

SPECIAL MEETING

SACRAMENTO CITY COUNCIL

JUNE 9, 1983

THURSDAY

2:30 p.m.

I HEREBY CALL a Special Meeting of the Sacramento City Council, on June 9, 1983, at the hour of 2:30 p.m., to be held at:

COUNTY SUPERVISORS BOARD CHAMBERS
700 H STREET, ROOM 1450
SACRAMENTO, CALIFORNIA

to meet in Joint Session with the:

SACRAMENTO COUNTY BOARD OF SUPERVISORS

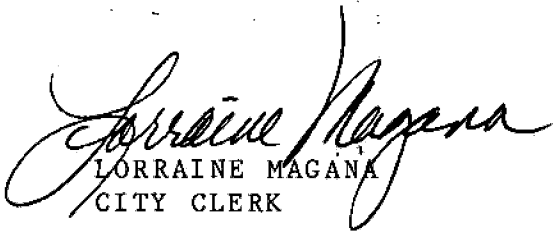
for the purpose of discussing the Cable TV refranchising process.

ISSUED: This Third Day of June, 1983



R. BURNETT MILLER
MAYOR

ATTEST:



LORRAINE MAGANA
CITY CLERK

Agency/Synopsis
Joint Meeting with County Board of Supervisors
Special Meeting for Cable T.V.
June 9, 1983

1. Cable T. V.

A. Status report on recession option offer to United-Tribune Cable

COUNCIL ACTION: FILED

VOTING RECORD: BY CONSENSUS

B. Rebid issues and procedures.

COUNCIL ACTION: CONTINUED TO JULY 6, 1983, 2:30 p.m.; ROOM
1450, BOARD OF SUPERVISORS CHAMBERS, 700 H
STREET.

VOTING RECORD: AYES: D7, D3, D8, D4, D5
NOES: D2, D1
ABSTAIN: D6, M

CITY CLERK
LORAIN MAGANA
915 I STREET
SACRAMENTO CA 95814

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO

A G E N D A
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION
IN JOINT MEETING WITH
THE CITY COUNCIL
AND
BOARD OF SUPERVISORS
RELATING TO CABLE TELEVISION
700 "H" STREET - BOARD CHAMBERS
SACRAMENTO, CALIFORNIA 95814

JUN 7 12 49 PM '83

THURSDAY JUNE 9, 1983 2:30 P.M.

Directors: Bill Bryan; Illa Collin; Orvell Fletcher; Toby Johnson; Terry Kastanis; Lynn Robie; Joe Serna; Ted Sheedy; Sandy Smoley

ITEM NO. I: STAFF REPORT: Status Report on Rescission Option Offer to UTC

ITEM NO. II: WORKSHOP: Rebid Issues and Procedures

(ITEM NO. III: STAFF REPORT: CABLE COMMISSION ONLY)
Employee Coverage Under the Public)
Employees Retirement System (PERS))

SACRAMENTO METROPOLITAN



Cable
UTC Television
Commission

SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

ROBERT E. SMITH
EXECUTIVE DIRECTOR

June 6, 1983

To: Members, City Council/Board of Supervisors

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

Subject: UTC RESPONSE TO THE SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION'S JUNE 1 OFFER OF A FRANCHISE

On June 1, the Commission unanimously offered United Tribune the franchise with:

- The \$50 million cap reduced to \$10 million upon the issuance of the Certificate of Completion at the end of the construction period. The \$10 million will be reduced by any franchise fees paid.
- Full subordination of the Commission's right to a third party lender.
- Removal of Tier I rate regulations.
- Changed Resolution language pertaining to non-repeat, community use cablecasting to the language of the Ordinance, and
- The 180 day Rescission period if Tribune Company and United were to deposit \$2 million in cash as an option fee. One million remains available to the Commission should UTC decide to rescind, with the other one million to be credited to UTC for certain expenditures made during this six month period. Any amounts in excess of those claimed by UTC would also revert to the Commission.

On June 6, 1983, Mr. William Cullen, President of UTC responded to the final offer of the Sacramento Metropolitan Cable Television Commission indicating that "initially the Tribune Company found the proposal unacceptable". Further discussions between Mr. Cullen and staff made it clear that the likelihood of Tribune Company accepting the Franchise is non-existent. However, the United Cable Television Corporation of Denver is interested in having the process move forward and will accept the Franchise. Mr. Cullen, indicated that he would require until Thursday morning to determine whether there is a possibility that the United Cable Company, either alone or with a change in ownership of joint venture, would accept the Franchise as offered.

In addition, he indicated that there was some confusion regarding the Commission's advisory vote on the \$50 million "cap on corporate liability". He had previously informed members of the City Council that he would accept the \$50 million cap only if it were reduced by any equity, capital investment, or irrevocable letter of credit issued to the joint venture by the parent corporations. This had been UTC's position for at least a week prior to the May 31, 1983 City Council action.

Councilman Kastanis concurred that this modified corporate limit was the concept he asked the City Council to approve.

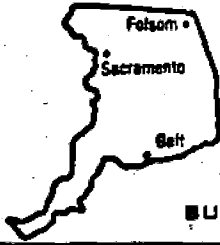
Since UTC failed to secure both parent corporation's agreement to this last offer, it is our recommendation that you adopt the Resolution rejecting all bids and consider the refranchising report dated May 17, 1983.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bob Smith".

BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

SACRAMENTO METROPOLITAN



Cable
Television
Commission

SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

ROBERT E. SMITH
EXECUTIVE DIRECTOR

Reissued June 7, 1983

May 17, 1983

To: Members, Sacramento Metropolitan Cable Television Commission

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

Subject: STAFF REPORT ON EMPLOYEE COVERAGE UNDER THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Two additional Commission actions are required to complete the retirement portion of the PERS contract. Pursuant to G.C. Section 7507, it is necessary to make public the intent to contract with PERS for retirement benefits and the related costs of doing so, and at least two weeks later, adopt a final document (attached).

