

Public Access of Indianapolis (PAI) is a nonprofit community media organization with a goal of reestablishing public access TV on Bright House Networks and Comcast cable television systems in Indianapolis. PAI provides volunteer video services for nonprofits, and maintains an on-demand, streaming audio and video library of community events and meetings.

THE RIGHT WAY

Volume 2, Issue 3

May, 2006

Public Access
of Indianapolis, Inc.

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The Unexpected Opportunity for Public Access TV in Indianapolis

The Cable Franchise Board meeting of May 15 was special in its unusually large audience. A long list of people signed up to offer public comments, with most wearing colorful buttons stating, "Indy Needs Public Access TV." The meeting included most of the usual reports (see page 6) but its focus turned to the possibility that public access television could return to the city as part of Bright House Networks' unexpected request to renew its local cable franchise agreement before the new state video franchising law takes effect on July 1.

Public Access of Indianapolis (PAI) and many of its supporters shared their experiences, information, and vision for public access TV for nearly an hour. (See page 3, "The Indianapolis Community Speaks Out for Public Access TV.") PAI Board President Andrea Price pointed out that many groups could benefit from public access television and that Indianapolis is one of only two major U.S. cities without public access TV since its elimination in 1996. Ms Price provided a list of some 40 organizations that support the restoration of a public access channel in Indianapolis, and a stack of more than 50 comments from supportive individuals. Ms Price described previous studies and surveys supporting the need for public access TV in Indianapolis, including the Cable Franchise Board's 1998 survey that showed that 84% of cable subscribers thought public access television valuable, and 72% thought it important. Ms. Price also talked about PAI's own study that showed a ten-year loss of 80% of the community producers on cable TV.

No one at the meeting disagreed with the comments supporting restoration of public access TV to the city, but negotiations were just beginning, and there is much work to be done and many questions to be resolved. How is it that we find ourselves in the midst of this fast-forward push?

On April 18, at the Rules and Public Policy Committee meeting of the Indianapolis City Council, Cable Franchise Board Chair Peter Blum alerted the committee to Bright House Networks' desire to renew their local cable franchise agreement before July 1. Chairman Blum requested the committee's authorization to negotiate the renewal contract on its behalf, which he received unanimously. Legally, the local franchise agreement is a contract between the City-County Council and the

Take Action on Public Access TV!



Nancy Holle, President of the Community, Faith and Labor Coalition, speaking in support of public access television at the May 15, 2006 Cable Franchise Board Meeting.

Attend the Public Hearing on Bright House Networks Cable Franchise Renewal

Tuesday, June 6, 2006 at 5:30 PM
City-County Building, Room 260
200 E. Washington St.

Contact Mayor Bart Peterson
317-327-3601

Contact your City County Councillor
317-327-4242

Sign the petition
www.indyaccess.org/petition/

Become a supporter
www.indyaccess.org/support-us/

cable operator. Once a new cable franchise agreement is drafted, the Cable Franchise Board submits it to the Rules and Public Policy Committee and then on to the full Council for approval.

Chairman Blum sees this as "an interesting opportunity for the city" to extend its present relationship with Bright House Networks, although he acknowledged that negotiations will be tough given the extremely compressed timeline required. (See page 2, "Planned Timeline.")

Rick Maultra, Director of the Indianapolis Cable Communications Agency, which serves as advocate. See *The Unexpected Opportunity*, page 2

The Right-of-Way

Newsletter
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This is Our Chance

If you want to see public access TV in Indianapolis, now is the time to act. Bright House Network's urgent request for its local cable franchise renewal before July 1, 2006 is the best opportunity we have had in 10 years, and if we do not make the most of it, it may be another ten years – likely more – before central Indianapolis has this chance again.

Aside from the channel, the new franchise agreement should include:

- Additional public access television channels for growth
- Compensation and adequate notice for public, education and government (PEG) channel number changes
- PEG program listings in all cable programming guides, print and electronic
- PEG program participation in video on demand services
- Connection of any local community media center(s) to Bright House Networks
- Technology parity for PEG access channels with other cable channels
- Free promotional spots and billing inserts
- PEG funding support

Comcast customers must join in too. The support we muster for public access television on Bright House Networks becomes the support to leverage with the Indiana Utilities Regulatory Commission (IURC) to get a public access TV channel on Comcast under the new state video franchising law. We have must not let this opportunity pass us by.

