

TOWN OF LANCASTER, MASSACHUSETTS

CABLE TV ADVISORY COMMITTEE

Review of Form 100, The License Application

By the Board of Selectman and Cable TV Advisory Committee
Submitted to cable.inquiry@state.ma.us on November 10, 2003

Introduction

Here is the response from the Town of Lancaster to the state's Cable Television Division Docket No. CTV 03-3 entitled *Order Opening a Notice of Inquiry to Review the Form 100, the License Application* dated August 11, 2003. This review provides comments on Form 100 in Part I and comments about licensing regulations in Part II. Readers may send comments or questions about this review to:

Alan L. Agnelli, Town Administrator
E-mail: LancasterAdmin@juno.com

The Board of Selectmen (as Issuing Authority) and Cable TV Advisory Committee need to negotiate cable licenses because it is the only time we see a cable operator. In order to license cable TV operations and represent them to our residents, we need a complete and detailed Form 100 application or a similar checklist of services before the negotiations begin. A detailed application or checklist would speed up negotiations and serve as a valuable reference for handling subscriber complaints in the future. The current Form 100 application is not always submitted by cable operators before negotiations, it is often missing important information, and it can be hard to understand.

The Form should be designed to help community reviewers, including industry novices and highly technical readers, to understand exactly what cable services are available. The process of licensing cable TV operators is especially time consuming if Form 100 is:

- not submitted in a timely manner
- missing information required by the community
- poorly organized

If communities had all the information they needed in an understandable presentation at the outset of negotiations, then there is no reason that a normal licensing process should take longer than three months. The suggestion that the process could take three years seems absurd for a competitive, technology-driven industry like cable television. The process, which should begin with a completed Form 100, needs to be adapted to meet the needs of communities and cable operators. An application process that takes three years does not meet these needs.

The most time-consuming part of the licensing process often involves Cable Advisory Committee members learning about the cable industry and federal and state regulations. The ascertainment process, which would seem to be a Committee's most time-consuming task, can be completed within weeks. Form 100, as the initial application, should list all services that the cable operator is planning to provide because communities often do not know what services are available for request.

Even though federal and state regulations prevent local communities from considering many issues during the negotiations and licensing, communities are still forced to address these issues during local ascertainment. Instead of completely ignoring issues about cable telephone service, for example, Form 100 should provide a checklist of all currently available services, it should ask applicants which ones are provided, and it should note that federal law prohibits communities from imposing requirements on telecommunications services. Currently, Form 100 does not even mention many cable services that are available in Massachusetts, so Cable Advisory Committees can spend months researching which services they should be asking for.

Cable TV operators and the Cable Television Division should help Cable TV Advisory Committee volunteers understand what needs to happen in order to license a cable TV operation. Many of the following comments are intended to help improve the transfer of information in order to make the application process efficient.

Part 1. Comments on Form 100

GENERAL COMMENTS:

1. Form 100 would be a valuable tool, if it were submitted to the Issuing Authority at the beginning of the licensing request, transfer, or renewal process and then again at the completion.
2. Form 100 needs a Table of Contents with hyper-links.

A Table of Contents, which serves as an overview, should refer to Instructions, Parts I through IX, Attachments and Schedules. A completed Form 100 can be voluminous. A table of contents will make it easier to understand and access for both novices and experienced readers.

3. Form 100 should be updated as often as necessary, and it should have a Revision Control Appendix.

The Form does not need to stay the same for long periods of time, nor should it require a lengthy review process to change it. It is just an application form. Minor revisions should be made in response to any significant change in industry, technology, regulations or legal standings. It is okay if different municipalities receive different versions of the Form, provided it has revision descriptions.

4. Form 100 should have instructions for reviewers and applicants.

Applicants understand Form 100 better than municipal reviewers. Instructions for reviewers should include hyper-links to relevant laws and regulations so that reviewers do not have to spend time searching for that information. The Cable Television Division should maintain a web site that explains Form 100 in detail.

PART I. IDENTIFICATION items 1 – 5 should remain unchanged.

PART II. LOCAL INFORMATION items 6-9 should remain unchanged with additions:

5. Form 100 should allow applicants to request performance reviews.

Cable operators need to specify how annual performance reviews will be initiated and conducted. Monthly and quarterly status reports to the Issuing Authority should also be identified here.