The proposed Commission Budget includes \$8,094 for PERS retirement costs for two employees for the 1983-84 fiscal year.

At your July 6, 1983 meeting, the results of a secret ballot of your employees will be released and you will be asked to approve the final contract. Following ratification of this contract by PERS, another approval will be required for employee health benefits.

It is recommended that you approve the attached Resolution of Intent for PERS Retirement benefits.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bob Smith".

BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

RESOLUTION OF INTENTION
TO APPROVE A CONTRACT BETWEEN THE
BOARD OF ADMINISTRATION OF THE
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
BOARD OF DIRECTORS
OF THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies in the Public Employees' Retirement System, making their employees members of said System, and sets forth the procedure by which participation may be accomplished; and

WHEREAS, one of the steps required in the procedure is the adoption by the Governing Body of the Public Agency of a resolution giving notice of intention to approve a contract for such participation between said Governing Body and the Retirement System Board of Administration, which resolution shall contain a summary of the major provisions of the proposed retirement plan; and

WHEREAS, attached is a summary of the major provisions of the proposed plan:

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the above agency gives, and it does hereby give notice of intention to approve a contract between said Governing Body and the Board of Administration of the Public Employees' Retirement System, providing for participation of said agency in said Retirement System, a copy of said contract and a copy of the summary of the major provisions of the proposed plan being attached hereto, as an "Exhibit", and by this reference made a part hereof.

BY _____
(Name)

(Title)

(Date adopted and approved)

CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
BOARD OF DIRECTORS
OF THE
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

PLEASE DO NOT SIGN "EXHIBIT ONLY"

In consideration of the covenants and agreement hereafter contained and on the part of both parties to be kept and performed, the governing body of above public agency, hereafter referred to as "Public Agency", and the Board of Administration, Public Employees' Retirement System hereafter referred to as "Board", hereby agree as follows:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for local miscellaneous members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after _____ making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except such as by express provisions thereof apply only on the election of contracting agencies.
3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Employees other than local safety members (herein referred to as local miscellaneous members).

In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

ALL LOCAL SAFETY EMPLOYEES .

4. The fraction of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member shall be determined in accordance with Section 21251.13 of said Retirement Law subject to the reduction provided therein for Federal Social Security (Modified 2% at age 60).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

5. Public Agency, in accordance with Section 20759.1 Government Code, shall not be considered an "employer" for purposes of Chapter 6 of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Section 20759, Government Code, and such contributions hereafter made shall be held by the Board as provided in Section 20759, Government Code.
6. Public Agency shall contribute to said Retirement System as follows:
 - a. With respect to miscellaneous members, the agency shall contribute the following percentages of monthly salaries earned as miscellaneous members of said Retirement System:
 - (1) 0.032 percent until June 30, 2011 on account of the liability for prior service benefits.
 - (2) 6.868 percent until June 30, 2011 on account of the liability for current service benefits.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
7. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
8. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within thirty days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances, or adjustments on account of errors in contributions required of any employee may be made by direct cash payments between the employee and the Board. Payments by Public Agency to Board may be made in the form of warrants, bank checks, bank drafts, certified checks, money orders or cash.

Witness our hands the _____ day of _____, 19__.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
OF THE
SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION

PLEASE DO NOT SIGN "EXHIBIT ONLY"

BY _____
CARL J. BLECHINGER, EXECUTIVE OFFICER

BY _____
Presiding Officer

Approved as to form:

Attest:

Margaret J. Hoehn, 4/25/83
Margaret J. Hoehn, Legal Office, Date

Clerk

PERS CON-702



Reissued June 7, 1983
May 17, 1983

FOR CABLE COMMISSION MEETING/WORKSHOP
June 9, 1983

To: Members, Sacramento Metropolitan Cable
Television Commission

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

Subject: WORKSHOP - REBIDDING THE SACRAMENTO CABLE TELEVISION
FRANCHISE

Introduction

At the suggestion of Supervisor Bill Bryan, Chairman of your Commission, a workshop has been established to discuss rebidding the Sacramento Cable Franchise. This workshop will provide an opportunity to freely discuss all of the issues surrounding the selection of United Tribune Cable, the negotiations which ensued, and improvements which could be incorporated in the new franchising process. Following the workshop, the Commission's recommendations will be presented to a Joint Board of Supervisors/City Council meeting scheduled for June 8, 1983, at 2:30 p.m. in the Board of Supervisors' Chambers, 700 "H" Street.

Discussed below are five staff issues and suggestions relating to the rebidding of the Franchise:

- 1) Should the bidding be opened to all interested cable firms or effectively restricted to the previously unsuccessful applicants?
- 2) Should the UTC Resolution be incorporated into the Request for Proposals (RFP) as a "boilerplate" document?
- 3) Should changes be made in the Ordinance to improve the refranchising process?
- 4) Should the selection priorities be redefined?
- 5) What are the cost estimates associated with the refranchising process?

I. Scope of Bidding

The Board of Supervisors, on April 14, 1983, instructed County Counsel to prepare an Ordinance which would effectively restrict bidding to the four previous unsuccessful bidders for the Sacramento Franchise. However, there has been some discussion by both Board and Council members to the effect that the bidding should be open to all interested Cable TV firms.

The advantages of such an open competitive process might include:

- The possible generation of greater contributions to community use, entertainment and interactive services than currently set forth in the Applications of the unsuccessful bidders.
- The addition of new cable companies offering more attractive packages than the existing firms.

The disadvantages of such a process could include:

- The bidding, evaluation, and selection process could be extended from the May 4, 1983 schedule by approximately sixty (60) days with resulting increased costs to the two jurisdictions.
- A "grandfather" provision, if included in federal legislation, would be applicable only to existing franchises. Additional delays could be critical to the applicability of such a provision to our franchise.

