



The Research Bureau

# Cable TV: Get With the Program

Report 06-04  
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## EXECUTIVE SUMMARY

Local governments across the nation are responsible for providing a multitude of services to their residents including public safety, public education, and trash collection. These services are generally supported by the taxes residents pay to their local government and state governments. One of the more unusual government services is negotiating a contract with a cable operator to provide cable TV to residents. While it is primarily Federal and state laws that govern cable operations, these companies must negotiate a contract with local government because they use municipal land to build their infrastructure.

Worcester's ten-year contract with Charter Communications expires at the end of 2006. In order to determine what contract provisions would best serve the interests of the City and the subscribers, the City Solicitor asked The Research Bureau to review cable contracts in other cities and compare them with Worcester's. Based on data gathered, The Research Bureau offers the following suggestions:

- The new contract should include detailed performance standards that Charter Communications is required to meet.
- The contract should include a provision that surveys of residents and subscribers be conducted biennially to determine cable-related needs and opinions about Charter's services and programming on the government, education, and Worcester Community Cable Access (public access) channels.
- The City should consider redistributing the franchise revenue, currently \$1.15 million, it receives from Charter Communications. WCCA, the public access channel, receives 60%, or more than \$600,000 of the revenue, while the government and education channels each receive 20%. If WCCA received 20% as well, more than \$400,000 could be used for General Fund expenditures. (Transferring the funds for alternative uses would probably require special legislation.)
- The City should meet with other cable operators to encourage them to compete with Charter in the Worcester market. Competition in some places has reduced subscriber fees and improved service.

## Introduction

In the 1930s, citizens received television broadcasting signals from their own personal antennas, which often led to poor reception and fuzzy pictures. In 1948, community antennas were erected in some areas of Arkansas, Oregon, and Pennsylvania. Community antenna towers were erected at high points to receive a clear broadcast signal; this signal was then sent to homes in the community via cable wire connections.<sup>1</sup> Cable operators soon erected antenna towers and set up cable systems nationwide; well-known cable operators included Westinghouse, TelePrompTer, and Cox. After the Federal government passed the Communications Policy Act

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<sup>1</sup> "History of Cable Television," *National Cable Television Association*, [www.ncta.com](http://www.ncta.com) (October 2006).

of 1984, cable operators needed permission from municipalities for use of their land; in return, cable operators offered capital grants and paid franchise fees to cities. The contract agreement between municipalities and cable operators is the cable license or franchise agreement.

The license with Worcester's current cable operator, Charter Communications, began on January 7, 1997, and expires on January 6, 2007. During the Ascertainment Period, the period of review of the cable operator that occurs before the City renews the license, the Cable TV Advisory Committee, which is appointed by the City Manager, assessed Charter's performance, identified the City's technological needs, and held public hearings. The City of Worcester and Charter Communications have commenced informal negotiations for a new license.

In order to ascertain the components of a cable license that would best serve the public interest, The Research Bureau examined the current license, reviewed information gathered during the Ascertainment Period, and compared Worcester's cable license with those in other cities nationwide. The following report summarizes these observations and offers recommendations for the City in negotiating a contract that best fulfills the cable needs of the City of Worcester and its residents.

## **History of Cable**

The Communications Act of 1934 created the Federal Communications Commission (FCC), an independent government regulatory agency charged with the responsibility of regulating broadcasting and communications over wire such as television and telephone. However, it was not until 1984, when the Communications Act of 1934 was amended, that the Federal government established a framework for cable franchises and licensing. The Cable Communication Policy Act of 1984 was the first bill to specifically address cable TV and afford the FCC direct authority over cable television. Prior to 1984, states adopted their own laws for cable licensing and fees. In 1971 the Massachusetts legislature established the Community Antenna Television Commission, later renamed the Cable Television Division, to oversee cable television systems in the Commonwealth.<sup>2</sup> The Massachusetts Cable Television Division, part of the Department of Telecommunications and Energy, is responsible for "overseeing the licensing process, informing municipalities on changes in technology, and educating municipalities of their rights and duties under state and federal law," and for basic rate regulation in areas that do not have effective competition.<sup>3</sup> Massachusetts General Laws Chapter 166A, Sections 1-22 define the responsibilities of the Massachusetts Cable Division and identify the procedures involved with cable license adoption, renewal, transfer, and appeal.

Under the amended 1984 Act, a franchising authority is responsible for granting a license for cable service to a cable operator.<sup>4</sup> Massachusetts law defines a franchising authority or

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<sup>2</sup> "Overview of the Cable Television Division," *Massachusetts Cable Television Division*, [www.mass.gov/dte/catv/overview.htm](http://www.mass.gov/dte/catv/overview.htm) (October 2006).

<sup>3</sup> "Investigation and Study Relative to the Adequacy and Effectiveness of Existing Licensing and Regulation of Cable Television Operations in the Commonwealth of Massachusetts," *Massachusetts Cable Television Division*, <http://www.mass.gov/dte/catv/catv.htm> (October 2006). Effective competition occurs when two or more cable operators compete and this competition keeps the basic rate prices down.

<sup>4</sup> Communications Act of 1934, 47 U.S.C. 541.

“issuing authority” as the City Manager, the Mayor, or the Board of Selectman of a town.<sup>5</sup> The 1984 Cable Act, which deregulated the cable industry, provided the incentives for an increase of investment and wiring by the cable industry. The Cable Act of 1984 “established policies in the areas of ownership, channel usage, franchise provisions and renewals, subscriber rates and privacy, obscenity, unauthorized reception of services, equal employment opportunity, and pole attachments.”<sup>6</sup> Under this Act, cities could negotiate to assess a franchise fee up to 5% of a cable operator’s gross revenues; the Act did not mandate the conditions as to how the franchise fee must be spent.<sup>7</sup> The growth of the cable industry post-1984 was accompanied by a significant hike in cable prices, which led to the regulatory Cable Television Consumer Protection and Competition Act of 1992. The 1992 Act, dubbed the “reregulation act,” reinstated basic tier rate regulation at the local level and expanded basic tier rate regulation at the Federal level. In turn, the Telecommunications Act of 1996 again deregulated the cable industry, this time relying on the encouragement of a competitive market to moderate prices. Basic rate regulation remained but the FCC no longer regulated the expanded-basic tier. Even with these changes, however, the number of cable operators in some states declined; the number of cable companies in Massachusetts has declined from 26 in the 1980s to 11 today.<sup>8</sup>

The idea of “public access” television in the United States, or the airing of programs produced by members of the general public, began in the 1960s in Dale City, VA. The city’s cable operator, Cable TV, Incorporated, provided a channel for public access, operated by the Dale City Junior Chamber of Commerce. Due to poor financing, low-quality equipment, and lack of a permanent studio, the center failed within two years.<sup>9</sup> In 1968, Fred Friendly, a television adviser to the Ford Foundation and chairman of New York Mayor John Lindsay’s Advisory Task Force, recommended that cable companies reserve two channels for public programming. In a franchise agreement signed in 1970 between New York City and two cable companies, the companies agreed to lease four channels for public programming—two for the general public and two for the government. As support grew for public access television, the FCC issued its Third Report and Order in 1976, “which required all cable systems in the top 100 U.S. television markets to provide three access channels, one each for education, local government, and public use. The cable companies were also required to provide the facilities and equipment with which people could produce shows.”<sup>10</sup> In 1979, the Supreme Court invalidated this requirement, ruling that the FCC had exceeded its authority.<sup>11</sup> While not required to do so by law, municipalities have continued to negotiate contracts that include the provision of channels for public access.<sup>12</sup>

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<sup>5</sup> M.G.L. 166A, Sec. 1

<sup>6</sup> “General Cable Television Industry and Regulation Information Fact Sheet,” *Federal Communications Commission*, [www.fcc.gov/mb/facts/csgen.html](http://www.fcc.gov/mb/facts/csgen.html) (October 2006).

<sup>7</sup> “Cable Television: Does Leased Access Mean Least Access?” *Northwestern University*, [www.annenbergnorthwestern.edu/pubs/cable/cable03.htm](http://www.annenbergnorthwestern.edu/pubs/cable/cable03.htm) (October 2006).

<sup>8</sup> Telephone conversation with an attorney in the Massachusetts Department of Telecommunications and Energy, Cable Services Division, November 17, 2006.

<sup>9</sup> Olson, Bill. “The History of Public Access Television,” <http://www.geocities.com/iconostar/history-public-access-TV.html> (August 2006).

<sup>10</sup> *Ibid.*

<sup>11</sup> *FCC v. Midwest Video Corp.*, 440 U.S. 689 (1979).

<sup>12</sup> The 1984 Cable Act states that franchising authorities may require cable operators to provide channel capacity for PEG use.

