

Memo

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JAN 25 2006

CITY CLERK'S OFFICE

To: City Council
From: David W. Kuhn, City Solicitor
Date: January 25, 2006
Re: Objection to Adelphia Notice of Proposed Retention
CC: James Kalb, Mayor

Attached is correspondence received from Walter & Haverfield LLP regarding the above referenced subject. Walter & Haverfield has filed objections for several cities.

January 20, 2006

David W. Kuhn, Esq.
Director of Law
City of Portsmouth
c/o 612 Sixth Street, Suite A
Portsmouth, OH 45662

Re: City of Portsmouth, Ohio
Objection to Adelphia Notice of Proposed Retention,
Assumption and/or Assignment of Agreements

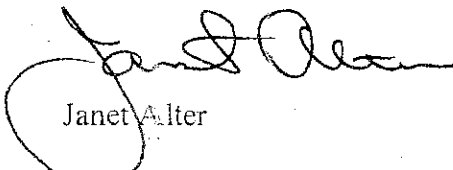
Dear David:

Enclosed you will find a copy of the Contract Objection of the City of Portsmouth, Ohio, to Adelphia's Notice of Proposed Retention, Assumption and/or Assignment of Agreements and Proposed Cure Amounts (Contract Notice), which we filed on the City's behalf on January 16, 2006 in the United States Bankruptcy Court, Southern District of New York.

As we discussed in our telephone conversation, we determined that it was necessary for the City to file a Contract Objection to preserve certain conditions the City imposed on Adelphia and Time Warner in exchange for the City's approval of the franchise transfer, as well as Adelphia's agreement to connect additional I-Net sites in exchange for settlement of its FCC Form 1235 appeal. Although Adelphia's Contract Notice stated that it would retain, assume and assign its Franchise Agreement with the City, it also specifically stated that there were no other performance obligations with respect to the City. Adelphia's failure to assume these additional performance obligations, along with language in the Bankruptcy Court's Order, issued October 15, 2005, to the effect that a party's failure to file a Contract Objection waives "any right to object, consent, condition or otherwise restrict" the assignment of the franchise led us to the conclusion that filing a Contract Objection was necessary to preserve the additional obligations to the City to which Adelphia and Time Warner have already agreed.

As always, please feel free to call with any questions, or if we may be of any additional service.

Very truly yours,



Janet Alter

JA:kaw
Enclosure

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)
In re:) Chapter 11 Cases
Adelphia Communications Corporation,)
et al.,) Case No. 02-41729 (REG)
Debtors) Jointly Administered
_____)

**CONTRACT OBJECTION OF THE CITY OF PORTSMOUTH, OHIO TO NOTICE OF
PROPOSED RETENTION, ASSUMPTION AND/OR ASSIGNMENTS OF
AGREEMENTS AND PROPOSED CURE AMOUNTS¹ ("CONTRACT NOTICE")**

The City of Portsmouth, Ohio (the "City") hereby objects to Debtors' Contract Notice. In support of this objection, the City represents as follows:

¹ On April 20, 2005, Adelphia Communications Corporation, one of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), entered into asset purchase agreements (the "APAs") with Time Warner NY Cable LLC ("TWN") and Comcast Corporation ("Comcast," and, together with TWNY, the "Buyers") pursuant to which the Buyers will acquire substantially all of the assets of the Debtors (the "Sale Transaction").

On October 14, 2005 the Bankruptcy Court entered an order (the "Order") establishing procedures governing the assertion of certain cure amounts and deadlines for objections in respect of certain contracts and leases that may be retained, assumed and/or assigned by the Debtors in connection with the Sale Transaction and the Plan.

Background

1. Pursuant to section 365 of the Bankruptcy Code and the provisions of the Order, the Debtors have elected to assume the Franchise Agreement between Century Ohio Cable Television Corp. and the City and assign the Franchise Agreement to TWNY.
2. Prior to the entry of the Order, the Debtors and TWNY submitted an FCC Form 394 to the City pursuant to the Federal Cable Act, seeking approval of and consent to the transfer of the Franchise Agreement to TWNY. The City granted its conditional approval to the transfer.
3. On or about December 15, 2005, as required by the Order, the Debtors served the Contract Notice. The Debtors list on Exhibit C of the Contract Notice, together with the proposed Cure Amount, those obligations ("Performance Obligations") related to any non-monetary defaults that may have arisen as of December 14, 2005, that the Debtors believe are required to be cured by the Debtors and/or satisfied through future performance of the assignee in connection with the retention, assumption and/or assignment of each Subject Contract.

Objection to Contract Notice

4. The City objects to the Debtors' description of the Debtors' Performance Obligations in the Contract Notice because the Contract Notice makes no reference to the obligations of Century Ohio Cable Television Corp., Time Warner NY Cable LLC and Time Warner Cable Inc. to the City in connection with the City's approval of the transfer of the Franchise Agreement to Time Warner NY Cable LLC. These obligations are set forth in Section 1 of the attached Ordinance by the Portsmouth City Council. *See* attached Exhibit 1. The City's approval of the assignment of the Franchise Agreement was expressly conditioned on the obligations set forth in the Ordinance, including the requirement that Time Warner Cable Inc. guarantee certain of the obligations of Time Warner NY Cable LLC as a condition of the assignment. Although Debtors and Time Warner NY Cable LLC accepted these obligations in writing (see Ordinance

Acceptances attached to Exhibit 1), the Debtors have not set forth these obligations in the Contract Notice.

5. Additionally, the City objects because the Contract Notice makes no reference to the Debtor's Performance Obligations set forth in the Agreement and letter agreement also attached hereto and fully incorporated herein.

6. Finally, the City is *required* to object to preserve these conditions of transfer due to the language of the Order, which provides that "if no timely Contract Objection is filed, upon the Effective Date of the Plan, the Reorganized Debtors and the Buyers shall enjoy all of the rights and benefits under each Subject Contract without the necessity of obtaining any party's written consent to the Debtors' retention, assumption and/or assignment of such rights and benefits, and *each such party shall be deemed to have waived any right to object, consent, condition or otherwise restrict any such retention, assumption and/or assignment....*" (Emphasis added.)

7. Therefore, the City of Portsmouth objects to the Contract Notice and requests that the Court condition Century Ohio Cable Television Corp.'s assignment of the Franchise Agreement on the compliance of the Debtors, Time Warner NY Cable LLC and Time Warner Cable Inc. with the terms set forth in the Ordinance.

Dated: January 14, 2006
Cleveland, Ohio

Respectfully submitted,

/s/ William R. Hanna
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