

CITY OF MIAMI
OFFICE OF AUDITOR GENERAL



**AUDIT OF THE CABLE LICENSE AGREEMENT BETWEEN
THE CITY AND MIAMI TELECOMMUNICATION INC./
AT&T (BROADBAND/COMCAST)**

AUDIT NO. 05-004

Prepared By
Office of Auditor General

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October 15, 2004

The Honorable Members of the
City Commission
City of Miami
3500 Pan American Dr.
Coconut Grove, FL, 33133-5504

Re: Audit of the Cable License Agreement Between the City and Miami
Telecommunications Inc. /AT&T (Broadband/Comcast)

Audit No. 05-004

In accordance with the provisions of Section 48 of the City Charter and Section A (4) of the Settlement Agreement between the City of Miami (City) and Miami Telecommunications Inc. (MTCI)/AT&T (Broadband/Comcast), we have examined the financial records of Broadband/Comcast in connection with the remittance of license fees to the City and related controls.

The quarterly license fee paid by MTCI/AT&T (Broadband/Comcast) was based on gross revenues and/or other remittances. The audit verified the accuracy and correctness of the license fees remitted to the City for the period January 1, 1997, through September 30, 2001, and selected transactions/controls through September 30, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Victor Igwe".

Victor I. Igwe, CPA, CIA
Auditor General
Office of Independent Auditor General

C: The Honorable Mayor Manuel A. Diaz
Joe Arriola, Chief Administrator/City Manager
Members of the Audit Advisory Committee
Jorge L. Fernandez, City Attorney
Larry Spring, Chief of Strategic Planning, Budgeting and Performance
Linda M. Haskins, CPA, Chief Financial Officer/Deputy Chief Administrator
Peter W. Korinis, Chief Information Officer
Alicia Cuervo-Schreiber, Chief Operating Officer
Donald Riedel, Director, Office of Citistat
Elaine Buza, Telecommunications Administrator
Klayton Fennell, Vice President, Comcast
J. Scott Simpson, CPA, Director, Finance Department
Aland Pierre-Canel, CPA, Accounts Receivable Supervisor, Finance Department
File

**AUDIT OF THE LICENSE AGREEMENT BETWEEN
THE CITY OF MIAMI AND MTCI/AT&T (BROADBAND/COMCAST)
FOR THE PERIOD JANUARY 1, 1997, THROUGH SEPTEMBER 30, 2001**

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INTRODUCTION

On October 19, 1981, the City Commission passed and adopted Ordinance No. 9332, which granted a non-exclusive license to Miami Telecommunications, Inc. (MTCI) and Americable of Greater Miami, Ltd. for the privilege to use the streets and public ways within the municipal boundaries of the City to construct, operate and maintain a cable television system under certain terms and conditions for a period of fifteen (15) years.

Ordinance number 11410, which was passed and adopted on October 30, 1996, extended the license agreement through February 18, 1997. Ordinance number 11443, which was passed and adopted on February 20, 1997, further extended the license agreement through May 18, 1997. Ordinance No. 11504, which was passed and adopted on May 22, 1997, extended the license agreement on a month to month basis.

On June 8, 2000, the City Commission passed and adopted Ordinance number 11936, which amended the City Code by repealing Appendix A and re-enacting Chapter 11 entitled "Cable Television". This amendment modified the terms and conditions relative to application, procedures, construction, installation, and operation and maintenance of cable systems, equipment, and facilities, in the City's public rights-of-way. Section 11-16 of Ordinance number 11936 stipulates that a licensee shall pay to the City a license fee in an amount up to a maximum of either five (5%) of the Licensee's Gross Revenues derived directly or indirectly from the operation of its cable system within the City or in the event the Cable Act is amended to permit the City to assess a license fee of a greater amount. Section 11-16 of the said Ordinance further provides that licensee's payment of the license fee shall be reduced only by that amount the licensee is required to pay to Miami-Dade County pursuant to any cable license or ordinance of the County. Chapter IV, Section 8A-129, of the Miami-Dade County Code states that each licensee shall pay to Miami-Dade County one percent (1%) of gross revenues derived from the incorporated areas of the County.

Resolution number 00-489, which was also passed and adopted on June 8, 2000, authorized the City Manager to execute an agreement with MTCI, a subsidiary of AT&T Broadband, LLC for a period of ten (10) years for the non-exclusive right to own, construct, install, maintain and operate a cable system within the City. The agreement stipulates that MTCI will remit the following payments to the City:

- A payment in the amount of \$2.5 million to the City and \$500,000 in vouchers to subscribers as a resolution for all alleged technical violations.
- A one-time payment of \$400,000 in a capital grant.
- A security fund of \$2 million in a letter of credit satisfactory to the City.
- A capital grant for Public Educational/Government channel (PEG) and Institutional Network (I-NET) support in the amount of \$800,000. The licensee shall pay \$400,000 (equal to 50%) within thirty (30) calendar days of the effective date and such amount shall not be passed through the subscriber. Licensee shall pay the remaining \$400,000 within sixty days (60) days of a written request from the City and added to the price of cable services from subscribers.
- A grant not to exceed \$1 per subscriber. Fifty-cents (\$.50) shall not be passed on to the subscriber's base and the other \$.50 may be added to the price of the basic cable services and collected from the subscriber. The actual per subscriber's amount would be determined by the City's need as identified in a projected budget to be prepared by the City Manager and submitted to the Licensee no later than September 30 of each year during the term of the agreement.
- A license fee pursuant to Section 11-16 (a-h) of the Ordinance.

Resolution number 02-917, which was passed and adopted on August 22, 2002, approved the assignment of the cable television license from MTCI /AT&T Broadband to AT&T Comcast.

During the audit period, MTCI paid the license fee directly to the City. However, pursuant to Section 202, Florida Statute, providers of telecommunication services are

now required to pay franchise/license fees directly to the State of Florida's Department of Revenue (DOR) as part of the Communications Service Tax (CST). The DOR, in turn, distributes the payments received from the vendors to the applicable municipalities on a predetermined basis. The DOR will be responsible for collecting and auditing CST.

SCOPE AND OBJECTIVES

As a part of our oversight responsibilities, the Office of the Independent Auditor General (OAG) performs financial and operational audits to determine the extent of compliance with provisions of contracts, programs, agreements between the City and private companies and/or other government entities, City Codes/Ordinances and State Statutes. The scope of this audit focused primarily on whether MTCI/AT&T (Broadband/Comcast) complied with the contractual provisions of the Cable License Agreement between the City and MTCI/AT&T (Broadband/Comcast). The audit also included examinations of various transactions to determine whether they were executed in accordance with governing provisions of City Codes/Charter, Federal Cable Act and other guidelines. The examination covered the period January 1, 1997, through September 30, 2001, and selected transactions/controls through September 30, 2003. In general, the audit focused on the following 8 broad objectives:

- To determine whether appropriate license fees were remitted to the City pursuant to the License Agreement.
- To determine whether MTCI/AT&T (Broadband/Comcast) are in compliance with the provisions of the License Agreement.
- To determine whether payments were submitted to City in a timely manner.
- To determine whether the insurance coverage was in compliance with the terms of the License Agreement.
- To ascertain whether MTCI/AT&T (Broadband/Comcast) correctly identified all customer accounts within City limits.
- To ascertain whether license fee remittances and other related transactions were properly recorded in the City's accounting system and deposited into the City's treasury.
- To examine the adequacy and effectiveness of the City's internal controls relative to monitoring of compliance with applicable provisions of the License Agreement.

- Other procedures as deemed necessary.

METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. To obtain an understanding of the internal controls, we interviewed appropriate Comcast, City's Finance and Information Technology departments' personnel, reviewed applicable policies and procedures, and made observations to determine whether effective controls were in place. The audit methodology included the following:

- Obtained sufficient understanding of the internal control policies and procedures and determined the nature, timing and extent of substantive tests necessary and performed the required tests.
- Determined compliance with all the objectives noted on page 4.

SUMMARY OF AUDIT FINDINGS

MTCI/AT&T (BROADBAND/COMCAST), THE CITY'S FINANCE AND INFORMATION TECHNOLOGY DEPARTMENTS

COMPLIANCE WITH VARIOUS SECTIONS OF LICENSE AGREEMENT AND/OR INTERNAL CONTROLS.

As part of the audit, we conducted various tests, on a sample basis, to determine compliance with applicable sections of the license agreement, ordinances/resolutions and other rules/regulations. Our test disclosed that MTCI/AT&T (Broadband/Comcast), the City's Finance and the Information Technology departments materially complied with the following:

- Adequate insurance coverage was maintained as required in Section 11-10(c) of Ordinance number 11936.
- Samples of customers' complaints were timely resolved.
- License fees and other payments were timely submitted to the City, properly recorded and deposited into the City's treasury.
- Comcast provided a 25% discount on basic services to customers residing in government funded housing as stipulated in Section 11-27(d) of Ordinance number 11936.
- Bulk discounts were provided to businesses located within the City, as stipulated in Section 11-20(a) of Ordinance number 11936.
- All annual and quarterly reports were submitted to the City as required in Section 11-17 of Ordinance number 11936.
- MTCI/AT&T (Broadband/Comcast) complied with the provisions of Resolution numbers 00-489 (dated June 8, 2000) and 02-917 (Settlement Agreement between the City and MTCI dated August 22, 2002), which required Comcast to make certain monetary payments to the City.

MTCI/AT&T (BROADBAND/COMCAST)

ADDITIONAL LICENSE FEE AND/OR OTHER PAYMENTS DUE TO THE CITY.

