

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

I/M/O CABLEVISION OF
MONMOUTH, LLC

CONVERSION TO A SYSTEM-WIDE
CABLE TELEVISION FRANCHISE
BPU DOCKET No. CE10010023

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 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))

Cablevision of Monmouth, LLC ("Cablevision" or "Cablevision of Monmouth") was the holder of 31 traditional municipal consent-based cable television franchises in Monmouth and Ocean Counties, New Jersey. On January 11, 2010, Cablevision of Monmouth notified the Borough of Interlaken and the Board that it would convert the Borough of Interlaken 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, Cablevision was relieved of any franchise obligations included in the municipal consent adopted by the Borough of Interlaken. As of the date of this report, Cablevision has added 19 additional municipalities to its system-wide cable television franchise area.¹ Cablevision maintains 11 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), Cablevision'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. Cablevision's system-wide cable television franchise is set to expire on January 11, 2017. Franchise renewal in New Jersey is governed by the federal Cable Communications Policy Act of 1934, as amended, 47 U.S.C. § 151 et seq. ("Federal Act"), the amended State Act, and the Board's rules in the New

¹ See Attachment I for list of Cablevision of New Jersey System-wide Cable Television Franchise municipalities.

Jersey Administrative Code (“N.J.A.C.”). 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 Cablevision’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 Cablevision has met its commitments pursuant to N.J.S.A. 48:5A-28 and the rules and regulations of the Office of Cable Television & Telecommunications, in accordance with the State Cable Act; and
3. Performance and substantial compliance with material terms and conditions of Cablevision’s existing system-wide 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, with copies to the cable television operator and the Division of Rate Counsel, and which must be made available for public inspection.

On February 5, 2014, Cablevision notified the Board of its intention to renew its system-wide cable television franchise. On May 21, 2014, the OCTV&T notified Cablevision that the OCTV&T would review Cablevision’s performance under its system-wide franchise pursuant to Federal and state guidelines, as outlined above. On November 16, 2015, the OCTV&T invited Cablevision 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. Cablevision filed its Initial Comments with the OCTV&T on January 29, 2016 (“Initial Comments”).² Cablevision asserts that it has fulfilled its statutory obligations under the system-wide cable television franchise, and that current and future cable related needs of

² See Attachment II.

the municipalities served by Cablevision are substantially fulfilled by the State Act's statutory obligations, including higher franchise fees, Public Educational and Governmental ("PEG") programming, equipment and training and free municipal connections. Initial Comments at 1, 8-10.

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 franchise, pursuant to N.J.S.A. 48:5A-28(h)-(n). With respect to these requirements, Cablevision asserts:

The obligations imposed upon system-wide 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 franchise holder under the New Jersey Cable Television Act, Cablevision of Monmouth 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 Cablevision of Monmouth will do when it submits its renewal application, the Company will adequately address the future cable-related needs and interests of the system-wide franchise communities.

[Initial Comments at 9]

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

Cablevision's commitments under its system-wide cable television franchise are delineated in the State Cable Act under N.J.S.A. 48:5A-28 ("Contents of application, commitments by system-wide franchise"), which provides in part as follows:

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

h. (1) With regard only to applications for a system-wide 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 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 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 franchise.

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

Cablevision's performance

N.J.S.A. 48:5A-28(h) – Line Extension Policy

Under the system-wide cable television franchise structure, Cablevision 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. Cablevision uses a "commercially zoned" LEP in some of its municipalities. In the Borough of Interlaken, Cablevision of Monmouth 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 the City of Asbury Park, the Boroughs of Avon by the Sea, Belmar, Brielle, Bradley Beach, Englishtown, Farmingdale, Lake Como, Manasquan, Neptune City, Sea Girt, Spring Lake, Spring Lake Heights, and the Townships of Neptune and Toms River Cablevision of Monmouth provides service to residents in residentially-zoned areas at no cost beyond the installation rates contained in its schedule of prices, rates, terms and conditions filed with the Board and in commercially-zoned areas also employs a commercial LEP which is applicable to businesses in accordance with Cablevision of Monmouth's commercial line extension policy. Accordingly, in the Township of Wall, Cablevision of Monmouth shall provide service to residential areas outside its Primary Service Area ("PSA") in accordance with the OCTV&T's LEP with a homes per mile figure ("HPM") of 25. Commercial establishments shall be constructed in accordance with Cablevision of Monmouth's commercial line extension policy. In the Townships of Freehold, Millstone and Ocean, Cablevision shall provide service to any residence along any public right-of-way in the Primary Service Area at no cost beyond standard and non-standard

installation charges. For any extension outside of the PSA, in the Townships of Freehold, Ocean and Millstone, Cablevision of Monmouth shall utilize the OCTV&T's LEP with a HPM figure of 25. Cablevision continues these policies under its system-wide cable television franchise. Thus, as to its LEP, Cablevision states:

Through its municipal consent franchises, Cablevision of Monmouth 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 franchise, Cablevision of Monmouth is in compliance with the required line extension obligations.

