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July 6, 2006

Hon. Jaclyn A. Brillling, Secretary  
Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

**Subject: Case 06-V-0784  
Petition of Comcast of New York, LLC  
Pursuant to PSL § 222, For Approval of the Renewal by Option of  
Cable System Franchise and Certificate of Confirmation  
For the Town of Beekman, Dutchess County**

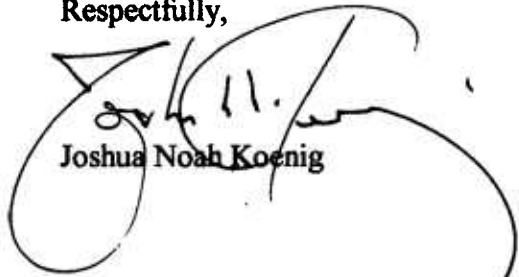
Dear Secretary Brillling:

Please find enclosed an original and three copies of the petition of Comcast of New York, LLC ("Comcast Cable"), pursuant to PSL § 222, for approval of the renewal by option of the cable service franchise and of the State certificate of confirmation for the continuation of service in the town of Beekman (Dutchess County).

A copy of the petitioner's corporate certification was filed last year in support of the related transfer approval petition in Case 05-V-1533. A copy of this petition is being served upon the subject town, and notice of it will be published in a local newspaper as required by the Commission's rules.

Thank you for your assistance regarding this matter. If you have any comments or inquiries please contact me.

Respectfully,

  
Joshua Noah Koenig

Enclosures

cc: Town of Beekman  
Mr. John Figliozzi, PSC  
Mr. Daniel Glanville, Comcast NE

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RECEIVED  
PUBLIC SERVICE  
COMMISSION  
EXEC-FILES-ALBANY

Before the

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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In the matter of )  
the Application of )  
Comcast of New York, LLC ) Case 06-V-0784  
for Approval of the Renewal By Option )  
of its Cable Service Franchise for the )  
Town of Beekman (Dutchess County), New York, )  
Pursuant to Public Service Law Section 222 )

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**APPLICATION of  
COMCAST OF NEW YORK, LLC**

**For Approval of Renewal By Option  
Of Cable Service Franchise  
For the  
Town of Beekman (Dutchess County), New York**

1. Now comes Comcast of New York, LLC ("Comcast" or "Applicant"), the owner and operator of the cable system which provides cable service to the residents of the Town of Beekman in Dutchess County ("Town"), Federal Communications Commission CUID # NY1454, and to the residents of other localities in the State of New York, by its attorney, and hereby respectfully presents this application to the Public Service Commission ("Commission") pursuant to Public Service Law ("PSL") Section 222, and Sections 891.3 and 897 of the Commission's Cable Service Rules (16 NYCRR Chapter VIII), for the Commission's approval of the optional renewal of its cable service franchise for the Town of Beekman ("Application"), and for the renewal of the Commission's Certificate of Confirmation of this franchise.

2. The current cable service Franchise Renewal Agreement for the town of Beekman, originally granted in the name of Carmel Cable Television, Inc., was approved by the Beekman Town Board by Resolution dated June 20, 2005 ("*Agreement*"), and provided for a term of ten (10) years and an optional extension of an additional five (5) years. The current preliminary ten-year franchise term is described as ending on May 4, 2008 (ten years from the expiration of the prior franchise term).<sup>1</sup> The additional five-year term allowed by the Franchisee's option would last until May 4, 2013.<sup>2</sup> A copy of this *Agreement* is appended hereto as Exhibit A. This *Agreement* and the current franchise renewal term was approved and certified by this Commission by its *Order Approving Renewal* in Case 98-V-0486 (Issued and Effective June 1, 2006), appended hereto as Exhibit B.

3. Acquisition of this cable system by Comcast and a transfer of the subject franchise for the town of Beekman were approved by the New York State Public Service Commission ("Commission") in March of this year. See, *Order Approving Transfer* in Case 05-V-1533, March 17, 2006), appended hereto as Exhibit C.

4. Pursuant to Section 891.3 of the Commission's rules, the Applicant Franchisee gave formal notice to the Town by letter dated June 21, 2006, of its exercise of its option to extend the franchise term through the final five-year period specified in the 2005 Franchise Renewal Agreement, or until the prescribed franchise expiration date

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<sup>1</sup> *Agreement* at §10.2, p.18.

<sup>2</sup> *Id.*, at §10.3, p. 18.

of May 4, 2013.<sup>3</sup> A copy of that notice letter is appended hereto as Exhibit D. The subject Franchise Renewal Agreement authorized by the Town Board in June 2005 was drafted in substantial compliance with the Commission's applicable franchise standards (Part 895). The Applicant Franchisee has notified the Town that the Franchisee undertakes to treat as binding, fully applicable and enforceable, all of the conditional franchise interpretations noted in the Commission's recent Order Approving Renewal in Case 98-V-0486 (*see*, Franchisee's notice of term extension, appended as Exhibit D).

5. Corporate certification relating to Comcast of New York, LLC has been filed with the Commission in support of the transfer approval in Case 05-V-1533.

6. A true copy of this Application will be served upon the town of Beekman, and proof of such service shall be filed with the Commission. Notice of the filing of this Application will be published in a newspaper of local distribution in the Beekman area, consistent with the requirements of Section 897 of the Commission's Cable Service Rules, and proof of such publication will be filed with the Commission as soon as practical.

7. Comcast is an experienced operator of cable service systems in several locations in the State and its Comcast affiliates have similar experience in other parts of the country. It is very capable of fulfilling its obligations under this franchise and of providing excellent cable services to the subscribers of this system, consistent with the

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<sup>3</sup> This Notice of Renewal was delivered to the Town on June 23, 2006. A copy was served on the Commission at that time by mail.

rules of this Commission. Comcast hereby confirms that in the operation of this cable system it will continue to comply with all applicable State, federal and local laws and regulations.

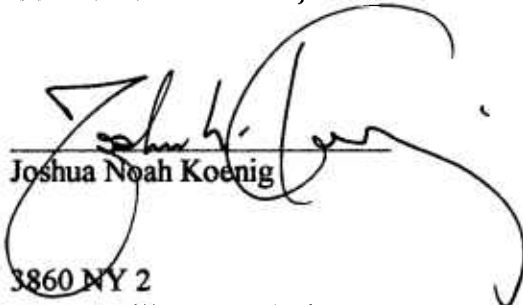
8. WHEREFORE, Applicant, Comcast of New York, LLC, respectfully requests that the Public Service Commission grant an order approving the renewal and five-year extension of the cable service franchise granted to it by the town of Beekman (Dutchess County), for a new term period to expire May 4, 2013, and authorizing an extension of the Commission's Certificate of Confirmation of such franchise, pursuant to the provisions of Section 222 of the Public Service Law.

Respectfully submitted,

Dated: July 6, 2006

Comcast of New York, LLC

By:

  
Joshua Noah Koenig

3860 NY 2  
Cropseyville, New York 12052  
(518) 469-9238

Daniel M. Glanville  
Director of Government and Community Relations  
Comcast Connecticut / West Region  
3303 Main Street  
Springfield, MA 01107

## List of Exhibits

- Exhibit A     *Franchise Renewal Agreement*, between the Town of Beekman and Carmel Cable Television, Inc., approved by the Beekman Town Board by Resolution dated June 20, 2005.
- Exhibit B     *Order Approving Renewal* in Case 98-V-0486, June 1, 2006.
- Exhibit C     *Order Approving Transfer* in Case 05-V-1533, Public Service Commission, March 17, 2006.
- Exhibit D     Letter Notification to the Town of Beekman, Exercising the Franchise Term Extension Option, June 21, 2006, Kevin Casey, Division President.

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**EXHIBIT A**



A FRANCHISE RENEWAL AGREEMENT

between the

TOWN OF BEEKMAN, DUTCHESS COUNTY, STATE OF NEW YORK

And CARMEL CABLE TELEVISION, INC. d/b/a SUSQUEHANNA  
COMMUNICATIONS, SUCESSOR TO RCN TELECOM SERVICES, INC.  
(f/k/a RCN OF SOUTHEAST NEW YORK, INC.)

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## **A FRANCHISE AGREEMENT**

### **Renewing a Non-Exclusive Cable Television and Cable Communications**

**Franchise by and between the Town of Beekman, Dutchess County,  
State of New York and Carmel Cable Television, Inc. d/b/a Susquehanna  
Communications, successor to RCN Telecom Services, Inc.**

**(f/k/a RCN of Southeast New York, Inc.)**

This is an agreement (the "Agreement") by and between the Town of Beekman, New York (the Municipality"), duly organized under the laws of the State of New York, with its principal place of business at Town Hall, 4 Main St., Poughquag, N.Y. 12570, County of Dutchess, State of New York and Carmel Cable Television, Inc. d/b/a Susquehanna Communications, successor to RCN Telecom Services, Inc. (f/k/a RCN of Southeast New York, Inc.) ("SusCom"), with its principal place of business at 21 Old Route Six, Carmel, New York 10512-2107, and duly authorized to do business in the State of New York.

WHEREAS, the Municipality has the requisite authority to grant cable television and cable communications franchises and renewals permitting and regulating the use of its streets, rights of way, and public grounds; and

WHEREAS, SusCom has petitioned the Municipality for renewal a franchise previously secured by RCN, its predecessor; and

WHEREAS, the Municipality and SusCom have complied with all Federal and State-mandated procedural and substantive requirements pertinent to this franchise

renewal; and

WHEREAS, the Municipality has approved, after consideration in a full public proceeding affording due process, the character, financial condition and technical ability of SusCom to continue to provide such services; and

WHEREAS, during said public hearings and proceedings, SusCom's commitments, as set out in this franchise renewal, for owning, constructing, maintaining, improving and operating the cable television and cable communications system were considered and found adequate and feasible; and

WHEREAS, this franchise renewal, as set out below, is non-exclusive and complies with the franchise standards of the New York State Public Service Commission, as successor to the New York State Commission on Cable Television.

NOW, THEREFORE, the Municipality and SusCom agree as follows:

#### 1.0 DEFINITION OF TERMS

- 1.1 "Area Outage": a total or partial loss of video, audio, data or other signals carried on the cable television system in a location affecting two or more subscribers.
- 1.2 "Cable Communications System" (also herein referenced as "Cable System" or "System"): the facility which is the subject of this franchise consisting, without limitation, of antennae, wire, fiber optic and coaxial cable, amplifiers, towers, microwave links, wave guides, optical fibers, nodes, optical transmitters and receivers, satellite receive/transmit antennae and/or other equipment designed

and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electronic, electromechanical, optical or electrical signals to multiple subscribers within the Municipality.

- 1.3 "Cable Service": the transmission to subscribers of (a) video programming (meaning programming provided by, or comparable to programming provided by, a television broadcast station); and (b) other programming (meaning information that a cable operator makes available to all subscribers generally), including subscriber interaction utilizing the addressable capacity and capability of the Cable System.
- 1.4 "Capability": the ability of the Franchisee to activate a described technological or service aspect of the cable communications system without delay.
- 1.5 "FCC": the Federal Communications Commission.
- 1.6 "Franchise Fee": the percentage, as specified in this franchise, of Franchisee's "Gross Revenues" remitted to the Municipality in exchange for the rights granted pursuant to the franchise.
- 1.7 "Franchisee": Carmel Cable Television, Inc. d/b/a Susquehanna Communications, successor to RCN Telecom Services, Inc. (f/ka RCN of Southeast New York, Inc.) and its lawful successors and assigns.
- 1.8 "Material provision": a clause within this franchise, as further described herein, deemed critical to the balance of the overall agreement between the Municipality and the Franchisee embodied in this franchise, wherein violation of said clause by the Franchisee, without redress, or the effective elimination of

said clause from this franchise by an act of Congress or judicial decision may result in or require, at the reasonable discretion of the Municipality, the revocation or renegotiation of this franchise, in whole or in part.

- 1.9 "Non-material provisions": All clauses not deemed to constitute a "material provision", as defined and described herein, but constituting obligations upon the Franchisee, nonetheless.
- 1.10 "NYSPSC": the New York State Public Service Commission or any successor State agency with similar responsibilities.

## PART I -- THE FRANCHISE

### 2.0 GRANT OF FRANCHISE

- 2.1 The Franchisee is hereby granted, subject to the terms and conditions of the franchise, the right, privilege and authority to construct, own, extend, operate and maintain a Cable Communications System within the streets, alleys, and public ways of the Municipality.
- 2.2 The Franchisee may erect, install, extend, repair, replace and retain in, on, over, under or upon, across and along the public streets, alleys, and ways within the Municipality, such wires, cables, optical fibers, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the Cable Communications System in conformance with the Municipality's specifications.

2.3 Nothing in this franchise shall be deemed to waive the requirements of the various codes and ordinances of the Municipality regarding permits, fees to be paid, or manner of construction.

2.4 No privilege or power of domain shall be deemed to be bestowed by this franchise other than that conferred pursuant to statutory law.

### 3.0 NON-EXCLUSIVE NATURE OF THIS FRANCHISE

3.1 This franchise shall not be construed as any limitation upon the right of the Municipality to grant to other persons rights, privileges or authorities similar to the rights, privileges and authorities herein set forth, in the same or other streets, alleys or other public ways or public places. The Municipality specifically reserves the right to grant at any time such additional franchises for this purpose as it deems appropriate.

### 4.0 TERRITORIAL LIMITS

4.1 The rights and privileges awarded pursuant to this franchise shall relate to and cover the entire present territorial limits of the Municipality and any area annexed thereto during the term of this franchise.

### 5.0 FRANCHISE SUBJECT TO LAW AND REGULATION

5.1 All terms and conditions of this franchise are subject to and governed by Federal and State law, and to the rules and regulations of the FCC and the NYSPSC.



- 5.2 All terms and conditions of this franchise are subject to the approval of the NYSPSC.
- 5.3 All rights and privileges granted hereby are subject to the police power of the Municipality to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the Municipality is the right to adopt, in addition to the provisions of this franchise and existing laws, ordinances and regulations, such additional laws and regulations as it may find necessary in the exercise of its police power; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this franchise.
- 5.4 Within sixty (60) days of the effective date of this franchise, the Franchisee shall file a request for certification of this franchise with the NYSPSC and shall provide the Municipality with evidence of such filing.
- 5.5 The clerk or other person as designated by the Municipality will be responsible for the continuing administration of the rights and interests of the Municipality in this franchise and such person will be the addressee for all communications of the Franchisee with the Municipality, unless the Franchisee is otherwise directed.

#### 6.0 CONDITIONS ON USE OF STREETS AND PUBLIC GROUNDS

- 6.1 Any work which requires the disturbance of any street shall not be undertaken without prior notification to and approval of the Municipality.
- 6.2 No poles, underground conduits or other wire-holding structures shall be

erected by the Franchisee without the approval of the appropriate municipal official through established permit procedures. to the extent that same now or thereafter may exist, with regard to the location, height, type and other pertinent aspect of such wire-holding facilities; provided, however, that such approval may not be unreasonably withheld, conditioned, or delayed.

- 6.3 All structures, lines and equipment erected by the Franchisee within the Municipality shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places, and to cause minimum interference with rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Existing poles, posts and other structures of the electric power company or any telephone company or any other public utility which may be available to the Franchisee shall be used to the extent practicable in order to minimize interference with travel. Where both power and telephone utilities are placed underground or where subdivision regulations or deed restrictions require, the Franchisee's cable also shall be placed underground.
- 6.4 The Franchisee shall have the right and authority to remove, trim, cut and keep clear trees and bushes upon and overhanging all streets, alleys, easements, sidewalks and public places in the Municipality to the minimum extent necessary to keep same clear of poles, wires, cables, conduits and fixtures.
- 6.5 In the case of any disturbance of pavement, sidewalk, driveway or other surfacing the Franchisee shall, at its own cost and expense in the manner provided and approved by the municipal official responsible for monitoring the

Franchisee's construction activities, and within 30 days, replace and restore such pavement, sidewalk, driveway or surfacing so disturbed to as good a condition as existed before said work commenced. In the event that any municipal property is damaged or destroyed by the Franchisee, such property shall be repaired or replaced by the Franchisee within (30) days and restored to as good a condition as existed before said work was commenced.

6.6 All structures and all lines, equipment and connections in, over, under and upon streets, sidewalks, alleys and public ways and places of the Municipality, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

6.7 In exercising rights pursuant hereto, the Franchisee shall not endanger or interfere with the lives of persons nor interfere with any installations of the Municipality, any public utility serving the Municipality, or any other person permitted to use the streets and public grounds, nor unnecessarily hinder or obstruct the free use of the streets and public grounds. The grant of this franchise does not establish priority for use over other present, future permit, or franchise holders, or the Municipality's own use of the streets and public grounds. Subject only to the superceding requirements of Federal and State law, the Municipality shall at all times control the distribution of space in, over, under or across all streets and public grounds that are occupied by the Cable Communications System. All rights granted for the construction and operation of the Cable Communications System shall be subject to the continuing right of the Municipality to require such reconstruction, relocation, change or discontinuance

of the facilities and equipment used by the Franchisee in the streets, alleys, avenues and highways of the Municipality, as shall, in the reasonable judgement of the Municipality, be necessary in the public interest. The Municipality shall give the Franchisee one hundred twenty (120) days prior written notice of its requirement for reconstruction, relocation, change or discontinuance of the facilities and equipment hereunder.

6.8 Nothing in this franchise shall hinder the right of the Municipality or any governmental authority to perform or carry on, directly or indirectly, any public works or public improvements of any description. Should the Cable Communications System in any way interfere with the construction, maintenance or repair of such public works or public improvement, the Franchisee shall, at its own cost and expense, protect or relocate its Cable Communications System, or part thereof, as reasonably directed by the Municipality, with prior written notice being afforded.

6.9 Upon request of a person holding a building or moving permit issued by the Municipality, the Franchisee shall temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, raising or lowering of wires or other property shall be paid in advance to the Franchisee by the person requesting same. In such cases, the Franchisee shall be given not less than five (5) working days prior written notice in order to arrange for the changes required.

