

Resolution No:	<u>15-1477</u>
Introduced:	<u>May 25, 2006</u>
Adopted:	<u>May 25, 2006</u>

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Approval of the FY 2007 Cable Communications Plan

Background

1. Section 8A-28(a) of the County Code provides that “All access grants, franchise fees, and other moneys received by the County from any franchisee may be spent only under a budget approved by the County Council and in accordance with the County Cable Communications Plan.”
2. Section 8A-28(b) of the County Code provides that “The Cable Communications Plan must be proposed by the County Executive to the Council annually and may be amended at any time.”
3. Section 2.2 of the 2002 AT&T Comcast Transfer Agreement provides that “. . . all provisions of the Franchise Documents remain in full force and effect and are enforceable in accordance with their terms and with applicable law.”
4. Section 7(b) of the 2000 Franchise Agreement with Comcast provides that Comcast must pay a capital grant to the County of “\$200,000 per year . . . to be used by the County, in its sole discretion, for PEG equipment . . . or for PEG-related facilities renovation, or construction.”
5. Section 7(h)(1) of the 2000 Franchise Agreement with Comcast provides that Comcast must pay an annual capital grant to the County of \$1.2 million, adjusted annually by the Consumer Price Index, “to support installation, construction, operations, and maintenance of the County’s FiberNet and associated network equipment, and the Institutional Network . . .”
6. Section 4.1 of the 1998 Cable Franchise Transfer Settlement Agreement, assumed by Comcast from Prime Communications – Potomac, LLC, between the County, Prime Communications, and SBC Media Ventures, Inc., provides that Comcast must pay \$1.5 million, adjusted annually by the Consumer Price Index, for PEG support.

7. Section 7(b) of the 1999 Franchise Agreement with Starpower provides that Starpower must pay a capital grant to the County of “3% of Gross Revenues per year . . . excluding revenues arising from Internet Access . . . to be used by the County . . . for PEG access and institutional network purposes, including PEG access equipment, institutional network equipment or for renovation or construction of PEG access or institutional network facilities.”
8. On February 8, 2005, the County Council approved Resolution 15-889 supporting the transfer of interest in Starpower Communications L.L.C. from Pepco Communications to RCN Telecom Services of Washington, D.C., Inc. Starpower is now doing business as RCN.
9. Section 8 of the Franchise Agreements with Comcast and RCN provides that each franchisee must pay, for the life of the franchise, a franchise fee of 5 percent of annual gross revenues.

General Provisions

1. Purpose and Effect: This Cable Communications Plan constitutes the County’s formal direction for the use of resources required to be provided under Sections 7 and 8 of the Franchise Agreements with Comcast and RCN.

In FY 2007, these resources must be deposited by the County in its Cable TV Special Revenue Fund, and this Cable Communications Plan directs the use of the revenues in this Fund.

2. Spending Authority under the Time Period Governed by This Plan: This Cable Communications Plan provides spending authority for FY 2007. Resources appropriated in FY 2007 that are not encumbered by the County on or before June 30, 2007, must remain in the Cable TV Special Revenue Fund and be available for spending in future years.
3. Carryover: Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast and RCN, but not specifically allocated in the Cable Communications Plan to the General Fund, must remain in the Cable TV Special Revenue Fund and be available to be allocated in future years.
4. Future Fiscal Years: No estimate shown for any fiscal year after FY 2007 reflects any commitment or decision by the Council, and any such estimate should not be taken as prejudging any decision regarding activities or allocations, either in absolute or relative amounts, of expenditures for future years.
5. Management of Funds: All equipment, personnel, and other resources approved in the Cable Communications Plan for funding from the Cable TV Special Revenue Fund must be managed so that the resources are reasonably available to all users of the cable system and provide benefits to the subscribing public and the franchisee.
6. Affirmative Action and MFD Procurement Procedures: The Board of Directors of Montgomery Community Television, Inc. (MCT), must adopt and follow an Affirmative

Action Plan and procedures for procurements from minority-, female-, and disabled-owned businesses (MFD) that take into account both the requirements of the Franchise Agreements with Comcast and RCN and relevant provisions of the County Code.

7. Financial Disclosure: The County must not spend any FY 2007 funds allocated to MCT until all members of the board of directors and the executive director of MCT have filed a financial disclosure statement with the Ethics Commission for the 2005 calendar year.
8. FY 2008-2013 Cable Plan: The Executive must submit a preliminary six-year Cable Communications Plan for FY 2008 through FY 2013 to the Council no later than January 16, 2007. The Executive submitted a preliminary 6-year Cable Communications Plan for FY 2006 through FY 2011 to the Council on January 13, 2006. The Preliminary Cable Communications Plan included: (a) a list of known PEG activities and funding needs for FY 2006 through FY 2011; (b) a preliminary plan for prioritizing PEG funding needs within the context of the County's long-term vision for Cable television; (c) any capital project expenditures proposed to be funded through the plan; (d) changes to approved multi-year expenditures; and (e) updated projections of plan revenues for FY 2006 through FY 2011.

FY 2007 Cable Communications Plan Description

The FY 2007 Cable Communications Plan provides funding for cable franchise administration (Department of Technology Services, County Attorney's Office, and outside professional services); for municipal equipment and support; for public, educational, and government access programming (Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); and for other miscellaneous cable-related activities.

The attached table details the approved expenditures from the Cable TV Special Revenue Fund for the following purposes in FY 2007:

Franchise Administration

- A. Funds are allocated to the Department of Technology Services to administer the Franchise Agreements with Comcast and RCN, including inspecting construction, testing signal quality, responding to residents' complaints, budgeting franchise fee and grant funds received from the cable operator, managing the contract to provide public access services, supporting an advisory committee, administering Federal Communications Commission rules and regulations, preparing for and negotiating franchise agreements, and advising elected officials on related policy matters.
- B. Funds are allocated to the County Attorney's Office to support the in-house staff costs associated with advising the Department of Technology Services and elected officials on related matters.

- C. Funds are allocated to hire outside professional services to advise or represent the County in areas of specialized telecommunications needs.

Municipal Support

- D. Funds are allocated for sharing franchise fee revenue with the municipal co-franchisors in accordance with the formula in Section 8A-30 of the County Code.
- E. Funds are allocated to support the 3 PEG channels allocated to (1) the City of Rockville; (2) the City of Takoma Park; and (3) the Montgomery County Chapter of the Maryland Municipal League. Funds are allocated from the Capital Equipment Support Grants, according to the requirements of Section 7(b)(1)(B) of the Franchise Agreement with RCN, the requirements of Section 7(b)(2) of the Franchise Agreement with Comcast, and from the PEG Support Fund according to the requirements of Section 4.1 of the 1998 Cable Franchise Transfer Settlement Agreement assumed by Comcast from Prime Communications. Funds are allocated from the PEG Support Fund to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Settlement Agreement.

County Government Access Programming

- F. Funds are allocated for managing the County Government Channel, maintaining County Government Channel video equipment, closed captioning of County Government programming, and for the operation of the Technical Operations Center to monitor and adjust technical quality of PEG Programming.

Funds are allocated to the Office of Public Information for in-house staff to produce Executive Branch programming for the County Government Channel. Funds are allocated for the Office of Public Information for contractors to provide the technical services needed to produce, tape, and transmit programs, and to improve the program guide for the channel.

Funds are allocated to the Council for contractors to provide cable-related services including the technical services needed to produce programming for the Council, the Planning Board, the Parks Department, and Legislative Branch agencies, and to improve the program guide for the County Government Channel.

Educational Access Programming

- G. Funds are allocated to Montgomery College to produce educational programs and operate a cable channel with in-house staff.
- H. Funds are allocated to Montgomery County Public Schools to produce educational programs for children, parents, and teachers; carry Board of Education meetings; and run other educational programming of interest to County residents. MCPS currently operates two educational access channels on the cable system.