[Initial Comments at 7]

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

N.J.S.A. 48:5A-28(i)/(l) – Public Educational and Governmental (PEG) access channels and equipment and training;

N.J.S.A. 48:5A-28(j)/(k) – free basic cable and internet service to public schools, libraries and municipal buildings; and

N.J.S.A. 48:5A-28(m) – return feeds

The State Act requires that upon request, Cablevision 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. Cablevision states:

Pursuant to N.J.S.A. 48:5A-28(i) Cablevision of Monmouth offers two public, educational and governmental (“PEG”) channels within each of the municipalities in the system-wide franchise area, based on the cable related needs of each municipality (see Exhibit A for number of PEG channels currently used by each municipality). Cablevision of Monmouth 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, Cablevision of Monmouth provides free basic video service and free Internet service within each of the communities in the system-wide franchise area. Where requested, Cablevision of

Monmouth 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

Cablevision of Monmouth provides other valuable programming and services to the community that exceeds statutory requirements for its system-wide 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 within the system-wide franchise area with valuable community service and support, in addition to the free basic video service and Internet service described above.

[Initial Comments at 7-8]

Discussion: Cablevision, as a municipal consent-based cable television franchise holder, was providing one PEG access channel to each municipality—two to the City of Asbury Park—as well as free services to schools, libraries and municipal buildings, prior to the conversion to a system-wide cable television franchise. Cablevision 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. Cablevision 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, Cablevision 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 Cablevision is in compliance with its system-wide cable television franchise.

N.J.S.A. 48:5A-28(n) – Consumer protection requirements

Cablevision is required under the State Act to meet any consumer protection requirements under the Board's regulations. Cablevision asserts:

Cablevision of Monmouth has substantially complied with all consumer protection obligations under applicable law, as required by N.J.S.A. 48:5A-28(n). Among these, Cablevision of Monmouth abides by the minimum customer service and consumer protection standards in the OCTV&T regulations [citing N.J.A.C. 14:18-3 through 3.27]. Further, Cablevision of Monmouth provides required “complaint officer” notifications, and maintains a required local business office, which is currently located at 1501 18th Avenue, Wall Township, New Jersey 07719 [citing N.J.S.A. 48:5A-26].

[Initial Comments at 8]

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. Cablevision sought relief under the rule and, in September of 2011, was granted relief pursuant to the rule. In its request for relief, Cablevision committed to cooperate with any reasonable requests for information from the Board or Board staff regarding any matter for which relief was granted.

It is noted that Cablevision’s current local office for Monmouth system is located at 1501 18th Avenue in Wall. Additionally, for all converted municipalities under Cablevision’s system-wide cable television franchise, the OCTV&T is the designated complaint officer.

Conclusion: The OCTV&T has received a total of 158 written and/or verbal complaints for the entire Cablevision of Monmouth system in the six years since January of 2010 of which 74 were filed in the 20 system-wide franchised municipalities. This represents a smaller percentage of Cablevision’s customers filing complaints in these 20 municipalities; as 47% of the complaints filed for 65% of the municipalities. All complaints have been resolved. To date, the OCTV&T finds Cablevision has complied with the consumer protection requirements under the Board’s rules.

3. Performance and substantial compliance with material terms and conditions of Cablevision’s existing system-wide 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 the opportunity to cure" (47 U.S.C.A. § 546(d)). Cablevision states:

As required by law, Cablevision of Monmouth 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, Cablevision of Monmouth 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.

...

