

ORDINANCE NO. 99-1

AN ORDINANCE GRANTING UNTO COMCAST CABLEVISION OF DELMARVA, INC., A DELAWARE CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, FOR A TERM OF TEN YEARS, A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A CABLE TELEVISION SYSTEM WITHIN THE TOWN OF BRIDGEVILLE, DELAWARE.

BE IT ORDAINED BY THE TOWN COMMISSION OF BRIDGEVILLE, DELAWARE, AS FOLLOWS:

WHEREAS, Comcast Cablevision of Delmarva, Inc. ("Comcast"), operates a cable television system in the Town of Bridgeville; and

WHEREAS, The Town of Bridgeville finds that the public convenience necessity and welfare would be served by the continued operation of cable television facilities by Comcast within the Town; and

WHEREAS, The Town has determined that Comcast has the necessary technical, legal and financial qualifications to provide the services, facilities and equipment described in this Ordinance and that its application will meet the future cable-related community needs and interests.

NOW, THEREFORE, be it resolved that in consideration of the mutual covenants hereinafter expressed, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words and abbreviations shall have the meanings given herein; provided however, that when not inconsistent with the context, the terms, phrases, words and abbreviations not defined herein shall be given their common and ordinary meanings, and that words used in the present tense shall include the future tense, words in the plural shall include the singular and words in the singular number shall include the plural number.

A. "CATV" or "Cable television system". A system of antennas, cables, amplifiers, wires, lines, towers, microwave links, waveguides, laser beams, optical fibers, satellites, converters, conductors, transmission lines, equipment or facilities designed and constructed for the purpose of producing, receiving, storing, processing, transmitting, amplifying, scrambling and distributing audio, video, digital, and other forms of electronic or electrical signals to subscribing members of the public for a fixed or period fee.

B. "Channel". A designated frequency band in the electromagnetic spectrum which is capable of carrying video, audio, digital, or other electronic signals, or some combination thereof.

C. "Town". The Town of Bridgeville, a municipal corporation of the State of Delaware.

D. "Commission". The present governing body of the Town or any future board constituting the legislative body of the Town.

E. "FCC" or "Federal Communications Commission". That agency as is presently constituted by the United States Congress or any successor agency with jurisdiction over CATV matters.

F. "Franchise". The non-exclusive right or authority to construct, operate, and maintain a cable television system by use of the Town owned rights of way, easements or other publicly owned properties

G. "Franchisee". Comcast Cablevision of Delmarva, Inc. d/b/a Comcast Cablevision and its lawful successors, transferees or assigns.

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

I. "Normal Operating Conditions". The term "normal operating conditions" means those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters,

civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

J. "Service Interruption". The term "service interruption" means the loss of picture or sound on one or more cable channels.

K. "Person". Any person, firm, partnership, association, corporation, company or organization of any kind.

L. "Street". The surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, easement, right of way or drive, now or hereafter existing within the Town.

M. "Subscriber." Any person legally receiving any service delivered by Franchisee.

## SECTION 2. GRANT OF AUTHORITY

### 2.1 GRANT OF FRANCHISE

There is hereby granted to Franchisee a non-exclusive franchise to erect, install, construct, repair, replace, reconstruct, maintain and operate a cable television system and retain, in, over, under, across and along any public street, public way and public place, now laid out or dedicated, and all extensions thereof and additions thereto in Franchisee's franchise area such poles, wires, cable conductors, ducts, conduit vaults, manholes, amplifiers, attachments, and other property as may be necessary and appurtenant to its CATV systems; and in addition so to use, operate and provide similar facilities or properties rented or leased from other persons, firms or corporation, including but not limited to any public utility or other franchisee franchised or permitted to business in the Town.

### 2.2 TERM AND EFFECTIVE DATE OF AGREEMENT

The term of this Agreement and the franchise granted herein shall be ten years from February 13, 1999 ending on February 12, 2009. This agreement, and all of its terms and conditions,



shall be automatically renewed for two (2) successive terms of five (5) years each following the original term hereof unless either party shall give to the other written notice of termination at least thirty-six (36) months in advance of and prior to the expiration of the original term or either renewal or extension, hereof. Any such notice shall be sent by United States certified or registered mail, return receipt requested, or shall be delivered personally, and shall be effective and shall be considered in compliance with the terms of this paragraph if such mailing or delivery shall be accomplished on or before the deadline set out herein.

### 2.3 TERRITORIAL EXTENT OF FRANCHISE

The territorial extent of the franchise granted herein is the legal boundaries of the Town as of the date of this Agreement or the boundaries extended by effective annexation, provided that Franchisee shall only be required to extend its cable system into such annexed areas as per the requirements set forth in Section 8.3 of this Agreement.

## SECTION 3. COMPLIANCE WITH APPLICABLE LAWS

Franchisee shall conform to all applicable laws, rules and regulations of the United States, the State of Delaware and the Town in the construction and operation of its cable television system, and all applicable rules and regulations of the Federal Communications Commission.

## SECTION 4. INDEMNIFICATION

The Franchisee shall at all times during the term of this franchise protect and hold harmless the Town from all claims, actions, suits, liability, loss, expense or damages of every kind and description (herein collectively referred to as "claims") including investigation costs, court costs and attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence, wantonness, or any other actionable conduct of the Franchisee in the ownership, construction, installation, repair, replacement, maintenance and operation of the cable television system. The Franchisee shall have the right to defend, settle, or compromise any claims arising hereunder, and the Town shall cooperate fully therein.

## SECTION 5. INSURANCE AND BONDS

### 5.1 AMOUNTS

Franchisee shall concurrently with the filing of an acceptance of award of the franchise granted herein, furnish to the Town, and all times during the existence of the franchise granted herein, maintain in full force and effect, at its own cost and expense, the following:

A. A certificate of insurance evidencing general comprehensive liability coverage listing the Town as additional insured with a maximum liability amount of one million dollars (\$1,000,000.).

B. A certificate of insurance evidencing property damage insurance coverage listing the Town as additional insured with a maximum liability amount of five hundred thousand dollars (\$500,000.).

### 5.2 ALTERATIONS

Franchisee shall not materially change or alter the terms or conditions of the insurance policies required by this Agreement except upon thirty (30) days written notice to the Town.

### 5.3 CONTRACTORS AND SUBCONTRACTORS

Franchisee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance, or operation of its cable television system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or subcontractor to obtain appropriate insurance coverage consistent with its involvement in the construction, installation, maintenance or operation of Grantee's cable television system. All insurance policies obtained under this subsection shall name the Town as an additional insured.

## SECTION 6. RATES AND CHARGES

### 6.1 RATES LISTED

Rates and charges shall be calculated in accordance with the requirements of Federal Law. Franchisee shall upon request provide the Town with a list of its services and charges.

### 6.2 NO DISCRIMINATION

The Franchisee will not discriminate among citizens and residents of the Town in

providing its cable services, provided however, that the Franchisee may waive applicable connection or service charges during promotional campaigns and nothing herein shall prohibit the Franchisee from establishing a graduated scale of charges and rate classifications to which any subscriber coming within such classification shall be entitled. Nothing in this franchise shall prohibit the Franchisee from (1) conducting reasonable marketing promotions; or from (2) privately negotiating independent rates for commercial or "bulk" multiple dwelling unit subscribers.

### 6.3 EXTRA-LONG DROPS

If the installation of a service outlet requires an aerial or underground drop in excess of one hundred fifty feet (150'), Franchisee may charge the subscriber an amount that is equal to the costs of time and materials which exceed its costs for a standard drop of one hundred fifty feet (150'). Franchisee shall provide the Subscriber with a written estimate of the costs of installing such drop and obtain the Subscriber's consent prior to any installation of such drop provided, however, that Franchisee may require an advance payment of such costs from such Subscriber as a condition of performing the requested installation.

### 6.4 NON-STANDARD INSTALLATIONS

If a subscriber requests a non-standard installation for aesthetic purposes including, but not limited to, optional underground construction, concealed wiring or routing from the tap to the dwelling unit that differs from the easiest route that could otherwise be taken (usually following the telephone drop) which results in greater costs, Franchisee may charge the Subscriber for such non-standard installation in an amount equal to the costs of time and materials in accordance with industry standards. Franchisee shall provide such installation and obtain the Subscriber's consent prior to any such installation; provided, however, that Franchisee may require an advance payment of such costs from such Subscriber as a condition of performing the requested installation.

## SECTION 7. MAINTENANCE OF SYSTEM

During the term of this Agreement, Franchisee shall maintain its cable television system in good repair and condition.



## SECTION 8. CONSTRUCTION REQUIREMENTS AND STANDARDS

### 8.1 GENERAL

Franchisee shall construct, install, maintain and operate its cable television system in a safe, orderly, and workmanlike manner utilizing only materials of good, durable quality with due respect for engineering considerations and in accordance with applicable federal, state and local laws and regulations.

### 8.2 STREET OCCUPANCY

All transmission and distribution structures, lines and equipment erected by Franchisee within the Town shall be so located as to cause minimum interference with the proper use of streets. The Franchisee shall protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place property of the Franchisee when reasonably required by the Town by reason of traffic conditions, public safety, street construction, change or establishment of street grade or public improvement.

### 8.3 RESTORATION

Franchisee shall promptly restore the public way or private property to as good a condition as before the work causing such disturbance was done; provided, however, that where conditions prohibit prompt restoration or replacement of the public way, Franchisee's time for restoration shall be extended automatically for an appropriate period of time to complete such restoration. Franchisee shall conduct all restoration in a competent and efficient manner minimizing disruption and inconvenience to others.

### 8.4 TREE TRIMMING

Franchisee shall have the authority to trim trees upon and overhanging street and public ways and places of the franchise area so as to prevent the branches from coming in contact with the wires and cables of the Franchisee and shall be responsible for debris removal from such activities. Prior to trimming, the Town shall be notified and the Town may require additional trimming to ensure aesthetics, provided that any such additional trimming shall be done at the expense of the Town.

## SECTION 9. POLES

The poles and posts used for Franchisee's distribution system shall be these erected by the Franchise and/or those erected and maintained by the Bell Atlantic Telephone Company, Delaware Electric Cooperative, Inc., Delmarva Power, and/or other such persons, firm or corporation at the time maintaining poles or posts within the Town limits, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said corporations.

## SECTION 10. EQUAL EMPLOYMENT OPPORTUNITY

Franchisee shall comply with all provisions of Section 634 of the Cable Communications Policy Act of 1984.

## SECTION 11. CONSUMER PROTECTION AND SERVICE STANDARDS

The Franchisee shall maintain an office or offices to provide the necessary facilities, equipment and personnel to comply with the following consumer protection and standards under normal conditions of operation:

A. Cable system office hours and telephone availability:

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

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

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

(a) Under normal operation conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90%) percent of the time under normal operating conditions, measured on a quarterly basis.



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

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

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

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 150 feet from the existing distribution system.

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

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

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

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

## SECTION 12. PRIVACY

Franchisee shall comply with all of the provisions of Section 631 of the Cable Communications Policy Act of 1984 regarding Subscriber privacy.

## SECTION 13. RENEWAL OF FRANCHISE

Franchisee shall be entitled to a renewal of this Franchise pursuant to the requirements of Federal Law.

## SECTION 14. TERMINATION OF FRANCHISE

### 14.1 GROUND FOR TERMINATION

The Town reserves the right to terminate the Franchise and all rights and privileges of Franchisee hereunder for any of the following reasons:

- A. Franchisee becomes insolvent, or is adjudicated bankrupt.
- B. Franchisee fails to comply substantially with any material provision of the

Franchise.

### 14.2 PROCEDURE

Prior to commencing any proceeding to terminate the Franchise granted hereby, the Town shall notify Franchisee in writing specifying the grounds for termination and granting Franchisee thirty days to correct any alleged deficiency or non-compliance or within which to commence corrective action if the nature of the deficiency is such that it cannot be cured within thirty days. If Franchisee fails to act within said period the Town Commission shall hold a public hearing at which the Franchisee and other interested parties may testify. In the event the Commission finds such deficiency or non-compliance without justification, and that Franchisee has neither cured it or commenced a cure, it may terminate this Franchise.

