



Franklin Township, Somerset County, NJ 2013 Cable TV Ascertainment Phase Municipal Report

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Introduction

Community Profile

Franklin Township, Somerset County, is approximately 46 square miles, bounded on the north, west and south by the Raritan and Millstone Rivers, and on the east by State Highway 27 (except for the Little Rocky Hill section of the Township where the boundary is Old Road, former State Highway 27 alignment).

The township encompasses the historic and geographic areas of Zarephath, East Millstone, Franklin Park, Griggstown, Middlebush, Somerset and portions of Kingston and Little Rocky Hill. Population is approximately 62,000 (2010 Census).

Current Cable Services in Franklin Twp

Cable TV service in Franklin Township is currently provided by Comcast and Verizon, although the Verizon build out is only in some of the higher density areas of the township. This partial build out was implemented due to the proximity of portions of Franklin Township that were adjacent to other municipalities that Verizon was required to build out. At the current time, Verizon does not anticipate any further expansion in Franklin Township.

Franchise Renewal Process Overview

Franchise renewal or "refranchising" is the process by which municipalities negotiate franchise agreements with their cable operators. It is the responsibility of the municipality to act as the voice of the cable subscriber and the citizens of their community.

Franchise renewal in New Jersey begins approximately three years before the franchise expires. The state's renewal process is divided into three phases: "Ascertainment", "Municipal" and "Certificate of Approval" (COA). These terms are useful shorthand but do not necessarily appear in the state or federal statute.

For purposes of state and federal law, the "franchising authority" in New Jersey is the Board of Public Utilities ("Board"), Office of Cable Television ("OCTV"), as established in 1972 by the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq. Therefore, the ultimate decision to renew or deny a franchise in New Jersey rests with the Board. However, the municipality is responsible for adopting a "municipal consent ordinance" granting renewal that includes terms and conditions for the franchise. Alternatively, the municipality can issue a "resolution of denial".

In accordance with federal and state regulations, a municipality that seeks to substantially alter the franchise commitments must do so by a thorough "ascertainment" record evaluating the cable operator based on specific federal tests.

Once the Ascertainment Period is concluded, the municipality can begin negotiations with the cable operator. Negotiations must be based on facts and findings of the Ascertainment phase. Upon completion of the Municipal phase, a COA is issued by the Board of Public Utilities..

Applicable Laws

Cable TV is provided in accordance with the following Federal, NJ State and local laws and ordinances:

Title VI--Cable Communications, of the Federal Act (47 U.S.C.A.)

New Jersey Cable Television Act, N.J.S.A. 48:5A-1

New Jersey Administrative Code (N.J.A.C. 14:17 and 14:18)

Franklin Township Municipal Consent Ordinance #3147

Ordinance No. 996 granted a nonexclusive franchise to Franklin Cablevision, Inc. which became C-Tec Cable Systems. That franchise expired in 1992 and was replaced by Ord. No. 1731, adopted September 15, 1992 which was effective until December 31, 1999. That ordinance was replaced by Ord. No. 3147, adopted August 8, 2000. On September 23, 2004 the Board of Public Utilities Office of Cable Television issued the Renewal Certificate of Approval (COA), which is effective until December 11, 2014. The COA supersedes if there is any conflict between the Ordinance and COA.

Additionally, N.J. P.L. 2003, Chapter 38 changes municipal law and the State Cable Television Act to allow municipalities to collectively negotiate cable television franchises (both initial and renewal) with cable television operators either directly or through the use of a consultant or "aggregator".

The law became effective August 12, 2003. The Board of Public Utilities is in the process of proposing rules to govern the registration of private aggregators, who would represent groups of municipalities in the franchise process. Also, the Board will consider any new procedures needed to govern the aggregation process itself.

Project Charter

Mission

The Franklin Township Cable TV Advisory Committee (CTAC) will perform the necessary due diligence to provide the Township Council with the information sufficient to make an informed decision on the Comcast franchise renewal. This information will be given the Township Council in the form of a draft Municipal Report to be given on or before July 2, 2013. This will conclude the CTAC's involvement in the ascertainment period.

