

REPORT

For

PROPOSED AMENDMENT
CABLE TELEVISION LICENSE

Between

SHREWSBURY ELECTRIC and CABLE
OPERATIONS (Licensee)

And

TOWN OF SHREWSBURY (Issuing Authority)

Report as Required by
DTE Cable Division
207 CMR 3.07

By: Issuing Authority and
Shrewsbury Electric and Cable
Operations

October 25, 2016

REPORT
PROPOSED AMENDMENT

INTRODUCTION

This report, on file with the Town Clerk, Town of Shrewsbury, Shrewsbury, Massachusetts, is in accordance with provision Commonwealth of Massachusetts, Department of Telecommunications and Energy, Cable Television Division Regulation 207, CMR 3.07

Date of Amendment Request: October 11, 2016

Issuing Authority: Board of Selectmen, Town of Shrewsbury

Licensee: Shrewsbury Electric and Cable Operations (SELCO)
 100 Maple Avenue
 Shrewsbury, Massachusetts 01545

Proposed Amendment: The proposed Amendment is to the existing License, signed on March 23, 2013.

Public Comment: The Public Comment period begins November 14, 2016 and ends December 6, 2016.

The Board of Selectmen, Issuing Authority for the Cable License and Amendments thereof and Shrewsbury Electric and Cable Operations (SELCO) invite public comment on the proposed Amendment to the Cable License.

Forward Comments and Questions to:

Board of Selectmen – Town of Shrewsbury
100 Maple Avenue
Shrewsbury, Massachusetts 01545
Email: selectmen@shrewsburyma.gov

or

Michael Hale, General Manager
Shrewsbury Electric and Cable Operations (SELCO)
100 Maple Avenue
Shrewsbury, Massachusetts 01545
Email: mhale@shrewsburyma.gov

SUMMARY OF PROPOSED AMENDMENT:

The SELCO Commission, the Licensee, requests that the Board of Selectmen amend the Cable Franchise Agreement signed between the Town and SELCO on March 23, 2013. SELCO seeks to amend the agreement for the purposes of taking the Public Access entity from one of municipal control to one that is funded municipally but governed by a non-profit organization. The amendment seeks language changes to the Table of Contents, Article 1 – Definitions, and Article 6 – Public, Educational and Governmental Access/Local Origination Facilities and Support.

BACKGROUND: A public access corporation was formed shortly after the Board of Selectmen granted the franchise to Shrewsbury Electric in 1983. A memo from then Shrewsbury Electric General Manager James Baker to then Chairman of the Board of Selectmen Robert Maroney dated February 1, 1985, clearly indicated that the public access operation was intended to be operated as a non-profit entity. Documents were filed with the IRS to obtain the 501(c)(3) status but were rejected by the federal agency because not enough information was provided for the necessary approval. There are documents that indicate that Shrewsbury Electric wanted to retain control of public access employees and budgets and that this was in conflict with the terms and conditions for non-profit approval. The non-profit initiative was dropped and an informal relationship between SMC and SELCO has existed ever since.

SELCO has never actively participated in the supervision and guidance of SMC employees. SELCO does not monitor the hours worked by SMC employees, it simply provides payroll processing services and interprets SELCO personnel policies when asked by SMC employees. The SELCO Commission has taken a hands off approach to challenging SMC expenditures. SELCO has taken the position that SMC is funded via the provisions of the franchise agreement.

In 2014, SELCO hired CCG Consulting to provide an assessment of SELCO cable's current operations and prepare a strategic roadmap for the next three to five years. SELCO has worked to implement a number of the recommendations, including boosting the effort to sell services to local businesses, implementing a franchise fee, and finding a new partner for the telephony product. While not a high priority, the CCG report also noted that SELCO spends more on public access programming than any of their other clients. In September 2015, a working group was formed to study the public access issue. The group focused on a process of moving the public access function from public to non-profit status with the goal of not comprising the quality

of the product that SMC currently produces. The group hired William August, an attorney with expertise in the cable industry. Mr. August represented the Town in its negotiation with SELCO for the franchise renewal in 2013.

The working group focused on two documents –

- a. Revisions required to the existing franchise agreement to accommodate the changes being considered (Exhibit A.)
- b. An agreement containing terms and conditions for operating between a new non profit entity and the Board of Selectmen. A rough draft is in process.

In the spring of 2016, the working group invited members of the SMC Advisory Board to review the draft documents and provide input. Many of the changes proposed by the Advisory Board were incorporated into the draft.

The Advisory Board also prepared and presented a draft set of Bylaws for the new non-profit entity for consideration.

This report addresses Exhibit A, the proposed change to the franchise agreement. Should the amendment be enacted, the non-profit will be formed and will negotiate an agreement with the Board of Selectmen.

An estimated budget was prepared based on historical and projected expenditures (Exhibit B.) SELCO proposes a budget of 4% of gross video revenue or 4.5% if rent is charged to the new agency. In effect, the extra .5% would cover the cost of rent and would provide a funding mechanism if the new agency were to move to another location. There are no plans to have the operation move at this time. Also included in Exhibit B is a summary of 2014 and 2015 expenditures from the 3% of video revenue received by SMC.

Worth noting is that federal regulations require a franchise fee of up to 5% of video revenue received by a cable operator. The franchise fee is typically paid to the municipality who usually gives most of the payment to the non-profit public access entity in the community served. SELCO provides more than any operator in the Commonwealth of Massachusetts as a percentage of video revenue. The Town's general fund receives \$800,000 or approximately 8% of video revenue. The proposal to provide another 4% would equate to 12%, almost 2.5 times what other operators provide. Even without the \$800,000 payment to the Town, the payment for public access is competitive.

There are a number of factors behind SELCO's decision to shift to a non-profit model.

The CCG finding/recommendation was the genesis to seriously consider the initiative. Additional factors include:

1. The video ecosystem is changing. More and more people are cutting the cord because of steep increases in programming costs. Many cord cutters find alternative programming via "over the top" solutions like Netflix, Amazon Prime, or Hulu. Others have subscribed to streaming services such as Sling TV. SELCO must constantly evaluate its costs as well as its revenue. Cost and service have long been a competitive advantage for SELCO. The cost gap is closing.
2. In terms of governance, the SELCO Commission believes that government entities should not be involved in policing free speech challenges that occasionally arise.
3. Nationwide, the overwhelming majority of public access entities are run by non-profit agencies who are funded via terms and conditions established by the Licensor of the CATV franchise. It is fair to acknowledge that SELCO is different in that most cable operators are private for profit providers. However, the public access entities in the other two public cable operators in Massachusetts are not staffed by municipal employees.
4. The employees of SMC have historically not been supervised by the SELCO General Manager or the Commission. SELCO has not challenged expenditures made by SMC. SELCO believes that oversight issues can best be addressed by changing the organizational structure and adopting a non-profit model.

PROCESS FOR MAKING THE CHANGE:

Changes to Franchise Agreement: The process for amending an existing franchise agreement between an issuing authority and a licensee is specifically stated in the Commonwealth Department of Telecommunications and Energy, Cable Television Regulation 207, CMR 3.07.

SELCO has received a waiver (Exhibit C) from one of the requirements in the process. Because there are a number of changes that are clerical in nature, SELCO sought a waiver from publishing a concise explanation of each and every change in the newspaper. The waiver was granted on October 11, 2016. SELCO will still

publish notice of the requested change but will simply point interested parties to a marked version of the requested changes.

OTHER ISSUES FOR CONSIDERATION:

When the review began in September 2015, SELCO was hoping to implement the proposed changes effective January 1, 2017. However, during the due diligence phase of the process, SMC Advisory Board members opined that if the change occurs that the existing employees be protected as best they can. A primary concern was the impact of moving employees out of the Town's pension system. However, it was determined that there is a special provision in the retirement statute for employees whose positions are eliminated. The so-called "termination benefit" requires that employees have twenty years of service in order to qualify. Two of the current employees have 18+ years experience. The SMC Advisory Board made a strong appeal to consider delaying implementation so that the employees would qualify for the benefit. SELCO asked Dan Sherman, the Retirement Board's actuary to provide an approximate impact on SELCO's retirement funding schedule. Mr. Sherman advised that approximately \$93,000, on a net present value basis, would need to be added up front to SELCO's pension obligation to cover the change.

A decision to honor the Advisory Board's request would result in delaying implementation of the non-profit status until January 1, 2019. SELCO advised the Advisory Board of their support of the delay, conditioned on the additional pension funding coming from Shrewsbury Media Connection's reserve account. SELCO also advised that it would like to see the funding proposal changes to the franchise agreement implemented on January 1, 2017, as this issue can be handled separately from the designation to non-profit status.

During the calendar years 2017-18, the new entity would need to organize, appoint its board members, and prepare for the formal transfer effective January 1, 2019. Because the fiscal year will co-inside with the Town's fiscal year, the first year will require a six-month filing with the IRS.

A second issue impacting employees also arose during the due diligence phase of the initiative. Chapter 268A of the Massachusetts General Laws, commonly referred to as the Conflict of Interest Laws restricts the abilities of the Community Programming Manager during the transition and once the non-profit is formed. He will be able to carry out most administrative and reporting duties during the transition but will be required to obtain a waiver from the SELCO General

Manager authorizing participation. When the transfer to the non-profit occurs, he will be subjected to certain restrictions in matters dealing with the Town. Brian Falk, legal counsel with expertise in the Conflict of Interest statute, was hired by SELCO to provide clarity to the employee. The State Ethics Commission has notified the employee that it is an agreement with the advice opinion drafted by Attorney Falk.

IMPACT ON SUBSCRIBERS:

This proposal should have minimal impact subscribers who watch public access programming. The budget proposal allows the agency to retain existing staffing levels. Sufficient funds are proposed for operating expenses. In addition, there should be approximately \$300,000 - \$350,000 available for capital and unforeseen purchases. Once up and running, the new agency may have to supplement its municipal funding with fund raising efforts.