Public Access Programming

- I. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2007 specified in its contract with the County, including the following:
- (1) produce and schedule two public access channels, including disseminating information on the daily program schedule;
 - (2) train community producers and technicians in program production and assist residents and community organizations in developing locally produced or locally sponsored programming;
 - (3) provide and maintain a central access studio, field production equipment, and editing facilities for use by community producers in program production;
 - (4) maintain all video equipment provided to MCT or purchased by MCT with cable company or County funds;
 - (5) produce local interest and public affairs programming;
 - (6) promote and encourage programming representing a diversity of community interests and needs; and
 - (7) perform outreach and create programming in the down-county area.

PEG Network

- J. For FY 2007, funds are allocated for PEG Equipment Replacement, for an Emergency Equipment Reserve to be used in case of imminent failure of major PEG video systems, for joint PEG Programming/Promotion, PEG Network Engineering and Administration, closed captioning of select PEG programming, and for PEG Programming to provide access to cable by community organizations.

The Council wishes to encourage the most cost-effective operations of the PEG Channels and has directed the PEG Network to enhance the sharing of equipment, facilities, and personnel. All funds appropriated for PEG Equipment Replacement must be administered by the Office of Cable and Communications Services. Before spending any funds for this purpose, the PEG Network must report to the Council and the Executive on their plans for the purchase and allocation of replacement equipment. The Council intends that preference be given to purchases of equipment and facilities that can be shared by more than one PEG Channel.

The Council encourages the municipal co-franchisors to develop plans for purchasing equipment, using engineering expertise available from the other PEG Channels and the Office of Cable and Communications Services, and acquiring equipment that facilitates the sharing of resources with other PEG channels.

The Office of Cable and Communications Services must not spend funds from the Emergency Equipment Reserve until the PEG Network finds that additional replacement funds are needed to prevent interruption of programming on one or more PEG Channels.

All equipment purchased with Cable Funds, except equipment purchased with Municipal Grant funds or funds allocated to the Village of Friendship Heights under this Plan, must be titled to the Montgomery County Government, which may, under appropriate controls, allocate some of the equipment for use to individual PEG Channels.

Before the PEG Network may spend funds allocated for PEG joint Programming/Promotion, the Network must report its general plans to the Council and the Executive.

For FY 2007, funds are allocated to maintain County mobile production vehicles.

For FY 2007, funds are allocated to replace the microphone system in the Board of Education's meeting room.

Other Expenditures

- K. For FY 2007, funds are allocated to the Village of Friendship Heights for cable programming and equipment expenses.

Institutional Telecommunications

- L. For FY 2007, funds are allocated for Institutional Telecommunications for FiberNet capital improvements and operations. The County's Franchise Agreement with Comcast, assumed from Prime Communications, provides that Comcast must pay grants to support operations, maintenance, and the installation of cables and electronic equipment for the County's FiberNet.

The County plans to expand the FiberNet network to meet the telecommunications needs of County agency facilities. The Department of Technology Services must develop a FiberNet buildout plan that identifies facilities with the greatest need for high-speed voice, data, and video transmissions and for which FiberNet offers lower cost service than private sector telecommunications providers. User agencies must notify the Council before paying any fee to or entering into any agreement with any private provider, if using FiberNet to serve specific facilities is more advantageous to the County. The Council will then consider if adjustments to the funded FiberNet buildout schedule are warranted to avoid paying excessive fees to private providers for telecommunications service to any specific facility.

General Fund Transfers and Repayment Schedule

- M. In FY 2004, \$2,636,000 was appropriated from the Cable TV Special Revenue Fund to the General Fund to finance general government operations. This was the first year that the Executive recommended transferring funds derived from franchise fees for unspecified general government operations.

In FY 2006, the Council allocated \$1,241,000 to fund the County's Automated Traffic Management System. These funds must be repaid according to the same terms and schedule as the General Fund transfers detailed below.

In FY 2007, the Council allocated \$284,000 to fund technology projects for the Montgomery County portion of the Maryland-National Capital Park and Planning Commission Operating Budget. These funds must be repaid according to the same terms and schedule as the FY 2006 General Fund transfer detailed below.

The FY 2004 General Fund transfer, the FY 2006 funding for the Automated Traffic Management System, and the FY 2007 funding for technology projects for the Montgomery County portion of the Maryland-National Capital Park and Planning Commission must be repaid without interest according to the following schedule: \$832,000 annually beginning in FY 2008 and continuing through FY 2012, for a total of \$4,160,000.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Council approves the attached Cable Communications Plan as described in this resolution and appropriates cable communications grant resources and settlement funds as provided in the Cable Communications Plan and this resolution and any amendments to either that the Council adopts for FY 2007.

This is a correct copy of Council action.



Elda M. Dodson, CMC
Acting Clerk of the Council

FY07 CABLE COMMUNICATIONS PLAN (\$000's)

SCHEDULED EXPENDITURES	Actual	Approved	Estimated	Approved	% Chg					
	FY05	FY06	FY06	FY07	From '06 Plan	FY08	FY09	FY10	FY11	FY12
CPI (Fiscal Year)	2.7%	2.6%	2.8%	2.6%		2.6%	2.7%	2.7%	2.7%	2.7%
BEGINNING FUND BALANCE	1,310	2,165	1,607	2,584	19.4%	962	695	207	573	942
REVENUES										
5% Franchise Fee	6,503	8,696	10,906	8,936	2.8%	9,168	9,416	9,670	9,931	10,199
G'Burg PEG Contribution	112	159	192	152	-4.4%	156	160	164	168	173
PEG Operating	1,895	1,949	1,978	2,014	3.3%	2,066	2,122	2,179	2,238	2,298
PEG Capital/Equipment	222	227	230	236	4.0%	242	249	256	263	270
FiberNet Operating	1,369	1,399	1,417	1,453	3.9%	1,491	1,531	1,572	1,614	1,658
Interest Earned	110	170	170	178	4.7%	186	195	204	214	224
Tower Review Fees	99	42	60	55	31.0%	56	58	60	62	64
Miscellaneous	0	0	0	0	0.0%	0	0	0	0	0
Transfer from the General Fund	0	0	0	0	0.0%	832	832	832	832	832
TOTAL ANNUAL REVENUES	10,310	12,642	14,953	13,024	3.0%	14,197	14,563	14,937	15,322	15,718
TOTAL RESOURCES-CABLE FUND	11,620	14,807	16,560	15,608	5.4%	15,159	15,258	15,144	15,895	16,660
EXPENDITURES										
A. FRANCHISE ADMINISTRATION										
Personnel Costs	611	681	571	698 +	2.5%	716	735	755	775	796
Oper. Exp. & Cap. Outlay	86	62	62	71 +	14.5%	73	75	77	79	81
Engineering/Inspection	480	485	485	510 +	5.2%	523	537	551	566	581
Indirect costs trans to Gen Fund	178	167	174	194 ¹	16.2%	194	194	194	194	194
SUBTOTAL	1,355	1,395	1,292	1,473	5.6%	1,506	1,541	1,577	1,614	1,652
B. COUNTY ATTORNEY										
Personnel Costs	65	72	72	76	5.6%	79	83	87	91	95
SUBTOTAL	65	72	72	76 ^{2 +}	5.6%	79	83	87	91	95
C. OUTSIDE PROFESSIONAL SERVICES										
Legal and other	319	375	375	400	6.7%	410	421	432	444	456
SUBTOTAL	319	375	375	400 +	6.7%	410	421	432	444	456
D. MUNI. FRANCHISE FEE SHARING										
Revenues to municipalities	645	620	627	643	3.8%	660	678	696	715	734
SUBTOTAL	645	620	627	643 +	3.8%	660	678	696	715	734
E. MUNICIPAL EQUIPMENT & OPERATIONS										
Rockville Equipment (a)	46	45	48	50	11.1%	51	52	53	54	55
Rockville PEG Operating Support (a)	58	59	60	62	5.1%	64	66	68	70	72
Takoma Park Equipment (a)	46	45	48	50	11.1%	51	52	53	54	55
Takoma Park PEG Oper. Support (a)	58	59	60	62	5.1%	64	66	68	70	72
Municipal League Eqp. (a)	46	45	48	50	11.1%	51	52	53	54	55
Muni. League PEG Oper. Support (a)	58	59	60	62	5.1%	64	66	68	70	72
SUBTOTAL	312	312	324	336 +	7.7%	345	354	363	372	381
F. COUNTY CABLE MONTGOMERY										
Administration										
Personnel Costs	135	190	149	264 +	38.9%	282	290	299	307	316
Operating	10	14	14	24 +	71.4%	25	26	27	28	29
Closed Captioning	113	181	181	248 +	37.0%	254	261	268	275	282
Technical Operations Center (TOC)	144	145	145	52 +	-64.1%	27	28	29	30	31
Arts PEG - AFI	0	0	0	0 +	0.0%	0	0	0	0	0
VOD, Community BB, web services	45	38	38	48 +	26.3%	49	50	51	52	53
Public Information Office										
Personnel Costs	162	159	159	175 ^{2 +}	10.1%	183	192	201	210	220
Operating Expenses	0	10	10	10 ^{2 +}	0.0%	11	12	13	14	15
Contracts - TV Production	302	368	368	414 +	12.5%	425	436	448	460	472
County Council										
Personnel Costs	25	30	30	32 ^{2 +}	6.7%	33	34	35	36	38
Operating Expenses	40	44	44	86 +	95.5%	48	50	52	54	55
Contracts - TV Production	312	372	372	440 +	18.3%	451	463	476	489	502
SUBTOTAL	1,288	1,551	1,510	1,793	15.6%	1,788	1,842	1,899	1,955	2,013