Andrea Price is Board President of Public Access of Indianapolis, Inc.

Planned Timeline for Bright House Networks Cable Franchise Renewal Agreement

May 25, 2006: Deadline for submission of new proposals for the June 5 City County Council meeting.

May 31, 2006: Proposed contract with Bright House Networks available for public review.

June 5, 2006: City County Council introduction of proposal to approve Bright House Networks cable franchise renewal. (Assignment to the Rules and Policy Committee)

June 6, 2006: Official public hearing at Rules and Policy Committee meeting. Committee approval will initiate referral to full City-County Council for final approval.

June 19, 2006: Full City-County Council vote.

July 1, 2006: End of local cable franchising in Indiana

See page 8, "Events", for meeting locations and times. Stay abreast of updates by joining our mailing list at www.indyaccess.org/takeaction/.

The Unexpected Opportunity, continued

cate for cable consumers and oversees cable franchise agreement compliance, supports a new local franchise with Bright House Networks. "It is in the community's best interest to have local consumer protections in place," according to Mr. Maultra. "Indianapolis has a good record in turnaround time and enforcement... [it] would be a continuation of meeting consumer and constituent concerns and meeting FCC standards."

Supporters of restoring public access television are urged to contact their City County Councilors during May while the contract negotiations are in progress. Supporters are also encouraged to attend the public hearing on the proposed franchise agreement during the Rules and Public Policy Committee meeting on June 6 at 5:30 PM, in Room 260 of the City-County Building.

The Indianapolis Community Speaks Out for Public Access TV

The May 15 meeting of the Cable Franchise Board afforded interested citizens an opportunity to voice support for adding a provision for public access TV to the cable franchise contract Bright House Networks (BHN) is currently renegotiating with the city. Some of the comments made at the meeting are detailed here.

Veteran television producer Ron Haldeman tried to continue producing the long-running *Peaceworks* program after Indianapolis lost its public access channel in 1996, but couldn't afford the cost and had to abandon the show. More than 500 half-hour *Peaceworks* programs were produced, which were shown in Indianapolis and five other Indiana cities. Mr. Haldeman is concerned about his ability to exercise his First Amendment right of free speech without the ability to communicate information as freely and effectively as was done by speaking on street corners in the 1940s. He knows that public access TV can provide a platform for individual citizens and for groups such as the Indianapolis Peace and Justice Center.

Other speakers at the meeting included Derrick Davis, who was active in producing shows on public access in Chicago and was "stunned" to find that his new home town has no community-access TV. Linda Proffitt, CEO of Global Peace Initiatives, spoke for "the little guy" who has a message to share and could find opportunities through public access TV. "It is the genius of the people of Indianapolis that we want to bring forth," stated Ms. Proffitt.

Dave Menzer, representing both Citizens Action Coalition, which has 20,000 members in the state, and Knollton East Neighborhood Association, spoke in support of public access television, and expressed frustration over media consolida-

tion and the lack of competition. Matthew Barron expressed support for public access through a story of a high school student who produced a show on his own that inspired other young people to do the same. Jean Coughlin lived near major cities in six states but found only Indianapolis lacked a public access channel. Reba Wood, representing CFI Community of Indiana, which fosters science, reason, and human inquiry, currently produces local podcasts and would find public access helpful in getting information out about her organization. Jim Pilbrow is an advocate of efforts to find solutions for oil shortages and represents North Meadow Circle of Friends. Mr. Pilbrow can see public access filling a crucial need for the local community to prepare and manage emergencies such as oil prices rising to \$100 per barrel.

Nancy Holle, President of the Community Faith and Labor Coalition, which serves the same area as Bright House Networks, sees public access TV as providing a way to get her organization's message out and to support fund-raising activities, as well as an avenue for individual citizens to speak out. Kathleen Dobie believes public access can give voice to the vitality of Indianapolis. Carl Kakasuleff tried to use video production resources in the city as an independent producer but found that there were high costs or that content was restricted to religion or music. He suggests the restoration of public access could be a form of amends by the city for shutting down the channel ten years ago. Christina Cesnik, of Central Indiana Jobs With Justice, is a Bright House Networks customer and citizen who seeks a place for diverse views and who suggests that as the Cable Franchise Board deliberates they consider a public access channel a "serious subject" for Indianapolis.

Jean Coughlin is a retired Indianapolis IT worker.

"It is the genius of the people of Indianapolis that we want to bring forth."

Linda Proffitt
CEO, Global Peace
Initiatives



Ron Haldeman, former producer of *Peaceworks*

Internet Non-Discrimination Act

A recent bill that appears to be consumer-friendly is S. 2360, the Internet Non-Discrimination Act of 2006 introduced on March 2, 2006 by Senator Ron Wyden (D-OR). The bill protects net neutrality through nine specific requirements and prohibitions for network operators. The challenge for consumers and supportive senators will be to keep this list from disappearing during the bill's hazardous journey from the committee tables to the Senate floor, through the House and into the law books.

Congressional Telecommunications Struggles in the News: Net Neutrality Out, PEG Funding In?

Efforts to update the Telecommunications Act of 1996 are continuing in Congress, with telephone companies, cable companies, and astroturf groups spending nearly \$1 million per week on just advertising in Washington D.C..

On April 26 the house Energy and Commerce Committee passed the Communications Opportunity, Promotion, and Enhancement (COPE) Act of 2006 (H.R. 5252), a comprehensive telecommunications and national cable franchising bill that has a few good points including 1% designated funding for public, education, and government (PEG) access TV, but significant bad ones, such as no requirements to offer service to at least a specified portion of the franchise area within a specified timeframe, no enforcement authority for localities, and no provisions for net neutrality. The votes for COPE were almost all along party lines, with most Democrats voting for amendments that protect the public interest, such as net neutrality and prohibition of discrimination, and ultimately against the bill. One consistent Democratic exception was cosponsor Representative Bobby Rush of Illinois. Rep. Rush is currently in the news for accepting \$1 million in grants from AT&T for a "Bobby L. Rush Technology Center" through an organization on whose board he and his wife sit and his son works.

It is not clear whether there is enough time for the full House and Senate to pass COPE — or any other telecom bill — before the 2006 congressional session ends in the fall. There are some concerns about allowing debate to include net neutrality because of concern over the extent of controversy associated with that issue. A statement made repeatedly by opponents of a net neutrality clause is "it's not happening now, if it happens, the FCC can address it or we can establish rules at that time." As many speakers testified, discrimination on the internet IS happening now (see page 5 sidebar, "Returning to Sender...Online") but often this news is under-reported.

COPE's progress to the full House was slowed by the House Judiciary Committee's now denied claim of jurisdiction in order to support net neutrality. On April 25, an oversight hearing on net neutrality was held for a House Judiciary Committee Task Force on Telecom and Antitrust. Participants included Paul Misener, Vice President of Global Public Policy, Amazon.com, Earl W. Comstock, President and CEO, COMPTTEL, Timothy Wu, Professor of Law, Columbia Law School and Walter B. McCormick, President and CEO, United States Telecom Association. That hearing can be viewed at <http://boss.streamos.com/real/hjudiciary/full/taskforce042506.smi>. It offers an excellent perspective on the issues and how they appear to these stakeholders.

In the Senate, multiple bills have been referred to the Commerce, Science, and Transportation Committee, most of them not positive for consumers. The latest Senate bill, the Communications, Consumer's Choice and Broadband Deployment Act of 2006, was introduced on May 1, 2006 by sponsor Senator Ted Stevens (R-AK). The bill contains one small section on net neutrality, merely requiring the FCC to report annually for five years to the Senate House committees on how the free flow of information and "consumer experience" is affected. The FCC can recommend enforcement but not make new regulations. The franchising authority can be a state or local government, which may require up to one percent of the provider's gross revenue to support PEG access channels and institutional networks in the franchise area. Municipalities can offer broadband service but public-private partnerships are encouraged and the municipality must give public notice so that citizens and private companies have a chance to submit competitive bids.

