

Dennis F. Dunne (DD 7543)  
Susheel Kirpalani (SK 8926)  
Lena Mandel (LM 3769)  
MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP  
1 Chase Manhattan Plaza  
New York, New York 10005  
(212) 530-5000

Presentment Date: January 9, 2006 at 12:00 noon

Attorneys for RCN Corporation, et al.,  
Reorganized Debtors

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

-----X  
In re: : Chapter 11  
: : Case No. 04-13638 (RDD)  
RCN CORPORATION, et al., : Jointly Administered  
: :  
Reorganized Debtors. :  
-----X

**NOTICE OF PRESENTMENT OF STIPULATION  
AND CONSENT ORDER BETWEEN RCN  
CORPORATION ET AL. AND MERRILL LYNCH,  
PIERCE, FENNER & SMITH INCORPORATED**

PLEASE TAKE NOTICE that on January 9, 2006, the undersigned, on behalf of RCN Corporation and certain of its subsidiaries (collectively, "RCN"), reorganized debtors and debtors-in-possession in the above-captioned case, will present the attached Stipulation and Consent Order Between RCN Corporation et al. and Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Stipulation") to the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004 for signature.

PLEASE TAKE FURTHER NOTICE that unless a written objection to the Stipulation, with proof of service, is filed with the Clerk of the Bankruptcy Court, with a courtesy copy delivered to (i) the Bankruptcy Judge's chambers, (ii) the Office of the United States Trustee, Attn: Paul K. Schwartzberg, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, New York 10004, and (iii)

the undersigned counsel for RCN, in all cases so as to be received no later than 5:00 p.m. on January 4, 2006, there will not be a hearing and the Stipulation may be signed upon presentment to the Bankruptcy Judge.

PLEASE TAKE FURTHER NOTICE that if a written objection is timely filed, a hearing will be held in the United States Bankruptcy Court for the Southern District of New York on January 12, 2006 at 10:00 a.m. (EDT). The moving and objecting parties are required to attend the hearing, and failure to appear may result in relief being granted or denied upon default.

DATED: New York, New York  
December 29, 2005

**MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP**

By: /s/ Lena Mandel  
Dennis F. Dunne (DD 7543)  
Susheel Kirpalani (SK 8926)  
Lena Mandel (LM 3769)  
1 Chase Manhattan Plaza  
New York, New York 10005  
(212) 530-5000

Attorneys for RCN Corporation, et al.,  
Reorganized Debtors

Proposed Stipulation And Order

Dennis F. Dunne (DD 7543)  
Susheel Kirpalani (SK 8926)  
Lena Mandel (LM 3769)  
MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP  
1 Chase Manhattan Plaza  
New York, New York 10005-1413  
(212) 530-5000

Attorneys for RCN Corporation, et al.,  
Reorganized Debtors

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

----- X  
In re: : Chapter 11  
: : Case No. 04-13638 (RDD)  
RCN CORPORATION, et al., : Jointly Administered  
: :  
Reorganized Debtors. :  
-----X

**STIPULATION AND CONSENT ORDER BETWEEN  
RCN CORPORATION ET AL. AND  
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED**

This Stipulation and Consent Order (the "Stipulation") is entered into by and between RCN Corporation, one of the reorganized debtors in the above-captioned cases, on behalf of itself and certain of its reorganized debtor-subsidiaries<sup>1</sup> (collectively, "RCN"), and Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Merrill" and, together with RCN, the "Parties").

**WHEREAS**, on May 27, 2004 (the "Petition Date"), RCN filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York; and

---

<sup>1</sup> Specifically, RCN Finance, LLC, Tec Air, Inc., RLH Property Corporation, Hot Spots Production, Inc., RCN Entertainment, Inc., RCN Cable TV of Chicago, Inc., RCN Telecom Services of Virginia, Inc., 21<sup>st</sup> Century Telecom Services, Inc., and ON TV, Inc.

