

**AGENDA
VILLAGE OF DEERFIELD
CABLE & TELECOMMUNICATIONS COMMISSION**

Tuesday, May 3, 2022
7:00 PM

- I.** CALL TO ORDER 7:00 PM
- II.** APPROVAL OF MINUTES
 - A. March 1, 2022
- III.** PUBLIC COMMENT
- IV.** VILLAGE HALL MONOPOLE UPDATE
- V.** NORTSHORE GAS MONOPOLE INQUIRY
 - A. Village Letter
 - B. NS Gas Response Letter
- VI.** COMCAST FRANCHISE AGREEMENT NEGOTIATION
 - A. Village Attorney Comments
- VII.** OTHER ITEMS FOR DISCUSSION
 - A. Comed Proposed Rate Increase
- VIII.** ADJOURNMENT

Next Meeting Date – TBD

Cable & Telecommunications Commission

Meeting Minutes

March 1, 2022

A meeting of the Cable & Telecommunications Commission was held on Tuesday, March 1, 2022 at 7:00 p.m. via Zoom. Chairperson called the meeting to order at 7:00 p.m.

Present:

Steve Robinson, Chair
JR Bailey
John Chaput
Paul Davidson
Greg Lapin
Adam Simon
Ken Urbaszewski

Absent:

Alan Barasky
Neil Charak

Also Present:

Andrew Lichterman, Assistant Village Manager
Justin Keenan, Assistant to the Village Manager

Call to Order: 7:00 pm

Welcome new commissioners

a. Paul Davidson

Mr. Davidson has been involved in IT operations and communications for his entire career. He believes it is important to consider how the town is looking at cable and telecommunications, especially with more people working from home.

b. JR Bailey

Mr. Bailey is also on the Family Days Commission. He is a Vice President of an electrical manufacturer and deals with telecommunications and utilities every day. He believes this is in line with his line of business.

Mr. Lichterman noted Justin Keenan will assume the role of Staff Liaison for this commission. Two commissioners have resigned, John Sanner and Andrew Richter. Former commissioner John Sanner has moved out of Deerfield and Andrew Richter has become the West Deerfield Township assessor, so there could be a conflict of interest. The commissioners wished them well.

Document Approval

Commissioner Lapin moved to approve the minutes from the September 10, 2019 Cable & Telecommunications Commission. Commissioner Simon seconded the motion. The motion passed on a voice vote.

Mr. Keenan noted one of the now resolved issues from the 2019 meeting includes T-Mobile going forward with new terms for the further lease on the monopole. The Commission had agreed to a new set of terms that were submitted to T-Mobile, but they said they did not want to extend the lease longer. Mr. Lichterman added T-Mobile said they would not agree to a 10-year lease. The current lease will expire in 2024.

Mr. Keenan explained the Verizon small cell pole attachment agreement was approved by the Village Board on October 7, 2019. The Commission's comments were incorporated into the recommendation. Mr. Simon noted the statute governing small cells has been amended since 2019. He explained there used to be a provision stating if a provider wanted to put up a new pole, they could ask them to look for existing poles within 100 feet of the proposed location. That has been expanded to 250 or 400 feet so there are less new poles added and less visual clutter. Mr. Keenan reported Verizon has been approved at multiple locations to install fiber optic lines for small cell sites.

Public Comment:

There was no Public Comment on non-agenda items on email, via Zoom or in person.

Business

1. Village Hall Monopole Update

Mr. Keenan reported the Village Hall monopole was installed in 2008 as part of an agreement with Verizon Wireless. Over time, the canisters have deteriorated and one of the cellular providers expressed concern with the fiberglass canisters at the top of the monopole. The Village hired Fullerton Engineering to complete a structural analysis of the monopole. They determined the fiberglass canisters are in deteriorating condition and should be removed. The issue is if the canisters are opened and closed, they will eventually not close or break, so the Village needs to completely remove them.

The Village is getting quotes on new fiberglass canisters, installing them and painting the monopole. The Village hopes the cellular providers perform upgrades while the canisters are off the monopole. Mr. Keenan believes the time frame for completion will be July or August. The paint on the monopole needs to be hand rolled due to the proximity to Village Hall, the library and the police department.

The commissioners discussed the color of the paint. Mr. Keenan explained the intent was to bring it back to the original condition. Commissioner Chaput suggested the white color might be best for the equipment because a dark color may capture the heat and be detrimental to some of the field lines. Mr. Keenan noted the only exterior-mounted equipment is for the police and fire departments. They will be removed and only three antennas will be re-installed. He noted the rest of the monopole, including the structure and foundation, passed the inspection.

Mr. Lichterman reported the Village is making a significant investment of more than \$100,000 in the monopole, between painting and replacing the canisters. The Village currently receives \$150,000 in revenue from this site.

2. Northshore Gas Monopole Inquiry

a. Feasibility study for proposed monopole in Reservoir 29!

Mr. Lichterman received a letter from North Shore Gas over the summer inquiring about Reservoir 29 along Pfingsten and Lake Cook Road. They are trying to install their own infrastructure for efficiency. North Shore Gas requested an easement adjacent to the Crown Castle monopole location in the southwest corner along the spur, at no cost to them. They offered that we could put police communication equipment on the monopole at a small cost, however, the Village expects economic terms. Mr. Keenan believes the tower would be 195 feet, and it would solely be for their equipment. The Village will need to speak with Crown Castle to ensure it would not interfere with their monopole.

Commissioner Simon is not in favor of providing the easement at no cost. Mr. Lichterman asked them for a letter with their business terms. He noted the 195 feet is massive and asked if they could do two smaller poles. Mr. Lichterman questioned how the Commission would like to respond. Ch. Robinson asked about the Crown Castle monopole. Mr. Lichterman believes it is 120 feet. Mr. Keenan explained the top of the water tower is 191 feet, so it would be a few feet taller. Ch. Robinson noted it would be self-supporting so there would not be any guide wires to hold it up. Commissioner Davidson believes it would be an "A" shape and would need the height to get the most distance. Ch. Robinson questioned why the Village would do it for free when there is time, effort, property, etc. to consider. Mr. Lichterman explained the site is very tight and is covered in lead. The designated spot is the only spot that is not lead contaminated. Commissioner Chaput believes they should be charged similar to Crown Castle. Ch. Robinson noted it is a different business model, but they are saying the existing public facilities are not working for them and they can do it more efficiently if we give it to them. Commissioner Simon believes the Village should communicate a realistic target with them. Ch. Robinson suggested restricting them from adding any cellular carriers to the pole. Commissioner Davidson believes there should also be a clause stating if the Village chooses to put public safety on there, it would be at no cost to the Village.

Mr. Lichterman explained Crown Castle is a cost share structure. The Village monopole leases are negotiated directly from the Village. Most of the leases started at \$35,000 to \$40,000 and are currently up to between \$47,000 and \$56,000. There is a base fee plus a \$5000 signing bonus due to administrative and attorney fees and a 10-year guarantee with 3 percent annual escalators.

Mr. Keenan explained staff is looking for a recommendation from the Commission. The commissioners want to ensure this would not interfere with Crown Castle or other carriers in the immediate area and would need the frequencies of what is going up. They believe the aspect of public safety should be in the letter. There should be language stating they are obligated to ensure they have the right licensing and have been cleared to operate at that frequency and environment. It should also hold the Village harmless. Ch. Robinson believes the Village should get an amount similar to the cellular leases. Mr. Lichterman questioned whether the Village should get 90 percent of the market rate, as they are a public utility. Ch. Robinson asked about the Village's underlying costs as a base to determine what the bottom is. Mr. Simon has seen situations where ComEd has shared their wireless networks with municipalities, but not with other utilities. Mr. Lichterman noted the last lease this Commission negotiated was the AT&T lease in 2018 at \$38,000 with a 3 percent annual escalation. The 2022 lease term would be \$42,700. Commissioner Davidson noted AT&T sells to consumers while this system would be back-end equipment. Mr. Simon noted letting them use the land is an opportunity cost for the Village as we cannot put another cellular tower there. Ch. Robinson suggested asking for the fair market value and then let them tell the Village why they cannot pay fair market value. They are using a different price structure, but their service is still being paid for by consumers. The commissioners suggested telling North Shore Gas what the cellular providers are paying (fair market value) and have them make an offer.

Commissioner Urbaszewski moved to respond in writing outlining factual premises of market value. Commissioner Simon seconded the motion. The motion passed by the following vote:

AYES: Bailey, Chaput, Davidson, Lapin, Simon, Urbaszewski, Robinson (7)

NAYS: None (0)

3. Cable Franchise Fees

Commissioner Urbaszewski questioned the number of customers that are being lost due to the streaming trend. The cable franchise fee has doubled in the past 15 years. Ch. Robinson noted the Village used to get a monthly report showing the number of homes in Deerfield and the number of subscribers. Commissioner Davidson noted the information does not reflect that streaming service requires internet service. Ch. Robinson noted the Commission's purview is only television service as the Commission does not have any oversight of Internet service. Mr. Lichterman noted the City of Chicago charges an amusement tax for Internet streaming services. Commissioner

Simon noted the City of Chicago streaming is broad as it applies to Netflix, Xbox, Hulu, Spotify and others. Eventually, if the Commission believes the Village is losing cable TV subscribers and therefore franchise fees are declining, the Village can add a fee to fill in for the lost revenue.

Ch. Robinson noted the Village does not know the percentage of subscribers. The commission can speculate that there are fewer subscribers but the homes that are subscribing are taking more of the cable package which offsets the numbers. In addition, the price for cable has increased. Commissioner Davidson noted ATT is decreasing in numbers while Comcast's numbers are increasing. He believes the Village is turning into a single provider. Commissioner Simon noted the IML has been pushing municipalities to implementing a streaming tax to offset the decline; however, the municipality has to collect the tax. Mr. Lichterman believes the Commission should monitor this. Ch. Robinson would like to bring this to the Board's attention. Mr. Lichterman explained the Board gets the minutes from the commission and he will bring it up at a staff meeting as well.

Ch. Robinson questioned if the Village would be approached for 5G wireless; and if so, would it be a game changer where streaming is concerned. Commissioner Davidson noted T-Mobile is currently advertising their Internet services which are 5G, so it already is coming.

4. Comcast Franchise Agreement Negotiation

a. Current contract expires in September

Ch. Robinson noted the past few renewals have been rubber stamped. The commissioners questioned why Comcast wants to work with municipalities rather than the State. Mr. Lichterman noted one Village got an HD government channel in their negotiations. Commissioner Simon noted there are a number of criteria that need to be met before full HD is met. In addition, Comcast is managing a fixed asset. They need to determine whether giving HD capacity to a municipal channel is more important than allocating that capacity to high-speed Internet. The commissioners questioned whether it is necessary to have HD capability and what the expense would be to have HD capacities. The commissioners would like to see municipal channel viewership.

Mr. Lichterman noted that there is language in the new agreement that the Village has access to two channels with the ability to activate the third. There is also language where they can shut down the channel if there is not enough original programming. Ch. Robinson suggested exchanging the three channels to just one HD channel.

Commissioner Lapin asked if there could be language about the depth cable needs to be buried. Commissioner Simon noted they do not use JULIE. The Commission can ask the Village Board to consider an Ordinance requiring all new video service lines on private property to be buried a minimum of 12 inches. The SEC guidelines are 6 inches. Commissioner Urbaszewski asked about requiring Comcast to give a reference

number when offering a credit for service outages. Commissioner Simon noted the credit for service outages is part of the Village Ordinances. If a credit is not received, the Village Manager's office should be contacted. The Village does require a reference number.

Other Items for Discussion

Mr. Keenan noted the Village does not have a franchise agreement with AT&T.

Adjournment

There being no further business or discussion, Commissioner Lapin moved to adjourn the meeting. Commissioner Simon seconded the motion. The motion passed unanimously on a voice vote.

The meeting was adjourned at 8:49 pm. The next meeting of the Cable & Telecommunication Commission is scheduled for May 3, 2022 at 7:00 pm.

Respectfully submitted,

Justin Keenan
Assistant to the Village Manager

Transcribed by:
Jeri Cotton



VILLAGE OF DEERFIELD

March 11, 2022

Andrea Danks
Government and Community Relations
Northshore Gas
Email: andrea.danks@peoplesgasdelivery.com

VIA EMAIL

Re: Northshore Gas Monopole - Site: 1001 Lake Cook Road, Deerfield, IL 60015

Dear Ms. Danks:

The Village of Deerfield's Cable and Telecommunications Commission (CTC) met on March 1, 2022 to review the proposed Northshore Gas monopole site. The Commission has reviewed the request for an approximate 50' X 50' lease parcel containing an equipment shelter and 195' antenna structure and ancillary equipment. The CTC views granting this lease parcel as similar to previous negotiations with cellular and telecommunications carriers, such as with the adjacent Crown Castle lease. Since this site could be rented by the Village to other entities through a long-term revenue generating lease, the CTC cannot recommend the approval of the permanent easement request without financial compensation.

The CTC is willing to consider leasing this parcel, but requests that North Shore Gas submit a market rate offer for their further consideration. For your reference, below are general lease terms that the Village has recently accepted:

1. Guaranteed lease term of 10 years with two additional 5-year renewals
2. First year annual rent \$40,000
3. Annual rent escalator of 3%
4. \$5,000 signing bonus upon execution

In addition to these terms, the CTC would need to ensure that any equipment installed by Northshore Gas would not interfere with the neighboring monopole. The CTC looks forward to working with Northshore Gas. Please feel free to contact me with any questions at 847-719-7462.

Sincerely,

Justin Keenan
Assistant to the Village Manager



WEC Energy Group, Inc.
231 W. Michigan St.
Milwaukee, WI 53203

April 20, 2022

Village of Deerfield
Attn: Mr. Justin Keenan
850 Waukegan Road
Deerfield, IL 60015

VIA EMAIL

Re: North Shore Gas Monopole - Site: 1001 Lake Cook Road, Deerfield, IL 60015

Dear Mr. Keenan:

As mentioned in our initial proposal, North Shore Gas is requesting a lease agreement for an area approximately 50' X 50' containing an equipment shelter and the 195 foot antenna structure and ancillary equipment. We have received an analysis for the area regarding the current lease values of this nature. The analysis we received indicates that a fair lease value equates to a \$17,300 annual payment.

