



# MADISON CITY CHANNEL

Received & Inspected

March 4, 2009

MAR 16 2009

FCC Mail Room

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Petitions for Declaratory Ruling Regarding Public, Educational and Governmental Access Channels, MB Docket No. 09-13, CSR-8126 (ACM et al.), CRS-8127 (City of Lansing, MI), and CSR-8128 (City of Dearborn, MI et al.).

Dear Ms. Dortch:

The City of Madison, Wisconsin supports and strongly urges the Commission to grant all three of the above-captioned petitions concerning public, educational and governmental ("PEG") access channels. The problems created by the AT&T channel platform and Comcast's selective digitization of PEG channels are different in many respects (the failure to comply with FCC rules by passing through closed captioning is unique to the AT&T platform). Both companies, however, are using their control over their system to make it more difficult or expensive for program producers to use, and for subscribers to access and watch PEG programming. Rather than repeat the legal arguments in the petitions, we file to explain PEG's role in our community, and why it is important to prevent operators from inhibiting access to these channels.

1. PEG Programming in Madison, Wisconsin:

Madison City Channel is the City of Madison's Government Access Television channel. Since 1974, Madison City Channel has been providing Madison residents with live coverage of the most important meetings of local Madison government. In its role as Madison's version of C-Span, City Channel has been lauded as "...a vital civic component...", "...an opportunity for citizen input", "a window into City Hall for the community", and that "City Channel covers special events that go unreported by the general media." In addition to live and replayed coverage of local government meetings, Madison City Channel produces public affairs programs on issues of concern to Madison residents; covers special presentations, meetings, and events that help connect Madison residents to their community and which speak to underserved populations in the city such as the elderly (our public affairs program "Senior Beat"), the disabled (our coverage of the Commission on People with Disabilities) and Madison's growing Hispanic community (our public affairs program "Conexion Latina," produced in Spanish); serves as a venue for agencies of the City of Madison to disseminate vital public information, and produces a Community Bulletin Board message board that has annually garnered national recognition from the National Association of Telecommunications Officers and Advisors.

Madison residents also watch City Channel's programming in robust numbers. A recent survey

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Madison City Channel

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indicated that over 52% of respondents watched Madison City Channel either very often (1-5 times weekly) or often (6-10 times a month); that same survey found that Madison City Channel is a primary source of information about local Madison government for at least 22% of Madison residents and at least a secondary source of such information for over 48% of Madison residents.

Madison City Channel makes its originally produced programming available through its website at <http://www.cityofmadison.com/mcc12/programming.html>. We also provide closed-captioning of our coverage of the Madison Common Council – a feature not currently supported by AT&T's U-Verse.

2. AT&T's U-Verse in Madison:

AT&T contacted City staff in September 2008 to inform us of their plans to begin rolling out U-Verse in selected parts of Madison in October and to discuss making Madison City Channel available on the platform. We decided to make our programming available to AT&T despite serious concerns:

1. The cost of making our signal available to AT&T. Since AT&T has decided to use Internet Protocol Television and in effect "stream" PEG channels rather than simply transmit NTSC television signals (as they are doing for commercial channels), it's necessary to convert our signal to a format AT&T can accept. Because of the passage of the "Video Competition Act" in Wisconsin in 2007, PEG channels such as Madison City Channel – for the first time in the history of cable/pay television - are being required to pay for the costs of encoding and transporting their signal to a video service provider. The other PEG organizations in Madison – the Madison Metropolitan School District, which operates two educational access channels, and WYOU, the public access channel – have decided that they simply cannot afford the cost of purchasing an encoder and other peripheral equipment (from \$7,000 to \$10,000 per channel and per origination point).

2. The various technical limitations of U-Verse's "PEG Solution". The U-Verse system delivers its various video services and programming to neighborhood nodes via a robust fiber-optic backbone. Its "switching system" at these nodes allows individual households to call for only those few channels they want to watch at any one time to be delivered from their neighborhood node through AT&T's existing twisted pair copper wiring into the home. AT&T could therefore deliver literally hundreds of individual channels – including as many PEG channels as currently exist in any community or region - to these nodes. There is no technical reason why AT&T U-Verse cannot offer PEG programming to its subscribers with exactly the same functionality and at exactly the same level of technical quality as it offers commercial television stations – with individual channel numbers for each PEG station and at normal NTSC resolution.

However, AT&T has chosen to offer PEG channels on U-Verse by converting their NTSC signal into an Internet stream and by grouping all PEG channels together onto Channel 99. Viewers must then navigate a cumbersome drop-down menu to find the channel they wish to watch; what's more, the download time once a viewer makes that selection can be anywhere from 45 to 90 seconds. This so-called "PEG Solution," as mentioned, does not support closed-captioning; channels cannot be recorded on a DVR; SAP audio is not supported; and numerous complaints of audio and video playing out of sync have been reported.

Madison City Channel staff saw the limitations of PEG on U-Verse during a demo which took place in January 2008 at AT&T's Milwaukee offices. We have also, of course, heard and read reports from other Wisconsin access channels as well as PEG channels across the country about the negative impact of AT&T's

treatment of PEG channels. Since AT&T does not offer U-Verse in downtown Madison, where Madison City Channel is located, we have no way to monitor our channel on the U-Verse system (again, a heretofore unheard of situation). We have spent thousands of dollars and considerable staff time and expertise to make our programming available to Madison U-Verse subscribers with absolutely no way of monitoring the quality of our signal, the ease (or difficulty) of accessing our channel, or, indeed, if our channel is even truly available on U-Verse at all.

