

## **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 Wednesday February 1, 2023; Virtual Meeting over Zoom**

**Subcommittee members present:** Linda Miller, Chair

Dennis Arseneau

Rene Wood

Rich Fredericks, Exec. Director, CTSBTV

**Charter Communications:** Paul Abbott, 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

**Public:** Eileen Moody, Great Barrington

The meeting was called to order by Chair L. Miller at 3:02pm. Logistics were discussed, and several Charter Communications members joined as the meeting progressed. CTSB will be the subject of the next meeting on February 22<sup>nd</sup>, as the CAC will be short members and after that March 1<sup>st</sup>, thereafter every other week. All Charter members will be available 2.22.23.

Following discussion with DTC, a request for extension should be on record. Either party can apply for this, although it is more complex for the 5 towns as each much do separately. Charter Communications agreed to do the extension letter and share with CAC before it is sent. Should be filed before end of contract, and noted that parties are negotiating in good faith. Extension request can be for 150 days or until the end of August. P. Abbott again indicated Charter will honor the current agreement.

D. Arseneau reviewed H.215 and S.1343, both of which deal with collecting funds – 5% to support c from streaming companies. Asked about Charter’s potential position on this. J. Maher will be following this. P. Abbott indicated likely formulating a position and can circle back. Concerns about other cable tv services, some of which have large streaming presence. Noted that efforts to have streaming companies pay has not fared well in other states/courts.

During the meeting, the following was agreed upon or subject to further work at a further session as noted below, as per R. Wood’s notes and the recorded meeting. Both parties agreed may need to do further refinement upon review, but essence is captured.

## **ARTICLE 2 - GRANT AND TERM OF RENEWAL LICENSE**

### **Section 2.1 GRANT OF LICENSE**

Pursuant to the authority of Chapter 166A, §1 of the General Laws of the Commonwealth of Massachusetts and the Cable Act, and subject to the terms and conditions set forth herein, Select Board of the Town of \_\_\_\_\_, acting as the Issuing Authority of the Town, hereby grants a non-exclusive, revocable Cable Television Renewal License to Licensee, authorizing and permitting Licensee to construct, upgrade, install,

operate, and maintain a Cable Television System and provide Cable Service within the municipal boundaries of the Town.

***§2.1: Language agreed upon as written above.***

#### Section 2.2 RIGHTS AND PRIVILEGES OF LICENSEE

Subject to the terms and conditions herein, the Issuing Authority hereby grants to Licensee, the right to construct, upgrade, install, operate, and maintain a Cable Television System in, under, over, along, across or upon the public streets, lanes, avenues, alleys, sidewalks, bridges, highways and other Public Ways or places in the Town within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, or which the Licensee may use pursuant to 47 U.S.C. 541(a)(2), for the purpose of Cable Television System reception, transmission, collection, amplification, origination, distribution, or redistribution of audio, video, text, data or other signals in accordance with the laws of the United States of America, the Commonwealth of Massachusetts and the Town. In exercising rights pursuant to this License, Licensee shall not endanger or interfere with the lives of persons, interfere with any installations of the Town, any public utility serving the Town, nor unnecessarily hinder or obstruct the free use of public ways and places.

***§2.2: Language agreed upon as written above.***

#### Section 2.3 APPLICABLE LAW

This Renewal License is granted under and in compliance with M.G.L. c. 166A and all other general laws and acts of the Massachusetts General Court, and in compliance with all applicable federal law, including, but not limited to the Cable Act, and all rules of the Federal Communications Commission ("FCC"), and all other State and federal rules and regulations. This Renewal License is subject to all rules and regulations of the Massachusetts Department of Telecommunications and Cable ("the Department") and federal law.

***§2.3: Agreed to addition of "and federal law" and language as written above.***

#### Section 2.4 TERM OF RENEWAL LICENSE

This Renewal License shall commence upon the Effective Date, February 28, 2023, and shall expire on February 28, 2033, unless sooner terminated as provided herein or surrendered.

***§2.4: Language agreed upon as written above.***

#### Section 2.5: Transfer and Assignment of Renewal License

(a) Subject to applicable law, neither this Renewal License, or control thereof, shall not be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly, or indirectly, or by transfer of control of any Person, company or other entity holding such Renewal License to any other Person, company, or other entity without the prior written consent of the Issuing Authority, which consent shall not be unreasonably or arbitrarily withheld. Such consent shall be given only after a public hearing, subject to fourteen (14) day duly published notice, upon receipt of a written application therefore on forms as may be prescribed by the Department or FCC. Any such consent process shall be consistent with the transfer requirements of M.G.L. c.166A, §7; 207 CMR §4.00 et seq.; the Cable Act; and FCC regulations, all as they may from time to time be amended. Any application for consent to a transfer or assignment, if required, shall be signed by the Licensee and by the proposed transferee or assignee, or by their authorized representatives, evidence of whose authority shall be submitted with the application.

(b) To the extent it is consistent with any governing federal or State law, a mortgage or other grant of a security interest in this Renewal License to a banking or other financial institution, or a pledge or grant of other security interest in the stock of Licensee to a banking or other financial institution, shall not be a transfer requiring consent of the Issuing Authority. Should such mortgagee or other holder of a security interest or

pledgee assume control of the Cable Television System, such Issuing Authority consent shall be required in accordance with applicable law.

**§2.5 (a - b): Language agreed upon as written above.**

§2.5(c): 5 Town negotiating subcommittee (CAC) open to differently stated language but not omission as do not wish to get into a court fight and/or have no recourse if we do not agree an “internal transfer” is such, per §2.6. Looking for a level playing field. Propose language calling for a neutral 3<sup>rd</sup> party – DTC- , as well as a place for resolution, to decide if there is any doubt of such a transfer. CAC will accept DTC opinion.

**§2.5 (c): Charter agreed to rewrite 2<sup>nd</sup> sentence and present.**

(d) Subject to all applicable laws and regulations, in considering a request to transfer control of this Renewal License, the Issuing Authority may consider such factors as the transferee’s financial, legal, and technical performance qualifications as allowable under applicable federal or state laws or regulations, and request such reasonable information as allowable under applicable law or regulations.

**§2.5 (d): Language agreed upon as written above.**

(e) For purposes of Section 2.5, the word “control” shall comply with the definition of such in 207 CMR 4.01.

(f) The consent or approval of the Issuing Authority to any assignment, lease, transfer, sublease, or assumption of control by a mortgagee of the Renewal License granted to the Licensee shall not constitute a waiver or release of the rights of the Town in and to the streets and Public Ways or any other rights of the Town under this Renewal License, and any such transfer shall, by its terms, be expressly subordinate to the other terms and conditions of this Renewal License.

**§2.5 (e - f): Language agreed upon as written above.**

\*\*(g) The Licensee shall promptly notify the Issuing Authority in writing of any action or proposed action requiring the consent of the Issuing Authority pursuant to this Section 2.5.

**§2.5 (g): Charter wants to eliminate (g) and re-letter rest of Section. CAC: §2.5 (g) ties back to §2.5 (c) as the FCC Form 394 does not cover internal transfers and CAC needs to be informed of all such transfers so it may exercise its rights; see (c). CAC need to be notified if an internal transfer is proposed.**

Charter not clear what is being sought here, as Form 394 usually takes place after transfer agreements are signed. Is a pre-394 filing required as this starts a clock and opportunity to miss required deadlines.

**§2.5 (g) goes with §2.5 (c). Charter agreed to review with (c) and (g), rewrite, and present.**

(h) The Licensee shall submit to the Issuing Authority an original and one (1) copy, unless otherwise required, of the application and FCC Form 394 requesting such transfer or assignment consent.

(i) Unless otherwise allowed by applicable law(s), the Issuing Authority shall make a decision on said written application within one hundred and twenty (120) days of receipt of said application. After 120 days, the application shall be deemed approved, unless said 120 day period is extended by mutual written consent of the parties.

(j) Any proposed controlling or owning Person or transferee approved by the Issuing Authority shall be subject to all of the terms and conditions contained in this Renewal License and so agrees with and by their signature to the transfer or assignment document.

**§2.5 (h - j): Language agreed upon as written above.**

## Section 2.6 Effect of Unauthorized Transfer Action

\*\* (a)(i)(ii): not acceptable to CAC. (ii) eliminates liquidated damages in section 7.8; do not understand “null and void” and other redlined language. Null and void would void a separate transaction which would cause other harms to a transaction. Can be addressed through the material breach of contract. If not going to happen, why not put in. If contract is broken, left in position of CAC of potential litigation against Charter. Charter feels this is tipped in CAC favor. Null and void would attempt to undo the transfer, per Charter. Lose right to serve town but not right to do transfer. No issue of successor’s right to operate within the five towns. Issue of how to revoke the license. Not unanticipated that during the next 10 years that Charter changes its business plan and possibly get out of the cable TV. Issue of revoking contract in our communities and not impact the total unauthorized transfer. Would go to §7.7. Impossible to separate cable tv and broadband.

(b) added language re: §7.7 leads to the elimination of §7.8 liquidated damages and leaves after the procedural steps outline in §7.7 and §21 with the CAC likely having to go to court. See §2.5(c). §2.5(c) being reviewed. May have to hold on (a-b) until get to Section 7.7 et al.

**§2.6: No action or agreement taken on (a-b); discussion only. Further action required.**

(c) The grant or waiver of any one or more of such consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any such consent constitute a waiver of any other rights of the Town.

**§2.6 (c): Language agreed upon as written above.**

## Section 2.7 Non-Exclusivity of Renewal License

Both parties want Charter to have the same rights and advantages as any other company – both want a level playing field. It was noted the CAC feels the added Charter comments say basically the same things as the CAC proposed language. 2<sup>nd</sup> paragraph looks ok. It was agreed Charter would review and propose new wording to reach the agreed upon purpose of the Section without getting wordy. Is this in the existing license. No federal law specifically addresses competitor equality.

**§2.7: Charter agreed to review with §2.5(c), rewrite, and present.**

## Section 2.8 Police and Regulatory Powers

\*\* CAC made the points that police and regulatory powers are not secondary to the renewal license and that any changes to License language are covered in § 8.1; seemed this was the case with Charter’s additions and redlines. Charter was concerned where communities have adopted cable ordinances, their impact on a license, and don’t want those ordinances to change the license language. Is “regulatory” an issue? Was in past contract language. Both parties agreed to look at Princeton Charter language, as inserted below, with CAC cross through of extraneous words:

### Princeton SECTION 2-68 - POLICE AND REGULATORY POWERS

(a) — By executing this License, the Licensee acknowledges that its rights are subject to the powers of the Town’s and its right to adopt and enforce generally applicable by-laws, laws, and regulations in the lawful exercise of its police powers to the full extent permitted by applicable law, with respect to the safety and welfare of the public. The Licensee shall comply with all applicable Town by-laws, laws, and lawful regulations, provided such are of general applicability and not specific to this License, the Licensee and/or Cable System. In the event of

any conflict between this License and any Issuing Authority's by laws, laws, or ordinance or regulations, apart from the lawful police powers of the Town, materially contradicting the applicable provisions of this License, the terms of this License shall prevail. This License is a contract and except as to those changes, which are the result of the Issuing Authority's exercise of its general police power, neither party may take any unilateral action, which materially changes the mutual promises in this contract. Any changes to this License must be made in writing signed by the Licensee and the Issuing Authority. shall be made according to Section 8.1.

(Note: CAC needs to think about this some more to make sure all building codes, state and federal laws apply here as it is not as Regulatory Powers. If covered elsewhere, maybe this should just say Police Powers and simplify it. The cross outs are R. Wood's based on the session's discussion.)

**§2.8: Both parties will review and discuss further.**

Recorded tapes and summary of meeting to Charter Communications, via D. Reing.

