

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** Monday, November 7, 2005

**SUBJECT:** Northland Cable Franchise

**ATTACHMENTS:** Yes

### **SUMMARY OF REQUEST:**

Henderson County has received notice that the cable franchise with Northland Cable Television will expire on August 8, 2008. They have requested that we enter into informal renewal discussions. They have also provided an example of a cable franchise for the Board's consideration. Northland serves a small number of customers in the eastern portion of Henderson County.

The Board should discuss how it wishes to proceed with negotiations with Northland Cable Television.

### **COUNTY MANAGER'S RECOMMENDATION/BOARD ACTION REQUIRED:**

It appears that Northland Cable Television serves approximately 50 customers in Henderson County based on the amount of franchise fees paid to Henderson County. Since this system reaches a relatively small area of the County, I would not suggest that the Board establish the same type of process as those that are currently underway with Mediacom. I believe that staff and our cable consultant could seek public input and then handle the negotiations and provide the Board with a recommendation. Although the current franchise does not expire for some period of time, I would suggest that the Board authorize staff to begin developing a schedule for this renewal effort and that this item be included within the Board's Strategic Plan for 2006.

AUG 26 2005



NORTHLAND  
CABLE  
TELEVISION

1108 West Main Street  
P.O. Box 547  
Forest City, NC 28043  
(828) 245-1633  
Fax (828) 245-8850

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

August 22, 2005

William Moyer, Chairman  
Henderson County Board of Commissioners  
100 North King Street  
Hendersonville, North Carolina 28792

Re: Northland Cable Properties, Inc. ("Northland")/County of Henderson, North Carolina --  
Request for Franchise Renewal

Dear Mr. Moyer:

Our records indicate that the cable television franchise ordinance, adopted August 8, 1988, will expire on August 8, 2008. We are writing you now, 36 months in advance of the expiration, to notify you of Northland's desire to renew the franchise and to request that formal renewal proceedings be commenced pursuant to Section 626(a) of the Cable Communications Policy Act of 1984, 47 U.S.C. 546, as amended (the "Act").

We also request that the County enter into informal renewal discussions with us pursuant to Section 626(h) of the Act. During informal renewal discussions, the formal procedures of the Act will be held in abeyance to allow for completion of informal negotiations so that Northland does not waive any of its renewal rights set forth in the Act. We will forward to you shortly Northland's proposal for the renewal of the franchise.

In the meantime, if you have any questions, please do not hesitate to call me. We look forward to continuing to provide quality cable television service to the County of Henderson.

Very truly yours,

Nick Stover  
Regional Manager

cc: SE Division  
Sandra L. Toba

cc: BOC  
DEN  
Russ  
RUTHERFORD  
RUTHERFORD TOW  
LAKE LURE  
FOREST CITY



RESOLUTION NO. \_\_\_\_\_

HENDERSON COUNTY, NORTH CAROLINA

CABLE TELEVISION FRANCHISE RENEWAL RESOLUTION

WHEREAS, the County Council of the County of Henderson, North Carolina (the "County"), acting for and on behalf of the County, does hereby resolve as follows:

Section 1. Title. This Resolution shall be known as the "Cable Television Franchise Renewal Resolution" and shall be referred to herein as "this Resolution."

Section 2. Background. On August 8, 1988, the County, by Ordinance, granted to Phoenix Cable Incorporated ("PCI"), a franchise to construct, operate, maintain, repair, replace, upgrade and rebuild a cable system for the provision of cable television, video programming and other programming and related services in the County (the "Franchise"). By Resolution, resolved December 4, 1995, the County consented to the transfer and assignment of the Franchise from Phoenix Cable Income Fund, successor-in-interest to PCI ("Phoenix") to Northland Premier Cable Limited Partnership ("Premier"). By Assignment and Assumption of Franchises, effective December 20, 1995, between Premier and Phoenix, Phoenix transferred and assigned all of its right, title and interest in and to the Franchise to Premier. By Assignment and Assumption of Franchises, effective May 25, 2001, between Premier and Northland Cable Ventures LLC ("Ventures"), Premier transferred and assigned all of its right, title and interest in and to the Franchise to Ventures. By letter, dated January 14, 2005, the County was notified that Ventures completed the transfer of its cable television system serving the County to its affiliate, Northland Cable Properties, Inc. ("Northland"), effective December 31, 2004. By letter, dated August 22, 2005, the County was timely notified of Northland's intent to renew the Franchise pursuant to federal law. The County, after due consideration of Northland's renewal request and following public hearings on the matter, has determined it is appropriate and in the best interest of the residents of the County to grant such renewal.

