

SECTION 11. TRANSFER OF OWNERSHIP OR CONTROL

A. **Transfer of Interest.** Except as provided in Section 11.G (Consent Not Required) hereof, neither this Franchise nor any rights, interest or obligations of the Grantee in the Cable System or Cable System assets shall be sold, assigned, transferred, leased, subleased, pledged, mortgaged or disposed of (including, but not limited to, by forced or voluntary sale, sale or lease of all or substantially all of the assets or a merger, consolidation, combination, sale of voting interest of Grantee, sale of stock of Grantee, receivership or other means) in whole, or in part, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any Person either by act of the Grantee, by act of any Person holding Control of or any Controlling Interest in the Grantee, the Cable System, Cable System assets, or this Franchise by operation of law or otherwise, without the prior express written approval by the Grantor through its designated agent, the Cable Board, and in compliance with Applicable Law. For purposes of this Section 11, the transfers described in this Section 11.A (Transfer of Interest) and 11.B (Transfer of Control or Stock) below are hereinafter referred to as a “**Transfer.**”

B. **Transfer of Control or Stock.** Notwithstanding any other provision of this Franchise, except as provided in Section 11.G (Consent Not Required) hereof, no change in Control of, or any Controlling Interest in, the Grantee, the Cable System, Cable System assets, or this Franchise shall occur after the Effective Date of this Franchise, by any act of: (i) the Grantee, (ii) any Person holding Control of, or any Controlling Interest in, the Grantee, the Cable System, Cable System assets, or this Franchise or by any sale, transfer, or operation of law or otherwise, without the prior express written approval by the Grantor through its designated agent, the Cable Board, and in compliance with Applicable Law. For purposes of this Section 11 (Transfer of Ownership or Control), the word “**Control**” or “**Controlling Interest**” means actual working control in whatever manner exercised, including without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the Cable System or of the Grantee. “Control” or “Controlling Interest” as used herein may be held simultaneously by more than one Person, or a group of Persons or entities.

C. **Default.** Every Transfer without the prior approval of the Grantor and the Cable Board shall constitute a material default of this Franchise. The approval of a Transfer in one instance shall not render unnecessary approval of any subsequent Transfer.

D. **Default Procedure.** In the event of such a default, the Grantor/Cable Board through their designated agent shall proceed according to the procedure set forth in this Franchise, and any Applicable Law.

E. **Application for Approval.** At least one hundred twenty (120) days prior to the contemplated effective date of a Transfer, the Grantee shall petition in writing for the Grantor’s and Cable Board’s written approval through their designated agent for a proposed Transfer. In making such petition, the Grantee shall file the appropriate form mandated by federal law or FCC Regulations with the Grantor/Cable Board through their designated agent. The petition shall detail the terms of the proposed Transfer and all applicable qualifications of the assignee or transferee relating to fulfilling the terms of the Franchise and provide any contract that relates to the proposed Transfer.

F. **Consent Factors.** The Grantor, through the Cable Board, will not unreasonably withhold its/their approval to any Transfer. In making such a determination, the Grantor, through the Cable Board, shall consider the following; provided, however, that the Grantor/Cable Board, through their designated agent, will respond within one hundred and twenty (120) days or such other period as Applicable Law may require:

1. Technical qualifications, experience and expertise of the proposed assignee or transferee (including conducting an investigation of the proposed assignee or transferee's service record in other communities);
2. Legal qualifications of the proposed assignee or transferee;
3. Financial qualifications and stability of the proposed assignee or transferee;
4. Grantee's default or material violation of this Franchise, as specified in Article III, Section 2.A (Material Violations) hereof, and if in default or material violation of this Franchise, the proposed assignee's or transferee's commitment to cure such default or material violation; and
5. To the extent permitted by Applicable Law, including without limitation 47 U.S.C. § 533(d), whether the assignee or transferee owns or controls any other Cable System in the Franchise Area, and whether operation by the assignee or transferee may eliminate or reduce competition in the delivery of the Cable Service in the Franchise Area.

If the Grantor and the Cable Board, through their designated agent, do not respond or fail to render a final decision within one-hundred and twenty (120) days (or such other period as Applicable Law shall require) of receipt of the Grantee's petition for approval, said petition shall be deemed to have been approved, unless the Grantee, and the Grantor and the Cable Board, through their designated agent, agree to an extension of time. A Transfer does not release any non-performance or default occurring or arising prior to the Transfer.

G. **Consent Not Required.**

1. **Finance Purposes.** Notwithstanding the foregoing, no consent shall be required for the Grantee to hypothecate, pledge, mortgage or assign all or any part of the Cable System, or any right or interest therein for financing purposes; provided, that each such hypothecation, pledge, mortgage, or assignment for security purposes shall be subject to the rights of the Grantor and the Cable Board pursuant to this Franchise and Applicable Law.

2. **Intra-Company Transfers.** Notwithstanding any other provision of this Section 11, no consent shall be required for any Transfer of the Franchise or any interest in the Cable System or the Grantee to any existing or future Affiliates of Grantee in connection with an internal reorganization of any one or more of such Affiliates, as long as such Affiliate has the requisite expertise and qualifications (as contemplated above in Section 11.F (Consent Factors) and applicable federal law) in the operation of a Cable System; (2) the provisions of Section 11.H (Assumption Requirements) are fulfilled; (3) Grantee notifies the Telecommunications Board of the Transfer at least sixty (60) days

before the Transfer occurs and, at that time, describes the nature of the transaction(s) effectuating the internal reorganization or restructuring and submits complete information describing who will have direct and indirect ownership and control of the Cable System and Grantee after such internal reorganization or restructuring; and (4) warrants that the Transfer will not substantially increase the financial burdens or substantially diminish the financial resources available to the Person holding this Franchise or otherwise adversely affect the ability of the Person holding the Franchise to perform. This provision should not be interpreted to permit any other Transfer, reorganization or change of Control as contemplated in Sections 11.A (Transfer of Interest) and 11.B (Transfer of Control or Stock) of this Franchise Agreement.

H. Assumption Requirements. Any approval by the Grantor and the Cable Board, through their designated agent, of a Transfer shall be contingent upon the prospective transferee or assignee of the Grantee agreeing in writing to the following:

1. To abide by and accept the terms of the Franchise or otherwise becoming a signatory to the Franchise Agreement;
2. To assume and be responsible for the obligations and liabilities of the Grantee to the Grantor and the Cable Board under this Franchise, known and unknown; and
3. That the approval by the Grantor and the Cable Board, through their designated agent, does not constitute a waiver or release of any noncompliance claims the Grantor may have against the Grantee or of rights of the Grantor under the Franchise or Applicable Law upon discovery, whether arising before or after the effective date of the Transfer.

SECTION 12. AVAILABILITY OF BOOKS AND RECORDS

A. Inspection of Records. The Grantee shall fully cooperate in making available at reasonable times, and the Authority, or their designated agent, shall have the right to inspect, the books, records, maps, plans and other like materials of the Grantee necessary for enforcement of this Franchise, at any time during normal business hours. However, when volume and convenience necessitate, the Grantee may require inspection to take place on the Grantee's premises at the local office.

B. System Maps and Technical Documents. Upon request of the Authority, Grantee will share with the Board and/or engineers hired by the Board copies of any system maps, schematics, headend drawings, and any technical documents as necessary for a technical evaluation of the Cable System. Grantor acknowledges the proprietary nature of such documents, and Grantee shall share the copies at the Authority's premises, except when volume or convenience requires an inspection at Grantee's premises at the local office.

C. Confidentiality. Subject to the provisions of the Kentucky Open Meeting (KRS 61.800 through 61.850) and Open Records (KRS 61.870 through 61.884) ("**Open Meetings/Records Laws**"), to which Grantor and the Cable Board are subject, Grantor and the

Cable Board shall maintain as confidential any information provided to it by Grantee under the terms of this Franchise, which Grantee has designated and marked as confidential. In the event that Grantor, or the Cable Board believes at any time that it is required by law to disclose such information to a third party, it will so notify Grantee at a time prior to any such disclosure that affords Grantee a reasonable opportunity to take such action as it deems necessary to prevent such disclosure, including seeking relief in court, all as further provided in Article II, Section 1.B (Upgrade of Cable System and Confidential Treatment).

SECTION 13. OTHER PETITIONS AND APPLICATIONS

Copies of all petitions, applications, communications, and reports submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission (specifically 10K and 8K filings), or any other federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to this Franchise, shall be provided to the Authority, or its designated agent, upon their written request.

SECTION 14. FISCAL REPORTS

A. **Quarterly Reports.** Forty-Five (45) days following each calendar quarter, Grantee shall submit the following reports to the Telecommunications Board (and present such reports at the Quarterly Report Meetings set forth in Article II, Section 14(C) (Attendance at TBNK Meetings), which contain for that quarter:

1. A general report providing for:
 - Total Homes passed in the franchise area of all TBNK Member Governments as a whole and broken out by city (and the unincorporated county area.);
 - Total Amount of Cable TV Subscribers in the Franchise Area of all TBNK Member Governments as a whole and broken out by city (and the unincorporated county area.); and
 - Total Cable TV Subscribers added or deleted (net change) in the quarter in the Franchise Area of all TBNK Member Governments as a whole and broken out by city (and the unincorporated county area).
2. A compliance report that shows whether or not Grantee is meeting all applicable FCC customer service standards. Grantee shall keep such records as are reasonably required to enable the Authority to determine whether Grantee is complying with all such customer service standards, including telephone metrics;
3. Changes that have occurred in the programming offered by the Cable System;
4. Additional line extensions and construction activity and such other information that will permit TBNK to determine the expansion of the Cable System and Cable Services; and

5. The number and type of Service Interruptions known by Grantee. The total hours of known Service Interruptions or System Interruptions (as such terms are defined in FCC Regulations) as a percent of total hours of Cable System operation.

The quarterly reports provided for in this Section 14.A (Quarterly Reports) shall be marked "confidential" and accorded the protections set forth in Article II, Section 12.C (Confidentiality).

B. **Annual Reports.** Upon request, the Grantee shall provide the Authority, or its designated agent, no later than one hundred and twenty (120) days after the end of the Grantee's fiscal year, a copy of Grantee's or Grantee's parent company's Form 10-K for the preceding twelve (12) month period.

C. **Attendance at TBNK Meetings.** Upon request of the Telecommunications Board, Grantee shall cause a spokesperson to attend a monthly meeting of the Telecommunications Board, which meeting will be designated by the Cable Board and which will follow the end of the 30-day period during which the quarterly report called for in Section 14.A (Quarterly Reports) above is to be submitted to the Authority (the "**Quarterly Report Meeting**"). The board members of TBNK will be entitled to question the Grantee spokesperson with respect to matters contained in the quarterly report, the Cable System, and Cable Services to be provided pursuant to this Franchise. On special occasions and upon written notice to the Grantee, the Telecommunications Board may require Grantee to attend such other meetings as may be reasonably required. Notice is hereby given, and Grantee acknowledges that, as of the Effective Date, regular meetings of the Telecommunications Board are held on the third (3rd) Wednesday of each calendar month, and the Board hereby reserves the right to change meeting dates and time and, accordingly, will advise Grantee in writing of such change.

D. **False Entry.** Any false entry in the books, accounts or records of Grantee or false statement in the reports to the Grantor or the Board as to a material fact knowingly made by or with the knowledge of an officer of Grantee, shall constitute a material violation of this Franchise. However, an erroneous entry, made in good faith, shall not constitute a violation of this Franchise.

SECTION 15. REQUIRED SERVICES AND FACILITIES – PEG ACCESS

A. **Access Channel Capacity.** In order to promote and develop Public, Educational and Governmental ("**PEG**") access programming in the TBNK Member Governments jurisdictional areas for the Cable System Access Channels, Grantee shall make available, upon the adoption of this Franchise by Grantor and Cable Board and during the Term of this Franchise, sufficient PEG Access Channel capacity and the necessary electronics to provide seven (7) channels for the exclusive and joint use of the Cable Board and its TBNK Member Governments.

1. Two (2) full-time Governmental Access Channels;

2. One (1) split Governmental and Educational Access Channel for full time use by elementary and secondary schools and boards of education located within the geographical confines of unincorporated Kenton County and the TBNK Member Governments, and for overflow government meeting coverage;

3. Three (3) full-time Community Program/Public Access Channels dedicated to community programming, including religious programming; and
4. One (1) full-time Educational Access Channel for use by Northern Kentucky University.

The Access Channels shall be dedicated for the purposes specified above. All Guide Data costs and Detailed Hourly Programming Placement in the Channel Guide will be the responsibility of the Cable Board to work out with the Channel Guide Vendor.

B. Access Channel Location. During the Term of this Franchise, the Access Channels, as provided in Section 623 of the Cable Act (47 U.S.C. § 543), shall be located on the basic Service Tier as required by the Cable Act and repositioning of the Access Channels, where reasonably possible, shall be held to a minimum in order that the public can become accustomed to Access Channel locations. Before repositioning or reassigning any Access Channel, Grantee shall (1) give TBNK no less than ninety (90) days written notice of such change, and (2) provide reimbursement for up to Five Thousand Dollars (\$5,000) in actual expenses incurred by TBNK associated with rebranding and advising the public of the repositioning or reassignment of the Access Channel(s).

C. Franchise Fee Offset. If at any time during the Term of this Franchise Agreement, Applicable Law or any effective FCC order, including the FCC Third Report & Order, allows Grantee, as a Cable Operator, to (1) off-set against Franchise Fee payments otherwise due and payable to Grantor and the Cable Board pursuant to this Franchise Agreement, or (2) seek payment for the value and/or costs and/or maintenance of the Access Channel requirements, return lines, or related services of this Section 15 (Required Services and Facilities – PEG Access), or any Franchise requirement or services provided by Grantee that are deemed as an “in-kind” contribution to be included within the franchise fee cap pursuant to the FCC Third Report and Order, then Grantee agrees not to make any such offset, or to impose against and seek payment from Grantor and/or TBNK for the value and/or costs of the aforesaid “in-kind” Franchise requirement or service, or discontinue the aforesaid “in-kind” Franchise requirement or service, unless expressly permitted to do so under the terms of the Applicable Law or FCC order, without first providing advance written notice (the “**Notice**”) to Grantor, TBNK and any other affected TBNK Member Government of at least 120 days (the “**Notice Period**”), unless some other period of time is prescribed by Applicable Law. Such written Notice shall (1) provide an explanation for any proposed offset and costs, (2) state the amount of the offset or the value or cost of the claimed “in-kind” Franchise requirement or services, including the basis therefor, including supporting cost numbers, and (3) describe any other remedy Grantee offers to bring the Franchise Agreement into compliance with Applicable Law, including the FCC Third Report & Order. During the Notice Period, commencing no later than thirty (30) days after receipt of the Notice, the Parties shall negotiate a mutually agreeable solution, which may include giving Grantor and/or TBNK the option to either: (1) pay Grantee for the amount or cost of the “in-kind” Franchise requirement or service in lieu of any offset by Grantee against Franchise Fee payments due and payable to Grantor; (2) agree to the Franchise Fee offset, if Grantee is willing to offer such offset; (3) negotiate for a reduction of both (1) and (2) that fits within the bounds of Applicable Law; (4) cancel the affected “in-kind” Franchise requirement or service; or (5) accept such other remedy offered by Grantee. Notwithstanding the foregoing, it shall be the right of

Grantor and/or TBNK to cancel the affected "in-kind" franchise requirement or service. Moreover, in the event the Parties are unable to negotiate a mutually agreeable solution within 120 days, Grantor may pursue any remedy permitted by Applicable Law. Furthermore, if Applicable Law or any non-appealable FCC Order, including the FCC Third Report & Order, or any portion of such Applicable Law or any FCC Order is over-turned, reversed or modified by a court decision or new law or regulation, then such claimed "in-kind" franchise requirements or services may be re-instated or otherwise provided upon written request of the Grantor with no Franchise Fee offset and at no charge to Grantor and/or TBNK or at no more than the cost allowable by Applicable Law, including the FCC Third Report & Order.

D. Locally Produced Programming. The Cable Board and the TBNK Member Governments agree that at least two-thirds (2/3) of the Original Programming for Community Program/Public Access Channels shall be locally produced.

E. Definitions. As used in this Section 15:

1. **"Locally produced"** means noncommercial programs the production of which utilize (i) primarily local, non-paid volunteer personnel, any resident or any agency (public or private) which provides services to residents within the service area of Grantee, or personnel or contract agents of the Cable Board and/or Grantor, their designated agent or the Community Programming Center, and (ii) the services, materials or components of the equipment and/or facilities of the TBNK Member Governments and the Cable Board or their designated agent or the Community Programming Center.

2. **"Original Programming"** means the first showing of any program and video programming.

F. Usage Requirement and Review. As of the Effective Date of this Franchise Agreement, the Cable Board, its designated agent and/or the Community Programming Center will produce a minimum of one thousand and fifty (1,050) hours of Original Programming on the initial Community Program/Public Access Channels. The Cable Board and/or the TBNK Member Governments, their designated agent and/or the Community Programming Center, and the Grantee shall review the use of the initial Community Program/Public Access Channels every twelve (12) months. At the end of each twelve (12) month period, the Cable Board, or their designated agent shall evaluate the community's response to and the Community Programming Center's actual use of such channels. If, after any twelve (12) month period, the use for the required Public Access Channels drops below one thousand and fifty (1,050) hours, Grantee may require a rollback of hours on the initial Public Access Channel(s) on a proportional basis; provided, however, that if the use for the required Community Program/Access Channels drops below four hundred twelve and one half (412.5) hours, then the requirement for one channel's availability shall cease, and Grantee may use such channel for any lawful purpose. There is no usage requirement to keep the first Public Access Channel. However, if only one (1) Public Access Channel remains, and the hours of usage of the remaining Public Access Channel subsequently increase to where the hours exceed four hundred twelve and one half (412.5) hours, then usage of the discontinued second Public Access Channel shall be restored and made available to TBNK for full time use. Once the hours of usage on the two (2) Public Access Channels equal or exceed one thousand and fifty (1,050) hours on a combined basis, the discontinued third Public

Access Channel shall be restored and made available to TBNK for full time use. Notwithstanding the foregoing paragraph, no usage requirement is imposed on either the Educational or Government Access Channels.

G. Programming and Community Programming Center.

1. **Access Functions and the Community Programming Center.** The parties agree that the provision of Public, Educational and Governmental access programming, scheduling playback, services, and PEG Access Facilities (collectively, the “Access Functions”) will be performed by the Cable Board, its designated agent and/or the Community Programming Center. The Cable Board and/or the TBNK Member Governments, and/or their designated agent, shall have the right to allocate or assign the Access Channels and/or Access Functions to any organization, committee or agency created as a community programming entity. The Cable Board’s and the Community Programming Center’s offices are currently located at 3414 Decoursey Pike, Covington, Kentucky 41015 (a/k/a the “Community Programming Center”).

The following Access Functions, among others, shall be performed at the Community Programming Center for the TBNK Member Governments, and it shall be the responsibility of the TBNK Member Governments, their designated agent and/or the Community Programming Center provided for herein to provide such functions:

- i. Playback of all pre-recorded programs for Public, Educational or Government Access Channels for the TBNK Member Governments;
- ii. At the request of any one or more of the TBNK Member Governments, provide (to the extent possible and considering scheduling issues) live coverage of all meetings, of the City Commissions or Councils, Fiscal Courts, Planning and Zoning Commissions or Boards, Boards of Education, and other local governmental programming; and
- iii. Routing of all programming from remote locations (Access Origination Sites) using live streaming, as provided in Section 15.G.7 (Streaming of Programming from Access Origination Sites) below to the CPC to support access programming.

2. **Non-Commercial Access.** Consistent with Section 623 of the Cable Act, the Community Programming Center shall provide only non-commercial PEG Access programming provided, however, the parties acknowledge that the Community Programming Center shall be permitted to offset the operational expense of the playback center by or through sponsorships, grant money, gifts, and fees for videotapes.

3. **Interconnection of Community Programming Center to Headend.** In order to provide for the playback of, or to enable the PEG Access Channels to be carried live through the use of media over the Cable System, Grantee shall keep and maintain in

place the existing and any replacement return fiber optic line(s) (the “**Interconnection Line**”), including the existing and any replacement associated electronics and equipment, connecting the Community Programming Center, located at 3414 Decoursey Pike, Covington, Kentucky 41015, within the distribution system of Grantee’s Cable System, to its Headend, in accordance with the provisions below. The Interconnection Line shall be capable of providing transmission of Public, Educational and Governmental Access programming over the Access Channels. With respect to subsections (i) and (ii) immediately below and decisions or input needed to be made with respect to costs, Subscriber charges or passthroughs, or charges/costs otherwise assumable by TBNK or TBNK Member Governments, the Parties agree to first discuss such matter(s) in good faith before any action is taken by Grantee.

