



INTERGOVERNMENTAL ADVISORY COMMITTEE
to the
FEDERAL COMMUNICATIONS COMMISSION

ADVISORY RECOMMENDATION No. 2024-1

In the Matter of Equitable Broadband Access
in Multi-Tenant Environments/Multi-Dwelling Units

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I. INTRODUCTION AND SCOPE

The Federal Communications Commission (FCC) has charged the Intergovernmental Advisory Committee (IAC) with producing a report on:

- (i) Ways that State, local and Tribal governments can be encouraged to develop best practices to facilitate FCC programs – specifically programs like the Affordable Connectivity Program (ACP) whose benefits can be impeded by contractual arrangements, including but not limited to bulk billing, common in multi-tenant environments (MTEs), also referred to as multi-dwelling units (MDUs)¹ – to ensure access to funding programs for affordable broadband for eligible households, and
- (ii) Ways to promote consumer choice and competitive access by internet service providers (ISPs) to persons residing in MTEs, which are typically apartment buildings, condominium buildings or cooperatives, but can also be other centrally managed real estate developments such as gated communities, mobile home parks or garden apartments.

This report, accordingly, (i) analyzes the impact of contractual arrangements, including but not limited to bulk billing, on consumer choice and competitive access in MTEs/MDUs, (ii) explores the challenges of implementing broadband subsidy programs like the Affordable Connectivity Program (ACP) in such contractual scenarios, and (iii) recommends future potential activity for the FCC in this area, best practices to be suggested to and adopted by state, local and other governmental stakeholders, and potential other policy adjustments to enhance broadband access and affordability in these environments.

In preparing this report, however, the IAC *has not* interpreted its task to include weighing in on, or otherwise taking a position with respect to whether or not bulk billing should be banned in MTEs/MDUs. Thus, the various statements of position, comment filings, or related advocacy from MTEs/MDUs, ISPs and consumer stakeholders — whether on the subject of any current Commission proposal on bulk billing (which no IAC member has seen or been briefed on), or other potential Commission regulatory initiatives that bear upon the subject — *are not within the scope* or work product of the IAC’s efforts. Rather, the IAC has attempted to review the current relevant landscape and, applying its members’ own considerations, experiences and analyses of the facts, attempted to identify issues and frame recommendations in accordance with its tasks. This report, thus, should not be seen as “taking sides” in the robust debate about MTE/MDU bulk billing taking place on the Commission’s docket or elsewhere.

Although the IAC was not ‘tasked’ to make recommendations about the ACP as a going-forward program, implicit in the IAC’s recommendations is a core view that the ACP has been and is a beneficial federal broadband affordability program and, indeed, should be extended

¹ These terms are used interchangeably throughout this Report.

through re-funding. In that regard, the IAC concurs with others who call for Congress' extension of the ACP through re-funding.²

The IAC's recommendations and conclusions, presented in this Report, may be summarized as follows:

1. A number of reforms should be considered to enhance consumer choice and address ISP-Landlord (or ISP-Property Owner³) contractual transparency issues associated with certain contractual arrangements, including but not limited to bulk billing in MTEs/MDUs. For example, ISPs may be required to disclose the per-unit costs charged to Landlord or Property Owner customers for each unit covered under a contractual arrangement in both their marketing materials and on the proposed MTE Consumer Broadband Labels. Implementation could be accomplished through:
 - Ensuring standardized format and data content for cost disclosures, ensuring consistency across providers and ease of understanding for consumers.
 - ISPs having to provide this information regularly, such as quarterly or annually, both to property managers/owners and directly to residents, *e.g.*, through an MTE-specific Consumer Broadband Label and in marketing materials permitted under an ISP's contract with the Landlord to be distributed to residents, typically on an exclusive marketing basis.
 - The establishment of online portals where residents can publicly access this information.
 - Implementation of disincentives (*e.g.*, penalties) for non-compliance to ensure ISPs adhere to these transparency requirements.
 - Requiring regular audits to verify the accuracy of the reported costs.

This enhanced transparency would provide residents with clear information about the actual cost of their internet service, enabling them to make more informed decisions and potentially negotiate more favorable terms. It would also allow for easier comparison with individual subscription options, fostering a more competitive market environment.

² See National League of Cities Letter to Congress, Mar. 18, 2024, at <https://www.nlc.org/wp-content/uploads/2024/03/National-League-of-Cities-ACP-Extension-Letter.pdf>; National Association of Counties Policy Brief, "Support Additional Appropriations for the Affordable Connectivity Program", Jun. 13, 2024, at <https://www.naco.org/resource/support-additional-appropriations-affordable-connectivity-program>; National Conference of State Legislatures Governors Association Letter to Congress, Jan. 25, 2024, at <https://www.ncsl.org/resources/details/ncsl-supports-additional-funding-for-the-affordable-connectivity-program-extension-act>.

³ The terms "Landlord", "Property Owner", and "Manager" are used interchangeably throughout this Report to refer to the legal entity or person authorized to enter into contracts with ISPs for delivery of bulk-billed internet services (whether or not bundled with other services). To the extent there is a distinction to be drawn between or among such entities (and, of course, other stakeholders like Homeowners Associations), those will be articulated as needed in the Report.

2. To enhance competitive access in MTEs/MDUs, the FCC should modify its National Broadband Map data collection and data display(s) to include more specific information about broadband service availability at MTE locations, including data about pending contractual duration terms per location, and type or types of broadband delivery mechanisms and infrastructure at those locations.
3. And, the FCC should recommend to states and municipalities model legislation designed to enhance competitive access and consumer choice in MTEs/MDUs, including recommendations:
 - To facilitate and streamline MTE/MDU building access permitting for qualifying ISPs;
 - To encourage, with respect to aged MTE/MDU inventory, that “brownfield” applications contain raceway installation or cable trays that securely run or reroute new wires over long distances, or consider cable converting technology that makes for enhanced use of legacy coax; and
 - To encourage, with respect to new MTE/MDU construction, that design considerations include cabling and wire management systems that accommodate more than one technology or provider, as recommended by the Telecommunications Industry Association’s standards for user-owned buildings.

II. BACKGROUND

A. Affordable Connectivity Program Overview⁴

The Consolidated Appropriations Act of 2021 was passed by Congress in 2020, becoming law on December 27, 2020. The Act was intended to provide relief during the COVID pandemic and included provisions for the creation of an Emergency Broadband Benefit Program (EBB), with funding of \$3.2 billion to support discounts towards broadband service and devices for low-income households. The EBB provided \$50 per month towards broadband service from an eligible provider, and \$100 towards the cost of a device. The program was intended to be available until funding for the program was expended.

The successor to the EBB, the Affordable Connectivity Program, or ACP, was launched on December 31, 2021. Created through the Infrastructure Investment and Jobs Act (IIJA) passed by Congress, \$14.2 billion was appropriated to the program, and the FCC was again delegated the responsibility to administer the program. The program was set up to last for as long as funding was available, or until there was further action by Congress to appropriate additional funds. Similar to the EBB, the program was designed to provide monthly discounts towards broadband service and one-time discounts for devices.

The benefit was intended to ensure that households could afford broadband service and devices, and provide them the opportunity to utilize those services and devices for work, education, healthcare, and more. The one-time \$100 discount for devices could be used towards

⁴ For prior IAC treatment of the Affordable Connectivity Program, including Best Practices for ACP Program Outreach, *see* Intergovernmental Advisory Committee, Report 2022-2, “Effective Affordable Connectivity Program Outreach”, Nov. 29, 2023.

a laptop, desktop computer, or tablet from participating providers. To receive the benefit, the applicant was required to contribute between \$10 and \$50 towards the purchase price. The monthly benefit towards service allowed eligible households to receive up to \$30 per month, or \$75 if on qualifying Tribal lands, towards broadband from the participating provider of their choosing.

The FCC has in place a mechanism for verifying eligibility through its National Verifier. Households interested in participating were required to prove their eligibility according to criteria set by the FCC, including the following⁵:

- Household income 200 percent or less than Federal Poverty Guidelines
- Applicant or anyone in household participates in:
 - Supplemental Nutrition Assistance Program (SNAP)
 - Medicaid
 - Lifeline
 - Supplemental Security Income (SSI)
 - Federal Public Housing Assistance (FPHA)
 - Veterans Pension and Survivors Benefit
- Additionally, if an applicant resides on Tribal lands, they can participate if their income is at or below 135 percent of the Federal Poverty Guidelines, or if they participate in:
 - Bureau of Indian Affairs General Assistance
 - Head Start
 - Tribal Temporary Assistance for Needy Families (Tribal TANF)
 - Food Distribution Program on Indian Reservations

Experience in MTEs/MDUs. Assuming only a 10 percent down payment and a 6.5 percent mortgage rate, over 75 percent of households cannot afford a median-priced new home listed at \$495,750 in 2024, according to the [National Association of Home Builders](#) (NAHB). In addition, nearly half of households (66.6 million people) do not make enough to afford even a \$250,000 home. A \$45,975 salary qualifies a household for a \$150,000 mortgage, but only 40.5 million households can afford such terms.⁶ Based on 35 percent of United States residents renting their housing, the targeted beneficiaries for the ACP most likely reside in apartment complexes, which represent the largest percentage of MTE/MDUs, with many households receiving broadband thru bundled, bulk-billed offerings by the property managers/owners and ISPs.⁷

⁵ Qualification guidelines as well as full ACP program details can be found at <https://www.affordableconnectivity.gov/>.

⁶ [http://www.Nearly Half of U.S. Households Can't Afford a \\$250,000 Home , blog NAHB, May 17, 2024](http://www.Nearly Half of U.S. Households Can't Afford a $250,000 Home , blog NAHB, May 17, 2024)

⁷ 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25003 & Table B25008. Updated 11/2023. *See also* "Broadband Challenges and Opportunities in Affordable Rental Housing", <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/04/broadband-challenges-and-opportunities-in-affordable-rental-housing>, (April 3, 2023) (last visited July 29, 2024) ("Most households in the U.S. now have a home broadband subscription. However, many Americans living in federally subsidized multifamily housing remain unconnected—with no internet access—or under-connected, meaning they have only limited access, such as via a smartphone. * * * The reasons for this low level of connectivity include a lack of wiring for broadband in older buildings, outdated networks that have not been upgraded, and low-quality or unaffordable service. And although

Eligible households that wish to participate in ACP are required to access the benefit through a participating provider. The ACP benefit is paid directly to the provider and applied to a customer's bill for service. Providers were required to enroll in the program and were required to be approved by the FCC to participate. Providers already participating in the EBB were already considered participating providers. Eligible Telecommunications Carriers, or ETCs, by virtue of their prior approval to participate in other FCC Universal Service programs, were only required to notify the FCC of their intent to participate. Other non-ETC providers were required to receive FCC approval before submitting a notice to the Universal Service Administrative Company indicating their intent to participate in the ACP. For eligible ACP participants, the FCC provided resources that would allow them to search for participating providers in their area.

In an MTE/MDU setting, if an eligible household wished to participate in the ACP, they would be required to identify a participating provider that could serve them, and the benefit would have to be applied to their monthly bill for broadband service. As detailed later in this Report, in MTE/MDU settings, arrangements may exist whereby landlords or building owners may have exclusive contractual arrangements, including but not limited to bulk billing arrangements, with providers and/or may include the costs of broadband service with monthly rental costs. In such exclusive arrangement scenarios, the ability of a tenant to receive the benefit may depend entirely on whether the provider participates in ACP. In a situation where the costs of broadband are included with rent, the customer is not billed directly *by the provider*, and the landlord/building owner (not a participating provider under ACP) may not be in a position to apply the ACP benefit for eligible households.⁸

Current Status and Potential Future of ACP. When the FCC adopted rules for the ACP, the Wireline Competition Bureau (WCB), through delegated authority from the Commission, established requirements and procedures to wind down the ACP once funding neared exhaustion.⁹ The FCC also required providers to receive an affirmative opt-in from participating customers before they could charge a higher amount on the customers' bills. In January 2024, the FCC issued an order stating that, based on projections, exhaustion of the fund would occur in April and May of 2024, where April would likely be the last month that all claims would be paid in full.¹⁰ In preparation for the wind-down, no new applications and enrollments were accepted after Feb. 8, 2024. Further, in a notice published April 9, 2024, the WCB indicated that benefits

the survey data covers only public housing, these challenges also exist in other federally subsidized multifamily housing.”).

⁸ In the US, 45.1 million people rent with 11 million of them with incomes at or below either federal poverty guidelines or 30% of the area's median income, whichever is higher. See, generally, National Low Income Housing Coalition Report, “Out of Reach” (2024), downloaded from <https://nlihc.org/oor> (Mini Report). With respect to initial experience with the ACP, this strongly indicates that the target audience for the ACP renting in MTEs with bulk-billed (i.e., group-based billing) broadband access may not have been able to take full advantage of – or may have had significant difficulty accessing -- the cost reductions and other opportunities offered by the ACP as payments are to the ISPs from the federal government and credited to account holders with the ISP. In the bulk-billed broadband scenario, only the MTE's administration is listed as an ISP customer.

⁹ [FCC-22-2A1.pdf](#). At 108, para. 232.

¹⁰ <https://docs.fcc.gov/public/attachments/DA-24-23A1.pdf> at 4. Para. 7.

for May 2024 would be reduced significantly, from \$30 to \$14 for non-Tribal consumers, and from \$75 to \$35 for consumers that live on Tribal lands.¹¹

The ACP, and its predecessor, the EBB, were funded through Congressional appropriation. The FCC indicated that it would end the ACP absent additional appropriation.¹² In January 2024, companion bills were introduced in both the House and Senate to provide additional funding and extend the ACP.¹³ Neither bill was passed by the respective chambers. Additional efforts were made in the Senate in May 2024 to amend the Federal Aviation Administration reauthorization bill to include provisions to fund the ACP, but the proposed amendment did not receive a floor vote and was not included in the FAA reauthorization bill that was ultimately passed.

Further efforts were made to provide additional funding for ACP through two separate bills. Senators Maria Cantwell (WA) and Ben Ray Lujan (NM) introduced S4207 on April 30, 2024.¹⁴ Labeled as the “Spectrum and National Security Act of 2024,” the bill included a new allocation of \$7 billion for the ACP, as well as funding for Next Generation 911 grants and the FCC’s “Rip and Replace” efforts. In mid-June 2024, the Senate cancelled a planned markup of the bill, where the committee considering the bill meets to debate and consider amendments, for the fourth time. Senator Lujan also introduced S4317 on May 9, 2024, which sought to allocate \$6 billion for ACP, and included additional funding for the FCC’s “Rip and Replace” efforts.¹⁵ The bill, known as the Secure and Affordable Broadband Extension Act, was referred to the Committee on Science, Commerce, and Transportation, and awaits further action.

In the House of Representatives, an amendment to the fiscal year 2025 National Defense Authorization Act (NDAA)¹⁶ was offered that would have provided \$6 billion for the ACP. The amendment also included provisions to adopt more strict requirements for eligibility. The bill was passed by the House on June 14, 2024, the amendment was not adopted and therefore not included in the bill. The ACP’s funding officially lapsed on June 1, 2024.¹⁷

After the funding lapsed in June, further efforts were made to fund ACP in both the House and Senate. In the House, H.R. 9193 was introduced on July 30 by Representative Nikki Budzinski of Illinois.¹⁸ The bill was referred to the House Committee on Energy and Commerce

¹¹ <https://docs.fcc.gov/public/attachments/DA-24-342A1.pdf>

¹² <https://docs.fcc.gov/public/attachments/DA-24-23A1.pdf>. Para. 1.

¹³ <https://www.congress.gov/bill/118th-congress/senate-bill/3565>; <https://www.congress.gov/bill/118th-congress/house-bill/6929>

¹⁴ <https://www.congress.gov/bill/118th-congress/senate-bill/4207?q=%7B%22search%22%3A%224207%22%7D&s=1&r=10>

¹⁵ <https://www.congress.gov/bill/118th-congress/senate-bill/4317?s=1&r=2&q=%7B%22search%22%3A%224317%22%7D>

¹⁶ <https://www.congress.gov/bill/118th-congress/house-bill/8070/amendments>

¹⁷ <https://docs.fcc.gov/public/attachments/DOC-402930A1.pdf>

¹⁸ <https://www.congress.gov/bill/118th-congress/house-bill/9193/text>

and had bipartisan cosponsors, and is the companion bill to S. 4317. The purpose of the bill is to appropriate funds for ACP and other FCC-administered programs.¹⁹

In the Senate, on July 31, 2024, the Commerce Committee adopted an amendment to S. 2238 that would allocate \$7 billion in funding for the ACP. The original bill, introduced by Senator Roger Wicker of Mississippi, directed the National Telecommunications and Information Administration to develop and implement a national strategy to close the “digital divide.” The amendment to fund ACP was offered by Senator Peter Welch of Vermont. As of this writing, the fate of these bills remains unclear, and no definitive action has been taken to provide either temporary or permanent funding for the ACP.

The White House declared in May 2022 that “high-speed internet service is no longer a luxury—it’s a necessity.” Lowering prices—including the cost of high-speed internet service—remains a top priority of this Administration.

B. Other Affordability Discounts and Programs

The White House declared in May 2022 that “high-speed internet service is no longer a luxury—it’s a necessity.” Concerned that too many families have had to go without high-speed internet because of the cost or cut back on other essentials to make their monthly internet service payments, the White House has continued to maintain that lowering housing costs—including the cost of high-speed internet service—is a *top priority* of this Administration.²⁰

The importance of connectivity was starkly evident during the COVID-19 pandemic. Researchers at Digital Planet, a research initiative at The Fletcher School at Tufts University, found that just a 1 percent increase in broadband access nationwide lowered COVID-19 mortality by about 19 deaths per 100,000 people.²¹ Internet connectivity is of such importance that there are other programs outside of the ACP that also provide differing levels of assistance. Some of these programs are detailed in this section.

Federal and State Lifeline Program. Since 1985, the Federal Lifeline program has provided a monthly discount of up to \$9.25 (\$34.50 on Tribal land) on phone service, bundled voice and broadband service and standalone broadband service for qualifying low-income households to ensure that all Americans have the opportunities and security that essential telecommunications offers including being able to connect to jobs, family and emergency

¹⁹ See <https://www.congress.gov/bill/118th-congress/house-bill/9193/text>.

²⁰ See “FACT SHEET: President Biden Highlights Commitments to Customers by Internet Service Providers to Offer Affordable High-Speed Internet Plans, Calls on Congress to Restore Funding for Affordable Connectivity Program”, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/31/fact-sheet-president-biden-highlights-commitments-to-customers-by-internet-service-providers-to-offer-affordable-high-speed-internet-plans-calls-on-congress-to-restore-funding-for-affordable-connect/#:~:text=Today%2C%20the%20White%20House%20highlights,continue%20accessing%20low%2Dcost%20internet> (May 31, 2024); “FACT SHEET: Biden-Harris Administration Takes New Actions to Lower Housing Costs by Cutting Red Tape to Build More Housing”, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/08/13/fact-sheet-biden-harris-administration-takes-new-actions-to-lower-housing-costs-by-cutting-red-tape-to-build-more-housing/> (August 13, 2024).

²¹ Digital Planet, “The Impact of Internet Access on Covid-19 Mortality in the United States”, <https://digitalplanet.tufts.edu/the-impact-of-internet-access-on-covid-19-deaths-in-the-us/> (June 23, 2022).

services. Lifeline, part of the federal Universal Service Fund (USF) program, is available to eligible low-income consumers in every state, territory, commonwealth, and on Tribal lands. The Lifeline program is administered by the Universal Service Administrative Company (USAC) which, similar to its role with ACP, is responsible for data collection and maintenance, support calculation, and disbursement for the low-income program.

A number of states (Wisconsin, Nebraska, Michigan, California and many others) have complementary state Lifeline Programs, where the state programs provide an additional discount or benefit for low-income customers to further reduce their monthly cost of service. While State Lifeline is not available in every state, it may further reduce the cost of the service for low-income households.

Other Low-Cost internet plans. These plans are offered by certain Internet Service Providers to customers who meet specific eligibility requirements. Eligibility criteria and other limitations vary from provider to provider. Some of the more common low-cost plans in the country include Access from AT&T, Internet Essentials from Comcast, Connect2Assist and Connect2Compete from Cox Communications, and Spectrum Internet Assist from Charter Communication. Many of these low-cost offers were started as part of mandated federal conditions for mergers. (Charter / Time Warner 2016 and AT&T DirecTV in 2016). While the creation of many low-cost plans was in response to a federal requirement many internet service providers continued their low-cost programs beyond the required time period and continue to offer the programs and services to low-income customers. The pricing, household eligibility criteria, specific program rules and ease of enrollment vary by provider. Data on the number of households enrolled in any low-cost program is often not publicly available. In considering any recommendations related to certain types of contractual arrangements, including but not limited to bulk billing, in MTEs, the Commission should consider the ACP, Lifeline and other low-cost discount programs.

C. Contractual Services and Billing in Multi-Tenant Environments/Multi-Dwelling Units (MTEs/MDUs) — Overview

1. MTEs/MDUs – FCC Description

The Commission describes MTEs as “commercial or residential premises such as apartment buildings, condominium buildings, shopping malls, or cooperatives that are occupied by multiple entities.”²² The term “MTE”, the Commission further notes, “encompasses everything within the scope of two other terms the Commission has used in the past—multiple dwelling unit and multiunit premises.”²³ Thus, MTE can refer both to residential environments (“residential MTEs”) and non-residential environments. With respect to residential MTEs—the subject matter of this report—the Commission has generally used that term to refer to “multiple dwelling units”, or MDU buildings, which it has described as apartment buildings, condominium

²² *Improving Competitive Broadband Access to Multiple Tenant Environments*, Report and Order, 37 FCC Rcd 2448, 2449, para. 1, n.1 (2022) (*2022 MTE R & O*) (quoting *Improving Competitive Broadband Access to Multiple Tenant Environments*, Notice of Inquiry, 32 FCC Rcd 5383, 5383-5384, para. 2 (*2017 MTE NOI*)).

²³ *Id.*

buildings or cooperatives,²⁴ or “any other centrally managed residential real estate development (such as a gated community, mobile home park, or garden apartment).”²⁵ For this report, MTE shall only refer to residential MTEs and MDUs.

2. MTEs/MDUs – General Ecosystem

a. Renters, Owners, Inventory and Market Dynamics

Multiple Tenant Environments (MTEs) and Multiple Dwelling Units (MDUs) encompass a wide range of residential and commercial premises such as apartment buildings, condominium buildings, shopping malls, or cooperatives occupied by multiple entities. MTEs include centrally managed residential real estate developments like gated communities, mobile home parks, senior living (assisted or non-assisted) centers, student residences or garden apartments. As stated above, the focus of this report is on residential MTEs/MDUs. It has been argued that a residential paradigm shift is occurring in America, away from the dream of ownership toward a new reality of renting.²⁶ The data appears to support that view, which brings into sharp focus the present (and emerging) picture for broadband consumption in those environments.

²⁴ The IAC, for the most part, accepts the Commission’s description, above, of MTEs/MDUs, but would add several additional settings to the list for purposes of this report: senior living properties (whether assisted or not), student residences, mobile home (RV) parks, and marinas. Although these environments presumably already fall within the Commission’s terminology, the IAC expressly includes them here to avoid ambiguity that might result from omitting the reference. *See* discussion, *infra*.

²⁵ *See* 2017 MTE NOI, 32 FCC Rcd at 5384, para. 2, n.3.

²⁶ *See* “The Paradigm Shift: Renting Takes Center Stage in American Housing Market”, American Public Ledger <https://medium.com/@americanpublicledger/the-paradigm-shift-renting-takes-center-stage-in-american-housing-market-ef925b143bf> (Sep. 17, 2023) (“In the landscape of American real estate, a seismic shift is underway. The traditional dream of homeownership, once considered a cornerstone of the American dream, is being eclipsed by a new reality: renting. This transformation is not merely a temporary blip on the radar, but rather a fundamental recalibration of how we approach housing”); “Rethinking the American Dream: the Shift from Homeownership to Renting”, <https://www.offerd.com/insights/rethinking-the-american-dream-the-shift-from-homeownership-to-renting> (Oct. 4, 2023) (“The media has often debated the true reasons people rent, particularly the concept of ‘renters by choice,’ or those who actively choose to rent rather than buy. Our survey reveals that such a cohort does exist. In 2023, over 17% of apartment residents claimed no interest in homeownership, mirroring the 16.2% in 2021. Notably, these renters are predominantly older, with 56.4% over 54 and 38.8% aged 65 or more. Residents living solo, earning less, or having previously owned homes also leaned towards this sentiment. For apartment dwellers expressing an intent to buy — termed ‘aspiring homebuyers’ — the data delineates between active home seekers and those waiting for a better time. Given the dramatic increase in homeownership costs relative to renting over the past years, a dip in the number of eager homebuyers is expected. This projection aligns with findings showing a decrease from 20.5% in 2021 to 18.2% in 2023. However, further analysis reveals that other factors, like age and income, play a role in influencing this trend”); “Rent Or Buy? Amid Housing Market Shift, Signs Point To ‘Rent’”, <https://www.forbes.com/advisor/mortgages/rent-or-buy-home-mortgage/> (Dec. 11, 2023) (“Whether by choice or necessity, the Urban Institute has estimated that between 2020 and 2040 the number of renters will increase twice as fast as the number of homeowners. A national survey of apartment renters by the real estate analytics firm RealPage found two-thirds of them preferred to rent, citing lower costs and greater flexibility when relocating. More than half of Gen Z renters said they’d rather rent than buy”).

Approximately 35 percent of all United States households are renter-occupied households and 32 percent of United States residents are renters.²⁷ As of 2022, approximately 12 percent of the United States population in occupied housing live in apartments (39,781,923 out of

“IN THE LANDSCAPE OF AMERICAN REAL ESTATE, A SEISMIC SHIFT IS UNDERWAY. THE TRADITIONAL DREAM OF HOMEOWNERSHIP, ONCE CONSIDERED A CORNERSTONE OF THE AMERICAN DREAM, IS BEING ECLIPSED BY A NEW REALITY: RENTING. THIS TRANSFORMATION IS NOT MERELY A TEMPORARY BLIP ON THE RADAR, BUT RATHER A FUNDAMENTAL RECALIBRATION OF HOW WE APPROACH HOUSING . . .”

324,500,841).²⁸ About 64 percent of renter households (approx. 29,170,557 out of 45,221,844) and approximately 56 percent of renter residents (approx. 57,610,077 out of 102,833,779) live in rental structures with 2 or more units.²⁹ Additionally, about 4 percent of renter households and 5 percent of renter residents live in Mobile Homes.³⁰ While about 80 percent of apartment properties are 2-4 unit properties, properties that have 5 or more units contain 82 percent of the apartment units.³¹

The housing stock of rental housing is also aging as the median age of rental stock was 44 years in 2021, up from 34 years two decades prior.³² For any new housing, approximately 40 percent of such demand is expected to be renters.³³ A report estimated that about 4.6 million new units of 5+ unit rental housing will be needed across all income levels to meet demand in 2030.³⁴ Additionally, as of 2022, while the 2-4 unit properties were mostly owned by individual investors, properties with 5 or more units were mostly owned by some combination of Limited liability Partnership (LLP),

²⁷ 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25003 & Table B25008 (Updated 11/2023). See “U.S. Households--Renters & Owners”, Table 1 in the Appendix. As discussed later in this report, there are a few different types of housing situations that could fall under the MTE/MDU designation. That said, the type of housing unit most likely to be universally identified as an MTE/MDU would be multifamily buildings and/or apartments. See also S. Kauffman and O. Carare, “An Empirical Analysis of Broadband Access in Residential Multi-tenant Environments, FCC Office of Economics & Analytics, July 2019, ([here](#)) (“Approximately one-third of Americans live in apartment buildings and condominiums, which are considered residential MTEs.”).

²⁸ 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25033 (Updated 11/2023). See also “State Distribution of Apartment Residents, 2022” Table 2 in the Appendix.

²⁹ 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25032 & Table B25033 (Updated 11/2023). See also “What Type of Structure Do Renters Live In?” Table 4 in the Appendix.

³⁰ See n. 28.

³¹ Rental Housing Finance Survey, U.S. Department of Housing and Urban Development and US Census Bureau (Updated 12/2022). See also “Distribution of Apartments by Size of Property” Table 3 in Appendix.

³² America’s Rental Housing 2024, Joint Center For Housing Studies of Harvard University (hereinafter “Harvard Report”) (page 6). See also “When Were Apartments Building? Table 5 in the Appendix.

³³ U.S. Apartment Demand - A Forward Look, prepared by Hoyt Advisory Services, Dinn Focused Marketing, Inc. and Whitegate Real Estate Advisors, LLC (May 2017) (hereinafter “Hoyt Report”) at Page 38. The report does note that rental demand could be higher than their projected base case.

³⁴ Hoyt Report at page 38.

Limited Partnership (LP), Limited Liability Corporation (LLC) or General Partnership.³⁵ Most of the National Multifamily Housing Council (NMHC) 50 Largest Apartment Owners in 2024 owned more units in 2024 than they did in 2023.³⁶

For those living in Apartments of 5 or more units, their median income in 2022 was \$49,010, which was lower than the all-renter household income of \$50,500 and the owner household income of \$90,100.³⁷ Median household income for the United States in 2022 was \$74,580.³⁸ About 18.8 percent of apartment households have children living in the household under the age of 18.³⁹ The majority of apartment households only have one member in the household while only about 21 percent have 3 or more members in the household.⁴⁰ The majority of renter households only have one vehicle, with 25 percent not having any vehicle.⁴¹ The approximately 48 percent of renters are under 30 years old.⁴²

For renter households, the age distribution is more varied, but generally skews younger than those in owner occupied housing.⁴³ A Hoyt Report on Apartment Demand through 2030 has concluded that renters were “more ethnically diverse with significantly more people of Hispanic origin and Black by race, and have a lower proportion of college-educated persons”.⁴⁴

³⁵ Rental Housing Finance Survey, U.S. Department of Housing and Urban Development and U.S. Census Bureau (Updated 12/2022). See also “Who Owns the Nation's Apartment Units?” Table in the Appendix. See also “Who Owns the Nation's Apartment Properties?” Table in the Appendix. As an additional note, as of 2020, there were 54,158 residential property managers and 72,373 lessors of residential buildings and dwelling by state. See “Residential Property Managers by State” Table 8 and “Lessors of Residential Buildings and Dwellings by State” Table 9 in the Appendix.

³⁶ National Multifamily Housing Council (NMHC) 50 Largest Apartment Owners, 2024 Rankings (Accessed June 17, 2024) (<https://www.nmhc.org/research-insight/the-nmhc-50/top-50-lists/2024-top-owners-list/>).

³⁷ NMHC tabulations of 2023 Current Population Survey, Annual Social and Economic Supplement microdata, US Census Bureau (Accessed through IPUMS. Updated 3/2024). See also “Median Household Income Over Time (2022 Dollars)” Table 10 in the Appendix. See also “Apartment Households (Millions) by Household Income (2022 Dollars)” Table 11 in the Appendix. See also “Households (millions) by Household Income” Table 12 in the Appendix.

³⁸ Gloria Guzman and Melissa Kollar, U.S. Census Bureau, Current Population Reports, P60-279, Income in the United States: 2022, U.S. Government Publishing Office, Washington, DC, September 2023 (citing Figure 1 on Page 3; <https://www.census.gov/content/dam/Census/library/publications/2023/demo/p60-279.pdf> accessed June 5, 2024).

³⁹ NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau (Updated 11/2023). Note: Children are household members under the age of 18. See also “Share of Apartment Households with Children” Table in the Appendix. For a breakdown on living arrangements in households, see “Households (Millions) by Living Arrangement” Table 14 in the Appendix.

⁴⁰ NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau (Updated 11/2023). See also “Households (Millions) by Number of Members in Household” Table 15 in the Appendix.

⁴¹ NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau (Updated 11/2023). See also “Households (millions) by Number of Vehicles Per Household” Table 16 in the Appendix.

⁴² NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau (Updated 11/2023). Note: Does not include non-housing units. See “Age Distribution of Population” Table 17 in the Appendix.

⁴³ NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau (Updated 11/2023). Note: Does not include non-housing units. See “Age Distribution of Householders” Table 18 in the Appendix.

⁴⁴ Hoyt Report at Page 19.

In a National Multifamily Housing Council Backgrounder on Bulk Internet in Rental Housing released in April 2024, renters were described as being a highly mobile population with about half of apartment residents moving every year.⁴⁵

Per a Report on America’s Rental Housing by the Joint Center for Housing Studies of Harvard University, renters typically "move in pursuit of better housing, to form a new household, or to be closer to a new job or their family."⁴⁶ About 11 percent of moves were for more affordable housing.⁴⁷ One additional reason for movement may be for renters to take advantage of new lease features and lease incentives like first month’s rent being free⁴⁸.

In 2021, 30.1 percent of renter households (such as young adults who moved out of their parents' homes) said they moved because they wanted to form their own household, up from the 26.4 percent in 2019. The share of households that moved due to a change in household or family size also increased, from 13 percent in 2019 to 14.3 percent in 2021.

For the rental market, while rent growth has stalled recently, unaffordability has become a larger issue due to the rent increases over prior years.⁴⁹ Between 2015 and 2017, median rent for renter-occupied housing stock increased from \$923 to \$991.⁵⁰ Some believe that if not enough rental units are added to the market in the coming years, rents will increase at a high rate.⁵¹

Based on the data, it appears that the paradigm shift towards the reality of renting mentioned above may be occurring. With the rent increases of recent years, other expenses a renter may have also become important. Access to the internet, which is an increasingly important part of consumers’ everyday lives,⁵² is potentially jeopardized as rental prices increase.

⁴⁵ National Multifamily Housing Council, Bulk Internet in Rental Housing, Backgrounder | April 2024 (page 3; citing National Apartment Association, Survey of Operating Expenses and Income in Rental Apartment Communities (2019), <https://www.naahq.org/2019-naa-survey-operating-income-expenses-rental-apartment-communities>.)

⁴⁶ Harvard Report on Page 16.

⁴⁷ Harvard Report at Page 16.

⁴⁸ See, e.g., K. Mergenhagen, “What is a Rent Concession and Why Should You Use One”, <https://rentprep.com/blog/what-is-a-monthly-rent-concession/> (July 2, 2024) (last visited Aug. 5, 2024).

⁴⁹ Harvard Report (pages 1-3). See also J. Ludden, “Housing is Now Unaffordable for a Record Half of All U.S. Renters”, NPR Morning Edition, <https://www.npr.org/2024/01/25/1225957874/housing-unaffordable-for-record-half-all-u-s-renters-study-finds> (Jan. 5, 2024) (last visited Aug. 5, 2024).

⁵⁰ American Housing Survey Rental Market Dynamics 2015-2017, prepared by Frederick J. Eggers, Econometrica Inc. And Fouad Moumen, SP Group LLC (June 2020) at Page 5. There may be an updated version of this document covering 2017-2019, but was unavailable at <https://www.huduser.gov/portal/datasets/cinch.html#year2017-2019> when accessed on June 17, 2024.

⁵¹ Hoyt Report at Page 38.

⁵² “The Importance of Internet in Life: Now and Tomorrow”, Sense Connect <https://senseconnectit.net/blog/the-importance-of-internet-in-life-now-and-tomorrow-10> (accessed August 3, 2024).

b. Low-Income/Public Housing MTE/MDUs

Federally assisted multi-family housing⁵³ is a critical subset of MTE/MDUs, particularly for considering the broadband experience in those environments both with respect to consumer benefits as well as provider access issues. Critical data are as follows.

Roughly 10,200,000 people in America, comprising about 5.2 million households, rely on federal rental assistance in order to live in modest dwellings. Of those renters, approximately 69 percent are seniors, children or persons with disabilities. These low-income⁵⁴ renters received \$48.5 billion in federal rental assistance payments in 2022.⁵⁵

Most federal housing subsidies are distributed through three programs administered by the U.S. Department of Housing and Urban Development (HUD). The first is the **Public Housing** program, which consists of around 1,000,000 units in around 7,000 properties (HUD pays for construction, operation and improvements; but buildings are owned and operated by public housing agencies or “PHAs”) housing around 2 million low-income people across all 50 states and some territories. Renters earn no more than 80 percent of area median income (AMI), and PHAs must target at least 40 percent of new admissions to households that meet HUD’s definition of “extremely low income”, i.e., 0-30 percent of AMI. Most families in this program⁵⁶ pay 30 percent of their income in rent, or a minimum rent of up to \$50 per month,⁵⁷ with the federal government picking up the balance of the rent or rental costs.⁵⁸

Another HUD federal assistance program is actually a collection of programs called **Project-based**, or multifamily assisted, housing (e.g., the Section 8 program). This program subsidizes apartment housing through contracts with nongovernment building owners and

⁵³ By “federally assisted multi-family housing”, we refer broadly to “all housing in the nation—whether owned and managed by a public, private, or nonprofit landlord—that receives funding through federal programs designed to produce, rehabilitate, or administer rental properties for low-income households.” See A. Reed and K. Wert, “5 Facts About Affordable Rental Housing That Matter for Broadband”, Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024).

⁵⁴ By “low income”, we refer to households with income not exceeding 80 percent of local median income. In 2022, for a three-person family in the United States, this amounts to about \$57,000. See “United States Federal Rental Assistance Fact Sheet”, Center on Budget and Policy Priorities, <https://archive.org/details/united-states-federal-rental-assistance-fact-sheet> (Jan. 18, 2022). This is consistent with HUD’s formulae, which defines “low income” as households earning up to 80% of AMI, “very low income” as up to 50% of AMI, and “extremely low income” as up to 30% of AMI. Most federally subsidized multifamily housing households are in the “extremely low income” category. See A. Reed and K. Wert, “5 Facts About Affordable Rental Housing That Matter for Broadband”, Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024).

⁵⁵ *Id.*

⁵⁶ In 2022, the average household living in Public Housing had an annual income of about \$16,000. See “Average Household Income of People Living in Subsidized Public Housing”, USA Facts, <https://usafacts.org/data/topics/people-society/poverty/public-housing/average-household-income-of-people-in-public-housing/> (accessed Aug. 7, 2024).

⁵⁷ See B. Docter and M. Galvez, “The Future of Public Housing – Public Housing Fact Sheet”, Urban Institute, <https://www.urban.org/research/publication/future-public-housing-public-housing-fact-sheet> (Jan. 30, 2020).

⁵⁸ See “Assisted Housing: National and Local”, HUD Office of Policy Development and Research, <https://www.huduser.gov/portal/datasets/assthsg.html> (last visited Aug. 7, 2024).

includes programs for older renters and people with disabilities. The economic eligibility requirements are the same as those for the Public Housing program. Subsidies cover the difference between tenant rent and total rental costs. More than 2 million people live in the nation's 1.2 million Project-based rental units. The program is called "Project-based" because the subsidy attaches to the location, and recipients may not transport the subsidy if they move to another location.⁵⁹

The third HUD multifamily federal housing assistance program is HUD's **housing voucher** program, which is a tenant-based program allowing participants to find and lease housing in the private market. Local PHAs (and some state agencies) enter into contracts with HUD to administer the programs, and then contract with private landlords. Subsidies are used to supplement rent paid by qualifying low-income households. These subsidies, unlike Project-based, move with the tenant if the tenant relocates to another apartment. Tenants pay any excess over a "Fair Market Rent" for that locality, as established by HUD based on the 40th percentile of the gross rents paid by recent movers for non-luxury units meeting certain quality standards.⁶⁰ There are approximately 5 million people in the housing voucher (also called "housing choice") program, comprising about 2.3 million households.⁶¹

Clearly, some of America's most economically vulnerable Americans live in federally assisted, multi-family housing, housing that is typically in depressed areas with high poverty rates and higher shares of non-white households (i.e., historically segregated areas). These consumers tend to have no internet service, or very slow internet service. This is so for multiple reasons – for example, unaffordability (for both service and devices); aged housing stock (half of public housing units were built before 1975, and less than 20 percent have undergone additional construction since 1997, and many have no or outdated wiring which prevents provision of high-speed broadband); inapplicability of HUD's utility allowance for broadband purchases; consumers' lack of digital skills, etc.⁶²

⁵⁹ See A. Reed and K. Wert, "5 Facts About Affordable Rental Housing That Matter for Broadband", Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024); "Assisted Housing: National and Local", HUD Office of Policy Development and Research, <https://www.huduser.gov/portal/datasets/assthsq.html> (last visited Aug. 7, 2024).

⁶⁰ "Assisted Housing: National and Local", HUD Office of Policy Development and Research, <https://www.huduser.gov/portal/datasets/assthsq.html> (last visited August 7, 2024).

⁶¹ See A. Reed and K. Wert, "5 Facts About Affordable Rental Housing That Matter for Broadband", Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024). Finally, there is also (i) a Low-Income Housing Tax Credits program (LIHTC) that is allocated to states annually to lower developers' tax obligations for affordable rental housing projects, and (ii) a U.S. Department of Agriculture Rural Housing Service-based set of programs to provide affordable rental and cooperative housing in rural areas of the country. *Id.*

⁶² "Broadband Challenges and Opportunities in Affordable Rental Housing", Pew Issue Brief, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/04/broadband-challenges-and-opportunities-in-affordable-rental-housing> (April 3, 2023) (accessed August 7, 2024). See also A. Reed and K. Wert, "5 Facts About Affordable Rental Housing That Matter for Broadband", Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024) ("HUD's utility allowance—which is part of the total resident payment—does not include high-speed internet. . . . Federal subsidies such as the Affordable Connectivity Program

Among the issues plaguing consumers in low-income, subsidized housing, is lack of access to, or difficulty in gaining enrollment to, *ad hoc* affordability programs, including Universal Service (“Lifeline”) and, recently, the Federal ACP.⁶³ And, with respect to this latter set of problems for the nation’s low-income MTE consumers, certain contractual arrangements, including but not limited to bulk billing, appear to be among the most significant challenges because, as an “individual” household broadband subsidy/benefit program whose design is based on consumers signing up directly with participating ISPs, ACP “subsidies cannot be used for bulk purchasing agreements in which a single bill covers a whole” building, e.g. PHA, where the consumer lives.⁶⁴

c. Broadband Mapping of MTE/MDUs

The IAC believes that any serious consideration of equitable access and choice in MTE/MDUs should include a granular understanding of the nation’s MTE/MDU inventory (where it is, density, type, age, etc.), the nature of competitive service availability (including a practical definition of ‘availability’ that suits the policy discussion), the modes, speeds, and quality of available service(s), and, of course, information about contractual arrangements, including but not limited to bulk billing, that would be germane to consumer choice and competitive opportunities.

Thus, a key toolkit for understanding how internet service is being provided in MTE/MDUs would be maps showing such information. The FCC has recognized the “need for accurate data pinpointing where broadband service is available, and where it is not available” and has addressed that need through its Broadband Data Collection and National Broadband Map activities.⁶⁵ As the FCC has noted, the National Broadband Map provides information about internet services available to individual locations across the country, and also provides detail on mobile coverage.⁶⁶ This information is reported by ISPs into the FCC’s ongoing Broadband Data Collection, and subject to third party input (consumers, governments, other providers) through a rigorous challenge process to ensure Map accuracy.⁶⁷

and Lifeline that provide money directly to households to pay for broadband can help, but residents report that these programs can be difficult to access.”).

⁶³ See “Broadband Challenges and Opportunities in Affordable Rental Housing”, Pew Issue Brief, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/04/broadband-challenges-and-opportunities-in-affordable-rental-housing> (April 3, 2023) (accessed August 7, 2024). See A. Reed and K. Wert, “5 Facts About Affordable Rental Housing That Matter for Broadband”, Pew Charitable Trusts <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/03/02/5-facts-about-affordable-rental-housing-that-matter-for-broadband> (accessed August 7, 2024).

⁶⁴ See “Broadband Challenges and Opportunities in Affordable Rental Housing”, Pew Issue Brief, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/04/broadband-challenges-and-opportunities-in-affordable-rental-housing> (April 3, 2023) (accessed August 7, 2024).

⁶⁵ “Broadband Data Collection”, FCC <https://www.fcc.gov/BroadbandData> (accessed August 3, 2024).

⁶⁶ *Id.*

⁶⁷ *Id.*

Currently, the National Broadband Map and, presumably, the Broadband Data Collection process that supports the data included on the map, provide important, but limited, MTE-specific data. That is, the National Broadband Map may present broadband service location (BSL) Fabric data that shows which providers report being able to serve an MTE/MDU, but it does not present data to inform competitive investment planning; i.e., data that provides granular information about the state of competitive options for broadband to MTEs/MDUs (e.g., the type and terms of contractual arrangements including, for example, whether a bulk billing arrangement exists, types and modes of services available due to existing broadband infrastructure, cost-per-unit information, duration of existing MTE ISP contracts, and other data). Thus, if consumers, state, local and Tribal government entities, or other stakeholders wanted to understand whether a given area known for (or planned for) MTE/MDU density had more than one broadband provider available to residents, and also know specific relevant information about available providers and services, one could not consult the National Broadband Map (or its underlying Broadband Data Collection) to get that kind of precise picture. Other maps exist for certain areas that track density of housing⁶⁸ and Housing Choice Voucher Program recipient general locations.⁶⁹ Perhaps these maps could form a template for broadband data collection options.

3. Contractual Arrangements in MTEs/MDUs – Key Characteristics

Landlords and internet service providers enable internet service in MTEs/MDUs through various contractual arrangements, including but not limited to “bulk billing” agreements.⁷⁰ These arrangements often are between property owners (or managers or Homeowners Associations (HOAs)) and Internet Service Providers (ISPs) to supply Internet service to all units within the property.⁷¹ The cost is typically incorporated into rent or homeowner association fees, potentially leading to substantial cost savings per unit of service. These arrangements, despite some proof of cost savings, have certain observed downsides (discussed more fully below).

The apartment industry’s trade associations and advocates—the NMHC and National Apartment Association (NAA)—describe “bulk internet agreements [as] typically involv[ing] the purchase by a property owner of internet connectivity services for an entire rental community that is delivered to residents of the community at a reduced cost per unit, compared to what those

⁶⁸ “Exploring Housing at Different Densities: A tour of multi-family housing developments at densities that comply with the new Section 3A of MGL c. 40A.”, SRPEDD and MHP with Judi Barrett, webinar co-presenter, <https://storymaps.arcgis.com/stories/5d32b4fb61ed41338d0b250800f7e5f6> (October 25, 2022; accessed August 3, 2024); “Housing Tenure”, Coalition for a Livable Future <https://clfuture.org/atlas-maps/density-renters-acre> (accessed August 3, 2024).

⁶⁹ “Interactive Map: Where Voucher Households Live in the 50 Largest Metropolitan Areas”, Alicia Mazzara, Brian Knudsen, And Nick Kasprak <https://www.cbpp.org/research/housing/interactive-map-where-voucher-households-live-in-the-50-largest-metropolitan-areas> (January 3, 2019; accessed August 3, 2024).

⁷⁰ See Appendix D (Examples of [Anonymized] MTE/MDU Billing Agreements).

⁷¹ For example: “The Association has the authority to grant and does hereby grant to the Company during the term hereof [66 months w/automatic renewal for 24 month successive periods] the right to deliver the Services to the Premises . . . The Association shall not enter into a bulk services agreement with another service provider to provide services similar to the Services during the term of this Agreement regardless of the method used to deliver such services to the Premises.” See Appendix D, Exh. A [FLORIDA MTE/MDU contract].

residents would pay if they were subscribing directly to those internet services.”⁷² The Associations continue:

Costs for this service are typically rolled into *rent or charged as a separate technology or amenity fee*, both of which are *transparent and disclosed* throughout the leasing process. While bulk internet delivery has grown in popularity across all rental property types, it has been historically very effective in getting broadband service to *low-income, affordable*, senior, student and veteran populations because of its ease of access and pro-consumer pricing benefits.⁷³

The Commission and industry experts have identified certain key characteristics of contractual arrangements in MTEs/MDUs that are important to consider. Somewhat ubiquitous characteristics appear to be (i) bulk billing exclusivity (e.g., other ISPs cannot enter bulk service purchase arrangements with property owners) and of marketing (e.g., a single provider may market its services to residents); (ii) contract periods of substantial duration and automatic renewability typically of two years or more; (iii) bulk-billed pricing that ensures and, thus, incentivizes profitability margins and premiums for Property Owners; (iv) escalator clauses year-to-year for contract pricing; (v) confidentiality clauses that may inhibit transparency; and (vi) inflexible mechanics of bulk billing.

a. Exclusivity of Agreements and Marketing

ISPs’ MTE/MDU contractual arrangements, including but not limited to bulk billing contracts, often involve two important layers of exclusivity—marketing and the bulk purchasing ‘relationship.’ With respect to marketing, these agreements generally give to the ISPs (or bundled cable/tv/voice/internet providers) an “exclusive right to certain means of marketing its service(s) to residents in the [residential MTE]”, in exchange “for some consideration”,⁷⁴ and also the right to be the sole provider with the ability to bill the subject property and all of its units in aggregated (‘bulk’) fashion. Such provisions, generally, may take the following form:

The Association agrees to include [Brand’s] marketing materials in welcome kits or other information provided to new Residents, and no collateral or other marketing materials referencing a competing provider of voice, data or video services may be provided to Residents, without [Brand’s] prior written approval.

The Association shall not market or promote any services competitive with the [Brand’s] Bulk Services to Residents and shall not otherwise grant any rights or licenses inconsistent with, or which impair or interfere with the Association’s marketing obligations hereunder during the Agreement term.

For the Ordering of Services, the Association shall, upon request, direct new Residents to request orders for Bulk Services directly from [Brand] in accordance with the promotional material provided by or approved by [Brand] for the ordering of such Bulk Services.

⁷² NMHS/NAA “Backgrounder”, April 2024, at 2.

⁷³ *Id.* (emphases added).

⁷⁴ 2017 MTE NOI, 32 FCC Rcd at 5385, para. 6 (citation omitted).

Promotional events supporting the Bulk Services will be permitted at mutually agreed upon times, dates and locations at the Covered Property.

The Association shall include on its website a link to [Brand's] website.

And, the following:

Delivery of Services. The Association has the authority to grant and does hereby grant to the Company during the term hereof the right to deliver the Services to the Premises, unless otherwise required by applicable law. The Association shall not enter into a bulk services agreement with another service provider to provide services similar to the Services during the term of this Agreement regardless of the method used to deliver such services to the Premises.

Marketing Support. The term "Marketing Support" shall include , but not be limited to the Company's presentation of its marketing materials for the Company's services as set forth in the Table below, to existing and prospective residents. The Association shall not enter into any agreement during the term of this Agreement permitting the marketing of any services similar to the Services on the Premises regardless of the method used to deliver such services to the Premises.

Or,

Customer hereby grants to [Brand] . . . during the first ten (10) years of the Term: (a) the exclusive right to market any Service or Competitive Service at the Premises or via any website , communications, materials or other means directed to the Premises or to any unit or Resident and (b) the non-exclusive right to provide high-speed internet services to the Premises. . . . Customer shall not grant to any third party any right to provide Competitive Services at the Premises on a bulk billing or exclusive basis, or the exclusive right to market any Competitive Services at the Premises or via any website, communications, materials or other means directed to the Services.

And,

Customer Obligations. (a) Customer shall not enter into a bulk agreement with another service provider to provide services similar to the Services during the Term regardless of the method used to deliver services to the Property. A "bulk agreement" means an agreement between Customer and a third party service provider whereby (i) services are paid for by the Customer and provided to the residents at no charge, on a reduced rate or discounted basis; (ii) services are automatically provided to the residents as an amenity of the Property or (iii) the purchase of services by residents is required as a condition of their occupancy of the Property. However, nothing in this Agreement shall prohibit service providers from providing service to the Property on a retail basis, provided that Customer does not permit a third party to access any facilities, equipment or wiring Company owns or has exclusive rights to use.

b. Agreements' Term Length

With respect to length of contract, most MTE/MDU internet services contracts, including but not limited to bulk billing arrangements, are marked by generally long periods with

automatic renewable terms (or evergreen clauses) for additional lengthy periods, unless one of the parties provides advance notice of termination. For example:

*Term. This Agreement, when duly executed by both parties, shall constitute a binding agreement between the Association and the Company and their respective successors and assigns for a term of **66 months** from the date first set forth above. This Agreement shall automatically renew for successive periods of **24 months** unless either party shall provide the other with a minimum 60 days' notice of its intention not to renew at the end of the then current term.*

Or,

This Agreement begins on 6/15/2020 ("Effective Date") and shall remain in effect for a term of 5 years from 9/15/2020 or from the date when Bulk Services are activated on the Property, whichever is later (the "Initial Term"). This Agreement shall automatically renew for successive periods of 2 Years (each, a "Renewal Term"), unless either party provides the other with a minimum of 60 days' notice of its intention not to renew at the end of the then-current term. The Initial Term and each Renewal Term may be collectively referred to herein as the "Term."

Or,

The Term of this Agreement shall be for nine (9) years effective and commencing as of the date the Services are offered to be available to all [1,359] units within the Community The Term shall automatically renew for a period of one (1) year if neither Party provides notice of intent to not renew more than ninety (90) days before the end of the current Term.

And,

Term. This Agreement shall be in effect for an initial term commencing on the Effective Date and expiring Ten (10) years after the date on which [Brand] activates billing for Services hereunder, and shall remain in effect and be automatically renewed for successive Five (5) year terms thereafter unless Customer or [Brand] provides to the other Party written notice of non-renewal at least ninety (90) days prior to expiration of the then-current term.

c. "NOI Revenue Streams" for Property Owners

A key feature of contractual arrangements marketed to Landlords and Property Owners that include bulk billing, among other things, is the vehicle's ability to create "revenue streams" or "profitability" for the latter, and in ways that typically would not be transparent to renters. The dynamic consists of two parts. First, the bulk services agreements' below-retail rates: "[b]ulk internet services enable property owners to negotiate favorable rates with internet service providers due to the potential for bulk purchasing. These savings can be substantial, reducing

both initial infrastructure investment and ongoing operational expenses.”⁷⁵ Then, second, the opportunity for the Property Owner provided by below-retail rates:

This challenging environment [financial costs of owning MDUs] has prompted MDU landlords to explore creative solutions to diversify revenue streams, reduce operational costs, and maintain competitiveness. Offering bulk internet services has emerged as a powerful strategy to tackle these issues head on. . . . Traditionally, rent income has been the primary source of revenue for property owners. However, the introduction of bulk internet services can create a new income stream. By partnering with an internet service provider and offering high-speed, reliable internet as part of the lease agreement, property owners can charge an additional fee, thereby generating extra income every month.⁷⁶

⁷⁵ K. John, “Boosting MDU Property Profitability: The Surprising Solution—Bulk Internet Services” (Nov. 2, 2023), <https://www.linkedin.com/pulse/boosting-mdu-property-profitability-surprising-solution-keefe-john-1fslc> (last visited July 29, 2024)

⁷⁶ *Id.* See also “Bulk Internet: the Secret to Profitable Apartment and Condo Management, Feb. 19, 2024, <https://www.kempcommlc.com/bulk-internet-the-secret-to-profitable-apartment-and-condo-management>, last visited July 29, 2024 (“Investing in bulk internet paves the way for an uptick in NOI [net operating income], primarily through significant cost reductions associated with internet services. Bulk internet provides service in the individual unit. Bulk internet purchases happen at wholesale rates, usually offering a better value than the expense incurred with individual connections. As a property manager, the financial prudence of this move is twofold: you can choose to pass these savings onto your tenants, increasing the appeal of your property, or *let it feed directly into augmenting your NOI.*”) (emphasis added); “The Power of Bulk: How MDU Property Owners can Increase Revenue Without Raising Rent” (Jan. 27, 2023), <https://elauwit2.squarespace.com/news/the-power-of-bulk-how-mdu-property-owners-can-increase-revenue-without-raising-rent> (last visited July 29, 2024) (“Telecom companies such as Elauwit provide the internet connectivity for every unit. The same service is provided to every tenant in every unit. In addition, WiFi service can be set up throughout the property and in common areas so that residents don’t lose connection as they move outside their unit. This bulk internet service is provided to the property owner at one set price. *The MDU property owner can then include that price in the rent, charging a premium for the service. For instance, if the bulk contract charges \$40 per unit per month for internet service, the property can charge tenants \$75 per month as part of their rent. Not only do residents likely pay a cheaper price this way compared to if they got internet service on their own, the property owner can make an additional \$35 per unit per month in revenue.*”) (emphasis added); S. Locker, “Is a Bulk Internet Agreement Right for Your Apartment”, Jun. 9, 2022, <https://blog.convergedservicesinc.com/bulk-internet-agreement-for-apartments>, last visited July 29, 2024 (“Apartment building owners can also bundle the cost of Internet and Wi-Fi into the rent at a small markup to create a new recurring revenue stream. Since the ISPs are providing bulk Internet coverage for the entire apartment, the *‘per unit’ cost is typically considerably lower than it would be for a single resident to open their own account.* In addition, many ISPs are usually willing to provide building managers with discounted rates in exchange for exclusivity to the property. Apartment buildings *can usually profit from these Internet services while still providing their tenants with better services at a lower rate than they would have received otherwise,* making it a winning scenario for everyone involved.”) (emphases added).

Of note, in the foregoing, is the lack of any obvious mechanism—and the IAC could find none in

By partnering with an internet service provider and offering high-speed, reliable internet as part of the lease agreement, property owners can charge an additional fee, thereby generating extra income every month . . .

its research—to ensure consumers in MTEs/MDUs *know about the difference between what Property Owners are charged for bulk services and what consumers are actually paying for those services* (i.e., the potential “markup” from the Owners that is more than they are paying but still less than retail). This differential, it seems, could be a key component of leasing materials presented to potential renters but, as nearly as the IAC can discern, is not, at least not as a contractual matter between ISPs and Property Owners based on contracts reviewed.

d. Fee Escalator Clauses

MTE/MDU contractual arrangements, including bulk billing contracts, may contain clauses that allow ISPs to increase the fee for services to the MTEs/MDUs by a set percentage (e.g., four percent).⁷⁷ Contracts reviewed by the IAC contained such clauses. Notably, none of the clauses reviewed were tied, or durably tied, to any recognized rate of inflation (e.g., CPI, PCE, PPI), nor did any clause allow for de-escalation, whether based on inflation or other metric. It is unclear whether these price escalations, when they occur, are absorbed by the Property Owner or, as would appear more likely, are passed through as increases to the consumer’s monthly rental bill. Examples of such clauses include the following:

Bulk Services Fee. The fee for Bulk Services shall initially be as set forth in Exhibit C (plus applicable taxes and fees). Customer shall pay the Bulk Services Fee for all Units regardless of whether such Units are occupied. On January 1, [], and each subsequent January 1st, [Brand] may increase the Bulk Services Fee not more than Five percent (5%) per year.

Or,

The monthly service fee for Internet Bulk Service is \$28.89 per unit, plus all applicable taxes and fees. Upon 30 days prior written notice, Company may increase the Internet Bulk Service fee, provided such increase does not exceed 4.00% per year.

And,

On and after the first anniversary of the Bulk Commencement Date, [Brand] may increase the monthly bulk rate Service fee, but never more than once in any calendar year, and by no more than the greater of (i) the increase of the Cost of Living Index as set forth by the U.S. Department of Labor, or (ii) actual cost increases in providing the bulk Services, provided, however, in no event shall the annual increase exceed four percent

⁷⁷ For the past roughly 24 years, the annual rate of inflation (with the notable exception of the recent pandemic years), has been around, and typically under, 3%.

(4%), after giving the Association at least thirty (30) days' written notice and setting forth the amount and effective date of the increase.

e. Confidentiality Clauses (Transparency)

Contractual arrangements, including but not limited to bulk billing agreements, typically contain confidentiality clauses that prevent disclosure to third parties (e.g., renters, competitors, etc.). Clauses generally read as follows:

Confidentiality. Except as otherwise required by applicable law, each Party agrees to keep the terms and conditions of this Agreement in strict confidence and shall not divulge any specifics of the same to any third party except current and prospective lenders, purchasers, attorneys, accountants, financial advisors, partners and/or others with a need to know or legal right to know (such as residents of a homeowners association) for Customer or Company to reasonably conduct its business.

Or,

“However, after careful review, and even though the FCC Order establishing the ACP notes that those under a bulk contract should be able to participate in the ACP, we have discovered that the current third-party billing concept does not allow for program reimbursement in bulk contract situations...”

Confidentiality. Subject to the recording of this Agreement (or a memorandum summarizing the material terms) as set forth above and except as otherwise required by applicable law, each party agrees to keep the terms and conditions of this Agreement in strict confidence and

shall not divulge any specifics of the same to any third party except current and prospective lenders, purchasers, attorneys, accountants, financial advisors, partners and/or others with a need to know for the Association or the Company to reasonably conduct its business.

f. Payment Mechanics' Impact on ACP

As described above,⁷⁸ and consistent with most large-scale (and scalable) billing and payment systems, MTE/MDU contractual arrangements that include bulk billing for internet and related services can involve complex hardware and software invoicing and payment systems which, in turn, involve investments that become part of the cost and pricing structure for the services in the bulk arrangements. The increments and functionality of these systems effectuate the contractual commitments between the ISP and the property owner, and enable the property owner to use its own systems to invoice and collect rents. Both sets of systems, or certainly the ISP's systems, are presumably proprietary and, in any event, their taxonomies are not known to the IAC.

That said, it is clear from submissions to the FCC, particularly in response to consumer complaints about inability to access federal benefits in MTEs/MDUs where bulk billing arrangements (and payment systems) are in place that there can be impediments, potentially significant ones, posed by such arrangements to making flexible adjustments to provide

⁷⁸ See discussion *supra* at 7-8.

discounts to consumers or other billing adjustments occasioned by direct-to-consumer federal broadband affordability programs like ACP. These challenges appear to be exacerbated by the nature of the ISP-to-Landlord-to-End User taxonomy, and different regulatory environments, applicable to these transactions.

For example, one company responded to an MTE low income consumer's complaint that she could not get the ACP applied to her bill as follows:

Pursuant to [Brand]'s implementation of the ACP, which is compliant with ACP rules, customers that receive their [Brand] Internet service through a bulk agreement are not eligible to enroll in ACP with [Brand]. [Brand] does not charge residents for the bulk Internet service and, therefore, does not have separate Internet accounts for individual residents to which it could distribute the associated monthly benefit credit.

Another similar response from a different ISP to a similar complaint received by the FCC:

One of the [FCC's ACP] rules requires that the individual [eligible recipient] show that he/she is directly paying the internet provider, like [Brand]. As an early participant in the Program, [Brand] has been attempting to determine a way to allow those individuals whose associations are a party to a bulk contract for internet service to participate in the FCC's ACP. However, after careful review, and even though the FCC Order establishing the ACP notes that those under a bulk contract should be able to participate in the ACP, we have discovered that the current third-party billing concept does not allow for program reimbursement in bulk contract situations.

g. General concerns about Contractual Services Billing for Internet in MTEs/MDUs

The foregoing common characteristics of bulk services billing arrangements for internet (and bundled services) in MTEs/MDUs, coupled with the overall MTEs/MDUs ecosystem (including federally assisted multi-family rental housing), present some fairly obvious questions and challenges with respect to optimizing the consumers' (renters') economic enjoyment of these services and the quality-of-life enhancement the internet unquestionably delivers. In no particular order, some of those concerns are as follows.

- *Consumer Choice.* Contractual arrangements in MTEs/MDUs, including but not limited to bulk billing agreements, can result in residents having limited or no choice in selecting their internet or video service providers. Such arrangements typically favor a single provider, leading to conditions some describe as monopolistic,⁷⁹ where residents do not learn of actual broadband costs until signing leases, which is often well after the decision to rent has been made,⁸⁰ and cannot economically switch to alternative providers that

⁷⁹ See, e.g., *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142, Comments of Consumer Advocates at 1 (“As they exist now, bulk billing arrangements sacrifice consumer choice to preserve in-building monopolies at the expense of tenants”).

⁸⁰ See *id.* (“Tenants make their decision on where to rent due to a wide variety of factors, and because landlords have no obligation to inform tenants of the potential additional cost of ‘utilities’ until the point of sale, landlords do not

might offer better services or lower prices. Even in MTEs/MDUs where consumers have the right to choose services from another provider, those services will be tacked on to what is bundled in the lease agreement (*i.e.*, the bulk provider's pre-set services and possible Landlord premium). Such baked-in prices will make the overall expense prohibitive for many if not most consumers in MTEs/MDUs. Industry has typically defended the arrangements by arguing that such billing arrangements provide higher service levels at lower costs than those available as a single subscriber. However, exclusivity, by definition, impinges upon unfettered competition and the benefits generally presumed from such competition.

- *ISP-Landlord/Property Manager/MTE-MDU Operator Contractual Exclusivity Concerns.* Contractual ISP service exclusivity—along with confidentiality clauses (standard) and durational terms of often more than 5 years and as long as 10 years or more—between landlords and ISPs can, in theory, create environments that prevent new entrants from offering services. This reduces competition and can lead to higher prices and inferior service quality. The FCC has highlighted that these exclusive agreements can effectively lock residents into using a particular provider without the ability to seek better alternatives.
- *Brownfield and Greenfield Considerations.* While existing MTE environments must make the best use of existing infrastructure, newly built environments provide building owners and residents with the greatest opportunity to ensure access to different providers and wiring to the premises. There are telecommunications standards adopted and maintained by the Telecommunications Industry Association for cabling infrastructure in user-owned buildings.⁸¹ In addition, the IAC believes that retrofitting for different technology after a build-out will be inherently more expensive.
- *Transparency Issues.* Contractual arrangements, including but not limited to bulk billing arrangements, can lack transparency, making it difficult for residents to understand the true cost of services they receive. Costs are typically bundled into rent or other fees, obscuring the actual price of the service. This lack of transparency can prevent consumers from making informed decisions about their service options and seeking service with better value. While these arrangements' proponents cite the potential for savings, these claims point to the need for support from actual review of contractual provisions.
- *Service Quality/Adequacy and Consumer Informational Needs and Concerns.* In some cases, the service levels provided under contractual arrangements, including but not limited to bulk billing arrangements, may not meet the needs of all residents. As landlords negotiate these contracts, they may not reflect the preferences or requirements of the individual residents, leading to dissatisfaction and reduced service quality.

necessarily have the incentive to pass on any savings negotiated with an ISP to the tenants. As with true exclusives, landlords have a competing incentive to keep the surplus for themselves rather than pass them on to the tenants.”).

⁸¹ See TR-42 I Telecommunications Cabling Systems, at <https://tiaonline.org/committee/tr-42-i-telecommunications-cabling-systems/>.

- *Contract Duration in Rental Communities.* Long-term contracts⁸² in rental communities,⁸³ including but not limited to bulk purchasing contracts, can lock residents into potentially overpriced services or prevent them from accessing upgraded technologies. Implementing limitations on the duration of these contracts could help ensure that residents have more frequent opportunities to benefit from market competition and technological advancements.

h. MTE/MDUs – Observations about ACP and Other Federal Affordability Programs

In addition to considering how certain contractual arrangements, including but not limited to bulk billing, in MTEs/MDUs may pose challenges to the ACP, the IAC also has observed, with respect to ACP but also other subsidy programs, several critical challenges to the effectiveness of those programs in reaching their intended targets.

- *Eligibility Awareness.* Many residents in MTEs/MDUs may not know their eligibility for Federal subsidy discounts. Landlords and property managers may not, or may not adequately, disseminate program information, leading to under-utilization of available discounts.
- *Application Barriers.* Applying for Federal subsidy discounts can be complex, particularly for residents with limited access to the necessary documentation or digital literacy skills. This can be a significant barrier for low-income residents trying to benefit from the program.
- *Integration with Existing Billing Systems.* Many existing ISP billing systems are not designed to handle the intricacies of Federal subsidy pass-through in billing scenarios where individual accounts do not exist. The systems may lack the modules to differentiate between individual billing and group billing, and thus may be unable to apply individual Federal subsidy discounts.
- *Landlord Cooperation.* Ensuring Federal subsidy discounts reach eligible consumers currently requires cooperation between landlords and property managers. These parties must be willing to adjust billing practices to accommodate the discounts under the current ACP rules in order to ensure eligible tenants receive the benefit(s)
- *Data Sharing and Privacy Concerns.* Efficiently implementing Federal subsidy benefits requires seamless data sharing between ISPs, landlords, and residents. Current systems may not be equipped to handle the secure data exchange necessary to verify eligibility, apply and process discounts.

4. What MTE Consumers and Property Managers/Owners are Saying . . .

The IAC did not have access to any developed record of individual MTE/MDU consumer and landlord attitudes about the bulk-billing internet (and bundled services) arrangements associated with their residences. It is unlikely that any such compendium exists, or, if it does

⁸² See, e.g., Appendix D, Exhibits A, B and C (66 months with 24 months successive period auto-renewals; 13 years with one year auto-renewals; 10 years, with 5 year auto-renewals).

⁸³ It is crucial to differentiate between bulk billing arrangements in rental communities and homeowner associations (HOAs) or condominium communities. In HOAs and condo communities, bulk billing contracts are typically entered into by governing boards that represent property owners. This arrangement differs fundamentally from other rental communities where tenants have no direct representation in decision-making.

exist, that it is routinely maintained, targeted to broadband-specific issues, or that it is extensive enough and rigorously constructed enough for its data to be considered “statistically significant.”⁸⁴ That said, the IAC’s task was not to reach particular conclusions, as would be supported by such data if it existed, about what consumers in MTEs/MDUs think about these issues in granular detail.

However, for the tasks given, the IAC felt it appropriate to consider anecdotal information – gathered from the internet itself – about whether there are voices ‘out there’ challenging the perception, advanced by bulk-billing industry and trade advocates, that bulk-billing is a net-positive feature of MTE/MDU life. Very clearly, as the following excerpts from community blog posts show, there are certainly consumers who feel that there are ‘cons’ to bulk-billings ‘pros.’

From the “Cons” and Q & A list in a South Carolina HOA’s bulletin to residents re: its “Bulk Cable/Internet Contract”:

- All owners must pay – Every owner of an improved lot will be responsible for paying the minimum . . . per month plus fees and taxes even if they do not use all or any of the services”
- You may have to change your email address . . .
- You may not have access to ‘special deals’ . . .
- Contract in place for six (6) years . . .
- “Can I take internet service without taking cable service?”
 - “No, if there is an affirmative vote to take cable plus internet service under this bulk contract, the fee will apply to all residents. You cannot take bulk internet without taking bulk cable under this proposal.”
- “Can [Brand] increase the rates for this bulk service?”
 - “There will be a rate freeze for the first year of this six-year contract. After that, rates may be raised by a maximum of 5% per year.”

From a March 18, 2024 HOA Forum re: a Florida community’s consideration of a bulk cable and internet services contract (5 year term, 6% per year increase cap, and “giv[ing] back” \$155,000 to the HOA to “do with as they see fit”):

A Tennessee respondent,

- “Personally, I don’t like these contracts.
 - (1) I wouldn’t purchase ½ the services you say is ‘a good deal’ (personal choice of viewing). Therefore, why should I be forced to pay for items I do not want?”
 - (2) My daughter utilized streaming for all of here [sic] entertainment needs. Hence, all the entertainment programming would be a waste.
 - (3) Locking into a bulk contract impedes advances in technology. As an example: We had one service provider (other than satellite). Service was provided via coax. Another provider expanded into our area and pulled fiber. Now the current

⁸⁴ The IAC would note, however, that there have been complaints, essentially, submitted to the FCC in the docket(s) examining MTE/MDU broadband access issues. These arguments or complaints, as such, are all publicly available as a matter of record.

provider is pulling fiber. They would not have done that if they had an exclusive access contract (which is what the board would be signing).

- Yes, it's a nice way to raise money [\$115,000 to the HOA]. However, you will still have to raise assessments to pay for the service."

And an Ohio respondent,

- "These bulk contracts seem to be a thing in Florida Here's my take on things:
 - Telecommunications and technology in general changes rapidly. Locking yourself into a particular platform definitely benefits the provider of the services – boy does it. It gives them a predictable revenue stream, so they offer incentives and promotions to entice customers. Once the customers have signed on the dotted line, the provider no longer has to compete for the customers' dollars (at least not for a number of years). Will the company be more focused on keeping current customers happy or on getting new customers? Unknown.
 - As far as locking yourself into a particular platform as a customer, I'd say the company would need to give me a very good deal – otherwise I want to maintain the flexibility so shift in response to changes in technology. . . .
 - So...bottom line, I believe that these contracts primarily benefit the large telecom providers, and these contracts are structured to maintain that benefit. . . . As a homeowner, I want to be free to pick and choose my own entertainment services, drop the ones I don't want if that best suits my budget, and not to be forced to pay for something via assessments that I may not want. In a word: no."

From a Reddit post in May 2024 titled: "Bulk Internet = Monopoly of Services":

- "First time I've ever encountered bulk internet in a rental property and, I have to say, it is the worst idea I've ever heard of.
 - The complex told me that I could increase my speeds (I work in media—video production—and need faster internet speeds), however after speaking with [Brand], I was unable to increase my speeds from 300 mbps to 1Gig because of the bulk internet limitations.
 - This resulted in my having to remind the property management that I had been lied to from day one, which they kindly removed the \$80/month charge from my rent. I was then able to have my own internet service 'installed' through [Brand], which costs \$115/month.
 - In a previous, smaller apartment at a different complex, we had 1GB, [Brand B] Fiber for \$70/month and it was perfect for my download/upload speeds. [Brand B] is available in my area, but they need permission from the property manager/owners to come and assess and install fiber internet. Which, from my quick research is about \$300/unit—I would gladly pay this.
 - And then I get the run-around. Property Management says there's a 'non-compete' issue stipulated in the contract with [Brand]. [Brand] says that there is nothing keeping other ISPs from installing on the property, according to the contract. And then [Brand] says that I'm double-paying for internet, have not been opted out, and that my own internet service will soon be shutdown. . . .

- Bottom-line, this townhouse is awesome. The area is...okay. But this internet issue is a real dealbreaker and I hate that my wife and I are in this dilemma when we're trying to build a family."

From a Reddit post in July 2023 titled: "Seemingly being forced into Cable & Internet [Brand] 'bulk plan' in our Co-Op, when we already had an individual [Brand] internet plan for nearly a decade":

- I have been living in my Co-Op apartment for the last 11 years and had an individual plan with [Brand] for internet only as I don't like to watch cable tv. [Brand] was the only service provider available in my building all these years until recently, like a couple of months ago, [Brand B] was installed and available in our building. This month, I noticed an \$80 cable and internet charge in my maintenance bill. Speaking to property manager, they said they signed a bulk contract with [Brand] and that I can't opt out unless I change providers.
- I called the [Brand] number that the property manager gave me, and [Brand] initially said that I was opted in without my consent or notice because the building owner has the power to do that. But then the rep said that as a resident of the building, I am within my right to opt out by letting my property manager know and keeping my original [Brand] individual plan. I told them that my property manager said I could not opt out unless I change service provider, and the rep told me to tell the property manager that "they know what contract they signed" and cannot keep me in the bulk plan I don't want.
- So I immediately went back to my property manager and he was shocked the rep would tell me that, so he called the number back in front of me to see for himself but in the middle of the conversation with [Brand], the property manager said he needs to leave the office to help someone and ended the call.
- Has anything like this happened to anyone living in a Co-Op building? I have overheard some residents complaining about this issue, and one neighbor in another nearby building had a big fight with their maintenance office about this as they had paid their [Brand] individual plan for the month already and now they have to pay for this bulk plan to their maintenance, basically paying twice for the same service. There has to be some sort of laws, FCC violations associated with this whole messy situation, but I'm not entirely sure what to do at this point.

And, from a 'Bigger Pockets - Multi-Family and Apartment Investing' forum page post from a Pittsburgh, PA poster in 2017:

- Hello All, I am currently in negotiations with [Brand] cable on a internet/cable 10 year exclusivity agreement for a 233 unit complex in Ohio.
- They are offering me 23k upfront (which seems low) 7300 a year in revenue share. They are also trying to sell me on a bulk service deal. The bulk service deal would be for the whole complex. They are stating they would charge us \$42 a month per door and we would sell it for \$75 a month. I don't like this deal because I feel that it will hurt our chance of raising rents in the future under the thought process of tenants believing we are billing them for more things nickel and diming them etc.
- Also is there anything I should know for the non-bulk deal? Is the upfront bonus to low? Thanks!!

The IAC believes a great deal of similar sentiment is being expressed (or felt) by the nation's MTE/MDU dwellers. A sufficient collection of these expressions, particularly if they are candid and in real-time, would be of great value in identifying issues worthy of pursuing in order to reach greater understanding of the relative equities associated with bulk-billing in MTE/MDUs. Presumably, the FCC could assemble such information through traditional means (e.g., by issuing a Notice of Inquiry), or through less formal means, e.g., by engaging with the public through future ACP outreach efforts, or through forums and workshops with State Broadband Offices and Digital Equity Offices throughout the nation.

III. DISCUSSION

A. Landlord and ISP Billing

1. Challenges for Consumer Choice and Competitive Access

The IAC has observed that ISP-Landlord billing arrangements including, but not necessarily limited to, bulk billing for MTEs/MDUs can present certain challenges to (i) ensuring consumer access to federal benefits such as ACP, (ii) ensuring consumer choice (of ISP, service level, as well as information associated with service and choice), and (iii) ensuring competitive access. These issues may be related to the production of results that would normally be expected when competition is robust. Landlord-ISP billing arrangements can present significant challenges for consumer choice and competitive access within MDU and other real estate developments.

At the outset, a key issue is the limited provider options that can result from Landlord-ISP billing agreements. These agreements can leave residents with little or no choice in selecting their internet or video service providers. Such arrangements typically favor a single provider, creating single-provider conditions where residents cannot switch to alternative providers that may offer better or more individually-tailored services, or lower prices. This lack of competition can stifle innovation and lead to higher costs and lower-quality consumer services, directly impacting the residents.

In addition to the limited provider options, other challenges include:

a. ISP-Landlord/Property Manager/MTE-MDU Operator contractual exclusivity concerns.

The exclusive contracts marking the landscape for certain billing arrangements (whether large apartments, HOAs, etc.) create questions that should be answered in order to confirm the net (i.e., overall economic) value of such arrangements.