Objectives

Review and assess Comcast's performance under the current franchise agreement.

Evaluate the Office on Cable Television's (OCTV) four criteria for denial of the renewal of a franchise agreement.

Identify current and future cable services and needs of Franklin residents, Franklin Township municipal government, and the other institutions provided services as noted in the existing franchise agreement.

Scope

Identify the needs of the residents and different institutions currently being provided services under the existing franchise agreement. Look at the complaint logs, customer-related issues and technology covered by the current franchise agreement.

Stakeholders

The stakeholders include:

- Township residents

- Franklin Municipal government, including the Township buildings located on and off the Municipal Complex

- Franklin Township Board of Education, including all public schools

- All accredited chartered and private schools in the Township

- Franklin Township Library including main facility and all branches

- Each of Franklin Township's fire stations and rescue squads

Key Constraints

The Committee recognizes that there are certain constraints which may prohibit or hamper the ascertainment process. These include:

Available resources

Time

Lack of funds

Limitations defined by the OCTV in its *Guide to Franchise Renewal*

Survey of Community & Local Government Needs

All key stakeholders were contacted via letter and given an opportunity to detail their requirements related to services currently provided by Comcast regarding performance assessment, evaluation of present services and thoughts on future needs. Scope includes but is not limited to cable tv, voice and data communications services.

Community Organizations Contacted:

Franklin Township Board of Education

Franklin's charter and private schools, including:

Cedar Hill Prep School

Central Jersey College Prep Charter School

Hunterdon County E.S.C. located at St. Matthias

St. Matthias

New Road School

Rutgers Preparatory School

Somerset Christian College

The Crestwood School

Thomas Edison Energy Smart

Franklin Township Library

Sewerage Authority

Franklin's Fire Districts No. 1, 2, 3 and 4

First Aid Squads serving Franklin Township, including:

East Millstone

Franklin-Somerset

Kendall Park

Kingston

Rocky Hill

The following is a summary of the responses received.

Board of Education

The District uses BCN, which resells Verizon, because the internet provided by Comcast is insufficient for the district.

The District receives one educational access channel.

The District is unaware of the type and extent of free training offered by Comcast; no training was provided to the Board of Education staff this past year.

The District does receive ten hours per week for the airing of original access programming.

Cable has not been connected to the transportation trailers on Churchill Avenue.

One outlet capable of supporting data and internet has been supplied to each school.

Generally, there is difficulty with low volume on the access channel.

REQUESTS FOR FUTURE CONSIDERATION:

Conversion from cable system to Ethernet network for video distribution.

Cable connection to the transportation trailers on Churchill Avenue.

Central Jersey College Preparatory School

Receives no services from Comcast, free or otherwise. Dish Network is used.

St. Matthias

Receives no free service from Comcast.

New Road School

When they inquired of Comcast about receiving any free services, they were told to contact the township. No free service has been received.

Rutgers Preparatory School

Comcast supplies television service, but the school pays for the service.

When they inquired of Comcast about receiving any free services, they were told that as a private school, they did not qualify.

Internet is provided through a different provider, though it is doubtful that Comcast could provide sufficient service for the school's needs.

The school has considered but has not pursued having Comcast Internet as a redundancy service.

Township Library

Another commercial provider is used for internet.

There is no free internet service from Comcast.

The library never received a fiber backboned broadband fiber optic connection capable of supporting a Wide Area network as noted in Number 12 of the summary of services that were to have been provided through the current franchise agreement (see appendix).

There is one free cable TV line in the library that is not used often, but has worked satisfactorily when turned on.

FUTURE NEEDS:

Enterprise level, SLA supported internet service to the main library, our existing branches, and any future branches.

Dedicated network connectivity (such as a dedicated fiber connection) between the main library and the branches.

Sewerage Authority

Receives free basic service but they had to pay for the line to be brought to the building.

Franklin-Somerset First Aid Squad

Basic cable service is free; pays \$1.97/per month per box for two digital boxes.

East Millstone First Aid Squad

Comcast has performed its duties in providing basic cable TV adequately.

The most useful channels have been 1) The Weather Channel; 2) Public access channels, and 3) News and entertainment channels.

FUTURE NEEDS:

Phone and internet services, as well as TV service.

More channels, including HD and DVR service.

State-of-the art services as they become available.

Public, Education and Government (PEG) Access

Information from current Certificate of Approval regarding PEG:

The Petitioner [Comcast] shall provide public, educational, and governmental (“PEG”) access services and facilities as described in the application and the ordinance.

The Petitioner shall provide the Township with one educational access channel, which is the existing channel, that will have two-way capability and one governmental access channel, which is a new channel, that will have two-way capability.

The Petitioner shall also provide the Township and its designees with reasonable

technical assistance and training, without charge, to assist in the production and delivery of public access programming, as described in the ordinance.

The Petitioner shall make available capacity on its access channels to provide for the airing of ten hours per week of original access programming.

The Petitioner shall provide reasonable coverage of important Township events and produce programs of same to be aired on the Petitioner's local origination channel.

Upon completion of the rebuild/upgrade referenced herein, the Petitioner shall provide a fiber backboned broadband fiber optic connection capable of supporting a Wide Area Network ("WAN") to support video, data and multimedia applications for education and municipal administration which may be connected to equipment provided and maintained by the Township, or its designee. The WAN shall include locations designated by Township and may include the Franklin school system, the municipal complex, public works, police, fire companies and rescue squad. The Office of Cable Television has confirmed that the above provision was completed to the extent the Township's current construction schedule would allow.

Pursuant to the ordinance, the Petitioner shall provide the standard installation and basic and a la carte cable service to the following institutions, free-of-charge:

To each public and private elementary, secondary and post secondary school—one outlet which may be capable of supporting data and Internet access, if such services are offered by the Petitioner, at all points of installation.

To the main branch and any other branches which may develop to the Franklin Township Library in the Township—free-of-charge: one outlet which may be capable of supporting data and Internet access, if such services are offered by the Petitioner.

The Township Municipal Complex and any other municipal building or governmental building designated by the Township; one outlet which may be capable of supporting data and Internet access if such services are offered by the Petitioner.

Each fire station, police station and substation within the Township; one outlet which may be capable of supporting data if such services are offered by the Petitioner.

Each rescue squad location within the Township; one outlet which may be capable of supporting data if such services are offered by the Petitioner.

Upon request from the Township, the Petitioner agrees to install additional outlets and provide addressable converter boxes at each of the above noted municipal buildings for a fee based only upon the actual cost of materials plus labor; and the Petitioner agrees to provide the services, as described in the ordinance, free of charge to the additional outlets.

Township Residents

Input from township residents was conducted via an online survey. New Jersey law requires a public hearing during the municipal phase.

CATV Survey Results

An online survey was developed and offered to township residents from November 13, 2012 through May 31, 2013. Notice of the survey appeared on the township website and in the township newsletter, as well as on public access stations. 561 responses were collected over a period of six months.

Comments from residents fell into a few major categories:

- Lack of Competition

- Requests for More Channels (mostly culturally oriented)

- Expensive and Difficult to understand pricing/service offerings

- Poor customer service

See appendix for detailed summary of responses.

Review of Current Franchise Agreement

Summary of Operator Performance

The following is a summary of operator performance based on information gathered by the committee to date which includes survey responses, complaints reported and CTAC meeting discussions.

Customer Service is deficient from several perspectives. Information received from Comcast representatives is inconsistent, especially regarding terms and conditions. Additionally, service calls frequently require return calls to resolve the problem.

Pricing is very confusing. Website should explicitly list charges on their website in an easy to find/read format.

Franchise Fees have been paid to Franklin Township.

Franchise Enforcement & Administration is ineffective. There are no detailed rules of engagement and there is a lack of transparency for monitoring, measuring and correcting operator performance related issues

Renewal Term of the current franchise agreement is 15 years.

Transfer of Ownership - Patriot was easier to deal with because town dealt with local Patriot allocated resources. Disruptions to local businesses and residents was significant during transfer of ownership, including significant outages to businesses that rely on internet access for operations.

Performance Monitoring – There are no Service Level Agreements for the dark fiber. No performance monitoring reports available.

Programming - Operator offers a wide range of programming.

Competition is limited to Verizon (in limited areas only); satellite TV is available township wide.

Repairs, Installation & Disconnection – See appendix for summary of complaints.

Late Fees & Billing Cycles – See summary of complaints below.

Penalties for Failure to Perform - A \$20 credit is awarded in the event the operator does not show up at the scheduled service call time. Customers may contact the operator to request outage credit when service is disrupted for extended periods of time. It is the responsibility of the customer to contact the operator and make the outage credit request.

Customer Privacy – The committee is not aware of any issues.

Public, Education and Government Access (PEG)

We have no public channel (P). There have been consistent complaints about the audio quality on both the Education (E) and Government (G) channels. Responsibility for these audio problems is unclear.

Comcast has fulfilled its responsibility to provide ongoing technical support to the Township IT Department.

On request of Council, Comcast performed a video equipment review in the fall of 2011, and made upgrade recommendations. Comcast did not itself provide any new or updated equipment as a result of this review.

In 2012, Comcast provided a total of six (6) hours training (videography and editing) to the Volunteer Videographer Pilot Program, in response to requests for training from the program Coordinator. The Coordinator was unsure how many hours of such training Comcast would provide without reducing its response to IT's needs, so no additional requests were made on behalf of VVPP. During the VVPP start-up period, the Comcast tech support person was very helpful in providing advice by email about appropriate equipment for the program.

Comcast has fulfilled its responsibility to tape up to twelve (12) programs per year for the Township, free of charge.

Annual Customer Satisfaction & Channel Preference Survey – There is a requirement for an triennial customer satisfaction and channel preference survey in ordinance but not in COA.

Local Customer Service Office – The local Somerset service office is no longer in operation. It is now located in Hillsborough. There is no public transportation/access available for residents to travel to the Hillsborough location. A part time satellite location in Somerset would better serve the residents.

Summary of Complaints

The following is a summary of complaints based on information provided to CTAC by Comcast. See Appendix for details.

2011-12 Percentage Breakdown Based on Issues (complaints made to Comcast)

Billing: 50%

Repair: 35%

Phone only: 5%

Programming: 4%

Miscellaneous: 6%

2011-2012 Percentage Breakdown Based on Issues (complaints made to OCTV)

Billing: 24%

Repair: 31%

Phone only: -

Programming: 2%

Miscellaneous*: 43%

2011-2012 Percentage Breakdown Based on Issues (complaints made to Township)

Billing: 38%

Repair: -

Phone only: -

Programming: 12%

Miscellaneous*: 50%

*Miscellaneous includes poor customer service

Summary of Known Service Issues

The following is a summary of known services issues identified by key stakeholders.

Poor audio quality of township channels

Schools' inability to broadcast via Ethernet cable.

Lack of service access for residents more than 100 feet from drop line

Other issues identified in resident complaints, stakeholder responses, and IT comments.

Franklin Township's IT Department has worked closely with Comcast throughout the contract period and may be able to supply detail on services provided, service issues, and other related matters.

