

**BOROUGH OF HAMBURG**

**ORDINANCE NO.   07-2022**

**AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE BOROUGH OF HAMBURG, NEW JERSEY TO CSC TKR, LLC**

**WHEREAS**, the governing body of Borough of Hamburg (hereinafter referred to as the “Borough”) determined that CSC TKR, LLC (hereinafter referred to as “the Company”) has the technical competence and general fitness to operate a cable television system in the Municipality (as defined in Section 1 of this Ordinance), and by prior ordinance granted its municipal consent for the Company’s predecessor in interest, Service Electric Cable T. V. of New Jersey, Inc. (“SECTV”) to obtain a non-exclusive franchise (the “Franchise”) for the placement of facilities and the establishment of a cable television system in the Municipality; and

**WHEREAS**, on or about July 14, 2020; with the prior approval of the Board of Public Utilities of the State of New Jersey (hereinafter the “Board”) the Company completed its purchase of the assets of SECTV, including the cable television franchise for, and the cable television system within the territorial limits governed by, the Borough, and

**WHEREAS**, by application for renewal consent filed with the Borough and the Office of Cable Television on or about September 11, 2020, the Company has sought a renewal of the Franchise; and

**WHEREAS**, the Borough having held public hearings has made due inquiry to review the Company’s performance under the Franchise, and to identify the Borough’s future cable-related needs and interests and has concluded that the Company has substantially complied with its obligations under the Franchise and applicable law and has committed to certain undertakings responsive to the Borough’s future cable-related needs and interests;

**WHEREAS**, the Borough has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided the Company’s proposal for renewal embodies the commitments set forth below, the Borough’s municipal consent to the renewal of the Franchise should be given; and

**WHEREAS**, imposition of the same burdens and costs on other competitors franchised by the Borough is a basic assumption of the parties;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough Hamburg, County of Sussex, and State of New Jersey, as follows:

## **SECTION 1. DEFINITIONS**

For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

- (a) "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.
- (b) "Application" shall mean the Company's application for Renewal of Municipal Consent, which application is on file in the Borough Clerk's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.
- (c) "Board" shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.
- (d) "Borough" shall mean the governing body of the Borough of Hamburg in the County of Sussex, and the State of New Jersey.
- (e) "Company" shall mean CSC TKR, LLC, the grantee of rights under this Ordinance.
- (f) "FCC" shall mean the Federal Communications Commission.
- (g) "Federal Act" shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.
- (h) "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.
- (i) "Municipality" shall mean the area contained within the present municipal boundaries of the Borough of Hamburg in the County of Sussex, and the State of New Jersey.
- (j) "Standard installation" shall mean the installation of drop cable to a customer's premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.
- (k) "State" shall mean the State of New Jersey.

- (l) "State Regulations" shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

## **SECTION 2. STATEMENT OF FINDINGS**

A public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Borough having received all comments regarding the qualifications of the Company to receive this consent, the Borough hereby finds the Company possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that the Company's operating and construction arrangements are adequate and feasible.

## **SECTION 3. GRANT OF AUTHORITY**

The Borough hereby grants to the Company its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the Municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Municipality of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

## **SECTION 4. DURATION OF FRANCHISE**

This consent granted herein shall be non-exclusive and shall be for a term of ten (10) years from the date of issuance of a Certificate of Approval by the Board.

## **SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL**

If the Company seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and the Company shall be bound by the terms of this municipal consent until such time as the Company converts the municipal consent (and any certificate of approval) into a system-wide franchise.

## **SECTION 6. FRANCHISE TERRITORY**

The consent granted under this Ordinance to the Company shall apply to the entirety of the Municipality and any property hereafter annexed.

#### **SECTION 7. SERVICE AREA**

The Company shall be required to proffer video programming service along any public right-of-way to any person's residence within the "primary service area," as it exists on the effective date of any written approval order by the Board of this consent, at the Company's schedule of rates for standard and nonstandard installation.

#### **SECTION 8. EXTENSION OF SERVICE**

Pursuant to the requirements of the Board, as ordered in its approval of the transfer of the Franchise from SECTV to the Company (Docket No. CM20030211, effective July 6, 2020), upon request, the Company shall extend service along any public right of way outside its primary service area to those residences or small businesses within the franchise territory which are located in areas that have a residential home density of twenty-five (25) homes per mile or greater (as measured from the then existing primary service area), or areas with less than twenty-five (25) homes per mile where residents and/or small businesses agree to share the cost of such extension in accordance with the line extension formula as provided by the Company in its application for municipal consent.

#### **SECTION 9. FRANCHISE FEE**

Pursuant to the terms and conditions of the Cable Television Act, the Company shall pay to the Borough, as an annual franchise fee, a sum equal to two percent (2%) of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Municipality. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Borough and the Company shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Borough to require payment of a franchise fee by the Company that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

The Company may use electronic funds transfer to make any payments to the Borough required under this Ordinance.

#### **SECTION 10. FREE SERVICE**

Subject to applicable FCC regulations, the Company shall, upon written request, provide free of charge, standard installation and monthly cable television reception service to all State or locally accredited public schools and all municipal public libraries, as well as municipal buildings located within the Municipality, as follows:

21 cable connections to the Borough Elementary School, 30 Linwood Avenue; 1 cable connection to the Borough Fire Department, 16 Wallkill Avenue; 1 cable connection for the Borough's EMS station, 8 Wallkill Avenue; 1 cable connection to the Borough Police Station, 9 Orchard Street; and 1 cable connection for the Borough's Office of Emergency Management Building, 18 Wallkill Avenue; Borough Municipal Building, 16 Wallkill Avenue.

## **SECTION 11. CONSTRUCTION/SYSTEM REQUIREMENTS**

The Company shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Municipality:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough shall remove or relocate its equipment, at its own expense.

(c) Upon request of a person holding a building or moving permit issued by the Borough, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.

(d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

## **SECTION 12. TECHNICAL AND CUSTOMER SERVICE STANDARDS**

The Company shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

### **SECTION 13. LOCAL OFFICE OR AGENT**

The Company shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

### **SECTION 14. DESIGNATION OF COMPLAINT OFFICER**

The Office of Cable Television is hereby designated as the complaint officer for the Borough pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

### **SECTION 15. LIABILITY INSURANCE**

The Company agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

### **SECTION 16. PERFORMANCE BOND**

The Company shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the Borough in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

### **SECTION 17. RATES**

The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law.

### **SECTION 18. EMERGENCY USES**

The Company shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the

Borough pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize the state-approved procedures for such emergency uses.

#### **SECTION 19. EQUITABLE TERMS**

In the event that the service of another multi-channel video program provider not subject to the Borough's regulatory authority within the Municipality creates a significant competitive disadvantage to the Company, the Company shall have the right to request from the Borough lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Borough acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Borough shall be under no obligation to support the Company's request for such relief from the Board.

In any subsequent municipal consent, Borough shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Borough's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

#### **SECTION 20. REMOVAL OF FACILITIES**

Upon expiration, termination or revocation of this Ordinance, the Company at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless the Company, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

## **SECTION 21. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS**

A. The Company shall continue to make available non-commercial public, educational and governmental (PEG) access services available to the residents of the Municipality as described in the Application for municipal consent. All the Company support for PEG access shall be for the exclusive benefit of the Company's subscribers.

B. Subject to applicable state and federal law and regulation, Company agrees to make available to the Borough one (1) channel for educational access and one (1) channel for local access which may be shared with commercial leased access at the Company's discretion.

C. The Borough agrees that Company shall retain the right to use the educational access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing access programming. In the event that the Company uses said educational access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

D. Cablevision shall have the discretion to determine the format, channel assignment and method of transmission of the PEG access programming provided for in this Section 21.

