

FINAL MERGER PLAN
FOR
NEKCV
A MERGER OF
NEK COMMUNITY BROADBAND
AND
CVFIBER
PURSUANT TO 30 V.S.A. § 3082a

The following is a Final Merger Plan (the “Plan”) for NEK Community Broadband (“NEK”), a Vermont Communications Union District (“CUD”), and CVFiber (“CVF”), a Vermont CUD, which are merging together pursuant to §3082a of Title 30 of the Vermont Statutes. This Plan is intended to replace the Preliminary Merger Plan.

This Plan is presented to the Governing Boards of NEK and CVF for approval by a two-thirds vote of a quorum of each Governing Board in accordance with §3082a(d). After the Final Merger Plan is approved, the Merged CUD will (1) notify the Vermont Secretary of State, and (2) on November 12th, which is within 90 days of such approval, hold an initial organizational meeting (the “Organizational Meeting”).

Under this plan, and in compliance with the process set forth below, NEK and CVF will merge into one corporate / municipal entity, and NEK will be the surviving entity. NEK will continue operating as a Vermont Communications Union District under a new set of Bylaws, a draft of which is attached to the Final Merger Agreement, and after the merger will do business as “NEKCV” through an Assumed Business Name Registration with the State of Vermont. For the purposes of this plan, the merged entity will be referred to as the “Merged CUD.”

The Merged CUD will operate under two separate brands (“Brand Areas”) within the existing NEK and CVF service areas for an initial period of time, after which the Merged CUD will become one brand area.

A. OPERATING PRINCIPLES OF THE MERGED CUD AND EQUITY

- (1) The Merged CUD shall conduct its operations in accordance with Vermont law governing the operations of CUDs, and in accordance with the operating principles attached as Attachment 3.
- (2) Digital Equity will be an important mission of the Merged CUD.

- (3) To ensure equity across the 71 towns of the Merged CUD, service offering speeds and pricing will be modified in each Brand Area to be the same. Introduction of revised pricing, substantially similar to the pricing posted in Attachment 2, will occur prior to the Organizational Meeting.

B. STRUCTURE

Governing Board

The Merged CUD will combine the 51 municipal members of NEK and the 20 municipal members of CVF into a single group of 71 municipal members, all of whom will be represented on the Governing Board as specified in the Bylaws.

The Governing Board will have ultimate authority for directing the operations of the Merged CUD, although day-to-day operations will be directed by the Executive Committee and Executive Director. However, only the Governing Board will have the authority to do the following:

- (1) amend the articles of incorporation and the Bylaws;
- (2) set the budget;
- (3) make any amendments to the budget exceeding the major purchase limits approved in the procurement policy;
- (4) hire and fire the Executive Director of the District; and
- (5) make major structural decisions, such as decisions that change the way the organization is going to operate, major branding changes, major pricing changes, major staffing changes, incur major unbudgeted debt exceeding the major purchase limits approved in the procurement policy, or vendor partnerships that would take on substantial work on behalf of the CUD.

As required by §3082a, the Governing Board shall have an Organizational Meeting within 90 days after the Governing Boards of NEK and CVF approve the Final Merger Plan. After that, the Governing Board shall meet at least four times per year: for example, once in May for an annual meeting; once in October for preliminary approval of the budget; once in November for approval of the budget and once in February for a review of the previous year's accomplishments and the plans for the following year.

Executive Committee

The Executive Committee of the Merged CUD will work with the Executive Director to manage the day-to-day operation of the Merged CUD in accordance with the Bylaws and an attached Executive Committee Charter. The initial merged Executive Committee will consist of seven NEK Executive Committee members and five CVF Executive Committee members, with the members as identified in the Final Merger Agreement. The NEK Treasurer will serve as an ex-officio member.

The Executive Director and Treasurer of the Merged CUD shall attend meetings of the Executive Committee as non-voting members.

At the Organizational Meeting, the Executive Committee will consist of 7-11 members per the Bylaws, and the specific individuals to sit on the Executive Committee shall be elected by the Governing Board of the Merged CUD in staggered terms. Afterwards, the composition of the Executive Committee shall be determined at each annual meeting.

The Executive Committee shall meet at least one time per month depending on the needs of the Merged CUD.

Finance Committee

The Finance Committee shall be composed of 5-7 members. Members of the Finance Committee may be from the Executive Committee, Governing Board, and/or residents of member towns with desired skill sets. The Executive Director and the Treasurer of the Merged CUD shall be members of the Finance Committee as non-voting members. The initial Finance Committee will consist of three NEK Finance Committee members and two CVF Finance Committee members. The Finance Committee is responsible for review of the financials on a monthly basis and approval of the financials on a quarterly basis for recommendation to the Executive Committee. The Finance Committee will meet no less frequently than once per month. The initial Finance Committee shall be composed of the members designated in the Final Merger Agreement.

Other Committees and Working Groups

The Governing Board or Executive Committee of the Merged CUD may authorize additional committees or working groups to address specific issues or policies as needed. Working groups are informational to staff and board members but are not official committees with authorization to make binding decisions for the Merged CUD. The Merged CUD will have the following initial working groups:

- (1) Communication Working Group: Focusing on facilitating and constantly improving communications among the Merged CUD and its users, municipal members, the counties, other governmental entities, and other stakeholders.
- (2) Digital Equity Working Groups as needed: Focusing on ensuring that access to communications services provided by the Merged CUD are provided as broadly and equitably as possible and to maximize accessibility for all users.

C. MERGER PROCESS

The Governing Boards of NEK and CVF have completed the following steps of the merger process:

1. Approved the Preliminary Plan
2. Executed the Preliminary Merger Agreement
3. Provided notice and held a public hearing in accordance with the law
4. Distributed notice of the Final Merger Plan to each known creditor

5. Scheduled the Final Merger Vote for August 15th, 2024 for approval of the Final Merger Plan and the Final Merger Agreement.
6. Scheduled the first Organizational Meeting for November 12th, 2024.

The following steps will then take place within the next few months, concluding with the merger of NEK and CVF:

If the Governing Boards of NEK and CVF approve the Final Merger Plan by a vote of two-thirds of a quorum, the Final Merger Plan shall take effect at 12:01 a.m. Eastern Time on the calendar day immediately following the merger date, consistent with the Merger Agreement. At that point, NEK and CVF shall merge into a single Merged CUD. The Merged CUD shall have an Assumed Business Name Registration with the State of Vermont as “NEKCV”. This name is subject to change at a later date and is intended as a placeholder until the Merged CUD completes a unified branding process.

Under 30 V.S.A. §3082a the Organizational meeting must be held within 90 days after the Final Merger Plan takes effect and that the Governing Board send notice of the merger to the Vermont Secretary of State. The Final Merger Agreement specifies the composition of the Governing Board, Executive Committee, and Finance Committee. At the Organizational Meeting a slate of 11 Executive Committee members and five Finance Committee members will be elected in accordance with the Bylaws.

After the Organizational Meeting, the composition of the Governing Board, Executive Committee, Finance Committee and other committees shall be determined by the Bylaws of the Merged CUD.

D. EFFECT OF THE MERGER

After a vote of approval of the Final Merger Plan, CVF will cease to be an independent entity, merging into NEK to create the Merged CUD. The Merged CUD shall possess all the rights, privileges, immunities, powers and purposes of each of CVF and NEK and 30 V.S.A. Chapter 82.

Each municipal member of NEK and CVF shall automatically and without further action become a member of the Merged CUD after the merger and shall retain all rights of its membership in a Communications Union District and under the Bylaws, including having a seat on the Governing Board as mentioned above.

The Merged CUD shall succeed to all assets, rights, liabilities, and contracts of NEK and CVF, and shall satisfy or assume all of their obligations. Specifically:

- (1) All assets of whatever kind, owned, claimed, or held by each district shall become vested in and become assets owned by the Merged CUD without any further act, deed, or instrument being necessary. Contract rights possessed by NEK and CVF

(and all attendant obligations) shall vest in the Merged CUD without reversion or impairment.

- (2) The Merged CUD shall assume and be obligated to pay or otherwise perform each and every lawful obligation, debt, claim, bonded indebtedness, and other liability of NEK and CVF without any further act, deed, or instrument being necessary.
- (3) The Bylaws attached to the Final Merger Plan shall go into effect as the Bylaws of the Merged CUD.

The following consents and notices are anticipated to be required as a result of the merger, which shall be pursued either before approval of the Final Merger Plan or afterwards, as appropriate:

- (1) Consents by counterparties of CVF contracts and grantors of grants received by CVF, if required to allow for the merger.
- (2) As CVF holds a Certificate of Public Good from the Vermont Public Utility Commission as a non-dominant provider of communications services, post-merger notice within two weeks of approval of the Final Merger Plan.

No other consents from governmental or private entities are anticipated.

E. FINAL MERGER AGREEMENT

The Final Merger Agreement in no way obligates either of the Governing Boards or any of their member municipalities to make any specific decision regarding the merger. Rather, it provides a way for NEK, CVF, their Governing Boards, their municipal members, and all other stakeholders to understand their rights and obligations. Specifically, the Final Merger Agreement provides for the following regarding the effect and process of the merger:

- (1) Agreement by NEK and CVF regarding their respective rights and obligations during the merger process and regarding the effect of the merger as outlined above.
- (2) Representations and warranties by each of CVF and NEK regarding their current status. These representations and warranties allow each of the parties to understand the assets, liabilities and obligations that will pass to the Merged CUD, and provide a baseline set of assumptions about the status of each party that is a necessary precondition to the merger.
- (3) Covenants by each of them as to how they will (a) cooperate with one another to complete the merger, if approved by the Governing Boards and (b) preserve their operations until the merger is completed.

The Final Merger Agreement also provides that, after the merger, understanding the post-merger structure outlined above shall be an ongoing obligation of the Merged CUD and, until the first

annual organizational meeting of the Merged CUD in November, may be enforced by any municipal member.

The Final Merger Agreement may be terminated (1) at any time by mutual written consent authorized by the Governing Boards, (2) by either party if the other party has breached any of the representations, warranties, obligations, covenants or agreements of the Final Merger Agreement and the breach is not cured within fifteen (15) days after notice, or (3) by either party if the merger has not been completed by October 1, 2024.

F. CONTACTS

Municipal members and other stakeholders may have questions about this Plan. Please direct all input and questions to the following contact for NEKCV: info@nekcvt.org

ATTACHMENT 1 TO THE FINAL MERGER PLAN
Revised Bylaws

GOVERNING BOARD BYLAWS

SECTION 1. PURPOSE

Whereas, NEK Community Broadband doing business as NEKCV (the “District”) has satisfied the requirements of said Act to qualify as a Communications Union District (“CUD”), and whereas, in accordance with 30 V.S.A. § 3082a, CVFiber has been lawfully merged into the District, therefore the District Governing Board (the “Board” or “Governing Board”) shall exist for the purpose of carrying out the roles and responsibilities described in said Act or any subsequent amendments.

SECTION 2. TERMS. As used herein, the term Town shall be understood to mean any member Town or City, and the term Select Board shall similarly imply either a Select Board or City Council, as appropriate.

SECTION 3. ORGANIZATION. The District Governing Board consists of the delegates as appointed by the Select Board of each District member Town. The Select Board of each member Town shall appoint a primary delegate and one or more alternate delegates. Each such duly appointed delegate becomes a member of the Governing Board by presenting a letter of appointment from his or her Town’s Select Board effective upon notification of the appointment being received by the Clerk and accepted by the Board. Each such duly appointed delegate is required to sign a confidentiality agreement and to disclose any known potential conflicts.

SECTION 4. REGULAR MEETINGS. The merged Governing Board shall hold its first organizational meeting on Tuesday, November 12th, 2024. The Governing Board shall hold its annual organizational meeting on the second Thursday in May. In addition, the Board will establish a schedule of four regular meetings per year of the Board. The election of Executive Committee members and Officers shall occur at the first and annual organizational meeting.

SECTION 5. SPECIAL MEETINGS. Special Meetings of the Board may be called at any time by the Chair, or shall be called by the Clerk upon written request of members of the Board representing the lesser of either (a) a majority of the member Towns or (b) twenty (20) Towns. Except in case of emergency, each member of the Board shall be given at least 24 hours’ notice of any special meeting in accordance with the Vermont Open Meeting Law.

SECTION 6. QUORUM. For the purpose of transacting business, the presence of delegates representing more than 50 percent of the votes then eligible to be cast, shall constitute a quorum.

SECTION 7. RULES OF PROCEDURE. Except as otherwise provided by law, or as may be agreed upon by the Board, Robert’s Rules of Order shall govern at all meetings.

SECTION 8. VOTING. Each member Town shall be entitled to cast one vote by a delegate present. Except as otherwise provided herein, or in the Enabling Legislation, a majority of the votes cast shall be required to approve any action.

SECTION 9. TERMS OF OFFICE.

Governing Board: The member Town delegates who make up the Board shall each be appointed by their Select Boards to serve for one year, from one annual meeting to the next, or until their successor is duly appointed.

Executive Committee: Executive Committee members shall be elected for staggered terms of 3, 2, and 1 years respectively. Executive Committee members shall be eligible to be reelected to successive terms without limit.

Officers: The Chair and Vice Chair shall be elected to such officer position for 1-year terms and are eligible to be reelected to successive officer terms without limit.

SECTION 10. ELECTION OF EXECUTIVE COMMITTEE AND OFFICERS. The Board annually shall elect from among its members a Chair, Vice-Chair, and, as needed, at-large members of the Executive Committee. The Chair and Vice Chair shall be from different former communications union districts of the District unless one or the other does not put forth a candidate. The Board may also elect other Executive Committee members, as it deems appropriate, for the conduct of its business.

SECTION 11. CHAIR. The Chair shall preside at all meetings of the Board and Executive Committee. The Chair shall also perform the entire duties incident to the position and office.

SECTION 12. VICE CHAIR. During the temporary absence or inability of the Chair to perform their duties, the Vice Chair shall perform such duties. If the vacancy becomes permanent due to death, disability, resignation or removal, the Vice Chair shall serve as acting Chair until the vacancy is otherwise filled by the Governing Board or until the next annual meeting, and a new acting Vice Chair shall be selected by the Executive Committee to fulfill the duties of the Vice Chair role on a temporary basis until confirmed at the next Governing Board meeting.

SECTION 13. CLERK. The Clerk shall be appointed annually and as needed by the Executive Committee, subject to confirmation by the Governing Board. The Clerk may, or may not, be a member of the Governing Board. If the Clerk is a member of the Governing Board, then the Clerk shall be a voting member of the Executive Committee and the Clerk's seat on the Executive Committee may count as a County Executive Committee Seat as defined in Section 15. If the Clerk is not a member of the Governing Board, the Clerk shall be an ex-officio, non-voting member of the Executive Committee, and the Clerk's seat on the Executive Committee will not count as a County Executive Committee Seat as defined in Section 15. The Clerk shall execute all duties assigned to the Clerk by the Enabling Legislation. They shall have custody of the public records of the District and shall record all votes and proceedings of the District, including meetings of the District and meetings of the Governing Board. The Clerk shall also prepare and warn all meetings of the Governing Board in accordance with Vermont law and shall cause the annual

report approved by the Governing Board to be distributed to the legislative bodies of the member municipalities. The Clerk shall also perform all the duties and functions incident to the office of a Clerk or clerk of a body corporate.

SECTION 14. TREASURER. The Treasurer shall be appointed annually and as needed by the Executive Committee, subject to confirmation by the Governing Board, and shall be an ex-officio, non-voting member of the Executive Committee and Finance Committee. Under Vermont Law the Treasurer may not be a member of the Governing Board. The Treasurer shall have the custody of the funds of the District and shall be the disbursing officer of the District. When authorized by the Governing Board, the Treasurer shall sign, make or endorse in the name of the District all checks and orders for the payment of monies as may be required to carry out the business of the District, as well as any and all valid contracts to which the District is a party, and pay out and disburse the same. The Treasurer's seat on the Executive Committee will not count as a County Executive Committee Seat as defined in Section 15.