Our audit disclosed that additional license fee payments are due to the City as discussed below:

- Our review of MTCI/AT&T's (Broadband/Comcast) pertinent accounting and billing records disclosed that it generated gross revenues totaling approximately \$141 million during the period January 1, 1997 through September 30, 2001. However we noted that MTCI/AT&T (Broadband/Comcast) reported to the City a total gross revenue of \$137,650,098.97 during said period. The total amount reported was \$3,496,579.03 less than the actual revenue earned as shown on its financial statements. In a written response to our audit finding, the Vice-President of Government and Community Affairs for Comcast indicated that federal law and national public policy, dictates that bad debts be deducted from total gross revenue. He stated that Comcast incurred a total of \$4,039,089 of bad debts during the audit period; therefore, the total amount of bad debts must be deducted from the underpayment disclosed by our audit. He further provided a Federal Communications Commission's (FCC) ruling relative to "*Time Warner Entertainment and the City of Orlando, FL*, where the FCC held that "uncollected debts are not counted as part of an operator's gross revenues and are not to be calculated as part of the franchise fees owed to the City."

After numerous requests, on July 28, 2004, we were provided with details supporting \$1,640,698.41 of bad debt expenses that were incurred during the period November 1999 through December 2000. The details include customer names and addresses, account numbers, amount written-off for each customer, dates of write-off, and amounts and dates of subsequent collections. We determined that \$61,764.05 or 4% of the total supporting documentation provided

was not valid support because those customers/service addresses are located outside the City. The remaining \$2,455,154.64 (\$4,034,089 minus \$1,640,698.41 plus \$61,764.05) of bad debt expenses claimed by Comcast for the period January 1, 1997, through October 31, 1999, remains unsupported in accordance with the license agreement/ordinance, applicable accounting standards and Internal Revenue Service Codifications. Our recalculation of license fees disclosed that an additional \$76,705.79 is due to the City. Section 11-16 (h) of Ordinance number 11936 stipulates that if license payment is not made by the due date or is underpaid, the licensee shall pay a late charge of eighteen (18%) per annum of the unpaid or underpaid license fees. A total of \$62,050.23 of interest is due to the City. Therefore, an additional license fee and interest totaling \$138,756.02 (\$76,705.79 + \$62,050.23) is due to the City. See Exhibit I on page 28.

- Our review of a sample of 102,057 customers' accounts for the period of January 1, 1997, through September 30, 2001 further disclosed that fourteen (14) accounts with addresses located within the City boundaries were assigned the wrong municipality code, and therefore, were not assessed the required license fees. The total license fee and interest due to the City from said miscoded accounts amounted to \$1,983.16 (\$1,153 + \$830.16) for the period of January 1, 1997, through September 30, 2001. Upon audit inquiry, Comcast promptly remitted the \$1,983.16 due to the City.

FINANCE AND INFORMATION TECHNOLOGY (IT) DEPARTMENTS

LACK OF MONITORING OF CUSTOMERS' DATABASE.

In accordance with the provisions of Section 202, Florida Statute, the providers of telecommunication services are now required to pay communication service taxes (CST) directly to the State of Florida's Department of Revenue (DOR). The DOR in turn distributes the payments received from the vendors to the applicable municipalities on a predetermined basis. The CST accounted for approximately 11% and 12% of the total revenue generated by the City during the fiscal years ended 2002 and 2003, respectively. The periodic monitoring and updating of the customers' database would enhance the integrity of the database and ensure that all revenues due to the City are collected.

Our audit test disclosed that no specific department and/or individual is responsible for updating the electronic database, including changes in service addresses, annexations, jurisdictional boundaries issues, reorganizations, and any other changes necessary to enhance the integrity of the customers' database. In response to our audit inquiry, the IT and Finance departments met and discussed this issue and concluded that the IT department's Geographic Information Systems Coordinator will reconcile the database twice a year and will also follow up to ensure that additions/deletions to the database are uploaded correctly. The Finance department will assist in the reconciliation process.

INFORMATION TECHNOLOGY DEPARTMENT (ITD)

THE CITY MAY BE ENTITLED TO ADDITIONAL GRANT MONIES.

Pursuant to the license agreement between the City and Miami Telecommunication Inc., (MTCI) the City is authorized to assess and collect grant monies from MTCI and cable subscribers. A decision regarding the additional grant monies that the City was entitled to has not been made, as discussed below:

- We noted that Comcast remitted \$400,000 of the \$800,000 relative to capital grant for PEG and I-NET on September 29, 2000, as stipulated in the agreement. However, a decision regarding the additional \$400,000 payable to the City, that may be added to the price of Cable Services and collected from the subscriber base as “external costs”, pursuant to 47 C.F.R 76.922, has not been made.
- We also noted that Comcast has been remitting to the City \$.50 per subscriber relative to the \$1 PEG capital support. However, a decision regarding the additional \$.50 payable to the City, that may be added to the price of Basic Cable Services and collected from the subscriber as “external costs”, pursuant to 47 CFR 76.922, has not been made.