Given the nature of the use of our facility, we are requesting a 40 year lease term with the additional 5 year renewal options. We agree to the annual increase of 3% as well as the \$5,000 signing bonus upon execution. While we value your consideration of entering into a lease agreement with us, we also need to be mindful of our rate payers and keep our payments in line with local market trends. To that end we would be willing to pay \$20,000 annually for the lease agreement.

We agree with the CTC's requirement to ensure that any equipment installed by North Shore Gas would not interfere with the neighboring monopole. We are hopeful that you will consider all the above-mentioned terms so that we can come to a satisfactory agreement.

Thank you for your consideration and time. We look forward to hearing from you at your earliest opportunity.

Sincerely,

Arvin Andrews
Manager Property Management
Serving: Peoples Gas Light and Coke Company, North Shore Gas and Manlove Gas Storage

**CABLE TELEVISION FRANCHISE AGREEMENT
BY AND BETWEEN
The
VILLAGE OF DEERFIELD
And
COMCAST OF CALIFORNIA/ILLINOIS, LLC**

This Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between the Village of Deerfield, an Illinois home rule municipality (hereinafter, the “Village”) and Comcast of California/Illinois, LLC, (hereinafter, “Grantee”) this ____ day of _____, 2021 (the “Effective Date”).

The Village, having determined that the financial, legal, and technical abilities of the Grantee are reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

This Agreement is entered into by and between the parties under the authority of the Cable Act, the Illinois Constitution of 1970, including the Village’s home rule powers, and the Illinois Municipal Code, as amended from time to time, and shall be governed by the Cable Act and the Illinois Municipal Code, as amended from time to time; provided that any provisions of the Illinois Municipal Code that are inconsistent with the Cable Act shall be deemed to be preempted and superseded.

SECTION 1: Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Act, unless otherwise defined herein.

"Cable Act" or "Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, 47 U.S.C. §§ 521 *et seq.*, as the same may be amended from time to time.

“Cable and Telecommunications Commission” or “Commission” means the Commission appointed by the Village President with the consent of the Village Board to pursuant to Chapter 2, Article 12 of the Municipal Code of the Village of Deerfield, Illinois; and to perform such duties as established therein.

“Cable Operator” means any Person or group of Persons who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System; or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

"Cable Service" or “Service” means the one-way transmission to Subscribers of Video Programming or Other Programming Service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

“Cable System” or “System,” has the meaning set forth in 47 U.S.C. § 522 of the Cable Act, and means Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise 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 the Cable 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 the Cable Act; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

“Channel” or “Cable Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as a television channel is defined by the Federal Communications Commission by regulation.

“Customer” or “Subscriber” means a Person who lawfully receives and pays for Cable Service with the Grantee’s express permission.

“FCC” means the Federal Communications Commission or successor governmental entity thereto.

“Franchise” means the initial authorization, or renewal thereof, issued by the Village, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction or operation of the Cable System.

“Franchise Agreement” or “Agreement” shall mean this Agreement and any amendments or modifications hereto.

“Franchise Area” means the present legal boundaries of the Village as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means as provided in this Agreement.

“Grantee” shall mean Comcast of California/Illinois, LLC.

“Gross Revenue” means the Cable Service revenue received by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly fees for: Basic Cable Service, cable programming service regardless of Service Tier, and premium channels. Cable Service revenue also includes pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross ~~revenues~~Revenues shall also include such other revenue sources from Cable Service delivered over the Cable System as may now exist or hereafter develop, provided that such revenues, fees, receipts, or charges may be lawfully included in the gross revenue base for purposes of computing the Village’s permissible franchise fee under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, third party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for ~~Franchise Fees~~franchise fees pursuant to *City of Dallas, Texas v. F.C.C.*, 118 F.3d 393 (5th Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the “Pasadena Decision,” *City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues, CSR 5282-R, Memorandum Opinion and Order, 16 FCC Rcd. 18192 (2001)*, and *In re: Texas Coalition of Cities for Utility Issues v. F.C.C.*, 324 F.3d 802 (5th Cir. 2003).

“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Cable System as of the Effective Date of this Franchise Agreement.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Village.

“Public, Educational and Governmental (PEG) Access Channel” shall mean a video Channel designated for non-commercial use by the Village, the public, and/or educational institutions such as public or private schools, but not “home schools,” community colleges, and universities.

“Public, Educational and Government (PEG) Access Programming” shall mean non-commercial content produced or provided by any person, entity, group, governmental agency, or non-commercial public or private agency or organization in accordance with 47 U.S.C. § 531. PEG channels shall be used only for non-commercial purposes; however, underwriting or sponsorship recognition may be carried on the channels for the purpose of funding public, educational, and government access related activities.

“Public Way” shall mean, pursuant and in addition to what is provided for ~~in the Village’s Right of Way Ordinances~~ in Chapter 19, Article 9 of "The Municipal Code of the Village of Deerfield-Code of Ordinances, Illinois, 1975," as amended, the surface of, and the space above and below, any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the Village in the Franchise Area, to the extent that the Village has the right and authority to authorize, regulate, or permit the location of facilities other than those of the Village. Public Way shall not include any real or personal Village property that is not specifically described in this definition and shall not include Village buildings, fixtures, and other structures and improvements, regardless of whether they are situated in the Public Way.

“Standard Installation” means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).

“Village” means the Village of Deerfield, Illinois or the lawful successor, transferee, designee, or assignee thereof.

“Video Programming” or “Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2: Grant of Authority

2.1. Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, the Illinois Constitution, and Resolution No. _____, the Village hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be ~~ten (10) years~~ from the Effective Date until 11:59 p.m. on [REDACTED], 2032, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law. From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee’s Franchise for the provision of Cable Service.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, and any applicable State law which may exist at the time of renewal and which is not superseded by the Cable Act.

2.4. Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the Village of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the Village pursuant to such police power.

2.5. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Village to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the Village, or (C) be construed as a waiver or release of the rights of the Village in and to the Public Ways.

2.6. Competitive Equity.

2.6.1. In the event the Village grants an additional Franchise to use and occupy any Public Way for the purposes of operating a Cable System, the additional Franchise shall only be granted in accordance with the Illinois Level Playing Field Statute, 65 ILCS 5/11-42-11.

2.6.2. In the event an application for a new cable television franchise or other similar authorization is filed with the Village proposing to serve the Franchise Area, in whole or in part, the Village shall to the extent permitted by law promptly notify the Grantee, or require the Grantee to be notified, and include a copy of such application.

~~2.6.3. Provided that appropriate vehicle safety markings have been deployed, Grantee's vehicles shall be exempt from parking restrictions of the Village while used in the course of installation, repair and maintenance work on the Cable System. This exemption does not apply to fire lanes or designated handicapped spaces.~~

SECTION 3: Construction and Maintenance of the Cable System

3.1. Construction Standards. Except as may be otherwise provided in this Franchise Agreement, Grantee shall comply with all ~~generally~~ applicable provisions of Chapter 19, Article 9 of ~~"The Municipal Code of the Village of Deerfield, Illinois, entitled "Regulations Governing Construction Work Within The Rights Of Way 1975," of the Village of Deerfield~~ as may be amended from time to time.

3.2. Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities

underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing in this Section shall be construed to authorize any new aerial facilities without the express authorization of the Village. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.3. Undergrounding and Beautification Projects.

3.3.1. In the event the Village requires users of the Public Way who operate aerial facilities to relocate such aerial facilities underground, Grantee shall participate in the planning for relocation of its aerial facilities, if any, contemporaneously with such users. Grantee shall be reimbursed its relocation costs from public or private funds allocated for the project to the same extent as such funds are made available to other users of the Public Way, if any, provided that any utility's exercise of authority granted under its tariff to charge consumers for the said utility's cost of the project that are not reimbursed by the Village shall not be considered to be public or private funds.

3.3.2. The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days' notice of the necessity to relocate its facilities. Upon adequate notice the Grantee shall provide a written estimate of the cost associated with the work necessary to relocate its facilities. In instances where a third party is seeking the relocation of the Grantee's facilities or where the Grantee is entitled to reimbursement pursuant to the preceding Section, the Grantee shall not be required to perform the relocation work until it has received payment for the relocation work.

SECTION 4: Service Obligations

4.1. Initial Service Obligations. As of the Effective Date of this Agreement, Grantee's Cable System has been designed to provide, and is capable of providing, Cable Service to residential Customers throughout the Initial Franchise Service Area. The Grantee shall continue to make Cable Service available in the Initial Service Area throughout the term of this Agreement and Grantee shall extend its Cable System and provide service consistent with the provisions of this Franchise Agreement.

4.2. General Service Obligation. The Grantee shall make Cable Service available beyond the Initial Franchise Service Area to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile as measured from the existing Cable System's technically feasible connection point. Subject to the density requirement, Grantee shall offer Cable Service to all new

homes or previously unserved homes located within one hundred twenty-five (125) feet of the Grantee's distribution cable (e.g., a Standard Installation).

4.2.1. The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.3. Programming. The Grantee agrees to provide cable programming services in the following broad categories:

<u>Children</u>	<u>General Entertainment</u>	<u>Family Oriented</u>
<u>Ethnic/Minority</u>	<u>Sports</u>	<u>Weather</u>
<u>Educational</u>	<u>Arts, Culture and Performing Arts</u>	<u>News & Information</u>

Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Grantee.

4.4. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R., Part 76, Subpart K, as amended from time to time. The Grantee shall cooperate with the Village in conducting inspections related to these standards upon reasonable prior written request from the Village based on a significant number of Subscriber complaints.

4.4.5. Annexations and New/Planned Developments. In cases of annexation the Village shall provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Cable System is required, the Village shall provide or cause the developer or property owner to provide notice of the same. Such notices shall be provided at the time of notice to all utilities or other like occupants of the Village's Public Way. If advance notice of such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Franchise Agreement.

4.5.4.6. Service to School Buildings and Governmental Facilities.

4.5.4.6.1. The Village may request that Grantee provide Cable Service and the corresponding equipment to the location(s) specified in Attachment A, and shall specify the requested level of services and number of outlets for each location. The Village shall notify Grantee in writing whether it wishes to be invoiced at standard rates as disclosed by Grantee for these services and equipment or to have the charges

deducted from the franchise fee payment due pursuant to this franchise. In the event the FCC Third 621 Order is reversed on appeal on the issue of complimentary services (pending at the 6th Circuit at the time of this Agreement) and that reversal becomes final, the Village and the Grantee will revert to the provisions of 220 ILCS 5/22-501(f), whereby the Grantee shall provide complimentary Basic Cable Service, one Digital Transport Adapter (or its current equivalent if equipment is necessary to receive the service) and a free Standard Installation at one outlet to all eligible buildings as defined in the state statute. Eligible buildings shall not include buildings leased to non-governmental third parties or buildings such as storage facilities at which government employees are not regularly stationed.

4-5-24.6.2. Long Drops. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds a Standard Installation.

4-64.7. Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an “Emergency Alert System” (“EAS”) consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the “State of Illinois Emergency Alert System State Plan” – as may be amended from time to time. The Village must become qualified and authorized to activate the EAS, through the authorized State EAS plan. The Village agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the Village, its employees or agents in using such system.

4-74.8. Customer Service Obligations. The Village and Grantee acknowledge that the customer service standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.*, and enforcement provisions are included in Article 15, Chapter 7 of “The Municipal Code of the Village of Deerfield, Illinois, 1975,” as may be amended from time to time. Enforcement of such requirements and standards and the penalties for non-compliance with such standards shall be consistent with the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.*

SECTION 5: Oversight and Regulation by Village

5.1. Franchise Fees. The Grantee shall pay to the Village a ~~Franchise Fee~~franchise fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of fees than any other video service provider, under state authorization or otherwise, providing service in the Franchise Area. The payment of ~~Franchise Fees~~franchise fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the ~~Franchise Fee~~franchise fee shall be

considered paid on the date it is postmarked. Each ~~Franchise Fee~~franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period. Any undisputed ~~Franchise Fee~~franchise fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent ~~Franchise Fee~~franchise fee payments, Grantee shall make such payments including interest at the prime lending rate as quoted by JP Morgan Chase & Company or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the ~~Franchise Fee~~franchise fee liability otherwise accruing under this Section.

5.1.1. The Parties acknowledge that, at present, the Cable Act limits the Village to collection of a maximum permissible ~~Franchise Fee~~franchise fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the Village to increase the ~~Franchise Fee~~franchise fee above five percent (5%), the Village shall hold a public hearing and determine if the Village should collect the additional amount. Following the determination, the Village shall notify the Grantee of its intent to collect the increased ~~Franchise Fee~~franchise fee and Grantee shall have a reasonable time (not to be less than ninety (90) days from receipt of notice from the Village) to effectuate any changes necessary to begin the collection of such increased ~~Franchise Fee~~franchise fee or notify the Grantee of its intent to not collect the increased fee. In the event that the Village increases said ~~Franchise Fee~~franchise fee, the Grantee shall notify its Subscribers of the Village's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

5.1.2. In the event a change in state or federal law requires the Village to reduce the franchise fee percentage that may be collected, the parties agree the Grantee shall reduce the percentage of franchise fees collected to the lower of: (i) the maximum permissible franchise fee percentage; or (ii) the lowest franchise fee percentage paid by any other Cable Operator granted a Cable Franchise by the Village pursuant to the Cable Act, and Section 11-42-11 of the Illinois Municipal Code; provided that: (a) such amendment is in compliance with the change in state or federal law; (b) the Village approves the amendment by ordinance; and (c) the Village notifies Grantee at least ninety (90) days prior to the effective date of such an amendment.

5.1.3. Taxes Not Included. The Grantee acknowledges and agrees that the term "~~Franchise Fee~~franchise fee" does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators on their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or Cable Subscribers).

5.2. Franchise Fees Subject to Audit. The Village and Grantee acknowledge that the audit standards are set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 (Municipal Franchise Fee Review; Requests For Information). Any audit shall be conducted in accordance with generally applicable auditing standards. The

Village and Grantee agree that the audit procedures set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 shall be applicable to any audit of PEG Capital payments as provided for in Section 8.5 of this Agreement.

5.2.1 In accordance with 65 ILCS 5/11-42-11.05 (k), the Village shall endeavor to provide on an annual basis, a complete list of addresses within the corporate limits of the Village. If an address is not included in the list or if no list is provided, the Grantee shall be held harmless for any franchise fee underpayments (including penalty and interest) from situsing errors.

5.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Agreement, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of ~~Franchise Fees~~franchise fees as set forth in Section 5.2. The Village agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Village that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. For purposes of this Section, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of ~~Franchise Fees~~franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority’s representative. In the event that the Village has in its possession and receives a request under the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Village shall notify Grantee of such request and cooperate with Grantee in opposing such request. Grantee shall indemnify and defend the Village from and against any claims arising from the Village’s opposition to disclosure of any information Grantee designates as proprietary or confidential. Compliance by the Village with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, or with a decision or order of a court with jurisdiction over the Village, shall not be a violation of this Section.

SECTION 6: Transfer of Cable System or Franchise or Control of Grantee

6.1. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.2. No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in Grantee, shall take place without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.3. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

6.4. The Grantee, and any proposed transferee under this Section 6, shall submit a written application to the Village containing or accompanied by such information as is required in accordance with applicable law and FCC regulations, specifically including a completed Form 394 or its successor, and in compliance with the processes established for transfers under FCC rules and regulations, including Section 617 of the Cable Act, 47 U.S.C. §537. Within thirty (30) days after receiving a request for consent, the Village shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Village has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted. As a condition to granting of any consent, the Village may require the transferee to agree in writing to assume the obligations of the Grantee under this Franchise Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. §537 and require the Village's consent thereto in the manner described in Section 6 above.

SECTION 7: Insurance and Indemnity

7.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain such insurance and provide the Village certificates of insurance in accordance with Section 19-71 of "The Municipal Code of the Village of Deerfield, Illinois, 1975." as may be amended from time to time.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Village, its officers, employees, and agents (the "Indemnitees") from and against any injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense ~~(the "Indemnification Events")~~, arising in the course of the Grantee constructing and operating its Cable System within the Village. ~~The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement notwithstanding that the claim may be~~ This duty shall survive for all claims made or actions filed subsequent to the within one (1) year following either the expiration or earlier termination or expiration of this Agreement. The Village shall give the Grantee

timely written notice of its obligation to indemnify and defend the Village after the Village's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the Village. If the Village elects in its own discretion to employ additional counsel, the costs for such additional counsel for the Village shall be the responsibility of the Village.

7.2.1. The Grantee shall not indemnify the Village for any liabilities, damages, costs or expense resulting from any conduct for which the Village, its officers, employees and agents may be liable under the laws of the State of Illinois.

7.2.2. Nothing herein shall be construed to limit the Grantee's duty to indemnify the Village by reference to the limits of insurance coverage described in this Agreement.

SECTION 8: Public, Educational and Governmental (PEG) Access

8.1. PEG Capacity. Subject to Section 8.6 of this Agreement, throughout the term of this Franchise Agreement, Grantee shall provide capacity for the Village's noncommercial Public, Educational and Governmental ("PEG") Access Programming through two (2) PEG Access Channels (the "Channels") on the Grantee's Cable System consistent with the requirements set forth herein. The Village's PEG Access Programming shall be provided consistent with Section 611 of the Cable Act (47 U.S.C. §531), as amended from time to time. The Village may request, and Grantee shall provide, a third PEG Channel upon one hundred eighty (180) days advance written notice by the Village and sufficient proof that the Channels are inadequate for all programming offered. "Sufficient proof" shall include a verified program log of all original, non-repeat, first-run, non-character generated, locally produced programs that are carried on both Channels for the prior six month period during the times of noon to midnight. In the event that eighty percent (80%) of the programming on both Channels meets the criteria of being original, non-repeat, first-run, non-character generated, locally produced programming, Grantee shall provide a third PEG Access Channel. Any cost for the activation of the additional Channel shall be paid for by the Village. The Grantee agrees to submit a cost estimate to activate the additional PEG Channel within a reasonable period of time after the Village's request. The cost estimate shall include a written itemization of costs on a time plus materials basis. The Village may accept or decline Grantee's cost estimate in the Village's sole discretion. After an agreement to reimburse the Grantee the costs of activating the additional PEG Channel, the Grantee shall proceed to activate the PEG Channel within the number of days set forth above. If no agreement is reached between Grantee and Village, Grantee is not obligated to activate the additional PEG Channel.

8.2. Allocation, Use and Control of PEG Channels. The Grantee does not relinquish its ownership of or ultimate right of control over a Channel by designating it for PEG use. However, the PEG Channels are, and shall be, operated by the Village, and

the Village may at any time allocate or reallocate the usage of the PEG Channels among and between different non-commercial uses and users.

8.2.1. Editorial Control. Grantee shall not exercise any editorial control over any use of PEG Channels except as permitted by 47 U.S.C. §531(e), nor shall Grantee or its Affiliates incur any criminal or civil liability pursuant to the federal, state or local laws of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws for any programs carried on the PEG Channel(s).

8.3. Origination Point. At such time that the Village determines that it wants the capacity to allow Subscribers in the Village to receive PEG Access Programming (video and character generated) which may originate from schools, Village facilities and/or other government facilities (other than those having a signal point of origination at the time of the execution of this Agreement); or at such time that the Village determines that it wants to establish or change a location from which PEG Access Programming is originated; or in the event the Village wants to upgrade the connection to the Grantee from an existing signal point of origination, the Village will give the Grantee written notice detailing the point of origination and the capability sought by the Village. The Grantee agrees to submit a cost estimate to implement the Village's plan within a reasonable period of time. After an agreement to reimburse the Grantee for its expenditure, the Grantee will implement any necessary system changes within a reasonable period of time.

8.4. PEG Signal Quality. Provided PEG signal feeds are delivered by the Village to the designated signal input point without material degradation, the PEG channel delivery system from the designated signal input point shall meet the same FCC technical standards as the remainder of the Cable System set forth in this Agreement.

8.5. PEG Capital Support. At its sole discretion, the Village may designate PEG access capital projects to be funded by the Village. The Village shall send written notice of the Village's desire for Grantee to collect as an external charge a PEG Capital Fee of up to thirty-five cents (\$0.35) per customer per month charge to be passed on to each Subscriber pursuant Section 622(g)(2)(C) of the Cable Act (47 U.S.C. §542(g)(2)(C)). The Grantee shall collect the external charge over a period of twelve (12) months to fund the implementation of the capital improvement plan, or such other period of time as is mutually agreed upon in writing, and shall make the PEG capital payments from such sums at the same time and in the same manner as ~~Franchise Fee~~franchise fee payments. The notice shall include a description of the intended utilization of the PEG Capital Fee for PEG Access Channel facilities and/or equipment (the "Plan and Request"). The Grantee shall have sixty (60) days from receipt of the Plan and Request to review and make recommendations upon the Village's Plan and Request to review, for compatibility with Comcast's system and to verify that the expenditures are for PEG capital costs only, prior to agreeing to collect and pay to the ~~City~~Village the PEG Capital

Fee. The Grantee shall agree to collect and pay the PEG Capital Fee provided the funds shall be expended for capital costs associated with PEG access, and the facilities requested are technically and operationally compatible with Grantee's Cable System. Consistent with the description of the intended utilization of the PEG Capital Fee, the Village shall be permitted to hold all or a portion of the PEG Capital Fee from year to year as a designated fund to permit the Village to make large capital expenditures, if necessary, as long as any funds remaining at the end of the term of this Agreement shall be credited to PEG Capital obligations in the subsequent Franchise. Moreover, if the Village chooses to borrow from itself or a financial institution revenue for large PEG capital purchases or capital expenditures, the Village shall be permitted to make periodic repayments using the PEG Capital Fee. Said PEG Capital Fee shall be imposed within one hundred twenty days (120) of the Village's written request.

8.5.1. For any payments owed by Grantee in accordance with this Section 8.5 which are not made on or before the due dates, Grantee shall make such payments including interest at an annual rate of the prime lending rate as quoted by JP Morgan Chase & Company or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the ~~Franchise Fee~~franchise fee liability otherwise accruing under this section.

8.5.2. Grantee and Village agree that the capital obligations set forth in this Section are not "~~Franchise Fees~~franchise fees" within the meaning of 47 U.S.C. § 542.

8.6. Grantee Use of Unused Time. Because the Village and Grantee agree that a blank or underutilized Access Channel is not in the public interest, in the event the Village does not completely program a Channel, Grantee may utilize the Channel for its own purposes. Grantee may program unused time on the Channel subject to reclamation by the Village upon no less than sixty (60) days' notice. Except as otherwise provided herein, the programming of the Access Channel with text messaging or playback of previously aired programming shall not constitute unused time. Text messaging containing out of date or expired information for a period of thirty (30) days shall be considered unused time. A programming schedule that contains playback of previously aired programming that has not been updated for a period of ninety (90) days shall be considered unused time. Unused time shall be considered to be a period of time, in excess of six (6) hours, where no community produced programming of any kind can be viewed on an access Channel. Unused time shall not include periods of time where programming cannot be viewed that are caused by technical difficulties, transition of broadcast media, signal testing, replacement or repair of equipment, or installation or relocation of facilities.

8.7. Encouragement of PEG Access Cablecasting. To the extent the Grantee lists PEG Access Channels in its electronic program guides, the Grantee will provide such listings for PEG Channels in the Village; provided the Village shall be responsible for the timely provision of the information necessary for the provision of the listing and the

Grantee shall have no liability with respect thereto in the event the material is not timely provided, is in error or if the listing of the information would in the Grantee's reasonable determination violate applicable law or regulation; and provided further that the Village shall be responsible for any and all costs or expenses associated with the provision of such listing.

SECTION 9: Cable and Telecommunications Commission

9.1. Cooperation with Commission. The Grantee recognizes that the Village has a Cable and Telecommunications Commission (the "Commission") with responsibilities and powers as set forth in Chapter 2 Article 12 of "The Municipal Code of the Village of Deerfield-Municipal Code, Illinois, 1975," as amended. At the request of the Village and with at last of seven days prior notice, the Grantee shall make available staff that is reasonable knowledgeable about the Grantee's cable system and business operations to attend meetings and to respond to Village requests pertaining to items within the purview of this Franchise Agreement and the services provided to Village residents as reasonably necessary.

SECTION 10: Enforcement of Franchise

10.1. Notice of Violation or Default. In the event the Village believes that the Grantee has not complied with a ~~material~~ term of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default. The notice shall state specifically whether revocation of the Franchise is to be considered as a remedy at that time.

10.2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Village's written notice: (A) to respond to the Village contesting the assertion of noncompliance or default; or (B) cure such violation within said 30 days period; or (C) in the event that, by nature of the violation, such breach cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Village of the steps being taken and the projected date that the cure will be completed (alternatively, the "Cure Date"); or (D) request an administrative hearing to contest the alleged violation.

10.3. Administrative Hearings. All administrative hearings held to adjudicate whether an alleged violation of this Franchise exists shall be held before not less than a quorum of the Cable and Telecommunications Commission described in Section 9.

10.3.1. The Commission shall conduct an administrative hearing to review the alleged violation and Grantee shall be provided with an opportunity to be heard (which shall include the right to present testimony and to question witnesses) no later than twenty-one (21) days following the Village's receipt of Grantee's notice contesting the alleged violation.

10.3.2. The Commission staff shall send written notice to the Grantee of the time and place of the hearing at least seven (7) days in advance of the date set for the hearing.

10.3.3. The strict rules of evidence shall not apply in such hearings. The Commission may consider such written evidence and testimony as a prudent person may reasonably rely upon in conducting his or her affairs. The Commission, Village staff, [Village attorneys](#), and the Grantee shall have the right to examine and cross-examine witnesses. The Commission may, in its sole discretion, request the attendance of witnesses only in the following circumstances:

- a) Testimony to be elicited is relevant to the violations under consideration by the Commission;
- b) Allegation of a special knowledge beyond that of general public;
- c) Evidence to be elicited from the witness cannot be obtained through some other document or testimony.

10.3.4. The Commission's decision shall be presented in writing.

10.3.5. A written transcript of the proceedings shall be made available for Grantee's purchase for the purposes of appeal and consideration hereunder.

10.4. Enforcement. Subject to applicable federal and state law, in the event either the Grantee fails to cure the violation by the Cure Date or the Commission determines that the Grantee is in default of any ~~material~~ provision of the Franchise, and without out waiving any other rights or remedies, the Village may seek specific performance of any provision that reasonably lends itself to such remedy or seek other relief available at law, including declaratory or injunctive relief.

10.5. Appeal. In the event the Grantee disagrees with the findings, conclusions and penalties prescribed by the Commission, the Grantee may appeal the Commission's decision to the Village's Corporate Authorities within thirty (30) days from Grantee's receipt of the Commission's written decision. Neither party shall be deemed to have waived any legal argument or defense by failure to assert or raise the same during the administrative hearing. Hearings on appeal may be heard either during a regular or special meeting of the Corporate Authorities and shall be held within twenty-one (21) days following the Village's receipt of Grantee's petition for an appeal. The decision of the Village's Corporate Authorities shall be in writing and shall be delivered to the Grantee in a manner authorized by Section 11.2. The Grantee may appeal such determination to any court with jurisdiction within thirty (30) days after receipt of the Village's decision.

10.6. Revocation. In the case of a final finding of ~~substantial~~ default or ~~the frequent default~~breach of a ~~material~~ provision of the Franchise (as determined in the

manner described above), the Village may declare the Franchise Agreement to be revoked in accordance with the following:

10.6.1. The Village shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of the substantial default or a pattern of frequent defaults by the Grantee. The notice shall set forth with specificity the exact nature or series of noncompliance. The Grantee shall have forty-five (45) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Village has not received a response from the Grantee ~~or,~~ upon receipt of the response does not agree with the Grantee's proposed remedy, or in the event that the Grantee has not taken action to cure the default, it may then seek termination of the Franchise at a public hearing. The Village shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

10.6.2. At the designated hearing, the Village shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which the Village shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record. A copy of the transcript shall be made available to the Grantee at its sole expense. The decision of the Village shall be in writing and shall be delivered to the Grantee in a manner authorized by Section 11.2. The Grantee may appeal such determination to any court with jurisdiction within thirty (30) days after receipt of the Village's decision.

