BERRYVILLE TOWN COUNCIL / CLARKE COUNTY BOARD OF SUPERVISORS
MEETING AGENDA
Work Session
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room
Tuesday, September 13, 2016
6:30 p.m.

Item		Attachment
1. **Call the Town Council to Order –**	Patricia Dickinson, Mayor David Weiss, Chairman	
2. **Discussion** – Cable Television Franchise Agreement		1
3. **Other**		
4. **Closed Session** –	No closed session scheduled	
5. **Adjourn**		

↕ **Denotes** an item on which a motion for action is included in the packet

Discussion

Cable Television Franchise Agreement

The Town's Cable Television Franchise Agreement became effective on 15 May 1984. While the term of the agreement was fifteen years, the agreement remains in effect because it has not been terminated or renewed.

The Town and County have worked together to adopt a new agreement for over a decade. The Town and County have worked cooperatively utilizing the same legal counsel and consultants.

Please find attached the 1984 Franchise Agreement and a draft (dated 6/20/16) of a new agreement for the Council's review.

The Board of Supervisors will join the Town Council for this work session. At the work session, Matt Ames, Esquire will brief the governing bodies on this matter. The Town Council and the Board of Supervisors are to hold a joint public hearing on this matter (tentatively set for 18 October 16).

Current - Berryville

FRANCHISE AGREEMENT

Table of Contents

		Page
PREAMBLE:	.....	1
SECTION 1:	Grant and Acceptance of Franchise.....	2
SECTION 2:	Definitions.....	2
SECTION 3:	Commitments by Franchisee to Extrinsic Matters.....	3
SECTION 4:	Rights Reserved by Issuing Authority....	4
SECTION 5:	Term.....	5
SECTION 6:	Territorial Extent of Franchise.....	5
SECTION 7:	Headend.....	6
SECTION 8:	Line Extension Policy; Cooley Elementary School.....	6
SECTION 9:	Description of System Design.....	7
SECTION 10:	Technical Performance and Standards.....	7
SECTION 11:	Construction Schedule.....	8
SECTION 12:	Standards and Restrictions as to Construction and Installation.....	8
SECTION 13:	Services to Subscribers.....	13
SECTION 14:	Maintenance and Customer Service.....	14
SECTION 15:	Local Origination Programming.....	15
SECTION 16:	Services to Public Schools and Municipal Buildings.....	15
SECTION 17:	Franchise Fee.....	15
SECTION 18:	Liability and Indemnification.....	16
SECTION 19:	Delegation of Powers.....	17
SECTION 20:	Franchise Renewal.....	17
SECTION 21:	Franchise Revocation.....	19
SECTION 22:	Transfer of Ownership.....	21
SECTION 23:	Assignment of Duties.....	22
SECTION 24:	Notices.....	22
SECTION 25:	Effective Date.....	23

FRANCHISE AGREEMENT

This Agreement is entered into by and between the Town of Berryville, Virginia and the County of Clarke, Virginia (hereinafter jointly referred to as "the Issuing Authority") and Berryville TV Cable Company (hereinafter referred to as "the Franchisee").

In consideration of the faithful performance and strict observance by the Franchisee of all the terms, provisions, conditions, obligations and reservations hereinafter set forth or provided for herein, and also provided for in the Cable Television Ordinance jointly adopted by the governing bodies which comprise the Issuing Authority, pursuant to which this Agreement is executed, and in consideration of the grant to the Franchisee by the Issuing Authority of a cable television system franchise it is hereby agreed between the parties hereto as follows:

SECTION 1: GRANT AND ACCEPTANCE OF FRANCHISE

The Issuing Authority hereby grants to the Franchisee a non-exclusive franchise and right to erect, install, construct, reconstruct, replace, remove, repair, maintain, operate in or upon, under, above, across and from the streets, avenues, highways, sidewalks, bridges, and other public ways, easements, and rights-of-way as now existing and all extensions thereof, and additions thereto, in and belonging to the political sub-divisions comprising the Issuing Authority, all necessary poles, wires, cable, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television and/or radio conductors and fixtures for the sole purpose of the ownership, maintenance and operation in the Town of Berryville and the County of Clarke, Virginia, of a cable television system, all in strict accordance with the laws, ordinances and regulations of the United States of America, the Commonwealth of Virginia, and the Issuing Authority, as now existing or hereafter adopted or amended.

The Franchisee hereby accepts the franchise and warrants and represents that it has examined all of the provisions of the Cable Television Ordinance and this Franchise Agreement, and it accepts and agrees to all the provisions contained therein.

SECTION 2: DEFINITIONS

Unless the context clearly indicates that a different meaning is intended, for the purposes of this Agreement all terms, phrases, words and their derivations shall have the meaning given them in the "Definitions" Section of the Cable Television Ordinance. The following additional words and phrases shall have the meanings ascribed to them as follows:

"Headend" - means electronic equipment including, but not limited to, antennae, pre-amplifiers, frequency converters,

demodulators, modulators and related equipment used to amplify, filter and/or convert television signals for distribution over the cable television system's channels, including antennae tower, satellite earth stations and any building housing any of the above equipment.

"Primary Service Area" - means all business and residential areas within the corporate limits of the Town of Berryville plus all contiguous areas of the County of Clarke, Virginia, which receive Town water and sewer service, except those areas of the County lying west of the Town along Route 7 as specified in the Franchisee's Proposal at Form 27(B) and Attachment thereto.

SECTION 3: COMMITMENTS BY FRANCHISEE TO EXTRINSIC MATTERS

The Franchisee hereby:

(a) Accepts and agrees to all of the provisions of the Cable Television Ordinance, and the obligations imposed upon it thereby, to the same degree and extent as if each and every such provision were repeated herein, and irrespective of whether any such provisions be so repeated. The Franchisee further accepts and agrees that, except to the extent they may conflict with this Franchise Agreement or be expressly modified herein, it hereby contractually binds itself, to the Issuing Authority, as to all commitments heretofore made by it to the Issuing Authority as recited in the Proposal and associated Proposal Response Forms submitted by the Franchisee to the Issuing Authority on September 1, 1983 (hereinafter referred to as "the Franchisee's Proposal") and which are hereby incorporated by reference into this Franchise Agreement.

(b) Represents and warrants to the Issuing Authority that it has examined all of the provisions of the Cable Television Ordinance and waives any claims that any provisions thereof

are unreasonable, arbitrary, invalid or void.

(c) Agrees to use its best efforts, at its expense, to actively and diligently conduct the prosecution of all applications to the FCC and other governmental regulatory bodies necessary to permit construction and commencement of its operation of a cable television system in accordance with the Cable Television Ordinance and this Franchise Agreement.

SECTION 4: RIGHTS RESERVED BY ISSUING AUTHORITY

In addition to the rights reserved to the Issuing Authority by the Cable Television Ordinance, the franchise is subject to the right of the Issuing Authority, pursuant to the provisions of the Cable Television Ordinance:

(a) To revoke the franchise for misuse, non-use, or the failure to comply with the major provisions of the Cable Television Ordinance or any other local, state, or federal laws or regulations, as reasonably determined by the Issuing Authority.

(b) To require proper and adequate extensions of plant and service and maintenance thereof at a standard of technical efficiency that shall be consistent with the technical efficiency of the System as built, and specifically to require extension of subscriber service throughout the entire Primary Service Area within fifteen (15) months of the effective date of this Agreement.

(c) To prevent unjust discrimination in service or rates.

(d) To require reasonably continuous and uninterrupted service to the public throughout the entire period of the franchise.

(e) To control and regulate the use of its streets, alleys, bridges, rights-of-way, and public places and the space above and beneath them.

(f) Through its appropriately designated representatives, to inspect all construction or installation work performed pursuant to the provisions of this Franchise Agreement and the Cable Television Ordinance and make such inspections as it shall find necessary to ensure compliance with the terms of this Agreement, the Cable Television Ordinance, and other pertinent provisions of law.

(g) At the expiration of the term for which this franchise is granted, or upon revocation of the franchise as provided in the Cable Television Ordinance, to require the Franchisee to remove at its own expense any and all portions of the Cable Television System from the public ways within the Town of Berryville and the County of Clarke should the franchise not be renewed and no successor Franchisee be named by the Issuing Authority.

(h) To levy upon the Franchisee all taxes and fees otherwise applicable to business organizations within the geographical area encompassed by the Franchisee's operations.

SECTION 5: TERM

The term of this franchise shall be fifteen (15) years from the effective date of its execution, on condition that all terms and conditions of the Cable Television Ordinance and this Agreement are complied with; it shall continue unless sooner terminated or renewed as provided by the Cable Television Ordinance.

SECTION 6: TERRITORIAL EXTENT OF FRANCHISE

The Franchisee is authorized to operate a cable television system throughout the entire Franchise Area, and the entire County of Clarke. The Franchisee shall construct, maintain

and operate its system throughout the entire Primary Service Area. Notwithstanding the foregoing authorization, the Issuing Authority retains the right to award to other Franchisees the right to operate a cable system in the same geographical area.

SECTION 7: HEADEND

The system Headend shall be located within the Franchise Area, or as close thereto as is technically feasible commensurate with normally accepted standards of good engineering practice. The Franchisee agrees to use its best efforts to locate its headend west of the corporate limits of the Town of Berryville reasonably proximate to Cooley Elementary School. Should such a location be selected, the Issuing Authority, if requested by the Franchisee, shall make available a suitable publicly owned site for the headend for the duration of this franchise for a monthly rental not to exceed Thirty Dollars ($30.00); provided, however, that any such headend site so provided shall not conflict or interfere with any existing or currently planned public use of such site or adjacent areas.

SECTION 8: LINE EXTENSION POLICY; COOLEY ELEMENTARY SCHOOL

In addition to the Franchisee's obligation to extend service to any areas contiguous to the Franchise Area whenever such areas reach a density of forty (40) residential dwelling units per mile of plant, as provided in the Franchisee's Proposal, the Franchisee agrees, as a specific modification to its Proposal and subject to the conditions set forth immediately below, to extend and provide free cable television service to Cooley Elementary School and to provide one free cable drop to a location at the School as specified by the Superintendent of Schools. There shall, however, be no requirement for the Franchisee to provide an underground cable or drop should existing cable-ways not be suitable or available for underground service. The

foregoing obligation to provide service to Cooley Elementary School shall only apply if the Franchisee's Headend is located west of the Corporate limits of the Town of Berryville as specified in Section 7 herein; however, in the event that the Headend is located elsewhere, such that the foregoing obligation does not apply, then the Franchisee agrees to extend service to Cooley Elementary School, as specified above, when the population density along Route 7 west of Berryville between the corporate limits of the Town and Cooley Elementary School reaches twenty (20) residential dwelling units per mile of plant. As specified herein, the term "residential dwelling unit" shall apply to each individual family dwelling unit, whether such family dwelling unit be a single family residence or a unit in a multiple family residence.

SECTION 9: DESCRIPTION OF SYSTEM DESIGN

The Franchisee's cable television system shall be as described in the Franchisee's Proposal; provided, however, that nothing herein shall be construed to prohibit the Franchisee from increasing the capability of the system or constructing the same in accord with more advanced technical standards than initially proposed by the Franchisee.

SECTION 10: TECHNICAL PERFORMANCE AND STANDARDS

All performance and technical standards governing construction, reconstruction, erection, installation, operation, testing, use, maintenance, and dismantling of the cable television system provided for herein shall be in accordance with all applicable FCC and other federal, state and local laws and regulations, and shall comply with the minimum standards set by the Virginia Public Telecommunications Board; provided, however, that if the FCC discontinues promulgation or enforcement of such technical specifications, such specifications shall remain in force and effect until the Issuing Authority exercises its

right hereunder to amend this Agreement to require such differing standards as may be mutually agreed upon by the Issuing Authority and the Franchisee.

SECTION 11: CONSTRUCTION SCHEDULE

(a) Within fifteen (15) months from the effective date of this Agreement, the Franchisee shall construct and activate the cable television system and offer cable television services to all residences or persons requesting such service within the Primary Service Area.

(b) The Franchisee agrees that any litigation instituted by a third party shall not suspend the Franchisee's obligation to construct and install the cable television system in accordance with the construction time schedule unless otherwise ordered by a court of competent jurisdiction.

SECTION 12: STANDARDS AND RESTRICTIONS AS TO CONSTRUCTION AND INSTALLATION

(a) The Franchisee shall at all times during the term of the franchise be subject to all ordinances, rules and regulations imposed by the Issuing Authority which have been determined to be conducive to the health, safety, welfare and accommodation of the public. Permit and Inspection fees shall be collected in a manner consistent with established policy unless otherwise indicated below:

1. Permit fees shall be paid in accordance with established fee structures for any construction built by the Franchisee, including, but not limited to, new or remodeled structures, towers, and antennas.
2. The Franchisee shall pay the cost of inspections

due to any street openings which may be required or any out of pocket expenses to the Issuing Authority which result from a street opening by the Franchisee; provided, however, that street opening bonds, letters of credit or other form of insurance which may otherwise be required shall be waived.

3. Permit fees for construction of the Franchisee's cable line shall be waived. The Issuing Authority may charge the Franchisee for out of pocket expenses for inspection services performed during construction of the cable system or for out of pocket expenses incurred during inspection in response to complaints received during the construction period by the Issuing Authority about the system construction or work performed by the Franchisee for any individual subscriber drops or installations.

(b) No construction, reconstruction or relocation of the cable television system, or any part thereof shall be commenced unless appropriate written permits as generally required have been obtained from the proper Town or County officials. In any permit issued, such officials may impose any condition, restriction or regulation as is necessary for the purpose of protecting streets and roadways, and any structures, whether public or private, and for the proper restoration of such streets, roadways and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

(c) Prior to the erection or installation of any towers, poles, tower guys, tower anchors, underground conduits, manholes or fixtures for use in connection with the installation, construction, maintenance, or operation of the cable television system under this Franchise Agreement, the Franchisee shall first submit to the Town or County Zoning Administrator, or

other appropriate authority, for approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. Such approval shall not unreasonably be withheld, nor shall it unreasonably be delayed. Notwithstanding such approval, however, the Issuing Authority, or appropriate representatives thereof, shall have the right to inspect all construction or installation work performed under this Franchise Agreement and make such inspections as may be necessary to ensure compliance with the terms of this Agreement and other pertinent provisions of law.

(d) Any contractor proposed for installation, maintenance, or repair of the system or system equipment must be thoroughly experienced in cable installation or in any other capacity for which retained, and must comply with applicable State laws and local ordinances.

(e) The Franchisee's system and associated equipment erected by the Franchisee shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. No pole or other fixtures placed in any public ways by the Franchisee shall be placed in such a manner as to interfere with the usual travel on such public way.

(f) No location of any pole or wire-holding structure of the Franchisee shall be a vested interest and such poles or structures shall be removed or modified by the Franchisee at its own expense whenever the Issuing Authority reasonably determines that the public convenience would be enhanced thereby. The Franchisee shall utilize existing poles, conduits, or other wire-holding structures where at all possible. Where the Issuing

Authority or a public utility serving the Franchise Area desires to make use of the Franchisee's poles, the Franchisee shall make every effort to accommodate such desires if the Issuing Authority determines that such use would enhance the public convenience and if such use would not interfere unreasonalbly with the cable television system operations of the Franchisee.

(g) All installations shall be underground wherever public utilities providing both telephone and electric service are underground at the time the Franchisee installs its system, except as may otherwise be provided herein. In areas where either telephone or electric utility facilities are aboveground at the time of installation, the Franchisee may install its service aboveground; provided, however, that at such time as those facilities are required to be placed underground by the Issuing Authority or are placed underground, the Franchisee shall, if requested by the Issuing Authority, likewise place its services underground without cost to the Issuing Authority or special assessment to the individual subscriber so served; provided, further, that costs incurred by the Franchisee, including reasonable interest costs not to exceed an annual rate of two (2) percent below prime as announced by the Chase Manhattan Bank, N.A., at its principal office at New York in effect at the time such interest costs are incurred, for such underground placement may be recovered by fee increases for basic subscriber service to: (1) the property owners affected, if such underground placement is requested in private residential areas, or (2) all system subscribers, if such underground placement is requested in non-residential or commercial areas. In either event, the cost amortization period is to be the lesser of five years or the unexpired remainder of the franchise term. Where not otherwise required to be placed underground, the Franchisee's system shall be located underground at the request of the affected property owner, provided that the excess cost over aerial location shall be borne by the property owner making the request. All cable passing under roadways shall be installed in conduit.

(h) The Issuing Authority does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation.

(i) The Franchisee shall, at its cost and expense, and in a manner approved by the appropriate official, repair, replace or restore any street, sidewalk, curb, gutter, alley, public way or any other property disturbed or damaged or in any way injured by or on account of its activities in as good condition as before the work involving such disturbance was done and agrees to do so any time during a period of one year after completion of any work contemplated under this Agreement. In the event the Franchisee fails to perform the replacement or restoration in a manner approved by the appropriate official of the Issuing Authority, the Issuing Authority or owners affected shall have the right to do so at the sole cost and expense of the Franchisee. Upon written demand for reimbursement for the cost of replacement or restoration of damaged property, the Franchisee shall promptly remit the required sum to the Issuing Authority or property owners.

(j) The Franchisee shall perform all cutting or trimming of trees, shrubs, or vegetation in accordance with standard local horticultural practices and shall conduct all such activities in such a manner as to minimize damage to trees, shrubbery or vegetation. The Issuing Authority reserves the option to have its own employees perform the trimming or cutting, to require the Franchisee to hire a competent professional to perform the work, or to allow the Franchisee to perform the work under the supervision and direction of the Issuing Authority. Any such work shall be performed at the Franchisee's expense.

(k) The desire of the subscriber as to the point of entry into the residence shall be observed wherever possible. Runs

in building interiors shall be as unobtrusive as possible, consistent with normal installation practices of the Franchisee.

(l) Nothing contained herein shall be deemed to extend or otherwise modify the currently existing standards established and in effect throughout the Town of Berryville and Clarke County as to zoning requirements, permits, fees or inspections which normally apply to construction activities within those political subdivisions.

SECTION 13: SERVICES TO SUBSCRIBERS

(a) The Franchisee shall provide to each subscriber the converter equipment necessary for the receipt of all services subscribed to. The Franchisee may collect at the time of installation a deposit from subscribers, not to exceed fifty (50) percent of the Franchisee's cost for the equipment provided, to ensure the protection and return of the converter equipment. At the termination of service, the subscriber shall receive a refund in full of his security deposit upon the return of the converter equipment in good condition to the Franchisee, normal wear excepted; provided, however, that should the deposit amount exceed fifty (50) dollars, simple interest on the full amount of the deposit, at the rate of eight (8) percent per annum, shall also be paid to the subscriber. In the event the converter equipment is not returned to the Franchisee or is not returned in good condition at the termination of service, the Franchisee may retain from the security deposit the actual cost of the converter equipment or the actual cost of repair.

(b) Upon request, the Franchisee shall provide to the requesting subscriber, for a one time fee not to exceed the Franchisee's cost for the equipment provided, a selective lock-out device with the capability of allowing the subscriber to selectively lock-out audible and visual reception of programming on any one or more channels which the subscriber receives as part of his normal cable television service.

SECTION 14: MAINTENANCE AND CUSTOMER SERVICE

The Franchisee shall:

(a) Maintain all wires, conduits, cables and other real and personal property and facilities comprising the cable television system in good working condition.

(b) At all times maintain reasonably accessible to the Franchise Area a force of agents or employees in sufficient numbers and of sufficient technical qualifications to safely, adequately and promptly repair any structural damages to system equipment which is located in, over, under, or upon public streets, ways, or places; and to immediately secure the public safety in the vicinity thereof, prior to, and during the making of said repairs.

(c) Operate the cable television system continuously, with operating personnel available on call, from 7:00 o'clock a.m. until 11:00 o'clock p.m., seven days per week, through a publicly listed telephone number to receive complaints and requests for repairs or adjustments. Billing complaints shall be received during normal office hours as established by the Franchisee.

(d) Render efficient service, locate and repair malfunctions promptly, and respond immediately, twenty-four (24) hours per day, seven days per week, to subscriber service complaints involving more than one home in a localized service area. Technical complaints involving a single fallen drop will be acted upon within twenty-four (24) hours after notice, and those involving an individual subscriber only will be acted on by the end of the business day next following receipt of the complaint.

(e) Furnish information, as subscribers are connected or reconnected to the cable television system, concerning the

procedures for making inquiries or complaints. Such information shall include, at a minimum, the address, telephone number and hours of operation of the cable television company, and the title of the person to whom such inquiries and complaints are to be addressed.

SECTION 15: LOCAL ORIGINATION PROGRAMMING

The Franchisee shall provide on the system a local origination channel and shall provide its subscribers reasonable access to studio and production facilities and personnel necessary for the use of the local origination channel as specified in its Proposal.

SECTION 16: SERVICES TO PUBLIC SCHOOLS AND MUNICIPAL BUILDINGS

The Franchisee shall provide service to all public schools and municipal buildings within the Franchise Area as specified in its Proposal and as set forth at Section 8 (Line Extension Policy; Cooley Elementary School) herein. Fees for installation and monthly service shall be in accordance with the Franchisee's Proposal; provided, however, that the Franchisee shall, if so requested, provide at cost any required internal wiring and any additional outlets in excess of one set for each such facility, and shall waive basic monthly service fees and any deposits on provided converters or other equipment. If additional public schools or municipal buildings are constructed or acquired reasonably proximate to areas already receiving service, such facility shall be provided with service outlets and service according to the terms and conditions set forth in this Agreement.

