

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re
RCN CORPORATION, et al.,
Debtors.

Chapter 11
Case No. 04-13638 (RDD)
(Jointly Administered)

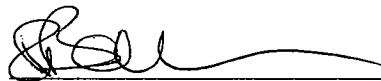
AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RACHEL BROWN, being duly sworn, deposes and says:

1. I am over the age of eighteen years and employed by Bankruptcy Services LLC, 757 Third Avenue, New York, New York and I am not a party to the above-captioned action.
2. On October 22, 2004, I caused to be served the following:
 - i) "Notice of Debtors' Motion For an Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying Amendment to Exit Financing Commitments and Payment of Related Fees and Expenses" dated October 22, 2004, to which is attached the "Motion For Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying Amendment to Exit Financing Commitments and Payment of Related Fees and Expenses, dated October 22, 2004, a copy of which is attached hereto as Exhibit "A", and
 - ii) "Declaration of Timothy Coleman in Support of Motion For Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying Amendment to Exit Financing Commitments and Payment of Related Fees and Expenses" dated October 22, 2004, a copy of which is annexed hereto as exhibit "B",

enclosed securely in separate postage pre-paid envelopes, to be delivered by first class mail to those parties listed on the annexed Exhibit "C".


Rachel Brown

Sworn to before me this

26th day of October, 2004


Notary Public

TIRZAH GORDON
Notary Public, State Of New York
No. 01GO6076304
Qualified In Queens County
Commission Expires June 24, 20 06

EXHIBIT “A”

Hearing Date: November 16, 2004 at 10:00 a.m.
Objections Due: November 12, 2004 at 4:00 p.m.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036-6522
(212) 735-3000
D. J. Baker (DB 0085)
(A Member of the Firm)
Frederick D. Morris (FM 6564)

Attorneys for Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
RCN CORPORATION, <u>et al.</u> ,	:	Case No. 04-13638 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**NOTICE OF DEBTORS' MOTION FOR AN ORDER UNDER 11 U.S.C. §§
105(a), 363(b), 364(c)(1), 503(b) AND 507 AUTHORIZING, APPROVING AND
RATIFYING AMENDMENT TO EXIT FINANCING COMMITMENTS
AND PAYMENT OF RELATED FEES AND EXPENSES**

PLEASE TAKE NOTICE that on October 22, 2004, RCN Corporation
("RCN"), and certain of its subsidiaries, debtors and debtors-in-possession in the
above-captioned cases (collectively, the "Debtors"), filed the Motion for an Order
Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approv-

ing and Ratifying Amendment to Exit Financing Commitments and Payment of Related Fees and Expenses (the "Motion").

PLEASE TAKE FURTHER NOTICE that on **November 16, 2004 at 10:00 a.m.**, the Bankruptcy Court will hold a hearing to consider granting the relief requested in the Motion (the "Hearing"). Objections to the Motion, if any, must be in writing, must conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, and must be (i) filed with the Bankruptcy Court in accordance with General Order M-242 (as amended) – registered users of the Bankruptcy Court's case filing system must file electronically, and all other parties in interest must file on a 3.5 inch disk (preferably in Portable Document Format (PDF)), WordPerfect or any other Windows-based word processing format); submitted in hard-copy form directly to the chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge; and served upon (i) RCN Corporation, 105 Carnegie Center, Princeton, NJ 08540, Attention: General Counsel; (ii) Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the Debtors, 4 Times Square, New York, NY, 10036-6522, Attention: D.J. Baker, Esq.; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st floor, New York, NY 10004, Attention: Paul K. Schwartzberg, Esq.; (iv) Milbank, Tweed, Hadley & McCloy, counsel to the unofficial committee of noteholders, 1 Chase Manhattan Plaza, New York, NY 10005, Attention: Dennis

Dunne, Esq.; (v) counsel to any other statutory committee(s) appointed in these cases; (vi) Simpson Thacher & Bartlett, counsel to the agent for the Debtors' prepetition credit facility, 425 Lexington Avenue, New York, NY 10017-3954, Attention: Peter V. Pantaleo, Esq.; and (vii) HSBC Bank USA, the indenture trustee for the Debtors' outstanding debt securities, 452 Fifth Avenue, New York, NY 10001, Attention: Issuer Services, in each case so as to be **received** no later than 4:00 p.m. Eastern time on **November 12, 2004** (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that only those objections made in writing and timely filed and received by the Objection Deadline will be considered by the Bankruptcy Court at the Hearing, and that if no objections to the Motion are timely filed and served in accordance with the procedures set forth herein, the Bankruptcy Court may enter an order granting the Motion **without further notice**.

Dated: New York, New York
October 22, 2004

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

/s/ D. J. Baker
D. J. Baker (DB 0085)
(A Member of the Firm)
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(212) 735-3000

Attorneys for Debtors and
Debtors-in-Possession

Hearing Date: November 16, 2004 at 10:00 a.m.
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Attorneys for Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	: Chapter 11
	:
RCN CORPORATION, <u>et al.</u> ,	: Case No. 04-13638 (RDD)
	:
Debtors.	: (Jointly Administered)
	:
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**MOTION FOR ORDER UNDER 11 U.S.C. §§ 105(a),
363(b), 364(c)(1), 503(b) AND 507 AUTHORIZING, APPROVING AND
RATIFYING AMENDMENT TO EXIT FINANCING COMMITMENTS
AND PAYMENT OF RELATED FEES AND EXPENSES**

RCN Corporation ("RCN") and certain of its direct and indirect subsidiaries, debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), hereby submit this motion for entry of an order under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 authorizing, approving and ratifying the letter agreement from Deutsche Bank AG Cayman Islands Branch and

Deutsche Bank Securities Inc. (together "Deutsche Bank") to RCN, dated October 15, 2004, pursuant to which Deutsche Bank and RCN propose to amend (i) the Commitment Letter,¹ (ii) the Fee Letter and (iii) the Engagement Letter (the "Financing Amendment"). A copy of the Financing Amendment is attached hereto as Exhibit A. In support of this motion, the Debtors rely on the Declaration of Timothy Coleman in Support of Motion for Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying Amendment to Exit Financing Commitments and Payment of Related Fees and Expenses (the "Coleman Declaration"). In further support of this motion, the Debtors respectfully represent as follows:

BACKGROUND

1. On May 27, 2004 (the "Petition Date"), RCN, TEC Air, Inc., RLH Property Corporation, RCN Finance, LLC and Hot Spots Productions, Inc., the debtors and debtors-in-possession in case number 04-13638 (RDD) (collectively, the "Initial Debtors"), filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). On August 5, 2004 RCN Cable TV of Chicago, Inc., the debtor and debtor-in-possession

¹ Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion for Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying Exit Financing Commitments and Payment of Related Fees and Expenses, filed by the Debtors on June 4, 2004 (the "Financing Motion").

in case number 04-15120 (RDD), filed a voluntary petition in this Court for reorganization relief under the Bankruptcy Code. On August 20, 2004, 21st Century Telecom Services, Inc., RCN Telecom Services of Virginia, Inc., RCN Entertainment, Inc. and ON TV, Inc., the debtors and debtors-in-possession in case numbers 04-15505 (RDD) through 04-15508 (RDD) (collectively with RCN Cable TV of Chicago, Inc., the "Affiliate Debtors"), filed voluntary petitions in this Court for reorganization relief under the Bankruptcy Code. The bankruptcy cases of the Initial Debtors and the Affiliate Debtors are jointly administered under case number 04-13638 (RDD). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

2. On June 10, 2004, the Official Committee of Unsecured Creditors (the "Creditors' Committee") was appointed by the United States Trustee for the Initial Debtors. No trustee, examiner or official committee has been appointed in the Affiliate Debtors' chapter 11 cases.

3. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2).

4. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 363(b), 364(c)(1), 503(b) and 507.

RELIEF REQUESTED

5. RCN Telecom Services of Washington, D.C., Inc. ("RCN-DC"), a wholly-owned, non-Debtor affiliate of RCN, holds a 50% interest in Starpower Communications, LLC ("Starpower"), a joint venture that sells video and telecommunications services to commercial and residential customers in the Maryland, Virginia, and Washington, D.C. metropolitan markets. Pepco Communications, L.L.C. ("Pepco") holds the remaining 50% joint venture interest in Starpower (the "Starpower Interest").

6. On July 28, 2004, Pepco advised RCN-DC that Pepco had received an offer to sell its Starpower Interest for an amount equal to \$29 million. The Starpower joint venture agreement provides a right of first refusal in favor of RCN-DC with respect to any proposed sale by Pepco, entitling RCN-DC to purchase the Starpower Interest for the amount offered to Pepco.

7. Because of the significant benefits and value that will accrue to the Debtors upon acquisition of 100% of Starpower, on October 15, 2004, RCN-DC elected to exercise its right of first refusal and agreed to purchase the Starpower Interest for \$29 million (the "Starpower Acquisition"). The parties have agreed that RCN-DC will endeavor to close the transaction as promptly as reasonably practicable under the circumstances, but in no event later than December 31, 2004.

8. In order to complete the Starpower Acquisition, RCN-DC determined that it needed to finance \$20 million of the \$29 million purchase price.² As described in greater detail below, the Debtors concluded that financing the Starpower Acquisition through a \$20 million increase to the New Term Loan Facility contemplated by the Exit Financing Commitments with Deutsche Bank represented the Debtors' best financing option for the Starpower Acquisition.

9. Accordingly, the Debtors, by this motion, seek an order pursuant to 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 authorizing, approving and ratifying the Debtors' acceptance of the Financing Amendment, and authorizing the Debtors to pay those fees and expenses payable under the Fee Letter and Commitment Letter, as amended by the Financing Amendment, as and when they become due, as administrative expenses of the estates.

BASIS FOR RELIEF

A. The Starpower Acquisition

10. Subsequent to receiving the notice from Pepco regarding the proposed sale of its Starpower Interest, the Debtors and RCN-DC, with the assistance of their advisors, carefully analyzed the proposed purchase terms and the economics

² As described below, this amount of financing anticipates that the parties will close the Starpower Acquisition in connection with the Debtors' contemplated emergence from chapter 11 on or before December 31, 2004.

of the Starpower Acquisition. Starpower holds and operates valuable franchises, and is an integral aspect of the RCN Companies' future business plan. The Debtors and RCN-DC determined that the \$29 million purchase price for the Starpower Interest is within a range of reasonableness that affords RCN-DC and the RCN Companies a significant opportunity to capitalize on the value afforded by the Starpower franchises by acquiring 100% control of Starpower. The Starpower Acquisition therefore represents an important, value-added acquisition, and the Creditors' Committee has advised RCN-DC that, based upon the information reviewed to date, it supports the Starpower Acquisition.

11. At this time, the Debtors and RCN-DC contemplate closing the Starpower Acquisition in connection with the Debtors' emergence from chapter 11. As this Court is aware, the Debtors recently obtained this Court's approval of the disclosure statement with respect to their joint plan of reorganization (the "Plan"). The hearing on confirmation of the Plan is scheduled for December 8, 2004. Assuming that the Plan is confirmed on or about that date, the Debtors intend to consummate the Plan and emerge from chapter 11 on or before December 31, 2004, which is also the date on or before which RCN-DC and Pepco have agreed that the parties will close the Starpower Acquisition.

12. In order to complete the Starpower Acquisition by this anticipated emergence date, the Debtors and RCN-DC determined that they require

\$20 million in outside financing.³ The Debtors determined, in their sound business judgement, that Deutsche Bank's proposal to increase the amount of its existing commitment was the most desirable in the context of the Debtors' restructuring goals and their ongoing general business needs. This conclusion is supported largely by the fact that Deutsche Bank previously submitted to the Debtors the best proposal for exit financing in connection with their emergence from chapter 11 after extensive efforts by the Debtors and their advisors to find such financing.⁴

13. Indeed, as the Debtors previously explained to this Court in connection with the Financing Motion, the Debtors undertook an exhaustive search for exit financing necessary to pay their existing lenders in full and to provide the reorganized companies with necessary working capital. The Exit Financing Commitments provided by Deutsche Bank are central to the Debtors' restructuring strategy

³ If the Debtors do not emerge from chapter 11 by December 31, 2004, the Debtors nonetheless will still be obligated with Pepco to close on the Starpower Acquisition by such date, absent agreement between the parties to extend the closing deadline. In order to be prepared for this contingency, the Debtors currently are exploring options to obtain financing for the Starpower Acquisition in the event that they do not emerge from chapter 11, as currently anticipated, by December 31, 2004. Depending upon the Debtors' cash resources, the amount financed pursuant to any interim financing arrangement may be more than the \$20 million contemplated by the Amendment.

⁴ On June 22, 2004 the Court entered an order granting the relief requested in the Financing Motion and authorizing the Debtors' entry into the Exit Financing Commitments and payment of the fees and expenses thereunder (the "Financing Order").

and the Plan that has been proposed to creditors. Deutsche Bank is already familiar with the RCN Companies' business and assets, and has completed a substantial amount of due diligence in connection with providing the Exit Financing Commitments. In light of this history and the view of the Debtors and their advisors that they likely could not obtain purchase-money financing from another third-party in connection with the Starpower Interest (which represents only a small fraction of the RCN Companies' overall enterprise), on October 15, 2004, Deutsche Bank and RCN formally executed the Financing Amendment, subject to this Court's approval.

14. The decision to enter into the Financing Amendment was the product of an arms' length negotiation, was conducted in good faith, and represents the sound exercise of the Debtors' business judgment. In addition, the fees and expenses contemplated by the Financing Amendment are reasonable and justifiable. This conclusion is supported by the Coleman Declaration, submitted by Timothy Coleman of The Blackstone Group L.P., the Debtors' investment banker. Mr. Coleman is an investment banking expert who has substantial experience with financing transactions in the bankruptcy context. It is Mr. Coleman's opinion that the fees associated with the proposed Financing Amendment are the types of fees that one would expect to be incurred in similar situations and are consistent with those previously approved by this Court on June 22, 2004 in the Financing Order.

B. Proposed Amendments to the Exit Financing Commitments

15. As described in the Financing Motion, Deutsche Bank initially agreed to provide New Senior Exit Financing in an aggregate amount of up to \$460 million. The New Senior Exit Financing consists of the New First-Lien Financing and the New Second-Lien Financing. The New First-Lien Financing, in turn, consists of (a) a New Term Loan Facility of \$285 million and (b) a New L/C Facility of \$25 million. The Financing Amendment will not affect the New Second-Lien Financing and the New L/C Facility, but will increase the amount of the New Term Loan Facility by \$20 million to \$305 million. The New Term Loan Facility, as amended by the Financing Amendment, will continue to be subject to the terms and conditions described in the Exit Financing Commitments.

16. If the New Term Loan Facility is increased by \$20 million, there will be an increase to certain fees to be paid by the Debtors under the Commitment Letter and the Fee Letter. Specifically, if the Starpower Acquisition is consummated, both the 2.25% Facility Fee and the 0.5% Commitment Fee that currently apply to the New Term Loan Facility will also apply to the \$20 million contemplated by the Financing Amendment, resulting in an additional \$550,000 fee. If the Starpower Acquisition is not consummated, only the 0.5% Commitment Fee will apply to the \$20 million, resulting in a \$100,000 fee.