(i) **Existing Interconnection Line.** Grantee shall continue to permit TBNK to use the existing Interconnection Line, and shall maintain the Interconnection Line, and Grantee shall not charge TBNK or the TBNK Member Governments for any costs associated with the maintenance of the Interconnection Line unless directed to do so by TBNK or the TBNK Member Governments. Grantee may pass through any capital costs associated with compliance with this provision to Subscribers as permitted by Applicable Law, but shall not, in lieu of passing such costs through to Subscribers, charge such costs directly to TBNK or the TBNK Member Governments unless directed to do so by TBNK or the TBNK Member Governments.

(ii) **Relocation of Interconnection Line.** The Community Programming Center may be relocated by the Authority and/or the Telecommunications Board within the Franchise Area, or within the jurisdiction of another TBNK Member Government, with the consent of Grantee, which consent shall not be unreasonably withheld, delayed, or conditioned. The cost of relocating any existing Interconnection Line facilities for the new Community Programming Center will be borne by Grantee. In the event Grantee must install any new Interconnection Line facilities to support the relocation of the Community Programming Center, Grantee may recover any capital costs associated with the relocation from Subscribers in accordance with Applicable Law, but shall not, in lieu of passing such costs through to Subscribers, charge TBNK or the TBNK Member Governments unless directed to do so by TBNK or the TBNK Member Governments. In the event relocation of the Community Programming Center occurs more than once every five years, all relocation costs will be borne by TBNK.

(iii) **Upgrade to Interconnection Line at the Request of TBNK or the TBNK Member Governments.** TBNK or the TBNK Member Governments may, at any time, request that one or more PEG Access Channel(s) be upgraded from standard definition (SD) to high definition (HD) format. Grantee shall provide an estimate and proposed contract setting forth the pricing and terms under which it will upgrade the Interconnection Line and transport HD programming from the Community programming Center to its Headend. Upon execution of the contract by TBNK or the TBNK Member Governments, Grantee shall make all PEG Access

Channel(s) covered by the contract available to Subscribers in HD format within six (6) months, except where a delay occurs as a result of a force majeure event, as provided in Article III, Section 4 (Force Majeure).

(iv) **Upgrade to Interconnection Line if Required by Grantee.** In the event Grantee ceases providing SD programming on its Cable System and no longer accepts SD programming from PEG programmers other than TBNK, and provided TBNK or the TBNK Member Governments have not directed Grantee to upgrade the Interconnection Line previously pursuant to subsection (iii) above, Grantee shall upgrade the Interconnection Line to HD at no cost to TBNK or the TBNK Member Governments.

4. **Repair and Response Time for Access Channels, Fiber Drops and Fiber Connections PEG Transport Network.** Under normal operating conditions and during normal business hours, Grantee shall respond to and repair or resolve all technical problems on or relating to the Downstream Transmission of the Access Channels within four (4) hours of either being reported or Grantee becoming aware of such technical problem(s), with the exception of public safety. In such cases, Grantee shall respond immediately.

5. **PEG Channel Monitoring.** Grantee shall provide TBNK/Community Programming Center with the means to monitor the PEG Channels at the Community Programming Center facilities, free of charge and with no deduction from Franchise Fees, so TBNK/Community Programming Center can validate the PEG Access Channel's signal. If the provision of such PEG monitoring capabilities can be accomplished by Grantee more efficiently and/or cost effectively by providing free cable service to TBNK/Community Programming Center, then Grantee may do so, at the discretion of Grantee.

6. **Release of Certain Transport Facilities.** Under the Prior Franchise, Grantee was required to provide PEG Transport Facilities (hereinafter defined), which permitted or provided for the Upstream Transmission or transportation of PEG Access programming from certain government buildings located within the Franchise Area (each such building or location is referred hereinafter as an "Access Origination Site" and, collectively as "Access Origination Sites") which permitted or provided for the Upstream Transmission or transportation of PEG Access Programming generated at the Access Origination Sites to Grantee's Headend for the ultimate Downstream Transmission over the Access Channels on the Cable System. As a result of the "in-kind" contribution treatment required under the FCC Third Report and Order and, in further consideration of other offerings or benefactions being made by Grantee in connection with this Franchise Agreement, Grantor (and the other TBNK Member Governments, as a party to their own respective Franchise Agreement with Grantee) hereby releases from the terms and conditions of this Franchise Agreement and relinquishes unto Grantee, as of the Effective Date, those PEG Transport Facilities that are presently connected to and servicing those Access Origination Sites and more particularly identified of Appendix 4 attached hereto and made a part hereof. For purposes of this Section 15.G.6, the term "PEG Transport Facilities" shall mean the existing video and audio transport (or return) lines of Grantee, including associated equipment, that are physically joined to Grantee's Cable System

connecting the Access Origination Sites to the Headend allowing for the transmission of PEG Access video and audio signals generating from the Access Origination Sites to Grantee's Headend for the ultimate Downstream Transmissions over the Access Channels.

7. **Streaming of Programming from Access Origination Sites.** By virtue of the release of the PEG Transport Facilities from the operation of this Franchise Agreement, as provided in Section 15.G.6 (Release of Certain Transport Facilities) above, it is the intention of the Cable Board to replace the function of the PEG Transport Facilities by streaming all live PEG Access programming originating from or produced at the Access Origination Sites, over the internet to the Community Programming Center and the TBNK studios for further processing and recording and then Upstream Transmission to the Headend using the Interconnection Line (as set forth in Article II, Section 15.G.3 of this Franchise) for the ultimate Downstream Transmissions over the Access Channels.

H. **Government Access.**

1. **Sharing of Channels.** The Government Access Channels will be shared by the TBNK Member Governments. The TBNK Member Governments or their designated agent shall schedule non-commercial local governmental programming on these channels in a manner designed to provide all Subscribers within the Franchise Area with equal opportunity to view programs about or affecting the TBNK Member Governments. These Government Access Channels shall be made available in order to increase the general public's awareness of local government.

2. **Purpose.** The Government Access Channels shall serve as a means for a Mayor, Judge/Executive, City and County Officials to communicate with the citizens of the Grantor and the TBNK Member Governments whenever they find it valuable.

I. **Educational Access.** The Educational Access Channel's capacity for elementary and secondary education shall be for the use of local elementary and secondary schools and districts, other independent school districts, and private schools located in the geographical confines of the TBNK Member Governments and their respective boards of education for non-commercial educational programming.

J. **Non-Access Programming.** The TBNK Member Governments, or their designated agent will, as provided in Section 611(d) of the Cable Act (47 U.S.C. § 531(d)), prescribe rules and procedures under which the Grantee will be permitted to use Educational and Governmental Access Channel capacity for the provision of other services if such channel capacity is not being used for purposes designated in this Franchise, but in the case of the Public Access Channels such rules and procedures are set forth in Article II, Section 15.F (Usage Requirement and Review).

K. **Inspection of Books.** The Grantee shall have the right to inspect the books, records, reports, plans and other like materials of the Community Programming Center respecting public access at any time during normal business hours of the Cable Board and upon reasonable notice.

L. **Rules and Regulations.** The TBNK Member Governments, their designated agent and/or the Community Programming Center, shall establish and enforce rules for the use of the Public Access Channels (i) to assure non-discriminatory access to the Channels to similarly situated Users; and (ii) to promote use and viewership of the Access Channels, consistent with the obligation to provide non-discriminatory access to similarly situated Users. Use of the Access Channels shall be available without charge to the TBNK Member Governments or Subscribers.

M. **Editorial Control.** Subject to Subsection 15.I (Educational Access) above and Applicable Law, the Grantee may not exercise any editorial control over the lawful content of programming on the Access Channels.

N. **Signal Quality.** The Grantee shall assure that signal quality and reliability for (a) all Upstream Transmissions over the Interconnection Line, and (b) all Downstream Transmissions over the Access Channels meet the same technical and performance standards as are required for the entire subscriber network pursuant to this Franchise and FCC Regulations. There shall be no significant deterioration in signal quality on the Access Channels from the Community Programming Center to the point of reception Downstream over the Access Channels; provided, however, that this section shall not be construed to require carriage of HD programming other than as provided elsewhere in this Franchise.

O. **Public, Educational and Government Access Indemnity.**

1. **Indemnity.** To the extent permitted by law, the TBNK Member Governments, their designated agent and/or the Community Programming Center, as the case may be, shall at all times defend, indemnify, protect, save harmless and exempt the Grantee, its officers, agents, and employees, from any and all liabilities, penalties, damages or charges arising out of or in any way connected with claims, suits, demands, causes of action or judgments or awards of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might be claimed now or in the future, which may arise out of, or be caused by:

- i. Any material or media carried on the Access Channels including, but not limited to, any claim for an infringement of any copyright, trademark, trade name, service mark or patent, for defamation of any Person, firm or corporation, for invasion of the right of privacy, or for failure by the TBNK Member Governments, their designated agent or Community Programming Center to secure consents from the owners or authorized distributors of programs to be delivered over the Access Channels; or
- ii. The operation of the Community Programming Center or the scheduling of Public, Educational or Government access programming by the TBNK Member Governments, their designated agent or the Community Programming Center.

2. **Appointment of Counsel.** With respect to any claim, suit, demand or cause of action made or brought against the Grantee by reason of any event to which reference is

made in this Section 15.O (Public, Educational and Government Access Indemnity), the TBNK Member Governments, their designated agent or the Community Programming Center, as the case may be, shall obtain counsel for the Grantee. The Grantee shall have the option to also retain its own counsel at its cost.

3. **Notice.** Grantee shall give the Cable Board, its designated agent or the Community Programming Center timely written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the indemnity in Section 15.O (Public, Educational and Government Access Indemnity). In the event any such claim arises, the Grantee shall tender the defense thereof to the TBNK Member Governments, their designated agent or the Community Programming Center, as the case may be, and said TBNK Member Governments, their designated agent or the Community Programming Entity, shall have the right and duty to defend any claim arising hereunder, and the Grantee shall cooperate fully therein, all as provided in Article II, Section O.2 (Appointment of Counsel).

P. **Parental Control.** Upon request and as required by Federal law, the Grantee shall provide all Subscribers receiving channels showing first-run movies and special entertainment events with a parental control device that prevents the unauthorized viewing of such channels.