These projections for the Cable TV Fund incorporate assumptions of annual resources and resource usage as well as projected end-of-year reserves available based on these assumptions. This scenario assumes that operating expenditures will experience net increases as a trend. Factors contributing to the assumed rate of increase include compensation adjustments, program and productivity improvements, and cost increases driven by inflation. This scenario represents one possible fiscal future based on the incorporated set of expenditure and resource assumptions. Other scenarios would occur if the County Executive and County Council adopted a different program plan or if the future brings different trends than presumed in the incorporated assumptions. The County Executive presents these fiscal projections as a tool for thinking about the future fiscal policy implications of the recommended program of expenditures and resources.

FY07 CABLE COMMUNICATIONS PLAN (\$000's)

SCHEDULED EXPENDITURES	Actual FY05	Approved FY06	Estimated FY06	Approved FY07	% Chg					
					From '06 Plan	FY08	FY09	FY10	FY11	FY12
G. MONTGOMERY COLLEGE										
Personnel Costs	727	752	752	868 ³	15.4%	891	915	940	965	991
Operating Expenses	121	187	187	199 ³	6.4%	204	210	216	222	228
SUBTOTAL	848	939	939	1,067	13.6%	1,095	1,125	1,156	1,187	1,219
H. PUBLIC SCHOOLS										
Personnel Costs	1043	1080	1080	1173 ⁴	8.6%	1,203	1,235	1,268	1,302	1,337
Operating Expenses	134	158	158	210 ⁴	32.9%	215	221	227	233	239
SUBTOTAL	1,177	1,238	1,238	1,383	11.7%	1,418	1,456	1,495	1,535	1,576
I. COMMUNITY ACCESS ORGANIZATIONS (b)										
Personnel Costs	1,400	1,548	1,548	1,685	8.9%	1,729	1,776	1,824	1,873	1,924
Operating Expenses	680	726	726	720	-0.8%	739	759	779	800	822
SUBTOTAL	2,080	2,274	2,274	2,405 +	5.8%	2,468	2,535	2,603	2,673	2,746
J. PEG NETWORK										
PEG Equipment Replacement	698	803	803	879 +	9.5%	843	885	930	976	1025
Emergency Equipment Reserve	0	50	50	80 +	60.0%	82	84	86	88	90
PEG Network Engineering & Admin	30	40	40	142 +	255.0%	44	46	49	51	54
Community Programming	30	44	44	46 +	4.5%	49	51	53	56	59
PEG Promotion	35	30	30	34 +	13.3%	36	37	38	40	42
PEG Network Operating	19	57	57	90 +	57.9%	92	94	97	100	103
Mobile Production Vehicle	19	595	595	82 +	-86.2%	86	90	95	100	105
SUBTOTAL	831	1,619	1,619	1,353	-16.4%	1,232	1,287	1,348	1,411	1,478
K. OTHER										
Down County Comm. Media Facility	23	27	27	0 +	-100.0%	0	0	0	0	0
Grants to Organizations	39	39	39	39 +	0.0%	39	39	39	39	39
SUBTOTAL	62	66	66	39	-40.9%	39	39	39	39	39
