

Meeting Minutes
Towns of Great Barrington, Lee, Lenox, Sheffield, and Stockbridge
Five Town Cable Advisory Committee Negotiating Subcommittee for Negotiating
Renewal Cable TV License with Charter Communications (Spectrum)
Monday June 5, 2023 at 3:00pm; Virtual Meeting over Zoom

Subcommittee members present: Linda Miller, Chair

Rene Wood

Rich Fredericks, Exec. Director, CTSBTV

Charter Communications: Paul Abbot, Esq.; VP, Local Government Affairs

Trish McCausland, Esq., V-P, Associate General Counsel

Dan Reing, Esq.; Outside Counsel; Mintz

John Maher, Director, State Government Affairs

The meeting was called to order by Chair L. Miller at 3:02pm.

Discussion of PEG Capital was put on hold as Charter is still working on the matter, including how HD services would be provided and associated costs.

Using the 5.22.23 draft license renewal agreement update provided by D. Reing, the entire draft document was reviewed, beginning with Article 1 Definitions; actions are noted:.

Article 1 – Definitions:

- Deleted definitions: Access Channel; Cable; Closed Captioning on PEG Access Channels; Coax or Coaxial Cable; Respond; Service; Service Call; and Spectrum.
- Revised definitions:

Cable Television System or Cable System: Shall be defined herein as it is defined under Section 602(7) of the Cable Act, 47 U.S.C. 522(7).

Complaint: Shall be defined herein as it is defined by the Massachusetts Department of Telecommunications and Cable Division's Order Adopting Revised Form 500 (June 11, 1999), **as amended**, meaning any written or verbal contact with the Licensee in connection with Cable Service in which a Person expresses dissatisfaction with an act, omission, product, or service that is (1) within the Licensee's control, and (2) requires a corrective measure on the part of the Licensee.

Downstream Channel: A channel over which signals travel from the Cable System Headend to an authorized location within the System.

Educational Access Channel: Any channel, which has been allocated for noncommercial educational use in accordance with this Agreement and 47 U.S.C. 531.

Governmental Access Channel: Any channel, which has been allocated for noncommercial, local governmental use by the Town, the Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. 531.

Gross Revenues: All revenues, as determined in accordance with generally accepted accounting principles ("GAAP"), derived by the Licensee and/or its Affiliates from the operation of the Cable System to provide Cable Service in the Town, including, without limitation, the following items: fees, charges and payments collected from Subscribers (including Commercial Subscribers) for Cable Services, including, without limitation, Basic and premium Cable Services, video-on-demand Cable Services and pay-per-view Cable Services and digital Cable Services; installation, reconnection, downgrade, upgrade and similar charges; revenues received from rentals or leases to Subscribers of Converters, remote controls and other Subscriber equipment used to provide Cable Service over the Cable System; Leased Access Channel programming revenues; revenues that the Licensee receives from home shopping channels attributable to the Cable System in the Town; advertising revenues attributable to the Cable System in the Town; and except as provided below, all fees imposed on the Licensee by this Renewal License and applicable law that are passed through and paid by Subscribers ("fee-on-fee") in accordance with applicable law. For the avoidance of doubt, Gross Revenues shall include the amount of the Licensee's gross advertising revenue, calculated in accordance with GAAP. Should any service provided by Licensee over the Cable System be classified as a Cable Service by a final determination or ruling of any agency or court having jurisdiction, after the exhaustion of all appeals related thereto, the Issuing Authority shall be entitled, after notification to Licensee, to amend this Renewal License in the manner prescribed under applicable State law or this Renewal License to include revenue from Licensee's provision of such service as Gross Revenue, and Licensee shall include revenue from such service as Gross Revenue on a going forward basis commencing with the next available billing cycle following the amendment date.

Gross Revenues shall not include: (a) Revenues received by any of the Licensee's Affiliates, except to the extent that such revenues relate directly to the provision of Cable Services over the Cable System in the Town; (b) Actual bad debts written off by the Licensee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period so collected; Any revenues foregone as a result of refunds, rebates or discounts made to Subscribers, or (c) the Licensee's provision of free or reduced cost Cable Services to any Person, including without limitation, employees of the Licensee and public institutions pursuant to M.G.L. Chapter 166A, Section 5(e); provided, however, that if the Licensee receives trades, barter, services or other items of value instead of cash revenue then such items shall be included in Gross Revenues; (d) Any revenues wholly generated by services that are defined and classified as Non-Cable Services revenue under federal or State law including, without limitation, revenues received from Telecommunications Services; revenues received from Information Services, and directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing; (e) Any revenues of the Licensee or any other Person which is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, notwithstanding that portion of such revenue which represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise, which portion shall be included in Gross Revenue; (f) Revenues from the sale of Cable Services on the Cable System to a reseller, when the reseller is required by the Town to pay (and does pay) License Fees to the Town on the resale of the Cable Services; (h) Any tax, fee or assessment of general applicability imposed by a Town, State, federal or other governmental entity and required to be collected from Subscribers by the Licensee and remitted to the taxing entity (including, but not limited to, taxes in the nature of a sales/use tax, communication tax and non-cable license fees); (i) Revenues from the sales of capital

assets or sales of surplus equipment;; and (k)Any fees or charges collected from Subscribers for the PEG Access Capital Funding.

Licensee: Spectrum Northeast, LLC, or any successor or assignee in accordance with the terms and conditions in this Renewal License and all governing laws and regulations.

Pedestal: An environmental protection unit used in housing Cable System components. (This has not been resolved among CAC members.)

Public Access Channel: A specific channel(s) on the Cable System owned and made available by the Licensee to the Issuing Authority and/or the Access Corporation for use by, among others, the Towns residents and/or non-profit organizations wishing to present non-commercial Programming or information to the public.

Service Area: The area within the entire Town in which a residence can be served by a Standard Cable Installation from the cable plant as indicated on the map attached as Exhibit A.

Standard Cable Installation: An aerial connection consisting of fiber and/or coaxial cable between the Trunk, Feeder Line and Distribution System and a residential or municipal governmental Outlet located within Two hundred fifty Feet (250') of the existing System's Trunk, Feeder Line and Distribution System, and which does not require design changes or additional equipment (including but not limited to amplifiers or plant extensions) to provide acceptable Signal quality into the residence.

User: A person utilizing the Cable Television system, including all related facilities, for the purpose of production and/or transmission of PEG Access Programming as opposed to utilization solely as a Subscriber.

- All other sections were left unchanged.
- It was decided a Preamble – parties named, Whereas clauses, resolution language, etc. will be included before Article 1. Charter to draft language. Agreement will be with Spectrum Northeast LLC, a wholly owned indirect subsidiary, which is defined as “An indirect wholly-owned subsidiary is a subsidiary company wholly owned by another subsidiary company, which is, in turn, wholly owned by the parent company. In other words, it is a subsidiary company that is owned through multiple layers of subsidiary companies, with the ultimate ownership residing with the parent company.” (Google)

Article 2 – Grant and Term of Renewal License:

- Section 2.5 – accepted language contingent on CAC review of (c)
- Section 2.6 – on hold, pending 7.8 but otherwise OK
- Section 2.7 – change in placement of “the new Person” in first paragraph
- Section 2.9 – tying this section to a Performance Bond
- All other sections were left unchanged.

Article 3 – Cable System Design, Construction, Operation, and Maintenance Standards

- Section 3.2: 250' in (b), (c); (d) and (e) changes accepted
- Former Section 3.12: Town Use of Licensee's Poles and Conduits – must be reviewed by Towns of Lee, Lenox, Great Barrington, and Stockbridge to see if agree with its elimination or want it included in their licenses. Sheffield OK with it out

- Section 3.17 Maintenance Log deleted as systems are digital and constantly monitored; and renumbered remaining section
- All other sections were left unchanged.

Article 4 – Services and Programming

- Section 4.1 – CAC still wants lower PEG channel numbers and in Basic Cable Service
- D. Reing’s comment #RD24R23 : “Per 4.26.2023 discussion and minutes, Charter proposes that the following language (or something similar) may be used in a resolution accompanying the presentation of the Renewal License to the Towns to memorialize the CAC’s & Towns’ expressed desire for Boston DMA stations but acknowledging the limits under federal law. “While the Town has expressed interest in the Cable System carrying broadcast stations focused on Boston and Massachusetts news and sports, the Parties acknowledge that the Town is in the Albany-Schenectady-Troy DMA and not the Boston DMA. Therefore under federal law Charter is obligated to carry broadcast stations from the Albany-Schenectady-Troy DMA, and cannot be obligated to carry broadcast stations from the Boston DMA.” This was discussed as part of a Preamble at the beginning of the license renewal document. Charter to review and propose language. (Note: RW unable to change color of this section taken from draft)
- Section 4.4 – each of the 5 Towns needs to review and resolve it drops for inclusion in Exhibit B.
- Section 4 renumbered as needed.
- All other sections were left unchanged.