10.7. Remedies Not Exclusive. In addition to the remedies set forth in this Section 10, the Grantee acknowledges the Village's ability pursuant to Section 4.8 of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with such standards, consistent with the Illinois Cable and Video Customer Protection Law enacted by the Village as Chapter 7, Article 15 of the Municipal Code; and, pursuant to Section 3.1 of this Franchise Agreement and Chapter 19, Article 9 of ~~the~~ "The Municipal Code of the Village of Deerfield, Illinois, 1975," as amended, to enforce the Grantee's compliance with the Village's requirements regarding "Regulations Governing Construction Work Within The Rights Of Way." Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the Village to exercise such rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. Such remedies may be exercised from time to time and as often and in such order as may be deemed expedient by the Village.

SECTION 11: Miscellaneous Provisions

11.1. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or

snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of ~~materials~~ or qualified labor to perform the work necessary. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

11.2. Notice. Any notification that requires a response or action from a party to this ~~franchise~~[Franchise Agreement](#) within a specific time-frame, or that would trigger a timeline that would affect one or both parties' rights under this franchise, shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Village:
Village of Deerfield
850 Waukegan Road
Deerfield, IL 60015
ATTN: Village Manager

To the Grantee:
Comcast
1500 McConnor Parkway
Schaumburg, Illinois 60173
ATTN: Director of Government Affairs

Recognizing the widespread usage and acceptance of electronic forms of communication, emails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the person of record as specified above. Either party may change its address and addressee for notice by notice to the other party under this Section.

11.3. Entire Agreement. This Franchise Agreement embodies the entire understanding and agreement of the Village and the Grantee with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and communications, whether written or oral. Except for ordinances adopted pursuant to Sections 2.4 and 2.5 of this Agreement, all ordinances or parts of ordinances related to the provision of Cable Service that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

11.3.1. The Village may adopt a cable television/video service provider regulatory ordinance that complies with applicable law, provided the provisions of any such ordinance adopted subsequent to the Effective Date of this Franchise Agreement shall not apply to the Grantee during the term of this Franchise Agreement.

11.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent

jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. If any material provision of this Agreement is made or found to be unenforceable by such a binding and final decision, either party may notify the other in writing that the Franchise has been materially altered by the change and of the election to begin negotiations to amend the Franchise in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, and the parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

11.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the State of Illinois, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois and/or Federal law, as applicable.

11.6. Venue. Except as to any matter within the jurisdiction of the federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Lake County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

11.7. Modification. Except as provided in Sections 5.1.1 and 5.1.2, no provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Village and the Grantee, which amendment shall be authorized on behalf of the Village through the adoption of an appropriate ordinance or resolution by the Village, as required by applicable law.

11.8. No Third-Party Beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Franchise Agreement.

11.9. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under Federal or state law unless such waiver is expressly stated herein.

11.10. Validity of Franchise Agreement. The parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Franchise Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

11.11. Authority to Sign Agreement. Grantee warrants to the Village that it is authorized to execute, deliver and perform this Franchise Agreement. The individual signing this Franchise Agreement on behalf of the Grantee warrants to the Village that s/he is authorized to execute this Franchise Agreement in the name of the Grantee.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

For the Village of Deerfield:

For Comcast of California/Illinois, LLC:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Document comparison by Workshare 10.0 on Wednesday, April 27, 2022
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Description	00126307
Rendering set	Standard

Legend:	
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Insertions	78
Deletions	50
Moved from	1
Moved to	1
Style change	0
Format changed	0

Total changes	130
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comedSM

AN EXELON COMPANY

04/20/22

Village of Deerfield
Village Manager
850 Waukegan Rd.
Deerfield, IL 60015

Dear Village Manager,

I would like to inform you that, on April 15, 2022, ComEd filed with the Illinois Commerce Commission (“ICC”) its annual update under the performance-based formula rate authorized by Public Act 97-0616 and Public Act 97-0646 (collectively the “Energy Infrastructure Modernization Act” or “EIMA”). Specifically, ComEd filed proposed cost inputs, revenue requirement reconciliation, and supporting testimony and other information required under EIMA. The current and updated rates and billing units are included in the attachment for your reference.

This filing was made for the purpose of determining, pursuant to Section 16-108.5 of the Illinois Public Utilities Act, proposed charges for delivery services applicable throughout ComEd’s service territory in northern Illinois. The rate request, or revenue requirement, covers the actual costs incurred in 2021 plus forecasted plant additions for 2022. ComEd investments and related work reflected by this filing are centered on sustaining record-level reliability performance and increasing the integration of renewable energy into the ComEd system and preparing the grid infrastructure to support the growing demand for electric vehicles.

Through this filing, the proposed charges will take effect beginning with the January 2023 monthly billing period, subject to ICC approval. The proposed delivery service charges include ComEd’s costs of delivering electricity through its distribution system and apply to all ComEd customers independent of whether they acquire their power from ComEd or by a third party (i.e., a Retail Electric Supplier). If, as expected, the ICC suspends and investigates this filing, consistent with its process, the ICC will send you an electronic notice of this filing.

If approved, ComEd’s distribution rates will increase by about \$2.20 per month for the average residential customer, however, the ICC is reviewing a proposal to advance to customers \$65 million in deferred income tax benefits, which would offset 82 cents of the monthly delivery charge increase. In addition, the capacity charges that customers pay to ensure enough power supply to meet demand when it is highest are expected to decline by 65% this year.

ComEd estimates that residential customer rates next January will likely be lower than current bills, due to the combination of deferred income tax benefit and decreased capacity charges.

If you have any questions or concerns regarding this matter, please contact your ComEd External Affairs Manager.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Fountain". The signature is stylized with a large initial "M" and a long horizontal stroke.

