

**Mt. Hood Cable Regulatory Commission
Annual Retreat Agenda for Feb. 22, 2020
Kennedy School, Library • 5736 NE 33rd Ave, Portland, OR 97211
8:00 a.m. – 4:30 p.m.**

Retreat Goals:

- Refresh on the Commission’s current and upcoming projects, including a primer on cable franchise renewal.
- Review cable franchise fee and PEG/I-Net fee revenue trends.
- Explore possible futures for the Commission and identify proactive steps.
- Provide an opportunity for Commissioners and staff to get to know each other and strengthen working relationships.
- Revisit the Commission’s operating agreements and meeting protocols.

8:00 a.m. Breakfast and Gathering Time

9:00 Welcome / Preview Goals & Agenda for Today

Introductions in the Round

9:30 Year in Review: Accomplishments and Challenges

Refresh on MHCRC Roadmap: Projects through FY 21/22

Community Ascertainment Overview

-- Break --

10:45 Revenue Forecast

- Review cable franchise fee and PEG/I-Net financial projections

11:30 Future Planning, Part 1

- Dialogue on recent developments in the communications technology and policy landscape and implications for the Commission

12:00 Lunch

1:30 Future Planning, Part 2

- Refresh on MHCRC’s value proposition
- Scenario Planning: Explore possible futures for the Commission

-- Break ---

Identify Priorities for FY 20/21 and Beyond

4:00 Review Commission’s Operating Agreements and Meeting Protocols

- Overview: How the Commission was formed and how we operate
- What’s working well with our Commission meetings and operations? Any changes needed?
- Appreciations

4:30 Adjourn

AGENDA ITEM PACKET MATERIALS

MHCRC Roadmap:

- MHCRC Planning Retreat Goals
- MHCRC Program Area Summary
- Projects through FY 21/22
- Cable Franchise Renewal: Phases-Timeline
- Community Needs Ascertainment Overview

Financial Projections:

- Cable Franchise Fee Projections: Portland, East County
- PEG/I-Net Fee Projections

Future Planning:

- Operating Landscape: Trends & Issues
- Planning Excerpts from 2015-19 MHCRC Retreats

Commission Operations Review

- MHCRC FAQ

COVER SHEET -- AGENDA ITEM #R2

For Commission Meeting: January 27, 2020

“MHCRC Planning Retreat Goals”

Staff Recommendation

Staff recommends that the Commission adopt the following goals for its upcoming planning retreat:

- Refresh on the Commission’s current and upcoming projects, including a primer on cable franchise renewal.
- Review cable franchise fee and PEG/I-Net fee revenue trends.
- Explore possible futures for the Commission and identify proactive steps.
- Provide an opportunity for Commissioners and staff to get to know each other and strengthen working relationships.
- Revisit the Commission’s operating agreements and meeting protocols.

Background

Paula Manley, the contracted retreat facilitator, interviewed Commissioners and worked with Chair Hansen and MHCRC staff to develop the proposed retreat goals. This year’s retreat will be held February 22, 2020, 8:30 am – 4:30pm.

Prepared by: Julie S. Omelchuck
January 21, 2020

MHCRC PROGRAM AREA SUMMARIES

Updated: February 2020

Franchise Management and Compliance

The Commission is charged with negotiating, overseeing and enforcing cable services franchise agreements - areas include: public benefits (such as grants, I-Net, community media), customer service standards and consumer protection, subscriber complaint resolution, insurance and bonding issues, emergency override requirements, line extension policies, universal service issues, etc. The Commission conducts community technology needs ascertainments, which forms the legal basis for public benefits contained in cable services franchises.

Institutional Network (I-Net)

The Community Institutional Network (I-Net) is a fiber communications network, interconnected to Portland's IRNE network, serving over 18 public agencies with about 300 sites throughout Multnomah County (including local governments, libraries, K-12 schools, community colleges, public access providers, Metro and state courts – referred to as "I-Net Stakeholders"). Comcast is obligated, under its franchises to provide data transport services (I-Net facilities and fiber infrastructure) and the City of Portland's Bureau of Technology Services (BTS) provides service to the I-Net Stakeholders. Commission staff facilitate the I-Net partnership and network planning with BTS and I-Net Stakeholders. The Commission also manages I-Net capital funds and compliance with capital expense restrictions under the franchises. The funds are used for I-Net infrastructure, connections, and other capital expenses related to use of the I-Net.

MHCRC Community Grants

The Commission is the grant-making body for the Community Grants program which provides funds to community organizations, libraries, educational institutions and local government agencies for capital expenses of technology projects. Projects must use the community access channels or the Institutional Network. The program includes two funding opportunities: Community Technology Grants (about 32 active grants) - an annual, competitive grant round open to nonprofits, local public agencies, schools, and libraries – and the TechSmart Initiative for Student Success – a 10-year, \$17 million investment in local school districts to identify and share learnings about effective instructional strategies that use technology to improve outcomes for all students.

Community Media

The Commission manages and oversees the community access resources provided under the cable services franchise agreements. The Commission has a grant agreement with MetroEast Community Media, for both operational and capital funding, to provide media and digital literacy services in Gresham and the other East County jurisdictions. Open Signal provides similar services in Portland. Open Signal has a grant agreement with the City of Portland for operations funding and with the Commission for capital funding. The cable services franchises also include other access resources provided through the companies, such as digital and HD channels on the cable system, live video transport capabilities, listing of local programs in subscriber guides and video-on-demand. Portland Community College and the Portland Public School District also run educational access channels in Portland.

Advocacy and Legal

The Commission advocates for and protects the public's and Jurisdiction's interests at federal and state policy and regulatory bodies related to the scope of authority localities have to manage use and receive compensation (or similar value) for use of the public right-of-way (ROW) for cable services. On national and statewide levels, the communications companies advocate for their corporate interests and work to narrow the local jurisdiction's scope of authority and to rid themselves of public interest requirements and obligations. In addition to national and state legislative bodies, the Federal Communications Commission (FCC) and the Oregon Public Utility Commission (PUC) are regulatory bodies that implement policies in ways which may impact the Jurisdiction's scope of authority and ability to provide for community technology benefits.

This program area incorporates the broader regulatory policy work of the Commission and staff. The Commission and staff engage in discussions, national debates and local processes about the intersections and changing landscape of broader media, telecommunications, digital equity, and cable-related policies and issues that impact our local communities. In the past, this program area has included work on the Open Access (Net Neutrality), hybrid franchises, and broadband issues.

MHCRC Administration

The Commission retains fiscal accountability for about \$12 million annually. The Jurisdictions have entrusted the Commission with oversight responsibilities for nearly all financial resources collected under the franchise agreements. As part of this responsibility, the Commission must receive approval by all six Jurisdictions of its annual fund budget. The Commission also engages an annual audit of its fund.

MHCRC 2018 Strategic Plan: Accomplishments-Milestones-Upcoming Projects

Cable Franchise Management and Compliance

Management

- Milestones and Accomplishments
 - **2019:** Frontier Franchise Renewal – Extended with conditions (A)
 - **2019:** Frontier Franchise Transfer (A)
 - **June 30, 2019:** Reliance Connects Franchise Terminated (A)
- Upcoming
 - **Dec. 31, 2021:** Century Link Franchise Expiration

Compliance

- Milestones and Accomplishments
 - **2019:** Frontier franchise fee audit completed (2013-17)
- Upcoming/In progress
 - **2019 - 20:** Comcast franchise fee audit (2015-17)
 - **2020:** CenturyLink franchise fee audit (2015-17)

Renewal

- Milestones and Accomplishments
 - **Nov 2018 - May 2019:** Discovery and Inspiration (research) (A)
 - **June – Nov 2019:** Choices and Priorities (MHCRC key questions – RFPs) (A)
- Upcoming
 - **Nov 2019 - March 2020:** Gathering Community Voices (data collection) (A)
~~May – Dec 2019~~
 - ~~Jan 2020~~ **June 2020:** Community Needs Report (findings) (A)
 - **May 2020:** Analysis of current franchise terms, compliance history, and other franchises currently or recently negotiated by similar LFAs (A)
 - **June 2020:** Ascertainment study complete (distribution of findings report and presentations TBD) (A)
 - **June - July 2020:** Hire negotiator (A)
 - **July- Nov 2020:** Discussions with jurisdictions on franchise priorities (A)
 - **2020-Sept 2021:** Franchise Negotiations (M)
 - **Sept 2021:** MHCRC Public Hearing on proposed public benefits (A)
 - **Oct 2021:** MHCRC action on recommendation for renewed franchise (A)
 - **Oct - Dec 2021:** E. CO Jurisdictions Approval Process (A)
 - **Nov 2021:** Portland Temporary Revocable Permit (A)
 - **Nov 2021 - April 2022:** Portland Approval Process (A)

Institutional Network (I-Net)

Next Gen I-Net

- Milestones
 - **2018-19:** Public Partners – Next Gen I-Net Pilots/Needs Assessment (M)
- Upcoming
 - **2020:** Planning/Roadmap/Business Plan (M)
 - **2021:** Implementation (M)

MHCRC Community Grants

Community Technology Grants: Program Impact Evaluation

- On-Hold – Not started due to staff capacity
 - **Jan - June 2019:** Identify key data points/ update GMS (A)
 - **Oct - Dec 2020:** Data collection/ analysis
 - **March 2021:** Impact Report

TechSmart Initiative for Student Success: Wrap Up/ Evaluation

- Milestones and Accomplishments
 - **Winter 2019:** Evaluation Report (A)
 - **FY 18-19:** Final Funding Round (M)
 - **FY 19-20:** Supplemental grants (M)
- Upcoming
 - **Summer 2019 (not yet started):** Initiative Wrap Up planning (A)
 - **Winter 2020:** Evaluation Report (A)
 - **Winter 2021:** Evaluation Report (A)
 - **December 2022:** Final “Making Meaning” Report (A)
 - **December 2022:** Initiative End (M)

Community Access Centers

Open Signal/MetroEast Grant Agreement Renewals

- Upcoming
 - **FY 19-20:** Strategic financial plan (M)
 - **June 30, 2022:** Renewed agreements expiration/renewal dates (A)

Advocacy and Legal*

- Milestones
 - **Feb – March 2018:** Oregon State: Short Session (M)
 - **Feb – July 2019:** Oregon State: Long Session (M)
- Upcoming
 - **Feb – March 2020:** Oregon State: Short Session (M)
 - **Feb – July 2021:** Oregon State: Long Session (M)

MHCRC Administration

Strategic Planning

- Upcoming
 - **Fall 2020 - Spring 21:** Landscape Assessment/ Models/Options (A)
 - **Spring 2021:** Report to Jurisdictions (A)
 - **July - Dec 2021:** Jurisdictions’ strategic planning/direction (A)
 - **FY 22-23:** Implementation of Jurisdictional Direction (A)

*See Trends in Communications Technology and Public Policy for in depth outline.

(A) Indicates Staff or Commission Action

(M) Indicates Milestone

Comcast Franchise Negotiation

Interested parties

Jurisdictions-Residents-Community Access Centers-I-Net Stakeholders-Grantees

All interested parties, apart from Comcast, participated in the Community Needs Ascertainment through survey, focus group, or one-on-one meetings. The MHCRC provided funds to gather insights from the community on communications technology needs through the Community Needs Ascertainment. The findings report will be available June 2020. In addition, Open Signal will be helping staff create a video sharing stories heard during the ascertainment. Finally, Open Signal is contracted to provide additional multi-media resources to share the findings of the ascertainment. Commissioner members and staff can solicit further insight and work with partners and stakeholders on ensuring that the MHCRC negotiate on behalf of the needs of communities we serve.

Considerations

FCC Rule Changes-Cable Company Implementation of Rules-Court Proceedings and Decisions

Review Trends in Cable and Public Policy Document for overview of the considerations.

Using the information provided, the MHCRC must quickly adapt and adjust to the rapidly changing policy environment throughout the franchise negotiations and keep jurisdictions informed of these changes.

MHCRC Resources

The MHCRC will need to allocated funds and consider hiring a skilled negotiator to lead the negotiation. See franchise renewal timeline for time frame.

Comcast Franchise Renewal Timeline

May 2020	Analysis of current franchise terms, compliance history, and other franchises currently or recently negotiated by similar LFAs.
June 2020	Ascertainment study complete (distribution of finds report and presentations TBD)
June-July 2020	Hire negotiator
July- Nov 2020	Discussions with jurisdictions on franchise priorities
2020-Sept 2021	Franchise Negotiations
Sept 2021	MHCRC Public Hearing on proposed public benefits
Oct 2021	MHCRC action on recommendation for renewed franchise
Oct-Dec 2021	E. CO Jurisdictions Approval Process
Nov 2021	Portland Temporary Revocable Permit
Nov 2021-April 2022	Portland Approval Process

MHCRC COMMUNITY TECHNOLOGY NEEDS STUDY

The Mt. Hood Cable Regulatory Commission (MHCRC), along with the Portland Office for Community Technology and Multnomah County Library, is leading the *Your Voice, Our Communications Technology 2.0* initiative to gain local data on communications technology and services in our communities today and to identify future needs and interests. The *Your Voice* study will be gathering community input starting in October 2019 through March 2020.

The *Your Voice* study will explore areas such as:

- Deeper understanding of barriers for known disparities in technology access and adoption for people of color, people with disabilities, and seniors.
- The potential role of local government in addressing barriers and supporting communications technology needs of the community.
- How community media and communications technology have changed locally over the past 10 years.
- Future trends in communications technology and potential impacts and opportunities for local communities.

Local data and findings from the study will help inform decision-making and allocation of resources by elected officials and public agencies, the MHCRC, and community organizations on local communications technology policy, initiatives and services.

Although organizations may use the study results in a variety of ways, the primary known uses are to inform:

- Public benefits for cable franchise renewals (MHCRC, member jurisdictions);
- Phase II of the Digital Equity Action Plan (City of Portland, Multnomah County, Multnomah County Library, Digital Inclusion Network partners)
- Status and potential update to the Portland Broadband Strategic Plan (City of Portland, Office for Community Technology)
- Community media and digital inclusion services provided by Open Signal and MetroEast Community Media

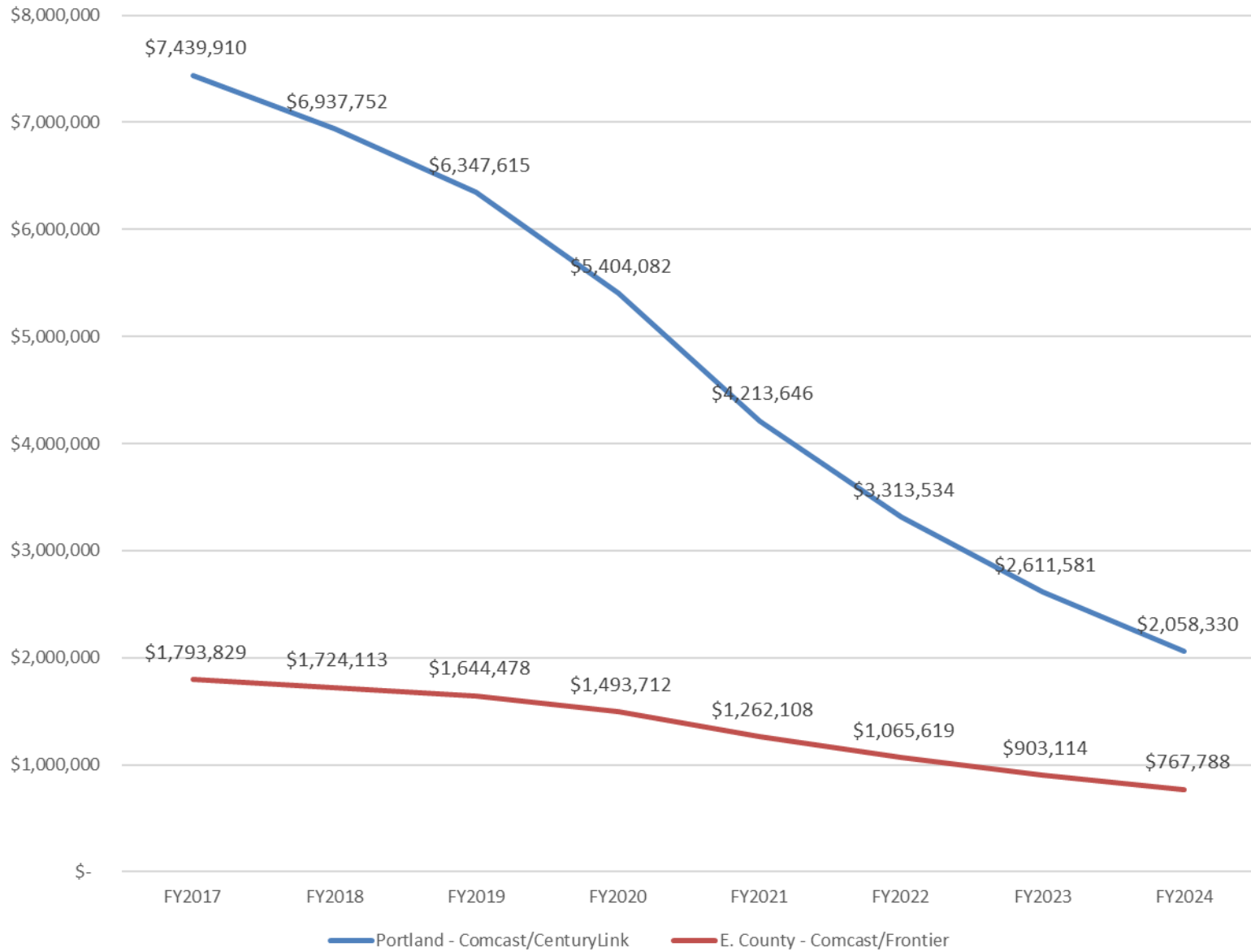
Along with available national, statewide and local data, the study will use a variety of quantitative and qualitative assessment methods to collect information from our local community. The methods universally include strategies to support participation by people of color, people with disabilities, and seniors. Study methods include:

- A scientifically valid survey of households within Multnomah County
- An online/paper survey for residents of Multnomah County (Take the survey [here](#))
- Interviews, focus groups, and/or surveys with sector representative of businesses, education, nonprofits, healthcare and government.
- In-person, culturally-responsive activities to engage underserved populations, conducted through a local consultant with expertise and trusted relationships in this area.

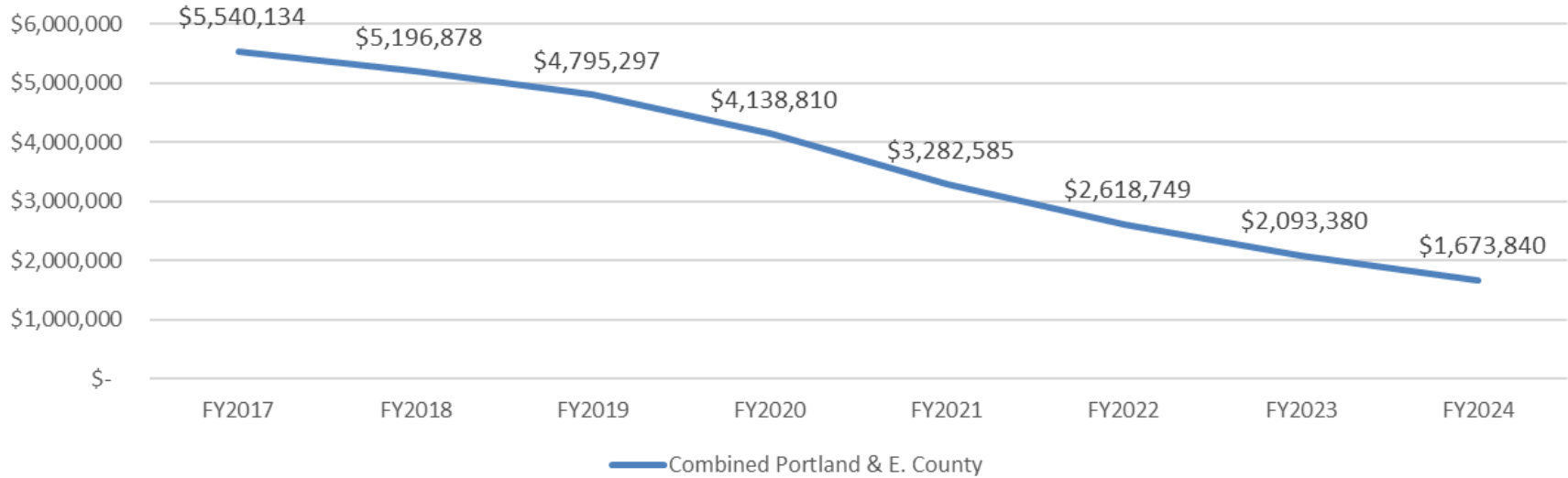
Contact: Julie S. Omelchuck, Program Manager, 503-823-4188

julieo@mhcrc.org -or- julie.omelchuck@portlandoregon.gov

Cable Franchise Fee Forecast



PEG / I Net Fee Revenues



Trends in Communications Technology and Public Policy

Prepared February 7, 2020 by Bea Coulter and Elisabeth Perez

This document is intended to provide the Mt. Hood Cable Regulatory Commission (MHCRC) with background on consumer trends, technological innovation, and policy so that Commissioners can determine the best direction and actions to take on behalf of the communities served by the MHCRC.

Introduction

The communications industry is experiencing major growing pains. This is evidenced by regular announcements of advancements in technology and content delivery capacity, an explosion in live-streaming video services, and most recently, increasing competition among content owners as production companies pull their libraries to create their own unique presence in the streaming universe.

These growing pains include and are being driven by changes in media consumption. Viewers want the flexibility of mobile content. They want news and information on their phones and portable devices, and cinematic content in their living rooms and anywhere else they happen to be. They want to choose what and where, and it shows in the growth of streaming services delivered over the internet¹, and the decline of traditional cable television subscribers².

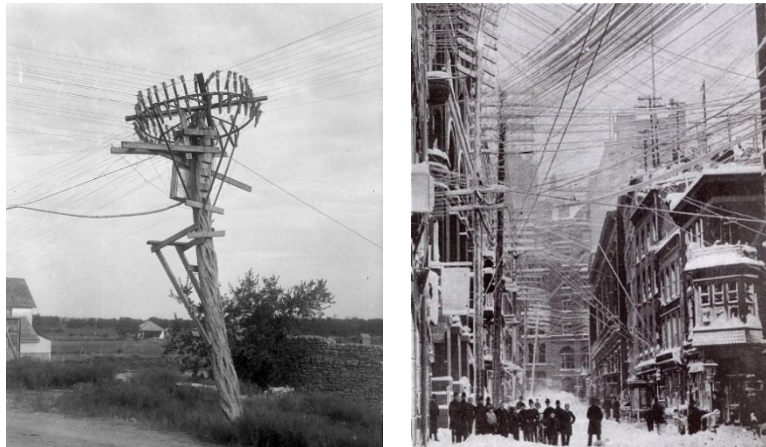
The forces pushing the rapid growth of the communications industry are also changing the way we understand and regulate the systems and networks that carry this content to the consumer. Networks that used to be dedicated to the delivery of video content will soon be enabling self-driving cars, delivering augmented reality navigation overlays, and allowing your refrigerator to remind you to buy milk.

In addition, there are privacy and security concerns with these technologies, and government can be slow to keep up - often responding to industry needs over those of their constituents. This can be seen in recent introduction of legislation focused on consumer protection, while sweeping policy changes at the FCC eliminate consumer protections. It can be seen in the rush to implement 5G wireless technologies, and to dismantle local regulatory oversight of network buildouts.

¹ <https://www.bloomberg.com/news/articles/2019-11-30/what-the-streaming-wars-mean-for-the-future-of-tv-quicktake>

² <https://www.fiercevideo.com/cable/comcast-loses-238k-video-subscribers-q3>

That said, we are *not* living in completely unprecedented times!



The race to telegraph and telephone in 19th and early 20th century America

Traditional cable television as defined in the cable act is declining rapidly and is being replaced by pay-TV and streaming video on demand services delivered over the internet. Even movie theaters are implementing new business models to compete with streaming services³.

The following information describes the trends that are or will impact the way we: 1) protect the interests of our local governments and consumers, 2) ensure all community members are included as technology and services change, and 3) manage franchise agreements going forward.

Pay-TV and Subscription Video on Demand (SVOD)

Pay-TV is subscription-based, live-streamed, multichannel video content packaged and programmed in a way that can be navigated by an electronic program guide. Content is scheduled to live-stream in a traditional television model and may also be available on demand. Pay-TV services frequently make digital video recorders (DVR) available to record the live-streamed content for time-shifted viewing.

Pay-TV can be distributed over privately owned, wireline networks such as cable and fiber-optic lines, via direct broadcast satellite, using internet protocols over a private network, or as an over-the-top (OTT) service distributed over the public internet.