Q. **Emergency Alert System.** Grantee shall install, operate, and maintain an Emergency Alert System (“EAS”) in compliance with all Federal Emergency Alert System requirements, including all requirements set forth in 47 CFR Part 11: Emergency Alert System (“EAS Regulations”). In the event the TBNK Member Governments or any one of them organize an Emergency Communication Center and to the extent required by Applicable Law, the Grantee shall provide such center with access to the Cable System so that it can communicate emergency messages and alerts to residents in accordance with EAS Regulations applicable to local governments. The TBNK Member Governments shall indemnify the Grantee for all liability in connection with its use of the EAS in contradiction or violation of the EAS Regulations, but not for the Grantee’s failure to install, operate or maintain the EAS.

R. **Isolation of PEG Channels.**

1. **Upon Termination of Membership.** In the event the Grantor or one or more of the TBNK Member Governments terminates its membership and participation in the Interlocal Agreement, the Cable Board may give notice to the Grantee to isolate, at the Cable Board’s cost, the Subscribers within the respective jurisdiction terminating its participation in the Interlocal Agreement from receiving the PEG programming from the Cable Board. In such a case, the Grantee shall prepare a cost estimate to achieve the requested isolation and if payment to achieve the isolation is approved by the Cable Board, the Grantee shall isolate the Subscribers within the jurisdiction terminating its participation in the Interlocal Agreement from receiving the PEG programming from the Cable Board, within a reasonable time after receiving notice from the Cable Board approving payment of the required cost.

2. **Upon Entry to Membership.** In addition, should a city within Kenton County that is not a participant in the Interlocal Agreement decide to join the Interlocal

Agreement, the Grantee shall, at the Cable Board's cost, allow subscribers within the jurisdiction joining the Interlocal Agreement to receive the PEG programming from the Cable Board. In such an event the Grantee shall prepare a cost estimate to allow the Subscribers to receive the PEG programming, and if approved for payment by the Cable Board, the Grantee shall, within a reasonable time after notice of approval by the Cable Board take the necessary steps to allow the said Subscribers to receive the PEG programming from the Cable Board.

S. Public/Complimentary Service Installations. Upon request of Grantor and/or TBNK, Grantee offers to provide on a voluntary basis, without charge and on a voluntary basis, one outlet of and equipment for Basic Cable Service to the locations listed in Appendix 5, attached hereto and made a part hereof, provided that the locations are currently receiving Cable Service or are capable of being served with a standard installation. Grantee will provide at least ninety (90) days' advance notice of any decision to modify or discontinue support of the service provided pursuant to this Section S.

T. Treatment of PEG Access Channels. Subject to Applicable Law, the Access Channels and Downstream Transmissions of PEG Access programming over the aforesaid Access Channels shall be available for use, as provided in this Franchise, without charge or cost to the Authority, its designated agent, TBNK, or the Community Programming Center.

ARTICLE III. ADMINISTRATION AND REGULATION.

SECTION 1. RULES AND REGULATIONS

The Grantor, or its designated agent, may adopt regulations at the request of the Grantee upon application.

SECTION 2. DEFAULT OF FRANCHISE; REVOCATION, TERMINATION AND CANCELLATION OF FRANCHISE

A. Material Violations. When any event, act, or omission on the part of the Grantee occurs which represents either a material violation hereunder or a violation of a material provision of this Franchise and the interests of the Authority or Subscribers are negatively affected, then such event, act or omission will be considered a breach of this Franchise. A material violation includes, but is not limited to, the following:

1. The Grantee has knowingly, or with the knowledge of an officer of Grantee, made a material, false statement as provided in Article II, Section 14.D (False Entry); or Grantee's failure to make the required payments or failure to file the required reports as provided under this Franchise; unless the Grantee is lawfully and actively contesting the legality or applicability of such payments or reports in a federal or State court of law located within the State; or

2. Effecting a Transfer without the prior written approval of the Authority and its designated agent pursuant to Article II, Section 11 (Transfer of Ownership or Control) of this Franchise, or failure to notify pursuant to Article II, Section 11.G.2 (Intra-Company Transfers); or

3. The Grantee knowingly and consistently violates any FCC Regulation, order, or ruling concerning technical or performance standards, or any other standards or requirements in the aforesaid FCC Regulation, order, or ruling, including, without limitation, FCC customer service obligations or standards; unless the Grantee is lawfully and actively contesting the legality or applicability of such regulation, order or ruling in a federal or State court of law located within the State; or

4. The Grantee knowingly violates a material provision of this Franchise, or

5. Failure to restore service after one hundred twenty-six (126) hours of interrupted service, except when approval of such interruption is obtained from the Grantor, or its designated agent, or when the interruption occurs as a result of an event of force majeure as provided in Article II, Section 4 (Force Majeure) of this Franchise; or

6. Failure to provide, make available and maintain on a continuous basis (a) the Interconnection Line, (b) Upstream Transmissions from the Community Programming Center to the Headend over the Interconnection Line, (c) the Access Channels, or (d) the signal quality, all as provided in Article II, Section 15 (Required Services and Facilities – PEG Access); or

7. Grantee knowingly and repeatedly fails to comply with, or violates a provision of this Franchise Agreement, regardless of whether any single provision not complied with or violated is deemed material; or

8. Grantee fails to comply with provisions set forth in Article II, Section 4 (Construction and Technical Standards), or Article II, Section 5 (Use of Streets), or failure to comply with Applicable Law of Grantor pertaining to right-of-way usage, construction and repair vis-à-vis utility companies, cable television systems and other users of the Streets.

B. Enforcement on Competitively Neutral Basis. The Grantor agrees that it or its designated agent will enforce the terms of this Franchise and other franchise agreements for Cable Systems and Cable Services on a competitively neutral basis. For purposes of giving rise to the opportunity to cure, the date of violation will be the date the Grantee receives notice of the violation from the Grantor, or its designated agent and not the date of the event.

C. Notice of Violation; Cure. In all events, the Grantor, or its designated agent, shall be obligated to notify the Grantee in writing in a reasonably timely manner of any violation as soon as it has reasonable cause to believe that a violation has occurred. Under such circumstances, the Grantor, or its designated agent, shall notify the Grantee, in writing, of the specific breach, and direct the Grantee to comply with all such provisions of this Franchise. The Grantee shall have fifteen (15) days as to monetary violations and thirty (30) days as to non-monetary violations subsequent to receipt of the Notice in which to cure the violation before the Grantor or its designated agent may impose sanctions. If the non-monetary violation is of such a nature so as to require more than thirty (30) days to cure and the Grantee proceeds diligently within the thirty (30) days to cure the violation, the Grantee must proceed diligently within the next thirty (30) days to cure the violation, or as promptly as possible thereafter to cure the violation. In any case

where the non-monetary violation is not cured within sixty (60) days of notice of said violation from the Grantor, or its designated agent, and such cure has not been diligently pursued by the Grantee within said time, or such other time as the Grantee and Grantor, or their designated agent, may mutually agree to, the Grantor or its designated agent may proceed to impose sanctions as hereinafter provided.

D. Due Process Hearing. In the event the Grantee fails to correct the enumerated conditions within the time set forth above, the Grantor, or its designated agent, shall notify the Grantee of the time and place of a due process administrative hearing to be conducted by the Grantor, or its designated agent, which shall be held not less than thirty (30) days thereafter.

E. Procedures. At the time of the public due process hearing, the Grantee may present information on the current status of the alleged breach of this Franchise. If the situation has been resolved, or steps are being taken to resolve the situation, the Grantee may present such information at the hearing. Upon the conclusion of the hearing, the Grantor, or its designated agent, may determine that the Grantee has cured any violation and thereby dismiss the matter, or may determine from the evidence presented therein, that there was a continuing violation subsequent to the correction period which could have been prevented by the Grantee. The Grantor, or its designated agent, shall notify the Grantee of any finding that the Grantee failed to cure a noticed violation within the time provided above, while not being excusable under Article III, Section 4) (Force Majeure), the reasons therefor and the evidence in support thereof. The Grantor, or its designated agent, may engage the services of an attorney, who does not have a client-attorney relationship with the Grantor, or its designated agent, to serve as a hearing officer or administrative law judge for the public hearing.

F. Termination. In addition to all other sanctions, rights and remedies available to the Grantor or its designated agent, the Grantor may revoke, terminate or cancel this Franchise by repealing the authorizing ordinance and this Franchise Agreement by which it was granted, with an effective date of not less than six (6) months thereafter. The exercise of one remedy shall not foreclose use of another. The Grantee may exercise any rights it has under law or at equity.

G. Saving Clause. Notwithstanding any other provision of this Franchise, it is the intent of the Grantor, and its designated agent, not to subject the Grantee to penalties, fines, forfeitures, or revocation of the Franchise in any of the following instances:

1. The violation was not intentional by the Grantee and the effect thereof on the Grantor or Subscribers was de minimis; or
2. There is no pattern of violation or the occurrence of repeated violations of the same matter over time is discontinued after notification of the Grantee thereof by the Grantor, or their designated agent.

SECTION 3. SALE OR REMOVAL OF CABLE SYSTEM

Upon termination or revocation of the Franchise Agreement or failure to renew this franchise in accordance with Section 626 of the Cable Act (U.S.C. §546), Grantee shall either (i) sell the Cable System within eighteen (18) months of the Authority's, or the Board's determination of revocation or termination, subject, however, to the Transfer provisions set forth in Section Article II, Section

11 (Transfer of Ownership or Control), or (ii) remove the Cable System from the Streets of Grantor within two (2) years of said determination.

SECTION 4. FORCE MAJEURE

The Grantee shall not be deemed in default of provisions of this Franchise where performance was rendered impossible by act of war, riots, civil disturbances, labor, strikes, floods, pandemics, or other circumstances beyond the reasonable control of Grantee, and this Franchise shall not be revoked or the Grantee penalized for such non-compliance; provided that the Grantee takes prompt steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise obligations without unduly endangering the health or safety of the Grantee's employees or the integrity of its property, or without unduly endangering the health or safety of the public. Notwithstanding the foregoing, neither mere economic hardship nor any misfeasance or malfeasance of the Grantee or its directors, officers or employees shall constitute a force majeure event under this Franchise. The Grantee shall provide written notice to the Grantor and Cable Board, or their designated agent, of the applicability of this Section within a reasonable period of time after its discovery of the same.

