



DATE: May 20, 2019

TO: Bob Bennett, Public Works & Streets Commission Chairman
Public Works & Streets Commission

FROM: Shannon Beaucaire, City Manager

SUBJECT: City of Yachats Franchise Agreements

Chairman Bennett,

The Franchise Agreement specialist at our attorney's office has reviewed the City's 4 Franchise agreements.

Summary of Findings:

- Pioneer Telephone Cooperative (which PEAK is a part of)
 - Telephone and Communication Business
 - 10 year term, expired on June 1, 2017 – now operating on a month-to-month type of lease.
 - 4% fee (per the Franchise, City can increase to 5% with one years' notice) – state law maximum on telecom services is 7%
 - "Gross Revenue" oddly defined.
 - Recommendation: Send franchise application to get them to tell us what services they provide and pay as part of gross revenue. Consider requesting new franchise (and decide on what % fee to charge). Or, consider clarifying (in writing) that they will include any revenue from Direct Link as a part of their Gross Revenue payments to the City.

- Dahl
 - Garbage/Recycle
 - See muni code for terms/conditions

- 3% fee
 - Odd term and renewal section 5.10.070
 - On April 13 of each year, the Franchise rolls over another 6 year term. So, this Franchise renewed for 6 years on April 13, 2019.
 - Recommendation – no action needed as this franchise continues to automatically renew. When renewal comes up look at increasing from 3%. Comparison factors: North Bend 4.5%, Redmond 4.1%, Turner 3%, Bend 4%.
- Central PUD
 - Power Company
 - Ordinance NO.216
 - 3.5% fee. Expires January of 2021.
 - Any fee above 3.5% the PUD may recoup and add a line item to their bills.
 - Recommendation: Consider requesting new a franchise and consider increasing the fee. The general terms and conditions are ok, but the fee may be increased. Keep in mind that any fee above 3.5% may be passed on to the consumers with a line item noting the City is to blame. Reedsport and Florence Central PUDs each charge 5%. In my experience, 5% is the most common franchise fee for electric utilities.
 - Charter Communications
 - Effective March 12, 2015
 - 5 year term with auto 5 year renewal (unless notified of non-renewal 3 years prior to termination) = extends to March of 2025.
 - 5% fee
 - Recommendation: no action needed.
 - Charter pays 5% of the revenue from Cable Services, which is the max you can charge them under the federal Cable Act. If they also provide Internet and Phone service, they are not paying on revenue from those services. Some cities have adopted a General Right of Way ordinance that sets a franchise fee on all services a company provides. Charter (and Comcast) argue cities are double-dipping with that, but the Oregon Supreme Court says otherwise. If you want to look more into this (and if Charter provides internet services), let's talk. The Cable companies are now going to the FCC demanding action on these ROW ordinances and naming many Oregon cities as "bad actors".

Request from Commission:

Please review the attorney's findings and provide recommendations for pursuing the Pioneer Franchise agreement update, as well as, a plan of action for pursuing updates to agreements in the future.