

**STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

IN RE: RHODE ISLAND PBS FOUNDATION
REQUEST TO ADJUST PUBLIC,
EDUCATION & GOVERNMENT ACCESS FEES

Docket No. D-22-11

**RHODE ISLAND PBS FOUNDATION’S MOTION TO WITHDRAW REQUEST TO
ADJUST PUBLIC, EDUCATION & GOVERNMENT ACCESS FEES**

Petitioner Rhode Island PBS Foundation (“RI PBS”) hereby submits its Motion to Withdraw Request to Adjust The Public, Education & Government Access Fees (“PEG Access Fees”) for Fiscal Year 2024, for the reasons stated below.

On March 28, 2023, RI PBS submitted to the Division of Public Utilities and Carriers (the “Division”) its first annual reconciliation filing in this docket, in which it requested an increase in PEG Access Fees of \$0.135 per subscriber, per month.¹ This adjustment accounted for underpayments of PEG Access Fees from Verizon New England Inc. (“Verizon”) and CoxCom Inc. d/b/a Cox Communications New England (“Cox”) during calendar year 2022.

Subsequently, RI PBS learned that Cox also had failed to remit its PEG Access Fees collected from its commercial subscribers since approximately 2011. Accordingly, on August 9, 2023, Cox and RI PBS entered into a Settlement Agreement, pursuant to which Cox agreed to pay RI PBS the value of the outstanding PEG Access Fees plus interest at the rate of 8.25%, for a total payment of \$1,179,755 (the “Settlement Payment”). The Settlement Agreement also provides RI PBS with quarterly reporting and auditing rights, which authorize RI PBS to review

¹ PEG Access Fees support and maintain a variety of studios and equipment necessary for full-color production and transmission of live, videotape, and film television programs on specially designated access channels. RI PBS assesses PEG Access Fees to the CATV Operators, which, in turn, collect those amounts from their subscribers and then remit those amounts to RI PBS. There are two existing cable television certificate holders who collect PEG Access Fees from Rhode Island subscribers: Cox Communications Inc. d/b/a Cox Communications New England (“Cox”) and Verizon New England Inc. d/b/a Verizon Rhode Island (“Verizon”).

Cox's collection and remittance of PEG Access Fees on a going-forward basis. A copy of the Settlement Agreement is attached hereto as Exhibit A. Cox timely initiated the wire transfer for the Settlement Payment on September 11, 2023, and RI PBS received the funds via wire transfer to its operating account at BankRI the same day. The Settlement Payment was then wired to our investment advisor who has deposited them in a separate investment account labeled "PEG Access Settlement."

The Settlement Payment will be conservatively invested to earn a return to extend its usefulness in deferring any future increases to the PEG Access Fees. In addition, any offset (withdrawal from the Settlement Payment) necessary during the reconciliation process will be accomplished on a quarterly basis. RI PBS will be using these funds to: (a) recoup losses that resulted from the payment of PEG expenses from RI PBS's general operating revenues in the years preceding RI PBS's initial request to increase PEG Access Fees from \$0.48 to \$0.55, which was granted by the Division in the Report and Order entered in this docket on September 1, 2022;² and (b) establish a separate supplemental PEG Access fee account on its books with the remainder of the settlement funds to supplement annual PEG Access fee revenue, to the extent necessary.³

The receipt of the Settlement Payment, paired with RI PBS's on-going right to receive quarterly reports and perform audits of Cox's PEG Access Fees collection and remittance, negates RI PBS's need for an increase to the PEG Access Fees for Fiscal Year 2024. Therefore, RI PBS is withdrawing its request for a \$0.135 per customer, per month increase PEG Access

² The annual losses RI PBS will recoup from the receipt of the Cox settlement funds are reflected in in Exhibit B to this motion.

³ The amount of this supplemental PEG Access fee account will be \$757,579, which is equal to the amount of the Settlement Payment less the amount of recouped losses reflected in Exhibit B.

Fees, as stated in its March 28, 2023 reconciliation filing. RI PBS will continue to submit annual reconciliation filings in accordance with the Division's September 1, 2022, Order No. 24464, and those annual reconciliation filings will reflect the current balance of the supplemental PEG Access fee account after any deductions to account for any shortfalls in PEG Access fee annual revenue as compared to PEG expenses. As a result of this settlement and structure, RI PBS does not anticipate a need to seek any future increases to PEG Access Fees in the foreseeable future. Attached hereto as Exhibit C are revised spreadsheets from RI PBS's earlier filing, showing the impact of the Cox Settlement Payment on RI PBS's projected revenue shortfall and projected monthly, per-subscriber PEG Access Fee increases for Fiscal Year 2024.

For the reasons stated herein, RI PBS respectfully requests that the Division allow it to withdraw its March 28, 2023 request for an increase to PEG Access Fees.

Respectfully submitted,
RHODE ISLAND PBS FOUNDATION,

By its attorneys,

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