

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 22, 2023

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

CASE 23-V-0211 - Petition of Spectrum Northeast, LLC for
Approval of the Renewal of its Franchise with
the Town of Ellicottville, Cattaraugus County.

ORDER APPROVING RENEWAL

(Issued and Effective June 30, 2023)

BY THE COMMISSION:

INTRODUCTION

By petition filed on April 6, 2023, Spectrum Northeast, LLC d/b/a Charter Communications, Inc. submitted an application for approval of the renewal of its cable television franchise with the Town of Ellicottville, Cattaraugus County (the Town). The Town authorized renewal of the franchise by Resolution, certified on October 20, 2022, after a duly noticed public hearing held on October 19, 2022. The term of the renewal is ten years, beginning on the date that this Order is issued and effective.

The franchise renewal will serve the public interest because it continues the availability of cable service in the community. It is approved, subject to compliance with and

governed by the obligations, requirements and standards in federal and state law, rules, regulations, and orders.

LEGAL AUTHORITY

No renewal of a franchise is effective without the approval of the Commission (Public Service Law (PSL) §222). Failure to conform to franchise standards established in Commission regulations does not preclude Commission approval, if the Commission finds that approval of the franchise renewal would serve the public interest; and, the Commission may approve the application contingent upon compliance with the statutory and regulatory standards, terms, or conditions which are not met by the proposed franchise renewal (PSL §222(3) and (4)). Commission regulations (16 NYCRR §891.2 and Part 895) require an application for renewal to conform to minimum standards for required contents of franchises and set forth procedural requirements for municipal review of the franchise renewal, including public notice, opportunity for comment and a public hearing.

DISCUSSION

The Commission determines that approval of the franchise renewal serves the public interest, as it results in the effective provision of cable service in the municipality. The franchise renewal may omit certain required provisions or contain provisions that may conflict with statutory and regulatory requirements. This Order does not identify and describe each specific omission and conflict because the principles and standards established in the law and rules apply to cable renewals, whether or not specifically identified in Commission orders, and a franchise agreement may not overrule, modify, or amend these minimum requirements.

Therefore, approval of the franchise renewal is conditional upon full compliance at a minimum with these requirements, whether or not the provisions in this franchise agreement specifically state or conflict with these requirements. Any franchise provision required in the Commission's rules that is omitted from the franchise agreement is added to and incorporated in the franchise agreement by reference; and, any federal and state law, rule, regulation and order, as amended, shall control the interpretation of and performance under this franchise renewal to the extent that any franchise provision does not meet the requirements in the Commission's rules or conflicts with or is inconsistent with federal and state laws, rules, regulations and orders.

The franchise renewal agreement may contain additional provisions that are not required by the Commission's rules. Approval of these provisions is granted to the extent that they pertain to the provision of cable service and are, and remain, consistent with PSL Article 11, or regulations, policies and orders and applicable federal statutes and regulations. In the event of an ambiguity in any such provision or among separate provisions, the provision or provisions will be construed in the manner most favorable to the franchisor.

The Commission orders:

1. The application of Spectrum Northeast, LLC d/b/a Charter Communications, Inc. for renewal of its cable television franchise to provide cable television service in the Town of Ellicottville, Cattaraugus County, is approved, subject to the conditions set forth in this Order. The term of the renewal shall expire in ten years, beginning upon the date this Order is issued and effective.

2. This Order does not in any way confer rights or privileges other than those granted in the underlying franchise; and, the certificate holder remains subject to the obligations imposed by Public Service Law Article 11, the underlying franchise and all applicable rules, regulations, and orders of this Commission.

3. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary