

COUNTY OF TUOLUMNE, CALIFORNIA
NONEXCLUSIVE, 2004
CABLE TELEVISION FRANCHISE AGREEMENT
WITH
SIERRA NEVADA COMMUNICATIONS

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EXHIBIT A

FCC RULE 76.309

EXHIBIT B

GUARANTEE IN LIEU OF BOND

EXHIBIT C

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

EXHIBIT D

CONTRIBUTIONS IN AID OF CONSTRUCTION

THIS FRANCHISE AGREEMENT is made and entered into as of the 7th day of December, 20 04 by and between the County of Tuolumne, a political subdivision of the State of California (hereinafter called "County") and Sierra Nevada Communications, (hereinafter called "Company"), a sole proprietorship, with its principal place of business at _____.

WITNESSETH

WHEREAS, Company wishes to provide cable service in County and has requested a franchise agreement in order to do same, and

WHEREAS, County is authorized to grant one or more non-exclusive franchises for the provision of cable service within County by means of a cable system, and

WHEREAS, on the 25th day of July, 1972, Vurite, Inc., and County entered into a franchise agreement for community antenna television distribution services and FM radio service, and

WHEREAS, said franchise agreement was amended on the 20th day of September, 1977, to add additional territory to the franchisee's service area, and

WHEREAS, on the 30th day of September, 1980, County approved the transfer of the franchise of Vurite, Inc., to Meyerhoff Cable Systems Inc, and

WHEREAS, on the 24th day of January, 1984, County approved the extension of Meyerhoff's service area to include Long Barn and Sierra Village and extended the term of said license to July 24, 2002, and

WHEREAS, County has reviewed Company's request and has considered the terms and conditions of the prior agreement, and

WHEREAS, County has determined that granting a new franchise on the terms set forth herein is in the public interest and in the interest of County and its residents and will assist in meeting the cable related needs and interests of the community.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto agree as follows:

1 DEFINITIONS

1.1 **Additional Insureds** shall have the same meaning as "Indemnitees" in Section 5.2.

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

1.3 **Authorized Area** shall mean the unincorporated areas of Tuolumne County described as follows: (a) the NE 1/4 of Section 30, T.4N., R.16E., M.D.B. & M.; (b) That portion of Section 29, T.4N., R.16E., M.D.B. & M., lying north of State Highway 108.; (c) All of Sections 16, 17, and 20, T.4N., R.16E., M.D.B. & M.; (d) all that area included in Cold Springs Subdivision and Peter-Pam Subdivision; (e) Long Barn and Sierra Village.

1.4 **Cable Gross Revenues** or Gross Revenues shall mean all of the amounts earned or accrued by Company, or an entity in any way affiliated with the Company, in whatever form and from all sources which are in connection with or attributable to the operation of the Cable System within County's geographic boundaries or Company's provision of Cable Services within County's geographic boundaries.

1.4.1 Cable Gross Revenues shall include without limitation all subscriber and customer revenues earned or accrued net of bad debts, including revenues for basic cable services; additional tiers; premium services; pay per view; program guides; installation, disconnection or service call fees; fees for the provision, sale, rental, or lease of converters, remote controls, additional outlets and other customer premises equipment; Franchise Fees paid by subscribers; revenues from the use of leased access channels; advertising revenues from the System; and revenues and compensation from home shopping programming. See Part 6.2 for Cable Gross Revenues for Discounted Rates.

1.4.2 Advertising revenues and other revenues whose source cannot be identified with a specific subscriber shall be allocated to County based upon the percentage of subscribers residing in County compared to that served from the head-end serving County.

1.5 **Cable Modem Service** shall mean services such as the RoadRunner™ or @Home™ services which are provided over a cable system through means of a modem which converts the service from the electronic format necessary to transmit the service through the Cable System wires into an electronic format that can be transmitted to a customer's computer.

1.6 **Cable Services** shall mean only:

1.6.1 The one-way transmission to subscribers of (i) video programming or (ii) other programming services, such as digital audio; and

1.6.2 Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service and includes interactive services, enhanced services and information services (where “video programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station). “Cable Services” hereunder shall include Internet service provided by a cable operator, cable broadband service and Cable Modem Service to the extent from time to time allowed by law.

1.7 **Cable Television Business** shall mean the provision by the Company of Cable Services solely by means of the Cable System.

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

1.9 **Company** shall have the meaning set forth in the introduction to this Franchise Agreement.

1.10 **Drop** shall mean the cable or wire that connects the distribution portion of a Cable System to a customer’s premises.

1.11 **Effective Date** shall have the meaning set forth in Part 13.

1.12 **Event of Default** shall have the meaning defined in Part 10.

1.13 **FCC** shall mean Federal Communications Commission.

1.14 **Franchise or Franchise Agreement** shall mean this document and shall hold the same meaning as “License” or “License Agreement”.

1.15 **Franchise Fee** shall mean the fee set forth in Part 6 and shall hold the same meaning as “License Fee”.

1.16 County shall have the meaning set forth in the introduction to this Franchise Agreement.

1.17 Normal Business Hours shall have the meaning set forth in Part 4.

1.18 Public Ways shall mean all dedicated public rights-of-way, streets, highways, and alleys. "Public Ways" shall not include property of County which is not a dedicated public right-of-way, street, highway, or alley.

1.19 . System shall have the same meaning as Cable System.

1.20 Telecommunications Service shall mean the offering of telecommunications directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, where the term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. "Telecommunications Services" shall not include Cable Services.

1.21 Uncured Event of Default shall have the meaning defined in Part 6.

2 GRANT OF RIGHTS

2.1 Permission Granted. Subject to all the terms and conditions contained in this Franchise and applicable ordinances of County as from time to time in effect, County hereby grants Company permission to erect, construct, install, and maintain a Cable System to provide Cable Services in the Authorized Area and to transact a Cable Television Business in such area. Company agrees through the term of this Franchise Agreement to (a) erect, construct, install and maintain such a Cable System, and (b) transact such a Cable Television Business in the Authorized Area.

2.1.1 Out of Area Facilities. Subject to obtaining any required land use authorization from the County and private parties, antenna and related equipment for the Cable System may be constructed and located out of the Authorized Area at the site of the Blue Bell Valley Mutual Water Company, and on an easement on adjoining property, described respectively as:

All that real property located in a portion of the S.E. ¼ of Section 10, T. 1 N., R. 15 E., M.D.B.&M., in the unincorporated territory of Tuolumne County, California, more particularly described as that parcel of land labeled "Water Tank Lot" on the map recorded for Blue Bell Valley Subdivision Unit Two in Volume 7 of Subdivisions at Page 77, official records of the Tuolumne County Recorder. APN 97-190-06

All that real property located in a portion of the S.E. ¼ of Section 10, T. 1 N., R. 15 E., M.D.B.&M., in the unincorporated territory of Tuolumne County, California, more particularly described as a Communications Easement as shown on the map recorded in Book 41 of Records of Survey at page 92, and is a portion of Lot 12 of Blue Bell Valley Subdivision Unit Two recorded in Volume 7 of Subdivisions at Page 77, official records of the Tuolumne County Recorder.

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

2.3 Service/Line-Extension.

2.3.1 No line extension charge or comparable charge shall be imposed on any current or potential subscriber for extensions of the Cable System whenever the Company receives requests for service by a potential subscriber and Company shall extend its Cable System to such potential subscriber(s) at no cost to said potential subscriber(s) if either of the following conditions are met: (1) there are at least fifty (50) dwelling units within Five Thousand Two Hundred Eighty (5,280) cable bearing strand feet (one mile) of Company's trunk or distribution cable; and/or (2) there are fewer than fifty (50) dwelling units within Five Thousand Two Hundred Eighty (5,280) cable bearing strand feet (one mile) of Company's trunk or distribution cable, but a minimum of thirty-five (35) homes within Five Thousand Two Hundred Eighty (5,280) cable bearing strand feet (one mile) execute and sign cable service contracts with Company. The preceding figures shall be pro-rated upward or downward for distances more or less than Five Thousand Two Hundred Eighty (5,280) feet. The Five Thousand Two Hundred Eighty (5,280) feet distance or any multiple or fraction thereof shall be measured in extension length of Company's trunk and feeder cable required for service which is located within the Public Ways or an existing available easement.

2.3.2 A potential subscriber located beyond the area where the Cable System is extended free of charge under the preceding provisions may obtain service by making a contribution in aid of construction to extend the Cable System to a point at which such potential subscriber is entitled to service without additional charge for line extensions. Annually during the five-year period commencing at the completion of such a subscriber-funded line extension, as new subscribers are added to such line extension, Company shall

collect funds from such new subscribers and refunds shall be made by Company to subscribers who made such contribution in aid of construction. The amount of the collection and refund shall be determined by applying the provisions of this Section 2.3 to compare what the contribution (if any) would have been with the new subscribers compared to the contribution actually made, with the difference reduced to zero at the rate of twenty percent (20%) per year over the five years. Examples of the application of this section are set forth in Exhibit D.

2.3.3 The preceding shall apply whether the Cable System would be located in Public Ways or in private ways/easements.

2.4 Channels; Programming. Company shall provide a minimum of 14 activated and programmed channels to subscribers in County. Only those broadcast stations which Company is prevented from carrying by operation of the retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992 may be omitted. Company shall provide to subscribers in County the following categories of programming: sports, news, entertainment, music, religion, health/lifestyle, cultural/arts, children's, minority, family, and weather.

2.5 Emergencies. County may remove or damage the Cable System in the case of fire, disaster, or other emergencies threatening life or property, as determined by County. In such event neither County nor any agent, contractor or employee thereof shall be liable to Company or its customers or third parties for any damages caused them or the Cable System, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the Cable System.

2.6 Alert System. The Cable System shall include an emergency alert system ("EAS") as prescribed by FCC and the Cable Television Consumer Protection and Competition Act of 1992, as amended. Company shall transmit on such system Federal, State and Local EAS messages. County and Company will agree on the procedures for County to follow to expeditiously use such system in the event of an emergency.

2.7 Compliance with Applicable Law. In constructing, maintaining, and operating the Cable System, Company will act in a good and workmanlike manner, observing high standards of engineering and workmanship and using materials which are of good and durable quality. Company shall comply in all respects with all applicable codes, including the National Electrical Safety Code (latest edition); National Electric Code; all standards, practices, procedures and the like of the National Cable Television Association; the requirements of other utilities whose poles and conduits it uses; and all applicable Federal, State, and Local laws.

2.8 Maintenance and Repair. Company shall keep and maintain a proper and adequate inventory of maintenance and repair parts for the Cable System and a workforce of skilled technician(s) for its repair and maintenance.

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

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

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

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

2.10 Other Permits. This Franchise does not relieve Company of the obligation to obtain permits, licenses and other approvals from County necessary for the construction, repair or maintenance of the Cable System or provision of Cable Services or compliance with other County codes, ordinances and permissions, such as compliance with right-of-way permits, building permits and the like.

3 PUBLIC WAYS

3.1 No Burden on Public Ways. Company shall not erect, install, construct, repair, replace or maintain its Cable System in such a fashion as to unduly burden the present or future use of the Public Ways. If County in its reasonable judgment determines that any portion of the Cable System is an undue burden, Company at its expense shall modify its System or take such other actions as County may determine are in the public interest to remove or alleviate the burden, and Company shall do so within the time period established by County.

3.2 Minimum Interference. The Cable System shall be erected and maintained by Company so as to cause the minimum interference with the use of the Public Ways and with the rights or reasonable convenience of property owners who adjoin any of the Public Ways.

3.3 Restoration of Property. Company shall immediately restore at its sole cost and expense, in a manner approved by County, any portion of the Public Ways that is in any way disturbed by the construction, operation, maintenance or removal of the Cable System to as good or better condition than that which existed prior to the disturbance, and shall at its sole cost and expense immediately restore and replace any other property, real or personal, disturbed, damaged or in any way injured by or on account of Company or by its acts or omissions, to as good or better condition as such property was in immediately prior to the disturbance, damage or injury. Such a restoration shall start promptly but no more than fifteen (15) days from Company becoming aware of the problem in question.

3.4 Relocation of Facilities. Company shall at its own cost and expense, protect, support, disconnect or remove from the Public Ways any portion of the Cable System when required to do so by County due to street or other public excavation, construction, repair, grading, regrading or traffic conditions; the installation of sewers, drains, water pipes, or county-owned facilities of any kind; or the vacation, construction or relocation of streets or any other type of structure or improvement of a public agency or any other type of improvement necessary for the public health, safety or welfare.

3.5 Joint Use. Company shall permit the joint use of its poles, conduits and facilities located in the Public Ways by utilities and by County or other governmental entities to the extent reasonably practicable and upon payment of a reasonable fee.

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

3.7 Underground Facilities. Company's cable, wires and other equipment shall be placed underground wherever existing utilities are underground. If County in the future requires that, in a specific area or areas of County, utilities shall place their cables, wires, or other equipment underground, then Company also shall place its existing and its future cables, wires, or other equipment underground within a reasonable period of time, not to exceed six (6) months, of notification by County and without expense or liability therefor to County. In those developing areas where underground facilities are required and meet the standard of § 2.3.1, Company shall install the necessary cables, wires or other equipment at the same time and utilize the same trenches as other utility companies, such as telephone or electric utilities.

3.8 New Developments. Company shall install its Cable System (excluding only Drops to individual dwelling units) in all new subdivisions and developments on the date on which electric or telephone facilities are installed in such subdivision or development unless Company is not notified of the subdivision or development. After Cable System installation Company shall be

capable of providing Cable Service to any dwelling unit in such subdivision or development solely by the construction of a Drop to the subscriber premises when such dwelling unit is constructed.

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

3.10 Vacation. If a street or Public Way where Company has facilities is vacated, eliminated, discontinued or closed, Company shall be notified of same and all rights of Company under this Franchise Agreement to use same shall terminate and Company shall immediately remove the Cable System from such street or Public Way unless Company obtains all necessary easements from the affected property owners to use the former street or Public Way or a court orders the provision of such easements. Where reasonably possible and to the extent consistent with the treatment of other utility facilities in the former street or Public Way, County shall reserve easements for Company to continue to use the former street or Public Way. Company shall bear the cost of any removal or relocation of the Cable System unless the vacation is primarily for the benefit of a private party, in which case the private party shall bear such costs. Company shall be provided thirty (30) days notice of any proposed vacation proceedings involving its facilities.

3.11 Discontinuance and Removal of the Cable System. Upon the revocation, termination, or expiration of this Franchise, unless an extension is granted, Company shall immediately (subject to the notice provision of Section 13.2) discontinue the provision of Cable Services and all rights of Company to use the Public Ways shall cease. Company, at the direction of County, shall remove its Cable System, including all supporting structures, poles, transmission and distribution system and other appurtenances, fixtures or property from the Public Ways, in, over, under, along, or through which they are installed within twelve (12) months of the revocation, termination, or expiration of this Franchise. Company shall also restore any property, public or private, to the condition in which it existed prior to the installation, erection or construction of its Cable System, including any improvements made to such property subsequent to the construction of its Cable System. Restoration of County property including but not limited to the Public Ways shall be in accordance with the directions and specifications of County, and all applicable laws, ordinances and regulations, at Company's sole expense. If such removal and restoration is not completed within twelve (12) months after the revocation, termination, or expiration of this Franchise, all of Company's property remaining in the affected Public Ways shall, at the option of County, be deemed abandoned and shall, at the option of County, become its property or County may obtain a court order compelling Company to remove same. In the event Company fails or refuses to remove its Cable System or to satisfactorily restore all areas to the condition in which they existed prior to the original construction of the Cable System, County, at its option, may perform such work and collect the costs thereof from Company. No surety on any performance bond nor any letter of credit shall be discharged until County has certified to

Company in writing that the Cable System has been dismantled, removed, and all other property restored, to the satisfaction of County.

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

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

3.13 Tree Trimming. Company may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Cable System. Company shall minimize the trimming of trees to trimming only those trees which are essential to maintain the integrity of the System. No trimming shall be performed in the Public Ways without previously informing County. All trimming of trees, except in an emergency, on public property shall have the prior approval of County and except in an emergency all trimming of trees on private property shall require the consent of the property owner.

4 CUSTOMER SERVICE

4.1 Customer Standards. Company will comply with the more stringent of (a) the customer service and consumer protection provisions of this Franchise, (b) those from time to time adopted by the FCC (current FCC Customer Service Rules attached as Exhibit A), (c) the provisions of the Video Customer Service Act (Article 4.5, commencing with section 53088, of Chapter 1 of Part 1 of Division 2 of Title 5 of the California Government Code), as it may be amended from time to time during the term of this agreement, or (d) those from time to time adopted by the Company. The Company will comply with the Cable Television and Video Provider Customer Service and Information Act (Article 3.5, commencing with section 53054, of Chapter 1 of Part 1 of Division 2 of Title 5 of the California Government Code).

4.1.1 "Normal business hours" means 8:00 AM to 5:00 PM, Monday through Friday, and at least two hours one night per week and/or at least three hours on Saturday. There shall be available to subscribers a live operator or telephone answering system twenty-four (24) hours each day, seven (7) days a week.

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

4.3 Reservation. County reserves the right by ordinance to alter or amend the customer service and consumer protection matters set forth in this Part 4, including adopting ordinances stricter than or covering items not presently set forth in this Part 4. County agrees to meet with Company on the matters in question prior to taking such action, and to provide Company with at least two (2) months notice of such action.

4.3.1 Without limiting the preceding paragraph, County reserves the right to amend its ordinances concerning Cable Television Service in County both by its general ordinances and any rate ordinance lawfully in effect from time to time. This Franchise shall be considered amended in accordance with any of said ordinances on the effective date thereof.

4.4 Free Service. During the term of this Franchise Company may provide the following free service:

4.4.1 Company may provide without any installation charge or monthly charge one (1) free outlet at County’s offices and in each public library in the Authorized Area. If requested, Company will add additional outlets at the preceding facilities and will do so at its standard hourly service charge and such outlets shall be used only for cable TV purposes. None of the preceding entities receiving service shall be charged any fee during the term of this Franchise for those channels comprising basic service or any expanded basic service. No channels may be resold.

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

4.6 Programming/Lockout. Company shall provide all subscribers with the option of obtaining a device by which the subscriber can prohibit the viewing of a particular Cable Service during periods selected by the subscriber, at the sole expense of the subscriber.

4.7 Pay Per View. Subscribers shall be given the option of not having pay per view or per program service available at all.

4.8 Blocking. The company shall comply with FCC regulations with regard to providing blocking of adult content programming.

4.9 Notification. Company will provide written information on at least each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

4.9.1 Products and services offered.

4.9.2 Prices (rates) and options for Cable Services and conditions of subscription to Cable Service. Prices shall include those for programming, equipment rental, program guides, installation, disconnection, late fees and other fees charged by Company.

4.9.3 Installation and service maintenance policies.

4.9.4 Instruction on how to use the Cable Services including procedures and options for pay per view and premium channels.

4.9.5 Channel positions of programming carried on the Cable System.

4.9.6 Billing and complaint procedures, including the address and phone number of the person or position at County responsible for cable matters.

4.9.7 Applicable privacy requirements as set forth in this Franchise or otherwise provided for by law.

4.10 Seasonal Contracts. For subscribers desiring only seasonal service, Company shall either offer seasonal service at a reduction from its standard rates or shall offer a reduced prescheduled seasonal installation and disconnection charge.

4.11 Office/Phone. Company shall maintain an office to serve the purpose of paying bills; receiving and responding to requests for service; receiving and resolving customer complaints regarding Cable Service, equipment malfunctions, billing and collection disputes; and similar matters. Such office shall be located within County or at such other location as County and Company shall from time to time agree. Company shall have a local telephone number or toll-free telephone number for use by subscribers toll-free twenty-four (24) hours per day, seven (7) days per week. The office of Company shall be open to receive inquiries or complaints in person or by telephone by appointment.

4.11.1 Company shall provide reports to County, upon request by County, showing on a consistent basis, fairly applied, the number of telephone calls received by Company and in addition measuring Company's compliance with the standards of FCC Rules 76.309(c)(1)(ii) and (iv), and 76.309(c)(2)(I), (ii), and (iv) (a copy of the current Rules are attached as Exhibit A). Such report shall show Company's performance excluding periods of abnormal operating conditions, and if Company contends any such conditions occurred during the period in question, it shall also describe the nature and extent of such conditions and show Company's performance including the time periods such conditions were in effect.

4.12 Continuity of Service. Company shall interrupt service only with good cause and for the shortest time possible except in emergency situations and as required by the FCC. Services may be interrupted between 1:00 AM and 5:00 AM for routine testing, maintenance and repair, without notification. In the event of a System upgrade, Company shall both minimize any interruptions in service caused by the upgrade, and shall meet with County in advance to advise County of the nature, geographic extent and duration of any interruptions and obtain and where possible respond to County's comments on same. Any test required by the FCC will not require prior notice. Company shall credit subscribers on a pro rata basis for services not received during an interruption.

4.13 Log of Complaints. Company shall maintain a written log of all subscriber complaints or an equivalent stored in computer memory and capable of access and reproduction in printed form of all subscriber complaints. Such log shall list the date and time of such complaints, identifying (to the extent allowed by law) the subscribers and describing the nature of the complaints and when and what actions were taken by Company in response thereto. Such log shall be kept at Company's local office reflecting the operations to date for a period of at least three (3) years, and shall be available for County's inspection during Normal Business Hours.

4.14 Service Call Charges. Unless otherwise provided by the FCC, no charge shall be made to the subscriber for any service call unless the problem giving rise to the service request can be demonstrated by Company to have been:

4.14.1 Caused by subscriber negligence; or

4.14.2 Caused by malicious destruction of cable equipment; or

4.14.3 A problem previously established as having been non-cable in origin.

4.15 Identification. All service personnel of Company or its contractors or subcontractors who have as part of their normal duties contact with the general public shall carry an identification card bearing their name and photograph. Company shall account for all

identification cards at all times. Every service vehicle of Company shall be clearly identifiable by the public.

4.16 Disconnection. Company may only disconnect a subscriber if at least forty-five (45) days have elapsed after the due date for payment of the subscriber's bill and Company has provided at least ten (10) days written notice (such as in a bill) to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection; provided, however, notwithstanding the foregoing, Company may disconnect a subscriber at any time if Company in good faith and on reasonable grounds determines that the subscriber has tampered with or abused Company's equipment; or is or may be engaged in the theft of Cable Services; or that the subscriber's premises wiring violates applicable FCC standards. Company may not disconnect a subscriber for failure to pay amounts due to a bona fide dispute as to the correct amount of the subscriber's bill.

4.16.1 Company shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to requested termination of service may be required to subscribers by Company. No charge may be imposed upon the subscriber for any Cable Service delivered after the effective date of the disconnect request. Except for pay per view services, if the subscriber fails to specify an effective date for disconnection the effective date shall be deemed to be the day following the date the disconnect request is received by Company.

4.17 Late Payment. The Company will comply with the more stringent of the late payment provisions of this Franchise, those set forth in Article 4.6 (commencing with section 53088.5) of Chapter 1 of Part 1 of Division 2 of Title 5 of the California Government Code, as it may be amended from time to time, or those adopted from time to time by the FCC.

4.17.1 Each bill shall specify on its face in a fashion emphasizing same (such as bold face type, underlined type or a larger font) the date after which a late payment charge (however denominated or described), if any, shall be added to the subscriber's bill.

4.17.2 No late payment charges, however denominated, shall be added to a subscriber's bill less than twenty-seven (27) calendar days after the due date specified in the bill to the subscriber.

4.17.3 No late payment charges, however denominated, shall be added to a subscriber's bill by reason of delay in payment other than those described in this Section 4.17. All such charges shall be separately stated on the subscriber's bill and include the word "late" in the description of them.

4.17.4 Late payment charges imposed by Company upon subscribers shall be fair and shall be reasonably related to Company's cost of administering delinquent accounts.

4.17.5 Late payment charges shall not exceed four dollars and seventy-five cents (\$4.75).

4.18 Privacy and Monitoring. Neither Company and its agents nor County and its agents shall tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, without the written authorization of the affected subscriber. Such authorization shall be revocable at any time by the subscriber without penalty by delivering a written notice of revocation to Company; provided, however, that Company may conduct System-wide or individually addressed “sweeps” solely for the purpose of verifying System integrity, checking for illegal taps or billing.

4.19 Subscriber Information. Company shall not record or retain any information as to the programming actually watched by a subscriber. Company shall destroy all subscriber information of a personally-identifiable nature after a reasonable period of time except as authorized not to do so by the affected subscriber. Company shall not sell or otherwise provide to other persons, without the specific written authorization of the subscriber involved, or otherwise make available to any person or entity, other than County in its enforcement of this Franchise and applicable law, lists of the names and addresses of subscribers. Company may disclose subscriber information as necessary to render or conduct a legitimate business activity related to a Cable Service or other service provided by Company to the subscriber or to detect unauthorized reception of cable communications.

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

4.20.1 Upon request, Company shall provide County with a report of such testing. Such report shall state, in pertinent part, that the person doing the testing has the rules and regulations of the FCC; the FCC order(s) adopting such rules and regulations and all industry standards and other materials referenced therein; and that such testing when done fairly, in full compliance with the FCC rules and regulations shows full compliance with such rules and regulations; or in the alternative setting forth with specificity and in detail all areas of non-compliance, their actual or likely scope and causes and their professional recommendation of the best corrective measures to immediately and permanently correct the non-compliance.

4.20.2 If a subscriber is unable to resolve a complaint regarding the quality of signal strength, equipment malfunctions, or similar technical matters, within 15 days of initial complaint to the Company, the Company shall contact the County Administrator and schedule a joint meeting with the subscriber, a Company representative, and the County Administrator or designee, within thirty (30) days after the expiration of the above time period, to fully discuss and resolve the matter.

4.20.3 County at its expense and with notice to Company may test the Cable System in cooperation with Company for compliance with the FCC technical standards once per year and more often if there are a significant number of subscriber complaints. Company shall reimburse County for the expense of any test (not to exceed Five Thousand Dollars (\$5,000) per calendar year for tests) which shows any noncompliance with such standards.

4.21 Backup Power. Company shall install an electric generator which starts automatically in the event of loss of conventional power to provide electric service to the Cable system head-end and associated equipment in the event of a power failure. Company shall also provide battery backup power (or electric generators) at all other locations on Company's Cable System where the loss of electric power might disrupt the provision of Cable Service within the Authorized Area such that the Cable System and each portion of it shall operate for at least four (4) hours even if electric service from conventional utility lines is interrupted. All units required by this section shall be installed and operational within 36 months from the effective date of this agreement; provided that the County Administrator may grant one or more extensions, not to exceed a total of 24 additional months upon a showing that such extension is necessary due to circumstances beyond the reasonable control of the Company, and that the company has made continuous good faith efforts to meet the requirement of this section.

4.21.1 Company or an Affiliate may not use a permanent or semi-permanent internal combustion engine (such as a gasoline or natural gas powered electric generator) to provide backup power at any point or points on the Cable System (other than inside buildings or on land owned by Company or an Affiliate) without County's prior written approval. Such approval may be granted subject to conditions, such as relating to testing times (e.g., not in the middle of the night), screening, noise levels, and temperature and safe discharge of hot exhaust gases.

4.22 Undergrounding. If a subscriber requests underground Cable Service, Company may in addition charge any subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where undergrounding is required by County's ordinance or policy. If County's ordinance or policy requires a new subscriber to have underground Cable Service, Company may charge its normal installation fee.

4.23 Bond.

4.23.1 Company shall provide County no later than thirty (30) days after the acceptance of this Franchise, a performance bond from a Security Company meeting the standards of Section 5.9 in the amount of Five Thousand Dollars (\$5,000.00) in form reasonably acceptable to County as security for the faithful performance by Company of the provisions of this Agreement, and compliance with all orders, permits and directions of any agency of County having jurisdiction over its acts or defaults under this Franchise, and the payment of Company of any claims, liens or taxes due County which arise by reason of

the construction, operation, maintenance or repair of the Cable System or provision of Cable Services.

4.23.2 The condition of such bond should be that if Company fails to make timely payment to County or its designee of any amount or sum due under this Franchise; or fails to make timely payment to County of any taxes due; or fails to repay to County within ten (10) days of written notification that such repayment is due, any damages, costs or expenses which County shall be compelled to pay by reason of any act or default of Company in connection with this Franchise; or fails, after thirty (30) days notice of such failure from County, to comply with any provisions of this Franchise which County reasonably determines can be remedied by an expenditure of the money (including, without limitation, the assessment of liquidated damages), then County may demand and receive payment under such bond.

4.23.3 In lieu of providing a bond, Company may provide a guarantee of five thousand dollars (\$5,000), substantially in the form set forth in Exhibit B.

4.23.4 The rights reserved by County with respect to this section, are in addition to all other rights of County whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such articles shall affect any other rights County may have.

4.24 Notice. If Company or its Affiliates contend that Company (or an Affiliate) is permitted to provide any Telecommunications Service or non-Cable Service in County on the basis of or as the result of this Franchise Agreement, in whole or in part, then Company shall give written notice of same to County at least sixty (60) days before offering any such services in County.

5 INDEMNITY AND INSURANCE

5.1 Disclaimer of Liability. County shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of Company's Cable System or Company's provision of Cable Service.

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

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

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

5.3 Assumption of Risk. Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any County-owned or controlled property, including Public Ways, and Company hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Cable System or other property or Company's failure to comply with any Federal, State or Local statute, ordinance or regulation.

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

5.5 Notice, Cooperation and Expenses. County shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent County from cooperating with Company and participating in the defense of any litigation by County's own counsel, at the sole expense of the County.

5.6 Insurance. At all times during the term of this Franchise including any time for removal of facilities or restoration, Company shall obtain, maintain, and pay all premiums for all insurance policies described in this Section. County shall be named as an additional insured on all

of the following insurance coverages, except for workers' compensation insurance. Within thirty (30) days from the Effective Date of this Franchise, Company shall file with County policies of insurance evidencing coverage. Failure to obtain and maintain any insurance policy required by this Section shall be deemed a material breach of this Franchise and may be grounds for termination of this Franchise.

5.6.1 Property Damage Liability. One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000) umbrella policy. The property damage insurance required by this Section shall indemnify, defend and hold harmless Company and County and the respective officers, boards, commissions, agents, and employees of each from and against all claims made by any person for property damage caused by the operations of Company under the Franchise herein granted or alleged to have been so caused or alleged to have occurred.

5.6.2 Comprehensive Public Liability. One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000) umbrella policy. The comprehensive public liability insurance required by this Section shall indemnify, defend, and hold harmless Company and County and the respective officers, boards, commissions, agents, and employees of each from any and all claims made by any person on account of injury to, or death of a person or persons caused by the operations of Company under this Franchise, alleged to have been so caused or alleged to have occurred.

5.6.3 Comprehensive Automobile Liability. One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000) umbrella policy. The comprehensive automobile liability insurance required by this Section shall indemnify, defend and hold harmless Company and County and the respective officers, boards, commissions, employees and agents of each from any and all claims made by any person on account of collision, personal injury or property damage caused by use of any owned, hired, or non-owned motor vehicles used in conjunction with the rights herein granted or alleged to have been so caused or alleged to have occurred.

5.6.4 Workers' Compensation. Workers' Compensation coverage which meets all requirements of any applicable State workers' compensation or comparable laws.

5.7 Cancellation or Change. The insurance policies called for herein shall require thirty (30) calendar days written notice to County and Company of any cancellation or change in the amount of coverage. Company shall in the event of any cancellation notice, obtain, maintain, pay all premiums for, and file with County written evidence of payments of premiums for an appropriate replacement insurance policies so canceled within thirty (30) calendar days following receipt by County or Company of notice of cancellation.

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

5.9 Qualified Carriers. All insurance shall be effected under valid and enforceable policies insured by insurance carriers licensed to do business in the State of California.

6 FEES AND PAYMENTS

6.1 Franchise Fee. Company shall pay County throughout the term of this Franchise an amount equal to two percent (2%) of Company's Cable Gross Revenues. Once per calendar year County by resolution may elect to reduce such percentage to a smaller percentage, and by resolution in a subsequent calendar year may change or revoke such election. Such payments shall be made quarterly, and are due within forty-five (45) days after the end of each calendar quarter.

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

6.1.2 County may audit Company to verify the accuracy of Franchise Fees paid County. Any additional amount due County shall be paid within thirty (30) days of County's submitting an invoice for such sum, and if such sum shall exceed five percent (5%) of the total Franchise Fee which the audit determines should have been paid for any calendar year, Company shall pay County's cost of auditing that calendar year as well.

6.1.3 If Company collects from subscribers that portion of the Franchise Fee attributable to non-subscriber revenues (examples being revenues from tower rentals, advertising or home shopping network commissions) then annually in the first quarter of each calendar year Company shall

6.1.3.1 submit an accounting to County comparing the Franchise Fees actually collected from subscribers for non-subscriber revenues in the preceding calendar year with the sums it should have collected for such period (typically 5% of non-subscriber revenues in such year), and

6.1.3.2 promptly correct any under collection or over collection for the prior year by adjusting subscriber rates and charges and the amounts paid County accordingly.

6.2 Discounted Rates. If Company's subscribers are offered what is, in effect, a discount if they obtain both Cable Service and some other, non-cable goods or service, then for

Cable Gross Revenue computation purposes, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:

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

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

6.3 Other Payments. The preceding fees and payments are in addition to all sums which may be due County for property taxes (real and personal), income taxes, license fees, permit fees or other fees, taxes or charges which County may from time to time impose.

6.3.1 Company shall pay County's cost of newspaper publication associated with adoption of this Franchise. It is agreed such costs do not constitute a Franchise Fee or any part thereof.

6.4 Interest. All sums not paid when due shall bear interest at the rate of ten percent (10%) per annum computed monthly, and if so paid with interest within thirty (30) days of due date, shall not constitute an Event of Default under Part 10.

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

7 RATES AND REGULATION

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

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

7.3 Notice of Certain Costs. Company shall notify County in writing at least annually of the identity of all costs which Company claims are external costs potentially entitled to pass through to subscribers under the FCC Rules or successor rules with a similar effect. Such notice shall state the approximate amount such costs may be on subscribers' monthly bills and set forth the computation of such amount. Such notice shall be provided on a date set by County, and unless changed by County, on each annual anniversary thereof.

8 TERM

8.1 Initial Term. The term of this Franchise shall be fifteen (15) years.

8.2 Termination. This Franchise and all rights of Company thereunder shall automatically terminate on the expiration of the term of this Franchise, unless an extension is granted. County shall give Company sixty (60) days notice prior to taking action to enforce such termination.

8.3 Reopeners. County or Company at its option may reopen this Franchise as follows:

8.3.1 Within six months of the adoption of Federal or State legislation or FCC regulations, if such regulations affect County's ability to (a) regulate rates or (b) act to protect subscribers (such as on customer service matters, customer service standards or consumer protection matters). Such reopener shall be limited to the matters described in (a) and (b).

9 TRANSFERS, OWNERSHIP AND CONTROL

9.1 Management of the Cable System. Company shall personally manage the Cable System and the provision of Cable Services within County. It shall not directly or indirectly contract for, subcontract or assign, in whole or in part, the management of the Cable System or the provision of Cable Services.

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

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

9.3 Transfer or Transferred. “Transfer” or “transferred” shall mean (a) any form of sale, conveyance, assignment, lease, sublease, merger, pledge, deed, grant, mortgage, transfer in trust, encumbrance or hypothecation, in whole or in part, whether voluntary or involuntary of any right, title or interest of Company in or to this Franchise or to the Cable System, (b) any change in actual working control (by whatever manner exercised) or in the effective control of Company, such as that described in 47 C.F.R. § 76.501 and following, including the notes thereto (but excluding note 2e), as in effect on the date of this Franchise (copy attached as Exhibit C), or (c) a change in limited partnership, limited liability corporation or similar interests representing ten percent (10%) or more of an equity interest in Company, including the right to require voting control without substantial additional consideration (such as compared to consideration previously provided).

9.4 Applications for Consent. If Company seeks to obtain the consent of County to any transactions or matters otherwise prohibited by this Part 9, Company shall submit an application for such consent in the form required by County and shall thereafter submit or cause to be submitted to County all such documents and information as County may request.

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

9.4.2 Company shall pay on County’s behalf or reimburse County for all costs incurred by County due to any proposed transfer.

10 DEFAULTS

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

10.1.1 The failure of Company to pay the Franchise Fee on or before the due dates specified herein.

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

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

10.1.4 The entry of any judgment against Company in excess of Five Hundred Thousand Dollars (\$500,000), which remains unpaid and is not stayed pending rehearing or appeal, for forty-five (45) or more days following entry thereof which may significantly impair Company's provision of Cable Service in County.

10.1.5 The dissolution or termination, as a matter of law, of Company or any general partner of Company.

10.1.6 If Company files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any trustee, receiver, master, custodian or liquidator of Company, or any of Company's property and/or Franchise and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay Company's debts generally as they become due.

10.2 Uncured Events of Default. County shall give Company written notice of any Event of Default and Company shall have the following reasonable time period to cure same: For an Event of Default which can be cured by the immediate payment of money to County or a third party, Company shall cure such default within thirty (30) days of the date such sum of money was due and payable; for an Event of Default by Company which cannot be cured by the immediate payment of money to County or a third party, Company shall have sixty (60) days from written notice from County to Company of an occurrence of such Event of Default.

10.2.1 If any Event of Default is not cured within the time period allowed for curing the Event of Default, as provided for herein, such Event of Default shall, without notice, become an Uncured Event of Default, which shall entitle County to exercise the remedies provided for in Section 11.1 and Section 11.2.

11 REMEDIES

11.1 Remedies. Upon the occurrence of any Uncured Event of Default as described in Part 10, County shall be entitled to exercise any and all of the following cumulative remedies:

11.1.1 County shall have the right to forfeit and terminate the Franchise and upon the forfeiture and termination thereof the Franchise shall be automatically deemed null and void and have no force or effect, Company shall remove the Cable System from County as and when requested by County and County shall retain any portion of the Franchise Fee and other fees or payments paid to it, or which are due and payable to it, to the date of the

forfeiture and termination. County's right to forfeit and terminate the grant of the Franchise pursuant to this section is not a limitation on County's right of revocation.

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

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

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

12 PROVISION OF INFORMATION

12.1 Filings. Upon request Company shall provide County with copies of all documents which Company sends to the FCC or to the State public service commission (or comparable State agency) and all records required by Company to be maintained under Section 76 of the FCC regulations (47 C.F.R. § 76) or successor sections, upon request of County.