6. Form 100 should say whether or not the applicant requests a “level playing field” provision or will be bound by one.

If a cable operator applies for a license requesting that any other cable TV license must be granted on equivalent terms and conditions (level playing field clause,) then the applicant should disclose this on the application. If another license already exists, then a similar disclosure should be made.

7. Form 100 needs to specify competitors’ access to the cable system.

The applicant should clearly state whether or not the cable system will provide nondiscriminatory interconnection and carriage of other providers’ signals or services, including telephone, Internet service provisioning, cable TV, or other telecommunications, information or data services. Although competitive access is often considered to be a federal or state policy issue, it is also an important issue for many residents during the local ascertainment process.¹ Applicants should be required to state the current legal status of this issue at the time that the application is submitted.

PART III. SERVICES items 10 – 16 should be unchanged, with the following added:

8. Form 100 needs to describe ancillary services that will use the cable TV system.

¹ As examples of how important the issue of open access is at the local level, see Cable Television Division Dockets CTV 99-2, 3, 4, and 5 at <http://www.state.ma.us/dpu/catv/orders/sumdecfnl.pdf>

The Form should ask applicants whether or not they intend to offer Internet access or telephone service on the cable TV system. If these services are offered, then they should to be specified. Any other services to be provided should also be described. For example, with a complete list of TV stations ([Form 100](#), Part III, Item 12) the Issuing Authority knows what to expect and can easily explain it to the community and can refer to it to help negotiate the next license. It does not matter that during the license period, the cable operator can change the line-up.

Even though federal and state regulations prevent local communities from considering many important issues, communities are forced to address these issues during licensing negotiations and local ascertainment. Instead of completely ignoring issues about cable telephone service, for example, the Commonwealth would be better served if Form 100 said something like:

17. Does the applicant plan to offer cable telephone service? ___
If yes, provide a detailed description in Exhibit _____
(Note: A community may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator. See [Section 621 \[47 U.S.C 541\] \(b\)\(3\)\(B\)](#))

9. Applicants should disclose whether or not subscribers may have to contact several different customer service departments in order to resolve certain problems.

For example, an applicant's cable TV servicing crew might blame the Internet crew, who then blames the telephone servicing crew, who blames the cable TV crew.

10. Applicants' policies for service delivery changes, subscriber address moves, and service additions should be clearly specified.

Because this information is not in our previously completed Form 100, contract, or any of Comcast's current policies, we have nothing with which to hold them to. For example, when a subscriber moves to another address in town and notifies the cable operator well in advance, but the cable operator does not move cable service on time, then we have no agreement to point to or complain about.

11. System maintenance needs to be specified.

This includes standby power, repairs, tree trimming, and relocation.

PART IV. RATES items 17-20 should also include:

12. Form 100 Item 17 needs to provide price structure in terms of channel bundles.

The community needs to know which channels will be bundled together and at what prices. Issuing Authorities need to know if subscribers will need to subscribe to a whole bundle of stations in order to get one station that they really want. Likewise, one station like ESPN may raise its rates, forcing a cable operator to raise subscriber prices for a whole bundle of stations.

13. Form 100 needs to list a breakdown of proposed pass-through costs.

The applicant should say whether or not certain costs would be passed-through to subscribers.

PART V. TECHNICAL INFORMATION items 21-27 should be left unchanged, except:

14. Item 22 should add a check box for “Hybrid Coaxial/Fiber Trunk.”
15. Form 100 should allow applicants to make a commitment to take into account future technologies.

A cable TV operator must be able to make a commitment to address the changing needs of a community. For example, the applicant should be able to state that new services will be offered to the community within twelve months of commercially offering them anywhere in the state. The applicant should also say whether or not annual hearings will be requested to discuss new technologies that would enhance or improve the cable communications system and the economical feasibility of providing these new technologies to subscribers.

PART VI. APPLICANT AND OWNERSHIP INFORMATION items 28 – 35 should be kept without changes and the following addition:

16. Form 100 needs to address the cable system operator’s management experience, technical expertise and legal ability.

These factors must be considered when transferring a license, and they are recommended to be on the form by Chapter 166A, Sec. 4 of the General Laws of the Common-wealth of Massachusetts ([G.L.c. 166A](#) §§ 4.)

