

Gene A. Meisner
Commissioner District One

Rocky L. Samber, Chairman
Commissioner District Two

David G. Donaldson
Commissioner District Three



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**OFFICE OF THE BOARD
LOGAN COUNTY COMMISSIONERS**

315 MAIN STREET SUITE 2
STERLING, COLORADO 80751

AGENDA

**Logan County Board of Commissioners
Logan County Courthouse, 315 Main Street, Sterling, Colorado
Tuesday, March 29, 2016 - 9:00 a.m.**

**Call to Order
Pledge of Allegiance
Revisions to Agenda
Consent Agenda**

Approval of the Minutes of the March 22, 2016 meeting.

**Unfinished Business
New Business**

Consideration of the approval of Resolution No. 2016-10 granting the extension of a non-exclusive cable television franchise to Kentec Communications, Inc., for a period of seven years.

**Other Business
Miscellaneous Business/Announcements**

The next regular business meeting will be scheduled for Tuesday, April 5, 2016, at 9:00 a.m. at the Logan County Courthouse.

**Executive Session as Needed
Adjournment**

March 22, 2016

The Logan County Board of Commissioners met in regular session with the following members present constituting a quorum of the members thereof:

Rocky L. Samber	Chairman
David G. Donaldson	Commissioner
Gene A. Meisner	Commissioner

Also present:

Alan Samber	Logan County Attorney
Pamela M Bacon	Logan County Clerk
Marie Granillo	Logan County Deputy Clerk
Rob Quint	Logan County Planning and Zoning
Chad Wright	Logan County Road and Bridge
Doug Kaufman	Omni West Realty
Greg Buchholz	21 st Century
Rex D. Benson	Logan County Road and Bridge
Callie Jones	Journal Advocate
Forrest Hershberger	South Platte Sentinel

Chairman Samber called the meeting to order at 9:00 a.m. The meeting opened with the Pledge of Allegiance.

Chairman Samber asked if there were any revisions for today's agenda. None were indicated.

The Board continued with the Consent Agenda items:

- Approval of the Minutes of the March 15, 2016 meeting.
- Acknowledgement the receipt of the Clerk and Recorder's report for the month of February, 2016.
- Consideration of the approval of the appointment/re-appointment of advisory board members to various advisory boards.
 - Fair Board three-year terms: Re-appoint Marlene Kiel to Parade Chairperson.
 - EMS Council three-year terms: Appoint Randy Jacobucci.

Commissioner Meisner moved to approve the Consent Agenda Tuesday, March 22, 2016 Board meeting. Commissioner Donaldson seconded and the motion carried 3-0.

Chairman Samber continued with Unfinished Business:

- Conventional Truck Tractor
- Tractor
- Rotary Mower

Commissioner Donaldson made a motion to award the bid to Transwest Truck Trailer Company, Brighton, Colorado for a 2017 freight liner model FTL 122SD in the amount of \$105,999.00. Commissioner Meisner seconded and the motion carried 3-0.

Commissioner Meisner moved to accept the 2016 John Deere as our purchasing tractor 6105E Tractor from 21st Century, Sterling, Colorado for the purchase price \$53,133.00. Commissioner Donaldson seconded and the motion carried 3-0.

Commissioner Donaldson made a motion to award the bid for the Rotary Mower to G&M Implement, Sterling, Colorado for a 2016 Rhino model 4160 Mower in the amount of \$14,400.00. Commissioner Meisner seconded and the motion carried 3-0.

Chamber Samber continued with New Business:

Commissioner Meisner moved to approve Resolution 2016-9 and an application for A Subdivision Exemption on behalf of Larry W. and Renee Hinkle to create a 1.12-acre tract from a 75-acre Agricultural parcel, in an "A" Agricultural District located in the Northeast Quarter (NE1/4) of Section 13, T7N, R53W and in the West Half (W1/2) of Section 18, T7N, R52W of the 6th PM, Logan County, Colorado. Commissioner Donaldson seconded and the motion carried 3-0.

Consideration of the award of bids for the following services for the Logan County Fair:

- Superintendent's BBQ

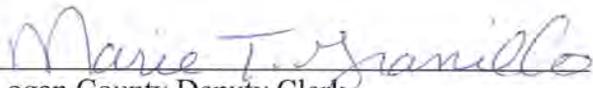
Commissioner Donaldson made a motion to award the bid for the Superintendent's BBQ to the Logan County 4-H Foundation Lil Buckaroo BBQ. Commissioner Meisner seconded and the motion carried 3-0.

The Board moved on to Miscellaneous Business/Announcements:

The next regular business meeting is scheduled for Tuesday, March 29, 2016 at 9:00 a.m. in the hearing chambers at the Logan County Courthouse.

There being no further business to come before the Board the meeting was adjourned at 9:15 a.m.

Submitted by:


Logan County Deputy Clerk

Approved: March 29, 2016

BOARD OF COUNTY COMMISSIONERS
LOGAN COUNTY, COLORADO

(seal)

By: _____
Rocky L. Samber, Chairman

Attest:

Logan County Clerk & Recorder

RESOLUTION

NO. 2016-10

A RESOLUTION APPROVING THE EXTENSION OF A FRANCHISE AGREEMENT AND GRANTING TO KENTEC COMMUNICATIONS, INC., A CONTINUING NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO CONSTRUCT AND OPERATE A CABLE TELEVISION SYSTEM AND OFFER CABLE SERVICE IN UNINCORPORATED LOGAN COUNTY, AND IN CONNECTION THEREWITH, AUTHORIZING THE USE OF THE PUBLIC RIGHT-OF-WAYS FOR INSTALLATION OF THE CABLE SYSTEM, ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT.

WHEREAS, Logan County has identified the future cable-related needs and interests of the County and its citizens, has considered the financial, technical and legal qualifications of the franchise Grantee, and has determined that the Grantee's plans for operating and maintaining its cable system are adequate; and

WHEREAS, the County has a legitimate and necessary regulatory role in ensuring the availability of state-of-the-art cable communications service, the high technical capability and reliability of a cable system in the franchise area, and the availability of local programming and quality customer service; and

WHEREAS, diversity of cable service is an important policy goal and the Grantee's cable system should offer a broad range of programming services; and

WHEREAS, flexibility to respond to changes in technology and subscriber interests within the cable service market should be an essential characteristic of the Franchise; and

WHEREAS, the County is a local franchise authority within the meaning of federal law and is authorized to grant one or more non-exclusive franchises to construct, operate and maintain a cable system within the boundaries of the County, using the public right-of-ways for such cable system; and

WHEREAS, the County previously granted a non-exclusive franchise to Kentec Communications, Inc., for a term of seven years and the continuation and extension of such franchise remains in the best interests of the residents of Logan County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Logan County, Colorado:

1. That Kentec Communications, Inc., is hereby granted an extension of the non-exclusive cable television franchise, for a like term of seven years, to construct and operate a cable television system and provide cable television service in unincorporated Logan County, Colorado.

2. That the terms and conditions of such Franchise are set forth in the Cable Television Franchise agreement, attached hereto, which is hereby approved and incorporated herein. The Chairman of the Board of County Commissioners is authorized to execute such Franchise agreement on behalf of the Board of County Commissioners.

3. That the extension of the Franchise is conditioned on complete and full performance of all terms and conditions of the Franchise agreement, all as more specifically set forth therein.

Adopted and Signed this 29th day of March, 2016.

THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF LOGAN, STATE OF COLORADO

_____(Aye)(Nay)
Rocky L. Samber, Chairman

_____(Aye)(Nay)
Gene A. Meisner

_____(Aye)(Nay)
David G. Donaldson

I, Pamela M. Bacon, County Clerk and Recorder in and for the County of Logan, State of Colorado, do hereby certify that the foregoing Resolution was adopted by the Board of County Commissioners of the County of Logan and State of Colorado, in regular session on the 29th day of March, 2016.

County Clerk and Recorder

**LOGAN COUNTY, COLORADO
CABLE TELEVISION FRANCHISE**

CABLE TELEVISION FRANCHISE

This Cable Television Franchise ("Franchise") is entered into in Logan County, Colorado, effective the 24th day of March, 2016, by and between the County of Logan, a political subdivision of the State of Colorado, by and through its Board of County Commissioners of the County of Logan, (hereinafter "County") and Kentec Communications, Inc. (hereinafter referred to as "Company"). The County and Company are sometimes referred to hereinafter collectively as the "parties."

WHEREAS, the County has identified the future cable-related needs and interests of the County and its citizens, has considered the financial, technical and legal qualifications of Grantee, and has determined that Company's plans for operating and maintaining its cable system are adequate; and

WHEREAS, the County has a legitimate and necessary regulatory role in ensuring the availability of state-of-the-art cable communications service, the high technical capability and reliability of a cable system in the franchise area, and the availability of local programming and quality customer service; and

WHEREAS, diversity in cable service is an important policy goal and the Company's cable system should offer a broad range of programming services; and

WHEREAS, flexibility to respond to changes in technology and subscriber interests within the cable service market should be an essential characteristic of this Franchise; and

WHEREAS, the County is authorized by applicable law to grant one or more nonexclusive franchises to construct, operate and maintain a cable system or systems within the boundaries of the County.

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Company do hereby agree as follows:

1 DEFINITIONS

1.1 Affiliate (and its variants) shall mean any entity controlling, controlled by or under common control with the entity in question.

1.2 Authorized Area shall mean the unincorporated area from time to time within the jurisdictional boundaries of the County.

1.3 Cable Gross Revenues or Gross Revenues shall mean all revenue received by Company, or an Affiliate of Company, in whatever form and from all sources which are in connection with or attributable to Company's provision of Cable Services within the Authorized Area consistent with applicable law.

1.3.1 Cable Gross Revenues shall include without limitation all Subscriber revenues received net of bad debts, including revenues from basic cable services; cable programming service tiers; additional tiers; premium services; pay per view programs; program guides; installation, disconnection or service call fees; fees from the provision, sale, rental, or lease of converters,

remote controls, additional outlets and other customer premises equipment.; Franchise Fees paid by Subscribers; revenues from the use of leased access channels; advertising revenues from the System; and revenues and compensation from home shopping programming.

1.3.2 Advertising revenues and other revenues whose source cannot be identified with a specific Subscriber shall be allocated to County based upon the percentage of Subscribers residing in County compared to that served from the head-end serving County or by the Company overall

1.3.3 Gross Revenues shall not include bad debt, any taxes on services provided by Company (such as sales taxes), the FCC per subscriber cable regulatory fee or recovery by Company of the grants set forth in Part 5.

1.4 **Cable Services** shall mean only:

1.4.1 The one-way transmission to all Subscribers of (i) video programming, or (ii) other programming services, by which is meant information which Company makes available to all Subscribers generally, and

1.4.2 Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services,

1.4.3 Where "video programming" is programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

1.5 **Cable System or System** shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Services which is provided to multiple Subscribers within the Authorized Area, but such term does not include (i) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any public right of way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a Cable System (other than for purposes of Section 621(c) of such Act, 47 U.S.C. Section 541(e)) 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; (iv) an open video system that complies with Section 653 of Title VI of the Communications Act of 1934, as amended; or (v) any facilities of any electric utility used solely for operating its electric utility system.

1.6 **Company** shall mean Kentec Communications, Inc.

1.7 **County** means the County of Logan, Colorado, a political subdivision of the State of Colorado.

1.8 **Drop** shall mean the cable or wire that connects the distribution portion of the Cable System to a Subscriber's premises.

1.9 **Effective Date** shall have the meaning set forth in Part 14.

1.10 **Event of Default** shall have the meaning defined in Part 11.

1.11 **FCC** shall mean U.S. Federal Communications Commission.

1.12 **Franchise or Franchise Agreement** shall mean this document.

1.13 **Franchise Fee** shall mean the fee set forth in Part 7.

1.14 **Indemnitees** shall have the meaning set forth in Section 6.2.

1.15 **“Multichannel Video Programming Distributor”** means a Person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase by subscribers or customers, multiple channels of video programming.

1.16 **[Reserved]**

1.17 **[Reserved]**

1.18 **[Reserved]**

1.19 **Normal Business Hours** shall have the meaning set forth in Section 4.1.2.

1.20 **PEG Channels** shall have the meaning set forth in Part 5.

1.21 **Public Ways** shall mean all public rights-of-way, roads, streets, highways, bridges, easements and alleys which have been dedicated to the public. "Public Ways" shall also include public rights-of-way, streets, highways, and alleys which have not been dedicated to the public to the extent that despite such non-dedication County has the ability to grant the rights set forth herein.

1.22 **Subscriber** shall mean persons lawfully receiving Cable Services from Company in the Authorized Area.

1.23 **Uncured Event of Default** shall have the meaning defined in Part 11.

2 GRANT OF RIGHTS

2.1 **Franchise Granted.** Subject to all the terms and conditions contained in this Franchise, and applicable ordinances or resolutions of County as from time to time are in effect, County hereby grants Company a Franchise to erect, construct, install, and maintain a Cable System to provide Cable Services in the Authorized Area. Company agrees throughout the term of this Franchise to (a) erect, construct, install and maintain such a Cable System.

2.1.1 Company agrees to provide Cable Services as set forth herein throughout the term of this Franchise.

2.2 Nonexclusive. This Franchise and all rights granted hereunder are nonexclusive. County reserves the right to grant such other and future franchises as it deems appropriate. This Franchise does not establish any priority for the use of the Public Ways by Company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the Public Ways the first priority shall be to the public generally, the second priority to County in the performance of its various functions excluding any use which is or may be competitive with services offered by Company, and thereafter, as between franchisees and other permit holders, as determined by County in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Colorado.

2.3 Equal Protection. The County shall not authorize or permit any person providing video programming services and/or Cable Services to enter into any part of the County's Public Ways without a franchise. Such franchise shall be on terms and conditions no more favorable to or less burdensome to such person than those applied to the Company pursuant to this Franchise, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. To the extent any portion of this Section shall be preempted or rendered unenforceable, then the parties expressly agree to promptly modify this Section in a mutually agreed upon manner consistent with law to assure all parties with equal protection under the law and comparable obligations.

2.3.1 In the event a Multichannel Video Programming Distributor needing a franchise, permit or comparable authorization or permission from County to operate therein commences operation without a franchise or is granted a franchise or permit to operate by the County, the terms and conditions of which do not comply with this section or are more favorable to (or less burdensome on) that entity, the Company shall have the right to give County written notice of same, stating with specificity the difference(s) and Company's suggested change(s) to this Franchise. The County shall work in good faith with Company to review and adopt modifications which Company deems necessary, approval for which shall not be unreasonably withheld. If ninety (90) days after delivery of such notice there is no such resolution, then Company may commence an action to resolve the matter against County before a court or agency having jurisdiction. If a court or agency determines that the Multichannel Video Programming Distributor is operating without a franchise or was granted a franchise or permit to operate by the County, the terms and conditions of which do not comply with this section or are more favorable to (or less burdensome on) that entity, then the remedy shall be to modify Company's Franchise to be commensurate with the obligations imposed on the new entity so as to provide all parties equal protection under the law. The parties expressly agree that a Multichannel Video Programming Distributor is not an entity that provides direct broadcast satellite services for purposes of this Section. Notwithstanding any provisions of this Section to the contrary, if the County does not possess authority under applicable laws to require a franchise from a Multichannel Video Programming Distributor, the provisions of this Section shall not apply.

2.4 Line Extension. Any residential dwelling unit located within one hundred fifty (150) feet of the nearest tap on Company's System shall be connected to the System at no charge other than the standard installation charge. Company shall, upon

request by any potential subscriber residing in the Authorized Area beyond the one hundred fifty (150) foot limit, extend Cable Service to such Subscriber provided that the subscriber shall pay the net additional Drop costs.

2.5 Channels; Programming. Company shall provide a minimum of 100 activated and programmed channels to Subscribers in County. To the extent reasonably available, Company shall provide to Subscribers in County the following categories of programming: sports, news, entertainment, music, religion, health/lifestyle, cultural/arts, children's, minority, family, and weather.

2.6 Emergencies. County may remove or damage the Cable System in the case of fire, disaster, or other emergencies threatening life or property. In such event neither County nor any agent, contractor or employee thereof shall be liable to Company or its customers or third parties for any damages caused them or the Cable System, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the Cable System provided County was not arbitrary or capricious in its actions.

2.7 Alert System. Company shall provide without charge an emergency alert system ("EAS System") or successor to that system complying with all requirements imposed from time to time by Federal law.

2.8 Compliance with Applicable Law. In constructing, maintaining, and operating the Cable System, Company shall comply in all respects with all applicable codes, including the National Electrical Safety Code (latest edition); National Electric Code (latest edition); all standards, practices, procedures and the like of the National Cable Television Association; and all applicable Federal, State, and local laws.

2.9 Easement Usage. To the extent allowed by applicable State and Federal law, this Franchise authorizes the construction of the Cable System over Public Ways, and through easements, within the Authorized Area and which have been dedicated for compatible uses, subject to the requirements in the balance of this Section and of this Franchise. In using all easements, Company shall comply with all Federal, State, and local laws and regulations governing the construction, installation, operation, and maintenance of a Cable System. Without limitation, Company shall ensure that:

2.9.1 The safety, functioning and appearance of the property and the convenience and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for the Cable System.

2.9.2 The cost of the installation, construction, operation, or removal of such facilities be borne by Company; and

2.9.3 The owner of the property be justly compensated by Company for any damages caused by the installation, construction, operation, or removal of such facilities by Company.

2.10 Other Permits. This Franchise does not relieve Company of compliance with other county codes, ordinances and permissions, such as compliance with necessary right-of-way permits, building permits and the like.

2.11 Backup Power. Company shall provide back up electric service to the Cable System head-end and associated equipment in the event of a power failure. The backup power shall allow the Cable System and each portion of it to operate for at least four (4) hours even if electric service from conventional utility lines is interrupted.

3 PUBLIC WAYS

3.1 No Burden on Public Ways. Company shall not erect, install, construct, repair, replace or maintain its Cable System in such a fashion as to violate applicable laws.

3.2 General Standard. All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All equipment shall be durable and installed and maintained in accordance with good engineering practices and comply with all federal, State and local laws and regulations.

3.3 Preconstruction Meetings. Company shall attend all preconstruction meetings when notified of same by County.

3.4 Minimum Interference. The Cable System shall be erected and maintained by Company in accordance with applicable law.

3.4.1 Company shall move, at its sole expense and upon request of the property owner, any pedestals that are placed so as to obstruct or significantly impair access to property, whether public or private, so as to remove the obstruction.

3.4.2 Work in the Public Ways, or on other public or private property, shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Company's Cable System shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes or any other property of the County, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the Public Ways by, or under, the County's authority. The Company's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the County may deem proper to make or to unnecessarily hinder or obstruct the free use of the Public Ways or other public property, and shall not interfere with travel and use of public places by persons during the construction, repair, operation or removal thereof. In the event of such interference, the County may require the removal or relocation of Company's lines, cables, equipment and other appurtenances from the property in question at Company's expense.

3.5 Restoration of Property. Company shall immediately restore at its sole cost and expense, in a manner consistent with applicable law, any private property or portion of the Public Ways that is in any way disturbed by the construction, operation, maintenance or removal of the Cable System to at least as good condition as that which existed prior to the disturbance, and shall at its sole cost and expense promptly restore and replace any other property, real or personal, damaged by Company or proximately caused by its acts or omissions, to at least as good condition as such property was in

immediately prior to the disturbance, damage or injury. Such a restoration shall start promptly but no more than thirty (30) days from Company becoming aware of the problem in question.

3.5.1 The Company shall protect public and private property from damage. If damage occurs, the Company shall promptly notify the property owner within twenty-four (24) hours.

3.5.2 Whenever Company disturbs or damages any Public Ways, other public property or any private property, Company shall promptly restore the Public Ways or property to at least its prior condition, normal wear and tear excepted, at its own expense. If the public safety or welfare is put at risk by conditions resulting from work performed by Company in the Public Way or on other public or private property then Company will use best efforts to promptly remedy such conditions to make safe the affected area.

3.5.3 Company shall warrant any restoration work performed by or for Company in the Public Ways or on other public property or private property for one (1) year, unless a longer period is required by the Code or any generally applicable ordinance or resolution of the County. If restoration is not satisfactorily performed by the Company within a reasonable time, the County may, after prior written notice to the Company, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the reasonable cost of those repairs from the Company. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Company shall pay the County.

3.6 Relocation of Facilities. Company shall at its own cost and expense, protect, support, disconnect or remove from the Public Ways any portion of the Cable System when required to do so by County, a public utility district, public water district, public sanitation district, public drainage district, or other similar special purpose public district or its designee due to street or other public excavation, construction, repair, grading, regrading or traffic conditions; the installation of sewers, drains, water pipes, or county-owned facilities of any kind; or the vacation, construction or relocation of streets or any other type of structure or improvement of a public agency or any other type of improvement necessary for the public health, safety or welfare; provided, however, this section shall not apply to facilities which will or may compete with services offered by Company.

3.6.1 Nothing in this Franchise shall prevent the County from constructing any public work or capital improvement. Further, the County shall have the right to require Company to relocate, remove, replace, modify or disconnect Company's facilities and equipment located in the Public Ways or on any other property of the County in the event of an emergency or when necessary to protect or further the health, safety or welfare of the general public, and such work shall be performed at Company's expense consistent with applicable law, including C.R.S. 29-8-101 et seq. Except during an emergency, the County shall provide reasonable written notice to Company, not to be less than twenty-one (21) business days, and allow Company the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the County which requires the removal,

replacement, modification or disconnection of Company's facilities or equipment, the County shall provide at least sixty (60) days written notice to Company. Following notice by the County, Company shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Public Ways, or on any other property of the County. If the County requires Company to relocate its facilities located within the Public Ways, the County shall make a reasonable effort to provide Company with an alternate location within the Public Way. If funds are generally made available to users of the Public Ways for such relocation, Company shall be entitled to its pro rata share of such funds.

3.6.2 If the Company fails to complete the above work within the time prescribed by the County, given the nature and extent of the work, or if it is not done to the County's reasonable satisfaction, the County may cause such work to be done and bill the reasonable cost of the work to the Company, including all reasonable costs and expenses incurred by the County due to Company's delay. In such event, the County shall not be liable for any damage to any portion of Company's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Company shall pay the County if the County is legally entitled to reimbursement. Nothing herein shall be construed as to waive any rights the County or Company may have relating to reimbursement of costs related to underground construction.

3.6.3 Nothing in this Franchise shall prevent the County from constructing sewers; grading, paving, repairing or altering any Public Way; laying down, repairing or removing water mains; installing conduit or fiber optic cable; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Company's Cable System.

3.7 Emergency Notification. Company shall provide County with a twenty-four (24) hour emergency telephone number at which a named responsible adult representative of Company (not voicemail or a recording) can be reasonably accessed in the event of an emergency.

3.8 Private Property/Zoning. Company shall be subject to all laws and regulations regarding private property in the course of constructing, installing, operating or maintaining the Cable System in County. Company shall comply with all zoning and land use restrictions as may currently exist or may hereafter be enacted or amended.

3.9 Underground Facilities. Company's cable, wires and other equipment shall be placed underground wherever existing utilities are underground. Except as provided below, Company's buried cable, wires and other equipment shall comply with the County's minimum burial depth requirement of four (4) feet. In all cases, Company's cable, wires and equipment shall be buried under existing culverts. Company may deviate from the four foot burial requirement when encountering pedestals or junction points, rocky soil conditions, or as required to maintain required separation of one foot from other buried lines, but only to the minimal extent reasonably necessary. Other deviations from the burial depth requirement may be authorized only by mutual agreement of County and Company, which agreement shall be set forth in writing. If the County requires utilities to bury lines which are currently overhead, and the County

financially participates in said undergrounding, then the County shall provide the same cost sharing to the Company.

3.9.1 Joint Trenching/Boring. Whenever it is reasonable, Company shall joint trench or share bores or cuts and work with other providers (such as, but not limited to, telecommunications, gas and electric companies) and the County, licensees, permittees and franchisees so as to reduce the number of Public Way cuts within the County.

3.9.2 Undergrounding Requirements. Where electric and telephone lines are underground at the time of Cable System construction or upgrade, or when such lines are subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the County or subscribers unless funding is generally available for such relocation to all users of the Public Ways. Related Cable System equipment, such as pedestals or power supplies, must be placed in accordance with the County's applicable code and permit requirements and rules.

3.10 New Developments. Company shall install its Cable System (excluding only Drops to individual dwelling units) in all new subdivisions and developments on the date on which electric or telephone facilities are installed in such subdivision or development unless Company is not notified of the subdivision or development and subject to the line extension provision in section 2.4 herein. The County agrees to include the Company in the platting process for any new subdivision. At a minimum, the County agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Company at least ten (10) days advance written notice of the availability of the open trench, and (B) that the utility or developer provide the Company with reasonable access to the open trench.

3.11 Temporary Relocation. Upon fifteen (15) business days notice Company shall temporarily raise or lower its wires or other equipment upon the request of any person including without limitation, a person holding a building moving permit issued by County. Company may charge a reasonable rate for this service not to exceed its actual direct costs.