Review of OCTV Denial Criteria

If the municipality decides to issue a resolution of denial, it must base its decision on the answers to the following questions:

- A. Has the cable operator substantially complied with the material terms of the existing franchise and applicable law?
- B. Has the quality of the cable operator's service, including signal quality, response to consumer complaints, and billing practices, been reasonable in light of community needs?
- C. Does the cable operator have the financial, legal, and technical ability to provide the services, facilities, and equipment it is proposing to provide?
- D. Is the cable operator's franchise renewal proposal reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests? (47 U.S.C.A. §546(c)(1); N.J.A.C. 14:18-13.7(a))

A decision not to renew cannot be based on the cable operator's past performance unless the cable operator has been given "notice and opportunity to cure". (47 U.S.C.A. §546(c), (d)) Also, the mix or quality of cable services cannot be considered in determining whether or not to renew a franchise. (47 U.S.C.A. §546(c)(1)(B))

Note: In order to deny the renewal franchise, the formal ascertainment phase renewal process must be followed. (47 U.S.C.A. §546(a)-(g)). The OCTV recommends that the municipality undertake the ascertainment phase proceedings and issue a timely municipal report (see "Ascertainment Phase").

CTAC Assessment of OCTV Denial Criteria

- A. Yes
- B. Signal quality, Yes; Response, No; Billing Practices, No
- C. To the best of our knowledge, Yes
- D. Out of scope of present CTAC review

CTAC Recommendations

Franchise Fee

Existing franchise fee is 2% of the basic cable service (average \$ 0.32 per household) gross revenues.

Some members of the committee believe fees should be based on all recurring monthly charges.

Customer Fee

Biggest consistent complaint from residents is that fees are increasing, both in number of new fees as well as increases to existing fees. Since these fees are not currently regulated, Township should negotiate these fees on behalf of all township residents to the fullest extent allowed by law.

Basic internet access is NOT a luxury. Internet access is required for families, especially for school aged children. Homework typically requires internet access. We recommend that Township negotiate a low cost option for basic internet access.

For residents who have negotiated a separate agreement with Comcast through their home owner associations, Comcast must ensure each property unit pays the same franchise fee as all other households in the Township receiving Comcast services.

Third-Party Agreements Between Comcast and Private Resident Organizations

We recommend that the Township include this clause in the franchise agreement:

All separate agreements between Comcast and private Franklin Township resident organizations must comply with the Ordinance and will be preempted by the ordinance where such agreements conflict therewith.

Performance Review

Every 3-5 years, upon request of the Township Council or Representative, Comcast shall meet at a public hearing of the Township Council or with the Cable Television Advisory Committee to discuss matters pertaining to the provision of cable television service to residents of the Township and other related issues as the Township and

Comcast may see fit.

Comcast should have an opportunity to respond and resolve issues raised during the 3-5 year review. (Curing Period)

The stipulated performance review does not preclude the Township Council or CTAC from communicating with Comcast regarding other matters outlined in this Ordinance.

Term

Due to the rapid change in technology and resident needs, franchise term should be no longer than 10 years.

Customer Service

Comcast should provide a single point of contact (via email, phone and mail) for all complaints, inquiries and correspondence. All inquiries should be acknowledged within 24 hours of receipt.

Comcast should continue to provide a discount to basic cable service for income eligible PAAD subscribers.

Comcast should check annually to ensure all public, charter and private educational organizations are being serviced and invoiced as per the franchise agreement. Subsequently, Comcast should provide the municipality with a detailed report.

Comcast should have a procedure for handling inquiries for service by qualified public, charter and private schools.

Comcast should provide a centrally located office within the township boundaries. The Hillsborough location is not convenient and has no convenient public transportation.

Comcast should reimburse customers for late (+4hr) or no show service calls.

Comcast should respond to no-service (Phone, Internet, Cable TV) conditions within 24 hours.

Comcast should provide DTAs for no charge, in the event DTA are required for viewing basic cable channels (local broadcast stations) in HD.

Access Channels (Public, Education and Government Access)

Comcast shall continue to provide Education and Government Access Channels.

Comcast shall reserve a channel for future Public Access use, preferably HD (High Definition).

Comcast shall provide 10 hours per month on the Comcast public access channel for Franklin Township specific programming.

Comcast shall provide public, educational, and governmental (“PEG”) access services and facilities as described in the application and the ordinance.

Comcast shall also provide the Township and its designees with reasonable technical assistance and training, without charge, to assist in the production and delivery of public access programming, as described in the ordinance.

