



RENEWAL
CABLE TELEVISION LICENSE
FOR
THE TOWN OF MIDDLEBOROUGH,
MASSACHUSETTS

September 27, 2010 – September 26, 2020

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MIDDLEBOROUGH RENEWAL LICENSE

INTRODUCTION

WHEREAS, Comcast of Massachusetts I, Inc., (hereinafter "Licensee"), is the duly authorized holder of a renewal license to operate a cable television system in the Town of Middleborough, Massachusetts (hereinafter the "Town"), said license having commenced on January 14, 2000;

WHEREAS, Licensee filed a written request for a renewal of its license by letter dated March 21, 2007 in conformity with the Cable Communications Policy Act of 1984 ("Cable Act") and filed a renewal proposal dated July 30, 2008;

WHEREAS, there has been an opportunity for public comment, as required by Section 626(h) of the Cable Act;

WHEREAS, the Issuing Authority has determined that the financial, legal, and technical ability of Licensee is reasonably sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and desires to enter into this Renewal License with Licensee for the construction and continued operation of a Cable System on the terms and conditions set forth herein; and

WHEREAS, the Town's Board of Selectmen, as the Issuing Authority, finds that Licensee has complied with the terms of its previous license.

NOW THEREFORE, after due and full consideration, the Issuing Authority and Licensee agree that this Renewal License is issued upon the following terms and conditions:

ARTICLE 1

DEFINITIONS

SECTION 1.1 - DEFINITIONS

For the purpose of this Renewal License, capitalized terms, phrases, words and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the "Cable Act"), and Massachusetts General Laws Chapter 166A (M.G.L.c.166A), as amended from time to time, unless otherwise defined herein.

(a) Access Provider – shall mean the person, group, entity or non-profit entity, designated by the Issuing Authority for the purpose of operating and managing the use of Public, Educational and Governmental Access funding, equipment and channels on the cable television system in accordance with this Renewal License and 47 U.S.C. 531.

(b) Affiliate or Affiliated Person - When used in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

(c) Basic Cable Service – Any service tier which includes the retransmission of local television broadcast Signals.

(d) Cable Act – shall mean the Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 et. seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996) and as may be further amended.

(e) Cable Television System or Cable System – shall mean the facility owned, constructed, installed, operated and maintained by Licensee in the Town of Middleborough, consisting of a set of closed transmission paths and associated signal generation, reception and

control equipment that is designated to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television Signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers unless the extent of such use is solely to provide interactive on-demand services; or (d) an open video system that complies with section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(f) Cable Division – shall mean the Cable Television Division of the Massachusetts Department of Telecommunications and Cable established pursuant to Massachusetts General Laws Chapter 166A (M.G.L. Chapter 166A).

(g) Cable Service or Service – shall mean the one-way transmission to Subscribers of (i) Video Programming, or (ii) other programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service or as further defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6).

(h) Drop – shall mean the coaxial cable that connects a home or building to the Subscriber Network.

(i) Effective Date – shall mean September 27, 2010.

(j) FCC – shall mean the Federal Communications Commission or any successor governmental entity.

(k) Franchise Fee – shall mean the payments to be made by Licensee to the Issuing Authority, the Town of Middleborough and or any other governmental subdivision, such as an Access Provider, which shall have the meaning as set forth in Section 622(g) of the Cable Act.

(l) Gross Annual Revenues – Revenues received by the Licensee from the operation of the Cable Television System for the provision of Cable Service(s) over the Cable Television

System including, without limitation: the distribution of any Service over the Cable System; Basic Service monthly fees and all other Service fees; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; fees paid on all Subscriber fees (“fee-on-fee”); all digital Cable Service revenues; interest collected on Subscriber fees and/or charges; all commercial Subscriber revenues on a pro-rata basis; fees paid for channels designated for commercial use; and Converter, remote control and other cable-related equipment rentals and/or leases and/or sales; home shopping revenues; leased access revenues; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising, advertising revenues shall be deemed to be the pro rata portion of advertising revenues paid to the Cable System by an Affiliate or such other Person for said Affiliate’s or other Person’s use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the Gross Revenue of any other Person which is received directly or indirectly from or in connection with the operation of the Cable System to the extent that said revenue is received, through a means which has the effect of avoiding payment of License Fees to the Town that would otherwise be paid herein. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with Generally Accepted Accounting Principles; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of such Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage.