3.12 Vacation. If a street or Public Way where Company has facilities is vacated, eliminated, discontinued or closed, Company shall be notified of same and all rights of Company under this Franchise to use same shall terminate and Company shall promptly remove the Cable System from such street or Public Way unless Company obtains all necessary easements from the affected property owners to use the former street or Public Way or a court orders the provision of such easements. Where reasonably possible and to the extent consistent with the treatment of other utility facilities in the former street or Public Way, County shall reserve easements for Company to continue to use the former street or Public Way. Company shall bear the cost of any removal or relocation of the Cable System unless the vacation is for the benefit of a private party in whole or in part, in which case the private party shall bear such costs. Company shall be provided ninety (90) days notice of any proposed vacation proceedings involving its facilities.

3.13 Discontinuance and Removal of the Cable System. Subject to exhaustion of Company's administrative and judicial remedies, upon the revocation,

termination, or expiration of this Franchise, unless an extension is granted, Company shall promptly (subject to the notice provision of Section 14.2) discontinue the provision of Cable Services and all rights of Company to use the Public Ways to provide Cable Services shall cease. Company, at the direction of County, shall remove its Cable System, including all supporting structures, poles, transmission and distribution system and other appurtenances, fixtures or property from the Public Ways, in, over, under, along, or through which they are installed within six (6) months of the revocation, termination, or expiration of this Franchise unless it is authorized to remain in the Public Ways pursuant to applicable law. Company shall also restore any property, public or private, to the condition in which it existed prior to the installation, erection or construction of its Cable System, including any improvements made to such property subsequent to the construction of its Cable System. Restoration of county property including but not limited to the Public Ways shall be in accordance with all applicable laws, ordinances and regulations, at Company's sole expense. If such removal and restoration is not completed within six (6) months after the revocation, termination, or expiration of this Franchise, all of Company's property remaining in the affected Public Ways shall, at the option of County, be deemed abandoned and County may obtain a court order compelling Company to remove same. In the event Company fails or refuses to remove its Cable System or to restore all areas in accordance with applicable law, County, at its option, may perform such work and collect the costs thereof from Company. No surety on any performance bond or any letter of credit shall be discharged until County has certified to Company in writing that the Cable System has been dismantled, removed, and all other property restored, in accordance with applicable law.

3.13.1 Whenever Company intends to discontinue using any facility within the Public Ways, Company shall notify the County of its intention. Company may remove the facility or request that the County permit it to remain in place. Notwithstanding Company's request that any such facility remain in place, the County may require Company to remove the facility from the Public Way or modify the facility to protect the public health, welfare, safety, or convenience, or otherwise serve the public interest. The County may require Company to perform a reasonable combination of modification and removal of the facility. Company shall complete such removal and/or modification respectively in accordance with a schedule reasonably set by the County. Until such time as Company removes or modifies the facility as reasonably directed by the County, or until the rights to and responsibility for the facility are accepted by another Person having authority to use, construct and/or maintain such facility, Company shall retain all liability for such facility and be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Way, in the same manner and degree as if the facility were in active use. Furthermore, if Company fails to remove a facility and such facility consists of either conduit or fiber, then, at the County's discretion, the conduit or fiber may become the property of the County.

3.14 Underground Street Crossing. Whenever Company must place the Cable System or other facilities beneath the traveled or paved portion of the streets or Public Ways, unless otherwise approved in advance by County, Company shall do so by boring (directional or otherwise) and not by excavation of a trench. Boring (directional or otherwise) shall be done wherever possible so that the excavations necessary for it are not in the paved portion of any street or Public Way.

3.14.1 If Company does a bore (directional or otherwise) underneath a street, Public Way or railroad, then Company will notify County at least two weeks in advance of same. If County so desires, Company will then increase the size of the bore (directional or otherwise) with County to pay only the incremental cost of making the bore (directional or otherwise) larger. County may then use any additional space or capacity created by increasing the size of the bore (directional or otherwise) without additional charge or expense.

3.15 Tree Trimming. Company may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Cable System. Company shall minimize the trimming of trees to trimming only those trees which are essential to maintain the integrity of the System. All trimming of trees, except in an emergency, on public property other than the Public Ways shall have the prior approval of County and except in an emergency all trimming of trees on private property shall require the consent of the property owner.

3.16 As-Builts/Location of Facilities. Route maps in GIS compatible format. Company shall keep accurate, complete and current maps and records of the Cable System and its facilities and shall provide copies to County as set forth below.

3.16.1 Upon request, Company shall furnish "as-built" maps to County. Upon request by County in an emergency, Company as soon as possible (but no more than one (1) business day from the request) shall inform County of any changes from such maps and records previously supplied and shall mark up any maps provided by County so as to show the location of the Cable System.

3.16.2 The "as built" maps shall include at a minimum all System and facility routings.

3.16.3 Company may provide strand maps rather than the as-built maps specified above. "Strand maps" means a map with the location of the plant and distribution cables identified and whether the plant is aerial or underground.

3.17 Inspection of Construction and Facilities. The County may inspect any of Company's facilities, equipment or construction within the Public Ways and on other public property upon at least twenty-four (24) hours notice, or, in case of an emergency, upon demand without prior notice. If an unsafe condition is found to exist, the County, in addition to taking any other action permitted under applicable law, may order Company, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the County establishes. The County has the right to inspect, repair and correct the unsafe condition if Company fails to do so, and to reasonably charge Company therefor.

3.18 Stop Work. On notice from the County that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as reasonably determined by the County, or in violation of the terms of any applicable permit, laws, regulations, ordinances or standards, the work may immediately be stopped by the County. The stop work order shall: (1) Be in writing; (2) Be given to

the person doing the work, or be posted on the work site; (3) Be sent to Company by overnight delivery at the address given herein; (4) Indicate the nature of the alleged violation or unsafe condition; and (5) Establish conditions under which work may be resumed.

3.19 Work of Contractors and Subcontractors. Company's contractors and subcontractors shall be licensed and bonded in accordance with the County's generally applicable ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Company. Company shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other applicable laws, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Company's responsibility to ensure that contractors, subcontractors or other Persons performing work on Company's behalf are familiar with the requirements of this Franchise and other applicable laws governing the work performed by them.

4 CUSTOMER SERVICE

4.1 Customer Service Standards. Company will comply with the more stringent of the customer service and consumer protection provisions of this Franchise; or those from time to time adopted by the FCC (current FCC Customer Service Rules attached as Exhibit A).

4.1.1 As to Company, the parties agree that the signing of this Franchise satisfies the requirement in the FCC Customer Service Rules that the franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the FCC standards.

4.1.2 "Normal Business Hours" for the purpose of such FCC customer service rules as in effect on the Effective Date of this Franchise shall mean for Company's local office, 8:00 a.m. to 5:00 p.m. Monday through Friday. There shall be available to Subscribers a live operator or automated response system service twenty-four (24) hours each day, seven (7) days each week.

4.2 Negative Options. Company will not engage in the practice of "negative option" marketing and will not charge a Subscriber for any optional, a la carte or premium service or equipment which the Subscriber has not affirmatively requested.

4.3 Free Service Connection of Public Facilities. During the term of this Franchise Company shall provide the following free service:

4.3.1 Company shall, without charge, provide one outlet of Basic and Expanded Basic Service and the technology needed to view those Service tiers where such Service is provided as of the Effective Date of this Franchise to all existing County owned (or leased) and occupied buildings, public schools, fire departments, ambulance departments or police stations within the Authorized Area. In addition, Company shall provide, at no cost, one outlet of Basic Service and Expanded Basic Service to future owned (or leased) and occupied County

buildings, public schools, fire departments, ambulance departments or police stations within the Franchise Area, upon written request, provided that the drop line from the feeder cable to such building does not exceed one hundred fifty (150) feet unless the County agrees to pay the incremental cost of such drop line in excess of one hundred fifty (150) feet, including the reasonable cost of excess labor and materials. "One outlet," as used in this section, includes the first set top box at each location. The equipment cost of any additional set top boxes installed at each location shall be paid by County; however, installation and monthly service for all shall be free of charge. Such Cable Service shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public, nor shall the obligation to provide free Cable Service be extended to areas of County buildings where the Company would normally enter into a commercial contract to provide such Cable Service (i.e., a golf course, recreation center work out facilities, etc).

4.3.2 Outlets of Basic Service and Expanded Basic Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes, and the County shall hold the Company harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection.

4.4 **Access to Service.** Company shall not deny service, deny access, or otherwise discriminate on the availability or rates, terms or conditions of Cable Services provided to Subscribers on the basis of race, color, creed, religion, ancestry, national origin, gender, disability, age, familial status, marital status, location within County, or status with regard to public assistance. Company shall comply at all times with all applicable Federal, State and local laws and regulations relating to nondiscrimination. Company shall not deny or discriminate against any group of actual or potential Subscribers in County on access to or the rates, terms and conditions of Cable Services because of the income level or other demographics of the local area in which such group may be located.

4.5 **Programming/Lockout.** Company shall provide all Subscribers with the option of obtaining a device by which the Subscriber can prohibit the viewing of a particular Cable Service during periods selected by the Subscriber.

4.6 **Blocking.** Upon request by a Subscriber and within a reasonable period of time, for a fee Company shall provide parental controls or the like to allow blocking by the Subscriber of a channel on which programming is provided on a per program or pay per view basis.

4.7 **County Contact.** Company shall provide a separate phone number and management level person at Company for County to contact on customer service related matters. Such person and number shall be for the use of County and not for the general public. Any such calls by County to such person shall be returned within three (3) business days. On any complaints submitted by County to such person Company shall within five (5) business days either resolve the complaint or provide County in writing its plan for resolution of such complaint.

4.8 [Reserved]

4.9 Office/Phone. Company shall maintain an office to serve the purpose of paying bills; receiving and responding to requests for service; receiving and resolving customer complaints regarding Cable Service, equipment malfunctions, billing and collection disputes; and similar matters. In the event that Company does not maintain an office within the County or any municipality within the County, Company shall maintain a location in the County for the payment of bills and the collection and distribution of equipment. Company shall have a local telephone number or toll-free telephone number for use by Subscribers toll-free twenty-four (24) hours per day, seven (7) days per week.

4.10 Continuity of Service. Throughout the term of the Franchise, Company shall operate the Cable System and provide Cable Services twenty-four (24) hours per day, seven (7) days per week. Company shall voluntarily interrupt Cable Service in the County only with prior notice to Subscribers, for good cause, and for the shortest time possible except (a) in emergency situations, (b) as required by the FCC and (c) service may be interrupted between 1:00 a.m. and 5:00 a.m. for routine testing, maintenance and repair, without notification. In the event of a System upgrade, Company shall both minimize any interruptions in Cable Service caused by the upgrade, and shall meet with County in advance to advise County of the nature, geographic extent and duration of any interruptions and obtain, and where possible respond to, County's comments on same. For any period where Company's service is interrupted or substantially impaired for more than eight hours in any 24-hour period, Company on request shall credit to the Subscriber's account an amount equal to one (1) day of the monthly charge for any service or service tier affected. Upon request, the charge for any per-program selection which is materially affected by the outage will be refunded.

4.11 Log of Complaints. Company shall maintain a written log of written Subscriber complaints or an equivalent stored in computer memory, and be capable of access and reproduction in printed form. Such log shall list the date and time of such complaints, identifying (to the extent allowed by law) the Subscribers and describing the nature of the complaints and when and what actions were taken by Company in response thereto. Such log shall be kept at Company's local office reflecting the operations to date for a period of three (3) years. Within ten (10) business days of a request from County, Company shall provide County with a copy of the log or summary of it.

4.12 [Reserved]

4.13 Identification. All service personnel of Company or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Every service vehicle of Company, its contractors and subcontractors shall be clearly identified as working for Company, such as by magnetic door signs.

4.14 Disconnection. Company shall promptly disconnect any Subscriber who so requests disconnection. No period of notice prior to requested termination of service may be required of Subscribers by Company. A copy of Company's disconnection policies shall be provided annually to Subscribers and anytime upon request. Except for pay per view services, if a Subscriber fails to specify an effective date for disconnection,

the effective date shall be deemed to be the day following the date the disconnect request is received by Company.

4.15 Late Payment. Late payment charges imposed by Company upon Subscribers shall be fair and shall be reasonably related to Company's cost of administering delinquent accounts. A copy of Company's late payment policies shall be provided annually to Subscribers and anytime upon request.

4.16 Privacy and Monitoring. Company shall comply with Federal law regarding tapping or monitoring, or permitting any other person to tap or monitor, any cable, line, signal, input device, or Subscriber facility for any purpose.

4.17 Subscriber Information. Company shall comply with Federal law regarding the recording and retention of information about the programming ordered or watched by a Subscriber and regarding dissemination of lists of the names and addresses of Subscribers.

4.18 FCC Technical Standards. Company shall meet or exceed the FCC's technical standards that may be adopted from time to time.

4.18.1 Upon request, Company shall provide County with a report of such testing.

4.18.2 County at its expense and with notice to and participation by Company may test the Cable System in cooperation with Company for compliance with the FCC technical standards once per year and more often if there are a significant number of Subscriber complaints.

4.19 Liquidated Damages. Company acknowledges that noncompliance with the FCC customer service standards described above in Section 4.1 will harm Subscribers and County and the amounts of actual damages will be difficult or impossible to ascertain. County may therefore assess liquidated damages of \$250 against Company for noncompliance with such FCC customer service standards, with the \$250 figure to be adjusted annually starting on July 1, 2009 for inflation computed according to the Consumer Price Index for All Urban Consumers, All Areas 1982-1984 = 100, with November, 2006 as the base point. Each day on which a violation of the FCC customer service standards described in Section 4.1 occurs constitutes a separate offense, except that a violation by Company of a quarterly standard shall constitute a single offense for such quarter.

4.19.1 Liquidated damages shall be assessed in accordance with the procedures set forth in Part 12.

5 ACCESS TO THE SYSTEM

5.1 PEG Channels. Company shall provide on the Cable System in the basic tier of service (and in the lowest tier of service if different) the following channels collectively known as "PEG Channels":

5.1.1 One (1) educational channel administered by the RE-1 Valley School District and Northeastern Junior College, or their designees; and

5.1.2 One (1) government channel administered by Logan County, Colorado, on which the programming shall be provided by the County, the County's designee, or such other units of State or local government as the County may from time to time appoint.

5.2 Allocation. County on six (6) months written notice to Company may allocate or reallocate the administration and operation of the PEG Channels among and between different uses and PEG Channel operators. This expressly includes County requiring several different persons to share or jointly use a given PEG Channel or conversely allowing one or more persons currently sharing such a channel to have a channel on which they are the sole user.

5.3 No Company Responsibility. Company shall have no responsibility whatsoever or control with respect to the operation of such PEG channels except as provided by law.

5.4 Lines and Facilities. Company shall provide and maintain at its expense two (2) activated lines necessary to provide live program origination capability. The two (2) activated lines shall connect Logan County Courthouse at Courthouse Square and one (1) other facility, either Northeastern Junior College, the Sterling High School or a site mutually agreed upon by Company and County. Company shall have no responsibility to provide video production or playback equipment.

5.4.1 It shall be the responsibility of the entity operating a PEG channel to deliver a 6 MHz NTSC signal (or signal in such format as Company and such entity subsequently agree to) to a standard coaxial connector in the buildings at the locations described in the preceding sentence. Company has the responsibility to provide the facilities from that point on that are necessary for such signal to be simultaneously distributed on the appropriate PEG Channel on the System.

6 INDEMNITY AND INSURANCE

6.1 Disclaimer of Liability. County shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the Cable System or Company's provision of Cable Service except as a result of County's gross negligence. This section shall not be construed as a waiver of the immunity otherwise available to the County pursuant to the provisions of the Colorado Governmental Immunity Act, C.R.S. sec. 24-10-101, et. seq.

6.2 Indemnification. In order to protect the public, Company shall at its sole cost and expense indemnify and hold harmless County and all associated, Affiliated, allied and subsidiary entities of County, now existing or hereinafter created, and their respective officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "Indemnitees"), from and against:

6.2.1 Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys), whether legal or equitable, which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Company, its personnel, employees, agents, contractors, subcontractors or Affiliates, which may arise out of or be in any way proximately caused by the construction, installation, operation, maintenance or condition of the Cable System or other Company property (including those arising from any matter contained in or resulting from the transmission of signals over the System and including any claim or lien arising out of work, labor, materials or supplies provided or supplied to Company, its contractors or subcontractors), the provision of Cable Services, other services or Company's failure to comply with any Federal, State or local statute, ordinance or regulation.

6.2.2 Any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person arising out of the installation, operation, or maintenance or condition of the Cable System or Company's failure to comply with any Federal, State or local statute, ordinance or regulation.

6.3 Assumption of Risk. Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any County-owned or controlled property, including Public Ways.

6.4 Defense of Indemnitees. In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are or may be indemnified hereunder, Company shall upon notice from any of the Indemnitees, at Company's sole cost and expense, resist and defend the same; provided, however, that Company shall not admit liability in any matter on behalf of the Indemnitees without the written consent of County.

6.5 Notice, Cooperation and Expenses. County shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent County from cooperating with Company and participating in the defense of any litigation by County's own counsel, subject to Company's ability to control the litigation by directing counsel for the County to act or refrain from acting.