## PART I: WORCESTER CABLE

### History of Worcester Cable Licenses

The City of Worcester signed its first cable-license contract with Parker Cablevision in January 1972.<sup>13</sup> Later that year Parker Cablevision was sold to Teleprompter of Worcester, Inc. In February, 1979, the City negotiated a new contract in which Teleprompter agreed to provide two channels to be used exclusively for school and governmental purposes. In 1983, the cable license was transferred from Teleprompter of Worcester to Greater Worcester Cablevision, Inc. The new ten-year license negotiated between Greater Worcester Cablevision and the City in 1986 required the cable operator to provide 58 channels within two years of the license renewal, and to upgrade the system to 72 channels by January 1, 1993. The 1984 contract also established the Worcester Community Cable Access Corporation (WCCA) to run the City's public access channel, which Greater Worcester Cablevision aired as soon as WCCA began programming.

The City negotiated a new agreement with Greater Worcester Cablevision in 1996; the City's ten-year contract signed as a result of these negotiations became effective January 7, 1997. Greater Worcester Cablevision agreed to continue providing three channels for public access, education, and governmental (PEG) use. Three years later, Greater Worcester Cablevision was sold to Charter Communications, leaving in place the contract signed in 1997. By ordinance the City's Cable Services Division oversees the cable contract. The City's Law Department will be involved in the City's negotiations with Charter.

Because the City's license to Charter Communications is non-exclusive, other cable operators may also provide cable TV in Worcester. However, these cable operators would have to negotiate a license with the City and build the necessary infrastructure such as cable lines to provide cable TV to all Worcester residents. Charter reports that "overbuild" situations impact approximately 6% of the total number of homes it covers.<sup>14</sup> "Overbuilding" is the construction of infrastructure by a cable operator where the infrastructure of another cable operator already exists. Twenty-nine communities in Massachusetts have granted a license to more than one cable operator.<sup>15</sup> Some of these communities and their licenses will be examined in Part II.

### Charter Communications: Franchise Requirements

Under its ten-year contract with the City, Charter Communications is obliged to serve all Worcester residents, maintain the institutional network (I-Net) in the City, notify residents of any rate increases, and allow three channels to be used for public, educational, and governmental access.<sup>16</sup> I-Net, which is owned by Charter, is a separate closed loop network for municipal institutional use only, used to connect police and fire departments, City Hall, and schools.<sup>17</sup> I-Net

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<sup>13</sup> The Research Bureau, *The Public Access Story: Stay Tuned*, p. 2.

<sup>14</sup> "Franchises: Traditional Overbuild," *Charter Communications, Inc.* 2005 Annual Report, p. 16.

<sup>15</sup> Commonwealth of Massachusetts, Department of Telecommunications and Energy, Cable Television Division, [www.mass.gov/dte/catv/license/2ndlicnse.htm](http://www.mass.gov/dte/catv/license/2ndlicnse.htm) (9/8/06).

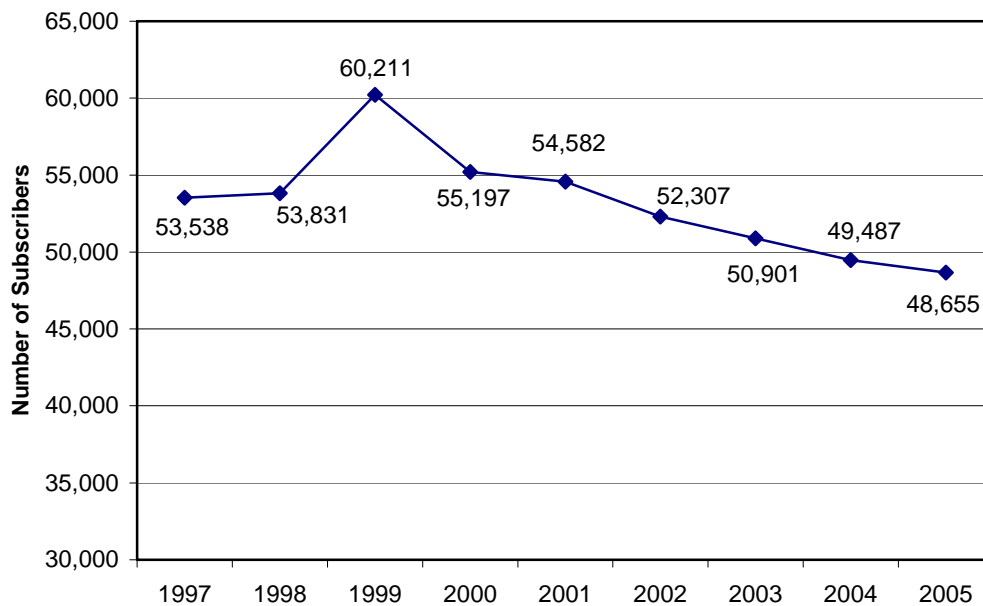
<sup>16</sup> City of Worcester, Commonwealth of Massachusetts, Renewal Cable Television License Granted to Greater Worcester Cablevision, Inc, January 7, 1997. Charter is obligated to offer service to all residents, but Charter can only connect its network if a property owner grants permission.

<sup>17</sup> "Cable Television Rate Regulation," *Massachusetts Cable Television Division*, September 2003, p. 29.

enables municipal departments to communicate electronically. Of the City’s franchise fee revenue from Charter, \$477,000 is kept by Charter for the City’s use of I-Net channels. This amount was established by the franchise agreement, and remains the same for the term of the agreement.

Graph 1 shows the changes in the number of Worcester subscribers over the past ten years. Between 1999 and 2005, the number of subscribers dropped by 11,556, or 19%. The Charter Communications Government Relations Representative believes that the decline in subscribers is the result of competition with satellite dishes. Satellite dishes are not considered “cable television” because their subscribers do not receive signals via the wiring cable and community antenna, hence they are not subject to governmental regulation.<sup>18</sup>

**Graph 1: Worcester Cable Subscribers 1997-2005**



Source: Massachusetts Cable Television Division

Under Federal law, franchise authorities can charge cable operators a license fee of up to 5% of the operator’s gross annual revenues derived from the provision of cable services. In Massachusetts, M.G.L. c. 166A, §9 requires that cable operators pay a license fee of \$1.30 per subscriber, with the municipality receiving \$.50 per subscriber and the state \$.80 per subscriber. This statutory fee must be included within the 5% franchise fee cap of the Cable Act.

<sup>18</sup> “What is Cable Television?” Federal Communications Commission, [www.fcc.gov/mb/facts/csgen.html](http://www.fcc.gov/mb/facts/csgen.html) (October 2006).

As part of its contract with Charter, the City of Worcester assesses the full 5% fee, less the license fees and a \$477,000 credit for the City’s exclusive use of an additional nine Institutional Network channels that were negotiated as part of the current license. Gross revenues are defined as “all revenues of any form or kind derived from the Licensee from the operation of its Cable Television System to provide Cable Services to the City.”<sup>19</sup> Table 1 shows the revenue from statutory fees that the City of Worcester has received from Charter. Graph 2 shows the franchise fee revenue received from the cable operator, which in 2006 will be \$1.1 million.

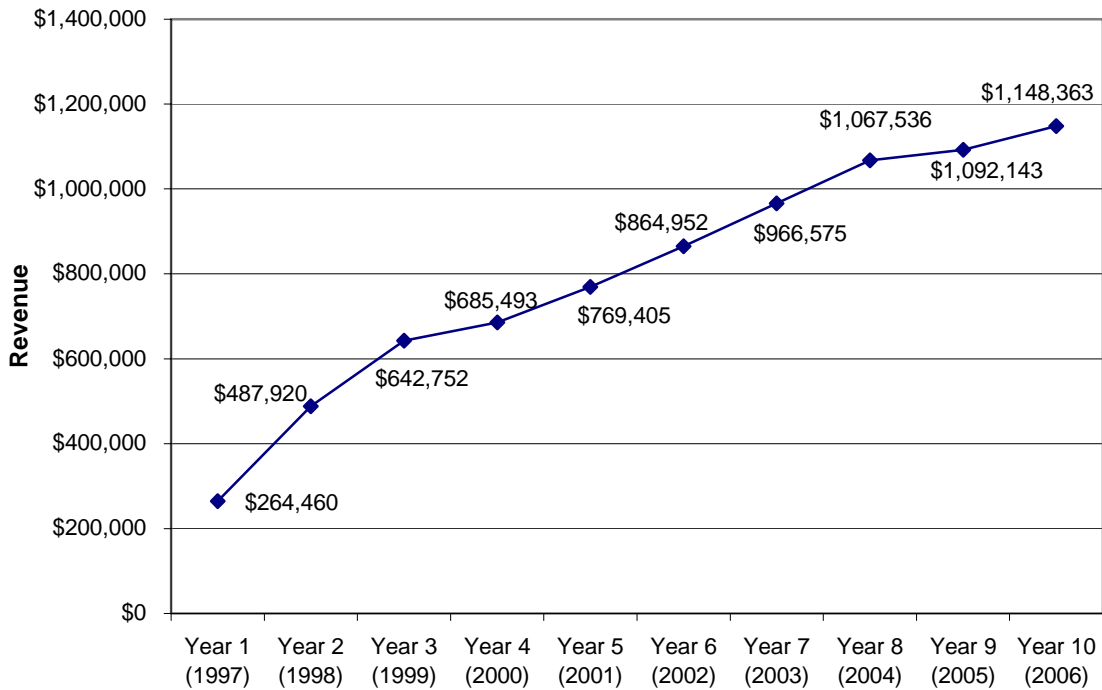
**Table 1: Worcester License Fee Revenue**

Year	License Fee
1997	\$26,112
1998	\$26,769
1999	\$26,916
2000	\$30,106
2001	\$27,599
2002	\$27,341
2003	\$26,154
2004	\$25,451
2005	\$24,744

Source: Worcester Law Department

Charter’s cable service subscribers choose among different cable services—basic, expanded basic, digital, pay-per-view, and On Demand. Cost varies per service. Channels 2-27 in Worcester are part of the basic service tier, while the expanded tier includes channels 2-99. The basic service tier is “the lowest level of service available and required by Federal law to include, at a minimum, the retransmission of local television broadcast signals and local public access channels.”<sup>20</sup> Charter states that typically only about 10% of total subscribers choose the basic service tier alone.

**Graph 2: Worcester Franchise Fee Revenue**



Source: Worcester Law Department

<sup>19</sup> See Cable license for a more detailed description of gross revenues. City of Worcester, Commonwealth of Massachusetts, Renewal Cable Television License Granted to Greater Worcester Cablevision, Inc, January 7, 1997, Article 1 (21).

<sup>20</sup> “Cable Television Rate Regulation,” *Massachusetts Cable Television Division*, September 2003, p. 27.

Rates for the basic service tier are the only rates that the government can regulate under Federal law, and such regulation only in communities where there is only one cable operator. If there is effective competition between cable operators in a community, then the basic rate is not regulated. Over the past ten years in Worcester, basic rates have remained constant while expanded rates have increased by 248%. (See Table 2: 1997-2005 Basic & Expanded Rates.) Charter Communications argues that expanded rates have risen drastically because of increases in the cost of programming as well as the cost of living. Broadcasting corporations, such as ABC, CBS, and NBC, provide programs to Charter under the condition that Charter purchase multiple programs together, known as bundling. This is costly for Charter and limits Charter’s programming choices. Without access to Charter’s budget, we do not know what proportion of costs to Charter is from the leading broadcast networks as distinguished from New England Sports News (NESN), TCM, and AMC.

**Table 2: 1997 - 2005 Basic & Expanded Rates**

Rate Period	Basic Cable Rate	% Change Over Previous Year	Expanded Basic Rate	% Change Over Previous Year
1/97-2/97	\$9.78	N/A	\$13.18	N/A
3/97-2/98	\$10.73	9.7%	\$14.25	8.1%
3/98-2/99	\$10.20	-4.9%	\$16.15	13.3%
3/99-2/00	\$9.80	-3.9%	\$18.81	16.5%
3/00-2/01	\$9.95	1.5%	\$23.71	26.0%
3/01-2/02	\$9.95	0.0%	\$28.66	20.9%
3/02-2/03	\$12.04	21.0%	\$31.56	10.1%
3/03-2/04	\$11.27	-6.4%	\$36.23	14.8%
3/04-2/05	\$10.63	-5.7%	\$40.26	11.1%
3/05-2/06	\$11.45	7.7%	\$42.70	6.1%
3/06-1/07	\$11.68	2.0%	\$45.91	7.5%

Source: Worcester Law Department, Charter Communications

As part of its contract, Charter, the Licensee is required to “periodically conduct surveys of its Subscribers for its use in identifying programming or services desired by subscribers.”<sup>21</sup> The Licensee is required to make these surveys available to the Issuing Authority upon request. Before Charter took over from Greater Worcester Cablevision in 1999, a survey conducted by Greater Worcester Cablevision found that the majority of customers were highly satisfied with its services (70%). The survey consultant recommended that Greater Worcester Cablevision focus on improved programming and the quality of customer service to increase customer satisfaction. Since 1999, however, Charter Communications has provided the City with only one evaluation of its service, a focus group that met on October 30, 2002 and was facilitated by Blunt Consulting Group. However, because only 11 participants were present (less than 1 percent of total subscribers), any conclusions drawn during the focus group could not be considered representative of all subscribers.

<sup>21</sup> “Cable Television Rate Regulation,” *Massachusetts Cable Television Division*, September 2003, p. 34.



The Federal Communications Commission Code of Federal Regulations has issued specific standards for the customer-service obligations of cable operators: “Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty seconds. These standards shall be met not less than ninety percent of the time under normal operating conditions, measured on a quarterly basis. The customer will receive a busy signal less than three percent of the time.”<sup>22</sup> It is the responsibility of the franchising authority to adopt and enforce these standards.<sup>23</sup> The City’s cable license with Charter requires Charter to comply with both the FCC’s standards and the National Cable and Telecommunications Association’s (NCTA) customer service standards.<sup>24</sup> According to the City Solicitor’s Office, at the time the current license was executed the NCTA standards were more stringent than FCC standards; however, the City does not have a copy of these standards available. According to Charter, the NCTA no longer publishes these standards.

Charter submits Form 500’s annually to the City Cable Division. Form 500 reports complaint data and a categorization of the calls. (See Table 3.) These forms are supposed to assist municipalities and the state in measuring cable operator performance.<sup>25</sup> Charter reported receiving 44,285 complaints in 2005. The Cable Division defines a complaint as “any written or verbal contact with a cable operator in connection with a subscription in which a person expresses dissatisfaction with an act, omission, product or service that is within the operator’s control and requires a corrective measure on the part of the operator.”<sup>26</sup> According to Charter’s Form 500, all 44,285 calls were resolved to the satisfaction of both parties.

**Table 3: 2005 Complaint Data**

Type	Amount
Appointments/Service Call	926
Billing	4,947
Customer Service	999
Equipment	16,569
Installation	9,345
Other	438
Reception	6,660
Service Interruption	4,401
<b>Total</b>	<b>44,285</b>

Source: Worcester Cable Division

Charter also submitted its Northeast Division Call Center Statistics for April, 2005 to March, 2006. The Northeast Division Call Center includes Worcester information but is not specific to Worcester. As shown in Table 4, the Charter’s Call Center did not always fulfill its 30-second wait time obligations, resulting in customer wait times exceeding a minute. The Call Center did not reach the 90 percentile requirement until March 2006. According to Charter, its call center line was busy 0% of the time from April 2006 to October 2006.

<sup>22</sup> 47 CFR Chapter 1, 76.309 (ii, iv).

<sup>23</sup> “General Cable TV Industry and Regulation Information Fact Sheet,” *Federal Communications Commission*, [www.fcc.gov/mb/facts/csgen.html](http://www.fcc.gov/mb/facts/csgen.html) (October 2006).

<sup>24</sup> City of Worcester, Commonwealth of Massachusetts, Renewal Cable Television License Granted to Greater Worcester Cablevision, Inc, January 7, 1997, Section 12.10.

<sup>25</sup> “Order Adopting Revised Form 500,” *Massachusetts Cable Division*, June 11, 1999.

<sup>26</sup> *Ibid.*

**Table 4: Northeast Division Call Center Statistics**

	# of Calls	Calls Answered	% Calls Answered in 30 Seconds	Average Length of Each Call	Average Time Customer Waited to Speak to an Agent	% Calls Abandoned
April-05	360,132	342,022	74.1%	5:22	0:38	4.8%
May-05	388,897	374,167	73.9%	5:32	0:32	3.8%
June-05	428,029	403,226	64.6%	5:23	0:46	5.8%
July-05	412,869	388,628	58.1%	5:39	0:49	5.8%
August-05	457,041	429,003	55.0%	5:43	0:57	6.1%
September-05	415,101	373,076	53.9%	5:43	1:25	10.1%
October-05	403,817	360,223	53.2%	5:41	1:37	10.8%
November-05	351,891	329,845	72.4%	5:36	0:51	6.3%
December-05	353,619	334,075	68.4%	5:40	0:54	5.5%
January-06	390,011	351,031	53.0%	5:56	1:49	10.0%
February-06	309,979	302,563	82.1%	6:02	0:24	2.4%
March-06	342,833	339,042	91.3%	6:02	0:11	1.1%

Source: Worcester Cable Division

All telephone records and complaint data concerning Charter's customer service come from Charter. Because there is no independent telephone agency monitoring Charter's customer service activities, the City does not have any independent telephone records available with which to measure Charter's customer service performance.

## Public Access, Education, and Government Channels (PEG)

The franchise fee the City receives from Charter is used to fund the City's public access, education, and government channels (PEG), as well as cable administration and license renewal costs. The City is not required by Federal law to use the franchise fee for PEG; in fact, Federal law states that a "federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees."<sup>27</sup> The Massachusetts Department of Revenue has never issued an official statement regarding the use of franchise fee revenue.<sup>28</sup> According to the Massachusetts Cable Division's interpretation of M.G.L. Sec. 166A, however, the license fee of \$.50 per subscriber that municipalities collect is a cap on the amount a town can collect for General Fund use; the rest of the franchise fee revenue must be designated for cable-related or PEG programming use.

As discussed in Part II of the report, two cities in Massachusetts contacted for this study currently use franchise fee revenue for General Fund operating expenses. The State legislature has enacted special legislation allowing these communities to do so. Of the franchise fee revenue from Charter, 60% is allocated to Worcester Communications Cable Access to manage the public access channel, 20% to the City's Cable Services Division to run the government channel, and 20% to the Worcester Public Schools to maintain the education channel.

<sup>27</sup> Telecommunications Act of 1996, Sec 622 (i), [www.fcc.gov/telecom](http://www.fcc.gov/telecom).

<sup>28</sup> Telephone conversation with the Massachusetts Department of Revenue's Legal Division, November 28, 2006.

**Public Access Channel: Worcester Communications Cable Access (WCCA)**

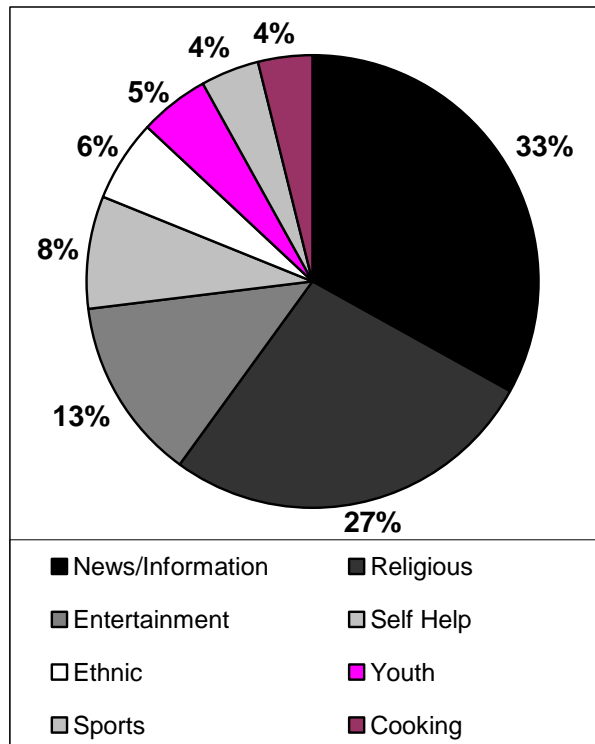
WCCA is a nonprofit organization that manages public access programming in Worcester. Its stated mission is to “ensure people have access to the use of a public forum through various channels of communication including technology and media with education and training resources.”<sup>29</sup> WCCA offers classes and workshops in basic television production to aid Worcester residents in producing their own shows. Internships, youth training in production, and video conferencing are also available. WCCA houses a computer lab available to members of WCCA and the general public. WCCA’s Executive Director contends that the WCCA acts as a free speech platform that encourages community participation.

In the current contract, WCCA receives 60% or \$609,930 of the franchise fee revenue. WCCA also derives some income from membership dues. Members that produce a public access show pay \$45 (which may be waived due to financial hardship). Other memberships include internships, general volunteers, students, KidsNet members, and seniors, which may cost from \$0 to \$35. In 2005 WCCA had 9,795 members. For the fiscal year ending in June, 2006, WCCA received \$629,787 in income and spent \$565,970.<sup>30</sup>

WCCA aims to provide programming that reflects community interests and diversity. Ethnic programming on the public access channel includes shows directed at Albanian, Arabic, Cambodian, Spanish, Greek, and Haitian residents. Other programming, as produced by private individuals, covers political issues, news, cooking, entertainment, youth, and religious topics. Programming is local-community produced and presented, with very few programs from outside the community. Some Worcester City Councilors also have their own shows. According to the WCCA, the highest percentage of programming is News/Information programming, at 33%; religious programming covers another 27%. (See Graph 3.)

Currently the WCCA runs one public access channel, although it believes that it is eligible under the current contract for an additional channel: “An additional channel shall be made available for public access when, over a period of 6 consecutive months, 60% of the prime time (7 PM to 11PM each evening) is fully occupied with first-run local programming created by local producers.”<sup>31</sup> In

**Graph 3: WCCA Programming**



Source: Worcester Community Cable Access

<sup>29</sup> “About WCCA,” *Worcester Community Cable Access*, www.wccatv.com/wcca (September 2006).

<sup>30</sup> “Statement of Activities,” *Worcester Community Cable Access*, Financial Audit, p. 3-4.

<sup>31</sup> City of Worcester, Commonwealth of Massachusetts, Renewal Cable Television License Granted to Greater Worcester Cablevision, Inc, January 7, 1997, p. 38.

the fall of 2005, WCCA requested a second public access channel. The WCCA submitted schedules to Charter to demonstrate that over 60% of its programming was first-run (programs that are being shown for the first time). The City requested that Charter issue a ruling on the submitted information. Charter claims that there was not enough documentation provided to demonstrate that WCCA's prime time programs are first-run and locally produced; in addition Charter states that the City itself has not requested the second public access channel. If the WCCA were to demonstrate eligibility for a second channel, Charter has stated that it would have to take current programming for the Italian community off the air to find space for the additional public access channel. The local Italian community has already protested this change. The disagreement over the second access channel is partly due to vagueness in the contract and varying opinions as to what qualifies as "locally produced" and "first run."

### **Government Channel and the Cable Services Division**

The Cable Services Division of the Executive Office of the City Manager "administers the cable television franchise agreement, disburses funds received by the agreement; operates the government access channel; is responsible for processing customer inquiries, discounts [for disabled and low-income elderly] and complaints with cable operator; monitors activities of cable operator and assists the Cable Advisory Committee."<sup>32</sup> The Government Channel covers City Council and subcommittee meetings, School Committee meetings, press conferences, public meetings, and City-sponsored events. The Cable Services Division is also responsible for airing information during emergency situations. Two staff members run the Cable Services Division—the Director of Cable Services and the Operations Specialist. The cost of operating the Cable Services Division in FY06 was \$200,927; the City Council voted to appropriate \$205,686 in FY07.<sup>33</sup> Sometimes Worcester residents call the City rather than Charter to complain about their cable service. The Director of Cable Services forwards this information to Charter to resolve the grievance. Since Charter is not required to provide the City's Director of Cable Services with any follow-up information, the City does not have records of the outcome of these complaints.

### **Education Channel**

The education channel is run by the Media Department at the Worcester Public Schools. Programs, such as Homework Hotline, provide students with educational information related to the MCAS exams. Other programs are event-related, highlighting for instance Graduation Week and Veterans' Day ceremonies. The education channel offers internships enabling students to produce their own programs. Three staff members (one director and two assistants) operate and maintain the channel. The cost of the education channel in FY06 was \$200,000, which was covered by the 20% allocation from the cable operator. The station recently relocated to the new Worcester Technical High School.

### **License Negotiation**

Under Federal law, either the issuing authority (the City Manager) or the cable operator may request initiation of the renewal license process. The Cable Policy Act of 1984 establishes both a "formal" adjudicatory process and an "informal" negotiation process for renewal of a

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<sup>32</sup> City of Worcester FY07 Budget.

<sup>33</sup> *Ibid.*

cable franchise. The formal process involves multiple procedures and requirements. These include “an objective review of past performance [by the City or a committee], an assessment of future cable-related community needs, administrative hearings, due process protections and the right to judicial review if renewal is denied. The process of reviewing past performance and identifying future cable needs is called the *ascertainment period*.”<sup>34</sup> The ascertainment period begins anytime between the 36<sup>th</sup> and 30<sup>th</sup> month prior to expiration of a license. After the ascertainment period is closed, the cable operator may submit a proposal to the City; the issuing authority must decide to grant or deny the renewal license within four months. During the informal process, informal proposals and negotiations between the City and cable operator can occur at any time, without following specific time limits or an evaluation period. The issuing authority can decide to engage in either the formal or informal process, or both.

Evaluation of the cable operator includes conducting a public hearing and reviewing financial forms, customer service records, plant and equipment, written records, and surveys. Determining the future cable-related needs of the City involves a review of system construction and capacity; programming options; public, education, and government access changes (PEG); and I-Net and technological needs.<sup>35</sup>

Only some issues in the cable contract are negotiable under Federal law. Municipalities can negotiate capital grants from the cable operator, maintenance of I-Net, customer service standards, senior discounts, technical upgrades, and public access grants. Under the Telecommunications Act of 1996, municipalities may not regulate rates (other than basic) or programming: “A franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, as a condition of the initial grant of a franchise, a franchise renewal, or a transfer of a franchise.”<sup>36</sup>

In March, 2004, Charter Communications requested that the City of Worcester commence renewal proceedings for the cable license. In April, 2004, the City Manager acknowledged Charter’s request and charged the Cable TV Advisory Committee with the responsibility of issuing an Ascertainment Report.<sup>37</sup> The City Manager also decided to carry out both the formal and informal renewal process.

During the ascertainment period, the Cable TV Advisory Committee was authorized to review the operations of Charter Communications and make recommendations as to whether its license should be renewed, along with “recommendations regarding improvements or modifications to the present contract.”<sup>38</sup> Besides offering advice regarding the license renewal process, the Committee’s purpose is to assist “the City Manager in his licensing duties, to provide advice concerning public, governmental, educational, and other access programming on cable television, and respond to inquiries by members of the public regarding cable television matters.”<sup>39</sup>

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<sup>34</sup> Letter from the City Manager to the Worcester City Council, August 29, 2006.

<sup>35</sup> “Charter Cable Television License Renewal,” City Solicitor’s Letter to the City Manager, April 29, 2004.

<sup>36</sup> Telecommunications Act of 1996, Sec. 303, (D).

<sup>37</sup> City Manager’s letter to the Worcester City Council, May 4, 2004.

<sup>38</sup> “Ascertainment Report,” *Cable Television Advisory Committee*, May 31, 2006, p. 1.

<sup>39</sup> “Committee Functions,” *Cable Television Advisory Committee*, [www.ci.worcester.ma.us](http://www.ci.worcester.ma.us) (October 2006).

In June, 2006, the Cable TV Advisory Committee presented the City Manager with its Ascertainment Report. During the public hearing, the Committee heard complaints about rates, programming, and the lack of a second public access channel.<sup>40</sup> The Cable TV Advisory Committee notes in the report that Charter's rates in Worcester are higher than other rates nationwide. The Committee lists 100 cities and their expanded basic rates, without accounting for factors that affect costs in different regions. The City, however, cannot force Charter to lower its rates.

The Cable TV Advisory Committee report also raises questions about Charter's financial stability, noting that its stock value plummeted from \$23.35 to \$1.17 between June 2001 and May 2006.<sup>41</sup> The current stock value of Charter Communications is \$2.82.<sup>42</sup> As of December 31, 2005, Charter's total debt was \$19.4 billion.<sup>43</sup> In its 2005 Annual Report, Charter acknowledges that "we have a history of net losses and expect to continue to experience net losses. Consequently, we may not have the ability to finance future operations."<sup>44</sup> Should Charter's financial status and potential inability to continue operations in the future affect whether the issuing authority decides to renew Charter's cable license? Is it reasonable to assume that if Charter went bankrupt, the company would be bought and another company would continue the service? Charter's government representative, on the other hand, insists that "there are no planned reductions in capital expenditures that will prevent the Worcester System from operating its cable network in accordance with the Renewal License and applicable law."<sup>45</sup>

The Cable TV Advisory Committee, in its Ascertainment Report, also recommends that the City hire two consultants—one to assess the City's technical needs and the other to assist the City in its negotiations with Charter. The City hired Baller Herbst Law Group to facilitate the negotiating process since it has negotiated licenses with Charter for other local governments. The City hired RCC Consulting to assess the technological needs of the City such as an upgraded I-Net. The Committee also recommends that Charter be subject to more regulatory oversight including: periodic surveys, service call reports, technology updates, annual system summaries, and fiscal and legal reports. The Committee suggests that the City request from Charter: an improvement in the I-NET system through the replacement of the older coaxial cable with dark fiber which would increase the City's communication capacity, discounts for citizens who are elderly, economically disadvantaged, or disabled, and capital grants to the PEG channels. It should be noted that adopting these recommendations may well lead to higher rates for subscribers.

## **Pending Legislation: Federal and State**

Legislation under consideration at the national level could greatly alter the current system of cable licensing nationwide. The Communications, Promotion, and Enhancement Act (COPE)

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<sup>40</sup> "Ascertainment Report," *Cable Television Advisory Committee*, May 31, 2006, p. 8.

<sup>41</sup> *Ibid*, p. 4.

<sup>42</sup> Telephone conversation with Charter's Government Representative, November 27, 2006.

<sup>43</sup> "Item 1A Risk Factors," *Charter Communications*, 2005 Annual Report, p. 21.

<sup>44</sup> *Ibid*, p.23.

<sup>45</sup> Letter from Charter Communications Government Representative to Worcester's Telecommunications Coordinator, August 25, 2003.

passed by the House of Representatives, “establishes a national video franchise that would allow phone companies including AT&T and Verizon Communications to bypass local governments when seeking to offer pay TV service.”<sup>46</sup> Instead of negotiating with municipal governments for their cable license, cable operators could apply for their cable license from the FCC. The FCC license would require cable operators to pay municipalities 5% of their gross revenue, and an additional 1% of their gross revenue for the support of PEG. Cable operators would still have to provide channel capacity for PEG. All licenses would last for ten years and be automatically renewed at the end of that period, unless the cable operator was blatantly infringing on license requirements. After receiving a national franchise license, companies such as AT&T and Verizon could provide cable television in any area where they had sufficient infrastructure to support it. Where national franchises do not have sufficient infrastructure, cable television licenses would continue to be issued by municipalities. However, once the Federally-certified franchise holder begins providing cable service in a locality, the incumbent cable operator would no longer have to honor the existing local franchise agreement.

At the state level, Verizon submitted a petition to the Massachusetts Department of Telecommunications and Energy (DTE) in March, 2006, that would affect municipal negotiations of cable licenses. The petition proposes that Massachusetts cities be required to hold a public hearing within 60 days of receiving an application for a new cable license, and then make a decision within 30 days after the hearing. Verizon contends that speeding up the process will bring more cable competition and lower rates to Massachusetts cities. Critics claim that a rushed process will lead to hasty decision-making and result in a number of drawbacks including “a reduction or elimination of public access television, less wiring of schools and public buildings, and ‘cherry picking’ of wealthier neighborhoods, rather than town-wide coverage.”<sup>47</sup> The newly drafted 207 Code of Massachusetts Regulations 3.04.5 Competitive Licenses sets the 60- and 30-day limits that Verizon suggested, and the revised 207 CMR 3.09 grants cable operators the opportunity to appeal a license denial. The DTE has held public hearings over the past few months as it considers implementing the new CMR.

## **Conclusion**

The City and Charter have commenced informal negotiations for a new license. The Ascertainment period has not officially closed because RCC Consulting is still assessing the technological needs of the City. Section 626 of the 1984 Cable Act allows municipalities to deny a license renewal only for the following reasons: (1) the cable operator has not substantially complied with the material terms of the existing franchise and law, (2) the quality of the operator’s service has not been reasonable in light of community needs, (3) the operator does not have the financial, legal, and technical ability to provide the services, or (4) the operator’s franchise renewal proposal is not reasonable. If the City denies Charter the renewal license, Charter has the right to challenge the denial. A license denial in Massachusetts is first referred to the Massachusetts Cable Division. If the Division upholds the City’s decision, the cable operator can appeal the denial in a U.S. district court.<sup>48</sup>

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<sup>46</sup> “Telecom Measure Passes in House,” *Benton Foundation*, [www.benton.org](http://www.benton.org) (October 2006).

<sup>47</sup> David Kibbe, “Verizon Cable Plan Decried,” *Cape Cod Times*, August 17, 2006, [www.freepress.net](http://www.freepress.net).

<sup>48</sup> Telephone conversation with a representative from the Cable Television Division, Massachusetts Department of Telecommunications and Energy, October 12, 2006.

It is difficult to determine whether the City has grounds for denying a renewal license to Charter. The City could contend that the quality of Charter's service has not been adequate; as shown in Table 4, Charter's Call Center did not always fulfill its FCC customer service requirements. Also, as noted The Cable TV Advisory Committee has questioned Charter's financial stability. However, there is little likelihood of Worcester successfully denying renewal; cities are rarely successful in denying licenses.<sup>49</sup> Rather, it is common practice for cities to address issues like customer service through negotiation with cable operators.

## PART II: CABLE LICENSE COMPARISON

States and cities nationwide manage their cable licenses in various ways. To better understand the issues facing Worcester's cable license renewal, The Research Bureau examined cable licenses in 14 other cities. Cities were selected for a variety of reasons. Cities such as Bay City, MI, and Madison, WI, have the same cable operator as Worcester (Charter Communications). Some cities like Boston, Brookline, MA, and Forth Worth, TX have multiple cable operators competing for subscribers. Other cities have unique qualities, such as a municipally-owned cable operator (Shrewsbury, MA) or a Telecommunications Department (Yakima, WA). Cities with a similar population size to Worcester were also contacted. Massachusetts cities were contacted because they function under the same state requirements. Components of the cable licenses that were examined include I-Net, customer service standards, franchise and license fees, and PEG funding. Cities were also asked the rates for basic and expanded tier services in their area, and the number of channels each includes.

### ***Franchise Fees, PEG Funding, and Capital Grants***

Twelve of the fifteen cities, or 80%, including Worcester, collect franchise fees from their cable operators. (See Table 5.) As mentioned earlier, under Federal law the highest amount allowable for collection is 5% of a cable operator's gross revenues. Like Worcester, some cities use the percentage of the cable operator's gross revenue that they collect to finance PEG. Special legislation passed by the Massachusetts legislature allows Boston and Brookline to use their franchise fees for General Fund operating expenditures. Chicopee uses some of its franchise fee revenue for PEG and some for I-Net and cable-related needs. Some cities such as Madison, WI, collect their franchise fees as a per subscriber fee. Because the number of subscribers in the cities surveyed varies from 20,000 to 160,000, it is difficult to compare the amount of funding they receive. In addition to the franchise fee paid to municipalities, the state of Massachusetts charges a license fee to the cable operators. Because Worcester allocates all of its franchise fee revenue to PEG, the City itself only collects the annual license fee, which was \$24,744 in 2005.

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<sup>49</sup> Telephone conversation with a representative from the Cable Television Division, Massachusetts Department of Telecommunications and Energy, October 12, 2006.



**Table 5: 2005 Franchise Revenue**

Comparison Cities	Amount from Cable Operator to City & PEG	City Amount	PEG Amount
Boston, MA	\$5,000,000	\$3,300,000	\$1,700,000
Fort Worth, TX	\$2,944,000	\$2,200,000	\$744,000
Madison, WI	\$2,290,000	\$1,900,000	\$390,000
Grand Rapids, MI	\$1,400,000	\$840,000	\$560,000
Manchester, NH	\$1,189,077	\$951,262	\$237,815
<b>Worcester, MA</b>	<b>\$1,116,887</b>	<b>\$24,744</b>	<b>\$1,092,143</b>
Dayton, OH	\$1,100,000	\$660,000	\$440,000
Brookline, MA	\$833,027	\$433,027	\$400,000
Shrewsbury, MA	\$602,056	\$430,056	\$172,000
Yakima, WA	\$410,000	\$0	\$410,000
Bay City, MI	\$305,678	\$305,678	\$0
Chicopee, MA	\$209,400	\$209,400	\$0
Hartford, CT	\$188,303	\$0	\$188,303
Millbury, MA	\$57,332	\$2,207	\$55,125
Providence, RI	\$0	\$0	\$0

Source: Information collected from appropriate departments of cities listed above.

In addition to franchise fee revenue, cities often receive capital grants as part of their franchise agreements. Capital grants are lump sums of money from the cable operator, generally used for infrastructure improvements. Eleven of the fifteen cities received capital grants from their cable operators. Nine of the eleven capital grants were for PEG equipment and facility improvements. (See Table 6.)

The Town of Shrewsbury’s electrical plant provides cable television to Shrewsbury. Because its cable operator is municipally-owned, Shrewsbury receives extra benefits (special legislation allows the Town of Shrewsbury to operate cable and collect franchise fees). It receives a franchise fee of 5% of gross revenues and the PEG channels receive an additional 3% of gross revenues. In total, the Town of Shrewsbury receives benefits estimated at \$569,774, which include franchise fees, interest income from Cable operating cash, the institutional network, and Internet services

**Table 6: Capital Grant Funding**

Comparison Cities	Total Capital Grant Funding	Purpose
Brookline, MA	\$1,050,000	PEG Equipment & Facilities
Manchester, NH	\$1,200,000	PEG Equipment & Facilities
Boston, MA	\$1,000,000	Boston Public Schools Internet
Chicopee, MA	\$1,000,000	Telecommunications Fund
Dayton, OH	\$750,000	PEG Equipment & Facilities
<b>Worcester, MA</b>	<b>\$700,000</b>	PEG Equipment & Facilities
Yakima, WA	\$591,600	PEG Equipment & Facilities
Madison, WI	\$300,000	PEG Equipment & Facilities
Millbury, MA	\$100,000	PEG Equipment & Facilities
Grand Rapids, MI	\$63,793/year	PEG Equipment & Facilities
Bay City, MI	\$45,000	PEG Equipment & Facilities
Hartford, CT	\$0	N/A
Fort Worth, TX	\$0	N/A
Providence, RI	\$0	N/A
Shrewsbury, MA	\$0	N/A

Source: Franchise agreements of the cities listed above.

provided to Town and schools.<sup>50</sup> Shrewsbury's cable operator also provides the building for the three PEG channels and funds the salary and benefits of three PEG employees. As shown later, Shrewsbury residents also benefit from lower rates because rates are set to cover cable operational costs, not to bring profit to the cable operator.

### Public Access Channels

Public-access programming in the other cities contacted is similar to WCCA programming, featuring religious, news/informational, and ethnic programs. Other cities, however, operate their public access channel with less funding than WCCA receives. Worcester's three PEG channels together received the second-highest level of funding in 2005 at \$1,004,363, even though Worcester has the fourth largest number of subscribers.<sup>51</sup> (See Table 7.)

**Table 7: Public Access Funding 2005**

Comparison Cities	Number of Subscribers	Total PEG Funding	From City	From Cable Operator	PEG <sup>1</sup> Distribution	# PEG Channels
Boston, MA	164,597	\$3,300,000	\$0	\$3,300,000	P 67%, E 14%, G 19%	3
<b>Worcester, MA</b>	<b>48,655</b>	<b>\$1,004,634</b>	<b>\$0</b>	<b>\$1,004,634</b>	<b>P 60%, E 20%, G 20%</b>	<b>3</b>
Dayton, OH	30,000	\$990,000	\$400,000	\$590,000	P \$590,000, G \$400,000	6
Fort Worth, TX	62,000	\$744,000	\$0	\$744,000	No breakdown	5
Grand Rapids, MI	45,000	\$660,000	\$100,000	\$560,000	P \$560,000, G \$100,000	5
Manchester, NH	35,000	\$627,815	\$390,000	\$237,815	P \$237,815, EG \$390,000	3
Yakima, WA	15,000	\$410,000	\$0	\$410,000	No breakdown	2
Brookline, MA	20,114	\$400,000	\$0	\$400,000	No breakdown	3
Madison, WI	54,000	\$390,000	\$0	\$390,000	P 33%, G 65%, 2% for mayor	2
Hartford, CT	27,293	\$188,303	\$0	\$188,303	No breakdown	3
Shrewsbury, MA	11,815	\$172,000	\$0	\$172,000	No breakdown	3
Millbury, MA	4,413	\$55,125	\$0	\$55,125	N/A	3
Bay City, MI	N/A	\$31,000	\$31,000	\$0	One channel	1
Chicopee, MA	18,800	\$24,000	\$0	\$24,000	No breakdown	2
Providence, RI	48,111	\$0	\$0	\$0	N/A	4 <sup>2</sup>

<sup>1</sup>P=public access, E=education, G=government

<sup>2</sup>Cox Communications in RI runs a religion channel as well as the PEG channels.

Source: Information collected from appropriate departments of cities listed above.

In Yakima, WA, the Telecommunications Department runs both the public access channel and the government channel, and also handles public relations for the City with a total budget of \$410,000. Bay City, MI ran its public access channel with \$30,000 in 2005. The public-access channel in Madison, WI, receives 33% of the city's \$390,000 franchise fee revenue, or \$128,700 per year. In other cities, all three channels are produced in the same location; PEG funding in these cases is not broken down by channel. In Brookline, MA, Hartford, CT, and Millbury, MA, total annual funding for all PEG channels is less than

<sup>50</sup> "Memorandum: Shrewsbury Cable Operations," *Shrewsbury Electric Light Plant*, January 23, 2006. The income from Cable operating cash in 2005 was \$41,797. The Electric Light Plant values the I-Net at \$67,200 and the Internet services at \$30,720.

<sup>51</sup> In 2005, before distribution of the \$1,092,143 franchise fee revenue to PEG, the City allocated \$34,634 for cable license administrative costs and \$52,875 for license renewal expenses.

Worcester’s public access funding alone. In Rhode Island, Cox Communications runs three statewide channels and one local public access channel in every community. In total, Cox has eight studios throughout the state to manage local public access production. It costs Cox \$1.2 million per year to run all eight studios and three statewide channels.

According to WCCA’s executive director, WCCA provides more community initiatives and original and first-run programming than these other cities. Before signing a new contract, the City should decide whether franchise fee revenue is best spent on public access funding to support WCCA’s programming and initiatives, on other cable-related needs such as I-Net, or for general government operations as is done in Boston and Brookline. In addition, it should be noted that any franchise fees the City assesses to Charter are likely to be passed on to the subscriber.

**Customer Service Standards/Performance Measurement**

The cities contacted have various ways of measuring the performance of their cable operators, including holding performance hearings, monitoring customer service call centers, and conducting surveys. Brookline has two franchise agreements: one with Comcast, and the other with RCN. Its agreement with Comcast calls for yearly public hearings, with written reports of complaints submitted quarterly.<sup>52</sup> As part of its franchise agreement with RCN, Brookline has access to RCN’s customer telephone service: “The Issuing Authority shall have the right to direct the Licensee to submit a “busy study” from the telephone company which provides service to the Licensee, if the quarterly reports do not clearly document that the Licensee’s telephone lines are accessible to Subscribers.”<sup>53</sup> A “busy study” by the telephone company demonstrates how often the customer service phone lines are busy when subscribers call in. After annual public hearings to measure RCN’s performance, the Issuing Authority prepares a written report summarizing RCN’s performance and submits it to RCN. As part of its cable contract with Hartford, CT, Comcast must conduct three surveys during the franchise term, and submit this information to the City’s Advisory Council. Hartford’s Advisory Council is also allowed to add two questions for each survey conducted. Bay City, MI, conducts performance evaluations twice during its license term and Chicopee holds performance evaluation hearings annually. Only Providence,

**Table 8a: Basic Rate Comparison**

Comparison Cities	Cable Operator	Basic Rate	# of Channels
Brookline, MA	Comcast	\$8.86	31
Boston, MA	Comcast	\$8.86	31
Grand Rapids, MI	Comcast	\$8.86	27
Hartford, CT	Comcast	\$8.86	22
Manchester, NH	Comcast	\$8.86	29
Dayton, OH	Time Warner	\$10.50	23
Fort Worth, TX	OneSource	\$10.95	32
Providence, RI	Cox	\$11.30	22
Shrewsbury, MA	SELP	\$11.63	32
<b>Worcester, MA</b>	<b>Charter</b>	<b>\$11.68</b>	<b>27</b>
Chicopee, MA	Charter	\$11.84	23
Bay City, MI	Charter	\$12.18	25
Millbury, MA	Charter	\$12.79	21
Fort Worth, TX	Verizon, STI	\$12.95	15-35
Madison, WI	Charter	\$14.20	20
Fort Worth, TX	Charter	\$19.05	32
Brookline, MA	RCN	\$19.95	18
Yakima, WA	Charter	\$19.99	25

*Source: Information collected from city department or cable operator customer service.*

<sup>52</sup> “Cable Television Renewal License Granted to Comcast,” May 9, 2006, Section 10.2 and 12.6.

<sup>53</sup> “Cable Television Final License Granted to RCN-Becom,” April 28, 1998, Section 12.3 (e).

**Table 8b: Basic & Expanded Rate Comparison**

Comparison Cities	Cable Operator	Basic & Expanded Rate	# of Channels
Fort Worth, TX	One Source	\$29.99	75
Shrewsbury, MA	SELP	\$33.55	76
Fort Worth, TX	Verizon, STI	\$39.95	160
Providence, RI	Cox	\$45.95	91
Manchester, NH	Comcast	\$47.16	77
Madison, WI	Charter	\$47.99	70
Fort Worth, TX	Charter	\$48.99	85
Yakima, WA	Charter	\$48.99	70
Boston, MA	Comcast	\$49.81	84
Hartford, CT	Comcast	\$49.81	68
Brookline, MA	Comcast	\$49.81	84
Grand Rapids, MI	Comcast	\$49.81	69
Boston, MA	RCN	\$49.95	85
Brookline, MA	RCN	\$49.95	81
Bay City, MI	Charter	\$49.99	77
Dayton, OH	Time Warner	\$57.00	76
Chicopee, MA	Charter	\$57.59	70
Millbury, MA	Charter	\$57.59	77
<b>Worcester, MA</b>	<b>Charter</b>	<b>\$57.59</b>	<b>77</b>

Source: Information collected from city department or cable operator customer service.

operator provides and maintains the I-Net. In the cities contacted either the cost of I-Net is passed on to the subscribers, or the cable operators agree to operate the I-Net free of charge in exchange for paying lower franchise fees. Chicopee, MA, runs its own institutional fiber network, created through its municipal electric company. Two cities, Madison, WI, and Yakima, WA have no I-NET.

### **Statewide Franchises, Statewide Authority**

Some states such as Texas have passed statewide franchising laws that allow cable operators to apply directly to a state agency for a cable license that encompasses the entire state. The municipality has no part in the negotiations. In Texas, municipalities receive 5% of the gross revenues of cable operators within their boundaries. Statewide franchises encourage cable operators to compete with incumbent cable operators. The City of Fort Worth has four cable operators that compete for subscribers. One disadvantage to the statewide franchising system in Texas is an absence of performance measurement for customer service or buildout requirements to cover all subscriber areas in a municipality. Also, subscribers who have complaints about their cable service must direct complaints to the state Public Utilities Commission rather than to municipal officials. According to Fort Worth's Cable Operations, the state agency has informed cable operators not to list its contact information on billing statements so it will not receive subscriber complaints. Even though subscribers continue to complain about the customer service

RI, and Fort Worth, TX have no performance measurement methods.

### **Rates**

In comparison to other cities contacted, Worcester's basic and expanded-tier rate is higher than other locations. (See Table 8b.) In comparison with basic-tier rates in other cities, Worcester has the eleventh-lowest basic rate. Cable operators claim that state regulations, regional factors such as the cost of building cable infrastructure, and franchise agreement concessions all affect rates, creating the disparity between city rates shown in Tables 8a and 8b. Table 8b includes both the basic and expanded-tier rates together, because subscribers cannot purchase expanded-tier service without also purchasing basic.

### **Institutional Network**

I-Net is a valuable component of municipal communication. In 12 of the 15 cities contacted, or 80%, the cable

of their cable operators, Fort Worth has no ability to oust a cable operator because the city is no longer the franchising authority.

In Rhode Island and Connecticut, the states’ Public Utilities Commission (PUC) and Department of Public Utility Control (DPUC), respectively, act as the statewide authorities for cable franchising. The PUC and the DPUC oversee franchises and set the terms for franchise renewals within the state. Cable franchises are not set by the municipality, but by franchise areas that typically comprise a large community with surrounding smaller communities. Hartford has a six-town franchise area. In this way, the municipality is not burdened with the franchise renewal process but it no longer has decision-making power over the franchise. The DPUC collects funding for PEG from the cable operators and distributes it to each public access group.

**Senior Discounts**

Cable operators in a number of cities contacted offer discounts to all senior citizens (defined as people over 65) or senior citizens that are disabled or on financial assistance. (See Table 9.)

**Table 9: Senior Discounts**

<b>Comparison Cities</b>	<b>Senior Discounts<sup>1</sup></b>
Bay City, MI	None
Boston, MA	Comcast- \$5 discount for all seniors
Brookline, MA	RCN - \$2 off basic for economically disadvantaged seniors
Chicopee, MA	10% off basic & expanded for economically disadvantaged or disabled seniors
Dayton, OH	None
Fort Worth, TX	None
Grand Rapids, MI	None
Hartford, CT	10% off basic for economically disadvantaged or disabled seniors
Madison, WI	None
Manchester, NH	10% off basic for all seniors
Millbury, MA	10% off basic for economically disadvantaged or disabled seniors
Providence, RI	N/A
Shrewsbury, MA	25% off basic and expanded for all senior citizens
<b>Worcester, MA</b>	<b>20% off basic for economically disadvantaged or disabled seniors</b>
Yakima, WA	None

<sup>1</sup>Senior defined as anyone age 65 or over.

Source: Cable licenses of the cities listed above.

The Cable TV Advisory Committee’s Ascertainment Report recommends that Charter offer discounted rates to the elderly, the economically disadvantaged, and the disabled. In the current contract, Charter offers a 20% discount off the cost of the basic service tier to “those persons who are over age 65 and who are receiving financial governmental assistance other than social security and who are heads of household, and to those handicapped heads of household

who are receiving supplementary social security assistance.”<sup>54</sup> Broadening the discount to cover all seniors regardless of financial need would in all likelihood entail charging higher fees to all other subscribers. Since some subscribers might have lower incomes than may seniors, the rationale for offering a discount to all seniors is not obvious.

### ***Municipal Telecommunications Agency***

Various city departments in the cities contacted oversee the cable license—the City Manager or Selectmen’s office, the City Solicitor, the Special Projects Division, or the Utilities Division. In Rhode Island and Texas, where the cable operators have state franchises, a state agency oversees the cable license. Worcester’s municipal government is unique in having a special department that is easily accessible to residents and non-residents with questions about Charter. The Telecommunications Department in Yakima, WA, unifies the city’s telecommunications in one office; all of the city’s franchise agreements (cable and phone) are under the oversight of this department. With a staff of five, the Telecommunications Department oversees all franchise agreements, runs the public access and government channel, and acts as Yakima’s public relations office. The budget of the Telecommunications office in 2005 was \$410,000, funded solely by franchise fees collected from Yakima’s cable operator, Charter Communications.