ATTACHMENTS:

EXHIBIT A - Redlined version of proposed changes to Franchise Agreement

EXHIBIT B - Draft budget for non-profit operation

EXHIBIT C - Copy of advertising waiver from Department of Telecommunications

[Draft Amendments Articles 1 – 6]

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CABLE TELEVISION

RENEWAL

LICENSE

AMENDMENT

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GRANTED TO

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SHREWSBURY ELECTRIC AND CABLE OPERATIONS (SELCO)

THE BOARD OF SELECTMEN

TOWN OF SHREWSBURY,

MASSACHUSETTS

October 25, 2016

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INTRODUCTION

WHEREAS, the Issuing Authority of the Town of Shrewsbury, Massachusetts, pursuant to M.G.L. c. 166A, is authorized to grant one or more nonexclusive cable television licenses to construct, operate and maintain a Cable System within the Town of Shrewsbury; and

WHEREAS, Shrewsbury Electric and Cable Operations (SELCO), offering Cable Services as Shrewsbury Cable ("Licensee"), is the duly authorized holder of a License to operate a Cable System in the Town of Shrewsbury, Massachusetts (hereinafter the "Town"), said License having originally commenced on March 28, 1983, and subsequently renewed on March 28, 1993 and March 28, 2003;

WHEREAS, SELCO has filed a written request for a renewal of its License and filed a Renewal Proposal dated December 18, 2012;

WHEREAS, there has been an opportunity for public comment, as required by 207 CMR 3.00: Licensing section 3.05: License Renewal Procedures and;

WHEREAS, the Town's Board of Selectmen, as the Issuing Authority, finds that the renewal of SELCO's License is appropriate in consideration of its past performance, compliance with the terms of its existing License, and the terms contained in its request for License Renewal;

NOW THEREFORE, after due and full consideration, the Town and SELCO agree that this Renewal License is issued upon the following terms and conditions.

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ARTICLE 1
DEFINITIONS

Section 1.1---DEFINITIONS

For the purpose of this Renewal License, the following words, terms, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning.

(1) Access: The right or ability of any Shrewsbury resident and/or any persons affiliated with a Shrewsbury institution to use designated facilities, equipment and/or channels of the Cable System, subject to the conditions and procedures established for such use.

(2) Access Channel: A video channel ~~operated by a nonprofit private entity as designated by the Issuing Authority,~~ which the Licensee shall make available, without charge, for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations ~~subject to the terms herein and applicable law.~~

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(3) Access ~~Designee or New Access Designee;~~ The ~~nonprofit private entity or entities,~~ designated by the ~~Issuing Authority,~~ from time to time, for the purpose of operating and managing the use of public, educational and governmental access funding, equipment and channels on the Cable System ~~subject to the terms and conditions herein and applicable law. The New Access Designee shall be the designee pursuant to the first Amendment of this Renewal License and as further set forth in this Renewal License as amended.~~

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(4) Affiliate or Affiliated Person: Any person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

~~(4 ½) Amendment: The first Amendment of the Renewal License issued by the Town of Shrewsbury to Licensee with the amendment terms as shown in the Town's Amendment Report, Exhibit I attached hereto, all as adopted by the Town and Licensee pursuant to the amendment regulations of the Massachusetts Department of Telecommunications and Cable as set forth in 207 Code of Massachusetts Regulations 3.07, and as set forth in this Renewal License as amended.~~

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(5) Basic Cable Service or Basic Service: Any service tier that includes the retransmission of local-television broadcast Signals.

(6) CMR: The Code of Massachusetts Regulations.

(7) Cable Communications Act (the "Cable Act"): Public Law No. 98-549, 98 Stat. 2779(1984) (the Cable Communications Policy Act of 1984), as amended by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992, and as

further amended by Public Law No. 104-458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).

(8) **Cable Service:** The one-way transmission to Subscribers of Video Programming or other Programming services, together with Subscriber interaction, if any, which is required for the selection of such Video Programming or other Programming services, which the Licensee may make available to all Subscribers generally.

(9) **Cable Division:** The Cable Television Division of the Massachusetts Department of Telecommunications and Cable.

(10) **Cable Modem:** A device connecting Subscribers to interactive Internet services over the Cable System.

(11) Cable Television System or Cable System: A facility, 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 Town, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such 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; (D) an open video system that complies with section 653 of the Communications Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

(12) Commercial Subscriber: A commercial, non-residential Subscriber to Cable Service.

(13) Complaint: Any written or verbal contact with the Licensee in connection with subscription in which a person expresses dissatisfaction with an act, omission, product or service that is (1) within the Licensee's control, and (2) requires a corrective measure on the part of the Licensee.

(14) Converter: Any device changing the frequency of a Signal coming to a Subscriber. A Subscriber Converter may control reception capacity and/or unscramble coded Signals distributed over the Cable System, among other capabilities.

(15) Department of Public Works ("DPW"): The Department of Public Works of the Town of Shrewsbury, Massachusetts.

(16) Digital Television Adapter ("DTA"): A television tuner or Converter that receives a digital television transmission and converts the digital signal into an analog signal that can be received and displayed on an analog television set.

(17) Downstream Channel: A channel over which Signals travel from the Cable System Headend to an authorized recipient of Programming.

(18) Drop or Cable Drop: The coaxial cable that connects an Outlet to the feeder line of the Cable System.

(19) Educational Access Channel: A specific channel(s) operated by the New Access Designee on the Cable System made available by the Licensee to Shrewsbury educational institutions and/or educators wishing to present noncommercial educational programming and information to the public subject to the terms herein and applicable law.

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(20) FCC: The Federal Communications Commission, or any successor agency.

(21) Feeder Line: A branch off one of the Town-wide distribution cable trunks which feeds a small area or neighborhood.

(22) Government Access Channel: A specific channel(s) operated by the New Access Designee on the Cable System made available by the Licensee to the Issuing Authority and/or its designees

for the presentation of non-commercial programming and/or information to the public subject to the terms herein and applicable law.

