

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)
Wednesday March 15, 2023; Virtual Meeting over Zoom

Subcommittee members present: Linda Miller, Chair

Dennis Arseneau

Rene Wood

Rich Fredericks, Exec. Director, CTSBTV

Charter Communications:

Paul Abbot, Esq.; VP, Local Government Affairs

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

John Maher, Director, State Government Affairs

Dan Reing, Esq.; Outside Counsel; Mintz

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

The first item discussed was PEG fee collection and the Charter bill provided at the last meeting by Chair Miller as outlined in five questions shared prior to the meeting.

1) A full explanation of the franchise fee and the PEG capital fee billed on the Charter cable TV statement. P. Abbot directed the discussion to page 4 of the bill, taxes, fees – FCC fee noting that the PEG Capital Fee is not very clear as written and they have a project in place to make it clearer. It really consists of two parts: 1) recovery of the 5% PEG operating fee; and 2) part of the \$212,000 PEG capital grant still being recovered from the last contract. P. Abbot wants to separate these in future statements; wants the \$9.95 listed as PEG Operating fee and other item to be the remaining grant – currently \$.22/subscriber/month until zero balance. Together these equal \$10.00. Of the 2013 PEG capital grant not yet recovered is \$37,173.53. This will be carried forward until collected. Cannot confirm the \$212,000 was amortized or, if due to a drop in subscribers, the recovery rate was not raised enough. It was not clear how this is booked at Charter/Spectrum but not as capital as a one time payment. Need to add the \$37,173.53 to actual capital to be recovered.

The franchise fee of \$.12/subscriber/month is payment for the State statutory payment (license fee) of which a certain amount goes to the state and \$.50 goes to the Towns. Should be \$.11 and have been over collecting \$.14/year/subscriber. This money is not being handled as well as could be; the current bill being discussed has a credit listed for overcollection of this part of the franchise fee. Pre-collected fee, then pay to Towns in December, which establishes refunds to current customers. Those who drop their cable TV service during this time frame do not get refunds. This is also impacted by subscriber census count, which is done annually in December. Money in this account current equals zero.

2) What is Spectrum's process for billing Southern Berkshire cable tv subscribers for the 5% franchise fee (Same fee for each subscriber? Vary by programming?)

The 5% franchise fee equals \$9.78 of \$10.00 PEG Capital fee billed monthly. This will be a separate line item going forward, as discussed above. The 5% fee's components are all regular

cable tv billed services, receivers, one time fees, plus broadcasting surcharge and requirement of paying on non-subscriber revenues, such as advertising because of on gross revenue, and any late payment fees.

Actually the true amount billed is 5.4% so this is reflective of what they have to pay and is not 5%. Do not pay on billed taxes nor any other services such as phone or internet. How to reconcile 5.4% versus 5%? Allowed to get 5% of cable revenue and Charter is legally able to recover what they pay for PEG Capital fees. P. Abbot will provide written documentation on this. Does this include advertising revenue from Spectrum Reach, which leverages data revenue from what customers are watching, which is sold to advertisers/data brokers? If Spectrum Reach engaged in cable system revenue generation – yes; if not but engaged generating cable revenue on the cable system -no. As the negotiating subcommittee is seeking an expansive definition of gross revenue, this matter will come up again.

#3) Spectrum's process for billing Southern Berkshire cable tv subscribers (the \$212,000) for 2013 license negotiated PEG capital expense fee. (Same fee for each subscriber? Vary by programming? How was the investment expense amortized?) See above.

#4) Total \$'s collected from Southern Berkshire subscribers and applied towards long term capital expense account. \$174,826.37 collected to date.

#5) Total \$'s balance currently in account and if Spectrum will continue to bill residents a PEG fee now that the amortization is complete. See above. There will come a time when such collections will be shut off at an appropriate time and refund any over collection, approximately three years. How to account the \$37,xxx.xx into the current 5 year PEG capital plus a year 6-10 number? The key is to get the PEG capital numbers as good as possible, minus 4-5% loss of customers over each year, to equal the \$.xx/subscriber/month needed to collect the full amount. Flat fee per subscriber discussed but doesn't reflect the differences in subscriber preferences and what they pay for.

Next discussed was that the recovery of fees from streaming services may become another source of revenue. Does this possible source of revenue language need to be put into both the CTSB Access Agreement as well Charter cable tv renewal license agreement? Broad reservation of rights under state and federal law; P. Abbot in agreement on this.

Next discussed was the Charter survey question re: respondents' unwillingness to pay for PEG support. P. Abbot agreed again to share this question, as well as the methodology behind the survey question. 300 current Spectrum cable tv subscribers' respondents, across the 5 Towns, done by a market research firm, pretty equally distributed /representative of by population of the Towns, done by a phone survey. Charter will send the complete question and responses.

PEG Capital expenses next discussed by D. Arseneau, who sent a new capital request list. Discussion of capital expenses tied to PEG channel expense and review of some of the suggested Charter substitute equipment, such as the router and switcher device, as being unsuitable. P. Abbot went over capital cost from their perspective. Capital costs have to be for the use of PEG capital capacity and the further you get away from that, the more the expense becomes suspect. D. Reing added that the PEG capital costs are excluded from the 5% franchise fee. Example of chair to sit on while editing production tape for production on PEG channel – yes, a potential PEG capital expense, but furniture for lobby or an office -

no. Furniture used to produce the content is a reasonable capital expense. CAC needs to clarify this difference in its PEG Capital list. Charter will review the new PEG Capital request, and this will be on the 3/29 meeting agenda, as well as understanding what equipment, if any is needed and by whom, to carry HD signal all the way through to subscriber. Discussed previously as an approximate \$30,000 one-time charge, but then J. Mayer described it as a yearly charge. CAC seeks exact cost and requests a simple explanation / proposal on this matter. P. Abbot will look into what's needed. This has been an open discussion item for some time and needs final resolution.

