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April 9, 2010

FILED ELECTRONICALLY

filed electronically in docket office on 04/09/10

Ms. Sharla Dillon, Docket Manager
Dockets and Records Office
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

RE: Petition of Knology, Inc. and Knology of Knoxville, Inc.
Docket No. 10-00059

Dear Ms. Dillon:

Enclosed please find an original and five (5) copies of the Petition of Knology, Inc. and Knology of Knoxville, Inc. to Establish Terms and Conditions of Public, Educational and Governmental Channel Access with Comcast Cable. We would appreciate your stamping one copy and returning it to us in the enclosed self-address envelope. Copies of the enclosed Petition are being provided to the counsel for Comcast.

Also enclosed with the hard copy of this letter is our firm's check in the amount of \$25.00 in payment of the filing fees.

If you have any questions about the attached, please do not hesitate to give us a call.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mark W. Smith', written over a horizontal line.

Mark W. Smith

MWS:cbm

Enclosures

cc: Jeffrey A. Jacobs, Esq.

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN THE MATTER OF PETITION OF KNOLOGY,
INC., AND KNOLOGY OF KNOXVILLE, INC.,
TO ESTABLISH TERMS AND CONDITIONS OF
PUBLIC, EDUCATIONAL AND
GOVERNMENTAL CHANNEL ACCESS WITH
COMCAST CABLE

Docket No.

**PETITION OF KNOLOGY, INC. AND KNOLOGY OF KNOXVILLE, INC.,
TO ESTABLISH TERMS AND CONDITIONS OF PUBLIC, EDUCATIONAL
AND GOVERNMENTAL CHANNEL ACCESS WITH COMCAST CABLE**

Pursuant to Section 10 of the Competitive Cable and Video Services Act (“Act”),¹ Knology, Inc., and Knology of Knoxville, Inc. (“Knology”), respectfully petition the Tennessee Regulatory Authority (“TRA” or “Authority”) to establish the terms and conditions under which Knology of Knoxville, Inc. may access public, educational, and governmental access channels (“PEG channels”) from Comcast Cable for Knology’s transmission to customers in the greater Knoxville area.

PARTIES

1. Knology, Inc., is a Georgia corporation. Knology of Knoxville, Inc. is a subsidiary of Knology, Inc. and is a Tennessee corporation. Knology is a cable service provider under the Act and is authorized to provide cable service in Tennessee. Knology provides cable televisions service within the greater Knoxville area. Knology’s principal place of business is 1241 O.G. Skinner Drive, West Point, Georgia 31833.

¹ Tenn. Code Ann. § 7-59-301, *et seq.*

2. The names and addresses of Knology's representative in this proceeding are as follows:

Melvin J. Malone
Mark W. Smith
Miller & Martin PLLC
1200 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219
Phone (615) 744-8572
Fax (615) 256-8197
mmalone@millermartin.com
msmith@millermartin.com

3. Comcast Cable ("Comcast") is an incumbent cable service provider under the Act, and is authorized to provide cable service in Tennessee. Comcast's principal place of business is One Comcast Center, 50th Floor, Philadelphia, PA 19103. Comcast provides cable television and other services in and around Knoxville, Tennessee.

4. The name, address, and contact information for Comcast's primary legal representative during negotiations with Knology are:

Jeffrey A. Jacobs
Assistant General Counsel
Comcast Cable – Legal Department
One Comcast Center, 50th Floor
Philadelphia, PA 19103
Phone (215) 286-8989
Fax (215) 286-3572
Jeffrey_Jacobs@comcast.com

JURISDICTION

5. As discussed in more detail in Paragraph 7, the Authority has jurisdiction to establish the terms and conditions upon which Knology may obtain PEG channel programming from Comcast pursuant to Tenn. Code Ann. § 7-59-309.

BACKGROUND AND HISTORY OF NEGOTIATIONS

6. The General Assembly enacted the Competitive Cable and Video Services Act in 2008.² The purpose of the Act was to create “a fair franchising process for cable and video services” and to codify “the terms of the franchise in state law.”

7. One requirement of the Act is that cable service providers transmit PEG channel programming. Tenn. Code Ann. § 7-59-309. The cable service provider may transmit a PEG channel either by interconnection with an incumbent cable service provider or transmission from the PEG channel’s local origination point. If the cable service provider elects to transmit PEG programming via interconnection, then the incumbent cable service provider must interconnect its network with the network of the new provider for the provision of PEG programming, if technically feasible. The Act specifically grants the Authority jurisdiction to determine the terms under which interconnection shall be made if the parties cannot reach an agreement.