(23) Gross Annual Revenues: Consideration of any form or kind derived by the Licensee from the carriage of Video Signals over the Cable System including, without limitation: the distribution of any Cable Service over the Cable System; Basic, Expanded, Premium, HDTV, VOD, SVOD, PPV monthly fees; any and all fee-on-fee revenues; installation, reconnection, downgrade, upgrade and any similar fees; interest collected on Subscriber fees and/or charges; all Commercial Subscriber revenues; fees paid for channels designated for commercial use; converter, remote control and other equipment rentals, and/or leases or and/or sales that relate to the transmission of Cable Services; all home-shopping service(s) revenues; and advertising revenues. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with Generally Accepted Accounting Principles; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

Explicitly excluded is revenue from Voice over IP service, fiber optic cable leasing and any other services not directly related to providing video services over television sets.

(24) Headend: The electronic control center of the Cable System containing equipment that receives, amplifies, filters, and converts incoming Signals for distribution over the Cable System.

(25) Hub or Hub Site: A sub-Headend, generally located within a cable television community, used either for the purpose of (i) Signal processing or switching, or (ii) placement of a fiber node or transportation super trunk.

(26) Internet: The worldwide computer network.

(27) Issuing Authority: The Board of Selectmen of the Town of Shrewsbury, Massachusetts.

(28) Leased Channel or Leased Access: A video channel that the Licensee shall make available pursuant to Section 612 of the Cable Act.

(29) License Fee or Franchise Fee: The payments to be made by the Licensee to the Town of Shrewsbury and/or its designee(s), within the meaning set forth in Section 622(g) of the Cable Act and M.G.L. Ch. 166A.

(30) Licensee: Shrewsbury Electric and Cable Operations (SELCO), or any successor or transferee in accordance with the terms and conditions in the Renewal License.

(31) Local Origination Programming: Local Programming produced and presented by the Licensee.

(32) New Access Designee: See definition of Access Designee above.

(33) Node: A remote terminal device used to provide integrated network powering solutions for broadband, hybrid fiber-coax or switched digital video architecture(s).

(33) Normal Business Hours: The term "normal business hours" shall have the meaning set forth in 47 CFR § 76.309, currently defined to mean those hours during which most similar businesses in the community are open to serve customers.

(34) Renewal License: The non-exclusive Cable Television Renewal License to be granted to the Licensee.

(35) Shrewsbury Cable Commission: The Town Commission, if any, appointed by the Issuing Authority, charged with Renewal License enforcement and oversight subject to Issuing Authority control and as determined by the Issuing Authority.

(36) Origination Capability or Origination Point: An activated cable and connection to an Upstream Channel, allowing a User(s) to transmit a Signal(s) upstream to a designated location.

(37) Outlet: An interior or exterior receptacle, generally mounted in a wall, which connects a Subscriber's or User's television set to the Cable System.

(38) Pay Cable or Premium Services: Programming delivered for a fee or charged to Subscribers on a per-channel or group-of-channels basis.

(39) Pay-Per-View: Programming delivered for a fee or charged to Subscribers on a per-program or per-event basis.

(40) Pedestal: An environmental protection unit used in housing Cable System isolation units and/or distribution amplifiers.

(41) PEG: The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.

(42) PEG Access Channels: Any channel(s) made available for the presentation of PEG Access Programming.

(43) PEG Capital Costs: Costs incurred in or associated with the construction of PEG access facilities, consistent with generally accepted accounting principles concerning the designation of capital costs.

(44) PEG Operating Costs: Costs incurred in or associated with the use of PEG access facilities, including but not limited to salaries and training, consistent with generally accepted accounting principles concerning the designation of operating costs.

(45) Person: Any corporation, partnership, limited partnership, limited liability company, association, trust, organization, other business entity, individual or group of individuals acting in concert.

(46) Prime Rate: The prime rate of interest, as published in the Wall Street Journal.

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(47) Public Access Channel: A specific channel(s) operated by the New Access Designee on the Cable System made available by the Licensee for the use of Shrewsbury residents and/or

organizations wishing to present non-commercial programming and/or information to the public subject to the terms herein and applicable law.

(48) **Public Way or Street:** The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, boulevards, driveways, bridges, parks, waterways, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

(49) **Retransmission Consent:** The grant of consent from cable and broadcast programming distributors, including local broadcasters and their affiliates, to SELCO permitting SELCO to carry such programming on the Cable System for a fee, as described in 47 U.S.C. § 325(b)(1)(A); 47 C.F.R. § 76.65 *et seq.*

(50) **The School Department:** The Shrewsbury School Department, a department of the Town.

(51) **Scrambling/Encoding:** The electronic distortion of a Signal(s) in order to render it unintelligible or unreceivable without the use of a Converter or other decoding device.

(52) **Service:** Any Basic Service, any Pay Cable Service and/or any other Cable Service, which is offered to any Subscriber or User in conjunction with, or which is distributed over, the Cable System.

(53) **Service Related Activity:** Any activity or function for which the Licensee receives revenue from any other Person and which is directly associated with the operation of the Cable System to provide Cable Service.

(54) **Signal:** Any transmission of electromagnetic or optical energy that carries Programming from one location to another.

(55) **State:** The Commonwealth of Massachusetts.

(56) **Subscriber:** Any person, firm, corporation or other entity, located in Shrewsbury, who or which elects to subscribe to, for any purpose, a Service provided by the Licensee by means of, or in connection with the Cable System.

(57) **Subscriber Network:** The 870 MHz, bi-directional network, with a minimum of one hundred ten (110) channels, to be owned and operated by the Licensee, over which Signals can be transmitted to Subscribers.

(58) **Town:** The Town of Shrewsbury, Massachusetts.

(59) **Town Counsel:** The Town Counsel of the Town of Shrewsbury, Massachusetts.

Deleted: <#> SMC Shrewsbury Media Connection, an organization, and/or its successor organization established for the purpose of fulfilling the Licensee's obligation under the License to provide PEG Access to the Town. The Access Corporation so designated at the time of the license renewal.¶

(60) **Trunk, Feeder Line and Distribution System:** That portion of the Cable System for the delivery of Signals, but not including Drop cables to Subscriber's residences.

(61) **Upstream Channel:** A channel over which Signals travel from an authorized location to the Cable System Headend.

(62) **User:** A person utilizing the Cable System, including all related facilities for purposes of production and/or transmission of electronic or other Signals as opposed to utilization solely as a Subscriber.

(63) **Voice Over IP ("VoIP"):** VoIP means an interconnected VoIP service. An interconnected Voice over Internet Protocol (VoIP) service is a service that: (1) Enables real-time, two-way voice communications; (2) Requires a broadband connection from the user's location; (3) Requires Internet protocol-compatible customer premises equipment (CPE); and (4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(64) **Video Programming or Programming:** Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

ARTICLE 6

PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS/LOCAL ORIENTATION FACILITIES AND SUPPORT

Section 6.1 – PEG ACCESS / LOCAL ORIENTATION

The New Access Designee, as designated by the Issuing Authority, shall be responsible for the provision of public, educational and governmental ("PEG") Access Programming to Subscribers, pursuant to the provisions of this Article 6 herein. The New Access Designee, once appointed, shall meet with the Issuing Authority and execute an agreement no later than December 31, 2018 with the Issuing Authority that codifies reasonable terms and conditions for the provision of PEG Access programming, services, facilities and equipment by a private, nonprofit, nongovernmental access corporation. PEG Access programming and services will remain under the general direction of the Licensee, until the transfer to the New Access Designee.

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Deleted: and Exhibit 2, titled Agreement By and Between the Town of Shrewsbury, SELCO and Shrewsbury Community Television, Inc. If and as executed by all of the Issuing Authority, SELCO and Shrewsbury Community Television, Inc. which Agreement is hereby incorporated herein by reference subject to execution as aforesaid.
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(a) The Licensee shall be responsible for the provision of Local Origination ("LO") programming to Subscribers, pursuant to the provisions of this Article 6 herein.

Section 6.2 – NEW ACCESS DESIGNEE

The New Access Designee, shall provide for PEG Access as follows:

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- Establish by-laws for its own governance to include, but not be limited to, provisions for responsibility and authority of board members and officers, provisions for election, membership, etc. all as applicable to and carried out by a nonprofit private nonprofit corporation applying for or in receipt of tax exempt charitable status under Section 501(c)(3) of the Internal Revenue Code as from time to amended.
- Develop goals and objectives to meet Community Programming needs in Shrewsbury.
- Develop, implement and monitor procedures for non-discriminatory access to the studio and equipment.
- Develop and monitor an annual capital and operating budget.
- Coordinate with applicable personnel for educational and governmental access to assure their needs, as part of the total Community Programming, are properly considered.

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Section 6.3 - PEG ACCESS CHANNELS

(a) The Licensee shall make available up to three full time video channels on the Licensee's Basic service tier for the purpose of PEG Access. The channels position shall be grouped together, but actual channel number(s) may change from time to time. The Licensee shall not make any channel lineup changes without prior notification to New Access Designee. At its discretion, the New Access Designee may provide programming in High Definition format and the licensee shall accommodate said request. The cost of capital equipment associated with High Definition programming needed by the Licensee shall be born by the New Access Designee.

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(b) The Issuing Authority and/or Licensee and New Access Designee shall, if requested in writing by either party, meet at least annually, and review the community's needs for PEG access programming. The needs may include but not be limited to signal transport issues, additional channel capacity on digital tier of services, availability of programming to be accessed via video on demand (VOD) and/or Subscription video on demand (SVOD). Based upon identifiable community needs, the Licensee, at its own discretion, may provide additional Digital channels for PEG use.

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Section 6.4 - PEG STUDIO FACILITIES

(a) If the Licensee provides a building to accommodate offices, meeting rooms and a studio subject to the terms herein and applicable law, the rent for such space to be paid by New Access Designee shall be established at an agreed upon value and may at the option of Licensee be credited toward the amount due from Licensee for license payments to the New Access Designee under the terms of the Renewal License. All equipment existing at the time of the License renewal at the studio and remote locations shall upon or promptly after the adoption of the Amendment, for exchange of mutual covenants and other lawful consideration, be transferred by Licensee to New Access Designee as determined by the Issuing Authority for the use of the New Access Designee for the purpose of fulfilling the obligations for PEG functions, subject to such transfer being a transfer of assets only and not a transfer of any rights, liabilities or obligations of the Issuing Authority, Licensee or of any other person or association of persons. In general, initial expenditures to obtain, construct or upgrade a building or studio and related equipment will be considered PEG Capital Costs. In general, ongoing expenses relating to Licensee's provision of a building, office space, meeting rooms and a studio, will be deemed PEG Operating Costs.

