

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Who's Right? Mediacom, West Des Moines Talk Settlement

Mediacom and the City of West Des Moines are engaged in settlement talks regarding a dispute over the city's construction of a \$50 million conduit network.

Mediacom filed a [lawsuit](#) in December against the city, alleging it improperly used taxpayer-backed financing bonds intended to remedy urban blight and poverty to build the network exclusively for the use of **Google Fiber**. In a related move, the cable operator filed a petition asking the **FCC** to review the City of West Des Moines' rights-of-way management practices.

The FCC originally asked for comments on Mediacom's petition by Sept. 22, but agreed to push the deadline by 15 days to Oct. 7 following a request from the City and Mediacom. "The parties have participated in meetings in an effort to resolve their disputes. To date, the parties have not reached any substantive agreement on potential settlement, but they would like additional time to explore settlement," they said in their joint filing. The Iowa District Court hearing the case issued an ordering staying it until today, Sept. 24.

Mediacom's lawsuit alleged the West Des Moines City Council secretly negotiated a deal with Google Fiber and that the city falsely claimed the network would be open and accessible to all ISPs in the city. Other allegations in the suit include that Google's primary statewide lobbyist was a member of the Council when the agreement was approved and that the Council failed to solicit competitive bids for parts of the construction

process that Google Fiber is performing.

A couple comments have already come into the FCC on Mediacom's right-of-way petition. **Northern Dakota County Cable Communications Commission** opposes it, accusing Mediacom of trying to hinder broadband deployment. "Granting Mediacom's petition would establish dangerous precedent whereby incumbents would seek to use the Commission as a shield against competition—all to the detriment to residents and customers," said a filing from the municipal joint powers cooperative formed by seven cities, including Sunfish Lake and West St. Paul.

The **Minnesota Association of Community Telecommunications Administrators** took a similar stance. "Mediacom is asking the Commission to take policy in the wrong direction by deterring public-private partnerships that could bring needed broadband competition to our Minnesota residents," said the telecom lobbying arm, whose members include cities, Public-Education-Government (PEG) organizations, schools and industry supporters.

When the FCC asked for comment on Mediacom's petition, it also sought comment on a separate rights-of-way (ROW) petition by Midwest telecom **Bluebird Network**. Bluebird told the FCC it has several current rights-of-way permits, as well as an overarching rights-of-way agreement with the City of Columbia, Missouri, through which the city assesses a rights-of-way fee of \$1.91 per linear foot, with no cap on the total amount due. That means its fee structure will increase by more than 600% when it completes its network expansion in 2022. "Despite

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SOURCE: BETA RESEARCH BASIC NETWORK EVALUATION STUDY, JULY 2021. PERCENT OF TOTAL RATING 4/5 ON 5 POINT SCALE ON BEING A "MUST HAVE" CHANNEL. HISTORY IS TIED WITH DISCOVERY AND FOOD NETWORK. RANKING EXCLUDES NEWS AND SPORTS NETWORKS.

months of attempts to reach an agreement on an alternative fee and permitting arrangement, the City continues to insist on the payment of discriminatory and excessive fees,” said Bluebird, claiming the city’s fee structure violates Sect. 235 of the Communications Act.

ACA Connects weighed in on the Bluebird case this week, telling the agency it believes the provider’s claims warrant careful scrutiny. It laid out a legal structure for evaluating the claims, which include examining whether the per-linear-foot fee complies the FCC’s 2018 infrastructure order that limits such fees to actual costs incurred.

“ACA Connects supports policies that facilitate competitive entry into markets, but a ROW fee does not violate Section 253, as the Petition suggests, based solely on the fact that a provider’s ROW fee will increase significantly because the provider has expanded its network and uses a commensurately greater portion of the public ROW,” said the ACAC filing. “That said, the Commission should be suspect of a material fee increase where the provider does not impose significant additional costs on the government or where other factors suggest that the fee is not based on actual, objectively reasonable costs, is discriminatory, or is not competitively neutral.”

NEW STREET DROPS ALTICE USA TO ‘NEUTRAL’

New Street Research is downgrading **Altice USA** to “Neutral” after a warning from CEO *Dexter Goei* that the provider would lose subs in 3Q21. “The stock is too cheap, even with 12-18 months pause in share repurchases and much higher capex. We are moving to neutral because we have been wrong. We need to revisit the equity with a fresh set of eyes,” the firm said in a note. New Street

also said it was aware of the possibility that Altice USA management will take the company private once again. The firm expects that we’ll hear of a new growth plan for the company before that happens. “If the market fails to embrace the plan, there will be a strong case to take the company private,” New Street said.