**WHEREAS**, Merrill timely filed ten proofs of claim against RCN -- Nos. 1459 through 1463 and 2046 through 2050 (collectively, the "Merrill Claims"), each in the amount of \$9.8 million (plus additional unliquidated amounts for legal fees) on account of certain engagement letters entered by the Parties prior to the Petition Date (collectively, the "Engagement Letter"); and

**WHEREAS**, on or about November 12, 2004, RCN commenced an adversary proceeding in this Court against Merrill (No. 04-04524-rdd) (the "Adversary Proceeding"), whereby, among other things, RCN objected to each of the Merrill Claims, as well as sought substantial damages against Merrill in connection with Merrill's performance under the Engagement Letter; and

**WHEREAS**, on December 8, 2004, this Court confirmed the Joint Plan Of Reorganization Of RCN Corporation And Certain Subsidiaries, dated October 12, 2004 (the "Plan"); and

**WHEREAS**, in an effort to avoid expenses and delay of litigation, the Parties are desirous of resolving the issues between them and have agreed to enter into this Stipulation, subject to approval of the Court.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Stipulation, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the Parties as follows:

1. Merrill Claims. Upon Stipulation being so-ordered and entered on the docket of this Court, (a) Claim No. 1462 against RCN Corporation shall be deemed allowed as a general unsecured claim in an amount sufficient to receive four million dollars (\$4,000,000) in

actual fair market value of New Common Stock (as defined in the Plan) (the “Stock Distribution”), and (b) all other Merrill Claims shall be disallowed in their entirety and expunged.

2. Plan Treatment. Claim No. 1462 shall be classified as a Class 5 Claim under the Plan, entitled, in accordance with the provisions of the Plan, in its full and final satisfaction, to receive the Stock Distribution, and shall not be entitled to any other distributions from RCN’s estates or from reorganized RCN or any of its affiliates.

3. Distribution. No later than four (4) business days following the date (the “Effective Date”) that the Court so-orders this Stipulation , in full and final satisfaction of Claim No. 1462, RCN shall distribute, to the account designated by Merrill prior to such date, the number of shares of New Common Stock with an actual fair market value of \$4 million, based on the closing price per share on the next business day following the Effective Date.

Notwithstanding anything in the Plan to the contrary, Merrill shall not be entitled to any further distributions on account of Claim No. 1462 or otherwise. The Parties agree that, upon the execution of this Stipulation by the Parties, before this Stipulation has been so-ordered by the Court, Merrill shall be entitled to invoice RCN for \$4 million, it being understood, however, that such invoice shall be payable only in the form of the Stock Distribution and only upon approval of this Stipulation by the Court.

4. Adversary Proceeding. Upon the distribution of the shares of New Common Stock to Merrill pursuant to paragraph 3 hereof, the Adversary Proceeding shall be deemed dismissed with prejudice.

5. Release and Waiver. Upon the distribution of the shares of New Common Stock to Merrill pursuant to paragraph 3 hereof, the Parties shall be deemed to have released

each other, all of each other's subsidiaries and affiliates, and all of each other's present and former directors, officers, shareholders, agents, representatives, employees, successors and assigns (collectively, the "Released Parties"), to the fullest extent allowable by law, from all claims, charges, causes of action, and damages existing from the beginning of time to the Effective Date, whether in connection with the Engagement Letter, the Merrill Claims, these chapter 11 cases, or otherwise, and to have waived any and all right to proceed on such released claims against the Released Parties at law or in equity in any forum, other than to enforce the terms of this Stipulation in this Court.

6. Authority and Representations. The Parties represent and warrant to each other that: (i) the signatories to this Stipulation are authorized to execute this Stipulation; (ii) each has full power and authority to enter into this Stipulation; and (iii) this Stipulation is duly executed and delivered, and constitutes a valid, binding agreement in accordance with its terms.

7. Binding Nature. This Stipulation (i) shall inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns and (ii) shall be binding upon and enforceable against the Parties and their respective successors and assigns upon the entry of this Stipulation on the docket of this Court.

8. Non-Severability. The provisions of this Stipulation are mutually interdependent, indivisible and non-severable.

9. Effective Date. This Stipulation may be executed in one or more counterparts and by facsimile, all of which shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to all Parties, and the Court has "so ordered" and entered the Stipulation on its docket.

10. Retention of Jurisdiction. The Court shall retain exclusive jurisdiction to interpret and enforce the provisions of this Stipulation.

IN WITNESS WHEREOF, the Parties have executed this Stipulation on December 29, 2005.

**RCN CORPORATION**  
(on behalf of itself and its subsidiaries)

By: /s/ Peter D. Aquino  
Peter D. Aquino  
President and Chief Executive Officer

196 Van Buren Street  
Herndon, Virginia 20170

Attorneys for RCN Corporation,  
Reorganized Debtor.

**MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED**

By: /s/ Mark Bush  
Mark Bush, Managing Director

4 World Financial Center, 29th Floor  
New York, NY 10080

So Ordered on \_\_\_\_\_, 2006

\_\_\_\_\_  
ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE