

**TOWN OF GREAT BARRINGTON**

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**(For the Five Towns of Great Barrington, Lee, Lenox, Sheffield, and Stockbridge.)**

**COMMONWEALTH OF MASSACHUSETTS**

**PROPOSED CABLE TELEVISION RENEWAL LICENSE**

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## **Preamble**

**This License Agreement** ("License") is between the Town of *[Insert the relevant Town: Great Barrington; Lee; Lenox; Sheffield; or Stockbridge]*, hereinafter referred to as the "Town" or "Issuing Authority" and Spectrum Northeast, LLC, locally known as Charter or Spectrum, hereinafter referred to as the "Licensee."

**WHEREAS**, Spectrum Northeast, LLC is a wholly owned in-direct subsidiary of Charter Communications, Inc.; and

**WHEREAS**, Spectrum Northeast, LLC, as the successor in interest to Time Warner Cable Northeast LLC, is the Licensee under the existing Cable Television License dated May 2013; and

**WHEREAS**, the Issuing Authority finds that the Licensee has substantially complied with the material terms of the current License under applicable laws, and that the financial, legal and technical ability of the Licensee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

**WHEREAS**, having afforded the public adequate notice and opportunity for comment, the Issuing Authority desires to enter into this License with the Licensee for the construction and operation of a cable system on the terms set forth herein; and

**WHEREAS**, although the Issuing Authority has expressed interest in the Cable System carrying broadcast stations focused on Boston and Massachusetts news and sports, the Issuing Authority and the Licensee acknowledge that the Town is in the Albany-Schenectady-Troy Designated Market Area ("DMA"), not the Boston DMA, and determination of DMA boundaries is not within the control of either the Issuing Authority or the Licensee. Therefore, under federal law Licensee is obligated to carry broadcast stations from the Albany-Schenectady-Troy DMA, and cannot be obligated to carry broadcast stations from the Boston DMA. Nevertheless, Licensee will consider carrying broadcast stations from the Boston DMA if Licensee deems it to be technically and financially practicable and consistent with the company's business objectives; and

**WHEREAS**, the Issuing Authority and Licensee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this license renewal;

**NOW, THEREFORE**, the Issuing Authority and Licensee agree as follows:

## **ARTICLE 1 - DEFINITIONS**

For the purpose of this License, the following words, terms, phrases, and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, pronouns used shall be their or its, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

Access: The right or ability of any Town resident and/or any Person affiliated with the Town to use designated Public, Educational, and Government (PEG) facilities, equipment, and or PEG Access channels of the Cable Television system, subject to the conditions and procedures established for such use.

Access Corporation: An entity designated by the Issuing Authority to manage and operate public, educational and governmental access (PEG) channels in the Town in accordance with this License and 47 U.S.C. 531. Currently, the Access Corporation is the non-profit corporation known as Community Television for The Southern Berkshires Inc. ("CTSB").

Advisory Committee: The Five Town Cable Advisory Committee ("CAC") as appointed and designated by the Issuing Authority, from time to time.

Affiliate or Affiliated Person: When used in relation to any Person this term shall have the meaning found in the Code of Massachusetts Regulations (CMR) 207 CMR 4.01(2), as may be amended, but currently meaning, any person or entity that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with another person or entity.

Amplifier: A device that boosts the strength of an electronic signal.

Basic Cable Service: Any service tier which includes the retransmission of local television broadcast signals and transmission of local PEG Access channels.

Cable Act: The federal Cable Communications and Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and subsequent amendments, 47 U.S.C. § 521 et seq.

Cable Service: The one-way transmission to Subscribers of Video Programming or other Programming Services, together with Subscriber interaction, if any, which is required for the selection of such Video Programming or other Programming Services.

Cable Television System or Cable System: Shall be defined herein as it is defined under Section 602(7) of the Cable Act, 47 U.S.C. 522(7), as may be amended, but currently meaning a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of subchapter II of this chapter, except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 U.S.C. 573; or (E) any facilities of any electric utility used solely for operating its electric utility system.

Channel: Shall be defined herein as it is defined under Section 602(4) of the Cable Act, 47 U.S.C. 522(4), as may be amended, but currently meaning a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the regulations of the Federal Communications Commission).

CMR: The Code of Massachusetts Regulations.

Commercial Subscriber: A commercial non-residential Subscriber to Cable Service.

Communications Act: The Communications Act of 1934, as amended, and located at 47 U.S.C. sec. 151 et seq.

Complaint: Shall be defined herein as it is defined by the Massachusetts Department of Telecommunications and Cable Division's Order Adopting Revised Form 500 (June 11, 1999), as may be amended, but currently meaning any written or verbal contact with the Licensee in connection with Cable Service in which a Person expresses dissatisfaction with an act, omission, product, or service that is (1) within the Licensee's control, and (2) requires a corrective measure on the part of the Licensee.

Conduit: An enclosed channel of metal or nonmetallic materials designed expressly for holding wires and cables, such as coax or fiber-optic cables.

Converter: An electronic device which converts Signals to a frequency acceptable to a television receiver of a Subscriber and permits a Subscriber to receive all Channels included in Subscriber's Cable Service.

Department: The Massachusetts Department of Telecommunications and Cable.

Distribution Plant or Plant: The hardware of a cable system, including, but not limited to, amplifiers, trunk cable and feeder lines, attached to utility poles or fed through underground conduits like telephone and electric wires.

Downstream Channel: A channel over which signals travel from the Cable System Headend to an authorized location within the System.

Drop or Cable Drop: The cable that connects an Outlet to the feeder cable of the Cable System.

Educational Access Channel: Any channel, which has been allocated for noncommercial educational use by the Town, Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. 531.

Effective Date of Renewal License (the "Effective Date"): The later date on which this document is signed by the Town of Great Barrington and Spectrum Northeast, LLC.

FCC: The Federal Communications Commission or any successor agency.

Feed line or Feeder line: Cable that connects trunk lines to drop cables.

Fiber: A transmission medium composed of glass or plastic fibers, rather than copper wire, used to transport data, video, and voice signals.

Franchise Fee: The payments made by the Licensee to the Issuing Authority, or its designee, which shall have the meaning set forth in 47 U.S.C. sec. 542 (g).

Governmental Access Channel: Any channel, which has been allocated for noncommercial, local governmental use by the Town, the Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. 531.

Gross Revenues: All revenues, as determined in accordance with generally accepted accounting principles ("GAAP"), derived by the Licensee and/or its Affiliates from the operation of the Cable System to provide Cable Service in the Town, including, without limitation, the following items: fees, charges and

payments collected from Subscribers (including Commercial Subscribers) for Cable Services, including, without limitation, Basic and premium Cable Services, video-on-demand Cable Services and pay-per-view Cable Services and digital Cable Services; installation, reconnection, downgrade, upgrade and similar charges; revenues received from rentals or leases to Subscribers of Converters, remote controls and other Subscriber equipment used to provide Cable Service over the Cable System; Leased Access Channel programming revenues; revenues that the Licensee receives from home shopping channels attributable to the Cable System in the Town; advertising revenues attributable to the Cable System in the Town; and except as provided below, all fees imposed on the Licensee by this Renewal License and applicable law that are passed through and paid by Subscribers ("fee-on-fee") in accordance with applicable law.

For the avoidance of doubt, Gross Revenues shall include the amount of the Licensee's gross advertising revenue, calculated in accordance with GAAP. Should any service provided by Licensee over the Cable System be classified as a Cable Service by a final determination or ruling of any agency or court having jurisdiction, after the exhaustion of all appeals related thereto, the Issuing Authority shall be entitled, after notification to Licensee, to amend this Renewal License in the manner prescribed under applicable State law or this Renewal License to include revenue from Licensee's provision of such service as Gross Revenue, and Licensee shall include revenue from such service as Gross Revenue on a going forward basis commencing with the next available billing cycle following the amendment date.

Gross Revenues shall not include: (a) Revenues received by any of the Licensee's Affiliates, except to the extent that such revenues relate directly to the provision of Cable Services over the Cable System in the Town; (b) Actual bad debts written off by the Licensee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period so collected; Any revenues foregone as a result of refunds, rebates or discounts made to Subscribers, or (c) the Licensee's provision of free or reduced cost Cable Services to any Person, including without limitation, employees of the Licensee and public institutions pursuant to M.G.L. Chapter 166A, Section 5(e); provided, however, that if the Licensee receives trades, barter, services or other items of value instead of cash revenue then such items shall be included in Gross Revenues; (d) Any revenues wholly generated by services that are defined and classified as Non-Cable Services revenue under federal or State law including, without limitation, revenues received from Telecommunications Services; revenues received from Information Services, and directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing; (e) Any revenues of the Licensee or any other Person which is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, notwithstanding that portion of such revenue which represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise, which portion shall be included in Gross Revenue; (f) Revenues from the sale of Cable Services on the Cable System to a reseller, when the reseller is required by the Town to pay (and does pay) License Fees to the Town on the resale of the Cable Services; (h) Any tax, fee or assessment of general applicability imposed by a Town, State, federal or other governmental entity and required to be collected from Subscribers by the Licensee and remitted to the taxing entity (including, but not limited to, taxes in the nature of a sales/use tax, communication tax and non-cable license fees); (i) Revenues from the sales of capital assets or sales of surplus equipment; and (k) Any fees or charges collected from Subscribers for the PEG Access Capital Funding.

Headend: The electronic control center of the Cable System containing equipment that receives, amplifies, filters, and converts incoming Signals for distribution over the Cable System.

Issuing Authority: The Select Board of the Town of Great Barrington, Massachusetts.

Leased Channel or Leased Access: Any channel available for lease for programming by persons other than Licensee in accordance with Section 612 of the Cable Act, 47 U.S.C. sec. 532.

License: The non-exclusive grant by the Issuing Authority to the Licensee of authority to build, own, and operate a Cable System within the Town, represented by this instrument.

Licensee: Spectrum Northeast, LLC, or any successor or assignee in accordance with the terms and conditions in this Renewal License and all governing laws and regulations.

License Fee : The payment to be made by Licensee to the Issuing Authority on an annual basis which shall have the meaning as set forth in M.G.L. c. 166A, sec. 9.

M.G.L: Massachusetts General Law.

Normal Operating Conditions: Those service conditions which are within the control of the Licensee. Those conditions which are not within the control of the Licensee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Licensee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

Origination Point or Origination Capacity: An activated connection to an Upstream Channel, allowing a User(s) to transmit a Signal(s) upstream to a designated location.

Outlet: An interior or exterior receptacle, generally mounted in a wall, through which cable service is provided to the customer.

Pay Cable or Premium Services: Programming delivered for a fee or charge to Subscribers on a per-channel or group of channels basis.

Pedestal: An environmental protection unit used in housing Cable System components.

PEG: Channel capacity designated for Public, Educational, and Governmental Access signals and available on all Cable Service, or Tiers, offered by the Licensee.

PEG Access: Any Licensee owned channel(s) made available by the Licensee and provided for use for the presentation of PEG Access Programming.

PEG Access Programming: Non-commercial Video Programming transmitted on the PEG Access Channel(s) pursuant to the terms of this Renewal License, and applicable laws.

Person: Any natural person or any association, firm, partnership, joint venture, corporation, limited liability company or other legally recognized entity, private or public, whether for profit or not-for-profit.

Public Access: The availability for non-commercial use by any resident, or any organization based in or serving the Town, of designated public access facilities, equipment, training and/or channels of the Cable Television System, as provided in this License and in accordance with 47 U.S.C. 531.

Public Access Channel: A specific channel(s) on the Cable System owned and made available by the Licensee to the Issuing Authority and/or the Access Corporation for use by, among others, the Town's residents and/or non-profit organizations wishing to present non-commercial Programming or information to the public.



Private Roads: Roads owned and maintained by private individuals or entities rather than by the Town or other government entity.

Public Way or Street: The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, alleys, sidewalks, lanes, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, and public grounds and all other publicly owned real property or real property rights under the jurisdiction of the Town within or belonging to the Town, or over which the Town has an easement or right-of-way, or easements or rights of way within the Town which have been dedicated for compatible uses in accordance with 47 U.S.C. 541 (a)(2), or to which the Town has rights compatible with the installation of cable and ancillary equipment pursuant to this License, now or hereafter existing. Reference herein to “Public Way” or “Street” is not to be construed to be a representation or guarantee by the Town that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those possessed by the Town.

Renewal License: The non-exclusive Cable Television License granted to the Licensee by this instrument.

Service Area: The area within the entire Town in which a residence can be served by a Standard Cable Installation from the cable plant as indicated on the map attached as Exhibit A.

Service Interruption: The loss of picture or sound on one or more Channels.

Signal: Any transmission of electromagnetic or optical energy which carries Programming from one location to another.

Standard Cable Installation: An aerial connection consisting of fiber and/or coaxial cable between the Trunk, Feeder Line and Distribution System and a residential or municipal governmental Outlet located within Two hundred fifty Feet (250') of the existing System's Trunk, Feeder Line and Distribution System, and which does not require design changes or additional equipment (including but not limited to amplifiers or plant extensions) to provide acceptable Signal quality into the residence.

State: The Commonwealth of Massachusetts.

Subscriber: Any Person, firm, corporation, or other entity who or which elects to subscribe to, for any purposes, a Cable Service provided or distributed by the Licensee by means of, or in connection with, the Cable Television System.

Subscriber Network: The bi-directional network owned and operated by the Licensee over which Signals are transmitted to subscribers, which shall meet or exceed all required FCC technological standards during the duration of this Renewal License.

Town: The Town of Great Barrington, Massachusetts including all area geography within the boundaries of the Town.

Towns: The Towns of Great Barrington, Lee, Lenox, Sheffield, and Stockbridge, Massachusetts.

Trunk: The major distribution cable used in cable television systems.

Trunk Line: As listed in the definition of Feed Line or Feeder Line

User: A person utilizing the Cable Television system, including all related facilities, for the purpose of production and/or transmission of PEG Access Programming as opposed to utilization solely as a Subscriber.

Video Programming or Programming: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **ARTICLE 2 - GRANT AND TERM OF RENEWAL LICENSE**

### **Section 2.1 GRANT OF LICENSE**

Pursuant to the authority of Chapter 166A, §1 of the General Laws of the Commonwealth of Massachusetts and the Cable Act, and subject to the terms and conditions set forth herein, the Select Board of the Town of Great Barrington, acting as the Issuing Authority of the Town, hereby grants a non-exclusive, revocable Cable Television Renewal License to Licensee, authorizing and permitting Licensee to construct, upgrade, install, operate, and maintain a Cable Television System and provide Cable Service within the municipal boundaries of the Town.

### **Section 2.2 RIGHTS AND PRIVILEGES OF LICENSEE**

Subject to the terms and conditions herein, the Issuing Authority hereby grants to Licensee, the right to construct, upgrade, install, operate, and maintain a Cable Television System in, under, over, along, across or upon the public streets, lanes, avenues, alleys, sidewalks, bridges, highways and other Public Ways or places in the Town within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, or which the Licensee may use pursuant to 47 U.S.C. 541(a)(2), for the purpose of Cable Television System reception, transmission, collection, amplification, origination, distribution, or redistribution of audio, video, text, data or other signals in accordance with the laws of the United States of America, the Commonwealth of Massachusetts and the Town. In exercising rights pursuant to this License, Licensee shall not endanger or interfere with the lives of persons, interfere with any installations of the Town, any public utility serving the Town, nor unnecessarily hinder or obstruct the free use of public ways and places.

### **Section 2.3 APPLICABLE LAW**

This Renewal License is granted under and in compliance with M.G.L. c. 166A and all other general laws and acts of the Massachusetts General Court, and in compliance with all applicable federal law, including, but not limited to the Cable Act, and all rules of the Federal Communications Commission ("FCC"), and all other State and federal rules and regulations. This Renewal License is subject to all rules and regulations of the Massachusetts Department of Telecommunications and Cable ("the Department") and federal law.

### **Section 2.4 TERM OF RENEWAL LICENSE**

This Renewal License shall commence upon the Effective Date, February 28, 2023, and shall expire on February 28, 2033, unless sooner terminated as provided herein or surrendered.

### **Section 2.5 TRANSFER AND ASSIGNMENT OF RENEWAL LICENSE**

(a) Subject to applicable law, neither this Renewal License, or control thereof, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or

by transfer of control of any Person, company or other entity holding such Renewal License to any other Person, company, or other entity without the prior written consent of the Issuing Authority, which consent shall not be unreasonably or arbitrarily withheld. Such consent shall be given only after a public hearing, subject to fourteen (14) day duly published notice, upon receipt of a written application therefore on forms as may be prescribed by the Department or FCC. Any such consent process shall be consistent with the transfer requirements of M.G.L. c.166A, § 7; 207 CMR § 4.00 et seq.; the Cable Act; and FCC regulations, all as they may from time to time be amended. Any application for consent to a transfer or assignment, if required, shall be signed by the Licensee and by the proposed transferee or assignee, or by their authorized representatives, evidence of whose authority shall be submitted with the application.

(b) To the extent it is consistent with any governing federal or State law, a mortgage or other grant of a security interest in this Renewal License to a banking or other financial institution, or a pledge or grant of other security interest in the stock of Licensee to a banking or other financial institution, shall not be a transfer requiring consent of the Issuing Authority. Should such mortgagee or other holder of a security interest or pledgee assume control of the Cable Television System, such Issuing Authority consent shall be required in accordance with applicable law.

(c) To the extent it is consistent with any governing federal or state law, no consent under subsection (a) shall be required if such sale, assignment, or transfer is to an entity controlling, controlled by, or under common control with, the Licensee. For a proposed transfer that is not covered by the preceding sentence, on request of Licensee, the Issuing Authority, or on the Department's own initiative, the Department may determine whether or not a particular transaction shall be considered a transfer or assignment or change of control thereof under M.G.L. c. 166A, § 7, for which consent under subsection (a) is necessary. The Issuing Authority must be notified of any such request made by Licensee to the Department, and the Department's ultimate determination, which shall be binding on the Licensee and Issuing Authority.

(d) Subject to all applicable laws and regulations, in considering a request to transfer control of this Renewal License, the Issuing Authority may consider such factors as the transferee's financial, legal, and technical performance qualifications, as allowable under applicable federal or state laws or regulations, and request such reasonable information as allowable under applicable law or regulations.

(e) For purposes of Section 2.5, the word "control" shall comply with the definition of such in 207 CMR 4.01.

(f) The consent or approval of the Issuing Authority to any assignment, lease, transfer, sublease, or assumption of control by a mortgagee of the Renewal License granted to the Licensee shall not constitute a waiver or release of the rights of the Town in and to the streets and Public Ways or any other rights of the Town under this Renewal License, and any such transfer shall, by its terms, be expressly subordinate to the other terms and conditions of this Renewal License.

(g) The Licensee shall submit to the Issuing Authority an original and one (1) copy, unless otherwise required, of the application and FCC Form 394 requesting such transfer or assignment consent.

(h) Unless otherwise allowed by applicable law(s), the Issuing Authority shall make a decision on said written application within one hundred and twenty (120) days of receipt of said application. After 120 days, the application shall be deemed approved, unless said 120-day period is extended by mutual written consent of the parties.

(i) Any proposed controlling or owning Person or transferee approved by the Issuing Authority shall be subject to all of the terms and conditions contained in this Renewal License and so agrees with and by their signature to the transfer or assignment document.

## Section 2.6 EFFECT OF UNAUTHORIZED TRANSFER ACTION

(a) Any transfer of the Cable System without complying with Section 2.5 above or with any federal or state law or regulation, shall be deemed a material breach of this Renewal License; and among other remedies available to the Town, be subject to liquidated damages assessment in Section 7.8 infra.

(b) If the Issuing Authority denies its consent to any such action and a transfer has nevertheless been affected, the Issuing Authority may revoke and terminate the Renewal License in accordance with the procedures outlined in Section 7.7 herein, unless such transfer is otherwise allowable by applicable law.

(c) The grant or waiver of any one or more of such consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any such consent constitute a waiver of any other rights of the Town.

## Section 2.7 NON-EXCLUSIVITY OF RENEWAL LICENSE

This Renewal License shall not affect the right of the Issuing Authority to grant to any other Person, a license or right to occupy or use the Public Ways, or portions thereof, for the construction, installation, operation, or maintenance of a Cable Television System within the Town or the right of the Issuing Authority to permit the use of the Public Ways for any purpose whatsoever. If the Issuing Authority grants any other Person such a license, the Issuing Authority shall amend this License, following the procedures set forth in 207 C.M.R. sec. 3.07, upon request by Licensee, to ensure that the obligations applicable to Licensee are no more burdensome or less favorable than those imposed in the license granted to the new Person by the Issuing Authority.

In the event any change to state or federal law occurring during the term of this Renewal License materially alters the regime of cable licensing applicable to any Persons desiring to construct, operate or maintain a Cable Television System in the Town in a way that reduces the regulatory or economic burdens for such Person when compared to the terms of this Renewal License, then, Licensee shall have the right to avail itself of the options provided for thereunder, or at Licensee's written request, the Issuing Authority shall agree with Licensee to amend this Renewal License as provided at 207 CMR § 3.07 et seq. to similarly reduce the regulatory or economic burdens on Licensee.

## Section 2.8 POLICE AND REGULATORY POWERS

Licensee acknowledges that its rights are subject to the Town's right to adopt and enforce generally applicable by-laws, laws, and regulations in the lawful exercise of its police powers to the full extent permitted by law, with respect to the safety and welfare of the public. The Licensee shall comply with all applicable Town by-laws and lawful regulations, provided such are of general applicability and not specific to this License, the Licensee and/or Cable System. In the event of any conflict between this License and any Issuing Authority's by-laws, laws, or regulations, apart from the lawful police powers of the Town, materially contradicting the applicable provisions of this License, the terms of this License shall prevail, to the extent there is a dispute as to the existence of a conflict the parties shall meet and confer to resolve the issue.. This License is a contract and except as to those changes, which are the result of the Issuing Authority's exercise of its general police power, neither party may take any unilateral action, which materially changes the mutual promises in this contract. Any changes to this License shall be made according to Section 8.1.

## Section 2.9 REMOVAL OR ABANDONMENT

Pursuant to M.G.L. c. 166A, § 5(f), and subject to federal law, including in particular the Cable Act, upon termination of this Renewal License by passage of time or otherwise without right of renewal, and unless Licensee renews its Renewal License for another term, transfers its License to a transferee approved by the Issuing Authority, or the Issuing Authority approves the Cable System remaining in place, Licensee shall remove its supporting structures, poles, trunk and distribution system, and all other facilities from the Public Ways and places and shall restore all areas to their original condition. If such removal is not completed within six (6) months after such termination, the Issuing Authority may deem any property not removed as having been abandoned. Any disposal of such abandoned property shall be in accordance with Massachusetts law and if the Issuing Authority removes such abandoned property, it shall do so at Licensee's sole expense.

## Section 2.10 PROCEEDINGS UPON EXPIRATION OR REVOCATION OF RENEWAL LICENSE

In the event this Renewal License is revoked or that it expires without renewal, the Issuing Authority and the Licensee may transfer the Cable System to the Town or a subsequent Licensee subject to Section 627 of the Cable Act, 47 U.S.C. sec. 547.

# **ARTICLE 3 – CABLE SYSTEM DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS**

## Section 3.1 SUBSCRIBER NETWORK

(a) The Licensee will maintain a Cable Television System, which meets or exceeds all required FCC technological standards, including but not limited to 47 CFR sec. 76.601, subpart K et seq., during the duration of this Renewal License.

(b) The Licensee shall continue to maintain throughout the term of this Renewal License, twenty-four hour, standby power at the Headend facility(ies) and any sub-headends. Such stand-by power shall provide continuous capability, contingent upon availability of fuel necessary to operate generators, and shall become automatically activated upon the failure of the Licensee's normal power supply.

(c) The system design of the Cable Television System and Subscriber Network shall, at all times throughout this Renewal License, meet all applicable FCC technical standards and all applicable technical specifications contained in this Renewal License.

## Section 3.2 SERVICE AVAILABLE TO ALL RESIDENTS

(a) The Licensee shall make its Cable Service available to substantially all residents of the Town, regardless of type of dwelling or its geographical location in the Town subject to Section 3.2(b)-(f) below, unless the Licensee is legally prevented from providing such Cable Service.

(b) The Licensee shall install Cable Service within fourteen (14) days of a request at a Standard Cable Installation charge to any residence in the Service Area currently served by the Cable System as indicated on the map attached as Exhibit A, (and as it may be supplemented upon additions to the plant) except that Licensee may charge for the costs of labor and materials necessary to provide service beyond two hundred and fifty feet (250') from the Cable System in the public way and/or to provide a customized installation, including any undergrounding, boring, or trenching. For purposes of this Section, private roads (i.e., roads not serviced by the Town) are not in the public way.

(c) In order to fulfill a request for cable service to a residence, the Cable System shall be extended at Licensee's expense, from existing Cable Plant to any and all areas of the Town containing twenty (20) residences per aerial mile of cable plant or fractional proportion thereof necessary to provide service. Said service shall be made available and fully activated to requesting subscribers no later than sixty (60) days after the Licensee's receipt of permission to attach cable to poles. Density per aerial mile of Cable System shall be computed by dividing the number of residential dwelling units within 250 feet of the plant to be installed by the length, in miles or fractions thereof, of the total amount of new construction of aerial cable necessary to make service available to the residential dwelling units in such area in accordance with Licensee's system design parameters. The cable length shall be measured from the nearest point of access to the then-existing Cable System, provided such extension is technically feasible from that point of access and located within the public rights-of-way. The total cable length shall exclude the drop cable necessary to serve individual subscriber premises.

(d) The Cable Television System shall be further extended to all areas in the Town that do not meet the requirements of subsections (b) or (c) above upon request of the prospective subscribers in such areas and based upon the following cost calculation: If a request for an extension requires the construction of the Cable System into an area which does not contain the twenty (20) residences per aerial mile of cable plant or a fractional part thereof, the Licensee and the potential subscriber(s) will each be responsible for their proportionate share of construction costs.

(e) When the Licensee has forty-five (45) days prior notice concerning the opening of residential subdivision trenching, or of the standard installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame; provided that such residential subdivision meets the density requirement of subsection (c) above, or has an actionable request for service pursuant to subsection (d) above.

(f) The Licensee shall expeditiously seek all necessary permits.

### Section 3.3 STRAND MAPS

Within forty-five (45) days after a written request to the Licensee, the Licensee shall, without charge, make available to the Issuing Authority for inspection accurate and readily readable strand maps of all existing and newly constructed Cable System plant at the closest Licensee's business office. The Town agrees to maintain the confidential nature of such maps. However, consistent with the definition of Service Area, Licensee shall upon request of the Issuing Authority or their delegate, update annually on January 15<sup>th</sup> strand maps to reflect additional cable plant (except drops) installed over the past year. Such updates shall be available for inspection to the Town, in accordance with the procedures noted herein.

### Section 3.4 COMMERCIAL ESTABLISHMENTS

The Licensee may make Cable Service(s) available to any commercial, not-for-profit, or non-profit establishment(s) in the Town provided that such establishment(s) agrees to pay for the installation and monthly subscription costs as established by the Licensee. It is herein acknowledged that certain programming service may not be available to commercial establishments pursuant to applicable law or the Licensee's agreements with programmers.

### Section 3.5 EMERGENCY ALERT SYSTEM

The Licensee's Subscriber Network shall comply with the FCC's Emergency Alert System ("EAS") Regulations, 47 CFR 11, et seq.

### Section 3.6 TREE TRIMMING AND CUTTING

In the installation, maintenance, operation, and repair of the poles, cables, wires and all appliances or equipment of the Cable System, the Licensee shall avoid all unnecessary damage and injury to any and all shade trees whether in the Public Way or on private property and shall cut or otherwise prune such trees only to the least extent necessary. Licensee shall comply with all applicable regulations regarding trimming and cutting of trees. Licensee shall make reasonable efforts to secure the permission of the Town or property owner prior to any reasonable tree trimming.

### Section 3.7 UNDERGROUND FACILITIES – DIG SAFE

Upon receiving due notice of the installation of telephone, electric and all other utility lines underground, the Licensee shall likewise place its facilities underground. Underground cable lines shall be placed according to any Public Works, Highway Department or other Town by-law or regulation and in accordance with applicable state law. It is the policy of the Town that existing poles for electric and communication purposes be utilized wherever possible if available on reasonable terms and that underground installation is preferable to the placement of additional poles, provided that said underground placement is required of other utilities. When possible, Licensee may use the underground conduit maintained by the Town provided that such use (i) is found by the Issuing Authority to be reasonable and at the sole cost and expense of the Licensee; and (ii) does not interfere with the Town's use or anticipated use of said conduit(s). Any such use by the Licensee shall be subject to the advance notification and approval of the Town and the right of the Town to supervise any such use. Licensee shall maintain membership and participate in the Massachusetts "DIG-SAFE" program and shall comply with all applicable "dig-safe" provisions, pursuant to M.G.L. c. 82, § 40.

### Section 3.8 PEDESTALS

In any case in which pedestals housing passive or active devices are to be utilized in the Town Public Ways or within the Town public lay-out, such equipment shall be placed in a low-profile, above-ground electronic control box in accordance with applicable regulations, and at Town approved locations to be determined when Licensee applies for a permit, which will not be unreasonably denied.

### Section 3.9 RESTORATION TO PRIOR CONDITION

(a) Whenever the Licensee takes up or disturbs any pavement, sidewalk, or other improvement of any Public Way or public place, the same shall be replaced, and the surface restored in as good condition as before entry and to such standards required of utilities operating within the Town and as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may notify the Licensee in writing of the required restoration and the reasonable time for completion of the restoration. Upon failure of the Licensee to comply with the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Licensee upon demand by the Issuing Authority. Any damages to private property shall be determined in accordance with M.G.L. c. 166A, § 22 and applicable law.

(b) Underground crossings of paved roads will be by boring under the road, not by trenching or opening the surface of the road except to the extent that boring is not feasible or is otherwise unreasonable to do.

### Section 3.10 COOPERATION WITH BUILDING MOVERS

The Licensee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person, including without limitation, a Person holding a building moving permit issued by

the Town. The expense of such raising or lowering shall be paid in advance by the Person(s) holding the building move permit, and without charge to the Town. The Licensee shall be given reasonable notice necessary to maintain continuity of service, which notice shall be no less than 60 days.

#### Section 3.11 RELOCATION OF FACILITIES

The Licensee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, temporarily or permanently relocate any part of the Cable System when required to do so by the Town for good reasons, which are within the Town's police power, such as public safety, street construction, change or establishment of street grade or layout, installation of sewers, drains, water pipes, power, or signal lines, setting of new or replacement utility poles and the construction of any public improvement or structure. Licensee shall be responsible for any costs associated with such relocation to the same extent all other users of the Town's rights-of-way are responsible for the costs related to the relocation of their facilities.

#### Section 3.12 EMERGENCY REMOVAL OF CABLE SYSTEM

If, at any time, in case of fire or disaster in the Town, it shall become necessary in the exercise of police powers of the Issuing Authority or any public safety or other designated public official, to adjust, move or remove any of the wires, cables, amplifiers, appliances, or appurtenances of the Cable System, the Town shall have the right, within its police power, to do so at the sole cost and expense of the Licensee. In such case, the Town shall notify Licensee of the cables or other equipment which have been adjusted, moved, or removed.

#### Section 3.13 RELOCATION OF FIRE ALARMS

The Licensee shall reimburse the Town at cost for any reasonable expense including materials and labor caused by the relocation of any fire alarm, cable, or equipment to make poles ready for the Licensee's Cable System. The Town shall cooperate in this relocation so as to minimize delay in Licensee's construction schedule.

#### Section 3.14 SERVICE INTERRUPTION

Except where an emergency situation necessitates a more expeditious procedure, Licensee shall use reasonable efforts to avoid the interruption of service for the purpose of system construction, routine repairing or testing the Cable System and only do so during periods of minimum use.

#### Section 3.15 RIGHT TO INSPECTION OF CONSTRUCTION

(a) The Issuing Authority or its designee(s) shall have the right, upon reasonable advance written notice, to inspect construction and installation work performed subject to the provisions of this Renewal License, as it shall deem necessary to ensure compliance with the material terms and conditions of this Renewal License. Any such inspection(s) shall not interfere with the Licensee's operations, except in emergency situations.

(b) Any inspection conducted by the Issuing Authority, or its designee(s), shall be at the sole cost and expense of the Issuing Authority or its designee(s) and the Licensee shall be afforded the opportunity to be present during all such inspections.

#### Section 3.16 CONSTRUCTION, UPGRADE, TECHNICAL, AND MAINTENANCE STANDARDS

(a) The Licensee shall operate and extend a Cable System and render efficient service to Subscribers as required by this Renewal License and applicable laws and regulations during the term



of this Renewal License. The construction, maintenance and operation of the Cable System for which this Renewal License is granted shall be in conformance with all applicable provisions of the Massachusetts Electrical Code, the National Electrical Safety Code, all applicable rules and regulations of the Occupational Safety and Health Administration (OSHA), the Department, the Department of Public Utilities, the FCC and all State and generally applicable Town building and zoning codes and all land use restrictions, as they may from time to time be amended. All FCC regulations concerning technical standards are incorporated as independent standards of this Renewal License as well, including but not limited to 47 CFR 76.601 sub-part K, et seq.

(b) Copies of any technical performance tests required under FCC rules and regulations shall be submitted within 30 days of a written request and at no charge to the Issuing Authority. The Licensee's Cable System shall incorporate a technically advanced design configuration and operation consistent with standard cable industry practices.

(c) If, as a result of technological development(s), the Licensee's Cable System could be enhanced, the Licensee shall investigate the feasibility of implementing such new development(s) and shall implement such technological development(s) if such implementation (i) can be done without adding a financial burden to subscribers and (ii) is technically and economically feasible and viable for the Licensee as determined by Licensee. However, the Licensee shall not avoid implementing any and all system or technological standards as lawfully required by the FCC, or by any other agency or regulatory authority identified above in sec. 3.16 (a), during this Renewal License period. In determining whether or not the Licensee shall implement such new development(s), the Licensee will consider, among other factors, the remaining term of this Renewal License; performance demonstrating the operational feasibility of the new development(s); construction and other related costs; the adaptability of such development(s) to the Licensee's Cable System or any part thereof; the potential marketability of the new service(s) and other factors affecting the economic feasibility and viability of implementation of the new development(s); and adoption of such new development(s) by neighboring communities.

(d) The Licensee shall maintain audio variations within its control between channels in the Cable System in accordance with FCC Technical Standards.

(e) All Licensee's structures, lines, equipment, and connections in, over, under, and upon streets, sidewalks, alleys, and public ways and places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe condition and in good order and repair.

### Section 3.17 PRIVATE PROPERTY

The Licensee shall be subject to all applicable laws, by-laws, or regulations regarding private property in the course of constructing, upgrading, installing, operating, and maintaining the Cable Television System in the Town including, but not limited to, M.G.L. c .166A, § 22, as it may from time to time be amended.

### Section 3.18 PROHIBITION OF WIRES FROM OBSTRUCTING ROAD OR FOOT TRAFFIC

The Licensee shall at all times maintain its wires in such condition as not to interfere with road or foot traffic. Licensee shall periodically inspect all wires to ensure that this requirement is strictly and continually met. Low wires obstructing road or foot traffic, or loose or disconnected wires shall be corrected, replaced or removed immediately upon discovery, or upon a report to Licensee from any source. Any such report shall be considered a Complaint within the meaning of this License.

## **ARTICLE 4 – SERVICES AND PROGRAMMING**

### **Section 4.1 BASIC CABLE SERVICE**

Subject to applicable law, the Licensee shall make available a Basic Cable Service to all Town Subscribers, that shall include at least the Designated Market Area (“DMA”) broadcast television signals the Licensee carries as required by Federal law, and the downstream channels for public, educational, and governmental (PEG) access use.

### **Section 4.2 PROGRAMMING**

In accordance with applicable federal law, the Licensee shall provide the Issuing Authority and all Subscribers with notice of its intent to substantially change the Town’s Programming line-up. Such notice shall be provided at least thirty (30) days before any substantial change is to take place, unless the change results from circumstances outside the Licensee’s control, in which case notice shall be provided as soon as possible using any reasonable written means at the Licensee’s sole discretion.

### **Section 4.3 LEASED CHANNELS FOR COMMERCIAL USE**

Pursuant to Section 612(b)(1)(B) of the Cable Act, 47 U.S.C. sec. 532, the Licensee shall make available channel capacity for commercial use by Persons unaffiliated with the Licensee.

### **Section 4.4 FREE DROPS AND BASIC CABLE SERVICE TO PUBLIC BUILDINGS**

(a) The Licensee shall voluntarily provide and maintain, at no charge, an activated Subscriber Standard Cable Installation, Outlet, Converter, and the monthly Basic Cable Service to all public libraries; police and fire stations; Town Hall; Senior Center; and Public Schools as identified in Exhibit B hereto. Such locations listed on Exhibit B and receiving service as of the Effective Date, shall continue to receive such service regardless of the length of the existing drop. Such service shall continue without charge on a voluntary basis. To the extent Licensee’s management ceases its voluntary municipal service program, Licensee will provide the Town with at least one hundred twenty (120) days advance written notice of its intent to cease the program and the rate it proposes to charge, to allow the parties to negotiate whether the Town wishes to continue receiving such service at such locations and the appropriate rate for such service should the Town decide to continue receiving such service. The rate that Licensee may charge the Town for such service shall be outlined in an agreement between the parties and in accordance with applicable law and regulation.

(b) The Licensee shall coordinate the precise location of each Drop and Outlet with proper officials in each of the buildings or institutions prior to any installation.

(c) During the term of this License, or any such agreement reached pursuant to Sec. 4.4 (a) above, and upon ninety (90) days’ written notice to Licensee, the Issuing Authority may request additional facilities or relocate current facilities for the provision of Cable Service and equipment as described above, provided that each new location can be serviced with a Standard Cable Installation and meets the requirements of Licensee’s voluntary municipal program.

### **Section 4.5 REMOTE CONTROL DEVICES**

To the extent required by applicable law, the Licensee shall allow Subscribers to purchase from parties other than the Licensee and to utilize remote control devices that are compatible with the converter box installed by the Licensee.

#### Section 4.6 REBATES DUE TO SERVICE INTERRUPTION

In accordance with M.G.L. c. 166A, § 5(l), the Licensee shall grant a pro-rata credit or rebate to any Subscriber whose entire Cable Service is interrupted for twenty-four (24) or more consecutive hours if the interruption was not caused by the Subscriber and the Licensee knew or should have known of the Cable Service interruption. If an entire tier or premium service of a Subscriber's Cable Service is interrupted for twenty-four (24) or more consecutive hours, the Licensee shall provide a pro-rata credit or rebate for each tier or premium Cable Service interruption.

#### Section 4.7 CONTINUITY OF SERVICE

It shall be the right of all subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Licensee are honored; provided, however, that the Licensee shall have no obligation to provide Service to any Person the Licensee has a reasonable basis to believe is utilizing an unauthorized converter or is otherwise obtaining any Cable Service without required payment thereof.

### **ARTICLE 5 - LOCAL ACCESS PROGRAMMING: PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (PEG) ACCESS CHANNELS, PROGRAMMING, AND OPERATION**

#### Section 5.1 PEG ACCESS CHANNELS

(a) Upon the Effective Date of this Renewal License, the Licensee shall continue to make available a total of three (3) licensee-owned Subscriber Network channels for PEG Access purposes, which shall be used to transmit non-commercial PEG Programming to Subscribers and, except as otherwise provided for herein, shall be subject to the control and management of the Town and the Access Corporation. Subject to applicable law, said Access Channels shall be included in the Licensee's Basic Cable Service.

(b) All PEG Access Channels transmitted to Licensee by the Access Corporation with closed captioning will be broadcast with closed captioning to the extent required by applicable law.

(c) As of the Effective Date of this Renewal License, the PEG Access channel locations are as follows: (i) Public Access: Channel 1301; (ii) Educational Access: Channel 1302; and (iii) Governmental Access: Channel 1303.

(d) The Licensee shall not move or otherwise relocate the channel locations of any PEG Access channel(s), without advanced written notice to the Issuing Authority. Such written notice shall be provided at least thirty (30) days in advance unless Licensee is legally mandated by the FCC or the Department to move a PEG Access channel(s) sooner.

#### Section 5.2 ACCESS CORPORATION DESIGNATION

The Issuing Authority shall authorize an Access Corporation to provide services to Public, Educational, and Governmental Access users. Such authorization shall be set forth in a separate agreement between the Issuing Authority and the selected Access Corporation.

#### Section 5.3 PUBLIC ACCESS TO THE CABLE SYSTEM

Any resident of the Town, or any non-commercial organization based in or servicing the Town, shall have the right to place programming on the PEG Access channel dedicated to public use subject to any rules or policies established by the Town or the Access Corporation. The parties recognize that any PEG Access channel facilities, equipment, and training will be available on a shared basis to each of the Towns pursuant to their respective Renewal Licenses.

#### Section 5.4 GOVERNMENT ACCESS TO THE CABLE SYSTEM

Any PEG Access channel provided herein and dedicated to Government Access shall be available to the Issuing Authority for the purposes of non-commercial municipal access television programming in accordance with 47 U.S.C. 531. Such channel may be used by government departments and agencies to inform subscribers about the Town, or other government unit, and its services. Government Access programming shall be coordinated and managed by the Access Corporation, unless the Town decides to operate Government Access under a government department.

#### Section 5.5 EDUCATIONAL ACCESS TO THE CABLE SYSTEM

Any PEG Access channel provided herein and dedicated to Educational Access use shall be available to any School, or School District, serving the Town for the purposes of non-commercial Educational Access television programming in accordance with 47 U.S.C. 531. Educational Access programming shall be coordinated and managed by the Access Corporation in cooperation with any such School or School District.

#### Section 5.6 FRANCHISE FEES

(a) The Licensee shall continue to pay to the Issuing Authority, throughout the term of this Renewal License, a Franchise Fee equal to five percent (5%) of the Licensee's Gross Annual Revenues, as such term is defined in this Renewal License, less the amount paid by Licensee under Section 5.6(g) below. Said Franchise Fee shall be used for, among other things, support of the Access Corporation, PEG Access programming, and for any other purpose allowed by law.

(b) Funding provided by the Licensee hereunder shall be paid in accordance with Section 5.6 (c) below; provided, however, that if the license or renewal license of another cable operator (or its successor or assign) in the Town, provides for such operator to pay a lower percentage during such time period, then the percentage of the Licensee's Franchise Fee shall be reduced to match such lower percentage over that same time period.

(c) The Franchise Fee payments, pursuant to Section 5.6(b) above, shall be made no later than forty-five (45) days following the end of each calendar quarter. Upon request, Licensee shall provide a Gross Revenues Report Form and Calculation of Quarterly Franchise Fee Payment in the form of (or substantially similar to) Exhibit C. For purposes of this Section 5.6(c), the period for determining Gross Revenues shall be the preceding calendar quarter.

(d) In the event that the Franchise Fees herein required are not tendered on or before the date fixed in Section 5.6(c) above, interest due on such fee shall accrue from the date due at the Prime Rate.

(e) The Licensee shall not be liable for a total financial commitment pursuant to this Renewal License and applicable law in excess of five percent (5%) of the Licensee's Gross Annual Revenues; provided, however, that said five percent (5%) shall include any License fee payable to the FCC and the State; and furthermore provided, however, that said five percent (5%) shall not include the following: (i) the PEG Access capital grants herein (Section 5.7); (ii) any interest due to the Town because of late payments; (iii) any damages herein (Section 7.8); and (iv) any taxes or other fees or charges which the Licensee shall be required to pay to the Town or any State or federal agency or authority.

(f) Unless otherwise required by applicable law, if services included within the definition of Gross Annual Revenues are provided to subscribers in conjunction with services not within such definition for a single aggregate price, and the total cost of such bundled services reflects a discount from the aggregate retail prices of the services contained therein when provided separately, the five percent (5%) Franchise Fee shall be calculated in accordance with GAAP.

(g) Subject to applicable law, Licensee shall, on or before March 15th of each year, submit a License fee to the Issuing Authority equal to fifty cents (\$.50) per subscriber per year as provided in

M.G.L. c. 166A, § 9. The number of subscribers, for purposes of this Section, shall be calculated on the last day of each calendar year.

#### Section 5.7 PEG ACCESS CAPITAL FUNDING

(a) The Licensee shall provide a monetary grant to be used for capital purposes for the benefit of the Access Corporation, and in support of the production of PEG Access Channel programming (the "PEG Access Capital Grant") throughout the Five Towns. A PEG Access Capital Grant in the total amount of \$212,000 provided by Licensee shall be paid in three instalments as follows: One Hundred Fifty Thousand Dollars (\$150,000) will be paid no more than ninety (90) days after all Five Towns have executed this Renewal License; Thirty-One Thousand Dollars (\$31,000) will be paid no more than ninety (90) days after the third (3rd) anniversary of the date all Five Towns executed this Renewal License; and Thirty-One Thousand Dollars (\$31,000) will be paid no more than ninety (90) days after the fourth (4<sup>th</sup>) anniversary of the date all Five Towns executed this Renewal License. The three payments will be allocated among the Five Towns in proportion to that town's percentage of the total subscriber count of the Five Towns, as of December 31 for the year immediately preceding the year the payment is due, and will be based on subscriber counts provided by the Licensee. The first capital payment due under this Renewal License, in the amount of \$150,000, will be based on the following subscriber count for of December 31, 2023, and will be allocated among the Five Towns based on their percentages of total subscriber count as set forth in the following table:

TOWN	2023 SUBSCRIBERS	% OF FIVE TOWN TOTAL	DOLLAR GRANT ALLOCATION
GREAT BARRINGTON	1578	27%	\$40,500
LEE	1504	25%	\$37,500
LENOX	1400	24%	\$36,000
STOCKBRIDGE	729	12%	\$18,000
SHEFFIELD	733	12%	\$18,000

(b) The \$31,000 capital payment due in Year 3 of this Renewal License will be allocated in similar fashion to the table in Section 5.7 (a) above, but will be calculated using subscriber count totals for the Five Towns provided by Licensee as of December 31, 2026. The \$31,000 capital payment due in Year 4 of this Renewal License will be allocated in similar fashion to the table in section 5.7 (a) above, but will be calculated using subscriber count totals for the Five Towns provided by Licensee as of December 31, 2027. For each instance of re-calculating the percentages of allocation of the capital grants, Licensee shall provide each of the Five Towns with a document certifying the new subscriber count and the re-calculation of grant shares among the Five Towns.

(c) The PEG Access Capital Grant shall be used solely for PEG Access capital costs incurred by the Access Corporation in support of PEG Access programming on the PEG Access Channels carried on the Cable System. Upon written request by the Licensee, and no more than once per year, the Issuing Authority's designee or the Access Corporation shall provide Licensee with an accounting for the preceding calendar year of any expenditures made with the PEG Access Capital Grant.

(d) In the event that the PEG Access Capital Grant required to be made herein is not tendered on or before the date fixed herein, interest due on such required payment shall accrue at the Prime Rate and be paid to the Access Corporation from the date due.

(e) Consistent with federal law, the PEG Access Capital Grant may, in Licensee's sole discretion, be passed through and itemized on Subscribers' bills.

- (f) The PEG Access Capital Grant, to the extent it is actually used for PEG Access capital expenses, shall not be offset from Licensee's five percent (5%) quarterly Franchise fee payments made pursuant to Section 5.6 above.

#### Section 5.8 METHOD OF PAYMENT

All payments by the Licensee to the Town pursuant to this Renewal License shall be made payable to the Town and deposited with the Town Treasurer.

#### Section 5.9 RECOMPUTATION

(a) Tender or acceptance of any payment shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority or the Access Corporation may have for additional sums including interest payable under this Article 5.

(b) Not more than once every three (3) years, the Issuing Authority, or its designee, including an independent certified public accountant hired by the Issuing Authority, shall have the right to inspect records necessary to verify Gross Annual Revenues, as defined herein, in order to establish the accuracy of the payments tendered hereunder. If after any such inspection, an additional undisputed payment is owed, such payment shall be paid within thirty (30) days after any recomputation. The interest on such additional payment shall be charged from the original due date at the Prime Rate during the period that such additional amount is owed.

#### Section 5.10 EQUIPMENT OWNERSHIP

The Issuing Authority may, at its discretion, delegate responsibility to the Access Corporation for the control and management of the PEG Access channels. The Issuing Authority shall notify Licensee of such delegation in writing no later than 30 days after the effective date of said delegation. The Town, or the Access Corporation, shall own all PEG Access equipment purchased with funding pursuant to Section 5.7 supra. The Licensee shall have no obligation to maintain or insure any such PEG Access equipment.

