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**Portsmouth**  
**Cable Commission Public Hearing**  
**7:30 p.m. – June 10, 2002**  
**City Hall/City Council Chambers**

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The Portsmouth Cable Commission held a Public Hearing on Monday, June 10, 2002 at 7:30 p.m. at City Hall in the Council Chambers.

Gene Fisk Chairman called the meeting to order at approximately 7:30 p.m.

The following were present: Gene Fisk, Chairman  
Jarrett Celli, Commissioner  
Louis Vinciguerra, Commissioner  
Stephen Wrenn, Commissioner  
John Gregg, Commissioner

Also present was Robert Ciandella of the firm of Donahue, Tucker & Ciandella, legal counsel to the City.

Chairman Gene Fisk welcomed everyone and introduced each of the members of the Committee. He then read part of a letter that was sent to various City Officials as follows:

“The purpose of this public hearing will be to solicit input regarding the future cable related needs of the City and regarding the performance of AT&T under the existing Franchise Agreement. This will be the first of three hearings designed to hear from appropriate governmental boards, commissions, agencies, departments and non-governmental organizations, institutions and groups, as well as residents on these issues. The primary focus of this public hearing will be on the future cable related needs of the City; the City is serving on AT&T can be evaluated under the existing Franchise Agreement. The existing Franchise Agreement is scheduled to expire November 16, 2004. In accordance with the Cable Communications Policy Act of 1984, AT&T Broadband has requested a renewal of its Franchise. Broadly speaking, the City is to determine whether to grant a Cable Franchise renewal by identifying the future cable related needs and interests of the City and by reviewing the performance of AT&T Broadband under the expiring Cable Franchise Agreement. In keeping with the requirements of the Cable Communications Policy Act, the City’s Cable Television and Communications Commission will conduct this initial public hearing and will schedule others for specific user groups which can provide information on the renewal standard.”

Attorney Rob Ciandella first described the legal frame work that governs the cable franchise renewal and then talk more specifically about what we are looking to accomplish in this hearing and in the hearings to follow. The law in this area is governed by the Federal law, the Cable Act and what the Cable Act says that when a cable

franchise expires and the Municipality is faced with the decision whether to renew the Franchise Cable Agreement, the Federal law says there are two basic elements that the Municipality must look at in considering whether to renew. 1. Is a look backwards to establish whether the Cable operator has materially performed under the existing Franchise Agreement and the other is a look forward to establish whether the new proposal of the cable operator reasonably meets the future cable related needs of the City taking into account the cost of meeting those needs. The primary focus of the hearing tonight and the hearings to follow is on the looking forward piece. The Commission will hear from people about the material performance of AT&T, but our work on that piece is going to be shaped in large part by a series of questions that we have served upon AT&T which are designed specifically to measure the performance of whether AT&T has materially performed. Once we have the responses to those audit questions we can publish those audit questions and those responses and that can be an Agenda for a more detailed public inquiry in terms of the performance. The context in which we look at this question is really different than the context in which the question was looked at in 1992, 1993 and 1994 when the Cable Franchise was last negotiated and concluded. We are now in very clearly what is very clearly nationally and internationally and certainly locally an information economy and in an information economy the telecommunications infrastructure of the City corresponds to economic development and the cable system is a key part.

The cable franchise is a license by which the City allows the Cable operator to put their facilities in public right-of-way. They are providing three services as cable TV, broadband cable modem to the internet and local telephone service. It is important for the City and for the City's economic development to have the option of selecting from those services. Right now two of the services are the subject of the Franchise Agreement the cable TV and broadband cable modem service which will remain a cable service as a matter of law. It is part of the franchise process until there is a ruling under the FCC. This is the first of three hearings we are going to have. The key question is how is the City going to obtain a Cable Franchise Agreement that meets objectives and the process we have will shape how we will come to answering that question. We are having a series of hearings where we ask particular groups within the City to respond to this question and give information on what the future cable needs would be. The Portsmouth high school is under major construction and we need to know what should be done so that the new construction is right from the telecommunications view. We will be looking into their needs as well as the Hospital and health care providers and emergency response. What we should do to accomplish this with these hearings is to develop a menu which the Commission can put together an Agenda of what we seek to get out of the Contract. So what we hear tonight will be very important to the City.

