

**Community Antenna Television (CATV) Audit Follow-Up Report**  
**October 19, 1995**

October 5, 1995

Board of County Commissioners

Brevard County, Florida

Post Office Box 1496

Titusville, Florida 32781-1496

Commissioners:

Section 440 of the Institute of Internal Auditors "Standards for the Professional Practice of Internal Auditing" states that "internal auditors should follow up to ascertain that appropriate action is taken on reported audit findings." Accordingly, we conducted a follow-up of the audit of the Community Antenna Television (CATV) franchise program dated April 21, 1994, and acknowledged by the Board of County Commissioners on June 7, 1994. The findings related to this follow-up are presented below (the italicized text). If you require detailed information, however, we recommend you refer to the original audit report.

**SCOPE**

We conducted a follow-up audit to determine if management took effective corrective action on the findings presented in the audit report dated April 21, 1994.

**BACKGROUND**

In 1988 the Board of County Commissioners (hereinafter referred to as the Board) enacted the Brevard County Community Antenna Television (CATV) Franchise Ordinance No. 88-10,

(hereinafter referred to as the Ordinance). This ordinance provides the necessary regulations, conditions and provisions for granting nonexclusive CATV franchises within the unincorporated areas of the County. The Office of the County Manager administers the CATV franchise program.

### FOLLOW-UP AND RECOMMENDATIONS

1. Finding No. 1 - *A franchise transfer was not approved.*

We determined that management concurred with and has taken action to resolve the finding.

2. Finding No. 2 - *Bonding has not been furnished by a franchisee.*

We determined that management concurred with and has taken action to resolve the finding.

3. Finding No. 3 - *A franchise renewal agreement with Communicable/Southland Communications was not presented to the Board of County Commissioners.*

We determined that management concurred with and has taken action to resolve the finding.

4. Finding No. 4 - *Interest due from a franchisee was waived without authority from the Board.*

In our audit report dated April 21, 1994, we recommended that management comply with the Ordinance by collecting interest on late franchise payments. If management desires to waive interest on late payments, we recommended

working with the Board to amend the Ordinance, stipulating the conditions for these waivers.

CATV has not waived any interest payments since the audit period. CATV has not submitted the amendment to the Board.

### RECOMMENDATION

We continue to recommend that management work with the Board to amend the Ordinance, providing for the conditions under which management should grant interest waivers.

### MANAGEMENT'S RESPONSE

In a memorandum dated October 5, 1995 (See Exhibit A), Sharon Luba, Special Projects Coordinator II, CATV Franchise Program, stated ". . . Management is in the process of amending the CATV Ordinance (88-10) specifically allowing waivers by management when the County is responsible for causing the interest to occur . . ."

#### 5. Finding No. 5 - Performance by franchisees is not being monitored.

In our report dated April 21, 1994, we recommended that management comply with Section 5.0 of the Ordinance to ensure that franchises meet the performance guarantees.

Recognizing the continued performance requirements of Section 5.0 of the Ordinance, management has required and received the build-out and density reports from the franchisees. However, management has not documented the review of these reports.

## RECOMMENDATION

We recommend that management document the review and monitoring of such reports by the Public Works Director and CATV staff.

## MANAGEMENT'S RESPONSE

In a memorandum dated October 5, 1995 (See Exhibit A), Sharon Luba, Special Projects Coordinator II, CATV Franchise Program, stated "Annual build-out and density reports attested to by each Cable Operator (franchisee) are reviewed by the Cable TV Coordinator in lieu of the Public Works Director . . . However, a revision to the Ordinance during the planned amendment cycle can correct this situation."

### 6. Finding No. 6 - *Written procedures are needed for the billing and collection of interest.*

In our report dated April 21, 1994, we recommended that management develop and implement written procedures to provide for the billing and collection of interest due on the late payment of franchise fees to comply with Section 3.10 (b) of the Ordinance. We also recommended that management bill Falcon Cable TV for interest due.

Management did bill and collect interest due from Falcon Cable TV. Further, management developed written procedures for the billing and collection of interest due on late franchise fees. This procedure requires the assessment of a late fee of 12% per annum. At the time of the procedure's development, this was the statutory rate for late charges. However, effective January 1, 1995, Chapter 94-239, Laws of Florida changes the statutory rate to 8% per annum. CATV has been charging the appropriate statutory rate not the procedure's stated rate.

## RECOMMENDATION

We recommend that management amend Procedure CATV 1 to reflect the legal rate.

## MANAGEMENT'S RESPONSE

In a memorandum dated October 5, 1995 (See Exhibit A), Sharon Luba, Special Projects Coordinator II, CATV Franchise Program, stated "Management complied by changing the CATV 1 Procedure . . ."

*7. Finding No. 7 - Written procedures are needed for the review of franchise fee reports.*

In our report dated April 21, 1994, we recommended that management develop and implement written procedures to provide for the review of the Annual Franchise Fee Reports. We also recommended that management inform Falcon Cable TV that the exclusion of copyright fees is not in compliance with Section 2.17 of the Ordinance and bill the franchisee for all additional fees due.

Management billed and collected the additional fees from Falcon Cable TV. However, there are no written procedures for the review of Franchise Fee Reports. Management has solicited quotes for the service from Internal Audit, who declined the engagement on October 19, 1994 (see Exhibit B), and from a CPA firm, which submitted a quotation on May 12, 1994. Management has taken no further action.

## RECOMMENDATION

We continue to recommend that management develop and implement written procedures to provide for the review of the Annual Franchise Fee Reports.

#### MANAGEMENT'S RESPONSE

In a memorandum dated October 5, 1995 (See Exhibit A), Sharon Luba, Special Projects Coordinator II, CATV Franchise Program, stated ". . . Management delayed requesting additional quotations from external accounting firms when Internal Audit declined to engage in 1994, until the Board considered whether or not it would decertify from the F.C.C. for basic rate and equipment rate regulation. Having decertified on August 22, 1995, thereby eliminating the majority of reporting documents, management can now prepare procedures and bid documents for review of each cable operator's annual franchise fee reports which are submitted with their fees."

#### SUMMARY

We held an exit conference on October 5, 1995, during which we discussed the audit follow-up report with Tom N. Jenkins, County Manager and Sharon Luba, Special Projects Coordinator II. We have attached Ms. Luba's formal reply to the audit follow-up report as Exhibit A.

Respectfully submitted,

SANDY CRAWFORD, CLERK

CIRCUIT AND COUNTY COURTS

J. Carl Smith, C.P.A.

Chief Internal Auditor

Conducted by:

Nita E. Crowder, C.P.A.

Internal Auditor I

Attachment: Exhibits A and B

cc: Each Commissioner

Tom N. Jenkins, County Manager

Scott Knox, County Attorney

Sharon Luba, Special Projects Coordinator II

James C. (Jim) Giles, Chief Deputy Clerk

Steve Burdett, C.P.A., Finance Director

## **Exhibit "A"**

TO: J. Carl Smith, CPA

Chief Internal Auditor

THRU: Tom N. Jenkins, County Manager

FROM: Sharon Luba, SPC/CATV Franchise Program

**SUBJECT: FOLLOW-UP CATV AUDIT OF 1990-1993 INITIAL AUDIT**

DATE: October 5, 1995

Pursuant to your internal follow-up audit findings of October 5, 1995, the following response is provided:

FINDING NO. 1 Compliance - no further action

FINDING NO. 2 Compliance - no further action

FINDING NO. 3 Compliance - no further action



FINDING NO. 4 *"Interest due from a franchisee was waived without authority from the Board.* In our audit reported dated April 21, 1994, we recommended that management comply with the Ordinance by collecting interest on late franchise fee payments. If management desires to waive interest on late payments, we recommend working with the Board to amend the Ordinance, stipulating the conditions for these waivers. CATV has not waived any interest payments since the audit period (1990-1993). CATV has not submitted the amendment to the Board. We continue to recommend that management work with the Board to amend the Ordinance, providing for the conditions under which management should grant interest waivers."

MANAGEMENT RESPONSE: This was an isolated case involving \$383 in interest occurring in 1990 because the Consent to Transfer was delayed by the County between Communicable and Cablevision. As stated in this follow-up audit, no further interest payments have been waived. Management is in the process of amending the CATV Ordinance (88-10) specifically allowing waivers by management when the County is responsible for causing the interest to occur. Staff delayed amending the Ordinance this past year until several matters pertaining to the Cable Act of 1992 had been resolved by Congress. Additionally, new legislation having a profound effect on CATV and its franchising authorities (County) will be considered by Congress next month which will also need to be included and/or stricken from the Ordinance. Other amendments will be considered at that time with major technological advances changing the service requirements and scope of CATV services.

FINDING NO. 5 *"Performance by franchisees is not being monitored.* In our report dated April 21, 1994, we recommended that management comply with Section 5.0 of the Ordinance to ensure that franchises meet the performance guarantees. Recognizing the continued performance requirements of Section 5.0 of the Ordinance, management has required and received the buildout and density reports from the franchisees. However, management has not documented the review of these reports. We recommend that management document the review and monitoring of such reports by the Public Works Director and CATV staff."