SECTION 15. EXECUTIVE COMMITTEE COMPOSITION. The Governing Board shall elect from its membership an Executive Committee consisting of up to 11 and no less than 7 members entitled to vote on the Executive Committee. Every Executive Committee member shall be an active Governing Board delegate or alternate. Members of each county with at least two member towns shall nominate and be represented on the Executive Committee (each such seat referred to as a "County Executive Committee Seat"). Members serving in a County Executive Committee Seat should be a part or full-time resident of the county the member is representing, provided that a County Executive Committee Seat may be filled by a Governing Board member from outside the county if nominated by that county's member towns.

In addition, (a) the Chair and Vice Chair are voting members, (b) the Treasurer and Executive Director are ex-officio, non-voting member, (c) the Clerk is an ex-officio, non-voting member if the Clerk is not a member of the Governing Board, and (d) the Chair of the Finance Committee is a voting member of the Executive Committee. If the Clerk is a member of the Governing Board and thus a voting member of the Executive Committee, the maximum number of Executive Committee members shall still be no more than 11. Any member of the Executive Committee except for the Chair and Vice Chair can serve as Chair of the Finance Committee or Clerk, and thus there can be overlaps between these seats and County Executive Committee Seats.

At all meetings of the Executive Committee, a majority of the full number of voting members of such Committee shall constitute a quorum. All completed actions by the Executive Committee shall be reported for discussion to the Governing Board at its next meeting succeeding such action. At that meeting, the Governing Board shall affirm receipt and confirm no revision or alteration to such report, or append comments. The actions shall be subject to revisions or alterations by the Governing Board, provided that no acts or rights of third parties shall be affected by any such revision or alteration.

If an Executive Committee member is absent from three meetings without notice, and such absences are a contributing reason for the Executive Committee failing to achieve a quorum, the Chair may dismiss the member from the Executive Committee.

The Executive Committee shall work to promote unity and trust and ensure regional voices are heard. There shall be no limit to the number of times a delegate, or alternate serving in the absence of a delegate, may speak to a motion. Motions to close or limit debate will not be entertained. If a member has already spoken on a topic, he or she may not be recognized again until others have first been given the opportunity to comment, or until others have been given the opportunity to comment as many times as any other speaker has commented.

SECTION 16. GOVERNING BOARD AND EXECUTIVE COMMITTEE POWER AND AUTHORITY. During the intervals between the meetings of the Governing Board, the Executive Committee shall possess and may exercise all the power and authority of the Governing Board (including, without limitation, all the power and authority of the Governing Board in the management, control and direction of the financial affairs of the District) except with respect to those matters reserved to the Governing Board, in such manner as the Executive Committee shall deem best for the interests of the District, in all cases in which specific directions shall not have been given by the Governing Board.

The matters reserved to the Governing Board include the power to (1) amend the Articles of Incorporation and these Bylaws; (2) set the budget; (3) make any amendments to the budget exceeding the major purchase limits approved in the procurement policy; (4) hire and fire the Executive Director of the District; (5) incur major unbudgeted debt exceeding the major purchase limits approved in the procurement policy; and (6) make major structural decisions, such as decisions that change the way the organization is going to operate, major branding changes, major pricing changes, major staffing changes, or vendor partnerships that would take on substantial work on behalf of the CUD.

SECTION 17. VACANCY. If the absence or inability of any of the Executive Committee members to perform their duties or exercise his or her powers becomes permanent due to death, disability, resignation or removal, the Board shall elect replacement(s) from among its membership. Executive Committee vacancies shall be filled as soon as practical after proper notice, by election at the next regular or special meeting of the Governing Board.

SECTION 18. RECORDS. The conduct of all meetings and public access thereto, and the maintaining of all records, books and accounts of the District shall be governed by the laws of this State relating to open meetings and accessibility of public records. Governing Board members, having an absolute right to access to any District record, shall not be subject to any fee that might otherwise be levied under open meeting regulations. Similarly, any materials deemed to be non-public, with the exception of personnel records, shall be made available to any Governing Board member upon request at no charge.

SECTION 19. AUDIT. The Governing Board shall cause an audit of all District accounts to be performed annually by an independent professional accounting firm or a certified public accountant.

