

7. CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND GOVERNMENTAL USE

(a) Access Channels.

(1) Grantee will make available to the County up to eighteen PEG channels in the aggregate for use by the County for PEG programming, at channel locations selected by the Grantee. Grantee reserves the right to utilize for its own purposes any portion of such channels not utilized for PEG purposes.

(2) The Grantee shall make available to all Subscribers residing within Fairfax County in those areas where Grantee has authority to provide service at least the following video Channels for public, educational and governmental use:

- (A) Public access: 2 analog and 1 digital
- (B) Fairfax County Public Schools: 3
- (C) George Mason University: 1
- (D) Northern Virginia Community College: 1
- (E) County governmental access: 2

County governmental access channels shall be allocated to specific uses or agencies by the County.

- (F) Reston community/public access: 1
- (G) Reserved for educational and/or governmental access use as

allocated by County: 3

(3) In addition to the 14 PEG channels listed above, the Grantee shall reserve 4 additional channels for potential future educational and/or governmental use in the event that the Grantee's basic service tier is migrated from analog to digital transmissions.

(4) The Board may activate any of the educational and/or governmental access channels to the extent authorized by this subsection. The process for Board consideration shall include, but not be limited to, the following:

(A) The educational or governmental entity shall submit to the Communications Administrator and the Grantee its request to activate one of the channels reserved for allocation by the County in 7(a)(2)(G) (“Channel Request”). The Channel Request shall include: (i) documentation of community need(s) to be served by the requestor on the requested channel, including, but not limited to, programming and hours of operation; (ii) documentation demonstrating that the programming content and hours of use cannot be supported by another channel provided by the Channel Request applicant or, in the case of higher educational access, by another channel designated for such use; (iii) documentation that the Channel Request applicant’s current PEG channel(s) carry at least 70 hours per week of Qualified Programming during 16 consecutive weeks that occur between September 1 and June 30; (v) documentation that the requesting entity has the financial, legal, and technical abilities to provide programming, facilities, and equipment to support the Channel Request; and, (vi) any other information the Communications Administrator deems necessary for the Board’s consideration of the Channel Request.

(B) The Communications Administrator shall forward to the Board the completed Channel Request and a recommendation for Board action.

(C) Board consideration of the Channel Request shall include a public hearing that provides the opportunity for the Grantee and other interested parties to address the Board.

(D) The Board may direct the Grantee to activate one of the reserved channels identified in 7(a)(2)(G), based on the information provided pursuant to this section and the public interest served, by serving written notice of its decision to the Grantee and the entity originating the Channel Request. The Grantee's activation of such channel shall be implemented within 180 days of County's written notice, unless otherwise delayed by the County. Selection of the channel to be activated shall be made by the Grantee.

(5) The Board may place in reserve, for use by the Grantee, any of the educational and/or governmental access channels to the extent authorized by this subsection. The process for Board consideration shall include, but not be limited to, the following:

(A) The Grantee shall submit to the Communications Administrator and the affected channel User its request for the Board to place in reserve, for use by the Grantee, one of the educational and/or governmental access channels. The Grantee's Request shall include: (i) identifying the affected User and its channel assignment; and (ii) documentation that the User's current channel provides less than 15 hours per week of Qualified Programming during 16 consecutive weeks that occur between September 1 and June 30; and, (iii) any other information the Communications Administrator deems necessary for the Board's consideration of the Grantee's Request.

(B) The Communications Administrator shall forward to the Board the completed Grantee Request and a recommendation for Board action.

(C) Board consideration of the Grantee Request shall include the opportunity for the affected User and other interested parties to address the Board.

(D) The Board may direct the affected User to vacate its previously assigned channel and direct the Grantee to place the affected User channel in the reserved

channels identified in 7(a)(2)(G), based on the information provided pursuant to this section and the public interest served, by serving written notice of its decision to the affected User and the Grantee. The affected User shall vacate its previously assigned channel within 180 days of County's written notice, unless otherwise delayed by the County.

(6) The Board shall consider each Channel Request or Grantee Request on its own merits and independent of any other such requests made pursuant to 7(a)(4) or 7(a)(5).

(7) "Qualified Programming" as used in Section 7(a) generally means programming that:

(A) Relates to meeting the educational and/or governmental needs and interests of Fairfax County cable television subscribers, regardless of the producer or point of origin and that;

(B) Is repeated no more than four times during the 16 week period;
and,

(C) Does not include bulletin board, text-based material that is broadcast and non-interactive.

(8) To fulfill its obligation to transmit a public access channel on the Grantee's digital tier as set forth in Section 7(a)(2)(A), the Grantee shall provide any services, facilities, equipment and support necessary to convert that analog public access channel to the format necessary for transmission on the Grantee's digital tier.

(9) The Grantee shall have an obligation to provide playback, training, outreach, administrative support and production assistance to public access Users, which obligation shall be discharged so long as Grantee complies with either A or B below.

(A) Grantee continues to operate the Reston Channel, which Grantee currently operates as a hybrid of community and public access, substantially as it does on the Effective Date hereof.

(B) After May 1, 2010, either the Grantee or the County may elect to have the Grantee fulfill its obligations under this Section 7(a)(9) by completing the following: (i) make the Reston channel available as a Public Access Channel to such public access management entity as the County may designate for operation of the channel; (ii) convey to such public access management entity or the County all production and transmission equipment then in use by the Reston Channel and all master copies of programming produced for the Reston Channel; and (iii) provide an additional grant (as set forth in Section 7(c)(2)) to such public access management entity or to the County. The party that elects to have Grantee fulfill its public access obligation under this Section 7(a)(9)(B) shall give at least six months notice of the election, unless both parties agree to shorter notice.

(10) Except as otherwise provided herein, each PEG Channel shall be transmitted in a format so that every Subscriber can receive and display the PEG signals using the same subscriber-owned receiving equipment that is used for other Basic Service Channels.

(11) If the Grantee makes changes to Grantee's Cable System that require improvements to PEG access facilities and equipment, Grantee shall provide any necessary additional headend and distribution facilities or equipment within thirty days so that PEG facilities and equipment may be used as intended with respect to the eighteen PEG channels specified in Section 7(a)(2) including, among other things, so that live and taped programming can be cablecast efficiently to Subscribers.

(b) Access Channel Assignment.

(1) Each PEG Channel shall be delivered over the HSN with transmission quality the same as or better than the transmission quality of any other Channel on Basic Cable Service, provided that Grantee shall not be responsible for any deficiencies in the source signal it receives from any PEG access provider over which the Grantee has no control.

(2) The Grantee shall minimize the number of changes in access channel assignments. In the event the Grantee elects to change an access channel assignment, it shall (i) give the access channel programmer ninety days' notice of such change, and (ii) provide, free of charge, public announcements of such change that shall include (A) to the extent Grantee has advertising availability, advertising such PEG channel change on its local advertising inserts for up to two minutes per day in prime time for the thirty days prior to such change, and (B) providing prominent prior notice of such change in at least two of the Grantee's monthly cable television service Subscriber billings.

(c) *Capital Grants and Expenditures for Access Facilities.*

(1) The Grantee shall provide to the County a PEG capital grant in the amount of \$.25 per Basic Service subscriber per month for the first five (5) years of the term hereof; \$.30 per Basic Service subscriber per month for the second five (5) years of the term hereof; and \$.35 per Basic Service subscriber for the remaining years of the term hereof.

(2) Should either the County or the Grantee elect to discontinue the Grantee's operation of the Reston Channel as a public access channel at any time after May 1, 2010, then beginning with the first calendar quarter following such discontinuation, Grantee shall increase the amount specified in (c)(1) by \$.21 per Basic Service subscriber per month for the remainder of the term hereof.

(3) The amounts specified in (c)(1) and (2) shall be paid to the County (or such other entity as the County may designate) on a quarterly basis with such payments being made no later than thirty days following the end of each quarter.

(4) If the Grantee and the County disagree at any time as to the amounts due under this subsection (c), the Grantee shall continue paying the specified grants in the amounts paid in the last undisputed payment during the period of any such dispute, provided, however, that the County shall return any such amounts paid to the County that are later determined to be in excess of the correct amounts.

(5) Not later than six months after the Effective Date, Grantee agrees to undertake appropriate capital improvements to the studio facility it uses for the Reston Channel in an amount not less than \$150,000.

(6) In support of the PEG channels carried on Grantee's Cable System, the Grantee will provide airtime on its system to inform Subscribers about the PEG channels and programming. Grantee will make available to the County or its PEG designees 1,200 thirty-second advertising spots per month to run cross-channel on Grantee's Cable System on a space-available basis throughout all day parts, 6 AM to midnight, on any of the programming networks on which Grantee inserts ads. The County's spots are subject to preemption by paid advertisements, with Grantee obligated to make good on any preempted spots. Except for make goods, the 1,200 spots do not carry over from month to month. The County and its PEG designees shall provide the completed PEG channel advertisements to Grantee in Beta or digital format, or such other format as may be agreed by the parties, for insertion on Grantee's Cable System. On a quarterly basis, the Grantee shall provide the County with affidavits which verify the time, date and channel of the insertions made during the quarter. Should the Grantee provide

the increased support specified in Section 7(c)(2), then Grantee's obligation under this paragraph shall be reduced from 1,200 thirty-second spots per month to 612 thirty-second advertising spots per month.

(d) *Use of PEG Channels, Facilities and Equipment.*

(1) The County, or the entity that manages a PEG Channel, shall be able to establish and enforce rules and procedures for use of the PEG Channels pursuant to Section 611(d) of the Cable Act, 47 U.S.C. § 531(d). The County shall resolve any disputes among PEG users regarding allocation of PEG Channels.

(2) The Grantee will provide headend and distribution facilities for downstream transmission of the PEG Channels on the HSN, with respect to the up to eighteen PEG channels specified in Section 7(a), at no charge to the County or other PEG access programmers.

(3) The County or its licensees, assigns, or agents shall not transmit on public, educational or governmental access channels commercial programming or commercial advertisements to the extent that they would constitute competition with the Grantee for such commercial programming or commercial advertisements, subject to the following:

(A) For purposes of this subsection, "commercial programming or commercial advertisements" shall mean programming or advertisements for which the County receives payment from a third party (a party other than the County or the Grantee), but shall not include announcements indicating that programming is underwritten by a commercial entity, such as the underwriting announcements typically displayed by the Public Broadcasting System.

(B) For purposes of this subsection, "the County" shall be deemed to include the Fairfax County Public Schools.

(e) *Cable Drops and Outlets for Government Facilities.*

(1) The Grantee will provide the following, at no charge, at each fire station, public school, police station, public library, and such buildings used for government or educational purposes as may be designated by the County; provided, however, that if it is necessary to extend the Grantee's trunk or feeder lines more than three hundred feet solely to provide service to any such school or public building, the County shall have the option of paying the Grantee's direct costs for such extension in excess of three hundred feet itself, or of releasing the Grantee from or postponing the Grantee's obligation to provide service to such building:

(A) The first service drop of the HSN, for each such site where a drop is not already installed;

(B) One HSN Subscriber converter per site if needed to receive the service; and

(C) Basic Service and Cable Programming Service.

(2) Grantee shall deliver all HSN signals to each such HSN drop in buildings to which service is provided on the Effective Date at the same power level provided there on the Effective Date or better. Grantee shall deliver all HSN signals to each such HSN drop in buildings to which service is provided after the Effective Date at 15 dBmV or better, measured at the Demarcation Point, for each building at which the County advises the Grantee it will use two or more converters.

(3) The County shall be responsible for the cost of any "terminal equipment," including TV monitors, VCRs, and/or computers.

(4) The cost of inside wiring, additional drops or outlets and additional converters requested by the County within these specified facilities, including those drops or

outlets in excess of those currently installed, are the responsibility of the County. If the County requests the Grantee to provide such services or equipment, the County will pay the Grantee for those costs.

(5) If the County makes a request to the Grantee in writing, the Grantee shall rewire buildings, move drops or entrance links, and make other changes to installations of inside wiring. The County will be responsible for the cost of all such work, and the County will pay the Grantee for its direct cost plus ten percent to offset the Grantee's project administration.

(6) Subject to the limitations set forth in this subsection 7(e), whenever necessary, or dictated by changes in the Grantee's technology, the Grantee shall upgrade all equipment provided at Grantee's expense pursuant to this subsection 7(e), in order to ensure that the County can continue to receive the services offered by the Grantee to the County pursuant to this Franchise Agreement.

(f) *Editorial Control.* Except as expressly permitted by federal law, the Grantee shall not exercise any editorial control over the content of programming on the Public, Educational and Governmental Access Channels (except for such programming as the Grantee may cablecast on such Channels).

(g) *Carriage of PEG Programming.* All PEG programming shall be carried on the Grantee's Basic Service tier, except as otherwise agreed upon.

(h) *Institutional Network.*

(1) The Grantee shall construct the I-Net System Upgrade linking public, educational and governmental facilities in the Franchise Area and an interconnect with the grantee of the North and South franchise areas (the "Institutional Network" or "Network" or "I-Net"), in accordance with the conditions set forth in Appendix 2 and this Franchise Agreement.

The Grantee shall pay one-half of the actual cost of construction of the I-Net System Upgrade and shall pay for the full amount of any construction described in Appendix 2 that exceeds \$1,600,000. The County shall pay one-half of the actual cost of construction of the I-Net System Upgrade or \$800,000, which ever is less, and shall pay for the full amount of any increase in the actual cost of construction of the I-Net System Upgrade caused solely by changes requested by the County. Any changes requested by the County shall be in writing and authorized by the Communications Administrator, or designee.

(2) The Grantee shall assist the County in the County's migration from the current institutional network to the I-Net System Upgrade as reflected in Appendix 2.

(3) The Grantee shall continue to maintain and operate the existing Institutional Network as it exists as of the Effective Date of this Agreement until the County switches all its current institutional network operations to the I-Net pursuant to Appendix 2. The County shall switch such operations to the I-Net pursuant to Appendix 2 by two years after the completion of construction of the I-Net System Upgrade.

(i) *Costs and Payments Not Franchise Fees.* Grantee agrees that the capital grants and other support provided pursuant to this Section 7 do not constitute franchise fee payments within the meaning of 47 U.S.C. § 542, but may be passed through to Subscribers as a separate line item on their monthly bills pursuant to 47 U.S.C. § 622(c)(2).