PART VII. TRANSFER OR ASSIGNMENT items 36 - 44 were not reviewed.

ATTACHMENT 1. LOCAL INFORMATION Items 1-10 could be kept without change, even though this information is requested again as PART IX, SCHEDULE C, Items 1-10.

ATTACHMENT 2. OWNERSHIP INFORMATION Items 1-11 should be kept without change, except:

17. The instructions say Attachment 2 resembles FCC Form 325, but Attachment 2 does not resemble FCC Form 325, so this reference should be deleted.

PART IX. PRO FORMA Schedules A through G should be kept without change, except:

18. SCHEDULE C: LOCAL CHARACTERISTICS AND REVENUES items 19 and 20 are duplicates, so Item 20 should be deleted.
19. SCHEDULE C should add an item projecting annual license fees payable to the city or town.

This figure would be clear and convenient, and it would save re-computations.

20. SCHEDULE C should add items projecting annual revenues from ancillary services that use the cable system.

Applicants should disclose how much of their expected revenues will come from each of the services that use the cable system. For example, if a cable TV operator expects to receive most of its profits from Internet access fees, then an Issuing Authority might reasonably conclude that in the future this applicant will be more concerned with its Internet service than with cable TV subscribers.

21. Form 100 Part IX Pro Forma statements need instructions on what the projections are and how they were determined.

Are there any generally accepted methods to determine the projections on Pro Forma statements? Can these statements be audited or negotiated? Are they public?

Part 2. Comments on Licensing Regulations

1. Issuing Authorities need a better checklist to streamline the renewal process.

The three-year window for this is too long. Technology and cable franchise ownership change more often than every three years. Ascertainment could be completed in less than three months, if local government were better informed.

2. The ten-year maximum contract length in [G.L.c. 166A](#) §§ 13 is too long.

After a ten-year contract is signed, the Issuing Authority typically never sees the cable operator representatives again until the license is ready to be renewed.

3. Until adequate competition is available, the Issuing Authority must be able to fine the cable operator or seek other forms of redress, such as free service.

Without competition, subscribers have very little redress except to drop the service. See Section 207 of Code of Massachusetts Regulations ([207 CMR 3.08](#))

4. Cable operators promise Internet Access and Telephone service but then claim that these services cannot be discussed within the cable TV contract negotiations.

The cable operator is free to claim it offers competitive telephone services without specifying what those services entail. Communities need to know, for example, if Caller ID or Call Forwarding will be available. Communities have difficulty assessing a cable operator's performance if a service is offered but not specified. The Issuing Authority has difficulty defending these services to residents and has nothing to refer to when the license is to be renewed.

5. Because Internet Access and Telephone service are not part of the contract, the Issuing Authority has difficulty assessing the cable operator's service quality.

The cable operator may have different service crews for telephone, TV and Internet. When requesting service, the TV service crew sometimes tells subscribers that the problem is with the Internet, which they don't service. The Internet service crew says it's a telephone problem and the telephone service crew blames the TV service.

Conclusion

Currently, the cable TV licensing process requires extra time and effort because community volunteers must research information that is not available on Form 100. This review recommends that Form 100, the license application, should be kept mostly the same, but the instructions should be more comprehensive. It should also request additional information about:

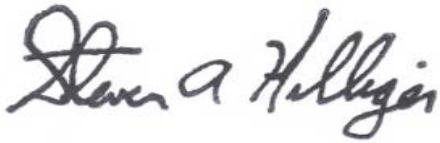
1. performance review responsibilities
2. pass-through costs
3. service bundles
4. channel bundles
5. level-playing field provisions
6. open-access policies
7. management experience
8. technical expertise
9. future technology commitments

Instead of a revised Form 100, we would be just as happy to use a more streamlined checklist of all available cable TV system services. We encourage the Cable Television Division to submit a revised version of the Form 100 or a streamlined checklist for further reviews.

DTE Motion to Review Form 100
Docket CTV 03-3

Town of Lancaster, MA
November 10, 2003

Signed November 10, 2003:

A handwritten signature in black ink that reads "Steven A. Hilliger". The signature is written in a cursive style with a large initial 'S'.

Steven A. Hilliger, Chairman
Board of Selectmen

Chris Detsikas

Chris Detsikas, Chairman
Cable TV Advisory Committee