Section 3. Extension of the Franchise Term. The term of the Franchise is hereby extended for a period of fifteen (15) years, commencing August 9, 2008 and expiring August 8, 2023.

Section 4. Clarification of the Franchise. The Franchise allows the grantee under the Franchise to assign and transfer the Franchise from time to time without prior consent or approval from the County (i) to its lender(s) for security purposes, (ii) to its affiliates, and (iii) to a purchaser of all or substantially all of the assets of the grantee's cable television system serving the County of Henderson, North Carolina.

Section 5. Estoppel. No event of default under the Franchise, and no event which could become an event of default with the passage of time or the giving of notice, or both, has occurred and is continuing as of the date hereof.

Section 6. Effect of this Resolution. Except as specifically set forth in this Resolution and each of the documents referenced in Section 2 of this Resolution, the Franchise shall remain in full force and effect in accordance with its terms.

THIS RESOLUTION HAS BEEN APPROVED AND ADOPTED AND SHALL BE DEEMED EFFECTIVE this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk to the Board



NORTHLAND  
CABLE  
TELEVISION

1108 West Main Street  
P.O. Box 547  
Forest City, NC 28043  
(828) 245-1633  
Fax (828) 245-8850

October 25, 2005

William Moyer, Chairman  
Henderson County Board of Commissioners  
100 North King Street  
Hendersonville, North Carolina 28792

Re: Northland Cable Properties, Inc. ("Northland")  
County of Henderson, North Carolina - Request for Cable Television Franchise Renewal

Dear Mr. Moyer:

As you know, Northland has requested that its cable television franchise be renewed. Accordingly, we have enclosed duplicate originals of Northland's proposed cable television franchise renewal ordinance for your review. We look forward to working with you in the development of an appropriate franchise agreement. As we begin that process, we thought we would take this opportunity to tell you about Northland and our operations.

Northland's executive management team has been involved in the ownership and operation of cable television systems since the early 1980s and, in the aggregate, has over 90 years of experience in the cable industry. Specifically, we have expertise in the areas of engineering, technical design, management, accounting, finance and law. We also have employees with good sense and a caring, considerate attitude.

Northland has provided high quality cable television service to the residents of the County of Henderson since 1995 and we look forward to continuing to do so for many years to come.

We have listed below some of the factors about Northland's performance that we feel are important to share with you.

A. NORTHLAND HAS SUBSTANTIALLY COMPLIED WITH THE MATERIAL TERMS OF THE FRANCHISE AND APPLICABLE LAW.

Compliance with material terms of the franchise:

1. We perform work in a workmanlike manner, so as not to present an unreasonable danger to the public.
2. We maintain consistently high quality standards during the installation, operation and maintenance of our cable television facilities.
3. We strive to provide quality television reception and programming.
4. Our customer service representatives are readily available and easily accessible to our customers.



5. We comply with the County of Henderson's rules and restrictions with regard to use of streets and rights-of-way.
6. We endeavor to accurately and timely pay franchise fees.
7. Our cable system is not in default under the terms of the franchise ordinance.

Compliance with applicable law:

1. We are in material compliance with the rules, procedures and standards established by the County of Henderson.
2. We are in material compliance with local, state and federal authorities with regard to the regulation of the cable system.
3. We have a proven record of establishing procedures and standards that assure the cable system is responsive to the needs of the community.
4. We are in material compliance with any applicable equal employment opportunity laws and are sensitive to such requirements in interviewing, hiring, training and promoting personnel.
5. We are in material compliance with the Federal Communications Commission's rules and regulations.

B. THE QUALITY OF NORTHLAND'S SERVICE, INCLUDING SIGNAL QUALITY, RESPONSE TO CONSUMER COMPLAINTS, AND BILLING PRACTICES HAS BEEN REASONABLE IN LIGHT OF COMMUNITY NEEDS.

1. We strive to upgrade the cable system's equipment to the greatest degree that is economically feasible.
2. Our technicians monitor the system's signal quality on a regular basis to be sure high quality pictures are transmitted to our customers.
3. We work to respond to customer complaints and service requests within 24 hours. To ensure customer satisfaction, our system employees respond with service calls and track the entire process -- from receipt of a complaint to the resolution of the problem -- in a customer log.
4. We have developed and implemented a customized billing system to fit the needs of the cable system.
5. We maintain a business office in the Town of Forest City that is open during regular business hours to respond to any customer needs. To facilitate customer communications, we provide our County of Henderson customers with a toll-free telephone number so they may contact us more easily. We also have an on-call policy to ensure that technical personnel are available to

respond to emergencies during non-business hours and on weekends.

C. NORTHLAND HAS THE FINANCIAL, LEGAL AND TECHNICAL ABILITY TO PROVIDE SERVICES, FACILITIES AND EQUIPMENT AS SET FORTH IN NORTHLAND'S RENEWAL PROPOSAL.

Financial Ability:

1. Northland and its affiliates have a track record of over 20 years' experience managing cable television systems, and currently are responsible for overseeing the day-to-day operations of cable television systems in nine states.
2. We have experience with and are financially backed by major banking institutions.
3. We maintain an in-house accounting staff that include certified public accountants and have a nationally recognized accounting firm audit each of our companies on an annual basis.
4. We maintain an in-house investment staff that focuses on raising capital.

Legal Ability:

1. We maintain an in-house legal staff with years of cable-related experience. In addition, we employ several well-respected law firms as outside counsel, including special counsel in Washington, D.C. to advise us on Federal Communications Commission issues.

Technical Ability:

1. Many of our technical employees have over 20 years each of experience in the cable television industry.
2. We provide quality customer service, including installation, high quality television signals and prompt system repairs.
3. We have initiated a company-wide Quality Assurance Program designed to insure that our customers are satisfied with their service. Our program includes preventive maintenance procedures, customer call-backs following service requests, and a procedure to periodically measure overall customer satisfaction with our service.
4. Our decentralized management policy allows local managers to give personalized service to the diverse communities that we serve. Our Regional Managers have an average of 16 years experience in the cable television business.

D. NORTHLAND'S FRANCHISE RENEWAL PROPOSAL IS REASONABLY DESIGNED TO MEET THE FUTURE CABLE-RELATED COMMUNITY NEEDS AND INTERESTS TAKING INTO ACCOUNT THE COST OF MEETING SUCH NEEDS AND INTERESTS.

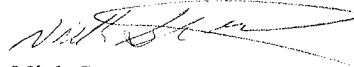
Mr. William Moyer, Chairman  
October 25, 2005  
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1. We constantly work to improve efficiency in the management and operation of our cable television services.
2. We make every effort to utilize the wide array of rapidly improving equipment available in the cable industry, in a cost-effective manner, to provide high quality technology at the most reasonable price to our customers.
3. As new cable programming is introduced, we work to determine customer preferences in order to measure the community's level of interest.
4. Our company is a contributing member of the communities we serve. We strive to provide programming that meets the community's ethnic, cultural, educational and other special needs.

In order to allow for completion of informal negotiations, the formal procedures of the 1996 Telecommunications Act will be held in abeyance. Northland has not waived and does not intend to waive any of its renewal rights set forth in the 1996 Telecommunications Act.

If you have any questions concerning Northland's franchise renewal proposal or if you would like clarification or more information with regard to any of the topics noted above, please do not hesitate to give me a call.

Very truly yours,



Nick Stover  
Regional Manager

Enclosures  
cc (w/ encl.): SE Division  
Sandra L. Toba