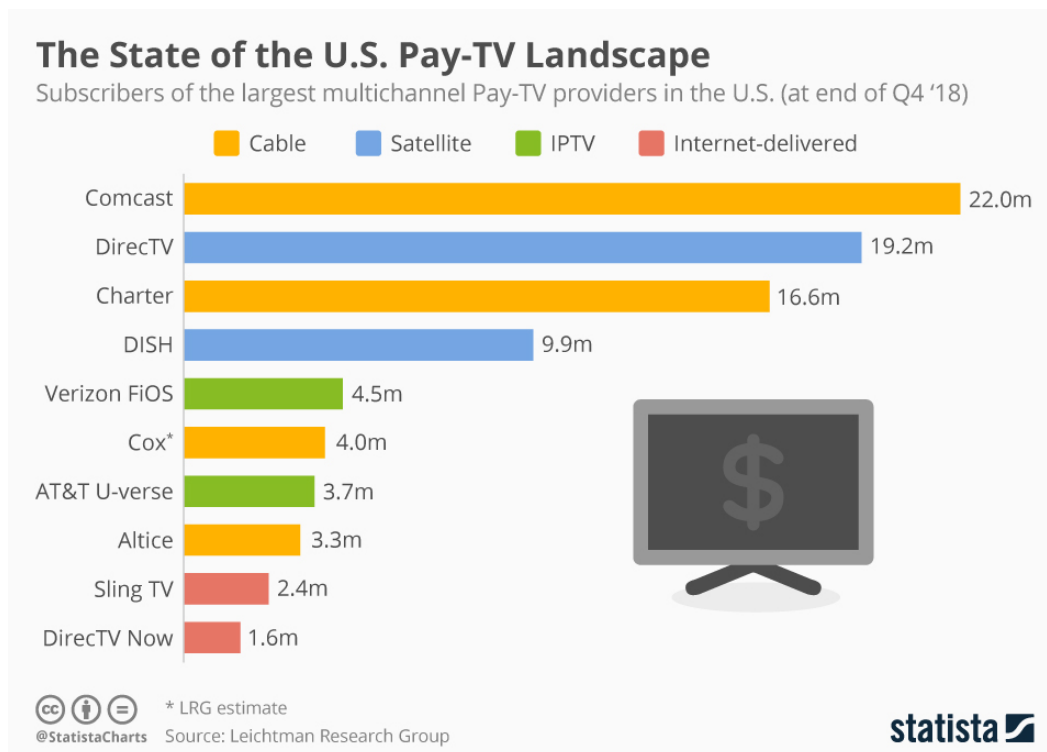
SVOD (subscription video on demand) is a subscription based, video on demand service that provides a library of content that may be viewed, paused, started and stopped whenever the viewer chooses. SVOD services may include serial content as well as movies.

³ <https://www.forbes.com/sites/danafeldman/2019/07/28/how-netflix-is-changing-the-future-of-movie-theaters/#22555c775f46>

Pay-TV services frequently include local market channels and feature local content. Cable service providers are required to carry local broadcast channels. SVOD services rarely include local market content.

State of the Pay-TV Landscape at the Beginning of 2019

The chart below illustrates the top pay-TV service providers as of the end of the 4th quarter, 2018. These pay-TV providers “had 89.1 million subscribers at the end of Q4 2018, down 2.9 million compared to the end of 2017” writes Felix Richter, Data Journalist from Statista.com. Meanwhile, Netflix ended 2018 with 60.6 million subscribers in the US and Canada, up 2.2 million from 2017.



Pay-TV Subscriber Trends

Subscriber data clearly illustrates the trend away from traditional cable TV, but a slower trend away from pay-TV services overall. There’s strong data in support of the popularity of streaming video on demand (SVOD) services.

Content distributors are pulling content libraries from providers like Netflix and Amazon Prime TV with the intent to create their own distinct service (examples include: Disney+, NBCUniversal’s Peacock service, and WarnerMedia’s HBO Max).

The overall trend locally and nationally suggests a consistent pattern of decline. In Nielsen’s Total Audience Report from Q3, 2018 (published in March 2019) Peter Katsingris writes, “Overall total media use among U.S. adults remains unchanged year-over-year at 10-and-a-half

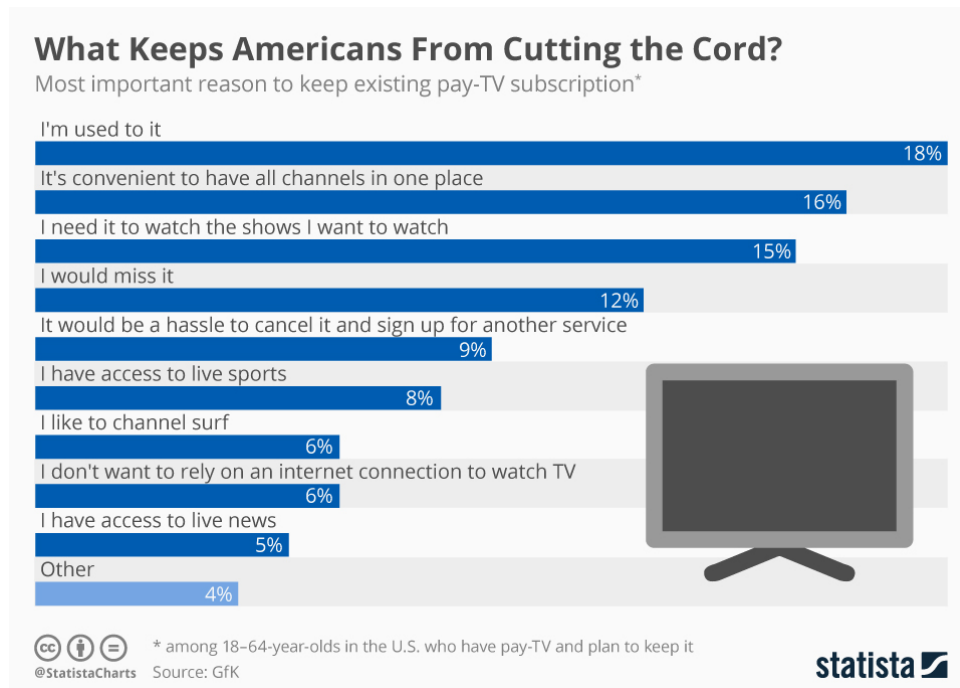
hours per day. But there are shifts in where that time being spent is dedicated to, as we see increases in internet connected devices and app/web smartphone usage that are gradually replacing time spent on other sources. These shifts are not surprising, as nearly seven out of 10 homes now have a device capable of streaming content, and a similar amount have access to a streaming SVOD service.”

Reasons Pay-TV Subscribers are Choosing Not to Cut the Cord

Of the top reasons why Americans are not cutting the cord, 16% stated they are keeping their existing pay-TV service for the convenience of having all the channels available in one place, 8% for live sports coverage, and 5% for live news coverage. According to Lucas Shaw of Bloomberg-Businessweek:

“Sports is the only thing holding the cable business together in the U.S. Traditional TV networks still hold almost all the rights to broadcast major U.S. sporting events, and that’s not likely to change any time soon. Most sports leagues are wary of giving away their most valuable asset to streaming services. Netflix has proven it can deliver hit TV, but it’s never hosted 100 million people watching the Super Bowl at the same time.”

The chart below lists the reasons keeping Americans from cutting the cord:



As a result, we are likely to see more consumers having a mix of services including pay-TV, SVOD and over-the-air television, and more partnerships between content providers. This is illustrated in the partnership between Comcast and Netflix. Comcast cable subscribers can sign up for Netflix through their Xfinity X1 cable box, and billing is managed by Xfinity.

And, according to Nielsen, there has been a small but steady increase in consumers choosing to mix an SVOD service with antenna based, free broadcast television. This is further supported by SVOD providers offering easy-to-use, free broadcast antennas as a subscription incentive.

According to Fierce Video's Ben Munson:

"...total pay TV subscribers remained consistent at 68% during the third quarter, compared to 67% in 2018. While traditional pay TV subscribers fell from 40% to 39%, cord trimmers rose from 27% to 29% and cord cutters fell from 25% to 23%. Cord nevers rose from 8% to 9%.

If the trend is indeed shifting toward subscribers cutting back on video packages instead of dropping them all together, then the user experience becomes an even more important tool to prevent subscribers from churning completely. Comcast's X1 is a clear leader among pay TV platforms, and now the company is investing in its Flex program to help ensure its broadband subscribers don't need to go far if they decide to return to video."

Growth of Community Broadband and Examples in Oregon

There are 3 constants in the ongoing technology metamorphosis: 1) Traditional cable television is declining, 2) SVOD and OTT services are growing, and 3) Costs to the consumer continue to increase without the ability for regulatory oversight.

Increasingly, municipalities are recognizing the utilitarian need for high-speed internet access to ensure their communities can obtain education and employment; manage finances through online banking; pay bills and taxes; locate housing; stay connected with friends, neighbors, elected officials and the political process; and obtain needed community-based or government services.

Municipalities are recognizing that commercial companies' goodwill cannot be relied upon as the sole solution to ensuring all members of the community have high-speed internet access and the training needed to utilize its potential.

As a result, numerous community groups and municipalities across the country have been researching and implementing broadband access and services in a cooperative or utility-based model. Multnomah County is currently leading a broadband feasibility assessment with Portland, Gresham, Fairview, Troutdale and Wood Village.

The Institute for Local Self Reliance maintains a national map of community networks where municipally owned fiber is available, and where community broadband has been implemented⁴.

⁴ <https://muninetworks.org/communitymap>

Examples in northwest Oregon include the city of Sandy which provides gigabit ethernet service to its community as a public utility⁵, the cities of Monmouth and Independence which have formed a cooperative system to serve gigabit ethernet to their communities⁶, and Clackamas County which has established a dark fiber ring and is providing services to cities within and outside of Clackamas County⁷.

Community broadband allows a municipality to establish rates based on the needs and ability of community members to pay for the service and represents a potential revenue replacement mechanism for municipalities as cable television franchise fees continue to decline.

Changes in Technology

Wireless service providers are upgrading their systems to the 5th generation of wireless technology. 5G (or fifth generation) is the latest technological standard for wireless communications technology that are transmitted on small cells.