#### Section 5.11 REMOTE ORIGINATION POINTS

(a) The Licensee shall continue to maintain the equipment at the origination sites listed in Exhibit B necessary to transmit programming signals from these origination sites for carriage on PEG Access channels.

(b) The Licensee shall continue to maintain the connection to its system for each of the origination points at the locations set forth in Exhibit B, in order that programming signals can be transmitted from said origination points for carriage on PEG Access channels. The costs of any new connections or any upgrades required for existing connections shall be paid by the Towns or the Access Corporation, if designated by the Towns.

#### Section 5.12 PEG ACCESS CHANNELS MAINTENANCE

(a) The Licensee shall monitor the PEG Access Channels for technical quality in accordance with FCC rules and regulations, as set forth in sec. 3.1 (a) and 3.16 (a), above.

(b) The Town or, if so delegated, the Access Corporation shall be responsible for maintaining the picture and audio quality of PEG Access programming delivered to Licensee. The Licensee shall be responsible for maintaining the return infrastructure up to the point of connection for the PEG Access Channel modulators and demodulators, except as otherwise addressed in this Renewal License.

#### Section 5.13 CONVERSION OF PEG ACCESS CHANNELS TO HIGH DEFINITION

(a) As of the Effective Date, Licensee is transporting the PEG Access Channel programming in standard definition ("SD") from the origination sites listed in Exhibit B to Licensee's headend via existing return lines.

(b) On or after the Effective Date, the Issuing Authority, or the Access Corporation, may, upon written request, request that the Licensee replace one, two, or all three of the existing SD PEG Access Channels with PEG Access Channels in a High Definition ("HD") format. Within one hundred and eighty (180) days of such a request, the Licensee shall distribute the requested PEG Access Channels in HD format to subscribers subject to the following conditions:

- 1) The Issuing Authority or Access Corporation is capable of producing and delivering programming to Licensee in an HD format;
- 2) Licensee may implement HD carriage of the PEG Access Channels in any technological manner it chooses (including selection of compression, utilization of IP, and other processing characteristics); and
- 3) The Issuing Authority or its designated Access Corporation enters into a contract with Licensee's commercial services group that will govern the terms, conditions, and costs for the one-time equipment upgrades necessary for the conversion to HD, as well as the ongoing transmission, maintenance, and monitoring of such HD PEG Access Channel signal(s) from the origination point(s) on Exhibit B to the Licensee's headend or hub site. In the event the contract with Licensee's commercial services group is terminated prior to the expiration of this License, Licensee's obligation to provide the PEG Access Channel(s) covered by the contract shall also cease.

#### Section 5.14 CENSORSHIP

Neither the Issuing Authority, the Licensee, nor the Access Corporation shall engage in any program censorship or any other control of the content of PEG Access programming on the Cable System, except as otherwise required or permitted by applicable law.

#### Section 5.15 ACCESS PROGRAMMING

Except as otherwise set forth in applicable law, editorial discretion and the content of the programming on the Public Access Channel, and any liability therefor, shall reside solely with, and be the sole responsibility, of the Access Corporation.

#### Section 5.16 THIRD PARTY RIGHTS

The Issuing Authority and the Licensee herein acknowledge and agree that the Access Corporation is not a party to this Renewal License and that any provisions herein that may affect the Access Corporation are not intended to create any rights on behalf of the Access Corporation.

#### Section 5.17 PEG ACCESS PROGRAMMING COSTS

Except as otherwise provided for in this License and applicable law, there shall be no direct charges to the Town, the Access Corporation, or PEG Access Users by the Licensee for use of the PEG Access facilities required herein, provided, however, that the Licensee may line-item and/or otherwise pass-through such PEG access funding costs to subscribers strictly in compliance with applicable laws and regulations.

## **ARTICLE 6 - SUBSCRIBER RIGHTS AND CONSUMER PROTECTIONS**

### **Section 6.1 CUSTOMER SERVICE OFFICE**

Licensee shall maintain and operate a full-time conveniently located local customer service office, for the return/exchange of Subscriber equipment, and bill payment, at a location as required by FCC customer service standards for the full term of this Renewal License. Said customer service office shall be open for walk-in business during normal business hours. Currently, Licensee maintains such a location in the Town of Lee. In the event that Licensee moves or closes that facility it will give the Town at least 120 day's written notice and will, if requested, meet with representatives of the Towns to discuss and explain its decision to move or close the office.

### **Section 6.2 CUSTOMER SERVICE STANDARDS**

The Licensee shall comply with FCC Customer Service Standards, as amended from time to time, which standards are attached hereto, and made a part hereof, as Exhibit D.

### **Section 6.3 DEFINITION AND DOCUMENTATION OF CUSTOMER COMPLAINT**

Complaint is defined in Article One, Definitions. Licensee shall comply with both FCC and the Department's requirements for defining and documenting a customer complaint. If there is a difference in definition and documentation between the FCC and Department requirements, the Department requirements shall be adhered to.

### **Section 6.4 COMPLAINT RESOLUTION PROCEDURES**

(a) In compliance with applicable law(s), including for example 47 C.F.R. §§ 76.1600, 76.1602, 76.1603, 76.1619, 76.1700, 76.1713., M.G.L. c. 166A, § 10, 207 C.M.R. §§ 10.03, 10.07, the Licensee shall maintain a procedure for resolution of billing, privacy, service, disputes, and all other complaints by subscribers. To the extent required by applicable laws, the Licensee shall provide, on an annual basis, a written description of said procedures, including telephone numbers to call for all complaints and other services, to all subscribers, and the Issuing Authority.

(b) Upon reasonable notice, the Licensee shall expeditiously investigate and resolve all complaints regarding the quality of Service, equipment malfunctions, billing disputes, customer service issues, and similar matters

(c) Upon receipt of a subscriber complaint regarding the quality of Service, equipment malfunctions, and similar matters, referred to Licensee by the CAC, Licensee shall promptly investigate and resolve complaints. Such investigation and resolution shall include direct communication with the subscriber identified by the CAC as well as with the CAC. Licensee's communication with the CAC shall include an explanation of the results of Licensee's investigation and ultimate resolution of the complaint.

### **Section 6.5 PRIVACY WRITTEN NOTICE**

At the time of entering into an agreement to provide any Cable Service to a subscriber, and annually thereafter to all Cable System Subscribers, the Licensee shall provide Subscribers with written notice regarding personally identifiable information and subscriber privacy as required by Section 631(a)(1) of the Cable Act. Pursuant to the Cable Act, and FCC Regulations (see 47 C.F.R. § 76.1600), a weblink to Licensee's updated Privacy Policy is provided annually. Moreover, Licensee's most current privacy policy is available anytime upon request or online. If the conditions for electronic delivery under



47 C.F.R. § 76.1600 are not met, or if a subscriber opts out of electronic delivery, then, pursuant to the requirements of 47 C.F.R. § 76.1600(d), Licensee will deliver written notice by paper copy.

#### Section 6.6 SUBSCRIBER'S RIGHT TO PRIVACY, INSPECTION AND VERIFICATION OF INFORMATION

Licensee shall comply with all privacy provisions regarding Cable Service as outlined in applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Communications Policy Act of 1984, 47 USC § 551 and Article 6 herein. Licensee's privacy policy outlines how Licensee complies with applicable law as it relates to its privacy obligations to its subscribers, including subscribers' right to inspect and verify information about him/her/or them in Licensee's possession and the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information, among other things.

#### Section 6.7 PARENTAL CONTROL CAPABILITY

The Licensee shall provide, upon request and to the extent required by applicable law, Subscribers with the capability to control the reception of any Cable Television System channel being received.

#### Section 6.8 BILLING AND TERMINATION PROCEDURES

Licensee will comply with the consumer protection regulations of the Department, 207 CMR 10.00 et seq., as in effect at the time as may be amended. See Exhibit E.

#### Section 6.9 ADVANCE BILLING AND PAYMENT

(a) Subscribers shall not be billed in advance by more than a one-month period except with the subscriber's consent.

(b) Licensee shall comply with 207 CMR 10.05, as may be amended, and which currently provides, in part:

- (1) Subscriber payment to the Licensee is due on the date marked on the bill, which shall be a date certain and in no case a statement that the bill is due upon receipt. The due date shall not be less than five business days following the mailing date of the bill.
- (2) A Subscriber account shall not be considered delinquent unless payment has not been received by the cable operator at least 30 days after the bill due date.

#### Section 6.10 EMPLOYEE IDENTIFICATION CARDS

All of Licensee's customer-facing employees, including repair and sales personnel and all contracted or subcontracted personnel, entering private property for the purposes of performing work on Licensee's behalf shall, upon request, be required to show an employee photo identification card bearing a picture of said employee.

#### Section 6.11. NON-DISCRIMINATION

Licensee shall not discriminate against any person in its solicitation or service on the basis of race, color, creed, religion, ancestry, national origin, gender, sexual preference, disability, age, marital

status, or status with regard to public assistance. Licensee shall be subject to all other requirements of Federal and State regulations concerning non-discrimination.

#### Section 6.12 INSIDE WIRING

Licensee shall abide by all applicable laws and regulations with respect to inside wiring.

#### Section 6.13 VOLUNTARY DISCONNECTION OF SERVICE

For Subscribers who request full disconnection of Cable Service, subject to applicable law, Licensee shall comply with 207 CMR 10.06(2), as amended.

#### Section 6.14 ELECTRONIC NOTICE

Any bill, notice or other communication provided or issued by Licensee to any subscriber may be provided or issued, if such subscriber so consents, solely by electronic means.

## **ARTICLE 7 - ADMINISTRATION, REGULATION, AND LICENSEE'S PERFORMANCE**

#### Section 7.1 REGULATORY AUTHORITY

The Issuing Authority or their designee(s) shall be responsible for the day-to-day regulation of the Cable Television System. The Department shall monitor and enforce the Licensee's compliance with the terms and conditions of this Renewal License. The Issuing Authority shall notify the Licensee in writing of any instance of non-compliance pursuant to Section 7.7 infra.

#### Section 7.2 INDEMNIFICATION

The Licensee shall, at its sole cost and expense, indemnify, defend, and hold the Issuing Authority, the Town and its officials, boards, commissions, employees, or agents, harmless at all times during the term of this Renewal License from claims for damage due to the negligence or willful misconduct of Licensee, its employees, officers, or agents, and contractors in the construction, installation, operation, maintenance, and/or removal of the Cable Television System under the Renewal License, including without limitation, damage to Persons or property, both real and personal, caused by the construction, installation, operation, and removal of any structure, equipment, wire, or cable installed. Indemnified expenses shall include any judgment, cost, interest, and attorney's fees and costs up to such time that the Licensee assumes defense of any action hereunder. The extent of this indemnification shall not be limited by any obligation or any term or condition of any insurance policy. The Issuing Authority shall give the Licensee prompt written notice of its obligation to indemnify and defend any Indemnified Party pursuant to this Section, sufficient to avoid the entry of a default judgment against Licensee. Licensee shall not be required to provide indemnity under this Section 7.2 to the extent that the claim results from unlawful acts, willful misconduct, or negligence on the part of the Issuing Authority, Town, or any official, board, commission, employee, or agent thereof.

### Section 7.3 INSURANCE

(a) At all times during the term of this Renewal License, including the time for removal of facilities provided for herein, the Licensee shall obtain, pay all premiums for and, if requested in writing, file, with the Issuing Authority, insurance company certificates of the following insurance:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$2,000,000 per occurrence, \$4,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence Combined Single Limit
Umbrella Liability	\$5,000,000 per occurrence

(b) The commercial general liability insurance identified above shall name the Town, its officers, boards, commissions, committees, agents and employees as additional co-insureds on all claims on account of injury to or death of a person or persons, occasioned by the construction, installation, maintenance or operation of the Cable System, or alleged to have been so occasioned. The commercial general liability insurance identified above shall also name the Town, its officers, boards, commissions, committees, agents, and employees as additional co-insureds on all claims of property damage, real or personal, occasioned or alleged to have been so occasioned by the construction, installation, maintenance or operation of the Cable System.

