

SACRAMENTO METROPOLITAN



**Cable
UTC
Television
Commission**

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ROBERT E. SMITH
EXECUTIVE DIRECTOR

March 16, 1983

For Commission Meeting of 3/16/83;
Board of Supervisors' Meeting of 3/22/83;
City Council Meeting of 3/22/83.

To: Sacramento Metropolitan Cable Television Commission
Board of Supervisors
City Council

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

Subject: APPROVAL OF THE RESOLUTION OFFERING THE CABLE TELEVISION FRANCHISE

On March 9, 1983, the Commission asked staff to report back regarding three matters which required further review. They are an analysis of the March 6, 1983 agreement between the National League of Cities and the National Cable Television Association on S.66 commonly referred to as the Goldwater Bill, a copy of the transcript regarding City Councilman Serna's questions and Mary Lou Wright's response to UTC's position on changes of federal legislation, and finally, a schedule of cash disbursements required by UTC to local government agencies and grantees during the first six months following the filing of Certificate of Acceptance.

Consequences of Federal Legislation.

Mr. Jim Jackson, City Attorney, has prepared the attached analysis of S.66 as well as the recent agreement between the League of California Cities and the National Cable Television Association. It appears that should this compromise legislation pass, and it appears likely that it will, it will contain provisions which provide for virtually automatic renewal, and also a requirement that local government pay fair market value for cable systems they intend to acquire. It also makes the community grants offered by UTC unenforceable. As drafted, the legislation does however, exempt municipally owned systems from its franchising provisions. More importantly, the legislation is retroactive, providing that any franchise, enacted after the effective date of the legislation, must conform to the new requirements, and all other franchises have a one-year period in which to negotiate provisions consistent with these requirements. Should Sacramento remain firm in its position not to alter the Ordinance to accommodate UTC's request for buyout, it is very likely that through the federal legislation, we will be mandated to alter the Franchise Resolution to reflect UTC's desires, and will be forced to accept reductions in services and in the community commitments originally bid.

The attached transcript is self-explanatory and indicates UTC's willingness to abide by the Franchise Resolution as offered without respect to federal legislation. However, it does not appear possible to enforce such "voluntary commitment" in contradiction of the federal law.

The significance of the compromise action on the Goldwater Bill cannot be underestimated. Simply, if passed (conversations with the National League of Cities indicate passage is likely), the Sacramento Franchise Resolution will have most, if not all, of its remedies removed. Particularly, there will be no assurance that UTC will meet the community commitments that were so fundamental in their being selected as the Tentative Franchisee.

Staff believes that there are three basic alternatives:

- 1) Approve the Resolution as currently before you.
- 2) Reject all bids.
- 3) Amend the Ordinance to extend the consideration time for an additional six months.

Approving the Resolution now will bind UTC in the strongest possible way until such time as federal legislation such as the Goldwater Bill passes. However, such approval would preclude our negotiating adjustments to enforce the UTC commitments if the legislation passes. Our only way to maintain an enforceability of the commitments would be to lobby for Amendments to the Bill, prior to its passage.

Rejecting all bids and ending the bid process would eliminate what is essentially a strong Resolution providing excellent and comprehensive benefits to Sacramento in the event, although remote, that the Goldwater Bill is substantially changed or is defeated.

Extending the offering period is legally defensible and desirable. During this extension period, there will be time to further analyze the Goldwater Bill and to develop alternatives beneficial to Sacramento such as municipal ownership of the cable system. Such an analysis and delay would add an additional cost of approximately \$300,000 to the City and County.

Additional time would permit a thorough analysis of the Bill and allow time for new consideration of municipal ownership of the cable system. This is particularly significant if it is desired to maintain a level of commitment to community needs from cable revenues as currently contained in the Franchise Resolution. Further, this time would allow UTC to verify that there are realistic financing alternatives available to them for funding the system. While it is important that each of the three alternatives be given full consideration by the governing bodies, it is staff's opinion that the prudent choice is to extend the time period for deciding to award the franchise.

Attached for your review is the Resolution Offering the Cable Television Franchise, incorporating those changes approved by the Commission at its meeting of March 9, 1983. The following is a summary of the decisions made then on the subjects of Buyout, Favored Nation or Parity, and Gross Revenues:

Buyout - Staff recommended, and the Commission approved, including language in the Resolution which will result in improved financing opportunities for UTC. This includes allowing UTC to secure limited partnership financing; expressing the Commission's intent that it does not wish to make a profit from acquisition of the system; clarifying that subscriber lists may be considered in establishing ongoing value at the end of the Franchise; further defining replacement costs; and lastly, structuring a process to meet and discuss renewal of the franchise at term.

Favored Nation - The Commission approved UTC's request, with staff modifications, to provide for reduction of commitments in the event a second competing franchise is awarded.

Gross Revenues - The Commission disagreed with UTC's request for changes in the Resolution language defining gross revenues. Therefore, the language prepared and recommended by staff remains in the Resolution.

Included as Attachment 2 are excerpts from the most recent staff reports describing in summary form the key elements of the Resolution and the steps taken to resolve the disagreed items identified over the last several weeks.

Short-Term Cash Disbursements - The total expenditures estimated from April to September 1983 by your Commission staff and grantees, as well as all other public agencies, is estimated to be approximately \$450,000. The majority of these expenditures, or approximately \$300,000, is due primarily to the engineering and administrative activities of your Commission staff. (See attached chart.)

Recommendation.

The best efforts of staff are before you in the attached Resolution. With the exception of adding the actual contract signing dates (expected next Tuesday) of the grant awards between UTC and various community organizations (see pages V-47 and V-48), no other changes to this Resolution are planned or anticipated.

However, in light of the recent changes in the federal legislation and its impact on Sacramento, suggested by the City Attorney's analysis, staff believes it prudent that you consider rescinding the 3/9/83 approval of the Resolution and change the franchise process by extending the time period for award. A copy of the proposed Ordinance change will be distributed next week.



BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

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Attachments:

- City Attorney's Analysis of S.66 with Summary of NLC Compromise.
- Transcript of September 23, 1982 Meeting.
- Schedule of Short-Term Disbursements by UTC.
- Staff Reports.
- Resolution Offering Cable Television Franchise.