

NORTH SUBURBAN COMMUNICATIONS COMMISSION

RESOLUTION NO. 2011-02

A RESOLUTION CONCERNING THE COMMENCEMENT OF FORMAL RENEWAL PROCEEDINGS UNDER THE FEDERAL CABLE COMMUNICATIONS POLICY ACT OF 1984, AS AMENDED, AND RELATED MATTERS

WHEREAS, the North Suburban Cable Commission d/b/a the North Suburban Communications Commission (hereinafter the “Commission”) is a Joint Powers Commission organized pursuant to Minn. Stat. § 471.59, as amended, and includes the municipalities of Arden Hills, Falcon Heights, Lauderdale, Little Canada, Mounds View, New Brighton, North Oaks, Roseville, St. Anthony, and Shoreview, Minnesota (hereinafter, collectively the “Member Cities”); and

WHEREAS, the Member Cities enacted separate ordinances and entered into individual agreements authorizing MediaOne North Central Communications Corp. to provide cable service (collectively, the “Franchises”); and

WHEREAS, as a result of several transfers of the Franchises, Comcast of Minnesota, Inc. (“Comcast”) currently holds the Franchises in the Member Cities; and

WHEREAS, a Joint Powers Commission organized pursuant to Minn. Stat. § 471.59 has the statutory authority to “jointly or cooperatively exercise any power common to the contracting parties;” and

WHEREAS, the definition of a “City” is defined under the Franchises to include, among other entities, the lawful designee of the Member Cities; and

WHEREAS, the Commission was established by the Amended North Suburban Cable Commission Joint and Cooperative Agreement for the Administration of a Cable Communications System, dated June 1990 (the “Joint Powers Agreement”), to monitor Comcast’s performance, activities and operations under the Franchises and to coordinate, administer and enforce the Member Cities’ Franchises, among other things; and

WHEREAS, Section 626(a)(1) of the Cable Communications Policy Act of 1984, as amended (the “Cable Act”), 47 U.S.C. § 546(a)(1), provides that if a written renewal request is submitted by a cable operator during the 6-month period which begins with the 36th month before franchise expiration and ends with the 30th month prior to franchise expiration, a franchising authority shall, within six months of the request, commence formal proceedings to identify the future cable-related community needs and interests, and to review the performance of the cable operator under its franchise during the then current franchise term; and

WHEREAS, the Franchises are scheduled to expire on October 1, 2013, and November 23, 2013, unless sooner terminated or extended; and

WHEREAS, by letters dated October 11, 2010, and November 23, 2010, from Comcast to the Member Cities, Comcast invoked the formal renewal procedures set forth in Section 626 of the Cable Act, 47 U.S.C. § 546; and

WHEREAS, the Member Cities have informed the Commission, by resolution, that they want it and/or its designee(s) to commence, manage and conduct the formal renewal proceedings specified in Section 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), on their behalf and, at the same time, to pursue the informal renewal process with Comcast pursuant to Section 626(h) of the Cable Act, 47 U.S.C. § 546(h); and

WHEREAS, the Member Cities have affirmed, by resolution, the Commission's pre-existing authority under the Joint Powers Agreement to take any and all steps required or desired to comply with the franchise renewal and related requirements of the Cable Act, Minnesota law and the Franchises; and

WHEREAS, the Joint Powers Agreement empowers the Commission and/or its designee(s) to conduct the formal Section 626(a) proceedings on the Member Cities' behalf and to take such other steps and actions as are needed or required to carry out the formal and informal franchise renewal processes; and

WHEREAS, the Commission, on behalf of the Member Cities, must provide the public with notice of, and an opportunity to participate in, formal renewal proceedings under Section 626(a) of the Cable Act; and

WHEREAS, formal Section 626(a) proceedings and the informal franchise renewal process may involve the collection and analysis of information from Comcast (and its affiliates and subsidiaries), the Member Cities' agencies and departments, the Commission, the North

Suburbs Access Corporation, the public and other interested parties, and may require one or more public hearings.

NOW, THEREFORE, BE IT RESOLVED BY THE NORTH SUBURBAN COMMUNICATIONS COMMISSION, THAT:

Section 1. The Commission hereby commences formal franchise renewal ascertainment and past performance proceedings under Section 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), concerning Comcast and the Franchises. These proceedings, and all applicable procedures, timelines and deadlines set forth in Section 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g), may be tolled if Comcast and the Commission enter into a lawful and binding tolling agreement (“Standstill Agreement”).

