

**THE BOARD OF SELECTMEN**

**TOWN OF DENNIS**

**STATEMENT OF REASONS FOR PRELIMINARY ASSESSMENT OF DENIAL**

The Board of Selectmen, statutory Issuing Authority for the Town of Dennis (the "Town"), and Comcast of Massachusetts I, Inc. ("Comcast") have followed formal cable television renewal procedures, pursuant to Section 626(a-g) of the Cable Act, 47 U.S.C. §546. The Issuing Authority issued a formal Request-for-Proposal (the "RFP") to Comcast, dated March 10, 2009. Comcast submitted a formal renewal proposal (the "Formal Renewal Proposal") to the Town, dated April 8, 2009. The most recent Cable Television Renewal License (the "1999 Renewal License"), dated December 15, 1999, will expire on November 29, 2009.

After several negotiating sessions, the Issuing Authority and Comcast were unable to agree on a number of renewal matters. Consequently, the Issuing Authority denied Comcast's request for a renewal license on November 2, 2009. Pursuant to 207 CMR 3.06(3), the Issuing Authority is hereby issuing this written statement detailing its reasons for this preliminary assessment of denial.

Pursuant to 47 U.S.C. § 546(c)(1)(D), the Issuing Authority does not believe that Comcast's Formal Renewal Proposal is reasonable to meet the future cable-related community needs and interests of Dennis, taking into account the cost(s) of meeting such needs and interests. Specifically, the Issuing Authority does not accept Comcast's Formal Renewal Proposal regarding the following matters:

First, the Issuing Authority in the RFP sought a commitment from Comcast to continue to staff and operate a customer service office in Yarmouth. In its Formal Renewal Proposal, Comcast would not agree to continue to staff and operate a customer service office in Yarmouth during a renewal term.

Second, the Issuing Authority in the RFP stated that it would grant a renewal license for a "...term that is commensurate with the level of services and facilities provided to the Dennis community" and the financial basis thereto. In its Formal Renewal Proposal, Comcast proposed a 10 year renewal term only, without providing a reasonable basis for such a term. Consequently, the Issuing Authority and Comcast

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did not agree on a renewal license term.

Third, the Issuing Authority in the RFP sought a commitment from Comcast to provide annual funding to the Issuing Authority for public, educational and governmental (“PEG”) access programming and cable-related purposes in the amount of five percent (5%) of its Gross Annual Revenues (“GAR”), less applicable fees, paid quarterly. In its Formal Renewal Proposal, however, Comcast proposed annual funding in the amount of four percent (4%) of its GAR, but less applicable fees. The Issuing Authority did not agree to Comcast’s annual operating funding proposal.

Fourth, the Issuing Authority did not agree with or accept Comcast’s Formal Renewal Proposal definition of “Gross Annual Revenues”.

Fifth, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide to the Issuing Authority a quarterly Gross Annual Revenues Reporting Form. In its Formal Renewal Proposal, Comcast did not propose and would not agree to continue to provide such quarterly Gross Annual Revenues Reporting Forms during a subsequent renewal term.

Sixth, in its Formal Renewal Proposal, Comcast proposed language regarding disbursements of funds. The Issuing Authority did not agree to such language.

Seventh, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide separate dollar funding for the purchase of PEG Access equipment and/or facilities. In its Formal Renewal Proposal, Comcast would not agree to continue to provide any separate dollar funding for equipment/facilities, as requested by the Issuing Authority. Consequently, the Issuing Authority did not agree to Comcast’s funding proposal.

Eighth, the Issuing Authority in the RFP sought a commitment from Comcast to continue to make available four (4) PEG Access Channels. In its Formal Renewal Proposal, Comcast did not agree to provide four PEG Access Channels. The Issuing Authority did not accept or agree to Comcast’s proposal on PEG Access Channels in its Formal Renewal Proposal.

Ninth, in its Formal Renewal Proposal, Comcast reserved the right to “reclaim any unused time” on any

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of the PEG Access Channels that might not be “fully programmed”. The Issuing Authority did not agree with or accept Comcast’s language in this regard in its Formal Renewal Proposal.

