

City of Biddeford
Cable T.V. Committee
July 08, 2019 4:30 PM
15 Columbus Way, Biddeford, ME

- 1. Roll Call**
- 2. Welcome Guests**
- 3. Approval of Minutes**
 - 3.1. Minutes of March 11, 2019
[20190311 Cable TV Committee Minutes](#)
- 4. New Business**
 - 4.1. Legislative Update LD1371
[Cable Bill LD1371 Signed by Gov. Mills June 7, 2019](#)
- 5. Old Business**
 - 5.1. General Discussion - Franchise Agreement Expiration
[Franchise Notice to City Council from Committee](#)
 - 5.2. POLCO Update
 - 5.3. Franchise Fee Payment Update
[20190313 Charter Franchise Fee Payment](#)
- 6. Other Business**
- 7. Next Meeting Review**
- 8. Adjourn**

CITY OF BIDDEFORD

CABLE T.V. COMMITTEE

SCHEDULED MEETING – MARCH 11, 2019

The meeting of the Cable T.V. Committee was called to order at 4:30 p.m. on March 11, 2019 in the Biddeford Public Access Building. Present were Committee Chairman Mike Swanton, and Members Toni Sipka, Don Harper, and Debi Davis. Member Bob Mills arrived late and Member Lew Belanger was absent. Also present was the Public Access Director Steve Pulos. Brian Phinney, the Chief Operating Officer, was not in attendance.

It was on Motion duly made by Chairman Mike Swanton, and seconded by Committee member Toni Sipka, unanimously

RESOLVED: To Accept the Minutes of January 14, 201, as written.

New Business:

Discussing Franchise Agreement Expiration.

Chairman Swanton referenced the letter he endorsed, drafted by Brian Phinney to the City Council members, on behalf of the Cable T.V. Committee, asking the Council for guidance with regards to the upcoming negotiations. He stated that page 28 of the contract states... "The franchise shall monitor the public education and municipal access channels for technical quality and shall ensure that they are maintained at standards equal to those which apply to the cable system's commercial channels."

Steve Pulos said this could be interpreted several different ways because Spectrum has high definition and stereo/audio and the City is not afforded these capabilities.

Debi Davis stated, and the committee agreed, that the City should ask for the equipment needed to bring the City up to standard and it should be clarified in the new agreement.

Don Harper stated that the City has not received a Financial Report from the Cable Company in 3 years and the franchise fee has been locked in at the maximum of 5% for the last 11 years.

Don said that section 7.6 of the Franchise Agreement deals with the Performance Evaluation Sessions and it states that the Franchising Authority may, every 2 years, review the franchisee's compliance to terms and conditions and hear comments, suggestions, or complaints from the public. Don stated that this has never been done in 15 years.

Chairman Mike Swanton stated that the Cable T.V. Committee needs to step up to the plate and do this.

Member Don Harper then reported that Section 7.13 deals with the annual reports that the City has not been receiving, specifically the agreement states that the Cable Co. shall file, annually, a statement of its Biddeford revenues, broken into categories, and file a report containing the number of subscribers in Biddeford. Don reminded the Committee that they have not received any of these reports for the past 3 years -2016, 2017, nor 2018.

Next, Don Harper discussed section 5.3 that covers the 3 public access channels provided to the City and then the agreement states that the franchisee shall make available a digital box, without charge, to those customers that do not have a digital box to view digital channels. He wanted to know why everyone is being charged.

Chairman Swanton clarified this section's meaning by explaining that if you do not have any cable, the cable company will give you a box, free, to watch public access. But, he continued, if you need a new cable box to watch digital channels, then the first year should be free and then you are charged.

Committee member Harper stated that there is a section in the Agreement that states the franchisee will furnish evidence annually that standby power has been tested annually and is in good repair. No one could ever remember seeing this report.

Lastly, member Don Harper said that under Section 2.5, Transfer of an Assignment, it states they shall submit to the franchising authority 4 copies of the franchise transfer application. Don said the Committee has never received a copy and he wanted to know if the City ever received a copy. He added his frustration by stating that when it comes to the contract, the Committee still hasn't received answers that they asked 2 years ago.

The Committee concurred that it is the role of the Cable T.V. Committee to gather information and submit it to the City Council.

Committee member Bob Mills, who is also the Chairman of the Assessment Board of Review, suggested the Committee use the City's Attorney, Keith Jacques, to assist.

Public Access Director Steve Pulos suggested, since the City has 3 PEG channels available; 1 be used for public access, 1 be used strictly for city meetings, and 1 be used for the school. He said the third channel would need a transmitter and the capability to go out over the air which he estimated to be approximately \$6,000. But, he continued, all of the cabling is already there at City Hall.

Old Business:

POLCO Update – no update available.

Other Business

None

Next Meeting Review:

The next meeting of the Cable T.V. Committee is scheduled its or Monday April 8th, 2019 at 4:30 pm at the Public Access Building.

There being no further business, it was on Motion duly made by Bob Mills, and seconded by Debi Davis, unanimously

RESOLVED: To Adjourn

Meeting adjourned at 5:00.

Respectfully submitted by P. Conway A 23/23

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 S.P. 426 - L.D. 1371

**An Act To Ensure Nondiscriminatory Treatment of Public, Educational and
Governmental Access Channels by Cable System Operators**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §3008, sub-§5, ¶¶B and C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

B. A line extension policy, which must specify a minimum density requirement of no more than 15 residences per linear strand mile of aerial cable for areas in which the cable system operator will make cable television service available to every residence;

C. A provision for renewal, the term of which may not exceed 15 years. A provision for automatic renewal or other provision for extending the initial term is prohibited. Franchise renewal is governed by section 3010, subsection 5-C;

Sec. 2. 30-A MRSA §3008, sub-§5, ¶D, as amended by PL 2007, c. 548, §1, is further amended to read:

D. Procedures for the investigation and resolution of complaints by the cable system operator; ~~and~~

Sec. 3. 30-A MRSA §3008, sub-§5, ¶D-1 is enacted to read:

D-1. A provision for the use and support of public, educational and governmental access channels, which must be carried in the same manner and numerical location sequence as are the local broadcast channels originating from the State and carried on the cable television system pursuant to section 3010, subsection 5-A; and

Sec. 4. 30-A MRSA §3008, sub-§7, as enacted by PL 2007, c. 548, §1, is amended to read:

7. Model franchise agreement. The Department of Administrative and Financial Services, Office of Information Technology, or a successor state agency, referred to in this subsection as "the office," shall develop and may update and amend a model

franchise agreement for use by any municipality and any cable system operator that mutually choose to adopt the model franchise agreement or any of its provisions. A cable system operator may not modify or amend the model franchise agreement without the consent of the municipality. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

- A. Franchise fees;
- B. Build-out requirements;
- C. Public, educational and governmental access channels and reasonable facility support for such channels;
- D. Customer service standards;
- E. The disparate needs of the diverse municipalities in this State; and
- F. The policy goal of promoting competition in the delivery of cable television service.

This subsection does not allow the office to establish prices for any cable television service or to regulate the content of cable television service.

Sec. 5. 30-A MRSA §3010, first ¶, as amended by PL 2007, c. 548, §2, is further amended to read:

This section applies to every franchisee. For purposes of this section, "franchisee" means a cable system operator that is granted a franchise by a municipality in accordance with section 3008. For purposes of this section, "cable system operator" and "cable television service" have the same meanings as in section 3008, except that "cable system operator" includes a multichannel video programming distributor as defined in 47 United States Code, Section 522(13). For purposes of this section, "originator" means a local unit of government or the entity to which a local unit of government has assigned responsibility for managing public, educational and governmental access channels.

Sec. 6. 30-A MRSA §3010, sub-§§5-A, 5-B and 5-C are enacted to read:

5-A. Public, educational and governmental access channels. A cable system operator shall carry public, educational and governmental access channels on the cable system operator's basic cable or video service offerings or tiers. A cable system operator may not separate public, educational and governmental access channels numerically from other local broadcast channels carried on the cable system operator's basic cable or video service offerings or tiers and, in the event of a franchise license transfer, shall use the same channel numbers for the public, educational and governmental access channels as used for those channels by the incumbent cable system operator, unless prohibited by federal law. After the initial designation of public, educational and governmental access channel numbers, a cable system operator may not change the channel numbers without the agreement of the originator, unless the change is required by federal law.

A cable system operator shall restore a public, educational or governmental access channel that has been moved without the consent of the originator within the 24 months

preceding the effective date of this subsection to its original location and channel number within 60 days after the effective date of this subsection.

5-B. Transmission. A cable system operator shall retransmit public, educational and governmental access channel signals in the format in which they are received from the originator and at the same signal quality as that provided to all subscribers of the cable television service for local broadcast channels. A cable system operator may not diminish, down convert or otherwise tamper with the signal quality or format provided by the originator. A cable system operator shall deliver a public, educational or governmental access channel signal to the subscriber in a quality and format equivalent to the quality and format of local broadcast channel signals carried on the cable television service if provided as such by the originator. A cable system operator shall carry each public, educational or governmental access channel in both a high definition format and a standard digital format in the same manner as that in which local broadcast channels are provided, unless prohibited by federal law.

A cable system operator, when requested, shall assist in providing the originator with access to the entity that controls the cable television service's electronic program guide so that subscribers may view, select and record public, educational and governmental access channels in the same manner as that in which they view, select and record local broadcast channels. In addition, a cable system operator shall identify public, educational and governmental access channels on the electronic program guide in the same manner as that in which local broadcast channels are identified. This subsection does not obligate a cable system operator to list public, educational and governmental access channel content on channel cards and channel listings. If channels are selected by a viewer through a menu system, the cable system operator shall display the public, educational and governmental access channels' designations in a similar manner as that in which local broadcast channel designations are displayed.

A cable system operator shall make available to the originator a toll-free telephone number with a direct line to a service technician who is familiar with the signal path and equipment associated with public, educational and governmental access channels on the cable television system for resolution of a signal quality problem.

5-C. Franchise renewals. The franchise renewal process must be conducted in compliance with 47 United States Code, Section 546 and this subsection.

A. A cable system operator shall maintain adequate personnel and resources to respond to municipal requests for renewal information in a timely manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade Practices Act.

B. If an automatic renewal provision exists in a franchise agreement on the effective date of this subsection, the automatic renewal provision remains in effect until that franchise agreement expires. The cable system operator shall notify the franchising authority of the automatic renewal no later than 36 months in advance of the expiration of the franchise.

C. A municipality may require maps, diagrams, annual reports and franchise fee statements at renewal, which the cable system operator shall make available upon reasonable notice. If information is proprietary, the municipality may execute a nondisclosure agreement with the cable system operator.

Sec. 7. Automatic renewal. Notwithstanding the Maine Revised Statutes, Title 30-A, section 3010, subsection 5-C, paragraph B, an automatic renewal provision in a franchise agreement in effect between a municipality and a cable system operator on the effective date of this Act remains in effect if the renewal date is less than 36 months after the effective date of this Act.



Biddeford Cable TV Committee
c/o Biddeford Public Access
15 Columbus Way
Biddeford, Maine 04005

June 11, 2019

Honorable Mayor Alan Casavant
Honorable City Council
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

RE: Cable Renewal Contract/Franchise Agreement dated July 7, 2005

Honorable Alan Casavant and Honorable City Council,

The Cable TV Franchise Agreement between the City of Biddeford and Time Warner Cable (now Spectrum) expires in July of 2020. The Cable Television Committee wishes to bring this to your attention and to ask for guidance on what support you wish of the Cable Television Committee and how you would like to proceed with a new cable franchise agreement.

Section 2-403(b) of the Code or Ordinance identifies the duties of the Cable Television Committee, in part, as, "(1) Recommend terms of negotiation to issuing authority on nonexclusive cable franchise matters."

The Cable Television Committee stands ready to support the City as deemed appropriate. Please relay your wishes at your earliest opportunity. In the meantime, the Committee offers an initial suggestion that you consider issuing a Request for Letter of Interest in order to understand the competitive landscape and get an idea who may be interested in a franchise agreement before starting any franchise discussions.

I look forward to your response.