12.2 Lawsuits. Company shall provide County with copies of all pleadings in all lawsuits pertaining to the granting of this Franchise and the operation of the Cable System to which it is a party within thirty (30) days of Company's receipt of same.

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

13 GENERAL

13.1 Entire Agreement. This Franchise Agreement including the Exhibits attached hereto, contains the entire agreement between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded, except that any obligation of Company to indemnify County under a prior franchise or agreement shall be continuing as to those matters (if any) occurring during the term of said prior franchise or agreement on which Company was obligated to indemnify County.

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

If to County: County Administrator
2 South Green Street
Sonora, CA
95370

If to Company: Sierra Nevada Communications
P.O. Box 281
Standard, CA 95373

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

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

13.4 Governing Law. This Franchise Agreement shall be construed pursuant to the laws of the State of California and the United States of America.

13.5 Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Franchise Agreement, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Franchise Agreement, but each and every covenant, agreement, term or

condition of this Franchise Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

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

13.5.2 County grants this Franchise solely for a Cable System and for transaction of a Cable Television Business. Company may assert claims to the effect that once its facilities have been placed in the streets and Public Ways it will be entitled under federal law to use them for other purposes without the consent or authorization of County and without necessarily paying compensation therefore. County disputes any such claim. County further asserts that if any such claims by Company were to be sustained there would be, among other things, an unconstitutional taking of County’s property in violation of the Fifth Amendment of the United States Constitution. Company disputes this claim. Neither the issuance nor the acceptance of this Franchise constitutes or will be claimed to constitute a waiver or relinquishment of any rights or defenses of either County or Company in connection with these disputed issues. County and Company acknowledge that this section is not intended to be a comprehensive statement of their respective claims and positions and that they intend to defer all disputes that may arise out of or relate to use by Company of its facilities in the streets and Public Ways for purposes other than a Cable System.

13.6 Independent Contractor Relationship. The relationship of Company to County is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker’s compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party’s agents or employees as a result of the performance of this Franchise Agreement, unless expressly stated in this Franchise Agreement.

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

13.8 Effective Date. This Franchise Agreement shall be effective as of November 30, 2004. (“Effective Date”). Any prior franchise shall terminate as of midnight of the day

immediately preceding the Effective Date of this Franchise Agreement, except as provided in Section 13.1.

13.9 FCC Rules. A copy of FCC Rule 76.309 as in effect on the date of this Franchise Agreement is attached hereto as Exhibit A. A copy of FCC Rule 76.501 as in effect on the date of this Franchise Agreement is attached hereto as Exhibit C.

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

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

13.12 Force Majeure. In the event Company's performance of any of the terms, conditions or obligations required by this Franchise Agreement is prevented by a cause or event, not within Company's reasonable control, it shall be deemed excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof. Causes or events not within the control of Company shall include acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies and natural disasters.

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

13.14 Specific Rights Reserved by County. In addition to any other rights reserved to County this Franchise Agreement is subject to the right of County:

13.14.1 To revoke the Franchise Agreement for misuse, non-use, or the failure to comply with the material provisions of any applicable cable ordinance of County, as such may be supplemented or amended from time to time, or any other material local, State or Federal laws or regulations, subject to the procedures set forth in Parts 11 and 12.

13.14.2 To require proper and adequate extensions of the Cable System and Cable Services and maintenance thereof at the highest practicable standard of efficiency.

13.14.3 To establish reasonable standards of Cable Service and quality of products, and to prevent unjust discrimination in Cable Service or rates.

13.14.4 To require continuous and uninterrupted service to the public in accordance with the terms of this Franchise Agreement throughout the entire period hereof.

13.14.5 To control and regulate the use of its streets, alleys, bridges, streets, Public Ways, and public places and other County property and the space above and beneath them.

13.14.6 To install and maintain without charge, its own equipment upon the Company's poles and in Company's conduit upon the condition that said equipment does not unreasonably interfere with the operations of the Company and is not used by County to provide services in competition with Company.


13.14.7 Through its appropriately designated representatives, to inspect all construction or installation work performed subject to the provisions of this Franchise Agreement or any cable ordinance of County and to make such inspections as it shall find necessary to insure compliance with the terms of this Franchise Agreement, such cable ordinance, and other pertinent provisions of law.

13.14.8 At the expiration of the term for which this Franchise Agreement is granted, and absent a renewal of it, or upon the revocation of the Franchise Agreement, to require the Company to remove at its own expense any and all aerial portions of the Cable System from the streets and Public Ways within County.

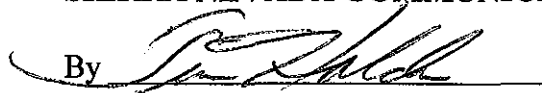
13.15 Warranty of Authority The individual executing this Franchise Agreement on behalf of the Company warrants he/she has been delegated full authority to bind the Company to the terms of this Franchise Agreement, and that all necessary actions have been taken by Company's governing body to authorize this Franchise Agreement and the signatory's execution.

IN WITNESS WHEREOF, the parties have hereto set their hands as of the day and year first above written.

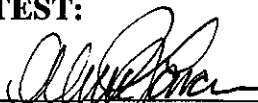
COUNTY OF TUOLUMNE

By 
Richard Pland,
Chair of the Board of Supervisors

SIERRA NEVADA COMMUNICATIONS

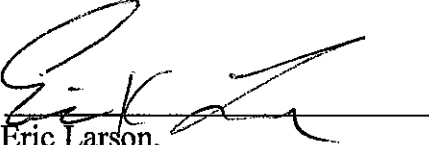
By 

ATTEST:

By 
Alicia L. Jamar, Clerk

Sierra Nevada Communications Cable T.V. Franchise
November 22, 2004

**APPROVED AS TO RISK
MANAGEMENT FORM**

By 
Eric Larson,
Risk Manager

**APPROVED AS TO LEGAL
FORM
County Counsel**


By 
Paul Griebel
Deputy County Counsel

EXHIBIT A

FCC RULE 76.309

47 C.F.R. § 76.309 Customer service obligations.

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

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

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

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

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

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

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

(1) Cable system office hours and telephone availability--

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

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

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

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

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

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

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

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

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

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

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours.

(The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

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

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

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

(i) Notifications to subscribers--

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible

in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing--

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

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

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

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

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

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

(4) Definitions--

(i) Normal business hours--The term "normal business hours" means those hours during which most similar businesses in the community are open to

serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

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

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

EXHIBIT B

GUARANTEE IN LIEU OF BOND

THIS AGREEMENT ("Agreement") is made this day of , 200 between Guarantor, County and Company (for the purpose of this Agreement, the terms "Guarantor", "County", and "Company" have the meanings ascribed to them below).