Tenth, in its Formal Renewal Proposal, Comcast stated that PEG Access programming produced by the Issuing Authority or its designee could not be provided to another cable television operator licensed to operate in the Town by the Issuing Authority without the written consent of Comcast. The Issuing Authority did not agree to such a restriction.

Eleventh, the Issuing Authority in the RFP sought a commitment from Comcast to continue to operate and maintain the current fiber-optic Institutional Network (“I-Net”) in the Town connecting the sixteen (16) buildings currently connected to the I-Net, said buildings listed in Exhibit 1 of the RFP. In its Formal Renewal Proposal, Comcast would only agree to connect two (2) buildings to the I-Net. The Issuing Authority did not agree to Comcast’s proposal.

Twelfth, the Issuing Authority in the RFP sought a commitment from Comcast to add four (4) additional municipal buildings to the I-Net. In its Formal Renewal Proposal, Comcast would only agree to connect the two (2) buildings to the I-Net referenced in paragraph #11 above. The Issuing Authority did not agree to Comcast’s proposal.

Thirteenth, the Issuing Authority in the RFP sought a commitment from Comcast that the Town could continue to use the I-Net for audio, video and data purposes as specified in Section 3.2 of the 1999 Renewal License. In its Formal Renewal Proposal, Comcast would not agree to such continued use. The Issuing Authority did not agree to Comcast’s proposal.

Fourteenth, the Issuing Authority in the RFP sought a commitment from Comcast to make its cable service available to all Dennis residents without additional so-called “line-extension” charges. In its Formal Renewal Proposal, however, Comcast did not agree to continue such a commitment. In fact, Comcast proposed new line-extension requirements and potential new costs during a subsequent renewal term.

Fifteenth, in its Formal Renewal Proposal, Comcast proposed providing service to residences located 125 aerial feet from Comcast’s plant. The current distance parameter in the 1999 Renewal License, however, is 150 aerial feet, which was the figure proposed in the RFP. Consequently, the Issuing Authority

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did not agree to the lesser distance parameter proposed by Comcast.

Sixteenth, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide drops and monthly service to public buildings and schools in accordance with applicable Massachusetts law. In its Formal Renewal Proposal, however, Comcast proposed (i) limiting drops to public buildings as defined by Comcast and (ii) establishing its own distance parameter language, contrary to the requirements of applicable state law. Consequently, the Issuing Authority did not agree to such provisions.

Seventeenth, the Issuing Authority in the RFP sought a commitment from Comcast to continue to comply with a number of consumer protection provisions, many of which are contained in the 1999 Renewal License. In its Formal Renewal Proposal, Comcast would not agree to continue such consumer protection provisions in a new license during a subsequent renewal term.

Eighteenth, in its Formal Renewal Proposal, Comcast insisted upon so-called "level-playing field" language in a subsequent renewal license. The Issuing Authority did not agree to the inclusion of such language in a renewal license.

Nineteenth, in its Formal Renewal Proposal, Comcast proposed language that would allow it to use the public rights-of-way in equal standing with utilities, despite the fact that Comcast is not a common carrier. The Issuing Authority did not agree to such language.

Twentieth, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide a performance bond in the amount of One Hundred Thousand Dollars (\$100,000.00), as required by Section 9.2 of the 1999 Renewal License. In its Formal Renewal Proposal, Comcast proposed to provide a bond in the amount of Twenty-Five Thousand Dollars (\$25,000.00) during a renewal term. The Issuing Authority did not agree to Comcast's proposal.

Twenty-First, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide for liquidated damages for possible license violations. In its Formal Renewal Proposal, Comcast would not agree to any such liquidated damages during a renewal term.

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Twenty-Second, the Issuing Authority in the RFP sought a commitment from Comcast to continue to provide to the Issuing Authority a number of reports pertaining to Comcast's operation of its Dennis cable system, as required by the 1999 Renewal License. In its Formal Renewal Proposal, Comcast would not agree to continue to provide such reports during a subsequent renewal term.

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**SIGNATURE PAGE**

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The Dennis Board of Selectmen,  
as Issuing Authority

Dated: November 10, 2009