Michael Fountain
Vice President, Governmental Affairs

Attachments

2021 FRU Filing Avg. Number of Customers	2021 FRU Filing Billing Units (2)	Delivery Service Unit Charges Applicable January 2022 (1)	Revenue at Charges applicable in January 2022	\$/KWh = (D)/(A2) in (B1)	2022 FRU Filing Avg. Number of Customers	2022 FRU Filing Billing Units (2)	Delivery Service Unit Charges Proposed in 2023 FRU Filing (1)	Revenue at Proposed Charges applicable in January 2023	\$/KWh = (G)/(H) in (B2)	Increase/(Decrease) in Revenue = (I) - (J)
(A1)	(B1)	(C)	(D) = (B1) * (C)	(E)	(A2)	(B2)	(F)	(G)	(H)	(I)
Nonresidential Delivery Service										
WATT-HOUR										
Customer Charge	1,049,001	\$11.00	\$11,539,011		87,377	1,056,873	\$11.76	\$10,148,242		
Standard Metering Service Charge (kW)	1,049,001	\$2.40	\$2,517,602			1,056,873	\$2.40	\$2,534,336		
Illinois Electricity Distribution Tax Charge (kWh)	385,515,137	\$0.0035	\$7,845,233			382,359,153	\$0.02130	\$8,106,014		
Total	385,515,137	\$0.0024	\$7,845,233	\$0.0590		382,359,156	\$0.00131	\$8,000,890	\$0.0516	\$1,189,292
SMALL LOAD (5 100 KW)										
Customer Charge	3,314,713	\$11.93	\$39,544,526		277,327	3,351,656	\$11.80	\$39,548,349		
Standard Metering Service Charge	3,314,713	\$5.71	\$18,927,011			3,351,656	\$6.40	\$21,449,852		
Secondary Voltage Distribution Facilities Charge (kW)	33,334,421	\$9.28	\$276,009,006			34,137,446	\$8.70	\$296,985,780		
Primary Voltage Distribution Facilities Charge (kW)	54,276	\$3.44	\$186,709			59,951	\$3.76	\$225,416		
Primary Voltage Transformer Charge (kW)	19,341	\$0.26	\$5,415			17,909	\$0.25	\$4,477		
Illinois Electricity Distribution Tax Charge (kWh)	10,354,065,410	\$0.0024	\$23,007,041	\$0.0330		10,640,743,120	\$0.00131	\$14,201,373	\$0.0344	\$24,665,639
Total			\$347,757,708					\$372,426,347		
MEDIUM LOAD (Over 100 KW & 400 KW)										
Customer Charge	182,194	\$21.29	\$3,879,810		15,343	185,420	\$18.77	\$3,865,753		
Standard Metering Service Charge	182,194	\$9.70	\$1,766,282			185,420	\$11.21	\$2,078,558		
Secondary Voltage Distribution Facilities Charge (kW)	23,842,681	\$8.40	\$201,118,352			24,697,308	\$8.97	\$221,534,653		
Primary Voltage Distribution Facilities Charge (kW)	478,025	\$4.59	\$2,184,135			487,960	\$5.03	\$2,383,839		
Primary Voltage Transformer Charge (kW)	330,592	\$0.22	\$72,730			324,737	\$0.25	\$81,184		
Illinois Electricity Distribution Tax Charge (kWh)	9,136,345,500	\$0.0024	\$22,026,068	\$0.0242		9,482,308,595	\$0.00131	\$12,396,410	\$0.0256	\$21,440,220
Total			\$220,876,377					\$242,110,697		

2021 FRU Filing Avg. Number of Customers	2021 FRU Filing Billing Units (2)	Delivery Service Unit Charges Applicable January 2022 (1)	Revenue at Charges applicable in January 2022	\$/KWh	2022 FRU Filing Avg. Number of Customers	2022 FRU Filing Billing Units (2)	Delivery Service Unit Charges Proposed in 2023 FRU Filing (1)	Revenue at Proposed Charges applicable in January 2023	\$/KWh	Increase/(Decrease) in Revenue
(A1)	(B1)	(C)	(D)	(E)	(A2)	(B2)	(F)	(G)	(H)	(I)
			= (B1) * (C)	= (D)/(KWh in (B1))				= (B2) * (F)	= (G)/(KWh in (B2))	= (I) - (H)
Nonresidential Delivery Service										
44	528	\$1,461.24	\$762,085		38	456	\$1,753.08	\$799,404		
	528	\$28.10	\$15,385			456	\$27.79	\$14,952		
	2,284	\$1,430.14	\$3,360			2,167	\$16.40	\$35,490		
	4,407	\$7.57	\$33,600			4,389	\$9.20	\$40,385		
	1,734	\$0.38	\$660,014			1,488	\$0.40	\$594,875		
	3,770	\$0.00124	\$4,675,248	\$0.0150		3,665	\$0.00131	\$4,788,817	\$0.0167	\$4,616,132
	3,770,361,543		\$56,471,713			3,665,585,251		\$61,087,845		
HIGH VOLTAGE										
89	1,097	\$517.83	\$562,631		94	1,120	\$563.57	\$631,198		
	1,097	\$26.69	\$30,612			1,120	\$29.93	\$33,522		
	50,173	\$4.10	\$205,709			31,874	\$7.39	\$236,288		
	480,965	\$9.10	\$4,376,782			382,394	\$9.34	\$3,189,166		
	810,951	\$0.28	\$171,076			567,770	\$0.34	\$193,042		
	8,394	\$0.38	\$3,186,985			8,243	\$0.55	\$4,531,895		
	459,268	\$2.81	\$1,306,470			388,649	\$3.57	\$1,387,477		
	6,587,718	\$1.48	\$9,749,823			6,795,033	\$1.83	\$12,436,740		
	8,097,427,083	\$0.00124	\$7,560,810	\$0.0042		6,272,013,368	\$0.00131	\$8,216,338	\$0.0045	\$3,079,443
			\$25,368,391					\$28,467,834		
RAILROAD										
2	24	\$5,188.94	\$124,055		2	24	\$5,098.37	\$122,313		
	24	\$22.52	\$560			24	\$27.00	\$648		
	1,067,597	\$3.56	\$3,800,610			1,093,109	\$4.65	\$5,082,957		
	420,531,073	\$0.00124	\$521,459			436,779,472	\$0.00131	\$572,191		
			\$4,446,674					\$5,778,059		
Total kWh	54,911,395,093		\$1,162,860,790	\$0.0212	Total kWh	55,861,659,823		\$1,255,879,793	\$0.0225	\$83,119,053

Notes: (1) Incremental Uncollectible costs are not included in the above table.
(2) Billing Units include an adjustment to the number of bills for customer growth for watt-hour, small load, medium load and large load delivery classes.

Distribution Loss Factors (DLFs)

(See Informational Sheet No. 33)

Retail Delivery Service Customers	Present 2022 DLF	Updated DLF	Increase/(Decrease)
Residential Single Family Without Electric Space Heat	0.0520	0.0517	(0.0003)
Residential Multi Family Without Electric Space Heat	0.0533	0.0532	(0.0001)
Residential Single Family With Electric Space Heat	0.0540	0.0554	0.0014
Residential Multi Family With Electric Space Heat	0.0551	0.0567	0.0016
Watt-Hour	0.0534	0.0532	(0.0002)
Small Load	0.0509	0.0506	(0.0003)
Medium Load	0.0553	0.0542	(0.0011)
Large Load	0.0488	0.0481	(0.0007)
Very Large Load	0.0481	0.0475	(0.0006)
Extra Large Load	0.0408	0.0399	(0.0009)
High Voltage (at or above 138 kV)	0.0041	0.0039	(0.0002)
High Voltage (MKD above 10,000 kW)	0.0072	0.0068	(0.0004)
High Voltage (all other)	0.0068	0.0074	0.0006
Railroad	0.0217	0.0226	0.0009
Fixture-Included Lighting	0.0759	0.0770	0.0011
Dusk to Dawn	0.0759	0.0770	0.0011
General Lighting	0.0668	0.0681	0.0013
Retail System	0.0477	0.0470	(0.0007)

Single Bill Credit

(Applied per bill. See Informational Sheet No. 34 and Rider SBO)

Delivery Service Customers	Present Charge	Updated Charge	Increase/(Decrease)
Retail Delivery Service Customers Taking Supply Service from a RES and Opts for Single Billing under Rider SBO	\$0.46	\$0.55	\$0.09

Note: MKD = Maximum Kilowatts Delivered