

NEW JERSEY
BOARD OF PUBLIC UTILITIES
OFFICE OF CABLE TELEVISION &
TELECOMMUNICATIONS

I/M/O CSC TKR, LLC
CONVERSION TO A SYSTEM-WIDE
CABLE TELEVISION FRANCHISE
BPU DOCKET No. CE10010024

FRANCHISE RENEWAL/
ASCERTAINMENT REPORT

MAY 25, 2016

Background/Procedural History

In August 2006, amendments to the New Jersey Cable Act, N.J.S.A. 48:5A-1 et seq. ("State Act") were enacted which were intended to accelerate cable competition and consumer choice. This legislation provided cable television operators a choice between acquiring traditional franchises town by town, as had been the practice in New Jersey since the 1970's, or applying directly to the Board of Public Utilities ("Board") for a system-wide cable television franchise. An additional relevant section of this law was the ability for incumbent cable television operators to automatically convert their existing cable television franchises to a system-wide cable television franchise, by notice to the Board and the affected municipality. (N.J.S.A. 48:5A-25.1(a))

CSC TKR, LLC ("CSC TKR") was the holder of 62 traditional municipal consent-based cable television franchises in New Jersey. On January 11, 2010, CSC TKR notified the Borough of Allentown and the Board that it would convert the Borough of Allentown to a system-wide cable television franchise, pursuant to N.J.S.A. 48:5A-25.1(a). State law and Board rules require a cable television company operating under a municipal consent ordinance-based franchise converting to a system-wide cable television franchise to abide by the provisions of N.J.S.A. 48:5A-28(h) through (n). By virtue of conversion, CSC TKR was relieved of any franchise obligations included in the municipal consent adopted by the Borough of Allentown. As of the date of this report, CSC TKR has added 32 additional municipalities to its system-wide cable television franchise area.¹ CSC TKR maintains 29 municipalities under municipal consent ordinance-based franchises.

Pursuant to the amended State Act (N.J.S.A. 48:5A-19(b)) and the Board's Regulations of Cable Television (N.J.A.C. 14:18-14.13), CSC TKR's converted system-wide cable television franchise runs for a term of seven years from the date of the first conversion of a municipal consent-based franchise within its cable television system. CSC TKR's system-wide cable television franchise is set to expire on January 11, 2017. Franchise renewal in New Jersey is governed by the federal Communications Policy Act of 1934, as amended ("Federal Act"), the amended State Act, and the Board's rules in the New Jersey Administrative Code ("N.J.A.C.").

¹ See Attachment I for list of CSC TKR System-wide Cable Television Franchise municipalities.

The Federal Act (47 U.S.C. §546) sets forth the *ascertainment* process required to be used by franchising authorities in the renewal process. Ascertainment is the term utilized to explain the fact-finding process used by franchising authorities to examine the past performance of the cable operator and identify the future cable-related needs of the community. The Board's review of CSC TKR's performance under its franchise as stated in both the State Act, and the Board's rules at N.J.A.C. 14:18-14.17(b), is specifically limited to:

1. Any Statewide needs and requirements as may be established by the State Cable Act;
2. The extent to which CSC TKR has met its commitments pursuant to N.J.S.A. 48:5A-28 and the rules and regulations of the Office of Cable Television, in accordance with the State Cable Act; and
3. Performance and substantial compliance with material terms and conditions of CSC TKR's existing system-wide cable television franchise based on notice and opportunity to cure under applicable Federal law as placed on the record.

The Board's rules at N.J.A.C. 14:18-14.17(c) require that, at least seven months prior to the expiration of the franchise, the Office of Cable Television & Telecommunications (OCTV&T) must issue an ascertainment report to the Board, which must be made available for public inspection.

On February 12, 2014, CSC TKR notified the Board of its intention to renew its system-wide cable television franchise. On February 18, 2014, the OCTV&T notified CSC TKR that the OCTV&T would review CSC TKR's performance under its system-wide cable television franchise pursuant to Federal and state guidelines, as outlined above. On November 12, 2015, the OCTV&T invited CSC TKR to file comments on its performance under its system-wide cable television franchise and to assess how it will meet the future needs of the communities listed in its franchise application. CSC TKR filed its Initial Comments with the OCTV&T on January 29, 2016.² In its comments, CSC TKR asserts that it has fulfilled its statutory obligations under the system-wide cable television franchise, and that current and future cable related needs of the

² See Attachment II.

municipalities served by CSC TKR are substantially fulfilled by the State Act's statutory obligations, including higher franchise fees, PEG programming, equipment and training and free municipal connections.