17. The Financing Amendment will also increase by \$20 million the amount that is potentially subject to the 1% fee described in paragraph six of the Commitment Letter. Such fee is applicable to funds deposited by Deutsche Bank into escrow for the benefit of the Debtors pursuant to the Escrow Funding but ultimately returned to Deutsche Bank. All other fees to be paid pursuant to the Exit Financing Commitments are otherwise unaffected by the Financing Amendment.

18. The effectiveness of the Amendment Letter is conditioned upon the Court's entry of an order in form and substance satisfactory to Deutsche Bank, approving the Amendment Letter and the Debtors' obligations under the Exit Financing Commitments, as amended thereby.

APPLICABLE AUTHORITY

19. Bankruptcy Code section 363 authorizes a debtor-in-possession to use property of the estate in the ordinary course of business without court approval. Bankruptcy Code section 363(b) permits a debtor-in-possession to use property of the estate "other than in the ordinary course of business" after notice and a hearing. Additionally, Bankruptcy Code section 105(a) allows this Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]."

20. Court's in this district and elsewhere consistently have held that transactions pursuant to 363(b) should be approved if the debtor demonstrates a

sound business justification for implementing it. See In re Lionel Corp., 722 F.2d 1063, 1071 (2d Cir. 1983); In re Delaware Hudson Ry. Co., 124 B.R. 169, 179 (Bankr. D. Del. 1991). Once the debtor articulates a valid business justification, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.'" In re Integrated Resources, Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting Smith v. Van Gorkom, 488 A.2d 858, 872 (Del. 1985)).

21. As noted by this Court, the business judgment standard under Bankruptcy Code section 363(b), at least in the Second Circuit, differs slightly from the standard in other contexts because "it is the bankruptcy judge's business judgment that is supposed to be applied." In re RCN Corp., Case No. 04-13638 (RDD), June 22, 2004 Hr'g Tr. ¶¶ 50:24–50:2, at 46. But this Court also noted that in certain circumstances, the bankruptcy judge will give significant deference to a debtor's business judgment:

[B]ankruptcy judges and district judges in this district have been quick to, in the proper circumstances, defer in large part to the debtors' business judgment, particularly where the creditors' committee and the majority of the parties in interest support that judgment.

In re RCN Corp., June 22, 2004 Hr'g Tr. ¶¶ 51:3–12, at 46. That deference applies here where the Creditors' Committee has indicated its support for the Financing

Amendment, and the terms of the Financing Amendment are the result of arms-length negotiations. Indeed, as indicated above, the Creditors' Committee supports the Debtors' acquisition of the Starpower Interest based on the information it has received to date. The creditors represented by the Creditors' Committee stand to receive substantially all of the ownership interests in the reorganized company under the Plan, a Plan that is supported by the Creditors' Committee and as to which it is a co-proponent. As representatives of the future owners of the reorganized company, the views of the Creditors' Committee should be entitled to significant deference in this circumstance.

22. Under section 105(a) of the Bankruptcy Code, the Court also has broad authority under its equitable powers to fashion any order or decree that would preserve or protect the value of the debtor's assets. See, e.g., Adelphia Communs. Corp. v. Rigas, 2003 U.S. Dist. LEXIS 9349, at *12 (S.D.N.Y. 2003) ("Section 105 of Title 11 provides the bankruptcy courts with a broad range of equitable powers over cases within its jurisdiction"); Griffin v. Bonapfel (In re All American of Ashburn, Inc.), 805 F.2d 1515, 1517 (11th Cir. 1986) (per curiam) (noting that section 105(a) provides authority for bankruptcy courts to protect estate property).

23. Given the important economic benefits expected to accrue to the RCN Companies as a result of the Starpower Acquisition, it is critical that this

Court approve the Financing Amendment. Courts outside this district have recognized the needs of chapter 11 debtors to enter into agreements similar to the Exit Financing Commitments, as amended by the Financing Amendment, if the fees are negotiated in good faith and in the best interests of the debtors' estates. See e.g., In re Magnatrax Corp., 2003 WL 22287541 at *10 (Bankr. D. Del. Nov. 17, 2003) (order approving pre-funding commitment fees for exit credit agreement in connection with plan of reorganization where parties engaged in "good faith, arms' length negotiations"); In re Carmike Cinemas, Inc., Case No. 00-33-2 (SLR), Docket No 2085 (Bankr. D. Del. Jan. 3, 2002) (order approving commitment letter in connection with plan of reorganization, including commitment and closing fees were "in the best interests of the Debtors and all parties in interest").

24. The terms of the Financing Amendments here are fair and reasonable; were negotiated in good faith and at arms' length; and constitute a sound exercise of the Debtors' business judgment. Indeed, securing a commitment to provide the financing necessary to consummate such a potentially beneficial transaction is an important step in ensuring the future viability of the Debtors and the RCN Companies as a collective whole. By purchasing Pepco's 50% interest, the RCN Companies will be able to consolidate their ownership interest in Starpower, resulting in 100% control of the business which is significantly more advantageous than a 50% interest. Moreover, as supported by the Coleman Declaration, the proposed fees

and charges by Deutsche Bank are within the parameters of market fee structures for similar, extensively negotiated, financing arrangements.

25. Failure to ratify the Financing Amendment would impede RCN-DC's ability to consummate the Starpower Acquisition. Without the \$20 million to be furnished pursuant to the Financing Amendment, RCN-DC would need to seek alternate sources of such financing. As indicated above, RCN and its advisors view this prospect as difficult, expensive and much more time consuming than the current proposal from Deutsche Bank. If RCN-DC were unable to obtain such financing, it would not be able to consummate the Starpower Acquisition and the RCN Companies would miss an opportunity to add potentially significant value to the RCN Companies.

26. Indeed, if the Court fails to ratify the Financing Amendment, the Debtors will be forced to incur additional administrative expenses. If the Debtors are forced to pursue other sources of financing, other potential lenders will require the payment of due diligence, attorneys' and other related fees before providing the Debtors with a commitment letter if they choose to do so. Nor can there be any assurance that another lender will commit to a new financing for the Starpower Acquisition on terms as favorable as those proposed by Deutsche Bank.

27. Based on the benefits to be realized from entering into the Financing Amendment, together with the potential harm and injury to the estates if

the relief requested herein is not granted, the Debtors respectfully request that the motion be granted. Moreover, consistent with the terms of the Amendment, the Debtors respectfully request that the Court authorize, approve and ratify the payment of these fees as valid administrative expenses under sections 503(b) and 507 of the Bankruptcy Code.

28. The Debtors submit that no new or novel issue of law is presented with respect to the matters contained herein. Because the relevant authorities in support of the requested relief are cited in this motion, the Debtors request that the requirement of the service and filing of a separate memorandum of law under Local Bankr. R. 9013-1(b) be deemed satisfied.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) authorizing, approving and ratifying the Financing Amendment (ii) authorizing, approving and ratifying the payment of the fees and expenses payable under each of the Commitment Letter and the Fee Letter, each as amended by the Financing Amendment, and granting such payments priority as administrative expense claims under Section 503(b)(1) and 507(a)(1) of the Bankruptcy Code, and in the case of the obligation to pay fees as described in the last sentence of the sixth paragraph of the Commitment Letter, as amended by the Financing Amendment, shall constitute super priority obligations pursuant to 364(c)(1) of the Bankruptcy Code and (iii) granting such other and further relief as is just and proper.

Dated: New York, New York
October 22, 2004

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

/s/ D. J. Baker
D. J. Baker (DB 0085)
(A Member of the Firm)
Frederick Morris (FM 6564)
Four Times Square
New York, New York 10036-6522
(212) 735-3000

Attorneys for Debtors and
Debtors-in-Possession

EXHIBIT A

DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH
60 Wall Street
New York, New York 10005

DEUTSCHE BANK SECURITIES INC.
60 Wall Street
New York, New York 10005

October 15, 2004

RCN Corporation
105 Carnegie Center
Princeton, NJ 08540

Attention: John Dubel

Re: Senior Secured Financing Commitment and Fee Letters; Second-Lien Notes Engagement Letter – Amendment Letter #1

Ladies and Gentlemen:

Reference is made to (x) the Senior Secured Financing Commitment Letter from Deutsche Bank AG Cayman Islands Branch (“DBCI”) and Deutsche Bank Securities Inc. (“DBSI” and, together with DBCI, “DB”) to you dated May 24, 2004 (together with the Term Sheets referred to therein, the “Commitment Letter”) concerning the financing of the proposed Transaction described therein, (y) the Fee Letter (as defined in the Commitment Letter) and (z) the Engagement Letter (as defined in the Commitment Letter). Terms defined in the Commitment Letter shall have the same meaning when used in this letter (this “Amendment Letter”).

The parties hereto agree as follows:

(i) the Commitment Letter is hereby amended by (x) deleting each appearance of the text “\$310.0 million” contained therein and inserting the text “\$330.0 million” in lieu thereof and (y) deleting each appearance of the text “\$285.0 million” contained therein and inserting the text “\$305.0 million” in lieu thereof;

(ii) the Commitment Letter is hereby further amended by adding the following new sentences immediately after the first sentence appearing under the subheading “Availability” in Part I.A. of Exhibit A to the Commitment Letter:

“Notwithstanding anything to the contrary contained above or elsewhere in the Commitment Letter, \$20.0 million of the Term Loan Facility (as otherwise described above under “Credit Facilities”) shall only be available if the Company and/or one or more of its wholly-owned domestic subsidiaries acquires all equity interests of Starpower Communications, LLC not owned by them on October 14,

2004 (i.e., the remaining 50% of such equity interests not owned by them on such date), which acquisition of equity interests (the "Starpower Remaining Equity Acquisition") must be effected on, prior to, or within one business day after (subject to satisfactory escrow arrangements to be agreed upon if not effected on or prior to the Closing Date) the Closing Date and for aggregate consideration not to exceed \$30.0 million. In the event that the Starpower Remaining Equity Acquisition is not consummated on or prior to the Closing Date (unless to be consummated within one business day thereafter as contemplated above), the commitments with respect to the Term Loan Facility shall be reduced on the Closing Date by \$20.0 million prior to any borrowings on the Closing Date. Furthermore, if the Starpower Remaining Equity Acquisition is effected on or prior to the Closing Date (or is to be consummated within one business day thereafter) for aggregate cash consideration of less than \$20.0 million, the commitments with respect to the Term Loan Facility shall be reduced on the Closing Date by the amount by which \$20.0 million exceeds the cash consideration paid (or to be paid) to effect the Starpower Remaining Equity Acquisition, with such reduction to the commitments to occur prior to any borrowings on the Closing Date.";

(iii) the Fee Letter is hereby amended by (x) deleting the text "\$310.0 million" contained in the paragraph numbered 1 therein and inserting the text "\$330.0 million" in lieu thereof and (y) deleting the text "\$460.0 million" contained in the paragraphs numbered 2 and 4 therein and inserting the text "\$480.0 million" in lieu thereof; provided that if the Starpower Remaining Equity Acquisition is not consummated on, prior to, or within one business day after, the Closing Date, or is consummated for aggregate cash consideration of less than \$20.0 million, and in either case as a result thereof the increased commitments provided pursuant to this Amendment Letter are reduced in accordance with the new text inserted in the Commitment Letter pursuant to preceding clause (ii) of this Amendment Letter, then the aggregate amount of the reductions to such commitments on the Closing Date (but in no event more than \$20.0 million) shall likewise reduce the \$330.0 million amount referenced in paragraph numbered 1 of the Fee Letter, with any such reduction to be effective immediately before the calculation of the fee payable pursuant to said paragraph numbered 1 of the Fee Letter;

(iv) with respect to paragraph numbered 5 of the Fee Letter, the parties hereto agree that the \$460.0 million amount referenced therein shall be increased by \$20.0 million, by the mutual agreement of the parties hereto, as of the date of this letter; and

(v) the Engagement Letter is hereby amended by deleting each appearance of the text "\$310.0 million" contained therein and inserting the text "\$330.0 million" in lieu thereof.

This Amendment Letter and the amendments to the Commitment Letter, the Fee Letter and the Engagement Letter effected hereby are limited as specified and shall not constitute a modification, acceptance or waiver of any other provision of the Commitment Letter, the Fee Letter or the Engagement Letter, as the case may be, and shall not constitute a modification, acceptance or waiver of any provision of the Engagement Indemnity Letter (except as expressly

provided in the next sentence). From and after the date of the effectiveness of this Amendment Letter, each reference to the Commitment Letter, the Fee Letter and the Engagement Letter contained in any such document or in any related letter referred to therein shall be deemed to be a reference to the Commitment Letter, the Fee Letter or the Engagement Letter, as the case may be, as modified hereby.

This Amendment Letter may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one agreement. Delivery of an executed signature page of this Amendment Letter by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. This Amendment Letter shall be governed by, and construed in accordance with, the laws of the State of New York.

Notwithstanding anything to the contrary contained herein, this Amendment Letter shall only be effective (x) if executed by you (with an executed copy returned to DB) on or prior to October 20, 2004 and (y) if on or prior to November 15, 2004 the Bankruptcy Court has entered an order in form and substance satisfactory to DB approving this Amendment Letter and the Company's (and each other Debtor-in-Possession's) obligations under the Commitment Letter, Fee Letter and the Engagement Letter as amended hereby.

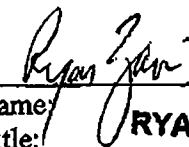
* * *

If the foregoing correctly sets forth our understanding, please indicate your acceptance of the terms hereof by signing in the appropriate space below and returning to DB the enclosed duplicate originals hereof.

Very truly yours,

DEUTSCHE BANK AG CAYMAN ISLANDS
BRANCH

By: 
Name: David Mayhew
Title: Director

By: 
Name: RYAN A. ZANIN
Title: MANAGING DIRECTOR

DEUTSCHE BANK SECURITIES INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

If the foregoing correctly sets forth our understanding, please indicate your acceptance of the terms hereof by signing in the appropriate space below and returning to DB the enclosed duplicate originals hereof.

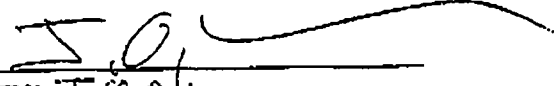
Very truly yours,

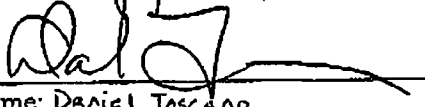
DEUTSCHE BANK AG CAYMAN ISLANDS
BRANCH

By: _____
Name:
Title:

By: _____
Name:
Title:

DEUTSCHE BANK SECURITIES INC.

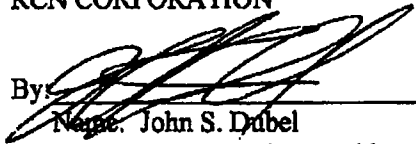
By: 
Name: Jeff Ogden
Title: Managing Director

By: 
Name: Daniel Toscano
Title: Managing Director

Accepted and Agreed to this

15th day of October, 2004

RCN CORPORATION

By: 

Name: John S. Dabel

Title: Executive Vice President and Chief Restructuring Officer

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
In re	:	Chapter 11
	:	
RCN CORPORATION, <u>et al.</u> ,	:	Case No. 04-13638 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	x	

**ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), 364(c)(1),
503(b) AND 507 AUTHORIZING, APPROVING AND RATIFYING
AMENDMENT TO EXIT FINANCING COMMITMENTS AND
PAYMENT OF RELATED FEES AND EXPENSES**

Upon the motion (the "Motion")¹ of the Debtors for entry of an Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying the Amendment to the Exit Financing Commitments and Payment of Related Fees and Expenses; and the Court having reviewed the Motion and the Coleman Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that notice of the Motion was good and sufficient under the particular circumstances and that no other and further notice be given; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

¹ Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Motion.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. The Debtors' execution of the Financing Amendment is ratified and the Debtors are hereby authorized and empowered to perform the obligations set forth in the Financing Amendment, and the Exit Financing Commitments as amended thereby, and the obligations incurred by them thereunder.
3. The additional fees and expenses payable by the Debtors under each of the Commitment Letter and the Fee Letter, each as amended by the Financing Amendment, shall be entitled to priority as administrative expense claims under sections 503(b)(1) and 507(a)(1) of the Bankruptcy Code, as and when they become due and shall be paid when and as provided for under the Exit Financing Commitments, as amended by the Financing Amendment; and in the case of the obligation to pay fees as described in the last sentence of the sixth paragraph of the Commitment Letter, as amended by the Financing Amendment, such obligation and fees shall constitute super priority obligations pursuant to Section 364(c)(1) of the Bankruptcy Code.

4. The requirement of Local Bankr. R. 9013-1(b) that any motion filed shall be accompanied by a separate memorandum of law is satisfied by the Motion.

Dated: New York, New York
November __, 2004

UNITED STATES BANKRUPTCY JUDGE

Exhibit “B”

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036-6522
(212) 735-3000
D. J. Baker (DB 0085)
(A Member of the Firm)
Frederick D. Morris (FM 6564)

Attorneys for Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	x
	:
In re	: Chapter 11
	:
RCN CORPORATION, <u>et al.</u> ,	: Case No. 04-13638 (RDD)
	:
Debtors.	: (Jointly Administered)
	:
-----	x

**DECLARATION OF TIMOTHY COLEMAN IN SUPPORT
OF MOTION FOR ORDER UNDER 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b)
AND 507 AUTHORIZING, APPROVING AND RATIFYING AMENDMENT TO
EXIT FINANCING COMMITMENTS AND
PAYMENT OF RELATED FEES AND EXPENSES**

Timothy Coleman hereby declares that the following is true and correct:

1. I am a senior managing director in the Restructuring & Reorganization Advisory Group of The Blackstone Group ("Blackstone") in New York. Blackstone has been advising the Debtors since March 10, 2004 and on August 3, 2004 the Court issued an order approving, on a final basis, Blackstone's retention as financial advisors to the Debtors. I have been employed by Blackstone since 1992. Before joining

Blackstone, I was a Vice President at Citibank, N.A. for twelve years. I received a BA from the University of California at Santa Barbara, and an MBA from the University of Southern California. Blackstone's Restructuring and Reorganization and Advisory group was established in 1991. Blackstone has advised both companies and creditors in over 145 distressed situations, involving over \$315 billion of total liabilities. I have personally been involved in a variety of restructuring and reorganization roles throughout my career.

2. I submit this declaration (the "Declaration") in support of the Debtors' Motion for Order Under 11 U.S.C. §§ 105(a), 363(b), 364(c)(1), 503(b) and 507 Authorizing, Approving and Ratifying the Amendment to the Exit Financing Commitments and Payment of Related Fees and Expenses (the "Motion").¹

3. Except as otherwise indicated, all statements in this Declaration are based on my personal knowledge, my review of relevant documents or my opinion based upon my experience and knowledge of the Debtors' operations and financial condition. If I were called upon to testify, I could and would testify to each of the facts set forth herein based on such personal knowledge, review of documents or opinion. I am authorized to submit this Declaration on behalf of the Debtors.

¹ Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

The Need for the Amendment to the Exit Financing Commitments

4. The Debtors expect to realize significant benefits from the Starpower Acquisition. The Starpower market serves an attractive demographic for RCN's products and services and is part of the Northeast US market that the Debtors have identified as critical to their business plan. The Debtors anticipate that there are significant opportunities for cost reductions and operational improvements at Starpower that could only be realized through the Starpower Acquisition. These improvements could increase revenue and also eliminate overhead expenses, increasing the Debtors' cash flow.

5. If the Starpower Acquisition is not completed, there is a risk that the Debtors could experience operational difficulties with the new JV partner, or with Pepco in the event that no transaction takes place. If a competitor to the Debtors were to purchase a 50% interest in Starpower, it is likely that they would seek greater operational control than Pepco currently has.