Jacqueline Pitts was the first speaker. She stated she was particularly interested in the area of cablevision. She is particularly concerned with the elderly and senior citizens that are not living in subsidized housing but are of low income and cable TV is their only touch with the outside world. They can not afford these rate increases which will necessitate their canceling their cable. She has heard some say that "I may have to get rid

of my cable and I don't want to". Ms. Pitts stated it hurts to hear this and this is what is most dear to her heart. She hopes that something can be negotiated in the contract.

Ed Lawrence spoke and stated his appreciation for what the City is doing in video taping public functions. The fact that you disseminate would include people who are discriminated against and I am often discriminated against because I come here for various City meetings having done my homework. He also commented that it was too bad that more people don't come here when you're trying to get information from them. I agree with Jackie Pitts and give her credit for sticking up for people that need to be given special attention. He stated he hopes that we will have a contract that will include the service to the public that he feels is outstanding in what you are doing.

Alex Hanson, Assistant Mayor and City Councilor stated that we get a lot of telephone calls on this subject. He referred to bundling of elaborate channels that a lot of seniors do not watch and we need low costs for seniors. We need to have a basic set of channels that is low cost to Senior citizens. They were concerned about being with the Boston Media market. They like Channel 8 and would like to have another station for the Spanish stations and not the Portland station. I feel they're #1 concern is the cost. We initially had a contract with Continental Cablevision in all senior housing which was very inexpensive, \$4.95 for a number of years and we need to revisit. The two additional stations that have gone to Spanish needs to be addressed. Federal rules say that because of minority we need to do but no need to take the prime stations. On the Internet side, people are upset about paying surcharges versus renting the modem.

Bill Devine asked if the Cable Company came to us with a proposal?

Robert Ciandella answered yes, at some point we will get a proposal from the cable co. and our position is to look at that proposal to determine whether it meets the City's needs for the future.

Mr. Devine asked if the public would have input on the proposal and would it be shown to us prior to voting? Attorney Ciandella answered absolutely this is a public process.

Bill Devine then stated my problem is this, I am about to go with a dish because I think the service they render to the City of Portsmouth is terrible. I have 3 Spanish stations, one station has nothing on it and I don't think that's a service either, and the reason I'm leaving them is because of the modem, it looks to me as the rates will be raised. He stated he volunteers at the Sunbird Home on Sagamore Ave. and most seniors do not watch a lot of evening TV as there isn't anything they want to watch. They are mostly interested in soap operas and old fashioned. He also agreed with Ms. Pitts that seniors should be given some kind of consideration for lower rates. Thank you very much.

Harold Whitehouse, City Councilor stated he agreed with and without repeating what both Alex Hanson and Jacqueline Pitts stated concerning the forced packaging and senior citizens being upset stated he has documented proof right here. This folder is earmarked cable from upset people who have sent letters to our City Councilors within the last two years complaining to us to "please do something." They are forced to take a package

which gives them certain stations they do not want and forced increases in rates and they are begging us “please do something”. So I come to you with document proof of letters. I will make copies for anyone wanting to see these letters. Thank you.

Gene Fisk stated we will make sure these letters are made a part of our record of this hearing.

Bill St. Laurent, City Councilman, 253 Colonial Drive stated he stands up as a City councilman for the same reasons as these gentlemen. There has to be some way in this contract that we can devise different packages not only for senior citizens but there are families that don't need an ominous package, only certain channels and there has to be a way that AT&T can come back and give us some kind of a choice of packages. The other thing I'm not sure how you can do that in the contract is to watch the rate increases. Maybe you could put in the contract that only so many increases could be within a contract span. They seem randomly to hit us with an increase and always have a reason. One other thing that hasn't been addressed, is it possible that we could also look to other cable companies, do we need to address only AT&T. I'm not sure why they have a monopoly? I would like to see us look at other cable companies if possible to see what packages they have. We do need to address the packaging in this contract and I am almost of the understanding that it can't be done but if we are going to get a contract let's try and get this in there. Thank you very much.

Gene Fisk said he would like to take a few minutes and have Rob Ciandella answer some of the issues that Bill raised.

Attorney Ciandella stated for informational purposes he would like to quickly touch upon the following two issues that were raised.

- (1) Rates under the federal law, rates under federal law are not a part of this cable franchise renewal process. There is a separate process under federal law with a very limited ability to regulate rates on behalf of municipalities. The ability of municipalities to regulate rates is known as the basic rate of approximately \$8 per month, over the air stations that you get in. Rates and rate regulations as a matter of law are not going to be part of this renewal process.
- (2) Question of talking to other providers, the monopoly issue - We will as a matter of force in our process have a request for proposal and will solicit another provider and the federal law and state law provide that you cannot have an exclusive cable franchise, but what we are likely to run into is the economic reality that for the pool of subscribers that are available here in the City it simply is not economically viable for a competing cable provider to come in and build a parallel system to compete for the revenue that would be generated by that limited pool of subscribers. So we are in places with greater population and population density, competition has emerged but in places like Portsmouth with our population and our density competition on the wired cable side has not yet emerged. There are some technologies that are in a very early stage, wireless technologies which may over time compete with cable. But we

will have a Request for Proposal as part of our process, but I'm forecasting that it is likely not to produce another cable provider who will come in and compete with AT&T.

Gene Fisk stated that on the issue of rates, those of us sitting up here are just as frustrated as you are that we are not able to deal with this, this is federal legislation and there is just nothing we can do about it.

John Hynes - Councilor John Hynes stated he has a computer and a TV and because my wife likes to watch old movies I subscribe to the digital package of 500 channels. When I subscribed I reached an agreement with the Cable Co. That if I would supply my own modem at \$250 that I wouldn't be charged any other fee. Last month the total bill for the total package was \$80 month. Last month it was \$85.37 and I haven't yet found out why. I also received notice that my modem would be eliminated as a savings and I would have to start paying \$7/mo because I had a modem. Well I have an offer I would like to sell the modem back to AT&T and then I would be happy to pay the \$3.50 per month as a lessor. As a good customer and a user I think it would be an agreeable solution. I am not going to challenge the fact that they changed the contract after it was established but I would be amenable to an agreement with the company to do that at least it would relieve me of a \$7 charge because I own a modem. This is the offer I would make to the company and hope they would accept something like this, in lieu of breaking the original agreement.

Ralph DiBernardo , 1374 Islington Street, thanked the Commission for representing us, I know it takes a lot of time. Whatever we do for a contract and whomever we do it with, we need to do something to improve the level of customer service in terms of contact with the company. Stated he has never had a satisfactory conversation with the company. He stated they did not receive his bill this month. His wife telephoned the company, they brought it up on the computer and was told the bill was such an amount and to send a check. His wife stated she doesn't pay without a bill and would they please send bill or a copy of such and was told we can't do that and his wife in turn asked to speak with the supervisor, was put on hold and his wife was told everything is okay, nobody received bills this month don't worry about it. They are a monopoly. We can't discuss rates, a different set of rules we can only discuss whether we want to keep them or not and apparently it appears that nobody would compete with them because of the infrastructure. We need to do something to bring them under control, cost wise it is obvious that everybody wants some choice of selection. I don't speak Spanish but it is nice for those that do but why should I have to pay for it. Everyone has different interests and we should have some selection. In this instance we pay and have no choice.

Walter Allen stated he basically agrees with everyone that spoke before him. Referred to back in time when they raised rates, they gave the example that "we've done this, we've done that, we've increased the number of channels, increased cable, we raised the rates because we can and they can because they are a monopoly. One of the things they said is the Government broke up Ma Bell because it was a monopoly. Well this is a major monopoly. I also have my own modem for access to the internet, but not from them and I'd like to see them buy mine, I would like them to hook up their modem to replace mine,

free of charge, I will put mine back in the box and rent their modem for \$3.00 a month, but I want it free of charge. In the past they said that if we own our own modem we would save money, now they say that isn't true, it would not reduce costs. Thank you for your time.

Bob Reynolds of Lafayette Road. I am thinking about a satellite. When I first bought my house I had an antenna on the chimney and then along came cable and I got cable. It is about time to either get satellite or put back the antenna, at least I did not pay anybody rent. The rates keep going up and I have no control over it. Stated he didn't mind paying the fee if he gets to see what he wants to, but when given a package I have to take, I don't appreciate that, I don't want a package.

Gene Fisk asked if anyone in the audience would like to speak and then asked if anyone on the Committee would like to speak, and with no response he thanked everyone for coming tonight and stated that this is the first of several hearings and invited them to come back when the other meetings are held.

The meeting adjourned approximately 8:30 p.m.

Respectfully submitted,

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Gene Fisk, Chair