WITNESSETH

WHEREAS, the Company has accepted a "Franchise" (as defined below) with County, relating to Company's cable system ("System"), which Franchise is hereby specifically referred to and incorporated herein, and made a part hereof; and

WHEREAS, , a(n) corporation ("Guarantor") is the indirect parent company of the Company and has a substantial interest in the System and the conduct of the Company in complying with the Franchise, and any and all amendments thereof and any agreements related thereto; and

WHEREAS, section 4.23 of the Franchise requires the Company, as principal, to furnish bond or bonds issued to cover the faithful performance of certain of the Company's obligations under the Franchise.

NOW THEREFORE, Guarantor hereby unconditionally guarantees the due and punctual performance of any and all obligations of Company contained in section 4.23 of the Franchise.

County shall give written notice to Guarantor of: (a) any defaults of Company in the performance of any such covenants and agreements; and (b) any presentment, demand, protest or notice of any kind which relates to Company's performance of the terms and conditions set forth in the Franchise.

This Agreement, unless terminated, substituted or canceled as provided herein, shall remain in full force and effect for the duration of the term of the Franchise, or as expressly provided otherwise in the Franchise.

Upon substitution of another Guarantor reasonably satisfactory to County, this Agreement may be terminated, substituted or canceled upon thirty (30) days' prior written notice from Guarantor to County and the Company.

Such termination shall not affect liability incurred or accrued under this Agreement prior to the effective date of such termination or cancellation.

Any notice given pursuant to this Agreement are to be given by certified mail and shall be addressed to the Guarantor and Company at _____ and to County at _____.

No claim, suit or action under this Agreement by reason of any default of the Company shall be brought against Guarantor unless asserted or commenced within six (6) months after the effective date of such termination or cancellation of this Agreement.

IN WITNESS WHEREOF, the Guarantor, Company and County have set their hands and seals on the _____ day of _____, 200__.

DEFINITIONS

(The following terms have meanings ascribed to them below)

County: County of Tuolumne

Company: _____

Franchise: Sierra Nevada Communications

GUARANTOR:

By _____

Its: _____

COMPANY:

By: [Signature]

Its: owner

County:

By: [Signature]

Its: Chairman

EXHIBIT C

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

47 C.F.R. § 76.501 Cross-ownership.

(a)-(c) [Reserved]

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

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

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

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

Note 1: Actual working control, in whatever manner exercised, shall be deemed a cognizable interest.

Note 2: In applying the provisions of this section, ownership and other interests in an entity or entities covered by this rule will be attributed to their holders and deemed cognizable pursuant to the following criteria:

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

(b) Investment companies, as defined in 15 U.S.C. 80a-3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 20% or more of the outstanding voting stock of a corporation, or if any of the officers or directors of the corporation are representatives of the corporation are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(c) Attribution of ownership interests in an entity covered by this rule that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership attribution benchmark to the resulting product, except that whatever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. [For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee," then X's interest in "Licensee" would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1×0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not be cognizable.]

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

(e) Subject to paragraph (i) of this Note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph (i) of this Note, holders of debt and instruments such as warrants, convertible debentures, options or other non-voting interest with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

(f)(1) Subject to paragraph (i) of this Note, a limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the

partnership and the relevant entity so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the relevant entity so certifies.

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

(3) In the case of an LLC or RLLP, the entity seeking insulation shall certify, in addition, that the relevant state statute authorizing LLC's permits an LLC member to insulate itself as required by our criteria.

(g) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary media business, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a media entity, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the media subsidiary, and a certification properly

documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a media entity shall not be attributed with ownership of that entity by virtue of such status.

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

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 20 percent; or

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

(3) The sum of the interests computed under paragraph (i)(1) of this note plus the sum of the interests computed under paragraph (i)(2) of this note is equal to or exceeds 20 percent.

(i) Notwithstanding paragraphs (e) and (f) of this Note, the holder of an equity or debt interest or interests in an entity covered by this rule shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (all equity plus all debt) of that entity, provided, however that:

(1) in applying the provisions of paragraph (i) of this note to §§76.501, 76.905 (b)(2), the holder of an equity or debt interest or interests in a broadcast station, cable system, SMATV or multiple video distribution provider subject to §§76.501, 76.505, or 76.905(b)(2) ("interest holder") shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (defined as the aggregate of all equity plus all debt) of that entity; and

(i) the interest holder also holds an interest in a broadcast station, cable system, SMATV, or multiple video distribution provider that operates in the same market is subject to §§76.501, 76.505, or 76.905(b)(2) and is attributable without reference to this paragraph (i); or

(ii) the interest holder supplies over fifteen percent of the total weekly broadcast programming hours of the station in which the interest is held.

(2) For purposes of applying subparagraph (i)(1), the term “market” will be defined as it is defined under the rule that is being applied.

Note 3 to §76.501:

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

Note 4 to §76.501:

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

Note 5 to §76.501:

Certification pursuant to this section and these notes shall be sent to the attention of the Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

Note 6 to §76.501:

In applying paragraphs (a) of §76.501, for purposes of paragraph note 2(i) of this section, attribution, of ownership interests in an entity covered by this rule that are held indirectly by any party through one or more intervening organizations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product. The ownership percentage for any link in the chain that exceeds 50% shall be included. [For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of “Licensee,” then X’s interest in “Licensee” would be 15% (0.6x0.25), and A’s interest in “Licensee” would be 1.5% (0.1x0.6x0.25).]

[58 FR 27677, May 11, 1993, as amended at 60 FR 37834, July 24, 1995; 61 FR 15388, Apr. 8, 1996; Sept. 17, 1999; 64 FR 67194, Dec. 1, 1999; 66 FR 9973, Feb. 13, 2001; 67 FR 13234, Mar. 21, 2002; 68 FR 13237, Mar. 19, 2003]

EXHIBIT D

CONTRIBUTIONS IN AID OF CONSTRUCTION

Example 1: Subscriber 1 pays \$1,000 for a line extension in year 1. In year two, a second subscriber is added to the extension. Even with both subscribers the homes per mile standard for a free extension is not met. Company in year two collects \$333 ($\$1,000/2$ less 33%) from subscriber 2 and pays it to subscriber 1.

Example 2: Subscriber 1 pays \$1,000 for a line extension in year 1. In year 3, two subscribers are added to the extension and with both the homes per mile standard for a free extension it met. Company in year three collects zero from subscribers 2 and 3 but refunds \$333 ($\$1,000$ less 66%) to subscriber 1.