The availability of this franchise has been known to the cable industry for approximately three years with formal bidding noticed in January 1982. Therefore, there has been ample opportunity for those in the industry with serious thoughts of bidding to survey and evaluate our market. As a result, staff recommends as a middle ground, opening the bidding to all companies, but for a short period such as 60 days as the most efficient and cost effective method of refranchising the Sacramento System.

Such a recommendation would eliminate the potential antitrust issues which might be raised by bidders. In addition, should you decide to amend the Ordinance, as suggested later in this report, it is then even more important that the process be open and competitive.

II. Use of UTC Resolution as Part of the Request for Proposals

Attached for your review is a "boilerplate" Resolution derived from the UTC agreement. The provisions of this Resolution are summarized in "Attachment I" to this report.

Staff proposes to use this document as a draft, "boilerplate" Resolution within which all of the applicants would summarize their commitments in binding and contractual language.

One of the problems that occurred in the initial bidding process was an inordinate amount of public relations "hype" and "sales puffing" which led to confusion during the negotiations process.

The selectee repeatedly stated, publicly and privately, that it was unprecedented to regard oral and written statements in the application process as the basis of legally enforceable provisions. On the other hand, it was impossible for staff to know which of the many provisions in the Application were important to the Board and Council in the selection process. Accordingly, staff believes that it is essential that the rebidding process focus upon those commitments to which the new franchisee is willing to be bound rather than upon the public relations presentation during the pre-selection hearings. It is our hope that by utilizing the UTC Resolution as a "boiler-plate" document, we will be able to focus the selection in a more objective and quantifiable manner.

Hammett & Edison, our consultant, is currently reviewing the Draft Resolution as well as the original RFP and their initial assessment is that this approach is feasible. Their comments and any further adjustments will be incorporated accordingly.

The staff recommends that you review this document and recommend its inclusion in the Request for Proposals to the Board of Supervisors and City Council.

III. Changes in the Ordinance

In the past eight months, we had many intense discussions with UTC over the Ordinance and the difficulty that that cable firm had with the requirements of that document. Staff, however, has also encountered minor loopholes and ambiguities which ought to be corrected.

The following Ordinance provisions are recommended for change:

Section 5.50.410 - Construction Schedule: The approach should be changed from certain minimum numbers of houses passed in the 24th, 36th and 51st months to a scheduled, percentage completion with appropriate remedies based on a scheduled bid by the Applicant. Thus, the bidder should be permitted to indicate the length of time which it requires for construction (which in turn would be a factor in the selection process).

Section 5.50.338 - Franchise Sponsored Programming: The term "broadcast" should be changed to "cablecast" for reasons of consistency.

Section 5.50.604 - Minimum Advance Payment: The minimum franchise fee payment should be changed from the lesser of 120% of the Commission budget or \$325,000.00 to the greater of those figures. This will allow the Commission to function in the early years without outside borrowing.

Section 5.50.214 - Tentative and Final Selection Procedures:

This section should be changed to allow the viability of all initially non-selected bids for six months following the tentative selection of a new franchisee. This will increase the Commission's leverage in obtaining the tentative selectee's concurrence in a Resolution by avoiding a lengthy rebidding process if the selectee does not accept.

Section 5.50.248 - Valuation Limits: Subsection b dealing with acquisition of the system in the event of (1) change of law or (2) expiration of the Franchise without renewal should be changed to provide that the valuation shall be the greater of replacement cost (as presently provided) or market value (as presently provided in the event of unauthorized transfer). The staff recommends that book value valuation be retained in the event of breach. It should be noted that such a change, while beneficial to a franchisee, is still substantially less than the so-called "fair market value" demanded by UTC in the recent negotiations. A detailed explanation of this complex area is attached for those desiring a more thorough discussion of the distinction.

Section 5.50.814 and .816 - Uncommitted Channels: These sections should be repealed. They may constitute a burden upon the franchisee and, at the same time, appear to be a somewhat ineffective remedy to the Commission.

Section 5.50.318 - Prevailing Rate Standard: This section should be amended to provide that the prevailing rate shall be that paid for comparable work by public utilities, underground construction companies, pole line contractors and selected general contractors. The section should also be amended to allow surveying of certain bench mark positions rather than all positions. These changes will dramatically reduce the cost and increase the accuracy of the prevailing rate study.

It has been suggested that one or more bidders may wish to offer the Commission, City or County a limited liability, ownership position in the Franchise to ensure greater financial participation from local government beyond the franchise fees allowed by pending federal legislation. While this approach would have merit, it would not require any change in the present Ordinance. It should be noted that, if the Commission wishes to encourage consideration of such an alternative by bidders, certain clarifying questions and forms should be included within the RFP.

IV. Selection Criteria

It is apparent to staff that, during the first selection process, much attention was focused upon the perceived ability of the applicants to offer community use, interactive and institutional services. The

ultimate selection of UTC centered upon assurances that they would commit to provide all the services and facilities promised during this process. However, the aggressiveness of both elected officials and staff in binding UTC by contract language to these commitments probably contributed to their ultimate withdrawal from the Franchise.

Thus, staff believes it is important to focus the refranchising process not so much on what the applicants intend to provide to the community and subscribers or what "state of the art" institutional or interactive services they believe they are capable of providing, but rather upon the specific nature and scope of services and facilities they will be contractually bound to provide. By utilizing the Draft Resolution in the selection process and final recommendation, the staff believes we may better accomplish this goal.

Accordingly, staff will initially evaluate and summarize the application in terms of enforceable provisions and commitments. This will then allow the Commission, Board and Council to focus their selection on the basis of quantifiable and enforceable offerings, as well as the speculative aspects of oral and written presentations. Staff believes that this approach will encourage applicants to offer realistic and attainable packages to the community without unjustifiably raising expectations by "overbidding" the franchise.

Once this analysis as to enforceability has been completed, the Commission, Board and Council can provide additional policy guidance to the staff as to the appropriate weighting of the enforceable promises for analytical purposes. Staff believes that such policies should not be attempted in advance of the submission of the applications in view of the speculative nature of possible offerings and the adverse skewing effect such policy statements could have on the applications subsequently submitted.

With respect to priorities, it is necessary to discuss grants to community agencies and other community use offerings by cable franchisees. The focus of this prior selection process, and typically the selection of cable companies across the nation, has been the amount of offerings to and lobbying efforts by community groups. The potential for direct grants to specific non-profits generates intense lobbying pressure on both the cable companies and the elected officials. The result is a skewing of the bids to satisfy the most vocal special interests.

Staff recognizes that the Ordinance 5.50.344 (grants to Non-Profits) was included after many hours of public hearings and thoughtful process. In fact, the contracting and negotiation process with the UTC Grantees worked well. However, if there is any desire to reevaluate this allocation process, now is an opportune time.

If you desire to do this, staff suggests you consider the concept that other jurisdictions have used to diminish the lobbying problem by forming an independent body who would be designated as the recipient

of all community use grants. This independent body, similar to SC3, could make an equitable allocation of funds, channel time, equipment facilities or other grants to the various organizations after the Franchise has been awarded. The Ordinance provision for channel access by KVIE and the Educational Consortium should be unchanged.

The amount of funding to this body would be left to the competitive bidding and selection process, but must be considered exclusive of the 5% franchise fees. Such an Ordinance change may very likely focus the lobbying efforts by organizations from a particular self-interest to the amount of financing for this independent body.

The community grant issue is a very sensitive policy matter which may not be desirable to change. I am, however, recommending that you change the Ordinance to prohibit direct grants to City and County Departments. Such offerings, while encouraged in the RFP process, should be made to the legislative bodies and allocated upon the recommendation of the City Manager and County Executive. This will avoid the unusual non-priority grants that appeared in UTC's Application.

V. Estimated Cost and Financing

Attached is a 1983/84 budget necessary to reauthorize the Sacramento Cable System.

Total estimated requirement for 1983/84 is \$613,285 including necessary legal and consultant services to provide the required expertise for the Commission to render a thoughtful decision. Although your staff will provide the lead analytical work, consultant services are recommended to perform the necessary comparative analysis of the bidders financial and operational capacities. It is recommended the existing contracts with Hammett & Edison for consultant services and Brent Bleier for legal assistance be extended. They have both done an excellent job during the past negotiations.

The total deficit to reauthorize as indicated in the attached budget is \$373,285. If the legislative bodies decide to reauthorize, it will be necessary that they also advance funds to offset this deficit in the amount of \$149,314 as the City of Sacramento's 40% share and \$223,971 as 60% from the County of Sacramento. All advanced funds, including preaward costs from the date of initial franchising, will ultimately be reimbursed from the 5% franchise fee due the Commission. The application fee will also be used to immediately offset the advance, but because the number of applicants is uncertain, such amounts have not been included in the budget. Upon receipt, the applications fees will be deposited in the Cable Television Fund and a prorated reimbursement will be forwarded to the two jurisdictions.

VI. Process and Proposed Schedule


We envision that the following process could be undertaken to award a new Franchise in an expeditious manner. This time schedule requires the resolve of the legislative bodies to not grant request for delays by the cable industry which is very likely to occur. In fact, it is in their interest to delay the process for a number of reasons. The most important are: (1) More time to lobby the elected officials in order to adequately present the company's bid; and (2) Early adoption of a contract tends to avoid the favorable cable industry provisions contained in the Goldwater Bill.

- June 1, 1983 - The Commission makes recommendations on the nature of the rebid process, the revised RFP, including a "boilerplate" Resolution, and the necessary budget amendments to offset the cost of consulting, legal and staff salaries.
- June 8, 1983 - The Board of Supervisors and City Council consider Commission recommendations and local financing requirements.
- June 16, 1983 - A pre-bid conference is conducted with all interested cable firms to discuss the process, including a full explanation of the utilization of the "boilerplate" Resolution and its use in the selection process.
- June 20, 1983 - The Request for Proposals is advertised with a 60-day application submission deadline, effectively restricting the bidding to the previous unsuccessful bidders and those firms who have previously surveyed the Sacramento market.
- August 19, 1983 - The deadline for filing applications.
- August 24, 1983 - A hearing is conducted in which testimony will be received in which each applicant will have an opportunity to briefly describe the contents of their Application to the Commission.
- October 19, 1983 - A public hearing is conducted in which the staff presents an objective analysis of each proposal detailing the strengths and weaknesses of each and providing an opportunity to the applicant to briefly respond to the analysis.
- November 2, 1983 - A public hearing is held in which staff has had an opportunity to review any written responses by the applicants and submits a final recommendation for review by the Commission. At that time, the Commission will have an opportunity to hear from the applicants, review the staff's recommendation and make a tentative selection for review by the Board of Supervisors and City Council.

- November 9, 1983 - The Board of Supervisors and City Council tentatively selects a franchisee for the Sacramento area and provides no more than 30 days to negotiate any unresolved issues that remain within the "boilerplate" Resolution.
- December 5, 1983 - Commission recommends Resolution Offering the Franchise.
- December 6, 1983 - Franchise approved by Board and City Council.
- December 7, 1983 - Resolution Offering Franchise approved by the Commission.
- January 6, 1984 - Certificate of Acceptance files by new franchisee.