6. The Debtors and Blackstone determined that an amendment to the Exit Financing Commitments to provide an additional \$20 million in New Senior Exit Financing was the most viable means for financing the Starpower Acquisition. After careful evaluation, consideration of various alternatives and consultation with their advisors and creditor constituencies, the Debtors determined, in their sound business judgment, that amending the Exit Financing Commitments with Deutsche Bank would

best meet the Debtors' restructuring goals as well as their ongoing general business needs. Based on that conclusion, the RCN Companies concentrated their efforts on negotiating the terms of an amendment to the Exit Financing Commitments with Deutsche Bank. Those negotiations resulted in the Financing Amendment, which was executed by RCN and Deutsche Bank on October 15, 2004.

7. Deutsche Bank has agreed to fully fund the \$20 million needed to finance the Starpower Acquisition, subject to the terms and conditions set forth in the Amendment Letter and the Exit Financing Commitments, as amended thereby.

The Financing Amendment is Fair and Reasonable

8. Deutsche Bank's agreement to provide an additional \$20 million under the New Term Loan Facility, pursuant to the Financing Amendment, represents the result of arms' length negotiations between Deutsche Bank and the Debtors, Blackstone and the Debtors' other advisors. The fees associated with the additional \$20 million compare favorably with the pricing of similar financing transactions in the current market and are consistent with those previously approved by this Court on June 22, 2004 in the Financing Order.

9. In addition, in the event the Debtors have to secure financing from other lenders, such lenders will likely demand the payment of due diligence fees, attorneys' fees and another commitment fee before they provide the Debtors with a

commitment letter. There can be no assurance that another lender will be willing to commit to the \$20 million necessary to consummate the Starpower Acquisition, nor can there be any assurance that the terms of such financing will be as favorable as that proposed by Deutsche Bank. As such, when considering all of the factors, we concluded that the Starpower Financing is the Debtors' best financing alternative for the Starpower Acquisition.

10. Accordingly, we advised the Debtors that the terms of the Financing Amendment and the related fees are reasonable, in comparison to the amounts being committed. The reasonableness of the proposed transaction is supported by the benefits the Debtors will derive.

11. If the Court fails to ratify the Financing Amendment, and such failure renders RCN-DC unable to consummate the Starpower Acquisition, the Debtors will have lost an opportunity to add significant value to the RCN Companies.

I declare under penalty of perjury that the foregoing is true and correct.

Dated October 22, 2004

/s/ Timothy Coleman
Timothy Coleman

Exhibit “C”

Name
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ALL RACK
ANDREWS KURTH LLP
ARNALL GOLDEN GREGORY LLP
BLACKWELL SANDERS PEPPER MARTIN LLP
BLANK ROME LLP
CARL SANDBURG VILLAGE CONDOMINIUM ASSOCIATION II
CHARLES, CHRISTOPHER
CHICAGO ACCESS CORPORATION (AREA 2)
CITY OF CHICAGO
CITY OF CHICAGO
CITY OF CHICAGO
CITY OF CHICAGO
DHL EXPRESS (USA), INC.
Dwyer, Smith, Gardner, Lazer, Pohren, Rogers &
FEDERAL COMMUNICATIONS COMMISSION
GOTHAM SOUND & COMMUNICATIONS
GREENBERG TRAUERIG, LLP
GREENBERG TRAUERIG, LLP
HALPERIN & ASSOCIATES
HSBC BANK USA
HSBC BANK USA, AS INDENTURE TRUSTEE
INTERNAL REVENUE SERVICE
INTERNATIONAL BUSINESS MACHINES CORPORATION
INTERNATIONAL FAMILY ENTERTAINMENT INC/ ABC FAMILY
JOHN CLIFFORD PHOTOGRAPHY
KELLEY DRYE & WARREN LLP
KELLEY DRYE & WARREN LLP
LOVELLS
LOWENSTEIN SANDLER PC
MICHAEL A. CORDOZO
MILBANK, TWEED, HADLEY & MCCLOY LLP
MILBANK, TWEED, HADLEY & MCCLOY LLP
MORRISON & FOERSTER LLP
O'MELVENY & MYERS LLP
PATTERSON, BELKNAP, WEBB & TYLER LLP
PAUL, HASTINGS, JANOFFSKY & WALKER LLP
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PHANTOM POWER, GRIP & ELECTRIC
PHOTOBITION BONDED SERVICES
PROFESSIONAL SOUND SERVICES
RCN CORPORATION
REED SMITH LLP
SECURITIES AND EXCHANGE COMMISSION
SHIP-IT
SIMPSON, THACHER & BARTLETT LLP
SKADDEN, ARPS, SLATE, MEAGHER & FLOW LLP
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SKADDEN, ARPS, SLATE, MEAGHER & FLOW LLP

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ATTN: MS. SANDRA E. HORWITZ 452 FIFTH AVENUE NEW YORK NY 10018-2706
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ATTN: DENNIS DUNNE, ESQ. 1 CHASE MANHATTAN PLAZA NEW YORK NY 10005
ATTN: DEIDRE A. SULLIVAN, ESQ. 1 CHASE MANHATTAN PLAZA NEW YORK NY 10005
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