

Form VI. Public, Educational and Government Use
Form VI.A. PEG Use Channel Capacity

Please describe:

1. The number of forward/downstream channels to be provided, channel number and tier assigned, and date of availability for each PEG channel proposed or, in the alternative, the percentage of the cable system's maximum channel capacity to be provided for PEG use (including storage capacity on video and computer servers).

Response:

Cox proposes to continue providing four (4) full-time (*i.e.*, 24-hours per day) forward/downstream PEG channels to the City. Currently those channels are: two (2) educational channels (channels 17 and 18), one (1) community channel (channel 22), and one (1) full-time public access channel (channel 109). These channels are carried on the basic service tier (Cox Starter TV). Based on historical usage and available programming time, Cox proposes to maintain the current number of PEG channels.

2. The spectrum space to be provided for reverse/upstream access uses, and the manner in which the Applicant proposes to provide reverse/upstream capability from locations specified by the City. This description should also delineate the specific equipment to be provided which is associated with signal transmission (*i.e.*, modulators and demodulators).

Response:

Consistent with current practices in the City, Cox does not provide upstream bandwidth on its residential subscriber network for access uses or to deliver programming from PEG facilities to Cox's headend. Cox instead plans to continue providing a dedicated fiber link between the PEG facilities and Cox's headend and associated transmitting and receiving electronics Cox currently provides for delivery and distribution of the PEG programming. Modulators and demodulators consequently are unnecessary. Although costly to Cox, the dedicated link provides greater benefits to City than upstream bandwidth on the system ever could, including increased reliability and robustness for the delivery of PEG programming.

3. The method (*e.g.*, fiber or coaxial cable) by which the access facilities and the head end will be linked. The description should include the channel capacity in both forward and reverse directions to be provided between the locations; and the equipment that will be provided to activate the links and to route or switch signals.

Response:

As explained in Cox's response to Form VI.A.2. above, Cox plans to continue providing a dedicated fiber link to connect PEG access facilities with Cox's headend, including the transmitting and receiving electronics necessary for the

delivery and distribution of a single video and audio channel from each PEG location connected by fiber link to the Cox headend. Cox also provides, and plans to continue providing, the full downstream channel capacity of its residential subscriber network to the PEG facilities, which therefore will have the functionality of both forward and reverse channel capacity. PEG programming producers consequently will have the ability to monitor upstream signal quality at the fiber link transmitter as well as monitoring the downstream signal as delivered from Cox's headend to subscribers at the PEG facility's cable service connection.

4. The conditions, if any, under which channel location will be changed.

Response:

Cox has no plans to move the PEG channels from their current locations. Cox generally seeks to maintain consistent channel line-ups in its franchise territories. However, channel locations could be changed due to federal statutory or regulatory requirements, technical or marketing initiatives, or by mutual agreement between the City and Cox.

5. The conditions under which additional capacity will be provided.

Response:

Cox will consider providing additional PEG channel capacity when and if customer demand for PEG programming exists and doing so becomes commercially advantageous.

6. Whether the links and equipment provided will permit the entity responsible for managing a channel to:

- a. view the signal before it is transmitted to subscribers;

Response:

As currently configured, the response is "no." However, the City may use the capital grant Cox proposes to provide to activate this capability.

- b. receive signals originated from distant locations and place these signals on the proper channel;

Response:

As currently configured, the response is "no." However, the City may use the capital grant Cox proposes to provide to activate this capability.

- c. receive feeds from other locations and select between feeds to program a channel.

Response:

As currently configured, the response is “no.” However, the City may use the capital grant Cox proposes to provide to activate this capability.

- d. send feeds to other entities responsible for programming channels.

Response:

As currently configured, the response is “no.” However, the City may use the capital grant Cox proposes to provide to activate this capability.

Form VI.B. Access Management

1. Describe the manner in which the Applicant proposes to cooperate and coordinate with any access management entity designated by the City.

Response:

Cox plans to provide the City with the PEG channel capacity, capital grant, and signal transport contained in its proposal. Cox will cooperate with the City as appropriate to comply with Cox’s franchise obligations. Cox does not propose to coordinate directly with an independent access management entity.