## 7.0 ASSIGNMENT OR TRANSFER OF FRANCHISE

- 7.1 No sale or assignment of the Franchisee, the System, or the franchise granted herein shall occur without the prior written consent of the Municipality, which shall not be unreasonably withheld, conditioned or delayed, except that such franchise may be assigned to a wholly-owned subsidiary of the Franchisee or an affiliate of the Franchisee, including its parent company, without consent. For purposes of this Agreement, the term "affiliate" shall be construed as any company in the SusCom Corporation family of companies, owned, controlled or under common ownership and control with the Franchisee.
- 7.2 At least sixty (60) days before a proposed change of control is scheduled to become effective, or such longer period of time as may be required by relevant law, the Franchisee shall petition in writing for the Municipality's written consent of such proposal.
- 7.3 In determining whether to approve said petition, the Municipality may consider the following:
- a) experience of proposed assignee or transferee (including conducting an investigation of proposed assignee or transferee's service record in other communities);
  - b) qualifications of proposed assignee or transferee;
  - c) legal integrity of proposed assignee or transferee;
  - d) financial ability and stability of the proposed assignee or transferee;
  - e) the plans of the proposed assignee or transferee as to operation and maintenance of the Cable Communications System; and

f) the corporate connection, if any, between the Franchisee and proposed assignee or transferee.

7.4 Relevant portions of the executed sales agreement or a functionally equivalent instrument between the Franchisee and proposed transferee or assignee shall be provided to the Municipality, upon request of the latter. For purposes of this Agreement, "relevant portions" shall be defined as those portions not dealing with the consideration paid by assignee to assignor and the manner and conditions thereof. Relevant portions shall also not include any proprietary data that might be incorporated within or appended to the sales agreement.

7.5 In the event that the Municipality refuses to grant the aforementioned petition, it shall set forth, in writing by municipal resolution, the specific reasons for its decision.

#### 8.0 DEFAULT, REVOCATION, TERMINATION, ABANDONMENT

8.1 Subject to superceding requirement of State and/or Federal law, the Municipality may revoke this franchise and all rights of the Franchisee hereunder for any of the following reasons:

a) the Franchisee fails, after sixty (60) days prior written notice from the Municipality, to comply or to take reasonable steps to comply with a material provision or material provisions of this franchise as defined in this Agreement. Notwithstanding the above, when the Franchisee is once again in compliance, the right to revoke this franchise shall no longer exist with respect the condition that precipitated the notice; or

- b) the Franchisee takes the benefit of any present or future insolvency statute, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy, files a petition or answer seeking an arrangement or reorganization or readjustment of its indebtedness under Federal bankruptcy laws or under any other law or statute of the United States or any state thereof, consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property, is adjudged bankrupt by order of decree of a court, or an order is made approving a petition filed by any of its creditors or stockholders seeking reorganization or readjustment of its indebtedness under any law or statute of the United States or of any state thereof; or
- c) the Franchisee attempts or does practice a fraud or deceit in its securing of this franchise; or
- d) the Franchisee practices fraud or displays repeated negligence in the accurate reporting of information to the Municipality, including but not limited to information pertaining to the Franchisee's calculation of the Municipality's Franchise Fee; or
- e) the Franchisee fails to pay any legally owed taxes or fees due the Municipality, unless the amount of such payment is part of a good faith dispute, in which case the payments in question will be put in escrow until the dispute is settled; or
- f) the Franchisee fails to maintain adequate insurance as specified in this franchise; or
- g) the Franchisee fails to obtain the prior approval of the Municipality for sale,

transfer or assignment of the franchise; or

h) the Franchisee fails to provide and maintain the Cable Communications System as specified in Section 11.0 herein.

8.2 Notwithstanding the above, no revocation shall be effective unless and until the Municipality shall have adopted a resolution setting forth the cause and reason for the revocation and the effective date thereof, which resolution shall not be adopted until after the expiration of sixty (60) days prior written notice to the Franchisee and an opportunity for the Franchisee to be fully and fairly heard.

8.3 In no event, and notwithstanding any contrary provision in this section or elsewhere in this franchise, shall this Agreement be subject to revocation or termination, or the Franchisee be liable for non-compliance with or delay in the performance of any obligation hereunder, where its failure to cure or to take reasonable steps to cure is directly attributable to formal U.S. declaration of war, government ban on the affected obligation, U.S. government sponsored or supported embargo, civil commotion, strikes or work stoppages (except those against the Franchisee and its affiliates), fires, acts of terrorism and any acts of God or of nature or other events beyond the immediate control of the Franchisee.

8.4 In the event of such circumstances as described in Section 8.3, the Franchisee may be excused from its obligations herein during the course of any such events or conditions, provided that it takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with the franchise without unduly endangering the health, safety,



and integrity of the Franchisee's employees or property, or the health, safety, and integrity of the public, public rights-of-way, public property, or private property.

8.5 In the event this Agreement is terminated or not renewed at the end of its term, the Franchisee, at its sole option, may elect, as to all or any part of the Cable System, to (i) remove its supporting structures, poles, transmission and distribution systems and other appurtenances comprising the Cable System; (ii) sell the Cable System; or (iii) abandon it to the Municipality. If the Franchisee elects to remove all or any portion of the Cable System, it shall restore all disturbed areas to their original condition, reasonable wear and tear excepted.

8.6 The Franchisee shall not abandon any service or portion thereof required to be provided pursuant to the terms of this franchise without the prior written consent of the Municipality.

## 9.0 SEVERABILITY

9.1 With the exception of material provisions as defined in this section, should any other provision of this franchise be held invalid by a court of competent jurisdiction, or rendered a nullity by Federal or State legislative or regulatory action, the remaining provisions of this franchise shall remain in full force and effect.

9.2 For the purposes of this section, material provisions are deemed to be those establishing the Municipality's right to:

a) collect from the Franchisee a Franchise Fee of up to five percent (5%) of the Gross Annual Revenues as defined in Section 17.0, less any amount

- payable by the Franchisee to the NYSPSC;
- b) require that the Franchisee maintain and improve the Cable Communications System in accordance with Section 11.0;
  - c) required public, educational and government access to the Cable Communications System in accordance with Section 16.0;
  - d) establish reasonable consumer protection provisions in accordance with Part V;
  - e) evaluate and approve transfers and assignments of the Cable Communications System as defined in Section 7.0 of this franchise.

#### 10.0 EFFECTIVE DATE AND TERM

- 10.1 The effective date of this Agreement shall be the date this franchise is executed.
- 10.2 The term of this Agreement shall be ten (10) years from the date of expiration of the prior franchise agreement.
- 10.3 Provided that Franchisee is in substantial compliance with this Agreement and all relevant rules and regulations related thereto, Franchisee is hereby given an option to renew this franchise for one additional five (5) year period upon notice given to the Municipality of Franchisee's intention to exercise such option, provided such notice is given in accordance with § 891 (Renewal Rules) of the NYSPSC or as such regulations may be amended.
- 10.4 Prior to expiration of this franchise, including any renewal thereof, the Municipality and Franchisee agree to negotiate in good faith toward a renewal of this franchise upon terms which are then commercially reasonable.

## PART II -- THE SYSTEM

### 11.0 SYSTEM SPECIFICATIONS

11.1 Subject to FCC and NYSPSC regulations, policies and standards, and subject to the Cable Communications System's capability of providing the services and facilities prescribed in this franchise, the technical design of the Cable Communications System serving the Municipality shall be at the option of the Franchisee and as further described in this Part II.

### 12.0 SYSTEM PERFORMANCE STANDARDS

12.1 All signals carried by the Cable Communications System shall be transmitted with a degree of technical quality not less than that prescribed by rules of the Federal and State regulatory agencies having jurisdiction.

12.2 Operation of the Cable Communications System shall be such that no interference will be caused to broadcast and satellite television and radio reception, telephone communication, amateur radio communication, aircraft and emergency communications, or other similar installation or communication within the franchise area.

### 13.0 SYSTEM UPGRADE, MAINTENANCE AND REPAIR

13.1 The Franchisee shall establish and adhere to maintenance policies which guarantee delivery of service to subscribers at or above the performance standards set forth herein.

13.2 When interruption of service is necessary for the purpose of making repairs,

adjustments or installations, the Franchisee shall do so at such time and in such manner as will cause the least possible inconvenience to subscribers. Unless such interruption is unforeseen or immediately necessary, the Franchisee shall give reasonable notice thereof to subscribers.

- 13.3 The Franchisee shall have a toll-free telephone number so that requests for repairs or adjustments can be received by a live customer service representative at any time, twenty-four (24) hours per day, seven (7) days per week.
- 13.4 The response of the Franchisee to such requests shall be in accordance with Federal and State law and regulation at a minimum, and at all times commensurate with the Franchisee's responsibility to maintain service to each subscriber with the degree of quality specified herein.
- 13.5 Within one (1) year following execution of this renewed Agreement, Franchisee will upgrade the System to conform in all material respects to the System Upgrade Specifications outlined in Attachment A hereto.

### **PART III -- THE SERVICE**

#### **14.0 GENERAL SERVICE OBLIGATION**

- 14.1 The Franchisee shall provide cable television and cable communications services upon the lawful request of any and all persons who are owners or tenants of residential or commercial properties, which can technically be serviced from Franchisee's System.

14.2 The Franchisee agrees to provide service to line extension areas in accordance with the prevailing Rules of the NYSPSC.

- 1) Primary service area shall include each of the following within the franchised area:
  - a) those areas where a cable television plant has been built without a contribution in aid of construction by subscribers;
  - b) those areas, if any, where Franchisee is obligated by the terms of its franchise to provide Cable Service without a contribution in aid of construction by subscribers;
  - c) any area adjoining the primary service area having a density of 35 homes per linear mile or density equal to the average of dwelling units per linear mile of cable in areas described in (a) and (b) above, whichever is lower.
- 2) The Franchisee agrees that Cable Service will not be denied to potential subscribers residing in line extension areas who are willing to contribute to the cost of construction in accordance with the following formula:

$$\frac{C}{LE} - \frac{CA}{P} = SC$$

C equals the cost of construction of new plant; CA equals the average cost of construction per mile in the primary service area; P equals the lower of 35 or the average number of dwelling units per linear mile of cable in areas described in 14.2.1(a) and (b) of this section; LE equals the number of dwelling units requesting service in the line extension area; and SC equals subscriber contribution in aid of construction in the line

extension area.

- a) Whenever a potential subscriber located in a line extension area requests service, the Franchisee shall, within thirty (30) days of the request, conduct a survey to determine the number of potential subscribers located in the line extension areas and shall inform each potential subscriber of the contribution in aid of construction which may be charged. Such request shall be in writing. The Franchisee may require prepayment of the contribution in aid of construction. The Franchisee shall apply for pole attachment licenses within thirty (30) days of its receipt of the contribution in aid of construction. Cable Services must be made available to those who made a contribution in aid of construction within ninety (90) days from the receipt of pole attachment agreements by Franchisee.
- b) The contribution in aid of construction shall be in addition to the installation rate set forth in the franchise.
- c) During a five-year period commencing at the completion of a particular line extension, pro-rata refund shall be paid to previous subscribers as new subscribers are added to the particular line extension; the amount of the refund, if any, shall be determined by application of the formula each time a new subscriber is added. The refunds shall be paid annually to subscribers or former subscribers entitled to receive them.

- 3) Cable Service shall be provided to any subscriber residing in any line extension area who demands service and who is located within one hundred fifty (150) feet of aerial feeder cable, and the charge for the installation for any subscriber so situated will not be in excess of the installation charge for any subscriber in the primary service area.

#### 15.0 MUNICIPAL AND SCHOOL SERVICE

- 15.1 The Franchisee shall provide, upon request from the Municipality, free standard aerial installation (up to two-hundred fifty (250) feet) and free limited basic Cable Service to police stations, fire stations, municipal buildings, public schools and public libraries designated on Attachment B hereto.
- 15.2 Service as provided under this section shall be limited to one (1) central location situated within the buildings listed in Attachment B. The cost of any internal networking within a specific building shall be borne by the public organization functioning within those facilities.

#### 16.0 PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS

- 16.1 Notwithstanding 16 NYCRR §895.4, Franchisee shall, upon request from the Municipality, replay videotapes provided by the Municipality of its meetings and other community events, doing so on the designated channels of its Cable Communications System available to all subscribers and commonly used for meeting notices and similar community information.

## PART IV -- FRANCHISEE'S OBLIGATIONS TO THE MUNICIPALITY

### 17.0 FRANCHISE FEE

- 17.1 As compensation for the rights and privileges granted by this Agreement, the Franchisee shall pay to the Municipality an annual amount equal to five percent (5%) of the Franchisee's Gross Annual Revenues attributable to the operation of the Cable System by the Franchisee within the Municipality. "Gross Annual Revenues" shall mean any and all compensation received directly or indirectly by the Franchisee from its operations within the Municipality and attributable to receipt of Cable Services, including but not limited to sums received from subscribers in payment for programs received and/or transmitted, advertising revenue and any other moneys that constitute income in accordance with the system of accounts approved by the NYSPSC. Gross Annual Revenues shall not include any taxes on services furnished by the Franchisee which are imposed directly on any subscriber or user by the State, Municipality, or other governmental unit and which are collected by the Franchisee on behalf of said governmental unit. To the extent that cable modem service is finally determined by a court of competent jurisdiction to be other than "cable service", it is specifically excluded from the definition of Gross Annual Revenues.
- 17.2 Payments of the franchise fee shall be computed semi-annually for the preceding half year, as of January 31 and July 31, and semi-annual payments shall be due and payable no later than thirty (30) days after the stated dates for computation. Each payment shall be accompanied by a report, certified under



oath by an authorized representative of the Franchisee, showing the basis for the computation and such other relevant facts as the Municipality may require.

17.3 The five percent (5%) franchise fee shall begin to be collected by Franchisee thirty (30) days after the date this Agreement is approved by the NYSPSC.

#### 18.0 INDEMNITY AND INSURANCE

18.1 The Franchisee shall purchase and maintain the following levels of general liability insurance during the term of this franchise, which will protect the Franchisee and the Municipality from any claims against either or both that may arise directly or indirectly as a result of the franchise:

- a) Personal injury or death: \$ 2,000,000 per person  
\$ 5,000,000 per occurrence
- b) Property damage: \$ 2,000,000 per occurrence

18.2 The Franchisee shall indemnify and hold harmless the Municipality, its officers, employees and agents from and against all losses and claims, demands, payment, suits, actions, recoveries, reasonable attorneys' fees therein and judgments of every nature and description, resulting from bodily injury, property damage or personal injury, brought or recovered, by an act or omission of the Franchisee, its agents or employees, in the construction, operation, maintenance, service or repair of the Cable Communications System or any portion thereof, or of any failure to comply with any law, ordinance or regulation in any material respect or by reason of any suit or claim for royalties, license fees or infringement of patent rights arising from the Franchisee's performance

under this franchise.

18.3 The liability insurance policy or appropriate evidence thereof, i.e., a Certificate of Insurance, shall name the Municipality as an additional insured.

18.4 All such Franchisee insurance policies and certificates of insurance shall not be cancelled until at least thirty (30) days prior written notice has been given to the Municipality.

18.5 Not later than sixty (60) days after the effective date of this franchise, the Franchisee shall furnish the Municipality with appropriate proof of insurance.

#### 19.0 RATES AND CHARGES

19.1 Rates and charges imposed by the Franchisee for Cable Service shall be subject to the approval of the Municipality, the NYSPSC, and the FCC, but only to the extent consistent with then-prevailing applicable State and Federal law. Rates for any Cable Service for which approval is required shall be deemed part of the franchise whether or not the same is specifically set forth herein.

19.2 The Franchisee shall comply with all notice requirements contained in applicable Federal and State law and the supporting regulations pertaining to rates and charges for cable television service.

19.3 The Franchisee shall not unfairly discriminate against individuals or classes of individuals in the establishment and application of its rates and charges for service.

19.4 The Franchisee shall afford qualified residents of the Municipality age 65 and older a ten percent (10%) discount on limited basic service. Residents qualifying

for such discount shall make application on forms provided by the Franchisee.

- 19.5 At all times during the term of this Agreement and any renewal thereof, Franchisee agrees that it will not establish or impose rates on its subscribers in the Municipality for limited basic Cable Service that are any higher than the rates for limited basic Cable Service paid by Franchisee's subscribers in any contiguous municipality in Dutchess County that is served by Franchisee.

#### 20.0 EMPLOYMENT PRACTICES

- 20.1 The Franchisee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex, or on any other basis prohibited by applicable Federal and/or State law.

#### 21.0 MUNICIPALITY'S RIGHT TO INQUIRE ABOUT AND INSPECT SYSTEM

- 21.1 The Municipality may make reasonable inquiries related to its regulatory responsibilities concerning the management and operation of the Cable Communications System by the Franchisee. The Franchisee shall respond to such inquiries forthrightly and in a timely fashion.
- 21.2 Where repeated subscriber complaints cause the Municipality to question the reliability or technical quality of the Cable Service, the Municipality shall have the right and authority to test or require the Franchisee to test, analyze and report on the performance of the Cable Communications System. The

- Franchisee shall cooperate with the Municipality in performing such testing.
- 21.3 The Municipality shall have the right to inspect all construction or installation work performed subject to the provisions of this franchise, and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.
- 21.4 At all reasonable times and for the purpose of enforcement of this franchise, the Franchisee shall permit examination by any duly authorized representative of the Municipality of all cable facilities, together with any appurtenant property of the Franchisee situated within the Municipality and outside of the Municipality if it is utilized in the operation of the Cable System in place in the Municipality.
- 21.5 The Municipality may require that any tests performed at the Municipality's request be supervised or conducted by a Municipality designee, not an employee or agent of the Franchisee. The Franchisee shall reimburse the Municipality for the reasonable costs of such designee if the tests performed show that the quality of service is below the standards set forth in this franchise.

#### 22.0 MUNICIPALITY'S RIGHT TO INSPECT FRANCHISEE'S BOOKS AND RECORDS

- 22.1 To the extent not inconsistent with applicable privacy provisions contained in State or Federal law, the Municipality reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like material of the Franchisee, upon reasonable notice and during normal business hours.
- 22.2 Notice in excess of five (5) business days from receipt of written notice shall be

deemed "reasonable" for purposes of this section. Any such audit by the Municipality shall be at its expense unless such audit shall disclose an underpayment of more than five per (5%) of the total Franchise Fees payable during the period of the audit, in which case the Franchisee shall reimburse the Municipality the reasonable expenses of such audit.

- 22.3 If any of such maps or records are not kept by Franchisee in the Municipality, or upon notice the Franchisee is unable to provide the records in the Municipality, and if the Municipality shall determine that an examination of such maps or records is necessary or appropriate to the performance of the Municipality's responsibilities under this franchise, then all travel and maintenance expenses necessarily and reasonably incurred in making such examination shall be paid by the Franchisee unless such maps or records can be brought to the Franchisee's local office.

#### 23.0 REPORTS TO BE FILED BY FRANCHISEE WITH THE MUNICIPALITY

- 23.1 Upon request by the Municipality, the Franchisee shall file with the Municipality a copy of any non-privileged technical, operational or financial report that the Franchisee submits to the NYSPSC, the FCC or other governmental entities that concern, directly or indirectly, the Franchisee's operation of the Cable System in the Municipality.
- 23.2 Upon reasonable request by the Municipality, the Franchisee shall prepare and submit to the Municipality an annual report setting forth the physical miles of plant construction and plants in operation within the Municipality during the

Franchisee's previous fiscal year.

23.3 The following system and operational reports shall be submitted annually to the Municipality:

- a) an annual summary of the previous year's activities including, but not limited to, subscriber totals for each category of service offered including number of pay units sold, new services offered, and the character and extent of the service rendered to other users of the System;
- b) an annual summary of service requests and complaints received and handled; and
- c) an annual summary of the number of area outages, the reasons therefore, and the action and time taken to restore service.

In lieu of a written summary and consistent with Section 30.0 of this Agreement, an authorized representative of the Franchisee may appear annually before the governing body of the Municipality to provide an oral presentation on each enumerated item.

23.4 The Franchisee shall furnish to the Municipality such additional information and records with respect to the operation, affairs, transactions or property of the Cable Communications System and the service provided to the Municipality under this franchise as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Municipality in connection with this franchise, as determined by the Municipality.

#### 24.0 MANDATORY RECORDKEEPING

- 24.1 The Franchisee shall comply, in every material respect, with all recordkeeping requirements established by Federal and State law and regulations.
- 24.2 The Franchisee shall maintain a full and complete set of plans, records and "as-built" maps showing the exact location of all cable installed or in use in the Municipality, exclusive of subscriber service drops.
- 24.3 All records, logs and maps maintained pursuant to this franchise shall be subject to inspection and copying by the Municipality or its designee during the Franchisee's regular business hours, upon reasonable request.

#### 25.0 MUNICIPAL EMERGENCIES

- 25.1 The Franchisee shall install and thereafter maintain for use by the appropriate authorities an Emergency Alert System ("EAS") meeting the minimum requirements of the FCC as found at 47 C.F.R. Part 11, and the NYSPSC as found at 16 NYCRR §896.5.

### PART V -- FRANCHISEE'S OBLIGATIONS TO SUBSCRIBERS AND CUSTOMER

#### SERVICE REQUIREMENTS

#### 26.0 COMPLIANCE WITH FEDERAL AND STATE LAW AND REGULATIONS

- 26.1 The Franchisee shall comply in all material respects with all applicable Federal and State laws and regulations, as well as with all industry codes of good practice, which regulate the Franchisee's customer service responsibilities.

## 27.0 EMPLOYEE IDENTIFICATION/TRAINING

27.1 Each employee of the Franchisee, including employees of contractors and subcontractors retained by the Franchisee, shall have identification that clearly identifies the employee as a representative of the Franchisee. Such identification shall be produced for inspection at the request of any resident of the Municipality whenever such employee is on the premises of any resident of the Municipality.

## 28.0 REQUIREMENT FOR ADEQUATE TELEPHONE SYSTEM

28.1 The Franchisee shall utilize a telephone system that meets the following minimum standards:

- a) The telephone system, under normal operating conditions, shall have at a minimum enough incoming lines and adequate staff to process incoming calls such that each call is answered in four (4) rings and no caller is placed on hold for more than thirty (30) seconds to reach a customer service representative 90% of the time.
- b) The rate of busy signals shall not exceed three percent (3%) in any one-month period.
- c) No more than twenty percent (20%) of all calls shall trigger an overflow device that rolls over calls on hold for more than thirty (30) seconds into a message recording system.

28.2 The Franchisee shall have the ongoing responsibility to insure that the telephone system utilized meets the customer service needs of its subscribers.



In evaluating the performance of the Franchisee under this section, the Municipality may review telephone systems in use in other jurisdictions by other cable companies, cable industry-established codes and standards, pertinent regulations in other jurisdictions, evaluations of telephone system performance commonly used in the industry, and other relevant factors.

#### 29.0 MISCELLANEOUS PROVISIONS

- 29.1 The Franchisee shall ensure that the subscriber's premises are restored to their original condition if damaged by the Franchisee's employees or agents in any respect in connection with the installation, repair, or disconnection of Cable Service.
- 29.2 Franchisee shall provide notice to each subscriber, at intervals of not more than one (1) year, of the procedure for reporting and resolving subscriber complaints.
- 29.3 The Municipality shall have the right to promulgate new, revised or additional consumer protection standards and penalties for the Franchisee's failure to comply therewith, consistent with the authority granted under Section 632 of the Cable Act (47 U.S.C. Sec. 552).

### PART VI -- GUARANTEE OF FRANCHISEE'S PERFORMANCE

#### 30.0 PERIODIC PERFORMANCE EVALUATION SESSIONS

- 30.1 Upon thirty (30) days notification by the Municipality, the Franchisee shall be prepared to participate in a meeting or series of meetings evaluating the

performance of the Franchisee under this franchise. The timing of such performance evaluation sessions shall be solely in the discretion of the Municipality; however, each such session shall not be initiated sooner than one (1) year after the close of a previously conducted performance evaluation session. All performance evaluation meetings shall be open to the public.

30.2 Topics which may be discussed at any performance evaluation session may include, but are not be limited to, System performance, compliance with this franchise and applicable law, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, and judicial and FCC filings.

30.3 The Franchisee shall notify its subscribers of all evaluation meetings by regular or continuous announcement on at least one (1) television channel of its Cable Communications System available to all subscribers and commonly used for meeting notices and similar community information. Such notice shall commence not less than five (5) days prior to the date of each evaluation meeting.

30.4 During review and evaluation, the Franchisee shall fully cooperate with the Municipality and shall provide such information and documents as the Municipality may reasonably need to perform its review.

30.5 Each performance evaluation session shall be deemed to have been completed as of the date the Municipality issues a final report on its findings.

### 31.0 GUARANTEE OF PERFORMANCE

31.1 Not later than thirty (30) days after the effective date of this franchise, the Franchisee shall obtain and maintain during the entire term of this franchise at its sole cost and expense, a performance bond of five thousand dollars (\$5,000), in a form satisfactory to the Municipality, to guarantee the faithful performance by the Franchisee of its obligations as provided in this franchise.

31.2 The performance bond shall provide the following conditions:

- a) There shall be recoverable by the Municipality from the principal and surety, any and all fines and penalties due to the Municipality and any and all damages, losses, costs, and expenses suffered or incurred by the Municipality resulting from the failure of the Franchisee to faithfully comply with the material provisions of this franchise and other applicable law; comply with all orders, permits and directives of any municipal agency or body having jurisdiction over its acts or defaults; pay fees due the Municipality; or pay any claims or liens due the Municipality.
- b) The total amount of the performance bond shall be forfeited in favor of the Municipality in the event:
  - (i) the Franchisee abandons the System at any time during the term of this franchise or any extension thereto; or
  - (ii) the Franchisee carries out an assignment or transfer without the express written consent of the Municipality as provided herein.

31.3 The performance bond shall be issued by a surety with an A-1 or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition (or such other


rating service as may be acceptable to the Municipality); shall be subject to the approval of the Municipality; and shall contain the following endorsement: "This bond may not be cancelled, or allowed to lapse, until sixty (60) days after receipt by the Municipality, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

31.4 Upon written application by the Franchisee the Municipality may, at its sole discretion and in writing, permit the amount of the bond to be reduced or waive the requirements for a performance bond. Reductions granted or denied upon application by the Franchisee shall be without prejudice to the Franchisee's subsequent applications or to the Municipality's right to require the full bond at any time thereafter. However, no application shall be made by the Franchisee within one (1) year of any prior application.

32.0 Approval

32.1 This Franchise is subject to the approval of the NYSPSC in accordance with its rules.

**TOWN OF BEEKMAN**

By:   
Name: John D. Adams  
Title: Supervisor


**(SIGNATURES CONTINUE ON NEXT PAGE)**

CARMEL CABLE TELEVISION, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

  
*James D Marshall*  
*President / COO*

## **Attachment A**

### **CARMEL CABLE TELEVISION, INC.**

#### **System Upgrade Overview**

##### **Network Description**

The SUSCOM network is being upgraded to support full two-way services. The bandwidth will be divided into three sections: an upstream bandwidth section from 5 to 40 MHz; an analog downstream section from 50 to 550 MHz; and a digital downstream section of 550 to 750 MHz. The system will be capable of providing telephone, analog and digital video and high-speed Internet capability with enough reserve bandwidth to accommodate future technologies and services, such as Video on Demand.

##### **Frequency Allocation**

The initial 35 MHz of upstream bandwidth will be used for upstream Internet communications, pay-per-view video requests, status monitoring of network equipment, and for other future services.

The 500 MHz of downstream analog bandwidth will provide up to 83 NTSC video channels. Each channel will be viewable with a standard cable-ready television set and will not require the use of a set-top converter box (with the exception of premium pay channels).

Premium channels have recently been added to the analog channel grouping to eliminate the need for a subscriber to immediately change his or her existing converter box to a newer converter box in order to receive these channels.

The downstream digital bandwidth allows for multiple services: digital video services (i.e., expanded basic channels, digital premium channels, digital pay-per-view channels), downstream Internet bandwidth, and reserve bandwidth for various future technologies. A digital set-top converter is required to view each of the digital video channels. A cable modem is required to establish connection from the customer's premises to the system's Internet gateway.

### **Network**

The system is being constructed as Hybrid Fiber Coaxial ("HFC") network architecture. The HFC network originates at the system headend or hubsite where video and data signals are combined and converted to an optical signal. This signal is then transmitted via fiber to optic receivers throughout the system. At the optic receiver (node), signals are converted back to an RF signal and amplified and transmitted throughout the distribution plant. The network distribution plant is comprised of coaxial cable, amplifiers and various splitting devices used to distribute RF signals throughout a nodal service area. A nodal service area typically will serve 200 to 350 homes.

**EXHIBIT B**



STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on May 17, 2006

COMMISSIONERS PRESENT:

William M. Flynn, Chairman  
Thomas J. Dunleavy  
Leonard A. Weiss  
Neal N. Galvin  
Patricia L. Acampora

CASE 98-V-0486 - Application of Carmel Cable Television, Inc. d/b/a Susquehanna  
Communications for Approval of the Renewal of its Cable Television  
Franchise in the Town of Beekman (Dutchess County).

ORDER APPROVING RENEWAL

(Issued and Effective June 1, 2006)

BY THE COMMISSION:

The above-captioned application was submitted by Carmel Cable  
Television, Inc. d/b/a Susquehanna Communications on July 15, 2005. A copy of the  
same was served on the Town of Beekman (Dutchess County) and all local notice  
requirements were met. No comments or objections have been received.

This application is governed by Section 222 of the Public Service Law,  
which requires our approval unless we find specific violations of law, Commission  
regulations or the public interest. Section 222(4) of the statute provides that we may  
approve the renewal contingent upon compliance with standards or conditions consistent  
with the public interest. Having reviewed the application in the context of applicable  
statutory and regulatory standards, we have determined to approve the renewal subject to  
conditions as hereinafter set forth.

The application seeks our approval of a franchise renewal by the Town of  
Beekman by Resolution of the Town Board dated June 20, 2005 after a duly noticed

public hearing held on May 5, 2003. The term of the renewal is for ten years measured from May 5, 1998 with a five-year option.

The renewal agreement substantially complies with Section 895.1 of the Commission's rules, except as noted below.

First, Section 895.1(d) of our rules requires that access to a cable system may not be denied to any group of potential residential subscribers based on income. It is a condition of our approval that Section 895.1(d) be deemed a part of the franchise agreement as if specifically set forth therein.

Second, Section 19 of the agreement, which pertains to rates, is not consistent with Section 895.1(e) of our rules, which requires that any rates and charges be subject to regulation in accordance with federal law. It will be a condition of this order that Section 895.1(e) be deemed a part of the renewal agreement as if specifically set forth therein.

Third, we wish to remind the parties that Section 895.1(r) of our rules requires that all applications for necessary approvals are to be filed with the Commission and the FCC within sixty days from the date the franchise is granted or amended. It will be a condition of this order that Section 895.1(r) be deemed a part of the renewal agreement as if specifically set forth therein.

Section 895.1(t) of the Commission's rules requires a provision in the franchise that any valid reporting requirements in the franchise may be satisfied with system-wide statistics except those related to franchise fees and customer complaints. It is a condition of our approval that Section 895.1(t) be deemed a part of the agreement as if specifically set forth therein.

Section 16 of the franchise agreement regarding public, educational and governmental access does not comply with Sections 895.1(f) and 895.4 of the Commission's rules. It will be a condition of our approval that Sections 895.1(f) and 895.4 be deemed a part of the renewal agreement as if specifically set forth therein.

Section 6.6 of the franchise agreement does not comply with Section 895.1(c) of the Commission's rule. The rule requires a provision in all franchise agreements "specifying that the franchisee shall construct and maintain its cable system

using materials of good and durable quality and that all work involved in the construction, installation, maintenance, and repair of the cable system shall be performed in a safe, thorough and reliable manner." It will be a condition of our approval that Section 895.1(c) be deemed a part of the renewal agreement as if specifically set forth therein.

The franchise agreement contains additional provisions not required by Part 895 of the Commission's rules. Our approval of these provisions will be granted to the extent that they pertain to the provision of cable service and are, and remain, consistent with Article 11, our regulations, policies, and orders and applicable federal statutes and regulations. In the event of an ambiguity in any such provision, or among separate provisions, the provision will be construed in the manner most favorable to the franchisor.

The Commission orders:

1. Pursuant to Section 222 of the Public Service Law and the rules and regulations of this Commission, the application of Carmel Cable Television, Inc. d/b/a Susquehanna Communications for renewal of its cable television franchise in the Town of Beekman (Dutchess County) is hereby approved, subject to the conditions set forth herein. The term of the renewal shall expire on May 4, 2008.
2. This order does not in any way confer rights or privileges other than those granted in the underlying franchise and the certificate holder remains subject to the obligations imposed by Article 11 of the Public Service Law, the underlying franchise and all applicable rules, regulations and orders of this Commission.
3. This proceeding is closed.

By the Commission,

(SIGNED)

JACLYN A. BRILLING  
Secretary

**EXHIBIT C**

Filed Session of March 15, 2006  
Approved as Recommended  
and so Ordered  
by the Commission

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JACLYN A. BRILLING  
Secretary

Issued and Effective March 17, 2006

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE

February 27, 2006

**TO:** THE COMMISSION

**FROM:** OFFICE OF TELECOMMUNICATIONS

**SUBJECT:** CASE 05-C-1653 - Joint Petition of Susquehanna Cable Co., Carmel Telephone Services, Inc. d/b/a SusCom, Comcast Phone of New York, LLC, and Comcast Corporation for Approval of the Transfer of Telephone Assets, Certificate and Customer Base.

CASE 05-C-1654 - Joint Petition of Susquehanna Cable Co., Carmel Telephone Services, Inc. d/b/a SusCom, Comcast Phone of New York, LLC, and Comcast Corporation for Consent for the Transfer of Telephone Assets and a Certificate of Public Convenience and Necessity; the Transfer of a Customer Base; and the Transfer of Membership Interests in a Telephone Corporation.

CASE 05-V-1533 – Application of Carmel Cable Television, Inc. and Comcast of Danbury, Inc. Pursuant to PSL §222, for Approval of the Transfer of Cable System Franchises, Certificates of Confirmation, and Facilities located in Various Municipalities in Dutchess, Putnam, and Westchester Counties.

**SUMMARY OF**

**RECOMMENDATION:** Staff recommends approval be granted for the transfer of Susquehanna Cable Co. and Carmel Telephone Services, Inc. d/b/a SusCom and cable assets and customer bases to Comcast Phone of New York, LLC and Comcast Corporation, with conditions, pursuant to Sections 99(2), 100 and 222 of the Public Service Law.

SUMMARY

By petitions dated December 27, 2005, pursuant to Sections 99, 100 and 222 of the Public Service Law, Carmel Telephone Services, Inc. d/b/a SusCom and Susquehanna Cable Co. request Commission approval to transfer telephone and cable television assets, a telephone Certificate of Public Convenience and Necessity, cable Certificates of Confirmation, cable franchises, and telephone and cable television customer bases to Comcast Phone of New York, LLC and Comcast Corporation, respectively. After the transfer, telephone<sup>1</sup> and cable television services will continue to be provided at the same rates, terms and conditions as they are today. Commission approval of the transfer of telephone and cable television assets, certificates, franchises, and customer bases, with conditions, is recommended.

BACKGROUND

Susquehanna Cable Co. (Susquehanna) is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with offices located at 140 East Market Street, York, PA. Susquehanna is a subsidiary of Susquehanna Media Co., which in turn is owned by Susquehanna Pfaltzgraff Co., a privately held corporation. Susquehanna operates advanced networks in six states, serving over 225,000 customers.

Carmel Telephone Services, Inc. d/b/a SusCom (SusCom) is a corporation organized under existing laws of the State of New York with principal offices located at 140 East Market Street, York, PA. SusCom was granted a Certificate of Public Convenience and Necessity (CPCN) to provide facilities-based and resold local exchange and interexchange telephone services on November 3, 2003 in Case 03-C-1352.