Upon audit inquiry, the ITD Director in a written response stated: “Previous City Manager chose not to request PEG monies from Comcast that would be passed through to subscribers.” He further stated that these issues were discussed with the current City Manager and would be presented shortly to the City Commission.

AUDIT FINDINGS AND RECOMMENDATIONS

MTCI/AT&T (BROADBAND/COMCAST), THE CITY'S FINANCE AND INFORMATION TECHNOLOGY DEPARTMENTS

COMPLIANCE WITH VARIOUS SECTIONS OF LICENSE AGREEMENT AND/OR INTERNAL CONTROLS.

As part of the audit, we conducted various tests, on a sample basis, to determine compliance with applicable sections of the license agreement, ordinances/resolutions and other rules/regulations. Our test disclosed that MTCI/AT&T (Broadband/Comcast), the City's Finance and the Information Technology departments materially complied with the following:

- Adequate insurance coverage was maintained as required in Section 11-10(c) of Ordinance number 11936.
- Samples of customers' complaints were timely resolved.
- License fees and other payments were timely submitted to the City, properly recorded and deposited into the City's treasury.
- Comcast provided a 25% discount on basic services to customers residing in government funded housing as stipulated in Section 11-27(d) of Ordinance number 11936.
- Bulk discounts were provided to businesses located within the City, as stipulated in Section 11-20(a) of Ordinance number 11936.
- All annual and quarterly reports were submitted to the City as required in Section 11-17 of Ordinance number 11936.
- MTCI/AT&T (Broadband/Comcast) complied with the provisions of Resolution numbers 00-489 (dated June 8, 2000) and 02-917 (Settlement Agreement between the City and MTCI dated August 22, 2002), which required Comcast to make certain monetary payments to the City.

MTCI/AT&T (BROADBAND/COMCAST)

ADDITIONAL LICENSE FEE AND/OR OTHER PAYMENTS DUE TO THE CITY.

An Agreement between the City and MTCI, a subsidiary of AT&T Broadband, dated June 30, 2000, provides MTCI with a non-exclusive license for the right and privilege to own, construct, install, maintain and operate a cable system within the City pursuant to Chapter 11 of the City Code, as amended, for a period of ten (10) years. Resolution number 02-917, which was passed and adopted on August 22, 2002, approved the assignment of the cable television license Agreement from MTCI/AT&T Broadband to AT&T Comcast. Section 4 of said Resolution stipulated that AT&T Comcast agreed that the City may perform a financial audit of the AT&T Comcast for the period of January 1, 1997, through September 30, 2001. The City exercised this option and the review of pertinent accounting and billing records for said audit disclosed that an additional \$138,756.02 (\$76,705.79 + \$62,050.23) is due to the City. The additional license fee is due as a result of the following:

- Section 11-16 of Ordinance number 11936, requires the licensee to pay to the City a license fee in an amount of five (5%) of the Licensee's gross revenues derived directly or indirectly from the operation of its cable system within the City. The license fee due to the City can be reduced by any amount the licensee is required to pay to Miami-Dade County pursuant to a cable license or ordinance of the County. Chapter IV, Section 8A-129 of the Miami-Dade County Code provides that the licensee shall pay one percent (1%) of gross revenues derived from the incorporated areas in the County.

In accordance with Ordinance number 11936, gross revenues is defined as, "all revenues recognized in accordance with Generally Accepted Accounting Principles (GAAP) generated directly or indirectly by the licensee and, any affiliates, subsidiaries or parent of the licensee, provided that such entities are considered cable operators as such term is defined herein, from any source

whatsoever arising from, attributable to, or in any way derived from the operation of the cable system to provide cable services in the city.”

Our review of MTCI/AT&T’s (Broadband/Comcast) pertinent accounting and billing records disclosed that it generated gross revenues totaling approximately \$141 million during the audit period (January 1, 1997 through September 30, 2001). However we noted that MTCI/AT&T (Broadband/Comcast) reported to the City a total gross revenue of \$137,650,098.97 during said period. The total amount reported was \$3,496,579.03 less than the actual revenue earned as shown on its financial statements.

In a written response to our audit finding, the Vice-President of Government and Community Affairs for Comcast indicated that federal law and national public policy, dictates that bad debts be deducted from total Gross Revenue. He stated that Comcast incurred a total of \$4,039,089 of bad debt during the audit period; therefore, the total amount of said bad debts must be deducted from the underpayment disclosed by our audit. He further provided a Federal Communications Commission’s (FCC) ruling relative to *“Time Warner Entertainment and the City of Orlando, FL*, where the FCC held that “uncollected debts are not counted as part of an operator’s gross revenues and are not to be calculated as part of the franchise fees owed to the City.”

After numerous requests and on July 28, 2004, we were provided with details supporting \$1,640,698.41 of bad debt expenses that were incurred during the period November 1999 through December 2000. The details include customer names and addresses, account numbers, amount written-off for each customer, dates of write-off, and amounts and dates of subsequent collections. We determined that \$61,764.05 or 4% of the total supporting documentation, which was provided, was not valid support because those customers/service addresses are located outside the City of Miami. The remaining \$2,455,154.64 (\$4,034,089 minus \$1,640,698.41 plus \$61,764.05) of bad debt expenses claimed by Comcast

for the period January 1, 1997 through October 31, 1999, remains unsupported in accordance with the license agreement/ordinance, applicable accounting standards and Internal Revenue Service Codifications. Our recalculation of license fees disclosed that an additional \$76,705.79 is due to the City. Section 11-16 (h) of Ordinance number 11936 stipulates that if license payment is not made by the due date or is underpaid, the licensee shall pay a late charge of eighteen (18%) per annum of the unpaid or underpaid license fees. A total of \$62,050.23 of interest is due to the City. Therefore, an additional license fee and interest totaling \$138,756.02 (\$76,705.79 + \$62,050.23) is due to the City. See Exhibit I on page 28.

The Vice-President of Government and Community Affairs for Comcast explained that the type of detailed support for the bad debt expenses totaling \$1,640,698.41 (incurred during November 1, 1999, through December 31, 2000) that was provided to us was no longer available for the remaining \$2,455,154.64 of the bad debt expenses incurred during the period January 1, 1997, through October 31, 1999. He further stated that the support for the remaining \$2,455,154.64, which consisted of monthly summary level details of write-off and recoveries that we were provided, was adequate support for the bad debt expense written-off; and also that the average bad debt expense was 3.3% of revenue from 1996 through 2002. However, the FCC concluded in its ruling that amounts billed to subscribers, but never collected could not rationally be counted in the gross revenue. The said FCC ruling did not imply nor suggest that total monthly bad debt expenses incurred (without evidence of the identity of the subscribers who constitute said bad debt accounts) would be an allowable deduction from gross revenues. Also, said FCC ruling did not imply nor suggest that bad debts could be estimated and deducted from gross revenues.

Absent detailed support (including customer names and addresses, account numbers, amount written-off for each customer, dates of write-off, and amounts and dates of subsequent collections), we could not verify whether the individual

bad debt expenses/accounts that made up the \$2,455,154.64 were in fact valid amounts that were billed to City of Miami subscribers, but never collected. It is unclear why said bad debts were not netted from the total gross earnings before license fees were calculated and remitted to the City during the audit period. Bad debt expenses only became an issue after this audit determined that additional monies were due to the City. Further-more, in response to our audit inquiry relative to Comcast's accounting for bad debts for corporate income purposes, Comcast's Business Operations Manager stated: "For income tax purposes, TCI, ATTBB, Comcast have all been on the "direct write-off" method for bad debts, as is required by statute. To the extent that allowance for doubtful accounts are recorded and expense recorded for GAAP purposes there is not a corresponding tax deduction until/unless such receivables are written off." Therefore, those bad debt accounts in the City of Miami that had already been written-off for tax purpose can no longer constitute valid deduction from the underpayment disclosed by our audit.

Additionally, the Department of the Treasury, Internal Revenue Service Publications' provides that records must be kept as long as they may be needed for the administration of any provision of the Internal Revenue Code. Generally, this means that records must be kept to support an item of income or deduction on a return until the period of limitations for that return runs out. The period of limitation for a claim relative to bad debt is 7 years pursuant to IRS Publication 583. Our request for the source documents supporting the \$2,455,154.64 of bad debts that is being claimed for the period January 1, 1997, through October 31, 1999, was made within the period of limitation. Therefore, Comcast should provide the said source documents or remit \$138,756.02 to the City.

- Our review of a sample of 102,057 customers' accounts for the period January 1, 1997 through September 30, 2001 further disclosed that fourteen (14) accounts with addresses located within the City boundaries were assigned the wrong municipality code, and therefore, were not assessed the required City license fees.

The total license fee and interest due to the City from said miscoded accounts amounted to \$1,983.16 (\$1,153 + \$830.16) for the period of January 1, 1997, through September 30, 2001. Upon audit inquiry, Comcast promptly remitted the \$1,983.16 due to the City.

Recommendation

We recommend that the Finance Department bill and collect \$138,756.02 of additional license fees and interests due to the City.

Auditee's Response and Action Plan

In response to the above audit findings, Comcast paid \$1,983.16 relative to miscoded accounts. In connection with the \$138,756.02 due from license fees as noted above, Comcast contends that a listing of yearly bad debt amounts for the period January 1, 1997, through October 31, 1999, totaling \$2,455,154 was adequate support for the bad debt written-off. See the entire written response on pages 23 through 26.

FINANCE AND INFORMATION TECHNOLOGY (IT) DEPARTMENTS

LACK OF MONITORING OF CUSTOMERS' DATABASE.

During the period January 1, 1997, through September 30, 2001, license fees were paid directly to the City by MTCI/AT&T (Broadband/Comcast). However, pursuant to Section 202, Florida Statute, providers of telecommunication services are now required to pay communication service taxes (CST) directly to the State of Florida's Department of Revenue (DOR). The DOR, in turn, distributes the payments received from the vendors to the applicable municipalities on a predetermined basis. The monthly reports supporting these payments are available through the DOR's website. The DOR is responsible for maintaining the database of customer service addresses and tax rates, which are accessible through the internet.

Section 202.22 (b)(1), Florida Statute, provides that: "Each local taxing jurisdiction shall furnish to the department all information needed to create and update the electronic database, including changes in service addresses, annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries. The information furnished to the department must specify an effective date, which must be the next ensuing January 1 or July 1, and such information must be furnished to the department at least 120 days prior to the effective date."

Our audit test disclosed that no specific department and/or individual is responsible for updating the electronic database, including changes in service addresses, annexations, jurisdictional boundaries issues, reorganizations, and any other changes necessary to enhance the integrity of the customers' database. Upon audit inquiry, the Information Technology Department (ITD) indicated that, although they have not been officially assigned the responsibilities for monitoring the database, they have helped in the review of the initial database and/or resolving jurisdictional boundaries issues with other municipalities. The ITD further stated: "This duty would be the responsibility of a

Geographic Information Systems Officer for the City of Miami. ITD is not the official GIS officer for the City and as such our role is limited to providing departments with Technical Assistance in the area of GIS, but not administrative responsibility. If we are asked to monitor this database then we would need to have a financial officer coordinate our activities and liaison with the state when changes need to be made, since these changes may have financial implications.”

Communications Service Tax (CST) accounted for approximately 11% and 12% of the total revenue generated by the City during the fiscal years ended 2002 and 2003, respectively. The periodic monitoring and updating of the customers’ database would enhance the integrity of the database and ensure that all revenues due to the City are properly assessed and collected.

In a written response, The Finance Director stated: “We concur with your recommendation that a specific Department and/or individual(s) should be responsible for the monitoring of the Communication Services Tax (CST) database... ITD and Finance met to discuss this issue and concluded that the ITD - Geographic Information Systems Coordinator will reconcile the database twice a year and will also follow up to ensure that any additions/deletions to the database have been uploaded correctly... This process will occur with the assistance of the Finance Department...”

Recommendation

We recommend that the Finance and the IT departments establish a process for monitoring and updating of the customers’ database.

Auditee's Response and Action Plan

The Finance and IT departments concurred with the audit recommendation.

INFORMATION TECHNOLOGY DEPARTMENT (ITD)

THE CITY MAY BE ENTITLED TO ADDITIONAL GRANT MONIES.

Pursuant to the license agreement between the City and Miami Telecommunication Inc., (MTCI) the City is authorized to assess and collect grant monies from MTCI and cable subscribers. A decision regarding the additional grant monies that the City was entitled to has not been made, as discussed below:

- Section 19 B (a) of the license agreement states that: “Licensee shall provide a capital grant for Public Educational/Government channel (PEG) and Institutional Network (I-NET) support to the City in the amount of \$800,000. Licensee shall pay \$400,000 (equal to 50% of the total amount) within thirty (30) calendar days of the effective date and such amount shall not be passed through to the Subscriber Base as defined in Section 11-2 (ff) of the Ordinance. Licensee shall pay \$400,000 (equal to 50% of the remaining total amount) within 60 calendar days of a written request from the City of Miami and such amount may be added to the price of Cable Services and collected from the Subscriber Base as “external costs”, as such term is used in Title 47 Code of Federal Register (C.F.R) Section 76.922. The City may request that such amount be passed through to the Subscriber Base over one or more years, not to exceed ten years or the remaining franchise term, whichever is less. Additionally, all amounts passed through to the Subscriber Base may be separately stated on the Subscriber’s bills as permitted pursuant to Title 47 C.F.R Section 76.985. All portions of the grant shall be used for capital costs for PEG and I-NET support in accordance with Section 622 (g) (2) (c) of the Cable Act and Section 17 of this Agreement.”

We noted that Comcast remitted \$400,000 of the \$800,000 relative to capital grant for PEG channel and I-NET support, on September 29, 2000, as stipulated in the agreement. However, a decision regarding the additional \$400,000 payable to the City, that may be added to the price of Cable Services and collected from

the subscriber base as “external costs”, pursuant to 47 C.F.R 76.922, has not been made.