Section 2. The Commission or its designee(s) may conduct such hearings, surveys and meetings they deem appropriate to assess community cable-related needs and interests, evaluate Comcast’s past performance and enable the public an opportunity to participate in formal Franchise renewal proceedings conducted under Section 626(a)(1) of the Cable Act, 47 U.S.C § 546(a)(1). Commission staff and/or their designee(s) shall provide the public with notice of, and an opportunity to participate in, any public hearings or public meetings conducted under Section 626(a)(1), unless Section 626(a)(1) proceedings are tolled pursuant to a binding Standstill Agreement, in which case such notice and an opportunity to participate will only be required if the Standstill Agreement ceases to be effective or if the Cable Act’s formal renewal process is re-activated in accordance with the Standstill Agreement.

Section 3. The Commission's committees, Commission staff and/or their designee(s) are authorized to manage the formal renewal proceedings specified in 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), and to take all steps and actions necessary or desired to assess the community's cable-related needs and interests, to review Comcast's past performance under the Franchises and applicable laws and regulations, and to comply with applicable laws, regulations, orders and decisions.

Section 4. Commission staff and/or their designee(s), may explore with Comcast the possibility of pursuing the informal renewal process under Section 626(h) of the Cable Act, 47 U.S.C. § 546(h). If Commission staff and Comcast decide to utilize the informal renewal process, the Commission's Executive Director shall inform the Commission or its designee(s) of the decision, and the Commission may approve informal renewal discussions and enter into a Standstill Agreement with Comcast, if appropriate or desired. Should Commission and Comcast follow the informal franchise renewal process under Section 626(h), 47 U.S.C. § 546(h), Commission staff and/or their designee(s) are authorized to enter into Franchise renewal and/or extension negotiations with Comcast, to prepare informal renewal proposals and to respond to informal renewal proposals from Comcast, to communicate with Comcast on the Commission's behalf, to perform past performance and needs assessment reviews, and to take all other steps and actions necessary or desired to engage in the informal renewal process and/or to comply with applicable laws, regulations, orders and decisions. The Commission will provide adequate

public notice of and an opportunity to comment on any informal Franchise renewal proposal(s) submitted by Comcast before taking any final action on such proposal(s).

Section 5. The Commission, Commission staff and/or their designee(s) may establish procedures and dates for the conduct of any hearings, meetings and/or surveys related to any Section 626(a) proceedings or the informal renewal process, and may establish procedures and dates for the submission of testimony and other information in connection with such proceedings and/or the informal renewal process.

Section 6. Commission staff and/or their designee(s) are authorized to request and require Comcast and its affiliates and subsidiaries to submit such information as may be deemed appropriate in connection with any Section 626(a) proceedings or the informal renewal process under Section 626(h) (including any needs assessment(s) or past performance review(s) associated therewith), to the maximum extent permitted by the Franchises and applicable laws, ordinances, regulations, resolutions, settlement agreements, and memoranda of understanding, to gather such other information from other persons, agencies or sources as may be deemed appropriate, and to take such further steps as may be needed or desired to ensure the Member Cities', the Commission's, the North Suburbs Access Corporation's and the public's cable-related needs and interests are satisfied and fully protected consistent with applicable law.

Section 7. Nothing in this Resolution shall be construed to limit the powers of the Commission under the Joint Powers Agreement or to otherwise waive or limit the Commission's

authority, rights, remedies and defenses under the Franchises and applicable agreements, memoranda of understanding, laws, regulations, resolutions, orders and decisions.

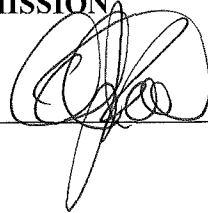
Section 8. Commission staff, and/or their designee(s), shall keep the Commission fully apprised of the status and progress of the formal and informal renewal processes, as appropriate.

Section 9. This Resolution shall become effective immediately upon adoption.

ADOPTED on this 7th day of April, 2011.

**NORTH SUBURBAN COMMUNICATIONS
COMMISSION**

By: _____



ATTEST:

