

**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

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**Continue Date(s):**

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**Index:** --Letter of the County Administrative Office dated September 20, 2011

**Item: 7.** ACCEPTED AND FILED report on Comcast settlement, as recommended by the  
County Administrative Officer

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# County of Santa Cruz

## COUNTY ADMINISTRATIVE OFFICE

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SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

September 20, 2011

**AGENDA:** September 27, 2011

APPROVED AND FILED  
BOARD OF SUPERVISORS

DATE: 9/27/11

COUNTY OF SANTA CRUZ

SUSAN A. MAURIELLO

EX-OFFICIO CLERK OF THE BOARD

BY: *[Signature]* DEPUTY

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

## SETTLEMENT OF DISPUTE WITH COMCAST

Dear Members of the Board:

The purpose of this letter is to advise your Board that the City of Santa Cruz and the County of Santa Cruz have executed a settlement agreement with Comcast which resolves a long standing dispute regarding renewal of Comcast's franchise with the City and County and the term of the Federal Consent Judgment which has provided Santa Cruz cable subscribers with important protections since 1989. The settlement agreement executed by the City and County, implements the terms of a settlement previously authorized by the Board of Supervisors and the Santa Cruz City Council.

The settlement takes the form of a Fourth Amendment to the original 1989 Federal Consent Judgment and therefore requires the approval of the Federal Court. In this regard, the Fourth Amendment was submitted to United States District Court Judge Susan Illston in late August.

### Background

As a result of a settlement in the late 1980's, the City of Santa Cruz and the County have common cable franchise agreements, cable regulatory ordinances and are both parties, with the cable operator, now Comcast, to a Stipulation and Consent Judgment, which provides Santa Cruz cable subscribers with a broad range of protections, safeguards and privileges not enjoyed by other communities in California. For example, in terms of price and services protections, according to Comcast in 2009 the difference between the price of Santa Cruz Full Basic Service and an equivalent tier of service in the bay area was \$22 per month. Since 2009, Comcast has eliminated Full Basic Service from their other Bay Area systems and increased the price of their digital products, therefore, we believe that \$22.00 per month is a conservative estimate of the savings for a Santa Cruz Full Basic subscriber.

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The material which follows provides background on the renewal dispute with Comcast; discusses Santa Cruz's unique position in California with respect to cable television regulation; and provides a summary of the recommended settlement with Comcast.

**The Dispute**

In June of 2007 the Board of Supervisors and the Santa Cruz City Council authorized a renewal proceeding for the Comcast Franchise pursuant to federal law and the carve out Santa Cruz enjoys from the State's cable law - the Digital Infrastructure and Video Communications Act ("DIVCA"). DIVCA was adopted by the California Legislature in 2006 and provides for State franchising for cable operators everywhere in California except Santa Cruz County.

Santa Cruz is carved out of the State franchising scheme because then Assembly Member John Laird was able to secure a legislative exemption from State franchising for Santa Cruz County through July 1, 2014. The Legislature exempted Santa Cruz because of the unique regulatory mechanisms which exist in Santa Cruz – specifically, the Consent Judgment for Comcast in the City of Santa Cruz and the County unincorporated area and the Stipulated Rate Order for Charter Communications in the County unincorporated area.

Comcast's position during the renewal negotiation was that, notwithstanding, John Laird's carve out for Santa Cruz, the Federal Consent Judgment expired on July 27, 2009.

**Settlement**

The settlement extends the existing franchise and continues the subscriber protections in the Consent Judgment through July 1, 2014.

For the City and County and their subscribers and residents, the settlement:

- ✓ Preserves the existing rate regulation scheme for both the Life Line and Full Basic Service Tiers through July 1, 2014.
- ✓ Preserves the existing tier protection for the Life Line and Full Basic Service tiers through July 1, 2014.
- ✓ Continues the existing protection for both the amount and the free uses of the PEG funds provided to the City and County through the operation of the Federal Consent Judgment through July 1, 2014.
- ✓ Resolves a series of long standing line extension problems in the unincorporated area.