(m) Issuing Authority – shall mean the Board of Selectmen of the Town of Middleborough, Massachusetts.

(n) Licensee – shall mean Comcast of Massachusetts I, Inc., or any successor or transferee in accordance with the terms and conditions in this Renewal License.

(o) License Fee – shall mean the payments to be made by Licensee to the Issuing Authority, the Town of Middleborough, which shall have the meaning as set forth in M.G.L.c. 166A, § 9.

(p) Multichannel Video Programming Distributor – shall mean 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.

(q) Outlet – shall mean an interior receptacle that connects a television set to the Cable Television System.

(r) PEG Access User – shall mean a Person utilizing the Cable Television System, including all related facilities for purposes of production and/or transmission of PEG Access Programming as opposed to utilization solely as a Subscriber.

(s) Public, Educational and Government (PEG) Access Programming – shall mean non-commercial programming produced by any Middleborough residents or organizations, schools and government entities and the use of designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal License.

(t) Person – shall mean any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Issuing Authority.

(u) Public, Educational and Governmental Access Channel – A video Channel, which Licensee owns and shall make available to the Town or its designee(s) without charge for non-commercial public, educational, or governmental use for the transmission of Video Programming as directed by the Issuing Authority or its designee(s), in accordance with 47 U.S.C. § 531 and the terms of this License.

(v) Public Rights of Way or Public Way – The surface and the area across, in, over, along, upon and below the surface of the public streets, roads, bridges, sidewalks, lanes, courts, ways, alleys, and boulevards, including, public utility easements or any other easements or Rights-

of-Way dedicated for compatible uses, and public lands and waterways used as Public Rights-of-Way, as the same now or may thereafter exist, which are under the jurisdiction or control of the Town. Reference herein to a "Public Right-of-Way" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

(w) Public Buildings – shall mean those buildings owned or leased by the Issuing Authority for municipal government administrative purposes, and shall not include buildings owned by Issuing Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

(x) Renewal License or License – shall mean this Agreement and any amendments or modifications in accordance with the terms herein.

(y) Signal – shall mean any transmission which carries Programming from one location to another.

(z) Standard Installation – shall mean the standard one hundred fifty foot (150') aerial Drop connection to the existing distribution system.

(aa) Subscriber – shall mean a Person or user of the Cable System who lawfully receives Cable Service with Licensee's express permission.

(ab) Subscriber Network – shall mean the trunk and feeder Signal distribution network over which video and audio Signals are transmitted to Subscribers.

(ac) Town – shall mean the Town of Middleborough, Massachusetts.

(ad) Trunk and Distribution System – shall mean that portion of the Cable System for the delivery of Signals, but not including Drop Cable(s) to Subscriber's residences.

(ae) Video Programming or Programming – shall mean the programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

ARTICLE 2

GRANT OF RENEWAL LICENSE

SECTION 2.1 - GRANT OF RENEWAL LICENSE

(a) Pursuant to the authority of M.G.L. c. 166A, and the Cable Act the Issuing Authority hereby grants a non-exclusive Renewal License to Comcast of Massachusetts I, Inc., a Massachusetts corporation, authorizing and permitting Licensee to construct, operate and maintain a Cable Television System in the Public Way within the municipal limits of the Town of Middleborough. Nothing in this License shall be construed to prohibit Licensee from offering any service over its Cable System that is not prohibited by federal or state law.

(b) This Renewal License is granted under and in compliance with the Cable Act and M.G.L.c. 166A, and in compliance with all rules and regulations of the FCC and the Cable Division in force and effect during the period for which this Renewal License is granted.

(c) Subject to the terms and conditions herein, the Issuing Authority hereby grants to Licensee the right to construct, upgrade, install, operate and maintain a Cable Television System within the Public Way. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Renewal License.

(d) In any conflict between this Renewal License and any previous License, the terms of this Renewal License will prevail.

SECTION 2.2 – TERM

The term of this non-exclusive Renewal License shall be for a period of ten (10) years and shall commence on September 27, 2010, following the expiration of the current license, and shall expire at midnight on September 26, 2020 unless this License is earlier revoked or terminated as provided herein or surrendered.

SECTION 2.3 – POLE AND CONDUIT ATTACHMENT RIGHTS

Pursuant to M.G.L.c. 166, §§22-25, permission is hereby granted to Licensee to attach or otherwise affix including, but not limited to cables, wire, or optical fibers comprising the Cable Television System to the existing poles and conduits on and under public streets and ways, provided Licensee secures the permission and consent of the public utility companies to affix the cables and/or wires to their pole and conduit facilities. By virtue of this License the Issuing Authority grants Licensee equal standing with power and telephone utilities in the manner of placement of facilities on Public Ways.

SECTION 2.4 – RENEWAL OF LICENSE [SEE M.G.L.c. 166A §13]

(a) In accordance with the provisions of federal law, Section 626 of the Cable Act, M.G.L.c. 166A, § 13 and applicable regulations, this Renewal License shall be subject to additional renewals for the periods not to exceed ten (10) years or such other periods as allowed by law.

(b) In accordance with applicable law, any such renewal or renewals shall be upon mutual written agreement by Licensee and the Issuing Authority and shall contain such modified or additional terms as Licensee and the Issuing Authority may then agree.

SECTION 2.5 - POLICE POWERS

By executing the Renewal License, the Licensee acknowledges that its rights are subject to the powers of the Town to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Licensee shall comply with all applicable state and Town laws, by-laws of general applicability, and not specific to this Renewal License, the Cable System or the Licensee, rules, and regulations governing construction within a Public Way and shall apply all of such standards to construction within a private way in the Town. Any conflict between the terms of the

Renewal License and any present or future lawful exercise of the Town's police and regulatory powers shall be resolved in a court of appropriate jurisdiction.

SECTION 2.6 – NON-EXCLUSIVITY OF RENEWAL LICENSE

(a) This Renewal License shall not affect the right of the Issuing Authority to grant to any other Person a license or right to occupy or use the Public Ways or Streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable Television System within the Town of Middleborough; or the right of the Issuing Authority to permit the use of the Public Ways and places of the Town for any purpose(s) whatsoever. The Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses.

(b) In the event that the Licensee believes that any additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. Along with said written request, the Licensee shall provide the Issuing Authority with written reasons for its belief. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to demonstrate that any such additional cable television license(s) are on terms more favorable or less burdensome than those contained in this Renewal License. The Licensee shall provide the Issuing Authority with such financial or other relevant information as is requested.

(i) Should the Licensee demonstrate that any such additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Issuing Authority shall consider and negotiate, in good faith, equitable amendments to this Renewal License.

(c) The issuance of additional license(s) shall be subject to applicable federal law(s), M.G.L. Chapter 166A and applicable regulations promulgated thereunder.

ARTICLE 3

SYSTEM SPECIFICATIONS AND CONSTRUCTION

SECTION 3.1 – AREA TO BE SERVED

(a) Licensee shall make Cable Service available to every residential dwelling unit within the Town where the minimum density is at least ten (10) dwelling units per aerial mile and fifteen (15) dwelling units per underground mile providing however, that any plant extension is measured from the existing Trunk and Distribution System and Licensee is able to obtain from property owners any necessary easements and/or permits in accordance with Cable Act. Licensee shall make service available to multiple dwelling units (MDU) where economically feasible and providing that Licensee is able to obtain from the property owners any necessary easements, permits and agreements to provide service to said MDU. Subject to the density requirement, Licensee shall offer Cable Service to all new homes or previously unserved homes located within one hundred fifty feet (150') of Licensee's Distribution Cable. For non-standard installations Licensee shall offer said service within ninety (90) days of a Subscriber requesting such for aerial installations and one hundred eighty (180) days, weather permitting, of a Subscriber requesting such for underground installations. With respect to areas of the Town which are currently served by Licensee from a contiguous cable television system or currently unserved but could be served by abutting town(s) served by Licensee, Licensee shall have the option to serve such areas from its cable television system in such abutting town.