Carmel Cable Television, Inc. (Carmel) is a corporation organized under existing laws of the State of New York with principal offices located at 140 East Market Street, York, PA. The company also operates under the registered trade names of

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<sup>1</sup> In accordance with our Mass Migration Guidelines established in Case 00-C-0188, SusCom filed an Exit Plan for its telephone subscribers (Case 05-C-1654).

CASES 05-C-1653, 05-C-1654 and 05-V-1533

"Susquehanna Communications" and "SusCom." Carmel's ownership of the subject cable television systems and franchises was approved by order of the Commission in Case 03-V-1473 on March 4, 2004.

Comcast Corporation (Comcast) is a corporation organized and existing under the laws of the State of Delaware, with offices at 1500 Market Street, 35<sup>th</sup> Floor, East Tower, Philadelphia, PA. Comcast is the nation's largest cable operator, and through its operating subsidiaries, provides cable television service, high-speed Internet service, and video programming and other services to millions of customers in 35 states.

Comcast Phone of New York, LLC (Comcast Phone) is a Delaware Limited Liability Company, and wholly owned by an affiliate of Susquehanna. Comcast Phone does not currently conduct business in New York, and was established to effectuate the sale and transfer of SusCom's assets to Comcast, and thereafter, to operate as a provider of telecommunications services in the State of New York.

Comcast of New York, LLC (CNY) is a new limited liability company to be formed by Susquehanna, established to effectuate the transfer of cable television assets, including franchises and certificates, from Carmel to Comcast. Contemporaneous with the transaction, Comcast will assign its right to purchase all of the membership interests of CNY.

#### Proposed Transaction

On October 31, 2005, Comcast and Susquehanna entered into an Asset Purchase Agreement pursuant to which entities in the Comcast corporate structure will acquire the cable and telecommunications assets and business of Susquehanna affiliates (the Transaction). In New York, those assets are held by Susquehanna and SusCom, respectively.

On December 5, 2005, Susquehanna formed a new company, Comcast Phone. On the closing date, the telecommunications assets, CPCN, and telephone customer base of SusCom will be transferred to Comcast Phone in a pro-forma transaction with the consideration being receipt of membership interests in Comcast Phone. Contemporaneously, Comcast, through its subsidiaries, will acquire all the

membership interests of Comcast Phone. Thus, after the close of the Transaction, these telecommunications assets will be held by Comcast Phone, which will be under the control of its ultimate parent, Comcast. At that time, SusCom's local and toll telephone customers<sup>2</sup> in New York will transfer to Comcast Phone and SusCom will exit the market. Simultaneous with the telephone customer transfer, 21,143 cable television customers and associated certificates and agreements will also transfer from Susquehanna to CNY. A corporate organizational chart is attached.

The petitioners believe this will serve the public interest as it is expected to invigorate competition in New York. Comcast, through its affiliates, will obtain cable and telephone assets and customers providing Comcast a presence in the New York telecommunications market, and make it a more viable competitor in all of its market areas. The petitioners expect the Transaction to be transparent to both telephone and cable television customers as Comcast Phone will adopt SusCom's tariff, and both Comcast Phone and CNY will continue to provide services at the same rates, terms and conditions as SusCom and Carmel currently provide.

#### DISCUSSION

Supporting documentation provided by Comcast indicates that the organization has the financial and technical resources available to acquire Susquehanna and SusCom assets and continue to provide uninterrupted services to those customers being transferred. Based upon the applicants' representations, the proposed transfer appears to be consistent with federal and state law and is not contrary to the public interest. The proposed transfer is not projected to have any negative impact upon the operations, rates, terms or conditions for the provision of cable or telephone service.

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<sup>2</sup> SusCom currently serves approximately 10,100 telephone customers in Dutchess, Putnam and Westchester counties, of which approximately 10,090 receive both local and long distance service from SusCom.



Staff believes that approval of the asset transactions as presented by the petitioners will allow for an efficient transition of the businesses and affected customers.

Section 222 of the Public Service Law serves as the authority to act on the petition for transfer of cable assets and franchises from Carmel to Comcast and its indirect subsidiary, CNY. Also, in accordance with Section 899.90 of the Commission's Cable Television rules, companies that sell or otherwise divest all, or a substantial part of a cable television system or another cable television company shall promptly notify the Commission, and file, no later than 30 days after the sale or divestiture is completed, a financial report. Therefore, Carmel shall submit a final Annual Financial Report (AFR-1) to the Secretary of the Commission for the transferred system within 30 days after closing of the Transaction. Staff also notes that pursuant to requirements set out in their local cable franchises, copies of FCC Form 394 and applications seeking approval of the transfer were filed with ten communities in the company's service area.

Under Section 92(e)(2) of the Public Service Law, no telephone company is permitted to change a customer's preferred carrier unless it has complied with authorization and confirmation procedures established by the Commission and by federal law and rules. By letter dated February 6, 2006, Comcast informed the FCC and the Commission that written notice was being provided to all affected customers in accordance with these provisions.

All petitioners have worked closely with staff to provide for the smooth and orderly transition of the affected customers, and have complied with the Commission's Mass Migration Guidelines. On February 15, 2006, 60 days prior to the anticipated April 15, 2006 transfer<sup>3</sup> of SusCom's customers to Comcast Phone, both companies jointly notified the affected customers of the projected service transfer date. On

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<sup>3</sup> Although the transfer date is on/around April 15, 2006, customers have until March 15, 2006 to make a carrier choice. If a carrier choice is not made by that date, by default, Comcast will automatically become the customers' telecommunications provider.

March 15, 2006, a second notice, via bill insert, is to be issued to affected customers. Also, SusCom and Comcast provided customers with toll-free numbers to address any concerns and to assist in transferring their services to another provider, if desired.<sup>4</sup>

Complaints

In the period from December 31, 2004 through December 31, 2005, seven complaints were received by the Office of Consumer Services (OCS) against Susquehanna. Neither SusCom nor Comcast Phone had any complaints in this time period. All of the Susquehanna complaints were resolved satisfactorily, and presently, none of the petitioning companies have any open complaint cases. Barry Bedrosian (OCS Operations Manager) has reviewed this memo.

CONCLUSION

Staff has no objection to the proposed transactions by which SusCom, Susquehanna and Carmel will transfer telephone and cable television assets, Certificates, Franchises, and customer bases to Comcast, Comcast Phone and CNY. SusCom's Mass Migration Exit Plan meets established rules, however, Comcast Phone will need to file the necessary tariff adoption supplement immediately after the transfer, per Commission rules. Comcast Phone and CNY will also need to submit completed Telecommunications Company Critical Information (TCCI) forms.<sup>5</sup>

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<sup>4</sup> The Commission approves a carrier's exit plan by acting upon the carrier's cancellation/adoption supplement.

<sup>5</sup> §702-5.3 specifies the filing of an adoption supplement followed within one year by revised schedules with the current provider's name. In addition, the Commission requires all carriers to submit a TCCI form (see [http://www.dps.state.ny.us/04c1637\\_form.html](http://www.dps.state.ny.us/04c1637_form.html)).

RECOMMENDATION

It is recommended that:

1. The petitions of Susquehanna Cable Co., Carmel Telephone Services, Inc. d/b/a SusCom, Carmel Cable Television, Inc., Comcast Corporation, Comcast Phone of New York, LLC and Comcast of New York, LLC (CNY) to transfer telephone and cable television assets, certificates, franchises, and other associated assets, pursuant to Sections 99(2), 100 and 222 of the Public Service Law, be approved subject to the following conditions:
  - a. Comcast shall submit a copy of its certificate of incorporation for Comcast Phone of New York, LLC within 30 days of its availability.
  - b. The Transaction will be completed within 180 days of Commission approval. Within 30 days of closing, the petitioners shall provide notice of closing to the Secretary of the Commission. If the transaction is not consummated within 180 days, the Commission may rescind the approval granted herein.
  - c. The petitioners shall forward copies of all required municipal consents within 30 days of obtaining such consents.
  - d. Carmel shall submit a final Annual Financial Report (AFR-1) to the Secretary of the Commission for the transferred system within 30 days after closing.
  - e. Comcast Phone shall submit a tariff adoption supplement immediately following the closing of the Transaction followed by a filing of revised tariff schedules within one year.
  - f. Comcast Phone and Comcast of New York, LLC shall each complete and submit Telecommunications Company Critical Infrastructure forms to the Secretary of the Commission within 30 days of the closing of the Transaction.

2. These proceedings be continued, but shall be closed after the compliance filings have been made and reviewed, unless the Secretary of the Commission finds good cause to continue the proceedings further.