In this regard, Comcast will extend its cable plant to the following areas by September 1, 2012, without charge to subscribers other than normal installation charges:

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- a. Summit Woods/Adam Road/Miller Cut Off Road/Terrace Grove (10 miles of plant, 336 homes per Comcast email of February 2011).
- b. North Ponza Lane (.63 miles of plant, 13 homes per Comcast email of February 2011).
- c. North Rodeo Gulch Area (266 homes based on the list of addresses previously submitted to Comcast).
- d. Cave Gulch Area (4.92 miles of plant, 59 homes per Comcast email of February 2011).
- e. Coast Road/Dimeo Lane and Highway 1 Area (2.7 miles of plant, 41 homes per Comcast email of February 11, 2011)

✓ The Settlement also includes:

- a special fund for other unidentified line extension problems which will be financed by a 15 cents per month per subscriber charge commencing in July 2012;
  - an increase in PEG payments of 20 cents per month per subscriber beginning in July 2011 (\$108,000 per year);
  - protection of the Intuition Network (INET) through 2021 through a lease for \$1 year;
- 
- relocation of the head end feed to the PEG studio within the City of Santa Cruz on a time and materials basis; and
  - settlement of the City's and County's franchise fee and utility tax audit with payments to the City of \$88,114 and to the County of \$174,862.

For Comcast, the settlement provides for their 2009, 2010 and 2011 rate increases pursuant to the rate mechanics in the Third Amendment to the Consent Judgment for both the Lifeline and Full Basic Service Tiers and an amount equal to 56 cents per subscriber per month above and beyond the Consent Judgment rate mechanics. The increase in the Lifeline Rate is \$1.13 per month (from \$13.51 per month to \$14.64 per month) and the increase in the full basic service rate is \$5.56 per month (from \$37.91 per month to \$43.47 per month). These rate increases were implemented by Comcast in July 2011.

**PEG Protections**

The settlement not only provides for an increase in PEG funding of \$108,000 per year but continues the privileged status our PEG operator enjoys by virtue of the existence of the

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Consent Judgment. Without the Consent Judgment Santa Cruz's PEG operations would suffer the same financial problems other PEG operators in California and throughout the nation are suffering, specifically: (1) reductions in funding; and (2) restrictions on the use of available funds to capital expenditures.

The settlement provides Santa Cruz with lead time to bank funds for operations before the Consent Judgment ends in July 2014 and time to see if legislative relief from this problem can be secured.

**Conclusion and Recommendation**

In conclusion, we believe the settlement is favorable to the City and County. The settlement realizes our negotiating objective of preserving the protections in the Consent Judgment through July, 1 2014; resolves line extension problems; extends important protections for our PEG operations; and secures a settlement of our franchise fee and utility tax audit.

It is **RECOMMENDED** that your Board accept and file this report on the Comcast Settlement and the Fourth Amendment to the Consent Judgment for cable television.

Very truly yours,



Susan A. Mauriello  
County Administrative Officer

cc: Martin Bernal  
Bill Marticorena

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**Alicia Murillo**

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**From:** cbdbosmail@co.santa-cruz.ca.us  
**Sent:** Monday, September 26, 2011 12:06 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 9/27/2011

**Item Number :** 7

**Name :** Peter Haworth

**Email :** pete@haworths.org

**Address :** 152 Lupin Drive  
Soquel  
CA 95073

**Phone :** 8312953987

**Comments :**

I am one of the group of people who live on North Rodeo Gulch who have been lobbying for Comcast to install cable and internet services along North Rodeo Gulch and its tributaries since January of this year.

The objective of our project was to have Comcast provide service to us free of any installation charges to all residents and within a reasonable period of time. I am given to understand that neither of these objectives has been met.

My understanding is that residents who are more than 250 feet away from Comcast's main circuits will be charged; I do not know how those charges will be calculated.

I'm also given to understand that Comcast have 1 year to install these services; given the fact that it is now 8 months since we started this project and even longer since Comcast was initially approached to provide service, this is not an acceptable period of time..

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As far as I am concerned, we are no further forward with this project than we were 8 months ago. Comcast already had a survey in place to provide service for an installation fee. Unless the agreement provides for free service to all residents of North Rodeo Gulch and its tributaries within 6 months of it being accepted, it is not acceptable to me

As you may or may not be aware, Comcast installed service for some residents of one of the tributaries of North Rodeo Gulch several years ago at a cost in the \$1500 range. Will those residents have those costs refunded? If not, why not?

Finally, I strenuously object to the air of secrecy and behind the scenes dealings between the board of supervisors and Comcast on this renewal of their franchise. Every detail reported in the Sentinel recently is and has been a matter of public record for years yet Supervisor Leopold and Mr Busch of the county staff insisted on not revealing any of them. I understand that the exact details of the negotiations were not subject to public scrutiny, but the reasons for the negotiations should have been made known to us.

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