Jean Coughlin is a retired Indianapolis IT worker.

Acronyms Unite! AT&T Welcomes NSA

It's no longer news that the National Security Agency (NSA) has been eavesdropping on communications between people in the United States and foreign countries on President Bush's instructions. Spying on American citizens on American soil heretofore has required a warrant. The Bush administration claims its warrantless eavesdropping actions are legal, though that assertion is disputed by many constitutional scholars and members of Congress. It is no surprise that several organizations have launched lawsuits against the government over this matter. What may surprise you is that your telephone company may also be the target of a lawsuit.

What the companies did

USA Today reported in February that telecommunications companies AT&T, MCI (now Verizon), and Sprint gave NSA officials access to their customers' communications without requiring warrants. Telecommunications companies routinely comply with wiretap warrants and in rare cases provide access to otherwise protected information on the written assurance of a high-level Department of Justice official that no court order is required. The difference in the NSA case is that AT&T, Sprint, and Verizon apparently did not receive -- nor did they seek -- written authorization. They granted access to their customers' private communications simply because senior government officials verbally asked them to.

Response from Congress

The Senate Judiciary Committee is holding a series of hearings to uncover the extent of the NSA's actions. Members of that committee, Senators Russell Feingold (D-WI) and Edward Kennedy (D-Mass.), requested that the CEO of each of the three telecommunications companies mentioned in the USA Today article provide the committee with information detailing their company's participation in the NSA program. The senators' letter solicited details on what information each company was asked to provide, who requested the information and what form that request took, and specifics on what the company ac-

tually provided. One news account said the telecom CEOs "rebuffed" the senators. In any case, if the companies answered these questions, their answers are not part of the public record available through the Judiciary Committee's website.

Lawsuit filed by The Electronic Frontier Foundation

On January 31, the Electronic Frontier Foundation (EFF), a nonprofit group working to defend digital rights, filed a class-action lawsuit against AT&T. EFF's suit contends that AT&T gave government officials open access to virtually all customer communications by voice, email, and other methods, allowing the NSA to pore unrestricted through records and databases of customers' communications. AT&T thus violated not only the privacy of its customers and the people they communicated with but also long-established communications laws, EFF alleges. The suit requests AT&T end the practice and seeks damages on behalf of AT&T customers.

The Electronic Frontier Foundation (EFF) also is requesting an injunction to require that AT&T stop giving the NSA access to customer communications. Several organizations have filed for injunctions to halt the NSA spying program itself.

Administration response

On April 28, the United States government filed a "Statement of Interest" related to EFF's lawsuit against AT&T. The government is asserting its right to intervene in cases in which litigation might reveal information harmful to national security. The government also announced its intention to seek to dismiss the case, citing precedent that ruled that if the "very subject matter of an action" is a state secret, the suit should be dismissed.

The Department of Justice promises to file its motions to intervene and dismiss the case by May 12, before the May 15 conference to schedule EFF's case.

Kathleen Dobie, local freelance editor and activist, is paying attention and is outraged.

Returning to Sender...Online

An interesting thing happened when AOL ISP customers tried to receive emails containing a link to www.DearAOL.com. That website contains an open letter urging AOL to reconsider its plan to allow bulk email senders to pay to bypass spam filters and guarantee delivery to customers' inboxes. (See "Anticipating Pay-to-Send Email in Your Inbox" in Volume 2, Issue 2 of *The Right-of-Way* available at www.indyaccess.org.)

But in April when AOL customers tried to forward emails containing a link to the website, they got messages telling them their efforts had "failed permanently."

After confirming that emails without the URL made it through without problems, the DearAOL.com Coalition of more than 600 organizations and 300,000 individuals issued a press release entitled "AOL Censors Email Tax Opponents." AOL fixed the problem within 20 minutes, though company officials said repairs of similar problems usually take three to five days.