Deleted: (c) The Licensee shall make access available up to three analog PEG channels to non-CATV subscribers at an annual cost equal to:
 The Licensee's total expense related to PEG channels divided by the total number of Basic subscribers.
 The rate, effective April 1, 2003, is \$31.80 per year. The rate shall be adjusted annually, billed April first of each year. Failure to make payment for the service will result in the service being disconnected. Residents requesting the PEG channels will be charged an installation fee identical to any new CATV subscriber. Other policies regarding charges for line extensions and service drop charges will apply. Residents receiving three free PEG channels on or before March 24, 2003 may continue to receive the three PEG channels without a charge.

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(b) The Licensee shall contract for the maintenance to the building structure, including repair maintenance and upgrading of the Building envelope and roof and HVAC equipment. Licensee shall also provide snow plowing, rubbish removal and ground maintenance as long as the Licensee maintains a Head End operations at the same location. In general, all costs concerning building and site maintenance (other than significant upgrades) will be considered PEG Operating Costs.

Commented [WA2]: Bill needs info re whether this clause needs updating or adaptation as applied to new access designee (same re any other clauses in license)

(c) In the event that it is necessary to vacate or otherwise move PEG functions from the building, the Licensee shall secure a building of similar size and quality subject to rent for such new space not exceeding, for comparable space, the rent established under Section 6.4(a) above. The Licensee shall also pay the reasonable costs of such move, if any.

Commented [WA3]: Update or adapt this commitment?

Section 6.5 - PEG STAFFING OF THE FACILITIES

- (a) Effective January 1, 2017, the Licensee shall provide 4.5% of Gross Annual Video Revenue from cable operations to provide for PEG programming, of which .5% shall be used for rent of the facility. On January 1, 2019, in sync with the New Access Designee formally assuming control of PEG programming and operations, payment shall be made directly from the Licensee to the New Access Designee. Payment shall be made quarterly on the first day of July, October, January, and April for use by New Access Designee for operating and capital expenditures. The employees shall be considered employees of the private, nonprofit New Access Designee and not employees of the Town or Licensee.
- (b) The board of the new nonprofit private New Access Designee will be responsible for developing job descriptions, and recommending specific personnel to fill the positions within its organization and said New Access Designee shall be responsible for the day-to-day management of the staff.

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Deleted: annually pay to the New Access Designee four and one half percent (4 1/2%) of Licensee's Gross Annual Revenues from cable service operations

Deleted: provide salaries and benefits for the equivalent of two full time employees.

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Section 6.6 - ANNUAL FINANCIAL SUPPORT FOR PEG ACCESS

- (a) Licensee shall provide payment for PEG Access expenditures as set forth in Section 6.5(a) above.
- (b) The annual payments shall be used for the following PEG Access expenditures:
 - Operating expenses or supplies
 - Facility maintenance
 - Purchase, maintenance, repair replacement of capital equipment
 - All utilities — electric, water, and telephones
 - Training and staff development
 - Equipment insurance
 - Office supplies, computers, and other office equipment
 - Salaries and other payroll expenses in excess of those provided hereunder.
 - Equipment and facilities expenses
- (c) New Access Designee shall be responsible for developing an annual work plan and budget for the following year's expenditures for capital and operating expenses subject to the aforementioned fully executed agreement in Section 6.1 and subject to the terms herein and applicable law. The New Access Designee shall include a reserve account as part of the annual budget, whereby an amount from each year's budget be held in reserve for the planned replacement of major plant equipment. The New Access Designee may make adjustments between line items in a budget without prior approval by the Town. All expenditures by said New Access Designee shall be considered expenses of the New Access Designee and shall follow internal administrative procedures for purchasing and payments of invoices.
- (d) At the end of a given year, if there are unexpended budgeted funds, the New Access Designee may hold these funds in a separate account for the purposes of future expenditures by the New Access Designee for the purchase of new or replacement equipment.

Deleted: equal to three percent (3%) of the following: Licensee's Gross Annual Revenues, including revenues realized by Licensee from Subscribers which are attributable (via line item on Subscriber bills or other means) to Retransmission Consent expenses of Licensee up to a maximum of \$4.35 per Subscriber. Notwithstanding the foregoing, the \$4.35 per Subscriber Retransmission Consent expense cap for calculation of Gross Annual Revenues shall no longer be applicable in the event of a Section 7.2(d) competitive entry event. For the purposes of determining Gross Annual Revenue and the three percent thereof, the annual budgeted amount included in the Licensee's annual operating budget shall be used without any recomputation or reconciliation to actual year ending amounts. Notwithstanding the foregoing, said annual operating budget for PEG may be reviewed and verified by the Issuing Authority, upon written request of the Issuing Authority, as reasonably needed by the Issuing Authority to determine and verify PEG expenditures or to determine the amount of any PEG Operating Cost voluntary contributions and/or offsets, if any, pursuant to Section 7.2(b) below

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(e) All revenue from the rental of facilities under the direct control of the New Access Designee shall be considered revenue of the Licensee. The New Access Designee shall exercise diligent efforts to raise additional funds from the provision of services to others subject to the foregoing being carried out consistent with limitations applicable to tax exempt nonprofit organizations; and subject further to the New Access Designee not subleasing its studio facility to other parties.