SECTION 20. OTHER COMMITTEES As provided in the Enabling Legislation, the Governing Board may choose to establish other committees at its discretion for the purpose of advising the Governing Board and Executive Committee. Membership in such committees is not limited to Board members. The Chair of each committee shall be chosen by the Executive Committee, subject to confirmation of the Governing Board. The Finance Committee shall consist of 5-8 members and be responsible for the audit and review of the District financial statements. The Chair of the Finance Committee shall be a member of the Governing Board and the Executive Committee.

SECTION 21. REIMBURSEMENT OF OFFICERS. Any Officer or Member of the Executive Committee may be reimbursed for documented out-of-pocket expenses incurred in the discharge of their duties hereunder, as may be authorized by policies established by the Governing Board.

SECTION 22. REMOVAL OF OFFICERS. Any member of the Executive Committee may be removed by a two-thirds vote of the Governing Board (rounded up to the nearest whole number) whenever, in its judgment, the best interest of the District will be served thereby.

SECTION 23. CONDUCT OF MEETINGS. To the fullest extent permitted by law, the Governing Board and all committees shall be allowed to meet, transact business, provide notice and communicate by electronic and telephonic means.

SECTION 24. INSURANCE AND INDEMNIFICATION. To the fullest extent afforded by law, including procuring and maintaining insurance through commercial carriers or municipal risk retention groups with limits in such amounts as the Governing Board shall deem sufficient to cover foreseeable risk, the District shall indemnify and defend its Governing Board and its officers from claims allegedly arising out of actions and omissions arising in such capacity.

SECTION 25. CONFLICTS OF INTEREST. The Governing Board shall adopt a conflicts of interest policy, which shall be binding upon Governing Board members and all District Officers.

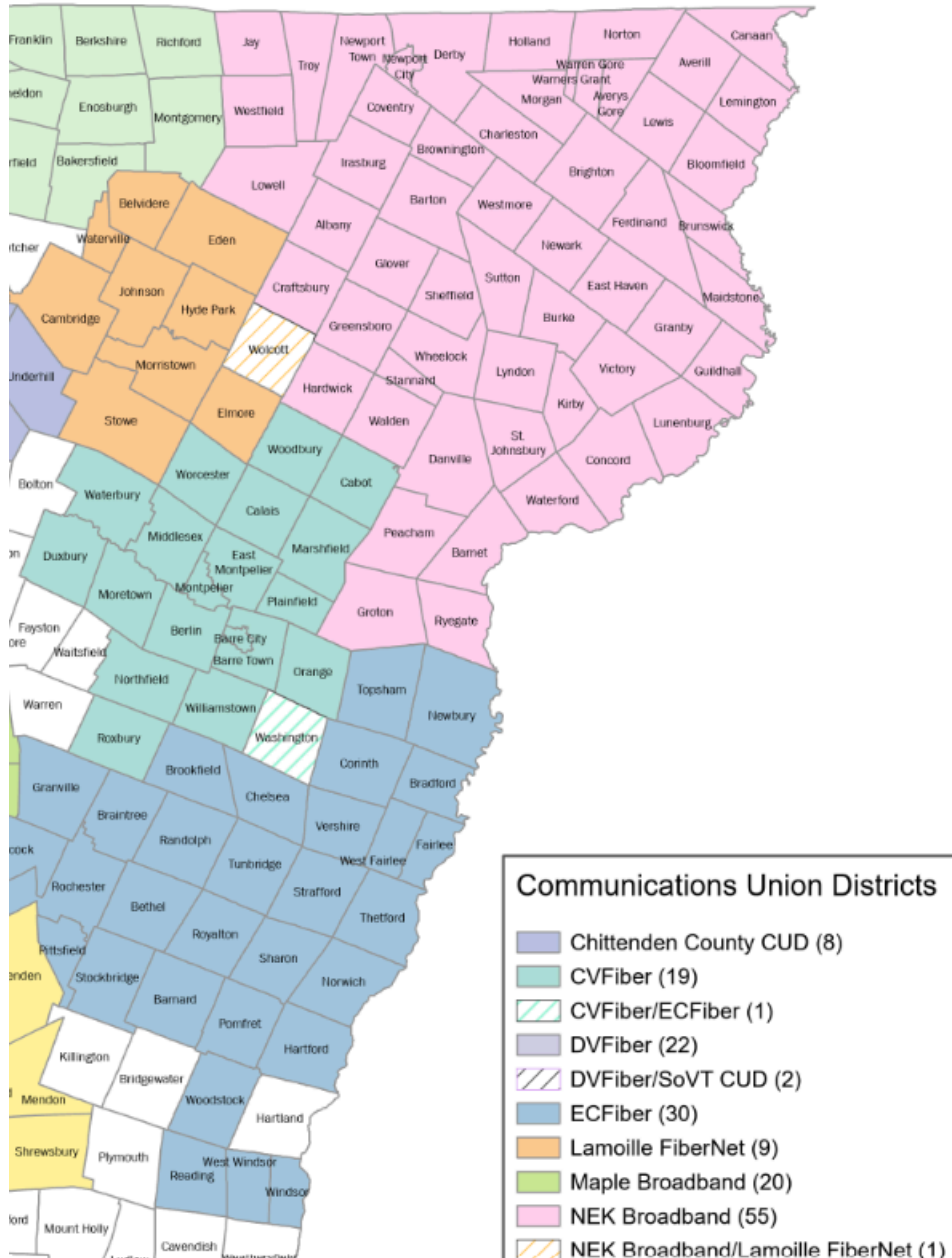
SECTION 26. AMENDMENT. Amendments to these Bylaws must be proposed and warned by written notice to all members before or at a regularly scheduled meeting of the Board, and to become effective, must then be adopted by two-thirds of members present and eligible to vote at the next regularly scheduled Board meeting no less than three weeks later.