FCC GRANTS \$1.2 BILLION TO ECF APPLICANTS

The **FCC** approved the first \$1.2 billion in Emergency Connectivity Fund commitments Friday. More than 3,000 schools, 260 libraries and 24 consortia that applied for support through the \$7.17 billion program will receive aid for devices and broadband connections provided to students, school staff and library patrons during the COVID-19 pandemic. A second application window will open on Sept. 28 and close on Oct. 13 to provide funding for eligible equipment and services received or delivered between July 1, 2021 and June 30, 2022. But the Commission has plenty more work to do on the first round of applications before it can move forward. On Tuesday, the **Wireline Competition Bureau** directed the **Universal Service Administrative Company** to review and process applications filed after the close of the first filing window on Aug. 13. A number of schools and other institutions filed requests for waiver with the FCC after missing the first application window deadline, with many citing inexperience with the Commission’s E-Rate systems as the reason for their delay.

PROGRAMMING

MTV Entertainment Studios signed “Teen Wolf” creator/writer/producer *Jeff Davis* to a multi-year deal. As part of the partnership, he will write and executive produce a movie tied to the franchise as well as all new series “Wolf Pack.” He’ll also serve as showrunner and director for the pilot of live-action



Congratulations to all the Honorees!

Our annual must-read highlights operators that are smashing it including MSO of the Year, Charter, and Independent Operator of the Year, TDS.

Check out the digital issue to read all the shareable profiles at www.CablefaxTopOps.com.

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reboot “ÆON FLUX” for **Paramount+**. Beginning in December, all episodes of Teen Wolf will be available to stream on Paramount+ in certain markets. – **HBO Max** renewed comedy “The Other Two” for a third season. The streamer also ordered a three-part docuseries on the history of DC Comics. – It’s about to get spooky on **Tubi**. “Terror on Tubi,” a month-long event in October, will feature more than 140 hours of all new content and the premieres of four Tubi originals. The service’s Halloween library will include more than 5,000 horror and paranormal titles.

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Twitter Hits

Ajit Pai @AjitPai

Was digging through an overfull drawer and found this. Pretty sure I borrowed this sometime late in President Obama’s first term. And just discovered Netflix has a @USPS box established for the express purpose of receiving straggler DVDs.

Rebecca Keegan @ThatRebecca

Hey LA, go fill up on Disney. There’s 34-cent a gallon gas at Hollywood & Highland as part of a Wonder Years promo.

Research

(Source: [MBLM’s 2021 Brand Intimacy COVID Study](#))

- The tech & telecom industry has an average Brand Intimacy Quotient of 45.7, well above the cross-industry average of 38.3.
- Tech & telecom perform better with men than women, and with consumers over 35.
- Samsung is the top brand for men, replacing Google, while Apple remains the top brand for women and users under 45.
- Compared to previous COVID studies, more than 32% of consumers have an increased positive emotional connection with the industry.

Up Ahead

- OCTOBER 4-5:** [WICT Leadership Conference](#), Online
- OCTOBER 5-6:** [The Independent Show](#), Online
- OCTOBER 5-8:** [NAMIC 35th Annual Conference](#), Online
- OCTOBER 6:** [Kaitz Virtual Event](#)
- OCTOBER 11-14:** [SCTE Cable-Tec Expo](#), Online
- OCTOBER 20:** [WICT Signature Touchstones Luncheon](#), NYC

Quotable

“As today’s gathering demonstrates, in each of these principles—whether it is freeing spectrum, expanding broadband, diversifying networks, securing communications, or leading internationally—we have embraced the idea that no single entity can meet this challenge alone. We need a whole-of-government approach to get this done and one that is open to commercial innovation and opportunity. To do this, we need to draw on the strengths in our national DNA—our hard-wired belief in the creative possibilities of the future, the power of coordination and the rule of law. This is how we turn spectrum scarcity into spectrum abundance.”

–FCC acting chair **Jessica Rosenworcel** speaking at the **2021 NTIA Spectrum Policy Symposium**