MANAGEMENT RESPONSE: Annual build-out and density reports attested to by each Cable Operator (franchisee) are reviewed by the Cable TV Coordinator in lieu of the Public Works Director, and management feels that performance requirements have been met by Section 5.0 and individual franchise agreements. In addition, new construction, inspection performance, and right-of-way standards are monitored during the permitting phase directed by Code Compliance/Public Works which management considers adequate to meet those standards outlined in Section 5.0. However, a revision to the Ordinance during the planned amendment cycle can correct this situation.

FINDING NO. 6 "*Written procedures are needed for the billing and collection of interest.* In our report dated April 21, 1994, we recommended that management develop and implement written procedures to provide for the billing and collection of interest due on the late payment of franchise fees to comply with Section 3.10(b) of the Ordinance. We also recommended that management bill Falcon Cable TV for interest due. Management did bill and collect interest due from Falcon Cable TV. Further, management developed written procedures for the billing and collection of interest due on late franchise fees. This procedure requires the assessment of a 12% per annum late fee. At the time of the procedure's development, this was the statutory rate for late charges. However, effective January 1, 1995, Chapter 94-239, Laws of Florida changes the statutory rate to 8% per annum. CATV has been charging the appropriate statutory rate not the procedure's stated rate. We recommend that management amend Procedure CATV 1 to reflect the legal rates."

MANAGEMENT RESPONSE: Management complied by changing the CATV 1 Procedure in its regular cycle to reflect the current legal interest rate in lieu of a specific amount (see attached Procedure).

FINDING NO. 7 "*Written procedures are needed for the review of franchise fee reports.* In our report dated April 21, 1994, we recommended that management develop and implement written procedures to provide for the review of the Annual Franchise Fee Reports. We also recommended that management inform Falcon Cable TV that the exclusion of copyright fees is not in compliance with Section 2.17 of the Ordinance and bill the franchisee for all additional fees due. Management billed and collected the additional fees from Falcon Cable TV. However, there are still no written procedures for the review of Franchise Fee Reports. Management has solicited quotes for the service from Internal Audit, who declined the engagement on October 19, 1994, and from a CPA firm, which submitted a quotation on May 12, 1994. Management has taken no further action. We continue to recommend that management develop and implement written procedures to provide for the review of the Annual Franchise Fee Reports."

MANAGEMENT RESPONSE: "Management revised the Annual Franchise Fee Report in 1994 including many of the recommendations listed above (see attached) and solicited quotations to include the auditing of annual franchise fee and F.C.C. reports. Management delayed requesting additional quotations from external accounting firms when Internal Audit declined to engage in 1994, until the Board considered whether or not it would decertify from the F.C.C. for basic rate

and equipment rate regulation. Having decertified on August 22, 1995, thereby eliminating the majority of reporting documents, management can now prepare procedures and bid documents for review of each cable operator's annual franchise fee reports which are submitted with their fees.

Thank you for the opportunity to respond to this follow-up audit. If you have questions or require additional information, please feel free to contact me or Sharon Luba.

APPROVED: \_\_\_\_\_

Tom N. Jenkins, County Manager

Encs.

cc: Sandy Crawford, Clerk of the Court

Scott Knox, County Attorney

Nita E. Crowder, CPA

## **AUDITOR'S NOTE TO READER:**

Attachments to Exhibit A are available for review at the Brevard County Clerk of the Circuit Court, Internal Audit Department.

## **Exhibit "B"**

October 19, 1994

### MEMORANDUM

To: Tom N. Jenkins

County Administrator

FROM: J. Carl Smith, C.P.A.

Chief Internal Auditor

SUBJECT: CATV-Request For Audit

This is in response to your letter of September 21, 1994, requesting a proposal for Internal Audit to perform annual reviews of the Fee Reports (for seven franchises) as well as an audit of any Federal Communications Commission (F.C.C.) Franchise Certification Reports required/received in any given year.

We respectfully decline to submit a proposal to perform these services. If engaged to do so we would be precluded from performing subsequent audits of internal controls and procedures relating to the CATV program including the review of procedures to monitor and verify the Annual Franchise Fee Reports. Internal Audit, unlike an external auditing firm engaged to perform agreed-upon procedures, has the responsibility to audit Brevard County's organizational units and functions on a recurring basis. The scope of these audits consists of determining compliance with laws and regulations and evaluating the adequacy and effectiveness of the internal control structure. To render the services requested would limit our ability to meet this responsibility to serve the Board and the citizens of Brevard County.

This year Internal Audit has been working under an audit plan approved by Sandy Crawford. In December, we will be developing the 1995 audit plan. The CATV program will again be considered in formulating this plan.

Thank you for considering Internal Audit in this matter.

cc: Sandy Crawford, Clerk of the Court

Joan E. Madden, Assistant County Administrator