Early wireless communications provided analog voice on cell phones. This was followed by digital voice and the ability to send texts. 3G and 4G provided the ability to send data through smart phones. 4G (or LTE) is the current standard being used. 5G proposes to increase capacity, efficiency and download speeds on our smart phones and is supported by a small cell site. As technology evolves, older generations are gradually phased out by carriers. This phase out may take years and multiple generations could be in place at the same time.

5G technology is being implemented in municipalities across the country despite community concerns over the potential health impacts of radiation; NOAA concerns over frequency interference and the possibility of delaying identification of natural disasters; and LFA, DOT and electrical utility provider concerns for safety and solid right-of-way planning.

In a Tom's Guide article by Caitlin McGarry she lays out [the definitive guide to the 5G network rollout](#). In this article she says:

"People equate the G's — 2G, 3G, 4G and now 5G — with smartphones, because that's always been the place where we've been able to see an indicator of what kind of connectivity we're getting. But that's only part of what 5G is — the faster speeds will mean so much more than just higher-quality streaming and lightning quick downloads.

"5G will be the post-smartphone era," Robert J. Topol, Intel's general manager for 5G business and technology, said during an interview at last

⁵<https://www.ci.sandy.or.us/sandynet/>

⁶<https://www.minetfiber.com/about>

⁷<https://www.clackamas.us/cbx>

year's Mobile World Congress. "Phones are the first place to launch because [they're] such an anchor in our lives from a connectivity standpoint."

That's about to change.

Lower latency will make augmented reality and virtual reality more useful — and eliminate nausea — because there won't be any lag. AR glasses and VR headsets haven't yet cracked the mainstream, but tech companies are betting that these devices will eventually replace our smartphones. With 5G, that could actually happen.

"Connected PCs, connected IoT products, connected AR/VR, connected gaming consoles, things like that — we see all of those on the horizon," Sprint's Sullivan said. "They may not all be a 2020 thing, but you start to see some of those new use cases and new product categories emerge."

While the rush to implement 5G wireless nodes is currently underway we will not likely see the real potential of this technology for 3-5 years.

Consumer Protections and Privacy

In 2019 and 2020 numerous issues arose around transparency in service billing, use of surveillance technology, personal information privacy and the ability for one's likeness to be hijacked.

Transparency in Billing

True Fees Act of 2019

On December 20, 2019 the True Fees Act was passed as part of the Satellite Television Extension and Localism Act (STELA) Reauthorization* within a fiscal year 2020 appropriations bill (H.R. 1865).

The True Fees Act requires cable television providers to include the total costs of service in their advertised price. This includes any related taxes, administrative fees, equipment rental fees, or other charges, except those that are required under federal, state or local law, and that is not uniform throughout the United States. The Act provides some additional customer protections including a 24-hour window following notice of a rate increase for customers to cancel their service contract without a penalty. The True Fees Act is expected to take effect within 6-12 months.

*STELA governs the retransmission of broadcast stations and encourages satellite TV companies to make more local content available to their customers. This Act is particularly important to those living in rural areas.

Cable Service Change Notifications

February 6, 2020 - Best Best & Krieger (BBK) filed comments⁸ on behalf of the Mt. Hood Cable Regulatory Commission (MHCRC), the Texas Coalition of Cities for Utilities Issues, the Cities of Boston, MA, Portland, OR and Los Angeles, CA as well as Montgomery County and Howard County, MD, also objecting to the FCC's Notice of Proposed Rulemaking⁹ (NPRM) proposing to change or eliminate the current rule requiring cable operators to give 30 days' advance notice to local franchising authorities before making service or rate changes, as well as the proposal to allow cable operators to notify subscribers and LFAs after (rather than 30 days before) a channel goes dark due to failed retransmission consent negotiations.

The National Association of Telecommunications Officers and Advisers (NATOA) filed comments¹⁰ objecting to proposals as well. Reply comments are due February 21.

Facial Recognition (Biometrics)

Biometrics refers to technology that can identify a person based on biological measurements. Unlocking your phone or tablet with your fingerprint is an example of biometrics. This year facial recognition technology hit the news and legislatures.

According to Hector Dominguez from Smart City PDX, "Surveillance technologies are sometimes used in criminal cases. Surveillance may also have an active goal of influencing, managing or directing social behavior. In criminal investigations, the use of surveillance technologies requires a court order. Yet, the emergence of new technologies has raised concerns on what, how and why surveillance information is collected. People have the right to know if they are being surveilled."

In January 2020 the Portland City Council held a work session on the potential implementation of a facial recognition ban. Portland's leadership is currently conducting community discussions and actively developing policy around this emerging technology.

Online Privacy

The biggest impact to online privacy of personal information came from the California State Legislature in 2019 and took effect January 1, 2020. The California Consumer Privacy Act (CCPA) empowers consumers to access the personal data that companies have collected on them, to demand that it be deleted, and to prevent it from being sold to third parties. To mitigate expense of having to set up special infrastructure to comply with the CCPA, online companies have implemented the required features throughout their internet presence, which means we all benefit from the CCPA.

⁸ BBK filing: <https://ecfsapi.fcc.gov/file/10207291828382/LFA-Subscriber%20COMMENTS.pdf>

⁹ NPRM: <https://ecfsapi.fcc.gov/file/1212226808487/FCC-19-132A1.pdf>

¹⁰ NATOA:

<https://ecfsapi.fcc.gov/file/102062678222299/Cable%20Notice%20Requirements%20NPRM%20Comments.pdf>

The European General Data Protection Regulation (GDPR) has also established similar requirements, and companies are updating their privacy policies to ensure compliance with both laws.

Outcomes of the CCPA and GDPR include:

- A “do not sell my personal information” opt out button on websites that routinely collect and sell personal information as a major component of their business model
- A webpage and phone number where users can request the personal information a company is collecting and storing on them
- A cookie policy which is a declaration to website users on what cookies are active on the website, what user data they track, for what purpose, and where in the world this data is sent. A cookie policy should also contain information on how users may opt out of the cookies or change their settings in regard to the cookies on the website

Deepfakes

An article on OpenDemocracy.net describes Deepfakes in this way:

“According to Wikipedia, it's a technique for human image synthesis based on AI. It is used to combine and superimpose existing images and videos onto source images or videos using a machine learning technique known as generative adversarial network.

Because of these capabilities, deep fakes have been used to create fake X-rated videos, fake news and malicious hoaxes or financial fraud. The combination of the existing and source videos results in a fake video that shows a person or persons performing an action at an event that never occurred in reality.

Deepfakes can influence public opinions, election results, trigger ethnic violence or escalate situations that can lead to armed conflicts. On the personal level, deepfakes have been used to create fake X-rated videos of celebrities, videos which negatively impacted the reputation of that person once posted online, even if they weren't real.”

A video of President Obama and Jordan Peele illustrates why it's important to establish policies, regulation and laws to address the potentially devastating impacts possible with advancements in this technology¹¹.

Net Neutrality

In 2018 the FCC adopted the Restoring Internet Freedom Order that took effect on June 11, 2018. The Order dismantled Obama era protections that identified Internet Service Providers (ISPs) as

¹¹ Obama & Peele deep fake video - <https://youtu.be/cQ54GDm1eL0>

Telecommunications Providers which provided the FCC with regulatory oversight and the ability to ensure the principles of an open internet were maintained at the federal level.

The Trump FCC changed the ISP identification to *Information Service* which removed FCC regulatory oversight. In addition to this the FCC preempted states and local governments from establishing regulatory measures at the local level resulting in no regulation of the services to protect consumers and ensure equitable business practices.

Mozilla appealed the Order and a decision in that case was published October 1, 2019. The DC District Court of Appeals up-held the FCC's decision to identify ISPs as Information Services with no federal oversight. The Court also found that the FCC overstepped when preempting states and local governments from establishing net neutrality rules at the local level. This means states can establish net neutrality rules to protect their residents, and states like Washington, Oregon and California can enforce existing net neutrality laws that have been on hold during the court case. Likely, states will wait to enforce laws until all appeals of the case have been exhausted.

For more information on Oregon's net neutrality laws see this article: <https://bit.ly/2ozXmHO>

Policy, Legislation and Litigation

Following is an update of the cable and telecommunications policies and legislation currently under review by the FCC, in active litigation, in committee at the state or federal level, or recently enacted. MHCRC staff are actively following these issues:

FCC

Cable Service Change Notifications NPRM (MB Docket no. 19-347): Comments have been submitted. Reply comments are due February 21

Cable Franchise Regulations/Section 621(a) Docket (MB Docket No. 05-311): [Final Order](#) effective September 26, 2019; FCC's Media Bureau [denied](#) request for stay filed by NATOA et al. Decision pending on NCTA's [Petition for Clarification](#) of the denial order.

