

**RESOLUTION NO. 2886**

**A RESOLUTION CONCERNING THE COMMENCEMENT OF PROCEEDING FOR  
IDENTIFYING FUTURE CABLE-RELATED COMMUNITY NEEDS AND INTERESTS  
AND REVIEWING THE PERFORMANCE OF THE CABLE OPERATOR PURSUANT  
TO 47 U.S.C. § 546**

**WHEREAS**, Comcast of Virginia, Inc. (“Comcast”), a Delaware limited liability company, currently has a franchise within the City of Alexandria, Virginia with an effective date of October 25, 2011 (the “Franchise”); and

**WHEREAS**, the Franchise has a renewal provision which expires on October 25, 2021; and

**WHEREAS**, by letter dated March 6, 2019, Comcast has submitted a written renewal notice, as permitted by 47 U.S.C. § 546, formally requesting that the Franchise be renewed; and

**WHEREAS**, 47 U.S.C. § 546 provides that, not later than six months after the submission of such a request, a franchising authority must commence a proceeding for the purpose of identifying future cable-related community needs and interests, and reviewing the performance of the cable operator under the Franchise; and

**WHEREAS**, pursuant to Virginia Code §15.2-2108.20 and § 9-3-1 et seq of the City Code of the City of Alexandria, as amended, the City is the franchising authority; and

**WHEREAS**, the City’s Franchise provides that the City and Comcast may mutually agree to extend the Franchise for two additional five (5) year terms; and

**WHEREAS**, the City wishes to commence the proceeding required by 47 U.S.C. § 546; and

**WHEREAS**, the Council also wishes to give City staff initial guidance regarding the planning and conduct of the renewal proceeding;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Alexandria, Virginia:

1. That a proceeding for the purpose of identifying future cable-related community needs and interests and reviewing the performance of Comcast under the Franchise is hereby commenced; and
2. That the City Manager and the City Attorney are authorized to take the steps necessary to conduct such a proceeding in accordance with applicable law, subject to the oversight of Council.

3. (a). That the Office of the City Attorney and City staff shall jointly develop a plan for identifying future cable-related community needs and interests and reviewing the performance of Comcast, in accordance with the formal renewal process described in 47 U.S.C.546 (a)-(e) (the "Assessment Plan"). The Assessment Plan may include the retention of outside technical consultants to assist in: (i) identifying the community's future cable-related needs and interests; (ii) evaluating Comcast's compliance with the Franchise; and (iii) evaluating the condition of Comcast's system in the City. City staff shall be responsible for implementing the Assessment Plan, with the assistance, advice, and participation of the Office of the City Attorney.

4. The Office of the City Attorney and City staff shall jointly develop and implement a plan for conducting informal negotiations with Comcast, as permitted by 47 U.S.C. 546(b). The City Attorney shall be responsible for implementing negotiations with the assistance advice and participation of City staff.

This Resolution shall be effective immediately upon passage.

Adopted: May 28, 2019



**JUSTIN M. WILSON MAYOR**

ATTEST:



Gloria A. Sitton, CMC City Clerk



Comcast  
676 Island Pond Road  
Manchester, NH 03109  
Phone: 603-695-1400  
Facsimile: 603-628-3303  
[www.comcast.com](http://www.comcast.com)  
[www.comcastcorporation.com](http://www.comcastcorporation.com)

March 6, 2019

***Via Overnight Delivery***

Mr. Michael Stewart  
301 King Street Room 3200  
Alexandria, VA 22314

***Re: Commencement of Renewal Process***

Dear Mr. Stewart:

Over the years, we at Comcast have appreciated the opportunity to serve the citizens of City of Alexandria. We have done our best to provide the high quality cable television service the City of Alexandria and its residents demand, and we anticipate being able to provide that service to our subscribers for many years to come. Therefore, we are taking this step to ensure the renewal of our agreement with you.

The Cable Communications Policy Act of 1984 encourages issuing authorities and cable companies to reach agreement on a renewal agreement at any time through an informal process of discussion. However, Section 626 of the Act also provides for a contemporaneous alternative formal renewal procedure with specific substantive and procedural requirements. If either the issuing authority or the cable company does not initiate the formal process within a certain time frame, the protections of that process may be lost. To that end, Comcast hereby notifies you that the renewal period for our agreement under Section 626 is now open, and we request the start of renewal proceedings pursuant to the Section 626(a)(1).

