



City of Greensboro

Date: March 3, 2003
To: Ed Kitchen, City Manager
From: Internal Audit
Subject: Time Warner Cable

We have performed an audit on Time Warner Cable's database, containing customer service addresses for both City and County subscribers. Time Warner Cable (TWC) is a division of AOL Time Warner, Inc. As of July 2002, Time Warner Cable provided services to approximately 99,970 residences in the Greensboro/Guilford County area. They offer multiple service channel options including: basic, standard, premium, pay-per-view, digital cable, digital tier services, Hispanic tier services, digital movie packs, digital sports packages, digital music services, and "Road Runner" services (which provides high-speed online service with direct Internet access).

The scope and objectives of our audit included:

- A comparison of TWC's database of County subscribers with the City's Master Geo-Code Street File (provided by the City's Planning Department), which lists all residences within the city limits, to determine if any residences listed in TWC's "County" database actually belong to the City of Greensboro.
- A review of all addresses annexed by the City, with an effective date of January 31, 2000 through July 31, 2002, to determine if these addresses annexed by the City were properly transferred from TWC's "County" database into their "City" database.

Methodology

- We requested TWC's database of City subscribers and a database of County subscribers. The files we received were sent electronically. On July 10, 2002, TWC's "City" database contained 74,483 records and the "County" database contained 25,487 records.
- First, we manually compared all residences listed in TWC's "County" database with the Planning Department's Master Geo-Code Street File.
- Next, we engaged the help of the City's Geographic Information Systems (GIS) Division in performing the same task electronically. Using the electronic "City" and "County" database files submitted by Time Warner, GIS used a process known as "geo-coding" to map the occurrences of the addresses contained in both the "City" and "County" files. The GIS Director explained that geo-coding is an imprecise science and three factors come into play:

1. If the street name is not spelled exactly the same way in the address field of the data as the street address base map, the address will not be located.
2. The street centerline base map must be correct and up-to-date. This is the hardest to achieve in situations where the City has recently annexed a new area as well as in areas (within the City) where new subdivisions are being added.
3. When geo-coding, the software reads an address and interpolates the address' location to a location along a street segment. At that location it "drops a point." Addresses that are situated at the edge of the City, due to this interpolative process, can ultimately be located on the wrong side of the line.

Results of the GIS Division Process

This process yielded two distinct reports:

1. A listing of 793 City residences which appeared to be within the Greensboro city limits but were contained in TWC's "County" database. We did a comparison of the GIS file to the Internal Audit manual file / Master Geo-Code Street File to verify the City addresses. There were 246 more City residences that should have been added to the reported 793. There were 102 County residents included in the 793 thought to be City that should be removed from the report. The total should have been 937 based on the GIS and Internal Audit manual process comparison.
2. A listing of 1,045 County residences which appeared to be in Guilford County but were contained in TWC's "City" database. We also did a comparison of the GIS file to the Planning Department's Master Geo-Code Street File to verify the County addresses. In the 1,045 there were 653 which were City residences not County residences. This reduced the potential number of County residences on the "City" file to 392. Internal Audit did not perform any manual audit work on the "City" database of 74,483 records to identify that County residences were included; therefore, we cannot determine if this is an all-inclusive total. This audit may be performed by the County or by TWC.

Results of the Internal Audit Division Manual Process

- In our manual comparison of TWC's "County" database with the Planning Department's Master Geo-Code Street File, we noted that 815 of the residences contained in TWC's "County" database appear to be City residences. The GIS process discovered 122 residences that the manual process did not include. The total of 937 agrees with the adjusted GIS total.
 - Our objective of determining if addresses annexed by the City, with an effective date of January 31, 2000 to July 31, 2002, were properly transferred from TWC's "County" database into their "City" database showed that they were properly transferred.
 - The majority of the 937 residences that should be transferred from the "County" file to the "City" file were because new subdivisions streets were being added to land already within the City limits.

Based on these comparisons, we conveyed the 937 addresses to TWC, who forwarded the addresses in question to Guilford County's Franchise Administrator for review and confirmation. Guilford County confirmed 784 addresses as belonging to the City; but took exception to the remaining 153 addresses. The City's Planning Department further investigated these addresses using base and zoning maps. Based on their study, they indicated that 123 of the 153 addresses are within the Greensboro city limits, with the remaining 30 addresses in Guilford County. This results in an adjusted total of 907 addresses (the 784 confirmed addresses and the 123 addresses in question) contained in TWC's "County" file that appear to belong to the City.