6.6 Insurance. At all times during the term of this Franchise, plus any time after the term is over during which removal of facilities or restoration is occurring, Company shall obtain, maintain, and pay all premiums for all insurance policies described in this Section, so as to protect the public. Within thirty (30) days from the Effective Date of this Franchise, Company shall file with County certificates of insurance evidencing coverage. Failure to obtain and maintain any insurance policy required by this Section shall be deemed a material breach of this Franchise and may be grounds for termination of this Franchise.

6.6.1 Commercial General Liability. Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).

6.6.2 Comprehensive Automobile Liability. Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).

6.6.3 Workers' Compensation. Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.

6.6.4 Umbrella Policies. The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated.

6.7 Additional Insured/Claims Made Basis. County shall be named as an additional insured on all policies (other than workers' compensation and employer's liability). All insurance policies shall provide that they shall not be cancelled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to County. Company shall provide County with a certificate of insurance evidencing such coverage. All insurance policies (other than workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims-made basis.

6.8 No Limitation of Liability. No recovery by County of any sum by reason of any insurance policy required by this Franchise shall be any limitation upon the liability of Company to County.

6.9 Qualified Carriers. All insurance shall be effected under valid and enforceable policies insured by insurance carriers licensed to do business in the State of Colorado or by surplus line carriers on the State Insurance Commissioner's approved list of companies qualified to do business in the State of Colorado. All insurance carriers and surplus line carriers shall be rated A+ or better by A.M. Best Company.

6.10 Deductibles. The insurance policies required by this Part may be written with deductibles but may not be written with retainages.

6.11 Contractors. Company's contractors and subcontractors working in the Public Ways shall carry in full force and effect commercial general liability, automobile liability and workers' compensation and employer's liability insurance which complies with all terms of this Part 6. In the alternative, Company, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Company policies).

6.12 Insurance Primary. Company's insurance coverage shall be primary insurance with respect to County, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Company's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 FEES AND PAYMENTS

7.1 Franchise Fee. Company shall pay County throughout the term of this Franchise an amount equal to five percent (5%) of Company's Cable Gross Revenues ("Franchise Fee") consistent with applicable law. The parties may mutually agree to change such percentage at any time. Such payments shall be made quarterly, and are due within forty-five (45) days after the end of each calendar quarter.

7.1.1 Each Franchise Fee payment shall be accompanied by a written report to County, verified by an officer of Company containing an accurate statement in summarized form of Company's Cable Gross Revenues and the computation of the payment amount.

7.1.2 County may audit Company to verify the accuracy of Franchise Fees paid County. Any additional amount due County shall be paid within thirty (30) days of County's submitting an invoice for such sum, and if such sum shall exceed three percent (3%) of the total Franchise Fee which the audit determines should have been paid for any calendar year, Company shall pay County's cost of auditing that calendar year as well.

7.2 Discounted Rates. If Company's Subscribers are offered what is, in effect, a discount if they obtain both Cable Service and some other, non-cable goods or service, then for Cable Gross Revenue computation purposes, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:

7.2.1 Assume a Subscriber's charge for a given month for Cable Service alone would be \$40, for local telephone service alone would be \$30, and for long-distance service alone would be \$30, for a total of \$100. In fact the three services are offered in effect at a combined rate where the Subscriber receives what amounts to a twenty percent (20%) discount from the rates that would apply to a service if purchased individually. The discount (here, \$20) for Franchise Fee computation purposes would be applied pro rata so that for such purposes Cable Gross Revenues would be deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the Subscriber received a \$20 discount for telephone service on the condition that he or she also subscribes for Cable Service at standard rates.

7.2.2 The existence and amount of a discount shall be determined on the basis of the sum of the lowest generally available stand alone rates for each of the goods and services which are offered at the combined rate.

7.3 Interest. All sums not paid when due shall bear interest at the rate of six percent (6%) per annum computed monthly or the highest lawful rate, whichever is less, and if so paid with interest within thirty (30) days of due date, shall not constitute an Event of Default under Part 11.

7.4 Prior Fees. Within sixty (60) days of the Effective Date of this Franchise, Company shall pay all Franchise Fees due under any prior franchise between Company and County.

8 RATES AND REGULATION

8.1 Rates. Company's rates and charges for the provision of Cable Service (and for related services, such as equipment rental, deposits, and downgrade fees) shall be subject to regulation by County as expressly permitted by law.

8.2 Regulation. County reserves the right to regulate Company, the Cable System, and the provision of Cable Service as expressly permitted by Federal, State, or local law.

9 TERM

9.1 Term. The term of this Franchise shall be seven (7) years commencing on the Effective Date, plus any extensions mutually agreed to by the parties.

9.2 Termination. This Franchise and all rights of Company thereunder shall automatically terminate on the expiration of the term of this Franchise, unless an extension is granted, or the procedures set forth in Part 12 are invoked (in which case they shall govern). County shall give Company sixty (60) days notice prior to taking action to enforce such termination.

9.2.1 Should Company propose to cease providing service, it shall take all such actions as are necessary to provide an orderly transition of service to a new provider, without interruption in service to Subscribers.

10 TRANSFERS, OWNERSHIP AND CONTROL

10.1 Management of the Cable System. Company shall manage the Cable System and the provision of Cable Services within the County.

10.2 Consent Required. This Franchise and the Cable System shall not be sold, transferred (as defined below), leased, subleased, assigned, or otherwise encumbered, by operation of law or otherwise without the prior consent of County, such consent not to be unreasonably withheld. Such consent shall not be required for a transfer in order to secure indebtedness such as a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Company in the Franchise or Cable System.

10.2.1 The preceding prohibition shall not apply to the replacement or sale of components of the Cable System in the course of ordinary maintenance or day-to-day operation.

10.3 Transfer or Transferred. For the purposes of this Franchise, "transfer" or "transferred" shall mean any change in the identity of the entity which directly or indirectly directs, or has the power to direct, the management and policies of Company, whether through the ownership of voting securities or other equity interest, by contract or

otherwise. Without limiting the generality of the foregoing, for the purposes hereof, such a change shall be deemed to have occurred at any point in time when there is (1) any change in actual working control (by whatever manner exercised) or in the effective control of Company, such as that described in 47 C.F.R. § 76.501 and following, including the notes thereto (but excluding footnote 2f), as in effect on the date of this Franchise, attached as Exhibit B; (2) an agreement of the holders of voting stock or rights of Company which effectively vests or assigns policy decision-making in any person or entity other than Company; (3) a sale, assignment or transfer of any shares or interest in Company which results in a change in the control of Company; (4) a change in limited partnership, limited liability company or similar interests representing ten percent (10%) or more of an equity interest in Company, including the right to require voting control without substantial additional consideration (such as compared to consideration previously provided); or (5) a change of control of Company or entity that directly or indirectly controls Company occurs of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended. A transfer or acquisition of less than control of Company or of any entity, at any tier or level, which directly or indirectly controls Company, shall not require the prior written consent of County.

10.4 Applications for Consent. If Company seeks to obtain the consent of County to any transactions or matters otherwise prohibited by this Part 10, Company shall submit an application for such consent in the form required by federal law and shall thereafter comply with federal law throughout the process.

10.4.1 County shall not unreasonably withhold its consent to any proposed transfer, and may grant its consent outright, may grant such consent with conditions which it finds are in the public interest, or may deny consent.

11 DEFAULTS

11.1 Events of Default. The occurrence at any time during the term of the Franchise, of any one or more of the following events, shall constitute an Event of Default by Company under this Franchise.

11.1.1 Company's material breach or violation of any of the terms, covenants, representations or warranties contained herein or Company's failure to perform any obligation contained herein.

11.1.2 Company's failure to pay or cause to be paid governmentally imposed taxes of any kind totaling in excess of \$100,000, including but not limited to real estate taxes, income taxes, and personal property taxes on or before the due date for same; provided, however, Company shall not be in default hereunder with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

11.2 Uncured Events of Default. County shall give Company written notice of any Event of Default and Company shall have the following reasonable time period to cure same: For an Event of Default which can be cured by the immediate payment of money to County or a third party, Company shall cure such default within fifteen (15) days of the date of written notice of the Event of Default ; for an Event of Default by

Company which cannot be cured by the immediate payment of money to County or a third party, Company shall have the longer of (a) sixty (60) days from written notice from County to Company of an occurrence of such Event of Default, or (b) if more than sixty (60) days is reasonably needed to cure the Event of Default, such additional time from written notice from County to Company which is reasonably needed, provided Company commences the corrective action within thirty (30) days of written notice of the Event of Default and thereafter uses reasonable diligence to correct the Event of Default.