3. Charter Communications and the Digitization of Madison City Channel:

In May of 2008, Charter Communications informed Madison City Channel (through the Wisconsin Association of PEG Channels, of which Madison City Channel is a member) that they planned to move PEG channels on the Charter system from their locations on the analog basic tier (where Madison City Channel had been located for almost 35 years) to a digital "Public Affairs Neighborhood" located in the high 900's. Charter subscribers would have been required to either rent a Charter digital box (one per television in a household) or purchase a television set with a QAM tuner in order to continue to view PEG channels. Charter stated that these moves were necessary for Charter to reclaim bandwidth in order to provide more HD channels. At the same time, local broadcast channels (network affiliates) would have remained on their current location on the analog basic tier. This change was initially scheduled to take place on August 12 of 2008, less than 3 months after Charter informed WAPC of their plan.

The necessity for subscribers to pay extra for the rental of converter boxes in order to continue to receive PEG channels greatly concerned Madison City Channel and other WAPC channels, as did the whole idea of moving our channels from their longtime locations on the basic tier. What's more, the initial tentative channel lineup Charter disseminated to WAPC members simply replaced PEG channels on the analog basic tier with commercial channels! For example, Madison City Channel, which had been located on analog basic channel 12 since its creation in 1974, would be moved to digital channel 994; however, Charter planned on replacing Madison City Channel on 12 with a home shopping channel called "On-TV-4U." These plans seemed to belie Charter's stated need to free up analog bandwidth which was the reason they gave us for this switch in the first place.

Ultimately, after much debate in local media and the threat of legal action on the part of WAPC (since moving PEG channels to a digital-only tier and levying additional charges to subscribers to maintain access to these channels would clearly violate the Cable Act), Charter arrived at a compromise which is the state of affairs as of this writing: Charter, effective September 30<sup>th</sup>, moved PEG channels from their original locations on the analog basic tier to a grouping of channels higher on the basic analog tier. For example, Madison's PEG channels – public access WYOU, Madison Metropolitan School District's two educational access channels, and Madison City Channel government access – were moved from 4, 10, 19, and 12, respectively, to 95, 96, 97, and 98. This, of course, raises the legitimate and as yet unanswered question of, since Charter was apparently able to find the bandwidth to keep these channels on the analog basic tier after all (no additional equipment is necessary for any Charter subscriber to continue to receive these channels), why move these channels from their original locations in the first place? Charter has replaced these channels with other channels on their old analog locations.

At the same time Charter early in September 2008 created the digital-only "Public Affairs Neighborhood" encompassing digital channels 978-994. A television with a digital box cannot receive the analog PEG channels, and of course a television without a digital box cannot receive the "Public Affairs

Neighborhood.”

Charter has, as of this writing, not made any definitive statement on how long they intend to maintain this alignment. It's the position of the City of Madison that as long as Charter continues to offer an analog basic tier – as long as the local network affiliates are available in the analog format – then Charter must continue to offer PEG channels on the basic analog tier or find themselves in violation of the Cable Act. We fully realize that at some point in the next several years Charter and all incumbent cable providers will move their entire inventory to a digital-only format, and at that point of course we do not expect our channels to continue to be offered in analog.

Our communities rely upon our PEG channels to convey important public information to our residents. PEG channels such as Madison City Channel are an important component of Homeland Security disseminating localized disaster response information. People in our community rely on the channels to receive information. If the channels are less accessible for technical reasons, or because one must effectively pay extra to receive the channels, these PEG channels would become a much less effective avenue for community communications, and some subscribers we now reach would not receive the information at all. If the Commission were to endorse the actions of AT&T and Comcast at issue in this proceeding, we have little doubt that their competitors would adopt those approaches, to marginalize or effectively eliminate PEG access.

4. The Commission Should Grant the Petitions Concerning AT&T's PEG Product (CSR-8126 & CSR-8127):

Our experience confirms many of the deficiencies identified in the petitions. In virtually every conceivable way that matters to a viewer, the AT&T PEG product is markedly inferior to broadcast channels carried on AT&T's U-verse system: Ease of finding in the menu system, ease of access, the time it takes to reach the PEG programming, the ability to switch back and forth between local PEG programming and other channels, ability to record using DVR, closed captioning capability, and secondary audio (“SAP”) capability.

Accordingly, to preserve PEG as envisioned in the Cable Act, the Commission should grant the petitions in CSR-8126 and CSR-8127.

5. The Dearborn Petition and Comcast's PEG Digital Channel-Slamming (CSR-8128):

Madison City Channel and the City of Madison also supports Dearborn's petition in CSR-8128. Dearborn is clearly correct that Comcast's proposed treatment of PEG violates the Cable Act and would have impermissibly removed PEG channels from the basic tier.

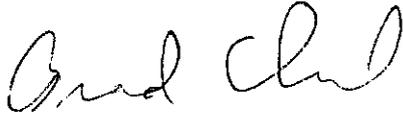
As noted above, the PEG channels in our community were digitized in September of 2008, and while Madison City Channel continues to be available on a (different) analog channel, the result of Charter's actions has been unnecessary confusion on the part of Madison residents (we have received well over 200 phone calls and emails of complaints). We are also very concerned about the ongoing threat of being carried in a digital-only format whenever Charter so decides unless the questions posed in the Dearborn petition are answered as Dearborn proposes.

6. Conclusion:

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Our PEG channels are a critical and irreplaceable resource for our community. They are an integral part of our disaster response communications plan. They are the key medium for our local government to communicate with residents, for local educational institutions to communicate with our residents, for residents to communicate among themselves and to watch and participate in a dialogue about our community. In light of the decreasing amount of truly local programming available on broadcast and other commercial channels, PEG is the only full-time, genuinely local source of television programming available to our residents. We therefore strongly urge the Commission to grant all three petitions.

Respectfully submitted,



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