

NORTH SUBURBAN COMMUNICATIONS COMMISSION

RESOLUTION NO. 2013-04

**A RESOLUTION CONCERNING THE IMPLEMENTATION AND CONDUCT OF THE
FORMAL FRANCHISE RENEWAL PROCESS UNDER THE FEDERAL CABLE
COMMUNICATIONS POLICY ACT OF 1984, AS AMENDED**

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 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

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 Franchise renewal process; and

WHEREAS, formal Section 626(a) proceedings 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; and

WHEREAS, the Commission adopted Resolution No. 2011-02 commencing formal Franchise renewal proceedings under Section 626(a) of the Cable Act, 47 U.S.C. § 546(a), and authorizing the Commission or its designee(s) to take certain actions to conduct those Section 626(a) proceedings; and

WHEREAS, the Commission now wishes to authorize its staff, designee(s) and/or specified committee(s) to take all steps and actions necessary to implement, conduct and engage in the entire formal Franchise renewal process set forth in Section 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g), and to comply with any and all related federal, state and local laws, regulations, ordinances, orders, decisions and agreements.

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

Section 1. The Commission, the Executive Committee, the Franchise Renewal Committee, Commission staff (including, but not limited to, the Executive Director and the Business Manager) and/or Commission designee(s) are hereby authorized and fully empowered to take all steps and actions necessary to implement, conduct and engage in the entire formal Franchise renewal process set forth in Section 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g), and to comply with any and all related or applicable federal, state and local laws, regulations, ordinances, orders, decisions and agreements.

Section 2. The Commission, the Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) may conduct such hearings, surveys, assessments, and meetings they deem appropriate to assess community cable-related needs and interests, to evaluate Comcast's past performance and any surveys, reports or other documents prepared by Comcast related to Franchise renewal, and to enable the public an

opportunity to participate in formal Franchise renewal process conducted to the extent required by Section 626(a)-(g) of the Cable Act, 47 U.S.C § 546(a)-(g).

Section 3. The Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) are authorized: to issue data requests to Comcast and to require the production of data and documents pursuant to the Franchises and applicable laws, regulations and decisions; to prepare and issue a staff report and Request for Renewal Proposal (“RFRP”) to Comcast; to set applicable and appropriate deadlines in connection with the formal Franchise renewal process; to review, evaluate and make written and oral recommendations and assessments concerning any formal Franchise renewal proposal Comcast submits to the Commission and/or the Member Cities; to draft and issue reports, findings and/or recommendations concerning Comcast’s substantial compliance with the material terms of the Franchises; to draft and issue reports, findings and/or recommendations regarding whether any formal Franchise renewal proposal filed by Comcast is reasonable to meet the community’s future cable-related needs and interests, taking into account the cost of meeting such needs and interests; to conduct any necessary hearings, including (but not limited to), an administrative proceeding that comports with Section 626(c) of the Cable Act, 47 U.S.C. § 546(c), to the extent necessary, and/or a Franchise compliance/violation proceeding; to create a written record in any administrative proceeding; to prepare and introduce evidence in any administrative proceeding, Franchise violation hearing/proceeding or other litigation; to engage in discovery in any administrative proceeding, Franchise violation hearing/proceeding or other

litigation; to draft and issue a final written decision concerning any formal Franchise renewal proposal submitted by Comcast to the Commission and/or the Member Cities; to manage the formal Franchise renewal process specified in 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g); to retain consultants and attorneys, as necessary or desired, consistent with the Commission's budget or available funds; and to take all other steps and actions necessary or desired to carry out the formal Franchise renewal process, and to comply with all applicable federal, state and local laws, regulations, ordinances, orders, decisions and agreements.

Section 4. For purposes of this Resolution, and the formal Franchise renewal process, Bradley & Guzzetta, LLC, Front Range Consulting, Inc., CBG Communications, Inc., The Buske Group, and their owners, partners, employees and agents, and all other attorneys, consultants and persons retained by the Commission, the Executive Committee and/or Commission staff as part of or in connection with the formal Franchise renewal process shall be deemed and considered Commission designees imbued with the powers, authority and responsibilities set forth herein and in applicable federal, state and local laws, regulations ordinances, orders, decisions and agreements.

Section 5. The Commission, the Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) may establish procedures, dates and deadlines for the conduct of any hearings, proceedings, meetings, and surveys related to the formal Franchise renewal process, for the submission of a formal Franchise renewal proposal by

Comcast and for the provision and production of data, documents and other responses by Comcast.

Section 6. Nothing in this Resolution shall require the Commission to implement, engage in and/or complete the entire formal Franchise renewal process set forth in Section 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g). The Commission, the Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) may toll the formal Franchise renewal process at any time pursuant to a written Standstill Agreement approved and executed by Comcast and the Commission or the Executive Committee on behalf of the Commission.

Section 7. Nothing in this Resolution shall preclude the Commission, the Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) from engaging in the informal Franchise renewal process, as described in Section 626(h) of the Cable Act, 47 U.S.C. § 546(h), to the extent consistent with prior Commission resolutions and directives, and in accordance with applicable laws, regulations, ordinances, agreements, orders and decisions. The informal Franchise renewal process may be conducted concurrently with the formal Franchise renewal process.

Section 8. 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 9. The Executive Committee, the Franchise Renewal Committee, Commission staff and/or Commission designee(s) shall keep the Commission fully apprised of the status and progress of the formal Franchise renewal process, as appropriate.

Section 10. This Resolution shall become effective immediately upon adoption.

ADOPTED on this 4th day of April, 2013.

**NORTH SUBURBAN COMMUNICATIONS
COMMISSION**

By: Steve Rull
Chair

ATTEST:

Quinn Bauman