2. Please identify any restrictions on PEG use demanded by the Applicant as a condition of providing PEG channel capacity, facilities, equipment and financial support.

Response:

Channel capacity provided to the City must be limited to transmission of NTSC or ATSC video signals and their associated audio for communications to the residents of Omaha or city facilities in the City of Omaha for non-commercial purposes only. The City must ensure that the PEG channels are not: (1) used for commercial purposes; (2) used to transmit indecent or obscene programming (as set forth in Cox’s written policies); or (3) leased or sold to third parties. Cox reserves the right to refuse distribution of any programming that Cox believes would violate these restrictions. The City is responsible for establishing rules governing the use and operation of PEG channel capacity provided by Cox and for resolving conflicts among users that are consistent with the federal Communications Act and the proposed franchise.

Form VI.C. Access Facility and Equipment

1. How much does the Applicant plan to contribute for and in support of facilities or equipment for access (1) above and beyond any costs associated with constructing the cable system (including the links between and among access centers and the head end); and (2) above and beyond the franchise fee?

Response:

Form VI.D, *Access Services* includes a complete description of Cox's proposal to provide PEG access services to its Omaha subscribers. Cox proposes to provide \$150,000 to the City to purchase or upgrade PEG access facilities and equipment.

In addition, Cox will invest approximately \$200,000 over the franchise term for capital improvements and equipment used at the public access studio located at 11505 W. Dodge Road, which is a facility used by approximately 14 individuals each month to produce Channel 109 programming. These improvements include sound-proofing to allow both studio spaces to be used simultaneously, and a new connection to allow live call-in shows to be produced at the studio. Cox also will provide approximately \$1.3 million over the 10-year term of the franchise for staffing, expenses, and other support for the use of the Channel 109 studio.

If the City accepts Cox's proposal, Cox is willing to agree not to identify any of these specific costs on subscriber bills, although doing so would be entirely within Cox's rights under federal law.

2. If the Applicant does not propose a capital contribution above and beyond the franchise fee:

a. Describe any access facility or facilities proposed by the Applicant including: location; size (square footage); proposed layout of and type of work areas within a facility (i.e., studio, control room, editing suites, office space, etc.); availability of parking; handicapped accessibility; ability to expand in the future, if needed; and any other information which will clearly and concisely describe the facility or facilities proposed for any PEG use by the Applicant.

Response: N/A

b. Describe any equipment packages that the Applicant proposes to provide for PEG purposes. The Applicant must set forth the proposed capital equipment budget for the initial equipment package and a budget outlining the replacement schedule for equipment during the term of the franchise. The Applicant should provide detailed equipment lists, and indicate whether the equipment is new or used. If used equipment is proposed, provide the age of the equipment, and a certification from an independent engineer as to the condition of the equipment.

Response: N/A

3. When would the support identified above be provided?

Response:

Both the \$150,000 grant and the funding to improve and staff the public access studio will be available immediately upon the effective date of the renewal franchise agreement between Cox and the City.

4. Describe the conditions under which the Applicant would agree to be bound to provide additional channels, facilities or equipment for PEG use.

Response:

See response to Section VI.A.5. above. Cox does not foresee a need for additional PEG support or channels during the term of the new franchise agreement. Additional channels were not identified as a priority for either subscribers or current programmers in the City’s needs assessment and Cox’s own surveys do not indicate a community need or interest in additional PEG channels, support, or facilities. Cox’s customer survey is attached hereto as Exhibit 3.

Viewership data from both the City and Cox’s subscriber surveys demonstrate that the majority of subscribers “never” watch the PEG channels:

City Survey: “Have you ever watched a program on”:

	No	Yes	Don’t Know
Knowledge Network (Ch. 17-18)	<u>65.3%</u>	28.3%	6.5%
CTI (Ch. 22)	<u>83.8%</u>	12.8%	3.5%
Public Access (Ch. 109)	<u>85.8%</u>	9.0%	5.3%

Cox Survey: “How often do you or other members of your family watch”:

	Never	More Often	Don’t Know
Knowledge Network (Ch. 17)	<u>78%</u>	20%	2%
Knowledge Network (Ch. 18)	<u>81%</u>	18%	1%
CTI (Ch. 22)	<u>76%</u>	22%	2%
Public Access (Ch. 109)	<u>82%</u>	16%	2%

Neither survey demonstrated that subscribers are interested in additional PEG channels. The City survey asked “How important is it to have cable channels that feature local community programming, organizations, individuals, events, schools and local government.” Perhaps not surprisingly, a majority of respondents, 77.5%, said that such programming is “Very Important” or “Somewhat Important.” The question did not, however, ask whether respondents thought additional *PEG channels* were needed to satisfy respondents’ desire for such programming.

Cox’s survey did ask subscribers whether Cox should “add more channels to its line-up that provide coverage of local government and local education” or whether “Cox provides enough coverage of local government and local education.” Only 9% of respondents indicated Cox should add more channels while 84% said Cox provides enough channels (3% said “Neither” and 4% said “Don’t Know”).

The PEG channel programming entities likewise did not request additional channels. In the Report, almost all of the programming entities described a need and interest in additional staffing and funding. Although the Assessment report

recommends dedicating a PEG Access channel solely to government programming (Assessment Report, p. 169), subscribers do not feel such a channel is needed and the Government Agencies themselves responded that the lack of financial resources is the primary reason they do not currently produce programming (Assessment Report, p. 135). Nowhere in the Report or elsewhere has the City committed to provide the financial resources to operate a stand-alone government access channel.

Just four years ago, the City agreed to reduce, from six to four, the number of PEG channels Cox was obligated to provide under its franchise agreement so that Cox could “offer additional channels to its subscribers, including additional high definition channels.” At the time, the City “acknowledge[d] and agree[d] that the implementation of these increased programming options, specifically digital and high definition channels, [was] advantageous to its residents and financially beneficial to the City and to Cox.” The RFRP neither asserts nor demonstrates that circumstances have changed since 2007.

As the City and Cox surveys demonstrate, the vast majority of subscribers never watch PEG channels and a similar majority believe Cox provides a sufficient number of channels to air programs that “feature local community programming, organizations, individuals, events, schools and local government.” Therefore, no community need or interest in additional PEG channels has been demonstrated. Indeed, as the City acknowledged four years ago, Omaha residents are more interested in – and their needs are better served by -- the additional high definition programming options Cox currently provides than in additional PEG channel allocations.

Form VI.D. Access Services

1. Please describe the access services the Applicant proposes to provide, or any contribution that Applicant proposes to make to support PEG operations. The Applicant should separately identify each access service it proposes to provide (e.g., training, facilitation, outreach, etc.); who will provide the service; the staff devoted to the service; and the times the service would be available. The description should include any annual budget for the delivery of any access services. The Applicant should assume any such services will be provided in addition to, and not as a part of, the franchise fee paid to the City.

Cox proposes to provide the City with the channel capacity, capital grant, and PEG support described above and included in its proposal to ensure that PEG programming is available to subscribers in Omaha. As described above and in Cox’s proposed franchise agreement, these services will include:

- **Four channels of PEG access programming. The content of the channels to be determined by the City or its designee.**
- **\$150,000 for a PEG capital grant to be paid to the City for distribution to PEG access programmers to improve or purchase PEG access facilities and equipment.**

- Improvements to the public access studio valued at approximately \$200,000.
- Staffing resources for the access studio valued at \$1.3 Million.

Notwithstanding the implication of the City's question, pursuant to federal law, any payments for or in support of the use of PEG access facilities, including for services and staffing, among other things, are franchise fees subject to the limitations of Section 622 of the Communications Act. If the City accepts Cox's proposal, however, Cox is willing to agree not to offset the PEG support costs it is proposing from its franchise fee payments to the City. The result will be that Omaha will receive a greater proportion of Cox's total gross revenues than it would be entitled to demand under Federal law.