SECTION 27. SAVINGS/SEVERABILITY. If any term or provision of these Bylaws shall be invalidated, such action shall not affect the balance of these Bylaws.

ATTEST: _____ Date:

EXHIBIT A TO GOVERNING BOARD BYLAWS

BRAND AREAS



ATTACHMENT 2 TO THE FINAL MERGER PLAN

Merged Speeds and Pricing

Speeds and pricing listed below are subject to change depending on funding availability and business modeling. NEKCV will make good faith best efforts to keep pricing low and predictable, consistent with its mission.

Speed	Price
100/100	\$79
300/300	\$103
1G/1G	\$134
2G/2G	\$250

Attachment 3 Operating Principles

- Make informed decisions about how to implement reliable and extensible technology based on what is available now, while leaving the door open to adapting to future changes in the technology landscape.
 - All internet technologies, with the exception of satellites, require a strong fiber middle-mile infrastructure.
 - Mixing supported technologies (e.g. Fiber To the Home [FTTH] and wireless) introduces additional operational complexity and overhead.
 - FTTH delivers the most reliable and extensible service which meets the 100/100 mbps mandate. As such, this technology should be prioritized for deployment over other wired or wireless technologies where appropriate. Wireless should be reserved for point-to-point or point-to-multipoint applications that connect a small number of addresses where costs and topography make fiber prohibitive.
- Resiliency is a critical requirement for reliable, quality service. As such, investment in a well-designed middle-mile network infrastructure is paramount. This means:
 - Utilize best-of-class established network design architecture, such as resilient rings, to ensure there are no single points of failure.
 - When relying on partners, require exceptional Service Level Agreement provisions and/or proof of resilient architecture to ensure reliable backhaul service.
 - Plans should account for the fact that typical wireless provider data caps are not an acceptable condition for quality, long-term broadband service.
- Make decisions based on existing technology. Evaluate emerging technology as it is adopted in other communities so that we can plan for migration should that be justified.
- Champion education, economic prosperity, civic health, freedom of information exchange, competition, privacy, and innovation through:
 - Support of strong net neutrality policies.

- Adoption of open-access policies to allow surplus network capacity to be leased to partners that share our vision and further our mission.
- Pursuit of mutually beneficial partnerships with other like-minded organizations including local utilities and other communications providers.
- Modeling our commitment to these principles through transparent and inclusive operation of NEKCV and related enterprises.
- Keep it local.
 - When possible, NEKCV will hire a local workforce.
 - When possible, NEKCV will utilize businesses with local ties for construction and operation.
 - Profits from NEKCV will be reinvested in the network or used to increase affordability once the network is built.
- Work to expand participation of under-represented population segments in the workforce. Eliminate barriers for businesses owned by women and minorities.