



CITY COUNCIL ADDENDUM
Tuesday, December 17, 2013

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1. **Additional Items for December 17, 2013, Regular Meeting Agenda**
Please Include Under New Business Prior to Existing Items
 - A. Cons. Resolution 13-116 Conditionally Approving Comcast's Late Fee of \$9.50
 - B. Approve Engineering Services for the Reconstruction of Round Lake Boulevard



City Council Addendum

1. A.

Meeting Date: 12/17/2013

Subject: Authorize Comcast's Request to Implement a Revised Late Fee

Submitted For: Eric Strouse, Production Manager **From:** Cathy Sorensen, City Clerk

INTRODUCTION

Council is asked to authorize Comcast to implement a revised late fee of \$9.50 and a revised late fee procedure per the terms of the Coon Rapids cable franchise agreement.

DISCUSSION

On November 12, 2013, the City of Coon Rapids received a request to authorize Comcast to revise upward the administrative late fee it charges when customers do not pay their bills within 38 days of their statement. In many communities Comcast may initiate revised late fees on its own without formal City Council concurrence. However, according to the terms of Coon Rapids franchise agreement late fees cannot be adjusted without the local franchise authority's prior approval. This agenda item has been delayed as staff has been working with Comcast for support information to review their request. Since the original Comcast letter, staff has received a redacted cost study on December 4, 2013. This limited information was reviewed by staff, the cable attorney as well as a cable financial analyst. The resolution for Council consideration was drafted by the cable attorney in order to protect the City's rights while still approving the Comcast late fee increase. Comcast is eager for approval so the new increased late fees can be applied uniformly across the larger region. The last time the late fee was adjusted was in 2010 to the current fee of \$8.00. Prior to that the fee had not been adjusted since 2007.

RECOMMENDATION

Adopt Resolution 13-116 Conditionally Approving Comcast's Late Fee of \$9.50

Attachments

Request

Late Fee Notice

Analysis

Resolution 13-116



Mr. Eric Strouse
City of Coon Rapids – CTN Studios
11215 Robinson Drive
Coon Rapids, MN 55411

November 26, 2013

Re: Information to Support Late Fee Restructure Request

Dear Eric:

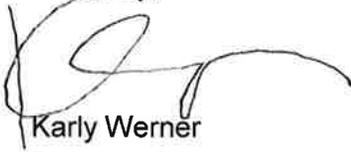
Per my letter dated November 12, 2013, and in accordance with the City's franchise agreement, Comcast is providing further information to support its request that the City Council approve an increase in the administration fee that Comcast (the "Company") collects from customers for late payments from \$8.00 to \$9.50.

- The fee is not a revenue source for Comcast. The fee is collected to reduce operating costs that are incurred from late paying customers.
- Comcast conducted a Twin Cities Region Cost Study using actual data for a one-year period ending August 31, 2013 to determine the costs incurred from late bill payments. The study contains confidential, trade secret information, and can be made available for your review with the proper protections.
- The study concluded that the estimated net cost to the Company per late fee was greater than \$13.00.
- Comcast's late fee is currently \$8.00. It was last changed in 2010.
- Comcast's proposed adjustment to \$9.50 is plainly justified by the 2013 cost study.
- The fee for the late payment will be assessed if the payment is not received by day 38 of the billing cycle. Another late fee is assessed if payment is not received by day 68. The Company's late fee approach addresses the concerns of people who miss their payment by a few days and who believe they should not incur the same late fee as those who pay later in time.
- We strongly believe that customers who pay on time should not have to subsidize the fees associated with customers who do not pay on time.
- A fee assessment for late payment is not unique to Comcast. Late fees are charged by other companies that provide services on a month-to-month basis, including Xcel Energy, CenterPoint Energy and Century Link. As is common among city utilities, the City of Coon Rapids assesses a late charge on unpaid balances of municipal water and sewer bills.

Most franchises do not require approval for this change. Comcast, however, hopes to implement this change in a uniform manner throughout the Twin Cities metro area. If approved, the fee will not be changed until all customers receive a bill message at least 30 days prior to the implementation of the new fee.

I look forward to discussing this further on December 3, 2013. In the meantime, please contact me directly with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karly Werner', with a stylized flourish extending to the right.

Karly Werner

Director, Government Affairs, Twin Cities Region

(o): (651) 493-5777

Karly_Werner@cable.comcast.com



10 River Park Plaza
St. Paul, MN 55107

Mr. Eric Strouse
City of Coon Rapids – CTN Studios
11215 Robinson Drive
Coon Rapids, MN 55411

VIA EMAIL

November 12, 2013

RE: Administrative Late Fee Restructuring

Dear Eric:

In accordance with a section in your Franchise regarding Late Fees, Comcast is requesting your approval for a restructuring of our Late Fee. I am writing to notify you that Comcast (“the Company”) is proposing to change these fees effective January 1, 2014 in communities which do not require approval. Upon approval from the remaining communities, the fees will change with a 30-day notification to the customer. The Company is implementing this revised late fee structure to cover additional costs incurred in dealing with late paying customers. The current fee of \$8.00 has not been changed since 2010.

Comcast has done a study of costs caused by late paying customers and determined that our costs now far exceed \$8.00. A copy of that cost study can be provided with appropriate trade secret protections. At this time, Comcast is proposing a restructuring of late fees to provide for an administration fee in the amount of \$9.50 in place of the current fee of \$8.00. Effective with your approval, Comcast proposes to assess a late fee of \$9.50 if payment is not received by day 38 of the billing cycle. Another late fee is assessed if payment is not received by day 68.

We strongly believe that customers who pay on time should not have to subsidize the fees associated with customers who do not pay on time. The Company’s late fee approach addresses the concerns of people who miss their payment by a few days and who believe they should not incur the same late fee as those who pay later in time.

Comcast is requesting that you address this matter at your next scheduled meeting in order for us to apply uniformly across the entire area. Most franchises do not require approval by the city or commission and we wish to comply with the requirement in your area.

Customers will be notified on this change in a letter which will be received beginning in late November which will also include information about 2014 service pricing. Customers in your community will receive a bill message 30 days prior to the implementation of the new fee once the City/Commission grants approval. Should you

November 12, 2013

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have any questions or concerns on this matter, please do not hesitate to contact me at 651-493-5777.

Sincerely,

/s/ Karly Werner

Karly B. Werner
Director, Government Affairs
Comcast – Twin Cities Region

REDACTED – PUBLIC VERSION

COMCAST CABLE LATE FEE ANALYSIS

Twin Cities Region Cost Study

Robert S. Knudsen, CPA, MBA

Nathan Associates, Inc.

November, 2013

LATE FEE ANALYSIS

INTRODUCTION

Comcast Cable Communications, LLC and its various operating subsidiaries and affiliates (“Comcast”) engaged Nathan Associates to assist them in assessing the costs incurred (i.e., damages) due to subscribers who fail to timely pay their monthly bills. Given the number of late-paying subscribers, and the difficulty in determining the damage caused by each late payment, it would be impractical, and extremely difficult, to calculate precisely the actual damages associated with any one particular subscriber’s late payment. What follows is a description of the methodologies employed to estimate the losses caused by Comcast’s delinquent subscribers as a group, and the results of that analysis. In assessing the approach to be taken, it was determined that the relative uniformity of Comcast’s collection procedures made a calculation at a Region-wide level the most cost effective approach to the analysis, rather than at a franchising unit level. The time period selected for the study was the one-year period ending August 31, 2013.

DELINQUENCY RELATED REVENUE

Fees charged as part of the collection process are: late fees and reactivation fees. The amounts for each of these items were taken directly from the accounting records of Comcast, and for the study period are as follows:

Late Fees	
Reactivation Fees	
Total Delinquency Related Revenue	

These results are also summarized on Attachment A.

DELINQUENCY RELATED COSTS

The following identifies and describes the calculations for each of the delinquency related costs. These calculations are also summarized on Attachment A.

1. Lost Use of Funds

Comcast incurs lost use of funds on past due and unpaid bills. Lost use of funds is the additional cost of capital, in the form of debt or equity, that Comcast must obtain in order to make up for the delinquent customer's failure to pay their bills when due. Generally speaking bills are past due after 20 days, however for the purposes of this calculation, it was conservatively assumed that lost use of funds starts on Day 30. Comcast accounts receivable records were used to determine an average daily accounts receivable balance for customers over 30 days past due. This amount was then multiplied by Comcast's weighted average cost of capital of 10% (which compares favorably to the FCC determined weighted average cost of capital for cable companies of 11.25%). The resulting lost use of funds is [REDACTED]

2. Third Party Costs

Comcast employs a number of outside vendors to assist with various collection activities including reminder letters, outbound and inbound collection calls, and field collection efforts. These service providers include collection agencies who are paid commissions based on successful collection efforts. The amounts paid these outside vendors were summarized directly from Comcast's accounting records and totaled [REDACTED]

3. Late Payment Data Processing Costs

The need to identify and account for past due accounts significantly increases the

complexity, and therefore the cost, of the billing system. For example, the billing system must be able to maintain and update accounts, track and report accounts receivable, and provide information for collection letters, automated and manual telephone calls, soft disconnects, billing statement messages and collection agencies. One of Comcast's main billing system providers identifies separately the cost being charged for the collection module portion of the billing system. This relationship was then used to calculate the collection module portion of the billing system for all billing system providers. The resulting late payment data processing cost is

██████████

4. Collection Department Costs

The West Division of Comcast maintains a centralized collection department that handles inbound calls from delinquent customers, outbound collection calls, interacting with third party vendors, such as collection agencies, and managing the overall collection process. The West Division collection department costs are then allocated to the regions within the division based on the delinquent customer calls received from the region compared to the total calls for all regions. The amount allocated to the Twin Cities Region for the one year study period was

██████████

5. Front Counter Costs

In order to avoid service disruptions, delinquent customers pay in person at customer service locations. Processing payments through the front counter is costly and involves increased staffing (and related expenses) to handle the increased lobby traffic. The front counter costs were determined by summarizing the personnel and telecom costs for the front counters and multiplying that by a collection percentage. The collection percentage was estimated by

Comcast based on discussions with knowledgeable Comcast personnel regarding the time spent dealing with delinquent customer issues.¹ The total front counter delinquency related costs are

██████████

6. Unrecovered Programming Costs

In order to reduce the costs of collections, the cable operator does not immediately terminate services for late paying accounts. In extending services, Comcast incurs costs of programming which are ultimately not recovered from delinquent accounts (i.e., those accounts that become uncollectable). This calculation starts with total programming costs, which are then multiplied by a write-off percentage to get unrecovered programming costs. This amount is then reduced by one third to remove those programming costs that would be incurred prior to the subscriber becoming delinquent. The avoidable unrecovered programming costs attributable to late paying subscribers are

██████████

7. Overhead Costs

Although Comcast incurs additional overhead costs associated with delinquent customers, those costs have not been included as part of this analysis. Examples of overhead costs would include, space costs (rent and utilities) associated with the additional employees needed to deal with delinquent customers, corporate personnel costs such as the indirect involvement of management and human resources and the more direct involvement of functions such as legal, regulatory and accounting with collections-related issues or personnel.

¹ Comcast estimated collection percentage of ██████████ appears low compared to time studies performed in the past that have generally produced results in the ██████████ range.

SUMMARY

The total delinquency related costs are [REDACTED] compared to delinquency related revenue of [REDACTED] a shortfall of [REDACTED]. Total delinquency related costs divided by the total number of late fees assessed yields a cost per late fee of \$ [REDACTED]. When total delinquency related costs of [REDACTED] are reduced by the reactivation fees, then the net cost is [REDACTED].

The net cost amount divided by total late fees assessed produces a cost per late fee of \$13.06.

These calculations are also summarized on Attachment A.

Summary of Delinquency Related Revenues and Costs
September 2012 - August 2013
Comcast Cable - Twin Cities Region

<u>Description</u>			
<u>Delinquency Related Revenues</u>			
Late Fee Revenue	\$		
Reactivation Fee Revenue			
Total Revenues	\$		
<u>Delinquency Related Costs</u>			
Lost Use of Funds	\$		
Third Party Costs Related to Credit and Collections			
Late Payment Data Processing Costs			
Office Collection Personnel Costs			
Collection Department			
Front Counter			
Unrecovered Programming Costs			
Total Costs	\$		
Total Revenue less Total Costs	\$		
<u>Cost per Late Fee</u>			
Total Costs	\$		
Total Number of Late Fees Assessed			
Estimated Total Cost per Late Fee	\$		
Total Costs less Reactivation Revenues	\$		
Total Number of Late Fees Assessed			
Estimated Net Cost per Late Fee	\$	13.06	

REDACTED – PUBLIC VERSION

Attachment A

**CITY OF COON RAPIDS, MINNESOTA
RESOLUTION NO. 13-116**

RESOLUTION CONDITIONALLY APPROVING COMCAST'S \$9.50 LATE FEE

WHEREAS, the City of Coon Rapids (the "City") enacted an ordinance and entered into a cable television franchise agreement (collectively, the "Franchise") with MediaOne North Central Communications Corp., which became effective July 18, 2000, to provide cable television service within the territorial limits of the City; and

WHEREAS, as a result of several transfers of the Franchise, Comcast of Minnesota, Inc. ("Comcast") currently holds the Franchise; and

WHEREAS, Section 5.9 of the Franchise states that "[l]ate fee amounts on file with the City shall not be adjusted by the Grantee without the City's prior approval;"

WHEREAS, in correspondence dated November 12, 2013, and November 26, 2013 (the "Comcast Letters"), Comcast is seeking City approval of an increase in the late fees charged to certain subscribers and the manner in which such fees are imposed; and

WHEREAS, according to the Comcast Letters, Comcast has not requested an increase to the current \$8.00 late fee since 2010; and

WHEREAS, according to the Comcast Letters, Comcast is seeking to increase its late fee to cover additional costs it incurs in dealing with late paying subscribers; and

WHEREAS, according to the Comcast Letters, Comcast is asking that the City approve an increase in the late fee from \$8.00 to \$9.50 effective upon City approval and 30-day advance written notice to affected cable subscribers; and

WHEREAS, Comcast desires to charge a late fee of \$9.50 if payment is not received by day 38 of the billing cycle and, if payment is not received by day 68 of the billing cycle an additional late fee of \$9.50 would be assessed; and

WHEREAS, according to the Comcast Letters, Comcast has conducted a Twin Cities regional cost study and determined that its net costs associated with late paying subscribers exceed \$13.00 per late fee; and

WHEREAS, Comcast has provided City staff with a redacted version of the cost study purportedly supporting the \$9.50 late fee and associated implementation schedule, which report is titled "Comcast Cable Late Fee Analysis- Twin Cities Region Cost Study" and dated November 2013; and

WHEREAS, the City desires to act on Comcast's request to increase its late fee.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Coon Rapids, Minnesota that:

Section 1. In adopting this Resolution, the City is relying on the representations made by Comcast in the Comcast Letters and in the redacted cost study furnished to City staff. Should information come to the City's attention that these representations were inaccurate in any material way, the City reserves the right to take appropriate action.

Section 2. The City conditionally approves Comcast's request to increase the late fee that it charges to its late paying subscribers to \$9.50 and the imposition of that fee up to two times for any late payment (*i.e.*, \$9.50 if payment is not received by day 38 of the billing cycle and, if payment is not received by day 68 of the billing cycle an additional late fee of \$9.50).

Section 3. The City reserves its right to request additional information concerning the late fee increase described in the Comcast Letters and the related cost study at any time.

Section 4. This Resolution is contingent upon any City review of the cost study furnished to City staff for purposes of determining whether the study justifies the late fee increase set forth in the Comcast Letters and Comcast's late fee assessment practices, as Comcast has represented them to the City. If the City determines that Comcast's late fee increase or late fee imposition practices are not justified or are inconsistent with applicable laws, regulations, ordinances, orders or decisions, this Resolution shall be null and void as of the date hereof, and Comcast shall be responsible for refunding any and all late fee over-collections to subscribers, plus any applicable interest, at a rate to be determined by the City. In the event refunds are necessary, Comcast shall submit a refund plan to the City for approval, upon request.

Section 5. This Resolution is further contingent upon Comcast (i) accurately including late fees in gross revenues for purposes of franchise fee calculations, and (ii) providing written notice of all late fee changes to subscribers in accordance with the Franchise and applicable laws, ordinances and regulations.

Section 6. The City reserves all of its rights and remedies under the Franchise and applicable laws, regulations, ordinances, orders and decisions.

Section 7. This Resolution shall become effective immediately upon adoption, but shall be subject to the contingencies set forth above.

Adopted this 17th day of December, 2013.

Tim Howe, Mayor

ATTEST:

Catherine M. Sorensen, City Clerk



City Council Addendum

1. B.

Meeting Date: 12/17/2013

Subject: Cons. Approval of Engineering Service for the Reconstruction of Round Lake Boulevard

From: Tim Himmer, Public Works Director

INTRODUCTION

Staff is seeking City Council approval for engineering services for the reconstruction of Round Lake Boulevard, which is planned for 2014.

DISCUSSION

As discussed with the City Council in work session on October 15, 2013, Round Lake Boulevard between Main Street and 115th Avenue was identified for reconstruction as part of the City's road rating evaluation and annual reconstruction program. With the recent staffing changes and winter season upon us the engineering department is in need of assistance collecting field surveying and producing base mapping as soon as possible to ensure the project is completed in 2014. Staff prepared a Request For Proposal (RFP) that included all facets of a successful reconstruction project (surveying, feasibility study, design, plans & specs., construction admin., inspections, & surveying) and distributed to 3 engineering firms in our consulting pool. Following is a summary of the consultant proposals, copies of which are available for review in the office of the Public Works Director.

<u>Firm</u>	<u>Proposal</u>
Kimley-Horn & Associates	\$340,000
SEH, Inc.	\$270,300
WSB & Associates	\$244,300

City staff will be focusing their efforts on the local residential neighborhood streets (approximately 8.25 miles), as approved by Council on November 19, 2013. Depending on workload and project sequencing we will also look for opportunities to supplement the consultant's work. We are asking that the City Council approve a contract for the entire scope of services for this project. Staff will manage the contract and look for opportunities to take on portions of the project in an effort to reduce the amount of work provided by the consultant, while still not diminishing service to our residents and businesses along this corridor.

RECOMMENDATION

Staff recommends that the City Council approve an engineering services for the reconstruction of Round Lake Boulevard to WSB & Associates in an amount not to exceed \$245,000.

BUDGET IMPACT:

Round Lake Boulevard, south of Main Street, is contained within the City's Municipal State Aid (MSA) roadway system. As such engineering services (up to 25%) are MSA eligible for funding reimbursement. The engineering services within this contract will be funded through the City's MSA account and will not impact the General Fund.