Comcast shall provide reasonable coverage of important Township events and produce programs of same to be aired on the Petitioner’s local origination channel.

Comcast shall continue to provide free of charge, two telephones (allowing free phone calls within continental US) available to the public in the Municipal Building and the Community Senior Center (505 DeMott Lane).

Enhanced Technology and Services

Comcast must extend dark fiber network to the radio towers, pump stations, Parks, Open Space and Historic Sites, Township Library and Library branches, and any other publicly-owned facility as deemed needed by the Township for the efficient operation of local government.

Comcast must ensure that public, private, and charter schools are able to broadcast via Ethernet cable as opposed to cable system within 500 feet of roadway.

Comcast should make services (Cable TV and Internet) available to rescue squads, fire stations, all branches of the library, all municipal buildings, in the same manner and quantity as it is today under the current agreement without charge.

Comcast must provide reasonable technical assistance and training.

Library should have enterprise level, SLA supported internet service to the main library, existing branches, and any future branches.

Library should have dedicated network connectivity (such as a dedicated fiber connection) between the main library, existing and all future branches.

Comcast must continue to provide the basic level of service to all outlets in all buildings as they do under the current agreement. If Comcast chooses to require a DTA for basic services, DTAs must also be provided to maintain the basic level of service as stated under the current agreement.

As a matter of public safety, under no circumstances will Comcast cut off communication services to the Franklin Township Police Department.

Comcast should provide Emergency Override Capability to provide OEM and FTPD with ability to broadcast information via cable TV in the event of an emergency.

Extension of Services

Either no charge for line extension OR only residents more than 500 feet from the drop line should pay and should have the option to pay for trench digging and laying of cable lines to minimize costs to residents. Additionally, residents should have option to trench the ditch and lay the cable themselves or by a qualified subcontractor.

Phone Number for System Maintenance

There should be a single number to call for all service and maintenance issues relating to services provided by Comcast to Franklin Township. Accordingly, the answering representative at the given number should be able to address the maintenance concerns without automatically directing the call elsewhere.

Equipment and Training

Comcast must provide \$35,000 *** for equipment and software updates as required to update Council room studio equipment. This includes:

Item	Description	Quantity
1*	Graphics System (Decklink Studio 2 System	1
2^	Camera (JVC GY-HM750	1

	with battery and charger)	
3^	Flash Card Reader	1
4^	Blu-Ray Burner for PC	1
5*	Color Preview Monitors (Dual Delcam DLV-2LCD-7XLP)	2
6	Computers	3
7	Software upgrade	1
8	Future Technology Needs	

* Although not required, this equipment can assist in the taping of Council meetings.

^ This equipment would be used for an HD camera upgrade.

*** Aggregate figure based on equipment cost estimate provided by Comcast Nov 2011 review plus additional funds for future technology needs.

Comcast shall videotape 30 programs/meetings for presentation on FTTV at no charge.

Comcast must provide reasonable technical assistance and training.

Notice

Comcast must include a notice on all bills about available discounts, credits, and rebates (e.g. the senior citizen discount, the \$20 rebate for missed service or installation appointments, etc.).

Comcast must include a notice on all internet service bills informing customers that they may purchase modems instead of paying a monthly rental fee.

Residents must receive notice of bill and/or fee increases at least 60 days prior to the effective date of such increases in two ways: via letter or email and on the face of the bill. The letter notice may be included as a bill insert.

Comcast shall provide a 60 day notice to the Township before changing channel designations and provide the date of the change (example: channel 25 to 29).

Comcast shall provide obvious statement on service order to disclose all service charges incurred for service visit.

For previously scheduled free service calls, Comcast shall provide obvious statement on service order to designate “no charge service call”.

Appendix - Relevant Documents

The following documents are available on the Township Council file share.

Municipal Ordinance
OCTV – COA
OCTV Guide to Franchise Renewal
OCTV Correspondence
Survey Result Summary
Open Ended Question Responses
Detailed Complaint Logs (Twp, BPU and Comcast)

Click [HERE](#) to access the Township Council file share.