Respectfully submitted,

**JOSEPH P. YAKEL**  
Utility Analyst 2

Reviewed by,

**JOHN P. STARRS**  
Assistant Counsel  
Office of General Counsel

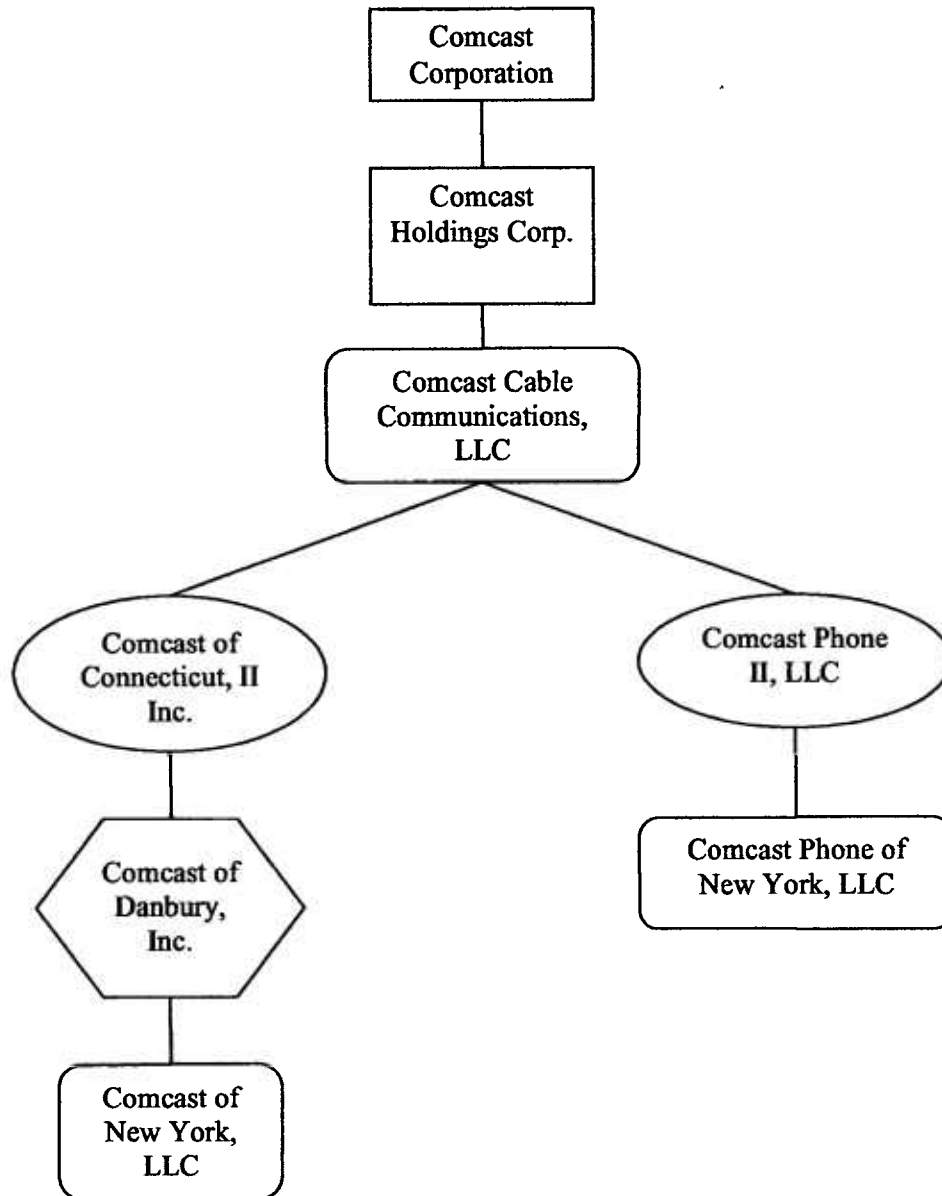
**APPROVED:**

**GREGORY C. PATTENAUDE**  
Chief, Office of Telecommunications

**JOHN A. FIGLIOZZI**  
Chief, Municipal Assistance

Attachment

Comcast of New York – Corporate Structure



**Note:** Upon execution of the Transaction, the telecommunications assets of Susquehanna, including its cable television and telephone subsidiaries, will be under the ultimate control of Comcast, and SusCom will exit the New York market.

**EXHIBIT D**



Comcast Cable  
676 Island Pond Road  
Manchester, NH 03109  
T: 603-695-1400  
F: 603-628-3303  
www.comcast.com

June 21, 2006

VIA HAND DELIVERY

Honorable John D. Adams, Supervisor  
Town of Beekman  
Beekman Town Hall  
4 Main Street  
Poughquag, New York 12570

***Re: Cable Service Franchise Renewal***

Dear Supervisor Adams:

Comcast of New York, LLC, is pleased to give notice to the Town of Beekman, New York ("Town"), of the extension of our cable service franchise rights. Please consider this letter to be the exercise of our option for extension of the franchise term for the final five (5) year period authorized by Section 10.3 of the Town's Franchise Renewal Agreement, approved by the Beekman Town Board by action dated June 20, 2005 ("*Agreement*").

As you may recall, that Franchise Renewal Agreement was negotiated with our predecessor cable service franchisee, Carmel Cable Television, Inc., and was authorized by the vote of the Town Board on June 20, 2005, to be for a term of "ten (10) years from the date of expiration of the prior franchise agreement." *Agreement* at Section 10.2, page 18. In its *Order Approving Renewal*, dated June 1, 2006, the New York State Public Service Commission ("Commission" or "PSC") found that this renewal term should be measured from May 5, 1998 until May 4, 2008. The Commission also noted that this Agreement provided that the renewed franchise term would run for a period of ten years, or until May 4, 2008, with an option for an additional final five-year period, or until May 4, 2013.

10.3 Provided that Franchisee is in substantial compliance with this Agreement and all relevant rules and regulations related thereto, Franchisee is hereby given an option to renew this franchise for one additional five (5) year period upon notice given to the Municipality of Franchisee's intention to exercise such option, provided such notice is given in accordance with § 891 (Renewal Rules) of the NYSPSC or as such regulations may be amended.

*Agreement* at Section 10.3, page 18.

The Commission's cable service rules addresses renewal options at Section 891.3:

§891.3 Renewals that do not require affirmative action by municipality.

If an existing franchise contains an option to renew in favor of the franchisee, the franchisee may seek commission approval for a renewal pursuant to the said option provided that the option is timely exercised and an application to the commission is made within 30 days thereof. An option to renew may not be exercised by the franchisee sooner than 36 months prior to the expiration of the existing franchise.

By this notice letter, Comcast of New York, LLC ("Comcast") hereby exercises its option to renew the franchise for Beekman for the final five (5) year term, or until May 4, 2013. An application to the Commission under Part 891 of its rules will be filed within the next thirty (30) days, seeking its final approval of the five-year renewal franchise term. Formal service of that application will be made upon the town of Beekman. Public notice of that application will also be published in a local newspaper.

A review of the provisions of the 2005 Franchise Agreement for Beekman shows compliance with the municipal franchise requirements set forth at Part 895 of the Commission's rules. Therefore, we believe that no further amendment of these franchise terms is needed at this time. With this letter notice, we include a copy of the June 1, 2006 Order of the PSC that approved the current Franchise Agreement for the Town of Beekman. We note that the State Commission's renewal approval order itemized certain provisions of the Commission's latest regulations for which compliance should be expected in the implementation of the current Beekman Franchise Agreement. Comcast and its cable system in Beekman are in full compliance with all of these provisions, and it agrees with the State Commission that the current Franchise Agreement may be treated as fully consistent with these standards.

In view of the above, it is apparent that no additional action by the town of Beekman is needed at this time or for the purpose of affecting the five-year franchise term renewal that is exercised today by Comcast. Therefore, we believe that no formal consideration is needed now by your office, the Town Board, or any other agency of the town of Beekman. We note, however, that any comments that the Town may choose to present to the Public Service Commission regarding this matter will be welcome and considered by that agency when we file this renewal for its approval under Section 891 of its rules. You may direct any comments of the Town on that filing to the Commission in Albany or its staff, with a copy to us. The Commission may be addressed at:

New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

We also note that Mr. John Figliozzi of the Cable Advisory Group at the staff of the Department of Public Service (518-473-5256) is very familiar with the Beekman cable franchise matters, and you may find it useful to seek his consultation if you have any questions or comments.

In any event, we at Comcast would be very pleased to discuss this matter with you, or any other issues relating to our provision of cable services in Beekman. I hope that you will contact us at any time with any questions or comments about our company or our services. I would encourage



*The Hon. John D. Adams*

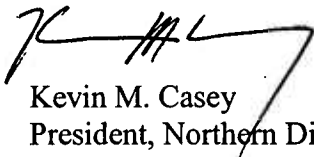
*June 21, 2006*

*Page 3*

you to contact our local cable system's Senior Director of Government Affairs, Daniel M. Glanville, directly whenever that is convenient. Mr. Glanville can be reached at (413) 730-4540.

On behalf of Comcast of New York, LLC, I remain,

Respectfully,

A handwritten signature in black ink, appearing to read 'K. Casey', written over a large, stylized checkmark or flourish.

Kevin M. Casey  
President, Northern Division

cc: Hon. Virginia M. Ward, Town Clerk  
NYS PSC, Hon. J. Brillling, Secretary  
Mr. John Figliozzi, NYS Dept. Public Service  
Daniel M. Glanville, Comcast Government Affairs (CT/West Region)  
Nick Leuci, Comcast Government Affairs (Northern Division)