SECTION 5. NO THIRD-PARTY BENEFICIARIES

This Franchise Agreement is not intended to and does not create any rights or benefits on behalf of any Person other than the Parties and the designated agent of Grantor specified in Article III, Section 6 (Delegation of Rights) to this Franchise Agreement.

SECTION 6. DELEGATION OF GRANTOR RIGHTS

The Grantor reserves the right to delegate and re-delegate, from time to time, and to the extent permitted by law, any of its rights or obligations under this Franchise to any governmental body or organization, or official of any other governmental body or other Person, and to revoke any such delegation or re-delegation. Any such delegation or re-delegation by Grantor shall be effective upon written notice by Grantor to Grantee of such delegation or re-delegation. Upon receipt of such notice by Grantee, the Grantee shall be bound by all terms and conditions of the delegation or re-delegation. Any such delegation, revocation or re-delegation, no matter how often made, shall not be deemed an amendment to this Franchise or require Grantee's consent, provided such delegation does not purport to decrease Grantee's rights or increase Grantee's obligations under this Franchise. Grantor has delegated and does hereby delegate and authorize TBNK to manage and oversee the activities, functions and duties set forth in the Interlocal Agreement, including, without limitation, those set forth in Sections 4, 6, 8 and 20 thereof: (1) the administration and negotiation of franchise agreements, (2) the provision of Access Functions, (3) overseeing compliance by Cable Operators of franchise agreement provisions, including, without limitation, all technical, performance and consumer protection matters, (4) the administration and payment of Franchise Fees, and (5) all matters pertaining to PEG Access. TBNK is not responsible for the daily oversight and control of (i) construction and other activities on, in, over or under the Streets and (ii) all other governmental matters not covered by the Interlocal Agreement.

SECTION 7. MISCELLANEOUS PROVISIONS

A. **Entire Agreement.** This Franchise Agreement and any Appendices hereto constitute the entire agreement between Grantee and Grantor, and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the Parties regarding the subject matter hereof, including the Prior Franchise.

B. **Administration of Franchise.** This Franchise is a contract and neither Party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein, except as otherwise provided in this Franchise Agreement. Any changes, modifications or amendments to this Franchise Agreement must be made in writing, signed by the Grantor, or the Board, and the Grantee.

IN WITNESS WHEREOF, the Parties hereto have caused this Franchise to be executed as of the day and year first above written.

GRANTOR:

CITY OF FORT MITCHELL, KENTUCKY

By: _____

Print Name: Jude Hehrman

Title: Mayor

Authority: Pursuant to Ordinance No. ~~2023-10~~ duly adopted and passed August 14, 2023.

Date: 8/14, 2023

GRANTEE:

SPECTRUM MID-AMERICA, LLC

By: CHARTER COMMUNICATIONS, INC., its Manager

By: _____

Paul D. Abbott

Title: Vice President, Local Government & Franchising

Authority: Pursuant to a duly authorized resolution

Date: _____, 2023

The Telecommunication Board joins in this Franchise Agreement for purposes of accepting and evidencing the agent designation made in Article III, Section 6 (Delegation of Grantor Rights) of this Franchise Agreement and for those purposes and functions that are set forth in both (1) this Franchise Agreement and assumed herein by the Telecommunications Board and (2) the Interlocal Agreement.

TBNK – DESIGNATED AGENT:

**THE TELECOMMUNICATION BOARD OF
NORTHERN KENTUCKY**

By: _____
Timothy M. Broering, Executive Director

By: _____
Anthony P. Noll, Chairman

Date: _____, 2023

APPENDIX 1

[TBNK MEMBER GOVERNMENTS]

1. Bromley
2. Covington
3. Crestview Hills
4. Edgewood
5. Elsmere
6. Fort Mitchell
7. Fort Wright
8. Independence
9. Kenton County
10. Kenton Vale
11. Lakeside Park
12. Ludlow
13. Park Hills
14. Ryland Heights
15. Taylor Mill
16. Villa Hills

APPENDIX 2

[Commencement Agreement Form]

COMMENCEMENT AGREEMENT

THIS COMMENCEMENT AGREEMENT (this “**Agreement**”), dated as of 8-14, 2023, by and between the **TELECOMMUNICATIONS BOARD OF NORTHERN KENTUCKY**, a public agency formed under the Interlocal Cooperation Act of Kentucky (KRS 65.210 – 65.300) (hereinafter referred to as “**TBNK**”), and **SPECTRUM MID-AMERICA, LLC**, a Delaware limited liability company authorized to transact business within the Commonwealth of Kentucky (hereinafter referred to as “**Spectrum**”). Except as otherwise defined herein, terms defined in the Franchise Agreement (hereinafter defined) are used herein as therein defined, and TBNK and Spectrum are referred to individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, reference is hereby made to those several Competitive Cable Television Franchise Agreements, dated as of May 1, 2023, by and between Spectrum and all of the TBNK Member Governments (collectively, referred to as the “**Franchise Agreements**,” and, individually, a “**Franchise Agreement**”), providing for, among other things, the (1) construction, upgrade, maintenance, operation, and ownership of a Cable System, (2) renewal of the Prior Franchise, and (3) provision of Cable Services in and to the geographical confines (also referred as the Franchise Area) of each of the TBNK Member Governments; and

WHEREAS, pursuant to the terms and conditions of the Interlocal Agreement, TBNK negotiated for and on behalf of, and recommended to each TBNK Member Government, the approval and adoption of their respective Franchise Agreement; and

WHEREAS, Article I, Section 6 (Duration and Acceptance of Franchise) of the Franchise Agreements, provides that the Effective Date of each of the Franchise Agreements shall be the last date of adoption by a TBNK Member Government of a Franchise Agreement substantially the same as the Franchise Agreements described herein; and

WHEREAS, consistent with the preceding recitals, the Franchise Agreements were legally approved and adopted by each of the TBNK Member Governments in accordance with the Kentucky Constitution and the laws of the Commonwealth of Kentucky by separate and distinct ordinances and on separate dates during the past several months, with the last date of adoption of the Franchise Agreements occurring on August 14 2023 by the City/County of FORT MITCHELL 2023; and

WHEREAS, in accordance with Article I, Section 6 (Duration and Acceptance of Franchise), TBNK and Spectrum desire (1) to establish and evidence the Effective Date of the Franchise Agreements and (2) to formally accept and confirm their respective representation set forth below:

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration hereby given, and as provided in Article I, Section 6 (Duration and Acceptance of Franchise) of the Franchise Agreements, TBNK, acting for and on behalf of each TBNK Member Government, and Spectrum agree as follows:

1. **Effective Date.** The Parties agree and confirm that the Effective Date of each of the Franchise Agreements shall be and is August 14, 2023.
2. **Acceptance of Franchise Agreements.** Spectrum hereby confirms and affirms its unconditional acceptance of each of the Franchise Agreements granted and issued by each of the TBNK Member Governments to Spectrum, and Spectrum further covenants and agrees to comply with and abide by all of the provisions, terms, and conditions of the Franchise Agreements.
3. **Confirmation of Adoption of Franchise Agreements.** TBNK hereby represents and warrants that each TBNK Member Government has approved and adopted by ordinance, and is authorized to grant and issue, its respective Franchise Agreement to Spectrum.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date set forth above.

**THE TELECOMMUNICATIONS BOARD
OF NORTHERN KENTUCKY**

By: _____
Timothy M. Broering, Executive Director

By: _____
Anthony P. Noll, Chairman

**SPECTRUM MID-AMERICA, LLC
By: CHARTER COMMUNICATIONS,
INC., its Manager**

By: _____
Paul D. Abbott

Title: Vice President, Local Government &
Franchising

[Acknowledgments of Signatures Follow on Next Page]

[Acknowledgments to Commencement Agreement between TBNK and Spectrum]

STATE OF _____)
) SS
COUNTY OF _____)

The forgoing Commencement Agreement was acknowledged before me this [] day of [], 2023, by Timothy M. Broering, as Executive Director of The Telecommunications Board of Northern Kentucky, a public agency formed under the Interlocal Cooperation Act of Kentucky, on behalf of the aforesaid public agency.

[SEAL]

Notary Public
Serial Number: _____
Commission expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

The forgoing Commencement Agreement was acknowledged before me this [] day of [], 2023, by Anthony P. Noll, as Chairman of The Telecommunications Board of Northern Kentucky, a public agency formed under the Interlocal Cooperation Act of Kentucky, on behalf of the aforesaid public agency.

[SEAL]

Notary Public
Serial Number: _____
Commission expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

The forgoing Commencement Agreement was acknowledged before me this ___ day of [], 2023, by Paul D. Abbott, as Vice President, Local Government Affairs & Franchising of Charter Communications, Inc., the Manager of Spectrum Mid-America, LLC, a Delaware limited liability company, on behalf of the aforesaid company.

[SEAL]

Notary Public
Serial Number: _____
Commission expires: _____

APPENDIX 3

[Opt-Out Governments]

Prior to the Effective Date of the Franchise Agreement the following TBNK Member Governments have Opt-Out of the State Hold Harmless Distribution Fund:

1. Bromley
2. Crestview Hills
3. Edgewood
4. Elsmere
5. Fort Mitchell
6. Fort Wright
7. Independence
8. Kenton Vale
9. Ludlow
10. Park Hills
11. Taylor Mill
12. Ryland Heights
13. Villa Hills

[Opt-In Governments]

Prior to the Effective Date of this Franchise Agreement, the following TBNK Member Governments have Opt-In the State Hold Harmless Distribution Fund:

1. Covington
2. Lakeside Park
3. Kenton County

APPENDIX 4

[Released PEG Transport Facilities Connected to Buildings and Facilities Listed Below]

The following list consists of currently existing Access Origination Sites that were installed in connection with or under the terms of the Prior Franchise and/or the Franchise Agreement/Ordinance issued on or about December 4, 1980 by the Kenton County Fiscal Court and the Cable Television Board, the predecessor to TBNK, to Storer Communications of Northern Kentucky, Inc., and its successor, TCI TKR or Northern Kentucky, Inc. (D/B/A TKR Cable of Northern Kentucky).

These Access Origination Sites are or were connected to Grantee's Headend portion of its Cable System and the CPC Interconnection Site by use of (1) the PEG Transport Facilities specifically connected to these buildings/locations and (2) the Interconnection Line.

A. TBNK MEMBER GOVERNMENTS BUILDINGS:

- Covington
20 West Pike Street
Covington, KY 41011
- Crestview Hills
50 Crestview Hills Mall Road
Crestview Hills, KY 41017
- Edgewood
385 Dudley Road
Edgewood, KY 41017
- Elsmere
318 Garvey Avenue
Elsmere, KY 41018
- Fort Mitchell
2355 Dixie Highway
Ft. Mitchell, KY 41017
- Fort Wright
409 Kyles Lane
Fort Wright, KY 41011
- Independence
5409 Madison Pike
Independence, KY 41051

- Kenton County – Independence Court House
5272 Madison Pike
Independence, KY 41051
- Lakeside Park
9 Buttermilk Pike
Lakeside Park, KY 41017
- Ludlow
51 Elm Street, Ludlow
KY 41016
- Taylor Mill
5225 Taylor Mill Road
Taylor Mill, KY 41015
- Villa Hills
719 Rogers Road
Villa Hills, KY 41017

B. TBNK MEMBER GOVERNMENT LOCATIONS:

1. Kenton County
Kenton County Building
303 Court Street
Covington, KY 41011
2. Northern Kentucky Planning Commission
2332 Royal Parkway
Ft. Mitchell, KY 41017
3. Kenton County Extension Office
10990 Marshall Road
Covington, KY 41015-9326
4. Independence Senior Citizens Center
2001 Jackwoods Parkway
Independence, KY 41051

C. COLLEGES & SCHOOLS:

5. Thomas Moore College [2 drops – Convocation Center/Gym & Football Field]
333 Thomas More Parkway
Crestview Hills, KY 41017

6. River Ridge Elementary School [located at the Studio]
2772 Amsterdam Road
Villa Hills, KY 41017
7. Holmes High School
2500 Madison Avenue
Covington 41014
8. Simon Kenton High School [located on gym roof]
11132 Madison Pike
Independence, KY 41051
9. Dixie Heights High School [pedestal near baseball field & was on gym roof]
3010 Dixie Highway
Crestview Hills, KY41017
10. Scott High School [located on gym roof]
5400 Old Taylor Mill Road
Taylor Mill, KY 41015
11. Ft. Wright Elementary School
501 Farrell Drive
Ft. Wright, KY 41011

D. OTHER LOCATIONS:

12. Crescent Springs/Villa Hills Memorial Park [located at intersection of Buttermilk Pike & Collins Avenue]
13. Mainstrasse [located at intersection of 6th Street & Bakewell]
14. Northern Kentucky Convention Center [1st & Madison]
1 West River Center Boulevard
Covington, KY 41011
15. Cathedral Basilica of the Assumption
1140 Madison Avenue
Covington, KY 41011

APPENDIX 5

[Public/Complimentary Service Installations]

We need to list the Government units/offices that have complimentary television services.

TO BE ADDED ONCE RECEIVED FROM SPECTRUM & APPROVED BY TBNK

000N063.0597267 4892-4288-0622v1

V6 Final Draft Reconverted from P Abbott Draft Aug
16, 2022 & NetDoc No. 4880-2604-2163v6

TBNK COMMUNITY LIST OF COMPLIMENTARY ACCOUNTS

1. Bromley

Service Recipient	Service Address
VFD,BROMLEY	226 BOONE ST,BROMLEY,KY,41016

2. Covington

Service Recipient	Service Address
FIRE DEPT,COVINGTON	3315 CHURCH ST,COVINGTON,KY,41015
TWO FIREHOUSE,COMPANY	1252 PARKWAY AVE,COVINGTON,KY,41011
FIRE DEPT,COVINGTON	100 E ROBBINS ST,COVINGTON,KY,41011
COVINGTON POLICE DEPT	1 POLICE BLVD,COVINGTON,KY,41014

3. Crestview Hills

Service Recipient	Service Address
CITY OF CRESTVIEW HILLS,	50 TOWN CENTER BLVD,CRESTVIEW HILLS,KY,41017
CRESTVIEW HILLS PD	40 TOWN CENTER BLVD,CRESTVIEW HILLS,KY,41017

4. Edgewood

Service Recipient	Service Address
EDGEWOOD CITY BUILDING	385 DUDLEY PIKE # B,EDGEWOOD,KY,41017

5. Elsmere

Service Recipient	Service Address
CITY OF ELSMERE	318 GARVEY AVE,ELSMERE,KY,41018
ELSMERE POLICE DEPT	318 GARVEY AVE,ELSMERE,KY,41018
ELSMERE POLICE DEPT	4501 DIXIE HWY,ELSMERE,KY,41018

6. Fort Mitchell

Service Recipient	Service Address
FT MITCHELL CITY BUILDING	000000 DIXIE & HIGHLAND #C,FORT MITCHELL,KY,41017
KENTON CO PUBLIC LIBRARY	2171 CHAMBER CENTER DR,LAKESIDE PARK,KY,41017

7. Fort Wright

Service Recipient	Service Address
FT WRIGHT CITY BLDG	409 KYLES LN,COVINGTON,KY,41011
VFD,FT WRIGHT	409 KYLES LN,COVINGTON,KY,41011

8. Independence

Service Recipient	Service Address
FIRE DEPT,INDEPENDEN	1980 DELAWARE CROSSING,BUSI,INDEPENDENCE,KY,41051
INDEPENDEN FIRE,DISTRICT	4118 RICHARDSON RD,INDEPENDENCE,KY,41051
INDEPENDENCE FI,RE STATION	740 COX RD # A,INDEPENDENCE,KY,41051
CITY OF INDEPENDENCE	5409 MADISON PIKE,INDEPENDENCE,KY,41051
INDEPENDENCE POLICE DEPT	5409 MADISON PIKE,INDEPENDENCE,KY,41051

9. Kenton County

Service Recipient	Service Address
KENTON COUNTY SHERIFF	303 COURT ST STE 409,COVINGTON,KY,41011
KENTON CTY CABLE BOARD	3422 DECOURSEY AVE,COVINGTON,KY,41015
KENTON C LIBRARY	502 SCOTT ST,COVINGTON,KY,41011
KENTON COUNTY FISCAL COU	303 COURT ST STE 205,COVINGTON,KY,41011

10. Kenton Vale

No complimentary accounts.

11. Lakeside Park

Service Recipient	Service Address
LAKESIDE P CITY BUILDING	9 BUTTERMILK PIKE,LAKESIDE PARK,KY,41017

12. Ludlow

Service Recipient	Service Address
LUDLOW FIRE DEPARTMENT	234 OAK ST,LUDLOW,KY,41016

13. Park Hills

Service Recipient	Service Address
PARK HILLS FIRE DEPT	1106 AMSTERDAM RD,PARK HILLS,KY,41011

14. Ryland Heights

Service Recipient	Service Address
HEIGHTS VFD,RYLAND	10041 DECOURSEY PIKE,RYLAND HGHT,KY,41015

15. Taylor Mill

Service Recipient	Service Address
TAYLOR M POLICE DEPT	5225 TAYLOR MILL RD STE P,TAYLOR MILL,KY,41015
TAYLOR MILL CITY BLDG	5225 TAYLOR MILL RD,TAYLOR MILL,KY,41015
TAYLOR MILL FIRE DEPT	5231 TAYLOR MILL RD,TAYLOR MILL,KY,41015

16. Villa Hills

Service Recipient	Service Address
VILLA H POLICE DEPT	719 ROGERS RD,VILLA HILLS,KY,41017
VILLA HILLS CITY HALL	719 ROGERS RD,VILLA HILLS,KY,41017

000N063.0597267 4892-4288-0622v1

V6 Final Draft Reconverted from P Abbott Draft Aug
16, 2022 & NetDoc No. 4880-2604-2163v6



Telecommunications Board of Northern Kentucky



TBnk AND SPECTRUM (CHARTER COMMUNICATIONS) AGREE ON RENEWED CABLE FRANCHISE

Introduction:

The TBnk Franchise Negotiation Committee has reached an agreement with SPECTRUM MID-AMERICA, LLC (a subsidiary of Charter Communications) on a renewed Cable TV Franchise Agreement, pending adoption by our Cities and the Fiscal Court. At a special meeting on May 31st, the Board voted to accept Spectrum's official bid proposal and recommend adoption of the proposal by our member Cities and the Fiscal Court (hereinafter referred to as the "**Proposed Spectrum Franchise Agreement**"). The bid from Spectrum was in response to an RFP issued by TBnk in April in order to satisfy state franchising requirements. This Proposed Spectrum Franchise Agreement mirrors the agreement we negotiated and entered with alfafiber (Cincinnati Bell) in December of 2021, except for a few changes/accommodations made to address some concerns of Spectrum.

Given today's Cable TV market with increased competition and recent significant changes in federal franchising laws and regulations, both this new franchise with Spectrum and the 2021 franchise with alfafiber are more streamlined and have a lighter touch than our previous cable TV franchises and include reduced requirements in various provisions.

For instance, any issuance of a new or renewed franchises has to adapt to the FCC's 2019 Third Report and Order on Cable Franchising and the 2021 ruling of the U.S. Sixth Circuit Court of Appeals relating to the said Order, both of which reduces or eliminates several things that local franchising authorities could have required in a franchise. We also had to incorporate provisions to deal with the Kentucky Telecommunications Tax Law, which complicates some things.

Having worked through all of these new issues cooperatively with alfafiber (Cincinnati Bell) at the time we completed the renewal process with alfafiber, we employed the ensuing alfafiber (Bell) Franchise Agreement as the model or starting point in our negotiations with Spectrum. Our goal has been to retain as much for our Cities and County as we can, while recognizing Spectrum's market/business concerns and adapting to the new federal franchising laws and regulations. At the outset, we did agree with Spectrum that we would discuss massaging or modifying the alfafiber Franchise Agreement in order to address some of Spectrum's continuing concerns. This required considerable cooperation from both parties and a united effort to find for both parties win/win compromises and creative solutions.

The Proposed Spectrum Franchise Agreement is about half the number of pages as the 1997 Spectrum (Charter/Insight/TKR) Franchise Agreement. However, from the original draft first

submitted by Spectrum in 2016 to the draft that we have now, we have improved a lot of areas of the agreement and are reasonably satisfied with most of the provisions contained in the final document.

The following is a summary that highlights the primary areas of interest in the Proposed Spectrum Franchise Agreement.

EXECUTIVE SUMMARY OF RENEWED FRANCHISE AGREEMENT

A. Main Provisions:

1. **FRANCHISE FEE** – The Franchise Fee is set at five percent (5%) of the Gross Revenues derived from the operation of Spectrum’s Cable System, which is the maximum allowed by federal cable law. Franchise Fees shall be payable quarterly for each calendar quarter [March 31, June 30, September 30, and December 31], no later than forty-five (45) days after the quarter.
 - a. **BUNDLED SERVICES** - If Spectrum bundles Cable Service with Non-Cable Services, they agree that they will not intentionally, unfairly, or unlawfully allocate such revenue for the purpose of evading the Franchise Fee payments under this Franchise.
 - b. **PAYMENT OF MULTICHANNEL VIDEO PROGRAMMING SERVICES TAX – OR FRANCHISE FEES** – We added provisions to make clear that the cities/county can (and that most Cities have) opt-out of the Hold Harmless Distribution Fund managed by the Kentucky Revenue Department (the “**Hold Harmless Fund**”) and instead collect franchise fees directly from the cable operator. We also reserved the right for the Cities/County to opt-back-into the Hold Harmless Fund in the future and receive their local historical Hold Harmless distribution amount, as opposed to receiving direct franchise fee payments from Cable Operators, should they believe it would be advantageous to do so. [We recommend that you have this type of provision in every telecom agreement, whether wireline, small wireless facility or Cable TV that clearly maintains your rights. Then you need to monitor how much revenue that you are collecting for Cable TV fees and other telecom fees compared to your city's historical amount that you had collected from the State Hold Harmless Fund. Also, you should note that you need to include all telecom fees in this comparison, since opting into the state Hold Harmless Fund requires that you cease collecting fees for any/all type(s) of telecom and cable services.]
 - c. **OPT-OUT APPLICATION-FRANCHISE FEE; LIMITATION ON TRANSITIONS** - Spectrum agrees to cooperate in good faith with the Cities/County in making any such Opt-Outs or Opt-Ins to the Hold Harmless Fund. [We included this because, for any decision to Opt-in or Opt-out of the

state Hold Harmless Fund, you need to provide the prescribed notice to all telecom and Cable TV providers from whom you collect any fees and to the Department of Revenue to coordinate any such change. The DOR says that they need a 90-day notice before any effective date for resuming the collection of local franchise fees, and that the cable companies (and other communications providers) will likely need a similar amount of time to alter their accounting processes and databases.]

Unlike the altafiber Franchise Agreement (which is limited to three (3) elections only), there is no limitation in this Proposed Spectrum Franchise Agreement as to the number of times a City/County can Opt-In or Opt-Out of the Hold Harmless Fund.

2. **TERM OF FRANCHISE** - The initial term of the proposed Spectrum Franchise shall be from the date of the Effective Date for a period of five (5) years (the “**Initial Term**”). At that point, the Franchise shall be automatically renewed for an additional five (5) year period (the “**Renewal Term**”), unless six (6) months prior written notice is given by the Grantor or Grantee that either Party does not wish to exercise the automatic renewal. If either Party chooses not to automatically renew this Franchise, then at the end of the Initial Term, Grantee’s ability to provide Cable Services under this Franchise shall continue on a month-to-month basis - provided that, in such event, Spectrum demonstrates earnest efforts towards good faith negotiations to arrive at a mutually agreeable franchise. In the event, however, the Parties are unable to arrive at a mutually agreeable franchise prior to the six (6) month period, which begins with the thirty-sixth (36) month before the expiration date of the Renewal Term, either Party may initiate federally outlined formal and informal franchise renewal proceedings under Section 626 of the Cable Act (47 U.S.C. §546) by providing written notice to the other Party of its intent.

3. **POLICE POWERS** – This provision is identical to the one contained in the altafiber Franchise Agreement. When we negotiated the altafiber Franchise, the Mission Group wanted strong protection for police powers. We also tied this provision to Kentucky Statutes on “home rule” and noted its power to enact laws or ordinances addressing rights-of-way and other subjects or topics that are within the jurisdiction of said Cities/County. Specifically, in the case of a conflict between a provision in the Franchise Agreement and any adopted rights of way law or ordinance currently in place, the law or ordinance would prevail. Municipalities may also adopt any future rights of way ordinance, but any specific provisions in such a future ordinance that are specifically addressed in the franchise would be resolved in favor of the franchise. Between being able to enforce any existing ordinance in its entirety, and the core rights of way provisions included in the Franchise Agreement, along with the ability to adopt any future ordinance, the cities should be able to fully exercise their police powers, with these few rights of way provisions being agreed to as limits on just those specific items for any future ordinances.

4. **RELIEF FROM THIS FRANCHISE** – Section 23 (Relief From This Franchise), has two main sections to consider. Section 23B deals only with relief that may be due traditional Cable System operators, who were overbuilt by another cable operator and given a more favorable franchise agreement. A version of this provision has been in our past franchises, and we are comfortable with this Section 23B.

However, Subsection 23C introduced an expanded concept that deals with the idea of potentially providing some relief to Spectrum related potentially to a broader group of possible Multichannel Video Programming Distributor (MVPD) Systems. Larger cable television operators across the country, including altafiber/Bell and Spectrum/Charter are requiring or demanding provisions similar to this Section 23C be included in new and renewed franchise agreements. This relief provision, if triggered, could result in various requirements or obligations in your franchise being lessened or gutted, including the 5% franchise fee, reporting and customer notification obligations, billing and payment regulations and local PEG programming and channels. Therefore, we have given considerable attention and thought to this provision with the goal of minimizing its impact.

We were able to neutralize, more or less, the version to which we agreed in the altafiber Franchise (something which Spectrum is very aware of and wanted to change.) The initial drafts of this Section 23C from Spectrum were significantly worse, but after several months of trying to come at this from different angles, and both sides trying to listen to each other's concerns, we have been able to significantly improve the language to narrow the scope or reach of this provision. However, there is still some risk of interpretation of the language and trying to define or identify the changing technology which could be different in the coming years and bring un-foreseen affects.

One of the main issues with this Section 23C is that TBNK Member Governments, as a local franchising authority (LFA), are not authorized to regulate other multichannel video programming distributors such as "competitors" that provide video or video streaming services via wireless systems, video dial tone systems, direct broadcast satellite and/or small cell systems. LFAs cannot regulate these types of services because (a) they are not, for the most part, in the rights-of-way and (b) neither the Federal Cable Act nor any other federal legislation authorizes local governments any regulatory authority or control over their business and/or services.

The first problem with Section 23C is that it does not use the term "Cable System" or "cable operator;" instead it uses the term "Multichannel Video Programming Distributor (MVPD)", as well as the phrase "other authorization" along with "cable franchise" as the type of agreement that could trigger relief. Under the federal Cable Act, MVPD is a broad definition for video service providers that offer multiple linear channels to subscribers, including Cable TV as well as other such services that might not use the Rights of Way and that are not considered Cable TV such as satellite video providers.

So, this is a broader definition than “Cable System” for what type of video service can trigger the request for relief, and TBNK Member Governments are not authorized to regulate such other MVPD’s under the Federal Cable Act. In addition, streaming services such as Sling TV or YouTube TV are what are known as Virtual Multichannel Video Programming Distributors (vMVPD’s) because they provide multiple linear channels that resemble Cable TV, but are transmitted over the internet, instead of actually constructing their own facilities in the ROW. So, this change away from the term “Cable TV” to “MVPD” and the addition of the phrase “other authorization” caused some initial concerns. We also wanted to make clear that the language would NOT include other streaming video providers, such as Netflix or Amazon Prime, etc., which are random access libraries of “Video On Demand” programming – not a service with multiple live linear channels of programming.

The good news here is that we have been able to add language which states that relief is not available to unregulated video programming services or service providers that provide Over The Top (OTT) and other streaming services offered to customers over the internet, which should eliminate many of the streaming services such as Netflix, Disney+, Prime video, the various vMVPD’s, etc.

We also made a key addition to the language which makes it clear that a TBNK Member Government, as a grantor, has to actually issue or grant a franchise or “other authorization” to the competitor to offer MVPD service; therefore, we don’t have a problem if a provider just starts offering a service that might cause an issue without having received any permission from a TBNK Member Government. However, several of our TBNK Member Governments have already granted permission for several other types of telecommunications providers to use the ROW for provisioning of telecommunications and information services, and with the implementation of new technology, it might be possible for these providers to begin offering multichannel video programming distributor services. So, our TBNK Member Governments have to be sure that they have NOT given permission to offer MVPD services in those other authorizations - now or in the future.

A positive here is that we read the language, which uses the present tense “issues or grants” “at any time during the existence of this Franchise” to say that relief only applies to agreements granted after the new franchise effective date.

New telecom providers that might begin to offer some type of subscriber video services is probably one of the more concerning remaining scenarios, since video is already transmitted over cell phones and because cell phone providers now have facilities in your rights of way with the new Small Wireless Facilities (SWF) or 5G small cell service, along with whatever new subscription MVPD services or technology they might develop. This could create some legal argument around such cell phone companies’ or even other wireline telecom providers’ facilities in the ROW and what kind of subscriber video services might develop.

This is why we added language in the final proposed draft that would eliminate video services offered primarily over cellphones, personal wireless service facilities, or small cell facilities.

We also would have liked this provision better if it said something more like “*the Grantor may, but is not obligated to grant relief,*” which is in our 2009 agreement. However, Spectrum would not agree to this language. The final draft, on the other hand, provides that our Cities/County “*shall not unreasonably refuse to grant the relief requested by Grantee.*” This is a different standard. However, this is also not a rubber stamp that requires us to give them all or any of what they might request, but we have to have reasons for our decision. If the request is valid under the terms of this provision (unless, for instance, the competing provider that Spectrum might cite in their request does not trigger the provision), our failure to negotiate and/or grant at least some of the requested relief could potentially result in a legal battle.

However, the final version also has language that says that we “shall take into consideration all of the circumstances in existence at the time, including, but not limited to, the proportional relationship of the “competitor’s” operations as well as Applicable Law, which may set up different levels of requirements for different classes of providers. This allows us to weigh other aspects of the law with or against possible advantages and disadvantages related to such a request, as well as limits that the law might place on the Grantor for regulating different types of providers, including advantages that the law might provide different types of providers.

All of the improvements made narrow the broad scope, which originally had been offered by Spectrum, but there is still risk or exposure in this provision, because no one knows what future technology might develop, or any future changes that might occur in applicable law, and how they could affect and/or trigger this provision.

However, please remember that relief may only be claimed or requested by Spectrum under this Section 23C, if a TBNK Member Government pulls the following “triggers”:

- City/County affirmatively issues or grants a franchise or other authorization;
- Such franchise or authorization permits the grantee to use the Streets;
- The grantee system also is a facilities-based multichannel video programming distribution system (MVPD); and
- The franchise or authorization allows for the provision of MVPD services.

For instance, we know that Verizon Communications and AT&T have telecommunications facilities and fiber optic lines and related infrastructure within the rights-of-way of Edgewood, Fort Mitchell, and Covington and possibly other cities. However, they are only providing telecommunications and information (i.e., internet) services. Will these companies ever decide to provide multichannel video programming services? This possibility is why it needs to be noted that under any small cell licenses or

even fiber/wireline telecommunications franchise agreements it is important that TBNK Member Governments do the following:

- Limit or restrict services to telecommunications services and information (i.e., internet) services, which are defined terms in the Telecommunications Act of 1996; and
- Include a provision that states the provider is **NOT authorized** to offer Multichannel Video Programming Distributor (MVPD) or Cable TV services without first obtaining a separate franchise agreement specifically permitting or authorizing such video type services. *TBNK can help you with the appropriate language.*

5. **REQUIRED SERVICES AND FACILITIES – PEG ACCESS** (Public, Educational & Government Access) – We negotiated a few modifications to the PEG Access provisions, as outlined below:

- i. NKU Access Channel – TBNK had offered the release of this channel, as NKU has been doing less with it, but the Mission Group had requested that such channel be restored, which both altafiber and Spectrum agreed to incorporate back into the renewed franchises.
- ii. The new agreement also retains the other six (6) local PEG channels for Public, Educational, and Governmental use.
- iii. HD channels for PEG – The new agreement states that HD PEG channels will be provided to the cities/county if HD PEG channels are provided to other communities located in Northern Kentucky.
- iv. No PEG Support Fees – Our Cities/County said that they do not wish to require cable operators to charge subscribers a monthly PEG Support Fee of 25 cents, so that PEG Support has been eliminated.
- v. Release of Return Lines from City/County Buildings – A 2019 FCC Order, which was recently and mostly upheld on appeal at the 6th Circuit Appeals Court in Cincinnati, permits cable operators to charge Cities/County for the cost of maintenance and upkeep of those lines. TBNK has agreed to give them up (even if the FCC Order is vacated), as TBNK is now streaming live meetings of the Cities/County back to TBNK for distribution downstream over the PEG Access Channels.
- vi. Complimentary Cable Service – An FCC Order also allows cable operators to charge Cities/County for such free cable service and/or offset that charge against franchise fees due under the franchise. We developed a provision that provides for continuation of free cable service if the FCC Order is reversed by what will be a newly re-constituted FCC, which is re-considering the order. However, if the FCC Order is not reversed, then the cable operator is required to give notice and allow the Cities/County an opportunity to decide if they want to (a) continue receiving such service but pay for it directly or allow the cable operator to offset the charge against franchise fees or (b) cancel the service. Notwithstanding the

foregoing, Spectrum has agreed to continue providing free basic cable services on a voluntary basis for now.

6. **PUBLIC NOTICE** – The altafiber Franchise originally contained a provision that would require the Cities/County and TBNK to publish notices of meetings in the newspaper, wherein cable matters would be addressed. This requirement was too burdensome and costly to TBNK, as every board and committee meeting conceivably could be considered as an undertaking of cable matters.

The final provision now requires the Cities/County and/or TBNK to provide Minimum public notice in compliance with KRS 61.804 to 850 (Open Meetings of Public Agencies) and for KRS 424.110 to 424.150 (Legal Notices) for those meetings considering an application for the issuance of a competitive franchise agreement to another cable operator. TBNK presently follows the procedures of the Open Meetings Act.

Notice is also to be provided to Spectrum by (a) certified mail, return receipt requested, (b) personal service with a signed receipt of delivery, or (c) overnight with receipt verification to the person designated to receive notices, which person is listed in the agreement.

7. **CUSTOMER SERVICE OBLIGATIONS** – Requires compliance with all the customer service standards or obligations specified by FCC Regulations. Instead of listing the contents of those regulations in the body of the agreement, the Franchise references the FCC standards. This streamlined the document and allows the provision to adapt as the standards may be amended from time to time by the FCC. (The same approach of referencing FCC regulations was taken in regard to compliance with FCC technical standards, as well as Electrical Safety Codes.)
8. **USE OF STREETS (& Rights-of-Way)** – The original draft of the altafiber Franchise contained few rights-of-way provisions as compared to the then presently existing altafiber (Bell) 2009 Franchise Agreement and the Spectrum (TKR) 1997 Franchise Agreement. Per instructions of the Mission Group, we kept to a more streamlined approach for these rights-of-way provisions in our resulting altafiber and Proposed Spectrum Franchise Agreements while maintaining basic core protections for cities that presently do not have much of anything on the books:

- i. The Franchise requires Spectrum to construct, remove, operate, and maintain its Cable System in a manner consistent with:
 - a. all Applicable Laws,
 - b. good engineering practices and construction standards
- ii. Specifically, it also requires compliance with:
 - a. National Electrical Safety Code (National Bureau of Standards);
 - b. National Electrical Code (National Bureau of Fire Underwriters);

c. Applicable FCC or other federal, State and local regulations including Technical Standards; and

d. **Applicable local permits and ordinances.**

- iii. Mandates that none of the cable facilities are to unreasonably endanger or interfere with any lives of any Person or safety;
- iv. Requires cable pedestals to be located on the far side of a homeowner's lot and not in the middle of the lot;
- v. Permits cables and lines to be installed above ground in areas where telephone and electric lines are above ground; however, the Cities/County may require such cables and lines to be placed underground at a later date (or follow any regulations that any specific city presently has adopted);
- vi. All new cables and wires shall be installed, where possible, parallel with electric and telephone lines.
- vii. Permits Cities/County to repair streets damaged by the cable operator and to bill or invoice the cable operator for costs incurred in making the repairs.
- viii. Permits Cities/County to remove cable lines and equipment in emergency situations and not be liable for damages.
- ix. Authorizes cable operator to trim trees but such trimming must follow any applicable ordinance(s) and the cable operator must submit a trimming plan for prior approval.
- x. No poles or wire-holding structure can be erected without the prior written approval of the City/County. Spectrum is required to use existing poles.
- xi. Requires relocation of poles, facilities and wires without reimbursement of cost in connection with any public works project, such as widening of roads.

These provisions provide some or limited protection for those smaller Cities that do not have in place, or fail to develop and adopt, rights-of-way ordinances or regulations. As provided in Section B.1 above, the use of streets and rights-of-way still fall under the "police powers" of the cities/county.

- 9. **SOVEREIGN IMMUNITY** – The original Bell (altafiber) Franchise did not contain such a provision and, as directed by the Mission Group, we added a sovereign immunity provision which provides that none of the Cities/County waive any tort or other immunity they may have by law, and this provision is contained in the Proposed Spectrum Franchise Agreement.
- 10. **TRANSFER OF OWNERSHIP OR CONTROL** – Prior express written approval by the Cities/County and the TBNK is required before any change in Control of the Franchise, or the Cable System may occur and before the Proposed Spectrum Franchise or any rights, interest or obligations of the Grantee (Spectrum) in the Cable System or assets of the Cable System can be sold, assigned, transferred, or disposed of. Any such changes also must be in compliance with Applicable Law.

B. Other Streamlining and Concessions Provided in the Agreement:

In previous negotiations with Spectrum (prior to the break in negotiations in 2020), we offered multiple concessions to streamline the 1997 Franchise Agreement with Spectrum (Charter/Insight/TKR) [*about 90 pages in length*]. In our negotiations with altafiber (Bell), we offered the same concessions to altafiber and, these concessions are reflected in both the 2021 altafiber Renewed Franchise Agreement and this Proposed Spectrum Franchise Agreement. These concessions consist of the following:

1. Bond Amount - Reduced bond amount from \$500,000 to \$300,000;
2. Liquidated Damages - Eliminated liquidated damages provision – this provision provided an amount that was to be paid by the cable operator for various breaches of the franchise agreement. We had never utilized this provision in the past and, if we had, the cities/county would have been sued;
3. Customer Service Centers - Reduced the number requirement for customer service centers, as the FCC Regulations only requires a cable operator to offer a service center which is conveniently located to the franchise area. In the prior franchise agreements, we once required up to a total of three service centers;
4. Return Feeds – As noted above, we have eliminated such feeds;
5. Customer Services Standards – Eliminated multiple pages of such standards from the franchise agreements, but require the cable operator to comply with the service standards contained in the FCC Regulations;
6. Technical Standards for Cable System – Significantly reduced provisions addressing compliance with technical standards set forth in the franchise agreements, but require the cable operator to comply with technical standards set forth in the FCC Regulations;
7. No Interconnection – In prior franchise agreements, we had required the cable operators to interconnect their cable systems in the franchise area. This was eliminated as we can accomplish our PEG programming without such interconnection;
8. Insurance Policy Increases – Eliminated the provision that allowed Cities/County to require the cable operator to increase insurance coverage amounts;
9. Extension of Cable System – Eliminated requirement procedures and cost sharing on line extensions; and
10. Cable System Requirements – Streamlined provisions that addressed the type and character of the cable operator’s cable system. Since there is competition in our Cities/County, we eliminated such provisions as we believe competition will drive the cable operators to offer better and improved cable systems and programming.
11. Rights-of-way – In prior franchise agreements, rights-of-way provisions were comprehensive and detailed. We have since streamlined such provisions per instructions received from the Mission Group, but with the understanding that Cities/County can adopt rights-of-way ordinances or regulations should they chose to do so. Also, any rights of way ordinances presently in effect will prevail over the provisions of the Franchise Agreement.

C. Adoption Process – Next Steps:

As we go through the adoption process, some of our steps to accomplish include:

- Providing a model ordinance to our communities for adoption.
- The model ordinance will be modified to reflect the appropriate government name and ordinance requirements adopted by the Cities/County and such ordinance will be provided in electronic format.
- Provide each TBNK Member Government with two (2) execution copies of the Proposed Spectrum Franchise Agreement for the signature of the Mayor and attestation of the clerk.
- Upon adoption of the Franchise Agreement by whichever City is the last to do so, we will establish that date as the Effective Date of the Franchise and execute a Commencement Agreement with Spectrum stating such.
- TBNK will collect from the TBNK Member Governments both executed copies of the Proposed Spectrum Franchise Agreement and secure the signatures of Spectrum.
- Once that is accomplished, we will distribute fully executed documents to all TBNK Member Governments.