

April 5, 2011 Chair and members of the Board.

I'm here today to give you a retrospective view of the PEG channel issues and to bring you up to date on your funding levels and legislative changes that have occurred since I was last in front of you in June of 2010.

As we have discussed in the past, there are two (2) PEG funding sources from the North Carolina Department of Revenue -- we used to have one additional source from Charter.

1) NC DOR PEG Supplemental Funds:

According to the Video Service Competition Act a County must certify to the Department of Revenue (DOR) by July 15 of each year, the number of qualifying Public, Education and Government (PEG) channels it "operates." The DOR must then include the applicable amount of supplemental PEG channel support in each quarterly distribution to that County. The law specifies that these Supplemental PEG funds "must be used equally by (the County) "for the operation and support of certified PEG channels" but does not specify when the County should provide the funds. These PEG Supplemental Funds must be distributed to those channels that the County certifies annually. Historically, Buncombe County has certified URTV and BCTV. For the record, any of the municipalities in the County could certify URTV instead of Buncombe County. But two government entities cannot certify the same channel.

The Supplemental PEG funds must be divided between the two channels. (URTV and BCTV) I will discuss specifics funding amounts in a moment.

2) NC DOR PEG Subscriber Fee Revenue:

Likewise, according to the Video Service Competition Act, a County that received PEG subscriber fees during the first six months of the 2006-2007 fiscal year, and certified them with the Department of Revenue by March 15, 2007, must use those funds, when distributed by the DOR to the County as a percentage of its Video Programming Tax, "for the operation and support of PEG channels." Yet again the law does not specify how much is to be distributed to each channel, or when those funds should be distributed.

During the first six months of FY 2006-07, the County received \$37,776 from Charter Communications. The Act stipulates that Buncombe County must multiply this amount times two (2) to determine the level of funding for *all* PEG channels in the future. This means that the County's PEG funding during FY 2006-07 was \$75,552 against franchise tax revenue of \$1,302,736 for a PEG funding ratio of 5.79%. The Act set up this percentage ratio for the County to follow for future PEG funding. An important note on this matter is that the legislation did not establish which PEG channel or channels the County has to fund. That decision is left up to the local municipality or county. The only requirement is that the County must use 5.79% of the Video Tax distribution to support PEG "channels".

The County uses this funding source to reimburse itself for expenses related to the operation of BCTV and Asheville City Schools channel since past distributions were heavily weighted to URTV.

3) Charter PEG Grants and Support. This source has gone away but I'll talk about past payments in a moment.

- Back in 2002 we negotiated a new cable television franchise with Charter Communications. While that franchise was supposed to last until 2014, Charter was allowed to terminate it last year because of competition from Bellsouth.
- The terms of the franchise required Charter to make an upfront PEG channel support grant and then to continue to pay a monthly PEG payment. The County was to make all decisions regarding the distribution of those funds. You could have elected to distribute it equally between the three channels...government, education and public access.
- From 2003 until present you have collected \$1,101,108 from Charter and paid URTV the bulk of the monies collected.
- URTV has received \$772,821
- Asheville City schools and the Buncombe County government channels have each received \$251,027.
- URTV received 70.19% of the funds collected from Charter to be used for all three channels.
- Originally you received a grant of \$340,000 which was to be distributed between all three channels but the Board gave URTV \$313,196 of that amount. You could have evened up the distributions each quarter as Charter paid you additional grant funds but you continued to give URTV the bulk of the funds.

It was only when we negotiated a new franchise in 2002 that PEG funds became available to support the local channels. And as I pointed out a moment ago, those funds have been limited to \$1,101,108, 70% of which went directly to URTV.

While the franchise was in force, URTV was eligible to receive from Charter an additional \$530,000 if they had been able to raise their locally produced, original programming to 50% but this did not happen. Those decisions were all made by URTV and not the County or Charter.

Additionally, URTV may have received funding from the various municipalities in the county. I did not research that matter since it is not a county issue.

A few weeks ago the Board heard from several of the producers that utilize URTV. During their comments it was mentioned that the County has received millions of dollars in franchise fees that should have been distributed to URTV.

- Franchise fees have always been collected from the area cable companies for the use of public ways and as payment for the oversight of the local franchise. This oversight generally deals with cable customer complaints, making sure yards and rights of ways are repaired when digging happens, meetings like this one, legal issues that arise over the course of the contract and of course negotiating franchise renewals. The franchise fees are unrestricted and have always gone into the general fund for the operation of county business.
- The number 30 million was mentioned at the last meeting. The actual amount of franchise fees received by the county annually is about 1.4 million. These payments from the cable companies go back to the 1960s and have always gone to the general fund.