## **PART III: RECOMMENDATIONS**

The Research Bureau offers the following recommendations for the renewal of the City’s contract with Charter Communications:

- **The new contract should include detailed performance standards that Charter is required to meet.**

The City should insist that detailed and specific performance standards be established in the new license. Charter’s customer service line should be monitored by an external agency and reports issued annually to ensure that Charter is fulfilling Federal customer service guidelines. In Brookline, Comcast and RCN are required to respond to complaints and issue a report to the Town of Brookline within ten business days of the complaint. All subscriber problems with Charter in Worcester should be addressed by Charter and a follow-up report issued to the City. If Charter does not resolve these issues or submit adequate reports, the City will have grounds to revoke the license in future negotiations. The Cable TV Advisory Committee should review the Form 500 Complaint Form and Call Center Statistics that Charter submits to the City annually.

In addition to requiring that Charter satisfy FCC customer service standards, an Exhibit should be attached to the contract that explicitly states these standards. The NCTA customer standard clause should be removed from the contract, as these standards are not easily accessed. When the City reviews Charter’s performance annually, it should provide Charter with a written report of any violations of standards so that Charter can address these issues.

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<sup>54</sup> City of Worcester, Commonwealth of Massachusetts, Renewal Cable Television License Granted to Greater Worcester Cablevision, Inc, January 7, 1997, Section 8.5.

- **The contract should include a provision that surveys of residents and subscribers be conducted biennially to determine cable-related needs and opinions about Charter’s services, WCCA, and government and education channels.**

Topics of surveys should include subscriber satisfaction with Charter and PEG channels, concerns about the future needs of the City, and resident opinion of public access programming, extent of viewership, and cost. Pinpointing community technological needs will assist the City in its future negotiations with Charter. Franchise fee revenue could be used to hire a consultant to conduct the surveys. Alternatively, these questions could be included in The Research Bureau’s annual citizen satisfaction with municipal services survey administered in partnership with the City.

Madison, WI, conducts annual surveys to determine public opinion about public access. Identifying resident and subscriber interest, or lack thereof, with public access will aid the City in funding decisions. Questions should include amount of time the subscriber watches PEG channels and an assessment of the value of these channels. Sample size should be large enough to be representative of Worcester subscribers.

- **The City should consider redistributing the franchise revenue that it receives from Charter: 20% for the government channel, 20% for the educational channel, 20% for the public access channel, and 40% for the City’s General Fund.**

The City is not required by state or Federal law to provide a public access channel. City officials and residents need to weigh the cost of providing this channel which currently costs over \$600,000 against funding other important municipal services like public safety and public education. (Adding another public access channel as requested by WCCA may be even more costly.) Other Massachusetts cities, through special legislation, have been able to transfer franchise fee revenue into the General Fund. The old contract specifies that all franchise fee revenue collected by the City should be placed in a special revenue account and used for PEG. The City should not include this provision in the new contract and at the same time should request special legislation so that it has more flexibility with its franchise fee revenue. If it chooses not to apply for special legislation, the City could still use franchise fee revenue for cable-related needs such as I-Net improvements. Alternatively, the City could negotiate a lower franchise fee with the understanding that it would result in lower subscriber fees.

Since the PEG channels were established in Worcester, both the government channel and the educational channel have successfully provided the community with programs using substantially less funding than the public access channel. The public access channel should be run with the same amount of funding as the educational and government channels. The remaining 40% of franchise revenue to the City (about \$450,000) could be used to support other municipal services.

- **The City should specify clearly in its contract with WCCA that Public Access funding be used for production and training—those activities related to providing public access.**

Currently the City's contract with WCCA states that WCCA will "manage, invest and spend the monetary grant it receives from the City solely for public access services, facilities and expenditures."<sup>55</sup> A more specific definition as to what qualifies as public access services should be written into the City's contract with WCCA. Services that WCCA currently provides, such as a community computer lab, may be deemed by the City as an unnecessary expense for the public access studio and not a suitable public access service.

- **The City should ask Charter to replace I-Net coaxial cable with fiber.**

Charter Communications has been providing and maintaining Worcester's I-Net since 1993. I-Net connects over 90 buildings in the City, allowing communications over its coaxial cable network. However, the coaxial cable that makes up I-Net currently is aging and is not as efficient as fiber. Replacing the older coaxial cable with fiber would facilitate both more rapid data transmission and greater reliability.<sup>56</sup> With use of a fiber I-Net, the City could implement Voiceover Internet Protocol (VoIP), offer WiFi (wireless internet access) in more public areas (as it already has in the Worcester Commons and Union Station), and improve its video surveillance system of City Hall. VoIP allows the City to send voice signals over the same line that it sends video and data, reducing the cost to the City of maintaining two different lines for phones and sending information. Currently the City cannot save all the data from its video surveillance because of limited space on the cable to send information; with fiber this information could be sent and stored.

As shown in Table 6, most cities receive capital grants from their cable operators. Instead of requesting a capital grant from Charter, the City should negotiate for Charter to use this money to build a fiber I-Net. If Charter refuses to upgrade I-Net, the City should consider alternative options to Charter for I-Net. Some phone companies, like Verizon, National Grid, and Fibertech, already have some infrastructure in place and could potentially provide the City with I-Net. Ultimately though, these companies would have to build the infrastructure to connect all the municipal buildings and schools that Charter has already connected. The City should consider all options and evaluate the costs associated with these options before signing a permanent, ten-year agreement with Charter.

- **As part of the contract, Charter should be required to send a representative to Cable TV Advisory Committee meetings. The license should emphasize that the Committee is an appointed body of the Issuing Authority and that Charter needs to comply with its requests for information.**

The purpose of the Cable TV Advisory Committee is to discuss and oversee issues related to cable in Worcester. In order to perform its duties, the Committee needs access to information relating to Charter's performance. In Hartford, CT, as part of the franchise

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<sup>55</sup> Agreement between the City of Worcester and Worcester Community Cable Access, Inc.

<sup>56</sup> Phone interview with the City's Information Technology Office, October 18, 2006.



agreement, Comcast must communicate with Advisory Council members and provide requested information. During negotiations, the City Manager should suggest adding a clause in the license that requires Charter's compliance with Advisory Committee requests and stipulates that Charter meet with and report to the Committee as requested by the Committee.

In a Telecommunications Analysis released in April 2005, WPI students recommended that the City consolidate oversight of the phone system, the data system, and the cable contract within one department.<sup>57</sup> Since the institutional network is managed through the cable contract but is related more closely to the Information Services Department than the Law Department, it would be beneficial for one person—a Telecommunications Coordinator—to be responsible for overseeing phone and cable franchises and communication with the Information Services Department. It may be beneficial for the City to hire a Telecommunications Coordinator who has experience with cable licenses and phone franchise agreements and could focus on these issues alone.

- **The City should meet with other cable operators to encourage them to compete with Charter in the Worcester market.**

A study by the U.S. Government Accountability Office (GAO) found that competition between cable operators leads to improved quality and results in cable rates 15% lower than in communities without competition.<sup>58</sup> Worcester should encourage other cable operators to offer cable which may result in lower rates. The biggest obstacle for attracting cable operators is the cost to potential cable operators of building the necessary infrastructure and negotiating a cable franchise with the City. Verizon has already built infrastructure and created competition in 26 Massachusetts communities, and plans to continue to do more building over the next 10 years. If the Commonwealth's DTE were to accept Verizon's petition to speed up the franchise process, Verizon could compete more quickly in MA communities. According to the Verizon Massachusetts website, "in the cities and towns where Verizon competes with cable, prices have been reduced by up to 27 percent and consumers are receiving better services."<sup>59</sup> Given the benefits of competition, the City of Worcester should approach Verizon or other potential cable operators to discuss a cable license.

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<sup>57</sup> Danato Borelli, Seth Desmarais, and Matthew Piette. "City of Worcester Telecommunications Analysis," March 1, 2004.

<sup>58</sup> "Subscriber Rates and Competition in the Cable Television Industry," *Government Accountability Office*, March 25, 2004.

<sup>59</sup> "Message from our President," *Verizon Massachusetts*, [www.verizon.com/ma](http://www.verizon.com/ma) (November 2006).

*Mission Statement:*

*The Research Bureau serves the public interest of the Greater Worcester region by conducting independent, non-partisan research and analysis of public-policy issues to promote informed public debate and decision-making.*



## The Research Bureau

Worcester Regional Research Bureau  
319 Main Street, Worcester, Massachusetts  
Telephone: 508 799 7169 Facsimile: 508 799 4720  
[www.wrrb.org](http://www.wrrb.org)

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