

CTAM Task Force Report

September 19, 2018

Charter Communications - Outstanding non-compliance issues

Report to the Maine Office of the Attorney General and the Office of the Public Advocate

**1. Late or no posting of franchise renewals on their web page in violation of State Statute.**

<https://www.timewarnercable.com/en/our-company/legal/regulatory-notice/pln/northeast/franchise-agreements.html>

This places them in violation of Section 8 of

<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec3010.html>

This complaint was filed with the Office of the Attorney General on November 22, 2017.

**Status:** There is no Federal law or FCC Ruling that either mandates or prohibits this requirement, this statute (above) is unique to Maine and compliance by Charter is sporadic. Other cable operators in Maine, except Bee Line, are in compliance. We are asking the Office of the Attorney General for a ruling on this.

**2. Franchise renewal delays.**

Multiple towns report a purposeful delay in reviewing franchise renewal applications that use the Maine Model Franchise with its many consumer protections and municipal benefits. This is in stark contrast to the "fast lane" approval of franchises written by Charter attorneys. A change in the State Statute is required when the "review" of the proposed Maine Model franchises used by municipalities stretches out over many months, costing towns time and money.

**Status:** There is a Federal Statute that specifies that "The franchising authority may establish a date by which such proposal shall be submitted." but most municipalities are not aware of this.

<https://codes.findlaw.com/us/title-47-telecommunications/47-usc-sect-546.html>

This item will be addressed with successful passage of the PEG Non-Discrimination Bill.

**3. Credits and refunds notification violation.**

30-A M.R.S. § 3010 paragraph "2-A. Notice on subscriber bills; credits and refunds. Every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection 1. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type."

**Status:** There is no such notice on the subscriber's bill, only a short sentence in small print that says "Terms and Conditions - Spectrum's detailed standard terms and conditions for service are located at [spectrum.com/policies](https://spectrum.com/policies)"

If you follow that link and are able to find "Spectrum Residential Terms and Conditions" (one of 35 links on that page) you will come to a page with 8 more

links. If you find the right one, "Spectrum Residential General Terms and Conditions of Service and scroll down to number 9, you will see this paragraph in fine print:

"9. Disruption of Service: All Services are provided on an "AS IS" and "AS AVAILABLE" basis. In no event shall Spectrum be liable for any failure or interruption of Service, including without limitation those failures and interruptions resulting in part or entirely from circumstances beyond Spectrum's reasonable control. Subject to applicable law, Spectrum may give credit with respect to Subscriber's recurring monthly subscription fee for qualifying outages of Services."

This does not meet the requirements of 30-A M.R.S. § 3010 paragraph 2A and therefore they are also in violation of this provision of Title 30A.

**Status:** There is no Federal Statute for credits and refunds, the FCC Customer Service Standards also do not address this issue,

see: <https://www.fcc.gov/media/customer-service-standards>

Federal Law does however provide that "Nothing in this subchapter shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section."

<https://codes.findlaw.com/us/title-47-telecommunications/47-usc-sect-552.html>

This is a Consumer Protection requirement of State law 30-A M.R.S. § 3010 paragraph 2A and Charter is not in compliance. We are asking the Office of the Attorney General for a ruling on this.

#### **4. Failure to provide quality of service notification.**

Section 2B of <http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec3010.html> states:

"On or before January 30th of each year, the franchisee shall certify to the franchising authority and to the Department of the Attorney General that it has distributed the notice during the previous calendar year as required by this section".

**Status:** None of the towns questioned have received such notices, nor has the Office of the Attorney General.

This is a filing notice requirement of State law and Charter is not in compliance. We are asking the Office of the Attorney General for a ruling on this.

#### **5. Failure to provide annual reports to the towns as required by Town franchises and failure to report the basis for franchise fee payments showing number of subscribers and other information as required by the Town Franchise agreement. Charter claims this is now proprietary information.**

**Status:** This is a franchise violation for the Towns that have this requirement and should be addressed by the Town Attorney. It is noted here for your information.