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- Deleted: , however, any positive cash flow (revenue less expenses) associated with
- Deleted: sale of
- Deleted: rentals shall be considered additions to
- Deleted: SMC
- Deleted: the New Access Designee annual budget.

Section 6.7 - PEG ACCESS CHANNELS MAINTENANCE

The Licensee shall monitor the PEG Access Channels for technical quality and shall ensure that they are maintained at standards commensurate with those that apply to the Cable System's commercial channels. The New Access Designee shall be responsible for the production quality of all PEG Access Programming.

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Section 6.8 - PEG ACCESS CABLECASTING

(a) In order that the Town and/or the New Access Designee can cablecast its Programming over the PEG Access Downstream Channels, all PEG programming shall be modulated, then transmitted from any location with Origination Capability, to the Cable System Headend on upstream bandwidth made available to the Town and the Access Corporation for their use, without charge to the Town, and the New Access Designee. The Licensee shall provide technical assistance to the New Access Designee to ensure quality and reliable signal transmission via the Institutional Network.

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(b) The Licensee shall provide the Town and/or the Access Designee with the capability to ensure that said Programming is properly switched, either manually or electronically, to the appropriate Downstream Channel, in an efficient and timely manner. At the Headend said Access Programming shall be retransmitted in the downstream direction on one of the Downstream PEG Access Channels. The Licensee shall not charge the Town and/or the Access Designee for such switching responsibility. The Licensee, the Issuing Authority and the New Access Designee shall negotiate in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.

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(c) The Licensee shall provide and maintain, at its sole cost and expense, all necessary processing equipment in order to switch Upstream Signals from the Town and/or the New Access Designee to the designated Downstream Access Channel.

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Section 6.9 - CENSORSHIP

The Licensee shall not engage in any program censorship or any other control of the content of the PEG Access Programming on the Cable System, except as otherwise required or permitted by applicable law.

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- Deleted: <#>The Licensee shall provide Internet access at the Access Designee SMC studio/office building for use limited to SMC New Access Designee employees in conducting business relating to PEG programming ¶
- Deleted: <#>The Licensee shall provide email and web site hosting services to SMC equal to services provided to other Town departments ¶
- <#>SMC may use the Licensee's vehicles for the purpose of transporting equipment and materials associated with SMC cablecast at locations remote from the studio but within the Licensee's service area ¶
- The Licensee will continue its dialogue with t

Section 6.10 - OTHER CONSIDERATION

(a) Effective January 1, 2019, the public access advisory board of the Licensee's prior access operations shall no longer continue as the public access committee or board.

- Deleted: Upon the establishment of
- Deleted: July 1, 2018
- Deleted: the New Access Designee in accordance with the terms hereof
- Deleted: on matters affecting the board's ability to continue to meet the community's needs for PEG access programming.

Section 6.11 - PEG ACCESS AND LOCAL ORIGINATION PROGRAMMING

(a) The Licensee reserves the right to use equipment and facilities designated for PEG access functions for the purpose of Local Origination programs subject to mutual agreement among the Access Designee, Issuing Authority and Licensee. The Licensee's use of the said equipment and facilities shall not interfere with and shall be done in full cooperation with the new Access Designee.

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Exhibit B

Shrewsbury Media Cable Projected Cash Receipts and Disbursements based on 2016 Budget

	<u>2016 Budget based on 4%</u>	<u>2016 Budget based on 4.5%</u>	<u>2015 Actual</u>	<u>Explanations for 2015 Actual</u>
PAYMENT FROM SELCO	\$ 401,770 (A)	\$ 451,991 (B)	\$ 293,646	Based on 3% of Cable Revenue
Salaries - Marc & Liz	\$ 113,178	\$ 113,178	\$ 110,947	
Salaries - Other (including camera operators)	102,061	102,061	102,601	
Health Insurance	41,611 (1)	41,611	38,528	Actual for current employees
Fica (6.2%)	13,345	13,345	-	
Medicare (1.45%)	3,121	3,121	3,096	
Worker's Comp	500 (2)	500	214	.10 per \$100 salary
Internet	3,600 (3)	3,600	-	
Bandwidth, Data Storage, Networking	-	-	-	Raj and Manny to work on, SMC is uploading 80GB per night
Telephone	1,126 (4)	1,126	-	
IT Support	1,000 (5)	1,000	-	
				Calculated by taking 75% of payroll clerk salary and 5% of Mike and Stacey and dividing by total head count to get a per capita cost for payroll (\$47,193)
Payroll Service Fee	921 (6)	921	2,817	
Pension Administration Cost	-	-	250	very rough estimate
Pension Normal Cost/401(k) match	8,610 (7)	8,610	7,076	3.6% of total salary
OPEB	-	-	8,399	calculated taking % of SMC to total cable payroll and applying % to OPEB annual
Professional fees (Audit & tax returns prep)	5,000	5,000	-	
Insurance	10,000 (2)	10,000	8,000	SMC currently pays \$3200 to insure mobile equipment
Rent	- (8)	38,400	-	
	\$ 304,072	\$ 342,472	\$ 281,929	
Operating from Mark's Budget:				
Consulting/Outside Services	40,000	40,000	-	
Office/Studio Operating	27,500	27,500	8,320	(\$25,320 - 17,000)
Misc. Operating	-	-	22,913	
Total Operating Disbursements	371,572	409,972	342,192	
Available for Capital Reserves/Capital Disbursements	30,198	42,019	33,830	
Total Cash Disbursements	\$ 401,770	\$ 451,991	\$ 346,992	
Net Cash Receipts Over/(Under) Disbursements	\$ -	\$ -	(\$53,345.80)	
REVENUE FROM SELCO	\$ 401,770	\$ 451,991	Actual	
CASH BALANCE @ 1-1-2016 AVAILABLE	348,044 (9)	348,044	Actual but not allocated	
TOTAL CASH TO SMC	\$ 749,814	\$ 800,035	Estimated	

- (1) 8% increase
 (2) Per quote from Clippership Insurance
 (3) Enterprise fiber \$3600
 (4) Assumes 3 lines at SELCO commercial rates
 (5) For Google email & antivirus
 (6) Based on \$30.60/pay period x 26 periods + \$25 for w-2's + one time setup fee \$100
 (7) 4% match
 (8) Based on market rate of \$12/sf for 3,200 sf warehouse/flex space
 (9) Balance will be increased annually through 12/31/2018 based on net cash receipts in excess of disbursements.
 We are expecting the cash balance to be in excess of \$400,000 as of 1/1/2017.

3% of video revenue (includes one full time)			\$ 293,646
Total to SMC in addition to required payment based on revenue	(A) \$ 401,770	(B) \$ 451,991	179,328
Additional payment to Town	800,000	800,000	800,000
Grand Total Cost to SELCO	\$ 1,201,770	\$ 1,251,991	\$ 1,272,974

By Comparison, Private Cable operators are required to provide up to 5% of video revenue ONLY to the Community who would then determine how much goes to Public Access:

	Required Annual Payment
Based on 4% of 2015 revenue*	401,770 (A)
Based on 4.5% of 2015 revenue*	451,991 (B)

*Cable Revenue = 6,330,702 + 3,366,152 + 147,384

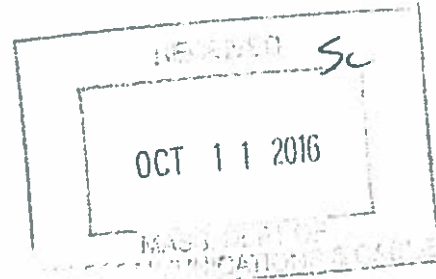
SMC BUDGET CALCULATION		
	actual	actual
	2014	2015
BUDGETED SIGNAL SALES - GROSS	\$ 8,801,131	\$ 10,044,238
LESS: RETRANSMISSION ADJ	\$ (82,631)	\$ (256,024)
NET SIGNAL SALES	\$ 8,718,500	\$ 9,788,214
3% OF SIGNAL SALES	\$ 261,555	\$ 293,646
BUDGET BASE	\$ 261,555	\$ 293,646
OFFICE SUPPLIES & EXPENSES	\$ 20,883	\$ 26,959
OUTSIDE SERVICES EMPLOYED	\$ 76,244	\$ 124,493
MISC GENERAL EXPENSES	\$ 9,247	\$ 22,152
SPAC CAPITAL ACQUISITIONS	\$ 71,928	\$ 33,830
TOTAL DISBURSEMENTS	\$ 178,301	\$ 207,434
N/Y SMC FUND IMPACT	\$ 83,254	\$ 86,212
LESS: PMT TO TOWN	\$ -	\$ -
SMC FUND END BAL	\$ 178,578	\$ 261,832



SHREWSBURY ELECTRIC AND CABLE OPERATIONS
YOUR COMMUNITY PROVIDED ELECTRIC & CABLE SERVICES

Exhibit C

October 6, 2016



Ms. Sara Clark
Executive Secretary
Commonwealth of Massachusetts
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, Massachusetts 02118-6500

Dear Ms. Clark:

Shrewsbury Electric and Cable Operations (SELCO) requests a waiver from the regulatory process required to amend an existing cable franchise, 2017 CMR, 3:07. I discussed the request with Michael Mael and he asked that I forward this request to you.

BACKGROUND: SELCO is a municipally run cable franchise serving the citizens of Shrewsbury. Currently, we are the only operator in Shrewsbury.

SELCO is proposing to take the public access function from one that is municipally run to one that is municipally funded but operated by a non-profit entity that will be formed in the next two years.

There are a number of sections in the existing franchise agreement that require language changes. SELCO is seeking relief from publishing a document in a newspaper that illustrates each word/clause change proposed with an accompanied "concise explanation" as required in your regulation.

Rather, SELCO proposes to reach interested parties by

- Cable casting notice of a change on the channel bulletin boards.
- Discussing the issue at a Board of Selectmen public meeting.
- Posting a document on the Board of Selectmen's website that illustrates the proposed changes.
- Placing an ad in the newspaper with a link to the website where the document can be viewed.
- Maintaining a copy at the Town Hall for public inspection.

SELCO and the Town will still provide a 21 day public comment period commencing 14 days after the posting of the request for change in the newspaper.


This change in no way impacts the competitive landscape for cable services in the Shrewsbury territory. It is simply an administrative action that changes the operation of the public access function to one that is in line with the rest of the communities under your jurisdiction.

Please contact me if you have any questions pertaining to this matter.

Very truly yours,



Michael R. Hale
General Manager


APPROVED

Date: 10/11/16