CAC reviewed a large number of contracts in preparing for negotiations and did not stick entirely with Time Warner Cable 2013 agreement language.

#### Section 2.9 Removal or Abandonment

CAC's comments: OK to cross out (a); Why need to add "including in particular the Cable Act", as covered under "subject to federal law"? Charter: Cable Act address termination of agreement and thus removal and abandonment. Not acceptable with cross out language as done by Charter in paragraph (b). In Charter's new redlined (a), why is Charter not contemplating the potential abandonment of all or parts of their cable equipment? The point with this §2.9 is that none of the five Towns wants to be stuck removing any abandoned property/equipment and having to pay to do that if abandoned. We don't assume that anyone/any company will want it if it is abandoned. Charter mentioned state law regarding abandonment, but it is not cited or agreed to be followed. Charter: state law regarding abandonment would kick in. CAC: not asking to abandon or take down, but if abandon and town doesn't want, don't want to pay for taking it down. Not asking Charter to make a choice – just don't want cost burden to towns.

**§2.9: Charter will rewrite Section and present.**

#### Section 2.10 PROCEEDINGS UPON EXPIRATION OR REVOCATION OF RENEWAL LICENSE

In the event this Renewal License is revoked or that it expires without renewal, the Issuing Authority and the Licensee may transfer the Cable System to the Town or a subsequent Licensee subject to Section 627 of the Cable Act.

**§2.10: Language agreed upon as written above.**

P. Abbott left the meeting.

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

#### Section 3.1 Subscriber Network

(a) The Licensee will maintain a Cable Television System, which meets or exceeds all required FCC technological standards during the duration of this Renewal License.

(b) The Licensee shall continue to maintain throughout the term of this Renewal License, twenty-four hour, standby power at the Headend facility(ies) and any sub-headends. Such stand-by power shall provide

continuous capability, contingent upon availability of fuel necessary to operate generators, and shall become automatically activated upon the failure of the Licensee's normal power supply.

(c) The system design of the Cable Television System and Subscriber Network shall at all times throughout this Renewal License meet all applicable FCC technical standards and all applicable technical specifications contained in this Renewal License.

**§3.1: Language agreed upon as written above.**

### Section 3.2 Service Available to All Residents

(a) The Licensee shall make its Cable Service available to substantially all residents of the Town, regardless of type of dwelling or its geographical location in the Town subject to Section 3.2(b) – (f) below, unless the Licensee is legally prevented from providing such Cable Service.

**§3.2(a): Language agreed upon as written above.**

~~(b) Upon the Effective Date of this Renewal Contract, fiber-optic cable shall be used from the Cable Drop to the Outlet for the installation of any new residential Cable Service, unless the Licensee receives written permission from the Issuing Authority to not do so.~~

**§3.2 (old b): language crossed out accepted** – but reluctantly accepted and questioned how Charter plans to solve the “Landsborough, MA” issues, which is common to all Time Warner Cable legacy customers. R. Wood discussed MBI Digital Equity grant and working with BRPC. Lee and Lenox may join with Sheffield and discussion of funding available to address access to broadband, access to equipment, and understanding of technology used. What might be available to upgrade coax to home rather than fiber to home, and to help determine unserved areas.

New (b) – (c) 250' is not negotiable as in TWC license, which Charter implicitly agreed to when took over the license. Charter position is to stay close to federal 125' drop; linked to (d) below regarding contribution costs. Where is there still need in the Town? Where does there need to be build out? Direct conversion to this end; may turn out that 125 – 150' may not be needed. R. Wood requested more detailed maps to address this issue as where does the service in towns end and unserved areas. Need more data to not disadvantage 5 Town customers. D. Reing and J. Maher to review, as appears internal Charter effort on this.

New (d) Why take the formula out? Makes it clear how the statements of (d) are computed and avoids any future misunderstandings about this. The previous line says both parties are responsible for their proportionate share of construction costs. Protection to all involved parties. CAC wants a formula; but open to simpler language. D. Reing not against a formula but wants it thought of in terms of needed buildout. With more information, will suggest a formula. Back to maps as well as communities determining unserved areas.

**§3.2 (b – e): Hold; Charter will rewrite after new information available and present.**

New (e) two scenarios here apply to residential subdivisions, which are not frequent in our 5 towns and especially not as in the middle and eastern MA. 1) new subdivision development where developer would pay, not Charter; 2) previous subdivision development putting utilities underground. CAC does not disagree with density requirements. Charter – obligation to provide service but density requirement of (d); but CAC doesn't feel it says this. Just want to know that Charter will install in these situations and make it clearer to reference (d).

**§3.2 (e): Charter will rewrite and present.**

New (f) The Licensee shall expeditiously seek all necessary permits.

***§3.2(f): Language agreed upon as written above.***

### Section 3.3 Maps

Why not mail/emailed maps to Town? CAC has had issues getting to see maps when requested and have had numerous requests for maps not honored by Charter/Spectrum. How do we handle situation where we want to know where the service ends on streets w/out having to go drive them. Sheffield has, and Lee and Lenox will likely soon have, MBI Digit Equity grants where MBI is seeking to find areas not built out that should be to provide full coverage and digital access/equity.

Charter does not want to commit to do anything that is outside of their normal way of doing business as can not commit that it will be done; prefer by request. Said written request is the normal way to access such maps. CAC has questions of who owns pedestals -see §3.8, where question came up if Charter labels their pedestals in any way. R. Wood will send photo/location of a pedestal to J. Maher.

***§3.3: No agreement; both sides will rethink. Issues with pedestals being excluded.***

### Section 3.4 Commercial Establishments

The Licensee may make Cable Service(s) available to any commercial, not-for-profit, or non-profit establishment(s) in the Town provided that such establishment(s) agrees to pay for the installation and monthly subscription costs as established by the Licensee. It is herein acknowledged that certain programming service may not be available to commercial establishments pursuant to applicable law or the Licensee's agreements with programmers.

***§3.4: Language agreed upon as written above.***

### Section 3.5 Emergency Audio Alert

The Licensee's Subscriber Network shall comply with the FCC's Emergency Alert System ("EAS") Regulations, 47 CFR 11, et seq.

***§3.5: Language agreed upon as written above.***

### Section 3.6: Tree Trimming and Cutting

In the installation, maintenance, operation, and repair of the poles, cables, wires and all appliances or equipment of the Cable System, the Licensee shall avoid all unnecessary damage and injury to any and all shade trees whether in the Public Way or on private property and shall cut or otherwise prune such trees only to the least extent necessary. Licensee shall comply with all applicable regulations regarding trimming and cutting of trees. Licensee shall make reasonable efforts to secure the permission of the Town or property owner prior to any reasonable tree trimming.

***§3.6: Language agreed upon as written above.***

### Section 3.7 Underground Facilities

Upon receiving due notice of the installation of telephone, electric and all other utility lines underground, the Licensee shall likewise place its facilities underground. Underground cable lines shall be placed according to any Public Works, Highway Department or other Town by-law or regulation and in accordance with applicable state law. It is the policy of the Town that existing poles for electric and communication purposes be utilized wherever possible if available on reasonable terms and that underground installation is preferable to the placement of additional poles, provided that said underground placement is required of other utilities. When

possible, Licensee may use the underground conduit maintained by the Town provided that such use (i) is found by the Issuing Authority to be reasonable and at the sole cost and expense of the Licensee; and (ii) does not interfere with the Town's use or anticipated use of said conduit(s). Any such use by the Licensee shall be subject to the advance notification and approval of the Town and the right of the Town to supervise any such use. Licensee shall maintain membership and participate in the Massachusetts "DIG-SAFE" program and shall comply with all applicable "dig-safe" provisions, pursuant to M.G.L. c. 82, §40.

**§3.7: Language agreed upon as written above.**

#### Section 3.8 Pedestals

Issue is showing pedestal location after they are constructed. Charter does not want to make them to requirements of last line in this section or under 3.3 Maps. Question came up if Charter labels pedestals in any manner. How do towns know which ones are theirs? No resolution; Charter to see if labeled in any manner.

#### Section 3.9 Restoration to Prior Condition

(a) Whenever the Licensee takes up or disturbs any pavement, sidewalk, or other improvement of any Public Way or public place, the same shall be replaced, and the surface restored in as good condition as before entry and to such standards required of utilities operating within the Town and as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may notify the Licensee in writing of the required restoration and the reasonable time for completion of the restoration. Upon failure of the Licensee to comply with the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Licensee upon demand by the Issuing Authority. Any damages to private property shall be determined in accordance with M.G.L. c. 166A, Section §22 and applicable law.

(b) Underground crossings of paved roads will be by boring under the road, not by trenching or opening the surface of the road except to the extent that boring is not feasible or is otherwise unreasonable to do.

**§3.9: Language agreed upon as written above.**

#### Section 3.10 Cooperation with Building Movers

The Licensee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person, including without limitation, a Person holding a building moving permit issued by the Town. The expense of such raising or lowering shall be paid in advance by the Person(s) holding the building move permit, but without charge to the Town. The Licensee shall be given reasonable notice necessary to maintain continuity of service, which notice shall be no less than 30 days.

**§3.10: Language acceptable as written above; but Charter will check to see if 30 day's notice is sufficient.**

#### Section 3.11 Relocation of Facilities

CAC needs to find out who is responsible for such costs "all other users" and possibly change to "all utility companies, to include....." – utility company, National Grid, Verizon, etc. No answers on 2/1. Charter's comments are that they want to be treated the same as others in the ROW. If money for it want to be included; if not, OK.

**§3.11: No resolution; CAC team needs to find out what is normal/applicable to others re: relocation of facilities and report back.**



### Section 3.12 Town Use of Licensee's Poles and Conduit

Charter eliminated this entire section due to their not owning any poles and no foreseeable reason to do so. They lease their space on other's poles. Re: conduits, they questioned the value to the Town of being allowed to use their conduit and not pay rent – an in kind benefit to the Town so eligible for computation against CAP, but then have the Town have to remove anything in the conduit with 60 days written notice, so Town has no control of their continued access. Does the Town even want this? Point made was this doesn't serve the Town. While not known re: 5 Towns, D. Reing said he does not believe Charter has a lot of conduit.

**§3.12: No resolution; CAC team needs to find out what is normal/applicable to others re: relocation of facilities and report back; R. Wood volunteer to find out whether Sheffield has ever requested to attach anything to a pole or place anything inside a conduit. Have other towns.**

### Section 3.13 Relocation of Fire Alarms

The Licensee shall reimburse the Town at cost for any reasonable expense including materials and labor caused by the relocation of any fire alarm, cable, or equipment to make poles ready for the Licensee's Cable System. The Town shall cooperate in this relocation so as to minimize delay in Licensee's construction schedule.

**§3.13: Language agreed upon as written above.**

### Section 3.14 Service Interruption

Except where an emergency situation necessitating a more expeditious procedure, Licensee shall use reasonable efforts to avoid the interruption of service for the purpose of system construction, routine repairing or testing the Cable System and only do so during periods of minimum use.

**§3.14: Language agreed upon as written above.**

### Section 3.15 Right to Inspection of Construction

CAC input: (a) Why omit and add language? Written notice is not always possible and the Building Commissioner, Electrical inspector and other Town inspectors have the right under State Building Code, so cannot omit "and all other applicable law". Object to addition of "material" terms and conditions (Material Terms Definition. The significant and relevant aspects of a contract, including details such as time, price, quantity, and party names. A contract will typically not be enforced without mutual assent, either express or implied, to all material terms by the parties. We do not want to have to get Charter's permission to inspect construction. Question of what done with other utilities.

(b) Need to pass over this for the time being – need to see how changing "tests" to "inspections" impacts Article 7 and others. Need to discuss what inspections are done by a town re: this utility work and if allowed under the state building code, they are chargeable. Need to do more research on this.

**§3.15: Hold; CAC team needs to find out what is normal/applicable to others re: relocation of facilities and report back; R. Wood volunteer to find out the Sheffield Building Commissioner's input on inspection of construction. Need resolution on (b).**

### Section 3.16 Construction, Upgrade, Technical, and Maintenance Standards

CAC comments: (a) removal of NEC is OK, if agreed by Sheffield's Building Commission; RW will check. Can agree on "generally applicable" added to Town building and zoning codes. What construction is being

discussed – trench, conduit, building? Charter: generally applicable is to protect against “targeting” by cable ordinance, etc. CAC ok with “generally applicable”.

**§3.16(a): Hold; R. Wood will check with Building Commissioner.**

(b) How often does Charter conduct technical performance tests and what kind of technical performance tests are these? Testing has changed per Charter and request rewrite to reflect reality. May we agree on the automatic submission to the Towns of certain of these tests w/out putting the burden for request on the Towns? No, as Charter is trying to avoid exceptions to standard practices; see earlier conversation; “30 days upon request” – accepted by CAC. Requesting items from Charter has not been handled well, if at all, except at license renewal.

**§3.16(b): Charter to rewrite and submit new language.**

(c) If, as a result of technological development(s), the Licensee’s Cable System could be enhanced, the Licensee shall investigate the feasibility of implementing such new development(s) and shall implement such technological development(s) if such implementation (i) can be done without adding a financial burden to subscribers and (ii) is technically and economically feasible and viable for the Licensee as determined by Licensee. In determining whether or not the Licensee shall implement such new development(s), the Licensee will consider, among other factors, the remaining term of this Renewal License; performance demonstrating the operational feasibility of the new development(s); construction and other related costs; the adaptability of such development(s) to the Licensee’s Cable System or any part thereof; the potential marketability of the new service(s) and other factors affecting the economic feasibility and viability of implementation of the new development(s); and adoption of such new development(s) by neighboring communities.

(d) The Licensee shall take appropriate measures to minimize audio variations within its control between channels in the Cable System, as required by FCC Technical Standards.

(e) All Licensee’s structures, lines, equipment, and connections in, over, under, and upon streets, sidewalks, alleys, and public ways and places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe condition and in good order and repair.

**§3.16 (c), (d) and (e): Language agreed upon as written above.**

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### ► **2.1.23 negotiating session stopped here.**

Below are CAC’s comments on the remaining sections in Article 3.

#### Section 3.17 Maintenance Log

**(a & b) Why struck?**

#### Section 3.18 Emergency Removal of Cable System

**Define remove? Why is cut or move not acceptable?**

#### Section 3.19 Private Property

**The proposed language is more directive than MGL 166a,§22 regarding damage recovery. Where is property damage recovery discussed in MGL?**

#### Section 3.20 Qualification of Construction Personnel

We need to think about the intent of this section, which I believe came from the last TWC license, and possibly from the one before that. It may speak to an age of less training and smaller companies.

Other: ***Where do we add this to the Renewal License:*** The Licensee shall not avoid implementing system or technological standards as required by the FCC during this Renewal License period.

All parties are responsible for reviewing this document and noting any errors in writing to the other party, which for Charter Communications is to Dan Reing, Esq. and for CAC, to Linda Z. Miller.

Next meeting 2/22 at 3pm via Zoom: CTSB will be primary focus; with completion of Article 3 as time allows. Also want to give Charter an opportunity to react to Ascertainment comments made by D. Arseneau.

Invitation made to CAC quarterly meeting 3/14 at Great Barrington Town Hall at 6pm. Update on negotiations will be given at meeting. D. Reing will work with P. Abbott on extension request to DTC.

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***On a motion to adjourn from R. Wood, seconded by D. Arseneau, and approved on a 3-0 vote, the meeting adjourned at 4:35pm.***

Respectfully submitted,

Rene C. Wood;  
Sheffield delegate to Five Town Cable Advisory Committee and member of the Negotiating Subcommittee

Documents from the meeting:

- Agenda for 2/1/23