

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

In Re: PEG Fee Under-Remittance Undocketed
Investigation Pursuant to R.I. Gen. Law
§ 39-4-13

DATA REQUESTS OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS
DIRECTED TO COX COMMUNICATIONS

(Issued: April 24, 2023)

DIV 1-3	Given that the under-remittance will have a direct bearing on future PEG funding, and specifically Docket D-22-11, which provides for an annual reconciliation of PEG Access Fees, please offer a proposed mechanism for making PEG operator Rhode Island PBS Foundation whole, including a means of accounting for interest.
Cox Supplemental Response: DIV 1-1:	Effective as of August 9, 2023 Cox and the Rhode Island PBS entered into a Settlement Agreement that will result in payment by Cox to the Rhode Island PBS Foundation (“PBS”) of the PEG access fees collected by Cox, in the amount of \$1,179,755. This payment includes an agreed upon amount of interest accrued on the access fees collected by Cox on the under – remittance. Cox and Rhode Island PBS have also agreed upon a quarterly reporting form that will identify Cox’s calculations, collection and remittance of PEG access fees from all its subscribers. A copy of the agreement, with the agreed upon quarterly reporting form, is attached.
Respondent:	Lindsay DeRoche - Director, Regulatory Affairs
Date:	September 7, 2023

SETTLEMENT AND GENERAL RELEASE AGREEMENT

This Settlement and General Release Agreement (“Agreement”) is entered into this 9th day of August, 2023 (“Effective Date”) by and between **Cox Com, Inc. d/b/a Cox Communications New England** (“Cox”) and **The Rhode Island PBS Foundation** (“RI PBS”). Cox and RI PBS are hereinafter referred to individually as “Party” and together as the “Parties.”

WHEREAS, on or about January 29, 2007, Cox and the Rhode Island Public Telecommunications Authority (“RIPTA”) entered into a letter agreement (“Letter Agreement”) regarding the transfer of certain Cox operated public, education, and government access operation and management in the State of Rhode Island (“PEG access”);

WHEREAS, on or about January 29, 2007, RIPTA, with Cox’s consent, assigned its obligations, rights and responsibilities in the Letter Agreement to RI PBS.

WHEREAS, pursuant to Section 2(b)(ii) of the Letter Agreement, Cox agreed to remit to RI PBS the PEG access fees collected from its subscribers, on a regular basis as set forth in the terms of the Letter Agreement;

WHEREAS, Cox has collected from its commercial subscribers certain PEG access fees that have accumulated in Cox’s accounts over several years;

WHEREAS, Cox desires to remit to RI PBS these past PEG access fees collected from its commercial subscribers; and

NOW, THEREFORE, for and in consideration of the mutual promises set forth below, the Parties agree as follows:

1. Settlement Payment. Cox will make a settlement payment to RI PBS of the PEG access fees collected by Cox from its commercial subscribers plus interest at the rate of 8.25%, in the total amount of one million one hundred seventy-nine thousand, seven hundred fifty-five dollars (\$1,179,755.00) payable by wire transfer to an account designated by RI PBS and made payable to RI PBS within thirty (30) days of the Effective Date.

2. Quarterly Reporting and Auditing Rights.

(a) Cox shall provide quarterly reports regarding Cox’s calculation, collection, and remittance of PEG access fees from all its subscribers in the form attached as Exhibit A;

(b) In its discretion, but no more than once annually, RI PBS or its designee, at RI PBS’s expense, shall have the right to audit Cox’s books and records relating to its collection and remittance of PEG access fees collected from all subscribers. Within fifteen (15) days’ of receiving written notice from RI PBS of its intention to exercise its audit rights under this Paragraph, Cox shall provide RI PBS access to its books and records sufficient for RI PBS or its designee to confirm, verify, or question Cox’s calculation, collection, and remittance of PEG access fees since the date of the last audit or the Effective Date, whichever is more recent; and

(c) Any person who participates in any audit or receives information through such audit shall be obligated to maintain said information as confidential in accordance with Paragraph 5 of this Agreement.

3. Release and Covenant Not to Sue. For and in consideration of the settlement payment described in Section 1 hereof, RI PBS unconditionally and forever discharges and releases Cox, its subsidiaries, affiliates, related organizations and entities, and their respective current and former owners, directors, officers, shareholders, employees, board members, insurers, re-insurers, attorneys, agents, successors and assigns (hereinafter collectively referred to as the "Releasees"), from any and all actions, causes of action, complaints, claims, charges, debts, liabilities, obligations, promises, actions, suits, demands, attorneys' fees, costs or expenses of any nature, known or unknown, in law or in equity, that it ever had, now has, or shall have as of the date of this Agreement that arise out of or are related to the PEG access fees collected from its commercial subscribers that are the subject of this Agreement. RI PBS agrees that this release is all-encompassing and is to act as a full and total release of any and all claims he may have had against Cox and/or any of the other Releasees, whether or not specifically referred to herein. RI PBS acknowledges that the above release is knowingly and voluntarily given to Cox and the other Releasees.

4. No Admission of Liability. This Agreement does not constitute an admission by any of the Parties of any of the matters alleged in the Action, or any liability related thereto, and all Parties specifically deny any such liability. This Agreement shall not be admissible in any proceeding as evidence of any fact related to, or liability or wrongdoing on the part of any Party. This Agreement may be introduced, however, in any proceeding to enforce the terms of the Agreement.

5. Confidentiality. The Parties agree that they shall not disclose this Agreement or any of its terms or provisions, or the settlement negotiations resulting in this Agreement, directly or by implication, to any third party other than their attorneys, brokers, accountants, underwriters, reinsurers, insureds and insurers, unless required by legal or regulatory processes or requested by compliance officers. Any disclosure of this Agreement or any of its terms or provisions made in the course of an annual financial audit shall be made in a form that is substantially similar to that attached hereto as Exhibit B. Except as stated above, should any Party be required to release this information in response to a valid order by a court of competent jurisdiction or a governmental agency, or in response to a discovery request in litigation or arbitration, such Party shall give the other Party reasonable advance written notice of such proposed release so that such other Party can respond to it.

6. Entire Agreement. This Agreement, and all instruments and agreements executed in connection herewith, contain the entire agreement among the Parties with respect to the subject matter hereof. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement and not expressly set forth herein, are of no force or effect.

7. Choice of Law and Forum. This Agreement shall be governed in all respects by, and shall be construed in accordance with, the internal laws of the State of Rhode Island, without giving effect to any choice or conflict of law provision or rule (whether of the State of Rhode

Island or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Rhode Island. Should a dispute concerning this Agreement arise that requires legal action, it shall be resolved in the state or federal courts of Rhode Island court of law, and the Parties hereby submit to the jurisdiction of such a court for such purpose.

8. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same instrument as and when signed by each of the undersigned. A copy of a Party's signature on this Agreement shall be acceptable in any action against that Party to enforce this Agreement. Facsimile or electronic copies of this Agreement shall be deemed for all purposes to have the same force and effect as the original hereof.

9. **Modification.** This Agreement may not be amended or modified except by written instrument signed by all Parties to this Agreement.

10. **Severability.** Section headings are provided for convenience only and shall not be construed as forming any part of this Agreement. If any provision or provisions of this Agreement shall be deemed invalid or unenforceable by any court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby and shall continue in full force and effect.

11. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors, representatives and assigns, as may be applicable to each.

12. **Representation by Counsel.** All Parties acknowledge that they have been represented by counsel at all times and that no representation of fact or opinion has been made to them by any other party which in any manner has induced any party to agree to this Agreement. Furthermore, each party and their respective attorneys have cooperated and participated in the full drafting and preparation of this Agreement, and in entering into this Agreement, the Parties have relied upon the advice of their attorneys, who are attorneys of their own choice.

13. **Knowing and Voluntary.** The terms of this Agreement are fully understood and voluntarily accepted by the Parties. The Parties further understand and agree that they are entering into this Agreement knowingly and voluntarily.

14. **No Assignment.** Nothing in this Agreement shall create any rights in anyone not a party to this Agreement.

15. **Authority.** Each of the Parties represents and warrants that it has full right and authority to enter into this Agreement and that the person executing this Agreement on its behalf has the full right and authority to fully commit and bind such party.

16. **Waiver and Amendment.** No term, provision, condition, or covenant contained in this Agreement, nor any breach thereof, may be waived unless such waiver is in writing and signed by the Parties hereto. No amendment or modification of any term, provision, condition, or covenant of this Agreement shall be binding or otherwise enforceable unless in writing and


signed by the Parties hereto at or prior to the time such amendment or modification is to take effect.

17. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part of any of the Parties hereto, with the full intent of settlement and releasing all claims.

[Signatures appear on next page]

ACKNOWLEDGED, ACCEPTED AND AGREED:

COXCOM, INC. D/B/A COX COMMUNICATIONS NEW ENGLAND

By:  8/21/2023
(Date)

Print Name: Jeff J. Breaux

Title: Executive Vice President, Cox Business

THE RHODE ISLAND PBS FOUNDATION

By: _____
(Date)

Print Name: _____

Title: _____

ACKNOWLEDGED, ACCEPTED AND AGREED:

COXCOM, INC. D/B/A COX COMMUNICATIONS NEW ENGLAND

By: _____
(Date)

Print Name: _____

Title: _____

THE RHODE ISLAND PBS FOUNDATION

By: David W. Piccerelli August 9, 2023
(Date)

Print Name: David W. Piccerelli

Title: President

EXHIBIT A

Sample View of Reporting

Franchise Name	Res_Comm	APR-23		MAY-23		Months		Total Counts	Total Collected
		Counts	Collected	Counts	Collected	JUN-23	Collected		
BARRINGTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
BARRINGTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
BRISTOL	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
BRISTOL	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
BURRILLVILLE	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
BURRILLVILLE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CENTRAL FALLS	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CENTRAL FALLS	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CHARLESTOWN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CHARLESTOWN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
COVENTRY	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
COVENTRY	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CRANSTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CRANSTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CUMBERLAND	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
CUMBERLAND	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EAST GREENWICH	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EAST GREENWICH	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EAST PROVIDENCE	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EAST PROVIDENCE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EXETER	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
EXETER	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
FOSTER	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
FOSTER	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
GLOCESTER	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
GLOCESTER	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
HOPKINTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
HOPKINTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
JAMESTOWN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
JAMESTOWN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
JOHNSTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
JOHNSTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
LINCOLN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
LINCOLN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
LITTLE COMPTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
LITTLE COMPTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
MIDDLETOWN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
MIDDLETOWN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NARRAGANSETT	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NARRAGANSETT	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT NAVAL	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT NAVAL MIDDLE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT NAVAL ON BAY	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NEWPORT NAVAL PORTS	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH KINGSTOWN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH KINGSTOWN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH PROVIDENCE	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH PROVIDENCE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH SMITHFIELD	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
NORTH SMITHFIELD	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PAWTUCKET	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PAWTUCKET	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PORTSMOUTH	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PORTSMOUTH	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PROVIDENCE	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
PROVIDENCE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
RICHMOND	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
RICHMOND	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SCITUATE	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SCITUATE	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SMITHFIELD	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SMITHFIELD	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SOUTH KINGSTOWN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
SOUTH KINGSTOWN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
TIVERTON	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
TIVERTON	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WARREN	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WARREN	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WARWICK	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WARWICK	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WEST GREENWICH	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WEST GREENWICH	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WEST WARWICK	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WEST WARWICK	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WESTERLY	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WESTERLY	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WOONSOCKET	Commercial	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
WOONSOCKET	Residential	xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx
Grand Total		xx	\$xx	xx	\$xx	xx	\$xx	xx	\$xx

Notes:

1) Commercial counts are number of Parent accounts. Parent accounts have children accounts rolled up underneath them (i.e. Apartment building has a master account with multiple apartments rolled into the account).

2) Counts will be snapshots, they change each month with new customers and churned customers. Data for subscribers are pulled from a different dataset than collected.

EXHIBIT B

Proposed Financial Disclosure Language

On _____, 2023 the Rhode Island PBS Foundation entered into a settlement agreement with a cable provider related to the basis for the computation of fees previously paid to the Foundation on a quarterly basis. The settlement agreement will result in a payment to the Foundation of \$1,179,755.00, which includes \$_____ in interest.

COX COMMUNICATIONS

By its Attorneys,



Alan M. Shoer, Esq. (#3248)
Adler Pollock & Sheehan, P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02904-1345
Tel: 401-274-7200
Fax: 401-751-0604
Dated: September 7, 2023

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2023, I delivered a true copy of the foregoing **Supplemental Cox Communications, Inc.'s in response to the Rhode Island Division of Public Utilities and Carriers 1st Set of Data Requests DIV 1-3 (Undocketed)** via electronic mail to the Rhode Island Division of Public Utilities and Carriers