SECTION 17: FRANCHISE FEE

In consideration of the privileges granted under the Cable Television Ordinance and this Franchise Agreement for the operation of a Cable Television System within the Town of Berryville

and the County of Clarke, the Franchisee shall pay to the Issuing Authority within one month following the end of each calendar year from the date of this Agreement three (3) percent of its annual gross revenues during the preceding year or portion thereof. Payment shall be by two separate checks, one to the Town of Berryville and one to the County of Clarke, with the amount of each check based on the pro rata subscribership within the Town and County as of the last billing period. Annual gross revenues shall be determined by an annual summary report showing gross revenues, verified by the Franchisee's certified public accountants, received by the Franchisee from its operations within the Town and County in the preceding year and such other information as the Issuing Authority shall reasonably request with respect to properties and expenses related to the Franchisee's service.

SECTION 18: LIABILITY AND INDEMNIFICATION

The Franchisee shall maintain at its own expense a faithful performance, license and franchise letter of credit running to the Issuing Authority in the amount of Ten Thousand Dollars ($10,000) which shall be subject to the requirements of Section 613 (Penalties and Fines) of the Cable Television Ordinance. In lieu of a letter of credit, a bond backed by the full faith and credit of Mid Atlantic Network, Inc., will suffice. Further, the Franchisee shall save and hold the Issuing Authority, its corporate authorities, officers, boards, commissions, employees and agents harmless from any injury, claim, demand, suit, judgment, execution, liability, debt, damages or penalty (hereinafter referred to as "claims") arising out of, resulting from, or alleged to arise out of or result from, the construction, erection, installation, operation, maintenance of, or other activity connected with, the Franchisee's cable television system. If any claim is asserted against the Issuing Authority for which indemnification may be sought under this Section, the Issuing Authority shall notify promptly the Franchisee of such

claim and thereafter shall permit the Franchisee at its expense to participate in the negotiation and settlement of any such claim and to join in the defense of any legal action arising therefrom, and shall cooperate fully with the Franchisee in all such negotiations or defense efforts. The Franchisee shall maintain at its own expense throughout the term of the franchise adequate insurance coverage to meet liability under the foregoing contingencies.

SECTION 19: DELEGATION OF POWERS

The Issuing Authority shall not be precluded from delegating any power or authority contained within the Cable Television Ordinance or this Franchise Agreement to any agency, employee or department within or outside the political subdivisions which comprise the Issuing Authority.

SECTION 20: FRANCHISE RENEWAL

(a) The Franchisee shall be solely responsible for requesting the Issuing Authority, in writing, to hold a special meeting, the purpose of which will be to review the Franchisee's performance during the term of its franchise, to consider the adequacy of the franchise from the standpoint of the communities served, the Franchisee, and the Federal Communications Commission Rules for Cable Television, and to determine the advisability of renewing the Franchisee's franchise. Unless the Issuing Authority shall consent to some differing notice, said request shall be made not less than twelve (12) months but no more than eighteen (18) months prior to the franchise expiration date. Upon receipt of said request, the Issuing Authority shall adopt a resolution setting forth the time and place of the special meeting. If no request for renewal is made, the franchise shall expire according to the terms of this Agreement, provided, however, that the Issuing Authority may extend the term of the franchise

in six (6) month increments during the Franchise renewal process as provided for in this Section.

(b) The Issuing Authority shall hear any interested persons during said special meeting and shall determine whether or not the Franchisee did reasonably comply with the terms and conditions imposed by the Ordinance and this Agreement. Notice of such meeting shall be given in accordance with the provisions of the Cable Television Ordinance.

(c) If the Issuing Authority determines that the Franchisee has been in reasonable compliance with the terms and conditions imposed by the Cable Television Ordinance and this Agreement, the Issuing Authority may, by resolution, renew the Franchisee's franchise, with any modifications it deems desirable, for a period of time not longer than fifteen (15) years.

(d) Notwithstanding the fact that the Issuing Authority may determine that the Franchisee has been in reasonable compliance with the terms and conditions imposed by the Cable Television Ordinance and this Agreement, the Issuing Authority shall have the right not to renew the franchise. If the Issuing Authority does not renew the franchise, it shall, to the extent then permitted by existing law, have the options to: Acquire at fair market value all the assets of the Franchisee's operations; or require the sale at fair market value of all such assets to a succeeding Franchisee; or require the removal of all such assets if the decision is made by the Issuing Authority to discontinue all franchised cable television services within the Franchisee's operating area. The determination of fair market value hereunder shall be based on appraisals by three independent appraisers, one selected by the Franchisee, one selected by the Issuing Authority, and the third selected by the first two appraisers. The arithmetic mean of the three appraisals determined independently by each of the three appraisers shall be accepted as the fair market value. The

foregoing options must be exercised by the Issuing Authority within one (1) year from the date of the franchise expiration, unless such period is extended with the consent of the Franchisee. Until the exercise of any of the foregoing options, the Franchisee shall have the right to continue operating its system on the same terms, conditions, rights and obligations in existence on the date of the franchise expiration.

(e) The Issuing Authority shall have the right to recoup from the Franchisee all direct expenses incurred pursuant to renewal of the franchise whether or not the franchise is renewed.

(f) In all matters concerning franchise renewal, substantial weight shall be given by the Issuing Authority to the Franchisee's performance in the following enumerated areas:

(1) The consistency of the Franchisee's conformance with the requirements of this Agreement and the Cable Television Ordinance;
(2) The degree of promptness with which the Franchisee has responded to subscribers' valid complaints concerning service, system performance or billing matters;
(3) The degree of promptness and success the Franchisee has exhibited in correcting inadequacies brought to its attention by the Issuing Authority.

SECTION 21: FRANCHISE REVOCATION

(a) Whenever the Franchisee shall refuse, neglect or wilfully fail to construct, operate or maintain its cable television system or to provide service to its subscribers in substantial accordance with the terms of the Ordinance and this Franchise Agreement or any applicable rule or regulation, or practices any fraud or deceit upon the Issuing Authority or its subscribers, or fails to pay franchise fees when due, or if the Franchisee becomes insolvent, as adjudged by a court of competent jurisdiction,

or is unwilling to pay its uncontested debts, or is adjudged bankrupt, or seeks relief under the bankruptcy laws, then the franchise may be revoked.

(b) In the event the Issuing Authority believes that grounds for revocation exist or have existed, the Issuing Authority may notify the Franchisee, in writing, setting forth the nature and facts of such noncompliance. If, within thirty (30) days following such written notification, the Franchisee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violations did not occur, or that the alleged violations, except those involving financial matters or non-construction of the system, were beyond the Franchisee's control, the Issuing Authority may, following notice of the grounds for revocation and hearing pursuant to the Ordinance, revoke the franchise pursuant to Paragraph (a) of this Section.

(c) In the event that the franchise has been revoked, the Issuing Authority shall, to the extent then permitted by existing law, have the options to: Acquire, at the lesser of depreciated replacement value or fair market value excluding any value attributable to good will, all the assets of the Franchisee's operations; or to require the sale, at the lesser of depreciated replacement value or the fair market value excluding any value attributable to good will, of all such assets of the Franchisee's operations to a successor Franchisee; or to require the removal of all such assets from the Town and the County. Unless some later date is agreed to by the Franchisee, such option must be exercised within one (1) year from the date of the revocation of the franchise, or the entry of the final judgment by a court reviewing the question of the revocation, or the entry of a final order upon appeal of same, whichever is later.

(d) The termination of the Franchisee's rights under this Agreement shall in no way affect any other rights the Issuing Authority may have under this Agreement or under any provision of law or ordinance.

SECTION 22: TRANSFER OF OWNERSHIP

Neither the franchise granted hereunder nor any portion of the cable television system installed in the public ways of the political subdivisions comprising the Issuing Authority shall be transferred to any person, partnership, corporate body, business venture or otherwise, without the prior consent of the Issuing Authority expressed by resolution duly adopted and then only on such conditions as may therein be prescribed. The Franchisee shall give the Issuing Authority notice of any proposed transfer at least ninety (90) days prior to the proposed date thereof, unless lesser notice is acceptable to the Issuing Authority, setting forth the nature, terms, conditions and all other pertinent details of such proposed transfer and also complete information concerning the proposed Transferee.

For purposes of this Section, the term "transfer" shall be deemed to include assignment, transfer, mortgage, lease, sublet, sale, transfer to a receiver or to trustee in bankruptcy, transfer to or for the benefit of creditors, transfer in trust, pledge or other disposition of the franchise or cable system installed in the Town or County, in whole or in part, by voluntary or involuntary sale, merger, sale and leaseback, consolidation or otherwise. The transfer of ten (10) percent or more of the beneficial ownership, stock ownership, or right to control the Franchisee or the transfer in bulk of the major part of the Franchisee's tangible assets associated with operation of the cable system, either directly or indirectly, during the term of the franchise, either in a single transaction or a series of transactions, to a person or group of persons acting

in concert, none of whom owned, beneficially or otherwise, ten (10) percent or more of the Franchisee on the date of this Agreement, shall be considered a transfer subject to the provisions and requirements of this Section.

By acceptance of this Agreement, the Franchisee shall be deemed to agree that any transfer subject to this Section occurring without the prior approval of the Issuing Authority shall, at the option of the Issuing Authority, render the franchise void and shall entitle the Issuing Authority to pursue all remedies available to it, including those available under Section 21 (Franchise Revocation) of this Agreement.

SECTION 23: ASSIGNMENT OF DUTIES

Without abrogating or lessening any responsibilities or obligations of the Franchisee as established in this Agreement or in the Ordinance, the Franchisee may assign to Winchester TV Cable Company the duty to perform billing functions and other tasks it deems appropriate.

SECTION 24: NOTICES

All notices, payments, reports or other information required by the Cable Television Ordinance or this Franchise Agreement shall be sent prepaid registered or certified mail, unless

alternative means are specifically agreed to by the parties, as follows:

To the Issuing Authority:

Town Manager, Town of Berryville
23 East Main Street
Berryville, Virginia 22611

and

County Administrator, County of Clarke
Post Office Box 169
Berryville, Virginia 22611

To the Franchisee:

Berryville TV Cable Company
P.O.Box 3300
Winchester, Virginia 22601

SECTION 25: EFFECTIVE DATE

The effective date of this Agreement shall be 5-15-84, 1984.

Proposed - Berryville

Final draft 6/20/2016

CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN COMCAST and THE TOWN OF BERRYVILE, VIRGINIA

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the Town of Berryville, a political subdivision of the Commonwealth of Virginia (hereinafter, "Town") and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC (hereinafter, "Grantee").

The Town, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Code of Virginia, Article 1.2, § 15.2-2108.19, and the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the "Cable Act"), unless otherwise defined herein.

1.1 "Access Channel" means a video Channel, which Grantee shall make available to the Town without charge for non-commercial public, educational, or governmental access use for the transmission of video programming as directed by the Town.

1.2 "Act" means the Communications Act of 1934.

1.3 "Affiliate", in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

1.4 "Basic service tier" means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental access channels required to be carried on the basic tier.

1.5 "Cable Operator" means any Person or group of Persons that (A) provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or (B) otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System.

1.6 "Cable Service" means the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.7 "Cable System" or "System" means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service that includes video programming and that is provided to multiple Subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 Subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only Subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 USC § 201 et seq., except that such facility shall be considered a Cable System 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; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) or any portion of a System that serves fewer than 50 Subscribers in any locality, where such portion is part of a larger System franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

1.8 "Channel" shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4).

1.9 "Communications Act" means the Communications Act of 1934, as amended.

1.10 "Control" means the ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of corporate affairs.

1.11 "Educational Access Channel" means an Access Channel available for the use of the Clarke County Public Schools.

1.12 "Effective Date" means June 30, 2015.

Commented [A1]: Revise.

1.13 "FCC" means the Federal Communications Commission or successor governmental entity thereto.

1.14 "Force majeure" means an event or events reasonably beyond the ability of Grantee to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, environmental restrictions, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which Grantee's facilities are attached or to be attached or conduits in which Grantee's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

1.15 "Franchise" means the initial authorization, or renewal thereof, issued by the Town, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance, resolution or otherwise, which authorizes the construction and operation of the Cable System.

1.16 "Franchise Agreement" or "Agreement" means this Cable Franchise Agreement and any amendments or modifications hereto.

1.17 "Franchise Area" means the present legal boundaries of the Town of Berryville as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.18 "Government Channel" means an Access Channel dedicated to carriage of programming related to the government of Clarke County, the Town, and any other municipality located within Clarke County.

1.19 "Grantee" means Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC.

1.20 "Gross Revenue" means all amounts which are received by Grantee from the operation of the Cable System to provide Cable Service in the Franchise Area. The Grantee shall maintain its books in accordance with generally accepted accounting principles ("GAAP"). Gross Revenue shall include, without limitation, the following:

1.20.1 Any revenue received from Subscribers, including but not limited to revenue for basic service, expanded basic service, other tier services, additional outlets, and pay-per-view service, or for the distribution of any other Cable Service, as defined by federal law, over the System;

1.20.2 Revenue received from Subscribers for installation, change in service and reconnection charges and similar fees attributable to the provision of Cable Services;

1.20.3 Revenue received from Subscribers for converters, remote controls or other equipment leased or rented to Subscribers in connection with the delivery of Cable Services to such Subscribers;

1.20.4 Revenue received from Subscribers for service charges and late fees related to delinquent accounts as attributable to the provision of Cable Services;

1.20.5 Revenue received from third parties, including advertising revenue, home shopping commissions, leased access payments (except as limited herein). In computing Gross Revenue from sources other than Grantee's Subscribers, including without limitation, revenue derived from the sale of advertising, home shopping services, guide sales, the lease of channel capacity on its Cable System, or any other such revenues derived from the operation of the Cable System to provide Cable Service, the amount of such revenues attributable or allocated to Grantee shall be in accordance with GAAP.

1.20.6 Fees collected from Subscribers for the payment of cable franchise fees to be paid to the Town; such cable franchise fees shall not be deemed to be taxes and are not deducted from the total gross revenue figure on which Franchise fees are paid.

Provided, however, that Gross Revenue shall not include: (i) refunds or rebates made to Subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the Cable System, but not including revenue received from home shopping channels for the use of the Cable Service to sell merchandise; (iii) any tax, fee, or charge collected by the Cable Operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of Cable Service for resale or for use as a component part of or for the integration into Cable Services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the Cable Service; (vii) revenues received by any Affiliate or any other person in exchange for supplying goods or services used by the Cable Operator to provide Cable Service; and (viii) revenue derived from services classified as non-Cable Services under federal law, including, without limitation, revenue derived from Telecommunications Services and Information Services, and any other revenues attributed by the Cable Operator to non-Cable Services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

1.21 "Information Services" shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. §153(20).

1.22 "Institutional Network" or "I-Net" means the fiber optic cable and related facilities constructed for Clarke County by Adelphia Cable LLC, the Grantee's predecessor-in-interest, and any additional such facilities constructed at the County's direction.

1.23 "Internet Access" means dial-up or broadband access service that enables Subscribers to access the Internet.

1.24 "Non-Cable Services" means any service that does not constitute the provision of Video Programming directly to multiple Subscribers in the Franchise Area including, but not limited to, Information Services, Internet Access, and Telecommunications Services.

1.25 "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal businesses hours" must include some evening hours at least one night per week and/or some weekend hours.

1.26 "Normal Operating Conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee 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 within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or rebuild of the Cable System. *See* 47 C.F.R. § 76.309(c)(4)(ii).

1.27 "PEG" means public, educational, and governmental.

1.28 "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Town.

1.29 "Public Rights-of-Way" means the surface, the air space above the surface, and the area below the surface of any public street, road, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, easement, or similar property in which the Town now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining, a Cable System. No reference herein to the "Public Rights-of-Way" shall be deemed to be a representation or guarantee by the Town that its interest or other right of control to use such property is sufficient to permit its use for such purposes, and the Grantee shall be deemed to gain only those rights to use as are properly in the Town and as the Town may have the undisputed right and power to give.

1.30 "Service Interruption" means the loss of picture or sound on one or more cable channels.

1.31 "Subscriber" means a Person who lawfully receives Cable Service delivered over the Cable System with Grantee's express permission.

1.32 "Telecommunication Services" shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(46).

1.33 "Title VI" means Title VI of the Communications Act.

1.34 "Town" means the Town of Berryville, organized and existing under the laws of the Commonwealth of Virginia, and the area within its territorial limits.

1.35 "Transfer" means any transaction in which (i) an ownership or other interest in the Grantee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that majority control of the Grantee is transferred; or (ii) the rights and obligations held by the Grantee under the Franchise granted under this Franchise Agreement are transferred or assigned to another Person or group of Persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the Franchise shall not include (a) transfer of an ownership or other interest in the Grantee to the parent of the Grantee or to another Affiliate of the Grantee; (b) transfer of an interest in the Franchise granted under this Franchise Agreement or the rights held by the Grantee under the Franchise granted under this Franchise Agreement to the parent of the Grantee or to another Affiliate of the Grantee; (c) any action that is the result of a merger of the parent of the Grantee; (d) any action that is the result of a merger of another Affiliate of the Grantee; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the Grantee in the Franchise or the System used to provide Cable Service in order to secure indebtedness.

1.36 "Video programming" means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

SECTION 2 - Grant of Authority

2.1 Grant. The Town hereby grants to the Grantee under the Code of Virginia and the Cable Act a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Rights-of-Ways within the Franchise Area for the purpose of providing Cable Service, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Rights-of-Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Agreement.

2.2 Term of Franchise. The term of the Franchise granted hereunder shall be fifteen (15) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated.

2.3 Renewal. Any renewal of this Franchise shall be governed by and comply with Section 626 of the Cable Act, as amended.

2.4 Reservation of Authority. Nothing in this Franchise Agreement shall be construed as a waiver of any codes or ordinances of general applicability promulgated by the Town.

2.5 Grant Not Exclusive. The Franchise and the right it grants to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and the Town reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the term of this Franchise Agreement.

2.6 Police Powers. Nothing in the Franchise Agreement shall be construed to prohibit the reasonable, necessary and lawful exercise of the Town's police powers. However, if the reasonable, necessary and lawful exercise of the Town's police power results in any material alteration of the terms and conditions of this Franchise, then the parties shall modify this Franchise Agreement to the mutual satisfaction of both parties to ameliorate the negative effects on the Grantee of the material alteration.

2.7 Competitive Equity. The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one or more additional franchises to provide Cable Service within the Franchise Area; the Franchising Authority acknowledges and agrees that the franchise agreement shall be governed by §15.2-2108.26 of the Code of Virginia.

SECTION 3 - Construction and Maintenance of the Cable System

3.1 Permits and General Obligations. The Grantee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses, or other forms of approval

or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Rights-of-Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Rights-of-Way.

3.2 Conditions of Street Occupancy.

3.2.1 New Grades or Lines. If the grades or lines of any Public Rights-of-Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Town (which shall not be less than ten (10) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines.

3.2.2 Relocation at Request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Town to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3 Restoration of Public Rights-of-Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Rights-of-Way, the Grantee agrees that it shall at its own cost and expense replace and restore any such Public Rights-of-Way to a condition reasonably comparable to the condition of the Public Rights-of-Way existing immediately prior to the disturbance.

3.2.4 Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations and applicable safety codes. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any damage caused by such trimming.

3.2.6 Aerial and Underground Construction. At the time of any Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in the portion of the Franchise Area in which construction is being performed are underground, the Grantee shall place its Cable System's transmission and distribution facilities underground; provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.2.7 Undergrounding and Beautification Projects. In the event all users of the Public Rights-of-Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities.

SECTION 4 - Service Obligations

4.1 General Service Obligation.

4.1.1 The Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile and is within one (1) mile as measured in strand footage from the nearest point on the Cable System trunk or feeder line from which a usable cable signal can be obtained. For purposes of this section, a home shall be counted as a "dwelling unit" if, and only if, such home is located within four hundred (400) feet of the public right of way. Subject to the density requirement, Grantee shall offer Cable Service to all new homes or previously unserved homes located within two hundred (200) feet of the Grantee's distribution cable at the standard installation rate. Should, through new construction, an area within the Franchise Area meet the density requirements, Franchisee shall provide Cable Service to such area within one (1) year after it confirms that the density requirements have been met following notice from the Franchising Authority that one or more residents has requested service.

4.1.2 The Grantee may impose an additional charge in excess of its regular installation charge, but not in excess of its actual cost which may include cost of material, labor, design and any necessary easements, for any service installation at a location that is more than two hundred (200) feet from the Public Rights-of-Way. Such additional charge shall be paid by the developer, home owners association, landowner or Subscriber requesting Cable Service in an area that does not meet the density and distance standards.

4.2 New Developments. The Grantee agrees to use commercially reasonable efforts to inform itself of all newly planned developments within the Town and to work with developers to cooperate in pre-installation of facilities to support Cable Service.

4.3 Programming. The Grantee shall offer to all Subscribers a diversity of video programming services.

4.4 No Discrimination. The Grantee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied; provided, however, that the Grantee may deny service for good cause, including but not limited to theft of Grantee's services, vandalism of its property, or abuse or harassment of its representatives. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice. Grantee shall assure that access to Cable Services is not denied to any group of potential residential cable Subscribers because of the income of the residents of the local area in which such group resides.

4.5 Provision of Maps to the Town. The Grantee shall provide the Town, upon written request and no more than once per calendar year an up-to-date strand map of its facilities in the Franchise Area. The Town shall treat such maps as proprietary information, exempt from release or disclosure under the Virginia Freedom of Information Act, and shall use the maps only for purposes of planning and managing construction within and in the immediate vicinity of the public rights-of-way.

4.6. Additional Maps. Should the Town request access to more detailed maps of the Cable System, then the Grantee shall permit the Town to review such maps at a specified location in northern Virginia.

4.7 Removal and Relocation. In accordance with applicable law, the Town shall have the power at any time to order and require the Grantee to remove or relocate any pole, wire, cable or other structure owned by the Grantee that is dangerous to life or property. In the event that the Grantee, after notice, fails or refuses to act within a reasonable time, the Town shall have the power to remove or relocate the same at the sole cost and expense of the Grantee, which cost shall be summarized by the Town.

SECTION 5 - PEG Services

5.1 PEG Channels.

5.1.1 In order to ensure availability of PEG programming, Grantee shall make available up to two (2) Access Channels on the Basic Service Tier, upon request of the Town. One Access Channel shall be designated as the Educational Access Channel, and the other shall be designated as the Government Access Channel (jointly, "PEG Channels"). The Town may request that Grantee make either or both PEG Channels available at any time by submitting a

request in writing, and Grantee shall make the Channel or Channels available within nine (9) months of the date of the request.

5.1.2 The PEG Channels shall be carried on the channel numbers to be assigned by Comcast at the time they are made available. Thereafter, PEG Channel assignments may be changed and the entity responsible for managing any affected PEG Channel shall be given thirty (30) days advance notice of the change. If the Grantee decides to change the channel designation for any of the PEG Channels, it must provide thirty (30) days prior written notice to the Town, and shall reimburse the Town, and/or the designated PEG provider in an amount not to exceed one thousand dollars ($1000) for reasonable, documented costs incurred by the Town or other PEG users, including, but not limited to, technical costs, logo modifications, stationary, promotion, and advertising.

5.1.3 Grantee shall provide an upstream fiber optic connection and all necessary headend equipment for the purpose of providing PEG Access video origination between the following locations and Grantee's headend within nine (9) months of receiving a written request from the Town: the meeting chamber in the Berryville-Clarke County Government Center and Grantee's headend, and Clarke County High School. The upstream connections referred to in this paragraph shall be referred to as a "Return Link" or as the "Return Links." The Grantee shall maintain both upstream links in good operating condition, and shall ensure that such links are at all times capable of transmitting PEG Access programming signals from the origination point to the headend without material distortion or degradation, in accordance with applicable industry technical standards.

5.1.3.1 If the Town submits a request for either or both of the Return Links on or before the third anniversary of the Effective Date, the Grantee shall provide the requested link or links at its sole cost and expense, at no cost to the Town, and without itemizing the cost of the link or links on subscriber bills. If, however, the Town requests a link after the third anniversary of the Effective Date, the Grantee shall provide the requested link or links only if (i) the Town agrees to bear the cost of construction and installation of the necessary fiber optic plan and equipment; (ii) the Town consents to the itemization of subscriber bills of the entire cost of such construction and installation; or (iii) the Town and the Grantee agree on an alternative funding plan, which may consist of, without limitation a combination of payments by the Town and itemization on Subscriber bills. The Town may also submit a request for either or both Return Links on conjunction with Clarke County, in which case references to the Town in this paragraph shall be read to include the Town and the County.

5.1.4 Grantee shall not interfere with the ability of competing cable operators and open video system operators designated by the Town (the "Competing Operators") to obtain the content of any of the programming on the PEG Channels. Grantee shall not object to the connection of compatible equipment to facilities located at the Town's PEG programming origination facility or facilities by Competing Operators for the purpose of obtaining access to the PEG Channel signals and transporting such signals to their subscribers by means of their own facilities, nor shall Grantee object to the transmission of the PEG Channel signals by Competing Operators.

5.1.5 The PEG Channels shall be carried on the Basic Service tier. The Grantee shall monitor the two (2) PEG Access Channels for technical quality and shall ensure that they are maintained so that they are capable of transmitting signals in accordance with technical standards equivalent to those which apply to the Cable System's commercial channels. Grantee shall insure that there is no material degradation in the quality of the Access Channel signals that are received by the Grantee for distribution by Grantee over the Cable System, as a result of the condition of the Return Links or associated equipment owned by Grantee.

5.2 PEG and I-NET Capital Support. In support of the Town's production of local PEG programming and the Institutional Network, if the Town submits a written request, Grantee shall provide an annual capital grant to the Town ("PEG and I-Net Capital Grant") in the amount of fifty cents ($0.50) per subscriber per month. Grantee's obligation to pay the PEG and I-Net Capital Grant shall commence ninety (90) days after the end of the billing quarter during which the Town's request was received (the "Grant Commencement Date"). Such grant shall be used by the Town for PEG access equipment, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, or for renovation or construction of PEG access facilities, as well as for I-Net capital purposes. Payment of the PEG and I-Net grant shall be made annually. The PEG and I-Net Grant payment, along with a brief summary of the information upon which it is based, shall be delivered to the Town annually, no later than sixty (60) days after each anniversary of the Grant Commencement Date.

5.3 PEG Indemnification. All local producers and users of any of the PEG facilities or Channels shall agree in writing to hold harmless Grantee and the Town from any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which result from the use of a PEG facility or Channel. Furthermore, all local producers and users of any of the PEG facilities or Channels shall agree in writing, and the Town shall require that such local producer or user agree in writing, to authorize Grantee to transmit programming consistent with this Agreement.

5.4 Itemization. To the extent permitted by federal law, the Grantee shall be allowed to recover the costs arising from the provision of the PEG and I-Net Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill. The parties agree that none of such costs constitutes or is part of any Franchise fee, and all such costs fall within one or more of the exceptions listed in 47 U.S.C. § 542.

5.5 I-Net Agreement. The County and the Grantee have agreed to the terms of a Fiber Use Agreement (the "Fiber Agreement"), pursuant to which the Grantee grants the County the continuing right to use the I-Net. The Grantee acknowledges that the Town is an authorized user of the I-Net, and acknowledges that the County and the Grantee have entered into the Fiber Agreement in lieu of agreeing on terms under which the Grantee would construct and maintain I-Net facilities to meet the Town's needs as part of this agreement. The parties further agree that any and all payments made to the Grantee pursuant to the Fiber Agreement are capital in nature

and that amounts payable to the Grantee pursuant to the Fiber Agreement may be paid from the PEG and I-Net Grant, and the Grantee expressly waives any claim that such payments are prohibited by any provision of applicable law.

SECTION 6 - Communications Tax and Franchise Fee

6.1 Communications Tax. Grantee shall comply with the provisions of Section 58.1-645 *et seq.* of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended (the "Communications Tax"), and Sections 6.2 through 6.6 of this Agreement shall not have any effect, for so long as the Communications Tax or a successor state or local tax that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of Cable Services by the Grantee to Subscribers in the Town.

6.2 Payment of Franchise Fee to Town. In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, Grantee shall pay to the Town a Franchise fee of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the "Repeal Date"). Beginning on the Repeal Date, the terms of Section 6.2 through 6.6 of this Agreement shall take effect. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than thirty (30) days following the end of each calendar quarter. Should Grantee submit an incorrect amount, Grantee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than ninety (90) days following the close of the calendar year for which such amounts were applicable; such correction shall be documented in the supporting information required under Section 6.3 below.

6.3 Supporting Information. Each Franchise fee payment shall be accompanied by a brief report prepared by a representative of Grantee showing the basis for the computation, and a breakdown by major revenue categories (such as Basic Service, premium service, etc.). The Town shall have the right to reasonably request further supporting information for each Franchise fee payment, subject to the confidentiality provision of Section 8.3.3.

6.4 Limitation on Franchise Fee Actions. The period of limitation for recovery of any Franchise fee payable hereunder shall be five (5) years from the date on which payment by Grantee is due.

6.5 Bundled Services. This Section 6.5 shall only apply if state or federal law does not otherwise address the computation of franchise fees or gross revenues in connection with the provision of Cable Service as part of a bundle or package with any Non-Cable Service. If the Grantee bundles Cable Service with Non-Cable Service, the Grantee agrees that it will not intentionally or unlawfully allocate such revenue for the purpose of evading the Franchise fee payments under this Agreement.

6.6. Audit.

6.6.1 Subject to the confidentiality requirements of Section 8.3.3 of this Agreement, the Town, or such Person or Persons designated by the Town, shall have the right to inspect and copy records and the right to audit and to recompute any amounts determined to be payable under this Franchise, without regard to by whom they are held. If an audit discloses an overpayment or underpayment of franchise fees or of the PEG and I-Net grant, the Town shall notify the Grantee of such overpayment or underpayment within ninety (90) days of the date the audit was completed. The Town, in its sole discretion, shall determine the completion date for any audit conducted hereunder. Audit completion is not to be unreasonably delayed by either party.

6.6.2 Subject to the confidentiality requirements of Section 8.3.3 of this Franchise, the Grantee shall be responsible for providing to the Town all records necessary to confirm the accurate payment of franchise fees and the PEG and I-Net grant. The Grantee shall maintain such records for five (5) years. The Town's audit expenses shall be borne by the Town unless the audit determines the payment to the Town should be increased by more than five percent (5%) in the audited period, in which case the costs of the audit shall be paid by the Grantee to the Town within thirty (30) days following written notice to the Grantee by the Town of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid by Grantee to the Town, such amount shall be subject to an interest charge of the Prime rate plus one percent (1%). If the audit determines that there has been an overpayment by the Grantee, the Grantee may credit any overpayment against its next payment; and, the Town shall waive the interest charge on any past due amounts that were a result of such overpayment by the Grantee. The auditor shall not be compensated on a success based formula, e.g., payment based on a percentage of any underpayment, if any.

6.6.3 The audit provisions set forth in this subsection shall similarly apply to the PEG and I-NET support payments specified in subsection 5.2 of this Franchise.

SECTION 7 - Customer Service Standards; Customer Bills; and Privacy Protection

7.1 Customer Service Standards. Customer service requirements are set forth in Exhibit B, which shall be binding unless amended by written consent of the parties.

7.2 Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (i) is not misleading and (ii) does not omit material information. Notwithstanding anything to the contrary in Section 7.2, above, the Grantee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

7.3 Privacy Protection. The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 8 - Oversight and Regulation by Town

8.1 Oversight of Franchise. In accordance with applicable law, the Town shall have the right to oversee, regulate and, on reasonable prior written notice and in the presence of Grantee's employee, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, as necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement.

8.2 Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Town shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

8.3 Maintenance of Books, Records, and Files.

8.3.1 Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Town, upon reasonable prior written notice to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area which are reasonably necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement at the Grantee's business office, during normal business hours, and without unreasonably interfering with Grantee's business operations. Such books and records shall include any records required to be kept in a public file by the Grantee pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters that may be the subject of an inspection by the Town shall be retained by the Grantee for a minimum period of three (3) years.

8.3.2 File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

8.3.3 Proprietary Information. Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, except as provided herein. The City shall further have the right to have independent consultants employed by the City review such disclosed information, contingent upon and subsequent to the execution by such consultants of any relevant non-disclosure agreements ("NDA") that may be required by the Franchisee. Such confidential information shall be subject to the following, to be applied as is most practicable for the purposes of this Agreement:

8.3.3.1 To the extent an exemption under the Virginia Freedom of Information Act permits the Town to maintain the confidentiality of submitted information and the Grantee submits such information to the Town, the Town shall maintain the confidentiality of such information and not disclose it to any public request; or

8.3.3.2 To the extent that information provided to an accountant, attorney, consultant, or any other agent of the Town ("Town Consultant") would not be subject to public disclosure under the Virginia Freedom of Information Act and the Town instructs the Grantee to provide such information to the Town Consultant as may be required by this Agreement, the Grantee shall provide such information to the Town Consultant and the Town shall not take possession of the information nor engage in any act that would jeopardize the confidentiality of such information; or,

8.3.3.3 Franchisee must provide the following documentation to the Town: (i) specific identification of the information; (ii) statement attesting to the reason(s) the Franchisee believes the information is confidential; and (iii) statement that the documents are available at the Franchisee's designated offices for inspection by the Town.

8.3.4 At all times, the Town shall take reasonable steps to protect the proprietary and confidential nature of any books, records, maps, plans or other Town-requested documents that are provided pursuant to this Agreement to the extent they are designated as such by the Franchisee. Nothing in this Section shall be read to require the Franchisee to violate federal or state law protecting Subscriber privacy.

8.4 Records Required. The Grantee shall at all times maintain:

8.4.1 Records of all written complaints for a period of three years after receipt by the Grantee. The term "complaint" as used herein refers to complaints about any aspect of the Cable System or Grantee's cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

8.4.2 Records of outages for a period of three years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.4.3 Records of service calls for repair and maintenance for a period of three years after resolution by Grantee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved; and

8.4.4 Records of installation/reconnection and requests for service extension for a period of three years after the request was fulfilled by Grantee, indicating the date of request, date of acknowledgment, and the date and time service was extended.

8.5 FCC Testing. Within fourteen (14) days of a written request by the Town, a written report of test results of FCC performance testing will be provided to the Town Manager.

8.6 Annual Report. Upon receipt of a written request from the Town, and no later than one hundred twenty (120) days after the end of the Grantee's fiscal year, the Grantee shall submit a written report to the Town, in a form reasonably satisfactory to the Town, which shall include:

8.6.1 An annual summary of complaints, identifying both number and nature of the complaints received and an explanation of the disposition.

8.6.2 A copy of the Grantee's rules, regulations and policies available to Subscribers of the Cable System, including but not limited to (i) all Subscriber rates, fees and charges; (ii) copies of the Grantee's contract or application forms for Cable Services; and (iii) a detailed summary of the Grantee's policies concerning the processing of Subscriber complaints; delinquent Subscriber disconnect and reconnect policies; Subscriber privacy and any other terms and conditions adopted by the Grantee in connection with the provision of Cable Service to Subscribers;

8.7 Periodic Review.

8.7.1 The Town may hold a performance evaluation hearing every year within sixty (60) days of each anniversary of the Effective Date of this Franchise. All such evaluation hearings shall be open to the public. The purpose of said evaluation hearing shall be to, among other things, (i) review the Grantee's compliance to the terms and conditions of this Franchise Agreement, with emphasis on PEG Access Channels, facilities and support; customer service and complaint response; and (ii) hear comments, suggestions and/or complaints from the public. The Town shall provide the Grantee with advance, written notice regarding any known compliance matters that the Town intends to address at the hearing.

8.7.2 The Town shall have the right to question the Grantee on any aspect of this Franchise Agreement including, but not limited to, the operation, maintenance and/or removal of the Cable System. During review and evaluation by the Town, the Grantee shall fully cooperate with the Town and/or his or her designee(s), and produce such documents or other materials relevant to such review as are reasonably requested from the Town. Any Subscriber or other Person may submit comments during such review hearing, either orally or in writing, and such comments shall be duly considered by the Town.

8.7.3 Within sixty (60) days after the conclusion of such review hearing(s), the Town may issue a written report with respect to the Grantee's compliance. If noncompliance is found which may result in a violation of any of the provisions of this Franchise Agreement, the Grantee shall respond in accordance with Section 12.1.

SECTION 9 - Transfer or Change of Control of Cable System or Franchise

9.1 No transfer of this Franchise shall occur without the prior written consent of the Town, which consent shall not be unreasonably withheld, delayed or conditioned. No transfer shall be made to a Person, group of Persons or Affiliate that is not legally, technically and financially qualified to operate the Cable System and satisfy the obligations hereunder.

SECTION 10 - Insurance and Indemnity

10.1 Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Town certificates of insurance designating the Town and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of One Million Dollars ($1,000,000.00) for bodily injury or death to any one person, and One Million Dollars ($1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars ($1,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Town. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Town from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement

10.2 Indemnification. The Grantee shall indemnify, defend and hold harmless the Town, its officers, employees, and agents from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that result from the Grantee's construction, operation, maintenance or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Town shall give the Grantee timely written notice of its obligation to indemnify and defend the Town within a reasonable time of receipt of a claim or action pursuant to this Section. If the Town determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Town.

SECTION 11 - System Description and Service

11.1 System Capacity. During the term of this Agreement the Grantee's Cable System shall be capable of providing a minimum of eighty (80) channels of video programming with satisfactory reception available to its Subscribers in the Franchise Area.

11.2 Service to School and Government Buildings. The Grantee shall provide without charge within the Franchise Area one service outlet activated for Basic Service to each existing public building listed in Exhibit A, including, without limitation, each public school, each public library, each location occupied by the Town police department, each location occupied by fire and rescue operations, and other locations occupied or used by the Town government for municipal purposes. During the term of this Agreement, the Town may designate additional such locations to receive one service outlet activated for Basic Service by submitting a request for service to the Grantee, and Grantee shall install the service outlet, including the drop line and any necessary equipment, within sixty (60) days of the Town's designation for any drop up to but not exceeding two hundred (200) feet. Exhibit A shall be deemed amended accordingly. For all service outlets, if it is necessary to extend the Grantee's trunk or feeder lines more than two hundred (200) feet solely to provide service to any such school or public building, the Town shall have the option either of paying Grantee's direct costs for such extension in excess of two hundred (200) feet, or of releasing Grantee from the obligation to provide service to such building. Furthermore, Grantee shall be permitted to recover, from any public building owner

entitled to free service, the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than two hundred (200) feet of drop cable; provided, however, that Grantee shall not charge for the provision of Basic Service to the additional service outlets once installed. The Town may extend its one outlet to additional locations throughout the building at its own installation expense without an additional monthly fee for the provision of Basic Service to those locations.

11.3 Standby Power. The Grantee shall provide standby power generating capacity at the headend and at all hubs. The Grantee shall maintain motorized standby power generators capable of up to twenty-four (24) hours duration at the headend and all hubs, with automatic response systems to alert the Grantee's Local Management Center when commercial power is interrupted. The power supplies serving the distribution plant shall be capable of providing power to the Cable System for not less than two (2) hours, in the event of an electrical outage.

11.4 Emergency Alert System. Grantee shall comply with the Emergency Alert System requirements of the FCC in order that emergency messages may be distributed over the System.

SECTION 12 - Enforcement of Franchise

12.1 Notice of Violation. In the event that the Town believes that Grantee has not complied with the terms of the Franchise, the Town shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Town shall notify Grantee in writing of the exact nature of the alleged noncompliance.

12.2 Grantee's Right to Cure or Respond. Grantee shall have thirty (30) days from receipt of the written notice described in Section 13.1 to: (i) respond to the Town, if Grantee contests (in whole or in part) the assertion of noncompliance; (ii) cure such default; or (iii) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Town of the steps being taken and the projected date that they will be completed.

12.3 Enforcement. Subject to applicable federal and state law and the terms and conditions of this Agreement, the Town may apply one or a combination of the following remedies if the Town determines that the Grantee is in default of any provision of the Franchise:

12.3.1 Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

12.3.2 Commence an action at law for monetary damages or seek other equitable relief; or

12.3.3 In the case of a substantial material default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 12.4; or,

12.3.4 Assess liquidated damages, or apply any other remedy provided for in this Agreement or applicable federal, state or local laws.

12.4 Revocation. Should the Town seek to revoke the Franchise, the Town shall give written notice to Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Town has not received a satisfactory response from Grantee, it may then seek termination of the Franchise at a public hearing. The Town shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

12.4.1 At the designated hearing, Grantee shall be provided a fair opportunity for full participation, in accordance with the standards and procedures then applicable for legislative matters before the Town Council.

12.4.2 Following the public hearing, Grantee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the Town shall determine (i) whether an Event of Default has occurred; (ii) whether such Event of Default is excusable; and (iii) whether such Event of Default has been cured or will be cured by the Grantee. The Town shall also determine whether to revoke the Franchise based on the information presented, or, where applicable, grant additional time to the Grantee to effect any cure. If the Town determines that the Franchise shall be revoked, the Town shall promptly provide Grantee with a written decision setting forth its reasoning. Grantee may appeal such determination of the Town to an appropriate court, which shall have the power to review the decision of the Town *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Town.

12.4.3 The Town may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Town's rights under the Franchise in lieu of revocation of the Franchise.

12.5 Performance Guarantees.

12.5.1 To ensure the performance of its obligations under this Franchise, the Grantee shall establish a security fund in the form of a letter of credit for the Town in the amount of ten thousand dollars ($10,000) (the "Security Fund"). Recovery under the letter of credit shall be in accordance with the procedures set forth in Section 12.6.3. If at the time of recovery under the letter of credit by the Town, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Grantee to the Town until it is paid. Within thirty (30) days of being notified that any amount has been recovered by the Town, the Grantee shall restore the letter of credit to the total amount specified above.

12.5.2 To further ensure the Grantee's faithful performance of its obligations hereunder, the Grantee shall obtain and maintain during the entire term of the Franchise, and any renewal or extensions thereof, a performance bond from a financial institution licensed to do business in Virginia in the amount of twenty thousand dollars ($20,000).