- *Bid solicitation assurance.* The positive economic value of certain types of contracts, e.g., bulk purchasing arrangements, is confirmable through some examination of the upstream procurement package, *i.e.*, bid solicitations. Without more data and insight about the procurement processes employed by landlords, property managers, HOAs, *etc.*, it is impossible to confirm the economic value of such contracts. This issue deserves further study.
 - The IAC believes that bid solicitation documents would show, among other things, how best practices produce competitive outcomes for price, service quality, and other consumer benefits. These are private-sector data points that are

largely unknown. Thus, an essential tool for examining ISPs' contentions that certain contractual deals, including but not limited to bulk billing, truly benefit MTE/MDU consumers – i.e., bid policies and requirements — is unavailable. This includes price, service quality and options, access to affordability programs, and other benefits. Transparency in bid solicitation is crucial for informed decision-making. ISPs could provide such documents for the bid solicitations they received and/or to which they responded.

- *Exclusive contracts, including but not limited to bulk billing agreements, between landlords and ISPs, in theory, can create environments that prevent new entrants from offering services.* For example, the terms of these arrangements tend to be long in duration, with auto-renewal clauses that can extend the contracts for as many as an additional five (5) years. This can, in theory, lock out competitive opportunities from even being presented because of the long horizon, especially if, as is the norm, the duration of the contracts (and their auto-extendors) is not known in the marketplace by potential competitors due to confidentiality and non-transparency. That, in turn, could reduce incentives to invest in infrastructure around these locations by competitive providers: the theory being that where there are no short- or mid-term competitive opportunities, there is less of a business case for investment. This could reduce opportunities for consumers in terms of choice and, presumably, lower prices or other attractive options and service innovations that typically are associated with competition.
- *Also, a lack of MTE/MDU inventory can exacerbate this effect.* For example, in markets where there is limited supply of units versus a greater demand for those units, the economics of the market favor landlords and property managers. This means landlords and property managers are less constrained to compete for occupants which, in turn, provides less incentives not to mark-up fees for internet service over actual billed costs, and less incentives to ensure transparency of pricing to consumers overall.
- *Further, exclusivity, combined with duration, in MTE/MDU contractual arrangements, including but not limited to bulk billing arrangements, raises questions about the nature of product offerings over time.* For example, service/product bundles in the ISP marketplace, in general, can often evolve in their mix of devices, discounts, and other features. There would theoretically be little incentive to ensure those opportunities, as compared to how they evolve in competitive environments, would be back-filled into locked-in arrangements. This would seem to be a negative outcome for consumers in MTEs/MDUs under such arrangements.

These and other concerns would be substantially alleviated with additional transparency around ISP-Landlord MTE/MDU contractual arrangements, particularly with respect to leverage, pricing elements, and market fundamentals that underpin these bargains. Finally, exclusivity and contractual duration raise questions about the quality of the services provided (over the contract's term), in addition to the negative incentives for potential competition. This reduces competition and can lead to higher prices and inferior service quality. The FCC has highlighted that these exclusive agreements can effectively lock residents into using a particular provider without the ability to seek better alternatives.

b. Other transparency issues.

A lack of transparency in MTE/MDU-ISP contractual arrangements, including but not limited to bulk billing arrangements, can make it very difficult for residents to understand the true cost of services they receive. Costs are typically bundled into rent or other fees, obscuring the actual price of the underlying service. This lack of transparency can prevent consumers from making informed decisions about their service options and seeking better deals. Also, because the fees are not revealed to consumers until lease-signing, the consumers cannot effectively use the information to “shop” for housing bargains (e.g., MTEs where the internet price point and service information may be preferable).

c. Service level adequacy.

In some cases, the service levels provided under these arrangements, including but not limited to bulk billing arrangements, may not meet the needs of all residents. As landlords negotiate these contracts, they may not reflect the preferences or requirements of the individual residents, leading to dissatisfaction and reduced service quality.

2. FCC Consumer Complaints from Low-Income MTE/MDU Consumers seeking ACP in MTE/MDUs with group-based billing

The ACP targets(ed) discounts to eligible low-income consumers for broadband services. However, as described, several challenges exist in ensuring these discounts are effectively applied to individual residents within MDUs. Principal among these challenges – in this context — is group-based billing itself. Following are some of the complaints received from consumers in those environments as they tried, unsuccessfully, to mitigate the impediments to receiving benefits to which they were otherwise entitled caused by non-individual-based billing.

a. Columbus, Ohio – April 24, 2023 (White House-Received).

From the consumer:

I am a senior citizen and on Social Security. I have recently qualified for the Affordable Connectivity Program. Thank you for this program. Everything takes an Internet connection now days (medical appointments, banking, etc.). There is a glitch though. I live in an apartment complex that sub-meters their available Internet service from a major carrier. The apartment company, _____, mandates only their service (_____) and does not allow a tenant a choice to pick their Internet provider. They are a nationwide real estate company. So I imagine there are many apartment tenants that have to pay above market prices for this type of set up, as I have. Today they DENIED me use of this wonderful government program even though they sub-meter off a carrier that is on the list of companies that HONOR your program. There are thousands of people who live in apartments that will face the same problem. I have filed a consumer protection complaint with my Ohio Attorney General. I hope they can help. My complaint #1026983 will be public. I hope there is some way you can help the AG solve this dilemma so that this program will be a total success and added to your list of accomplishments for 2024 election. Again thank you for all you do to stop the fleecing of America.

[No Company response]

b. Boston, Massachusetts – August 21, 2023 (FCC-Received).

From Amy Sangiolo, Attorney General’s Office:

Can you send me a contact to speak with someone about the program? I have had several consumers file complaints with our office because their landlords/property management companies have signed onto bulk internet services and are having a hard time still accessing the ACP program.

Amy Mah Sangiolo Supervising Consumer Specialist Consumer Advocacy and Response Division Office of the Attorney General One Ashburton Place Boston, MA 02108

The ISP’s response:

Dear Ms. Sangiolo:

This letter is in response to your email correspondence, dated August 22, 2023, regarding eligibility to enroll in the Affordable Connectivity Program (ACP) with _____.

_____ subscribes to _____ TV service directly through _____ and receives _____ Internet service through a bulk agreement with her property management.

Pursuant to _____’s implementation of the ACP, which is compliant with ACP rules, customers that receive their _____ Internet service through a bulk agreement are not eligible to enroll in ACP with _____. _____ does not charge residents for the bulk Internet service and, therefore, does not have separate Internet accounts for individual residents to which it could distribute the associated monthly benefit credit. On August 30, 2023, I spoke with _____ to discuss her concerns and advised her of the above information. I provided with my direct contact information should she have further questions.

c. Cleveland, Tennessee – April 10, 2023 (Congressional-Received).

From the consumer:

I qualify for the Affordable Connectivity Program. The apartment complex I live in has a business deal with _____ who will not let us use the ACP. I also cannot use anything other than _____. I’m stuck in . . . what to do . . . & need help.

The Company’s response:

_____ Communications, Inc. (“_____”) hereby submits its response in the above-referenced matter. The Affordable Connectivity Program (“ACP”), a long-term, \$14 billion program, is an initiative from the Federal Communications Commission (“FCC”) designed to help eligible households stay connected. Qualifying customers will receive a monthly credit under the ACP, up to \$30.00. Customers whose monthly rate is more than \$30.00 will be responsible for the difference, and customers whose monthly rate is less than \$30.00 will only receive a credit up to the amount of their monthly internet charges. Please note that these credits will no longer be applied once the program announces no more funding is available.

Ms. J. ___ states that _____ will not apply the ACP credit to her account. As a preliminary matter, the FCC stated in the EBB Program Order that a household that does not pay a

fee for internet service to the provider is not eligible for reimbursement under the program. The FCC maintained that direction would still be applicable under the Affordable Connectivity Program. A representative contacted Ms. ___ to discuss her concern. The representative explained to Ms. ___ that she does not pay ___ directly for internet service. Rather, her internet service is being provided to her by her complex under a bulk agreement that ___ has with the complex. Since Ms. ___ is not being billed directly for internet service, there are not any charges to her account that can be offset by the credit.

i. Boynton Beach, Florida – August 12, 2023 (Congressional-Received).

From the consumer:

Dear Congresswoman ___:

Last year, our community, ____, in ____, signed a bulk contract with ____ for Internet service. They received a large payout of \$250,000 for a guarantee of 719 customers. The question was raised by the residents whether our ACP benefits would be affected for those who were eligible. . . . We were assured over and over there would be no interruption in our receiving this GOVERNMENT program benefit. We have approximately 109 who get it now.

As you can see from the [RECORD INCOMPLETE – GET CLEAN COPY] by our community and ____ that our benefits is being denied to us now, after almost a year and they are saying the FCC is at fault.

If this is true, every, single, community that signs up with them will result in thousands of people losing this benefit. It involves veterans as well who are automatically given this benefit.

They tell us we can redirect the benefit to a cell phone carrier but people receiving Lifeline can receive a cell at no cost, therefore our Government benefit cannot be used.

The FCC was no help when I call[ed] them.

Can you help?

The Company's response, in pertinent part:

. . . In our efforts to offer this Program to your community, our Legal Team met with members of the [FCC] . . . In adopting the Program, the FCC put into place certain rules and regulations for individual participation in the Program, including various verifications for individuals to qualify for the Program. One of those rules requires that the individual show that he/she is directly paying the internet provider, like _____. As an early participant in the Program, _____ has been attempting to determine a way to allow those individuals whose associations are a party to a bulk contract for internet service to participate in the [ACP]. However, after careful review, and even though the FCC Order establishing the ACP notes that those under a bulk contract should be able to participate in the ACP, we have discovered that the current third-party billing concept does not allow for program reimbursement in bulk contract situations.

_____ is taking proactive steps to address this situation and is in the process of soliciting other similar companies to join a letter to the FCC to explain the limitations of bulk billing situation [sic] to the ACP and to collectively advocate for changes that would provide more flexibility in the future.

The Landlord's response, in pertinent part, "to all ACP recipients":

Please read the attached letter from _____ regarding your ACP status. We have been working with _____ for over a year, to allow ACP qualified shareholders to receive their ACP credit for the _____ internet.

They will continue to work to get this resolved, but for now, their billing system does not produce individual invoices under our bulk contract, as required to receive the credit under the FCC and ACP guidelines.

The ACP billing challenge described above is not the only challenge to ensuring that ACP (or future similar program) benefits are effectively applied to MTEs/MDUs residents. Here are other thoughts on the subject.

- **Eligibility Awareness:** Many residents in MDUs may not be aware of their eligibility for ACP discounts. Landlords and property managers may not adequately disseminate program information, leading to underutilizing the available discounts.
- **Application Barriers:** Applying for ACP discounts can be complex, particularly for residents with limited access to the necessary documentation or digital literacy skills. This can be a significant barrier for low-income residents trying to benefit from the program.
- **Landlord Cooperation:** Ensuring ACP discounts reach eligible consumers currently requires cooperation between landlords and ISPs. Under the current ACP program, these parties must be willing to adjust billing practices to accommodate the discounts. Passing on the ACP's benefits to the residents who need them most is difficult without such cooperation under the current ACP program.
- **Lack of Integration:** Many existing ISP billing systems are not designed to handle the intricacies of ACP pass-through in group-based billing scenarios where individual accounts do not exist. The systems may lack the necessary modules to differentiate between individual and group-based billing while applying individual ACP discounts.
- **Data Sharing:** Efficiently implementing ACP benefits requires seamless data sharing between ISPs, landlords, and residents. Current systems may not be equipped to handle the secure exchange of data necessary to verify eligibility and apply discounts.

3. Mitigation Strategies

To address the described challenges and enhance consumer choice and competitive access, the following mitigation strategies could be utilized:

- **FCC-instituted reforms:** The FCC could consider establishing rational constraints around exclusive service agreements as well as other mechanisms. For example:
 - *Durational (e.g., 5 years) limits on contractual arrangements, including but not limited to bulk billing arrangements.* Limit the term of bulk-billing arrangements at MTEs/MDUs to no more than five or seven (*etc.*) years in order to balance the

need for investment recovery with the goals of optimizing choice and competitive access;

- *Shared infrastructure.* Encouraging ISP-neutral conduit, promoting conduit sharing standards; ensuring that ISPs refrain from taking actions that deprive fair access to wiring closets in MTEs/MDUs; promoting collaboration between ISPs and property owners;
 - *Transparency requirements, such as a “Consumer Tenant Broadband Label.”* Establish transparency requirements for bulk-billing arrangements, such as through, among other things, the development of a Consumer Tenant Broadband Label (modeled after the FCC-mandated Broadband Nutrition Label) with key information to aid consumers in choosing the MTE/MDU that best meets their broadband needs, to be disclosed at time of signing rental or purchase agreement at MTEs/MDUs;
 - *Streamline Federal subsidy implementation, including possibility of direct-to-customer subsidy.* Consider rules to facilitate Federal subsidy implementation at MTEs/MDUs with bulk-billing, such as common eligibility verification processes, incentives for landlords and property managers to cooperate, and guidelines for benefit pass-through. In this regard, the FCC could modify the current ACP ‘pass-through’ mechanism to allow ACP benefits to go directly to end-consumers, with sufficient auditing mechanisms for assurance that consumer(s) received the service. This would be an alternative to the existing structure, where the consumer must rely upon the mechanics of the group billing arrangement to ensure individual receipt of the benefit. A further alternative is to require ISPs to pay, e.g., through rebate checks, eligible consumers the value of the benefit as received, on a monthly basis, by the ISPs directly from USAC;
 - *Updates to exclusive marketing and revenue-sharing arrangements.* Consider updates to FCC rules on exclusive marketing and revenue-sharing arrangements to address the increasing reality of renting in MTEs/MDUs; and
 - *Different regulatory frameworks.* Consider different regulatory frameworks for bulk-billing in rental communities, HOAs and condominiums, and assisted and independent living facilities, recognizing the difference in decision-making processes and resident representation (such as accessibility standards at the latter facilities).
- **Leveraging resources of state, local, and Tribal governments.** Also, the FCC should promote and encourage state, county, municipal and Tribal governments to pursue open access policies in MTEs/MDUs. This could consist of encouraging adoption of appropriate measures at the state and local levels to promote equal access to all qualified ISPs, and to ensure that residents have affordable options to meet their service needs. There are also opportunities for State, Local and Tribal governments (e.g., State Broadband Offices, Municipal or Tribal Digital Equity Offices, etc.) to review their mandates, portfolios and other legislative and regulatory options to ensure federal benefits flow-through, consumer information and consumer choice, and competitive access in these environments, and the IAC encourages the FCC to promote these options. Some examples for this kind of collaboration could include:

- **Education and Outreach:** Targeted education and outreach efforts can increase awareness about current ACP eligibility and benefits. Collaborating with consumer advocacy groups and local governments, the FCC can develop informational campaigns to ensure residents know their eligibility and the steps needed to apply for ACP discounts.
- **Incentivizing Landlord Cooperation:** Offering incentives to landlords and property managers who cooperate in passing ACP discounts to eligible residents. This could include tax benefits, grants, or other incentives encouraging landlords to adopt billing practices that accommodate individual discounts.
- **Assistance in the Cost of Upgrades:** Upgrading billing systems can be financially burdensome, especially for smaller ISPs. The costs include software development and implementation, staff training, and ongoing maintenance.

4. Balancing Cost Savings and Competitive Access

While certain contractual arrangements including bulk billing arrangements can offer cost savings in monthly fees and infrastructure costs, it is important to balance these opportunities with the need for competitive access and consumer choice. Mitigation strategies to address the challenges while preserving cost advantages include:

- **Negotiated Discounts:** Landlords and property managers can negotiate discounts from ISPs while allowing residents to choose their preferred providers. This approach can provide cost savings through bulk purchasing while preserving consumer choice.
- **Shared Infrastructure Investments:** ISPs and property owners can collaborate on shared infrastructure investments that reduce costs and improve service quality. Shared infrastructure can benefit from reduced capital expenditures while allowing multiple providers to offer services within the same property, thus maintaining competitive access.
- **Transparency:** Requiring transparency in MTE/MDU contractual arrangements can ensure that cost savings are passed on to residents. Transparent billing practices can help residents understand their charges and make informed decisions about their service options.

Addressing the challenges associated with contractual arrangements between Landlords/Property Owners/HOAs/etc. and ISPs around billing agreements involves, objectively, a multi-faceted approach that may include regulatory reforms, transparency measures, education efforts, and incentives for cooperation. By implementing, facilitating and promoting these strategies, as the case may be, the FCC can ensure that residents in MDUs and other real estate developments can access competitive, high-quality, and affordable broadband services, thereby enhancing consumer choice and fostering a fair market environment. Balancing the cost-saving benefits of MTE/MDU contractual arrangements between ISPs and Property Owners, etc. with the need for competitive access and consumer choice is essential to achieving these goals.

IV. RECOMMENDATIONS

In light of the foregoing, the IAC makes the following recommendations:

A. Enhancing Consumer Choice and Competition

- *Promote Open Access Policies:* Consider tailored requirements around exclusive contractual arrangements, including but not limited to bulk billing service agreements, and otherwise promote open access policies in MDUs by limiting the term of such arrangements to no more than, for example, five years. A five-year limit is proposed for several reasons:
 - **Technology Advancements:** The broadband industry evolves rapidly. A five-year term allows for regular reassessment of service quality and pricing in light of technological advancements.
 - **Market Dynamics:** It provides opportunities for new market entrants and encourages competition, potentially leading to better services and lower prices.
 - **Changing Resident Needs:** Residents' broadband needs may change over time. A five-year limit ensures that bulk agreements can be adjusted to meet evolving requirements.
 - **Balance of Interests:** This timeframe balances providing ISPs with a reasonable period to recoup infrastructure investments while ensuring that consumers can enjoy savings when infrastructure investments have been recouped.

B. Encourage Shared Infrastructure Investments

- *Promote collaboration between ISPs and property owners* through shared, technology-neutral infrastructure such as conduits and wiring closets in order to help reduce costs and improve tenant service quality. This model also encourages competition and consumer choice. Here are specific actions the FCC can promote:
 - **Conduits:** Take steps to ensure ISPs install standardized, ISP-neutral conduit within buildings and from public rights-of-way to buildings, allowing multiple providers to use the same pathways. Use of Multi-Channel Conduit should be encouraged where applicable.

“TENANT BROADBAND LABEL”

[TO BE INCLUDED ON
ISP’S EXCLUSIVE OR
OTHER MARKETING
MATERIALS --
PROVIDE
DESCRIPTION OF]

- ISP’s Privacy Policy
- ISP’s Network Management Policy
- Bulk-Billing Length of Contract Terms
- Cost elements
- ACP or other Affordability program eligibility info
- Other key info

- **Conduit Sharing Standards:** Promote common standards and specifications for conduit sharing among ISPs to facilitate new market entrants and minimize redundant infrastructure.
- **Equitable Access to Wiring Closets:** Ensure ISPs refrain from taking actions that deprive fair access to shared wiring closets or equipment rooms in MTEs, ensuring no single ISP can stop equal opportunities for all providers.

C. Implement Transparency Requirements

- *Establish clear transparency requirements for ISP-Landlord, etc. contractual arrangements, including but not limited to bulk billing arrangements.* By Establishing transparency requirements, the FCC can ensure that consumers have clear, accurate, and complete information about their broadband options, costs, and service terms. This enables tenants to make informed choices and encourages fair competition among providers. The following is an outline for how the FCC can implement these transparency requirements effectively:
 - **Implement Consumer Tenant Broadband Label.** (See Recommendation for Consumer Labels above.) Include, among other things:
 - **Detailed Cost Breakdown:** Require ISPs to provide consumer labels that clearly break down costs, including what landlords and property owners pay, any additional fees, and taxes.
 - **Service Details:** The labels should include information on advertised versus actual speeds, data caps, and any service limitations, opt-fee fees, or restrictions.
 - **Standard ISP Data Exports:** Define standard exports so ISPs can provide FCC data to incorporate in the FCC broadband maps and analysis and inform the regulatory process on a regular basis.
 - **Require Inclusion of FCC Broadband Consumer Labels alongside Consumer Tenant Broadband Labels** in packets and other tenant orientation materials to be provided during walk-throughs or other pre-signing opportunities for tenants to consider.

D. Differentiate Regulatory Approaches

- Develop distinct regulatory frameworks for contractual arrangements, including but not limited to bulk billing arrangements, in rental communities versus HOAs and condominium communities, and assisted and independent living facilities, recognizing the differences in decision-making processes and resident representation. Some examples recommendations could include:
 - **Rental Communities:**
 - **Flexible Service Contracts:** Encourage shorter contract terms or month-to-month agreements to accommodate tenant mobility and facilitate provider switching.
 - **Options Regarding Certain Types of Exclusive Arrangements:** Develop tools (prescriptive or non-prescriptive) to ensure tenants have the

ACP/Discounts Flow Thru!

- *Develop Streamlined Eligibility Verification Processes*
- *Create Incentives for Landlord Cooperation in Bulk-billed environments*
- *Ensure individual-based billing in new contracts for any low-income or extremely low-income residents*
- *Establish Clear Guidelines for Benefit Pass-Through: (These guidelines should account for the differences between rental communities and HOAs/condo communities, ensuring that benefits reach eligible residents regardless of the billing structure.)*
- *“Crack the [Software] Code”, i.e., require ISP bulk billers to ensure their systems enable per-recipient application of ACP (or other) discounts*

option to opt out or choose alternative providers without incurring penalties.

○ **HOAs and Condominiums:**

▪ **Limit Anti-Competitive Service Exclusivity:**

Restrict ISPs from entering into single provider, long-term contractual arrangements, including but not limited to bulk billing agreements, with HOA and condominium boards that limit consumer choice, ensuring multiple ISPs can serve residents.

▪ **Regulate Revenue Sharing:** Enforce limits on revenue-sharing agreements between ISPs and HOAs to prevent conflicts of interest and promote decisions that prioritize resident interests.

○ **Assisted and Independent Living Facilities:**

▪ **Priority Service Standards:** Implement stricter service reliability and maintenance requirements to ensure continuous access for elderly and vulnerable residents.

• **Enhanced Accessibility:** Require ISPs to offer services with accessibility features tailored for seniors, including easy-to-use interfaces and specialized customer support.

E. Facilitate Federal Subsidy Implementation in Group-based Billing Scenarios

To ensure that residents of multi-tenant environments can access federal subsidies like ACP (if re-funded) and Lifeline, group-based billing agreements for MTEs and MDUs must be structured to support these programs effectively, allowing eligible consumers to receive the benefits to which they are entitled as seamlessly as possible.

- **Develop Common, Streamlined Eligibility Verification Processes:** Create simplified processes for verifying Federal subsidy eligibility in group-based billing scenarios.
- **Create Incentives for Landlord and Property Manager Cooperation:** Offer incentives to landlords and property managers who cooperate in passing Federal subsidy discounts to eligible residents.
- **Establish Clear Guidelines for Benefit Pass-Through:** Develop common guidelines for how Federal subsidy benefits should be passed to residents in group-based billing

scenarios. These guidelines should account for the differences between rental communities, HOAs/condo communities, and assisted Living/Independent Licensing facilities, ensuring that benefits reach eligible residents regardless of the billing structure.

F. Improve Data Collection and Analysis

To enhance broadband access and affordability in MTEs/MDUs, the FCC should ensure or promote the following:

- *Standardized Routine Data Collection:* Collect standardized collection of data from ISPs with detail on MTE bulk purchasing and billing agreements to inform regulatory processes and management of federal subsidies.
- *Regular surveys.* Conduct regular surveys of MTE/MDU broadband access and affordability. Implement regular data collection efforts to understand the evolving landscape of broadband access and affordability in MTEs/MDUs.
- *Assessment.* Analyze the impact of common types of contractual arrangements, including but not limited to bulk billing and bulk purchasing arrangements, on service quality and pricing. Conduct studies to understand how these arrangements affect service quality and pricing in MTEs/MDUs.
- *National Broadband Map MTE/MDU-Enhancements and Updates.* Update mapping protocols to collect and integrate MTE/MDU bulk billing data from ISPs to identify service gaps to promote competition; include detailed MTE data on FCC broadband maps, showing providers, subscriber-level information, and whether each unit falls within a subsidized housing program. This could also include granular content and information within the National Broadband Map relevant to MTE/MDUs, including building-specific information and information about bulk-billing arrangements associated with specific MTE/MDUs (contract duration, type of service, speeds and other service-level info, internet infrastructure available, age of MTE/MDU, etc.).

G. Regulatory and Policy Adjustments

- *Consider updates to FCC rules on exclusive marketing and revenue sharing agreements:* Review and potentially update FCC rules to address current market realities in MTEs/MDUs.
- *Explore potential for direct-to-consumer subsidy models:* Investigate the feasibility of providing broadband subsidies directly to eligible consumers, bypassing group-based billing arrangements and ensuring that consumers receive the full benefit of the program(s).
- *Encourage state and local policy innovations:* Support state and local efforts to develop innovative policies that promote broadband access, competition and affordability in MTEs/MDUs.
- *Implement contract duration limits:* Establish requirements limiting the duration of contracts in rental communities to promote regular renegotiation and the adoption of new technologies and ensure consumers share in savings when infrastructure investments have been paid for.

- *Enhance transparency requirements:* Institute new transparency rules requiring ISPs to disclose per-unit costs in MTE/MDU pricing, enabling residents to understand the true cost of their service which, in turn, will better inform their purchasing decisions.

H. Education and Empowerment of Residents

To ensure that MTE/MDU residents are informed and empowered regarding their broadband services, the FCC should focus on providing accessible resources, educational programs, and opportunities for feedback. By increasing transparency and promoting digital literacy, residents can make informed decisions about their broadband options and advocate for improved services.

- *Establish a Resident Resource Center:* Set up an easily accessible online platform and toll-free hotline where residents can learn about their options, understand the terms of their current service arrangements, and get guidance on advocating for better services.
- *Develop Educational Programs:* Create comprehensive educational materials explaining residents' rights regarding broadband services in MTEs/MDUs, including information about group-based billing arrangements and any applicable subsidy programs.
- *Promote Digital Literacy:* Partner with local organizations (e.g., municipal Digital Literacy Offices or State Broadband Offices) to offer digital literacy programs. Programs should recognize and address the diverse needs of consumers, from HOAs and condos to renters and those living in assisted/independent living facilities.
- *Facilitate Resident Feedback Mechanisms:* Establish channels for residents to provide feedback on their broadband services and report any issues with contractual arrangements, including but not limited to bulk billing scenarios, or service quality.

I. Expanding on potential impacts of implementing these recommendations

Potential Positive Impacts:

- Increased competition among ISPs, potentially leading to better service quality and lower prices
- Greater transparency in broadband costs for residents
- Improved ability for eligible residents to benefit from subsidy programs
- More frequent opportunities for communities to renegotiate contracts and adopt new technologies
- Empowered residents with a better understanding of their rights and options
- Improved FCC Broadband Maps and associated meta-data and creating a central source of data on broadband adoption, consumer choice-centric info and subsidy absorption in MTEs.

Potential Challenges in Implementation:

- Resistance from ISPs, Landlords and Property Managers who benefit from current long-term, exclusive, and confidential agreements

- Initial costs for ISPs to update billing systems and implement new transparency measures
- Potential short-term increases in administrative burden for property managers and ISPs
- Possible reluctance from some property owners who prefer the simplicity of long-term, single-provider arrangements
- Need for significant educational efforts to ensure all stakeholders understand new policies and requirements

V. CONCLUSION

Contractual arrangements, including but not limited to bulk billing arrangements, in the rental MTEs/MDUs present opportunities, but also real challenges for broadband access, affordability, competition and other aspects of the broadband experience that are relevant to policy makers at the federal, state, local, and Tribal levels as they consider ways to ensure equitable broadband experiences for their respective constituencies.

While bulk-billed internet (bundled or unbundled with other services) *can* offer cost savings and simplify service provision, they also risk limiting consumer choice—both with respect to providers but also with respect to service options with the provider itself—and complicating the implementation and delivery of benefits like ACP, Lifeline, state universal service dollars, and other subsidy programs. By adopting a balanced approach that promotes competition, enhances transparency, and facilitates subsidy program implementation, policymakers can help ensure that residents of MTEs/MDUs have access to affordable, high-quality broadband services.

Distinctions, with respect to contractual arrangements (including bulk billing arrangements) among rental communities, HOAs/condo communities and assisted/Independent Living facilities highlight the need for nuanced policy approaches. By implementing targeted transparency requirements, limiting contract durations in rental settings, and recognizing the unique dynamics of different residential environments, policymakers can work towards a more equitable and competitive broadband landscape across the spectrum of MTEs/MDUs. These measures, combined with efforts to enhance consumer choice and facilitate subsidy programs, can help ensure that all residents have access to affordable, high-quality broadband services, regardless of their housing situation.

The Affordable Connectivity Program’s current dormant and unfunded status underscores the urgent need for action in this area. As policymakers consider future broadband subsidy programs, addressing the unique challenges of MTEs/MDUs must be a priority. The recommendations outlined in this report offer a roadmap for creating a more equitable, transparent, and competitive broadband landscape in these environments.

VI. Appendix A – Model MTE/MDU Code — Policy Suggestions

State Broadband Office/Digital Equity Office and/or Local Government “Blue Ribbon ISP” Award

Create “award” to incentivize ISPs (including permitting and local zoning variances streamlining bonuses (as decided by the appropriate governmental entity (e.g. extent of zoning variances up to local government)) using the following metrics . . .

- **WiFi Ready Buildings.** (89% of residents won’t move into an apartment that doesn’t have high-speed internet.)
- **Quality of internet service.** (Building owners/managers who have invested significantly in their Internet infrastructure and wireless access points but still have poor performance and upset residents may improve resident experiences by a better Managed WiFi provider.)
- **Tenant Satisfaction with Community-wide high-speed internet.** (Fewest technician appointments)
- **Transparency.** (Include tenants in the decision-making process and provide transparency of offered products and costs)
- **Digital Equity Access and Affordability.** (Qualified low-income/housing authority tenants may benefit from readily available broadband service, especially without the barrier of credit checks. Local or federal incentives could be considered for property owners/operators willing to provide community-wide high-speed internet.)

VII. Appendix B – GLOSSARY

Affordable Connectivity Program (ACP) — Administered by the Federal Communications Commission (FCC), this [currently unfunded] [federal program](#) provides subsidies for low-income, Tribal, and other qualifying households to access home broadband subscriptions and internet-enabled devices.

Blocking – intentionally stopping certain content from crossing its network or stopping content from being downloaded.

Broadband Equity, Access, and Deployment (BEAD) program – A [federal program](#) that provides \$42.45 billion to expand high-speed internet access in the United States and its territories. Find more information in the FAQ, found [here](#).

Bulk Billing Contracts – Under such arrangements, a company agrees to provide service to every tenant of a building, who are then billed a prorated share of the total cost. Under these arrangements, tenants may be billed by either the landlord or the service provider. Key features of such contracts include, but are not limited to, exclusivity of arrangement for bulk billed services, exclusivity of marketing the services, long-term duration with automatic renewal clauses, confidentiality, price increase escalator clauses, and other terms and conditions.

Community Anchor Institution (CAI) — A school, library, health clinic, health center, hospital or other medical provider public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization or Tribal housing organization) or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, children, incarcerated individuals and aged individuals.

Community Based Organization (CBO) — An organization representing and serving a given community or segment of a community. Often structured as nonprofit organizations, CBOs strive to improve community well-being.

Councils of Governments (COG) — Voluntary organizations of local governmental entities that coordinate programs and services to address needs that cross jurisdictional boundaries. Texas has 24 COG regions.

Digital Equity Act of 2021 (DEA) — A federal law authorizing more than \$2.75 billion in grant funding nationwide to support digital inclusion programs. The law was established by the Infrastructure Investment and Jobs Act and requires the National Telecommunications and Information Administration (NTIA) to establish grant programs.

Digital Equity Capacity Grant Program — A tranche of money under the Digital Equity Act of 2021. A Notice of Funding Opportunity was published on March 28, 2024 on the website of the National Telecommunications and Information Administration, at this [link](#). Additional information can be found at this [link](#).

Digital Resources Mapping Tool Survey (DRMTS) — An online inventory of organizations and entities that provide or may be interested in providing digital opportunity-related programs. The DRMTS was widely disseminated over a four-month period, from April to August 2023, to state, county and local agencies, councils of governments (COGs), community-based organizations (CBOs), nonprofits, faith-based groups, community anchor institutions (CAIs), and private sector companies.

Data Included with Monthly Price indicates the amount of data the plan provides before extra fees are charged or performance is decreased. This is also sometimes called a data cap and is typically represented in gigabits (GB) or terabytes (TB). If the plan includes a data usage limit, the provider must disclose on the label any charges or reductions in service for any data used in excess of the amount included in the plan. This is typically displayed as a cost per gigabit. For example, "\$5/GB". The label may also include a link to the provider's website with more details about their data usage limits and any costs for additional data.

Early Termination Fee is a fee a provider will charge subscribers who end service before their contract expires.

Federal Communications Commission (FCC) — An independent governmental agency that regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. The FCC is the United States' primary authority for communications law. It also administers the Affordable Connectivity Program and developed a National Broadband Map.

Fixed broadband services are provided to your home, or a single location. These include cable, fiber optic, DSL, and fixed wireless internet services. [Download a PDF sample fixed broadband disclosure label.](#)

Government Taxes will vary by state and local jurisdiction. Some providers may include these in their monthly price or indicate that they vary by jurisdiction. Other providers will list out applicable taxes line by line.

Infrastructure Investment and Jobs Act (IIJA) — Federal legislation from 2021 that included the Broadband Equity, Access, and Development (BEAD) Program and the Digital Equity Act (DEA).

Internet Service Provider (ISP)— an entity that provides broadband service to subscribers. Broadband refers to all services that supply high-speed Internet to subscribers.

Introductory Rate is a limited time price that providers may offer to customers. If the monthly price is an introductory rate, the label will include either the number of months the rate is in effect or the date on which the introductory period will end, as well as what the monthly price will be once the introductory rate expires. For example, the introductory rate may be \$50 per month for 24 months and then after 24 months the price increases to \$60 per month.

Length of Contract only applies to plans that require a contract. For plans that do require a contract the label will show the term, or number of months, the contract lasts. It will also include

a link to the terms of the contract. Contracts often include early termination fees for canceling before the final month of the contract. If the service plan includes an early termination fee it will be listed in the additional charges and terms section of the label. Note that most plans, including month-to-month plans, are likely to have terms that require the customer's agreement.

Mobile broadband services are device-based and available throughout the service provider's cellular coverage area. They include 3G, 4G, and 5G services offered by mobile, or cellular, providers. [Download a PDF sample mobile broadband disclosure label.](#)

Monthly Price is the cost of the plan before additional charges and monthly fees such as modem rentals and taxes are added. Some providers may offer an all-inclusive price that represents the total cost inclusive of all taxes and fees.

Multi-Tenant Environments (MTE)—The FCC defines MTEs as commercial or residential premises such as apartment buildings, condominium buildings, shopping malls, or cooperatives that are occupied by multiple entities. MTEs also encompass centrally managed residential real estate developments, such as gated communities, mobile home parks, or garden apartment.

National Telecommunications and Information Administration (NTIA) — A federal agency that administers the BEAD and State Digital Equity Planning Grant Programs.

Network Management is how an internet service provider manages the data that moves across their networks. The policy must include information about blocking, throttling, and paid prioritization.

One-Time Fees such as a "connection" or an "installation" fee, or the purchase of a modem or other equipment will be listed on the label. These are fees that are assessed once, often when service is installed or begins. Each one-time fee will be listed along with a description of the fee.

Pass-Through Fees are fees related to government programs that providers may choose to "pass through" to consumers, such as fees related to universal service or regulatory fees. Service providers opting to pass through such fees must itemize the fees they add to base monthly prices and include them in this section.

Paid Prioritization – providing faster download and upload speeds for certain content whether the prioritization is linked to a higher-cost subscription or a deal with content providers.

Privacy Policy— An ISP must include a link to its privacy policy in customer-facing (written or online) materials, and the policy must comply with FCC privacy regulations for cable and phone records. (Consumer Guide: Protecting Your Privacy – Phone and Cable Records)

Provider Monthly Fees are fees that a service provider adds to a customer's bill every month such as a modem rental, online security services, wiring or device insurance, or other equipment related fees. Each fee must be listed out and described on the label.

Public Engagement Model — The model established by the BDO to develop a plan that represents all regions and covered populations from across the state. The model enabled extensive public input through online and paper surveys and regional meetings with communities in all 12 regions of the state, and by engaging state agencies, nonprofit entities, and industry leaders in meetings of the Statewide Working Group and Priority Area Task Forces. Some providers may include all monthly fees and government taxes in their base monthly price. If a provider does include all taxes and fees in their monthly price, they will not be broken out in this section of the label.

Resident – A person in MTE/MDU:

- with right to enter into an agreement (lease) with Property Owner or Landlord with respect to the leased property. For example, in an ‘apartment’ MTE/MDU, the “resident” would typically be the tenant.
- who is legally authorized (e.g., by proper sub-lease) to dwell in the MTE/MDU by the Resident.
- who is the homeowner, condominium owner, property owner etc. in other MTE/MDU types (e.g., condominium, home in a community with HOA, etc., the designation might be “property owner”, *etc.*).
- with ‘power of attorney’ for such Resident (as described above) would be the “Resident” for these purposes.

Typical Download Speed is the speed that data or bits arrive to a device, often measured in Mbps. Higher numbers represent faster speeds. Lower download speeds may impact the quality of video, gaming services, and other applications.

Typical Upload Speed refers to the speed that data can be sent from a device to other devices, often measured in Mbps. Higher numbers represent faster speeds. Upload speed may affect applications that transmit large amounts of information, or bits, such as photo uploads and video conferencing. Lower upload speeds may make it difficult for multiple people in a household to work remotely or attend online classes at the same time.

Typical Latency measures the amount of time it takes for data to travel from one endpoint to another across the internet, in milliseconds. This measurement is often referred to as "lag". Lower latency is an indicator of a higher quality connection, but a small amount of latency associated with the distance travelled is unavoidable. Latency can cause noticeable delays with streaming video, live audio, and online video games. Similar to upload and download speeds the latency shown on the label is what a user should typically expect from the service. High levels of latency can make it difficult to participate in real time communication services like a telehealth visit or a conversation utilizing American Sign Language (ASL).

Throttling – intentionally slowing network speeds for certain content or subscription levels.

VIII. Appendix C – MTE/MDU Tabular Data⁸⁵

[Table 1]

U.S. Households- Renters & Owners				
Type of Household	Households	% of U.S. Total	Residents	% of U.S. Total
Renter-Occupied	45,221,844	35%	102,833,779	32%
Owner-Occupied	84,649,084	65%	222,300,890	68%
Total	129,870,928	100%	325,134,669	100%

Source: 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25003 & Table B25008. Updated 11/2023.

⁸⁵ See Quick Facts Data Download, National Multifamily Housing Council, <https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-data-download/> (last accessed August 28, 2024; All tables in this Appendix C can be downloaded from this webpage).

[Table 2]

State Distribution of Apartment Residents, 2022			
State	Population in Occupied Housing Units	Number of Apartment Residents	Apartment Resident Share of State Population
Alabama	4,932,977	360,897	7%
Alaska	703,525	53,339	8%
Arizona	7,204,265	803,050	11%
Arkansas	2,962,570	213,009	7%
California	38,154,106	6,430,041	17%
Colorado	5,718,342	773,279	14%
Connecticut	3,506,469	376,995	11%
Delaware	995,708	87,073	9%
Florida	21,767,541	2,961,983	14%
Georgia	10,662,548	1,082,935	10%
Hawaii	1,399,322	164,553	12%
Idaho	1,889,199	106,238	6%
Illinois	12,306,684	1,437,112	12%
Indiana	6,654,508	556,726	8%
Iowa	3,101,828	271,332	9%
Kansas	2,850,661	228,287	8%
Kentucky	4,392,235	332,196	8%
Louisiana	4,466,263	304,927	7%
Maine	1,347,918	87,673	7%
Maryland	6,039,338	866,397	14%
Massachusetts	6,744,191	888,586	13%
Michigan	9,821,154	811,408	8%
Minnesota	5,580,990	657,558	12%
Mississippi	2,846,324	168,853	6%
Missouri	6,014,174	453,511	8%
Montana	1,093,570	68,097	6%
Nebraska	1,921,382	217,416	11%
Nevada	3,142,947	432,326	14%
New Hampshire	1,357,936	142,881	11%
New Jersey	9,092,231	1,220,732	13%
New Mexico	2,070,420	140,034	7%
New York	19,062,964	4,527,534	24%
North Carolina	10,417,729	1,003,573	10%
North Dakota	750,434	124,411	17%
Ohio	11,472,112	1,055,599	9%
Oklahoma	3,902,130	313,708	8%
Oregon	4,143,098	526,934	13%
Pennsylvania	12,540,001	943,630	8%
Rhode Island	1,049,452	106,028	10%
South Carolina	5,143,331	372,087	7%
South Dakota	877,678	90,615	10%
Tennessee	6,904,210	635,288	9%
Texas	29,420,404	4,151,861	14%
Utah	3,328,160	303,200	9%
Vermont	622,107	41,478	7%
Virginia	8,447,359	1,026,153	12%
Washington	7,632,260	1,100,857	14%
West Virginia	1,723,088	88,859	5%
Wisconsin	5,755,117	635,089	11%
Wyoming	567,881	35,575	6%

Source: 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25033. Updated 11/2023.

[Table 3]

Distribution of Apartments by Size of Property				
Number of Rental Units on Property	Number of Properties (thousands)	% of Total Properties	Number of Apartments (thousands)	% of Total Apartments
2 to 4	2,215	80%	6,065	18%
5 to 24	419	15%	5,470	17%
25 to 49	75	3%	2,725	8%
50 to 99	15	1%	1,055	3%
100 or more	56	2%	17,683	54%
2 or more	2,780	100%	32,998	100%
5 or more	565	20%	26,933	82%

Source: Rental Housing Finance Survey, U.S. Department of Housing and Urban Development and US Census Bureau. Updated 12/2022.

[Table 4]

What Type of Structure Do Renters Live In?				
Structure Type	Households	Percent	Residents	Percent
Single-Family	14,205,402	31%	40,426,498	39%
2 to 4 Units	7,891,588	17%	17,592,199	17%
5 or More Units	21,278,969	47%	40,017,878	39%
Mobile Homes	1,777,914	4%	4,675,897	5%
Other	67,971	0%	121,307	0%
Total	45,221,844	100%	102,833,779	100%

Source: 2022 American Community Survey, 1-Year Estimates, US Census Bureau, Table B25032 & Table B25033. Updated 11/2023.

[Table 5]

When Were Apartments Built?				
Year	All Apartment Units	All Household Units	Apartment Units Share	All Household Units Share
1939 or Earlier	2,105,327	15,243,949	9%	11%
1940 to 1959	1,870,857	18,565,329	8%	14%
1960 to 1979	5,791,012	31,837,292	25%	24%
1980 to 1999	5,739,150	33,396,979	25%	25%
2000 or Later	7,387,725	35,123,909	32%	26%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023.

[Table 6]

Who Owns the Nation's Apartment Units?				
	All Properties	2-4 Unit Properties	5-49 Unit Properties	50+ Unit Properties
Individual Investor	38%	64%	22%	5%
LLP, LP, LLC, or General Partnership	42%	19%	52%	69%
Real Estate Investment Trust (REIT)	2%	0%	0%	3%
Real Estate Corporation	3%	1%	4%	5%
Nonprofit Organization/Housing Cooperative/Tenant in Common	4%	2%	6%	3%
Trustee for Estate	2%	6%	3%	0%
Other/Not Reported	10%	8%	12%	15%
Total	100%	100%	100%	100%

Source: Rental Housing Finance Survey, U.S. Department of Housing and Urban Development and U.S. Census Bureau. Updated 12/2022.

[Table 7]

Who Owns the Nation's Apartment Properties?				
	All Properties	2-4 Unit Properties	5-49 Unit Properties	50+ Unit Properties
Individual Investor	70%	64%	29%	6%
LLP, LP, LLC, or General Partnership	16%	17%	47%	65%
Real Estate Investment Trust (REIT)	1%	0%	0%	3%
Real Estate Corporation	1%	1%	4%	6%
Nonprofit Organization/Housing Cooperative/Tenant in Common	4%	2%	5%	4%
Trustee for estate	3%	7%	4%	0%
Other/Not Reported	6%	8%	10%	14%
Total	100%	100%	100%	100%

Source: Rental Housing Finance Survey, U.S. Department of Housing and Urban Development and U.S. Census Bureau. Updated 12/2022.

[Table 8]

Residential Property Managers by State		
State	# of Establishments	# of Paid Employees
Alabama	429	4,069
Alaska	49	216
Arizona	1074	11,982
Arkansas	358	2,418
California	8,720	72,048
Colorado	1,492	12,509
Connecticut	497	5,159
Delaware	156	1,437
District of Columbia	313	2,921
Florida	4,661	43,416
Georgia	1,360	13,456
Hawaii	256	2,262
Idaho	316	2,047
Illinois	1,508	13,797
Indiana	691	6,762
Iowa	297	1,848
Kansas	464	3,375
Kentucky	356	2,745
Louisiana	508	3,909
Maine	235	2,284
Maryland	1097	12,302
Massachusetts	1,269	15,682
Michigan	937	16,066
Minnesota	821	10,414
Mississippi	224	1,683
Missouri	742	6,973
Montana	218	1,154
Nebraska	196	2,905
Nevada	581	5,893
New Hampshire	217	2,320
New Jersey	1294	10,837
New Mexico	273	1,329
New York	5,680	41,122
North Carolina	1,928	13,911
North Dakota	149	1,568
Ohio	1,386	14,217
Oklahoma	453	3,046
Oregon	1060	11,128
Pennsylvania	1249	10,997
Rhode Island	186	1,477
South Carolina	766	5,987
South Dakota	101	1,111
Tennessee	851	6,835
Texas	4,110	41,240
Utah	644	3,587
Vermont	143	696
Virginia	1247	13,131
Washington	1,738	12,587
West Virginia	111	607
Wisconsin	653	6,874
Wyoming	94	419
U.S. total	54,158	486,758

Source: 2020 County Business Patterns, US Census Bureau. Note: Figures are primarily for apartment management but also include management of condominiums and single-family rental properties. An establishment is a single physical location at which business is conducted; a company or enterprise may have multiple establishments. Individual properties leased or managed by property lessors or property managers are not normally considered separate establishments, but rather the permanent offices from which the properties are leased or managed are considered establishments. "Lessors of Residential Buildings" (NAICS code 531110) comprises establishments primarily engaged in acting as rental agents for apartments and other rental housing. The establishments in this category include owner-lessors; establishments in this category may manage the property themselves or have another establishment manage it for them. "Residential Property Managers" (NAICS code 531311) comprises establishments primarily engaged in managing residential real estate for others. Establishments and employees are assigned to only one industry, so there is no double counting in the figures above. Neither of these listings include establishments or employees of Real Estate Investment Trusts, which are treated by the Census Bureau as a separate industry. Updated 2/2023.

[Table 9]

Lessors of Residential Buildings and Dwellings by State		
State	# of Establishments	# of Paid Employees
Alabama	904	3,408
Alaska	162	775
Arizona	1,104	9,295
Arkansas	709	2,574
California	9,794	43,104
Colorado	993	5,480
Connecticut	607	2,684
Delaware	196	926
District of Columbia	304	1,779
Florida	4,420	20,326
Georgia	1,761	10,181
Hawaii	284	1,768
Idaho	374	1,045
Illinois	1,907	10,745
Indiana	1,317	6,674
Iowa	689	2,742
Kansas	522	2,558
Kentucky	708	2,935
Louisiana	920	3,812
Maine	285	1,016
Maryland	1,142	9,607
Massachusetts	1,249	7,379
Michigan	1,400	10,154
Minnesota	1,143	6,994
Mississippi	597	2,064
Missouri	1,171	4,985
Montana	313	936
Nebraska	374	1,844
Nevada	660	4,316
New Hampshire	270	1,265
New Jersey	2,197	10,561
New Mexico	350	1,273
New York	11,514	44,528
North Carolina	1,815	7,045
North Dakota	175	585
Ohio	2,259	10,961
Oklahoma	595	2,473
Oregon	1,030	4,420
Pennsylvania	2,079	10,467
Rhode Island	155	808
South Carolina	690	2,794
South Dakota	285	731
Tennessee	1,392	6,263
Texas	5,496	31,025
Utah	499	2,041
Vermont	109	471
Virginia	1,650	9,408
Washington	2,285	10,266
West Virginia	350	1,040
Wisconsin	970	4,701
Wyoming	199	565
U.S. Total	72,373	345,797

Source: 2020 County Business Patterns, US Census Bureau. Note: Figures are primarily for apartment management but also include management of condominiums and single-family rental properties. An establishment is a single physical location at which business is conducted; a company or enterprise may have multiple establishments. Individual properties leased or managed by property lessors or property managers are not normally considered separate establishments, but rather the permanent offices from which the properties are leased or managed are considered establishments. "Lessors of Residential Buildings" (NAICS code 531110) comprises establishments primarily engaged in acting as rental agents for apartments and other rental housing. The establishments in this category include owner-lessors; establishments in this category may manage the property themselves or have another establishment manage it for them. "Residential Property Managers" (NAICS code 531311) comprises establishments primarily engaged in managing residential real estate for others. Establishments and employees are assigned to only one industry, so there is no double counting in the figures above. Neither of these listings include establishments or employees of Real Estate Investment Trusts, which are treated by the Census Bureau as a separate industry. Updated 2/2023.

[Table 10]

Median Household Income Over Time (2022 Dollars)				
Year	Apartment Households (5+ Units)	All Rental Households	All Owner Households	All Households
1988	\$43,791	\$45,523	\$82,468	\$67,122
1989	\$44,858	\$47,219	\$83,337	\$68,288
1990	\$43,034	\$45,307	\$80,849	\$66,964
1991	\$41,003	\$43,410	\$79,942	\$64,470
1992	\$40,689	\$42,157	\$79,251	\$63,609
1993	\$38,483	\$42,011	\$78,586	\$62,788
1994	\$37,707	\$41,562	\$79,164	\$63,450
1995	\$38,406	\$42,534	\$80,370	\$65,290
1996	\$38,485	\$43,578	\$81,748	\$65,614
1997	\$40,171	\$43,790	\$83,124	\$67,316
1998	\$42,338	\$44,878	\$86,173	\$69,680
1999	\$43,915	\$46,550	\$87,830	\$71,232
2000	\$44,864	\$47,481	\$86,723	\$71,374
2001	\$43,402	\$46,312	\$85,311	\$69,626
2002	\$42,305	\$44,934	\$84,720	\$68,949
2003	\$41,349	\$43,265	\$85,390	\$68,639
2004	\$40,352	\$43,062	\$84,771	\$68,307
2005	\$40,461	\$42,646	\$85,481	\$68,936
2006	\$41,376	\$43,554	\$87,029	\$69,715
2007	\$41,099	\$43,820	\$86,830	\$70,564
2008	\$39,967	\$42,601	\$84,420	\$67,971
2009	\$38,186	\$41,996	\$83,873	\$67,614
2010	\$38,038	\$40,258	\$82,074	\$65,884
2011	\$39,029	\$40,591	\$81,296	\$65,049
2012	\$38,237	\$40,850	\$81,572	\$64,118
2013	\$39,481	\$42,917	\$82,227	\$65,947
2014	\$39,582	\$43,266	\$83,984	\$66,259
2015	\$43,356	\$46,350	\$87,420	\$69,173
2016	\$44,987	\$48,769	\$89,250	\$71,750
2017	\$45,411	\$48,257	\$90,321	\$72,594
2018	\$47,780	\$50,297	\$90,568	\$73,452
2019	\$51,199	\$53,099	\$96,667	\$78,978
2020	\$48,770	\$51,324	\$93,755	\$76,873
2021	\$48,022	\$50,756	\$93,964	\$75,790
2022	\$49,010	\$50,500	\$90,100	\$74,202

Source: NMHC tabulations of 2023 Current Population Survey, Annual Social and Economic Supplement microdata, US Census Bureau. Accessed through IPUMS. Updated 3/2024.

[Table 11]

Apartment Households (Millions) by Household Income (2022 Dollars)					
Year	Less than \$20K	\$20K to \$35K	\$35K to \$50K	\$50K to \$75k	\$75k or More
1989	3.3	2.3	2.0	2.5	3.5
1990	3.1	2.2	2.1	2.6	3.4
1991	3.3	2.4	1.9	2.5	3.3
1992	3.5	2.5	2.0	2.5	3.1
1993	3.7	2.8	2.0	2.7	3.3
1994	3.8	2.7	2.1	2.5	3.0
1995	3.6	2.6	2.1	2.2	2.7
1996	3.5	2.6	1.9	2.2	2.8
1997	3.6	2.7	2.0	2.3	3.1
1998	4.1	2.8	2.2	2.7	3.7
1999	3.9	2.8	2.4	2.7	3.9
2000	3.5	2.8	2.4	2.8	4.1
2001	3.5	2.9	2.4	3.0	4.3
2002	3.8	2.8	2.3	2.9	4.1
2003	4.0	2.9	2.4	2.8	4.2
2004	4.1	3.0	2.3	2.8	3.9
2005	3.9	2.9	2.5	2.7	3.7
2006	4.1	2.9	2.4	2.8	3.7
2007	4.0	3.1	2.6	3.0	3.8
2008	4.1	3.0	2.7	2.8	4.1
2009	4.3	3.3	2.6	2.8	3.9
2010	4.5	3.4	2.5	2.8	3.7
2011	4.7	3.5	2.6	2.8	3.8
2012	4.9	3.5	2.9	2.9	4.0
2013	5.2	3.6	2.7	3.0	4.3
2014	5.0	3.4	2.6	3.0	4.4
2015	5.0	3.6	2.6	3.0	4.8
2016	4.8	3.3	2.8	3.2	5.5
2017	4.7	3.3	2.8	3.3	5.7
2018	4.4	3.3	2.7	3.1	5.8
2019	4.3	3.2	2.5	3.3	6.1
2020	3.7	3.0	2.3	3.1	6.1
2021	4.1	3.0	2.4	3.1	6.1
2022	4.4	3.3	2.6	3.2	6.3
2023	4.3	3.1	2.6	3.4	6.4

Source: NMHC tabulations of 2023 Current Population Survey, Annual Social and Economic Supplement microdata, US Census Bureau. Accessed through IPUMS. Updated 3/2024.

[Table 12]

Households (millions) by Household Income				
Household Income	Apartment Households	All Households	Apartment Households Share	All Households Share
Less than \$20,000	5.0	16.1	23%	12%
\$20,000 - \$34,999	3.4	14.0	16%	11%
\$35,000 - \$49,999	2.8	13.6	13%	10%
\$50,000 - \$74,999	3.8	21.2	18%	16%
\$75,000+	6.4	64.9	30%	50%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023.

[Table 13]

Share of Apartment Households with Children				
All Apartment Households	Households in Apartments Built Before 1990	Households in Apartments Built 1990-1999	Households in Apartments Built 2000-2009	Households in Apartments Built 2010-2019
18.8%	19.5%	21.0%	19.8%	15.0%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023. Note: Children are household members under the age of 18.

[Table 14]

Households (Millions) by Living Arrangement				
Living Arrangement	Apartment Households	All Households	Apartment Households Share	All Households Share
Single Male	5.1	16.9	24%	13%
Single Female	5.8	20.3	27%	16%
Couple Only	3.9	44.4	18%	34%
Couple with Children	2.0	26.0	9%	20%
Single Parent	1.7	7.8	8%	6%
Roommates	1.2	3.6	6%	3%
Other Households	1.5	10.8	7%	8%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023.

[Table 15]

Households (Millions) by Number of Members in Household				
Number of Members in Household	Apartment Households	All Households	Apartment Households Share	All Households Share
1	10.9	37.2	51%	29%
2	5.9	44.5	28%	34%
3	2.3	19.9	11%	15%
4+	2.1	28.3	10%	22%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023.

[Table 16]

Households (millions) by Number of Vehicles Per Household				
Number of Vehicles per Household	Apartment Households	All Households	Apartment Households Share	All Households Share
0	5.2	10.7	25%	8%
1	11.0	43.1	52%	33%
2	4.3	47.9	20%	37%
3 or More	0.7	28.1	4%	22%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023.

[Table 17]

Age Distribution of Population				
Age Distribution	People in Rental Housing	Share	People in Owner-Occupied Housing	Share
Under 30 Years Old	48,778,190	48%	72,816,494	33%
30 to 44 Years Old	24,249,860	24%	41,872,600	19%
45 to 64 Years Old	19,147,544	19%	62,188,973	28%
65 Years and Older	10,339,650	10%	45,741,358	21%
Total	102,515,244	100%	222,619,425	100%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023. Note: Does not include non-housing units.

[Table 18]

Age Distribution of Householders				
Age	People in Rental Housing	Share	People in Owner-Occupied Housing	Share
Under 30 Years Old	10,377,250	23%	3,872,354	5%
30 to 44 Years Old	14,500,158	32%	19,404,442	23%
45 to 64 Years Old	12,596,373	28%	33,659,486	40%
65 Years and Older	7,649,589	17%	27,811,225	33%
Total	45,123,370	100%	84,747,507	100%

Source: NMHC tabulations of 2022 American Community Survey microdata, US Census Bureau. Updated 11/2023. Note: Does not include non-housing units.

IX. Appendix D – MTE/MDU Contract Examples

RESIDENTIAL BROADBAND BULK SERVICES AGREEMENT
(RESTATED AND AMENDED AS OF DECEMBER 1, 2017)

This Residential Broadband Bulk Services Agreement (the "Agreement") is made and entered into as of December ____ 2017, by and between [REDACTED] having its principal office at [REDACTED] Bozeman, MT [REDACTED] and the [REDACTED] Community Association, Inc. (the "Association") having its principal office at [REDACTED] Bozeman, MT [REDACTED]. This Agreement is a combined restatement and amendment to the Broadband Bulk Services Agreement ("2005 Bulk Service Agreement") between the Association and [REDACTED], replacing such 2005 Bulk Service Agreement and any amendments thereto in their entirety.

RECITALS

WHEREAS, the Association entered into the 2005 Bulk Service Agreement with Vivid to secure bulk local exchange and long distance residential telephone services (the "Voice Services"), and bulk broadband Internet services (the "Bulk Internet Services") and bulk multi-channel video services (the "Video Services") (collectively referred to herein as the "Bulk Services") and other services (the "Other Services") for use by Residents within a the [REDACTED] Community located in the northwest corner of Bozeman, Montana at a discounted rate;

WHEREAS, in 2007 [REDACTED];

WHEREAS, the 2005 Agreement was amended on January 29, 2009 to: (1) eliminate the Voice and Video Service payment obligations of the Association; and (2) provide for direct billing to Residents for Bulk Internet Services, while still allowing Residents the option to subscribe for Voice, Video and Other Services offered by [REDACTED] ("First Amendment");

WHEREAS, in October of 2010, the 2005 Agreement and First Amendment were assigned by [REDACTED] to [REDACTED] as part of a merger of the two companies;

WHEREAS, since October of 2010, [REDACTED] has continued to market and provide the Bulk Services to the certain residents within [REDACTED] Community;

WHEREAS, the Association initiated a lawsuit in 2015 challenging the enforceability of the 2005 Agreement, [REDACTED] in the Eighteenth Judicial District Court, Gallatin County, Montana ("Lawsuit");

WHEREAS, the Association and [REDACTED] settled the Lawsuit in November of 2017, the terms of which included their mutual agreement to revise and amend the terms of the 2005 Bulk Services Agreement;

WHEREAS, [REDACTED] and the Association now desire enter into this Agreement as the restated and amended version of the 2005 Bulk Services Agreement as contemplated by their settlement of the Lawsuit;

NOW THEREFORE, [REDACTED] and the Association (the "Parties") agree as follows:

1. Term. The Agreement Term shall continue from until November 30, 2030 (the "Agreement Expiration Date"), unless terminated earlier as provided herein. The Agreement shall be renewed automatically for a one-year term unless either party provides written notice to the contrary at least 60 days prior to the end of the applicable term.
2. Residents. In this Agreement, the term "Residents" means the owners of single family homes or units within multi-family buildings, which have been certified for occupancy by the City of Bozeman, located within the Covered Property and capable of receiving Bulk Services from Opticom.
3. Covered Property. The property covered by this Agreement is identified in the attached Exhibit C which may be updated from time to time by mutual written agreement of the Parties (the "Covered Property").

As of the date of this Agreement, the Association believes it has the power to assess Residents for the Bulk Internet Fees contemplated by this Agreement pursuant to the following Declarations and Memorandum (and other recorded documents effecting the Covered Property):

- A. Community Declaration for [REDACTED] Community recorded as Document [REDACTED], in the offices of the Clerk and Recorder [REDACTED], Montana ("Community Declaration");
- B. Amended Community Declaration for [REDACTED] Association recorded as [REDACTED], in the offices of the Clerk and Recorder [REDACTED], Montana ("Amended Community Declaration"); and
- C. Memorandum of Homeowners Association Contract and Notice of Inclusion in Homeowners Assessments for Mandatory Telecommunications Services recorded as [REDACTED], in the offices of the Clerk and Recorder [REDACTED], Montana ("Memorandum")

However, if for any reason, it is determined by a valid court order or judgment ("Excluded Property Decision") that the Association does not have the power to assess Residents within any portion of the Covered Property for the Bulk Internet Fees provided herein, such property shall be excluded from the Covered Property ("Excluded Property") and the Association shall have no further obligation to pay [REDACTED] the Bulk Internet Fees for those Residents within the Excluded Property. Furthermore, Opticom shall have

no obligation to the Residents or their any related association(s) within the Excluded Property to provide Bulk Services to them under the terms of this Agreement.

4. [REDACTED] s Obligations.

4.1. Facilities. It is [REDACTED] s intent to install fiber optic infrastructure, supply lines, and other facilities (collectively, the "Facilities") sufficient for the provision of telecommunications services" including voice, data and video services to each living unit within the Covered Property, subject to applicable Regulations and Tariffs. The Facilities shall include, without limitation, the backbone infrastructure, any necessary interim substructure prior to the installation of the fiber optic lines, and an optical network interface for each single family home or multi-family building within the Covered Property ("Living Units"). [REDACTED] shall be responsible for all costs associated with placing and maintaining its Facilities, up to and including the minimum point of entry ("MPOE"), but not past that point. [REDACTED] will own all Facilities, including without limitation, all fiber optic and copper cable facilities and equipment it places, up to and including any and all devices installed on the interior and exterior of any Living Unit within the Covered Property including the Optical Network Terminal ("ONT"), its power supplies and switches, and any associated equipment. To the extent [REDACTED] provides video services, [REDACTED] shall be responsible for all costs associated with constructing, managing, and maintaining the video equipment, including any head end and set top boxes. [REDACTED] will pay for monthly electric power costs for the head end equipment. [REDACTED] will own any video head end equipment and set top boxes.

4.2. Services. [REDACTED] will provide the Bulk Services and the Other Services (collectively, the "Services") to the Residents in accordance with the telecommunications technology that is available to the Residents through the Facilities and as further described in Exhibit A. [REDACTED] will only provide residential type services to Residents pursuant to this Agreement. Any commercial services provided by [REDACTED] within the Covered Property shall not be governed by this Agreement. [REDACTED] shall have the sole discretion with the respect to the addition, deletion, selection, distribution and/or pricing of the Services except as expressly set forth in this Agreement. [REDACTED] will provide the sales personnel and processes through an established call center to adequately support the timely and effective signup of Residents for the Services when and as requested by Residents. [REDACTED] further agrees to staff the call center with an [REDACTED] employee specifically trained to answer the Residents' questions and resolve any service or other problems in a timely manner.

4.3. Service Level Agreement ("SLA") & Performance Standards. [REDACTED] shall deliver and generally maintain the Services in accordance with the Service Level Agreement & Performance Standards established in "Exhibit B" of this Agreement and all local license requirements and industry standards. Customer care, billing, network performance, maintenance and repair, and refund policies for the Bulk Services shall be consistent with these standards as well as defined in applicable Federal

Communications Commission and Montana state tariffs. [REDACTED] will reasonably cooperate with the Association to bring future advanced services to the Covered Property, taking into account [REDACTED] business plan, the Facilities' architecture and capabilities, licensing, and competitive and commercial feasibility.

4.4. Marketing Program. During the Agreement Term hereof, [REDACTED] will implement, at its cost, a Marketing Program (the "Program") for the Services it offers to the Residents. Such Program is described as set forth in Exhibit D attached hereto and made a part hereof. [REDACTED] will provide the Association's with appropriate promotional material(s) to provide to new Residents at no cost to the Association.

5. Association's Obligations.

5.1. Right of Access. Subject to the limitations set forth in this Agreement, the Association will permit employees, agents, or contractors of [REDACTED] reasonable access, at no charge, to the Covered Property for the purpose of marketing of Services, conducting customer satisfaction surveys, and performing any and all work required of [REDACTED] hereunder. The Association further grants [REDACTED] the use of any and all easements and access rights granted to or reserved by the Association in any recorded declarations, plats or other instruments for the limited purpose of installing and maintaining [REDACTED] Facilities. Unless otherwise required by law or as limited in this Agreement, this right of access shall survive this Agreement for as long as [REDACTED] owns telecommunications Facilities and equipment on the Covered Property. Nothing contained herein shall be construed to convey or otherwise transfer title to the telecommunications facilities to be installed herein from [REDACTED] to the Association or any other entity; [REDACTED] is, and shall continue to be, the sole and exclusive owner of said telecommunications facilities.

5.2. Resident List. Attached is current list of the Residents of Living Units within the Covered Property ("Resident List") attached as Exhibit F. The Resident List distinguishes between those Living Units currently capable of receiving Opticom's Bulk Internet Services whose Residents are included in [REDACTED] current billing for Bulk Internet Services to the Association (Marked "B" on the Resident List), and those Living Units [REDACTED] has yet to connect and/or bill for its Bulk Internet Services (Marked "U" on the Resident List). The Association shall update the Resident List monthly with any new Living Units within the Covered Property and change in ownership of the Residents. [REDACTED] shall provide monthly updates to the Association indicating any additions of the Living Units that are connected and billed for Bulk Internet Services.

5.3. Marketing Representative Tasks.

5.3.1. The Association agrees to include [REDACTED] marketing materials in welcome kits or other information provided to new Residents, and no collateral or other marketing materials referencing a competing provider

- of voice, data or video services may be provided to Residents, without [REDACTED] prior written approval.
- 5.3.2. The Association shall not market or promote any services competitive with the [REDACTED] Bulk Services to Residents and shall not otherwise grant any rights or licenses inconsistent with, or which impair or interfere with the Association's marketing obligations hereunder during the Agreement Term.
- 5.3.3. For the ordering of Services, the Association shall, upon request, direct new Residents to request orders for Bulk Services directly from [REDACTED] in accordance with the promotional material provided by or approved by [REDACTED] for the ordering of such Bulk Services.
- 5.3.4. Promotional events supporting the Bulk Services will be permitted at mutually agreed upon times, dates and locations at the Covered Property.
- 5.3.5. The Association shall include on its website a link to [REDACTED] website.
- 5.4. Bulk Internet Service Fee. The Association shall pay [REDACTED] the Bulk Internet Service Fees as set forth in Exhibit A. The Association shall collect for Bulk Internet Service Fees from Residents through an assessment chargeable to all Residents within in the Covered Property capable of receiving the Bulk Internet Services as indicated on the current Resident List. Notwithstanding the foregoing, the Association is responsible for payment of all charges directly to [REDACTED] irrespective of whether the Association collects such fees from individual Residents. If other Services are added on a bulk basis in the future, the Association shall pay [REDACTED] the agreed fees associated with such new bulk service as mutually agreed by the parties.
- 5.5. Other Services. [REDACTED] may offer other Services (excluding Bulk Internet Service) directly to Residents for separate fees, which will be in addition to the Bulk Internet Service Fee paid by the Association. All fees for such other Services are payable by the respective Residents who subscribe to such Services and the Association shall have no liability for the payment of any such fees for other Services offered directly to Residents on a bulk or non-bulk basis.
- 5.6. Wiring specifications and requirements. The Association shall provide to all Builders a copy of [REDACTED]-provided specifications for minimum inside wiring requirements for newly constructed Living Units to utilize [REDACTED] Services. Owners' Association shall make all Builders aware that should these minimum requirements not be met the end user may be unable to utilize some or all Services provided hereunder, or may be responsible for additional installation charges to [REDACTED] [REDACTED] shall provide at its own expense, and the Builders shall install conduit from the utility pedestal/property line to the side of the home. Conduit design and placement shall comply with [REDACTED] specifications.

6. General.

- 6.1. Assignment. It is expressly agreed by the Parties hereto that Owners' Association may assign its rights and obligations hereunder to any third party purchaser or subsequent owner with respect to all or any portion of a particular Property, provided Owners' Association notifies ██████████ of such intent. Owners' Association will endeavor to notify ██████████ of such intent at least ninety days prior to assignment. Such third party is referred to as the "Assignee". Assignee's acceptance of the obligations under this Agreement with respect to the portion of the Property assigned (the "Assigned Parcel") shall be evidenced by an agreement (the "Assumption Agreement"), substituting Assignee as "Owners' Association" herein for the Assigned Parcel. Notwithstanding the foregoing, Opticom shall have the right to terminate, at its sole discretion, this Agreement as to the Assigned Parcel by providing notice in writing to Owners' Association within ninety days after being informed of Owners' Association's intent to assign. Upon mutual agreement to proceed, the Parties shall sign such Assumption Agreement within thirty (30) days following the closing of the conveyance of the Assigned Parcel. In the event that the Assignee enters into the Assumption Agreement, Owners' Association shall be relieved of any further responsibilities under this Agreement with respect to the Assigned Parcel, effective after the effective date of the Assumption Agreement, unless, according to the terms of the Assumption Agreement, Owners' Association retains such responsibilities. In the event neither ██████████ Assignee nor Owners' Association agrees to assume the obligations under this Agreement for the Assigned Parcel or in the event neither ██████████ Assignee nor Owners' Association performs the obligations after assuming them and ██████████ shall have the right, without being in default hereunder, to enter into a separate agreement with the Assignee.

Except as provided above, neither party shall assign or sublicense its interest in this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld.

- 6.2. Attorney's Fees. In the event any party to this Agreement shall be required to initiate legal proceedings (i) to interpret or to enforce performance of any term or condition of this Agreement; (ii) to enjoin any action prohibited hereunder; or (iii) to gain any other form of relief whatsoever, the prevailing party shall be entitled to recover such sums, in addition to any other damages or compensation received, and will reimburse the prevailing party for reasonable attorneys' fees and court costs incurred on account thereof notwithstanding the nature of the claim or cause of action asserted by the prevailing party.
- 6.3. Compliance with Laws. The Parties agree to comply with all applicable federal, state, county, and local laws, ordinances, regulations, and codes (including the identification and procurement of required permits, certificates, approvals, and inspections) in their performance under this Agreement. Each Party will defend,

BULK CABLE SERVICE AND RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of [REDACTED] 2013 (the "Effective Date"), by and between [REDACTED] Association, Inc. ("Customer"), located at [REDACTED] FL [REDACTED], and [REDACTED] with offices at [REDACTED] FL [REDACTED].

Recitals

Customer is the Association of [REDACTED] located at [REDACTED] FL [REDACTED], more particularly described on **Exhibit A** (the "Premises"), which contains approximately Five Hundred Ninety Eight (598) total Units (as defined below), and desires [REDACTED] to provide Services (as defined below), to the Units. [REDACTED] has a franchise, certificate or other legal right to provide such services in [REDACTED] Florida (the "Territory"), and desires to provide such services to the Units.

In consideration of the mutual covenants, terms and conditions herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Definitions

"Bulk Services" shall mean Bulk High-Speed Internet Service and Bulk Digital Cable Service

"Bulk High-Speed Internet Service" shall mean high-speed internet access with wireless capability provided by [REDACTED] through [REDACTED] and/or, at [REDACTED] sole discretion, any other brand of high-speed internet access [REDACTED] may choose to offer at the discounted bulk rate. [REDACTED] shall use commercially reasonable efforts to provide internet access with maximum speeds of [30] Mbps for downloads and [2] Mbps for uploads.

"Bulk Digital Cable Service" shall mean the television channels provided by [REDACTED] on a bulk basis hereunder, the initial lineup of which is set forth in **Exhibit B**. [REDACTED] reserves the right, in its sole discretion from time to time, to make changes, additions or deletions to this initial channel lineup. Bulk Digital Cable Service shall also mean the provision of one set-top box per unit, being one of the following: a Digital Set-Top Box, a Digital DVR Set-Top Box, an HD Set-Top Box or a Digital HD DVR Set-Top Box. In the event a Unit selects a DVR Set-Top box or additional equipment, then the residents shall be billed directly for the recurring monthly DVR service fee or additional equipment. The Resident shall be required to sign for responsibility of the set-top box provided, otherwise, [REDACTED] shall not be required to provide a set-top box to said Unit and the Unit shall not then be exempt from the Bulk Services Fee.

"Competitive Service" shall mean any service that competes with or is substantially similar to any Service.

"FCC" shall mean the Federal Communications Commission.

"Other Services" shall include telephone service, movie channels, pay services, pay-per-view channels, pay-per-view programs, video on demand, Internet services other than Bulk High-Speed Internet Service, personal computer data networking services, and any other one- or two-way entertainment, data, information or telecommunications services available now or in the future (other than Bulk Services) which [REDACTED] in its sole discretion decides to offer to the Units.

"Services" shall mean Bulk Services and Other Services collectively.

"System" shall mean a system of coaxial cable, fiber optic cable or lines, and/or other types of cable lines, and/or other wireline or wireless delivery system located on the Premises that is owned and used by [REDACTED] for the provision of Services.

"Resident" shall mean any resident or tenant of any Unit.

"Term" shall mean the period of effectiveness of this Agreement as set forth in Section 2.

"Unit" shall mean any residential dwelling unit or commercial space at the Premises.

Terms & Conditions

1. **Bulk Services.** Subject to the terms and conditions of this Agreement, Customer hereby grants to [REDACTED] the right to provide Bulk Services to each Unit. Customer shall supply to [REDACTED] the names and Unit numbers of Residents at reasonable intervals. Customer shall fully cooperate with [REDACTED] to prevent, but shall not be liable for, (i) any unauthorized possession of cable converters or channel selectors, and (ii) any unauthorized reception of the Services.

2. **Term.** This Agreement shall be in effect for an initial term commencing on the Effective Date and expiring Ten (10) years after the date on which [REDACTED] activates billing for Services hereunder, and shall remain in effect and be automatically renewed for successive Five (5) year terms thereafter unless Customer or [REDACTED] provides to the other party written notice of non-renewal at least ninety (90) days prior to expiration of the then-current term.

3. **Right of First Refusal.** If, at the end of the Term Customer receives any offer from any third party for the right to provide any Competitive Service at the Premises on a bulk billing or exclusive basis, or to market any Competitive Service at the Premises or via any website, communications, materials or other means directed to the Premises or to any Unit or Resident, Customer shall provide to [REDACTED] immediate written notice of such offer, and for a period of fifteen (15) business days after receipt of such notice, [REDACTED] shall have the right to match such offer under equivalent or better terms and conditions.

4. **Non-Exclusivity.** Customer hereby grants to [REDACTED] the following rights during the first Ten (10) years of the Term: (a) the exclusive right to market any Service or any Competitive Service at the Premises or via any website, communications, materials or other means directed to the Premises or to any Unit or Resident and (b) the non-exclusive right to provide high speed internet service to the Premises. Where any law or regulation prohibits Customer from granting or [REDACTED] from receiving exclusive rights to the extent granted in this Section 4, then this Section 4 shall be deemed automatically amended to grant [REDACTED] exclusive rights to the maximum extent allowed under such law or regulation. Customer shall not grant to any third party any right to provide any Competitive Service at the Premises on a bulk billing or exclusive basis, or the exclusive right to market any Competitive Service at the Premises or via any website, communications, materials or other means directed to the Premises or to any Unit or Resident.

5. **Bulk Services Fee.** The fee for Bulk Services shall initially be as set forth in Exhibit C (plus applicable taxes and fees) (the "Bulk Services Fee"). Customer shall pay the Bulk Services Fee for all Units regardless of whether such Units are occupied. On January 1, 2015, and each subsequent January 1st, [REDACTED] may increase the Bulk Services Fee not more than Five percent (5%) per year. [REDACTED] shall invoice Customer on the first day of each month for the Bulk Services Fee on a monthly basis in advance, and payment by the Customer shall be due within thirty (30) days after the date of such invoice; provided that if [REDACTED] fails to issue Customer an invoice prior to the first day of any month for which Bulk Services are being provided, such failure shall not constitute a waiver of the Bulk Services Fee for such month, and Customer promptly shall pay such invoice when delivered by [REDACTED] subject to any reduction per Section 18.

6. **Bulk High-Speed Internet Service.** Bulk High-Speed Internet Service shall be installed for on one outlet with one modem and wireless capability per Unit.

7. **Other Services.** [REDACTED] may contract directly with any Resident to provide Other Services directly to such Resident. [REDACTED] shall set the fees for Other Services and shall bill such Resident directly for such fees. Customer shall not be liable for such fees owed by any Resident.

8. **Ownership of the System; Electricity.** During the Term, (a) the System and all property (other than the System) placed on the Premises by [REDACTED] (the "[REDACTED] Property") shall be and remain the sole and exclusive property of [REDACTED] and shall not be deemed to be affixed to or to become part of the Premises, (b) [REDACTED] shall have the sole and exclusive right to possession of and dominion and control over the System and [REDACTED] Property, (c) Customer shall not, and shall not authorize any third party (including but not limited to any Resident) to, tamper with, attach to or use any portion of the System or [REDACTED] Property, or interfere with the provision of any Service, without the prior written authorization of [REDACTED] (d) any use of the System or any [REDACTED] Property by Customer or any third party, whether with or without the consent of [REDACTED], shall not disturb [REDACTED]'s continued right to ownership of such property, (e) Customer shall provide [REDACTED] sufficient access to the Premises' electrical system to provide the Services, and (f) [REDACTED] may remove any and all of the System and any [REDACTED] Property. Customer shall be responsible for all costs associated with the repair of any damage to the System arising out of any breach of clause (c) above. If [REDACTED] fails to remove by the end of the Term any part of the System or any [REDACTED] Property, then [REDACTED] shall retain all the sole ownership and rights to its System and Property.

9. **Damage to Premises.** If [REDACTED] damages the Premises through improper or negligent installation, inspection, removal, maintenance, testing, replacement, relocation or upgrading of the System or any of the [REDACTED] Property, [REDACTED] shall promptly repair such damage at [REDACTED] sole cost and expense.

10. **Service Interruptions.** [REDACTED] shall not be liable for any interruption of Bulk Services other than interruptions of more than twenty-four (24) consecutive hours caused by reasons within [REDACTED] control, in which event [REDACTED] sole liability for such interruption shall be to make available to Customer a pro rata credit against the Bulk Services Fee calculated based on the length of such interruption.

11. **Costs and Attorney's Fees.** If it becomes necessary for either party to enforce or defend its rights created herein against the other party, the prevailing party shall be entitled to reimbursement from the other party of all costs, including reasonable attorney's fees through appeal, incident to enforcement or defense of its rights

12. **Customer Service.** [REDACTED] shall provide customer service in accordance with any applicable (a) franchise agreement with the Territory, (b) FCC regulation and (c) legal requirement. [REDACTED] shall maintain a local or toll-free telephone number which shall be available to its subscribers twenty-four (24) hours a day, seven (7) days a week. [REDACTED] representatives shall be available to respond to Customer telephone inquiries during normal business hours. [REDACTED] shall begin working on any service interruption promptly and in no event later than the next business day after notification of the interruption, excluding any interruption resulting from any condition beyond the control of [REDACTED].

13. **Promotion of Services.** Customer shall (a) acknowledge [REDACTED] in all advertising publication materials used to promote the Premises; (b) distribute any material provided by [REDACTED] describing the Services to current and prospective Residents; (c) display [REDACTED] marketing and sales materials in any sales office and common areas of or for the Premises; (d) include [REDACTED] contact information in Customer's welcome letter and utility contact list, along with any marketing material provided by [REDACTED]; (e) permit [REDACTED] to display signage at mutually agreed locations on the Premises; (f) permit [REDACTED] to periodically host events at the Premises (at [REDACTED] expense) in order to introduce and sell Services to current and prospective Residents; and (g) permit [REDACTED] to place advertisements or information about the Services in any Customer newsletter, bulletin, website or other communications or materials directed to the Premises and/or the Residents. Customer shall promptly direct to [REDACTED] any request for any Service received from any Resident.

14. **Inspection of System; Notification Requirement.** No less than one time per calendar quarter during the Term, Customer shall cause its on-site management to carefully and diligently inspect the pedestals, lockboxes, and other secured or accessible areas housing the components of the System to ensure the integrity thereof and to ensure that no other party has accessed or is using the System. Customer shall promptly notify [REDACTED] when Customer becomes aware of (a) any damage to, or forced or unauthorized access to or use of, the System, including any pedestal, lockbox, or other secured or accessible area housing any components of the System, or (b) any condition or occurrence that is likely to adversely affect the System or provision of Services.

15. **Operation and Maintenance.** [REDACTED] shall, at its own expense, operate and maintain the System and keep same in good repair in accordance with all applicable governmental regulations concerning technical standards, including those standards set forth in 47 CFR Sec. 76.601-630; provided that Customer shall inform [REDACTED] of the location of all known private underground utilities and other known private facilities on the Premises and shall be responsible for all costs associated with the repair of any damage to any such utility or facility caused by any failure of Customer to properly inform [REDACTED] of the location thereof. [REDACTED] shall have the right to modify the format, technical specifications and/or means of delivery of any Service, feature or television channel, regardless of whether such modification requires the use by any Resident of additional, replacement or modified equipment in order to receive such Service, feature or channel.

16. **Complimentary Service.** The [REDACTED] Association Inc. shall within the first 12 months of activation of bulk billing, provide written notification to [REDACTED] if it wants to receive complimentary services at the [REDACTED] (the "Club") as outlined herein. Any additional services would be subject to retail rates. **(Video)** [REDACTED] shall provide Digital Cable Service accounts to the separately subdivided and owned [REDACTED] (the "Club") located immediately outside the east boundary of the Premises on up to 5 outlets. This complimentary service shall be provided to a common area of the Club (e.g. clubhouse, fitness center, computer room and office) of the Customer's choice, the service will include all Digital converters to provide service. No pay-per-view or premium channels shall be available on this account. **(High Speed Internet Service)** [REDACTED] will provide [REDACTED] High Speed Internet service consisting of 1 modem per location and speeds consisting of [10] Mbps for downloads and [1] Mbps for uploads to the Club (e.g., Clubhouse / Computer Café / Office). **(Community Channel)** [REDACTED] at its sole cost and expense shall provide equipment (the "Info Channel Equipment") required to transmit an information channel over the System, to be operated by Customer at Customer's sole cost and expense, this will be in Digital Format and be assigned to a channel with-in the Bulk Channel lineup. The Customer shall provide a climate-controlled space on the Premises, approximately 2'x2'x5', for use by [REDACTED] to accommodate such equipment, equipment will include a computer with a 13" to 19" monitor with Windows, Power Point, a signal Modulator and a standby power supply. In the event [REDACTED] relocates the information channel other than at Customer's request, [REDACTED] shall do so at its expense. In the event [REDACTED] relocates the information channel at Customer's request, Customer shall reimburse [REDACTED] for any expenses incurred to relocate the channel. [REDACTED] shall maintain the Info Channel Equipment during the applicable manufacturer's warranty period. Customer shall be responsible for all other maintenance, operation, costs and liability for the information channel and Info Channel Equipment.

17. **Wi-Fi Hot Spot:** The [REDACTED] Association Inc. shall within the first 12 months of activation of bulk billing, provide written notification to [REDACTED] if it wants to receive complimentary services at the [REDACTED] (the "Club") as outlined herein. Any additional services would be subject to retail rates. For the term of this Agreement and without cost to Association, [REDACTED] shall provide wireless connectivity Internet access within (a) the Club (e.g., the Clubhouse / Pool), and (b) 4 BBQ areas located on the Premises. ("Wi-Fi Spots"). Access to the Internet via any Wi-Fi Spots provided by [REDACTED] shall be controlled and regulated by [REDACTED] retains the ability to deny any user access to the Internet via a Wi-Fi Spot for any violations of [REDACTED] related rules and regulations or for violations of applicable law. Further, [REDACTED] retains the right to regulate access to the Wi-Fi Spots and may limit access to include [REDACTED] High Speed Data customers, or otherwise charge users of a Wi-Fi Spot on a time usage or other basis. Association shall be responsible for wireless equipment placed on the Premises. If any equipment is lost, stolen or damaged, the

Association will be responsible to pay [REDACTED] the then current replacement cost of such equipment. Upon termination of this Agreement, any and all equipment provided by [REDACTED] shall remain the property of [REDACTED] and such equipment shall be returned to [REDACTED] within ten days of the termination date.

18. **Special Considerations.** Upon written request from the Customer, [REDACTED] agrees to reduce the number of "bulk billed units" on the Customer's bulk master account, for [REDACTED] Bulk Service no more than once a quarter. This reduction is commensurate with the number of Units in Non Payment status or foreclosure process. The number of total Units in this provision will be capped at up to ten percent (10%) of the total Units. Customer agrees that a request letter will be provided to [REDACTED] verifying that in fact, the specified number of Units is indeed in the foreclosure process or at least 90 days past due resulting in a Non Payment status. Customer shall provide a letter on their attorney's letterhead at least ten (10) days prior to the first day of each quarter in a calendar year stating how many properties are in foreclosure or at least 90 days past due resulting in a Non Payment status. Customer shall provide a supplementary letter which shall list each Unit's address that is in the foreclosure process or at least 90 days past due resulting in a Non Payment status. Upon confirmation and provision of relevant addresses, and once per quarter, [REDACTED] will physically disconnect these Units and as such, Customer hereby agrees to hold [REDACTED] harmless in the implementation of such request. Customer shall be responsible for the Bulk Fee up to the disconnection date. [REDACTED] may charge a reconnect fee for every Unit being reconnected. Such fee shall be fifty dollars and zero cents (\$50) plus tax ("Reconnection Fee"), subject to change at [REDACTED] discretion. The Reconnection Fee shall be charged to a Resident's cable account upon reconnection of their Unit.

19. **Easement and Access Rights.** On the date of signing of this Agreement, the parties hereto shall execute an Easement and Memorandum of Agreement substantially in the form of Exhibit D. [REDACTED] may record such Easement and Memorandum of Agreement at any time in the real property records of any jurisdiction wherein the Premises are located. [REDACTED] shall comply with all laws and regulations applicable to the performance of this Agreement and shall not interfere with other utility lines and related improvements situated on the Premises.

20. **Subordination and Non-Disturbance Consent.** If at any time any part of the Premises is or becomes encumbered by a lien or security interest that is senior to [REDACTED] Easement and Memorandum of Agreement, Customer shall use reasonable efforts to obtain from the lienholder a Subordination and Non-Disturbance Consent substantially in the form of Exhibit E and deliver such agreement to [REDACTED] as promptly as possible, but in no event later than thirty (30) days after the date (a) of this Agreement or (b) when the lien or security interest attaches, whichever is later; provided, however, that so long as Customer has used its reasonable best efforts to obtain such consent, Customer's failure to so deliver the consent shall not be deemed to be a breach of this Agreement, but, until such a consent is delivered, any existing written agreement granting [REDACTED] the right to serve the Premises (e.g. easements and rights-of-entry agreements) shall continue in full force to the extent necessary to provide [REDACTED] with the right to access and serve the Premises. [REDACTED] agrees to be bound by the terms of the Subordination and Non-Disturbance Consent upon Customer's delivery to [REDACTED] of a fully-executed copy thereof.

21. **Notices.** All notices or communications between the parties shall be in writing and be served by certified mail, express delivery courier service or personal delivery at the addresses set forth below:

If to [REDACTED]

[REDACTED]

If to Customer:

[REDACTED]

22. **Default and Remedies.** If either party shall continue to be in material breach of this Agreement for thirty (30) days after receiving written notice thereof, then without further notice, the other party may terminate this Agreement upon written notice to the party in breach. All rights, privileges and remedies of the parties shall be cumulative, and the exercise of any one shall not be a waiver of any other. Either party may waive any provision hereunder, or any breach or default thereof by the other party, provided that any such waiver must be in writing and signed by the party giving the waiver. No such waiver shall be deemed a waiver of any other provision or breach or default thereof.

23. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the laws of the State of Florida. Each party (a) consents to the personal jurisdiction of the state and federal courts having jurisdiction over the Territory, (b) stipulates that the proper, exclusive and convenient venues for all legal proceedings arising out of this Agreement are [REDACTED] Florida, for a state court proceeding, and the United States District Court for Florida, for a federal court proceeding, (c) waives any defense, whether asserted by motion or pleading, that any of the above venues are improper or inconvenient, and (d) waives any right to a jury trial. [REDACTED] acknowledges the potential limit on enforceability of this Agreement in accordance with Section 718.1232, Florida Statutes.

24. **Severability.** If any portion of this Agreement is rendered invalid or otherwise unenforceable under any law or regulation or by a governmental, legal or regulatory authority with jurisdiction over the parties, then the remainder of this Agreement shall continue in full force unless such continuance will deprive one of the parties of a material benefit hereunder or frustrate the main

purpose(s) of this Agreement. In such event, the party that has been deprived of such material benefit (the "Affected Party") may notify the other, and the parties promptly thereafter shall use their reasonable best efforts to replace or modify the invalid or unenforceable provision with a provision that, to the extent not prohibited by any law or regulation, achieves the purposes intended under the invalid or unenforceable provision. If the parties are unable to reach agreement on replacement or modification of the invalid or unenforceable provision within sixty (60) days after notification from the Affected Party, then the Affected Party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

25. **Insurance.** [REDACTED] agrees to maintain public liability insurance and property damage liability insurance as required by any applicable franchise with the Territory.

26. **Force Majeure.** Notwithstanding anything to the contrary in this Agreement, neither party shall be liable or in default for any delay or failure of performance resulting directly from any factor beyond the control of the nonperforming party, including but not limited to acts of God; acts of any civil or military authority; acts of any public enemy; terrorism; war; hurricanes, tornadoes, storms, earthquakes, forest fires or floods; governmental regulation or intervention; or strikes, lockouts, or other work interruptions.

27. **Representation and Warranties.** Each individual executing this Agreement below represents and warrants that he or she is fully authorized to (i) execute and deliver this Agreement to the other party on behalf of the party for which he or she is signing and (ii) legally bind the party for which he or she is signing. Customer represents and warrants that (a) Customer has the full authority to fully perform its obligations hereunder and to grant the rights granted to [REDACTED] herein, (b) no party has any contractual right or any interest in the Premises that conflicts with any rights granted hereunder. [REDACTED] acknowledges that Customer's representations with respect to the Premises excludes property not owned by Customer. [REDACTED] represents and warrants that [REDACTED] has the full authority to fully perform its obligations hereunder.

28. **No Warranties; Limitation of Liability.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, BHN MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SYSTEM OR THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED. Neither party shall be liable to the other or to any third party for any indirect, special, punitive or consequential damages, including, but not limited to, damages based on loss of service, rent, profits or business opportunities. Notwithstanding the foregoing, [REDACTED] shall be entitled to seek and obtain, as direct damages, lost revenues for Services for any breach by Customer under this Agreement.

29. **Indemnification.** Each party shall indemnify, defend and hold the other harmless from and against all liability, loss, costs, damages, and reasonable attorneys' fees ("Losses") arising out of any third party claim arising out of any negligence, willful misconduct or breach of this Agreement (including but not limited to any representation or warranty hereunder) by the indemnifying party, its agents or employees. [REDACTED] shall indemnify, defend and hold Customer harmless from and against all Losses arising out of any third party claim resulting directly from [REDACTED] exercise of its rights granted hereunder. Customer shall indemnify, defend and hold [REDACTED] harmless from and against all Losses arising out of any third party claim resulting directly from Customer's operation of the Premises.

30. **Loss of Rights.** This Agreement shall terminate automatically if [REDACTED] no longer has any right to provide any Service in the Territory. Neither party shall incur any liability as a result of any such termination.

31. **Confidentiality/Non-disclosure.** Each party shall keep the terms and conditions of this Agreement in strict confidence and shall not disclose any such information to any third party, except that each party may disclose such information to any of its current or prospective attorneys, accountants, financial advisors, partners, and/or others as necessary for such party hereto reasonably to conduct its business. Such party hereto shall advise such third parties of the confidential nature of this Agreement and require such third parties to maintain its terms and conditions in strict confidence.

32. **Assignment.** No Assignment of this Agreement is permitted without the written Consent of Customer. Such consent shall not be unreasonably withheld. This Agreement shall run with the land and inure to the benefit of and be binding upon the undersigned and their respective heirs, successors and assigns.

33. **Survival.** The terms of Sections 3, 8, 26, 27 and 29-33 shall survive the expiration or termination of this Agreement for any reason.

34. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original.

35. **Entire Agreement.** This Agreement, the Exhibits hereto and the related Easement and Memorandum of Agreement and Subordination and Non-Disturbance Consent contain the entire agreement between the parties. This Agreement may not be altered, except upon mutual agreement evidenced by an instrument in writing. This Agreement supersedes all other previous agreements between the parties.

36. **Sub-Association Agreements.** It is the understanding of both parties that Customer is a master homeowners' association over the Premises and that the Premises consists of neighborhood sub-communities and sub-associations for certain portions of the Premises ("Sub-Associations"). Said Sub-Associations may have entered into separate agreements with [REDACTED] for the purpose of receiving bulk cable services for the sub-community they govern within the Premises. Because the purpose of this Agreement is to encumber the entire Premises under one contract, it is the purpose and intent of [REDACTED] to terminate all existing bulk cable services contracts and easements with the Sub-Associations and/or respective management companies simultaneous with the execution of this Agreement. As a result, upon the execution of this Agreement, all existing Sub-Associations bulk cable services contracts and easements shall terminate on the Effective Date herein without penalty, and this Agreement shall be binding on all the Premises.

[DATE, SIGNATURE, AND NOTARIZATION ON FOLLOWING PAGE]

INSTALLATION AND SERVICES AGREEMENT

THIS INSTALLATION AND SERVICES AGREEMENT (this "Agreement") is made and entered into on [REDACTED] 2018, by and between [REDACTED] (the "Company") and [REDACTED] Association, Inc. (the "Association") who owns or has control over certain real estate and improvements thereon located at [REDACTED] FL [REDACTED] (the "Premises"), commonly known as [REDACTED] consisting of 269 residential units plus any units added or constructed in the future.

The Company has been granted a franchise by an authorized governmental agency (the "Franchise Authority") to construct and operate a cable communications system in [REDACTED] Florida (the "Franchise Area"). The Company desires to install, maintain and operate a broadband communications system for the purpose of providing its products and services (collectively, the "Services") to the Premises in accordance with the terms and conditions below.

The parties, for good and valuable consideration, intending to be legally bound, agree as follows:

1. Wiring.

a) Premises Wiring. The Company has installed all facilities necessary to transmit the Services to the Premises, including, but not limited to, distribution cables, amplifiers, pedestals, lock boxes, equipment and appurtenant devices up to and including the Company's tap (collectively, the "Company Wiring"). All work shall be done by the Company in a proper and workmanlike manner in accordance with Federal Communications Commission ("FCC") regulations, industry standards and local codes, unless otherwise provided in this Agreement. The cable home run wiring consisting of the coaxial wiring after the Company's tap to the first splitter within each unit has been installed at the Premises. The Company will reinstall those portions of the Company Wiring and all the cable home run wiring necessary for the Company to distribute the Services to the Premises as described in Exhibit A, Scope of Work (the "Rewiring"). The Association shall cooperate with the Company in the Company's construction and installation of the wiring as set forth in this Section. The Company will be responsible for obtaining all necessary permits, licenses and approvals in connection with the Company's operation of the wiring as set forth in this Section.

b) The System. The System shall consist of the Company Wiring and the cable home run wiring.

c) Use and Maintenance of Wiring. The Association has the authority to grant and does hereby grant to the Company, at the Company's expense, during the term hereof the right to operate, maintain, repair and replace, as necessary, the System on the Premises. Neither the Association nor any third party shall tap into, use or otherwise interfere with the System or any portion thereof for any purpose. The installation and use of the cable home wiring, consisting of the coaxial wiring after the first splitter within the units, will be contained in contracts between the Company and the individual unit residents. The Company shall have the right to interconnect with

and use any telephony wiring owned or controlled by the Association within the units that may become necessary or useful for the provision of the Services to the residents, whether or not such facilities are owned, installed, controlled or maintained by the Company.

d) Damages to Premises. The Company, at its expense, agrees to repair and/or replace any damage to the Premises resulting from the operation, maintenance or repair of the System and any installation of wiring by the Company as provided for in paragraph (a) of this Section except as otherwise provided in this Agreement.

e) Ownership of Wiring. The Company Wiring is and will remain the personal property of the Company. The cable home run wiring is and will remain the property of the Association.

2. Easement. The Association has the authority to grant and does hereby grant to the Company non-exclusive easement to operate the Company Wiring (the "Easement"). The Association hereby agrees to execute the form of easement attached hereto as Exhibit B.
3. Access. The Association shall allow Company personnel carrying the Company-issued identifications to enter all common areas of the Premises for the purposes of auditing, selling, connecting, or disconnecting service, and installing, maintaining, repairing, replacing or removing equipment and apparatus connected with the provision of the Services, and shall use reasonable efforts to assure the Company access to any parts of the Premises over which it does not have control for the same purposes. The Association shall supply the unit numbers of residents twice a year. The Association shall cooperate with the Company to prevent (i) the unauthorized possession of converters or channel selectors and (ii) the unauthorized reception of the Services.
4. Delivery of Services. The Association has the authority to grant and does hereby grant to the Company during the term hereof the right to deliver the Services to the Premises, unless otherwise required by applicable law. The Association shall not enter into a bulk services agreement with another service provider to provide services similar to the Services during the term of this Agreement regardless of the method used to deliver such services to the Premises.
5. Fees and Charges for Services. Additional terms, conditions, charges and fees for the Services provided to residents at the Premises shall be contained in the Bulk Bill Addendum attached hereto as Exhibit C between the Association and the Company. Except as set forth in the Bulk Bill Addendum, the Association assumes no liability or responsibility for service charges contracted for by individual residents. All billing and collections for service charges incurred by individual residents will be accomplished by the Company.
6. Customer Service. The Company shall provide customer service in accordance with its franchise agreement with the Franchise Authority. The Company will maintain a local or toll-free telephone number which will be available to its subscribers 24 hours a day, 7 days a week. The Company representatives will be available to respond to customer telephone inquiries during normal business hours. The Company will begin working on service interruptions promptly and in no event later than the next business day after notification of the service problem, excluding conditions beyond the control of the Company.

7. Private Reception Devices. Notwithstanding anything else in this Agreement to the contrary, the Company shall not interfere with the right of an individual resident to install or use his own private reception device.
8. Interference. If any device or facility belonging to a resident or the Association does not comply with the technical specifications established by the FCC, including, but not limited to, signal leakage, which interferes with the Company's delivery of the Services, the Company reserves the right to discontinue the Services to the Premises or, at the Company's discretion, to the individual unit until such non-conformance is cured by the Association or resident, as the case may be.
9. Term. This Agreement, when duly executed by both parties, shall constitute a binding agreement between the Association and the Company and their respective successors and assigns for a term of 66 months from the date first set forth above. This Agreement shall automatically renew for successive periods of 24 months unless either party shall provide the other with a minimum 60 days notice of its intention not to renew at the end of the then current term.
10. Insurance. The Company agrees to maintain workers' compensation insurance with statutory limits and commercial general and automobile liability insurance as required by the Company's franchise agreement with the Franchise Authority. Upon request, the Company will provide the Association with a certificate evidencing such insurance.
11. Indemnification. The Company shall indemnify, defend and hold harmless the Association, its personnel, directors, agents and representatives from and against any and all claims, damage or expense arising out of the acts or omissions of the Company or its personnel, directors, agents or representatives in the operation or maintenance of the System; any installation of such wiring by the Company as provided for in Section 1 of this Agreement; the Services provided to residents at the Premises pursuant to this Agreement or a breach of this Agreement. The Association shall indemnify, defend and hold harmless the Company, its personnel, directors, agents and representatives from and against any and all claims, damage or expense arising out of the acts or omissions of the Association, its personnel, directors, agents and representatives in the operation or maintenance of the Premises or a breach of this Agreement.
12. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
13. Termination.
 - a) Default. In the event either party defaults in the performance of any of the material terms of this Agreement, the non-defaulting party shall give the defaulting party written notice specifying the nature of such default and identifying the specific provision in this Agreement which gives rise to the default. The defaulting party shall have 45 days to either (i) notify the non-defaulting party that no default occurred and provide reasonable proof thereof, (ii) cure the default, or (iii) if such default is incapable of cure within such 45 day period, commence

curing the default within such 45 day period and diligently pursue such cure to completion. In the event the defaulting party fails to do so within such 45 day period, the non-defaulting party may terminate this Agreement upon 30 days written notice without further liability of either party.

b) Permanent Loss of Authority. This Agreement shall terminate automatically without any further liability on the part of the Company in the event the Company lacks authority to continue to provide the Services to the Premises due to loss of governmental authorization. This clause, however, shall not apply to periods of transition, such as franchises subject to review, transfer or reapplication, or where termination is the subject of dispute.

14. Removal of Company Wiring.

a) Upon expiration or termination of this Agreement for any reason, the Company shall have a period of 6 months during which it shall be entitled, but not required, to remove the Company Wiring. The Company shall promptly repair any damage to the Premises caused by such removal.

b) Notwithstanding anything to the contrary contained in this Agreement, the removal period referenced in Section 14(a) shall be tolled for as long as the Company has the right under applicable law to continue to provide any or all of the Services to any or all of the units on the Premises after the termination or expiration of this Agreement, in which case the Company shall have the right to continue to own and use the Company Wiring and to interconnect with and use the cable home run wiring to provide the Services. Any portion of the Company Wiring remaining on the Premises after the period set forth in this Agreement for its removal shall be deemed abandoned, and ownership shall vest in the Owner "AS IS" and the Company shall have no further liability for the Company Wiring. This Section shall survive the termination of this Agreement.

15. Dispute Resolution. All disputes under this Agreement shall be submitted to and settled by arbitration in accordance with the rules of the American Arbitration Association. The parties shall appoint a mutually agreeable arbitrator reasonably familiar with broadband communications systems and services. In the event the parties are unable to agree to a single arbitrator, the dispute shall be submitted to a panel of 3 arbitrators, one of which shall be reasonably familiar with broadband communications systems and services. Each party shall appoint an arbitrator and the two arbitrators so appointed shall then select a third arbitrator. The arbitrators shall apply applicable federal laws and regulations and the laws of the jurisdiction in which the Premises is located, without regard to its choice of law principles. The decision of the arbitrators shall be binding and conclusive on all parties involved, and judgment upon their decision may be entered in a court of competent jurisdiction. The prevailing party in any such arbitration shall be entitled to collect from the non-prevailing party all costs of the arbitration, including reasonable attorneys' fees.

16. Marketing Support. The term "Marketing Support" shall include, but not be limited to the Company's presentation of its marketing materials for the Company's services, as set forth in the table below, to existing and prospective residents. The Association shall not enter into any

agreement during the term of this Agreement permitting the marketing of any services similar to the Services on the Premises regardless of the method used to provide such services. The Company shall not conduct door to door solicitations.

Marketed Services	Type of Support
All services offered by the Company at the Premises.	Exclusive

17. Website Link The Company shall have the right in its sole discretion to approve any trademark/logo of the Company used by the Association on the Association's website ("Website"), its placement within the Website, and the use of any statements or claims in connection with such trademark/logo or the Company's products and services on the Website. All uses of the Company's trademark/logo made by the Association shall inure to the benefit of the Company. The Association shall not copy or capture any portion of the Company's website or any of its content within frames on the Website, or otherwise present or display the Company's website content or represent the Company's website as the Association's in any manner. The Association shall ensure that the link from the Website to the Company's website connects the visitor to the Company's website unencumbered in any manner.
18. Common Area Courtesy Video Outlet. The Company shall provide 4 outlet(s) at no charge to the Association at the Premises with Digital Starter level of service (the "Video Courtesy Outlet(s)"). The Company may place a sticker or similar signage on or near the displays that receive such complimentary services indicating the services are provided by [REDACTED]. The Association acknowledges and agrees that it is prohibited by federal copyright law, and the Company's agreement with its programming providers from ordering, purchasing, or exhibiting premium services or pay-per-view programming in the common areas of the Premises. The Association hereby covenants and agrees that it will not order, purchase, receive or exhibit premium services or pay-per-view programming in the common areas of the Premises, nor permit any other person to do so. In the event the Association engages, authorizes or permits any of the conduct described above, in addition to any other remedies available at equity or at law, the Company may terminate the Video Courtesy Outlet(s). The Association shall return any equipment provided by the Company for use with the Video Courtesy Outlet(s) within 10 days of the expiration or termination of this Agreement. The Association shall reimburse the Company for the Company's costs to replace any receivers or remotes issued to the Association that are lost, stolen, missing or damaged within 30 days of receipt of an invoice from the Company.
19. Common Area Courtesy Internet Outlet. The Company shall provide 1 outlet(s) at no charge to the Association with Performance level of service at the Premises ("Internet Courtesy Outlet(s)"). The Company may place a sticker or similar signage on or near the displays that receive such complimentary services indicating the services are provided by [REDACTED]. The Association agrees to be bound by the terms and conditions of the [REDACTED] High Speed Internet Service subscriber agreement (as modified from time to time by Company, the "Internet Subscriber Agreement") and the [REDACTED] High Speed Internet Acceptable Use Policy (the "AUP") as applied to the Internet Courtesy Outlet(s). A copy of the current Internet Subscriber Policy and AUP is

COMMUNITIES SERVICE AGREEMENT Service Order

Customer Information

Customer Name:	[REDACTED]	Property Address 1:	[REDACTED]
Property Name:	[REDACTED]	Address 2:	
Number of Units:	84	City, State, Zip:	[REDACTED] FL [REDACTED]

Agreement Term

This Agreement begins on [REDACTED] 2020 ("Effective Date") and shall remain in effect for a term of 5 years from [REDACTED] 2020 or from the date when Bulk Services are activated on the Property, whichever is later (the "Initial Term"). This Agreement shall automatically renew for successive periods of 2 Years (each, a "Renewal Term"), unless either party provides the other with a minimum of 60 days' notice of its intention not to renew at the end of the then-current term. The Initial Term and each Renewal Term may be collectively referred to herein as the "Term."

Wiring

Company has exclusive use of the home run wiring and non-exclusive use of the home wiring.

Marketing

Customer's Marketing Support shall be as follows:

Service	Type of Marketing
TV	Exclusive Marketing
Internet	Exclusive Marketing
Voice	Exclusive Marketing

Bulk Services

The Bulk Services will commence on [REDACTED] 2020 or from the date when Bulk Services are activated on the Property, whichever is later, and terminate on [REDACTED] 2025 or 5 years from the date when Bulk Services are activated on the Property.

The Bulk Services are Upgradable.

If Equipment is listed below, it is the responsibility of the residents.

TV Bulk Service	# of Outlets per Unit	# of Units	Equipment Included	Upgradable or Non-upgradable
HD Digital Starter HBO	1	84	HD Digital Converter	Upgradable
HD Digital Starter	2	84	HD Digital Adapter	Upgradable

The monthly service fees for TV Bulk Service are \$30.16 per unit, plus a broadcast TV fee equal to \$5.00 per unit, and all applicable taxes and fees. Upon 30 days prior written notice, Company may increase (i) the TV Bulk Service fee, provided such increase does not exceed 4.00% per year and/or (ii) the broadcast TV fee, provided such increase does not exceed the then-current residential broadcast TV fee increase.

Internet Bulk Service	# of Outlets/Unit	Total # of Units	Included Equipment
Performance	1	84	Gateway
The monthly service fee for Internet Bulk Service is \$28.89 per unit, plus all applicable taxes and fees. Upon 30 days prior written notice, Company may increase the Internet Bulk Service fee, provided such increase does not exceed 4.00% per year.			

Courtesy Services

Common Area Courtesy TV Service				
Courtesy TV Service	# of Outlets	Location	Courtesy TV Equipment	Upgradable
HD Digital Starter	1	Residential Common Area	HD Digital Adapter	No

Agreement

This [REDACTED] Service Agreement ("Agreement") sets forth the terms and conditions under which [REDACTED] and its operating affiliates ("Company") will provide residential products and services (collectively, the "Services") to the customer named above ("Customer") at the property named above ("Property"). This Agreement consists of this fully executed Service Order ("Service Order"), the General Terms and Conditions ("General Terms"), any attachments included herewith ("Attachments") and any written amendments to this Agreement executed by both parties ("Amendments"). In the event of an inconsistency among these documents, precedence will be as follows: (1) Amendments, (2) Service Order, (3) Attachments, (4) General Terms. Customer and Company may be collectively referred to herein as the "Parties" or individually as a "Party." The parties, intending to be legally bound agree to be bound by the terms and conditions set forth in the Agreement. Capitalized terms used but not defined in this Service Order shall be given their meanings set forth in the General Terms and capitalized terms used but not defined in the General Terms shall be given their meaning set forth in this Service Order.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Customer:

[REDACTED]

[REDACTED]
Title: [REDACTED]

Company:

[REDACTED]

Name: [REDACTED]
Title: [REDACTED]

ADDRESSES FOR LEGAL NOTICES

To Customer:

[REDACTED]
[REDACTED]
[REDACTED] FL [REDACTED]

To Company:

[REDACTED]
[REDACTED]
[REDACTED]

With a copy to:

[REDACTED]
[REDACTED]
[REDACTED]

Attn: General Counsel – Cable Legal Operations

GENERAL TERMS AND CONDITIONS

1. **Wiring.**

(a) Definitions.

- i. **“Demarcation Points”** means the point or points at which the Distribution System connects to the Home Run Wiring.
- ii. **“Distribution System”** consists of all facilities, equipment or devices that are installed by Company to transmit the Services from the public right of way to the Demarcation Points on the Property, and may include, but not be limited to, distribution cables, amplifiers, pedestals, lock boxes, passive and electronic devices and other equipment. It shall also include any other facilities, equipment or devices installed by Company, other than the Inside Wiring, and used by Company in the provision of Services.
- iii. **“Exclusive Wiring”** means the Distribution System and those portions of the Inside Wiring (if any) indicated as exclusive in the Service Order.
- iv. **“Home Wiring”** means the wiring within each unit from the first splitter or multimedia panel (as applicable) to wall plates.
- v. **“Home Run Wiring”** means the wiring from the Demarcation Points to the first splitter or multimedia panel (as applicable) within each unit.
- vi. **“Inside Wiring”** consists of Home Run Wiring and Home Wiring.
- vii. **“Non-Exclusive Wiring”** means those portions of the Inside Wiring that are not Exclusive Wiring.
- viii. **“System”** consists of the Distribution System and Inside Wiring.

(b) Scope of Work. If either Party is installing, upgrading or re-wiring any portion of the System, a Scope of Work will be attached setting forth the responsibility of the parties regarding such work. The Parties agree to comply with the Scope of Work.

(c) Company Obligations. Any work performed by Company on the Property shall be done in a good and workmanlike manner, in accordance with industry standards, local codes, applicable law, and, Federal Communications Commission (“FCC”) regulations. Company will be responsible for obtaining all necessary permits, licenses and approvals in connection with the Company’s operation and use of the wiring as set forth herein.

(d) Ownership of Wiring. The Distribution System is and will remain the personal property of Company. The Home Run Wiring is and will remain the personal property of Customer. The Home Wiring is and will remain the personal property of Customer or, where units and in-unit wiring are individual owned, the unit owner (“Resident Owned Wiring”).

(e) Use and Maintenance of Wiring. Customer grants Company the exclusive right to operate and use the Exclusive Wiring and the non-exclusive right to operate and use the Non-Exclusive Wiring. The Customer shall not, and shall not permit any third party to, tap into, use, or otherwise interfere with the Exclusive Wiring. At its expense, Company shall maintain, repair and replace the Exclusive Wiring as necessary to provide the Services. At its expense, Customer shall maintain, repair and replace the Non-Exclusive Wiring. If the Customer fails to maintain the Non-Exclusive Wiring in accordance with Company’s technical specifications, Company shall notify Customer (which may be accomplished by notifying Customer’s on-site personnel) and request the repairs. If the repairs are not made within 20 days after receipt of such notice, Company may (i) suspend delivery of the

Services to the affected units until repairs are made by Customer or (ii) repair the Non-Exclusive Wiring and charge Customer the actual and reasonable costs expended by Company. Notwithstanding anything to the contrary contained in this section, if Customer cannot grant rights to Resident Owned Wiring, then the rights to operate, use and repair any Resident Owned Wiring will be governed by separate contracts between Company and the unit resident.

(f) **Electrical Power.** Customer shall provide electrical power, at Customer's expense, for the Distribution System or Inside Wiring as requested by Company in locations reasonable designated by Company. Company shall have the right (but not the obligation) to install optical network units (each, an "ONU"), modems or other required equipment in units where applicable and deemed necessary by Company. Such equipment shall remain owned by Company, unless otherwise agreed in writing with Customer or a resident. In addition, if requested by Company, Customer shall, at Customer's cost, provide one or more environmentally controlled spaces in mutually agreed upon locations on the Property for distribution facilities.

2. **Delivery of Service.** Customer grants to Company the non-exclusive right to deliver its Services to the Property.

3. **Customer Obligations.**

(a) Customer shall not enter into a bulk agreement with another service provider to services similar to the Services during the Term regardless of the method used to deliver services to the Property. A "bulk agreement" means an agreement between Customer and a third party service provider whereby (i) services are paid for by the Customer and provided to the residents at no charge, on a reduced rate or discounted basis; (ii) services are automatically provided to the residents as an amenity of the Property or (iii) the purchase of services by residents is required as a condition of their occupancy of the Property. However, nothing in this Agreement shall prohibit service providers from providing service to the Property on a retail basis, provided that Customer does not permit a third party to access any facilities, equipment or wiring Company owns or has exclusive rights to use.

(b) Customer shall reasonably cooperate with Company to prevent, but shall not be liable for, the unauthorized access to equipment or Services by residents of the Property.

(c) Customer shall supply unit numbers to Company at reasonable intervals upon Company request.

4. **Fees and Charges for Services.** For Services provided to residents on a retail basis, the terms, conditions, charges and fees for those Services shall be contained in separate contracts between Company and individual residents. The Customer assumes no liability or responsibility for service charges contracted for by residents. For Services provided to Customer on a bulk basis (if any), additional terms, conditions, charges and fees for the bulk Services shall be contained in the Service Order and Attachments made a part of this Agreement.

5. **Access.**

(a) Customer grants Company personnel access to all common areas of the Property during Company's Operating Hours (as defined below) for the purpose of installing, disconnecting and auditing Service and exercising Company's right and obligations under this Agreement. Customer shall use reasonable efforts to grant Company access to parts of the Property it does not have direct control over for the same purposes. "Operating Hours" means Monday through Sunday, 7:00am to 7:00pm or at any other time that (i) Customer's staff members at the Property give verbal consent for Company to access, (ii) a maintenance or repair emergency occurs, which includes service outages, or (iii) a resident grants Company personnel access in order to provide or repair services for the resident.

(b) Company, at its expense, agrees to repair any damage to the Property to the extent caused by Company, its employees or agents, normal wear and tear expected. If Company fails to commence repairs to the Property within 45 days of notice, then Customer may undertake the repairs itself and bill the Company for the actual and reasonable costs thereof. Customer, at its expense, agrees to pay the reasonable and actual costs for Company to repair or replace any damage to the Distribution System or Exclusive Wiring to the extent caused by Customer, its employees or agents, normal wear and tear excepted.

6. **Indemnification.** Each Party (the “Indemnifying Party”) shall indemnify, defend and hold harmless the other party, its officers, directors, personnel, affiliates, lenders, agents and representatives (collectively, the “Indemnified Parties”) from and against any and all liability, loss, damage, claim or expense (including reasonable attorneys’ fees and costs) (collectively, “Damages”) incurred through a third party claim to the extent based on (i) the negligence or willful misconduct of the Indemnifying Party, (ii) the Indemnifying Party’s noncompliance with applicable laws (iii) the breach or inaccuracy of any representation or warranty made hereunder by the Indemnifying Party or (iv) any injury (including death), damage or loss to persons or property caused by the Indemnifying Party. The Indemnified Parties agree to provide the Indemnifying Party with sufficient notice of any claim and to provide reasonable cooperation with the Indemnifying Party in the defense of the claim at Indemnifying Party’s cost.

7. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING UNDER THEORY OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE.

8. **Termination.**

(a) **Default.** In the event either Party defaults in the performance of any of the material terms of this Agreement, the non-defaulting Party shall give the defaulting Party written notice specifying the nature of such default and identifying the specific provision in this Agreement which gives rise to the default. The defaulting Party shall have 60 days to either (i) cure the default or (ii) if such default is incapable of cure within such 60 day period, commence curing the default within such 60 day period and diligently pursue such cure to completion. In the event the defaulting Party fails to do so within such 60 day period, the non-defaulting Party may terminate this Agreement upon 30 days’ written notice without further liability of either party.

(b) **Permanent Loss of Authority.** This Agreement shall terminate automatically without any further liability on the part of Company in the event Company lacks authority to continue to provide the Services to the Property due to loss of governmental authorization. This clause, however, shall not apply to periods of transition, such as franchises subject to review, transfer or reapplication, or where termination is the subject of dispute.

9. **Removal of Distribution System.**

(a) Upon expiration or termination of this Agreement, Company shall have 3 months during which it may remove the Distribution System. Company shall promptly repair any damage to the Property caused by such removal. Any portion of the Distribution System remaining on the Property after the 3 month period shall be deemed abandoned by Company, and ownership shall vest in Customer “AS IS” and “WHERE IS” and Company shall have no further liability therefor.

(b) Notwithstanding anything to the contrary contained in this Agreement, the removal period referenced in subsection (a) above shall be tolled for as long as Company has the right under applicable law to continue to provide any or all of the Services to any or all of the units on the Property after the termination or expiration of this Agreement, in which case Company shall have the exclusive right to continue to own and use the Distribution System and the non-exclusive right to interconnect with and use the Inside Wiring to provide the Services. This Section shall survive the termination of this Agreement.

10. **Dispute Resolution.** All disputes under this Agreement shall be submitted to and settled by arbitration in accordance with the rules of the American Arbitration Association. The parties shall appoint a mutually agreeable arbitrator reasonably familiar with broadband communications systems and services. In the event the parties are unable to agree to a single arbitrator, the dispute shall be submitted to a panel of 3 arbitrators, one of which shall be reasonably familiar with broadband communications systems and services. Each Party shall appoint an arbitrator and the 2 arbitrators so appointed shall then select a third arbitrator. The arbitrators shall apply applicable federal laws and regulations and the laws of the jurisdiction in which the Property is located, without regard to its choice of law principles. The decision of the arbitrators shall be binding and conclusive on all parties involved, and judgment upon their decision may be entered in a court of competent jurisdiction.
11. **Customer Service.** Company will maintain a local or toll-free telephone number, which will be available to its subscribers 24 hours a day, 7 days a week. Company representatives will be available to respond to customer telephone inquiries during normal business hours. Company will begin working on service interruptions promptly and in no event later than the next business day after notification of the service problem, excluding conditions beyond the control of Company.
12. **Marketing Support.** Customer grants Company the right to access the Property to market and sell its Services to residents of the Property. Customer shall (i) present Company's Marketing Materials to new and prospective residents during the initial presentation of rental or for-sale units and at lease signings or closings (ii) make the Marketing Materials available in the sales office or other administrative area to existing residents and (iii) at times and locations mutually agreed to by the parties, allow Company to hold marketing and sales events at the Property (collectively, "Marketing Support"). At Company's discretion, "Marketing Materials" may include, brochures, channel lineups, service descriptions, and information regarding prices and special offers. Marketing will be either exclusive or non-exclusive, as indicated in the Service Order. Marketing materials shall be provided by Company and delivered to the Property at Company's sole cost. For Services marketed on an exclusive basis, Customer agrees not to market or allow a third party to market on the Property any services similar to the exclusively marketed Services. For Services marketed on a non-exclusive basis, Customer will market such Services on a materially comparable basis with any third party services (e.g., no favorable treatment in terms of on-site events or location of marketing materials) and Customer will not treat any competing services on a more favorable basis or take actions to position competing service as "preferred" service over Company's Services.
13. **Website Link.** Company shall have the right in its sole discretion to approve any trademark/logo of Company used by Customer on Customer's website, its placement within its website, and the use of any statements or claims in connection with such trademark/logo or Company's products and services on its website. All uses of Company's trademark/logo made by Customer shall inure to the benefit of Company. Customer shall not copy or capture any portion of Company's website or any of its content within frames on Customer's website, or otherwise present or display Company's website content or represent Company's website as Customer's in any manner. Customer shall

ensure that the link from its website to Company's website connects the visitor to Company's website unencumbered in any manner.

14. **Interference.** If any device or facility on the Property does not comply with the technical specifications established by the FCC, including, but not limited to, signal leakage, which interferes with Company's delivery of the Services, Company reserves the right to discontinue the Services to the non-compliant unit or, at Company's reasonable discretion, to the Property until such non-conformance is cured by Company, Customer or resident, as the case may be. Company shall take reasonable measures to not discontinue Services to any portion of the Property that is in compliance with applicable technical specifications.
15. **Changes to Wiring Rights.** In the event applicable law requires (i) Company to permit Customer or a third party to use all or a portion of the Distribution System or (ii) Customer to permit a third party to use all or a portion of the Exclusive Wiring, then such portions of the Distribution System and/or Exclusive Wiring shall be automatically deemed Non-Exclusive Wiring.
16. **Assignability; Binding Effect.** Either Party may assign the Agreement provided that the assignee agrees in writing to be bound by all the terms and conditions hereof. In the event Customer sells, assigns, transfers or otherwise conveys the Property to a third party, Customer shall assign this agreement and cause the new owner or controlling party to expressly assume this Agreement and agree to be bound by its terms. This Agreement shall be binding upon the parties and their respective successors and assigns. Following any assignment, the assigning party shall give prompt notice thereof to the other party and shall not be liable for obligations under this Agreement that accrue on or after the date of the assignment.
17. **Representations and Warranties.** Each Party represents and warrants to the other that (i) the person entering into this Agreement on its behalf has the legal right and authority to execute, enter into and bind such Party to the commitments and obligations set forth herein and (ii) it has the right to enter into this Agreement and to grant the rights granted hereunder. In the event this Agreement is terminated for a breach of these representations and warranties, Customer shall reimburse Company for the time and materials of all work performed at the Property, up to the termination date. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT THE SERVICES WILL PROVIDE UNINTERRUPTED USE, OPERATE WITHOUT DELAY OR ERROR, OR BE TRANSMITTED IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW.
18. **Miscellaneous Provisions**
 - (a) **Subcontractors.** Company may hire or engage one or more subcontractors to perform any or all of its obligations under this Agreement; provided that Company shall in all cases remain responsible for all its obligations under this Agreement. Under no circumstances shall Customer be responsible for making any payments directly to any subcontractor engaged by Company.

- [REDACTED]
- (b) Insurance. Company shall maintain workers' compensation insurance with statutory limits and commercial general and automobile liability insurance. The limits of such liability insurance shall be no less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate, and automobile liability limits no less than One Million Dollars (\$1,000,000) per accident and in the aggregate. Upon request, Company will provide Customer with a certificate evidencing such insurance.
 - (c) Force Majeure. Neither Party shall be liable for its performance delay or failure due to circumstances beyond its reasonable control, including but not limited to, failure of equipment or facilities not owned or controlled by a Party (for example, utility service), denial of access to facilities or rights-of-way essential to serving the Property, natural catastrophes, and government order or regulation.
 - (d) Applicable Law. This Agreement shall be governed and construed in accordance with applicable federal laws and regulations and by the laws of the jurisdiction in which the Property are located, without regard to its choice of law principles.
 - (e) Invalidity. If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired.
 - (f) Notices. All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by personal delivery, registered or certified mail, return receipt requested, or nationally recognized overnight courier service to the other Party's address set forth in the Service Order or as may subsequently in writing be requested.
 - (g) Confidentiality. Except as otherwise required by applicable law, each Party agrees to keep the terms and conditions of this Agreement in strict confidence and shall not divulge any specifics of the same to any third party except current and prospective lenders, purchasers, attorneys, accountants, financial advisors, partners and/or others with a need to know or legal right to know (such as residents of a homeowners association) for Customer or Company to reasonably conduct its business.

Bulk Services Attachment

1. Terms Applicable to the Bulk Services

- a. Company shall provide the Bulk Services listed in the Service Order (the "Bulk Service(s)") as set forth in this Bulk Services Attachment and in the Service Order. Company may change the name of its Bulk Services or adjust the Bulk Services to reflect changes to their features and technology from time to time, provided it does not materially diminish the Services offered.
- b. Customer shall pay Company the service fees for the Bulk Services set forth in the Service Order, plus all applicable taxes and fees, upon receipt of an invoice. Late and/or administrative fees may be due if Customer fails to pay within 15 calendar days of receipt of the invoice. Company may terminate this Bulk Services Attachment in the event any Bulk Service fees remain unpaid for a period of 60 days.
- c. If the Service Order indicates the Bulk Services are Upgradable, Company may, at any time during the term hereof, provide additional Services on a retail basis directly to residents under agreements between the Company and the residents and the applicable terms of the Agreement ("Upgradeable Services"). Customer assumes no liability or responsibility for service charges for Upgradeable Services contracted for by residents.
- d. If equipment is included under the Service Order, Company shall provide each unit that does not already have it with the equipment described on the Service Order, plus a remote control for each wall outlet receiving the TV Bulk Service. The type of equipment shall be at the Company's discretion, provided it is compatible with the Bulk Services. The equipment is and will remain the personal property of the Company, unless otherwise agreed to by the parties. If Customer is responsible for the equipment, Customer shall keep an inventory report of the equipment issued to Customer listing the status of the equipment as in one of the following statuses: (1) in inventory; (2) installed in a unit listing the unit number; (3) missing, lost, stolen, damaged; or (4) exchanged, not damaged. Customer shall provide such inventory report to Company upon Company's request and shall provide reasonable access to Company to verify the accuracy of the inventory report. Customer shall return the equipment to Company within 10 days after the expiration or termination of the Bulk Services.
- e. The Company has no obligation to provide the Bulk Service to a unit unless and until an adult resident of the unit enters into Company's Agreement for Residential Services or other residential agreement designated by Company (as modified from time to time by Company, the "Residential Service Agreement") accepting responsibility for (i) any Company-provided equipment that is responsibility of the residents, (ii) any Services purchased by the residents of such unit beyond the Bulk Services and (iii) adherence to the terms, conditions and policies in the Residential Service Agreement. If a resident refuses to enter into such agreement or violates the

[REDACTED]

agreement, Company shall have no obligation to provide any Bulk Services or equipment to the resident's unit and there will be no reduction in the monthly fees owed by Customer.

- f. If equipment is not included on the Service Order, a resident must either (1) obtain such equipment from Company under Company's then-current standard terms and conditions or (2) use a resident-owned device compatible with the Bulk Service. Company will make the list of compatible resident-owned devices generally available to Customer and residents. The type of compatible resident-owned devices shall be at the Company's sole discretion. If a resident does not use a resident-owned compatible device or enter into a separate agreement with the Company accepting responsibility for equipment, Company shall have no obligation to provide any Bulk Services or equipment to the resident's unit and there will be no reduction in the monthly fees owed by Customer.
- g. Customer may not sell, offer for sale or resell any of the services contemplated by this Bulk Services Attachment without the prior written consent of the Company. If this Bulk Services Attachment expires or is terminated by Company, Company shall have the right to continue to provide the Services to individual residents pursuant to contracts between Company and such residents in accordance with the Agreement.

2. Terms Applicable only if TV Bulk Services are Provided.

Customer acknowledges and agrees that Company has the right, at any time, to preempt, without prior notice, specific programs and to determine what substitute programming, if any, is made available via the TV Bulk Service. The Company may, in its discretion, make additions, deletions or modifications to its channel line-up without liability to Customer or anyone claiming through Customer. The Company shall not be liable for failure to deliver any programming that is caused by the failure of the programmer to deliver or make such programming available to the Company or any other reason beyond the reasonable control of the Company. Company agrees that the programming shall be substantially similar to the programming available to other residential subscribers in the franchise area where the Property is located.

3. Terms Applicable only if Internet Bulk Services are Provided.

- a. The Internet Bulk Service does not include network interface cards or any other customer premises equipment ("CPE"). Company recommends using CPE meeting Company's minimum system recommendations to connect to the Internet Bulk Service.
- b. Customer acknowledges that the Bulk Internet Service is provided in accordance with, and agrees to be bound by, the terms and conditions of the Company's Residential Services Agreement and the Company's acceptable use policy for Company's high-speed Internet services (as modified from time to time by the Company, the "AUP"). A copy of the current Customer Agreement and AUP is available at [REDACTED] The Company shall not be in breach of this Agreement for denying the Internet Bulk

Service to Customer or a resident if Customer violates the Residential Services Agreement or AUP.



Common Area Courtesy TV Service Attachment

Commencing no later than 90 days after the full execution of the Agreement, Company shall provide to Customer, at no charge, the Common Area TV Courtesy Service and Courtesy TV Equipment listed on the Service Order (or an equivalent tier if Company discontinues the current tier) for use by Customer in residential common areas of the Property. Company may place a sticker or similar signage on or near the televisions that receive the Common Area TV Courtesy Services indicating the services are provided by Company. Customer acknowledges and agrees that it is prohibited by federal copyright law, and Company's agreement with its programming providers from ordering, purchasing, or exhibiting premium services or pay-per-view programming in the common areas of the Property. Customer hereby covenants and agrees that it will not order, purchase, receive or exhibit premium services or pay-per-view programming in the common areas of the Property, nor permit any other person to do so. In the event Customer engages, authorizes or permits any of the conduct described above, in addition to any other remedies available at equity or at law, Company may terminate the Common Area TV Courtesy Services. Customer shall return any Courtesy TV Equipment provided by Company within 10 days of the termination of the Common Area TV Courtesy Services. Customer shall notify Company of, and reimburse Company for Company's costs to replace, any Courtesy TV Equipment that is lost, stolen, missing or damaged within 30 days of receipt of an invoice from Company.