(c) The following conditions shall apply to the insurance policies required herein: (i) Such insurance shall commence no later than the Execution Date of this Renewal License; (ii) Such insurance shall be primary with respect to any insurance maintained by the Town and shall not call on the Town's insurance for contributions; (iii) Such insurance shall be obtained from brokers or carrier authorized to transact insurance business in the State; and (iv) the Licensee's failure to obtain, to procure, or to maintain the required insurance shall constitute a material breach of this Renewal License.

### Section 7.4 PERFORMANCE BOND

(a) The Licensee shall maintain at its own cost and expense throughout the term of this Renewal License a faithful performance bond running to all of the Five Towns, with at least one good and sufficient surety licensed to do business in the State in the sum of One Hundred Thousand Dollars (\$100,000). This Performance Bond shall be maintained for the benefit of all of the Five Towns. Said bond shall be conditioned upon the faithful performance and discharge of all material obligations imposed by this Renewal License.

(b) The performance bond shall be effective throughout the term of the Renewal License, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that Licensee shall fail to comply with any one or more material term or condition of the Renewal License, or to comply with any lawful order, permit, direction of any department, agency, commission, committee, board, division or office of the Town having jurisdiction over Licensee's acts, or to pay any claims, liens or taxes due the Town which arise by reason of the construction, upgrade, maintenance, operation, and/or removal of the Cable Television System, the Town shall recover from the surety of such bond all damages suffered by the Town as a result therefor, pursuant to the provisions of Section 7.7 and 7.8 infra.

(c) Said bond shall be a continuing obligation of the Renewal License, and thereafter until the Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of this

Renewal License or from the exercise of any privilege therein granted. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Neither this Section, any bond accepted pursuant hereto, nor any damages recovered thereunder, shall limit the liability of Licensee under this Renewal License.

#### Section 7.5 NOTICE OF CANCELLATION OR REDUCTION OF COVERAGE

The insurance policies required herein shall each contain an explicit endorsement stating that such insurance policies are intended to cover to liability assumed by the Licensee under the terms of the Renewal Licensee and shall contain the following endorsement:

“It is hereby understood and agreed that this policy shall not be cancelled until thirty (30) days after receipt by the Issuing Authority of one (1) copy of a written notice of such intent to cancel the coverage required herein.”

Provision of the foregoing notice shall not excuse Licensee from compliance with Section 7.3 above.

#### Section 7.6 REPORTING

Upon written request of the Issuing Authority, the Licensee shall submit to the Issuing Authority, or their designee(s), copies of: (i) all certificates of insurance for policies as required herein; and (ii) the performance bond as required herein.

#### Section 7.7 DETERMINATION OF BREACH

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several material provisions of this Renewal License, except as excused by Force Majeure, the Issuing Authority shall first informally discuss the matter with the Licensee. If these discussions do not lead to resolution of the alleged problem, the Issuing Authority shall notify the Licensee in writing, by certified mail, of the exact nature of the alleged default or noncompliance, including the details relating thereto. The Licensee shall either:

(a) Within thirty (30) days from receipt of such notice, respond to the Issuing Authority in writing, contesting the Issuing Authority’s assertion of default and provide such information or documentation as may be necessary to support the Licensee’s position; or

(b) Within sixty (60) days from receipt of such notice, cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such sixty (60) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Licensee shall communicate with the Issuing Authority as to the Licensee’s efforts during such cure period as a minimum, at least every thirty (30) days until such cure efforts are completed.

(c) In the event that the Licensee fails to respond to such notice of default or to cure the default or to take reasonable steps to cure the default within the required sixty (60) day period, the Issuing Authority shall promptly schedule a public hearing to be conducted by the Issuing Authority no sooner than fourteen (14) days after written notice, by certified mail, to the Licensee. The Licensee shall be provided with the opportunity to offer evidence and test the Issuing Authority’s evidence, including by

presenting witness testimony and cross-examining any opposing witnesses, and generally to be heard at such public hearing. Any such hearing may be transcribed at Licensee's expense, and any evidence presented therein shall be made part of the public record, subject to claims of confidentiality asserted by Licensee. Within thirty (30) days after close of said public hearing, the Issuing Authority shall determine whether or not the Licensee is in default of any material provision of the Renewal License. In the event the Issuing Authority, after such hearings, determines that the Licensee is in such default, the Issuing Authority may determine to pursue any of the following remedies:

- (i) assess liquidated damages in accordance with the schedule set forth in Section 7.8 below;
- (ii) seek specific performance of any provision in the Renewal License which reasonably lends itself to such remedy as an alternative to recovery of monetary damages;
- (iii) commence an action at law for recovery of monetary damages;
- (iv) foreclose on all or any appropriate part of the security provided pursuant to Section 7.4 herein;
- (v) declare the Renewal License to be revoked subject to Section 7.18 below and applicable law; and/or
- (vi) invoke any other lawful remedy available to the Town.

#### Section 7.8 LIQUIDATED DAMAGES

(a) Because Licensee's failure to comply with material terms of this Agreement may result in harm to the Town, and because it will be difficult to measure the extent of such injury, the Town may assess liquidated damages against Licensee in the amount set forth in Section 7.9 per day for each day the violation continues, provided Licensee has had notice and an opportunity to cure in accordance with Section 7.7 and the Town is not pursuing other penalties or remedies. The Town shall provide Licensee with written notice that it intends to assess liquidated damages as a remedy. Such damages shall be an exclusive remedy for the time period in which they are assessed, provided, however, they shall not be a substitute for specific performance by Licensee or legal action by the Town once assessment of liquidated damages ceases, but shall be in addition to such specific performance or legal action. Nothing herein is intended to allow duplicative recovery from or payments by Licensee or its surety.

(b) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the date after the end of the applicable cure period, including any extension of the cure period granted by the Town. Liquidated damages may not be assessed for a time period exceeding fifty (50) days. The Town may commence revocation proceedings and/or initiate an action in law or equity in a court of competent jurisdiction after the assessment of liquidated damages or in lieu of liquidated damages.

(c) The amount of all liquidated damages per year shall not exceed twenty-five thousand dollars (\$25,000) in the aggregate between and among the Five Towns. With respect to liquidated damages, all violations or failures arising from the same factual events, even though they may affect multiple Subscribers, shall be assessed as a single violation, and a particular violation or failure may only be assessed under any one material breach term set forth in Section 7.9.

#### Section 7.9 MATERIAL BREACH

The following violations by Licensee of this Renewal License constitute a material breach of a material term or condition of this agreement subject to liquidated damages under Section 7.7 in the amounts set forth below:

- (a) Transfer of the License without complying with the requirements of Section 2.5 above – liquidated damages of \$100 per day.
- (b) Repeated or persistent failure to provide Cable Service as specified in Sections 3.1, 3.2, 3.4, 4.1, 4.6, and 4.7 – liquidated damages of \$50 per day.
- (c) Failure to comply with the EAS requirements set forth in Section 3.5 – liquidated damages of \$100 per day.
- (d) Repeated or persistent failure to comply with the system construction and maintenance requirements set forth in Sections 3.9, 3.11, 3.12, and 3.16 – liquidated damages of \$50 per day.
- (e) Repeated or persistent failure to comply with the PEG requirements set forth in Sections 5.1, 5.2, 5.3, 5.4, 5.5, 5.11, 5.12 – liquidated damages of \$100 per day.
- (f) Repeated or persistent failure to pay fees pursuant to Sections 5.6 and 5.7 – liquidated damages of \$100 per day.
- (g) Repeated or persistent failure to comply with the insurance and bond requirements of Sections 7.3 and 7.4 – liquidated damages of \$100 per day.
- (h) Repeated or persistent violation of Subscriber privacy requirements pursuant to 47 U.S.C. § 551 – liquidated damages of \$50 per day.
- (i) Repeated or persistent failure to comply with the requirements of Section 6.4 (“Complaint Resolution Procedures”) and/or the standards set forth in Exhibits D & E (the Federal and Commonwealth Customer Service Standards) – liquidated damages of \$50 per day.

#### Section 7.10 NO WAIVER – CUMULATIVE REMEDIES

(a) Subject to 47 U.S.C. sec. 546 (d), no failure on the part of the Issuing Authority, or the Licensee to exercise, and no delay in exercising, any right in this Renewal License shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in this Renewal License.

(b) The rights and remedies provided herein are cumulative and not exclusive of any remedies provide by law, and nothing contained in this Renewal License shall impair any of the rights of the Issuing Authority or the Licensee under applicable law, subject in each case to the terms and conditions of this Renewal License.

(c) A waiver of any right or remedy by the Issuing Authority or the Licensee at any one time shall not affect the exercise of such right or remedy, or any other right or remedy, by the Issuing Authority or the Licensee at any other time. In order for any waiver by the Issuing Authority or the Licensee to be effective, it shall be in writing.

(d) The failure of the Issuing Authority or the Licensee to take any action in the event of any breach by the Licensee or the Issuing Authority shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Issuing Authority or the Licensee to take any action permitted by this Renewal License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee or the Issuing Authority.

#### Section 7.11 PERFORMANCE EVALUATION HEARING

(a) The Issuing Authority may, at its discretion, but no more frequently than annually hold a performance evaluation hearing as it may from time to time deem necessary. Any such hearing shall be open to the public and properly noticed. The purpose of said performance evaluation hearing shall be to review Licensee's compliance with the material terms and conditions of this Renewal License. The Issuing Authority shall have the right to question Licensee concerning the operation, maintenance, and extension of the Cable Television System and any other matters regulated by this Renewal License, including, but not limited to, customer service, complaint response, programming and PEG Access channels, facilities, and support.

(b) For a hearing provided for under this section, the Licensee shall be given twenty-one (21) days prior written notice of any and all topics to be discussed as well as the date, time, and place of such any performance evaluation hearing. During such review and evaluation by the Issuing Authority, Licensee shall fully cooperate with the Issuing Authority or its designee and produce such documents or other materials as are reasonably requested by the Issuing Authority and reasonably related to material compliance with the Renewal License. The Issuing Authority shall arrange for announcement of each evaluation hearing on a PEG Access channel. One or more of the Issuing Authorities may elect to hold a joint performance evaluation hearing with the Licensee. Any such hearing may be in person or held remotely.

(c) Within thirty (30) days after the conclusion of any such evaluation hearing, the Issuing Authority(ies) shall issue a written report with respect to the adequacy of Cable System performance, quality of service, and any other matter discussed during the evaluation hearing, and send one (1) copy to the Licensee and file one (1) with the Town Clerk Office(s). If inadequacies are found which result in a violation of any of the material provisions of the Renewal License, the Licensee shall respond in writing within thirty (30) days and propose a plan for implementing any changes or improvements necessary.

#### Section 7.12 CABLE ADVISORY COMMITTEE ("CAC")

(a) At the discretion of the Issuing Authority and as provided for in this Renewal License, the CAC may be vested by the Issuing Authority with such power and authority as may lawfully be delegated, including participation in the CAC with the Lee, Lenox, Sheffield, and Stockbridge. However, only the Issuing Authority may grant and sign a Renewal License; agree to amend a Renewal License; grant or deny consent to a transfer of a Renewal License; find the Licensee in breach of the Renewal License; or revoke the Renewal License.

(b) The Licensee shall meet with the Issuing Authority or CAC on a quarterly basis to review the Licensee's compliance with the material terms of the Renewal License. Such meetings may be requested by the Issuing Authority and the CAC; the Licensee's or designee(s) shall make every effort to attend each such meeting, either remotely or in person.

#### Section 7.13 INFORMATION REQUESTS AND RIGHT TO INSPECT RECORDS AND FACILITIES

(a) Upon written request of the Issuing Authority, the Licensee shall promptly, and no later than within thirty (30) calendar days, submit written information with respect to the Cable System regarding the Licensee, as may be reasonably required to establish the Licensee's compliance with its material obligations pursuant to this License.

(b) If the Licensee believes that any documentation requested by the Issuing Authority pursuant to this Renewal License involves proprietary or confidential information, then the Licensee need not disclose the information to the Town; however, the Licensee shall confer with the Town Counsel, with the Issuing Authority's permission, to explain the basis of the Licensee's claim of a proprietary interest and attempt to implement a mutually acceptable method of confidential treatment of such records such

that they shall not become public records, or to otherwise provide information sufficient that is not considered confidential or proprietary that the Issuing Authority agrees will satisfy its request .

(c) Upon reasonable written notice, the Issuing Authority may visit the place(s) of business and other premises and examine the records and facilities of the Licensee during normal business hours to determine Licensee's compliance with the material provisions of this Renewal License.

#### Section 7.14 QUALITY OF SERVICE

Where there exists evidence which, in the reasonable judgement of the Issuing Authority, casts doubt upon the reliability or technical quality of Cable Service(s), the Issuing Authority shall have the right and authority to require Licensee to request data and information provided by Licensee to the FCC demonstrating compliance with FCC signal quality requirements.

#### Section 7.15 FINANCIAL, COMPLAINT, AND OTHER REPORTS

(a) The Licensee shall furnish the Issuing Authority, or its designee(s), no later than one hundred twenty (120) days after the end of Licensee's Fiscal Year, Department Forms 200 and 400, prepared in accordance with the Department's rules and regulations.

(b) The Licensee shall furnish the Issuing Authority, or its designee(s), no later than one hundred twenty (120) days after the end of the Licensee's Fiscal Year, a statement of its Gross Annual Revenues, upon which its License Fee is based.

(c) The Licensee shall submit a completed copy of the Department's Form 500 to the Issuing Authority, or its designee(s), as required by the Department.

(d) The Licensee shall file a written report containing the number of Subscribers in the Town with the Issuing Authority, or its designee(s), and said report shall be filed annually with the Financial Reports required herein.

#### Section 7.16 NON-EXCLUSIVITY OF REMEDY

No decision by the Issuing Authority or the Town to invoke any remedy under this Renewal License or under any statute, law, or ordinance shall preclude the availability of any other such remedy.

#### Section 7.17 DUAL FILINGS

If requested in writing, the Licensee shall make available to the Town, at the Licensee's expense, copies of any specifically identified petitions or communications filed by the Licensee with any State or federal agency or commission pertaining to any material aspect of this License.

#### Section 7.18 TERMINATION

The termination of this Renewal License and the Licensee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of the Renewal License by action of the Issuing Authority, pursuant to Section 7.7 and exhaustion of all appeals; (ii) the abandonment of the Cable System, in whole or material part, by the Licensee without the express, prior approval of the Issuing Authority; or (iii) the expiration of the term of this Renewal License and non-renewal in accordance with the provisions of the Cable Act. In the event of any termination, the Town shall have all of the rights provided in the Renewal License.



## **ARTICLE 8 - GENERAL PROVISIONS**

### **Section 8.1 ENTIRE AGREEMENT**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by instrument in writing executed by the parties.

### **Section 8.2 CAPTIONS**

The captions to sections throughout this Renewal License are intended solely to facilitate reading and reference to the sections and provisions of the Renewal License. Such captions shall not affect the meaning or interpretation of this Renewal License.

### **Section 8.3 SEVERABILITY**

If any section, sentence, paragraph, term, or provision of this Renewal License is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision thereof, all of which shall remain in full force and effect for the term of this Renewal License.

### **Section 8.4 FORCE MAJEURE**

If for any reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this renewal License, the term "force majeure" as used herein shall have the following meaning: strikes; acts of God; acts of public enemies, orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots, epidemics; declared public health emergencies; landslides; lightning; earthquakes; fires, hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; unavailability of materials such as fiber, or any other cause or event not reasonably within the control of the Licensee or Issuing Authority.

### **Section 8.5 RENEWAL LICENSE EXHIBITS**

The Exhibits to this Renewal License, attached hereto, and all portions thereof, are incorporated herein by reference and expressly made a part of this Renewal License.

### **Section 8.6 WARRANTIES**

The Licensee warrants, represents, and acknowledges that, as of the Execution date of this Renewal License:

(a) The Licensee is duly organized, validly existing and in good standing under the laws of the State of Delaware and is authorized to do business in Massachusetts;

(b) The Licensee has the requisite power and authority under applicable law and its bylaws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents required to be obtained as of the Execution Date of this Renewal License, to enter into and legally bind the Licensee to this Renewal License and to take all actions necessary to perform all of its obligations pursuant to this Renewal License;

(c) This Renewal License is enforceable against the Licensee in accordance with the provisions herein, subject to applicable State and federal law;

(d) There is no action or proceeding pending or threatened against the Licensee which would interfere with its performance of this Renewal License; and

(e) Pursuant to 47 U.S.C. sec. 545 (f), as of the Effective Date, the performance of all terms and conditions of this Renewal License is commercially practicable.

#### Section 8.7 APPLICABILITY OF RENEWAL LICENSE

All of the provisions in this Renewal License shall apply to the Town, the Licensee, and their respective successors and assignees.

#### Section 8.8 JURISDICTION

Jurisdiction and venue over any dispute or judgment rendered pursuant to any Article herein shall be in a federal or state court or agency of appropriate venue and subject matter jurisdiction located in the Commonwealth of Massachusetts and the parties by this License subject themselves to the personal jurisdiction of said court or agency for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment.

#### Section 8.9 NOTICE

Every notice to be served under this Renewal License shall be delivered by hand, sent by certified mail (postage prepaid), or overnight delivery service, and shall be deemed to have been given on the date of hand delivery or on the mailing date thereof. The Parties may also send a required notice by electronic mail, as a supplement to, but not instead of, the delivery options set forth in the prior sentence. Notices shall be addressed as follows:

(a) To the Issuing Authority:

Town of Great Barrington Select Board  
Great Barrington Town Hall  
334 Main Street  
Great Barrington, MA 01230  
(C/O Mark Pruhenski, Town Manager  
Mpruhenski@townofgb.org)

Or such other address as the Issuing Authority may specify in writing to the Licensee.

b) To the Licensee:

Spectrum Northeast, LLC  
301 Barber Avenue  
Worcester, MA 01606  
ATTN: Director, Government Affairs

With a copy to:

Charter Communications, Inc.  
601 Massachusetts Ave. NW  
Suite 400W

Washington, DC, 20001

ATTN: Vice President, Local Government Affairs & Franchising

Email: [paul.abbott@charter.com](mailto:paul.abbott@charter.com).

Or such other address as the Licensee may specify in writing to the Issuing Authority.

It shall be the responsibility of each Party to ensure that its mailing address and e-mail address are up to date and accurate. Accordingly, to the extent the mailing address or e-mail address for either Party changes during the term of this Renewal License Agreement, that Party shall provide written notice to the other Party within sixty (60) days of such a change. For the purpose of providing a new address, the Parties agree that notice by electronic mail shall suffice.

#### Section 8.10 TOWN'S RIGHT OF INTERVENTION

The Town hereby reserves to itself, and the Licensee acknowledges the Town's right, to the extent authorized by applicable law or regulation, to intervene in any suit, action or proceeding involving this Renewal License, or any provision in this Renewal License.

#### Section 8.11 RESERVATION OF RIGHTS

Acceptance of the terms and conditions of this Renewal License Agreement will not constitute, nor be deemed to constitute, a waiver, either expressly or impliedly, by Licensee or by the Issuing Authority of any constitutional or legal right, which either party may have or may be subsequently determined to have, either by subsequent legislation or court decisions. The Issuing Authority and Licensee acknowledge that each reserve all of their respective rights under applicable Federal and Commonwealth Constitutions and laws.

#### Section 8.12 INCORPORATION of M.G.L. c. 166A, § 5

The provisions of M.G.L. c. 166A, § 5(a)-(o), as they presently exist and as they may from time to time in the future be amended, are incorporated into this Renewal License, and shall be governing on all parties. The parties agree that the rights and obligations established in this Renewal License comply with the present form of M.G.L. c. 166A, § 5(a)-(o).

#### Section 8.13 NO THIRD-PARTY BENEFICIARIES

This License is not intended to create any rights or benefits on behalf of any Person other than the parties to this Renewal License.


#### Section 8.14 LIMITATION OF ISSUING AUTHORITY LIABILITY

In accordance with 47 U.S.C. sec. 555a (a), in any court proceeding involving any claim against the Issuing Authority or other governmental entity, or any official, member, employee, or agent of the Issuing Authority or other governmental entity, arising out of the regulation of cable service or from a decision of approval or disapproval with respect to a grant, transfer, or amendment of this License, any relief, to the extent such relief is required by any provision of Federal, State, or local law, shall be limited to injunctive and declaratory relief.

WITNESS OUR HANDS AND OFFICIAL SEALS:


Select Board:

  
\_\_\_\_\_  
Stephen C. Bannon, Chair

  
\_\_\_\_\_  
Leigh Davis, Vice Chair

  
\_\_\_\_\_  
Eric Gabriel

  
\_\_\_\_\_  
Garfield C. Reed

  
\_\_\_\_\_  
Benjamin Elliot

Date: April 8, 2024

For Spectrum Northeast, LLC:

\_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBITS

EXHIBIT A: TOWN SERVICE AREA OR STRAND MAP

EXHIBIT B: PUBLIC BUILDINGS TO BE PROVIDED CABLE SERVICE, LOCAL ORIGINATION SITES

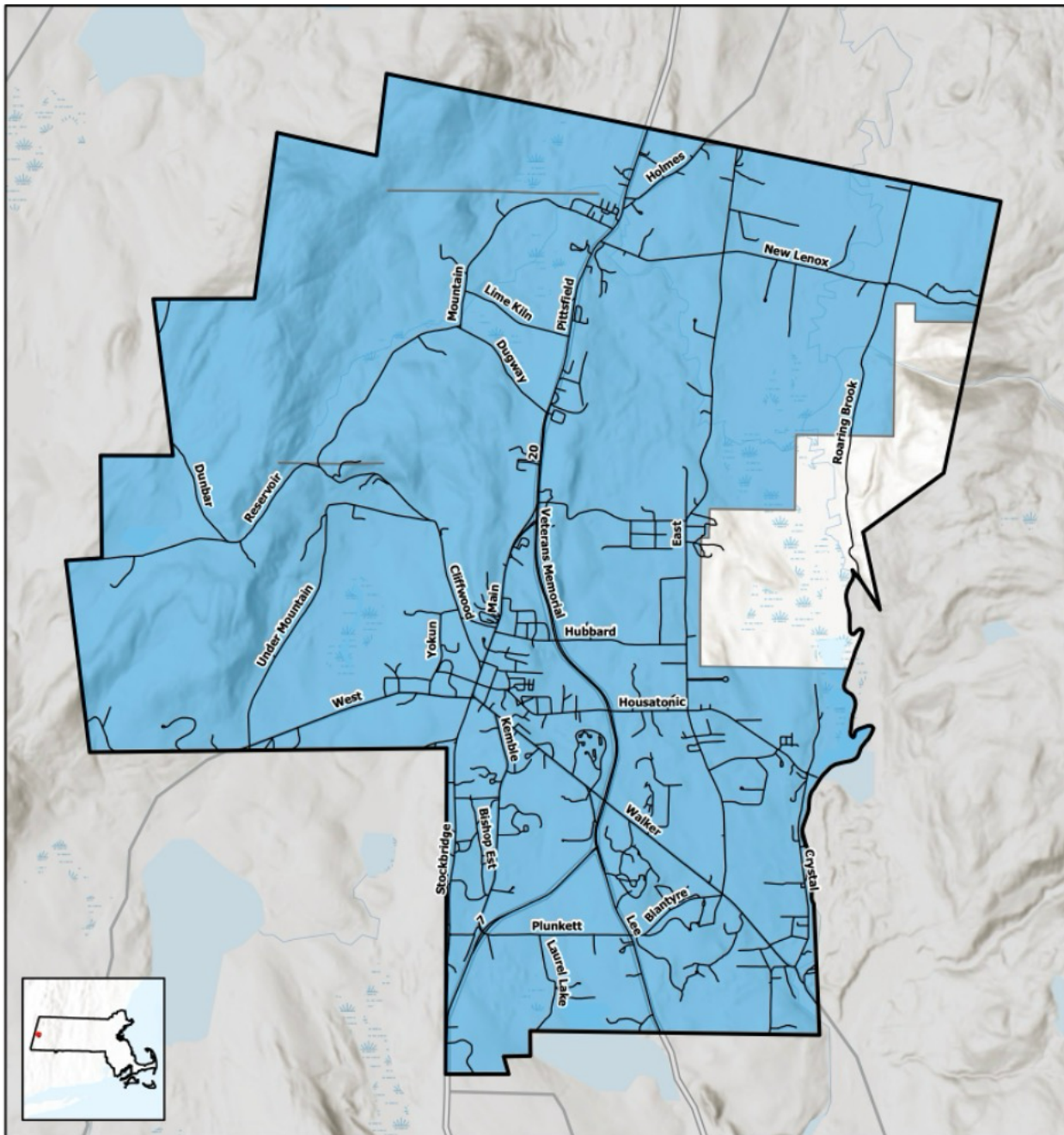
EXHIBIT C: CALCULATION OF QUARTERLY LICENSE FEE PAYMENT QUARTERLY REPORT

EXHIBIT D: FCC CUSTOMER SERVICE OBLIGATIONS

EXHIBIT E: 207 CMR 10.00: BILLING AND TERMINATION OF CABLE SERVICE

**EXHIBIT A: TOWN SERVICE AREA OR STRAND MAP**

Map follows this page.



## **Charter Outside Plant Footprint** **Lenox, Massachusetts**

**Charter**  
 COMMUNICATIONS

- Lenox Town Boundary
- Charter Service Areas
- Roads

0 0.5 1 2 Miles



**EXHIBIT B: TOWN OF GREAT BARRINGTON PUBLIC BUILDINGS TO BE PROVIDED CABLE SERVICE,  
LOCAL ORIGINATION SITES**

***Pursuant to Section 4.4 herein, the following public buildings and schools shall receive, upon request,  
Standard Installation and one Cable Service drop, outlet, and monthly Basic Cable Service:***

Monument Mountain Regional High School  
600 Stockbridge Road  
Great Barrington, MA 01230

Great Barrington Fire Department  
20 Castle St.  
Great Barrington, MA 01230

Great Barrington Police Department  
465 Main St.  
Great Barrington, MA 01230

Housatonic Fire Station  
172 Front St.  
Housatonic, MA 01236

Mason Library  
231 Main St.  
Great Barrington, MA 01230

Ramsdell Public Library  
1087 Main Street  
Housatonic, MA 01236

***The following are the local origination sites subject to Section 5.11 of the License:***

Great Barrington Town Hall  
334 Main St.  
Great Barrington, MA 01230  
(existing fiber connection)



**EXHIBIT C: CALCULATION OF QUARTERLY LICENSE FEE PAYMENT REPORT**

**CALCULATION OF QUARTERLY LICENSE FEE PAYMENT**

for \_\_\_\_ Quarter 20 \_\_\_\_

---

**License Fee Rate: 5%**

	MONTH of	MONTH of	MONTH of
Basic Cable Service			
Expanded Service Tier(s)			
Pay Programming			
Additional Outlets			
Converter Revenues			
Installations			
Collection Charges			
Late Charges			
Commercial (monthly)			
Other (specify)			
Pay-Per-View			
Bulk Revenue			
Advertising Revenues			
Home Shopping Revenues			
License Fee Revenue			
Other Revenues			
Revenue Adjustment (specify)			
Bad Debt			

**Total License Fee before any Adjustment:** \$

**Adjustment (overpayment) underpayment:** \$

**License Fee for Quarter:** \$

## **EXHIBIT D: FCC CUSTOMER SERVICE OBLIGATIONS**

### **§ 76.309 Customer service obligations.**

**(a)** A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

**(b)** Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

**(c)** Cable operators are subject to the following customer service standards:

**(1)** Cable system office hours and telephone availability -

**(i)** The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

**(ii)** Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

**(iii)** The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

**(iv)** Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

**(v)** Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages, and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers -

(i) Refunds - Refund checks will be issued promptly, but no later than either -

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits - Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions -

(i) **Normal business hours** - The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) **Normal operating conditions** - The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are *not* within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) **Service interruption** - The term "service interruption" means the loss of picture or sound on one or more cable channels.

**NOTE TO § 76.309:**

Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996; 65 FR 53615, Sept. 5, 2000; 67 FR 1650, Jan. 14, 2002; 83 FR 7627, Feb. 22, 2018]

## **Exhibit E: 207 CMR 10.00: BILLING AND TERMINATION OF CABLE SERVICE**

REGULATORY AUTHORITY: 207 CMR 10.00: 47 U.S.C. § 552, M.G.L. c. 166A, §§ 2A, 3, 5(1), 10, 16, and 17.

### Section:

10.01: Billing Practices Notice

10.02: Services, Rates and Charges Notice

10.03: Form of Bill

10.04: Advance Billing and Issuance of Bill

10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service

10.06: Charges for Disconnection or Downgrading of Service

10.07: Billing Disputes

10.08: Security Deposits

### 10.01: Billing Practices Notice

(1) Upon request, a cable television operator shall give written notice of its billing practices to potential subscribers before a subscription agreement is reached. Otherwise, a cable television operator shall give written notice of its billing practices to potential subscribers at the time a subscription agreement is reached. Such notice shall include practices relating to the frequency and timing of bills, payment requirements necessary to avoid account delinquency, billing dispute resolution procedures, and late payment penalties.

(2) A copy of the cable television operator's billing practices notice, work order, and sample subscriber bill shall be filed by March 15th of each year with the Department, the issuing authority, and the operator's local office, where they shall be available for public inspection. If an operator amends its billing practices notice, work order, or subscriber bill after submitting the annual filing, it shall file copies of the amendments with the Department, the issuing authority, and the operator's local office.

(3) At least 30 days prior to implementing a change of one of its billing practices, the cable television operator shall notify in writing the Department, the issuing authority, and all affected subscribers of the change and shall include in the notice a description of the changed practice.

(4) Statements about billing practices in work orders, marketing, materials, and other documents shall be consistent with the billing practices notice.

### 10.02: Services, Rates and Charges Notice

(1) Upon request, a cable television operator shall give notice of its services, rates, and charges to potential subscribers before a subscription agreement is reached. Otherwise, a cable television operator shall give notice of its services, rates, and charges to subscribers at the time a subscription agreement is reached.

(2) At least 30 days prior to implementing an increase in one of its rates, charges, or fees, or a substantial change in the number or type of programming services, the cable

operator shall notify, in writing, the Department, the issuing authority, and all affected subscribers of the change and shall include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided. Notwithstanding the foregoing, a cable television operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal or state agency or franchising authority on the transaction between the operator and the subscriber. An operator shall notify in writing, the Department, the issuing authority, and all affected subscribers of any such change as soon as possible.

(3) Every cable television operator shall fully disclose in writing all of its programming services and rates, upon request from a subscriber.

(4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase, and replacement due to damage or theft of equipment or devices used in relation to cable services, upon request from a subscriber.

(5) Every cable television operator shall provide written notice of the charge, if any, for service visits and under what circumstances such charge will be imposed, upon request from a subscriber.

(6) A copy of the cable operator's programming services, rates, and charges shall be filed by March 15<sup>th</sup> of each year with the Department, the issuing authority, and the operator's local office where it shall be made available for public inspection. If an operator amends its notice after the annual filing, it shall file a copy of the amendment with the Department, the issuing authority, and the operator's local office.

(7) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service.

### 10.03: Form of Bill

(1) The bill for cable television service shall contain the following information in clear, concise, and understandable language and format:

(a) the name, local address and telephone number of the cable television operator. The telephone number shall be displayed in a conspicuous location on

the bill and shall be accompanied by a statement that the subscriber may call this number with any questions or complaints about the bill and or subscribers rights under 207 CMR 10.07 in the event of a billing dispute;

- (b) the period of time over which each chargeable service is billed including prorated periods as a result of establishment and termination of service;
  - (c) the dates on which individually chargeable services were rendered or any applicable credits were applied;
  - (d) separate itemization of each rate, charge, or fee levied or credit applied, including but not be limited to, basic, premium service, and equipment charges, as well as any unit, pay-per-view, or per item charges or fees;
  - (e) the amount of the bill for the current billing period, separate from any prior balance due; and
  - (f) the date on which payment is due from the subscriber.
- (2) Cable operators may identify as a separate line item of each regular subscriber bill the following:
- (a) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to whom the fee is paid;
  - (b) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels;
  - (c) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under 207 CMR 10.03, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.
- (3) All itemized costs shall be direct and verifiable. Each cable operator shall maintain a document in its public file which shall be available upon request and shall provide the accounting justification for all itemized costs appearing on the bill.

#### 10.04: Advance Billing and Issuance of Bill

- (1) In the absence of a license provision further limiting the period of advance billing, a cable operator may, under uniform, nondiscriminatory terms and conditions, require payment not more than two months prior to the last day of a service period.
- (2) A cable subscriber may voluntarily offer and a cable operator may accept advance payments for periods greater than two months.
- (3) Upon request, a cable television operator shall provide subscribers with a written statement of account for each billing period and a final bill at the time of disconnection.

#### 10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service

- (1) Subscriber payment to a cable operator is due on the due date marked on the bill, which shall be a date certain and in no case a statement that the bill is due upon receipt. The due date shall not be less than five business days following the mailing date of the bill.
- (2) A subscriber account shall not be considered delinquent unless payment has not been received by the cable operator at least 30 days after the bill due date.
- (3) The following provisions shall apply to the imposition of late charges on cable subscribers:
  - (a) A cable television operator shall not impose a late charge on a subscriber unless a subscriber is delinquent, the operator has given the subscriber a written late charge notice in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the date of delinquency to pay the balance due.
  - (b) A charge of not more than 5% of the balance due may be imposed as a onetime late charge.
  - (c) No late charge may be assessed on the amount of a bill in dispute.
- (4) A cable television operator shall not terminate a subscriber's service unless the subscriber is delinquent, the cable operator has given the subscriber a separate written notice of termination in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the mailing of the notice of termination to pay the balance due. A notice of termination shall not be mailed to subscribers until after the date of delinquency.
- (5) A cable television operator shall not assess a late charge on a bill or discontinue a subscriber's cable television service solely because of the nonpayment of the disputed portion of a bill during the period established by 207 CMR 10.07 for registration of a complaint with the operator or during the process of a dispute resolution mechanism recognized under 207 CMR 10.07.
- (6) Any charge for returned checks shall be reasonably related to the costs incurred by the cable operator in processing such checks.

#### 10.06: Charges for Disconnection or Downgrading of Service

- (1) A cable television operator may impose a charge reasonably related to the cost incurred for a downgrade of service, except that no such charge may be imposed when:
  - (a) A subscriber requests total disconnection from cable service; or
  - (b) A subscriber requests the downgrade within the 30 day period following the notice of a rate increase or a substantial change in the number or type of programming services relative to the service(s) in question.



- (2) If a subscriber requests disconnection from cable television service prior to the effective date of an increase in rates, the subscriber shall not be charged the increased rate if the cable television operator fails to disconnect service prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from service shall receive from the cable operator a prorated refund of any amounts paid in advance.

#### 10.07: Billing Disputes

- (1) Every cable television operator shall have established procedures for prompt investigation of any billing dispute registered by a subscriber. The procedures shall provide at least 30 days from the due date of the bill for the subscriber to register a complaint. The cable television operator shall notify the subscriber of the result of its investigation and give an explanation for its decision within 30 business days of receipt of the complaint.
- (2) The subscriber forfeits any rights under 207 CMR 10.07 if he or she fails to pay an undisputed balance within 30 days of the bill due date.
- (3) Any subscriber who disagrees with the results of the cable television operator's investigation must promptly inquire about and take advantage of any complaint resolution mechanism, formal or informal, available under the license or through the issuing authority before the Department may accept a petition filed under 207 CMR 10.07(4).
- (4) The subscriber or the cable television operator may petition the Department to resolve disputed matters within 30 days of any final action by the cable operator. Final action under 207 CMR 10.07(3) shall be deemed to have occurred 30 days after the filing of a complaint.
- (5) Upon receipt of a petition, the Department may proceed to resolve the dispute if all parties agree to submit the dispute to the Department and be bound by the Department's decision and the Department obtains a statement signed by the parties indicating that agreement. In resolving the dispute, the Department may receive written or oral statements from the parties and may conduct its own investigation. The Department shall then issue a decision based on the record and the parties shall receive written notification of the decision and a statement of reasons therefor.

#### 10.08: Security Deposits

- (1) A cable operator shall not require from any cable subscriber a security deposit for converters or other equipment in excess of the cost of the equipment.
- (2) The cable operator shall pay interest to the cable subscriber at a rate of 7% per year for any deposit held for six months or more, and such interest shall accrue from the date the deposit is made by the cable subscriber. Interest shall be paid annually by the cable operator to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

(3) Within 30 days after the return of the converter or other equipment, the cable operator shall return the security deposit plus any accrued interest to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

License End