(b) Installation costs shall conform with the Cable Act. Any dwelling unit within an aerial one hundred fifty feet (150') of the Trunk and Distribution Cable shall be entitled to a Standard Installation rate in accordance with applicable federal and state laws. Underground installs are considered non-standard installations. All non-standard installations shall be provided at a rate established by the Licensee in accordance with applicable federal and state laws.

(c) Provided Licensee has at least ninety (90) days' prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. If a substantial quantity of cable is required for a large subdivision and said quantity is not in stock, Licensee shall be allowed additional time for said installation. The Issuing Authority, or its designee, shall exercise reasonable efforts to have the Middleborough Planning Board and developers give timely written notice of trenching and underground construction to Licensee. Developer shall be responsible for the digging and back-filling of all trenches.

SECTION 3.2 – SUBSCRIBER NETWORK

Licensee shall maintain a Cable Television System, fully capable of carrying a minimum bandwidth of 750MHz.

SECTION 3.3 – SUBSCRIBER NETWORK CABLE DROPS

(a) Licensee shall maintain the current level of existing active Drops, Outlets and Basic Cable Service, at no charge to the Town, to each Public Building, public school, police and fire stations, public libraries and other Public Buildings as designated by the Issuing Authority within the Town, listed in **Exhibit A** attached hereto, provided such are considered to be a Standard Installation.

(b) Upon written request by the Issuing Authority, Licensee shall provide one (1) Standard Installation Drop, Outlet and Basic Cable Service at no charge to any new Public Buildings and other Town owned Public Buildings, along the Trunk and Distribution Cable subject to the limitations set forth above. The Issuing Authority or its designee shall consult with a representative of Licensee to determine the appropriate location for each of said Public Building's respective Outlet prior to requesting that Licensee install service at no charge.

(c) Nothing in this Section shall require Licensee to move existing or install additional Drops or Outlets at no charge to those buildings included in **Exhibit A**, or to move existing or install additional Drops or Outlets to buildings already installed pursuant to subsection (b) above.

(d) It is understood that Licensee shall not be responsible for any internal wiring of such Public Buildings.

SECTION 3.4 - PARENTAL CONTROL CAPABILITY

(a) Pursuant to applicable law, upon request, Licensee shall provide Subscribers with the capability to control the reception of any channel on the Cable System. The Licensee shall comply with all applicable requirements of federal law governing Subscribers' capability to control the reception of any channels being received on their television sets.

(b) The Issuing Authority acknowledges that the parental control capability may be part of a converter box and Licensee may charge Subscriber for use of said box.

SECTION 3.5---EMERGENCY ALERT SYSTEM

Licensee shall comply with the Emergency Alert System ("EAS") requirements of the FCC in order that emergency messages may be distributed over the System.

ARTICLE 4

TECHNOLOGICAL AND SAFETY STANDARDS

SECTION 4.1 – SYSTEM MAINTENANCE

(a) In installing, operating and maintaining equipment, cable and wires, Licensee shall avoid damage and injury to trees, structures and improvements in and along the routes authorized by the Issuing Authority, except as may be approved by the Issuing Authority if required for the proper installation, operation and maintenance of such equipment, cable and wires.

(b) The construction, maintenance and operation of the Cable Television System for which this Renewal License is granted shall be done in conformance with all applicable laws, bylaws of general applicability, codes and regulations, including but not limited to OSHA, the National Electrical Safety Code, and the rules and regulations of the FCC as the same exist or as same may be hereafter changed or amended.

(c) Operating and maintenance personnel shall be trained in the use of all safety equipment and the safe operation of vehicles and equipment. Licensee shall install and maintain its equipment, cable and wires in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(d) All structures and all equipment, cable and wires in, over, under, and upon streets, sidewalks, alleys, and Public Rights of Ways of the Town, wherever situated or located shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

(e) The Cable System shall be operated and maintained so as to comply with the technical standards set forth in the FCC's rules and regulations as they apply to cable television systems.

(f) Upon written notice from the Issuing Authority, Licensee shall remedy a general deficiency with respect to the technical standards described herein within three (3) months of

receipt of notice and a safety deficiency within forty-eight (48) hours of receipt of notice and shall notify the Issuing Authority when the deficiency has been corrected.

SECTION 4.2 REPAIRS AND RESTORATION

Whenever Licensee takes up or disturbs any pavement, sidewalk or other improvement of any Public Right of Way or public place, the same shall be replaced and the surface restored in as good condition as possible as before entry as soon as practicable. If Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs, and shall notify Licensee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Licensee to comply within the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by Licensee upon written demand by the Issuing Authority. However, prior to such repair or restoration the Town should submit a written estimate to Licensee of the actual cost of said repair or restoration.

SECTION 4.3 - CABLE LOCATION

(a) In all areas of the Town where all of the transmission and distribution facilities of all public or municipal utilities are installed underground, Licensee shall install its Cable System underground provided that such facilities are actually capable of receiving the Licensee's cable and other equipment without technical degradation of the Cable System's signal quality.

(b) In all areas of the Town where public utility lines are aerially placed, if subsequently during the term of the Renewal License such public utility lines are required by local by-law or state law to be relocated aerially or underground, Licensee shall similarly relocate its Cable System if it is given reasonable notice and access to the public and municipal utilities facilities at the time that such are placed underground. Any costs incurred by Licensee for relocating utility poles or trenching for the placement of underground conduits shall be entitled to reimbursement of

such relocation costs in the event public or private funds are raised for the project and made available to other users of the Public Way.

(c) Nothing in this Section shall be construed to require Licensee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

SECTION 4.4 – TREE TRIMMING

Licensee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of Licensee, in accordance with MGL c. 87 and any Town bylaws and regulations.

SECTION 4.5 – PLANT MAPS

Licensee shall maintain a complete set of plant maps of the Town, which will show those areas in which its facilities generally exist. The plant maps will be retained at Licensee's primary place of business and will be available to the Issuing Authority for inspection by the Issuing Authority upon written request.

SECTION 4.6 – BUILDING MOVES

(a) In accordance with applicable laws, Licensee shall, at its sole expense, upon the written request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building(s). Licensee shall be given not less than thirty (30) days' advance written notice to arrange for such temporary wire changes.

(b) In either case, Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

SECTION 4.7 – DIG SAFE

Licensee shall comply with all applicable “dig safe” provisions pursuant to M.G.L.c. 82, § 40.

SECTION 4.8 – DISCONNECTION AND RELOCATION

(a) Licensee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street, or other Public Right of Ways, or remove from any street or any other Public Ways and places, any of its property as required by the Issuing Authority or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

(b) In requiring Licensee to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Issuing Authority shall treat Licensee the same as, and require no more of Licensee, than any other similarly situated utility.

(c) In either case, Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

SECTION 4.9 – EMERGENCY REMOVAL OF PLANT

(a) If, at any time, in case of fire or disaster in the Town, it shall be necessary in the reasonable judgment of the Issuing Authority to cut or move any of the wires, cable or equipment of the Cable Television System, the Town shall have the right to do so without cost or liability, provided however that, wherever possible, the Issuing Authority gives Licensee written notice and the ability to relocate wires, cable or other equipment.

(b) In either case, Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement. All cable operators or public or municipal utility companies shall be treated alike if reimbursed for such costs by the Town.

SECTION 4.10 – PROHIBITION AGAINST RESELLING OF SERVICE

No Person shall resell, without the express prior written consent of Licensee, any Cable Service, program or Signal transmitted over the Cable System by Licensee.

SECTION 4.11 – COMMERCIAL ESTABLISHMENTS

The Licensee shall make Cable Television Service(s) available to any commercial establishments in the Town, provided that said establishment(s) agree to pay for construction, installation and monthly subscription costs as established by the Licensee.