This incident raises the question of what might happen if an organization with less visibility or media savvy experienced similar treatment. Would that group be brought to see the benefits of paying to send their email? And with state and national telecom legislation poised to give ISPs ever more gatekeeping functions, we may all soon wonder what we're *not* seeing in our inboxes.

Keeping Up with the Cable Franchise Board

March

The March meeting lacked a quorum, so reports were accepted but no votes were cast, and minutes from January and February could not be approved. Legal presence for the board was provided by Jeff Simnick, Corporation Counsel. Rick Maultra (Director of Indianapolis Cable Communications Agency) reported that the Indiana State Franchise bill was passed and will become law with the Governor's signature. In light of this development, First Mile cable will not pursue a franchise and their request is on indefinite hold. The board's auditor has found that Comcast overpaid the city \$54,233 for 2004 and suggests that Comcast underpay by \$13,525 per quarter this year. Bright House Networks (BHN) paid the city \$136,968 toward money it owed but the board's auditor finds an additional \$68,091 plus interest on both amounts is still due the city. Ken Montgomery, manager of government Channel 16, reported ongoing activity including the addition of programs for three Indianapolis law enforcement consolidation organizations: the Steering Committee, Advisory Board and Transition Authority. Buz Nesbit, Division President of BHN, reported a gain of 693 customers for the month. Mike Delph, Comcast Regional Director of Government Affairs, reported a gain of 65 basic service customers and call response time out of compliance for February. Earl Harris, president of Education Television Cooperative (ETC), and Charlie Wiles reported that the transition of ETC's head end to the University of Indianapolis was being voted on by the university today. Msrs Delph and Wiles presented a partial three-year action plan. Board chair Peter Blum took the plan "under advisement" and will get back to ETC. During the public comment period George Zeltner questioned the delay in publication of board meeting minutes and promised to ask Comcast about their call response system.

April

The CFB approved the January, February and March meeting minutes. Rick Maultra reported that First Mile cable is withdrawing its application for a franchise and requesting return of the \$5000 fee. Mr. Maultra indicated that the 35 hours (\$1194) already spent by the city would be subtracted from that amount and the matter of First Mile having operated without a franchise for some time is being investigated. Mr. Maultra reported that the city is holding the BHN payment check of \$136,968 because of the \$68,091 shortage determined by the board's auditor. The auditor was also informed that BHN basic service rate exceeds the Federal Communication Commission (FCC) maximum. ETC has returned \$2200 in unused grant money to the city. Ken Montgomery reported on government channel 16 activities, including 45 meetings and events. Al Aldridge and Buz Nesbit reported on BHN activities, including a gain of 1076 new customers and donations of \$25,000 to four Indianapolis public schools for music programs. Mike Delph and Doug Ward reported that Comcast had received a letter of non-compliance from the board and did not meet required response time again in March. Earl Harris and Charlie Wiles reported that the University of Indianapolis has signed off on providing a playback site and the transition is planned for end of the semester. Rick Maultra requested a change in the August CFB meeting date and time due to a conflict with the National Association of Telecommunications Officers and Advisors (NATOA) conference. The board agreed to move the CFB meeting from August 21 to August 14 at 5:30 P.M. in Room 107. During the public comment period, George Zeltner stated concerns about Comcast and his continuing effort to get answers. Jim Smashey commented on Public Law 27.

May

The meeting opened with approval of the April minutes. Rick Maultra reported on cable agency activities, including Comcast and BHN fee reviews: BHN's audit disagreement with the cable agency auditor's figures will be reviewed internally by the city for resolution. The agency drafted language for BHN franchise renewal negotiations and announced a public hearing at the Rules and Public Policy committee meeting on June 6 at 5:30 P.M. The agency is helping the Department of Public Works investigate wireless internet. Peter Blum announced Dan Lynch has resigned from the board. Ken Montgomery reported for Channel 16, mentioning valuable service provided to the police by his staff's imaging at crime scenes. Al Aldridge reported on BHN activities, including a gain of 1146 subscribers. No one was present to report on Comcast activities. Charlie Wiles reported on ETC's activities including cooperating with NUVO magazine to produce a NUVO Newsmaker show. Rick Maultra recommended approval of BHN's 2006 rate of \$11.31 for limited basic service and the board approved it unanimously. The public comment period was begun by Jim Smashey, who talked about lack of competition, and included multiple comments concerning inclusion of a public access channel in BHN franchise renewal negotiations (see page 1, "Unexpected Opportunity").