12.6 Liquidated Damages.

12.6.1 Because the Grantee's failure to comply with provisions of this Franchise may result in injury to the Town and because it may be difficult to quantify the extent of such injury, the Town and the Grantee agree that, subject to the procedures in Section 12.6.3, liquidated damages may be assessable against the Grantee for certain violations of provisions of this Franchise, and that such liquidated damages may be chargeable to the Grantee's Security Fund up to the limits specified below in the event of non-payment by the Grantee. On an annual basis from the Effective Date of the Franchise, liquidated damages in total will not exceed ten thousand dollars ($10,000) (the "Liquidated Damages Cap"). The Grantee hereby agrees that the liquidated damages specified herein are reasonable and do not constitute a penalty or fine. The liquidated damages shall not apply when non-compliance is caused by Force Majeure events and shall only apply from the date of notice being provided to the Grantee unless otherwise provided for or consistent with the time periods of notice and cure specific to certain liquidated damages.

12.6.1.1 Failure to supply information, reports, or filings lawfully required under the Franchise: **$50 per day** for each day the violation continues after the Grantee is given a thirty (30) day period to cure the failure and then written notice has been provided to the Grantee by the Town of such continuing violation;

12.6.1.2 Failure to file, obtain, maintain or replenish the security fund in a timely fashion: **$200 per day,** following a fourteen (14) day cure period;

12.6.1.3 For violation of applicable technical standards established by the FCC or other lawful authority: **$100 per day** for each day the violation continues after a thirty (30) day cure period;

12.6.1.4 For each day during which the Town determines that the Grantee has violated customer service standards pursuant to Exhibit B, except for those standards set forth in Subsection 12.6.1.5 below: $200 per violation, following a seven (7) day cure period, except that such cure period does not apply to customer service standards that themselves provide a time to act or a specific cure period;

12.6.1.5 For failure to meet customer service standards with regard to telephone answering time, time to transfer a call to a customer service representative,-or excessive busy signals: if such standards are not met according to the terms in which such standards are established in Exhibit B: $100 for each quarter in which such standards were not met if the failure was by less than 5%; $200 for each quarter in which such standards were not met if the failure was by 5% or more but less than 15%; and $300 for each quarter in which such standards were not met if the failure was by 15% or more;

12.6.1.6 For failure to comply with the requirements for the provision of PEG programming: **$50 per day.**

12.6.2 The Town Manager or Town Council may reduce or waive any of the above-listed liquidated damages if the Town Manager or Town Council determines that such waiver is in the best interests of the Town.

12.6.3 If the Town Manager, following reasonable notice to the Grantee to cure any problem (except for specific notice periods as may be contained in this Agreement) that might result in liquidated damages pursuant to the Agreement, determines that the assessment of liquidated damages is justified, he or she shall issue to the Grantee, by certified mail, a notice of intention to assess liquidated damages. The notice shall set forth the basis of the assessment, and shall inform the Grantee that liquidated damages will be assessed from the date of the notice unless the assessment notice is appealed for hearing before the Town Council and the Town Council rules (1) that the violation has been corrected, or (2) that an extension of the time or other relief should be granted, or (3) the Town Council disagrees with the findings of the Town Manager. If the Grantee desires a hearing before the Town Council, it shall send a written notice of appeal, by certified mail, to the Town Manager within ten (10) days of the date on which the Town Manager sent the notice of intention to assess liquidated damages. After the hearing, if the Town Council sustains, in whole or in part, the Town Manager's assessment of liquidated damages, the Town Council may at any time thereafter draw upon the security fund for the amount reviewed by the Town Council after providing the Grantee thirty (30) days to pay said amount. Unless the Town Council indicates to the contrary, said liquidated damages shall be assessed beginning with the date on which the Town Manager sent the notice of intention to assess liquidated damages and continuing thereafter until such time as the violation ceases, as determined by the Town Manager.

12.7 Technical Violation. The Town agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area.

SECTION 13 - Miscellaneous Provisions

13.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by events which constitute a Force Majeure, as defined herein.

13.2 Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Town:

To the Grantee: Comcast/Paul Comes

600 Hays Avenue
Staunton, Virginia 24401
Attn: Government Affairs Department

With copies to:

Comcast Cable
7850 Walker Drive
Greenbelt, MD 20770
Attn.: Government Affairs Department

And to:

Comcast Cable Northeast Division
676 Island Pond Rd.
Manchester, NH 03109
Attention: Government Affairs Department

13.3 Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Town and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. If the terms of this Agreement are materially altered due to changes in governing law (including but not limited to the law of the Franchisors), then the parties shall negotiate in good faith to reconstitute this Agreement in a form that is consistent with such law and also, to the maximum extent possible, is consistent with the original intent of Franchisee and the Franchisors and preserves the benefits bargained for by each party.

13.4 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

13.5 Incorporation by Reference.

13.5.1 All presently and hereafter applicable conditions and requirements of federal, State and local laws, including but not limited to the rules and regulations of the FCC and the Commonwealth of Virginia, as they may be amended from time to time, are incorporated herein by reference to the extent not enumerated herein. All such general laws, rules and regulations, as amended, shall control the interpretation and performance of this Franchise to the

extent that any provision of this Franchise conflicts with or is inconsistent with such laws, rules or regulations.

13.5.2 Should the Commonwealth of Virginia, the federal government or the FCC require Grantee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Town and Grantee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

13.5.3 Governing Law. This Franchise Agreement shall be deemed to be executed in the Commonwealth of Virginia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Virginia, as applicable to contracts entered into and performed entirely within the Commonwealth.

13.6 Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Town and the Grantee, which amendment shall be authorized on behalf of the Town through the adoption of an appropriate resolution or order by the Town, as required by applicable law.

13.7 No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

13.8 No Waiver of Rights.

13.8.1 The failure of the Town on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the Cable Ordinance or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the Town, nor to excuse Grantee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

13.8.2 The failure of the Grantee on one or more occasions to exercise a right under this Franchise Agreement or applicable law, or to require performance under this Franchise Agreement, shall not be deemed to constitute a waiver of such right or of performance of this Agreement, nor shall it excuse the Town from performance, unless such right or performance has been specifically waived in writing

13.9 Administration. The administration of this Agreement shall be vested in the Town Manager, or his or her designee. When not otherwise prescribed herein, all matters herein required to be filed with the Town shall be filed with the Town Manager.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

Attest:

Town of Berryville

By: _____
Name: _____
Title: _____

Attest:

Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC.

By: _____
Name: Mary McLaughlin
Title: Regional Senior Vice President

Date: _____

EXHIBIT A

FACILITIES TO BE PROVIDED COURTESY CABLE SERVICE

Location	Address	
Government Center	101 Chalmers Ct.	Berryville VA 22611
Public Works	201 Tom Whitacre Cir	Berryville VA 22611
Sheriff's Office	100 N Church St	Berryville, VA 22611
Circuit Court Building	102 N Church St	Berryville, VA 22611
General District Court	104 N Church St	Berryville, VA 22611
Social Services	311 E Main St	Berryville, VA 22611
Old Library	36 E Main St	Berryville, VA 22611
Enders Fire Station	9 S Buckmarsh St	Berryville, VA 22611
Johnson-Williams Middle School	200 Swan Ave	Berryville, VA 22611
School Board Office	309 W Main St	Berryville, VA 22611
Pupil Personnel	321 W Main St	Berryville, VA 22611
Alternative Education	317 W Main St	Berryville, VA 22611
High School	627 Mosby Blvd	Berryville, VA 22611

EXHIBIT B

CUSTOMER SERVICE STANDARDS

SECTION 1: DEFINITIONS

A. Respond: Grantee's investigation of a Service Interruption by receiving a Subscriber call and opening a trouble ticket, if required.

B. Service Call: The action taken by the Grantee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

C. Significant Outage: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the Franchise Area.

D. Standard Installation: Installations where the Subscriber is within two hundred (200) feet of trunk or feeder lines.

E. Normal Operating Conditions: Those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather. Those conditions which are ordinarily within the control of the Franchisee 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.

SECTION 2: TELEPHONE AVAILABILITY

A. The Grantee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Grantee representatives trained and qualified to answer questions related to Cable Service in the Franchise Area must be available to receive reports of Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and other inquiries at least forty-five (45) hours per week. Grantee representatives shall identify themselves by name when answering this number.

B. The Franchisee's toll-free telephone numbers will appear on Subscriber bills, the Franchisee's website and in the annual notice.

C. Grantee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber does not enter an option, the menu will default to the first tier menu of English options.

After the first tier menu (not including a foreign language rollout), if Subscribers do not select any option, the ARU or VRU will forward the call to a queue for a live representative. The Grantee may reasonably substitute this requirement with another method of handling calls from Subscribers who do not have touch-tone telephones.

D. Under Normal Operating Conditions, calls received by the Grantee shall be answered within thirty (30) seconds. The Grantee shall meet this standard for ninety percent (90%) of the calls it receives at all call centers receiving calls from Subscribers in the Town, as measured on a cumulative quarterly calendar basis. Measurement of this standard shall include all calls received by the Grantee at all call centers receiving calls from Subscribers in the Town, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting.

E. Under Normal Operating Conditions, callers to the Grantee shall receive a busy signal no more than three (3%) percent of the time during any calendar quarter.

F. Upon request from the Town, but in no event more than once a quarter thirty (30) days following the end of each quarter, the Grantee shall report to the Town the following for all call centers receiving calls from Subscribers except for temporary telephone numbers set up for national promotions:

(1) Percentage of calls answered within thirty (30) seconds as set forth in Subsection 2.D.

(2) Percentage of time Subscribers received busy signal when calling the customer service center as set forth in Subsection 2.E.

Subject to consumer privacy requirements, underlying activity will be made available to the Town for review upon reasonable request.

G. At the Grantee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters. The Grantee shall notify the Town of such a change at least thirty (30) days in advance of any implementation.

SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

A. All installations will be in accordance with FCC rules, including but not limited to, appropriate grounding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of the Grantee-supplied equipment and Cable Service. Drop wires in underground service areas that are temporarily placed above ground shall be buried within thirty (30) calendar days of the date and time of the temporary installation, except in those situations where weather conditions make trenching impractical.

B. Under Normal Operating Conditions, Standard Installations shall be performed within seven (7) business days after an order is placed.

The Grantee shall meet this standard under Normal Operating Conditions for ninety-five percent (95%) of the Standard Installations it performs, as measured on a calendar quarter basis.

C. The Grantee shall provide the Town with a report upon request from the Town, but in no event more than once a quarter thirty (30) days following the end of each quarter, noting the percentage of Standard Installations completed within the seven (7) day period. Those requested outside of the seven (7) day period by the Subscriber will be included as compliant. Subject to consumer privacy requirements, underlying activity will be made available to the Town for review upon reasonable request.

