

JON HUTCHINGS  
DIRECTOR



## MEMORANDUM

**TO:** The Honorable Jack Louws, County Executive,  
Honorable Members of the Whatcom County Council

**THROUGH:** Jon Hutchings, Director ~~AH~~

**FROM:** Andrew Hester, Public Works Real Estate Coordinator AH

**RE:** Franchise for WaveDivision I, LLC.

**DATE:** June 14, 2019

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▪ **Requested Action**

Adopt an ordinance that grants a franchise to WaveDivision I, LLC, allowing it to use and be present in County Rights of Way in order to provide cable services per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

WaveDivision I, LLC, is the successor of County Cable, Inc. which was granted a cable services franchise on October 27, 1992. The franchise agreement expired on October 27, 2017. Whatcom County and WaveDivision I, LLC, have been operating under the terms and conditions of that franchise agreement in good faith while a new franchise agreement was being negotiated. This proposed franchise agreement is largely based on a franchise agreement that the City of Bellingham entered into with Comcast. Attached is an information sheet that summarizes key topics of the existing Comcast and Wave Broadband franchise agreements, the proposed Comcast and Wave Broadband franchise agreements, and the City of Bellingham franchise agreement.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

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	Current Franchise Agreement – Comcast	Current Franchise Agreement – Wave Broadband	New Proposed Franchise Agreement – Comcast	New Proposed Franchise Agreement – Wave Broadband	City of Bellingham Comcast Franchise
Franchise Term	15 years	25 years	10 years	10 years	10 years
Line Extension	60 dwellings per mile underground 30 dwellings per mile aerial	60 dwellings per mile underground 30 dwellings per mile aerial	60 dwellings per mile underground 30 dwellings per mile aerial	60 dwellings per mile underground 30 dwellings per mile aerial	32 dwellings per mile underground 32 dwellings per mile aerial
Franchise Fee	4%	4%	4%	4%	5%
PEG Channel	2 available (one shared with city) – up to five available based on use	1 available	1 available	1 available	3 available
PEG Fee	No PEG Fee, grants address capital expenses	Not addressed	Currently none, can be up to \$0.25 per subscriber if requested	Currently none, negotiable if requested	\$0.50 per subscriber
Discount program Low Income/Senior	Not addressed in franchise agreement	No discount program	Discount program in place	No discount program	Discount program in place
School/Government complementary service	None	None	Complementary service provided	None	Complementary service provided

Franchise agreements regulate a utility's use of the County's Right-of-Way and establish the process for the maintenance and installation of facilities within the right-of-way and the process for relocating their facilities if needed by the County for a road project. Franchises for cable television services have a few additional items unrelated to the use of the County's Right-of-Way. Among those items are franchise fees, PEG Channel/PEG Fees, and line extension policy. Also complimentary cable service for government facilities and schools, and a low Income Senior/Disabled discount program can be negotiated. PEG stands for "Public, Education, and Government" and refers to the type of local programming that can be offered on local noncommercial channels. Currently the County does not have its own PEG channel. The line extension policy determines where the cable provider must make service available based on density requirements. A franchise fee is a payment based on a percentage of the cable provider's gross revenue defined in the franchise agreement. The County may collect a franchise fee up to 5% of the cable provider's gross revenue. A PEG fee can only be used for capital expenses (equipment, buildings) in support of a PEG channel. Both the franchise fee and the PEG fee can be passed on to cable subscribers.