

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

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JOINT APPLICATION OF FULL )  
CHANNEL, INC. AND SERVICE AREA 5 )  
CABLE, LLC TO TRANSFER CATV )  
CERTIFICATE )  
\_\_\_\_\_

Docket No. \_\_\_\_\_

**JOINT REQUEST OF FULL CHANNEL, INC. AND SERVICE AREA 5 CABLE, LLC  
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Full Channel, Inc. (“Full Channel”) and Service Area 5 Cable, LLC (“Area 5 Cable” and with Full Channel, the “Co-Applicants”) hereby request that the Rhode Island Division of Public Utilities and Carriers (“Division”) provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information contained in that certain Asset Purchase Agreement between the Co-Applicants dated October 2, 2017 (the “Agreement”), an Intellectual Property Purchase Agreement also dated October 2, 2017 (the “Kinition Agreement”), and a Federal Communications Commission (“FCC”) Form 394, which were submitted in redacted form in this proceeding, as permitted by Division Rules of Practice and Procedure (“Division Rules”) 3(d)(2) through (4) and R.I.G.L. §38-2-2(4)(B). Following a favorable ruling on this request, Full Channel and Area 5 Cable will furnish to the Division, under seal, an unredacted version of the Agreement and other confidential materials.

**Background**

On October 2, 2017, Co-Applicants entered into the Agreement, which provides for Service Area 5 Cable to purchase substantially all the assets of Full Channel, including the Community Antenna Television System (“CATV”) Certificate for Rhode Island Service Area 5

(consisting of Barrington, Bristol and Warren) (the Certificate”), currently held by Full Channel.<sup>1</sup> The Agreement and the accompanying Kinition Agreement contain competitively sensitive and proprietary information that qualifies from protection from public disclosure pursuant to the Division Rules and the Access to Public Records Act (“APRA”), R.I.G.L. §38-2-1 *et seq.*

On the date hereof, co-Applicants have filed with the Division a joint application (“Joint Application”) for Full Channel to transfer the Certificate to Area 5 Cable, pursuant to the requirements of Rule 4.1 of the Division’s Rules Governing CATV Systems (“Division CATV Rules”). As part of the Joint Application, Area 5 Cable and Full Channel have submitted a Federal Communications Commission (“FCC”) Form 394, with Exhibits, and supporting pre-filed testimony of four members of the Area 5 Cable leadership team and the President and Chief Executive Officer of Full Channel. One of the requirements in Rule 4.1 of the Division CATV Rules, [cite], is for the proposed assignee/transferee of the Certificate to establish that it possesses the requisite “financial and technical fitness” to operate a CATV system. In order to meet this requirement, some exhibits in the FCC Form 394 also include competitively sensitive and proprietary information that qualifies from protection from public disclosure pursuant to the Division Rules and the Access to Public Records Act (“APRA”), R.I.G.L. §38-2-1 *et seq.*

The competitively sensitive and proprietary materials contained in the Agreement, Kinition Agreement and the FCC Form 394 include: (1) the purchase price Full Channel has agreed to pay for certain discrete provisions of the Agreement; (2) the specific percentage ownership above five (5) percent of an investor in Area 5 Cable (Exhibit 3 to FCC Form 394); (3) sensitive financial details in a Purchase Warrant for Equity Securities with the lender to Area 5 Cable’s affiliate, iTV-3, LLC (Exhibit 4 to FCC Form 394); (4) sensitive financial details in a

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<sup>1</sup> Area 5 Cable concurrently entered into that certain “Intellectual Property Asset Purchase Agreement” with Kinition LLC, to purchase certain intellectual property used in the operation of Full Channel’s system.

Credit and Guaranty Agreement between iTV-3 and its lender; and (5) sensitive financial details in Area 5 Cable's equity and debt financing commitment letters (collectively, "Confidential Materials").

### Legal Standards

Rule 3(d) of the Division Rules provides that access to public records shall be granted in accordance with the APRA. Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the Division falls within one of the designated exceptions to the public records law, the Division has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure. In that regard, R.I.G.L. §38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would be likely either (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I. 2001). The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. Providence Journal, 774 A.2d at 47.

### Argument

As noted above, pursuant to Division CATV Rule 4.1, applicants seeking to transfer a CATV certificate must submit an FCC Form 394 and prove that the transferee has requisite managerial, technical and financial qualifications as well as that the transaction comports with the public interest. In order to meet these requirements, especially relative to financial qualifications, Full Channel and Area 5 Cable seek protection for confidential and proprietary information that falls well within APRA standards meriting protection for public access. The Confidential Materials are the core documents that will enable this proposed transaction to move forward, namely, portions of the asset purchase agreement between the assignor and assignee; the specific percentage that Seaport Capital is investing in Area 5 Cable above and beyond the five (5) percent threshold triggering a disclosure requirement; a purchase warrant detailing financial rights to purchase equity in an affiliate of the assignee; ongoing credit and lending arrangements between the assignee's affiliate and its lender; and equity and debt commitment letters that support the ability of the assignee to operate following approval of the transaction.

All of the documents are non-public, highly competitively sensitive commercial materials that provide information at a detailed level as to financial and operational arrangements between Area 5 Cable and Full Channel, and between and among Area 5 Cable and its investors, affiliate and the affiliate's lender. Public disclosure of this information is not necessary to approve the transaction and will substantially harm Full Channel and/or Area 5 Cable by disclosing sensitive information as to their respective cost structure and finances that would impair their ability to secure future financings and could be used against them in the competitive marketplace. Disclosure on the public record also will harm each of Area 5 Cable's contractual counterparties, as their confidential arrangements would be disclosed and available for competitors and future

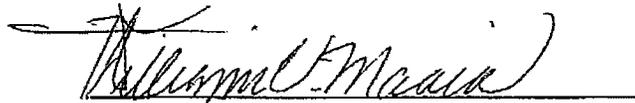
counterparties to use against them in the marketplace. Finally, public disclosure of these sensitive transactions also would discourage other parties and their investors and lenders from pursuing beneficial investments in and acquisitions of Rhode Island regulated business in the future, all to the detriment of the public interest. For all of these reasons, protective treatment should be granted.

**Conclusion**

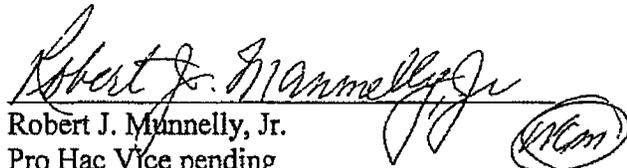
Accordingly, for the reasons stated above, Full Channel and Area 5 Cable respectfully request that confidential treatment be granted pursuant to Rule 3(d) of the Division Rules and the Rhode Island APRA, R.I.G.L. §38-2-2(4)(B).

FULL CHANNEL, INC. AND SERVICE AREA  
5 CABLE, LLC

By their attorneys



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