TWC will continue to work with the appropriate City and County personnel regarding the remaining 123 addresses in question.

We offer the following recommendations:

- TWC make the necessary changes for the 784 confirmed addresses to their existing databases.
- TWC and the City's Franchise Administrator should work together to determine the reimbursement the City should receive retroactively (at the 5% rate), for all City residences contained in their "County" database, from the time the subscriber's account was established. TWC should also pay interest on this reimbursement as stated in the Ordinance of October 24, 1994 SEC. 7-21.D.
- At the Franchise Administrator's request, TWC should submit an electronic file of active City and County subscribers to the City's GIS Director, who will assist in monitoring the files for accuracy and aid in ensuring integrity in TWC's system.
- When new subdivision streets are developed on land already within the City, the City should send the street names to TWC, as well as, continuing to send them the newly annexed streets.

Franchise Agreement Delinquent Extension Request

On October 24, 1994, a 10-year Franchise Agreement was adopted between the City of Greensboro and Cablevision of Greensboro, a division of Time Warner Cable. SEC, IV (a) of this agreement stated: "The term of said franchise shall be extended for five (5) years from the end of the ten (10) year term in the event, but only in the event, TWC has substantially complied with the material terms and conditions of the franchise and the ordinance over term prior to action by Council in this matter." This Agreement also stated in SEC. IV (b): "Within ninety (90) days after the first day of the seventh year of the franchise term, TWC shall provide notice by certified letter to the City that it seeks the five (5) year extension."

According to the Agreement, TWC had from October 25, 2000 to January 25, 2001 to properly request an extension on the franchise agreement. On January 18, 2002, Time Warner requested a five-year extension on the franchise. This request was granted and adopted by the City Council on both April 16 and May 7, 2002.

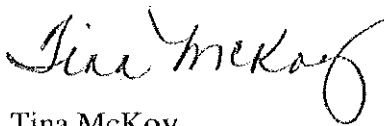
Recommendation: The City should ensure that the extension requests are completed within the time period specified in the Agreement, so that there will not be a disruption of cable services.

Cable Modem Service Discontinued Revenues

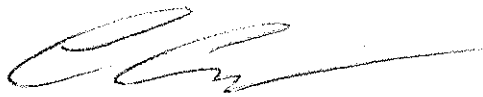
The terms of the agreement specified: "Time Warner shall pay to the City a franchise fee of up to five percent (5%) of *gross annual revenues* during the period of its operation under the franchise, pursuant to the provisions of the ordinance." Prior to April 2002, these fees were calculated on different cable services offered by Time Warner including installation and service revenues from Road Runner. However, in a Declaratory Ruling adopted on March 14, 2002, the Federal Communications Commission (FCC) concluded: "Cable modem service (*i.e.*, Internet access over a cable system) is properly classified as an interstate information service and is therefore subject to FCC jurisdiction." The FCC determined that cable modem service is not a "cable service" as defined by the Communications Act. The FCC also stated that cable modem service does not contain a separate "telecommunications service" offering and therefore is not subject to common carrier regulation and should not be used in computing the franchise fee ceiling.

The FCC notes that the law limits franchise fee to 5 percent of gross revenues the cable operator receives from cable service. As a result of the FCC's declaratory ruling, the six largest cable companies (including Time Warner) have decided to stop paying franchise fees on modem services. This results in lost revenues to municipalities who had been receiving franchise fees on cable modem service. The City of Greensboro lost approximately \$50,000 in revenue during May and June (with an annual potential loss of approximately \$300,000), as a result of this FCC ruling. The attached Chart A depicts a decline in revenues between the first and second quarters of 2002.

We would like to thank the staffs at Time Warner Cable, and the City of Greensboro's Planning Department, GIS Division of the MIS Department, and Support Services Department for the courtesy and cooperation shown us during this audit. If you have any questions or concerns, please contact us at 373-4528.



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Quarterly Franchise Revenue from Time Warner