Next were discussed, and finalized as much as possible, Articles 2 and 3 as follows, which are reviewed from D. Reing's updated license renewal agreement, electronic versions of 2/28 and 3/14/23:

Article 2- Grant and Term of Renewal License

§2.1 - 2.4: Accepted or Accepted as rewritten.

§2.5(a) and (b): Accepted

§2.5 (c) CAC proposed section to now read: "To the extent it is consistent with any governing federal or state law, no consent under subsection (a) shall be required if such sale, assignment, or transfer is to an entity under common control with the Licensee. For a proposed transfer that is not to an entity under common control with the Licensee, but which Licensee nevertheless believes is an internal transfer not subject to review, Licensee **shall** ask the Department to determine whether consent under subsection (a) shall be required. The Issuing Authority must be notified of any such requests to the Department, and the Department's ultimate determination, which shall be binding on the Licensee and Issuing Authority." *End of (c).*

§2.5(d) – (f): Accepted as rewritten or Accepted

§2.5(g): Deleted and re-letter subsequent (), **IF §2.5(c), as rewritten with the word "shall" is accepted. If not (g) is not accepted as deleted.**

§2.5(g)(newly lettered) – (i): Accepted; see above comment.

§2.6 Effect of Unauthorized Transfer Action – **Entire Section on HOLD.**

To be revisited in Section 7.7 and others.

§2.7 Non-Exclusivity of Renewal License: Accepted as rewritten.

§2.8 Police and Regulatory Powers: Accepted as rewritten.

§2.9 Removal or Abandonment: Not Accepted. **Need some language in (b) regarding unremediated expense to make sure the Town(s) have recourse and not left with any removal, or any other expenses involved in removal or abandonment. Also want written notification of removal or abandonment. What is the MGL referred to?** D. Reing agreed to review this section.

§2.10: Accepted as rewritten

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

§3.1: Accepted as rewritten

§3.2 Service Available to All Residents: ON HOLD

P. Abbot brought up whether Charter is built out entirely in the 5 Towns. R. Wood has asked for in-depth strand maps for use in the MBI Digital Equity grant, which now includes all the 5 Towns in the Town Cable Advisory Committee and West Stockbridge. May use Sheffield as an example of how to do this for the other towns, down to the specific address level, to get to what isn't built out. Digital Equity Grant's focus is to build out completely. Sheffield doesn't want to build-out their own network. J. Mayer and P. Abbot agreed to work on this, as J. Mayer says all areas are built-out. R. Wood wants to know where does the cable not run down the streets, as well as what household addresses do not have cable tv. Pushed for this information by end of month.

§3.3 Maps: Accepted as rewritten.

§§3.4, 3.5, 3.6, 3.7: Accepted

§3.8: Accepted as rewritten.

§3.9: Accepted.

§3.10: Accepted as rewritten.

§3.11 Relocation of Facilities: Almost accepted as rewritten, but need to add something like "... accept in cases of an emergency by Police or Fire Department or Issuing Authority, with verbal notification,..." and to whom does the verbal notification go? Charter will review and add such language. (See §3.18 below.)

§3.12 Town Use of Licensee's Poles and Conduit: Removal acceptable to Sheffield; Renumber remaining section. **Note to Chair Miller: Other Towns need to weigh in on this Section.**

Old §§3.13 and 3.14: Accepted

§3.15: Accepted as rewritten.

§3.16: Accepted as rewritten.

§3.17 Maintenance Log: Still under discussion. How does Charter determine outages, which may trigger refunds to customers? Not really a maintenance but service or outage log. Not sure if belongs in this section or in another section. Charter to review.

§3.18 Emergency Removal of Cable System: tie §3.11 and §3.18 together or merge content of both sections. Charter to review as §3.11 may not be place for discussion of emergency situations. Need definition for "removal / remove". For Charter – move / remove means to get the line out of the way.

§3.19 Private Property: On Hold

Concerns about ease of customer to collect on damaged property, which is the result of Charter's personnel on-site. Do not want to leave residents to be on their own in pursuing damage collections. Concerns about MGL cited being weak from a consumer's perspective. Charter will relook at this.

Materials owed to the CAC negotiating subcommittee from Charter: Verbal comments of # 1 -5 in writing, particularly #2; clarification of whether or not Spectrum Reach is engaged in cable system revenue generation; Charter survey question discussed herein, responses and survey methodology/particulars; and all costs associated with HD signal being delivered to subscribers' tvs.

On a motion to adjourn from R. Wood, seconded by D. Arseneau, and approved on a 3-0 vote, the meeting adjourned at 4:30pm.

Respectfully submitted,

Rene C. Wood;

Sheffield delegate to Five Town Cable Advisory Committee and member of the Negotiating Subcommittee

Documents used in the meeting:

- Agenda for 3/15/23
- Informal PEG Capital Support Proposal from Charter Communications
- Rebuttal PEG Capital Proposal from CAC Negotiating Subcommittee
- Redline Proposed License Renewal Agreement from D. Reing, Esquire
- Notes on Articles 2 and 3 from previous negotiating sessions
- Charter services customer bill