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BRIAN SEMO.NET

**Poplar Bluff Internet, Inc. d.b.a. semo.net**

July 30, 2010

Dear Council members,

At the last meeting, Councilwoman McVey asked for information to be provided in advance with your packet of information. Councilman Matthews echoed that sentiment as well. With that in mind, I prepared the enclosed material to be included for the upcoming meeting.

I was at the City Clerk / City Manager's offices yesterday asking how I could get my material included; Mr. Bagby refused my information and informed me that I needed to mail it to you directly. You are welcome to confirm this information with Lori Phelps or Nevada Young who were both present in the office at the time.

Mr Bach presented to you at the last meeting that the expense to operate and maintain the Internet service for all Internet customers, not just open access, was \$2.5 million dollars annual. City Cable's Internet income of \$1.44 million is dwarfed by that figure.

Only six weeks prior, Mr. Bach is on record at the June 7<sup>th</sup> meeting of the Advisory Board showing that Internet income is only \$1.23 million dollars annually. Even if you add in the \$210,000 in Modem Rental income, you still only get to \$1.44 million dollars.

There is no way that Internet service of City Cable is being subsidized by our citizens by over \$1 million dollars a year.

It certainly appears that the reported \$2.5 million dollar operations and maintenance expense was exaggerated and inflated to make you think Open Access rates needed to be raised.

The month before Mr. Bach is on record stating that City Cable's Internet service expenses are only \$1.2 million dollars a year, well under the \$1.44 million in revenue.

Thank you for your time to view the enclosed information and I hope that you will consider rescinding City Ordinance 7194.

If you have any questions, please do not hesitate to call me. My cell phone number is 573.778.6500. My email address is [brian@semo.net](mailto:brian@semo.net)

Thank you,

  
Brian Becker

**semo.net, pbmo.net, imsinternet.net, sheltonbbs.net**  
**Southeast Missouri's Online Community**

Dear City Council,

The passage of City Ordinance 7194 on July 19, 2010, set an end date for Open Access and created new rates based upon figures and calculations provided to the council by Mr. Bach. The undersigned challenge the integrity of the information upon which Ordinance 7194 was based.

### **Annual Expenditures For Cable Internet**

In the past seven months, City Cable representatives have changed the reported annual cost to run the Internet plant at least three times:

On December, 1, 2009, Mr. Presley presented to the Open Access ISPs on page 12 of his presentation estimates that the annual expenditures for City Cable Internet service in 2010 would be \$1,384,273.

On June 5<sup>th</sup>, 2010, Mr. Bach reported to the MU Advisory Board that the current annual Internet expense was \$1,216,979.

On July 19<sup>th</sup>, 2010, Mr. Bach reported to the City Council that the current Annual System Operations and Maintenance Expenses were \$2,500,266.86.

What is the actual annual system expense of the Internet plant? And why does this figure continue to change so drastically?

### **Cost of Building the Cable Internet Plant**

Mr. Bach subdivided the Cable Internet capital investment from the Cable TV capital investment but has not shown his calculations. The original bonds were for a Cable Television plant. One would hope that adding Internet capability to our already existent Cable TV service didn't cost the taxpayers an additional \$5.5 million dollars.

The incremental investment needed to convert the existing City Cable TV service into a TV & Internet service can be shown from financial records of capital expenditures specific to the Internet plant since 2002 when Internet capability was added to the network.

### **What is the capacity of the Network: 5276 MPS or 120 MPS or 155 MPS?**

Like the annual expenses, the MPS (megabits per second) capacity of the network appears to change over time.

On December, 1, 2009, Mr. Presley presented to the Open Access ISPs on page 9 of his presentation that as of March 2009, the system capacity was 38.8 MPS x 4 channels or 155.2 MPS.

On June 5<sup>th</sup>, 2010, Mr. Presley stated during the MU Advisory Board meeting that the capacity of the network was 120 MPS. And though Mr. Presley's answer is not recorded in the minutes, Mr. Becker is recorded repeating the 120 MPS capacity three separate times with no correction from those in attendance. Mr. Becker also repeated this 120 MPS during the City Council and again, neither Mr. Bach nor Mr. Bagby attempted to correct this bandwidth capacity.

On July 19<sup>th</sup>, 2010, Mr. Bach presented to the City Council that the Internet plant currently has 136 channels of capacity and each channel provides 38.8 MPS giving a total capacity of 5276.8 MPS.

It is difficult to reconcile Mr. Bach's calculated capacity of 5276 MPS with either the 155 MPS or the 120 MPS asserted by Mr. Presley during the past six months.

#### **Charging Cost-To-Build As A Monthly Fee**

It might be helpful to use an analogy for clarity:

Suppose a new water tower has an overall capacity of 750,000 gallons and cost \$3 per gallon to build. No one would expect that a portion of the customer's bill would be rated at \$3 per gallon every month. However, the new rate structure in City Ordinance 7194 does charge the ISP every month at \$1051.34 per MPS; that's the actual MPS cost-to-build.

#### **Rate Increase Is Exorbitant**

The exhibit in the ordinance shows that semo.net's current 930 customers will be charged at \$30.66 per customer. However, the bulk of semo.net's residential customers pay only \$29.95. It is difficult to justify such an increase, especially when it is the second rate increase on Open Access in six months.

Since the beginning of the year, the charge for Open Access customers has increased by 81%. During this same period, MyCityCable lowered their own business customer pricing by 146%.

#### **Cost To Serve on Exhibit A**

Mr. Bach presented a column in his calculations that became part of City Ordinance 7194 as Exhibit A. However, Mr. Bach never presented any information as to how this was calculated. If semo.net has 930 customers, Mr. Bach calculates that the cost to serve their customers is \$28.66, TCMAX customers cost closer to \$30 per customer.

How is it possible for MyCityCable to offer \$29.95 rates to their own customers when their cost to serve should be even higher since it includes adding Internet service, email services and support on top of this cost-to-serve amount?

In closing, this council

- a. struck down an eight-year-old ordinance of Open Access which affected thousands of businesses, employees and citizens in our city
- b. ignored the normal time frame built into our city's ordinance protocol
- c. restricted the citizens from any ability of providing input on the matter prior to passage
- d. passed new rates which appear to have serious flaws in their calculation
- e. gave the ISPs only 90 days to get off the network without serious financial consequences

The undersigned request that the city council vote to strike down City Ordinance 7194 and work to resolve the issues discussed in this letter before taking up any new ordinance which re-rates or restricts our community's Open Access policy.

1. BRIAN BECKER 1877 N WESTWOOD SEMO.NET

**AN ORDINANCE AMENDING THE OPEN ACCESS USERS FEE FOR THE CABLE DEPARTMENT OF THE CITY OF POPLAR BLUFF AND PROVIDING FOR THE PHASING OUT OF THE OPEN ACCESS USERS POLICY.**

**WHEREAS**, the Municipal Utilities and City Cable Department of the City of Poplar Bluff has reviewed the current Open Access Users Policy contained in the Policy Manual of the Municipal Utilities and City Cable Department of the City of Poplar Bluff, and specifically has noted specific problems with the current policy, including increasing costs to maintain and update the broadband plant, increased problems with technological support and more problems for the City's customer service representatives, due to the increased use of the system by private internet service providers; and,

**WHEREAS**, the Department has recommended to the City Council that the Policy Manual be amended to discontinue the Open Access Users Policy for private internet service providers; and,

**WHEREAS**, the Municipal Utilities Advisory Board has reviewed the recommendation of the Municipal Utilities Department and is of the opinion that the Open Access Users Policy should be phased out on a gradual basis; and,

**WHEREAS**, the Municipal Utilities and City Cable Department has further recommended a change in the Cable Department's Open Access Users Fee whereby the current tier rate schedule would be discontinued and the rate charged to Open Access users would be based on a flat rate without tiers; and,

**WHEREAS**, the Municipal Utilities Advisory Board has recommended that said rate change be implemented in conjunction with the phasing out of the Open Access Users Policy, whereby said policy would be discontinued after a period of not less than fifteen (15) months, with the proposed rate schedule to take effect after ninety (90) days notice to all internet service providers currently using the City's broadband plant, and said rates to remain in effect until such time as the Open Access Policy is discontinued; and,

**WHEREAS**, the City Council of the City of Poplar Bluff, Missouri, deems it to be in the best

interests of the City and its citizens to accept the proposal concerning the Open Access Users Policy as submitted to it by the Municipal Utilities Advisory Board, said proposal being set out more fully as follows.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POPLAR BLUFF, MISSOURI, AS FOLLOWS:**

**Section 1.** The Open Access Users Policy, as found in the Policy Manual for the Municipal Utilities and City Cable Department, is to be discontinued under the following terms and conditions:

- a. Upon passage and approval of this ordinance, the City shall notify all Internet Service Providers currently utilizing the City's broadband plant of this change in policy and shall further notify said Internet Service Providers that the current tier rate schedule shall remain in effect for ninety (90) days from the date of said notice;
- b. That after the initial ninety (90) day period, a revised flat rate schedule shall be implemented for all private Internet Service Providers. Said rate schedule is attached hereto, marked Exhibit "A" and incorporated herein by specific reference thereto as if fully set out.
- c. That not less than one (1) year after implementation of the revised rate schedule, the City shall phase out and discontinue the Open Access Users Policy. The exact date of termination of all such services to the Internet Service Providers shall be determined by the Municipal Utilities and City Cable Department after consultation with the private Internet Service Providers and the Municipal Utilities Advisory Board. Reasonable notice of said termination date shall be provided to all private Internet Service Providers.
- d. The Policy Manual for the Municipal Utilities and City Cable Department shall be amended upon termination of the Open Access Users Policy to repeal those

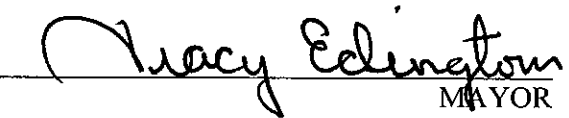
sections in the policy entitled "Open Access Users-Internet" and "Open Access Users-Packet Cable Data Transport."

**Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they do conflict.

**Section 3.** This ordinance shall be in force and take effect from and after the date of its passage and approval.

**READ TWO TIMES AND PASSED BY THE CITY COUNCIL OF THE CITY OF POPLAR BLUFF, MISSOURI, THIS 19TH DAY OF JULY, 2010.**

APPROVED:

  
MAYOR

ATTEST:

  
CITY CLERK

			New Rate	Old Rate	Cost to Serve
SEMO	Peak Bandwidth Original (16)	52			
		16 @\$1,051.34 per MPS	\$ 15,821.44		
		36 @\$325.00 per MPS	<u>\$ 11,700.00</u>		
			\$ 28,521.44	\$19,866.50	\$ 26,660.00
TCMAX	Peak Bandwidth Original (8)	6			
		6 @\$1,051.34 per MPS	<u>\$ 6,308.04</u>		
			\$ 6,308.04	\$5,516.50	\$ 6,106.00
BRT	Peak Bandwidth Original (8)	7			
		7 @\$1,051.34 per MPS	<u>\$ 7,359.38</u>		
			\$ 7,359.38	\$6,797.25 (higher because of VoIP)	\$ 6,163.33

Cost to Build Plant (Internet Only)

\$5,547,695.00



System Bandwidth

870MHz – 50MHz = 820 MHz

820 MHz / 6MHz = 136 Channels



- Cost Per Channel

$$\$5,547,695 / 136 = \$40,792.00 / \text{CH}$$

- Cost Per MPS

$$\$40,792.00 / 38.8 \text{ MPS} = \$1,051.34/\text{MPS}$$



- Cost Per MPS / ISP

$$\$1,051.34 / 4 \text{ ISP's} = \$262.84/ \text{MPS ISP}$$

- Annual System O & M

→ \$2,500,266.86

- Monthly System O & M

\$2,500,266.86 / 12 months = \$208,355.57

- Monthly O & M /CH

\$208,355.57 / 136 CH = \$1,532.03

- Monthly O & M/MPS  
 $\$1,532.03 / 38.8 \text{ MPS} = \$39.49 / \text{MPS}$
- Channel Cost/MPS plus Monthly Cost/MPS  
 $\$262.84 + \$39.49 = \$302.33/\text{MPS}$
- Allow for Growth and Reserve  
 $\$302.33 * 1.08\% = \$325.00/\text{MPS}$

**MINUTES OF REGULAR MEETING**

**JUNE 7, 2010**

manual the City can stop your company from hooking up any more customers to our infrastructure. He stated your continued increase in bandwidth has increased our costs. He stated this bond counsel issue is very upsetting. He stated we will work something out if the bond counsel states we are okay, but if not there will be no more increases in bandwidth. Manager Bagby stated if the bond counsel only takes the internet service totals we are in trouble, but he felt we would be okay if they used the totals from both the internet and cable.

Mayor Edington stated right now there is no game plan until we hear from bond counsel. He stated then we will go to Council with Mr. Becker's problem.

Manager Bagby stated we will have to have more information from the bond counsel to figure out what we need to do.

Board member Davis asked why are we penalizing Mr. Becker now if he has been over the limit for three or four years and when we allowed him to do this?

Manager Bagby asked when do we stop it?

Board member Davis stated he didn't know.

Manager Bagby stated our policy manual clearly states the City is allowed to do this. He stated the City should have never gotten involved in a private/public sector. He stated the Board and himself at that time thought this would be beneficial to the citizens of Poplar Bluff and the local ISP's.

Board member Schalk stated the City has not discouraged anyone from hooking up to the other ISP's but he has seen a sign on the highway from semo.net dishing City Cable.

Mr. Becker stated they were not dishing City Cable. He stated Charter has upgraded their service and his marketing consultants said they should advertise saying they could provide internet service just as easily. Mr. Becker stated he feels that this advertising campaign is part of the problem.

Manager Bach stated per the policy manual we could turn you off, but we are not going to do that. He stated we are not allowing you to hook up any new customers or increase in bandwidth.

Mayor Edington asked if the other ISP's could take these new customers.

Board member Davis stated he felt the City was penalizing Mr. Becker because we just woke up.

Mr. Becker stated a one (1) Mb customer of his will not tax the system any more than any of the other ISP's one (1) Mb customers. He stated the City has 120 Mb cap. City Manager Bagby asked are you saying that we should allow you to choose how much allotted bandwidth you are allowed.

**MINUTES OF REGULAR MEETING**

**JUNE 7, 2010**

Board member Davis asked how could semo.net's customers tax the system any more than the other ISP's? Manager Bagby stated semo.net's customers have already taxed the system.

Chairman Moffitt stated we could be in negotiations if we didn't need any input from bond counsel. Board member Davis stated we are just waiting on bond counsel to inform us what steps we have to do. City Manager Bagby stated it depends on what the bond counsel's recommendation is. He stated we will continue to look at it on an annual basis and assumes the bond counsel will give us a formula.

→ Mr. Becker stated the City does have 120 Mb. He stated the other ISP's have peaked above the eight (8) Mb. Manager Bach stated none of the other ISP's have peaked over eight (8) Mb. Mr. Becker stated he is the only one being penalized. He stated he notified the City in 2006 regarding the overage of his allotment but was told nothing and now he is being penalized because of a billboard advertisement. He stated he will just go alternative ways to win. He stated it is not right that his company has to send potential customers to other ISP's.

Manager Bach stated Mr. Becker you were told no more customers until we hear back from bond counsel.

Board member Davis stated he felt that there has to be a better approach to limiting Mr. Becker's customer growth. He stated we need to be careful on how our customer service representatives tell customers that we are not adding any more new semo.net customers.

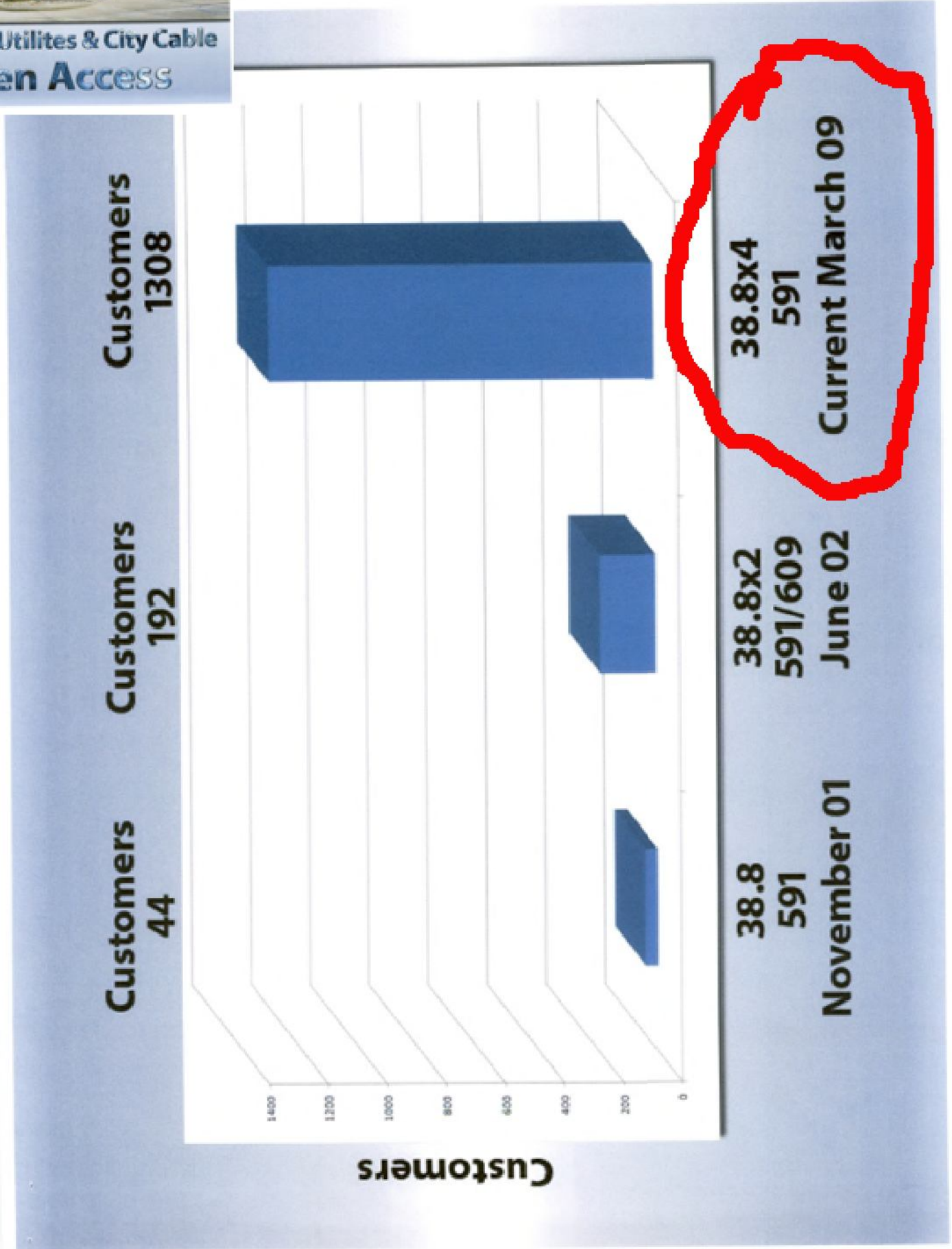
→ Mr. Becker stated we changed our bandwidth from 22 Mb to 120 Mb. He stated why we don't change the ISP's bandwidth allotment in the policy manual since the total number of aggregate bandwidth has been changed. He stated he has spent nearly \$1.1 million in payments to the City and preferred this network. He stated using this network is the best way for him to compete with AT & T.

Manager Bagby stated the City does not have to increase the ISP's bandwidth even if there is more total bandwidth available.

Manager Bagby stated we will wait until we hear from bond counsel before any negotiations are done.

Board member Davis stated he would like the customer service representatives to be a little more diplomatic in stating that we are no longer accepting any semo.net customers.

Manager Bach stated he would draft a letter or Mr. Becker could draft a letter for the customer service representatives to give to potential semo.net customers. Mr. Becker stated he would draft a letter.



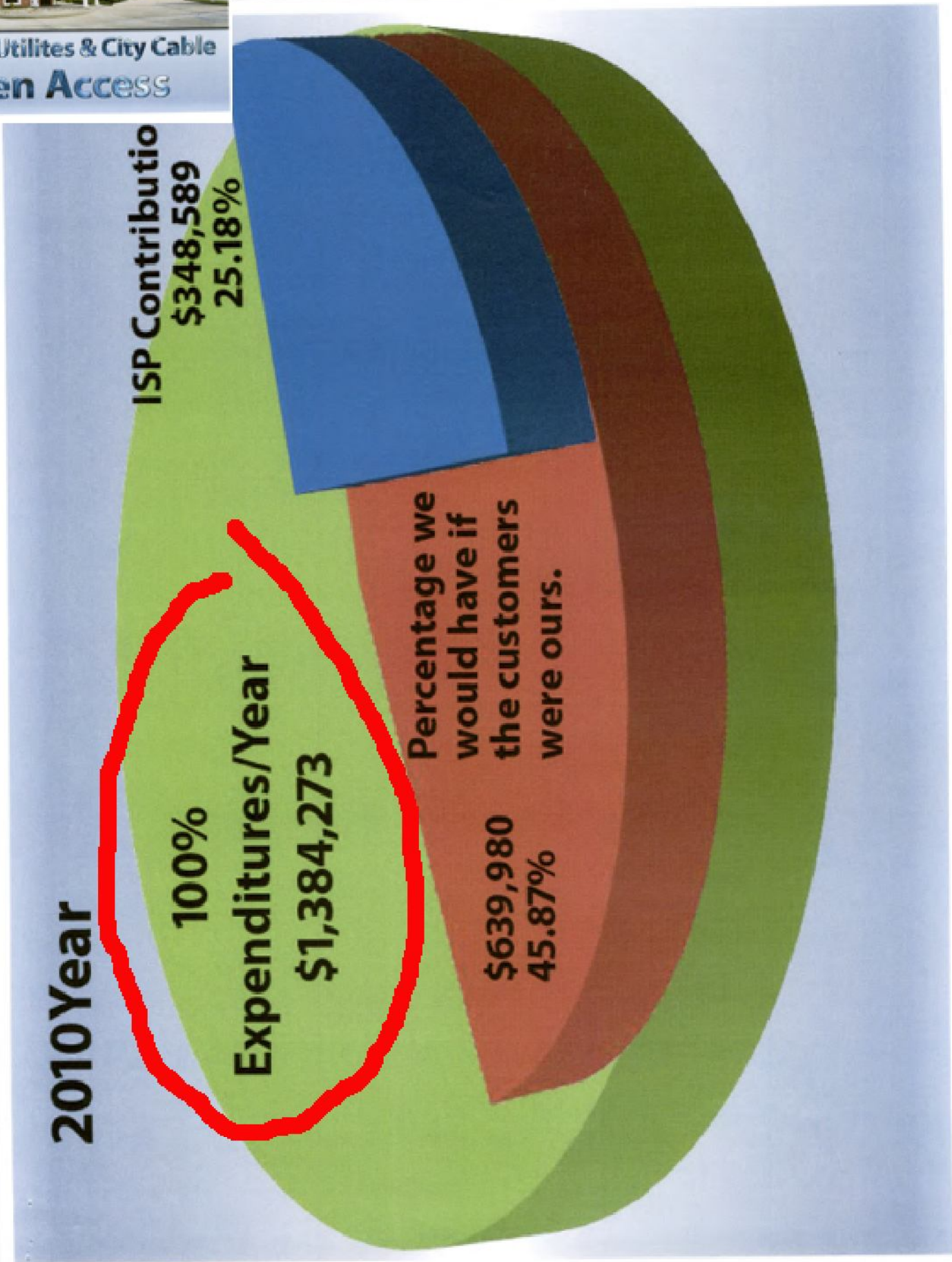
38.8  
591  
November 01


38.8x2  
591/609  
June 02

38.8x4  
591  
Current March 09



Municipal Utilities & City Cable  
**Open Access**



Total operating expense of \$3,687,815   
33 Percent Directed to Internet \$1,216,979

\$1,216,979/3,565 Customers =  
\$342/year\*customer

Revenue Required  
\$342\*930 Customers = \$318,060  
Divide by 12 months = \$26,505



