Date of Meeting: July 13, 2011

#10

BOARD OF SUPERVISORS
FINANCE/GOVERNMENT SERVICES AND OPERATIONS COMMITTEE
INFORMATION ITEM

SUBJECT: OpenBand Franchise Agreement/Additional Information

FORMER ELECTION DISTRICTS: Dulles, Broad Run, Catoctin

NEW ELECTION DISTRICTS: Ashburn, Broad Run, Catoctin

STAFF CONTACTS: **Mark Adams, Management and Financial Services**
Lorie Flading, Public Affairs/Communications Office
John Carlton, County Attorney's Office

BACKGROUND:
In March 2011, the Loudoun County Cable Commission recommended to the Board of Supervisors to approve a new Franchise Agreement with OpenBand. This agreement was developed over months of negotiations between the Commission, staff and OpenBand that took into account many of the issues discussed on the following page or voiced during the Board Public Hearing related to the product OpenBand was delivering to the residents of Loudoun County. The agreement currently in front of the Board addresses many of the concerns raised by the residents and provides more stringent fines and penalties for service non-compliance not required under the old agreement.

At its April 13, 2011 meeting, the Finance/Government Services and Operations Committee voted 4-0-1 (Supervisor Burton absent) to recommend that the proposed OpenBand Franchise Agreement be placed on the Board's agenda for their June 13, 2011 Public Hearing. This recommendation was subsequently approved by the Board at their April 19, 2011 business meeting. Also at their meeting on April 13th, the Committee directed staff to bring back additional information for the Committee's May 11, 2011 meeting based on questions submitted by Supervisor Waters and Supervisor Miller.

At the June 13, 2011 Public Hearing, the Board heard comments from 31 speakers, comprised of residents of Broadlands Southern Walk, Lansdowne and Lansdowne Village Green discussing issues and complaints about OpenBand. Residents overwhelmingly urged the Board not to

approve the OpenBand franchise agreement. The Board voted 8-0-1 (Miller absent) bring the item back to the Finance/Government Services and Operations Committee for further discussion.

ISSUES:

During the Public Hearing several issues were presented to the Board which resulted in the Board asking follow-up questions of staff. Those questions included Service Call comparisons, Fines and Penalties, the Technical Evaluation of OpenBand, comparison of similar cable service providers within Loudoun County and why staff recommended the Franchise to be adopted by the Board.

Service Calls Franchise agreements with Verizon, Comcast and OpenBand require each firm to report their customer service calls, or "trouble tickets" quarterly to the County's Cable Commission. Staff has provided a comparison (Attachment 1) on the three providers and their self-reported service call volume from each entity. For 1st Quarter 2010, OpenBand reported 928 service calls while in that same quarter Comcast reported 1,794 service calls and Verizon reported,6,785 service calls. Attachment 1 attempts to provide the Board with a comparison of the number of "trouble tickets" calls per provider/number of subscribers. Subscriber numbers are approximate and based on the annual PEG Grant submission information. The information is provided in an attempt to show a comparison on the amount of trouble calls per provider. The data was derived from the three service provider's quarterly reports and annual PEG submission. (*Please note that at the June 13 Public Hearing a speaker quoted service call numbers referencing Franchisee's quarterly reports as the source. Those numbers quoted do not match our records.)*

Fines/Penalties –There are three provisions in the OpenBand franchise that allow the county to impose liquidated damages at a rate of $500 per day: 1. Failure of the Grantee to pay the County any amounts due and owing to the County by reason of the indemnity provision of Section 809.06; 2. Failure to pay to the county any damages claims, costs or expenses which the County has been compelled to pay by the reason of any material act or default by the Grantee; and 3. Failure to comply with any material provisions of the Franchise Agreement or Cable Ordinance that can be remedied by an expenditure of an amount from the Letter of Credit or other instrument. Legal counsel concluded that none of those provisions apply to the OpenBand situation including the theory that there was a material breach for failure to request a renewal. The renewal provision is for the benefit of the company, the company has no obligation to ask for a renewal.

Technical Evaluation – In response to the franchise agreement discussion at Loudoun Cable Commission meetings, Columbia Telecommunication Corporation (CTC) was engaged to conduct a third party analysis on the technical infrastructure of OpenBand. CTC prepared a technical evaluation of the OpenBand system finding it to be generally sound and in good working order. The report has since been criticized by several members of the public who disagree with the findings. An engineer from CTC will make a presentation about the methodology and findings of the report and will be available to answer questions. (*A copy of this*

report was included with the Finance/Government Services and Operations Committee's April 13th staff report.)

Comparison of Cable Services and Prices – Attachment 2 reflects the comparison of cable TV provider services and their prices. It is impossible to make direct comparisons since packages, bundled services and promotional rates vary widely. The attached chart compares similar level packages at the regular monthly rates. It should be noted that Verizon, Comcast and Direct TV offer deep discounts as a promotional rate - usually for 12 months. After the promotional period expires regular rates may apply and they are drastically different.

No action is required by the Committee at this time. At their June 7, 2011 business meeting, the Board authorized a second public hearing on the Franchise Agreement for October 11, 2011, if needed.

Attachments

1. Service Call Comparisons
   1.a. OpenBand 1st Quarter 2010 Report
   1.b. Verizon 1st Quarter 2010 Report
   1.c. Comcast 1st Quarter 2010 Report
2. Cable TV Providers Price & Services

Attachment 1

Cable TV Providers Quarterly Service Calls 2010

	Percent subscriber service calls			Comcast	Open Band	Verizon	Comcast	Open Band	Verizon
	Comcast	OpenBand	Verizon		Subcribers			Service Calls	
Q1 2010	7%	21%	21%	24,000	4,500	32,000	1,794	928	6,785
Q2 2010	8%	17%	21%	24,000	4,500	32,000	1,997	787	6,868
Q3 2010	7%	18%	24%	24,000	4,500	32,000	1,676	803	7,756
Q4 2010	8%	15%	23%	24,000	4,500	32,000	1,867	694	7,459

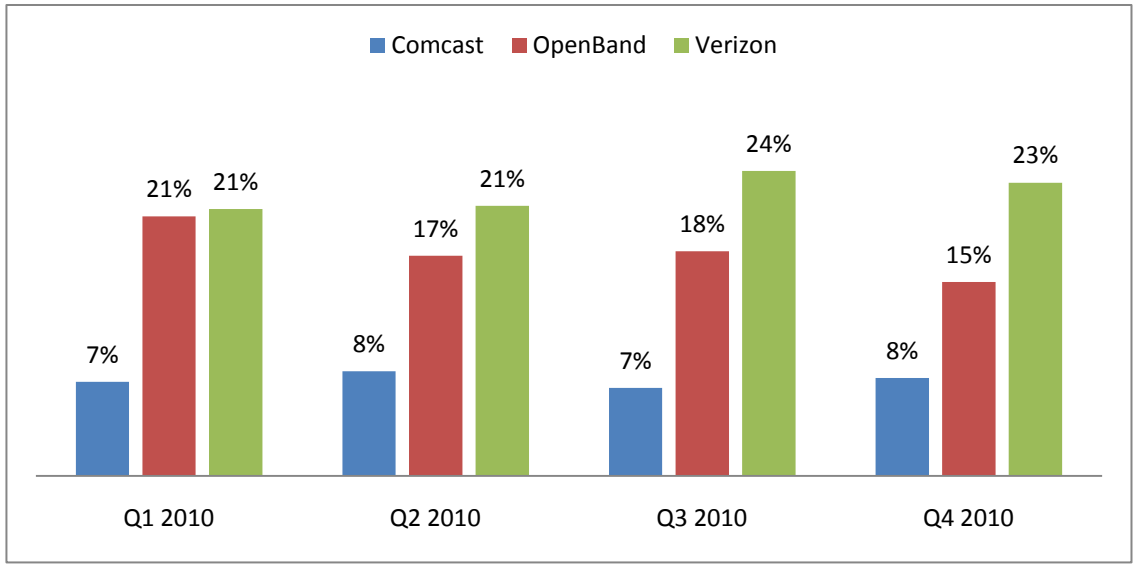

Chart compares percentage of subscibers requiring service calls quarterly. Openband and Verizon report both calls where a truck was sent out to the customer's premise but it also includes those where a truck roll was not required and the request was satisfied internally. Comcast reports only service calls that require a scheduled truck roll. Subsciber

Trouble Ticket Summary by Response Time 1st Quarter 2010

January 2010

Classification	# Tickets	Percentage
Responded Same Day	425	96.6%
Responded within 24 Hours	10	2.3%
TOTAL	**440**	**98.9%**

February 2010

Classification	# Tickets	Percentage
Responded Same Day	249	92.2%
Responded within 24 Hours	15	5.6%
TOTAL	**270**	**97.8%**

March 2010

Classification	# Tickets	Percentage
Responded Same Day	209	95.9%
Responded within 24 Hours	6	2.8%
TOTAL	**218**	**98.6%**

CONFIDENTIALITY REQUESTED. VERIZON VIRGINIA IS HEREBY REQUESTING THAT THIS INFORMATION BE TREATED BY THE FRANCHISE AUTHORITY AS CONFIDENTIAL BUSINESS INFORMATION. THE INFORMATION CONTAINS PROPRIETARY INFORMATION NOT OTHERWISE READILY ASCERTAINABLE OR PUBLICLY AVAILABLE CONCERNING THE DEPLOYMENT OF VERIZON'S NEW FIOS TV SERVICE. THE PUBLIC DISCLOSURE OF THIS INFORMATION WOULD UNFAIRLY PREJUDICE VERIZON VIRGINIA RELATIVE TO ITS COMPETITORS, WHO WOULD BE REASONABLY LIKELY TO USE SUCH INFORMATION TO HARM VERIZON BUSINESS INTERESTS. PURSUANT TO VIRGINIA CODE SECTION 2.2-3705.6 AND SECTION 9.2 OF THE FRANCHISE AGREEMENT BETWEEN VERIZON VIRGINIA INC. AND LOUDOUN COUNTY, VERIZON REQUESTS THAT THE FRANCHISE AUTHORITY TAKE ALL NECESSARY STEPS TO ENSURE THAT THE INFORMATION IS NOT PUBLICLY RELEASED.

Verizon Virginia Cable Service Quarterly Report
Loudoun County, Virginia
Report Period: 2010

		Q1
	Telephone Availability Performance	
	% Calls Answered within 30 seconds	100.00
	% Calls Receiving a Busy	0.05
	% of Abandoned Calls	10.05
	AVG Length of Hold Time before Reaching a Rep	156.1
	Complaints	
	# Complaints	0
	Service Calls by Reason	
	Service Calls By Reason	6,785
	Product Education	296
	Inside Problem	1,145
	Set Top Boxes/Remotes	4,392
	Customer Equipment	68
	Not Home	30
	No Trouble Found	38
	FTTP Network	413
	Video Transport Network	83
	Other	320

Submitted by:
Signature of Franchise Service Manager

This document was previously released as Public Information under FOIA.

Attachment 1.c.

2010

Loudoun

Confidential and Proprietary Information

Comcast
First Quarter Cable Service Report

	Jan-10	Feb-10	Mar-10	1st Quarter
Total Service Calls	697	544	553	1794

Service Calls By Reason	Jan-10	Feb-10	Mar-10	1st Quarter
Product Education	64	43	64	171
Inside Problem	69	87	89	245
Set Top Box/ Remote	293	241	265	799
Customer Equipment	53	38	24	115
Not Home	0	0	1	1
No Trouble Found	15	4	4	23
Outside Network	124	94	67	285
Other	79	37	39	155

Telephone Availability Performance	Jan-10	Feb-10	Mar-10	1st Quarter
% Calls Answered within 30 Seconds	86%	89%	94%	90%
Calls Receiving a Busy(%)	0%	0%	0%	0%
% of calls abandoned	3%	3%	1%	2%
Average length of talk time	408	405	391	400

This document was previously released as Public Information under FOIA.

Attachment 2

Comparison of Lower Level Cable Service Packages

OpenBand	Comcast	Verizon	Direct TV
$47.28/mo **Smart neighborhood Digital Service includes the first set-top box plus 2 DTA** Over 200 all digital channels **70 HD Channels** **(+ $6 per/ mo to upgrade first set top box to HD)** Local networks channels Interactive Programming Guide 1 digital receiver w/ remote Digital Music Channels Access to Pay Per view Access to Video on Demand **Available for additional charge** HD/DVR service rental $15.99 HD Receiver $10.99/mo Premium Movie channels	$56-$62/mo Digital Starter Over 80 digital channels Thousands of movies and show on-demand 45 commercial free music channels On-screen programming guide **0 HD** Channels **Available for additional charge** HD receiver DVR service rental High Definition Channels 3D TV Premium Movie channels	$64.99/mo FiOS TV Prime HD 195 all digital channels **50+ HD** Channels All the basic channels plus favorites like ESPN, CNN, Discovery Extensive On Demand library with over 24,000 titles available each month, many free – including 3,800 HD titles per month 47 Music Choice Channels **Available for additional charge** HD receiver $9.99/mo HD DVR rental $15.99/mo 3D programming **70+ HD** Channels available in FiOS Extreme package Premium Movie channels	$60.99 Choice 150 plus channels Free HD or DVR Reciever **40+ HD** Channels **Available for additional charge** 285 digital channels Whole house DVR 3D programming DVR service + $7/mo HD service+ $10/mo Premium Movie channels

Prices shown are standard prices after promotional period. Greatly discounted promotional offers and bundled package are available usually for 12 months. Verizon and Comcast advertise thousands of HD choices referring to their extensive on-demand libraries. Pricing information taken from providers website as of June 27, 2011