

TOWNSHIP OF FREDON

ORDINANCE NO. 2022-08

AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF FREDON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY TO CSC TKR, LLC, AND REPLACING CHAPTER A575 OF THE TOWNSHIP CODE ENTITLED "CABLE TELEVISION FRANCHISE"

WHEREAS, the governing body of Township of Fredon (hereinafter referred to as the "Township") 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 Township, and

WHEREAS, by application for renewal consent filed with the Township and the Office of Cable Television on or about April 15, 2022, the Company has sought a renewal of the Franchise; and

WHEREAS, the Township having held public hearings has made due inquiry to review the Company's performance under the Franchise, and to identify the Township'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 Township's future cable-related needs and interests;

WHEREAS, the Township 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 Township'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 Township is a basic assumption of the parties;

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

SECTION 1. Chapter A575 of the Code of the Township of Fredon is hereby deleted in its entirety and replaced as follows:

CHAPTER A575 CABLE TELEVISION – CSC TKR, LLC FRANCHISE

¶ A575-1. 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 Township 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) “Township” shall mean the governing body of the Township of Fredon 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 Township of Fredon 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.

¶ A575-2. 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 Township having received all comments regarding the qualifications of the Company to receive this consent, the Township 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.

¶ A575-3. GRANT OF AUTHORITY

The Township 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.

¶ A575-4. 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.

¶ A575-5. 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 Township 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.

¶ A575-6. FRANCHISE TERRITORY

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

¶ A575-7. 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.

¶ A575-8. 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.

¶ A575-9. FRANCHISE FEE

Pursuant to the terms and conditions of the Cable Television Act, the Company shall pay to the Township, 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 Township 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 Township 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 Township required under this Ordinance.

¶ A575-10. FREE SERVICE

Subject to federal law and applicable FCC rules and orders, 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:

1. Two (2) cable connections for the Fredon Municipal Building located at 443 Route 94, Newton, New Jersey.
2. Two (2) cable connections for the Fredon Fire Department/Civic Center located at 436 Route 94, Fredon, New Jersey.
3. One (1) cable connection for the Fredon Public Works Building located at 443 Route 94, Fredon, New Jersey.
4. Three (3) cable connections for the Fredon Township School located at 459 Route 94, Fredon, New Jersey.

¶ A575-11. 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 Township shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Township 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 Township, 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 Township 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.

¶ A575-12. 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.

¶ A575-13. 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, except for holidays.

¶ A575-14. DESIGNATION OF COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the complaint officer for the Township 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.

¶ A575-15. INDEMNIFICATION AND LIABILITY

The Company agrees to hold the Township harmless from any liability arising out of the Company's operation and construction of its cable television systems.

¶ A575-16. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy, at its sole cost and expense, with a single limit amount of One Million Dollars (\$1,000,000) covering liability for any death, personal injury, property damages, or other liability arising out of or related to the Company's construction, operation, and maintenance of the cable television system, and an excess liability (or "umbrella") policy in the amount of Five Million Dollars (\$5,000,000). The Township of Fredon shall be named as an additional insured. The Company shall submit original certificates and a copy of all applicable endorsements, including but not limited to the additional insured endorsement, evidencing the insurance requirements before commencement of any work.

¶ A575-17. 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 Township 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.

¶ A575-18. RATES

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

¶ A575-19. 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 Township pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Township or any other person, during an emergency, if for any reason the Township is unable to make full use of the cable television system as contemplated herein. The Township shall utilize the state-approved procedures for such emergency uses.

¶ A575-20. EQUITABLE TERMS

In the event that the service of another multi-channel video program provider not subject to the Township's regulatory authority within the Municipality creates a significant competitive disadvantage to the Company, the Company shall have the right to request from the Township 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 Township 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 Township 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 Township shall be under no obligation to support the Company's request for such relief from the Board.

In any subsequent municipal consent, Township shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Township'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, Township 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 to relieve the Company of competitive disadvantages identified in the Company's petition.

¶ A575-21. 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.

¶ A575-22. 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 Township 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 Township agrees that Company shall retain the right to use the PEG channel, or a portion thereof, for non-PEG access programming, during times when the Township is not utilizing the PEG channel for purposes of providing access programming. In the event that the Company uses the PEG 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 Township's provision of PEG access programming on the PEG channel.

D. The Company 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.

¶ A575-23. REDUCED RATES FOR SENIOR CITIZENS

A. The Company has agreed to implement a senior citizen's discount in the amount of 10% off the monthly basic service rate to any person 62 years of age or older who subscribes to cable services and does not share the subscription with more than one person in the same household who is less than 62 years of age. Such subscribers must meet the income and residence requirements of the Pharmaceutical Assistance to Aged and Disabled ("PAAD") pursuant to N.J.S.A. 30:4D-21. The Company has agreed to apply the same discount rate to the disabled with the same PAAD eligibility requirements.

B. The Company shall have no further obligation to provide the senior discount herein in the event that (a) the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or (b) upon Board approval of a certification that another cable television service provider offering services to residents of the Municipality files, in accordance with N.J.S.A. 48:5A-30(d), is capable of serving sixty percent (60%) or more of the households within the Municipality. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.

¶ A575-24. 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.

¶ A575-25. INCORPORATION OF APPLICATION

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Township 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.

¶ A575-26. 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.

¶ A575-27. TOWNSHIP REMEDIES

A. In the event the Company breaches its responsibilities herein, the Township reserves the right to seek redress administratively through the Board of Public Utilities.

B. The Company will restore any Township property damaged by the installation of its wires or facilities to its original condition at its own cost and expense, and in any event, within 30 days of receiving written notice of such damage from the Township.

¶ A575-28. ACTIVITIES PROHIBITED

The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Township.

¶ A575-29. FILING WITH TOWNSHIP ENGINEER

The Company shall cause all construction plans relating to work on any extensions of its plant, or work which could have significant impact on public works within the Township, to be filed with the Township Engineer's Office.

¶ A575-30. 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, 49th 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 Township shall be mailed to:

Township of Fredon

443 Route 94
Newton, New Jersey 07860
Attention: Township Clerk

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

¶ A575-31. 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.

SECTION 2. 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 3. REPEALER

All existing Ordinances and/or parts thereof which are inconsistent with the terms of this Ordinance are, to the extent of such inconsistency, repealed.

SECTION 4. EFFECT

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance passed second reading and was adopted by the Fredon Township Committee at a Regular Meeting of that body held on October 13, 2022.



Suzanne Boland RMC
Municipal Clerk