PEG + ADMIN. SUBTOTAL	8,982	10,461	10,336	10,968	4.9%	11,040	11,361	11,695	12,036	12,389
L. INSTITUTIONAL TELECOMMUNICATIONS										
FiberNet-Operations (DTS)	938	1,185	1,185	1,175 +	-0.8%	1,206	1,239	1,272	1,306	1,341
FiberNet-Operations (DPWT)	210	214	214	249 +	16.4%	255	262	269	276	283
FiberNet-CIP	1,000	1,000	1,000	1,970 ⁶	97.0%	1,735	1,560	1,335	1,335	1,310
COB Renovations - CIP	0	0	0	0 ⁶	0.0%	228	629	0	0	0
Advanced Transportation Management System (ATMS) - CIP	0	1,241	1,241	0	-100.0%	0	0	0	0	0
Park & Planning Technology Projects	0	0	0	284 ⁷	0.0%	0	0	0	0	0
SUBTOTAL	2,148	3,640	3,640	3,678	-14.4%	3,424	3,690	2,876	2,917	2,934
TOTAL EXPEND-PROGRAMS	8,241	14,101	13,976	14,646	5.8%	14,464	15,051	14,571	14,953	15,323
OTHER USES OF CATV FUNDS -										
Prior Year Adjustments	(2,889)	0	0	0	0.0%	0	0	0	0	0
Transfer to the General Fund	2203	0	0	284	0.0%	0	0	0	0	0
TOTAL OTHER USES & ADJ. -	-686	0	0	284	0%	0	0	0	0	0
SURPLUS (DEFICIT)	297	(1,459)	977	(1,622)	11.2%	(267)	(488)	366	369	395
FUND BALANCE	1,607	706	2,584	962	36.2%	695	207	573	942	1,337
FUND BALANCE per Policy Guidance	537	713	891	734		753	774	795	817	839
EXPENDITURES BY FUNDING SOURCE										
Transfer to Gen Fund-Indirect Costs	178	167	174	194 ¹	16.2%	194	194	194	194	194
Transfer to Gen Fund-Cable Opns	0	0	0	0 ²	0.0%	0	0	0	0	0
Trans to Gen Fund-Mont Coll Cable Fd	848	939	939	1,067 ³	13.6%	1,095	1,125	1,156	1,187	1,219
Trans to Gen Fund-Public Sch Cable Fd	1,177	1,238	1,238	1,383 ⁴	11.7%	1,418	1,456	1,495	1,535	1,576
Trans to Gen Fund-FIBERNET Operations	0	0	0	0 ⁵	0.0%	0	0	0	0	0
Transfer to CIP Fund	1,000	2,241	2,241	1,970 ⁶	-12.1%	1,963	2,189	1,335	1,335	1,310
Transfer to the General Fund-Other	2,203	0	0	284 ⁷	0.0%	0	0	0	0	0
CATV Fund Direct Expenditures	7,241	9,516	9,384	9,748 +	2.4%	9,794	10,087	10,391	10,702	11,024
TOTAL EXPEND-FUNDING SOURCE	12,647	14,101	13,976	14,646	3.9%	14,464	15,051	14,571	14,953	15,323

NOTES:

¹ Transferred from the Cable Television Special Revenue Fund to the General Fund-Indirect Costs.

² Transferred to General Fund for Cable Operations in prior years.

³ Transferred to General Fund for Montgomery College Cable Fund.

⁴ Transferred to General Fund for Montgomery County Public Schools Cable Fund.

⁵ Transferred to General Fund for FIBERNET Operations in prior years.

⁶ Transferred to CIP Fund

⁷ Transferred to to General Fund for Other Technology Related Use

(+) Funded directly from the Cable Television Special Revenue Fund.

(a) Maximum cable company contribution to fund municipal equipment

(b) Currently Montgomery Community Television, Inc.