This letter is not intended to preclude informal negotiations, but instead is intended only to preserve the rights of Comcast under the formal renewal process. Comcast has every reason to believe that City of Alexandria and Comcast will reach a mutually agreeable renewal of the cable television agreement through good-faith negotiations, thus making many of the Act's formal procedures unnecessary. The relevant provision of Section 626 on the informal process is brief and reads as follows:

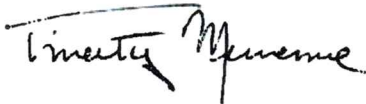
"(h) . . . [A] cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after formal proceedings pursuant to this section have commenced) . . ."

The "formal" process generally includes the following steps:

1. Within six (6) months of the submission of this letter, the City of Alexandria conducts an ascertainment proceeding which affords residents an opportunity to a) identify the future cable-related needs, and b) review Comcast's performance under the current agreement.
2. At your request or on our own, Comcast submits a renewal proposal with a draft cable television agreement.
3. Within four (4) months of the City of Alexandria's receipt of Comcast's proposal, the public is afforded "adequate notice and opportunity to comment on the renewal proposal" and must choose to renew the agreement or issue a preliminary denial, which triggers a further formal process.

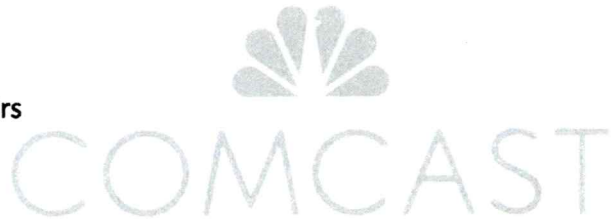
I am attaching a copy of Section 626 of the Cable Act for your review. Marie Schuler will be in contact with you soon to arrange a meeting to discuss informally negotiating a renewal agreement. Please feel free to contact Marie at +1 (703) 567-4488 any time. Comcast looks forward to meeting with you in the near future and continuing the long relationship that, we believe, has benefited both the community and the residents of City of Alexandria.

Sincerely,



Timothy Murnane  
Vice President, Government and Regulatory Affairs

TM/cam  
Attachment



cc: Marie Schuler – Comcast Government & Regulatory Affairs

# *The Communications Act of 1934, as amended*

## **(47 USC Sec. 546-Renewal)**

### Section 626. Renewal

#### (a) Commencement of proceedings; public notice and participation -

- (1) A franchising authority may, on its own initiative during the 6-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term. If the cable operator submits, during such 6-month period, a written renewal notice requesting the commencement of such a proceeding, the franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted.
- (2) The cable operator may not invoke the renewal procedures set forth in subsections (b) through (g) of this section unless -
  - (A) such a proceeding is requested by the cable operator by timely submission of such notice; or
  - (B) such a proceeding is commenced by the franchising authority on its own initiative.

#### (b) Submission of renewal proposals; contents; time -

- (1) Upon completion of a proceeding under subsection (a) of this section, a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.
- (2) Subject to section 544 of this title, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.
- (3) The franchising authority may establish a date by which such proposal shall be submitted.

#### (c) Notice of proposal; renewal; preliminary assessment of nonrenewal; administrative review; issues; notice and opportunity for hearing; transcript; written decision -

- (1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise pursuant to subsection (b) of this section, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the date of the submission of the cable operator's proposal pursuant to subsection (b) of this section, renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether -
  - (A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
  - (B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;
  - (C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and
  - (D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a) of this section), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.
- (3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

#### (d) Basis for denial -

Any denial of a proposal for renewal that has been submitted in compliance with subsection (b) of this section shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section, pursuant to the record of the proceeding under subsection (c) of this section. A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) of this section or on events considered under subsection (c)(1)(B) of this section in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) of this section occur after the effective date of this subchapter unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or the cable operator gives written notice of a failure or inability to cure and the franchising authority fails to object within a reasonable time after receipt of such notice.

#### (e) Judicial review; grounds for relief

- (1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 555 of this title.
- (2) The court shall grant appropriate relief if the court finds that -
  - (A) any action of the franchising authority, other than harmless error, is not in compliance with the procedural requirements of this section; or
  - (B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c) of this section.

#### (f) Finality of administrative decision -

Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

#### (g) "Franchise expiration" defined -

For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on October 30, 1984.

#### (h) Alternative renewal procedures -

Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g) of this section.

(i) Effect of renewal procedures upon action to revoke franchise for cause - Notwithstanding the provisions of subsections (a) through (h) of this section, any lawful action to revoke a cable operator's franchise for cause shall not be negated by the subsequent initiation of renewal proceedings by the cable operator under this section.