### 14.3 EFFECT OF TERMINATION FOR NON-COMPLIANCE

If the Franchise granted herein is terminated by the Town by reason of Franchisee's non-compliance, that part of the system located in the streets and public property, shall, at the election of the Town, become the property of the Town at a cost consistent with the provisions of Section 627(b)(1) of the Cable Communications Policy Act of 1984 or the Town shall afford the Franchisee a reasonable time in which to sell the system to another operator.

## SECTION 15. SERVICE TO SCHOOLS AND TOWN BUILDINGS

Franchisee shall offer free of charge one (1) outlet of Basic Service and Standard Tier Service to all public and private (Grade K-12) schools located within two hundred (200) feet of the System and one (1) outlet to each Town Building located within two hundred (200) feet of the System. Service will be made free of charge and as promptly possible to all such schools and town buildings requesting such connections.

## SECTION 16. MISCELLANEOUS PROVISIONS

### 16.1 GOVERNING LAW

This Agreement shall be subject to all applicable laws of the United States of America and the State of Delaware.

### 16.2 DESCRIPTIVE HEADINGS

Section headings are descriptive and used merely for the purpose of organization and where inconsistent with the text are to be disregarded.

### 16.3 MODIFICATIONS

In the event of unforeseen circumstances beyond Franchisee's control that occur in connection with the construction, installation, maintenance or operation of its cable television system, Franchisee shall have the right to petition the municipality for modifications of the terms and/or the Agreement where modifications sought by Franchisee are shown to be necessary to ensure the economic viability of its cable television system.

### 16.4 SUBSEQUENT FRANCHISES

Should the Town grant a Franchise to construct, operate and maintain a cable television system to any other person or entity subsequent to the date hereof, the Franchisee hereunder shall be entitled to substitute for any provision of this Agreement any provision in such other Franchise which would be more favorable to the Franchisee than the comparable provision of this Agreement.



16.5 SEVERABILITY

If any provisions of this Agreement or any portion of any provision hereof is deemed invalid under any applicable Agreement or rule of law, such provision shall be, to the extent invalid, deemed omitted and all remaining provisions shall remain in full force and effect.

16.6 FORCE MAJEURE

In the event that Franchisee's performance of any of the terms, conditions, obligations or requirements of this Agreement is prevented or impaired due to any cause(s) beyond its reasonable control, including but not limited to Acts of God, labor disputes, manufacturer's or contractor's inability to timely provide personnel or material, failure of transportation, or any cause not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof.

16.7 APPLICABLE FEDERAL, STATE LAWS

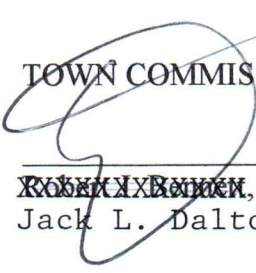
All provisions of this Agreement are subject to applicable state or federal laws, rules and regulations, and shall be governed by and shall be construed in accordance therewith.

16.8 PUBLIC ANNOUNCEMENTS

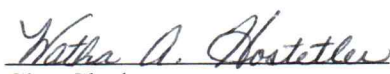
As part of basic cable and with reasonable advance notice, the Franchisee shall provide free alphanumeric origination cablecasting for public announcements concerning Town government events. Any announcement designated emergency by the Town's President or Town Clerk shall be aired as soon as possible by the Franchisee.

ADOPTED by the Town Commission of the Town of Bridgeville, Delaware, this 8<sup>th</sup> day of FEBRUARY, 1999.

TOWN COMMISSION OF BRIDGEVILLE

  
~~ROBERT L. DALTON~~, President  
Jack L. Dalton

Attest:

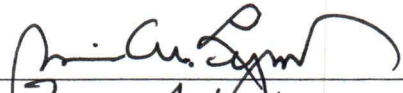
  
City Clerk

Comcast Cablevision of Delmarva, Inc., hereby accepts and hereby agrees to be bound by the terms and conditions of the Town of Bridgeville, Delaware Ordinance No. 99-1.

Attest:

COMCAST CABLEVISION OF  
DELMARVA, INC.

  
Secretary

By:   
Name: Brian A. Lynch  
Title: Vice-President/General Manager