Reported by Jean Coughlin.

Organizations in support of public access television in Indianapolis include:

4 Star Gallery
ACLU of Indiana
Ambassadors For Christ Church
American Income Life Insurance
Amnesty International USA,
Local Group 317
Angels At God Central Station
Basement Enterprises
Branches Magazine
Central Indiana Central Labor Council
Central Indiana Jobs With Justice
CFI Community of Indiana
Citizen's Action Coalition
Coalition of Black Trade Unionists
Coalition of Labor Union Women
Common Bonds
Common Cause Indiana
Community Faith and Labor Coalition
COVOH Foundation
Devington Communities Association
Earth Charter Indiana
Global Peace Initiatives
Greater Indianapolis Chapter of the NAACP
Greater Light Church
Harm Reduction Institute
Hoosier Environmental Council
Hot House Art Gallery
il Troubadore

Indiana Alliance for Democracy
Indianapolis Marion County Public Libraries
Indianapolis Peace and Justice Center
Indianapolis Urban League
Indy for Democracy
Just Hair Salon
Key Cinemas
Kingdom of God Ministries, Inc.
Knollton East Neighborhood Association
Marion-County Neighborhood Alliance
(MCANA)
North Meadow Circle of Friends
Olive Branch Society
Pan-African Pen Pal Association
Progressive Television Coalition
Protect Our Rivers Now
Pyramid Sports
Rehab Resource
Santorini Greek Kitchen
Say It 'N' Spanish
Smedley's Dream, Inc.
Tharp-Perrin Gindhart Artists, Inc.
Turner Fair Historical Institute
United Senior Action
United States of Mind
Utrillo's Art Gallery
Veterans for Peace
Wildlife Educational Services

Campaign for Public Access Television Supporters

As of May 17, 2006

Membership Application

Mail this form to:

PO Box 30269
Indianapolis IN 46230

Please make checks payable to Public
Access of Indianapolis

If you'd like to pay by credit card, visit our
website at www.indyaccess.org.

Select Membership Category and
annual dues:

- Individual Member, \$20
- Not-for-profit organization, \$50
- Business membership, \$100

Name

Organization

Address

City, State, Zip

Telephone

Fax

Are you formerly or currently a producer of public access programming? **YES** **NO**

Program Name/s _____

In what ways would you like to work with PAI? _____

Events

**June—July
2006**

June 6, 5:30 PM: **Public Hearing on Bright House Networks Cable Franchise Renewal**, Rules and Policy Committee meeting, Room 260, City-County Building, 200 E. Washington St.

June 17, 11:30 AM: **PAI General Meeting**, Library (Room 206), North United Methodist Church, 38th & Meridian Sts

June 19, 2:30 PM: **Cable Franchise Board meeting**, Room 260, City-County Building, 200 E. Washington St.

June 19, 7:00 PM: **City-County Council Meeting**, Bright House Networks franchise renewal, Public Assembly Room (2nd Floor), City-County Building, 200 E. Washington St.

July 15, 11:30 AM: **PAI General Meeting**, Library (Room 206), North United Methodist Church, 38th & Meridian Sts.

July 17, 2:30 PM: **Cable Franchise Board meeting**, Room 260, City-County Building, 200 E. Washington St.

July 17: Next issue of **The Right-of-Way**

***Note:** Plans for the 2006 Alternative Media Festival are temporarily on hold during PAI's effort to mobilize support for a public access channel as part of Bright House Networks' cable franchise renewal. Check PAI's website at indyaccess.org to get the latest information.*

**THE
RIGHT
OF WAY**

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Address Correction Requested

Take Action Now on the New Opportunity for Indianapolis Public Access TV!