## **SECTION 22. EMPLOYEE IDENTIFICATION**

A. Each employee of the Company who routinely comes into contact with members of the public at their places of residence must wear a picture identification card clearly indicating his or her employment with the Company. The photograph on the identification card shall prominently show the employee's name and/or identification number. Such employee shall prominently display such identification card and shall show it to all such members of the public. Each employee of any contractor or subcontractor of the Company who routinely comes into contact with members of the public at their places of residence must wear a picture identification card clearly indicating his or her name, the name of such contractor or subcontractor and the name of the Company.

B. Notwithstanding any other provision of law regulating door-to-door solicitation or other sales activities undertaken on public or private property within the Municipality, including any licensing or permit obligations required for such activities, the obligations set forth in this Section 22 of this ordinance shall be the sole conditions governing the authorization and identification required for the entrance onto public or private property imposed upon Company or its employees, agents, contractors or subcontractors for the purpose of selling, marketing or promoting services offered by the Company to residents of the Municipality.

## **SECTION 23. INCORPORATION OF APPLICATION**



All of the commitments contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and any other written amendments thereto submitted by the Company in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

#### **SECTION 24. CONSISTENCY WITH APPLICABLE LAWS**

This consent shall be construed in a manner consistent with all applicable federal, State and local laws; as such laws, rules and regulations may be amended from time to time.

#### **SECTION 25. SEPARABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

#### **SECTION 26. NOTICE**

Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:

Altice USA  
1 Court Square West, 49<sup>th</sup> Floor  
Long Island City, NY 11101  
Attention: Senior Vice President for Government Affairs  
With a copy to:

CSC TKR, LLC  
c/o Altice USA  
1 Court Square West  
Long Island City, NY 11101  
Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Hamburg  
16 Wallkill Avenue  
Hamburg, NJ07419  
Attention: Borough Clerk

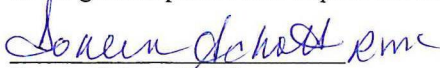
Notwithstanding anything herein to the contrary, regulatory notices from Cablevision to the Borough which are required pursuant to State and federal rules and regulations may be served electronically upon the Borough, instead of by first class mail as described above, to an email address provided by the Borough.

**SECTION 27. EFFECTIVE DATE AND BOARD OF PUBLIC UTILITY APPROVAL**

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7. In accordance with N.J.S.A. 48:5A-25.1, the terms of this Ordinance will no longer be in effect upon The Company converting the municipal consent (and any certificate of approval) into a system-wide franchise.

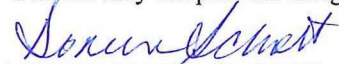
**BE IT FURTHER ORDAINED** that this Ordinance shall take effect upon the passage, and publication as required by law.

**NOTICE** is hereby given that the above ordinance was introduced and passed on first reading of a meeting of the Mayor and Council of the Borough of Hamburg, held on Monday, May 16, 2022 at 7 p.m. and will be considered for a final passage at a regular meeting of the Mayor and Council to be held on Monday, July 6, 2022 at 7 p.m. or as soon thereafter as same can be considered, in the Municipal building, 16 Wallkill Avenue, Hamburg, New Jersey at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. A copy of said Ordinance is on file in the Office of the Borough Clerk, Municipal Building, 16 Wallkill Avenue, Hamburg, New Jersey and is available for public inspection during regular business hours. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the member of the general public who request the same.

  
Doreen Schott, RMC  
Municipal Clerk

**CERTIFICATION**

I, Doreen Schott, clerk of the Borough of Hamburg, do hereby certify that the Borough of Hamburg Council duly adopted the foregoing Ordinance on the 6<sup>th</sup> day of July 2022.

  
Doreen Schott, Clerk

Signed this 6<sup>th</sup> day of July, 2020

Paul Marino  
**Mayor**

Attest: Donna J. Schmitt  
**Clerk**