During the 2006 legislative session, the state of NC changed how franchise fees are collected. The state imposed a 7% video sales tax on both cable company and satellite television customers.

- Under this new relationship with the state, Charter no longer pays the county PEG support fees as it used to do because the state set up a Supplemental PEG fund.

The NC legislature set aside \$2,000,000 to be split between all of the certified PEG channels across the state. Buncombe County certifies both BCTV and URTV. The \$2,000,000 is distributed evenly between each channel statewide. The number of channels across the state can vary depending on if a channel maintains the amount of programming to remain certified.

- Currently the per channel distribution is \$4,310 per quarter.
- Last July, the legislature passed HB1691, which doubled the \$2,000,000 pot effective July 2011. If this remains, then around the 3rd calendar quarter of this year the per channel distribution will change to around \$8,500.
- *That said, there is much going on in Raleigh and funding from any historical source cannot be counted on until after the legislative session is complete. Again, if this HB1691 survives then the URTV distribution will increase to \$34,000 annually.*

By law these funds must be distributed to the certified PEG channels in the County. As I mentioned earlier the two channels locally are the County government channel and URTV.

- Recapping, since Charter no longer collects PEG funds from cable customers, the Supplemental PEG fund is the sole source of funds available to URTV.

In preparation for this meeting I reviewed the proposed URTV FY budget for 2012.

- Their total 2012 budget is \$297,450.
- They are prepared to fund \$33,300 or 11% of that budget and have requested funding from the Asheville and Buncombe County at levels of \$130,750 each or \$261,500.
- This represents a government bailout of 88% of their budget. Unless they discover a way to generate internal operating income, this amount will continue for years to come, adjusted of course for inflation.

Last July 14th at the request of Chairman Gantt, I met with the management of URTV to discuss alternate revenue sources. A copy of my follow up email is attached at the bottom of this report. We discussed how URTV should approach the Tourism Authority and the Chamber of Commerce to consider airing infomercials highlighting are businesses and eateries similar to what you might see when you visit other tourist areas. I have not heard of any of these initiatives being investigated but possibly they have.

Summarizing, URTV received over 70% of all available funds over the last 9 years. The newly identified funds have a specific set of distribution rules, which are laid out by the NC Department of Revenue. Future funds collected and distributed by the Department of Revenue need to be distributed per their rules.

Going forward, we should expect to receive about \$68,000 annually from the NC DOR if HB1691 survives and the \$68,000 must be divided equally between the two certified channels.

- That means that URTV's distribution in the future years will be about \$34,000.

I think the county should have some written agreement with URTV to:

- 1) certify the channel and
- 2) to distribute their share to them.

Submitted in person before the Board of Commissioners April 5, 2011 by
John Howell of Telecommunications Consulting Associates.

Attachment: July 14, 2011 email to URTV

- Original Message -----

From: John Howell

To: Pat Garlinghouse

Cc: bob horn ; Joe Scotto ; Wanda Greene

Sent: Wednesday, July 14, 2010 8:38 AM

Subject: RE: meeting with WNC CMC

Pat, Bob and Joe

I believe we had a productive meeting today. As you look forward, you can expect to receive about \$37,000-\$39,000 in Supplemental PEG funding annually. Additionally, any fees specifically passed thru by Charter will be distributed to URTV in the same fashion and percentage as always. We cannot rely on this revenue source since payment is contingent upon Charter's continued activity.

We discussed some new revenue options for URTV, which include approaching the Tourism Authority about the possibility of partnering with them to produce area videos touting the types of activities and accommodations/dining available to visitors to our area. Possibly the TDA could supplement your initial staff needs to film vignettes and then URTV could approach each of the entities about sponsorships. If URTV were to produce a 2-4 hour block of "infomercials" within the scope of non-profit, this could be a wonderful source of income.

I realize this approach is not contained in your original "vision" but during these economic times and under the current funding scenario, URTV will need to examine many new ways to reinvent itself to continue operations.

I applaud your ability to operate on a \$200,000 budget. I know that is very difficult to do. I have spoken to Wanda Greene about how the board of commissioners can assist by maintaining dialogue with the URTV official board. Additionally, as we discussed, it is imperative that URTV engage others in the community such as the Chamber of Commerce and the TDA and possibly Advantage West. I did not mention it but Advantage West operates the Film Commission and can be a very important ally. Their link is below. Let me once again encourage you to consider any solution to your funding issues even though they may be outside or conflict with your current vision. Extraordinary times require extraordinary solutions.

http://www.advantagewest.com/content.cfm/content_id/152/section/film

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