



CITY OF LONG BEACH

DEPARTMENT OF TECHNOLOGY SERVICES

R-28

333 WEST OCEAN BOULEVARD • LONG BEACH, CA 90802 • (562) 570-6455 • FAX (562) 570-5270

July 10, 2007

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Request the City Attorney to prepare an ordinance, pursuant to the State of California's Digital Infrastructure and Video Competition Act of 2006, establishing a State video franchise fee, a fee to support Public, Educational and Government (PEG) channel facilities, and a schedule of penalties for any material breach of customer service standards for any State video franchise holder operating within the boundaries of the City of Long Beach.

DISCUSSION

Historically, the granting of cable franchise agreements has been the exclusive lawful domain of local governments. The City of Long Beach (City) exercised this authority when it renewed its current agreement with Charter Communications on May 23, 1997. The agreement provides the City numerous benefits, including eight PEG channels that are respectively used by the general public, Long Beach City College, California State University at Long Beach, Long Beach Unified School District, and the City.

On August 31, 2006 the California Legislature approved AB 2987, the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). The enactment of DIVCA marked a major change in the regulation of video service (cable) providers in California, establishing a State franchise system, under the authority of the State's Public Utilities Commission, while preserving local franchise revenues. The bill requires that State franchise applicants comply with numerous regulations including City regulations and fees regarding the time, place, and manner of using the public rights-of-way.

DIVCA requires that cable operators pay local government franchise fees of up to five percent of gross revenues from video service. Currently, the City receives five percent of cable companies' gross revenues in Long Beach. The proposed ordinance would contain a franchise fee to ensure Long Beach maintains the percentage of gross revenue it currently receives.

DIVCA allows local entities to establish a fee by ordinance to support the costs of PEG channel facilities, in the amount of one percent of gross revenues, or more in specified circumstances. The specified circumstances are as follows: if, on December 31, 2006, a local entity is imposing a separate fee to support PEG that is in excess of one percent,

HONORABLE MAYOR AND CITY COUNCIL

July 10, 2007

Page 2

that entity may establish a fee no greater than that fee, and in no event greater than three percent of gross revenues. On December 31, 2006 the City of Long Beach was imposing a fee of 1.04 percent of gross revenues for Government Access support. The ordinance will maintain the level of PEG support currently received.

DIVCA requires that local entities enforce certain cable, or video service provider, customer service standards, and by ordinance or resolution establish a schedule of penalties for infractions. Section 5900 (n) of the California legislation establishes "not to exceed" amounts of monetary penalties for such infractions.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on June 25, 2007, and by Performance Management and Budget Bureau Manager David Wodynski on June 28, 2007.

TIMING CONSIDERATIONS

City Council action on this matter is requested on July 10, 2007 so that staff can implement these matters.

FISCAL IMPACT

Franchise fee revenue is expected to total \$3,017,100 in FY 07, of which approximately \$2.45 million will be transferred to the General Fund. The revenue amount is expected to grow to \$3,139,200 in FY 08. PEG fee revenue is estimated to total \$609,500 in FY 07, increasing to \$634,200 in FY 08. This revenue accrues to the General Services Fund (IS 385).

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JACK CIULLA
ACTING DIRECTOR OF TECHNOLOGY SERVICES

JC:ch

APPROVED:



CHRISTINE F. SHIPPEY
ASSISTANT CITY MANAGER