It is therefore recommended that your Commission:

- 1) Adopt the attached Resolution rejecting all former bids for the Sacramento Franchise.
- 2) Discuss five staff issues as well as any others the Commission may raise associated with refranchising.
- 3) Tentatively approve the new RFP with any modifications resulting from the workshop.
- 4) Discuss and approve the general concept, including recommended Ordinance changes, and work program for selection of the new franchisee as set forth in this report.
- 5) Recommend the Board of Supervisors and the City Council advance \$223,971 and \$149,314 respectively as their share of the increased franchising cost.
- 6) Approve the attached contracts for consultant and legal services subject to the availability of financing from the participating jurisdictions.


BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

RES:ab

Attachments

SUMMARY OF RESOLUTION PROVISIONSGENERAL PROVISIONS

*Identification of Ownership - Identifies the beneficial ownership of the Franchise and Franchisee.

*Liability of Ownership - Prescribes the liability of the various entities holding beneficial ownership in the Franchise and Franchisee for the performance of the Franchise obligations.

SYSTEM DESIGN

*Alternative System Design/Equivalency - Prescribes the procedures and standards which will be utilized by the Commission as to the approval of any changes proposed by the Franchisee in the nature, extent, characteristics or capability of the System as compared with that System which was contained in the Application.

*Governmental Rate Concessions - Embodies certain voluntary offerings of the Franchisee relating to rate concessions on institutional use by governmental entities.

*Technical Standards - Prescribes in detail the various technical standards as to capacity and interface requirements of the System.

CONSTRUCTION

*Cumulative Mileage Table - Provides monthly benchmarks by which the Commission may monitor and enforce the progress of the build in accordance with the rate of completion contained in the Application. (This section was not contained in the UTC Resolution.)

*Standards/Procedures - Codifies uniform construction standards and procedures which otherwise might be discretionarily enforced by the various permit issuing authorities.

*Complaint Minimization/Resolution - Provides mechanisms for the resolution of disputes between the Franchisee and property owners and establishes various burdens of proof to ensure the just resolution of such disputes.

STAFFING

*Remedial Staffing - Provides a discretionary remedy to the Commission to ensure compliance with certain performance standards relating to operation of the System.

COMMUNITY PROGRAMMING

*Facilities and Equipment:Provision and Replacement - Identifies the various voluntary offerings of the Franchisee relating to such facilities and equipment.

*Use of Facilities - Provides the standards and restraints upon the use of various community programming facilities.

*Programming - Definition and Volumes - Provides definition and delineation of various voluntary community programming offerings by Franchisee.

*SC3 and Miscellaneous Grants - Defines the terms and conditions of certain voluntary grants offered by the Franchisee.

SERVICES

*Entertainment - Defines nature and extent of voluntary entertainment program offerings of Franchisee.

*Non-entertainment - Defines nature and extent of voluntary non-entertainment programming and useage offerings of Franchisee.

*Institutional - Defines nature and extent of voluntary institutional offerings of Franchisee.

MISCELLANEOUS

*Relation of Commission to Certain Debt and Equity Holders - Defines legal relationship of the Commission to certain debt and Equity holders who are not named owners of the Franchisee.

*Uncommitted Channels - Defines standards and procedures whereby certain "banked" channels shall be released.

*Technical Accounting Matters - Defines the handling of certain accounting matters which would affect the Commission's franchise fee income.

SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION
 PROPOSED BUDGET- JULY 1, 1983 TO JUNE 30, 1984
 PROPOSED

CODES	(REBID)	
1110	S&W REGULAR	73584
1121	S&W TEMP. HELP	13000
1124	COMM. MEETING EXPENSE	3680
1210	RETIREMENT	8094
1220	OASDI	4784
1230	GROUP LIFE, DENTAL, MEDICAL	4506
1240	WORKER'S COMP.	1104
1250	SDI/SUI	3090

1000	TOTAL SALARIES & BENEFITS	111842
2005	ADVERTISING NOTICES	1500
2021	BOOKS/PERIODICALS	400
2029	BUSINESS CONFERENCE	4500
2031	BUSINESS TRAVEL	1000
2035	EDUCATION TRAINING	1000
2039	EMP. TRANSPORTATION	250
2051	INSURANCE-LIABILITY	9000
2061	MEMBERSHIPS	5400
2076	OFFICE SUPPLIES	2000
2085	PRINTING SERVICES	4000
2197	TELEPHONE	3000
2505	FINANCIAL SERVICES	4000
2525	ENGINEERING/ECONOMIC CON. (145,000)	205000
2531	LEGAL SERVICES (60,000)	90000
2541	PERSONNEL SERVICES	1000
2591	OTHER PERSONNEL SERVICES	109893
2912	DATA PROCESSING SERVICES	10000
2921	PRINTING SERVICES- DGS	500
2922	POSTAGE/MAIL- DGS	3000
2925	PURCHASING SERVICES- DGS	1000
2928	EQUIPMENT RENTAL- DGS	500
2934	PUBLIC WORKS SERVICES	5000
2942	OFFICE RENT/USE- DGS	6500
2990	COUNTY SERVICE CHARGES	2000
4303	FURNITURE & EQUIPMENT	1000
7901	RESERVE FOR CONTINGENCIES W/SALARY	30000

TOTAL	EXPENSES & FIXED ASSETS	501443

GRAND	TOTAL	613285

CABLE TELEVISION FUND

JULY 1, 1983 BALANCE	180000
PRIOR BIDDERS DEPOSIT CANCELLATION	60000

AVAILABLE FOR APPROPRIATION	240000
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DEFICIENCY- CASH ADVANCE REQUIRED	373285
TO BE REPAYED FROM REBID APPLICATION FEES	
40% CITY	149314
60% COUNTY	223971

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
RADIO AND TELEVISION

ROBERT L. HAMMETT, P. E.
EDWARD EDISON, P. E.
ROBERT P. SMITH
F. PAUL MONACO
DAVID J. PINION, P. E.