Sincerely,

Michael Swanton
Chairman, Cable Television Committee

cc: Cable Television Committee

CITY OF BIDDEFORD
205 MAIN ST
ATTN CITY MANAGER
BIDDEFORD , ME 4005

RE: Annual Franchise Fee Payment

Dear Sir or Madam:

Enclosed please find our franchise fee remittance covering the period from January 1, 2018 to December 31, 2018, for Charter Communications ("Charter"). This franchise fee computation has been prepared in accordance with the terms and conditions of our local cable television franchise agreement, or if Charter is operating under a state issued franchise in your community, in accordance with the requirements of the state franchising law. This payment specifically complies with all of Charter's contractual and/or statutory duties, and includes the required percentage, flat rate, or per sub payment, and includes all required categories or revenue.

This payment was calculated as follows:

Franchise Fee Base	\$6,136,366.13
Franchise Fee (as defined in Agreement):	5.00 %
Fee Adjustment (see detail)	\$0.00
Fee Due	<u>\$306,818.30</u>

Please contact your Government Relations representative or send an email directly to CharterFranchiseNotices@chartercom.com for any address updates or corrections.

We would also like to remind you of an alternative to US mail-delivered paper checks for franchise fee payments. You now have the option of signing up for an electronic direct payment process for franchise fees, assuring a more efficient and timely manner of receiving your funds. If you would like to pursue the electronic payment process, please contact your Government Relations representative for instructions. We believe this convenient method will be of significant value to you.

Charter Communications is proud to serve your community and our customers with cable television service. Please feel free to contact our office Corp_mm_franchise_fees@chartercom.com if any additional information is required.

Sincerely,



Steve Lottmann
Divisional Controller

13366 - 04511993 - 54250

Enclosure

21311
 12405 Powerscourt Dr
 St. Louis, MO 63131
 (314)965-0555

STUB 1 OF
 CHECK DATE: 03/14/19

NO. 06890316

DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	DEDUCTIONS	AMOUNT PAID
01/31/18	A201801	Franchise Fee	24,569.84		24,569.84
02/28/18	A201802	Franchise Fee	24,589.53		24,589.53
03/31/18	A201803	Franchise Fee	24,790.71		24,790.71
04/30/18	A201804	Franchise Fee	24,968.88		24,968.88
05/31/18	A201805	Franchise Fee	25,283.75		25,283.75
06/30/18	A201806	Franchise Fee	25,968.32		25,968.32
07/31/18	A201807	Franchise Fee	26,136.01		26,136.01
08/31/18	A201808	Franchise Fee	25,921.48		25,921.48
09/30/18	A201809	Franchise Fee	25,197.63		25,197.63
10/31/18	A201810	Franchise Fee	26,071.08		26,071.08
11/30/18	A201811	Franchise Fee	26,817.64		26,817.64
12/31/18	A201810ADJ1219		12.14		12.14
12/31/18	A201811ADJ1219		154.82		154.82
12/31/18	A201812	Franchise Fee	26,336.47		26,336.47

4511993 CITY OF BIDDEFORD

WARNING: ORIGINAL DOCUMENT HAS VISIBLE FIBERS, INVISIBLE FLUORESCENT FIBERS & CHEMICAL REACTIVE PAPER.

Charter
 COMMUNICATIONS
 12405 Powerscourt Drive
 St. Louis, MO 63131-3674
Charter Communications is an Equal Opportunity Employer/Contractor

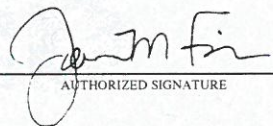
80-1769/0815
 US BANK
 MEMPHIS, MO

NO. 06890316

4511993 DATE 03/14/19 AMOUNT \$***306,818.30

PAY THREE HUNDRED SIX THOUSAND EIGHT HUNDRED EIGHTEEN AND 30/100*****

TO CITY OF BIDDEFORD
 THE 205 MAIN ST
 ORDER ATTN CITY MANAGER
 OF BIDDEFORD ME 4005


 AUTHORIZED SIGNATURE

THE FACE OF THIS CHECK HAS A VOID FEATURE PANTOGRAPH, A MICROTYPED BORDER AND A SECURITY BACKER.

⑈06890316⑈ ⑆081517693⑆3507002677⑈