



February 24, 2012

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Basic Service Tier Encryption; Compatibility Between Cable Systems and Consumer Electronics Equipment, MB Docket No. 11-169, PP Docket No. 00-67**

Dear Ms. Dortch:

On February 23, 2012, my colleague Jared Marx and I spoke with Erin A. McGrath, Acting Legal Advisor to Commissioner Robert McDowell, on behalf of RCN Telecom Services, LLC (“RCN”) regarding the above-referenced proceeding. On that same date, my colleague Michael Nilsson spoke briefly by telephone with Brendan Murray to discuss the timing issues raised in the last paragraph of this letter.

In our meeting with Ms. McGrath, Mr. Marx and I reiterated that RCN has been providing standalone broadband offerings at prices and speeds superior to the offerings of its larger competitors, and provided the attached printouts from RCN’s website showing RCN’s services and rates. We also provided Ms. McGrath with unredacted copies of the documents that are attached to the Notice of Ex Parte that RCN filed with the Commission in these proceedings on January 24, 2012.

We explained to Ms. McGrath that, while RCN’s internet-only offerings help fulfill the Commission’s broadband objectives, they also increase RCN’s exposure to theft of basic tier cable service. We noted that the problem of theft is exacerbated by the fact that there are no commercially available cable “traps” that will permit RCN to physically block access to the unencrypted channels that accompany its internet service without also blocking the internet service itself.

We also discussed the objections that have been asserted by Boxee, Inc. (“Boxee”) to the Commission’s proposed rule in these proceedings.<sup>1</sup> First, we reiterated that products like the

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<sup>1</sup> See, e.g., Letter from Melissa Marks, General Counsel, Boxee, to Marlene H. Dortch, Secretary, FCC, MB Dkt. No. 11-169, PP Dkt. No. 00-67 (Dec. 21, 2011) (“Dec. 21 Boxee Letter”); Letter from Melissa Marks, General Counsel, Boxee, to Marlene H. Dortch, Secretary, FCC, MB Dkt. No. 11-169, PP Dkt. No. 00-67 (Feb. 2, 2012) (“Feb. 2 Boxee Letter and Presentation”); Letter from Melissa

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Boxee Live TV have become associated with the theft of basic-tier cable service by internet-only customers, and that this is another reason for expeditious action in lifting the encryption ban. In addition, we provided a timeline, attached, that shows the tenuousness of Boxee's claim to have reasonably relied on the encryption ban in designing its product. We explained that, in light of this, Boxee's lack of compatibility with encrypted video streams—and lack of compatibility with even a post-converter box video stream—are of its own making, can be easily remedied, and in any event should not slow the present rulemaking.

RCN thus requests the Commission to act quickly so that it can use encryption to halt the theft of its broadcast basic service. Because of the acute theft-of-service problems described herein and in earlier submissions, RCN also requests that the Commission permit cable operators to begin to encrypt basic tier signals upon release of any Order eliminating the ban on basic tier encryption, rather than forcing operators to wait until 30 days after publication in the Federal Register. In the alternative, RCN asks the Commission to grant (or to permit the Media Bureau to grant) RCN a waiver of the existing rules with respect to its New York and Chicago systems, so that RCN may begin encrypting those systems immediately upon release of the Order.

Sincerely,

John Nakahata  
*Counsel for RCN Telecom Services, LLC*

Attachment

cc: Jessica Almond  
Sherrese Smith  
Bill Lake  
Michelle Carey  
Mary Beth Murphy  
Steve Broeckaert  
Brendan Murray

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Downstream data speed may be affected by whether the data accessed is cached or non-cached; Internet-related factors, such as the location and configuration of each accessed server; internal network factors, including customer compliance with RCN usage policies set forth in the subscriber agreement and acceptable usage policy; the level of overall traffic; and the customer's computer configuration

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- Includes Docsis modem
- Highly secure and reliable wireless connection

**You get:**

- Upload speeds up to 6Mbps / downloads up to 50Mbps

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