

June 9, 2015
Baltimore Broadband Coalition
5115B Roland Avenue
Baltimore, MD 21210

Wilbur Cunningham
Chairman, Baltimore City Planning Commission
417 East Fayette St.
Baltimore, Maryland 21202

Dear Mr. Cunningham,

I am writing to comment on City Council Bill 15-0528, a bill to grant a franchise agreement to ExteNet to construct, maintain, repair, and operate facilities relating to the provision of a distributed antenna system (DAS). While commenting as an individual, I am co-leading the Baltimore Broadband Coalition, a citywide effort whose goal is to bring competition for Internet services to Baltimore through the widespread deployment of fiber-optic cabling.

While I support the utilization of a DAS to address cellular service requirements and I commend the Department of Transportation for their work in drafting this agreement, I suggest re-examination of the proposed agreement before approval to assure that the city's anticipated mid- and long term requirements for broadband deployment are protected.

1. Overall strategic plan for Baltimore for Broadband

It would be preferable to consider this franchise within the context of a city broadband plan but no such plan yet exists. We encourage the Planning Commission to advocate strongly for such a plan. Until such plan is in place, one should not consider this or any other broadband franchise agreement in isolation but instead, with the expectation that an effective city plan for broadband will require widespread deployment of fiber throughout city owned conduit.

2. Charges for Access to City-Owned Conduit to More Fairly Reimburse Baltimore City

This franchise allows ExteNet access to existing city-owned conduit for an annual fee of \$100 plus standard conduit use charges. In exchange the city also receives two "stands" of dark fiber. The city is required to maintain and service the conduit. ExteNet is required to pay to deploy new conduit only if their use entirely exhausts existing conduit capacity. They could fill existing conduit to capacity without any additional charge.

I suggest consideration of two-tier fee structure whereby the fee is a percent of revenues when that calculated amount exceeds the standard per foot conduit charge. This would provide the city with a fairer return on their investment in conduit given the uncertainty as to the level of DAS revenues. The franchise fee and the conduit and pole charges do not operate in isolation and should not represent unreasonable barriers to entry.

In addition, ExteNet should be required, if requested by the city, to place new conduit at some "high-water" level before their use exhausts conduit capacity; otherwise, the city could be forced to pay for new conduit as a result of ExteNet conduit use.

Finally, the description of city received dark fiber should be strengthened since fiber size and quality can vary and this impacts the bandwidth provided.

3. Ability for City to Request Deployment of Additional Fiber as Part of Dig One Policy

Extensive fiber deployment will be required as part of a city broadband plan and the cost of deployment is markedly reduced by a Dig One policy. We encourage the Planning Commission to advocate for such policy. Within this agreement, I suggest adding a provision that would allow the city the option to request deployment of additional fiber (at the city's cost and at the same rate ExteNet is paying), for its use, anytime ExteNet planned to deploy additional fiber. This option could significantly lower city deployment costs for fiber.

4. Strengthening of the Description of Allowed Services

Service as defined in paragraph 1.16 is overly broad and includes wireline access. The paragraph should be clarified to only allow wireline access only for the development of the DAS and not to allow special rights under this franchise for ExteNet to be a provider of services unrelated to the DAS.

5. Addition of Quality of Service Requirements

There is tremendous dissatisfaction with the quality of service provided currently by Comcast as part of their television franchise and that franchise is lacking in quality of service requirements, effective oversight of service and remedies for failing to meet customer service obligations. Such requirements should be added to this proposed franchise to allow for city oversight.

6. Strengthening Contracting Requirements to Protect City Interests

The franchise term is 10 years with three additional five year terms. Given the likelihood of significant changes in broadband over that interval, the franchise should allow the city the right to renegotiate terms at 10 years and at each renewal.

A provision should be included to require city approval if ExteNet were to wish to sell the franchise.

Paragraph 12.0 addresses removal and modification of facilities during term. This should be amended to require the franchisee, if they wish to exercise their right of removal, to leave in place the fiber strands dedicated to city use.

Thank you for your consideration.

Sincerely yours,

Philip J. Spevak

CC: Mayor Stephanie Rawlings Blake
Council President Jack Young