PERFORMANCE CRITERIA

1. Any Statewide needs and requirements as may be established by the State Cable Act;

The State Cable Act limits what terms can be imposed on a cable television company operating under a system-wide cable television franchise, pursuant to N.J.S.A. 48:5A-28(h)-(n). With respect to these requirements, CSC TKR reports:

The obligations imposed upon system-wide cable television franchisees by the New Jersey Cable Television Act are designed to delineate the cable-related needs of the communities included in such a franchise, and ensure a uniform cable service experience across those communities. By fulfilling its statutory obligations as a system-wide cable television franchise holder under the New Jersey Cable Television Act, CSC TKR currently meets the existing cable-related needs of the communities it serves. Further, by committing to continue to meet all of these obligations for the duration of any renewed franchise in the future, as CSC TKR will do when it submits its renewal application, the Company will adequately address the future cable-related needs and interests of the system-wide cable television franchise communities.

2. The extent to which CSC TKR has met its commitments pursuant to N.J.S.A. 48:5A-28 and the rules and regulations of the Office of Cable Television, in accordance with the State Cable Act;

CSC TKR’s commitments under its system-wide cable television franchise are delineated in the State Cable Act under N.J.S.A. 48:5A-28:

48:5A-28. Contents of application, commitments by system-wide cable television franchise

Each application for a municipal consent or system-wide cable television franchise shall contain:

...

h. (1) With regard only to applications for a system-wide cable television franchise, a commitment as to those municipalities that are served by a CATV company

at the time of the application, to match or surpass any line extension policy operative at the time the system-wide cable television franchise is granted and placed into effect prior to the enactment of P.L.2006, c.83 (C.48:5A-25.1 et al.) by a local franchise or certificate of approval, for the duration of the system-wide cable television franchise. In any event, the CATV company shall extend its plant along public rights-of-way to all residences and businesses within 150 aerial feet of the CATV company's existing plant at no cost beyond the normal installation rate, and to all residences and businesses within 100 underground feet of the CATV company's plant at no cost beyond the normal installation rate, and shall set a minimum house per mile density of not less than 35 homes per square mile.

(2) This commitment shall be in addition to any and all board orders and rules that impact upon the extension of plant, except that such commitment shall supersede the board's regulations adopted as N.J.A.C. 14:3-8.1 et seq., which shall not apply to CATV companies, including telecommunications service providers that have obtained a system-wide cable television franchise.

i. With regard only to applications for a system-wide cable television franchise, a commitment to provide to each municipality that is served by a CATV company, with two public, educational and governmental access channels. In the event that two or more access channels are requested by a municipality, the municipality shall demonstrate that its cable-related needs require the provision of such additional access channels. Any and all CATV companies operating in a municipality shall provide interconnection to all other CATV companies on reasonable terms and conditions, and the board shall adopt regulations for procedures by which disputes between such CATV companies shall be determined and expeditiously resolved. Each municipality or its nonprofit designee shall assume responsibility for the management, operations and programming of the public, educational and governmental access channels.

j. With regard only to applications for a system-wide cable television franchise, a commitment to install and retain or provide, without charge, one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes.

k. With regard only to applications for a system-wide cable television franchise, a commitment to provide free Internet service, without charge, through one service outlet activated for basic service to any and all fire stations, public schools, police stations, public libraries, and other such buildings used for municipal purposes.

l. With regard only to applications for a system-wide cable television franchise, a commitment to provide equipment and training for access users, without charge, on a schedule to be agreed upon between the municipality and the CATV company.

m. With regard only to applications for a system-wide cable television franchise, a commitment to provide a return feed from any one location in the municipality, without charge, to the CATV company's headend or other location of interconnection to the cable television system for public, educational or governmental use, which return feed, at a minimum, provides the ability for the municipality to cablecast live or taped access programming, in real time, as may be applicable, to the CATV company's customers in the municipality. No CATV company is responsible for providing a return access feed unless a municipality requests such a feed in writing. A CATV company that has interconnected with another CATV company may require the second CATV company to pay for half of the CATV company's absorbed costs for extension.

n. With regard only to applications for a system-wide cable television franchise, a commitment to meet any consumer protection requirements applicable, pursuant to board regulations, to cable television companies operating under certificates of approval.

CSC TKR's performance

(h) – Line Extension Policy

Under the system-wide cable television franchise structure, CSC TKR is required to meet or exceed the line extension policy ("LEP") commitments that it had offered as the municipal consent-based franchise holder in each municipality served. An LEP is a cost sharing formula that determines the dollar amount to be shared between a cable operator and a potential customer for construction along public right-of-way outside of the area where the company has agreed to provide service at no cost beyond installation charges. CSC TKR uses the OCTV&T's LEP in its municipalities, but the minimum homes per mile figure ("HPM") differs, and in some cases, CSC TKR does not use an LEP at all. In Bound Brook Borough and Madison Borough, CSC TKR provides service to any resident at no cost beyond the installation rates contained in its schedule of prices, rates, terms and conditions filed with the Board. In Denville Township, CSC TKR provides service to residents in accordance with the OCTV&T's LEP based upon a minimum of 15 homes per mile. In Rockaway Township, CSC TKR provides service to residents in accordance with the OCTV&T's LEP based upon a minimum of 20 homes per mile. In Allentown Borough, Bernards Township, Chatham Borough, Dover Town, East Hanover Township, Florham Park Borough, Hanover Township, Highland Park Borough, Keansburg Borough, Manville Borough, Mine Hill Township, Morris Plains Borough, Morris Township,

Morristown Town, Randolph Township, Raritan Borough, Rockaway Borough, Somerville Borough and Warren Township, CSC TKR provides service to residents in accordance with the OCTV&T's LEP based upon a minimum of 25 homes per mile. In Aberdeen Township, Bridgewater Township, Hamilton Township, Keyport Borough, Matawan Borough, South Bound Brook Borough, Union Beach Borough, Victory Gardens Borough, Watchung Borough and Wharton Borough, CSC TKR provides service to residents in accordance with the OCTV&T's LEP based upon a minimum of 35 homes per mile. CSC TKR, LLC also employs a commercial LEP which is applicable to businesses. CSC TKR, LLC continues these policies under its system-wide cable television franchise.

CSC TKR reports: *Through its municipal consent franchises, CSC TKR has previously constructed a system subject to the minimal line extension obligations prescribed by the Board. Pursuant to N.J.S.A. 48:5A-28(h), by virtue of converting its local franchises to the system-wide cable television franchise, CSC TKR is in compliance with the required line extension obligations.*

Conclusion: The Office of Cable Television has received no complaints from residents regarding extension of service in the CSC TKR system. Therefore, the OCTV&T finds that CSC TKR is performing in accordance with its system-wide cable television franchise.

- (i)/(l) – Public Educational and Governmental (PEG) access channels and equipment and training;
- (j)/(k) – free basic cable and internet service to public schools, libraries and municipal bldgs.;
- (m) – return feeds

The State Act requires that upon request, CSC TKR provide to the municipalities: up to two PEG access channels with equipment and training, free basic cable and internet connections to certain municipal locations, and one free return line.

CSC TKR reports: *Pursuant to N.J.S.A. 48:5A-28(i) CSC TKR offers two public, educational and governmental (“PEG”) channels within each of the municipalities in the system-wide cable television franchise area, based on the cable related needs of each municipality (see Exhibit A for number of PEG channels currently used by each municipality). CSC TKR makes available a studio, training, and*

equipment to interested PEG access users resident within the franchise area, subject to its PEG access user policies, pursuant to N.J.S.A. 48:5A-28 (l).

In addition, CSC TKR provides free basic video service and free Internet service within each of the communities in the system-wide cable television franchise area. Where requested, CSC TKR has fulfilled its obligation under N.J.S.A. 48:5A-28(m) to provide return feeds to municipalities for the purpose of interconnecting to the Company's system to distribute PEG programming.

CSC TKR provides other valuable programming and services to the community that exceeds statutory requirements for its system-wide cable television franchise. The Company's award winning News 12 channel focuses on news for residents both in the system and throughout the state. It is the only cable news channel dedicated solely to New Jersey news. The Company's Optimum Community program, formerly called Power to Learn, provides schools with valuable community service and support, in addition to the free basic video service and Internet service described above.

