
M E M O R A N D U M

DATE: November 10, 2005
TO: City Council Members
FROM: Jennifer Bruno, Policy Analyst
RE: Qwest Broadband Services, Inc. Cable Franchise agreement

- A. Qwest Broadband Services, Inc. (BSI - a wholly owned subsidiary of Qwest Communications), is requesting a franchise agreement from the City, to provide cable TV service within the City.
1. Qwest BSI will offer a minimum of 175 TV channels (including local channels), and will be competitive with the local cable provider, Comcast.
- B. The final franchise agreement and accompanying ordinance are currently being finalized and are not available by the release of this paperwork. The franchise agreement will include the following:
1. The City will charge 5% of Qwest Broadband Services, Inc.'s gross revenue (as allowed by Federal law). Regardless of changes to federal law regarding ability of municipalities to charge this franchise fee, the City will continue to collect 5% (it will be written into the contract).
 2. The typical protections for the City's rights-of-way.
 3. As required by Federal law, Qwest BSI will make the same channels available to the City for public, educational and governmental programming that Comcast provides, with identical programming, channel position, etc.
 4. As the second wireline provider in the City, Qwest BSI will have different "build-out" and line extension requirements.
 - As a new entrant to the market, Qwest BSI service will not be immediately universally available to all City residents. The City will agree to a level of 51% market penetration before requiring build-out.
 5. Under Federal law, Qwest will have certain rate flexibility in order to conduct promotional campaigns to be able to compete with Comcast.
- C. The attached statement provided by Qwest (see attachment to Administration's memo) summarizes the franchise agreement:
1. Qwest BSI will be an alternative choice of TV services for SLC residents, bringing with it the benefits of market competition including lower rates, better service and superior product.
 2. Qwest BSI will use existing facilities in City right-of-way (no construction).
 3. Qwest BSI will provide digital video services in SLC (including high-definition television, and video on demand).

4. Qwest BSI will be able to offer 20 to 40 Mb data capabilities.
 5. Qwest BSI will provide cable connections to schools and libraries.
- D. The Comcast franchise agreement is currently up for renewal, and the City will be negotiating a renewal agreement in the coming months.

COUNCIL TRANSMITTAL

TO: Rocky J. Fluhart **DATE:** November 8, 2005
Chief Administrative Officer

FROM: Christopher E. Bramhall
Senior City Attorney

SUBJECT: Qwest Broadband Services, Inc. Cable Franchise

ACTION ITEM: City Council briefing on November 10, 2005;
Proposed franchise ordinance adoption November 15, 2005.

DISCUSSION: Qwest is requesting a franchise from the City, in the name of Qwest's wholly owned subsidiary, Qwest Broadband Services, Inc. ("BSI"), to provide cable TV service within the City. Qwest will offer a minimum of 175 TV channels, including all the locally broadcast channels, and intends to be fully competitive with the incumbent cable provider, Comcast. Attached is a statement prepared by Qwest relating to the proposed franchise.

Federal law allows the City to charge up to 5% of a cable provider's gross revenue as a franchise fee. The ordinance will provide for such a fee. BSI has agreed to pay the full 5% franchise fee during the full term of the franchise, notwithstanding possible future changes in federal law.

The franchise will also provide for the typical protections for the City's public ways.

The Comcast franchise is currently up for renewal, and the City will be negotiating a renewal during the coming months. It is the intention of the City to provide franchises to both cable operators on substantially identical terms. However, BSI has requested an exception to the "build-out" requirement currently applicable to Comcast, on the grounds that such a requirement would be prohibitively expensive for a new cable provider with few

customers. BSI has agreed, however, to standard build-out requirements once BSI controls 51% or more of the cable market. Until such time, BSI cable service will not be universally available to City residents.

Under federal law, cities currently have no authority to regulate cable rates. Unlike incumbent providers, new entrants into a cable market are not bound to offer uniform rates. This means BSI may offer different rates within Salt Lake City than it offers within neighboring cities. It also means BSI may offer different rates to different neighborhoods within Salt Lake City.

As required by federal law, BSI will make several TV channels available to the City for public, educational and governmental programming.

The franchise agreement is currently being finalized. It should be available for distribution to Council members, together with the accompanying franchise ordinance, prior to November 15.

ATTACHMENT: Qwest statement.

**CONTACT
PERSON:** Chris Bramhall, 535-7683

QWEST BROADBAND SERVICES, INC.

Franchise Agreement Summary Page

- Qwest Broadband Services, Inc. ("Qwest BSI") is seeking a competitive video franchise with Salt Lake City. Qwest BSI will be an alternative choice of TV services for Salt Lake City residents, a competitor for Comcast, and will bring the benefits of investment and competition to Salt Lake City residents.
- Qwest BSI will provide digital video services in Salt Lake City.
 - No construction in backyards due to the use of existing Qwest facilities in the RoW.
 - 20 to 40 Mb data capabilities.
 - Generate 5% franchise fees and other taxes without additional operators in the RoW.
- Qwest BSI will bring facilities based competition to the Salt Lake City cable market which will benefit the residents of Salt Lake City in several ways:
 - Statistics show that where there is facilities based competition:
 - Rates are as much as 15% lower;
 - Customer service quality is higher; and
 - Advanced services such as High Definition Television and Video on Demand are more likely to be deployed.
 - Payment of franchise fees will bring an economic boost to the City.
 - Residents will have a choice of cable providers.
- Qwest BSI is asking that Salt Lake City allow the market, rather than regulatory requirements, to control Qwest BSI's build-out of the cable network.
 - Subscribers' response to Qwest's offer will control how its competitive cable services are deployed throughout the City.

GENERAL TERMS & CONDITIONS:

- Qwest BSI has agreed that network build-out requirements may be imposed only if:
 - Qwest BSI becomes the sole cable provider, or
 - Qwest BSI has a 51% share of the cable market.
- Qwest Communications, Inc., ("QC"), the sister telephone subsidiary, will be constructing, installing, and will own the network over which Qwest BSI will offer video services. While QC cannot legally sign the cable franchise, QC will adhere to all Salt Lake City rules and regulations regarding use of Salt Lake City's public right of ways as it does today.
- Customer service requirements mirror federal law.
- Qwest BSI will replicate all PEG programming currently provided by Comcast that either are a direct feed to government facilities, or by way of an interconnect with Comcast.
- Qwest BSI will provide cable connections to schools and libraries.