

City of Biddeford
Cable T.V. Committee
February 10, 2020 4:30 PM
15 Columbus Way
Biddeford, ME 04005

- 1. Roll Call**
- 2. Welcome Guests**
- 3. Approval of Minutes - *January 13, 2020***
 - 3.1. Minutes of January 13, 2020
[20200113Cable TV Committee Minutes](#)
- 4. New Business**
- 5. Old Business**
 - 5.1. Review of Franchise Agreement
[20050715 Biddeford Franchise Agreement - TWC](#)
[CTAM Generic Cable Franchise Renewal Agreement - Template](#)
[CTAM Overview of Cable Franchise Renewal Process](#)
[CTAM Summary - Municipal Benefits under Cable Franchise Renewals](#)
[2018 CTAM Condensed Franchise Renewal Process Advice](#)
[CTAM Generic Franchise Renewal Process with Suggested Assignments - Template](#)
[CTAM 2020 Cable TV Survey Slides](#)
[CTAM 2020 Generic Cable TV Survey](#)
[CTAM Generic Ascertainment Report](#)
[CTAM Generic Commencement of Proceedings Letter - Template](#)
[CTAM Public Access Q&A](#)
[CTAM Generic Cable Television Ordinance](#)
- 6. Other Business**
- 7. Executive Session - *1 MRS 405(6)(c)***
- 8. Next Meeting Review - *Tentative next regular meeting date - Monday, March 9, 2020***
- 9. Adjourn**

CITY OF BIDDEFORD

CABLE T.V. COMMITTEE

SCHEDULED MEETING – JANUARY 13, 2020

The meeting of the Cable T.V. Committee was called to order at 4:32 p.m. on January 13, 2020 in the Biddeford Public Access Building. Present were Members Councilor Stephen St. Cyr, Lou Belanger, Richard Rhames, Jim Emerson, Toni Sipka, and Don Harper. Chief Operating Officer/Technology Director Brian Phinney and Public Access Director Steve Pulos were also present.

Tony Vigue, the guest speaker, was formally welcomed.

It was on Motion duly made by Jim Emerson, and seconded by Committee Member Toni Sipka, unanimously

RESOLVED: To Accept the Minutes of November 12, 2019, as written.

New Business:

It was on Motion duly made by Committee member Toni Sipka, and seconded by Jim Emerson, unanimously.

RESOLVED: To Nominate Stephen P. St. Cyr, City Councilor, as Chairperson of the Cable T.V. Committee.

It was confirmed that the Cable T.V. Committee's schedule is to meet on the second Monday of each month. The Committee decided that they would meet, as scheduled, if there was a quorum and if the Chairman could not attend, an interim Chairman would be selected at the beginning of that meeting.

Committee member Richard Rhames stated the lights on the marquee on the Public Access building are still out. Steve Pulos stated he has spoken to N.R. Electric 3 times and they still have not come to replace the lights. Steve said he notified Jerry Lapierre who was going to contact N.R. Electric again.

Old Business: Cable TV Franchise Agreement – Guest Speaker, Tony Vigue

Brian Phinney explained the process leading up to the Franchise Agreement negotiations. Basically, he stated that the Committee will evaluate the agreement, make comments, and then return the document to the City Manager for delivery to the City Council, where they will discuss it in Executive Session. In conclusion, the City Manager will engage in negotiations as per the Council Order.

Brian added that Tony Vigue, tonight's guest speaker, is engaged financially so he can act as an advisor.

Brian informed the Committee that if there is a question as to strategy, the Committee can go into Executive Session.

Tony Vigue began by thanking the Committee and stating that it is his job to educate and be a resource so the Committee can be better informed to make its future decisions. Two documents were distributed and Mr. Vigue explained one was the franchise agreement, where he listed, page by page, the items he felt the Committee should be concerned about when creating a new franchise agreement. Mr. Vigue stated that it is important to use the City's Attorney for information, guidance, and consulting, along the way, especially when corresponding with the cable operator.

CABLE T.V. COMMITTEE

January 13, 2000

Page Two

Mr. Vigue explained there are 2 trains of thought as to the length of an agreement. Mr. Vigue stated that over the years, due to changes in the FCC rules and regulations that deal with cable franchising, Cable Company lawyers have made things more beneficial to the corporations which has led to the degradation of the Municipal protections and benefits that used to be enjoyed.

Mr. Vigue explained that Charter is the corporate name and Spectrum is the product line. In 1996, cable companies went to congress with a plan to be deregulated stating there will be a tremendous amount of competition and the prices will come down. Through mergers and acquisitions the exact opposite happened; prices went up and the competition went down.

Mr. Vigue returned to the second document the Committee received and said this is to make recommendations through an ascertainment report which is a needs assessment seeking community members' input.

If the City fails to meet the deadline, Mr. Vigue informed the Committee that the current franchise agreement stays in place. Mr. Vigue said he is fairly comfortable with the agreement the City has now and it just needs tweaking.

After Richard Rhames gave a little background on the last time the city negotiated a cable contract, Mr. Vigue stated the first thing the City needs to do is respond to the letter it received from the Cable Company notifying it the franchise will be ending and asking how it would like to proceed. Mr. Vigue asked for clarification on the status of the initial notice.

Brian Phinney stated that when Charter sent that letter to the City, the City responded with the notice of informal proceedings reserving the ability to transition to formal proceedings. Mr. Vigue said he will send Mr. Phinney a copy of the model letter he has and continued down a list of items the Committee should look into to prepare for the negotiations. Brian Phinney added that the Committee can download all of the sample documents from the CTAM website and Mr. Vigue said he will give the Committee copies of some actual Town surveys that are not on the website.

Mr. Vigue explained that formal negotiations are more structured with timelines and public hearings. Mr. Vigue continued by stating the City needs to also send along, with the letter, a list of questions if so inclined to support its position as may be needed.

There was a lengthy discussion on where to begin. The consensus was to look at the sample documents and surveys and put a plan in place for future meetings. Brian Phinney suggested having Danica Lamontagne, the City's Communications Coordinator, come in to discuss the survey portion.

Mr. Vigue stated that you will already have the forms so the only thing to do is enter the information requests into a second letter to send to the Cable Company and then the biggest problem is waiting for a response.

There being no **Other Business** or need for **Executive Session**, next was to set the next Meeting for February 10 2020.

Chairman St. Cyr asked Brian Phinney to put the Agenda together and send packets to the Committee early so they have time to look it over before the next Meeting.

There being no further business to come before the Committee, it was on Motion by (unknown) and seconded by (unknown), unanimously

RESOLVED: To adjourn.

Respectfully submitted by P. Conway 34 & 35/35

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Via Federal Express
July 20, 2005

PETER J. EPSTEIN
WILLIAM AUGUST

Clairma Matherne
Acting City Manager
Biddeford City Hall
205 Main Street
Biddeford, ME 04005

Re: Transmittal of Original, Fully Executed Cable Renewal Contract/Franchise

Dear Clairma:

Enclosed please find fully executed, original cable renewal franchise as recently negotiated by the City of Biddeford and Time Warner Cable. City Councilor Wayne McBrearity, the Council's cable liaison to the Cable Committee, asked me to send this original to your attention. As one of only two originals of the franchise, please retain the document as needed and make copies as needed for the City's cable files. I would appreciate it if you alert Wayne upon receipt, as he has been monitoring this process closely.

Thank you. As always, feel free to call with any questions whatsoever.

Very truly yours,


Bill August

Enc.

**STATE OF MAINE
CITY OF BIDDEFORD**

**RENEWAL CABLE TELEVISION FRANCHISE ISSUED TO
Time Warner Entertainment Company, L.P.**

INTRODUCTION

- >
- > WHEREAS, Time Warner Entertainment Company, L.P., (hereinafter "Franchisee" or "Time Warner Cable") is the duly authorized holder of a franchise to operate a Cable System in the City of Biddeford, Maine (hereinafter the "City"), as amended, said franchise having originally commenced on October 22, 1993 as previously issued to TCI of Southern Maine, Inc.

- > WHEREAS, Franchisee filed a written request for a renewal of its franchise by letter dated January 9, 2001, in conformity with the Cable Communications Policy Act of 1984;

- > WHEREAS, there has been an opportunity for public comment, and both parties conducted ascertainment regarding the future cable-related needs of the community, as required by Section 626(h) of the Cable Communications Policy Act;

- > WHEREAS, the City Council, as the Franchising Authority, finds that the renewal of Franchisee's franchise is appropriate in light of its past performance and its renewal proposal with the parties having negotiated a mutually beneficial renewal framework as set forth in this Renewal Franchise;

- > NOW THEREFORE, after due and full consideration, the Franchising Authority and Franchisee agree that this Renewal Franchise is issued upon the following terms and conditions, as set forth herein.

ARTICLE 1
DEFINITIONS

Section 1.1 - DEFINITIONS

For the purpose of this Franchise, the following words, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Access Channel - A video programming channel which Franchisee makes available to the Franchising Authority without cost to the User or City for the purpose of transmitting non-commercial, not-for-profit programming by members of the public, City department and agencies, public schools and educational, institutional and other non-profit organizations, subject to and in accordance with 47 U.S.C. 531 and the terms herein.

Access Designee: The entity or entities, or person(s) as may be designated by the Franchising Authority, and pursuant to the terms herein, for the purpose of operating and managing the use of Public Access funding, equipment and channels on the cable television system in accordance with 47 United States Code 531 and the terms herein.

Cable Communications Policy Act of 1984 ("CCPA" or "Cable Act"): Public Law No. 98-549, 98 Stat. 2779 (1984), amending the Communications Act of 1934, and effective on December 29, 1984, as further amended by the Cable Television Consumer Protection and Competition Act of 1992, Public Law No. 102-385 106 Stat. 1460 (1992) and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996).

Cable Service: The transmission to subscribers of video programming or other programming services, together with subscriber interaction, if any, which is required for

the selection or use of such programming which Franchisee may make available to subscribers generally, in accordance with the Cable Act.

Cable System: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within the City.

Channel: A band of frequencies in the electromagnetic spectrum, or any other means of transmission (including without limitation, optical fibers or any other means now available or that may become available), which is capable of carrying a composite video signal

City: The City of Biddeford, Maine, a body corporate and politic located in York County in the State of Maine.

Downstream Channel: A channel over which signals travel from the Cable System headend to an authorized recipient of programming.

Educational Access: The specific channel, or time allocated on an Access Channel and the programming thereon on the Cable System which has been allocated for use by educational organizations and institutions in the City of Biddeford, and the use thereof, to present non-commercial, not-for-profit educational programming or information as determined by the Franchising Authority, and in accordance with 47 U.S.C. 531 and the terms hereof.

Effective Date: July 7, 2005

FCC: The Federal Communications Commission, or any successor agency.

Franchisee: Time Warner Entertainment Company, L.P., doing business as Time Warner Cable, or any successor or transferee in accordance with the terms and conditions in this Franchise.

Franchising Authority: The City Council of the City of Biddeford, Maine.

Government Access: The channel, or time allocated on an Access Channel, and the programming thereon on the Cable System which has been allocated for use by the City of Biddeford, the Franchising Authority or their designee(s), and the use thereof, to present non-commercial, not-for-profit programming or information and determined by the Franchising Authority, and in accordance with 47 U.S.C. 531 and the terms hereof.

Gross Annual Revenues: All revenue received by Franchisee from operation of the Cable System within the City of Biddeford to provide Cable Service, including but not limited to subscriber cable service charges, installation revenues (including, among other things, reconnection and second set), equipment charges, advertising revenues as prorated to include those attributable to the Biddeford Cable System, leased access revenues, home shopping revenues and any other revenues from the operation of the cable television system in the City of Biddeford to provide Cable Service; provided, however, that gross annual revenues shall not include, to the extent consistent with Generally Accepted Accounting Principles ("GAAP"), adjustments to cash receipts and non-operating cash receipts for bad debts, refunds, credit adjustments, returned checks charges, late fees and asset sales when such sales do not occur in the ordinary course of business. Franchisee shall include Cable Modem or Internet revenues within Gross Revenues if Congress, F.C.C. or court of competent jurisdiction binding in the State of Maine rules that such revenues are permitted to be counted in such gross revenue calculations under Title VI of the Communications Act.

Leased Access Channel: Any channel available for lease for programming by persons other than Franchisee subject to and in accordance with 47 U.S.C. 532.

Local Origination: Local programming produced by the Franchisee and/or its staff.

Municipal Access Channel: Any channel, or time allocated on an Access channel, which has been allocated for use by the Franchising Authority or his/her designee for

non-commercial, not-for-profit access programming purposes in accordance with 47 United States Code 531 and the terms herein.

Pay Cable or Premium Cable Services: Programming delivered for a fee or charge to subscribers on a per-channel basis or as a package of services, not including basic service and other regulated tiers.

Prior Franchise: The Cable Television Franchise in effect prior to the execution of this Renewal Franchise, for the period October 22, 1993 through October 21, 2003 previously issued to TCI of Southern Maine, Inc.

Public Access: Any specific channel, or time allocated on an Access Channel, on the Cable System which has been allocated for use by individuals and/or organizations, and the use thereof, to present non-commercial, not-for-profit programming in accordance with 47 U.S.C. 531 and the terms hereof.

Public, Educational and Government Access ("PEG Access"): The right or ability of any Biddeford residents or organizations, schools and governmental entities to use designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal Franchise.

Public Ways: The surface of, as well as the spaces above and below, any and all public streets, avenues, alleys, highways, boulevards, concourses, driveways, bridges, tunnels, parkways and ways that are in the nature of streets and roads or any other easements or rights of way dedicated for compatible uses, and other publicly owned real ways within or belonging to the City now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the City that its property rights are sufficient to permit its use for any purpose without applicable legally required permits, or that the Franchisee shall gain or be permitted to

exercise any rights to use property in the City greater than those already possessed by the City.

Upstream Channel: A channel over which signals travel over the Cable System to the headend from remote points of origination.

ARTICLE 2
GRANT AND TERM OF FRANCHISE

Section 2.1 - GRANT OF FRANCHISE

Pursuant to the franchise renewal provisions of the federal Cable Act, 47 U.S.C. 546 and 30-A M.R.S.A. s.3008 and s.3010, and subject to the terms and conditions set forth herein, the City Council, as the Franchising Authority of the City, hereby grants a non-exclusive cable television renewal franchise to Franchisee, authorizing and permitting Franchisee to continue to operate, maintain, upgrade, install, extend and construct a Cable System within the corporate limits of the City of Biddeford.

Section 2.2 - RIGHTS AND PRIVILEGES OF FRANCHISEE

Subject to the terms and conditions herein, the Franchising Authority hereby grants to Franchisee, the right to construct, upgrade, install, operate and maintain a Cable System in, under, over, along, across or upon the Public Ways of the City of Biddeford within its municipal boundaries and subsequent additions thereto for the purpose of operating a Cable System subject to and in accordance with all applicable laws.

Section 2.3 - APPLICABLE LAW

This Franchise is granted under, in compliance with and subject to 30-A M.R.S.A. s.3008 and s.3010 and the laws of the State of Maine and in compliance with applicable federal law, including, but not limited to, all rules of the Federal Communications Commission ("FCC"), as amended, and in compliance with and subject to all other state and federal laws, regulations and/or ordinances or by-laws in force and effect during the period for which this Franchise is granted. Any reference herein to federal and state laws, by-laws and ordinances, whether statutory or regulatory, shall be deemed to encompass the present terms thereof as amended from time to time during the franchise term and the

Franchising Authority reserves such rights as may arise pursuant to such amendments, if any.

Section 2.4 - TERM OF RENEWAL FRANCHISE

The term of this non-exclusive Renewal Franchise shall be for a period of fifteen 15 years and shall terminate at midnight on July 7, 2020.

Section 2.5 - TRANSFER AND ASSIGNMENT OF RENEWAL FRANCHISE

(a) This Franchise or control thereof shall not be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any person, company or other entity holding such Franchise to any other person, company or other entity, without the prior consent of the Franchising Authority, which consent shall not be unreasonably or arbitrarily withheld. The application for transfer consent shall be signed by Franchisee and by the proposed transferee or assignee.

(b) Any transfer or assignment of franchise shall, by its terms, be expressly subject to the terms and conditions of this Renewal Franchise and obligations, if any, arising from the award of this Renewal Franchise. Any transferee or assignee of this Renewal Franchise shall be subject to the terms and conditions contained in this Renewal Franchise.

(c) The Franchisee shall submit to the Franchising Authority four (4) copies, unless otherwise directed or as specified under applicable federal law, of the franchise transfer application, including any forms required by applicable law.

(d) In the event of a franchise transfer application being filed with the Franchising Authority, the Franchising Authority may consider in connection therewith the proposed transferee's financial, legal and technical ability, the transferee's assumption of the obligations of this Renewal Franchise and its willingness to comply with same.

(e) Upon written request of the franchising authority or its designee, Franchisee shall remit for franchise transfer administrative costs not less than \$2,500.00, however such expense may be credited against the annual franchise fee payment otherwise due hereunder.

(f) Notwithstanding anything to the contrary herein contained, no consent shall be required for a transfer to an entity controlling, controlled by or under the same common control as Franchisee.

SECTION 2.6 - NON-EXCLUSIVITY OF FRANCHISE

This Renewal Franchise shall not affect the right of the Franchising Authority to grant to any other Person a franchise or right to occupy or use the streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable System within the City of Biddeford; or the right of the Franchising Authority to permit the use of the Public Ways and places of the City for any purpose whatsoever. The Franchisee hereby acknowledges the Franchising Authority's right to make such grants and permit such uses, provided however, that if the City grants an additional franchise for the provision of video services in the City, the same shall not contain terms and conditions that are *materially* less burdensome or more favorable than those outlined herein, including equivalent service area requirements, non-discriminatory build-out in a reasonable time frame, PEG obligations, franchise fee as a percentage and a definition of gross annual revenues equivalent to the definition herein, provided federal and state law do not prohibit the City from requiring the foregoing.

Section 2.7 - POLICE AND REGULATORY POWERS

By executing this Franchise, Franchisee acknowledges that its rights are subject to the powers of the City to adopt and enforce general ordinances and bylaws necessary to the safety and welfare of the public and of general applicability. Franchisee shall comply

with all applicable laws and ordinances enacted by the Franchising Authority pursuant to any such powers.

Section 2.8 - REMOVAL OR ABANDONMENT

Upon termination of this Franchise by passage of time, franchise revocation or otherwise, and unless Franchisee renews its Franchise for another term or Franchisee transfers the Cable System to a transferee approved by the Franchising Authority, Franchisee shall remove its supporting structures, poles, transmission and distribution systems and all other appurtenances from the Public Ways and places and shall restore all areas to their original condition.

If such removal is not completed within six (6) months after such termination, the Franchising Authority may deem any property not removed as having been abandoned. Notwithstanding this Section, to the extent federal law applies pursuant to Section 2.9 (Proceedings Upon Expiration or Revocation), the applicable provisions of federal law (47 U.S.C. 547) shall govern.

Section 2.9 - PROCEEDINGS UPON EXPIRATION OR REVOCATION

In the event that this Franchise is revoked, and all appeals have been exhausted, or that it expires, and the Franchising Authority determines to deny renewal of this Franchise in accordance with the provisions of Federal law and all appeals have been exhausted, the Franchising Authority and the Franchisee shall implement the provisions of Section 627 of the Cable Act, 47 U.S.C. 547, by transferring the Cable System to the City or a subsequent Franchisee in accordance with 47 U.S.C. 547.

ARTICLE 3
SYSTEM DESIGN, CONSTRUCTION AND OPERATION

Section 3.1 - AREA TO BE SERVED

(a) The area to be served shall continue to be the entire City of Biddeford and franchisee shall continue to make service available to all homes on public ways within the City currently receiving service. Service shall be provided to dwellings occupied by a person requesting Cable Service provided there are fifteen homes per mile as measured from Franchisee's existing distribution system and shall continue to be available on every street where dwellings currently have Cable Service available, provided that the Franchisee is able to obtain from property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Federal Cable Communications Act of 1984.

(b) Provided Franchisee has reasonable prior notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame.

Section 3.2 - SUBSCRIBER NETWORK

(a) The Franchisee shall continue to make available to all residents of the City a minimum seven hundred fifty Megahertz (750 MHz) Cable System, fed by means of a fiber-optic/coax transportation cable network, fully capable of carrying at least one hundred and ten (110) video channels in the downstream direction and four (4) video channels in the upstream direction. Said 750 MHz Cable System shall be designed for not less than 550 MHz, or its equivalent, of video transmissions, with 200 MHz reserved for future digital or analog two-way transmissions, with the allocation of the analog and digital bandwidth within the 750 MHz subject to change at the discretion of the

Franchisee. The Cable System shall continue to utilize a hybrid fiber-coaxial cable architecture with fiber running to nodes within the City.

(b) The Franchisee shall not remove any television antenna of any subscriber but shall offer a device to allow subscribers to choose between cable and non-cable television reception.

(c) The Cable System shall be technically capable of transmitting City-specific access programming and Franchisee's commercial programming, provided however, Franchising Authority acknowledges it has no rights nor ability to mandate Franchisee's specific programming, however Franchising Authority reserves its rights with respect to access programming and such other programming as may be permitted by law and consistent with the provisions of this agreement.

Section 3.3 - SERVICE TO RESIDENTIAL DWELLINGS: STANDARD DROP

The Franchisee shall make its service available to every residential (non-commercial) dwelling unit in the service area in the City regardless of its geographical location, subject to Section 3.1 above. Installation costs shall be nondiscriminatory except that an additional charge for time and materials may be made for customized installation within a subscriber's residence or except when Franchisee is engaged in marketing promotions. Any dwelling unit within one hundred fifty feet (150 ft.) of the cable plant and capable of an aerial installation shall be entitled to a standard installation rate, however, Franchisee may reasonably charge subscribers for nonstandard and customized installations. Subscribers may be charged for drops in excess of the standard footage for materials and labor, and upon request, subscribers shall be provided an itemized cost estimate for the same prior to acceptance of the terms for such non-standard drop.

Section 3.4 - - SERVICE TO SCHOOLS AND PUBLIC BUILDINGS

(a) Franchisee shall provide, free of charge, one (1) drop, outlet and the Standard Service Package (if available), or if Standard Service no longer exists, Licensee shall provide a comparable level of service if available to public, state accredited schools and buildings occupied for municipal purposes located within 150' feet of its cable plant and capable of an aerial installation upon written request of the Franchising Authority. Such schools and municipal buildings shall have a standard drop capable of providing cable modem service so long as such service is available within the City. In the event that the building requires an aerial installation in excess of 150' or an underground installation, the City or School Department shall be responsible only for the installation costs over and above those associated with a 150 foot installation.

(b) Any locations in public, state-accredited schools in Biddeford, and the St. James School, and municipal-occupied buildings and the McArthur Library, which have been wired by Franchisee for service and provided cable service at no charge, or where service outlets were installed by Franchisee, shall continue to receive such activated outlets of cable service as already provided at no charge.

(c) All future newly constructed public, state accredited schools shall be provided with the standard drop (150' aerial installation) and the Standard Service Package (if available), or if Standard Service no longer exists, Licensee shall provide a comparable level of service if available.

(d) If necessary to receive the Standard Service Package, Franchisee will continue to provide a converter to existing classrooms having converters, at no charge to the City, however, in the event of vandalism or gross negligence damaging such converters, the School Department shall be responsible for same.

Section 3.5 - STANDBY POWER

The Franchisee shall maintain a minimum of twenty-four (24) hours standby power at the headend facility serving the City. Such standby power shall have continuous capability, contingent upon availability of fuel necessary to operate generators, and shall become activated automatically upon the failure of normal power supply. Upon written request by the Franchising Authority or by its designee, Franchisee shall furnish evidence to the Franchising Authority on an annual basis that such standby power has been tested annually and is in good repair.

Section 3.6 - TREE TRIMMING

In the installation, maintenance, operation and repair of the poles, cables wires and all appliances or equipment of the Cable System, the Franchisee shall avoid unnecessary damage to trees whether on public or private property in the City and shall cut or otherwise prune such trees only to the least extent necessary. No cutting of trees on City property shall occur except upon a permit in writing from the City Tree Warden or other person designated by the City or Department of Public Works (or Highway Department if applicable), provided that such permit is a requirement of general applicability and not specific to Franchisee or cable television operators. Franchisee shall make its best effort to secure the permission of the property owner prior to reasonable tree trimming, and in any event, shall be subject to generally applicable local ordinances or by-laws, if any, with respect to tree-trimming on public or private property.

Section 3.7 - UNDERGROUND WIRING OF UTILITIES

In areas of the City having both telephone lines and electric utility lines underground, whether required by ordinance or not, Franchisee's cable and wires shall be underground. Franchisee shall comply with all applicable state and municipal laws and regulations concerning "dig-safe" requirements and laws and ordinances of general

applicability concerning street openings, street restoration, traffic management and other procedures and requirements pertaining to obtaining such street permits and permits that may be generally required for work or locating new plant under, on or over the public way. In the event Franchisee is provided reasonable notice of the excavation or trenching of a public way for purposes of conduit and/or equipment installation, it shall be Franchisee's obligation to locate its conduit and equipment in said excavation or trench where possible, (provided other utilities, not including water and sewer, are subject to the same obligation with respect to use of said excavation or trench) and in any event to respond in writing to such notice within twenty-one days as to whether such underground conduit and equipment locations are possible. If the Franchising Authority reimburses any other utility (other than water and sewer) for relocating its facilities, Franchisee shall be similarly reimbursed.

Section 3.8 - PEDESTALS AND VAULTS

In any cases in which vaults housing devices or pedestals or other street surface structures are to be utilized, in the City Public Ways or within the City public layout, such equipment must be in accordance with generally applicable City or Public Works Department, or similar department, laws or regulations; at City approved locations to be determined when Franchisee applies for applicable permits or authorizations, as may be authorized by the City subject to requirements of general applicability. In any event, Franchisee will comply with City ordinances or by-laws and regulations of general applicability with respect to the foregoing.

Section 3.9 - PRIVATE PROPERTY

Franchisee shall be subject to all laws, ordinances or regulations regarding private property in the course of constructing, upgrading, installing, operating and maintaining the Cable System in the City. Franchisee shall promptly repair or replace all private

property, real and personal, damaged or destroyed as a result of the construction, upgrade, installation, operation or maintenance of the Cable System at its sole cost and expense.

Section 3.10 - RESTORATION TO PRIOR CONDITION

Whenever the Franchisee takes up or disturbs any pavement, surface, sidewalk or other improvement of any private way, Public Way or public place, it shall be replaced and the surface restored in as good condition as before entry as soon as possible, subject to the approval and in accordance with the requirements of the City's Department of Public Works (or Highway Department if applicable) or their designee. If the Franchisee fails to make such restoration within a reasonable time, the City may fix a reasonable time and notify the Franchisee in writing of the restoration required and the time fixed for performance. Upon failure of the Franchisee to comply within the time specified, the City may cause proper restoration and repairs to be made and the reasonable expense of such work as itemized shall be paid by the Franchisee upon demand by the City.

Section 3.11 - COOPERATION WITH BUILDING MOVERS

The Franchisee shall, upon thirty (30) days request of any person holding an appropriate permit issued by the City, temporarily raise or lower its lines to permit the moving of any building or other structure, so long as other comparable utilities are subject to similar requirements. The expense of such raising or lowering shall be borne by the party requesting such relocation.

Section 3.12 - RELOCATION OF FACILITIES

The Franchisee shall, at its expense, temporarily or permanently relocate any part of the Cable System when required by the City for reasons such as traffic, public safety, street construction, installation of sewers, drains, water pipes, power or signal lines or setting of new or replacement utility poles. In this respect, the Franchising Authority

shall treat Franchisee and other affected utilities in a non-discriminatory manner. If Franchising Authority reimburses any utility (not including water and sewer) for such relocation, Franchisee shall be similarly reimbursed.

Section 3.13 - RELOCATION OF FIRE ALARMS

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

Section 3.13 - SERVICE INTERRUPTION; REBATES

Franchisee may interrupt service for the purpose of repairing, upgrading or testing the Cable System only during periods of minimum use, except when required for exigent technical reasons. Rebates for service interruptions shall be in accordance with Section 7.5 of this Renewal Franchise and applicable law, including FCC customer service regulations.

Section 3.14 - CONSTRUCTION AND MAINTENANCE STANDARDS

(a) The Franchisee shall construct and operate a Cable System and render service to subscribers consistent with all applicable federal and state regulations during the term of this Franchise. The construction, maintenance and operation of the Cable System for which this Franchise is granted shall therefore be in conformance with, among other things, the applicable provisions of the National and Maine Electrical Codes, the National Electrical Safety Code, the National Television Standards Code and the rules and regulations of the Occupational Safety and Health Administration (OSHA), the FCC and such other federal and state agencies or departments that have lawful jurisdiction with respect to matters herein. Upon written request of the Franchising Authority, copies of

any technical performance tests that may be required under FCC rules and regulations shall be submitted to the City.

(b) All structures, lines, equipment, and connections in, over, under, and upon streets, sidewalks, alleys, and Public Ways and places of the City, wherever situated or located, shall at all times be kept and maintained in a safe condition and in good order and repair.

Section 3.15 - RIGHT OF INSPECTION

(a) In the event the Franchising Authority reasonably suspects non-compliance with Cable System construction and maintenance terms of this Franchise, the Franchising Authority or its designee(s) shall have the right to inspect all construction, installation and/or upgrade work performed subject to the provisions of this Franchise and to make such tests as it shall deem necessary to ensure compliance with the terms and conditions of this Franchise and all other applicable law. Any such inspection shall be conducted at reasonable times upon reasonable notice to Franchisee except that inspection of cable wires in plain view on a Public Way that does not require touching or contacting Franchisee's facilities shall not require any such notice. Franchisee shall have the right to be present at any such inspection. Any such inspection shall not interfere with the Franchisee's operations.

(b) Any tests conducted by the City shall be at the sole cost and expense of the City and shall have the prior written approval of the Franchisee. In the event that such tests or inspections find Franchisee in non-compliance with generally applicable construction and electrical codes, and other generally applicable requirements, Franchisee shall reimburse the City's reasonable inspection costs from franchise fees that are owed pursuant to Article 5 of this Franchise.

Section 3.16 - EMERGENCY REMOVAL OF PLANT

If, at any time, in case of fire or emergency in the City, it shall become necessary in the reasonable judgment of the Franchising Authority, Police or Fire Department or their lawful designee, to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the Cable System in the course of such fire or emergency, the City shall have the right to do so at the sole cost and expense of Franchisee. Nothing herein shall limit Franchisee, where applicable, from seeking reimbursement under any applicable government program providing for reimbursement, including but not limited to Federal Emergency Management Agency ("FEMA") programs.

SECTION 3.17 – EMERGENCY AUDIO ALERT

The Franchisee's emergency alert system ("EAS") shall comply with FCC and state regulations. The Franchisee shall, upon request of the Franchising Authority, test and report on the foregoing emergency communications capabilities and provide the City with information as reasonably requested relative to emergency communications capabilities.

ARTICLE 4
RATES AND PROGRAMMING

Section 4.1 - INITIAL RATES

The initial rates for all programming, installation and equipment which are in effect on the Effective Date of this Franchise are listed in Schedule 4.1 attached hereto. These rates are provided for informational purposes only and are subject to change at Franchisee's sole discretion pursuant to applicable law.

Section 4.2 - RATE RE-REGULATION

The Franchising Authority reserves the right to regulate rates for cable service to the extent such regulation is allowed at this time, or hereafter, under the applicable federal and state law.

Section 4.3 - PROGRAMMING CATEGORIES

Franchisee has offered and shall provide the following cable services:

- (1) the broad categories of broadcast stations, satellite services and other cable services set forth in Schedule 4.3 attached hereto;
- (2) PEG Access channel(s) required by Article 5 (Community and PEG Access Programming) of this Franchise.

Section 4.4 - PROGRAMMING TIERS

The initial programming and services offered by Franchisee are listed in Schedule 4.4, attached hereto. This schedule of programming tiers is provided for informational purposes only and is subject to change at Franchisee's discretion, except with respect to provision of access channel(s) and pursuant to applicable Federal and State law.

Section 4.5 - LEASED ACCESS

Pursuant to the Cable Act, 47 U.S.C. 532 (b) (iii) (B), Franchisee will make available channel capacity for commercial use by persons unaffiliated with Franchisee. Upon request, Franchisee shall provide interested persons and the Franchising Authority a copy of its current leased access policy with current rates and terms for commercial leased access.

Section 4.6 - STEREO TV TRANSMISSIONS

All signals received by Franchisee in stereo shall be cablecast in stereo. Franchisee shall transmit signals in the format transmitted to Franchisee to provide close captioning, in accordance with applicable federal law.

Section 4.7 - CHANNEL LINEUP

Franchisee shall notify the Franchising Authority and subscribers 30 days in advance of each change in programming services involving deletion or addition of one or more channels where the giving of such notice is within its control and as set forth below. However, with respect to significant programming changes, advance notice may include 30 day advance notice by newspaper, bill insert/message or letter, but in every case shall include a letter, bill insert/message or mailing to each subscriber at least 15 days prior to the change. In the event the channel lineup is changed during the term of the Franchise, Franchisee shall make available to any requesting subscriber an updated channel lineup and will mail same to them upon subscriber request.

Section 4.8 - REMOTE CONTROLS AND CONVERTERS/RECEIVERS

In accordance with Federal law, Franchisee shall allow subscribers to purchase, from parties other than the Franchisee, and to utilize remote control devices which are deemed compatible with the converter installed by Franchisee. Franchisee may require a

separate reasonable charge for use of the remote control capacity of its converter. As required by applicable Federal law, Franchisee shall allow subscribers to purchase tuning (not descrambling) converters and/or receivers from parties other than the Franchise if compatible with the Cable System.

Section 4.9 EXTERNALIZATION OF PEG RELATED CAPITAL COSTS

To the extent Franchisee can externalize and pass-through PEG Access related capital costs and other franchise required capital costs subject to pass-through and externalization, said costs shall be passed through in accordance with Federal law.

ARTICLE 5

**PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS AND
INSTITUTIONAL NETWORK**

Section 5.1 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

Public, educational and governmental ("PEG") Access Programming and facilities and equipment shall be provided pursuant to the provisions of this Article 5, 47 U.S.C. s.531, and this Agreement.

Section 5.2 –PUBLIC ACCESS TO THE CABLE SYSTEM

(a) Any resident of Biddeford, or any organization based in Biddeford, shall have the right to place programming on the Biddeford Cable System Access channel(s) subject to rules established by the Access Designee and the provisions of this Agreement. Such rules shall be subject to review and consent of the Franchising Authority. Such rules may condition access to equipment and facilities upon completion of a training program, or upon certification of proficiency by the Access Designee.

Section 5.3—ACCESS CHANNELS AND FACILITY

(a) Franchisee shall provide the City with up to three (3) PEG Access channels on the subscriber network for Biddeford PEG access uses only. The City presently has and will continue to have the use of an analog Access channel except as provided herein. Within ninety (90) days of the Effective Date of this Agreement, Franchisee shall make available an additional Access channel for the City's use which channel shall be digital.

Grantee shall provide the outreach resources outlined in Schedule 5.3(a) to promote the digital access channel.

In the event each of the foregoing channels is programmed seventy-five percent (75%) of the time from ten a.m. to ten p.m. Monday through Saturday for six consecutive months, Franchisee shall provide a third access channel which shall be digital. To be counted toward the program utilization formula triggering the third channel, only that access programming on each of the two channels that is locally produced in Biddeford, original, full-motion video, non-duplicated, and non-character generated shall qualify. In the event either of the first two channels is programmed less than seventy-five percent (75%) of the time from ten a.m. to ten p.m. Monday through Saturday for six consecutive months, the third access channel shall revert to Franchisee. To be counted toward the program utilization formula triggering reversion of the third channel to Franchisee, only that access programming that is locally produced, original, full-motion video, non-duplicated, and non-character generated shall qualify.

Franchisee shall make available a digital box without charge to those customers that do not have a digital box and specifically request the same in order to view the access programming available on the digital channel. Said box shall permit the viewing of programming on the digital access channel with a signal quality comparable to that of any other digital channel except Licensee is not responsible for signal quality problems arising from production quality. If a customer that has obtained a box pursuant to the foregoing later subscribes to, or orders, a service that requires a box, a monthly charge shall be instituted for the box. In the event Franchisee's system becomes all digital, all access channels shall be digital.

(b) To facilitate municipal meeting and other municipal access coverage, and coverage of other municipal meetings, Franchisee shall install a remote controllable camera system and associated equipment at the City Council Chambers, for City Council and other municipal meeting coverage, with the equipment set forth in Schedule 5.3(c). Said installation shall be completed ninety days from a written Franchising Authority request for same. Franchisee shall consult with the Franchising Authority and Access Designee concerning such meeting room installations to identify mutually acceptable locations for said equipment and the 90 day installation period may be extended to the extent additional time is needed to identify such mutually acceptable locations.

Franchisee agrees to replace, with comparable but new equipment, that equipment set forth in Schedule 5.3(c) that is not reasonably usable due to normal wear and tear. The City shall be responsible for ongoing repair and maintenance of the equipment and Franchisee shall have no obligation to replace equipment that has not been maintained in accordance with manufacturer specifications as evidenced by maintenance records or that has been damaged or stolen. Equipment allocated to the City shall be owned by the City. Franchisee agrees to provide the City the benefit of any equipment and labor warranties that may be incidental to the equipment purchased and installed hereunder and Franchisee shall, if reasonably available, provide loaner equipment if the equipment at City Hall is broken or not available for use.

The access channel(s) may be used by municipal departments and agencies to inform subscribers about City government, services and issues. Such access channel(s) shall be subject to such reasonable operating rules as the Access Designee may adopt subject to Franchising Authority consent. The access channel(s) shall also be available

for public, educational and municipal access purposes as determined by the Access Designee and Franchising Authority. The access channel shall not include campaign advertising or paid political advertising.

(d) Franchisee currently provides origination capability from the Access Facility (studio) at 189 Alfred Street, City Hall located on 205 Main Street and the High School at 20 Maplewood Avenue. Franchisee shall continue to provide the foregoing and, in addition, shall provide origination capability from the auditorium at the new middle school located on Hill Street and McArthur Library located on 270 Main Street. The City shall be responsible for acquiring the laser and laser receiver for McArthur Library. Activation of return feed from the new middle school on Hill Street shall be completed by September 2006 unless Franchisee is notified in writing to activate earlier in which event Franchisee will be provided with at least sixty (60) days to complete the same. Return feed for the digital channel shall originate from the Access Facility at Alfred Street. The content for the analog channel may originate from the sites identified on Schedule 5.3(d) and content shall be prioritized in accordance therewith.

Section 5.4—SYSTEM DESIGN

Franchisee shall maintain headend equipment to process the content from the various original sites. A digital encoder shall be installed for the content for the digital channel originating at the Access Facility at Alfred Street. The Access Designee will, however, be responsible for scheduling and transmitting of access programming on these channels. Franchisee shall not be responsible for the quality of programming of the upstream signal prior to origination.

Section 5.5—SYSTEM MAINTENANCE OF CHANNELS

Franchisee shall monitor the public, education, and municipal access channels for technical quality and shall ensure that they are maintained at standards equal to those which apply to the cable system's commercial channels; provided, however, that this section shall not require Franchisee to guarantee the technical quality of access users' productions and upon a Franchising Authority finding of significant signal quality problems not resulting from the quality of productions, if any, Franchisee shall designate a senior engineer to investigate and report on same within 21 days of Franchising Authority request and to take reasonable steps to rectify signal quality problems, if any.

Section 5.6- MISCELLANEOUS ACCESS MATTERS

- (a) No commercial advertising is permitted on the Access Channels but notices of support and underwriting are permissible.
- (b) Franchisee acknowledges that Franchising Authority reserves the right to designate a lawfully incorporated non-profit charitable organization as an Access Designee or as an entity to assist the Access Designee with the provision of PEG access services in accordance with the terms hereof.

Section 5.7 TRANSITION

- (a) Franchisee agrees to "grandfather," that is not to remove any local production equipment or facilities actually provided as of the expiration of the prior franchise, except where such removal of equipment or facilities is necessary for technical or safety reasons,

or is replaced by equipment with equivalent capability, or as otherwise consented to by the Franchising Authority. Notwithstanding any omission to expressly assign title or ownership of equipment to the Franchising Authority, if by any prior franchise or prior agreement title and ownership of any particular access equipment or facilities has been or was required to be assigned to the Franchising Authority, the Biddeford Public Schools or other municipal agency, nothing in this Franchise shall rescind such assignment of title or ownership to the Franchising Authority, Biddeford public schools or other municipal agency.

ARTICLE 6
SUBSCRIBER RIGHTS AND CONSUMER PROTECTION

Section 6.1 - CUSTOMER SERVICE

The Franchisee shall maintain a publicly listed, toll free, customer service number for the general purpose of serving customer needs including receiving and resolving complaints, including without limitation, those regarding service, equipment malfunctions or billing and collection disputes. The Franchisee further agrees to continue to provide a regional office in Saco which shall serve customer needs, including at a minimum, bill payment. Said office shall be open for walk-in business during normal business hours, including at least one (1) weeknight or weekend morning, hours and location may be changed from time to time to reflect the needs of the community and Franchisee.

Section 6.2 - TELEPHONE ACCESS, INSTALLATIONS, OUTAGES AND SERVICE CALLS

Franchisee shall maintain a 24 hour, 7 day a week toll-free telephone number to receive and log service calls and complaints. Franchisee shall comply with the FCC standards regarding response to customer phone calls which are attached as Schedule 6.2 and made a part hereof.

Franchisee's employees shall be informed how to respond in case of emergencies requiring standby technicians. Franchisee shall call on standby personnel when it is evident that the complaints received are indicative of a problem affecting three (3) or more subscribers. Franchisee agrees to be bound by the customer service obligations adopted by the FCC in 47 C.F.R. § 76.309(c), as they may hereafter be amended, a copy of which is attached as Schedule 6.2.

Pursuant to 47 C.F.R. §76.309(c)(1)(B), under Normal Operating Conditions, as defined, telephone answer time by a customer service representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Said standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

A Subscriber shall receive a busy signal less than three (3%) of the time, measured on a quarterly basis, under normal operating conditions.

The Franchising Authority shall have the right to direct the Franchisee to submit a "busy study" from the telephone company which provides service to the Franchisee, if the quarterly reports, subject to Section 13.5 infra, do not clearly document that the Franchisee's telephone lines are accessible to Subscribers as required herein.

Section 6.3 ---CUSTOMER SERVICE CALL CENTERS

(a) The Franchisee shall respond to customer calls twenty-four (24) hours a day, seven (7) days a week, including holidays. The Franchisee reserves the right to modify its business operations with regard to such customer service access.

(b) In the event that the Franchisee does not maintain and operate a customer service call center twenty-four (24) hours a day, seven (7) days a week, the Franchisee shall maintain a telephone answering service to handle Subscriber inquiries, complaints and emergencies, and provide proper referral regarding billing and other subscriber information. All such after-hours calls shall be logged by the Franchisee. Said answering service shall (i) forward all inquiries and/or complaints to the Franchisee the morning of the next business day and (ii) inform each Subscriber calling that his or her complaint will be referred to the Franchisee's Customer Service Department for response. If

requested, or reasonably warranted by the reported nature of the Subscriber's problem or inquiry, the Franchisee shall promptly contact each individual Subscriber to follow-up on their individual problem and/or inquiry.

Section 6.4 - INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME

(a) The Franchisee shall provide Cable Service(s), for new installations, to residents who request Service within seven (7) calendar days of said request.

(b) In arranging appointments for either Cable Television installation visits or service calls, the Franchisee shall offer to the resident or Subscriber in advance a choice of whether said installation visit or service call will occur during the following time blocks not to exceed four hours. Failure of the Franchisee through its own fault to install cable or make the service call as scheduled shall require the Franchisee to call the affected resident or Subscriber on a priority basis and reschedule at a time mutually agreeable to the Franchisee and said resident or Subscriber, but in no case later than three (3) days following the initial installation or service call date, unless agreed to otherwise by said resident or Subscriber. The Franchisee shall promptly notify residents and Subscribers in writing or by telephone of their right to a priority cable installation or service call in the event that the Franchisee fails to make such scheduled call(s).

(c) The Franchisee shall make installation and service calls to its Subscribers during Normal Business Hours which shall include those hours during which most similar businesses in the community are open to service customers.

(d) For all requests for service or repair that are received during Normal Business Hours,

the Franchisee shall handle them on the same day, if possible, provided that said service complaint or request for service is received by 2:00 P.M.; provided, however, that in all instances, requests for service calls shall be responded to within forty-eight (48) hours of said original call. Verification of the problem and resolution shall occur as promptly as possible.

(e) A Subscriber complaint or request for service received after Normal Business Hours, pursuant to Section 12.1 above, shall be acted upon the next business morning. At that time, they are to be handled as prescribed in (d) above for a request received at the start of business.

(f) The Franchisee shall ensure that there are stand-by technicians on-call at all times after Normal Business Hours.

(g) System outages shall be responded to promptly by technical personnel. For purposes of the section, an outage shall be considered to occur when three (3) or more calls are received from any one neighborhood, concerning such an outage, or when the Franchisee has reason to know of such an outage.

(h) The Franchisee shall remove all Subscriber Drop Cables, within fifteen (15) days of receiving a request from a Subscriber to do so.

Section 6.5 - MINIMUM SUBSCRIBER INFORMATION

Franchisee will provide all prospective subscribers with complete, clear and concise written information before consummation of any agreement for initial installation of cable service. Such sales materials shall clearly disclose the price and other information concerning Franchisee's lowest cost basic service. Such information shall include but not be limited to the following:

(a) All service and rates, deposits if applicable, installation costs, additional television set charges, service upgrade or downgrade charges, and relocation of cable outlet charges.

(b) Written information concerning billing and termination procedures, procedures for ordering changes in or termination of services, and all refund policies, including the availability of rebates or credits for loss of service.

(c) Written information concerning privacy policies, pursuant to state and federal law.

(d) Written information concerning steps to take in the event of loss of service.

Section 6.6 - PARENTAL CONTROL

Upon request, the Franchisee shall provide subscribers with parental control capability to block the reception of individual channels on the Cable System. The Franchising Authority acknowledges that the parental control capability may be part of a converter box and the Franchisee may charge subscriber for use of said box in accordance with FCC equipment rate rules.

Section 6.7 - BILLING AND TERMINATION PROCEDURES

Franchisee will inform all prospective subscribers of complete information about rates and charges for different levels of services and service calls, billing and collection procedures, procedures for ordering changes in or termination of services before consummation of any agreement for installation of service.

Section 6.8 - VOLUNTARY DISCONNECTION OF SERVICE

Subscribers who request full disconnection of cable service shall not be responsible for further charges for such service upon actual termination of service or after seven (7) days notice to Franchisee, whichever occurs first. Franchisee shall make a good

faith effort to disconnect service as soon as possible after requested to do so by a subscriber. A subscriber who requests full disconnection of cable service shall make a good faith effort to return all of his or her customer premises equipment to Franchisee's local business location or any other reasonable location Franchisee may designate. Subscribers may be charged for unreturned equipment.

Section 6.9 - BILLING DISPUTES

In the event of a bona fide billing dispute, Franchisee shall endeavor to resolve each dispute within fifteen (15) working days of receiving notification from the subscriber.

Section 6.10 - PROTECTION OF SUBSCRIBER PRIVACY

(a) Franchisee shall respect the rights of privacy of every subscriber and/or user of the Cable System and shall not violate such rights through the use of any device or signal associated with the Cable System, as hereafter provided.

(b) Franchisee shall comply with all privacy provisions contained in this Section and all other applicable federal and state laws including, but not limited to, the provisions of Section 631 of the Cable Communications Policy Act of 1984 and Title 18 United States Code Section 2520.

(c) Franchisee shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.

(d) Franchisee shall notify all third parties who offer cable services in conjunction with Franchisee, or independently over the Cable System, of the subscriber privacy requirements contained in this Renewal Franchise.

Section 6.11 - PRIVACY

Prior to the commencement of cable service to a new subscriber, and annually thereafter to all Cable System subscribers, Franchisee shall provide a comprehensive and easily understandable written document explaining Franchisee's practices regarding the collection, retention, uses, and dissemination of personal subscriber information, and describing Franchisee's policy for the protection of subscriber privacy. In addition, Franchisee and its agents or employees shall not disclose to any third party a subscriber's name or address without obtaining consent of the individual subscriber to the extent required by 47 USC 631 and any such disclosure shall be in accordance with 47 USC 631.

Section 6.12 - INFORMATION WITH RESPECT TO VIEWING HABITS AND SUBSCRIPTION DECISIONS

Franchisee or its agents or its employees shall not make available to any third party, including the City, information concerning the viewing habits or subscription package decisions of any individual subscriber except as provided by law.

Section 6.13 - SUBSCRIBER'S RIGHT TO INSPECT AND VERIFY INFORMATION

(a) Franchisee shall make available for inspection by a subscriber at a reasonable time and place all personal subscriber information that Franchisee maintains regarding said subscriber.

(b) A subscriber may obtain from Franchisee a copy of any or all of the personal subscriber information regarding him or her maintained by Franchisee. Franchisee may require a reasonable fee for making said copy.

(c) A subscriber or user may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information, shall be directed to Franchisee's Manager of Government Affairs.

Section 6.14 - EMPLOYEE IDENTIFICATION CARDS

All of Franchisee's employees, including repair and sales personnel, entering private property shall have a visible employee photo-identification card.

Section 6.15 - TECHNICAL AND CUSTOMER SERVICE STAFF LEVELS

Franchisee will employ enough service technicians and customer service representatives to meet its obligations under this Franchise.

Section 6.16 - NON-DISCRIMINATION

Franchisee shall not discriminate against any person in its solicitation, service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the City, sex, affectional preference, disability, age, marital status, or status with regard to public assistance. Franchisee shall be subject to all other requirements of federal and state regulations concerning non-discrimination.

Section 6.17 - MUNICIPAL ACCESS TO FRANCHISEE'S SURVEY

MATERIALS

In the event the Franchisee surveys the Biddeford subscriber population to test for response to particular programming preferences, or for other reasons, it shall, upon request of the Franchising Authority share the results of its programming surveys so long as the Franchisee does not consider the questions and/or the results proprietary.

ARTICLE 7
FRANCHISE ADMINISTRATION

Section 7.1 - REGULATORY AUTHORITY

The Franchising Authority and/or its designee(s) shall be responsible for the day to day regulation of the Renewal Franchise. The Franchising Authority shall monitor and enforce Franchisee's compliance with the terms and conditions of this Renewal Franchise. The Franchising Authority shall notify Franchisee in writing of any instance of non-compliance and may direct that such non-compliance be corrected within thirty (30) days to the reasonable satisfaction of the Franchising Authority, unless a longer period is specified herein, or is mutually agreed upon by the Franchising Authority and Franchisee. Franchisee will notify the Franchising Authority's designee, currently the Cable Television Oversight Committee, of any material changes contemplated for the delivery of service in Biddeford and following such notification consult with said Committee as reasonable to demonstrate compliance with the terms herein.

Section 7.2 - INDEMNIFICATION

(a) The Franchisee shall indemnify and hold the City and its agents, harmless at all times during the term of this Franchise from any and all claims alleged to be caused by Franchisee's construction, installation, operation, or maintenance of any structure, equipment, wire or cable to be installed pursuant to the Franchise or exercise of any of its rights under this Franchise excepting any claims associated with PEG access. The Franchising Authority shall indemnify and hold Franchisee harmless from any claims arising from the content on the Access Channels and the content thereon, however, the City reserves its rights to seek indemnification from access producers to the extent permitted by law. Upon receipt of notice in writing from the City, the Franchisee shall at

its own expense defend any such covered actions or proceedings. Indemnified expenses shall include without limitation, all out-of-pocket expenses, such as attorney's fees.

(b) In order for the City to assert its rights to be indemnified, defended, or held harmless, the City must:

- (1) promptly notify Franchisee of any claim or legal proceeding which gives rise to such right;
- (2) the City shall afford the Franchisee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding, unless, however, the City, in its sole discretion, determines that its interests cannot be represented in good faith by the Franchisee in which event the City shall be responsible for its own costs and further acceptance of any non-monetary settlement or term involving injunctive relief or orders affecting the City shall be subject to City's consent; and
- (3) the City shall fully cooperate with the reasonable requests of the Franchisee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subparagraph (2) above.

Section 7.3 - INSURANCE

(a) The Franchisee shall carry insurance throughout the term of this Renewal Franchise and any renewal period with the City as an additional named insured with an insurance company authorized to conduct business in Maine satisfactory to the Franchising Authority indemnifying the City and the Franchisee from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of its Cable System or cable-related activity. The amount of such insurance against liability for damage to property

shall be no less than One Million Dollars (\$1,000,000) as to any one occurrence. The amount of such insurance for liability for injury or death to any person shall be no less than One Million Dollars (\$1,000,000). The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000) in umbrella form. Policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(b) The Franchisee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000). Policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(c) All insurance coverage, including Workers' Compensation, shall be maintained throughout the period of this Renewal Franchise. All expenses incurred for said insurance shall be at the sole expense of the Franchisee. Policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(d) The Franchisee shall provide Franchising Authority with certificate(s) of insurance for all policies required herein on an annual basis, if requested by the City.

Section 7.4 - PERFORMANCE BOND

(a) The Franchisee shall maintain at its own expense throughout the term of this Franchise a faithful performance bond running to the City, with at least one good and sufficient surety franchised to do business in the State of Maine and reasonable approval by the City in the sum of One Hundred Thousand Dollars (\$100,000.00) during periods of upgrade activity. When the Cable System upgrade is complete, the amount of the bond shall be reduced to the sum of Fifteen Thousand Dollars (\$15,000.00). Said bond shall be conditioned that the Franchisee shall well and truly observe, fulfill and perform each material term and condition of this Franchise and that in case of any failure to comply

with any term and/or condition contained herein, the amount thereof shall be recoverable from said performance bond by the City for all amounts resulting from the failure of Franchisee to comply with any provision in this Franchise.

(b) The performance bond shall be effective throughout the term of this Franchise including the time for removal of facilities provided for herein, and shall be conditioned that in the event that Franchisee shall fail to comply with any one or more material provisions of this Franchise, or to comply with any lawful order, permit or direction of any department, agency, commission, board, division or office of the City having jurisdiction over its acts, or to pay any lawful claims, liens or taxes due the City which arise by reason of the construction, upgrade, maintenance, operation or removal of the Cable System, the City shall recover from the surety of such bond all damages up to the limits insured by such bond, suffered by the City as a result thereof, within thirty (30) days after a written request for same and following the procedures outlined in Section 9.1. Said condition shall be a continuing obligation of this Franchise, and thereafter until Franchisee has liquidated all of its obligations to the City that may have arisen from the grant of this Franchise or from the exercise of any privilege therein granted. Neither this Section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of Franchisee under this Franchise.

Section 7.5 - SERVICE INTERRUPTIONS

In the event that the Franchisee's service to any subscriber is interrupted for twenty-four (24) or more consecutive hours, it will upon request grant such subscriber a credit, on a daily basis, equal to that portion of the service charge due for the period of the outage, credited during the next consecutive billing cycle, or apply such credit to any outstanding balance then currently due. In the instance of an individual subscriber service interruptions, credits shall be applied as described above after due notice to the Franchisee from the subscriber. In the event a premium or pay channel service is not

available for a period of four or more consecutive hours in any one day, upon request the subscriber shall be credited for such loss of service where the loss of service is due to reasons within Franchisee's control.

Section 7.6 - PERFORMANCE EVALUATION SESSIONS

The Franchising Authority may at its discretion but not more than once every two years, hold a performance evaluation session on or about the two anniversary of the Effective Date of this Franchise. All such evaluation sessions shall be open to the public. The purpose of said evaluation sessions shall be to, among other things, review Franchisee's compliance to the terms and conditions of this Franchise, and hear comments, suggestions or complaints from the public. The Franchising Authority shall provide the Franchisee with thirty (30) days, advance written notice of such performance evaluation session. The Franchising Authority shall have the right to question Franchisee on any aspect concerning the construction, installation, operation or maintenance of the Cable System. During review and evaluation by the Franchising Authority, Franchisee shall cooperate with the Franchising Authority or its designee, and produce such documents or other materials as are reasonably requested by the City, prepared by Franchisee in the ordinary course of business and which are not considered proprietary by Franchisee. Franchisee shall notify its subscribers of all performance evaluation sessions by announcements on the Local Origination channels of its Cable System if available in the evening hours for at least five (5) consecutive days preceding each such session, provided that Franchisee shall not be required to preempt its regularly scheduled access or Local Origination programming to air these announcements.

Section 7.7 - NON-PERFORMANCE BY THE FRANCHISEE

(a) Failure of the City to enforce the performance of any term of this Franchise shall not be deemed a waiver of its right to insist upon the subsequent performance of that term.

Section 7.8 - FRANCHISE FEE ENTITLEMENT

(a) Franchisee shall provide the Franchising Authority for PEG Access and cable-related purposes a franchise fee in the amount of four percent (4%) of its Gross Annual Revenues for the first year of this Franchise; and a payment equal to 4.5% of Gross Annual Revenues for the second year of this Franchise; and equal to five percent (5%) of its Gross Annual Revenues for the third and remaining years of this Renewal Franchise. The foregoing payments shall be provided to the Franchising Authority within ninety (90) days of the close of the calendar year.

(b) Payments by Franchisee under the provisions of this Section and other payments meeting the definition of franchise fees as set forth in 47 USC Section 542 shall, in combined total, not exceed, with respect to any calendar year, five percent (5%) of Franchisee's Gross Annual Revenues.

(c) Should Franchisee fail to timely make any payment under this Article 5, and should such failure continue for a period of 10 days from written notice thereof, then it shall additionally be charged interest which shall accrue from the date payment is due at an annual rate not to exceed the prime rate of interest then current at the Chase Manhattan Bank of North America plus two percent. Payment of this interest charge shall not preclude any other remedy available to the Franchising Authority under applicable law.

Section 7.9 - SUBSCRIBER AND USER COMPLAINTS

Franchisee shall keep all written as well as a record of verbal complaints it receives on file in its local business office in accordance with applicable state regulations. Should state regulatory requirements for maintenance of complaint records be eliminated, then the Franchising Authority shall have the right to request Franchisee to reasonably maintain records of written and verbal complaints which it receives. The Franchising Authority or its designee shall have the right to examine, review and copy said complaints at its own expense during Franchisee's business hours upon reasonable notice.

Section 7.10 - SUBSCRIBER COMPLAINT REPORTS

(a) Franchisee shall not less than once every three months, upon request, notify the Franchising Authority of complaints of subscribers received during the reporting period and the manner in which the complaints have been met, including the time required to make any necessary repairs or adjustments. Franchisee shall, develop an acceptable form of complaint reporting.

(b) Franchisee shall, within ten (10) days after receiving a Franchising Authority request, send a written report to the Franchising Authority with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

Section 7.11 - QUALITY OF SERVICE

Where there exists credible evidence which, in the reasonable judgment of the Franchising Authority casts doubt upon the reliability or technical quality of cable service(s), after notice to Franchisee and an opportunity to cure, the Franchising Authority shall have the right and authority to require Franchisee to test, analyze and report on the performance of the Cable System. Franchisee shall cooperate with the Franchising Authority in performing such testing.

The Franchising Authority may require said tests/inspections be supervised by a mutually agreed upon professional cable television engineer, at the City's cost, who is not an employee or agent of the Franchisee of the City.

Section 7.12 - SERVICE INTERRUPTION REPORT

Franchisee shall, upon request, submit to the Franchising Authority a list of all significant service interruptions.

Section 7.13 - FINANCIAL REPORTS

The Franchisee shall file annually upon request with the Franchising Authority, a statement of its Biddeford Gross Annual Revenues to include at a minimum, revenue broken down into broad categories, e.g., basic, expanded basic, pay, pay-per-view, cable service equipment, cable service installations and other broad categories of cable service gross annual revenue in accordance with the definition of Gross Annual Revenues in Article 1, all computed in accordance with Generally Accepted Accounting Principles.

Section 7.14 - NUMBER OF SUBSCRIBERS

Franchisee shall file annually upon request with the Franchising Authority a report containing the number of subscribers within the Biddeford service area.

Section 7.15 - LINE EXTENSION REPORT

The Franchising Authority may require Franchisee to submit a report detailing the areas in the City in which the Cable System has been extended during said reporting period, the dates of said extensions and the number of households capable of receiving cable service(s).

Section 7.16 - NON-EXCLUSIVITY OF REMEDY

No decision by the Franchising Authority or the City to invoke any remedy under this Franchise or under any statute, law or ordinance shall preclude the availability of any other such remedy.

Section 7.17 - REVOCATION OF RENEWAL FRANCHISE

This Franchise may be revoked by the Franchising Authority, to the extent permitted by law. Any such revocations of this Franchise shall be ordered after a public hearing by the Franchising Authority subject to the appeals provisions of applicable law.

Secton 7.18 – CABLE COMMITTEE

The Franchising Authority may appoint a Cable Television Committee and delegate to said Coordinator such functions as are lawful and customary.

ARTICLE 8
GENERAL PROVISIONS

Section 8.1 - FRANCHISE AS CONTRACT UNDER SEAL

Upon its execution by the Franchising Authority and Franchisee this Franchise shall be deemed to constitute a contract under seal by and between Franchisee, on the one hand, and the City of Biddeford, on the other hand.

Section 8.2 - ENTIRE AGREEMENT

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

Section 8.3 - CAPTIONS

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

Section 8.4 - SEVERABILITY

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

Section 8.5 - FORCE MAJEURE

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

Section 8.6 - NOTICES

Every notice to be served upon the Franchising Authority shall be delivered or sent by certified mail (postage prepaid) to Attn: City Manager, Biddeford City Hall, PO Box 586, Biddeford, MA 04005, or such other address as the Franchising Authority may specify in writing to the Franchisee. Every notice served upon the Franchisee shall be delivered or sent by certified mail (postage prepaid) to Attn: Director of Government Affairs, Time Warner, 118 Johnson Rd., Portland, ME 04102 with a copy to Corporate Counsel, Time Warner Cable, 290 Harbor Drive, Stamford, CT 06902 or such other address as the Franchisee may specify in writing to the Franchising Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of mailing or receipt.

Section 8.7 - REMOVAL OF ANTENNAS

Franchisee shall not remove any television antenna of any subscriber but shall,

offer to said subscriber and maintain an adequate switching device to allow said subscriber to choose between cable and non-cable television reception.

Section 8.8 - SUBSCRIBER TELEVISION SETS

To the extent prohibited by law, Franchisee shall not engage directly or indirectly in the business of selling or repairing television or radio sets; provided, however, that Franchisee may make adjustments to television sets in the course of normal maintenance.

Section 8.9 - COST OF PUBLICATION

Franchisee shall, upon request of the Franchising Authority within thirty (30) days of the execution of this Franchise, print and distribute, a maximum of ten (10) copies of the Franchise.

Section 8.10 - JURISDICTION

Exclusive jurisdiction and venue over and dispute or judgment rendered pursuant to any Article herein shall be in a court of appropriate venue and subject matter jurisdiction located in the State of Maine, or upon appeal, other competent court or agency, and the parties by this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment.

ARTICLE 9

DETERMINATION OF BREACH-LIQUIDATED DAMAGES- FRANCHISE REVOCATION

Section 9.1--DETERMINATION OF BREACH

In the event that the Franchising Authority has reason to believe that the Franchisee has defaulted in the performance of any or several provisions of the Renewal Franchise, except as excused by Force Majeure, the Franchising Authority shall notify the Franchisee in writing, by certified mail, of the provision or provisions which the Franchising Authority believes may have been in default and the details relating thereto. The Franchisee shall have thirty (30) days from the receipt of such notice either to:

(a) respond to the Franchising Authority in writing and such response may contest the Franchising Authority's assertion of default and in any event shall provide such information or documentation as may be necessary to support the Franchisee's position or provide the Franchising Authority with necessary information; or

(b) cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Franchisee shall report to the Franchising Authority, in writing, by certified mail, at twenty-one (21) day intervals as to the Franchisee's efforts, indicating the steps taken by the Franchisee to cure said default and reporting the Franchisee's progress until such default is cured.

(c) In the event that the Franchisee fails to respond to such notice of default and to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period, the Franchising Authority or his or her designee(s) shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, to

the Franchisee. The Franchisee shall be provided reasonable opportunity to offer evidence and be heard at such public hearing. Within thirty (30) days after said public hearing, the Franchising Authority shall determine whether or not the Franchisee is in default of any provision of the Renewal Franchise. In the event that the Franchising Authority, after such hearings, determines that the Franchisee is in such default, the Franchising Authority may determine to pursue any of the following remedies:

- (i) seek specific performance of any provision in the Renewal Franchise which reasonably lends itself to such remedy as an alternative to damages;
- (ii) assess liquidated damages in accordance with the schedule set forth in Section 9.2 below;
- (iii) commence an action at law for monetary damages;
- (iv) foreclose on all or any appropriate part of the security provided pursuant to Section 9.2 herein;
- (v) declare the Renewal Franchise to be revoked subject to Section 9.3 below and applicable law;
- (vi) invoke any other lawful remedy available to the City.

Franchisee may appeal any determination of the City to a court of competent jurisdiction.

Section 9.2---LIQUIDATED DAMAGES

(a) For the violation of any of the following provisions of the Renewal Franchise, liquidated damages shall be paid by the Franchisee to the Franchising Authority, subject to Section 9.1 above. Any such liquidated damages shall be assessed as of the date that the Franchisee received written notice, by certified mail, of the provision or provisions which the Franchising Authority believes are in default, provided that the Franchising Authority made a determination of default pursuant to Section 9.1(c) above.

(1) For failure to fully activate, operate and maintain the Subscriber Network in accordance with Section 3 herein, Two Hundred Dollars (\$200.00) per day, for each day

that any such non-compliance continues.

(2) For failure to obtain the advance, approval of the Franchising Authority for any transfer of the Renewal Franchise in accordance with Section 2 herein, One Hundred Dollars (\$100.00) per day, for each day that any such non-compliance continues.

(3) For failure to comply with the PEG Access provisions in accordance with the timelines in Article 5 herein, One Hundred Dollars (\$100.00) per day, for each day that any such non-compliance continues.

(4) For failure to submit required reports, pursuant to Article 7 herein, or failure to respond to notices where response is required under the Franchise, Fifty Dollars (\$50.00) per day per report, or failure to respond to each notice, that each and any of said reports or responses are not submitted as required.

(b) Such liquidated damages shall not be a limitation upon, any other provisions of the Renewal Franchise and applicable law, including revocation, or any other statutorily or judicially imposed penalties or remedies.

(c) Each of the above-mentioned cases of non-compliance shall result in damage to the City, its residents, businesses and institutions, compensation for which will be difficult to ascertain. The Franchisee agrees that the liquidated damages in the amounts set forth above are fair and reasonable compensation for such damage. The Franchisee agrees that said foregoing amounts are liquidated damages, not a penalty or forfeiture, and are within one or more exclusions to the term "franchise fee" provided by Section 622(g)(2)(A)-(D) of the Cable Act.

Section 9.3—REVOCATION OF THE RENEWAL FRANCHISE

To the extent permitted by applicable law, in the event that the Franchisee fails to comply with any material provision of the Renewal Franchise, the Franchising Authority may revoke the Renewal Franchise granted herein following the procedural requirements of Section 9.1.

Section 9.4—TERMINATION

The termination of the Renewal Franchise and the Franchisee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of the Renewal Franchise by action of the Franchising Authority, pursuant to Section 9.1 and 9.3 above; (ii) the abandonment of the Cable System, in whole or material part, by the Franchisee without the express, prior approval of the Franchising Authority, however such abandonment is not permitted without Franchising Authority approval; or (iii) the expiration of the term of the Renewal Franchise and non-renewal in accordance with applicable law. In the event of any termination, the City shall have all of the rights provided in the Renewal Franchise and Franchisee shall have all rights provided or accorded to it under applicable law.

Section 9.5—NO WAIVER-CUMULATIVE REMEDIES

(a) Subject to Section 626(d) of the Cable Act, no failure on the part of the City to exercise, and no delay in exercising, any right in the Renewal Franchise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in the Renewal Franchise.

(b) The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in the Renewal Franchise shall impair any of the rights of the City under applicable law, subject in each case to the terms and conditions in the Renewal Franchise. Nothing herein is intended to authorize a double recovery by the City.

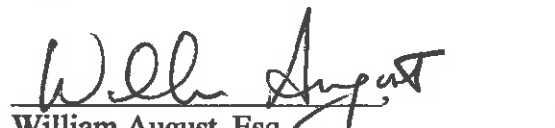
WITNESS OUR HANDS AND OFFICIAL SEALS, THIS 7th DAY OF
July, 2005.

CITY OF BIDDEFORD

By:
The City of Biddeford
by Ed Clifford, City Manager,
as authorized by the City Council:



Approved as to form:


William August, Esq.
Special Counsel for the City of Biddeford

This Franchise is hereby Accepted by Time Warner Entertainment Company, L.P.

By:


Division President

TABLE OF SCHEDULES/EXHIBITS

- Schedule 4.1 Initial Rates
- Schedule 4.3 Broad Categories of Programming
- Schedule 4.4 Initial Program Services
- Schedule 5.3a Communication Plan
- Schedule 5.3c City Council Equipment
- Schedule 5.3(d) Access Channel Venues
- Schedule 6.2 Customer Service Obligations

Schedule 4.3

Sports

News

Weather

General Entertainment (including movies)

Documentary

Arts/Cultural

Children/Family Oriented

Foreign Language

Schedule 5.3a

Time Warner Cable will use the following resources as a means to help the City promote its new digital access channel and educate customers on how to get a digital box at no additional cost.

- One ad every week in the Journal Tribune for one month
- Billing statement message to Biddeford customers (once a quarter or 4 times/year for 1st year)
- Information posted at local office in Saco.
- Training for Customer Service Representatives; they will be able to notify Biddeford customers if they call in to the call center.

Schedule 5.3c
Biddeford City Council

Council Chamber Cameras

4	Sony	SSC-DC50A	Single Chip Fixed Color Camera
1	Sony	YSW-270	4 Camera Power Supply
3	Fujinon	D16x7.3A-R11	16x Remote Control Lens
1	Chugai	HG2Z4516FCS	1/2" 4.5-10mm Varifocal Zoom Lens
1	Panavise	826-09W	Fixed Camera Wall Mount

Council Chamber Remote Heads

3	Pro Four	1100RP	Remote Heads
3	Pro Four	4090DR	Digital Receivers
3	Pro Four	29Q018C	Custom Lens Control Cables
1	Pro Four	2100RCTR	Rack Mount Controller
1	Pro Four	284010C	10' Data Cable
1	Pro Four	2810100C	100' Data Cable
2	Pro Four	2810075C	75' Data Cable
3	Pro Four	4100W	Wall Brackets for Remote Heads

Control Room Equipment

1	Sony	LMD-440	Quad Color LCD Monitor
2	Sony	KV-13FS100	13" Color Monitor
2	Mid Atlantic	U-2	Rack Shelf
1	Panasonic	DMR-E85HS	DVD Recorder w/120 GB HD
1	Mid Atlantic	RSH-4S	Rack mount for DVD
1	Panasonic	WJ-MX20	Digital Mixer
Existing			
2	Burst	VS8x1	8x1 Video Only Switch
1	Burst	SG-7	Color Bar & Black Generator
1	Burst	RM-3	Rackmount Kit
1	Kramer	VM-5ARII	1x5 Video/Stereo Audio D.A.
1	FM Sys	ALM-771	Audio Level Master
1	TvOne	SC-320	Scan Converter
1	Mid Atlantic	U-2	Rack Shelf
2	Mid Atlantic	PD-1415C-NS	Power Strips
1	PowerWare	PW-9125OL	1500Va/1050W Power Supply
2	Mid Atlantic	ERK-4020LRD	Equipment Racks
2	Mid Atlantic	ERK-VT	Vented Tops
1	Mid Atlantic	LBP-1S	Lacing Bars (10 Pack)

Additional Playback

1	Sony	DVP-NS575P/B	DVD Player
1	Leightronix	PRSYDVD	PROBUS Controller Sony DVD
1	Mi Atlantic	RSH-4S	Custom Rack Shelf
1	MVS	MSL	Installation of Cameras and Mounts, Installation of Control & Video Cables, Termination of Cables at Cameras

CABLE ACCESS TELEVISION CONTROL ROOM IMPROVEMENTS

2	Lowell	L-275-61	61 ¼ (35RU) equipment racks w/rear doors
1	pr Lowell	L-275-61SP	Vented side panels
2	Lowell	L16-3	15" writing shelf
2	Lowell	U-180	Multiple outlet strip (15A, 6 duplex)
2	Lowell	L2-191	1-3/4" blank panel
10	Lowell	L2-193	3-1/2 blank panel
2	Lowell	L5-191	1-3/4 vent panel
1	Shure	SCM-810	8 input automatic microphone mixer
1	Rane	DC-22	Compressor/limiter
1	RDL	RU-DA4D	2x4 audio distribution amplifier
1	RDL	RU-VCA2D	Dual channel remote volume control
2	RDL	RLC-10K	RVC controller
1	RDL	RU-RA3A	Rack mount kit
1	RDL	RU-FP1	Filler panel
1	RDL	PS-24A	24VDC power supply
1	Audio Technica	ATW-D12A	VHF antenna distribution amplifier
1	Audio Technica	ATW-A10	Diversity antenna (rack mount)
5	Audio Technica	AT859QMLx	Gooseneck condenser microphone
13	Audio Technica	AT8646QM	XLR shock mount receptacle plate
2	Audio Design Misc.	Custom	Receptacle plate (VCR, computer) Hardware, connectors, etc.
1	Audio Design	Custom	Computer audio input module, including Transformer isolation, compression, Limiting, and input shunting.
1500'	Eastman	5922	20-2 shielded pair microphone cable
200'	Eastman	5730	5C #20 control cable

The City will diligently consider any Franchisee proposal to substitute equivalent equipment items listed above however, the City reserves the right to have the equipment listed above subject to availability. If any such equipment is not available, the parties shall mutually agree to substitute comparable equipment.

Schedule 6.2

- (1) Cable system office hours and telephone availability -
 - (A) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
 - (i) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 - (ii) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
 - (B) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
 - (C) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above, unless an historical record of complaints indicates a clear failure to comply.
 - (D) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
 - (E) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
- (2) Installations, outages and service calls - Under normal operating conditions, each of the following four standards

will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

- (A) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
 - (B) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
 - (C) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
 - (D) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - (E) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.
- (3) Communications between cable operators and cable subscribers -
- (A) Notifications to subscribers -
 - (1) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
 - (i) Products and services offered;
 - (ii) Prices and options for programming services and conditions of

- (iii) subscription to programming and other services;
 - (iii) Installation and service maintenance policies;
 - (iv) Instruction on how to use the cable service;
 - (v) Channel positions of programming carried on the system; and
 - (vi) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
- (2) Customers will be notified of any changes in rates, programming service or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (3)(A)(1) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State or franchising authority on the transaction between the operator and the subscriber.

(B) Billing -

- (1) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations, including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- (2) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.

- (C) Refunds - Refund checks will be issued promptly, but no later than either:
 - (1) the customer's next billing cycle following resolution or the request of thirty (30) days, whichever is earlier; or
 - (2) the return of the equipment supplied by the cable operator if service is terminated.
- (D) Credits - Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

4. Definitions –

- (a) Normal Business Hours - The term “normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one night per week and/or some weekend hours.
- (b) Normal Operating Conditions – The term “normal operating conditions” means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the System.
- (c) Service interruption - The term “service interruption” means the loss of picture or sound on one or more cable channels.

CABLE TV FRANCHISE AGREEMENT
Between the [Name of Municipality], Maine and
Charter Corporation, formally
Time Warner Cable Northeast LLC

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Administrative Issues

1. Statement of Agreement

This Franchise Agreement (the “Agreement”) is made and entered as of _____ between the [Name of Municipality], Maine (the “Town”) and Time Warner Cable Northeast LLC, LKA Charter Communications (hereinafter “Company” or “Time Warner Cable”) a Delaware corporation organized and existing in good standing under the laws of the State of Maine.

2. Title

This Franchise Agreement shall be known and cited as the “[Name of Municipality], ME Cable Television Franchise”. Within this document it shall also be referred to as “this Franchise” or “the Franchise”.

3. Parties

A. Town

1. Name: [Name of Municipality]
2. Contact:
3. Mailing Address:
4. Telephone

B. Company

1. Name: Charter Communications Corporation
2. D/B/A: Time Warner Cable Northeast LLC
3. Contact: Local Franchising
4. Mailing Address: 400 Old County Road
Rockland, ME 04841
5. Telephone: 800-833-2253

As required by 30-A M.R.S.A. §3010 (1)(B) and 47 CFR §76.309(c)(1)(v), Company shall maintain a conveniently located business office that must be open during usual business hours and have a listed toll-free telephone number capable of receiving complaints, requests for adjustments and service calls.

1. Business Office Address: 118 Johnson Road, Portland, ME 04102
2. Toll-free Customer Service Number: 1-800-233-2253

C. Addresses

Such addresses may be changed by either party upon 30-days prior written notice to the other party.

4. Notices (Communications)

All notices required to be provided in this Agreement shall be provided in writing via e-mail, overnight or certified mail to:

1. Company: to the Company contact at the mailing address in Section 3
2. Town: to the Town contact at mailing address in Section 3

5. Grant of Authority

Pursuant to the authority in 30-A M.R.S.A. §3008 and 3010, and subject to the terms and conditions set forth herein, the [Name of Municipality] as the Local Franchise Authority, hereby grants a non-exclusive, revocable cable television franchise to the Company authorizing and permitting the Company to own, construct, upgrade, install, operate and maintain a Cable Television System within the [Name of Municipality].

A. Franchise Area

Company is hereby granted by the Town, where it has the right to do so, the right and privilege to own, construct, reconstruct, erect, operate and maintain, in the [Name of Municipality] (herein called the “Franchise area” or “[Name of Municipality]”), in, upon, along, across, above, over and under the Rights of Way as defined in the [Name of Municipality] Cable Ordinance now laid out or dedicated, and all extensions thereof and additions thereto, poles, wires, cables, optical fibers, underground conduits, manholes and other television and radio conductors and fixtures necessary for the installation, maintenance and operation of a Cable System. In the event of annexation by the Town, any new territory shall become part of the area covered upon sixty (60) days advance written notice by the Town to the Company.

B. Limited Grant

The license is intended to convey limited rights and interests only as to those Rights-of-Way in which the Town has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide Company any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant. The license does not deprive the Town of any powers, rights, or privileges it now has or may later acquire in the future to use, perform work on, or to regulate the use of, and to control the Right-of-Way in a non-discriminatory manner as to all users of the rights of way, including without limitation the right to perform work on its roadways, Right-of-Way or appurtenant

drainage facilities, including but not limited to, constructing, altering, removing, paving, widening, grading, or excavating.

C. Non-Exclusivity

Company's rights and privileges are non-exclusive and the Town expressly reserves the right to grant other such franchise agreements in the Town provided, however, that any such additional franchise shall not be on terms and conditions that are materially more favorable or less burdensome than those provided for herein.

D. Eminent Domain not Conferred

No privilege or power of eminent domain is bestowed to Company by the Town by this grant of this Franchise.

6. Term

This Franchise shall commence on _____, 20__ (the "Effective Date"), and shall [specify ten or fifteen] years thereafter, on _____, 20__, unless renewed, revoked or terminated sooner as herein provided.

7. Governing Law

This Franchise Agreement shall be governed by and be subject to federal law, all applicable FCC rules and regulations and the laws and rules of the State of Maine and the [Name of Municipality]. Company shall be subject to the jurisdiction of the courts of the State of Maine in any suit arising out of this Franchise Agreement except that this provision shall not limit Company's right to initiate a proceeding or to remove a proceeding to the United States District Court for the District of Maine.

8. Effect of Acceptance

By accepting the Franchise, Company and the Town: (1) acknowledge and accept each party's legal right to execute and enforce the Franchise; and (2) accept and agree to comply with the provisions of this Agreement and generally-applicable, non-discriminatory municipal ordinances; and (3) neither party will raise any procedural claims attempting to invalidate the agreement.

9. Definitions

For the purpose of this Franchise Agreement, the following words, terms, phrases, and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, words used in the present tense included the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always

mandatory and not merely directory, except where noted. Where the following definitions are in conflict with definitions in law, it is the express intent that the definition in applicable Federal or State law shall take precedence.

1. **“Access” or “Access Cablecasting”**: Cablecasting on the Cable System’s access channels for the following purposes: (i) non-commercial and non-discriminatory use by the public; (ii) carriage of non-commercial educational programs or information; and (iii) non-commercial use for governmental purposes in accordance with the Cable Act.
2. **“Access Channel(s)”**: A video channel(s) which the Cable Operator shall make available to the [Name of Municipality], without charge, for the purpose of transmitting programming by/for members of the public, Town departments, boards and agencies, public schools, educational, institutional, non-profit and similar organizations in accordance with the Cable Act.
3. **Affiliate or Affiliated Person**: An entity which owns or controls, is owned or controlled by, or is under common ownership with a Company.
4. **Area Outage**: An area outage occurs when cable or equipment is damaged, fails, or otherwise malfunctions (collectively called “malfunctions”), and ten or more Subscribers receiving services from that section of cable or that equipment receive unusable or no service as a result of that malfunction.
5. **Basic Cable Service**: The lowest service tier transmitted to all Subscribers, which includes, at a minimum, (a) all signals of domestic television broadcast stations entitled to "must carry" status under FCC rules, and (b) any public educational and governmental programming required by this Franchise Agreement to be carried on the basic tier and (c) any additional video programming signals added to the basic tier by the Cable Operator in its sole discretion.
6. **Broadcast**: Over-the-air transmission by a radio or television station.
7. **Cable Act**: Cable Communications Policy Act of 1984 (the “1984 Cable Act”), Public Law No. 98-549, 98 Stat. 2779 (1984), as amended by the Cable Television Consumer Protection and Competition Act of 1992 (the “1992 Cable Act”), Public Law No. 102-385, 106 Stat. 1460 (1992) and the Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. 56 (1996), as the same may be amended from time to time .
8. **Cablecast**: Programming (exclusive of Broadcast signals) carried on the Cable System.
9. **Cable Programming Service**: Any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used

for the receipt of such video programming, other than (1) video programming carried on the Basic Service Tier, and (2) video programming offered on a pay-per-channel or pay-per-program basis.

10. **Cable Service:** The one-way transmission to Subscribers of video programming or other programming service, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
11. **“Cable Operator”:** Any Person or Persons owning, controlling, operating, managing or leasing a Cable System within the Town, pursuant to the Cable Ordinance of the Town, and pursuant to any Franchise granted to it by the Town. This term shall include any lawful successor(s) to the interest of such Person or Persons where consent to such successor(s) is approved under the provisions of the [Name of Municipality] Cable Ordinance and under any applicable terms of a Franchise Agreement entered into pursuant to said Ordinance.
12. **Cable System:** Shall be defined in accordance with Section 602 of the Cable Act. This means a facility serving the Town which is owned, constructed, installed, operated and maintained by Company, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designated to provide cable service including video programming and which is provided to multiple subscribers within a head end service area. Such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) 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; or (d) an open video system that complies with section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.
13. **Channel or Video Channel:** A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel.
14. **Company:** Any Person or Persons owning, controlling, operating, managing or leasing a Cable System within the Town, pursuant to any Franchise granted to it by the Town. This term shall include any lawful successor(s) to the interest of such Person or Persons where consent to such successor(s) is approved under any applicable terms of the Franchise Agreement.
15. **Contractor or Subcontractor or Agent:** Any person or entity who or which directly or indirectly works for or is under the direction of “The Company” for the

purpose of installation or repair of any portion of the Company's Cable system in the Town.

16. **Converter:** A special tuner or device attached to the Subscriber's television set that expands reception capacity and/or unscrambles coded signals distributed over the Cable System.
17. **Designated Access Provider:** The entity or entities which may be designated from time to time by the Town to provide PEG access to the residents of the [Name of Municipality].
18. **Downstream Channel:** A channel over which Signals travel from the Cable System Head end to an authorized recipient of programming.
19. **Downstream Transmission:** Signals traveling from the head-end to the Subscriber's location.
20. **Drop or Cable Drop:** The interconnection between each home or building and the feeder cable of the Cable System.
21. **FCC:** The Federal Communications Commission or any successor agency.
22. **Feeder Cable:** The cable, connected to trunk cable, from which cable television signal service is distributed to multiple Subscribers, as distinguished from trunk cable (which distributes cable television service throughout the Franchise area) and drop cable.
23. **Franchise Authority:** The Board of Selectmen of the [Name of Municipality].
24. **Franchise Agreement:** The non-exclusive Cable Television License to be granted to Company by this instrument to include the right, privilege and franchise to construct, operate and maintain a Cable System, and appurtenances or parts thereof, in the Streets, roads, alleys, and other Public Ways of the Town.
25. **Gross Annual Revenue:** Revenue of any form or kind received by the Company from the carriage of Cable Service including, without limitation: the distribution of any Cable Service over the System; Basic Service monthly fees; all other Cable Service fees; fees paid for pay and/or pay-per-view services, installation, reconnection, downgrade, upgrade and any other similar fees; fees paid for channels designated for commercial use; converter, remote control and other equipment rentals, and/or leases and/or sales; all home shopping service(s) revenues; and advertising revenues. Gross Annual Revenue shall not include any taxes or fees other than franchise fees on services furnished by Company imposed directly on any Subscriber or user by any governmental unit and collected by Company for such governmental unit. In the event that an Affiliate is responsible for advertising on the Cable System in the Town, advertising revenues shall be deemed to be the

pro-rata portion of advertising revenues excluding commissions and/or applicable agency fees, paid to the Company by an Affiliate for said Affiliate's use of the Cable System for the carriage of advertising. It is the intention of the parties here to that Gross Annual Revenues shall only include such revenue of Affiliates and/or Persons relating to the provision of Cable Service over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to Cable services. Gross Annual Revenue shall be computed in accordance with Generally Accepted Accounting Principles.

26. **Head-end:** A company owned or leased facility through which Broadcast and cablecast signals are electronically acquired, translated, or modified for distribution over the Cable System.
27. **Interactive Service:** Any service that offers to Subscribers the capability of both transmitting and receiving Signals of any kind.
28. **Institutional Network or I-Net:** A communication network which is generally available only to municipal and educational institutions for non-commercial purposes.
29. **Leased Channel or Leased Access:** A video channel which the Licensee shall make available pursuant to Section 612 of the Cable Act.
30. **Origination Point:** A connection to the cable system which is provided to allow for live or recorded programming to be transmitted from that location Upstream to the Head-end and from there Downstream to the Subscribers over one or more access channels, also referred to in this Agreement as a return feed.
31. **Other Programming Service:** Information that Company may make available to all Subscribers generally.
32. **Outlet:** An interior receptacle, generally mounted in a wall, that connects a subscriber's or user's television set to the Cable System.
33. **Parent:** When used in reference to Company, any Person holding direct or indirect ownership or control of thirty percent (30%) or more of the rights of control of Company; and any Person holding such ownership or control of a Parent to Company.
34. **Pay Cable or Premium Service:** Optional programming delivered for a fee or charge to Subscribers on a per-channel basis, or as a package of services.
35. **Pay-Per-View:** Programming delivered for a fee or charge to Subscribers on a per-program or time basis.

36. **PEG Programming:** Public, Educational, and Governmental programming that is non-commercial, used in conjunction with Access Channels, support and facilities.
37. **Person:** Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual, or group of individuals acting in concert.
38. **Programming or Video Programming:** Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
39. **Public Building:** All state accredited public schools, police and fire stations, public libraries, Town Hall, and other public buildings owned or leased by the Town, but shall not include buildings owned by the Town but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.
40. **Public Way, Streets or Rights-of-Way:** The surface of, and the space above and below, any public Street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, Public Way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Town, in the Town which shall entitle the Company to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. "Street" or "Public Way" shall also mean any easement now or hereafter held by the Town within the Town for the purpose of public travel, or for utility or public service use dedicated for public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Company to the use thereof for the purposes of installing or transmitting the Company's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Town shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.
41. **Signal:** Any transmission of electromagnetic or optical energy which carries Video Programming from one location to another.
42. **State:** The State of Maine.
43. **Subheadend:** A building or shelter, usually smaller than a headend, which takes an already processed video signal from a headend and transmits it to a local

community (or multiple communities), and is the middle point between the head end and the nodes that feed individual homes in a Cable System.

44. **Subscriber:** Any person, firm, corporation, or other entity who or which elects to subscribe to for any purpose, a Cable Service provided by the Company by means of, or in connection with, the Cable Television System.
45. **Subscriber Network:** The 750 MHz bi-directional-capable network to be owned and operated by the Company, over which Cable Service(s) can be transmitted to Subscribers.
46. **Town:** The [Name of Municipality] organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.
47. **Transfer:** The disposal by the Company directly or indirectly, by gift, assignment, sale, merger, consolidation or otherwise, of the ownership or control of the System or of the Franchise Agreement to a Person, or a group of Persons acting in concert.
48. **Two-way Capability:** The ability to transmit audio and video signals upstream and downstream on the Cable System.
49. **Upstream Channel:** A channel over which Signals travel from an origination point to a system distribution point.
50. **Upstream Transmission:** Signals traveling from origination points on the Cable System to a cable distribution point.

10. Construction and Maintenance

A. General Provisions

1. Quality

In the construction, reconstruction, maintenance and repair of the Cable System, Company shall ensure the Cable System meets the rules and regulations of the Federal Communications Commission.

2. Compliance with Laws and Regulations

All work, including all working conditions and facilities, associated with the construction, operation, maintenance, repair and removal of the Cable System shall comply with:

- a. All applicable Federal Laws, Rules and Regulations;
- b. All applicable State Laws, Rules, Regulations and Codes, including building and electrical codes; and,
- c. All generally applicable ordinances, including zoning ordinances, of the Town.

Company shall obtain all generally applicable permits before commencing any construction, reconstruction, repair, maintenance, or other work or property use in the public rights of way. Permits for emergency work shall be obtained as soon as possible, but in no event later than one business day after the work is begun. The grant of permits by the Town shall be timely and shall not be unreasonably withheld.

3. Public Ways Hazards

Any openings or obstructions in Streets or other municipal or public property made by Company shall be guarded and protected at all times by the placement of adequate barriers, fences, boardings, or other protective devices at the sole expense of Company. During the periods of dusk and darkness, the protective devices shall be clearly designated by warning lights.

4. Tree Trimming

Company shall have the authority to trim any trees upon and overhanging the Town's Streets or Public Ways to the minimum extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of Company; provided that, except for incidental trimming done

by Company employees in the course of performing their other duties, any tree trimming within the rights of way of the Town's Streets and Public Ways done by Company shall take place only after providing 48-hour notice to the [Name of Municipality] Public Works Department. In performing tree trimming, Company shall notify the abutting property owner(s) prior to starting work. Company shall use its best efforts to avoid any unnecessary damage or injury to trees, and shall comply in all respects with any Town ordinances governing tree trimming.

5. Restoration of Damage

Company, at its sole expense, shall restore all damage to property, both public and private, caused by the construction, operation, maintenance or repair of the Cable System, so as to return the damaged property to a condition as good as reasonably possible before the damage was done. Such restoration shall be made as soon as practicable after completion of work necessitating the restoration. Absent force majeure, such restoration shall be made insofar as reasonably possible within fifteen business days, weather permitting, after Company's receipt of notification from the owner of the property so damaged unless otherwise mutually agreed by Company and the property owner; provided, that if any such damage involves curbs, sidewalks or driveways, the damage shall be repaired to the satisfaction of the Town (curbs and sidewalks) or the owner or tenant in possession of the property (driveways) within ten business days. Company shall provide the Town with immediate notice for any damage Company causes to: Streets, water-mains, storm or sanitary sewers, or other public facilities. If Company does not make the repairs to such public facilities, Company shall be financially liable for the reasonable cost of any repairs. If Company fails to make such restoration on a timely basis, the Town may fix a reasonable time for such restoration and repairs and shall notify Company in writing of the restoration and repairs required and time fixed for performance hereof. Upon failure of Company to comply within the specified time period, the Town may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by Company upon demand by the Town.

6. Contractors, Subcontractors and Agents

All contractors, subcontractors and agents of Company must be properly licensed under all applicable federal, state and local laws and regulations.

7. Emergency Power

The Cable System shall incorporate equipment capable of providing standby powering of the Headend and all Subheadends for a minimum of four hours.

B. Cable System Location

1. Map of Physical Facilities

With reasonable advanced notice to Company, the Town shall have the right to inspect street maps which identify the location of all trunk and feeder runs including underground. Said maps will be maintained by Company and available upon request.

2. Location of System

Wherever available to Company on reasonable terms and conditions, the distribution system shall use the existing facilities of the public utilities. Poles shall not be installed for the sole purpose of supporting a portion of the distribution system without written justification and approval of the Town, which approval shall not be unreasonably withheld, pursuant to the Town's generally applicable law, ordinances, rules and regulations.

- a. Where the cable or wire facilities of the public utilities are installed underground, Company shall install its cable distribution system underground. Vaults and pedestals shall be suitably landscaped.
- b. In all areas where public utility lines are aerially placed, if subsequently during the term of this Franchise Agreement such utility lines are relocated underground, Company shall similarly relocate its cable distribution system underground at its sole expense. If other owners of utility lines or other users are entitled to reimbursement for such relocation costs and the source of funding for said reimbursement allows it, Company shall have its relocation costs reimbursed as well.

3. No Interference with Rights of Way

Except during temporary construction, installation, or maintenance activities, all lines, cables and distribution structures, and equipment, including poles and towers, erected, installed or maintained by Company within the Town shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways and to cause minimum interference with the rights of property owners who abut any of the said Streets and Public Ways, and not to interfere with existing public utility installations. Company shall not place new poles, towers or other obstructions in Streets or Public Ways, or relocate existing poles, towers or other obstructions, without first obtaining the Town's approval, which approval shall not be unreasonably withheld. Company shall have no vested right in any location, and such construction shall be removed by Company at its own cost and

expense whenever the same restricts or obstructs or interferes with the operation or location or any future operation or location of said Streets or Public Ways by the Town for a municipal purpose.

Company shall at all times comply with applicable state laws including but not limited to 35-A M.R.S.A. Chapter 25 (e.g., pole location permits) and 23 M.R.S.A. §2351(excavation permits).

4. Construction by the Town

If at any time during the term of this Franchise Agreement the Town shall elect to alter, or change the grade or location of any Street, or shall engage in any construction, reconstruction, widening, repairs or other public works in, on or under the Streets, Company shall, upon reasonable notice by the Town, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures (“fixtures”) at its own expense, and in each instance comply with the Town’s generally applicable, non-discriminatory standards and specifications. If other owners of utility lines or other users are entitled to reimbursement of costs for relocations required by this section and the source of funding for said reimbursement allows it, Company shall have its relocation costs reimbursed as well.

5. No Interference with Other Fixtures

Company shall not place fixtures above or below ground where the same will unreasonably interfere with any existing or fully permitted gas, electricity, telephone fixtures, water hydrants, or other utility use, and all such fixtures placed in or upon any Street shall be so placed as to comply with all generally applicable requirements of the Town or other state authority.

6. Temporary Relocations

Company shall, on request of any Person holding a permit issued by the Town or other appropriate authority, temporarily move its fixtures to permit the moving or erection of buildings or other objects, with the expense of any such temporary removal to be paid in advance by the Person requesting same, and Company shall be given reasonable notice to arrange for such temporary relocation. Company shall bear any expense to temporarily move its fixtures to permit the moving or erection of publicly owned or constructed buildings or other objects. The Town shall have the power at any time to order and require a Cable Operator to remove or relocate any pole, wire, cable or other structure machinery or equipment located within a public way that is dangerous to life or property. In the event that a Cable Operator, 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 Cable Operator.

C. Communications

1. Company Notice

Except in an emergency, and except for interruptions of four hours or less, Company shall give Subscribers at least 24 hours' notice, if practical, of any interruption of service for purposes of maintenance or repair. In an emergency, Company shall give such notice as is reasonable in the circumstances. Notice given on the alphanumeric channels on Basic Cable Service shall be considered sufficient. During the rebuild of the Cable System, Company shall not be required to provide 24 hour notice of any interruption of service if such interruption is the direct result of rebuild work. However, Company shall be required to provide written notification to Subscribers and the Town of planned rebuild work schedules and when Subscribers may experience service interruptions in excess of four hours. Company shall use its best efforts to minimize the length of any service outage due to the rebuild. Company shall promptly notify the Town in writing of any significant interruption in the operation of the Cable System. For this purpose, a "significant interruption" shall mean any interruption of more than four hours to more than ten Subscribers.

2. Subscriber Requesting Maintenance

Subscribers may request maintenance at the Business Office of Company or by calling the toll-free telephone number each of which is required by 30-A M.R.S.A. §3010(1)(B).

3. Company Responses

Company responses to such requests shall be governed by the applicable standards of the Federal Communications Commission and state law.

4. Subscriber-Owned Equipment Excluded

The requirements for maintenance and repair shall not apply to Subscriber television or radio receivers or other Subscriber-owned equipment.

11. Operations

A. Performance Standards

1. System Design

a. Upon request, Company shall provide the Town with a description of the current system design and operational standards. Such

description shall include at a minimum, Cable materials, (i.e. coaxial cable or fiber), the bandwidth capacity of the system in MHz, the channel capacity of the system, bi-directional capability, overall measured system reliability and performance in respect to FCC requirements and any other relevant standards that the Company may wish to describe.

- b. If the Company elects to upgrade its system in the Franchise Area, the Company shall notify the Town.

2. Operations

The Cable System shall be constructed, operated and maintained to comply with all applicable standards of the Federal Communications Commission.

B. Performance Testing

The Town is entitled to review copies of FCC Proof of Performance upon request.

C. Emergency Alert System

Company shall comply in full with the requirements for an Emergency Alert System (EAS) as provided in FCC regulations, 47 CFR Part 11, and with any applicable State emergency notification requirements not preempted by Federal law.

D. Video Recording Device/Cable Compatibility

Company shall comply with applicable Federal Communication Commission standards for compatibility with consumer electronics equipment.

12. Insurance

A. Company Insurance

- 1. Company shall maintain insurance throughout the term of this Franchise and any removal period, with an insurance agency authorized to conduct business in the State of Maine, protecting as required in this Franchise, Company and listing the Town as an additional insured, against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of its Cable System .

The amount of such insurance for liability for damage to property shall be on a replacement cost basis, no less than Three Million Dollars

(\$3,000,000.00) as to any one occurrence. The amount of such insurance for liability for injury or death to any person shall be no less than Three Million Dollars (\$3,000,000.00) as to any one occurrence. The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000.00) in umbrella form. Policy will contain a provision that the Town will be provided thirty (30) days written notice prior to any cancellation, material modification or non-renewal.

2. Company shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000.00). Policy will contain a provision that the Town will be provided thirty (30) days written notice prior to any cancellation, material modification or non-renewal.
3. All insurance coverage, including Workers' Compensation shall be maintained throughout the period of this Franchise. All expenses incurred for said insurance shall be at the sole expense of the Company
4. Company shall provide the Town with certificates of insurance upon execution of this Agreement or as otherwise provided by its insurance company.

B. Insurance to be provided by Subcontractors

All contractors and subcontractors of Company shall maintain adequate insurance coverage in the same amounts as listed in Section 12.A and shall name the Town as an additional insured in all policies.