Rural Digital Opportunity Fund (WC 19-126): Established at the January 30, 2020 FCC meeting, with a two-phase reverse auction mechanism to distribute up to \$20.4 billion over ten years. The first phase is to begin later this year with up to \$16 billion for census blocks that are wholly unserved with fixed broadband at speeds of at least 25/3 Mbps where existing data shows there is no such service available. The final Order has not been released, but it changed from the draft to exclude from eligibility areas that have been awarded funding through any federal or state subsidy program.

Courts

Appeals of the Third Report and Order in the cable franchise/Section 621 docket (05-311) have been transferred to the 6th Circuit as requested by the FCC. Local government parties have filed motions to stay the Order during the litigation; the FCC and NCTA opposed. Oral argument on the motion is scheduled for March 11th. NATOA has intervened in the case.

Congress

Digital Equity Hearing in House Communications Subcommittee held January 29, 2020. [Here](#) is a link to the hearing and witness testimony.

Protecting Community Television Act ([H.R. 5659](#)) ([S. 3218](#)) – Would modify the definition of “franchise fee” in the Cable Act to effectively reverse the FCC’s interpretation of that term to allow “in-kind” deductions from cable franchise fees. Currently 26 co-sponsors in the House; 15 co-sponsors in the Senate.

Secure 5G and Beyond Act of 2020 ([H.R. 2881](#)) ([S. 893](#)) – Requires the President to develop a strategy to ensure the security of next generation mobile telecommunications systems and infrastructure in the United States and to assist allies and strategic partners in maximizing the security of next generation mobile telecommunications systems, infrastructure, and software, and for other purposes.

True Fees Act of 2019 ([H.R. 1220](#)) ([S. 510](#)) – Introduced by Rep. Eshoo; Sen. Markey. Amended version included in the STELA reauthorization in the FY 2020 federal appropriations minibuss bill ([HR-1865](#)); requires advertised prices to include total amount to be charged, including taxes, fees, etc.; gives consumers a 24-hour window to cancel service without penalty.

State Cyber Resiliency Act ([H.R. 2130](#)) ([S. 1065](#)) – Would provide grants to assist states in developing and implementing plans to address cybersecurity threats or vulnerabilities; portions of implementation grants would be available to local and tribal governments.

Connecting Communities Post-Disasters Act ([S.2645](#)) ([H.R. 4741](#)) – Introduced by Sen. Blackburn and Rep. Olson. Provides a five year categorical exclusion for communications service providers from certain provisions of the National Environmental Policy Act of 1969 and the National Historic Preservation Act with respect to the construction, rebuilding, or hardening of communications facilities following a major disaster or an emergency declared by the President.

Accelerating Broadband Development by Empowering Local Communities Act of 2019 ([H.R. 530](#)) – Bill states that the FCC’s August moratorium order and September small wireless order would have no force or effect. Introduced by Rep. Eshoo; 55 co-sponsors to date.

Restoring Local Control Over Public Infrastructure Act ([S. 2012](#)) – Sen. Feinstein companion to H.R. 530. 8 co-sponsors to date.

Don’t Break Up the T-Band Act ([S. 2748](#)) ([H.R. 451](#)) – Refiled in the Senate on 10/30; repeals provision of the Middle Class Tax Relief and Job Creation Act of 2012 that requires public safety users to relocate from the T-Band spectrum by 2021.

Broadband Speed Act ([H.R. 4641](#)) ([S. 3093](#)) – Requires broadband providers to annually report to the FCC broadband speeds with data to demonstrate that the provider is capable of performing at the speed reported to the Commission on Form 477; also requires any broadband infrastructure built with USF funds provide broadband service with a download speed of at least 100 mbps.

Community Broadband Mapping Act ([H.R. 4642](#)) – Allows RUS grants to be provided to certain units of local government, economic development or other community organizations, and electric cooperatives to collect data on where broadband infrastructure is located and homes served.

STREAMLINE Act (Thune/Schatz) ([S. 1699](#)) has been reintroduced. No additional cosponsors and no action in Senate.

Improving Broadband Mapping Accuracy Act ([S. 842](#)) – Introduced by Sens. Capito, Klobuchar, Manchin and Hoeven. Directs the FCC to initiate a rulemaking to consider using consumer-reported data and data from state, local and tribal government entities to improve broadband mapping accuracy and to consider ways coverage data can be challenged.

Transparency for Cable Consumers Act ([H.R. 1555](#)) – Rep. Brendisi (D-NY) introduced bill to require cable operators that are fined by a state utility/service commission to disclose certain information on a county-wide basis, including average cable and broadband charges and broadband speeds.

Digital Equity Act – ([S. 1167](#)) – Introduced by Sen. Murray (D-WA). Funds grants for digital equity planning and implementation. 17 co-sponsors to date.

Save the Internet Act of 2019 ([H.R. 1644](#)) ([S. 682](#)) – Would restore FCC’s 2015 net neutrality rules and bar the FCC from repealing the rules again unless specifically authorized by law to do so. House passed H.R. 1644 April 10th; no action in Senate.

State Legislature

House Bill 4079 ([HB 4079](#)): Was introduced last session and has been resubmitted with amendment. Provides funding for the Oregon State Broadband Office and utilizes Universal Service Funds for broadband buildout to rural Oregon. We are tracking this bill.

State Net Neutrality Bill Tracking: WA, OR, VT, CA, CO and ME have passed legislation; 6 states have executive orders requiring ISPs that do business with the state to follow NN principles.

Conclusion

Understanding the policy and technology landscape is critical to jurisdictions effectively managing the right-of-way. The MHCRC has the ability to assist jurisdictions in understanding the rapidly changing cable environment to best ensure residents are well-served and companies are paying their fair share for use of the right-of-way.

The decline in cable revenues should not mean a decline in fairly compensating the jurisdictions we serve. Rather MHCRC can partner with jurisdictions to find the best path forward to capture the industry policy and technology changes in the companies that serve our residents.

MHCRC staff will continue to track policy and legislation and will continue to provide you with the data you need to establish direction for the Commission, and to best represent MHCRC jurisdiction partner needs.

MHCRC Future Focused Planning – Excerpts from Retreat Notes – 2015-19

Excerpt from MHCRC Annual Retreat Notes – 2015

Possible Future Roles for the Commission (or Successor)

In light of the changing strategic environment and the MHCRC's strengths, Commissioners brainstormed the following as potential future roles:

- Serve as a strategic clearinghouse
- Continue as a facilitator, convener, partnership developer among stakeholders: identify and enact opportunities
- Combine efforts by providing expertise and communications for planning
- Provide strategic advocacy in the public interest (local to national issues)
- Educate on the public benefits of technology / communications systems
- Leverage the changing environment to benefit our local communities
- Influence the development of broadband (not necessarily via regulation)
- Provide a regulatory role with PROW, perhaps on a regional basis
- Serve as watchdog, consumer protection role
- Steward current public benefits of the cable system while transitioning to whatever comes next
- Promote digital inclusion

Commissioners also brainstormed key principles to guide planning efforts:

- Ensuring affordability
- Working collaboratively (“better together”)
- Protecting local authority for PROW
- Providing access for all
- Being community-needs driven

Excerpt from MHCRC Annual Retreat Notes – 2016

Note: For clarification purposes, included are the background descriptions from the 2016 retreat packet about each of the key action areas noted in the 2016 retreat notes below (some projects touch on more than one area): Digital Equity, Consumer Protection, Communications Infrastructure Planning; and Public Policy/Advocacy.

Future-Focused Planning

To prepare for a discussion about future planning in the broadband era, the Commission engaged in small group conversations in four key action areas: Digital Equity, Consumer Protection, Communications Infrastructure Planning, and Public Policy Advocacy. Each conversation included reflecting on the Commission's work to date and identifying contributors to success. The full group then reviewed success factors that distinguish the Commission's work (See chart below) and considered steps to advance a collective planning process for the Commission or a successor body.

Summary of Contributors to Success and Corresponding Action Arenas

What has contributed to MHCRC's past success?	Digital Equity	Consumer Protection	Communications Infrastructure Planning	Public Policy Advocacy
Stakeholder engagement	X		X	X
"Better together" advantage of scale / leveraging benefits across all jurisdictions	X	X	X	X
Facilitate-coordinate-convene across and among institutions and jurisdictions (large and small have a voice)	X		X	X
Depth of staff expertise and knowledge	X	X	X	X
Commitment / focus on needs of underserved	X	X	X	X
Proactive future-focused (based on changing broadband environment)	X	X	X	X
Data driven approaches (e.g., tracking results, evaluation)	X		X	
Understand the interplay of federal-state-local developments and translate into local strategies and actions	X		X	X
Impartial convener and partnership developer (e.g., identifying stakeholder needs, fostering partnerships for joint solutions)	X	X	X	X
Steward of public resources – leveraging resources for the public good	X	X	X	X
Every jurisdiction approves the budget (collective buy-in of the MHCRC's work)	X	X	X	X

Discussion points:

We are in a transitory phase and don't know exactly what will come next. Having a flexible structure will be important. As the environment changes, adaptation is needed. Think 10 years out but work towards shorter-term practical goals.

Before thinking about structure and roles, clarify needs. The value of the Commission (or successor) should be communicated to the jurisdictions *in context of their needs* and based on the benefits to all of a joint body. We have unique assets to leverage.

In ten years, what will the main learning methodologies be?

Where are the major players going? We can learn from them. Engage and learn from visionaries, e.g., convene a teleconference with technologists from Benton Foundation, League of Cities, etc.

Play to our strengths and distinctiveness such as our track record of convening, stewarding and creatively leveraging resources. Clarify our core values and our value proposition.

What needs are we anticipating? Perhaps PROW issues such as siting cell towers.

Identify the natural intersection points: What is needed? Where are the gaps? What do we do well? Create a visual (diagram) to communicate this. Also: What do we need to get better at?

A statewide body may be needed. Salem, Eugene and other communities around the state could benefit from a combined approach.

While the Commission should not presume a future role, neither should we hesitate to propose a future role for the Commission or a successor. The structure should be flexible in order to decouple from today's services and adapt as conditions and needs change. Don't limit our thinking, as there are different pathways.

What are the next steps towards a collective planning process?

Access experts to learn from their future-focused thinking, e.g., short interviews based on three well-framed questions about the technology needs of cities, populations, and institutions. Use that information as a basis for moving into asset mapping.

Digital Equity – Background (2016)

Digital Equity means access to the Internet, a computing device and training and support for marginalized populations who continue to experience the Digital Divide, where barriers related to income, race, gender, language and age must be overcome to fully participate in today's society (e.g., health, education, employment, social life, and civic participation).

Although Digital Equity is a somewhat new term and most recently is referenced as it relates to access to online resources, the MHCRC has been working on Digital Divide issues since its inception by making communications technology available to low income and other underserved groups through grantmaking initiatives and Community Access Providers (Portland Community Media and MetroEast Community Media).

Sample Activities:

- 1998: Established MHCRC as county-wide grantmaking board; included grant criteria for projects focused on serving individuals and communities subject to barriers that limit or prevent their access to services, information, communication tools and/or training.

- 2001: Provided affordable broadband and network connectivity for schools, libraries and local governments throughout the County over the I-Net.
- 2001-2006: Sponsored the Community Media Roundtable, an annual gathering of organizations involved with community technology and media
- 2007: Changed PCM and MetroEast contracts to include services specifically for minority, English as a second language and immigrant/refugee populations.
- 2010: Conducted the *Your Vo!ce, Our Communications Technology* community needs study, which included both cable and broadband/Internet data collection and findings.
- 2010: Responded to overwhelming public demand for access to the Internet at public libraries, the MHCRC funded 180 wireless laptop computers for public checkout.
- 2010: Provided funds for upgraded equipment for schools to get higher bandwidth connections at no increased cost to the school districts.
- 2012: Changed MetroEast and PCM current contracts to include: 1) access to broadband technologies and digital literacy training; 2) data collection on demographics of individuals accessing services and/or the target constituency of organizations receiving service; and 3) documentation on efforts to tailor media education and digital literacy services to provide culturally and linguistically appropriate training and support.
- 2015-Current: Participated as a member of the Digital Inclusion Network (DIN) and in development of the Digital Equity Action Plan (DEAP), funded by the City of Portland, Multnomah County and Multnomah County Library.

Consumer Protection – Background (2016)

The MHCRC is charged with overseeing and enforcing consumer protection aspects of the franchise agreements, including customer service standards (CSS) and assisting customers with cable complaints.

The customer service standards are detailed in the Cable Television Consumer Protection Policies as set forth in Portland’s City Code Chapter 3.115 and by Order/Resolution passed by the cities of Fairview, Gresham, Troutdale, Wood Village and Multnomah County. The standards include requirements for a local office and office hours, telephone answering (toll free number, answering time, trained customer service representatives and busy signals), installations, disconnections, outages and service calls, notifications to subscribers, and billing. The cable companies report their performance in these areas on a quarterly basis (quarterly CSS reports).

In addition, the franchise agreements contain consumer protection requirements that cover non-discriminatory rates and charges, subscriber contracts, programming obscenity, parental control devices, ADA accessible equipment and services, monitoring or cable tapping, subscriber privacy, and private property use.

Company actions that require MHCRC attention are unpredictable and can involve informal communications between staff and the company to address a concern or significantly more resources required under a formal hearing proceeding.

Sample Activities:

- 2002, 2005, 2007, 2009, 2001, 2012: Undertook enforcement activities regarding Comcast adherence to telephone answering requirements; two Orders involved monetary penalties
- 2002: Approved Order regarding Comcast submittal of reports and records under franchises

- 2003-2006: Considered action on amendments to existing MHCRC cable customer service standards to provide greater safeguards for cable subscribers privacy; held a public hearing and work session; Commissioners decided not to amend locally but to defer to policy work at Oregon legislature
- 2007: Approved Order and monetary penalty for Comcast failure to provide advance notice to subscribers of a rate increase/ channel reductions
- 2009: Approved Order about lack of PEG access channels being included when Frontier (then Verizon) launched cable service
- 2009: Addressed Frontier lack of timely service installations
- 2011: Approved Order and monetary penalty for Frontier's lack of a local option to pay bills and return equipment free of charge
- 2012: Comcast noncompliance proceeding. Comcast was unable to cure within the curative plan period and was assessed \$20,000
- 2013: Approved Order establishing when cable companies may use messages through converter boxes as adequate means to provide the required 30-Day advance written notice to subscribers for channel reductions
- 2015: Undertook enforcement activities resulting in a CenturyLink curative plan with expected cure results by June 2016.

Communications Infrastructure Planning – Background (2016)

Communications infrastructure planning benefits individuals, institutions, and communities who rely on this infrastructure for nearly every aspect of contemporary life, including government services, economic development, education, entertainment, and participation in cultural and civic affairs.

MHCRC facilitates communications infrastructure partnerships and network planning throughout the County and provides resources for local institutions' broadband and network connectivity.

Institutional Network (I-Net). The I-Net is a fiber communications network that provides affordable network connections for 293 schools, libraries and public agencies throughout Multnomah County. The current I-Net stakeholder group consists of: the cities of Portland, Gresham, Troutdale and Wood Village, Multnomah County, State of Oregon Courts, Metro, HomeForward, Multnomah County Libraries, Multnomah Educational Service District (including 7 school districts in the County), Portland Public Schools, and Mt Hood Community College.

Comcast is obligated, under its franchises, to provide I-Net facilities, infrastructure and maintenance and receives monthly payments from the City of Portland's Bureau of Technology Services (BTS) for transport service. BTS provides data services to the I-Net stakeholders. I-Net stakeholders pay monthly service fees to BTS to fund network operations and service provision.

I-Net Interconnect with IRNE. IRNE is the City of Portland-owned and operated fiber backbone network, which interconnects with the I-Net in order to provide redundant connectivity to the stakeholders' Internet portals. IRNE also provides connections, separate from the I-Net, when stakeholders need additional or redundant bandwidth at a particular site. The City charges separate fees for IRNE services. The Comcast franchise agreement requires Comcast to interconnect the I-Net to IRNE at two specific City sites.

Sample Activities:

- 1998-2001: Oversaw \$6.5 million I-Net build (from I-Net funds retained by cable company)
- 1999: Completed I-Net/IRNE interconnect agreement and funding
- 2003: Oversaw and funded first 125 I-Net connections
- 2007-2011: Oversaw and funded total of \$2.9 million of I-Net equipment upgrades
- 2009: I-Net/IRNE interconnected network receives national NATOA Community Broadband award.

- 2010: Conducted community needs ascertainment, including identifying future bandwidth and network needs of I-Net stakeholders and other community institutions
 - 2012: Negotiated Comcast franchise change for I-Net fund/fees to be paid and managed by MHCRC
 - 2012: Negotiated BTS/Comcast service agreement that established rates and service terms through 2021
 - Ongoing: Led annual or twice-yearly I-Net stakeholder meetings to share information and discuss network planning
- January 2016: I-Net stakeholders affirmed desire to have MHCRC lead a collaborative planning process toward some type of cooperatively shared, owned network among institutions in Multnomah County

Advocacy/Public Policy – Background (2016)

In the evolving broadband and video environment, the stakes are high for local communities and participation in the public policy arena is crucial. The National Association of Telecommunications Officers and Advisors (NATOA) has outlined six key principles to guide local government advocacy efforts: local authority; localism and diversity of voices; consumer protection; Public Right of Way (PROW) management including zoning and siting authority and compensation for use of public property; meaningful competition and consumer choice; and open access to ensure innovation.

The MHCRC advocates on communications and cable policy in the public interest on behalf of the MHCRC member jurisdictions, their residents and cable consumers in Multnomah County. The MHCRC partners and collaborates in local, regional and national efforts to advocate at local city councils and the County Commission, the State legislature, Federal Communications Commission (FCC) and in US Congress.

Sample Activities:

- 1996: Joined others to successfully protect local interests in major overhaul of the federal Telecommunications Act; the Act allows cable companies to offer phone & telecomm services, and preserves franchise fees, local access channels, I-Nets and local capital funds for I-Net and community media
- 1998-2005: Took stand on Open Access to Internet platforms during AT&T/TCI merger; sparks national debate; MHCRC deemed the "Mouse that Roared"; US Supreme Court decided "Open Access" case, which allowed FCC to classify Internet service as a deregulated information service: Cities/ County lose authority
- 1997-2013: Advocated on about nine separate bills in the Oregon Legislature that would have reduced local authority and public benefits; none passed
- 2000-2002: Developed first ever cable-Internet competitive franchises (WIN, RCN & WOW); companies falter with collapse of "tech bubble" nationally
- 2004: Co-hosted and organized Federal Communications Commission (FCC) town hall on Future of Media amid mass consolidation of communications and media companies
- 2005-2006: Advocated on about nine US congressional bills that would have reduced local authority and public benefits
- 2007: Alongside others, advocated at Oregon Legislature for passage of Telecommunications Consumer Bill of Rights
- 2013-2013: Advocated at US Congress for Community Access Preservation Act
- 2015- Current: Participation in two FCC proceedings that may directly impact franchise fees: Multi-Channel Video Program Distributors (MVPD) and Reconsideration Order. The MVPD proceeding involves video programming available over an Internet connection (OTT providers) possibly being classified as a non-cable service which translates into less local authority for revenue and public benefits (i.e. Comcast could start providing all its video programming over Internet connections and stop paying franchise fees – current local revenues of almost \$8 million annually). The Reconsideration Order could

reduce franchise fees by making them subject to offsets for in-kind services such as the local I-Net connections for 289 schools, libraries and city sites and nearly 78 schools' cable service drops.

Excerpt from MHCRC Annual Retreat Notes – 2018

Future-Focused Planning

Commissioners and staff discussed priorities and expectations for resources outside of staff:

Work Priorities (nearer term)

1. Frontier/ Reliance Connects/ Century Link renewals/extensions
2. Franchise Fee Audits
3. Pre- work for Community Needs Ascertainment
4. Community media grant agreements renewal
5. OCT re-org; maintenance of public benefit areas
6. MHCRC future planning (scope and communications with jurisdictions)

Possible Outside Resource Needs

- Community Media organizations as advocacy resource
- Franchise Fee audits
- Comcast negotiations
- Community Needs Ascertainment
- I-Net pilots
- OTT specific legal expertise
- Commission future visioning – options and models

Excerpt from MHCRC Annual Retreat Notes – 2019

Future-Focused Planning

Future Planning and Priorities

Commissioners and staff discussed priorities in small groups and then as a full group. What proactive actions should we take in the coming year to set the stage for the future? What might the MHCRC do differently, including the potential to allocate resources differently?

Discussion points included:

- Make sure stakeholders are educated about what's happening and how the existing benefits are changing.
- Educate the jurisdictions about what is at stake; annual report is a good tool. "Stronger together" is a powerful message point.
- TV services should be included in future private company agreements, to ensure that underserved residents continue to have service.
- Financial modeling will help the Commission assess the "forks in the road" with declining revenue; franchise renewal will influence future revenues and public benefits.
- Contingency planning is needed for scaling down the MHCRC to reflect drop in services due to declining revenues.
- How do we best position community media and I-Net through the next franchise renewal, including potentially different legal constructs?
- At what point is the MHCRC a cost not worth bearing for the jurisdictions? If / when that happens, what will it take to wrap up?

Priorities:

Along with funding basic office operations and cable franchise oversight/regulation, Commissioners expressed strong interest in preserving public benefits of the cable franchise, particularly community access centers and I-Net assets, and preserving public right of way protections through continued advocacy.

Top Funding Priorities:

- Preserve public benefits:
 - Community access centers (Includes: Keeping capital funds “whole”; Consider shifting 100% of E. County franchise fees to MetroEast – Note: This has IGA implications)
 - I-Net (Includes: Continue to tell the story of cost savings)
- Retain Compliance program to oversee contracts, expenditures through expirations
- Advocacy to protect Public Rights of Way (PROW)

Next Level priority:

- Wrap up TechSmart and Community Technology Grants, including capturing lessons learned from these initiatives and sharing that broadly

Mt. Hood Cable Regulatory Commission Frequently Asked Questions

What is the Mt. Hood Cable Regulatory Commission?

The Mt. Hood Cable Regulatory Commission negotiates and enforces cable service franchise agreements; manages the public benefit resources and assets derived from the franchises; and advocates on behalf of the public interest on communications policy issues at local, state and federal levels.

The MHCRC serves the communities, residents and local governments of Fairview, Gresham, Portland, Troutdale and Wood Village and Multnomah County, Oregon (its member “Jurisdictions”).

How does the Mt. Hood Cable Regulatory Commission operate?

The MHCRC was formed by the member jurisdictions through an [Intergovernmental Agreement \(IGA\)](#) which was most recently amended in March 1998. The IGA gives authority to the MHCRC to negotiate and enforce franchise agreement on behalf of the jurisdictions. However, each jurisdiction separately enters into franchise with cable providers after the MHCRC presents recommendations to the jurisdictions.

The City of Portland provides administrative support services to the MHCRC. This was solidified in a 1992 [agreement](#) between the two entities. This currently is structured with three full time employees and three employees who dedicate part of their time to service to the MHCRC.

The [Rules of Procedure](#), last amended in 1997, governs the administrative actions of the Commission. The Commission’s rules of procedures not provided in the “Rules of Procedure” are determined using the latest edition of “[Roberts Rules of Order Newly Revised.](#)”

What is the charge of the MHCRC?

This unified regulatory commission carries out cable regulation by:

- Providing consumer protection for citizens and subscribers in cable television matters, including complaint resolution
- Determining grant recipients for the Community Access Capital Grant, a competitive grant program which allocates about \$1.5 million annually to libraries, schools, local governments and non-profit community organizations
- Directing the Institutional Network (I-Net) and the related \$1.5 million annually to ensure reliable and affordable fiber connectivity and network resources are available to local public institutions such as schools, libraries and public safety sites
- Enforcing cable company compliance with franchise agreements
- Conducting franchise negotiations, renewals and transfers of ownership
- Overseeing and monitoring two community media organizations
- Promoting community and institutional uses of cable-based technologies
- Participating in advocacy efforts for legislative activities and FCC proceedings

Over the years, the Commission has further defined their role to incorporate equity to the disbursement of PEG/I-Net funds. The convergence of technology has also led the Commission to explore and research additional telecommunications issues as it related to the cable system.

How does the MHCRC receive funding?

The Commission is authorized to receive and collect cable franchise fees for all jurisdictions except Portland. For the jurisdictions in which the Commission does collect cable franchise fees, the commission allocates sixty percent (60%) of fees to MetroEast for the provision of PEG access services. Fees collected in excess of budgeted amounts shall be returned to the Jurisdictions from which such fees are attributable.

The Commission does not collect City of Portland cable franchise fees. The City of Portland transfers its share of the cost allocation in accordance with the approved Commission budget. The City of Portland funds the MHCRC through a special allocation determined annually in the fall. The City of Portland funds sixty-five (65%) of the annual administrative budget while the rest of the jurisdictions fund the remaining thirty-five (35%).

What funds is the MHCRC responsible for?

All other funds arising out of cable franchise agreements is collected by the Commission. The Commission allocates funds in accordance with the franchise agreements and the Commission budget.

The Commission submits an [annual budget](#) to the Jurisdictions for approval by June 1. If any jurisdiction does not approve, the budget returns to the Commission for modification and resubmitted to the jurisdictions. If all Jurisdictions do not approve the Commission budget by July 1, the previous fiscal year budget, less 10 percent continues in effect until all Jurisdictions approve.

The Commission administers a grant program for the distribution of PEG capital funds which includes funding the Community Access Centers, MetroEast and Open Signal. The Commission reviews the purpose and evaluation criterial of the grants at least biennially. Total amount of PEG capital funds, including the total amount of grant funds to be distributed by the Commission are included in the Commission's annual budget as transmitted to the Jurisdictions.

What is the role of an MHCRC Commissioner?

- Provide direction to MHCRC staff on financial and policy objectives
- Oversee financial matters of the Commission, including developing and presenting an annual budget for recommendation to the member jurisdictions
- Attend Commission meetings (about 10 per year) and participate on at least one committee
- Attend annual, one-day Commission planning retreat (usually a Saturday in the Spring)
- Provide regular reports and liaison to elected officials of appointing jurisdiction
- Keep informed and educated about issues related to Commission activities