Discussion: CSC TKR, as a municipal consent-based cable television franchise holder was providing one PEG access channel to each municipality—two to Bernards Township and Somerville Borough—as well as free services to schools, libraries and municipal buildings, prior to the conversion to a system-wide cable television franchise. CSC TKR is obligated to provide two channels for PEG access pursuant to N.J.S.A. 48:5A-28(i), if a municipality requests that a second channel be provided. CSC TKR has stated it will provide return lines where they have not yet been provided under its municipal consent-based cable television franchises.

Conclusion: As noted above, CSC TKR is required to provide two PEG access channels to each municipality where such channels are requested. However, under N.J.A.C. 14:18-15.4(b) and 15.5(b), if a municipality and a cable television company operating under a system-wide cable television franchise cannot agree upon the terms and conditions specified above, either can request intervention by the OCTV&T. The OCTV&T has not received any complaints or requests for intervention regarding unmet obligations under these provisions. Therefore, the OCTV&T finds that CSC TKR is in compliance with its system-wide cable television franchise.

(n) – Consumer protection requirements

CSC TKR is required under the State Act to meet any consumer protection requirements under the Board's regulations.

CSC TKR reports: *CSC TKR has substantially complied with all consumer protection obligations under applicable law, as required by N.J.S.A. 48:5A-28(n). Among these, CSC TKR abides by the minimum customer service and consumer protection standards in the OCTV&T regulations. Further, CSC TKR provides required “complaint officer” notifications, and maintains a required local business office, which is currently located at 275 Centennial Avenue, Piscataway, New Jersey, 08854; 2137 Hamilton Avenue, Hamilton, New Jersey, 08619; and 683 Route 10 East, Randolph, New Jersey, 07869.*

Discussion: Under the Board's rules, N.J.A.C. 14:18-16.7, a cable television company that is subject to effective competition may seek relief from the Board on certain notification and recordkeeping requirements. CSC TKR sought relief under the rule and in September of 2011, was granted relief pursuant to the rule. In its request for relief, CSC TKR committed to cooperate with any reasonable requests for information from the Board or Board staff regarding any matter for which relief was granted.

Additionally, for all converted municipalities under CSC TKR's system-wide cable television franchise, the OCTV&T is the designated complaint officer.

Conclusion: The OCTV&T has received 326 written complaints on the CSC TKR system in the six years from January of 2010 to April 15, 2016, or approximately 54 complaints per year. This number is not insignificant but still represents a small percentage of CSC TKR's customers in these 33 municipalities. All complaints have been resolved. To date, the OCTV&T finds CSC TKR has complied with the consumer protection requirements under the Board's rules.

3. Performance and substantial compliance with material terms and conditions of CSC TKR's existing system-wide cable television franchise based on notice and opportunity to cure under applicable Federal law as placed on the record.

Pursuant to the Federal Act, if the franchising authority finds that there are any substantial violations of the current franchise, it must provide the cable operator "notice and opportunity to cure" (47 U.S.C.A. § 546(d)).

CSC TKR reports: *As required by law, CSC TKR has maintained during the term of the franchise all records of complaints received for a period of at least 3 years beyond the close of the calendar year of the report, and such records are available for inspection by staff of the Office of Cable Television. Further, during the term of the franchise, CSC TKR has timely compiled and filed with the Office of Cable Television the annual customer complaint reports required by N.J.S.A. 48:5A-26.1.*

...

CSC TKR has materially complied with all of its existing franchise obligations, and the Company's performance record since its conversion to a system-wide cable television franchise supports renewal of the franchise.

Discussion: To date, CSC TKR has not been provided with notice of any substantial non-compliance with the terms of the existing franchise. Compliance reviews are performed of each cable television company in the state every 2-3 years. Since the report of June 2010, no enforcement action has been brought to the Board. However, the OCTV&T will continue to review CSC TKR's compliance under its system-wide cable television franchise and the Board's rules.

Conclusion: The OCTV&T finds that CSC TKR is in compliance with the material terms and conditions of its system-wide cable television franchise.

Future Cable Related Needs

Discussion: CSC TKR, LLC has complied with all aspects of its current system-wide cable television franchise. It is noted that at any time, a municipality may seek assistance from the Board of Public Utilities for any dispute regarding the company's compliance with N.J.S.A. 48:5A-28i-m, specifically dealing with PEG access channels; PEG access equipment and

training; PEG access return lines; and free cable and Internet services to schools and municipal buildings. The OCTV&T has no unresolved complaints filed by any municipality regarding the provisions of N.J.S.A. 48:5A-28i-m.

Conclusion: The OCTV&T finds that CSC TKR, LLC's past performance and compliance with its current system-wide cable television franchise as well its promised commitments, will ensure that the company meets the future cable-related needs of the communities it serves, as set forth in N.J.S.A. 48:5A-28h-n.

Additional information provided by CSC TKR

CSC TKR herein provides additional information for the Board's benefit, to give perspective on the wide range of services CSC TKR provides to subscribers in the franchise area.

Over the term of the existing system-wide cable television franchise, the demands for connectivity by our New Jersey customers have increased significantly. Our New Jersey customers want access to data from anywhere, at any time and on a multitude of devices. CSC TKR Systems Corporation has met that need by building an advanced, fiber-rich network and coupled it with the most innovative entertainment, information and communications services available in the world. CSC TKR Systems Corporation serves over 1 million residential and small business customers in New Jersey using a hybrid fiber and coaxial cable system.

CSC TKR's advanced and integrated consumer communications services include iO Interactive Optimum digital television, Optimum Online high speed Internet access, featuring free Optimum WiFi, and Optimum Voice digital voice offerings.

Small businesses are powered by the Company's world-class telecommunications network with our Optimum® for business digital services suite, which features our Optimum family of products. The

Company also provides broadband, voice and video service to large, enterprise commercial customers through Lightpath, an award-winning competitive local exchange carrier with customers throughout New Jersey.

CSC TKR has offered the following information regarding its products and services:

Some highlights of our Optimum products and services include:

- Broadband Service - Optimum Internet customers can purchase 5 different levels of service including Optimum Ultra 101, a 101 mbps broadband Internet service offering.*
- iPad App – the entire suite of more than 360 standard and high-definition channels live on the iPad*
- TV to Go – More than 100 networks available to customers from mobile devices outside the home.*
- Multi-Room DVR- The very first remote storage DVR that allows up to 15 simultaneous recordings (or 75 hours of HD recordings) while watching any channel and play back from multiple rooms within the home.*
- Open-Connect – A unique partnership that has allowed the Company to deliver one of the best Netflix viewing experiences in the industry.*

While not subject to the Board's/OCTV&T's review under CSC TKR's system-wide cable television franchise, such products and services helps to demonstrate the company's desire to continue to meet its customers' needs.

Next Steps

Pursuant to the Board's rules, within 90 days of the filing of the OCTV&T Ascertainment Report, CSC TKR is required to file its franchise renewal application. Public hearings will be scheduled following the filing of the CSC TKR's application to allow public comment.

Attachment I

CSC TKR, LLC
System-wide Cable Television Franchise Municipalities

#	Municipality	County
1	Aberdeen Township	Monmouth
2	Allentown Borough	Monmouth
3	Bernards Township	Somerset
4	Bound Brook Borough	Somerset
5	Bridgewater Township	Somerset
6	Chatham Borough	Morris
7	Denville Township	Morris
8	Dover Town	Morris
9	East Hanover Township	Morris
10	Florham Park Borough	Morris
11	Hamilton Township	Mercer
12	Hanover Township	Morris
13	Highland Park Borough	Middlesex
14	Keansburg Borough	Monmouth
15	Keyport Borough	Monmouth
16	Madison Borough	Morris
17	Manville Borough	Somerset
18	Matawan Borough	Monmouth
19	Mine Hill Township	Morris
20	Morris Plains Borough	Morris
21	Morris Township	Morris
22	Morristown Town	Morris
23	Randolph Township	Morris
24	Raritan Borough	Somerset
25	Rockaway Borough	Morris
26	Rockaway Township	Morris
27	Somerville Borough	Somerset
28	South Bound Brook Borough	Somerset
29	Union Beach Borough	Monmouth
30	Victory Gardens Borough	Morris
31	Warren Township	Somerset
32	Watchung Borough	Somerset
33	Wharton Borough	Morris

Attachment II

CSC TKR, LLC

**Initial Comments in Support of the Renewal of its
System-wide cable television franchise**

January 29, 2016