C. Indemnification of the Town

Company hereby indemnifies and holds the Town, its selectmen, officers, agents, employees, members of boards and committees, with respect to the construction, installation, operation and maintenance of the Cable System, harmless from and against all expenses, losses and claims, demands, payments, suits, actions, recoveries, and judgments of any nature and description, other than as a result of the negligence of the Town, including reasonable attorney's fees, resulting from claims, any or omission of Company, its agents or employees, in the construction, operation, maintenance, repair or service of its Cable System, or by reason of any suit or claim for royalties, license fees, or infringement of copyright or patent rights arising from Company's performance under this Franchise Agreement. In the event of the commencement of any action against the Town, or its selectmen, officers, agents, employees, or members of boards and committees which is within the scope of this indemnification, the Town will give notice thereof to Company within fifteen business days after the Town is formally served in any such action, and, after consultation with the Town, Company will have the right to select and furnish

counsel for the defense of any such action, at no cost or expense to the Town. The Town's failure to give timely notice to Company of the commencement of any such action shall not relieve Company of its obligations under this section unless such failure to give timely notice causes actual prejudice to Company's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the Town, or any such action, or any claim therein, shall be made by Company or by counsel selected by Company without the approval of the Town, which approval shall not be unreasonably withheld. The extent of the indemnification agreement will not be limited by the requirements for liability insurance in this Agreement.

D. Indemnification of Company

The Town will indemnify Company for any and all claims arising out of programming of PEG channels, except where Company or its agents or employees provided the programming.

E. Municipal Immunities

Nothing herein, including the indemnity provisions in sub-sections C and D and the procurement by Company of insurance policies meeting the requirements of this section 12, shall be interpreted or construed to effect any waiver, suspension, release or alteration of or to any and all immunity or other immunities or limitation of liability as may be available to the Town by law including, without limitation, the Maine Tort Claims Act, codified at 14 M.R.S.A. §§ 8101-8118.

13. Performance Bond

A. Performance Bond

Company shall obtain and maintain during the term of this Franchise Agreement, at its sole cost and expense, and file with Town, an irrevocable performance bond, running to the Town, with a surety authorized to do business as a surety in the State of Maine, to guarantee the faithful performance by Company of all of its obligations under this Franchise Agreement. Such performance bond shall be in the amount of at least one hundred thousand dollars (\$100,000).

B. Conditions

The performance bond shall provide, but not be limited to, the following conditions. There shall be recoverable by the Town, jointly and severally from the principal and surety, subject to the provisions in Section 23(C), within 30 days after written request by the Town, any and all penalties due to the Town and any and all damages, losses, costs and expenses suffered or incurred by the Town resulting from the failure of Company to comply with the material provisions of this Franchise

Agreement. Such losses, costs and expenses shall include, but not be limited to, reasonable attorney's fees and other legal, consulting and auditing expenses. Not less than thirty days' prior notice to the Town shall be provided of Company's or the surety's intention to cancel, materially change, or not to renew the performance bond.

C. Forfeiture

Subject to the provisions in Section 23C, the total amount of the bond or security fund shall be forfeited in favor of the Town in the event Company fails to complete any construction or rebuild obligations or breaches any material provision of this Franchise Agreement. Neither the provisions of this Section, nor any bonds accepted by the Town pursuant hereto, nor any damage recovered by the Town there under, shall be construed to excuse unfaithful performance by the Cable Operator or limit the liability of the Cable Operator under this Ordinance or the Franchise Agreement for damages, either to the full amount of the bond or otherwise.

D. Replenishment

In the event that any portion of the performance bond is forfeited or withdrawn for any reason, Company shall be required to post an additional bond in an amount equal to the forfeiture within 30 days of the date of the forfeiture or withdrawal. Failure to post an additional bond on a timely basis shall constitute a violation of a material provision of this Franchise Agreement within the meaning of Section 23 hereof.

E. Town Rights

The rights reserved to the Town with respect to the Performance Bond are in addition to all other rights of the Town, whether reserved by this Franchise Agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such sections shall affect any other rights the Town may have.

14. Records and Reports

A. Availability of Records to the Town

Upon reasonable written notice to the Company, the Town shall have the right to inspect Company's books and records during Normal Business Hours and on a non-disruptive basis, as are reasonably necessary to ensure compliance with the material terms of this Franchise, including any federal, state, laws or regulations or generally applicable ordinances referenced herein. Records should be produced within 5 business days of receipt of written request, unless for good cause Company responds that a longer amount of time will be needed. Such written notice from the Town shall specifically reference the section or subsection of the Franchise which is under review, so that Company may organize the necessary books and records for appropriate access by the Town. Company shall not be required to maintain

any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, Company shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its books and records not relating to the provision of Cable Service in the Franchise Area. The Town shall treat any information disclosed by Company as confidential and shall only disclose it to employees, or the Town's agents bound by a confidentiality and non-disclosure agreement reasonably acceptable to Company, or as may be necessary to enforce the provisions hereof. Company shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, and 47 USC §551.

Company shall at all times after the Effective Date maintain:

1. Records of all written complaints for a period of two (2) years after receipt by Company (The term "complaint" as used herein refers to complaints about any aspect of the Company's service operations, Complaints recorded will not be limited to complaints requiring an employee service call.);
2. Records of area outages for a period of two (2) years after occurrence, indicating date, duration, and the number of Subscribers affected, type of area outage, and cause;
3. Records of service calls for repair and maintenance for a period of two (2) years after resolution by Company, 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;
4. Records of installation/reconnection and requests for service extension for a period of two (2) years after the request was fulfilled by Company, indicating the date of request, date of acknowledgment, and the date and time service was extended; and
5. a map showing the area of coverage for the provisioning of Cable Services.

The Town reserves its right to copy books and records as allowed under FCC regulation.

B. Annual Report

Upon written request from the Town, Company shall provide to the Town a summary of the Company's activities in the Town for the previous calendar year including a summary of:

1. Total miles of new cable plant installed;
2. Total number of service calls indicating number of dispatches and number repaired;
3. Listing of all charges and fees for cable or cable-related services;
4. All area outages, including date and duration;
5. Equipment or equivalent funding provided to the PEG channels(s) (if any);
6. Other information Company chooses to include.

C. Charges for Audits or Tests

If an inspection or audit of Company's records shows that Company underpaid the franchise fee by four percent or more for any payment period, Company shall reimburse the Town for all reasonable costs including expert fees arising from the inspection or audit, and any additional inspection or audit until it is determined Company is in full compliance. In addition, except as federal law prevents the Town from enforcing any standards, if it is determined that Company has not materially complied with FCC standards, the Town shall have the right to charge all costs arising from these tests, including expert fees, to Company until it is determined that Company is in full compliance. Notwithstanding the foregoing, the obligation to pay the Town's costs for tests of the performance of the Cable System shall only arise if the Town's test is (1) a test of an area where Company has represented that it has corrected a problem, and the problem was not in fact corrected; (2) a second test of an area by the Town, where Company had been notified of the problem and been given an opportunity to cure it; or (3) where Company challenged the validity of a Town test, and the Town agrees to retest, and the re-test confirms the validity of the initial Town test. These charges are incidental to the enforcement of the Franchise; they do not limit any right the Town may have to exercise any other remedy.

Municipal Benefits

15. Franchise Fee

Company shall provide a Franchise Fee to the Town or its designee, equal to five percent (5%) of Company's Gross Annual Revenues. Upon ninety (90) days' notice to the Company, the Town, by action of its Board of Selectmen, may increase or decrease the Franchise Fee, up to a maximum of five percent (5%) of Company's Gross Annual Revenues.

A. Payment

Company shall pay the Franchise Fee to the Town on a quarterly basis, no later than forty-five (45) days after the end of the calendar quarter for which payment is made. The payment for the last quarter of the last year of the term of this Franchise shall be due and payable forty-five (45) days after the end of that quarter. The quarterly payment shall include a statement showing the basis for the payment, including a breakdown by category (e.g., basic service, home shopping channels, advertising) and source of Gross Annual Revenues for the quarter.

The Town shall be furnished a statement with each payment, prepared by a financial representative of the Cable Operator, and verified as correct, reflecting the total amount of Gross Annual Revenues generated by all activities within the Town, and the above charges, deductions and computations, for the three month payment period covered by the payment. The Cable Operator shall prepare and maintain financial information and records in accordance with generally accepted accounting principles and generally accepted auditing standards in the cable television industry.

At Town’s option, the information provided by the Company shall be subject to audit by an outside firm of certified public accountants selected by Town. Any such audit shall be at Town’s expense except unless such audit shall disclose an underpayment of any franchise fees of more than four percent (4%) payable for the period of the audit, in which event the Company shall reimburse Town for the expense of such audit. Repeated failure to pay the franchise fee on a timely basis is a violation of a material provision of the Franchise Agreement for purposes of the termination provisions of this Franchise.

<u>Due Date</u>	<u>Quarter</u>
May 15	First (January 1 – March 31)
August 15	Second (April 1 – June 30)
November 15	Third (July 1 – September 30)
February 15	Fourth (October 1 – December 31)

B. Late Payments

In the event that the fees herein required are not tendered on or before the dates fixed in Section 15A above, interest shall accrue on any and all overdue franchise fees at the rate of twelve percent (12%) simple interest per annum.

C. Acceptance of Payment

Acceptance of payment by the Town shall not be construed as accord that amount paid is the correct amount. The Town reserves its rights to inspect relevant books

and seek any underpayments due. If the Town has not begun process to challenge or audit payment of franchise fee within 36 months of receipt of final annual payment, and breakdowns provided pursuant to subsection A are certified, payment is deemed accurate. If the breakdowns provided pursuant to subsection A are not certified, the time frame hereunder is 48 months.

16. Public, Educational and Governmental Access (PEG)

A. Use of PEG Access Channel

Channel capacity for public, educational and governmental (“PEG”) access shall be provided in accordance with federal law, 47 USC §531 and §546 as further set forth below.

B. Channels

Company shall provide the Town with _____ shared channels for public, educational and governmental (“PEG”) access programming. To facilitate live programming within the [Name of Municipality], Company shall install and maintain video and audio origination points at the public buildings and public locations as designated below:

1. [Name of Municipality] Town Office
2. (Other locations)

C. Exclusive Use, Channel Designations and Interconnectivity

1. Town, or its designee(s), shall have the exclusive use of the PEG Access Channels. Use of PEG Access Channel shall be for locally produced, non-commercial purposes and subject to such rules as the Town, or its designee(s), may adopt.
2. There shall be no charge by Company for the use of the PEG Access Channels.
3. Company shall not appropriate PEG programming for use by company on any other channel.
4. Unless otherwise agreed to by the parties, PEG channels shall be carried on the basic tier.
5. PEG channels shall not be separated numerically from other local broadcast channels carried on the cable operators’ basic cable or video service offerings or tiers and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator, unless prohibited by federal law. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the PEG Originator, unless the

change is required by federal law. This requirement shall be retroactive such that any PEG channels that have been moved without the consent of the PEG Originator will be restored to their original location and number.

6. Company shall include appropriate designation of the Town's PEG Access Channels on channel cards and channel listings provided to Subscribers in a manner comparable to which it identifies other Channels. This provision does not obligate Company to list PEG programming content on said channel cards and channel listings. If Channels are selected by a viewer through a menu system, Company shall display the Town's PEG Access Channels designation in a similar manner as other channels.
7. Within 90 days of request by the Town, Company shall install the video return feed connection and transmission equipment from the [Name of Municipality] Town Hall to the PEG Access provider to permit the transmission of the PEG programming on the PEG channel to (at a minimum) the cable subscribers in the [Name of Municipality]. In the event of a relocation of the facilities, Company shall provide a connection to the relocated facility Provided that Company has existing unutilized fiber available and the connection involves a standard aerial drop of 150 feet.

D. PEG Facilities and Equipment Support:

No later than 90 days from the execution of this Franchise, Company shall provide to the [Name of Municipality] a PEG capital grant in the amount of \$_____ to be utilized by the [Name of Municipality] to purchase Public Educational and Governmental access facilities and equipment determined by the parties during renewal discussions. Such amount, to the extent utilized in accordance with the provisions of federal law, are in addition to and may not be counted as an offset from any Franchise Fee imposed on Company.

E. Minimum PEG Signal Quality and Transmission Standards

The PEG access signal and channel shall meet FCC Technical Standards. PEG channels shall be afforded the same quality format as provided to other local broadcast channels on the basic cable or video service offerings or tiers. That is, if a high definition or current technology signal is sent to the cable operator by the PEG Originator, the cable operator shall not diminish, down convert or otherwise tamper with the signal quality or format provided to them. Said channel signals as delivered to the subscriber shall be of equivalent quality and format to the primary local broadcast signals carried on the system if provided as such by the PEG Originator. All cable television operators shall simultaneously carry each PEG access channel in both a high definition format and a standard digital format in the same manner as the primary local broadcast channels are provided, unless prohibited by federal law.

With respect to any new or existing PEG channel as defined in this franchise and subject to 30-A MRSA §3010 (5), and 47 U.S.C. §522 Definitions, the equipment associated with the interconnection of PEG transmission facilities between a PEG facility and the Franchisee's head end within the Franchisee's cable system as well as the formatting of PEG programming for transmission to the subscriber is considered "PEG facility or equipment" and the costs and maintenance thereof shall be borne by the Company.

F. PEG Promotion

In the event that the Company implements local advertising sales on Channels received by Subscribers within the Town, the Town or its designee(s) may want to seek time for non-commercial PEG Access program or service promotional spots on said channels. Nothing in this section shall be construed to require the Company to provide access to promotional spots at no cost to the Town or its designee(s).

17. Build-out

A. Area To Be Served

1. Company shall make Cable Service available to every residential dwelling unit within the Town where the minimum density is at least fifteen (15) year round single family residences per aerial mile providing however, that any plant extension is measured from the existing Trunk and Distribution System and Company is able to obtain from property owners any necessary easements and/or permits on terms and conditions acceptable to Company. Subject to the density requirement, Company shall offer Cable Service at standard installation rates to all new homes or previously unserved homes located within 150 aerial feet of Company's Distribution Cable. For non-Standard Installations (those exceeding 150 aerial feet or underground) Company shall, upon receipt of payment and pending any identified construction or other issues (e.g., make ready, weather) offer said service within thirty (30) days of a Subscriber requesting such for aerial installations and sixty (60) days of a Subscriber requesting such for underground installations.
2. Regardless of the density requirements outlined above, Company shall provide a cost-sharing arrangement as follows. On the request of a resident desiring service, Company shall prepare an engineering survey and cost analysis to determine the cost of plant extension required to provide service to the subscriber. If a request for extension of service into a residential area requires the construction of cable plant that does not pass at least twenty homes per mile (aerial), Company and those residents requesting cable services will each bear their proportionate share of construction costs. For

example, if there are five single family homes per mile (aerial) who agree to subscribe to cable service, Company shall share one-half of the construction cost and the remaining cost will be shared equally among the residents requesting cable services. Company may require advance payment of the customer pro-rata cost prior to commencing construction.

3. Installation costs shall conform with the Cable Act. Any dwelling unit within an aerial 150 feet of the Trunk and Distribution Cable shall be entitled to a Standard Installation rate in accordance with applicable federal and state laws. Underground installations are considered non-standard installations. All non-standard installations shall be provided at a rate established by the Company in accordance with applicable federal and state laws.
4. Provided Company has at least ninety (90) days' prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, and the density requirements outlined above are met, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. The Town, or its designee, shall exercise reasonable efforts to have the Planning Board and developers give timely written notice of trenching and underground construction to Company. Developer shall be responsible for the digging and back-filling of all trenches.
5. Additional roads to be serviced are: Peabody Pond Road, Folly Road, Dyke Mountain Road, Kimball Corner Road, Bridgton Road, Barker Pond Road, Koceika Road, Norumbega Road.

18. Cable Service to Municipal Buildings

Company shall provide and maintain one cable drop, including standard installation of basic cable service to municipally owned and occupied facilities serviceable by a standard aerial drop located within 150 feet of Company's distribution system and capable of an aerial drop. The Municipality shall be responsible for equipment charges, if any.

The following buildings are required to have courtesy cable TV drops.

[List Municipal and School buildings here]

Consumer Issues

19. Rates & Services

A. Prices and Charges

1. All rates, fees, charges, deposits and associated terms and conditions to be imposed by Company for any Cable Service as of the Effective Date shall be in accordance with all applicable FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, Company shall follow the applicable FCC and State notice requirements and rules and notify affected Subscribers, which notice may be by any means permitted under applicable law. Nothing in this Franchise shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or retaining Subscribers. Complete information concerning billing and collection procedures, including dispute resolution, procedures for ordering changes in, or termination of services, and company's discontinuation policies and procedures shall be provided to each subscriber at least annually.
2. The Town acknowledges that certain costs of Public, Educational and Governmental ("PEG") Access and other Franchise imposed costs, at the Company's option may be passed through to Subscribers in accordance with federal law.

B. Basic Cable Service

Company shall make available a Basic Cable Service tier to all subscribers in accordance with 47 USC §534 and applicable regulations, including 76.1618 of the FCC Rules and Regulations, and shall provide notice of the basic tier pursuant to 30-A M.R.S.A. §3010.

C. Programming

Pursuant to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of Company, except that pursuant to 47 USC §544(b)(2) (B) and (h) and 47 CFR §76.1603 the Town may require "broad categories" of programming.

20. Rights of Individuals

A. Customer Service

Company shall comply with all customer service federal laws, regulations of the FCC and state laws as they may be amended from time to time.

B. Protection of Subscriber Privacy

Company shall comply with all applicable federal and state privacy laws and regulations, including 47 USC §551 and regulations adopted pursuant thereto and 30-A M.R.S.A. §3010.

C. Employee Identification Cards

All of Company's employees, and subcontractors, including repair and sales personnel, entering private property shall be required to display an identification card issued or approved by Company indicating that employee or subcontractor is working on behalf of Company.

D. Monitoring

Company may only monitor customer accounts consistent with applicable federal and state law.

E. Privacy Written Notice

At the time of entering into an agreement to provide any Cable Service or other service to a Subscriber, and annually thereafter to all Cable System Subscribers, the Company shall provide Subscribers with written notice, as required by Section 631(a)(1) of the Cable Act, (47 USC §551) which, at a minimum, clearly and conspicuously explains the Company's practices regarding the collection, retention, uses, and dissemination of personal subscriber information, and describing the Company's policy for the protection of subscriber privacy.

F. Subscriber's Right to Inspect and Verify Information

1. The Company shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Company maintains regarding said Subscriber.
2. A Subscriber may obtain from the Company a copy of any or all of the personal subscriber information regarding him or her maintained by the Company. The Company may require a fee for making said copy.
3. A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges

and related inquiries about the handling of subscriber information shall be directed to the Company. The Company shall change any such information upon a reasonable showing by any Subscriber that such information is inaccurate.

21. Unauthorized Connections/Continuity of Service

It shall be the right of all Subscribers to receive Cable Service insofar as their financial and other obligations to the Company are honored, provided that the Company shall have no obligation to provide Cable Service to any Person who, or which the Company has a reasonable basis to believe, is using an unauthorized Converter or is otherwise obtaining Cable Service without required payment thereof or who threatens Company's employees or damages Company's equipment. The Company shall ensure that all Subscribers receive continuous, uninterrupted Service, except for necessary Service interruptions. When necessary non-routine Service interruptions in excess of four hours can be anticipated, the Company shall notify Subscribers of such interruption(s) in advance.

22. Subscriber Complaints

A. Dispute Resolution

The Company shall establish a procedure for resolution of Complaints by Subscribers. Said procedure shall at a minimum include the provisions of 30-A M.R.S.A. §3010.

B. Investigation of Complaints

Upon reasonable notice, the Company shall expeditiously investigate and resolve all complaints regarding the quality of Service, equipment malfunctions and similar matters. In the event that a subscriber is aggrieved, the Town or its designee(s) shall be responsible for receiving and acting upon such subscriber complaints and/or inquiries, as follows:

1. Upon the written request of the Town or its designee(s), the Company shall, within ten (10) business days after receiving such request, send a written report to the Town with respect to any complaint. Such report shall provide a full explanation of the investigation, finding and corrective steps, if any, taken by the Company.
2. Should a subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his or her complaint with the Town or its designee(s), who shall have primary responsibility for the continuing administration of this Renewal License and the implementation of complaint procedures. The subscriber shall thereafter meet jointly with the Town or its designee(s) and a representative of the Company, within thirty (30) days of the subscriber's filing of his or

her complaint, in order to fully discuss and resolve such matter in accordance with applicable laws.

3. **Complaint Records:** Company shall maintain records of all oral and written complaints regarding quality of service, equipment malfunctions, billing procedure, and similar matters that requires further action on the part of the Company. Such records shall show the exact date and time of receipt of all such customer complaints, identifying the subscriber, the nature of the complaint and the exact time action was taken by the Company in response thereto, together with a description of such action. Company shall also maintain a record of all whole or partial system outages, including the date, approximate time and duration, type and probable cause of each outage, except for outages caused by routine testing or maintenance. Such records shall be available at the Company's local office for at least two (2) years, for inspection by Town as it may from time to time request, during regular business hours and upon reasonable notice, subject to any privacy restrictions imposed by law. Company shall, within ten (10) days after receiving a written request therefore, send a written report to Town with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

C. Complaint Policy

Company shall provide the Town a copy of Company's complaint policy annually and no later than 30-days after any revisions. If Company maintains a publicly available website, Company's complaint policy shall be posted on its website.

23. Credits and refunds, notice on subscriber bills

Pursuant to 30-A M.R.S.A. §3010 (2-A), "every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type".

24. Transfers

A. Company's Right to Transfer

Neither this Franchise Agreement, nor any rights or obligations of the Company in or pursuant to this Franchise Agreement or the Cable System shall be transferred in part or as a whole, by assignment, trust, lease, sublease, and is not to be sold, transferred, leased, assigned, or disposed of in part or as a whole, either by forced sale, merger, consolidation, or otherwise, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any Person, nor shall any change in control of the Company or the Cable System occur, either by any act of the Company or by any parent company of the Company, by operation of law or otherwise, in each such case without the prior consent of the Town, which consent shall not be unreasonably withheld or delayed, and which shall be expressed in writing, subject to reasonable and lawful conditions, including, but not limited to, curing any Franchise non-compliance. Any assignment or transfer without such prior written consent or without “deemed consent” under applicable federal law shall constitute a violation of a material provision of any Franchise Agreement.

No consent will be required for a transfer in trust, mortgage or hypothecation to secure an indebtedness, provided that such transaction will not in any respect prevent the Company or any successor from complying with all of its obligations under this Franchise Agreement, but the exercise of any right to foreclose or seize such pledged assets shall be subject to the provisions of this paragraph. No transfer of control will be deemed to have taken place if the transfer is to an entity under common control with the Company provided such entity has equal or greater financial resources than the transferor and provided the transfer does not involve a change in the management or day to day operations of the Company.

B. Town’s Right to Approve

Pursuant to 47 U.S.C. § 537, the Town, as Local Franchise Authority, reserves its right to approve any sale or transfer of the Cable System. Municipal approval shall not be unreasonably withheld.

For purposes of this Section, any sale, assignment or any other disposition of a twenty percent (20%) ownership interest of the Company or parent company of the Company to any one Person or group of Persons acting in concert, in one transaction or a series of related transactions, shall be deemed to be a change of control of the Franchisee. The word “control” as used in this section is not limited to major stockholders but includes actual working control in whatever manner exercised. A transfer or assignment of a Franchise or control thereof between entities under common control, between affiliated companies, or between parent and subsidiary corporations, shall not constitute a transfer or assignment of a Franchise or control thereof. An “affiliated company” is any person or entity that directly or indirectly or through one or more intermediaries controls, is controlled by, or is under common control with another person or entity.

C. Notice to Town

Company shall provide the Town with reasonable Notice of the proposed transfer. The contents of the Notice shall include:

1. An original and three (3) copies of its FCC Form 394 (or such other or successor form used to request consent to any such Transfer or assignment), which form shall fully describe the action or proposed action and clearly state the basis on which the Transfer or assignment should be approved. The Company shall include with the application complete responses to the informational requests attached to this Franchise Agreement as Exhibit A. The request for approval of Transfer or assignment shall also contain all reasonably appropriate documentation and such additional information as the Town may reasonably require, provided that to the extent the Town requests additional information other than as described in Exhibit A, the Town shall issue such request to the Company within thirty (30) days of receipt of the application, and the Company shall respond to such requests for additional information within thirty (30) days. The Transfer or assignment form shall be signed by the Company and by the proposed transferee or by its representative, evidence of whose authority shall be submitted with such petition. ;
2. Certification by transferee that it will accept the provisions of this Franchise Agreement for the remainder of the Franchise Term.

D. Time to Review

The Town shall have 120 days from receipt of the Notice to take action on the request for transfer. The Town need not, but may, act to approve the transfer. If the Town does not act within 120 days of receipt of Notice, the transfer shall be deemed approved.

E. Public Hearing

The Town's consent to transfer shall be given only after a public hearing, if such a hearing is deemed necessary by either the Town or the transferee, to consider the written request for Transfer. The Town shall complete review of the request for Transfer and make a decision thereto no later than one hundred twenty (120) days after receipt of the request for Transfer. If the Town fails to render a final decision on such request within said 120 days, such request shall be deemed granted unless the requesting party and the Town agree to an extension of time. In the event the Town makes a reasonable request for additional information and the Company fails to provide responses within thirty (30) days of receipt of such request, the Town's deadline to make a decision on the transfer request, and the date by which such transfer request is deemed granted, shall be thirty (30) days after the Town's receipt of such responses. The Town may conduct a public hearing on the proposed transfer no later than 90 days after the receipt of the notice of transfer.

F. Town Consent

For purposes of determining whether it shall consent to any such change of control and ownership, the Town shall inquire into the legal, financial, management and technical qualifications of the prospective controlling or owning Person, and including, but not limited to, such Person's cable-related experience and service record, if any, in other communities, the changes, if any, it intends to make in the operations, maintenance, technology and services of the Cable System serving [Name of Municipality], any and all matters relative to the ability and likelihood of such Person adhering to all of the terms and conditions of this Franchise Agreement, and whether the proposed change of control and ownership is in the public interest.

G. Transferee Obligations

Any proposed controlling or owning Person or transferee approved by the Town shall be subject to all of the terms and conditions contained in the Franchise Agreement, including curing any Franchise non-compliance.

H. Costs

The Company shall reimburse the Town for its reasonable expenses (including reasonable attorney's fees) incurred as a result of the reviewing and acting upon the Company's request to transfer. The Company's liability for reimbursing the Town shall not exceed Two Thousand and Five Hundred Dollars (\$2,500).

I. No Waiver or Release

The consent or approval of the Town to any Transfer of the Cable System or this Franchise Agreement granted to the Company shall not constitute a waiver or release of the rights of the Town in, and shall by its terms be expressly subordinate to, the terms and conditions of this Franchise Agreement.

25. Successors/Assigns

The obligations of this Franchise apply to any and all successors and assigns of the Company, unless the Town expressly and in writing agrees to release the successors and assigns from this Franchise or any portion thereof.

26. Renewal

This Franchise may be renewed by the parties in accordance with state and federal law. The Town may assess reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon applications for renewal Franchise agreements.

27. Revocation and Termination

A. Right to Revoke or Terminate

In addition to all other rights and powers of the Town by virtue of this Franchise Agreement and after notice and opportunity to cure pursuant to section 27B, the Town may revoke this Franchise Agreement and all rights and privileges of Company hereunder in the event Company either:

1. Violates any material provision of this Franchise Agreement or any rule, order or determination of the Town made pursuant thereto where such violation remains uncured for a period of thirty (30) days following written notice to Company by the Town that such violation is deemed to exist unless cure is not feasible in such time period in which event the parties shall meet and agree to a cure schedule;
2. Attempts to evade any material provision of this Franchise Agreement or practices any fraud or deceit upon the Town; or
3. Fails to provide or maintain in full force and effect the insurance coverages and the performance bond as required by the [Name of Municipality] Ordinance and the terms of this Franchise Agreement, where such violation remains uncured for a period of thirty (30) days or,
4. Arbitrarily ceases to provide service over the Cable System or fails to restore service after ninety-six (96) consecutive hours of interrupted service except in cases of force majeure or when approval of such interruption is obtained from the Town.

B. Procedures to Revoke or Terminate

1. If the condition(s) giving rise to the Town's termination of the Franchise Agreement are not cured within the time frames set forth in Section 27.A, the Agreement shall be terminated and the Town may initiate the process for revoking the Franchise under the [Name of Municipality] Cable Television Ordinance.

28. Abandonment

If company shall cease providing service in the Town pursuant to 30-A M.R.S.A. §3008(3)(B), the Company shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and shall restore the areas to their original condition as is reasonably possible and as soon as reasonably possible. If such removal is not complete within six (6) months of such end of service, the Town may deem any property not removed as having been abandoned. Upon written

request of the Company, the Town may waive this requirement of removal for good cause shown.

29. Expiration of Agreement

Upon the expiration and non-renewal, or revocation of this Franchise Agreement and exhaustion of all judicial appeals, the Cable System shall be disposed of according to 47 USC §546 and this Franchise Agreement.

30. Changes in Law

In the event a federal or state law, regulation or decision by a court of competent jurisdiction renders a provision in this Franchise Agreement void or otherwise unenforceable, the provision shall be considered preempted. This preemption will last for as long as the law, regulation or decision is effective; if the law, regulation or decision is subsequently repealed, rescinded, amended, voided, overturned or otherwise changed so that the preemption is nullified, the provision shall thereupon return to full force and effect as provided by such proceeding and shall be binding and enforceable in accordance with the terms thereof.

31. Amendments

This Franchise Agreement may be amended in the future by written agreement of both parties to reflect changed circumstances, including changes in federal or state law. This Franchise Agreement shall not be amended or modified except by written agreement executed in the same manner as this Franchise Agreement. Where applicable, the amendment shall be consistent with the provisions of 47 USC §545.

32. Miscellaneous

A. Force Majeure

The Parties shall not be responsible for any delay or failure to perform their obligations under this Franchise Agreement if doing so is prevented by Act of God, flood, storm, fire, explosions, strikes, riots, wars whether or not declared, insurrections, epidemics, or any law, rule or act of any court of competent jurisdiction or instrumentality of government or any cause or event beyond the control of the Town or the Company.

B. Severability

If any provision of this Franchise Agreement is held by any court or Federal or State agency of competent jurisdiction to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, said provision shall be considered a separate, distinct

and independent part of this Franchise Agreement, and such holding shall not affect the validity and enforceability of all other provisions hereof, all of which shall remain in full force and effect for the term of this Franchise Agreement.

C. Effect on Prior Agreements

This Franchise Agreement shall supersede any prior franchise agreements between the parties. Immediately upon the taking effect of this Franchise Agreement, all prior franchise agreements and any and all extensions thereof, shall terminate and shall have no further force and effect; provided, however, that any vested rights relating to billings and the Town's rights to receive franchise fees shall not be affected thereby.

D. Non-Enforcement Not Waiver

Neither party shall be excused from complying with any of the terms and conditions of this Franchise Agreement by any failure of either party upon one or more occasions to insist upon or to seek compliance with any such terms or conditions. No course of dealing between the Company and the Town, nor any delay on the part of the Town or Company in exercising any rights hereunder, shall operate as a waiver of any such rights of the Town or Company or acquiescence in the actions of the Company or the Town in contravention of such right, except to the extent expressly waived by either party or expressly provided for in this Franchise Agreement. No decision by the Town or Company to invoke any remedy under this Franchise Agreement or under any statute, law or ordinance shall preclude the availability of any other such remedy. This provision does not extend any applicable statute of limitations.

E. Company Warranties

Company warrants, represents and acknowledges that, as of the Execution Date of this Franchise Agreement:

1. The Company is duly authorized to do business under the laws of the State;
2. The Company has the requisite power and authority under applicable law and its bylaws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the execution date of this Franchise Agreement, to enter into and legally bind Company to this Franchise Agreement and to take all actions necessary to perform all of its obligations pursuant to this Franchise Agreement;
3. This Franchise Agreement is enforceable against Company in accordance with the provisions herein; and

4. There is no action or proceedings pending or threatened against Company that would interfere with performance of this Franchise Agreement.
5. The Company has the financial and technical capability to carry out the obligations set forth in this Franchise Agreement.

Execution

Signatures:

Date: ____, 2018

[NAME OF MUNICIPALITY], MAINE

By: _____
Its: Selectman

By: _____
Its: Selectman

By: _____
Its: Selectman

Date: ____, 2018

TIME WARNER CABLE NORTHEAST LLC

By: _____

EXHIBIT A

INFORMATION TO BE PROVIDED WITH ANY FUTURE REQUESTS FOR APPROVALS OF SALES, TRANSFERS, CHANGES IN CONTROL

1. Identify any circumstances in the past ten years when Buyer/Transferee was unable to pay any of its debts when due including the date, creditor, matter at issue, amount and current status.
2. Provide evidence of Buyer/Transferee's authority to conduct business in Maine, including a copy of all filings made to obtain such authority.
3. Describe in detail the ownership and management structure of the Seller/Transferor's Maine cable systems upon completion of the transaction with Buyer/Transferee. Provide an ownership flowchart that identifies the legal entities that will be in the chain of ownership of the Buyer/Transferee upon completion of the transaction, including the nature of each entity and who will own each such entity.
4. Identify all cable systems currently owned, managed or operated by Buyer/Transferee, including the locations and numbers of subscribers for each, and a list of the name and address of all municipal franchise authorities with a contact person with each franchise authority.
5. Describe in detail Buyer/Transferee's plans for any rebuilds or upgrades of the cable system serving [Name of Municipality] after the closing, including (a) the specific time schedule for the rebuild or upgrade (b) the anticipated cost of the rebuild or upgrade, (c) a detailed description of the nature of the rebuild or upgrade, and (d) a detailed description of the architecture of the rebuilt system.
6. Provide a copy of the anticipated complete rate schedules and service offerings to be offered to subscribers in [Name of Municipality] by Buyer/Transferee after the closing of the transaction.
7. Provide a copy of any Buyer/Transferee customer service standards, repair or maintenance policies, complaint resolution policies, or other similar customer policies or protocols that will be in [Name of Municipality] after acquisition by Buyer/Transferee.
8. Describe in detail any and all planned management changes, operational changes, technical changes, changes to customer service functions (including changes in the telephone, MIS and billing systems), and changes in engineering and technical support, for the cable system serving [Name of Municipality].
9. Provide a copy of the latest SEC Forms 10-K and 10-Q of Seller/Transferor and Buyer/Transferee.

