



## STAFF REPORT

**Meeting Date** September 2, 2014

**To:** Honorable Mayor & City Council

**From:** David Schirmer, Chief Information Officer  
Mark Geddes, Multimedia Manager

**Subject:** Request by Councilmember Brien to Discuss Options for Residential Video Services

**Attachments:** None

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### INTRODUCTION

This is a request from Councilmember Brien to discuss options for residential video services. The report provides an overview of current and potential residential video services providers including Time Warner Cable and AT&T.

### DISCUSSION

Video service providers are currently governed through varying layers of regulation. The 1992 Federal Cable Act and the 1996 Telecommunications Act broadly govern the participation of providers in the marketplace. To encourage competition, the Telecommunications Act permitted cable operators to provide telephone services and telephone companies to provide video services. Additionally, Congress has fully deregulated all rates and equipment used for broadband services including video and internet and the City is expressly prohibited from requiring operator's to provide certain programming services or equipment.

Providers offer services other than delivery of video using the same network infrastructure for services such as high-speed internet and telephone. These services are important to the business strategies of operators and would be essential service offerings for future operators in the City.

Previously, the City provided cable television franchising regulatory authority of its cable television operators. During that time, the City's oversight of operators in the areas of consumer service, technical compliance, and local access support was ensured via City-issued franchises and ordinances.

In 2006, the California Public Utilities Code was amended under state law that preempted the City's cable television franchising rights and transferred them to the California Public Utilities Commission. The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) established the California Public Utilities Commission (CPUC) as the sole cable TV/video franchising authority in the State of California. Up until January 2, 2008, the City had the ability to negotiate and award local franchises to providers. DIVCA now governs franchising for all current and future video providers.

The City's authority over state-issued franchise holders relative to customer service standards is limited to administering federal and state consumer service standards which are weaker than the customer service standards the City could have imposed via a franchise process. City staff continues to respond to escalated customer complaints and works with providers to resolve trouble areas and disputes on behalf of residents. While the City holds limited regulatory control over customer service standards, we have good success in resolving many (often frustrating) issues faced by residents. Residents are encouraged to call the City of Beverly Hills Office of Cable Television at (310) 285-1178, or submit a request through the online "AskBev" service.

Traditionally, video programming services are offered by three types of providers – cable TV system operators, telephone companies, and direct broadcast satellite (DBS).

There are currently three providers in Beverly Hills that offer video services– Time Warner Cable, Direct TV (DBS), and Dish Network (DBS).

#### **Time Warner Cable - Current Conditions**

The California Public Utilities Commission granted a state video franchise to Time Warner effective January 2, 2008 for certain geographical areas in the state including Beverly Hills. The company operates a fiber/coaxial hybrid network in Beverly Hills to provide service. The company offers basic and premium cable services, digital telephone, and internet services. Time Warner sells services separately and bundles services into various packages. The company expanded its "TV Everywhere" offering that allows subscribers to access video programming on stationary and mobile internet connected devices including televisions, computers, tablets and smartphones. According to the Federal Communications Commission, TV Everywhere usage continues to increase.

It's estimated that between 8,000 and 9,000 Beverly Hills households subscribe to Time Warner; however these are approximate numbers, as actual subscribership numbers are not made available to the City.

Comcast, the largest national operator, has announced a merger with Time Warner Cable. The deal will undergo reviews from the Justice Department to examine anti-trust issues and from the Federal Communications Commission – the agency charged with determining whether the deal is in the public's interest. Due to DIVCA, the City does not have the legal authority to review the system transfer, as it would have had under local franchising.

## Current Video Service Alternatives

### Direct Broadcast Satellite (DBS)

There are two DBS providers currently available to Beverly Hills residents and businesses. Direct TV is the nation's largest satellite TV provider and Dish Network is the second largest satellite provider. National trends suggest that satellite operators account for approximately 33% of video service subscribers. It can be inferred that Beverly Hills satellite subscribers are within a range similar to the national trend; however specific subscriber numbers are unknown and not made available to the City.

Satellite dish technology is limited to a clear view of the southern sky that may prevent some residents from receiving service. Subscribers living in multi-unit housing must seek permission from the property owner or housing association to locate dish equipment on a roof or otherwise common area of the property. However, Federal law allows for the placement of DBS dish equipment without permission on an exclusive use area such as a patio or balcony.

Additionally, DBS providers operate national systems and are exclusively regulated at the Federal level. The operators are under no obligation to provide space for the City's local channels.

### Online Video Options

Several technology companies, notably Netflix, Amazon, Apple, Sony, Google, and Microsoft among others are delivering internet-based solutions for video programming. Subscribers may begin to sever (also known as cord cutting) or supplement traditional video programming connections in favor of online distribution options that provide video content. This industry continues to evolve and expand the amount of video content to consumers through original programming and new licensing agreements with traditional content creators. These internet-based video service, however, do require a reasonably robust Internet connection to take full advantage of the offering. The two incumbent Internet service providers in the City include Time Warner Cable and AT&T. Based on the currently deployed technology, Time Warner Cable is able to offer greater bandwidth than AT&T.

### AT&T U-verse / Giga-Power

AT&T was awarded a state franchise for Beverly Hills in 2007 that allows them to provide video services to Beverly Hills residences and businesses. To date the company has not yet made application for an encroachment permit to build out the necessary infrastructure to provide video services to the community.

City staff has worked closely with AT&T representatives to determine the nature and timing of the company's build-out of these higher speed networks that would support video services. There has been extensive conversation over getting Beverly Hills "into the construction queue", but presently schedules have not been finalized. AT&T representatives have committed to providing us with updates on the Company's plans for network builds by the fall of 2014.

The next step in the process is for the company to apply for a City encroachment permit. It's expected that an AT&T encroachment permit application would seek to build out an 'all fiber' or 'fiber hybrid' network and include several above ground cabinets located throughout the City in the public rights of way. Under state law and as part of the encroachment permit process the City can oversee time, place and manner for the build out of such infrastructure.

AT&T offers its U-verse video service to a few Beverly Hills households in the southeast as a result of bordering Los Angeles telephone hub equipment that services those households. This service area is very limited and only a small number of residents have access.

#### Other Cable Providers and Telephone Companies

Historically, cable companies rarely compete with one another in the same geographic area. Large cable providers often cluster cable systems together using some of the same infrastructure to provide cable service to a larger geographic area. Time Warner along with other cable operators has swapped local systems to enable Time Warner to become the dominant operator in the Los Angeles metro area. Due to high costs, the City should not expect another traditional cable provider to overbuild the existing area; however it's plausible that the system could be transferred to another cable operator in the future. Since 1971, the existing cable TV system has transferred ownership between cable TV operators five times.

The geographic footprints of the two California telephone companies Verizon and AT&T do not overlap. Verizon Communications operates video service networks utilizing a fiber to the home infrastructure approach known as Fios. Verizon holds a state issued franchise for areas in California in which they currently offer telephone service – this does not include Beverly Hills. The company has no immediate or future plans to build in areas that they do not currently provide telephone service.

Large fixed costs and an entrant's recognition that most of its subscribers would need to switch from an incumbent provider are disincentives to overbuilding service areas.

#### Public Cable Systems

The broadband/video service business requires extensive legal, technical, and financial considerations prior to determining the viability to provide such services. There is also the need to invest large financial resources in order to construct a competing system and involves a capital-intensive process with a relatively high degree of risk. The City does have the advantage of having a robust fiber-optic network that serves the networking needs of City operations, but this network is not ubiquitous especially in residential areas. This network, however, could serve as the foundation for any future build-out.

Municipalities that enter the cable/Internet business do so to provide customers with better service and, possibly, lower rates. Entering the broadband market is more complex than providing utility service due to the ongoing and uncertain changes to programming content and evolving technological updates to service delivery methods and consumer premises equipment.

With such a venture, at minimum the City would need to provide a service call and dispatch center along with construction staffing to operate and maintain the system. Additionally, customer service activities such as installations and repairs would be required. Legal services would be required to negotiate with content creators and comply with evolving regulatory requirements. Further, the City lacks research and development facilities and staff to innovate new technologies in this industry. The Cable and Telecommunications sectors have large independent research and development organizations to initiate new consumer equipment, features, applications, and internet speeds. The research facilities are also used to respond to technological advances implemented by competitors.

#### Private-Public Partnerships

Conditions for new providers to enter a market are determined primarily by entry costs and expected profitability. There is the need to invest large financial resources in order to complete a build out of infrastructure. Also influencing entry, especially in a mature market where most customers wanting video services already subscribe to services, must be attracted away from the incumbent operator. Additionally, new entrants cannot successfully compete in the video marketplace without access to programming.

A number of market conditions influence if, and when, entry occurs. Economies of scale, industry profit margins, capital requirements, and the reaction of competitors to new entrants all affect a firm's ability and incentive to enter into a market. Economies of scale appear to produce cost advantages, especially with respect to the cost of acquiring programming and consumer premise equipment.

The City has engaged consulting services to provide a thorough risk and market analysis, and return on investment report to ascertain the long-term cost of building, servicing, and maintaining a residential broadband system. Working with the consultant, the City is actively exploring what business models, competitive strategies, and/or incentives would be required to attract a private partner in this marketplace. The City's Technology Committee is also engaged with staff to explore public-private partnerships. Existing partnership models being explored include Google Fiber, Santa Monica, C Spire, etc. It is anticipated that by the end of the calendar year the analysis will be complete and presented back to Council.

#### FISCAL IMPACT

None at this time.

#### RECOMMENDATION

Staff recommends that the City Council review options and provide staff direction.



David Schirmer

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Approved By