11.2.1 If any Event of Default is not cured within the time period allowed for curing the Event of Default, as provided for herein, such Event of Default shall, without notice, become an Uncured Event of Default, which shall entitle County to exercise the remedies provided for in Part 12.

12 REMEDIES

12.1 Remedies. Upon the occurrence of any Uncured Event of Default as described in Part 11, County shall be entitled to exercise any and all of the following cumulative remedies:

12.1.1 County shall have the right to forfeit and terminate the Franchise and upon the forfeiture and termination thereof the Franchise shall be automatically deemed null and void and have no force or effect, subject to the exhaustion of Company's administrative and judicial remedies, Company shall remove the Cable System from County as and when requested by County and County shall retain any portion of the Franchise Fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. County's right to forfeit and terminate the grant of the Franchise pursuant to this section is not a limitation on County's right of revocation.

12.1.2 The commencement of an action against Company at law for monetary damages.

12.1.3 The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions which, as a matter of equity, are specifically enforceable.

12.2 Liquidated Damages. Liquidated damages in the amounts set forth below may be awarded County (individually and on behalf of Subscribers) from Company. Company acknowledges that the amounts of actual damages for the violations and Uncured Events of Default set forth below will be difficult or impossible to ascertain; that the liquidated damages set forth below are a reasonable approximation of actual damages; that the actual damages are often incurred by County and Subscribers and, while cumulatively large, are too small to be worthwhile for individual Subscribers to pursue; and that this Section 12.2 is intended to provide compensation to County and its Subscribers and is not a penalty. The amount of the liquidated damages are as follows:

12.2.1 For violations of Parts 6, 7 and 10 hereof, liquidated damages not to exceed Two Hundred Fifty Dollars (\$250) per day, with the \$250 figure to be adjusted annually starting on July 1, 2016 for inflation computed according

to the Consumer Price Index for All Urban Consumers, All Areas 1982-1984 = 100, with November, 2013 as the base point.

12.2.2 For Uncured Events of Default other than violations of Parts 6, 7, and 10, liquidated damages not to exceed Two Hundred Fifty Dollars (\$250) for each day that the Uncured Event of Default continues, with the \$250 figure to be adjusted annually starting on July 1, 2016 for inflation computed according to the Consumer Price Index for All Urban Consumers, All Areas 1982-1984 = 100, with November, 2013 as the base point.

12.3 Procedure. Liquidated damages may be awarded (and this Franchise forfeited or terminated) in accordance with the following procedure.

12.3.1 Following notice from County, Company shall meet with County to attempt to resolve the issue of what liquidated damages, if any, shall be awarded (or forfeiture or termination of this Cable Franchise). If there is no resolution of such issue within twenty (20) days of the mailing of the notice described in the first sentence then County's Board of Commissioners may assess liquidated damages (or forfeit or terminate this Franchise) as described below.

12.3.2 Company shall be given notice of County's intent to assess liquidated damages (or forfeit or terminate this Franchise) at least twenty (20) days in advance of the meeting of the Board of County Commissioners at which such damages are assessed (or Franchise forfeiture or termination considered).

12.3.3 Company may appear at the meeting of the Board of County Commissioners at which such damages are assessed (or Franchise forfeiture or termination considered) either in person, by agent, or by letter (or other writing) to submit its views with respect to the proposed assessment (or the proposed forfeiture or termination) or Company may request a hearing. The Board of County Commissioners may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the Board or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution. The hearing shall afford Company appropriate due process. The Board of Commissioners may by resolution establish other procedural matters in connection with the hearing.

12.3.4 The Board of Commissioners may then assess liquidated damages in amounts not exceeding those set forth above (or forfeit or terminate the Franchise).

12.3.5 Any such assessment by County shall be a monetary obligation of Company to County in the amount determined by the Board of Commissioners; and shall be paid in full by Company within fifteen (15) business days of the date of assessment by the Board of Commissioners unless such payment is stayed by agreement or court order. Any forfeiture or termination shall be effective fifteen (15) days from the date of the Board of

Commissioner's decision to forfeit or terminate unless stayed by agreement or court order.

12.3.6 Only after assessment of liquidated damages (or forfeiture or termination) may Company appeal such assessment (or forfeiture or termination) to an appropriate state or federal court or agency, but only if such assessment, forfeiture or termination is arbitrary, capricious or an abuse of discretion.

12.4 Remedies Not Exclusive. The rights and remedies of County set forth in this Franchise shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. County and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by County of any one or more of such remedies shall not preclude the exercise by County, at the same or different times, of any other such remedies for the same Uncured Event Of Default.

13 PROVISION OF INFORMATION

13.1 Filings. Upon request of County, Company shall provide County with copies of all documents directly related to the System which Company sends to the FCC and all records required by Company to be maintained under Section 76 of the FCC regulations (47 C.F.R. § 76) or successor sections for the System.

13.2 Books and Records. County may review such of Company's books and records which are directly related to the System during Normal Business Hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, records required to be kept by Company pursuant to the rules and regulations of the FCC, and financial information underlying the summary report pertaining to the Franchise Fee. Notwithstanding anything to the contrary set forth herein, Company is not required to disclose personally identifiable Subscriber information without the Subscriber's consent in recognition of Section 631 of the Cable Act, 47 U.S.C. § 551, regarding the protection of Subscriber privacy; nor shall Company be required to disclose its income tax returns or information underlying the preparation of any such returns or any other information which Company deems confidential in its reasonable discretion. To the extent permitted by law, County agrees to treat on a confidential basis any information disclosed by Company to it under this Section. In so according confidential treatment, to the extent permitted by law, disclosure of Company's records by County shall be limited to only those of its employees, representatives and agents that have a need to know, and that are in a confidential relationship with County.

14 GENERAL

14.1 Entire Franchise. This Franchise including the Exhibits attached hereto, contains the entire franchise between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded, except that any obligation of Company to indemnify County under a prior franchise or agreement shall be

continuing as to those matters (if any) occurring during the term of said prior franchise or agreement on which Company was obligated to indemnify County.

14.2 Notices. Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively "Notices") required or permitted under this Franchise shall be given in writing and mailed by registered or certified first-class mail, return receipt requested addressed as follows:

If to County: Board of County Commissioners
Logan County
315 Main Street
Sterling, CO 80751

With copies to: County Attorney
Logan County
508 S. 10th Avenue
Sterling, CO 80751

If to Company: Kentec Communications, Inc.
310 Main Street
Sterling, CO 80751

All Notices shall be deemed given five (5) business days after the day of mailing. Either party to this Franchise may change its address for the receipt of Notices at any time by giving notice thereof to the other as provided in this Section. Any notice given by a party hereunder must be signed by an authorized representative of such party.

14.3 Conferences. The parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this Franchise, the provision of Cable Services or the Cable System during the term of this Franchise.

14.4 Governing Law. This Franchise shall be construed pursuant to the laws of the State of Colorado and the United States of America.

14.5 Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Franchise, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Franchise, but each and every covenant, agreement, term or condition of this Franchise shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

14.5.1 County may waive any obligation of Company under this Franchise, in whole or in part, at any time. This includes, but is not limited to, instances of a claim or showing by Company that the costs associated with the provision being waived would increase the rates Company is legally allowed to charge Subscribers, such as a claim that such costs are an "external cost" which allow Company to increase its rates under the FCC rules.

14.6 Independent Contractor Relationship. The relationship of Company to County is and shall continue to be an independent contractual relationship, and no

liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this Franchise, unless expressly stated in this Franchise.

14.7 Severability. If any section, paragraph, or provision of this Franchise shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Franchise.

14.8 Effective Date. This Franchise shall be effective as of March 24, 2016 ("Effective Date"). Any prior franchise shall terminate as of midnight of the day immediately preceding the Effective Date of this Franchise, except as provided in Section 14.1.

14.9 FCC Rules. A copy of the FCC Cable Customer Service Rules as in effect on the Effective Date is attached hereto as Exhibit A. A copy of FCC Rule 76.501 as in effect on the date of this Franchise is attached hereto as Exhibit B.

14.10 Captions. All captions are for convenience of use and have no substantive effect, except for those captions in the Definitions section of this Franchise.

14.11 Conflicts. In the event of a conflict between this Franchise and the provisions of any prior franchise or any franchise, permit, consent agreement or other agreement with Company, the provisions of this Franchise shall control.

14.12 Franchise Accepted. Company further acknowledges by acceptance of this Franchise that it has carefully read the terms and conditions of this Franchise and any applicable codes, ordinances, or resolutions of County and accepts the obligations imposed thereby regardless of whether such obligations are contained in the Franchise or such code, ordinance or resolution, or both. As of the Effective Date, and without waiving any rights Company may have to challenge the lawfulness or enforceability of this Franchise or county codes, ordinances or resolutions in the future, Company does not contend that any provision of the Franchise is unlawful or unenforceable, nor is it aware of any county code, ordinance or resolution which it contends is unlawful or unenforceable.

14.13 Non-Waiver, Preemption. Nothing in this Franchise shall be deemed an agreement by County as to any claimed preemptive effect, nor shall it be deemed a waiver of County's right to challenge any claimed preemptive effect, of any subsequent Federal law, regulation, or court ruling alleged to conflict with, alter, limit, or replace terms, requirements or conditions of this Franchise in effect as of the Effective Date.

14.14 Reserved Rights. County reserves all rights and powers under its police powers and powers conferred by Federal, State or local law. County agrees that by accepting this Franchise, Company has not waived its right to object to the application to it of actions by County pursuant to its reserved rights or police powers. Notwithstanding anything herein to the contrary, Company reserves all rights it may have under applicable state or federal law and does not waive any rights it may have by entering into this Franchise.

IN WITNESS WHEREOF, this Franchise is signed in the name of Logan County, Colorado, this ____ day of _____, 2016.

Attest:

CLERK TO THE BOARD

LOGAN COUNTY, COLORADO

By: _____
County Clerk and Recorder

By: _____
Rocky L. Samber, Chairman
Board of County Commissioners of
Logan County, Colorado

Accepted and approved this ____ day of _____, 2016.

Attest:

KENTEC COMMUNICATIONS, INC.

By: _____

By: _____
Its: _____

(Seal)

EXHIBIT A

FCC CUSTOMER SERVICE RULES

§ 76.309 Customer service obligations.

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

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

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

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

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

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

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

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

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

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

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall

be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

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

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

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

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

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

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

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

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

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

(3) Communications between cable operators and cable subscribers--

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

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

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

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

(4) Definitions--

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

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

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

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

Effective Date Note: At 65 FR 53615, Sept. 5, 2000, Sec. 76.309 was amended by removing paragraphs (c)(3)(i) and (c)(3)(ii) [which now appear in Subpart T below] and by redesignating paragraphs (c)(3)(iii) and (iv) as paragraphs (c)(3)(i) and (c)(3)(ii), effective Oct. 5, 2000. For the convenience of the user, the superseded text is set forth as follows:

Sec. 76.309 Customer service obligations.

* * * * *

(c) * * *

(3) * * *

(i) Notifications to subscribers--

(A) 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:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions programming carried on the system; and,
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services 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 (c)(3)(i)(A) 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.

(ii) Billing—

(A) 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.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

* * * * *

SUBPART T--NOTICES

Selected Provisions on Customer Service

Generally added by 66 FR 53 617, FCC 99-12, Effective October 5, 2000

Current through May 1, 2001; 66 FR 21842

§ 76.1602 Customer service--general information.

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

(b) Effective July 1, 1993, 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:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions of programming carried on the system; and
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(c) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

§ 76.1603 Customer service--rate and service changes.

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

(b) Customers will be notified of any changes in rates, programming services 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 30 days in advance of any significant changes in the other information required by § 76.1602.

<Information collection requirements for subsection (c) are not yet effective; OMB approval pending.>

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or

deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

[Last sentence added by FCC 01-22, 66 FR 16554, March 26, 2001]

(d) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.

(e) To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

(f) Notwithstanding any other provision of part 76 of this chapter, 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.

Note 1 to § 76.1603: Section 624(h) of the Communications Act, 47 U.S.C. 544(h), contains additional notification requirements which a franchising authority may enforce.[The statutory section states "A franchising authority may require a cable operator to do one or more of the following: (1) Provide thirty (30) days' advance written notice of any change in channel assignment or in the video programming service provided over any such channel. (2) Inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority."]

Note 2 to § 76.1603: Section 624(d)(3) of the Communications Act, 47 U.S.C. 544(d)(3), contains additional notification provisions pertaining to cable operators who offer a premium channel without charge to cable subscribers who do not subscribe to such premium channel.

Note 3 to § 76.1603: Section 631 of the Communications Act, 47 U.S.C. 551, contains additional notification requirements pertaining to the protection of subscriber privacy.

[65 FR 53617, Sept. 5, 2000, as amended at 66 FR 16554, Mar. 26, 2001]

§ 76.1619 Information on subscriber bills.

(a) Effective July 1, 1993, bills must 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.

(b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(c) A cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.
[65 FR 53617, Sept. 5, 2000]

EXHIBIT B

FCC DEFINITION OF CONTROL -- 47 C.F.R. § 76.501

47 C.F.R. § 76.501 Cross-ownership.

(a) No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in a TV broadcast station whose predicted Grade B contour, computed in accordance with § 73.684 of part 73 of this chapter, overlaps in whole or in part the service area of such system (i.e., the area within which the system is serving subscribers).

(b) [Reserved]

(c) Effective date. The provisions of paragraph (a) of this section are not effective until November 8, 1987, as to ownership interests proscribed herein if such interests were in existence on or before July 1, 1970 (e.g., if franchise were in existence on or before July 1970), and will be applied to cause divestiture as to ownership interests proscribed herein only where the cable system is directly or indirectly, owned, operated, controlled by, or has an interest in a non-satellite television broadcast station which places a principal community contour encompassing the entire community and there is no other commercial non-satellite television broadcast station placing a principal community contour encompassing the entire community.

(d) No cable operator shall offer satellite master antenna television service ("SMATV"), as that service is defined in § 76.5(a)(2), separate and apart from any franchised cable service in any portion of the franchise area served by that cable operator's cable system, either directly or indirectly through an affiliate owned, operated, controlled, or under common control with the cable operator.

(e) (1) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer SMATV service within its franchise area if the cable operator's SMATV system was owned, operated, controlled by or under common control with the cable operator as of October 5, 1992.

(2) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer service within its franchise area through SMATV facilities, provided such service is offered in accordance with the terms and conditions of a cable franchise agreement.

(f) The restrictions in paragraphs (d) and (e) of this section shall not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

Note 1: The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

Note 2: In applying the provisions of this section, ownership and other interests in broadcast licensees and cable television systems will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(a) Except as otherwise provided herein, partnership and direct ownership interest and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee or cable television system will be cognizable;

(b) No minority voting stock interest will be cognizable if there is a single holder of more than 50% of the outstanding voting stock of the corporate broadcast licensee or cable television system in which the minority interest is held;

(c) Investment companies, as defined in 15 U.S.C. 80a-3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 10% or more of the outstanding voting stock of a corporate broadcast licensee or cable television system, or if any of the officers or directors of the broadcast licensee or cable television system are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(d) Attribution of ownership interests in a broadcast licensee or cable television system that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. (For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee", then X's interest in "Licensee" would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1×0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not be cognizable.)

(e) Voting stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant broadcast licensee or cable television system are subject to said trust.

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(g) (1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

(2) In order for a licensee or system to make the certification set forth in paragraph (g)(1) of this note, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assure adequate insulation for purposes of this certification are described in the Memorandum Opinion and Order in MM Docket No. 83-46, FCC 85-252 (released June 24, 1985) as modified on reconsideration in the Memorandum Opinion and Order in MM Docket No. 83-46, FCC 86-410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related businesses of the partnership.

(h) Officers and directors of a broadcast licensee or cable television system are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary business of broadcasting or cable television service, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a broadcast licensee or cable television system, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the broadcast licensee or cable television system subsidiary, and a statement properly documenting this fact is submitted to the Commission. (This statement may be included on appropriate Ownership Report.) The officers and directors of a sister corporation of a broadcast licensee or cable television system shall not be attributed with ownership of these entities by virtue of such status.

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(2) The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

(3) The sum of the interests computed under paragraph (i)(1) of this note plus the sum of the interests computed under paragraph (i)(2) of this note is equal to or exceeds 10 percent.

Note 3: In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for benefit of customers, investment advisors holding stock in their own names for the benefit of clients, and insurance companies holding stock), the party having the right to determine how the stock will be voted will be considered to own it for purposes of this subpart.

Note 4: Paragraph (a) of this section will not be applied so as to require the divestiture of ownership interests proscribed herein solely because of the transfer of such interests to heirs or legatees by will or intestacy, provided that the degree or extent of the proscribed cross-ownership is not increased by such transfer.

Note 5: In applying the provisions of paragraphs (d) and (e) of this section, control and an attributable ownership interest shall be defined by reference to the definitions contained in Notes 1 through 4, provided however, that:

(a) The single majority shareholder provisions of Note 2(b) and the limited partner insulation provisions of Note 2(g) shall not apply; and

(b) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.