2. John R. Standard
3. Al Wang Keadley 2014 Wallace
4. Bryan Cooper 1424 Parkview Dr,
5. David Kelley 111 Red Cedar Blvd
6. Marty McClure 391 Richmond Ln.
7. Larry D Vaughn
8. Charles Allen
9. James Scherer 855 Lester
10. John Bruno 3200 Phett Lane PBMO 63901
11. Dennis Soriano 3200 Phett Lane PBMO 63901
12. Larry Soriano 1648 West Hazel St. PBMO 63901
13. Kathleen Soriano 1648 West Hazel St. PBMO 63901
14. Bob F. Huff 1500 WILKIN ROAD PBMO 63901
15. Butt P. Huff 1523 MAULD ST. PBMO 63901
16. ~~Christine Huff~~
17. Stacey Stark RN/BSN 2512 Shady Lane PB,MO 63901
18. Kelly Stark
19. Jared Stark (Jared Stark) 2512 Shady Lane
20. Shula Wilson 516 S. 8th P.B. No. 63901

21. JERRY CROW 1920 GREENWOOD Dr #16
22. Joshua Darnell 1105 Winnie St.
23. Jeffrey Kanell 1525 Sunset Dr
24. Maub C. [Signature] 2310 Meadow
25. Bridgett Barnhill 913 S 11<sup>th</sup> St Apt 2
26. Amanda Johnson 3000 Craven Rd
27. Denise Magruder 3226 Skyline Dr.
28. Bob SANDERS 2605 SHAW LANE RB
29. [Signature] Dennis Sullivan  
3285 Mystic Ln, P.B., MO
30. [Signature] 492 CR 422 P.B. MO
31. [Signature] 834 Poplar
32. Styan [Signature] 3096 Elaine Ave Apt. 1 P.B. MO, 63901
33. Chig [Signature] 2224 Leonard Dr P.B. MO 63901
34. [Signature] 7901 N Westwood P.B. 63901
35. [Signature] 915 Butler St P.B. MO 63901
36. [Signature] 3042 Elaine Ave P.B. MO 63901
37. [Signature] 1000 McIlbenny P.B. MO
38. \_\_\_\_\_
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61. Thyllis Baker 3500 Marble Hill Rd
62. Ruth Lewis 898 CR 465 P.B
63. Mike G 555 North 10<sup>th</sup> PB
64. Jammy Harper 1851 Sunset Dr
65. Allan Dunn 215 S BROADWAY
66. Ben Roy 211 S Broadway
67. Chad Att 10A STERLING DR.
68. Kabrun Mahy 1201 Guling Dr
69. Berba Ford - Mansim Mall Beautyshop
70. Jamie Blabing 112 BB St
71. Bubba Drenge 2094 CR 604
72. Rose M Sullivan 3285 Mystic Lane
73. Cindy Burcham 1879A N. Westwood Blvd.
74. Jeri Weatherford 1877A. N. Westwood Blvd.
75. Jamie Bell 1879A N Westwood Blvd.
76. Juda Colbert 1879A N. Westwood Blvd.
77. Jaura Baker 1700 Big Bend
78. Mary Kanell 1525 Sunset Dr.
79. Jones Calk III 1601 Sanders St.
80. [Signature] 2025 [Signature]

81. Tereska Stockton

82. Mary Kay Wylie

83. ~~\_\_\_\_\_~~  
84. Jennifer Sturtevant

85. ~~\_\_\_\_\_~~  
86. Donelle R. Siler

87. Jessica Knodell

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1015 W. Pine  
Street,  
PB

101. D. M. W. 2549 Stoneridge P.B. Mo
102. Danielle Berry 1879A N. Westwood Blvd. PB MO
103. Julie Bell Flores 1879A N. Westwood Blvd PB Mo
104. Sonja Monaghan 1879 A N. Westwood Blvd PB MO
105. Rita Trout 1879 A N Westwood Blvd PB mo
106. Therese Anderson 1879 A N Westwood Blvd PB mo
107. Imbera Hillis 1879 A N Westwood Blvd PB. MO
108. Patty Stone 3450 Normandy Road PB. MO.
109. Lee Stone 3450 Normandy Rd P.B. MO.
110. Jim B 3500 Marblehill rd. PB. Mo.
111. John B 2500 Marble Hill Rd " "
112. Janette Kamel 2304 Perkins Dr. P.B. MO.
113. Dandy Ulrich 1010 S. Westwood, P.B. MO
114. Sonnet Ulrich 1010 S. Westwood, P.B mo.
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