RALPH G. GROVER
DANE E. ERICKSEN

BOX 68, INTERNATIONAL AIRPORT
SAN FRANCISCO, CALIFORNIA 94128

AREA CODE 415
342-5208

1400 ROLLINS ROAD
BURLINGAME, CALIFORNIA 94010

May 13, 1983

Mr. Robert E. Smith
Executive Director
Sacramento Metropolitan Cable
Television Commission
700 H Street, Room 2500
Sacramento, California 95814-1280

Dear Bob:

Since it appears that United-Tribune Company is not going to accept the offering of the Sacramento Franchise, you have requested that we provide you with a cost estimate for consulting services. We would assist the Commission in requesting new proposals for cable television and the evaluation and selection of a franchisee. The firm of Hammett & Edison, Inc. will be pleased to assist Sacramento in this project. We anticipate that the Portland office of Touche Ross & Co. will assist in the economic and managerial aspects of the project.

The following is a list of the major steps of the work we anticipate to be required and the estimated fee for each portion. The fees include the participation of Touche Ross. The basic project cost has been estimated on the assumption that four cable television proposals will be received and reviewed. A cost per additional proposal is also shown for those items that would be increased if additional proposals need to be processed.

- | | |
|---|----------|
| 1. Review existing franchise documents
(1981 Ordinance, 1981 RFP and 1983 Resolution Offering the Franchise) and suggest modifications and corrections. Assist in preparation of cover letter and other materials. | \$14,000 |
| 2. Consultation during pre-RFP activities, including attendance at May 25 workshop, June 1 joint meeting, and early June pre-bid conference. Further reviews and corrections to documents. | \$13,000 |

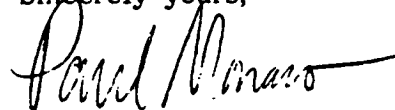
- | | |
|--|--|
| 3. Activities during bidding interval, including tele-
phone interviews with city officials in other
communities served by potential bidders and field
trips to examine sample systems, as well as other
consulting services during this period. | \$36,000
plus \$9,000
per additional
proposal |
| 4. Consultation on bid evaluation and selection. Include
a review of each proposal, investigations to resolve
ambiguities, and a report summarizing the key
points and issues for each bid. Also includes
participation in public hearings and additional
assistance to Committee staff to aid in selection
process. | \$80,000
plus \$16,000
per additional
proposal |
| 5. Participation in franchise negotiations. Further
resolution of issues for winning proposal and
assistance in drafting of final Resolution Offering
the Franchise. Participation in two negotiating
sessions. Other consultation as required. | \$22,000 |
| TOTAL | <hr/> \$165,000
plus \$25,000
per additional
proposal |

Again, we wish to make it clear that it is impossible to anticipate the total level of effort to be required in a project of this magnitude and these are only estimated fees. Our actual fees will be based upon hours worked and out-of-pocket expenses and will be billed on a monthly basis.

We anticipate that our total project fees through the end of May will not exceed \$20,000; we understand that you may cover this from monies already allocated for consulting services.

We look forward to assisting Sacramento in this project.

Sincerely yours,



F. Paul Monaco

ac

LAW OFFICES OF
BRENTON A. BLEIER1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994Appendix: Fair Market Value

In considering the valuation of cable television franchises for community acquisition, two important factors ought to be isolated.

First, while a cable operator may compete in a general sense of the term with other providers of entertainment, with very few exceptions, it does not compete with other cable operators. Thus, pricing for its services is limited only by total elasticity of demand for its product and not by direct competition. This can be referred to as the monopoly pricing factor. Accordingly, the revenues and, in turn, the profits of the cable operator will reflect in part this monopoly pricing factor.

Second, the "market value" of any income producing asset is a function of the discounted present value of the future income stream of that asset. Obviously, the anticipated length of that income stream is a critical factor. In terms of cable franchises, most are issued for a term of years. Yet many "market value" definitions offered by the cable industry (including that offered recently in Sacramento by UTC) presume "continued indefinite useage" of the system for purposes of valuation. This assumption, in effect, increases the length of the franchise for purposes of valuation and therefore increases its value. This may be called the length of franchise factor.

Therefore, when a community is asked to pay "fair market value" for a system which it wishes to acquire based upon "continued indefinite useage", it is in effect being asked to pay for the monopoly pricing factor, which is directly attributable to the exclusivity of the franchise which it alone maintains, and the length of franchise factor, which reflects a period beyond the actual franchise which it has granted.

Our Sacramento ordinance provides, in Section 5.50.248c, in the event of a purchase at the election of the Commission by reason of an unauthorized transfer of the franchise, for valuation of the system at "market value". This "market value" definition includes the monopoly pricing factor but excludes the length of franchise factor. The staff has now recommended that the Ordinance be amended to provide for valuation in the event of purchase by the Commission by reason of change of law or expiration of the franchise without renewal at the greater of replacement cost or market value, as defined.

However, it is important to keep in mind that the Ordinance does not provide, and staff does not recommend consideration of additional value for periods beyond the term of the actual franchise.

RESOLUTION NO. _____

ADOPTED BY THE SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION

ON DATE OF

June 9, 1983

REJECTION OF ALL PRIOR PROPOSALS
FOR A CABLE TELEVISION FRANCHISE IN
SACRAMENTO

WHEREAS, pursuant to its Cable Television Ordinance, the Commission received four (4) proposals for a Cable Television Franchise in the County of Sacramento; and

WHEREAS, the Commission on April 13, 1983 enacted a Resolution offering a Cable Television Franchise to UNITED-TRIBUNE CABLE OF SACRAMENTO; and

WHEREAS, UNITED-TRIBUNE CABLE OF SACRAMENTO has failed to accept the aforementioned Resolution within the prescribed period; and

WHEREAS, the Commission desires to proceed with refranchising to obtain a viable Cable Television Franchise for the citizens of Sacramento;

NOW THEREFORE, BE IT RESOLVED BY THE SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION:

Section 1. All prior proposals received by the City, County and Commission relating to the proposed Cable Television Franchise prior to the date of this Resolution be and they hereby are rejected.

Section 2. The Executive Director is hereby authorized to proceed in accordance with the Work Program outlined in the Staff Report dated May 17, 1983 to obtain new proposals for a Cable Television Franchise in Sacramento.

RESOLUTION NO. _____

BE IT RESOLVED AND ORDERED that the Chairperson of the Board of Directors
be and he is hereby authorized and directed to execute AN AGREEMENT

_____ in the form hereto attached, on behalf of the
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION, a Joint Powers Agency of the
State of California, with HAMMETT & EDISON, INC. for provision of cable
television consulting services

and to do and perform everything necessary to carry out the purpose of this Reso-
lution.

On a motion by Director _____, seconded by Director
_____, the foregoing Resolution was passed and adopted by
the Board of Directors of the Sacramento Metropolitan Cable Television Commission
this _____ day of _____, 19___, by the following vote, to wit:

- AYES: Directors
- NOES: Directors
- ABSENT: Directors

Chairperson of the Board of Directors
Sacramento Metropolitan Cable
Television Commission

ATTEST: _____
Clerk of the Commission

AGREEMENT FOR PROVISION OF CABLE TELEVISION

CONSULTING SERVICES

THIS AGREEMENT is made and entered into this _____ day of June, 1983, by and between the Sacramento Metropolitan Cable Television Commission, a joint powers agency, hereinafter called "Commission", Hammett & Edison, Inc., Consulting Engineers, hereinafter called and referred to as "Engineers";

W I T N E S S E T H:

For and in consideration of the promises and covenants contained herein, the parties hereto do hereby agree as follows:

1. Commission hereby retains Engineers to provide consulting services as more specifically described in Paragraph 2, and Engineers hereby agree to perform said services, in connection with the issuance by the Commission of a cable television franchise for the Sacramento Community.

2. The consulting services to be performed by Engineers shall be rendered, as requested by Commission and as provided herein during the period beginning July 1, 1983 and ending January 31, 1984. Engineers shall provide a review of existing franchise documents and shall assist in preparation of a revised request for proposals (RFP). Engineers shall consult with the Commission and its staff at workshops, joint meetings, and pre-bid conferences as directed by the Executive Director of the Commission. They shall provide consultation on bid evaluation and selection, including a review of each proposal submitted, investigation of the background of each bidder and a report summarizing key points and issues for each bid. Finally the Engineers shall participate in franchise negotiations in a consulting capacity to the extent requested by the Executive Director.

3. Engineers may with the prior written approval of the Executive Director, select and retain as subcontractor under this contract an economic consultant to provide part or all of the services specified herein. The scope of the work of said consultant and the terms and conditions of said consultant's agreement with Engineers shall be subject to the approval of the Executive Director.

4. The Agreement may be terminated at will by either the Commission or Engineers upon thirty days prior written notice to the non-terminating party, subject to the right of Engineers for reimbursement for all time and expenses properly expended pursuant to this contract through the date of such termination and further subject to the right of the Commission to receive all reports, work papers, drafts, and other documents prepared by Engineers prior to the date of said termination.

5. Engineers shall submit to the Executive Director in the first five days of each calendar month a proposed work program for that month. Such work program shall be subject to the approval of the Executive Director. Notwithstanding any other provision herein, Engineers shall not be authorized to undertake any work pursuant hereto which has not received the prior written approval of the Executive Director pursuant to such proposed work program submittals.

6. The maximum compensation payable for services rendered by Engineers pursuant to the provisions of this contract, including compensation for all costs, shall be limited to One Hundred Forty Five Thousand Dollars (\$145,000.00) and shall be payable on a calendar month basis, pursuant to written statements of charges itemizing the hours of services, hourly rates and costs filed with the Executive Director of the Commission. For statements filed not later than the second day of each calendar month, Commission shall make payment not later than the fifteenth day of the same calendar month.

Subject to the monetary limit prescribed above, the Commission shall compensate Engineers for services rendered pursuant to the provisions of this contract at the following hourly rates, plus actual and necessary costs and expenses as approved by the Executive Director and incurred by Engineers for travel and other miscellaneous expenditures associated with the performance of services thereunder:

Principals	\$85 to \$105/hr
Senior Staff Engineer	\$65 to \$80/hr
Staff Engineer	\$45 to \$60/hr
Draftsmen	\$30/hr
Secretary	\$25/hr

7. In performance of all services rendered under this Agreement, and for all purposes, Engineers shall be deemed to be independent contractors of the Commission and not an officer, agent or employee thereof.

8. Engineers shall indemnify, hold harmless and defend the Commission, and in their capacities as much, the officers, employees, and agents thereof, from and against any and all liability for personal injury, property or other damages arising out of or alleged to arise out of the performance by Engineers of this Agreement.

9. The terms of this Agreement shall expire on January 31, 1984, if not otherwise extended or amended. All notice shall be deemed effective and serviced for all purposes when it is deposited in the

United States mail, postage prepaid, and addressed as follows:

a. To Commission:

Robert E. Smith
Executive Director
Sacramento Metropolitan Cable Television Commission
700 H Street, Suite 2500
Sacramento, California 95814

b. To Engineers:

Hammett & Edison, Inc.
Consulting Engineers
Box 68, International Airport
San Francisco, California 94128

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day, month and year stated above.

HAMMETT & EDISON, INC.

SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION, a joint
powers agency

BY _____

BY _____

Chairman

RESOLUTION NO. _____

BE IT RESOLVED AND ORDERED that the Chairperson of the Board of Directors
be and he is hereby authorized and directed to execute AN AGREEMENT
FOR LEGAL SERVICES in the form hereto attached, on behalf of the
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION, a Joint Powers Agency of the
State of California, with BRENTON A. BLEIER

and to do and perform everything necessary to carry out the purpose of this Reso-
lution.

On a motion by Director _____, seconded by Director
_____, the foregoing Resolution was passed and adopted by
the Board of Directors of the Sacramento Metropolitan Cable Television Commission
this _____ day of _____, 19___, by the following vote, to wit:

AYES: Directors
NOES: Directors
ABSENT: Directors

Chairperson of the Board of Directors
Sacramento Metropolitan Cable
Television Commission

ATTEST: _____
Clerk of the Commission

AGREEMENT
FOR
LEGAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of June, 1983, by and between the Sacramento Metropolitan Cable Television Commission, a joint powers agency, hereinafter called and referred to as "Commission" and Brenton A. Bleier, an individual attorney licensed to practice under the laws of the State of California, hereinafter called and referred to as "Attorney";

W I T N E S S E T H:

For and in consideration of the promises and covenants contained herein, the parties hereto do hereby agree as follows.

1. Commission hereby retains Attorney as Special Counsel to provide the services described in Paragraph 2, and Attorney hereby agrees to perform said services.
2. The services to be performed by Attorney shall consist of the provision of legal advise, drafting and/or review of contracts, agreements, regulations and resolutions, representation of the Commission in any necessary administrative or judicial proceedings and such other duties associated therewith, the precise services to be performed to be as prescribed by the Executive Director. Attorney shall commit such number of hours each month to the performance of such services, as requested from time to time by the Executive Director.
3. Subject to the following limitation, Commission shall compensate Attorney at the rate of Seventy-Five Dollars (\$75.00) per hour for each hour of services rendered under this Agreement. The gross amount of this Agreement shall be Ninety Thousand Dollars (\$90,000.00) and Attorney shall not perform services in a quantity which would exceed the foregoing gross dollar amount; nor, whether or not Attorney performs services exceeding said amount, shall Commission be liable for any compensation under this Agreement which cumulatively exceeds said gross amount. The compensation provided herein shall be deemed to cover the value of all services performed and costs incurred by Attorney under this Agreement, except costs incurred in connection with travel by Attorney outside the geographical boundaries of County which is directed by the Executive Director. The gross amount of this Agreement prescribed above, shall include any such travel expenses, and compensation paid for services rendered together with reimbursement of travel costs shall not exceed said gross amount.

The compensation owing under this Agreement shall be payable on a calendar monthly basis, pursuant to written statements

of charges itemizing the hours of services rendered filed with the Executive Director not later than the second day of each calendar month for the preceding calendar month. Commission shall make payments pursuant to said statements not later than the fifteenth day of the calendar month during which they are received.

4. In the performance of all services rendered under this Agreement, and for all purposes, Attorney shall be deemed to be an independent contractor of the Commission, and not an officer, agent or employee thereof.

5. Attorney shall not assign either the obligations which he owes under this Agreement or any compensation payable in consideration therefor.

6. The term of this Agreement shall commence June 1, 1983, and end June 30, 1984; provided that this Agreement may be terminated by either Attorney or the Executive Director upon thirty days' advance written notice to the non-terminating party. Said notice shall be deemed effective and served for all purposes when deposited in the United States mail, postage prepaid, and addressed as follows:

a. To the Executive Director:

Robert E. Smith, Executive Director
Sacramento Metropolitan Cable Television Commission
700 H Street, Suite 2500
Sacramento, California 95814

b. To Attorney:

Law Offices of Brenton A. Bleier
1001 G Street, Suite 101
Sacramento, California 95814

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day, month and year above stated.

SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION, a joint
powers agency

BRENTON A. BLEIER

BY _____
Chairman



**UNITED-TRIBUNE
CABLE** OF SACRAMENTO

9332 Tech Center Drive, Suite 500
Sacramento, California 95826-2594
916.361.1600

June 9, 1983

Bill Bryan, Chairman and
Members of the Commission
Sacramento Metropolitan Cable Television Commission
800 7th Street, Room 2500
Sacramento, California 95814

Dear Mr. Chairman and Members of the Commission:

UTC and its parent organizations have reviewed the compromise proposal offered by the Commission on June 1, 1983, and have been unable to reach agreement. While Tribune Company and its related entities find the proposal unacceptable, United Cable Television Corporation remains interested in seeing the process move forward, although not alone.

During the past week or so, United has been approached to join with some or all of the original bidders, as an alternative to the Tribune's position in the UTC joint venture, in a plan to expedite delivery of cable services to the Sacramento community. However, the companies will require until July 1, 1983 to present their plan to the Commission in writing. Therefore, we respectfully request you grant us an invitation to respond by deferring any action on the status of the Resolution until you have had an opportunity to fully review our proposed arrangements.

It is the intent of United and the other companies to provide the Commission with an attractive alternative to a costly rebidding process and to avoid any further frustrating delay in seeing the cable issue end and cable service begin. Based on our preliminary discussions, we are confident of our abilities to consummate a plan for your consideration and we request your support in extending us the opportunity. Representatives of Cablevision Systems,



Mr. Bill Bryan, Chairman
Members of the Commission
June 9, 1983
Page 2

River City Cable and Warner-Amex are expected to attend the meeting today to confirm their interest in moving forward with this undertaking. McLean-Hunter has indicated their interest in this plan as well but is not intending to have an official present. Further, to the best of my knowledge, all companies have indicated their intent not to institute any legal action against each other or the Governing Bodies in connection with the arrangements being contemplated.

Thank you for your past kindnesses and courtesies.

Sincerely,

William R. Cullen,
President

WRC:mf