, 2018, and 2019, respectively. This fee is based on anticipated cooperation from Commission personnel, their completion of the workpapers per the client to prepare list and the assumption that unexpected circumstances will not be encountered. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate.

Upon the approval of this agreement by your Board and execution, please return one copy to our office and retain the other copy for your files. If you have any questions, please don't hesitate to call.

Sincerely,

REDPATH AND COMPANY, LTD.

A handwritten signature in black ink that reads "Peggy Moeller".

Peggy Moeller, CPA



August 15, 2017

Quad Cities Cable Communications Commission
12254 Ensign Ave. N.
Champlin, MN 55316

We are pleased to confirm our understanding of the services we are to provide the Quad Cities Cable Communications Commission for the years ending December 31, 2017, 2018 and 2019. The scope of services includes the following:

- We will audit the financial statements of the governmental activities and each major fund, including the related notes to the financial statements, which collectively comprise the basic financial statements of the Quad Cities Cable Communications Commission as of and for the years ending December 31, 2017, 2018 and 2019. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as budgetary comparison schedules, to supplement the Quad Cities Cable Communications Commission's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Quad Cities Cable Communications Commission's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:
 - Budgetary Comparison Schedule
 - Schedule of Proportionate Share of Net Pension Liability
 - Schedule of Pension Contributions

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information:

- Introductory section
- Preparation, copying and binding of the Annual Financial Report.
- State of Minnesota Legal Compliance Audit.
- Preparation of OSA State Reporting form.
- Assistance with GASB 68 (Pension) workpapers.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the minimum procedures for auditors as prescribed by MS 6.65, and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the Quad Cities Cable Communications Commission's financial statements. Our report will be addressed to the Honorable Members of the Quad Cities Cable Communications Commission. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit, or are unable to form or have not formed opinions, we may decline to express opinions or may withdraw from this engagement.

Audit Procedures – General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We may request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures – Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Quad Cities Cable Communications Commission's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

The Minnesota Legal Compliance Audit Guide for Local Government requires that we test whether the auditee has complied with certain provisions of Minnesota Statutes. Our audit will include such test of the accounting records and other procedures as we consider necessary in the circumstances.

Other Services

We will also assist in preparing the financial statements of Quad Cities Cable Communications Commission in conformity with U.S. generally accepted accounting principles based on information provided by you and the GASB 68 (Pension) workpapers based on information provided by you and by PERA. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services and GASB 68 workpaper preparation previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedures or take on any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the

information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Audit Administration, Fees and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

Unless additional work is requested, or circumstances require additional work, we agree that, our estimated basic audit fee for these services for the years ending December 31, 2017, 2018, and 2019, including expenses (such as report reproduction, postage, etc.), will be \$13,600, \$13,900, and \$14,180 for 2017, 2018, and 2019, respectively. Assistance with GASB 68 (Pension) calculations and workpapers will be \$550 for 2017, \$560 for 2018, and \$570 for 2019. Confirmation fees and courier fees are not included in the basic audit fee. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 120 days or more overdue and may not resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel, accurate and timely completion of workpapers per the client to prepare list by your personnel, and the assumption that unexpected circumstances will not be encountered during the audit. Additional audit procedures may be required for certain accounting issues or events, new contractual agreements, new accounting and auditing standards, such as legal requirements for new bond issues, new funds, new capital projects, if there is an indication of misappropriation or misuse of public funds, or difficulties encountered due to lack of accounting records, incomplete records, inaccurate records or turnover in the Commission's staff. If significant additional time

is necessary due to a change in scopes of services or delays in receiving audit information requests, we will discuss it with you and arrive at a new fee estimate.

We appreciate the opportunity to be of service to the Quad Cities Cable Communications Commission 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 our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

REDPATH AND COMPANY, LTD.



Peggy A. Moeller, CPA

PAM:aer

Response

This letter correctly sets forth the understanding of the Quad Cities Cable Communications Commission:

Management signature:

Governance signature:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Nonaudit Services

The employee(s) assigned to oversee the nonaudit services is as follows:

Employee (name and title): _____