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

[Initial Comments at 7-9]

Discussion: Subsequent to the filing of the information from Cablevision of Monmouth in January of 2016, which indicated it had not been provided with notice of any substantial non-compliance with the terms of the existing franchise; the OCTV&T completed a compliance review of all of the Cablevision systems in New Jersey, including the Cablevision of Monmouth system. Compliance reviews are performed by the OCTV&T on an ongoing basis for each of the cable television companies in the state. The compliance review encompassed CSC TKR, LLC itself and through the Cablevision Cable Entities^[1], (referred to collectively as "Cablevision"). That review uncovered a series of regulatory deficiencies which included lapses on the part of Cablevision regarding channel allocation filings, timely filing of required reports, customer notices and customer service standards. In order to resolve the issues, Cablevision submitted an Offer of Settlement on May 12, 2016 agreeing to remedial and corrective action. The matter was brought to the Board in I/M/O the Alleged Failure of CSC TKR, LLC to Comply With Certain Provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq. and the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et seq., Docket No. CO16050416, and approved on May 25, 2016.

Furthermore, the OCTV&T will continue to monitor and review Cablevision's compliance with the above noted settlement as well as Cablevision's system-wide franchise and the Board's rules.

^[1] The term "Cablevision Cable Entities" refers collectively to the CSC TKR, LLC and its subsidiaries that hold cable franchises in New Jersey. These entities are as follows: Cablevision of Hudson County, LLC; Cablevision of Monmouth, LLC; Cablevision of New Jersey, LLC; Cablevision of Newark; Cablevision of Oakland, LLC; Cablevision of Paterson, LLC; Cablevision of Rockland/Ramapo, LLC; Cablevision of Warwick, LLC; and CSC TKR, LLC. CSC TKR, LLC does business as Cablevision of Elizabeth, Cablevision of Hamilton, Cablevision of Morris and Cablevision of Raritan Valley.

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

Additional information provided by Cablevision

Cablevision states that although it is providing OCTV&T with ample information indicating its substantial compliance with all statutory and regulatory obligations of a system-wide franchisee, it is “[providing] additional information for the Board’s benefit, to give perspective on the wide range of services Cablevision of Monmouth provides to subscribers in the franchise area.” Initial Comments at 4. Some of the additional information is as follows:

Over the term of the existing system-wide 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. Cablevision 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. Cablevision Systems Corporation serves over 1 million residential and small business customers in New Jersey using a hybrid fiber and coaxial cable system.

Cablevision of Monmouth’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.

[Initial Comments at 4-5]

Cablevision has offered the following highlights of its Optimum products and services:

- *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 and other mobile devices from anywhere in the home.
- *TV to Go* – More than 160 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.

[Initial Comments at 5-6]

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

Summary:

For purposes of state and federal law, the "franchising authority" in New Jersey is the Board and as the franchising authority had conducted a review of Cablevision of Monmouth, LLC; and has reviewed the performance of the cable operator under the franchise during the current system-wide franchise term. The Board's OCTV&T is issuing the Ascertainment Report to document that staff has reviewed the past performance of the cable operator, the statutory requirements of the cable operator and the future cable related needs pursuant to N.J.A.C. 14:18-14.17(b).

Next Steps

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

Attachment I

Cablevision of Monmouth System-wide Cable Television Franchise Municipalities

#	Municipality	County	Date Converted
1	Asbury Park City	Monmouth	8/3/2015
2	Avon by the Sea Borough	Monmouth	1/11/2010
3	Belmar Borough	Monmouth	7/19/2010
4	Bradley Beach Borough	Monmouth	11/19/2010
5	Brielle Borough	Monmouth	1/11/2010
6	Englishtown Borough	Monmouth	7/19/2010
7	Farmingdale Borough	Monmouth	3/20/2009
8	Freehold Township	Monmouth	11/19/2010
9	Interlaken Borough	Monmouth	1/11/2010
10	Lake Como Borough	Monmouth	1/11/2010
11	Manasquan Borough	Monmouth	11/19/2010
12	Millstone Township	Monmouth	11/19/2010
13	Neptune City Borough	Monmouth	7/19/2010
14	Neptune Township	Monmouth	12/15/2010
15	Ocean Township	Monmouth	1/11/2010
16	Sea Girt Borough	Monmouth	1/11/2010
17	Spring Lake Borough	Monmouth	9/23/2010
18	Spring Lake Heights Borough	Monmouth	7/19/2010
19	Toms River Township	Monmouth	9/17/2010
20	Wall Township	Monmouth	6/13/2014

Attachment II

Cablevision of Monmouth, LLC

**Initial Comments in Support of the Renewal of its
System-wide Franchise**

January 29, 2016