Article 5 – Local Access Programming

- Section 5.1 – CAC still negotiating lower PEG channel placement
- Section 5.2 – new language to read: “The Issuing Authority shall authorize a Public Access Corporation to provide services to Public, Educational, and Governmental Access users. Such authorization is set forth in a separate agreement between the Issuing Authority and Community Television of the Southern Berkshires (CTSB).”
- Section 5.6 – review deletion of (f) and re-letter remaining.
- Section 5.7 – still open
- Section 5.11 – removed “fiber”
- New Section 5.13 - Conversion of PEG Access Channels to High Definition – CAC needs to review. Discussion on proposal for cost to rest with the 5 Towns and complexity this brings to the renewal. Charter asked to see if there was another way to address this. Remaining sections re-numbered.
- All other sections were left unchanged.

Article 6 – Subscriber Rights and Consumer Protections

- Section 6.3 – accepted
- Section 6.4 – accepted but procedure discussed reviewed, as it says “shall establish a procedure...”. Also discussed were updates to Exhibits F and G.
- Section 6.5 – accepted but this Section, as all changes made, need to be reviewed by D. Arseneau
- Section 6.6 – accepted
- Section 6.7 – deleted; re-number remaining sections
- Section 6.9 Advance Billing and Payment – accepted
- Old Sections 6.11 – Monitoring and Section 6.12 – Polling By Cable – deleted; renumber remaining sections
- Section 6/15 – Electronic Notice - accepted

- 7.8 – left off..... All other sections were left unchanged.

Article 7 – Administration, Regulation, and Licensee’s Performance

- Section 7.3 – Insurance. Charter listed policies and amounts. CAC reviewing; (b) will be reinstated as deleted in error by Charter and will need to review subsequent language. Other sections tentatively approved.
- Section 7.4 – Performance Bond. Amount too low per CAC. Charter may review aggregate policy for all 5 towns to lower premium, but then coverage amount would need to be higher.
- Section 7.5 – accepted changes.
- Section 7.7 – accepted changes
- Section 7.8 – dollar amount per day and in the aggregate not accepted. Rest of changes accepted.
- Section 7.9 – changes accepted but need to add another () to include “Repeated or persistent failure of Section 6.4, resolution of Subscriber complaints” or something similar
- Section 7.10 – Annual Performance Test. Deleted as system is all digital and have new Section 7.10 Performance Evaluation Hearing. Remaining sections re-numbered.
- New Section 7.11 Cable Advisory Committee. Quarterly basis for meetings
- All other sections were left unchanged.

Article 8 – General Provisions

- Section 8.6 – accepted change proposed for (a)
- Section 8.9 – accepted changes; Should Licensee be listed as Spectrum Northeast LLC? Rather than Charter Communications? What other changes, if any, need to be made in the agreement on this matter?
- Section 8.12 – accepted changes
- All other sections were left unchanged.

Exhibits:

- Exhibit A – John Mayer to get new strand maps for each of the 5 Towns and insert them into the draft agreement
- Exhibit B – CAC will contact each of the 5 Town administrators and get updated
- Exhibit C – under negotiation
- Exhibit D and E – Charter to finalize review
- Exhibit F and G – D. Reing has inserted current language; CAC to review

Other: Chair Miller brought up Senior discounts, which Charter said they do not provide and plan to phase them out on contracts acquired where they currently exist.

All changes and acceptances subject to review by Dennis Arseneau, as not present, as well as all others.

R. Wood volunteered to take DR 5-22-23 version and incorporate all agreed upon changes into a RW 6-5-23 version and forward for review, correction, and comments. It is incumbent on all parties to review, propose corrections, and add comments to the RW 6-5-23 version before the 7/10/23 meeting.

The next negotiating meeting was set for 3pm on 7/10/23; no agenda was set and an additional meeting may be added in June, depending on schedules. One Charter person will be out 8/7-11; another out 6/17-7/1; all did not wish to meet on 7/5. CAC members will review their summer schedules.

The meeting ended at 4:40pm on a motion by R. Wood, seconded by L. Miller, and unanimously approved.

Respectfully submitted,

Rene C. Wood

Sheffield delegate to Five Town Cable Advisory Committee

Documents used at the meeting:

- Agenda 6-5-23 Agenda
- Articles 1 – 8 and Exhibits, D. Reing's 5.22.23 draft license renewal agreement update