CABLE TELEVISION FRANCHISE RENEWAL

Introduction

A cable refranchising or franchise renewal process involves numerous tasks and the coordinated efforts of a team of persons expert in the field of cable, City staff, elected officials, and local residents. The process involves an examination of the past performance of the current cable service provider, an exploration of future community telecommunication needs and interests, and a negotiation process. The outline which follows is intended to serve as a broad overview of what is typically involved in the franchise renewal process.

I. Preparing for the Franchise Renewal Process

- Develop an Understanding of the Authority of the City and Basic Federal and State Laws that Apply
- Understand the Formal and Informal Renewal Process
- Develop a Renewal Plan and Timeline
- Educate Key City Staff, Elected Officials, and Community Leaders
- Understand the Current Regulatory Environment

II. Conducting a Review of the Cable Operator's Past Performance

- Contract Compliance Audit
- Update the Enabling Ordinance
- Technical Evaluation of the Cable Plant, Headend, and Quality of Past Plant Maintenance
- Customer Service and Satisfaction Survey
- Financial Review
- PEG Access Review
- Public Hearings

III. Ascertainment: Identifying Future Community Cable Related Needs and Interests

- Conduct Focus Group Workshops
- Conduct Telephone or Mail Survey
- PEG (Public, Educational, And Government) Access Usage and Community Communications Planning
- Public Hearing(s)

IV. Preparing for and Conducting Negotiations

- Consolidate Information Gathered Into Goals for Renewal
- Determine Next Step in Renewal Process -- Exploration of Process Options
- Prepare the Initial Draft of the New Franchise Agreement
- Conduct Formal and Informal Negotiations
 - Consider Various Strategies
 - Review the Impact of 1996 Cable Act on Negotiations
- Prepare the RFRP and Evaluate the Proposal(s) (under formal Cable Act process)
- Final Franchise Agreement Preparation and Public Hearings

Overview: The Role of a Cable Communications Consultant

Throughout a cable franchise renewal project, the cable communications consultant works closely with designated City representatives, including the Cable Administrator and Cable Communications Commission (if applicable), the City Manager, the City Attorney, and other City staff as appropriate.

The time period typically needed to undertake all tasks involved in a franchise renewal process is about 18 months, if informal negotiations are successful. Should informal negotiations prove to be unsuccessful, an additional nine months to a year may be required to complete a the formal renewal process.

As a first step, the consultant reviews all available City documents relating to the cable franchise, including the franchise agreement between the City and cable company, the City Code and/or any enabling ordinance, modifications (if any) to the franchise agreement, any requests filed with the City by the cable company regarding the initiation of the franchise renewal process, and any other documents or files reflecting performance reviews or audits that were undertaken by the City during the term of the franchise. The consultant also meets with the City staff and legal staff to clarify certain preliminary matters. In particular, agreement should be reached on any necessary changes to the renewal strategy, including an identification of the tasks to be performed by City staff, local counsel, and the consulting team. Membership and roles for the refranchising team must be established, general franchise renewal goals must be clarified, logistics for meetings and other communications must be arranged, any resolutions or ordinances required to permit the franchising process to move forward must be developed, and a detailed short-term schedule must be set.

As part of this initial work, the consultant's view as to the applicability of the formal renewal provisions of the Cable Act to this process would be explained, and, if the City agrees, a course would be devised to keep the City's options open with respect to its Cable Act rights.

An outline of the tasks that are performed by a consultant is provided on the next page.

- A. Develop a detailed plan for franchise renewal as well as strategies for the implementation of that plan.
 - 1. Devise reasonable and cost-effective renewal procedures consistent with federal, state and local law.
 - 2. Work with the City Attorney to identify requirements of state and local laws that must be satisfied and any ordinance amendments required to enable the franchise process to move forward smoothly.

- B. Conduct Technical Audit of Cable System.
 - 1. Review Technical Reports from the Cable Company.
 - 2. Physical Plant Assessment.
 - 3. Electrical Plant Testing.
 - 4. Headend Evaluation.

- C. Evaluate the Past Performance of the Cable Company.
 - 1. Review the Operator's Compliance with the Existing Franchise.
 - 2. Determine Operator's Compliance With Franchise Fee Provisions.
 - 3. Perform Financial Review of the Existing System.
 - 4. Review Customer Service Standards and Consumer Complaints.
 - 5. Review Current PEG Access Channels, Equipment, Facilities and Services.

- D. Identify Future Community Cable-Related Needs and Interests.
 - 1. Conduct a Needs Assessment.
 - 2. Ascertainment Workshops.
 - 3. Identify System Design Needs.

- E. Develop Cable or Telecommunication Ordinance

F. Participate in Franchise Negotiation and Draft Franchise Ordinance.

1. Assist the City in Developing the Substance of Proposed Franchise Provisions to be Pursued through Negotiations.
 - a. Assist the City in Developing Proposed Franchise Provisions.
 - b. Develop Franchise Monitoring and Enforcement Procedures.
 - c. Recommend Franchise Provisions that Ensure the System Will be Upgraded in the Future.
2. Assist in Development of Negotiation Strategy and Conduct of Negotiations.
3. Provide Advice During Negotiation Process.

G. Prepare a Request for Proposal(s) (if necessary).

1. Draft and Distribute Request for Proposal(s).
2. Evaluate the Submitted Proposal(s).
3. Prepare Report for City Staff.

H. Conduct Administrative Hearings (if necessary).

Municipal Benefits Under FCC Regulations and the Maine Model Franchise

Franchise Renewals - Be Prepared:

The Maine Model does make it easier to renew, but to do this properly and avail your community of these municipal benefits, you need to be versed in Franchise negotiations.... and know the law. If you don't, you need to get someone on board who does.

Consider this:

The cable operator renews franchises all the time, this is probably your first.... and they know it.

They have a team of attorneys at their disposal, you probably do not,..... and they know it.

Their legal representative has nothing else on his/her desk.

You have many other things on your desk with higher priorities.... and they know it.

I suspect the town does not have a budget to retain a cable law attorney or a consultant.

Guess who stands to come out with the better deal?

They figure they will, so make education about this topic a priority.

Feel free to use the CTAM web site www.ctamaine.org and the links you find there to start. We can also help with forms, surveys and flyers, no need to re-invent the wheel.

1. The Franchise Fee
2. Additional Channels for Public, Educational or Governmental (PEG) Programming
3. Capital Grants for Equipment to support PEG channels.
4. Build Out
5. I-Nets

1. Franchise Fees

These are defined in the law as "not a tax, however, but essentially a form of rent: the price paid to rent use of public right-of-ways." ...and ... "part of a cable operators expense of doing business".

<http://caselaw.findlaw.com/us-5th-circuit/1297394.html>

This is because the cable operator is using the public right of way to hang their cables which are used for commercial profit. Phone and power companies do not typically have to pay franchise fees because they are considered necessities, and they are regulated to some extent by the PUC. Cable television is not regulated by the PUC. The only regulation or control the town has is in the form of the Franchise agreement.

Many towns are currently only getting 2 or 3% of the revenue from basic cable subscriptions because that is how early cable franchises were written....by the cable operators. You can require up to 5% of the cable operators gross revenue...at any time, no need to wait for renewal. Furthermore, you can require them to pay it to the town Quarterly. Why should they earn interest on the money all year? By the way, 5% of Gross Revenue includes any revenue the cable operator gets from advertising....if your definition of Gross includes that, be sure to use the right definition, because this is a significant increase. Some municipalities then use the "new money" to fund the annual budget of a community television center and the town continues to receive the 2% (actually more) that they always did before.

2. PEG channels - First Steps

Create a municipal Cable Committee through the public process. These small committees are typically staffed with volunteer citizens and town representatives.

Conduct Surveys of the Public, Schools, Non-profits and Municipal Dept. that might use the channels

Hold a public hearing to educate the community and gather input about the possible uses of PEG channels in the community

Create an Ascertainment Report (needs assessment) from the information gathered

Create the Vision Plan which lists the capital grants and when they are due

Be sure to specify video origination buildings and video return lines required in the report.

3. Capital Grants – Ideally, the time to acquire new equipment is through your cable franchise renewal negotiations. And the place to get the money is from the cable operator who will be using your public rights of way for commercial profit for the next 10 years.

Create your Capital equipment list from the Ascertainment Report and use it to create the Vision Plan, which is a list of money showing who gets how much and when it is suppose to happen. The Cable operator may review of your equipment list, but don't let them delete anything that has been deemed necessary through your Ascertainment process. If they have a lower priced alternative and it does the same job you might consider it. Don't forget, according to the courts, a municipality is best suited to determine what it's needs are, not the cable operator.

In a landmark case, Union Cable was successfully denied a renewal because it did not meet the "identified needs" of the City. (Sturgis, KY)

<http://ftp.resource.org/courts.gov/c/F3/107/107.F3d.434.96-5053.html>

"H.R.REP. NO. 98-934, at 24, reprinted in 1984 U.S.C.C.A.N. at 4661. The Cable Act recognizes that municipalities are best able to determine a community's cable-related needs and interests. The city council's knowledge of the community gives it an institutional advantage in identifying the community's cable needs and interests. It would be inappropriate for a federal court to second-guess the city in its identification of such needs and interests." And

"A court should defer to the franchising authority's identification of the community's needs and interests except to the extent necessary to weigh the needs and interests against the cost of implementing them."

It goes without saying that if a Federal Court defers to the municipality to determine it's needs, then the cable operator, who is not exactly an impartial observer in your Franchise Contract, certainly should not be the one to determine your needs. If you need a list of local vendors who can help you assemble your equipment lists let we can also assist you with that. Just be sure to document your needs from the groups you spoke to and compare apples to apples when creating a bid spec. CTAM can provide you with sample ascertainment reports, again, don't re-invent the wheel. For a Public Access channel, you will need to talk to non-profit organizations that serve the community, Kiwanis, Lions, Rotary, Scouts, health care and elderly assistance groups for example. For the Educational channel, you will need to find out what the Schools would require for a local channel, where it would originate from and what programming they would propose to put on it.

4. Build Out – Like most negotiable issues now, there is not a lot of leverage that the municipality has in this area. Start by requiring “Universal Coverage” in your RFP. If they balk at that, insist on doing a “ride out” with a representative of the cable company to insure that you are getting the best bang for your buck. Point out the locations of any new developments or businesses that you know are in the planning stages. They may install cable on a sparsely populated road if they know they are going to pick up a dozen homes further along. If you are still not satisfied with their proposal, (usually 25 or more non-seasonal homes per mile) take a look at the math. Divide the total number of homes in the town with the total number of miles of road and if the numbers come in at an average below 20, you will have a difficult time convincing them to cable rural areas. In some franchises we have seen wording like “company agrees to provide cable to 80% of homes on non-cabled roads.” This approach allows them to save face by not putting the actual homes per mile count in the franchise and could result in an actual 10 homes per mile finished result as we have seen in some of the early Adelpia franchises. Be sure to require cable drops to municipal buildings, libraries and schools and video return lines from any building that may have reason to transmit from. Large municipal meetings held in a fire station for example.

5. I-Nets – While popular in other parts of the country, primarily in densely populated areas, municipal networks connecting various public buildings in the community for data transmission have been increasingly difficult to require. This is primarily due to the Federal Court “Brand X” decision which designated cable TV service separately from data services. Increasingly, cable operators are instead trying to sell their “business class” services to the towns for phone and data, instead of the towns creating their own. Unfortunately, the cost of network management in terms of personnel and equipment usually

outweighs the benefits of having the “free” municipal network. If you already have a municipal I-net, beware that they don’t start charging you a “maintenance fee” or even worse, subtracting that fee from the franchise fee. (Now allowed by an FCC ruling).

General Do’s and Don’t’s

Do not take the franchise they provide to you. The State of Maine, Maine Municipal Association, and The Community Television Association of Maine spent 2 years creating the Maine Model Franchise Agreement and you should be using this for openers. It has links to every Federal and State Regulation on the books embedded in the document. Especially important are the Consumer Protection Laws and PEG requirements.

You can obtain background info and download a copy from the ConnectMe Web page at:

<http://www.maine.gov/connectme/modelcablefranchise/MaineModelCableFranchise.htm>

The cable operators were at the table when it was created and they had significant input to the language, so none of it should be a surprise to them. The town can use as much or as little of this document as it wishes. You will notice that it contains provisions for identifying the capital equipment needs of the Public, the Schools and the Town which is key to obtaining your equipment through the franchise. Be sure to start with the “Formal Process” as this gives you certain rights later on. You can always change to informal later if things are going well.

Create a Franchise/RFP Request for Proposal. If you can get surrounding Towns to go in with you on this, it would be helpful. If you need assistance with this, contact Pat or myself.

Local channels are valuable. If you had to lease a channel from Time Warner in the Southern Maine market, it would cost you more than \$100,000.00 per year. (My source on this is Todd LaSalle at Time Warner Marketing.) Yet, Federal and State laws allow municipalities to have multiple local channels, depending on their needs.

Don’t let them bluff you. Once you determine your equipment needs and provide a list of equipment to them, they will tell you “fine, we will just pass this cost through to your subscribers”. The second they say that, look them squarely in the eye and say “that is a business decision you will have to make”. I can assure you that annual price increases will continue just as in the past,... *whether you ask for equipment or not.* And like any company who has their stockholders interests at the forefront, they are already charging “as much as the market will bear”. They know that if they charge too much on the bottom line, people will drop the cable and get a dish. Therefore, it is in their best interests to absorb a portion of the capital grants and not pass it through to the subscribers, especially all at once. A one time increase (capital grant) to benefit subscribers spread over 10 years is certainly more equitable than the unreasonable annual price increases that benefit cable company executives and shareholders.

Know what your rights are. Phone and Power companies are controlled (somewhat) by the State PUC and Federal Regulations. The only significant regulation that the cable operator has hanging over their heads is the franchise you will be negotiating. So you need to be on solid ground. Also, unlike phone and power, cable is not a necessity. That is why the Feds allow municipalities to charge them rent (the franchise fee) for using the public right of way. This premise is based on the old rule of law that broadcasters (in the early days) had to operate “in the public interest.” They were being given a portion of the frequency spectrum that they could use for commercial profit and in return, they had to allocate a portion of that broadcasting time “in the public interest” Think of it this way. The town is allowing a commercial company to use it’s public areas to sell products for the length of the contract. The side of the road may not be as pretty as a park for a business location, but it is still the resident’s collective property and the cable operator has to pay rent for using it. By the way, the average cable bill is now over \$80.00 per month. Multiply that times the number of subscribers, times 12 months times 10 years to see how many million dollars will be leaving your community over the next ten years. Cable operators are not like an ordinary company that puts up buildings, hires employees and turns over money in the community. Once their lines are installed, they may hire a couple of technicians to service multiple towns, but the

money they receive from subscribers leaves the community and goes to corporate headquarters in other parts of the country. This franchise negotiation process is the only chance you will have to keep some of that money in the community.

Other Grant Possibilities:

Many grant sources dried up after the last economic downturn. However, don't be afraid to look in your own back yard for philanthropists who support local causes, especially when they benefit the whole community. You may also be able to tie the grant in to Homeland Security equipment grants or some other Safety related cause, so don't overlook those kinds of resources. For example, you could work with the police or fire departments to produce training and public safety videos as has been done at many Public Access Centers.

If your town is part of a regional consortium with one PEG center to serve all towns, allocating funding for a regional access center budget is easily done with a percentage, based on the number of cable subs in each town, which is a fair way to apportion it. For example, the regional center creates an annual budget and submits it to the consortium. Each town pays a percentage based on the percentage of cable subscribers in that town. If you would like to see an example of this, give Patrick and Matt at Saco River Community Television, in Hollis a call to see what can be done when six towns work together.

727-5702 www.src-tv.org

One last thought, if you can show in black and white that the town is using a significant portion of the Franchise Fees to support the local channels either with operational funding or for capital equipment, it goes a long way toward showing the cable operator (and a Court if it comes to that) that the town is negotiating in good faith and cable operator needs to step up to the plate too. There are many different models for operating local channels and we would be happy to discuss them with you.

Thank you,

*Tony Vigue, Acting Secretary
Community Television Association of Maine
P.O. Box 2124
South Portland, ME 04106
www.ctamaine.org*

Current Legislation

Below is a recent article written by a former FCC Commissioner. The CAP Act came about because the cable operators in other states stopped providing the local community PEG channels for various reasons. Hopefully we can get the bill passed this session.

FYI, There are 73 local PEG channels here in Maine and over 3000 in the US.

Preserving the people's channels

Publication: Midland Daily News

Category: Editorial

By Gloria Tristani

Public, Educational, and Governmental (PEG) channels throughout Michigan have long delivered diverse community and local programming over cable and other video networks. These channels owe their existence to the franchise agreements that municipalities negotiate with video providers in exchange for allowing the providers to use the public rights-of-way. PEG access channels empower individuals and groups to use the media to educate and enrich their communities. It is television by the people and for the people. In Midland last summer the access channel, MCTV Network, together with the fire department produced a popular video on fireworks safety which is now used by many government agencies including FEMA. MCTV has also partnered with community agencies such as United Way by producing Cancer Services, which programming has touched many lives.

MCTV and other PEG access channels allow citizens to see their local governments and leaders at work. They are also places where young and older people can learn to use and produce media. At a time when we see the major media companies are becoming increasingly consolidated — with the cable behemoth Comcast about to absorb NBC/Universal — it is refreshing to see the people's channels in action.

PEG channels, however, are at risk nationwide. In 2006 Michigan passed the Uniform Video Services Local Franchise Act which established a statewide uniform franchising agreement eliminating local control and eroding PEG funding sources. A number of other states followed suit and in Washington, D.C., the Federal Communications Commission (FCC) further chipped away at local control. While state and federal actions may have been aimed to spur competition among video providers they failed to produce the intended results and instead were detrimental to PEG channels and to consumers. The combined state and federal actions undercut PEG funding and limited local governments' ability to require video providers to create new PEG channels.

State and federal action and inaction have also allowed new video providers, such as AT&T with its U-verse product, to deliver PEG channels in a format inferior to that by which it delivers other channels. AT&T makes finding and accessing PEG channels difficult. The channels have been moved to the upper tier — 99 — and the viewer must

negotiate through a series of time consuming menus to reach the PEG channels. AT&T further delivers the PEG channels in a resolution that is of a lower quality to that in which it delivers the local commercial channels.

Citizens and viewers who value community media should be concerned but they should know that they can change the PEG picture. From my vantage as a former FCC commissioner I would suggest two federal avenues to pursue to ensure the vibrancy of PEG. One avenue requires congressional action, and the other requires FCC action. Congress should pass H.R.1746, the Community Access Preservation (CAP) Act. The legislation, introduced by Rep. Tammy Baldwin, D-Wisc., and cosponsored by many other members, would among other things permit PEG funding fees to be used for any purpose including for operating expenses; ensure that video operators deliver PEG channels to subscribers without additional charges and at the same level of quality as they deliver local commercial television channels; require that the FCC investigate and report to Congress on the impact of state franchising laws; and, in certain circumstances, restore PEG funding to historical support levels.

While there may not be time left to pass the CAP Act this year passing it should be a priority for the next Congress and particularly if as expected, the Congress tackles rewriting the communications act. Passing federal legislation to preserve and strengthen the people's channels is a bipartisan issue which should be embraced by representatives of all political parties; and Michiganders should demand that their representatives in Congress get fully on board.

Citizens and viewers should also demand that the FCC take action to preserve and strengthen PEG. As it stands the FCC has been sitting on a Petition filed in January 2009 requesting that the FCC rule that PEG channels be treated and delivered in the same manner as local commercial broadcast channels. The Petition is aimed at redressing AT&T's discriminatory treatment of PEG channels, but an FCC ruling would send a clear message to all video providers that PEG channels must be treated fairly. The FCC's failure to act, now going on almost two years, is an abdication of its obligation to ensure that the public and the public interest are served first.

Despite the obstacles, PEG channels continue to serve their local communities and provide unique opportunities to average Americans to produce programming of shows that look like Americans. It is a powerful idea that part of the media should exist directly in the hands of the public. Congress and the FCC need to do their part in preserving this bastion of American democracy.

Gloria Tristani is a former Federal Communications Commission commissioner.

Franchise Renewal Process Advice

10-1-18

First, and this is important, the Town Attorney should be involved in signing off on any documentation that passes between the town and the cable operator. The town may hire a consultant to guide the process but final documents should have approval from the Town Attorney.

Next, the town should assemble a small cable advisory committee consisting of at least one representative from the town, the schools, the non-profits (libraries and others who may want PSA's aired) and of course the public.

The Town also needs to realize what a Franchise can and cannot do. A quick look at the Maine Model Franchise as compared to one provided by the cable operator will tell the story.

The Town will need to consider what is important (i.e. PEG or not) and become educated about what is possible, i.e. "Open Governance" with televised municipal and school board meetings.

If the Town doesn't have an Ordinance, or if they have an old one, they may want to update it or adopt a new one before beginning the renewal process. It's good protection for the town.

Next, the Town will need to make sure they have identified any non-compliance issues with the old franchise before beginning with a new one. If there are unresolved issues, they could be used as bargaining chips at negotiations, so it is important to identify them in advance.

Next, the Town will need to send the cable operator the Commencement of Proceedings letter which outlines the information needed to start the Ascertainment (needs assessment) process.

Once the Town receives the requested information from the cable operator, they begin the Ascertainment Process which may include a community wide survey which is usually done with Survey Monkey or Google. Questions address the needs of the community regarding the local channels, and also the service history of the cable operator.

From that, the Town develops a Vision Plan which outlines the cost of the equipment you will need to meet the needs of the community as identified in the A/R.

Only by having all these documents in place can the Town justify the capital grant requirement that they will be putting in the Franchise RFP. (Request for Proposal) This is the Town's Franchise Renewal document that they have to meet or negotiate otherwise. Only a municipality can determine its needs (within a reasonable cost) see:

<https://caselaw.findlaw.com/us-6th-circuit/1230167.html>

The cable operator will try to drop the per subscriber cost of meeting those needs as low as they can. To determine the per subscriber amount divide the total capital grant by the number of months in the new agreement, then divide that number by the number of subscribers. .20 to .30 cents per sub per month would be reasonable in rural Maine. Larger cities can require much more because there are more subs.

Regarding the "Pass Through" of Franchise Fees, if you read the 1997 court description of Franchise Fees <https://caselaw.findlaw.com/us-5th-circuit/1297394.html> they are a rental fee, a cost of doing business for the cable operator and "the cable operator is not acting as a collection agent for the town". However, the cable industry lobbied for and got a ruling passed in 2003 that they are allowed to "pass through" any fees that the town imposes. Cable operators are not required to pass through their "cost of doing business" expenses but they do, knowing it will make the bottom line higher if a town chooses to collect the fee.

If Charter is unresponsive to your requests, send a complaint to Linda Conti at the AG's office.

Linda J. Conti
Assistant Attorney General
Chief Consumer Protection Division
Office of the Attorney General
Burton Cross Building SHS# 6
Augusta, ME 04333
207-626- 8591

The documents referred to above were developed over the last 30 years working with 70+ Maine towns, MMA, ConnectMe and of course the cable operators and consultants who do this work nationwide. They will be posted on the CTAM web page <http://ctamaine.org/Resources/Franchise-Renewal> as an aid, and while there are many other side issues and other documents to deal with that, these will serve to guide you on your way. Good luck and let us know if you have any more questions.

Tony Vigue
P.O. Box 258
Standish, ME 04084
(207) 642-5055 (h)
(207-329-6243 (m)
info@ctamaine.org
tvigue1@gmail.com

Mike Edgecomb
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Sewall
136 Center Street PO Box 433
Old Town, ME 04468
207-817-5530
www.sewall.com

"Twinkle" Marie Manning
Central Maine Media Alliance (CMMA)
270 Main Street • Roberts Learning Center
Farmington. ME 04938
TwinkleManning@gmail.com
(207) 778-8146
(760) 889-5428 (cell)
www.CMMA.me

Generic Franchise Renewal Process with Assignments

Legend: C = Consultant, muni = Municipal committee as needed, CO = Cable Operator,
Atty = Town Attorney

Prior to start:

Review or Create a Cable or Telecommunication Ordinance (if required) by the municipality per <http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec3008.html>
- C & muni

- A. Develop a detailed plan for franchise renewal as well as strategies for the implementation of that plan.
 - 1. Devise reasonable and cost-effective renewal procedures consistent with federal, state and local laws. - C
 - 2. Work with the municipal attorney to identify state and local laws that must be satisfied and any ordinance required to enable the franchise process to move forward smoothly. -C, Muni, Atty

- B. Conduct technical audit of cable system.
 - 1. Review technical reports from the cable operator. - CO & C
 - 2. Physical plant as provided by the cable operator. - CO & C
 - 4. Headend evaluation as provided by the cable operator. -CO & C

- C. Evaluate the Past Performance of the Cable Company.
 - 1. Review the operator's compliance with the existing franchise to include franchise fee provisions. - C & muni
 - 2. Review customer service standards and customer complaints. - C & muni & CO
 - 3. Review current PEG Access channels, equipment, facilities and services. - C & Muni

- D. Identify future community cable-related needs and interests as required by the municipality
 - 1. Conduct a community wide needs assessment (Community survey & interviews with stakeholders) - C & muni
 - 2. Conduct Ascertainment workshops. - C & muni
 - 3. Identify system design needs. - C & muni

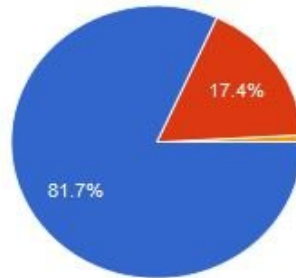
- E. Prepare a request for proposal - (Draft of proposed franchise agreement). -C, muni
 - 1. Create and distribute request for proposal. C, Muni, Atty
 - 2. Evaluate the submitted proposal. -C, Muni, Atty
 - 3. Prepare a report for municipal staff. - C

- F. Participate in franchise negotiation as requested by the municipality - C & Atty
 - 1. Assist the municipality in developing the substance of proposed franchise provisions to be pursued through negotiations. - C & muni
 - 2. Provide advice and assist in development of negotiation strategy and conduct of negotiations. – C, Atty
 - 3. Recommend franchise provisions that ensure the system will be upgraded in the future. - C
 - 4. Develop ongoing franchise monitoring and enforcement procedures. - C & muni

- G. Conduct administrative hearings (if necessary). - C, muni, Atty

Do you have a cable service?

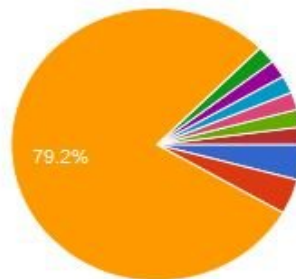
241 responses



- Yes
- No
- Not a cable subscriber? Go to ***

If you do not have cable, why not?

48 responses



- Not available on my road
- I don't watch TV
- It is too expensive
- Have direct tv
- Have direct TV due to cost
- Directv
- I just recently switched to direct tv streaming
- I have satellite tv
- Town of gorham expensive on pr...

If cable is not available on your road, please list the name of the road below.

8 responses

Summerfield Ct

17 Daniel St

95 Mitchell Hill Road

I tried Fairpoint internet for awhile but it kept cutting out. After numerous calls to Fairpoint, on guy who came to the house (130 Wood Rd) he said "I was right at the end of the line" and there probably wasn't much they could do. So I switched to Spectrum. The bill started out at 14.99 a month. Then went to 19.99 a month. Over a 30% increase and still only 2MPBS. they decline to increase speed to 10 or 15MPBS for a little more money. they only want to "bundle" I don't have very many options. All the internet companies want 40 or 50 a month for internet service, which I find to be too much, considering how much I use it.

Robie St

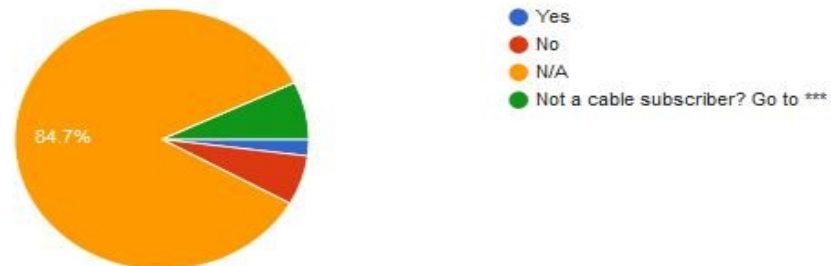
spectrum

Lawn Ave

Libby Ave

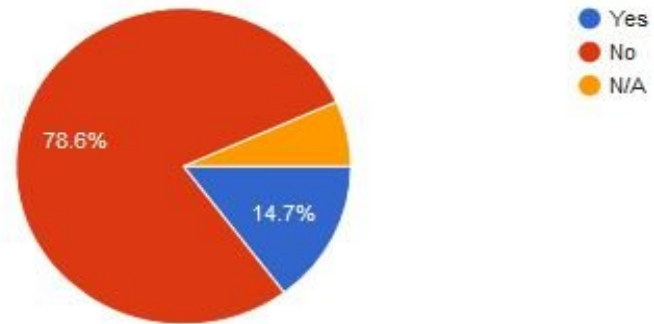
If cable does not currently extend to your street, would you subscribe to cable if it did?

98 responses



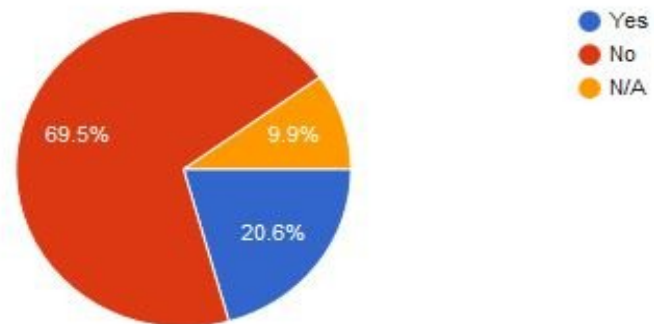
Do you think your are receiving adequate value for the money?

224 responses



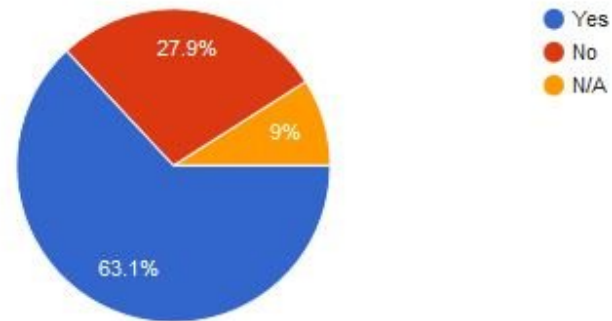
Have you experienced any problems with billing during the last 12 months?

223 responses



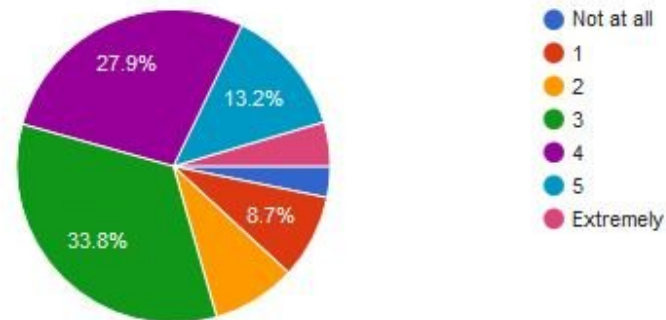
Have you experienced any problems with signal quality during the last 12 months?

222 responses



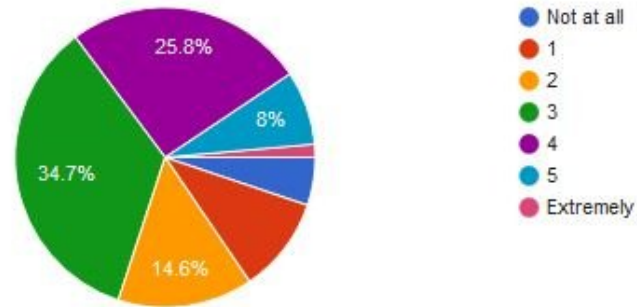
On a scale from 1 to 5, how knowledgeable and courteous are the service technicians and customer service representatives?

219 responses



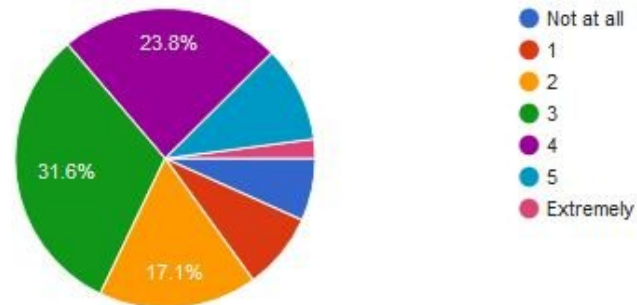
On a scale from 1 to 5, how reasonable is the wait time when you call for service?

213 responses



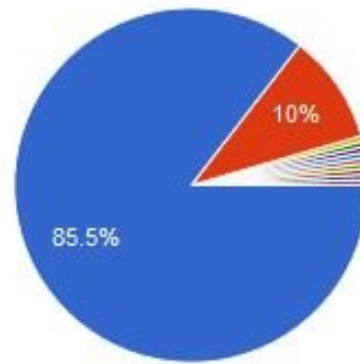
On a scale from 1 to 5, how reasonable is the service appointment process?

193 responses



How do you receive cable TV?

200 responses

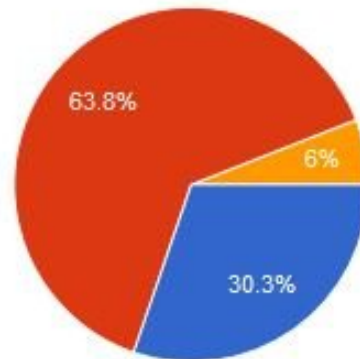


- Cable box
- Smart TV
- No TV, just internet
- Both box & smart tv
- Youtube TV
- App
- Hulu
- Dont have cable

▲ 1/2 ▼

Do you subscribe to any premium channels?

218 responses

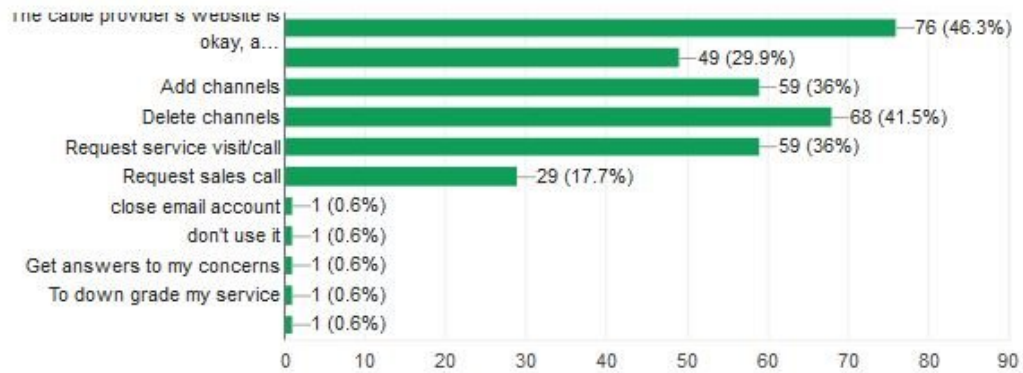


- Yes
- No
- N/A

I would like to use the cable provider's website to: (please select all that apply)

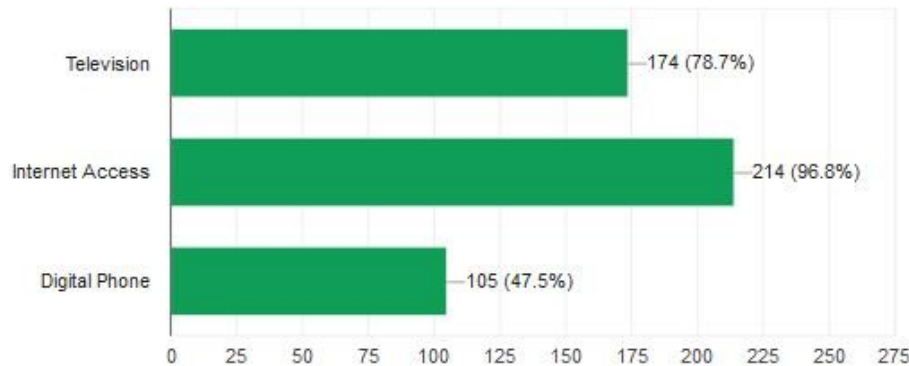
164 responses

Top line Cable provider website is fine the way it is



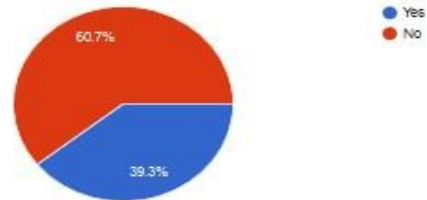
Check Spectrum Services used: (please select all that apply)

221 responses



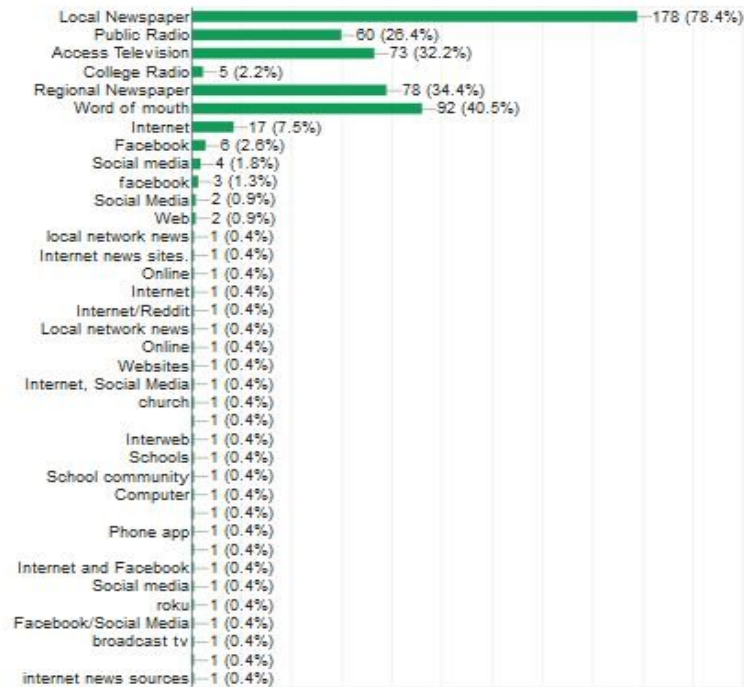
Would you be interested in receiving a weekly e-mail with the programming available on GOCAT and GGETV local access channels?

229 responses



In what ways do you receive local news in your community? (Please select all that apply)

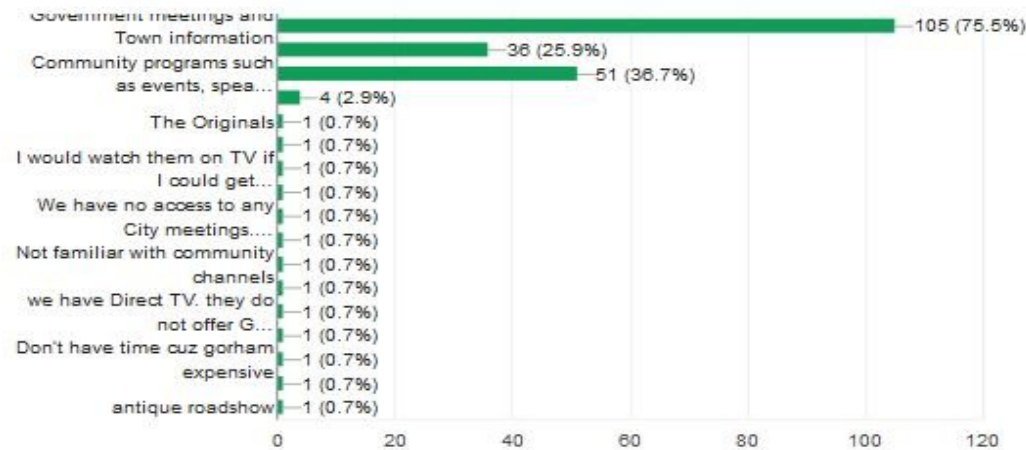
227 responses



What kind of programs do you watch on community channels? (Please select all that apply)

139 responses

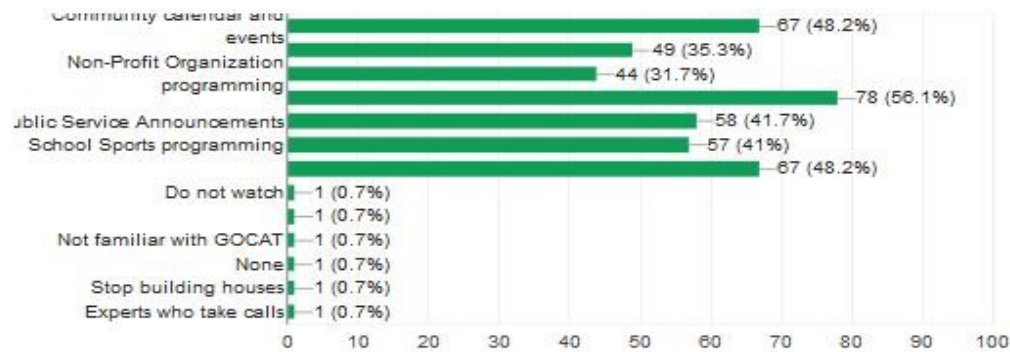
Top line says Government Programming



Would you like to see more local programming on GOCAT? If so, what types of local programming would you like to see? (Please select all that apply).

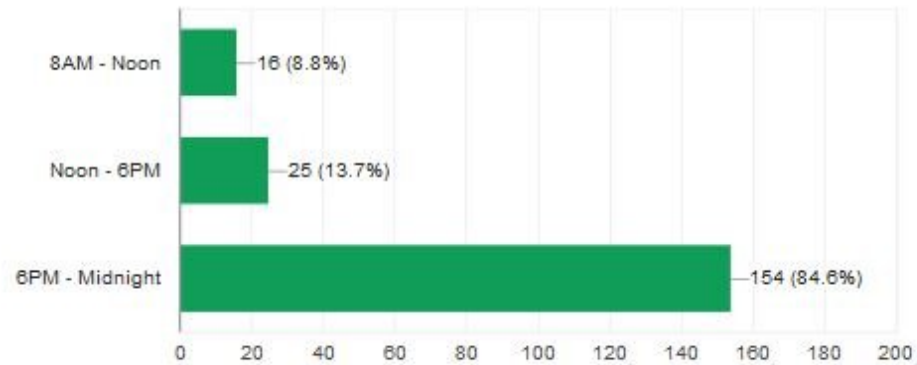
139 responses

Top line says Community Calendar



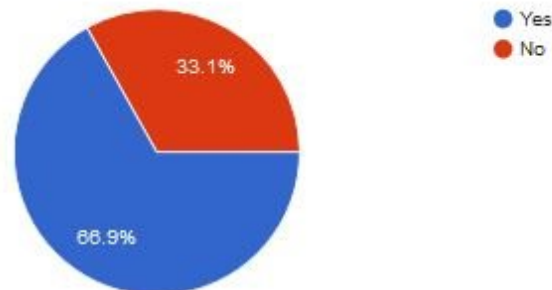
What time from is best for you to view community access TV?

182 responses



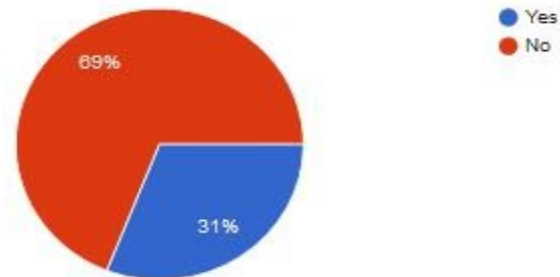
Should a portion of the franchise fee* be used to support the operational cost of these local channels? (*Franchise Fees are a rental fee that the Town may charge Charter/Spectrum for the commercial use of its public right of way. Charter may choose to absorb this fee as a cost of doing business or pass it on to its subscribers.)

175 responses



Did you know that GoCat TV has free equipment and training for the residents of Gorham to use in the production of local programming for the community?

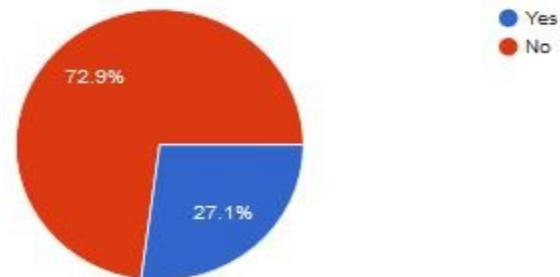
184 responses



***Questions for People Who Don't Use Cable

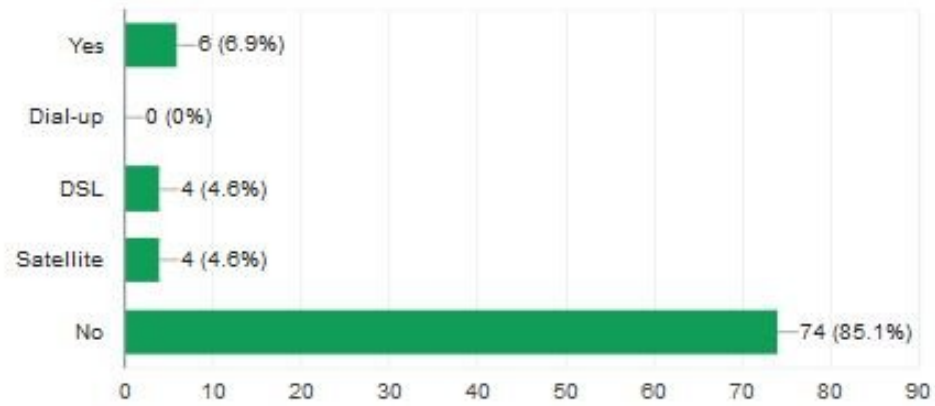
Does your household subscribe to a Satellite Service for television viewing?

85 responses



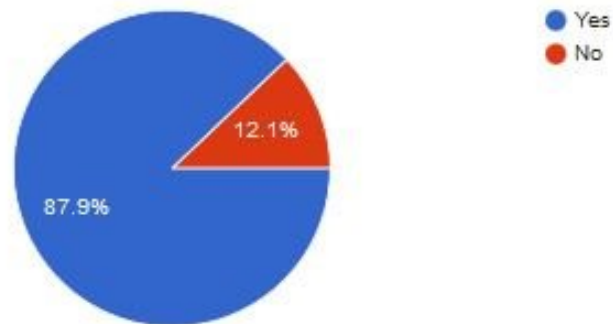
Do you subscribe to an internet service provider other than Spectrum?

87 responses



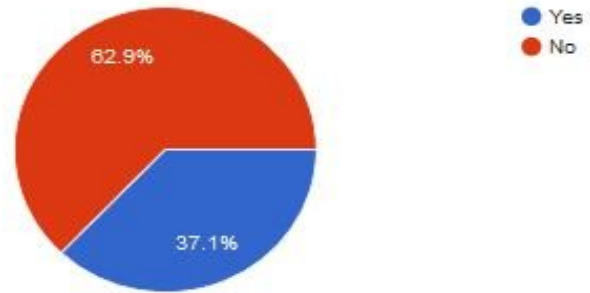
Do you view and/or download video from the internet?

91 responses



Do you watch any streaming video from the Town's website (www.gorham-me.org) video productions such as Town Meetings or Concerts?

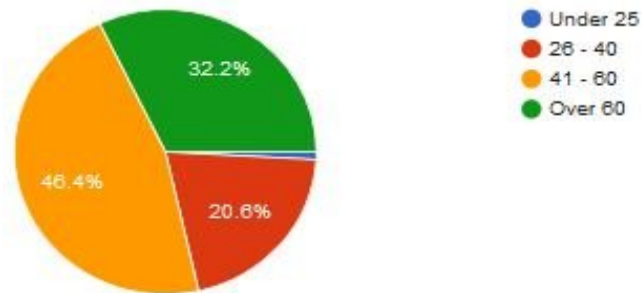
97 responses



OPTIONAL DEMOGRAPHIC INFORMATION

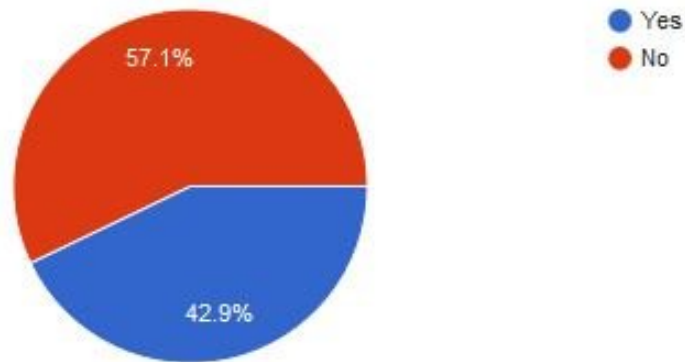
AGE GROUP:

233 responses



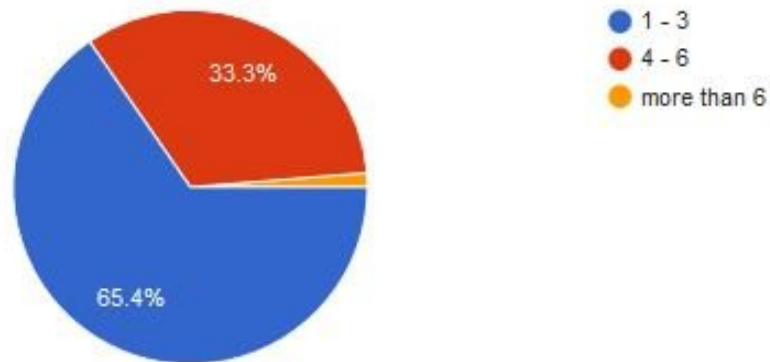
Do you have children/grandchildren in the Gorham School System?

231 responses



What is your family size?

231 responses



Generic Cable Television Survey

Do you have Cable TV?

Yes

No

If you do not have cable, why not?

Not available on my road

I don't watch TV

It is too expensive

Other

If cable does not currently extend to your street, would you subscribe if it did?

Yes

No

N/A

If cable is not available on your road, please list the name of the road below and thank you for submitting this portion of the survey:

If you have cable, are you receiving adequate value for the money?

Yes

No

N/A

Have you experienced problems with billing during the last 12 months?

Yes

No

N/A

Have you experienced any problems with signal quality during the last 12 months?

Yes

No

N/A

On a scale of 1 to 5 with 5 being the highest, how knowledgeable and courteous are the service techs and customer service reps?

1 2 3 4 5

On a scale of 1 to 5, how reasonable is the wait time when you call for service?

1 2 3 4 5

On a scale of 1 to 5, how reasonable is the appointment process?

1 2 3 4 5

Do you subscribe to any premium channels

Yes

No

N/A

Do you use the cable providers streaming app?

Yes

No

N/A

The following questions include the terms Public Access, Educational, and Government channels. Those terms are defined as follows.

Public access channels are available for use by the general public. They are usually administered either by the cable operator or by a third party designated by the franchising authority.

Educational access channels are used by educational institutions for educational programming. Time on these channels is typically allocated among local schools, colleges and universities by either the franchising authority or the cable operator.

Governmental access channels are used for programming by local governments. In most jurisdictions, the local governments directly controls these channels.

Do you watch (your Channels – list channel numbers) ?

Yes

No

Both Channels currently show Public, Educational and Governmental programming. Would you prefer to see the Public Access Channel programming separately from Educational and Governmental programs so it is clear where the information is coming from?

Yes

No

Would you like to see more local programming? If so, what types of local programming would you like to see? (Please select all that apply).

Community calendar and events

Selectman and School Board meetings

Non-Profit Organization programming

PBS style programming

Public Service Announcements

School Sports programming

Regional programming of community interest

Other

Do you watch Selectmen meetings? If so, how many hours per month

0-5 hours

6-11 hours

12+ hours

I do not watch meetings

Should a portion of the franchise fee* be used to support the operational cost of these local channels? (*Franchise Fees are a rental fee that the Town may charge Charter/Spectrum for the commercial use of its public right of way. Charter may choose to absorb this fee as a cost of doing business or pass it on to its subscribers.)

Yes

No

Did you know that (your channel) has free equipment and training for the residents of (your town) to use in the production of local programming for the community?

Yes

No

What is your age group? (optional)

15-25

26-45

46-65

Over 65

I am answering this survey as a

Homeowner

Renter

Caregiver

Other

Disclaimer: Do you work for, participate in, or use any services provided by (your channel) or any non-profit organization that may be receiving free publicity on these local channels?

Yes

No

Please provide any additional information that you would like to share regarding cable service below:

Your answer

Town of (Your Town) Ascertainment Report
(DRAFT – Committee Use Only)

November 16, 2017

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Town of (Your Town) Ascertainment Report

Introduction

This community needs assessment reflects the cable-related needs and concerns expressed by public officials, institutional leaders, educators and citizens in the Town of (Your Town) Maine. This Ascertainment Report will serve to give guidance in determining the terms and provisions for franchise renewal.

Environment & Renewal

As part of the ascertainment, Charter's current assessment of the technical, electronic and mechanical status and channel capacity, including currently occupied frequencies, of the (Your Town) cable plant was requested.

The company supplied documentation which contained the following information:

- There are _____ aerial miles of fiber, _____ miles of aerial coax, _____ underground miles of fiber and _____ miles of underground coax equaling _____ miles of cable plant in the Town of (Your Town).
- There are approximately _____ subscribers on the (Your Town) Cable system.
- The plant is designed with a minimum capacity of 750 MHz with _____ nodes and a channel capacity of several hundred downstream digital channels.
- The (Your Town) head end hub also feeds the Towns of _____.
- Channel _____ (your Gov't and Ed station) and Channel _____ (your public access station) are currently programmed on channels for digital tv's without a cable box, operating 24/7 with additional 24/7 (your station) PEG programming on Channel _____ to (towns serviced). Digital sub-channels in (Your Town) are _____.

- The feeder portion of the system was rebuilt with fiber to the node design over the course of the current franchise and continues to be upgraded as technology changes.

Current Contract

History and Performance:

The current contract for the Town is for a term of ___ years and commenced on _____ and terminated on _____, however the terms of the prior contract remain in effect until a new contract is signed. The Town served notice of Informal Commencement of Cable Franchise Renewal Proceedings on _____ and reserved the right to enter into formal negotiations. This past franchise has incorporated many changes that have taken place in communications technology over this period and included a _____ year performance review (verify) which was not exercised due to the lack of complaints. In addition, the contract provided for a _% Franchise fee that could be increased to _% of Gross Revenues with 90 days' notice which was requested on August _____, along with Quarterly payments. It also provided that Company shall provide free of charge, one outlet of Basic Service and the analog Cable Programming Service tier, (or its digital equivalent in the event such analog tier is no longer offered), to each public and private primary and secondary school, each public library, each fire department, police and rescue building, and each municipal administration building located within two hundred (200) feet of Company's distribution plant. (Verify, probably different for each town)

The following buildings have courtesy cable tv drops which should be continued on the renewal contract:

(List buildings)

Line extensions. The previous contract also provided service to all unserved areas of the Town where the density of homes was ___ homes per mile or more if they were within ___ feet of the trunk line, subject to certain conditions.

Periodic performance reviews of Charter's contractual obligations by the (Your Town) Municipal staff indicates that the cable operator has (or has not) met the franchise requirements set forth in the current contract with the intermittent exception of PEG signal quality issues at (your station) and also Federal and State

call center requirements which have not been monitored on a regular basis. Unresolved complaints are relatively few in recent years and have been primarily about billing and service appointments. Such complaints, when brought to the attention of the Time Warner Government Relations Manager through the (Your Town) Municipal staff representatives, have been quickly and efficiently resolved with the customer.

Under the current contract, signed in _____, funding for PEG Access is limited to one channel and funding for equipment is provided for in Section ____ Access Equipment. (Quote terms and amounts) This was (or was not) done in accordance with the Franchise.

The current contract also states "The System shall be designed, constructed and operated so as to meet those technical standards promulgated by the Federal Communications Commission relating to Cable Systems...." With the exception of occasional poor quality PEG signals, these standards have been met. These provisions are important to the cable committee and will be carried forward in the new contract.

Government Access

The provisions for Government Access has been adequate in the past with certain meetings in some Towns being televised. The need to televise additional meetings from other Towns will require more operational and capital equipment funding.

1 - Either direct or LIVE streamed meeting capabilities from other Towns to (your station) is necessary. _____ are the only Town(s) that have a direct return feed from their municipal offices to (your stations') control room. Other meetings, including the _____ County Commissioners are received for archive and retransmission using DVD's.

2 - Currently, the Town of _____ Select Board meetings are streamed LIVE and then replayed on channels _____. It is expected that other Towns will follow suit in the coming years.

3 - Other Government Access requirements will include additional cameras and microphones as other Towns increase their coverages of municipal and school meetings as well as one free cable modem drop to the town office.

The following meetings are currently shown on LRTV on a regular basis:

(List town board and committee meetings and workshops)

Other workshops, department meetings and public hearings are also televised from these Towns.

Additional meetings that could be televised on a regular basis in the future are: Planning Board, Board of Appeals, Historical Society and Library guest speakers, concerts, Recreation Departments and other Town Committees as needed.

In addition, a series of employee informational videos are forthcoming in addition to new municipal employee training and orientation.

Public Access

The cable committee also recommends an expansion of PEG facilities at LRTV for the purpose of providing more programming on the Public Access channel to the residents of the Town of (Your Town).

The following is a partial list of non-profit organizations that have used the channels in the past and may use it again in the future to highlight the services they provide and the great work they do in the communities served by (your station):

(List the non-profits that have used your channel for PSA's and bulletin board announcements.)

In addition, many (Your Town) residents will be trained in the use of the equipment at the (your station) facility, enhancing the culture of the community with non-commercial, locally produced programming. With the addition of increased Public Access programming, local and regional non-profits that serve the Town of (Your Town) will be able to promote fund raising activities and announce their services to the community. The public will be able to present

opinions and discuss issues of relevance to the community separate from municipal programming. Guest speakers at any of these venues can be recorded and shared with those who cannot attend. Regional programming of community interest can also be shared. Localism has become more relevant to our community and the possibilities of new programming on the local channels is endless.

A supporting letter was received from Legislative Representative (name) and will be attached and made a part of this record.

Educational Access

School Related Programming

(List School districts and programming)

Line Extensions

The Town has received 8 requests for service on non-cabled roads and a request for evaluation has been sent to the cable operator.

(List the roads that surveys have been requested from the cable operator to determine if there are enough homes per mile)

It is recommended to keep the maximum length of a “standard installation” to 150 feet from the trunk line.

Public Hearings

On _____ a public hearing was held at the Town Office to gather input from residents and non-profit organizations regarding the new franchise agreement. An explanation of the franchise renewal process was given and the floor was opened to questions from those attending. The primary concerns raised

that evening were (list concerns not related to pricing or programming which cannot be regulated).

Resident Surveys

On September _____ a Cable Television Survey was posted on the Town Web page. The results of that survey is attached and some of the highlights are:

- (List Survey results)

The PEG responses in this survey are typical in rural Towns who recently converted to digital services. Evident is some confusion over where the local channels are on the system. Those residents without a cable box generally do not know to re-program their tv's and look for the local channels on cable sub channels. i.e. 121-2 & 212-3 etc. In addition, current levels of funding for (your station) do not include self-promotional or outreach initiatives to non-profits, the public and the Towns they serve. This would explain the low percentages of respondents who are not aware of (your station) and don't know that video equipment and training is available at no cost. Properly funded regional media centers with paid staff in larger communities generally fare better on surveys of this nature.

Concluding Remarks

In conclusion, (Your Town) is a growing community with its residents looking forward to expanded coverage throughout the Town, better service from the cable operator and increased use of televised and interactive local communications. Through the use of public hearings, surveys and discussions with the (Your Town) Cable Committee, Municipal officials, State Representative _____ and the majority of representatives and individuals contacted are in favor of:

- Keeping and improving the present facilities at (your station) with expanded Government and Educational programming plus additional facilities for public access. Sufficient capital grants should also be obtained to fund future expansion and equipment repairs.
- Continue to promote universal cable coverage where possible throughout the Town.

- The Franchise Fee should be used to support these local channel initiatives, giving the cable subscriber an important service in exchange for the fee on their bill.
- Non-Profit Organizations and individuals, Educators, municipal Officials and department heads deemed it important that there be video equipment training, informational programs and bulletin boards with announcements of local interest available to all.

Through the Cable Franchise Renewal process it is possible to meet these needs. Priorities should include better customer service, expanding cable service in the Town, providing improved picture and audio quality reception on PEG channels and more participation from the schools and public.

Summary

As a result of a comprehensive needs assessment (this Ascertainment Report) and Vision Plan conducted by the (Your Town) Cable Committee, the renewal franchise will have multiple provisions for community communications. Provisions for capital grants for PEG Access equipment and facilities will be included. Additionally, a portion of the franchise fees received by the Town is recommended to be allocated for expanded operational support for PEG access.

The Selectmen are recommending a ____ year contract.

The number of PEG channels requested will be two, maintaining the Status Quo.

The equipment to be purchased with the capital grants will enable expanded Government and Educational programming, providing residents with unprecedented access to their Town governmental meetings and school board proceedings in the future. Additionally, hundreds of non-profit organizations and all (Your Town) citizens will benefit from their use of the Public Access facilities, producing many hours of local community programming.

Respectfully submitted

(Your Town) Cable Committee

[\(List committee members\)](#)

(name of municipality)
(Letterhead)

(Date)

Shelley Winchenbach
Director, Government Affairs
Charter Communications
400 Old County Road
Rockland, Maine 04841

Dear Shelley,

We are in receipt of your letter of _____, requesting commencement of franchise renewal proceedings with the (name of municipality). This letter is to notify you that the (name of municipality), under the supervision of the (name of municipality) Attorney, has commenced the informal cable franchise renewal proceeding pursuant to 47 U.S.C. 546(a). This process will afford the public in the franchise area appropriate notice and participation for the purpose of: a) identifying the future cable-related community needs and interests, and b) reviewing the performance of the cable operator under the franchise during the current franchise term.

The (name of municipality) is hereby requesting the following additional information to assist us with our ascertainment process.

1. Please provide **subscriber counts** and homes-passed for the (name of municipality) to include all businesses, apartments, hotels and motels.
2. Please provide the number of aerial miles of cable and the number of underground miles of cable (if any). Also indicate how many miles are fiber, how many fiber nodes and how many miles are coaxial cable.
3. Please provide a map showing any un-served areas of the (name of municipality) and the expected completion date of the extensions to un-served areas if there are any. Also indicate any PEG return lines on the map.
4. Please provide the names of other Cities and Towns that share the same head end system as Saco and indicate if they are currently using the same PEG channel numbers.
5. Please provide a current channel lineup and schedule of rates and charges for all programming, additional services, connections and equipment and installation prices for the (name of municipality).
6. Please provide a copy of your current FCC Forms 1205 and 1240 **if applicable**, specifically the calculations of your Broadcast Tier (BST).
7. Please provide a copy of your current annual report for cable operations in the (name of municipality).
8. Please provide the last three (3) years of customer service records detailing any customer complaints from residents of the (name of municipality) including full information regarding the response to the complaints, the resolution of the complaint and the time difference between the initial complaint and its resolution.
9. Please provide a copy of Charter-Spectrum's current customer service policy or the URL for that document.
10. Please provide a copy of Charter-Spectrum's system performance standards and testing procedures for cable television in the (name of municipality). In addition, please provide the results of those tests for the last two (2) years. Specifically, please detail the testing procedures for consistent audio levels across program

sources and channels in compliance with the CALM Act.

The (name of municipality) reserves the right to enter into Formal Negotiations with proper notice at any time.

This process will continue until the (Name of municipality) accepts and approves the final report from the (name of municipality) Attorney.

Thank you for your prompt attention to this request.

Sincerely,

(municipal official)



Community Television Association
Of Maine

**Frequently
Asked Questions
About
Local Access TV**

September, 2012

Prepared by CTAM
PO Box 2124
South Portland, Maine 04084

What is local access television?

Federal law provides that state or local communities may require a license or negotiate a non-exclusive cable franchise with cable TV operators wishing to market their services locally. As part of the provisions of such a license or franchise agreement, cities and towns may require the cable operator to provide what the Federal Telecommunications Act of 1997 calls "public, educational, or government (PEG) access" channels on the local channel lineup, for the unrestricted use by citizens, school districts and municipalities. In most states, existing agreements also require that certain equipment and funding be given to the towns. The funding, called a "Capital Grant", may only be used for television equipment purchases or leasehold improvements to a building that is used for PEG Access. The laws provide and court cases have upheld that such channels provide equal access to all potential users, and that they are public electronic forums for free expression.

Is there only one kind of access station in Maine?

No. There are almost as many different types of access centers as there are cities and towns, since they are set up to meet individual community needs. Potential users are best advised to contact their city or town hall and ask for information or who to contact about the local cable access center, studio, or station. Another resource is **(CTAM- The Community Television Association of Maine, (www.ctamaine.org)** which is a non-profit organization that serves the interests of PEG Access operations statewide. As an affiliate of The Maine Municipal Association, CTAM also provides municipal officials and the public with information about setting up PEG Accesses Centers in their community. Their e-mail address is: info@ctamaine.org

What is leased access?

Leased access is when an individual organization or commercial entity "leases" a channel from the cable operator for a fee. Programming on leased access channels is funded by the sale of commercial advertising on the channel. If a program is not commercially viable however, it may not be shown.

How do access centers operate?

There are three basic operating structures possible for access centers:

- operated by an independent non-profit corporation
- operated by a municipality or by a school
- operated by the cable company

Under these operating structures, the access center may be exclusively a "public access" facility where individual citizens or groups have equal access and produce their own TV programs.

Or, It may be only an "educational TV facility," usually affiliated or located in a school and primarily used for educational purposes.

Or, it may be only a "municipal" or "government" access facility, usually housed in a town building and operated for municipal communications purposes by the city or town.

Finally an access center may be a multi-purposed facility. Many access centers in the State of Maine are responsible for all types of access, "P" "E" and "G." Again, local government officials are the best, "first call" for such information about the access centers in your community and remember, it all begins with the terms of the Franchise that the cable operator has signed with the municipality.

Often times, multipurpose centers and the channels assigned to them may be referred to as "Community Television".

So, what do access centers do? Do they produce TV shows for all these users?

No. This is perhaps the most misunderstood role of PEG access operations. Access centers are TV studios, but are unlike broadcast stations, which are usually staffed with TV producers, camera operators, and technicians. An access center is more like a combination school and "equipment library" where individuals and organizations are trained by knowledgeable staff to use TV production equipment and cable channel time to produce and air their shows for the enjoyment of citizens in their community.

But my town access center is run by the cable company, and they produce the shows! How come?

Many "Local Origination" channels as they are called, have requirements under the Franchise Agreement with the municipality to produce certain programs, like Annual Town Meetings, sporting events, or even coverage of a local parade. These requirements are specific to the community, and they do not change the fact that citizens may make their own programs. However, as with leased access channels, the program may not be shown if an advertiser or sponsor cannot be found. All access centers have a common goal of facilitating the production of local TV programs.

Can an access center serve more than one town?

Yes. Many smaller towns have found it difficult to provide funding to properly equip and staff an access center to serve their residents. They have entered into agreements with other neighboring towns to use the regional access center concept. The regional center is a non-profit organization which is funded through the annual budget process of the member towns, and by combining resources, it can offer a larger, better equipped facility with full time staffing. When using this model, cable routing to accommodate multiple communities from one location is an important consideration during Franchise Renewal.

So why don't all access centers just produce all the programs?

Most independent or municipal access centers are funded by a small "cable license fee" (usually from 1% to 5% of the local cable company's revenues) which pays for facility upkeep, utilities, and a small part-time or full-time staff-usually from 1 to 3 people, although some urban centers have several more. It is these employee's job to manage the public resources, train people in TV production skills, facilitate the telecast of programs on the local channels and update the bulletin board daily. It is neither possible nor appropriate for them to be in the "TV production business." Access TV is truly, "Do it yourself " TV.

If access centers don't produce shows, how can elected officials and government employees get important programs on the air?

Most of the programming produced at access centers is done by community volunteers and residents of the towns or cities who either want to hone their skills in TV production, or have an interest in the program or topic or content. So, high school football games are often produced by parents of the athletes. A town meeting may be covered by the Local League of Women Voters. A town department head may find an interested worker in the department to prepare information for a department program or service that needs publicizing. Many access centers recruit college and high school interns to help produce programs. Several state and local elected officials already produce shows in their districts using such volunteers, as well as getting help from their community-based resources.

The local access center staff can provide any elected official or municipal employer with the information and contacts necessary to begin production of a local show.

Is it very hard to produce a TV show?

TV production is not as complicated as you might think, and the skills necessary to produce simple but effective TV shows are well within the grasp of most people in the community. Access centers across the state have people ages 9 to 90, from every educational or career background doing hands-on TV production.

Why should I care about what programs are on TV?

The first amendment guarantees every citizen the right to free speech. This is the basis of our democracy. Today, there are many ways people can communicate their thoughts and ideas to others, including, radio, television, newspapers and more recently, the internet.

Although the number of television stations has grown in the last 50 years from 96 to over 1200, most of the television (and radio) stations and cable companies are owned by just a few large corporations. For example, just 8 years ago there were 21 cable companies in Maine, now there are 4. Fifty years ago there were 2,200 daily newspapers in the U.S., now there are less than 1500.

Because of this consolidation of ownership and the commercial benefits of transmitting consolidated program “packages” to multiple markets (cities), the coverage of *local* news events and public affairs programming (which do not generate as much revenue,) often are replaced by nationally syndicated programs. The results, as we have witnessed, is a proliferation of “tabloid television” and other sensationalistic programming which originates far from our local communities. As this consolidation and commercialization of the media continues, the possibility for individuals to have input to the media becomes less and less.

In April 1998, the Media Access Project and the Benton Foundation published a report, "What's Local about Local Broadcasting?" * This project surveyed television stations in selected cities regarding the amount of local public affairs programming aired weekly. The survey covered a two week period and found that in the five markets examined, Chicago, IL; Phoenix, AZ; Nashville, TN; Spokane, WA; and Bangor, ME, 40 commercial broadcasters provided 13,250 hours of programming. However just 0.35% or 46.5 hours of the 13,250 total hours were devoted to local public affairs. The survey also found that 35% of the stations provided no local news, and 25% offered neither local public affairs programming nor local news.

Too often, when local news stories or community events are picked up by the commercial media, the finished product becomes a two minute slot on the six o'clock news and is judged on it's merits relative to whether or not it will increase the stations ratings rather than it's ability to tell the whole story.

In the early part of this century, the FCC began licensing broadcast stations "in the public interest", using the airwaves which "belong to the public". In recent years the trend toward less and less regulation of telecommunications companies has promoted the licensing of commercial broadcast stations to benefit large corporations which now own not only the means to gather the information, but also the conduit through which it passes to reach our homes. In the early days of newspapers, this was called a monopoly.

So we must be first of all, critical viewers, and realize that the reason for 99% of what we see on television is there because it is commercially attractive to the networks. That it may have a secondary educational or informational purpose to enlighten or inform has become the exception rather than the rule.

Newton Minow, Chairman of the FCC in the 1950's when asked to describe television programming, referred to it as a "vast wasteland". His observation has proven to be correct on more than one occasion since that time. Our purpose as critical viewers and participatory citizens then, is not to sit in our recliner and accept without question the programming that is piped into our homes. We need to celebrate and preserve our local culture, traditions and heritage, and to share this information and knowledge with others in our community. In local PEG television, we have a wonderful tool to accomplish these goals and more.

What are requirements for using the equipment and facilities?

Most access centers only require that you be a legal resident of the city or town, that you are responsible for the equipment you signed out and that you are producing a program that can be shown on the access channel. It's as easy as that! So, don't just watch TV, get out there and make it !

FMI contact the Community Television Association of Maine, P.O Box 2124, South Portland, Maine 04084

E-mail info@ctamaine.org or visit us on the web at www.ctamaine.org

*www.benton.org/Television/whatslocal.html

(MUNICIPALITY) CABLE TELEVISION ORDINANCE

Section 1. Designation of Ordinance.

This Ordinance shall be known as the (municipality) Cable Television Ordinance. It is adopted by the Municipal Officers of the (municipality) pursuant to 30-A M.R.S.A. §3008, effective April 5, 2005.

Section 2. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and vice versa. The word "shall" is always mandatory and not merely directory.

2.1 “Access” or “Access Cablecasting”: Cablecasting on the Cable System’s access channels for the following purposes: (i) non-commercial and non-discriminatory use by the public; (ii) carriage of non-commercial educational programs or information; and (iii) non-commercial use for governmental purposes in accordance with the Cable Act.

2.2 “Access Channel(s)”: A video channel(s) which the Company shall make available to the (municipality), without charge, for the purpose of transmitting programming by/for members of the public, Town departments, boards and agencies, public schools, educational, institutional, non-profit and similar organizations in accordance with the Cable Act.

2.3 “Affiliate” or “Affiliated Person”: An entity that owns or controls is owned or controlled by, or is under common ownership with a Cable Operator, herein defined as “Company”.

2.4 “Alphanumeric”: Consisting of a combination of letters and numbers, used in reference to keyboards permitting communication in such form and in reference to Channels or Programs transmitting information in such form.

2.5 “Area Outage”: An area outage occurs when cable or equipment is damaged, fails or otherwise malfunctions (collectively called malfunctions”), and ten or more Subscribers receiving services from that section of cable or that equipment receive unusable or no service as a result of that malfunction.

2.6 “Basic Service”: The minimum service transmitted to all Subscribers which includes, at a minimum, (1) all signals of domestic television broadcast stations entitled to “must carry” status under FCC rules, (2) any Public, Educational and Governmental programming required by a Franchise Agreement to be carried on

the basic tier, and (3) any additional video programming signals added to the basic tier by the Company in its sole discretion.

2.7 “Broadcast”: Over-the-air transmission by a television station.

2.8 “Cable Act”: The Cable Communications Policy and Communications Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as further amended.

2.9 “Cablecast”: Programming (exclusive of broadcast signals) carried on the Cable System.

2.10 “Cable Programming Service”: Any video programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (1) video programming carried on the Basic Service tier, and (2) video programming offered on a pay-per-channel or pay-per-program basis.

2.11 “Cable Service”: The one-way transmission to Subscribers of video programming or other programming services, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services.

2.12 “Cable System”: A facility serving the Town, which is owned, constructed, installed, operated and maintained by Company, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service, including video programming, to multiple Subscribers within a head-end service area as defined in accordance with Section 602 of the Cable Act. Such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) 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; or (d) an open video system that complies with section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

2.13 “Channel” or “Video Channel”: A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel (as defined by the FCC by regulation).

2.14 “Company”: Any Person or Persons owning, controlling, operating, managing or leasing a Cable System within the Town, pursuant to this Ordinance, and pursuant to any Franchise granted to it by the Town. This term shall include

any lawful successor(s) to the interest of such Person or Persons where consent to such successor(s) is approved under the provisions of this Ordinance and under any applicable terms of the Franchise Agreement entered into pursuant to this Ordinance.

2.15 “Completion of Construction”: That point when the Company has provided written documentation to the Town that a Cable System serving (municipality) has been fully upgraded in accordance with any applicable requirements of this Ordinance and a Franchise Agreement, and service has been made available to Subscribers and potential Subscribers pursuant to the Franchise Agreement.

2.16 “Contractor or Subcontractor or Agent”: Any person or entity who or which directly or indirectly works for or is under the direction of “The Company” for the purpose of installation or repair of any portion of the Company’s Cable system in the Town.

2.17 “Converter”: A special tuner or device attached to the Subscriber’s television set which expands reception capacity and/or unscrambles coded signals distributed over the Cable System.

2.18 “Designated Access Provider”: The entity or entities which may be designated from time to time by the Town to provide PEG access to the residents of the (municipality).

2.19 “Downstream Channel”: A Channel over which signals travel from the Cable System Headend or Sub-headend to an authorized recipient of programming.

2.20 “Downstream Transmissions”: Signals traveling from a Cable System distribution point to an authorized location.

2.21 “Drop” or “Cable Drop”: The interconnection between each home or building and the feeder line of the Cable System.

2.22 “FCC”: The Federal Communications Commission or any successor agency.

2.23 “Feeder Cable”: The cable, connected to trunk cable, from which cable television signal service is distributed to Subscribers, as distinguished from trunk cable (which distributes cable television service throughout the Franchise area) and drop cable.

2.24 “Franchise Authority”: The Board of Selectmen of the (municipality).

2.25 “Franchise”: The non-exclusive Cable Television License to be granted to the Company to include the right, privilege and franchise to construct, operate and

maintain a Cable System, and appurtenances or parts thereof, in the Streets, roads, alleys, and other Public Ways of the Town.

2.26 “Franchise Agreement”: The contract entered into between the Company and the Town governing the terms and conditions of the Company’s use of the Franchise granted to the Company.

2.27 “Gross Annual Revenues”:

Revenue of any form or kind received by the Company from the carriage of Cable Service including, without limitation: the distribution of any Cable Service over the System; Basic Service monthly fees; all other Cable Service fees; fees paid for pay and/or pay-per-view services, installation, reconnection, downgrade, upgrade and any other similar fees; fees paid for channels designated for commercial use; converter, remote control and other equipment rentals, and/or leases and/or sales; all home shopping service(s) revenues; and advertising revenues. Gross Annual Revenue shall not include any taxes or fees other than franchise fees on services furnished by the Company imposed directly on any Subscriber or user by any governmental unit and collected by the Company for such governmental unit. In the event that an Affiliate is responsible for advertising on the Cable System in the Town, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues excluding commissions and/or applicable agency fees, paid to the Company by an Affiliate for said Affiliate’s use of the Cable System for the carriage of advertising. It is the intention of the parties here to that Gross Annual Revenues shall only include such revenue of Affiliates and/or Persons relating to the provision of Cable Service over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to Cable services. Gross Annual Revenue shall be computed in accordance with Generally Accepted Accounting Principles.

2.28 “Headend”: A company owned or leased facility through which Broadcast and cablecast signals are electronically acquired, translated, or modified for distribution over the Cable System.

2.29 “Interactive Service”: Any service that offers to Subscribers the capability of both transmitting and receiving Signals of any kind.

2.30 “Leased Channel” or “Leased Access”: A video and/or audio or data Channel which the Company shall make available pursuant to Section 612 of the Cable Act.

2.31 “Local Origination”: Local programming produced by the Company.

2.32 “Origination Point”: A connection to the cable system which is provided to allow for live or recorded programming to be transmitted from that location Upstream to the Head-end and from there Downstream to the Subscribers over one or more access channels, also referred to in this Agreement as a return feed.

2.33 “Other Programming Service”: Services that the Company may make available to all Subscribers generally.

2.34 “Outlet”: An interior cable connection that connects a Subscriber or User to the Cable System.

2.35 “Parent”: When used in reference to the Company, any Person holding direct or indirect ownership or control of ~~twenty~~ thirty percent (230%) or more of the rights of control of the Company; and any Person holding such ownership or control of a Parent to the Company.

2.36 “Pay Cable” or “Premium Service”: Optional additional Program services, provided to Subscribers at a monthly charge in addition to the charge for Basic Service.

2.37 “Pay-Per-View”: Programming delivered for a fee or charge to Subscribers on a per-program or time basis, in addition to the charge or fee to Subscribers for Basic Service, or for such other service tier required by applicable law.

2.38 “PEG”: The acronym for Public, Educational and Governmental, used in conjunction with Access Channels, support and facilities.

2.39 “Person”: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.

2.40 Public Building: All state accredited public schools, police and fire stations, public libraries, Town Hall, and other public buildings owned or leased by the Town, but shall not include buildings owned by the Town but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

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

2.42 “Signal”: Any transmission of electromagnetic or optical energy that carries Cable Services from one location to another.

2.43 “State”: The State of Maine.

2.44 “Street” or “Public Way”: The surface of, and the space above and below, any public Street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, Public Way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent

fixtures or improvements located thereon now or hereafter held by the Town in the Town which shall entitle the Company to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. “Street” or “Public Way” shall also mean any easement now or hereafter held by the Town within the Town for the purpose of public travel, or for utility or public service use dedicated for public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Company to the use thereof for the purposes of installing or transmitting the Company’s Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System. Reference herein to “Public Way” or “Street” shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Town shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

2.45 “Sub-headend”: A signed distribution point for part of the Cable System linked to the Headend by fiber optic cable, coaxial supertrunk or microwave, and also referred to as a “Hub.”

2.46 “Subscriber”: Any person, firm, corporation, or other entity who or which elects to subscribe to for any purpose, a Cable Service provided by the Company by means of, or in connection with, the Cable Television System.

2.47 “Subscriber Network”: The 750 MHz bi-directional-capable network to be owned and operated by the Company, over which Cable Service(s) can be transmitted to Subscribers.

2.48 “Town”: The (municipality) organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.

2.49 “Two-way Capability”: The ability to transmit audio and video signals upstream and downstream on the Cable System.

2.50 “Upstream Channel”: A Channel over which signals travel from an authorized location to a Cable System distribution point.

2.51 “Upstream Transmissions”: Signals traveling from Subscribers or other originating points on the Cable System to a cable distribution point.

Section 3. Franchise Required.

No Person, firm or corporation shall install, maintain or operate within the Town or any of its Public Ways or Streets or other public areas any equipment or facilities for the operation of a Cable System unless a Franchise Agreement authorizing the use of said Public Ways or Streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said Franchise Agreement is in full force and effect.

Section 4. Franchise Agreement.

The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the Town and its residents with one or more Cable Companies for the operation of a Cable System within the Town, including the granting of non-exclusive Franchise Agreements for the operation thereof.

Prior to issuing a request for proposals to any Cable Company for Franchise Agreements or renewals, the Town shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to Cable Service and shall allow for a period of public comment on the request for proposals.

Franchise Agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the Town shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.

Each Franchise Agreement between the Town and a Company shall contain but is not limited to, the following provisions:

- (a) A statement of the area or areas to be served by the Company;
- (b) A line extension policy;
- (c) A provision for renewal, the term of which may not exceed ten (10) years;
- (d) Procedures for the investigation and resolution of Subscriber complaints by the Company;
- (e) An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;
- (f) A franchise fee to be paid by the Company to the Town in accordance with Section 9 of this Ordinance;
- (g) A provision for access to, and facilities to make use of, one or more local PEG Access Channels; and

- (h) A provision for the assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon applications for initial and renewal Franchise Agreements.
- (i) A provision whereby the Company agrees to defend, indemnify and hold harmless the Town and its agents from claims and liabilities arising out of the Company's construction, ownership, operation, maintenance, repair and control of the Cable System; and
- (j) Any other terms and conditions that are in the best interests of the Town;

Section 5. Town's Retained Rights and Authority.

5.1 Right to Grant Additional Franchises. Town expressly reserves the right to grant other such Franchise Agreements in the (municipality) on such terms as it deems appropriate and to operate a Town-owned Cable System.

5.2 Eminent Domain. No privilege or power of eminent domain is bestowed upon a Company by the granting of a Franchise.

5.3 Exercise of Police Power. All rights and privileges granted in any Franchise Agreement are subject to the police power of the Town to adopt and enforce local laws, ordinances, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the Town is the right to adopt, in addition to the provisions of any Franchise Agreement, this Ordinance and any other existing laws, ordinances and regulations (collectively "laws"), such additional laws as it may find necessary in the exercise of its police power. Any conflict between the terms of any Franchise Agreement and any present or future exercise of the Town's police and regulatory powers shall be resolved in favor of the latter.

5.4 Use of Public Ways. The right to use and occupy the Streets, Public Ways and public places granted in any Franchise Agreement shall not be exclusive, and the Town reserves the right to grant similar or other uses of the said Streets, Public Ways and public places to any Persons at any time during the term of any Franchise Agreement.

5.5 Conflict With Public Works. The rights and privileges granted to a Company in any Franchise Agreement shall not be in preference or hindrance to the right of the Town or any other governmental agency, improvement district or other authority having jurisdiction, to perform or carry on any public works or public improvement. Should a Company's Cable System in any way interfere with the construction, maintenance or repair of such public works or improvements, the Company shall, at its own expense, protect or relocate its Cable System or part thereof, as directed by the Town or other authority having jurisdiction.

5.6 Removal and Relocation. The Town shall have the power at any time to order and require a Company to remove or relocate any pole, wire, cable or other structure machinery or equipment located within a public way that is dangerous to life or

property. In the event that a Company, 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 Company.

Section 6. Bonds and Insurance.

6.1 Performance Bond to Town. Concurrent with the award of a Franchise to it, a Company shall file with the Town Clerk and shall thereafter annually during the entire term of such Franchise maintain in full force and effect at its own cost and expense a performance bond in the amount of at least \$100,000 to guarantee the faithful performance by the Company of all of its obligations under its Franchise Agreement. The performance bond shall be so conditioned that in the event that the Company shall breach any one or more material provisions of this Ordinance or of such the Franchise Agreement and subsequent to any notice and opportunity to cure provision of this Ordinance and/or the Franchise Agreement, the Town may recover from the surety any penalties assessed in accordance with Section 10 of this Ordinance and any damages or costs suffered or incurred by the Town as a consequence of such breach. Said conditions shall be a continuing obligation during the entire term of the Franchise Agreement. Not less than thirty (30) days' prior notice to the Town shall be provided of the Company's or the surety's intention to cancel, materially change, or not to renew the performance bond or security fund. In the event that the Town recovers against any portion of the performance bond, the Company shall be required to replenish the original bond in an amount equal to the amount recovered by the Town within 30 days. Failure to post an additional bond on a timely basis shall constitute a violation of a material provision of this Franchise Agreement.

6.2 Insurance. Company shall maintain during the full term of this Franchise Agreement such insurance as will protect it and Town from any claims which may arise directly or indirectly or result from Company's ownership, construction, repair, operation or maintenance of Company's cable system serving (municipality), whether such activities are performed by Company, or by anyone for whose acts Company may be liable, under the following policies:

- (a) Workers' Compensation and any other legally required employee benefits, shall be supplied in such amounts as required by law;
- (b) Property insurance, all risk, replacement cost basis, on all insurable Company assets in the Town;
- (c) Commercial General Liability insurance shall be supplied in the following amount: combined single limit for bodily injury, personal injury, death or property damage in the amount of at least \$3,000,000 per occurrence.
- (d) Excess liability (in umbrella form) in the amount of at least

\$5,000,000, and

- (e) Automobile liability insurance in the amount of at least \$1,000,000 Per occurrence.

6.3 Non-waiver. Neither the provisions of this Section, nor any bonds accepted by the Town pursuant hereto, nor any damage recovered by the Town there under, shall be construed to excuse unfaithful performance by the Company or limit the liability of the Company under this Ordinance or the Franchise Agreement for damages, either to the full amount of the bond or otherwise.

Section 7. Application.

7.1 Any application for a cable television Franchise Agreement in the Town must contain the following information, except that in the case of a renewal Franchise Agreement, only the information listed under this Section 7.1(a) through 7.1(b)(1), 7.1 (b)(2) and 7.1(b)(3) shall be required:

- (a) The name, address, and telephone, number of the applicant.
- (b) The most recent 10-Q or 10-K of the Company or its ultimate parent company as filed with the Securities and Exchange Commission. In the event the Company does not, at the time of application, file 10-Q or 10-K filings with the Securities and Exchange Commission, it shall instead file with the Town the following: A detailed statement of the corporate or other business entity organization of the applicant, and any other information required by the Town, including without limitation:
 1. The names and business addresses of all officers and directors of the applicant.
 2. The names and business addresses of all officers, Persons and entities having, controlling, or being entitled to have or control 15% or more of the ownership of the applicant and each Parent, Affiliate or subsidiary of the applicant and the respective ownership share of each such person or entity.
 3. The names and addresses of any Parent, Affiliate or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement of the nature of any such Parent, Affiliate or subsidiary business entity, including but not limited to Cable Systems owned or controlled by the applicant, its Parent, Affiliate and subsidiary and the areas served thereby.

4. A detailed description of all previous experience of the applicant in providing Cable Service and in related or similar fields.
 5. A detailed and complete financial statement of the applicant, its Parents, Affiliates and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Town's Board of Selectmen, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed Cable System in the Town, or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed Cable System in the Town.
 6. A statement identifying, by place and date, any other cable television Franchise(s) awarded to the applicant, its Parent, Affiliate or subsidiary, the status of said Franchise(s) with respect to completion thereof; the total cost of completion or such Cable System(s); and the amount of applicant's and its Parent's, Affiliate's or subsidiary's resources committed to the completion thereof.
- (c) In the case of an application for an initial franchise for a new cable system serving the (municipality), the applicant shall provide a detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:
- (1) A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, and the time of commencement of construction and anticipated operation date.
 - (2) A statement or schedule setting forth all proposed classifications of rates and charges to be made against Subscribers and all rates and charges to be made against Subscribers and all rates and charges as to each of said classifications, including installation charges and service charges and deposit agreement.
 - (3) A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in the FCC's regulations, 47 C.F.R. §§ 76.601, *et seq.* as may be amended from time to time, and shall in addition comply with Section 13 herein.

- (4) A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any Subscriber and between the applicant and any lessee of any Channel, including provisions for reimbursement in the event of interruption of service.
- (5) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any Persons, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the contract.
- (6) A detailed statement setting forth in its entirety the proposed Cable System design. Such statement shall include proposals concerning system architecture, Channel capacity, Channel uses, access, programming facilities, studio location, point to point service, two-way service, Subscriber privacy, and interconnection.
- (7) Such other information as required by the Town at the time of the Franchise application.

7.2 Notice. No Franchise, including Franchise renewals, will be granted hereunder without notice to the public and a public hearing pursuant to Section 8.3 of this ordinance.

Section 8. Contract Term, Termination and Renewal.

8.1 Term. Any Franchise awarded by the Board of Selectmen under this Ordinance shall be for a term of not more than ten (10) years.

8.2 Renewal Any renewal of a Franchise Agreement shall be upon such terms and conditions as the Board of Selectmen and the Company may mutually agree upon in accordance with the Cable Act and applicable federal law. Such renewal shall be for a period of not more than ten (10) years from the expiration of the previous Franchise.

8.3 Public Hearing - New Franchise and/or Renewal. Before authorizing the issuance of any such Franchise Agreement, including renewals, the Board of Selectmen shall review, in accordance with federal law, the applicant's legal, financial and technical qualifications, the proposed agreement's ability to meet current and future cable-related needs and interests of the Town in light of the costs of meeting those needs and interests, and the adequacy and feasibility of the applicant's qualifications to operate a Cable System within the Town, and shall conduct a public hearing thereon with at least seven (7) days advertised notice prior to said public hearing. Such public hearing shall provide a

reasonable opportunity for public input on the proposed Franchise Agreement or renewal.

8.4 Requests for Information. Any Company operating a Cable System in the Town shall maintain adequate personnel and resources to respond to requests from the Town for renewal information and review of draft franchise agreements in a timely manner. Failure to respond in a timely manner shall be considered a violation of this Ordinance.

Section 9. Fees.

9.1 Franchise Fee. As compensation for the rights and privileges granted by any Franchise awarded pursuant to the provisions of this Ordinance the Company shall pay to Town a franchise fee based on a percentage of the Company's Gross Annual Revenues in accordance with Federal Law. The franchise fee may be changed by Town on 90 days notice to the Company, but not more frequently than once each calendar year to an amount within the then-applicable maximum allowed under federal law.

9.2 Method of Computation. Payments due the Town under the terms of the Ordinance shall be computed quarterly as of March 31, June 30, September 30 and December 31 for the preceding three months and shall be paid on or before the forty-fifth calendar day from each said computation date at the office of the Town Treasurer during regular business hours. The Town shall be furnished a statement with each payment, prepared by a financial representative of the Company, and verified as correct, reflecting the total amount of Gross Annual Revenues generated by all activities within the Town, and the above charges, deductions and computations, for the three month payment period covered by the payment. The Company shall prepare and maintain financial information and records in accordance with generally accepted accounting principles and generally accepted auditing standards in the cable television industry. At Town's option, the information provided by the Company shall be subject to audit by an outside firm of certified public accountants selected by Town. Any such audit shall be at Town's expense except unless such audit shall disclose an underpayment of any franchise fees of more than four percent (4%) payable for the period of the audit, in which event the Company shall reimburse Town for the expense of such audit. Repeated failure to pay the franchise fee on a timely basis may be grounds for revocation of the Franchise under this Ordinance. Interest shall accrue on any and all overdue franchise fees at the rate of twelve percent (12%) simple interest per annum.

9.3 Rights of Recomputation. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable as a franchise fee under this Ordinance or for the performance of any other obligation hereunder. However, there shall

be an accord and satisfaction with respect to any payment not subject to an audit within thirty-six (36) months following the close of the fiscal year to which such payment relates.

Section 10. Penalties.

10.1. Assessment. If a Company fails to observe any obligation under this Ordinance, the Town may assess the Company a monetary penalty in accordance with the Schedule of Penalties set forth in Section 10.8 through 10.12 below. Such assessment shall not constitute a waiver by Town of any other right or remedy it may have under this Ordinance or the Franchise Agreement, or under any other applicable law, including, without limitation, its right to recover from the Company such additional damages, losses, costs and expenses as may have been suffered or incurred by Town by reason of or arising out of such breach of this Ordinance or the Franchise Agreement; provided, that any penalties collected by Town from the Company pursuant hereto shall be applied against, and reduce accordingly, the amount of any recoveries due Town pursuant to this sentence for the failure to perform for which such penalties were assessed.

10.2. Notification. Upon Town's assessing a penalty pursuant to Section 10.1 above, notice of such assessment shall be sent to the Company, with a concise statement of the reasons therefore.

10.3. Procedures.

- (a) Within ten (10) days after receipt of a notice pursuant to Section 10.2 above, the Company may request a hearing before the Town's Town Manager or his/her designee. Such hearing shall be held within thirty (30) days after receipt of the request therefore. The pendency of a request of hearing shall suspend payment of the penalty until ten (10) days after receipt by the Company of the decision of the Town Manager or designee confirming the penalty in whole or in part.
- (b) During the public hearing, Company shall have the right to appear and be heard, including the opportunity to present evidence, question witnesses, if any, and the hearing shall follow the procedures set forth for public hearings before the Town Council.
- (c) Following the hearing, the Town Council shall determine (i) whether a failure or violation has occurred; (ii) whether such failure or violation is excusable; and (iii) whether such failure or violation has been or will be cured by the Company; and (iv) the appropriate remedy for the failure or violation.
- (d) If the Town Council determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a reasonable schedule satisfactory to the Town

Council or that the failure is excusable, such determination shall conclude the matter, unless Company fails to comply with the schedule for cure.

- (e) The Company shall have the right to appeal any decision of the Town Council under this Section within thirty (30) days of the date of the decision or ruling to the Maine Superior Court pursuant to M.R. Civ. P. 80B.

10.4. Payment. Except as provided in Section 10.3 above, the Company shall pay the full amount of any penalty to Town within ten (10) days after receipt of a notice pursuant to Section 10.2 above and the cure period has expired.

10.5. Default. Subsequent to the notice and opportunity to cure provision herein, upon failure of the Company to make timely payment of an assessed penalty, Town may recover the amount of any such penalty from the performance bond or security fund pursuant to Section 6.1 above. Failure of the Company to make timely payment of an assessed penalty is a violation of this Ordinance.

10.6. Disposition. Amounts received by Town as penalties assessed against a Company may be used by Town for any purpose it deems fit.

10.7. Schedule of Penalties. Pursuant to Section 10.1, 10.2 and 10.3 above, the following monetary penalties shall apply, and liability therefore shall accrue from the date of receipt of notice pursuant to Section 10.2 above, and upon failure to cure within the time period specified below, if any opportunity to cure is provided.

10.8. Minor Per-Day Penalty. The penalty for the following violations shall be fifty dollars (\$50.00) per day until the violation is cured:

- (a) Abandonment of service or a portion of that service without having obtained the written consent of the Town Council or having provided the Town with at least six (6) months' prior written notice of abandonment.
- (b) Failure to maintain the Company's required insurance pursuant to Section 6(c) with the penalty beginning 30 days after Company receives written notification of the violation.
- (c) Failure to make timely payment of the franchise fee pursuant to Section 9 with the penalty beginning 30 days after Company receives written notification of the violation.

- (d) Violation of the privacy restrictions in Sections 12.7(d) of this Ordinance. This penalty shall be assessed with the penalty beginning 7 days after Company receives written notification of the violation.
- (e) Failure to restore damaged property within the specified period pursuant to Section 11.11 with the penalty beginning 5 days after Company receives written notification of the violation.
- (f) Failure to make and maintain records as required by Section 13.6 with the penalty beginning 30 days after Company receives written notification of the violation. This penalty shall be assessed for each such record not maintained.
- (g) Failure to obtain and maintain the performance bond or security fund pursuant to Section 6.1 with the penalty beginning 30 days after Company receives written notification of the violation.
- (h) Failure to remove, relocate or protect the Company's system pursuant to Sections 5.5, 5.6 and 11.17 with the penalty beginning 7 days after Company receives written notification of the violation.
- (i) Failure to eliminate objectionable interference pursuant to Section 11.18 with the penalty beginning 14 days after Company receives written notification of the violation.
- (j) Failure to provide reports within the time required by Section 18 assessed for each report not provided with the penalty beginning 14 days after Company receives written notification of the violation.

10.9. Per Subscriber Penalty. The penalty for the following violations shall be five dollars (\$5.00) per Subscriber affected by the violation per day until the violation is cured.

- (a) Failure to respond to a request for repair or adjustment within the time required by Section 13.4. This penalty shall begin 24 hours after the Town notifies the Company in writing of the violation.
- (b) Failure to commence service to a Subscriber within the time required by Section 14.0 beginning two (2) days after the Town notifies Company in writing of the violation.
- (c) Failure to pay a refund due a Subscriber upon termination within the time required by Section 15.6. This penalty shall begin five (5) days after the Town notifies the Company in writing of the violation.
- (d) Failure to respond to a billing complaint within the time required by

Section 16.3. This penalty shall begin two (2) days after the Town notifies the Company in writing of the violation.

- (e) Failure to respond to a service complaint within the time required by Section 16.4. This penalty shall begin two (2) days after the Town notifies the Company in writing of the violation.
- (f) Failure to pay a rebate or apply a credit for service loss within the time required by Section 13.5. This penalty shall begin 5 days after the Town notifies the Company in writing of the violation.

10.10. Major Per Day Penalty. The penalty shall be five hundred dollars (\$500.00) for the following violations beginning 60 days after the Town notifies the Company in writing of the violation until the violation is cured.