In the event a holder of a state-issued certificate of franchise authority and the incumbent cable service provider cannot agree upon the terms under which the interconnection is to be made or the costs of the interconnection, either party may request the department to determine the terms under which the interconnection shall be made and the costs of the interconnection. The determination of the department shall be final.

Tenn. Code Ann. § 7-59-309(f)(1)(A).

8. The Authority granted the Application for State-Issued Franchise Authority on behalf of Knology, Inc. and its wholly-owned subsidiary, Knology of Knoxville, Inc., and issued a certificate of franchise authority on December 15, 2008.³

9. On March 5, 2009, Knology sent a request to Comcast Cable to be allowed to interconnect with Comcast Cable for the purpose of transmitting the City of Knoxville’s PEG channel (Knoxville CTV).⁴

² The Act went into effect on July 1, 2008.

³ Certificate of Franchise Authority entered in Docket No. 08-00208 (December 15, 2008),

10. On April 16, 2009, Comcast responded to Knology's request and refused to allow Knology to interconnect with Comcast's existing system.⁵ Comcast contends that the interconnection provisions of the Act are unenforceable and that Knology should establish its own connection to the City of Knoxville's studio.

11. The City of Knoxville's television studio is in the heart of downtown Knoxville. In order for Knology to establish its own connection to Knoxville CTV, Knology would have to build 5,600 feet of new fiber, which would have to cross an interstate and a railroad track, at a cost of approximately \$100,000. The permitting process for crossing a railroad can take nine to twelve months and would further delay the delivery of PEG programming to the Tennesseans who subscribe to Knology's service.

12. In contrast, Knology could interconnect with Comcast's existing fiber at several potential "meet" points, which are convenient to both Knology and Comcast at minimal cost. To simplify the process for Comcast, Knology could connect in one of several formats, including RF, ASI, and Baseband. As contemplated under, and consistent with, state law, this would serve the public interest.

UNRESOLVED ISSUE FOR RESOLUTION

13. Knology requests that the TRA resolve a single issue in this proceeding. The issue to be resolved is the establishment of the terms and conditions upon which Knology may interconnect with Comcast in order to receive Knoxville CTV programming for distribution to Knology's customers.

⁴ Knology's letter request is attached hereto as **EXHIBIT A**.

⁵ Comcast's letter response is attached hereto as **EXHIBIT B**.

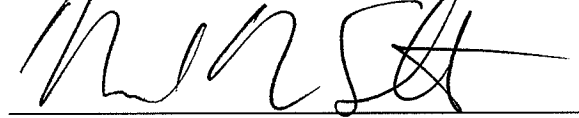
CONCLUSION AND PRAYER FOR RELIEF

Knology respectfully requests the Authority to resolve the single issue in dispute and to find in Knology's favor. Specifically, Knology requests that the Authority:

- a) Accept this Petition and resolve the issue between Knology and Comcast as described herein;
- b) Issue an Order requiring Comcast to allow Knology to interconnect with Comcast's network for the purpose of receiving Knoxville CTV PEG programming;
- c) Retain jurisdiction over this proceeding until the Parties have reached an agreement for interconnection; and
- d) Grant such other and further relief as the TRA deems just and proper.

Respectfully submitted this 9th day of April, 2010.

KNOLOGY, INC., AND
KNOLOGY OF KNOXVILLE, INC.



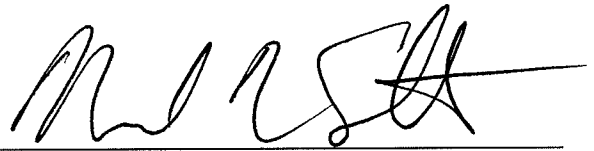
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mmalone@millermartin.com
msmith@millermartin.com

Attorneys for Knology

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2010, a true and correct copy of the foregoing has been served on the parties set forth below, via the U.S. mail and electronic mail:

Jeffrey A. Jacobs
Assistant General Counsel
Comcast Cable – Legal Department
One Comcast Center, 50th Floor
Philadelphia, PA 19103
(215) 286-8989
Fax: (215) 286-3572
Jeffrey_Jacobs@comcast.com

A handwritten signature in black ink, appearing to read 'Mark W. Smith', written over a horizontal line.

Mark W. Smith

KNOLOGY®Phone Internet Cable
March 5, 2009

Mr. Kirk Dale
General Manager
Comcast Corporation
5720 Asheville Hwy
Knoxville, TN 37924
kirk_dale2@cable.comcast.com

RE: Request for Interconnection

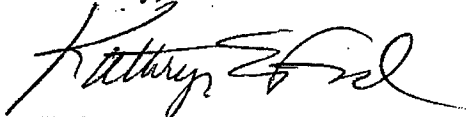
Dear Mr. Dale:

Please accept this letter as an official request from Knology, Inc., on behalf of itself and its subsidiary, Knology of Knoxville, Inc., to interconnect with the facilities of Comcast Corporation under Section 10(f)(1)(A) of Chapter 932 of the Competitive Cable and Video Service Act passed on May 1, 2008. As you know, a holder of a state-issued certificate of franchise authority must transmit a PEG channel under the Act. The Act contemplates that PEG channel be transmitted either by direct transmission, or through an interconnection with the incumbent cable service provider.

Knology, Inc. was issued a state certificate of franchise authority on December 15, 2008. We request that you allow Knology, under the provisions of the Act, to interconnect with Comcast for the purpose of transmission of the CTV channel. Knology will make its engineers and other necessary personnel available to work with you to establish the most efficient and cost effective method of interconnection for our networks. In order to expedite this process, please contact me at your earliest convenience at (706) 634-6713 or at kathy.ford@knology.com. You may also contact Felix Boccucci, Jr., our Vice President of Regulatory Finance at (706) 645-8567 or felix.boccucci@knology.com, Chad Wachter, our General Counsel at (706) 773-2663 or chad.wachter@knology.com, or Jason Clabo, our Knoxville General Manager at (865) 357-8601 or Jason.clabo@knology.com.

We look forward to working with you to accomplish this interconnection pursuant to the requirements of the Act.

Sincerely,



Kathryn E. Ford
Director of Legal Affairs

cc: Honorable Bill Haslam
Honorable Mike Ragsdale



Jeffrey A. Jacobs, Esq.
Assistant General Counsel
Comcast Cable - Legal Department
One Comcast Center, 50th Floor
Philadelphia, PA 19103-2838
TEL: 215.286.8989
FAX: 215.286.3572
Email: Jeffrey.Jacobs@comcast.com

April 16, 2009

Kathryn E. Ford
Director of Legal Affairs
Knology
1241 O.G. Skinner Drive
West Point, GA 31833

Re: Request for Interconnection - Knoxville, TN

Dear Ms. Ford:

I am responding to your letter requesting that Comcast interconnect its cable system with Knology's so that Knology can obtain the City's public/governmental programming channel. You claimed a right to compel interconnection pursuant to the Tennessee Competitive Cable and Video Service Act.

As you noted, Section 10(f)(1) provides two methods by which Knology may meet its obligation to carry the City's channel: (A) by interconnecting with another incumbent provider, or (B) building your own connection to the City's studio. In this case, Knology should obtain the programming by establishing its own connection to the City's studio, just as Comcast has done. In addition to the good business reasons for not entangling our competitive businesses in such an arrangement, we believe that the mandatory interconnection provision of subsection 10(f)(1)(A) is unenforceable.

By way of example, compelled PEG interconnection is inconsistent with Section 621(b)(3)(D) of the Federal Communications Act (47 USC §541(b)(3)(D)), which says that a franchise authority "may not require a cable operator to provide any telecommunications service or facilities." The Federal Communications Act defines "telecommunications" as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 USC §153(43). Compelled PEG interconnection would involve the supply of facilities for the transmission of PEG programming without change in the form or content of that programming. Therefore, compelled PEG interconnection involves the supply of telecommunications facilities in contravention of the Act.

Kathryn E. Ford
Knology
April 16, 2009
Page 2



Another example is Section 621(c), which provides that cable operators "shall not be subject to regulation as a common carrier or utility by reason of providing any cable service." 47 USC §541(c). Interconnection obligations are the very archetype of common-carrier regulation. *See* 47 USC §201(a); §251(a)(1); §251(c)(2). Other applicable sections of the Act include §624(f)(1)(limiting authority regarding the provision of cable services), §628 (program access), and §624(e) (regarding technology).

Comcast is not the source of the programming at issue, and we have no exclusive or special control over it. The programming originates from the City's studio at 912 S. Gay Street Suite 600 (note, however, the studio is relocating to 800 State Street in the near future). Comcast will cooperate fully with the City and Knology in taking whatever steps may be necessary to interconnect Knology's system with the City's equipment at the studio where Comcast also obtains the programming. Please let us know when Knology has completed its return line from the studio so we can assist if needed with the arrangement of the connection there.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Jacobs", written in a cursive style.

Jeffrey A. Jacobs, Esq.
Assistant General Counsel

Cc: Kirk Dale, Comcast General Manager
Douglas Wells, Comcast Government Affairs