- Section 19 (B) (b) of the license agreement stipulates that: “Starting with the first quarter of the City fiscal year beginning October 1, 2000, and after notification from the City pursuant to subsection c, licensee shall pay quarterly, within thirty (30) calendar days of the start of the quarter, to the City a grant not to exceed one dollar (\$1) per Subscriber, as calculated using the Subscriber Base definition in Section 11-2 (fff) of the Ordinance, per month for PEG capital support. Of the one dollar (\$1), the first \$.50 shall not be passed through to the Subscriber Base; with respect to the second \$.50, this charge may be added to the price of Basic Cable Services and collected from the Subscriber as “external costs”, as such term is used in 47 C.F.R. 76.922. Additionally, all amounts passed through to the Subscriber Base on a per month basis may be separately stated on such Subscribers’ bills as permitted pursuant to 47 CFR 76.985.” Section 19 (B) (c) further states that: “The actual amount of the per Subscriber, per month charge shall be determined upon the City’s need as identified in a projected budget to be prepared by the City Manager and submitted to Licensee no later than September 30 of each year during the term of this Agreement.”

We noted that Comcast has been remitting to the City \$.50 per subscriber relative to the \$1 PEG capital support. However, a decision regarding the additional \$.50 payable to the City, that may be added to the price of Basic Cable Services and collected from the Subscriber as “external costs”, pursuant to 47 CFR 76.922, has not been made.

Upon audit inquiry, the ITD Director in a written response stated: “Previous City Manager chose not to request PEG monies from Comcast that would be passed through to subscribers.” He further stated that the above issues were discussed with the current City Manager and would be presented shortly to the City Commission.

Recommendation

We recommend that the appropriate legislation be prepared and presented to the City Commission for action.

Auditee's Response and Action Plan

The appropriate legislation would be presented to the City Commission. See auditee's response on page 27.



Comcast Cable
1500 Market Street
Philadelphia, PA 19102

Peter H. Feinberg
Associate General Counsel
215.320.7934 Tel
215.320.3572 Fax

September 7, 2004

Marie B. Severe, CPA,CLA
Senior Staff Auditor
Office of the Auditor General
City of Miami
444 SW 2nd Avenue, Ste 715
Miami, FL 33130-1910

RECEIVED
SEP 08 2004

Dear Ms. Severe:

I would like to reply to your letter of August 17, 2004, in which you requested a written response to the Office of Auditor General's findings regarding the audit report dated January 30, 2004, relating to AT&T Broadband's remittance of license fees for the period January 1, 1997- September 30, 2001.

As we discussed in our recent conversation, Comcast Cable Communications, LLC ("Comcast") believes that we have provided your office with documentation which demonstrates that the bad debt figure claimed for the period January 1, 1997-December 31, 2000 is supported and should be accepted by the Auditor General's office. We would like to again outline our reasons why this documentation should be accepted by your office and why the audit should be closed.

Comcast takes its responsibilities under its franchise seriously, and there is no question or dispute that the Company intends to remit all monies which are actually owed to the City. However, it would neither be fair or reasonable for the system to pay franchise fees on funds which it never received from customers, particularly when the bad debt figures that we have provided to the City have been compiled in accordance with our normal business practices, GAAP principals and standard reporting requirements, and the information that has been provided is the type that is customarily provided to and accepted by local franchise authorities.

Our offices have agreed that the amount of bad debt for the years 1997-2000 is \$4,034,089. This amount is not in dispute. On July 28, 2004, your office was provided with supporting documentation, including amounts written off for each customer, dates of write-offs, and amounts and dates of subsequent collections. This documentation referred

to the period November 1999 through December 2000 and amounted to \$1,578,934.36 after accounting for \$61,746.05 that was attributable to an area outside of the City's limits.

Our office also provided you with supporting documentation for the remainder of the bad debt total of \$2,455,154.64. The support for this portion of the bad debt consisted of monthly summary level details of write-offs and recoveries. We explained that type of detailed support for the bad debt figure of \$1,578,934.36 that had been provided was no longer available for the other portion of the bad debt. However, although not as detailed as the support material for the bad debt of \$1,578,934.36, the summary report for the \$2,455,154.64 also provided adequate support for the bad debt figure. We explained that the summary support is consistent with the supporting documentation for the \$1,578,934.36 of bad debt. In other words, the summary report reflects total bad debt of \$4,034,089 and the detailed support for the \$1,578,934.36 ties into and is consistent with this summary report. Thus, the combination of the summary report that was maintained in the regular course of business and in accordance with standard accounting practices and the detailed information that was consistent with the summary report should provide your office with the assurance of the reliability of the total bad debt figure.

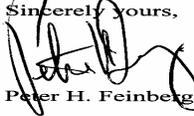
Your letter of August 17, 2004, rejects the summary support for the \$2,455,154.64. The letter contends without any support that "Generally Accepted Accounting Principles and adequate financial controls would require a publicly held company to maintain a detailed subsidiary of uncollectible accounts." Our accounting department is not aware of any accounting principals or standards that would require the Company to continue to maintain such detailed records for the periods in question, and you have not identified any specific requirements that would suggest that the support that has been provided is inconsistent with GAAP or the Company's reporting responsibilities for the period at issue, or is otherwise deficient. Also, the type of information that we provided to the City is typically provided to franchise authorities and is accepted as information compiled in the regular course of business. In this case, however, we were able to provide the City with the detailed information for \$1,578,934.36 of the bad debt which tied back to the summary report.

Your letter states that "Section 30 of Resolution No. 00-489, which was passed and adopted on June 8, 2000, stipulates that Licensee shall maintain a complete set of books and records, including plans, contracts, engineering, accounting, financial, statistical, customer service records as required under Section 11-17 of Ordinance 11936 for a period of no less than seven (7) years from the effective date of the agreement." While we are currently maintaining detailed support based on the City's interpretation of this section, as we pointed out in our letter of July 23, 2004, the agreement was effective in 2000, and the system should not reasonably be expected to produce records that were maintained prior to the date of the agreement, are no longer in existence, and where the failure to maintain such records does not violate GAAP or other applicable accounting requirements.

However, to further assure the City that the bad debt figure that we have provided should be accepted, we have attached a chart which reflects the annual bad debt expense as a percentage of revenue from 1996 through 2002. The average bad debt expense was 3.3% of revenue from 1996 through 2002, and further demonstrates that the bad debt figure provided is historically consistent and reliable.

We hope that this responds to your office's concerns. Please contact Klayton Fennell should you need any additional information.

Sincerely yours,



Peter H. Feinberg

cc: Jon Goodman
Victor Igwe
Peter Negrete
Elaine Buza
Klayton Fennell
Ed Thatcher

Comcast
 Metro Miami System
 Bad Debt Expense - 1996 through 2002

	in (\$'000's)							
	1996	1997	1998	1999	2000	2001	2002	AVG
Revenue with Ad Sales	24,578	26,625	29,058	30,253	31,639	31,383	31,914	
Bad Debt Expense	791	986	1,027	1,026	994	917	1,119	
% of Revenue	3.2%	3.7%	3.5%	3.4%	3.1%	2.9%	3.5%	3.3%

Severe, Marie B.

From: Korinis, Peter W.
Sent: Tuesday, October 19, 2004 9:27 AM
To: Severe, Marie B.
Cc: Igwe, Victor; Buza, Elaine
Subject: Audit of MTCI/ATT&T (Broadband/Comcast)

Ref: Your memo dated October 4, 2004 (Same Subject)

You posed two questions in referenced memo:

1. Regarding the second \$400,000 PEG one-time capital grant - "*Could you please explain why the said amount was not requested from Comcast and/or passed on subscribers?*"
2. Regarding the second \$.50 per subscriber per month for on-going PEG support - "*Also, please indicate whether such amounts will be requested from Comcast in the future.*"

Answers:

1. Previous City Manager chose not to request PEG monies from Comcast that would be passed through to subscribers.
2. I discussed this matter, as well as #1, with current City Manager; I anticipate we will soon discuss this matter with the Commissioners.

Peter Korinis
CIO, City of Miami
305-416-1550

10/19/2004

EXHIBIT I

MTCI/AT&T(Broadband/Comcast) Cable License Agreement
 Additional License fee and Accrued Interest Due to the City
 For the period of January 1, 1997 through September 30, 2001

Year	Additional License fee due	Interest 1998	Interest 1999	Interest 2000	Interest 2001	Interest 2002	Interest 2003	Total Interest due	Additional fees due & interest
1997	26,292.14	4,732.59	4,732.59	4,732.59	4,732.59	4,732.59	4,732.59	\$28,395.51	\$54,687.65
1998	24,111.06		4,339.99	4,339.99	4,339.99	4,339.99	4,339.99	21,699.95	45,811.01
1999	(6,555.72)		0.00	0.00	0.00	0.00	0.00	0.00	-6,555.72
2000	698.75				125.78	125.78	125.78	377.33	1,076.08
2001	32,159.56					5,788.72	5,788.72	11,577.44	43,737.00
Total	<u>\$76,705.79</u>	<u>\$4,732.59</u>	<u>\$9,072.58</u>	<u>\$9,072.58</u>	<u>\$9,198.35</u>	<u>\$14,987.07</u>	<u>\$14,987.07</u>	<u>\$62,050.23</u>	<u>\$138,756.02</u>

Underpaid license fee accrues simple interest rate of 18% per annum of the amount of the underpaid license fee payment pursuant to Section 11-16 (h) of Ordinance 11936.