- (a) Failure to complete any system rebuild as required by Section 11.1 and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.
- (b) Failure to make service available to unserved areas within the time required by this Ordinance and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.
- (c) Failure to provide access channels, facilities and equipment funding as required by this Ordinance and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance.

10.11. Violation of Subscriber Privacy. The fine for a violation of Section 12.7(e) is one thousand dollars (\$1,000) per occurrence of selling or disclosing subscriber lists, viewing habits or personally identifiable information (and not per day or per affected subscriber).

10.12. Failure to Provide Emergency Override Capabilities. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards and as required by Section 11.3. The fine for a failure of the system to perform as described in the event of a public emergency or vital public information situation, shall be one thousand dollars (\$1,000) assessed per occurrence, except to the extent the Cable System is rendered non-functional due to damage caused by factors outside of the Company's reasonable control.

10.13. Force Majeure. The Company shall not be assessed any penalties for any delay or failure to perform its obligations under the Ordinance if doing so is prevented by Act of God, the inability to secure materials despite the use of all commercially reasonable efforts by the Company, flood, storm, fire, explosions, strikes, riots, wars whether or not declared, insurrections, epidemics, or any law, rule or act of any court of

competent jurisdiction or instrumentality of government or any other occurrence outside of the control of the Company when using all commercially reasonable efforts.

10.14. Further Recourse. In addition to the foregoing penalties, upon the failure, refusal or neglect of the Company to cause any work or other act required by law or by this Ordinance or the Franchise Agreement to be properly completed in, on, over or under any Street or Public Way within any time prescribed, Town may (but shall not be required to) cause such work or other act to be performed or completed in whole or in part and upon so doing shall submit to the Company an itemized statement of the costs thereof. The Company shall, within thirty days after receipt of such statement, pay to Town the entire amount thereof.

Section 11. Construction and Operation of Facilities

11.1 Design. Except as otherwise provided for in the Franchise Agreement, any Cable System serving (municipality) shall in any event be designed and built for technical quality in conformance with the highest state of the art in the cable television industry for Cable Systems of comparable size. Not later than one year from the effective date of the Franchise Agreement the Cable System shall be designed and built for operation at a minimum of 750 MHz and a minimum eighty (80) video channel capacity, with full bi-directional capability. All downstream and upstream channels shall be activated by such date.

11.2. Emergency Power. The Cable System shall incorporate equipment capable of providing standby powering of the Headend and all Sub-headends for a minimum of four hours.

11.3. Emergency Override. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards.

11.4. Subscribers' Antennae. Notwithstanding a required disconnection of a Subscriber's existing broadcast antennae and downloads to receivers connected to the Cable System, the Company shall not remove or suggest to the Subscriber the removal of such antennae and downloads. The Company shall furnish to each Subscriber so requesting, at reasonable cost, an A/B switch permitting the Subscriber to change from cable reception to home antenna reception, and back, at the option of the Subscriber. Installation of such switches at the time of initial installation of service to a Subscriber shall be without charge other than for such purchase cost.

11.5. Switching. The Headend or Sub-headend shall have the capability of accepting programming on the upstream channels of the Cable System and simultaneously transmitting such programming on the downstream channels of the Cable System.

11.6. VCR/Cable Compatibility. In order that Subscribers to the Cable System have the capability to simultaneously view and tape any channel and set their VCR to record multiple channels remotely, the Company shall provide to any Subscriber, upon request, an A/B switch, installed at reasonable cost.

11.7 General Construction Requirements. In the construction, reconstruction, maintenance and repair of the Cable System, the Company shall utilize materials of good and durable quality and shall perform or cause to be performed all work so associated with the system in a safe, thorough and reliable manner.

11.8. Live Programming Origination Points. To facilitate live programming within the (municipality) each Company shall install Origination Points at the public buildings and public locations as are designated in the Franchise Agreement.

11.9. Compliance With Regulations. All work, including all working conditions and facilities, associated with the construction, operation, maintenance, repair and removal of the Cable System shall comply with:

- (a) All applicable Federal and State laws, rules and regulations;
- (b) All applicable laws, codes, ordinances, rules and regulations of Town; and
- (c) The National Electric Code, National Electrical Safety Code, the National Cable Television Association Standard Code, and the National Safety Code.

11.10. Town Rights. Town reserves the right to inspect all construction and installation work and to make such tests as it shall deem necessary to ensure compliance with applicable laws, codes, ordinances and regulations and with provisions of this Ordinance and the applicable Franchise Agreement, and may order corrections of any violations.

11.11. Restoration of Damage. The Company, at its sole expense, shall restore all damage to property, both public and private, caused by the construction, operation, maintenance or repair of the Cable System, so as to return the damaged property to a condition as good as before the damage was done. Such restoration shall be made as soon as practicable after completion of work necessitating the restoration, and shall be done in a manner approved by the owner or tenant in possession. In no event shall such restoration be made later than ten days, weather permitting and subject to force majeure, after the Company's receipt of notification from the owner of the property so damaged unless otherwise mutually agreed by the Company and the property owner; provided, that if any such damage involves streets, water-mains, storm or sanitary sewers, or other public facilities, such damage shall be repaired within forty-eight (48) hours or as soon as practicable. If the Company fails to make such restoration on a timely basis, Town may fix a reasonable time for such restoration and repairs and shall notify the Company in

writing of the restoration and repairs required and the time fixed for performance hereof. Upon failure of the Company to comply within the specified time period, Town may cause proper restoration and repairs to be made and the Company shall pay the reasonable expense of such work upon demand by Town.

11.12. Identification. Each Company shall ensure that all of its vehicles are clearly identified to the general public as being associated with the Company, and that all of its employees, and the employees of any agents or contractors, who enter upon private property wear an employee identification card issued by the Company, which card shall bear a picture of said employee and shall be worn in a conspicuous place.

11.13. Public Ways Hazards. Any openings or obstructions in streets or other municipal or public property made by any Company shall be guarded and protected at all times by the placement of adequate barriers, fences, boarding or other protective devices at the sole expense of the Company. During the periods of dusk and darkness, the protective devices shall be clearly designated by warning lights.

11.14. Location of Physical Facilities. Within sixty (60) days after the effective date of any Franchise Agreement, the Company shall provide Town with strand maps of the (municipality) clearly showing the location of all distribution lines (indicating underground, where applicable), tower, antennae, receivers, headend, and sub-headends. Revised and corrected strand maps shall be submitted to Town not later than ninety (90) days after such changes or additions are made.

11.15. Cable Location. Insofar as practicable, the distribution system (trunk and feeder cable) shall run along public rights-of-way. Where the cable or wire facilities of all public utilities are installed underground, the Company shall install its cable distribution system underground. Vaults and pedestals shall be suitably landscaped, such landscaping to be subject to the approval of the owner or tenant in possession, which approval shall not be unreasonably withheld. In all areas where public utility lines are aerially placed, if subsequently during the term of the Franchise Agreement all such utility lines are relocated underground pursuant to applicable law under the Town's police powers, the Company shall similarly relocate its cable distribution system underground at its sole expense. Wherever possible, the distribution system shall use the existing facilities of the public utilities. Poles shall not be installed for the sole purpose of supporting a portion of the distribution system without written justification and approval of Town, which approval shall not be unreasonably withheld, pursuant to Town's law, ordinances, rules and regulations.

11.16. Location of Construction. All lines, cables and distribution structure, and equipment, including poles and towers, erected, installed or maintained by any Company within the (municipality) shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways and to cause minimum interference with the rights of property owners who abut any of the said Streets and Public Ways, and not to interfere with existing public utility installations. A Company shall not place new poles, towers or other obstructions in Streets or Public Ways, or relocate existing poles, towers

or other obstructions, without first obtaining Town's approval, which approval shall not be unreasonably withheld. A Company shall have no vested right in any location, and the Company shall remove such construction at its own cost and expense whenever the same restricts or obstructs or interferes with the operation or location or any future operation or location of said Streets or Public Ways.

11.17. Grade or Location Changes. If at any time during the term of a Franchise Agreement Town shall elect to alter, or change the grade or location of any Street, or shall engage in any construction, reconstruction, widening, repairs or other public works in, on or under the Streets, any Company shall, upon reasonable notice by Town, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures ("fixtures") at its own expense, and in each instance comply with the Town's standards and specifications.

11.18. No Interference. A Company shall not place fixtures above or below ground where the same will interfere with any gas, electricity, telephone fixtures, water hydrants, or other utility use, and all such fixtures placed in or upon any street shall be so placed as to comply with all requirements of Town or other applicable authority, and fully comply with local regulations, including zoning ordinances. Each Cable System shall be constructed, operated and maintained so that there will be no objectionable interference with television reception, radio reception, telephone communications or other electronic installations in the (municipality) or with the operation of any public fire, police, rescue or safety communications system. Should any such interference occur, the Company shall promptly eliminate it.

11.19. Temporary Relocation. A Company shall, on request of any Person holding a permit issued by Town or other appropriate authority, temporarily move its fixtures to permit the moving or erection of buildings or other objects, with the expense of any such temporary removal to be paid in advance by the Person requesting same, and the Company shall be given reasonable notice to arrange for such temporary relocation. A Company shall bear any expense to temporarily move its fixtures to permit the moving or erection of Town- owned or constructed buildings or other public infrastructure.

11.20. Tree Trimming. Each Company shall have the authority to trim any trees upon and overhanging Town's Streets or Public Ways to the minimum extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of the Cable System; provided that, except for incidental trimming done by the Company employees in the course of performing their other duties, any tree trimming done by the Company shall be subject, in all respects, to Town's prior approval. Except in an emergency, the Company will notify the abutting property owner(s) prior to starting tree trimming work. In performing tree trimming, the Company shall employ best management practices, shall use its best efforts to avoid any unnecessary damage or injury to trees, and shall comply in all respects with any Town ordinances governing tree trimming. Except for incidental trimming performed by a Company's employees in the course of performing their other duties, Town may elect to perform tree trimming directly or by agents under Town's supervision and direction, at the Company's expense.

11.21. Drops. In areas where the cable distribution is located underground, drop connections to Subscriber's structure shall be underground; in other areas the drop connection shall be aerial unless the Subscriber requests underground installation and elects to pay the cost thereof. Insofar as practicable, the Company shall adhere to the Subscriber's desire with regard to point of entry of the drop connection into the structure. Within the Subscriber's structure, drop or cable runs shall be made as unobtrusively as possible. Each drop shall be grounded at the Subscriber's structure, or, at the Company's option, at such other location as may be permitted by the National Electrical Safety Code.

11.22. Zoning and Building Codes. Any and all construction performed by or under the auspices of the Company, and any and all facilities used or operated by the Company, shall comply with all applicable zoning and building ordinances, codes or laws of Town.

11.23. Contractors, Subcontractors and Affiliates. All contractors, subcontractors and affiliates of a Company must be properly licensed under all applicable federal, state and local laws and regulations. Each Company shall be solely and completely responsible for all acts or omissions of any such contractor, subcontractor or affiliate, or any employee or agent of any such contractor, subcontractor or affiliate in the construction, reconstruction, installation, maintenance, operation or removal of the Company's cable system.

11.24. Completion of Work by Town. Upon failure of a Company to commence, pursue or complete any work required by this Ordinance, other applicable law or by the provisions of the Franchise Agreement in any Street or other public place within the time prescribed and to the satisfaction of the Town, Town may, at its option, cause such work to be done with reasonable expenditures therefore and the Company shall pay to the Town the cost thereof in the itemized amounts reported by the Town to the Company within thirty (30) days after receipt of such itemized report.

11.25. Lockout Key. Each Company shall make available to any Subscribers so requesting, for lease or sale, a "parental control device" or "lockout key" which will permit the Subscriber, at his or her option, to eliminate comprehensible reception of any or all of the Basic Service or pay cable Channels. If requested, a lockout key will be installed within twenty (20) days of request.

Section 12. Operation, Service and Maintenance of System.

12.1 Each Company shall construct, maintain and operate its Cable System safely and render efficient service to Subscribers during the term of any Franchise.

12.2 Each Company shall construct, upgrade, install, operate, maintain and remove its Cable System in conformance with Occupational Safety and Health Administration regulations, the Maine Electrical Code, the National Electric Code, the NCTA Safety Manual, the National Electric Safety Code, the Bell Telephone System Code

of Pole Line Construction, the rules and regulations of the FCC, all building and zoning codes, and all land use restrictions as they may now exist or may be amended or adopted hereafter.

12.3 Any tower constructed for use in a Company's Cable System shall comply with the standards contained in "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", TIA/EIA-222-F as published by the Telecommunications Industry Association, 2500 Wilson Blvd., Arlington, VA 22201.

12.4 Installation and physical dimensions of any tower constructed for use in a Company's Cable System shall comply with all appropriate Federal Aviation Agency regulations, including, but not limited to, "Objects Affecting Navigable Airspace", 14 C.F.R. 77.1 *et seq.*, as they now exist or may be amended from time to time.

12.5 Any antenna structure used, in a Company's Cable System shall comply with "Construction, Marking, and Lighting of Antenna Structures", 47 C.F.R. 17.1 *et seq.*, as may be amended from time to time.

12.6 Each Company shall install and maintain its wire, cable, mixers and other equipment in accordance with the requirements of the generally applicable ordinances of the Town as may be amended, and in such a manner which shall not interfere with any installations of the Town or any public utility serving the Town.

12.7 Privacy.

(a) The Company shall respect the rights of privacy of every Subscriber of the Cable Television System and, pursuant to applicable federal law, shall not violate such rights through the use of any device or Signal associated with the Cable Television System, and as hereafter provided.

(b) The Company shall comply with all privacy provisions contained in this Ordinance and all other applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act.

(c) The Company shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.

(d) Except as otherwise permitted by applicable law, the Company shall not tap, monitor, arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber; provided, however, that the Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying System integrity, checking for illegal taps, controlling return-path transmission, or billing for Pay Services. The Company shall report to the affected parties any instances of monitoring or tapping of the Cable Television System, or any part thereof, of

which it has knowledge, whether or not the Company has authorized such activity, other than as permitted herein. The Company shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes. The Franchisee shall destroy all subscriber information of a personal nature after a reasonable period of time except as authorized not to do so by the affected Subscriber.

(e) Except as otherwise permitted by applicable law, the Company shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its Subscribers or any list or other information which identifies by name or address, Subscribers viewing habits, to any Person or agency for any purpose whatsoever without the prior written consent of the Subscriber; provided that the Company may make such lists available to Persons performing services for the Company in connection with lawful business purposes hereunder (e.g. a billing service) where the availability of such lists is necessary to the performance of such services. A Subscriber may withdraw said consent by providing written notice to the Company. Every Company shall provide annual notice to each Subscriber of the right to withdraw such authorization. In no event shall such authorization be obtained as a condition of service or continuation thereof, except as necessary to adequately provide particular services.

(f) Upon request, the Company shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Company maintains regarding said Subscriber. A Subscriber may obtain from the Company a copy of any or all of the personal subscriber information regarding him or her maintained by the Company.

(g) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information shall be directed to the Company's General Manager.

12.8 Performance Standards

(a) **Technical Standards.** Subject to Section 10.13 above, all signals, including PEG signals, carried on a Cable System shall be transmitted to Subscribers without material degradation and with a quality no less than that prescribed by rules of any Federal or State regulatory agencies having jurisdiction. Anything contained in a Franchise Agreement to the contrary notwithstanding, the technical specifications, operation and performance of the system shall, at minimum, conform at all time to the specifications established by any Federal or State regulatory agencies having jurisdiction thereof, and such specifications existing on the effective date hereof, whichever is of the higher quality.

(b) **Performance Testing.** At such time as the performance monitoring and testing, conducted pursuant to requirements of any Federal or State regulatory agencies having jurisdiction, provides evidence that the Cable System's transmissions do not meet the prescribed standards, the performance monitoring and testing shall be repeated for all segments of the Cable System which do not meet such prescribed standards, upon completion of the necessary repair or adjustment, notwithstanding the lack of such requirement by the Federal or State agencies, and a report of the second test submitted to

Town; provided, that the Company shall not be required to furnish any such reports with respect to technical problems discovered in the course of the Company's routine maintenance testing, except as may be specifically requested by Town in each instance. The Company shall provide and keep accurately calibrated test equipment on hand at all times for the testing of all services and operational standards outlined in this Franchise Agreement.

Section 13 – Maintenance and Repair.

13.1 Maintenance Policy. Each Company shall promulgate and adhere to a preventative maintenance policy directed toward maximizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-to-repair) of its Cable System with respect to its delivery of Cable Service to Subscribers at or above the performance standard set forth herein. Whenever it is necessary to interrupt service for the purpose of making scheduled maintenance or repairs, adjustments, installations or other maintenance activities, the Company shall do so at such a time as will cause the least inconvenience to Subscribers. Except in an emergency, and except for interruptions of five minutes or less which may occur during the course of normal maintenance, and except during the rebuild of the Cable System, service is to be interrupted for planned or scheduled maintenance or repairs between the hours of midnight and 7:00 a.m. where practicable.

13.2 Repair. Each Company shall maintain a repair department comprising qualified technicians, service vehicles and equipment to provide prompt and efficient repair service within the parameters set forth below.

13.3 Notice. Except in an emergency, and except for interruptions of five minutes or less, each Company shall give Subscribers at least 24 hours notice of any planned interruption of service for purposes of maintenance or repair. In an emergency, a Company shall give such notice as is reasonable in the circumstances. Notice given on the alphanumeric channels on Basic Service shall be considered sufficient. During any rebuild of the Cable System, a Company shall not be required to provide 24 hour notice of any interruption of service if such interruption is the direct result of rebuild work. However, a Company shall be required to provide written notification to Subscribers of planned rebuild work schedules and when Subscribers may experience service interruptions. The Company shall use its best efforts to minimize the length of any service outage due to a rebuild.

13.4 Repair Procedure. Each Company shall have a toll free telephone number listed in the local area and so operated that requests for repairs or adjustments can be received at any time, twenty-four (24) hours per day, seven (7) days per week. A recording device or answering service may be used during non-business hours. A Company's responses to such requests shall occur no later than 24 hours after the Company's receipt of such a request; provided, the response time for service complaints other than complaints of no or unusable service shall be computed excluding Sundays and holidays.

A Company shall respond within four (4) hours to any area outage that occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day, and by not later than the following 11:00 a.m. to any area outage that occurs between 10:00 p.m. and 7:00 a.m. If a Company responds to a service complaint as herein required and the Subscriber is not satisfied that the problem giving rise to the original complaint has been resolved, the Subscriber shall notify the Company thereof within forty eight (48) hours of the repair visit by the Company personnel, and the Company shall have an additional period of twenty-four (24) hours within which to correct the problem. If such second complaint is made to Town instead of the Company, the Company shall have a period of twenty-four (24) hours after receipt of oral or written notice from Town within which to make the correction. The requirements for maintenance and repair shall not apply to Subscribers' television or radio receivers or other Subscriber-owned equipment.

13.5 Rebate or Credit for Service Loss. Upon request, for every loss of service in excess of six (6) continuous hours, the Company shall grant a pro rata rebate or credit of the regular monthly charge to the Subscriber. In the event a Subscriber reports a loss of service to the Company, and such outage exceeds six (6) continuous hours, the Company shall grant the credit or rebate whether or not the Subscriber specifically requests it. The credit shall be pro-rated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days of the outage and whose denominator equals the number of days in the month of the outage. In no case shall the refund be less than twenty-four (24) hours' credit. For purposes of this paragraph, loss of Basic Service shall be considered a Subscriber's receipt of less than two-thirds of the respective available channels, and loss of pay Cable Service shall be considered the loss of signal on any pay Channel. The Company shall give the Subscriber a credit no later than the next billing cycle. The Company shall include on each Subscriber bill for service, a notice regarding the Subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with this Section. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the Company to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the Customer bill in boldface type.

13.6 Records. Each Company shall maintain records of all oral and written complaints regarding quality of service, equipment malfunctions, billing procedure, and similar matters that requires further action on the part of the Company. Such records shall show the exact date and time of receipt of all such customer complaints, identifying the Subscriber, the nature of the complaint and the exact time action was taken by the Company in response thereto, together with a description of such action. Each Company shall also maintain a record of all whole or partial system outages, including the date, approximate time and duration, type and probable cause of each outage, except for outages caused by routine testing or maintenance. Such records shall be available at the Company's local office for at least two (2) years, for inspection by Town as it may from time to time request, during regular business hours and upon reasonable notice, subject to any privacy

restrictions imposed by law. The Company shall, within ten (10) days after receiving a written request therefore, send a written report to Town with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

Section 14.0 - Time of Installation.

Service to any Subscriber served by a standard aerial Drop shall commence by not later than seven (7) business days after service is requested; service to any Subscriber served by a standard underground Drop shall commence by not later than forty-five (45) days after service is requested unless additional time is required by severe weather or other circumstances outside of Company's control. The Company shall exert every reasonable effort to commence service to a Subscriber served by a non-standard Drop as expeditiously as possible. A standard Drop, for which the Subscriber shall be charged the Company's standard installation fee, is a drop running not more than one hundred fifty (150) feet from feeder cable to the Subscriber's structure; provided, that any installation which requires Company to cross a street underground shall be considered a non-standard installation. An aerial Drop in excess of one hundred fifty (150) feet in length shall be considered a non-standard installation. If the Company schedules an appointment with a Subscriber for an installation, repair or other service call, and the Company fails to arrive at the Subscriber's premises within one (1) hour of the scheduled time or scheduled window of time (which window shall not exceed four (4) hours) for reasons not caused by the Subscriber unless rescheduled in advance by the Company, the Company shall, in the case of an appointment for a standard installation, make no charge to the Subscriber for the standard installation, and in the case of a repair or other service call, shall apply a minimum twenty dollar (\$20.00) credit to the Subscriber's account to reduce the cost of any make-up or late repair or service call.

Section 15 – Subscriber Rates and Charges.

15.1 Regulation. Town shall have the right to regulate charges to Subscribers for Cable Service to the extent allowed by law.

15.2 Rate or Service Discriminations: Special Classifications. No Company shall subject any person to any prejudice or disadvantage, preference or advantage in connection with rates, charges, service facilities, rules or regulations. Nothing herein shall prohibit the establishment of a graduated scale of rates for classified schedules to which any Subscribers within such classification shall be entitled.

15.3 Connection Charges. Subscribers shall be assessed no special connection charges other than standard installation charges for cable drops from any Company's distribution plant up to one hundred fifty (150) feet. Subscribers requiring drops over one hundred fifty (150) feet shall be charged only for the incremental cost of extending the drop beyond one hundred fifty (150) feet.

15.4 Rates and Programming.

(a) Each Company shall give the Town and each Subscriber thirty (30) days written notice of any change in Subscriber rates or charges. At the Town's request, exercised by the Town giving the Company at least ten (10) days' notice thereof, the Company shall attend, and respond to questions, at any public meeting held by the Town concerning the rate increase. Notice to Subscribers of rate changes shall be by mail. Each Company shall also provide each Subscriber at least annually with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate Cable Service. Subscribers shall have at least thirty (30) days from receipt of notification of any rate increase to either downgrade service or terminate altogether without any charge.

(b) Each Company shall give the Town and each Subscriber thirty (30) days written notice of any change, including additions or deletions, or change in Channel position, in the programming carried on the Cable System, as well as any renumbering of such programming, and any other changes in the programming service offered by each Company. At the request of the Town, with at least ten (10) days' notice, each Company shall meet with the Town at a public meeting to discuss programming issues and options and to hear and consider the input of the Town and the public.

(c) Each Company shall use its best efforts to provide a wide diversity of programming options to its Subscribers. Each Company shall provide the following broad categories of programming:

- (1) public broadcasting programming;
- (2) educational programming;
- (3) news programming;
- (4) music programming;
- (5) sports programming;
- (6) children's programming;
- (7) religious programming;
- (8) arts and/or cultural programming; and
- (9) family programming.

(d) Rate schedules shall be provided to Subscribers annually.

15.5 Billing Practices. Each Company shall set forth, in writing its billing and collection practices and policies, and procedures for ordering changes in or termination of services and refund policies, and shall furnish a copy thereof to each new Subscriber and to Town, and thereafter to Town and all Subscribers at such time as there is a change in such policies.

15.6 Pro-Rated Service. In the event a Subscriber's service is terminated, monthly charges for service shall be pro-rated on a daily basis and, where advance payment has been made by a Subscriber, the appropriate refund shall be made by the Company to the Subscriber within thirty (30) days of such termination.

15.7 Disconnection for Non-Payment. The Company shall have the right to disconnect a Subscriber for failure to pay an overdue account; provided, that:

(a) The Company's billing practices and policy statement set forth the conditions under which an account will be considered overdue;

(b) At least twelve (12) days prior to the proposed disconnection, the Company mails to the Subscriber written notice of intent to disconnect for delinquency in payment;

(c) The Subscriber's account is at least sixty (60) days delinquent at the time said notice is mailed, and

(d) The disconnection occurs at least twelve (12) days, and not more than sixty (60) days, after the mailing of the above written notice.

15.8 Notice of Rates and Programming. All rates and charges associated with the provision of Cable Service and the lease of Channel space shall be published. A written schedule of all such rates currently in effect, including special and promotional rates, shall be available and obtainable in person or by mail upon request during business hours at each Company's business office.

(a) At least once each calendar year, each Company shall provide to each Subscriber and the Town a complete schedule of all services, rates and charges for Cable Service provided by the Company and of the programming offered and channel alignment. Such information shall also be provided to all new or prospective Subscribers prior to installation or commencement of service.

(b) Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers and rates, deposits, if applicable, installation costs, additional television set installation charges, service upgrade or downgrade charges, stolen or lost converter charges, charges for lockout devices and for connecting video cassette recorders to the Cable System.

15.9 General Customer Service. Each Company shall comply with any and all customer service standards provided under Maine law, Federal law, FCC regulations, including those regulations found at 47 C.F.R. §76.309, and as promulgated by the cable industry, (such as NCTA standards), as well as with the provisions of the applicable Franchise Agreement. To the extent of any difference or conflict in the requirements of this Ordinance, the Franchise Agreement, State and federal law, FCC regulations and/or cable industry standards, the strictest of such standards shall govern.

Section 16 – Subscriber Complaints.

16.1 Complaint Policy. Any Company issued a Franchise under this Ordinance shall promulgate within one hundred twenty (120) days of issuance a written policy

statement setting forth the procedure for reporting and resolving Subscriber complaints and shall furnish a copy thereof to each new Subscriber and to the Town, and thereafter, annually, to the Town and all Subscribers. Such notice shall comply in all respects with the Cable Act, FCC Regulations, Maine law and this Ordinance.

16.2 Company Response. Each Company shall receive Subscriber complaints at its business office serving Town and shall handle all such complaints promptly but in no event later than as set forth below.

16.3 Billing Complaints. In the case of a billing complaint, the Company shall respond to the complainant by no later than five (5) business days following receipt of the complaint.

16.4 Service Complaints. In the case of a service complaint not requesting repair or adjustment, the Company shall respond to complainant within five (5) business days following receipt of the complaint.

Section 17. Preferential or Discriminatory Practices Prohibited.

The Company shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage.

Section 18. Reports and Records.

18.1 General Report Filing Requirements. The Town may require each Company to maintain and file such reports, contracts and statements which are reasonably necessary to monitor compliance with this Ordinance and the Franchise Agreement, including but not limited to ownership, accounting, auditing and operating statement, engineering reports, and other data, which the Town shall deem necessary or appropriate to administer the provisions of this Ordinance.

Records which shall be available for inspection and review by the Town shall include, but not be limited to:

- (a) All correspondence among the Company and any of his agents, and all regulators or other government agencies pertaining to the operation of the Cable System in the Town necessary to monitor compliance.
- (b) All reports, applications, and other documents sent to, or required by, any government agency pertaining to the operation of the Cable System in the Town necessary to monitor compliance.
- (c) All oral and written complaints received by the Company or its agents from the Subscribers in the Town for the preceding two (2) years of the term of the Franchise, and the disposition thereof.

- (d) All financial records reasonably necessary to determine compliance with and carry out the provisions of this Ordinance and any Franchise Agreement necessary to monitor compliance.

18.2 Annual Report. No later than April 1 of each year during the term of a Franchise Agreement, each Company shall submit an annual report to the Town for the prior calendar year, which report shall include at a minimum:

- (a) Total number of Subscribers in (municipality), including a breakdown of
- (b) Subscribers taking basic Cable Service, Cable Programming Service and premium services as of December 31 of the prior calendar year.
- (c) The increase or decrease in the number of Subscribers over the prior calendar year for (municipality).
- (d) A specific description of any line extensions in (municipality) in the prior calendar year.
- (e) Any price or programming changes in the prior year.
- (f) A description of any technological upgrades or enhancements in Cable Service over the past year.
- (g) A listing of any system outages in (municipality) over the prior year in excess of one hour, including the affected locations, the date, time, duration, cause of the outage, and steps taken to address the outage.
- (h) A summary of customer complaint records for the prior year, including an identification of any significant customer service issues raised in (municipality) in the prior year and any resolution or changes in service resulting.

Section 18.3 Supplemental Reporting. Upon written request of the Town, the Company shall provide not more than annually, a report listing the following:

- (a) A summary of the most recent FCC proof of performance tests and measurement records interpreted in laymen's language describing the Cable System's compliance or lack of compliance with the FCC Technical Standards set forth in 76 C.F.R. §76.601 et seq. as the same may be modified in the future, identifying any instances of non-compliance and describing all measures taken or under way to achieve compliance;
- (b) A list of any material violations by the Company of the technical rules of the FCC, including but not limited to violations of rules and regulations regarding signal quality and safety during the past 12 months, and describing all measures taken or underway to achieve compliance; and

(c) A copy of the Company's most recent S.E.C. Forms 10 K and 10Q.

After delivery of the Annual Report, each Company shall, at the request of the Town, attend a meeting with the Town to review and discuss any issues or questions raised in the Town's review of the Annual Report.

Section 19. Rights Reserved to the Town.

19.1 Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the Town to acquire the property of the Company, either by purchase or through the exercise of the right of eminent domain and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the Town's right of eminent domain.

19.2 Neither the awarding of a franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.

19.3 The Town Manager is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of the Company under this Ordinance, either on behalf of the Town, the Company, or any Subscriber, in the best interest of the public.

19.4 The Town shall have the right to inspect all construction of installation work for a Cable System and to make such inspections as it shall find necessary to insure compliance with the terms of this Ordinance, and Franchise awarded pursuant hereto, and any other pertinent provisions of the law.

19.5 Upon revocation or denial of a renewal under the formal process of the Cable Act of any Cable Franchise, the Town shall have the right to require the Company to remove at its own expense all portions of the Cable System from all Streets and Public Ways within the Town.

19.6 Nothing in this Ordinance or the Franchise shall encumber or prohibit the Town from the collection of property taxes, of whatsoever kind, allowed by state law.

Section 20. Revocation

20.1 Notice and Hearing. The municipal officers of the Town may revoke any Franchise awarded pursuant to the provisions of this Ordinance and federal law upon thirty (30) days written notice to the Company and after hearing, in the event that the Company:

- (a) violates any material provision of its Franchise Agreement, where such violation remains uncured for a period of thirty (30) days;
- (b) ceases to provide service over the Cable System or fails to restore service after ninety-six (96) consecutive hours of interrupted service except in cases of force majeure or when approval of such interruption is obtained from the Town;
- (c) fails to provide or maintain in full force and effect the insurance coverages and the performance bond as required by this Ordinance and under the terms of the Franchise Agreement, where such violation remains uncured for a period of thirty (30) days;
- (d) violates any rule, order or determination of the Town made pursuant to the Franchise Agreement or this Ordinance where such violation remains uncured for a period of thirty (30) days; or
- (e) violates any other provision of law.

20.2 Procedures. The Town shall follow the following procedures in revoking a franchise:

- (a) The Town shall provide the Company with notice of intention to revoke the Franchise. The written notice shall be sent by certified or overnight mail and shall describe in reasonable detail the specific violations alleged to have occurred.
- (b) The Company shall have thirty (30) days from receipt of the notice either to correct the alleged violation or dispute the Town's allegations in writing. In the event that, by nature of the alleged violation, such violation cannot be cured within such thirty (30) day period, the parties shall meet in good faith and agree to a reasonable cure schedule.
- (c) If the Company disputes the Town's allegations, the municipal officers shall conduct a public hearing within thirty (30) days of receipt of notice that the Company disputes the allegations. The hearing shall follow the procedures set forth for public hearings before the Town Council and the Company shall have the right to present evidence, and question witnesses, if any.
- (d) Following the public hearing, the municipal officers shall make a determination as to whether to revoke the Franchise, and shall issue a written decision containing its findings.
- (f) The Municipal Officers of the Town shall, either directly or through their designees conduct public hearings and issue such appropriate orders as it may deem necessary to enforce the provisions of this Ordinance and any Franchise Agreements, including the revocation of Franchise

Agreements and the assessment of penalties for violations, as well as to correct any deficiencies in the operation of the system.

- (g) All such orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such Cable Systems, except that unless preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations
- (h) As part of its enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for injunctive relief. In the event that the Town brings legal action to enforce the provisions of this Ordinance or the Franchise Agreement, and the Town prevails in the action, the Town shall be entitled to recover its costs, including reasonable attorneys' fees, incurred in the prosecution of any such action.

20.3 Appeal. The Company shall have the right to appeal any decision of the Town under this Section within thirty (30) days of the date of the decision or ruling to the Maine Superior Court pursuant to M.R. Civ. P. 80B.