At the Grantee's option, the measurements and reporting of above may be changed from calendar quarters to billing or accounting quarters. The Grantee shall notify the Town of such a change not less than thirty (30) days in advance.

D. The Grantee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block during appropriate daylight available hours, usually beginning at 8:00 AM unless it is deemed appropriate to begin earlier by location exception. At the Grantee's discretion, the Grantee may offer Subscribers appointment arrival times other than these four (4) hour time blocks, if agreeable to the Subscriber. These hour restrictions do not apply to weekends.

E. Upon the Subscriber's request, the Grantee's service representatives will have the ability to issue service credits, at their sole discretion, to address Subscriber complaints related to missed appointments.

F. Under Normal Operating Conditions, the Grantee may not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment. If the Grantee representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the Subscriber.

G. Between the time a new Subscriber is signed up for service and the time service is installed, he or she shall be afforded a right of rescission.

SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

A. The Grantee shall exercise commercially reasonable efforts to limit any Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Grantee may schedule a Significant Outage for a period of more than four (4) hours during any twenty-four (24) hour period only after the Town and each affected Subscriber in the Franchise Area have been given fifteen (15) days prior notice of the proposed Significant Outage.

Notwithstanding the foregoing, Franchisee may perform modifications, repairs and upgrades to the System without prior notification between 12.01 a.m. and 6 a.m., which may interrupt service.

B. Grantee representatives who are capable of responding to Service Interruptions must be available to Respond twenty-four (24) hours a day, seven (7) days a week.

C. Under Normal Operating Conditions, the Grantee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) Within twenty-four (24) hours, including weekends, of receiving Subscriber calls respecting Service Interruptions in the Franchise Area.

(2) The Grantee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the Town of a Cable Service problem.

D. Under Normal Operating Conditions, the Grantee shall complete Service Calls within seventy-two (72) hours of the time Grantee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption.

E. The Grantee shall meet the standard in Subsection D. of this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

F. The Grantee shall provide the Town with a report upon request from the Town, but in no event more than once a quarter within thirty (30) days following the end of each calendar quarter, noting the percentage of Service Calls completed within the seventy-two (72) hour period not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy-two (72) hour period as set forth in this Section. Subject to consumer privacy requirements, underlying activity will be made available to the Town for review upon reasonable request. At the Grantee's option, the above measurements and reporting may be changed for calendar quarters to billing or accounting quarters. The Grantee shall notify the Town of such a change at least thirty (30) day in advance.

G. Under Normal Operating Conditions, the Grantee shall provide a credit upon Subscriber request when all Channels received by that Subscriber are out of service for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) current monthly bill. In order to qualify for the credit, the Subscriber must promptly report the problem and allow the Grantee to verify the problem if requested by the Grantee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

H. Under Normal Operating Conditions, if a Significant Outage affects all Video Programming Cable Services for more than twenty-four (24) consecutive hours, the Grantee shall issue a credit to every affected Subscribers who contacts the Grantee in connection with such Outage, including, without limitation, to notify Grantee of the Outage, to request a credit, or to

inquire as to the remedies available for loss of service related to the Outage. The credit shall be in the amount equal to the respective Subscriber's monthly recurring charges for the proportionate time the Cable Service was out, or in the amount equal to the charge for the basic plus enhanced basic level of service for the proportionate time the Cable Service was out, whichever is technically feasible or, if both are technically feasible, as determined by Grantee provided such determination is non-discriminatory. Such credit shall be reflected on Subscriber billing statements within the next available billing cycle following the outage. Failure to provide a credit in a timely manner in accordance with this section shall be deemed a violation of customer service standards, and subject to all applicable remedies, including, without limitation, liquidated damages pursuant to Section 13.7.1.5 of the Franchise Agreement.

I. With respect to service issues concerning Cable Services provided to Town facilities, Grantee shall Respond to all inquiries from the Town within four (4) hours and shall commence necessary repairs within twenty-four (24) hours under Normal Operating Conditions. If such repairs cannot be completed within twenty-four (24) hours, the Grantee shall notify the Town in writing as to the reason(s) for the delay and provide an estimated time of repair.

J. The Grantee shall keep maintenance crew and repair staff to meet the Grantee's obligations under these Customer Service Standards.

SECTION 5: CUSTOMER COMPLAINTS

Under Normal Operating Conditions, the Grantee shall investigate Subscriber complaints referred by the Town within seventy-two (72) hours. The Grantee shall notify the Town of those matters that necessitate an excess of seventy-two (72) hours to resolve, but those matters must be resolved within fifteen (15) days of the initial complaint. The Town may require reasonable documentation to be provided by the Grantee to substantiate the request for additional time to resolve the problem. For purposes of this Section, "resolve" means that the Grantee shall perform those actions, which, in the normal course of business, are necessary to investigate the Subscriber's complaint and advise the Subscriber of the results of that investigation.

SECTION 6: BILLING

A. Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Grantee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, taxes and/or other governmentally imposed fees. The Grantee shall maintain records of the date and place of mailing of bills.

B. Every Subscriber with a current account balance sending payment directly to Grantee shall be given at least twenty (20) days from the date statements are mailed to the Subscriber until the payment due date.

C. A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however,

the current portion of that bill shall not be considered past due except in accordance with Subsection 6.B. above.

D. Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved provided that:

(1) The Subscriber pays all undisputed charges;

(2) The Subscriber provides notification of the dispute to Grantee within five (5) days prior to the due date; and

(3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.

(4) It shall be within the Grantee's sole discretion to determine when the dispute has been resolved.

E. Under Normal Operating Conditions, the Grantee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

F. The Grantee shall provide a telephone number and address on the bill for Subscribers to contact the Grantee. The Town, furthermore, hereby requests that Grantee omit publishing information specified in 47 C.F.R. § 76.952.

G. The Grantee shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the Town upon written request.

H. The Grantee shall provide all Subscribers with the option of paying for Cable Service by check or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. Grantee may in the future, at its discretion, permit payment by using a major credit card on a preauthorized basis. Based on credit history, at the option of the Grantee, the payment alternative may be limited.

SECTION 7: DEPOSITS, REFUNDS AND CREDITS

A. The Grantee may require refundable deposits from Subscribers with 1) a poor credit or poor payment history, 2) who refuse to provide credit history information to the Grantee, or 3) who rent Subscriber equipment from the Grantee, so long as such deposits are applied on a non-discriminatory basis.

B. The Grantee shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one year and provided the Subscriber has demonstrated good payment history during this period. The Grantee shall pay interest on other deposits if required by law.

C. Under Normal Operating Conditions, refund checks will be issued within next available billing cycle following the resolution of the event giving rise to the refund, (e.g. equipment return and final bill payment).

D. Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

E. Bills shall be considered paid when appropriate payment is received by the Grantee or its authorized agent. Appropriate time considerations shall be included in the Grantee's collection procedures to assure that payments due have been received before late notices or termination notices are sent.

SECTION 8: RATES, FEES AND CHARGES

A. The Grantee shall not, except to the extent expressly permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Grantee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Grantee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect the Grantee's equipment (for example, a dog chew).

B. The Grantee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice.

SECTION 9: DISCONNECTION /DENIAL OF SERVICE

A. The Grantee shall not terminate Cable Service for nonpayment of a delinquent account unless the Grantee provides a notice of the delinquency and impending termination. The notice shall be mailed to the Subscriber to whom the Cable Service is billed. The notice of delinquency and impending termination may be part of a billing statement.

B. Cable Service terminated in error must be restored without charge within twenty-four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Service Interruption was reported by the Subscriber.

C. Nothing in these standards shall limit the right of the Grantee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Grantee's equipment, abusive and/or threatening behavior toward the Grantee's employees or representatives, or refusal to provide credit history information or refusal to allow the Grantee to validate the identity, credit history and credit worthiness via an external credit agency.

D. Charges for Cable Service will be discontinued at the time of the requested termination of service by the Subscriber, except equipment charges may by applied until equipment has been returned. No period of notice prior to requested termination of service can be required of Subscribers by the Grantee. No charge shall be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request, unless there is a delay in returning Grantee equipment or early termination charges apply pursuant to the Subscriber's service contract. If the Subscriber fails to specify an effective date for disconnection, the Subscriber shall not be responsible for Cable Services received after the day following the date the disconnect request is received by the Grantee. For purposes of this subsection, the term "disconnect" shall include Subscribers who elect to cease receiving Cable Service from the Grantee and to receive Cable Service or other multi-channel video service from another Person or entity.

SECTION 10: COMMUNICATIONS WITH SUBSCRIBERS

A. All Grantee personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of the Grantee shall wear a clearly visible identification card bearing their name and photograph. The Grantee shall make reasonable effort to account for all identification cards at all times. In addition, all Grantee representatives shall wear appropriate clothing while working at a Subscriber's premises. Every service vehicle of the Grantee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Grantee vehicles shall have the Grantee's logo plainly visible. The vehicles of those contractors and subcontractors working for the Grantee shall have the contractor's / subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to the Grantee.

B. All contact with a Subscriber or potential Subscriber by a Person representing the Grantee shall be conducted in a courteous manner.

C. The Grantee shall send annual notices to all Subscribers informing them that any complaints or inquiries not satisfactorily handled by the Grantee may be referred to the Town.

D. All notices identified in this Section shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

E. The Grantee shall provide reasonable notice to Subscribers of any pricing changes or additional changes (excluding sales discounts, new products or offers) and, subject to the forgoing, any changes in Cable Services, including channel line-ups. Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of the Grantee, and the Grantee shall provide a copy of the notice to the Town including how and where the notice was given to Subscribers.

F. The Grantee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 10.E., at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the Grantee:

(1) Products and Cable Service offered;

(2) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by the Grantee related to Cable Service;

(3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;

(4) Channel positions of Cable Services offered on the Cable System;

(5) Complaint procedures, including the name, address and telephone number of the Town, but with a notice advising the Subscriber to initially contact the Grantee about all complaints and questions;

(6) Procedures for requesting Cable Service credit;

(7) The availability of a parental control device;

(8) Grantee practices and procedures for protecting against invasion of privacy; and

(9) The address and telephone number of the Grantee's office to which complaints may be reported.

A copy of all notices to Subscribers required by this Subsection 10.F. will be given to the Town as soon as possible.

G. Notices of changes in rates shall indicate the Cable Service new rates and old rates, if applicable.

H. Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

I. Every notice of termination of Cable Service shall include the following information:

(1) The name and address of the Subscriber whose account is delinquent;

(2) The amount of the delinquency for all services billed;

(3) The date by which payment is required in order to avoid termination of Cable Service; and,

(4) The telephone number for the Grantee where the Subscriber can receive additional information about their account and discuss the pending termination.