**6. Failure to provide system maps.**

Charter now maintains that all documentation regarding their cable system is proprietary and therefore any maps or diagrams are no longer available to the Towns which is in conflict with many franchises that are still in effect which grant the Towns access to this information.

**Status:** This is a franchise violation for the Towns that have this requirement and should be addressed by the Town Attorney. It will be addressed by the new legislation and is noted here for your information.

**7. Refusal to replace worn out PEG equipment.**

At least one City has the following franchise requirement: "Franchisee agrees to replace, with comparable but new equipment, equipment that is not reasonably usable due to normal wear and tear."

**Status:** This is a franchise violation for the Towns that have this requirement and should be addressed by the Town Attorney. It is noted here for your information.

**8. Failure to notify Towns of franchise expiration in a timely manner:**

15 year Charter franchises with automatic extensions state there will be an automatic extension "unless the town notifies the cable operator 36 months in advance". Charter's practice is to send the required 636 notification letter out to the towns 33 month in advance, so even if they wanted to "opt out" it would be too late by then. This is a questionable business practice that relies on an ignorance of the law or loss of institutional memory by the Towns.

**Status:** This item will be addressed with successful passage of the PEG Non-Discrimination Bill. This is a questionable business practice and is noted here for your information.

**9. No provisions for PEG facilities in new franchises:**

Paragraph 5 of 30-A M.R.S. § 3010 states that "All franchises must include provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or related requirements or regulations of the Federal Communications Commission."

**Status:** Several recent Maine franchises provided by Charter do not contain any mention of this requirement. It may be that the Town does not need a PEG channel at the time the franchise was signed, but it should not preclude the town from requiring a municipal channel (or sharing one with adjacent towns) several years later. Selectmen change and sometime in the future, they may want to televise their municipal meetings and that is why this language is in our State Statute and franchises as permitted under the Telecommunications Act.

This is a violation of State law and Charter is not in compliance. We are asking the Office of the Attorney General for a ruling on this.

**10. Failure to provide a line extension policy as required per 30-A M.R.S. § 3008 paragraph 5(B).**

<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec3008.html>

Six recent Charter franchises do not contain a line extension policy stating the minimum number of homes per mile.

**Status:** This is a violation of State law and Charter is not in compliance. This item will be addressed with successful passage of the PEG Non-Discrimination Bill. In the interim, we are asking the Office of the Attorney General for a ruling on this.

**11. Charter is acting in a discriminatory manner regarding signal quality.**

Charter has a stated policy of not accepting current technology High Definition signals from PEG stations, however they do accept HD signals from every other station.

**Status:** This item will be addressed with successful passage of the PEG Non-Discrimination Bill.

**12. Charter is acting in a discriminatory manner regarding PEG stations.**

Charter is moving only PEG stations to a seldom viewed portion of their channel spectrum. (See explanation below) Charter's behavior in this regard is also a handicap for the elderly and those less able to manipulate a remote control. This may also be in violation of 47 U.S. Code § 545 - Modification of franchise obligations: (e) REQUIREMENTS FOR SERVICES RELATING TO PUBLIC, EDUCATIONAL, OR GOVERNMENTAL ACCESS - A cable operator may not obtain modification under this section of any requirement for services relating to public, educational, or governmental access.

The State of Hawaii recently stopped this practice by Charter:

<http://olelo.org/nochannelslam/> Precedent is therefore set for a State Consumer Protection Agency to stop this "business decision" by Charter Corporation.

Successful legislation in CA and Illinois has also prevented it there.

**Status:** This item will be addressed with successful passage of the PEG Non-Discrimination Bill but is included here for your information.

**13. Charter franchises do not make reference to any procedures for investigating or resolving subscriber complaints as required by law.**

<http://www.mainelegislature.org/legis/statutes/30-A/title30-Asec3010.html> paragraph 2A (1-4) In some Charter franchises, there is a sentence that states they are in compliance with all State and Federal laws but it does not describe any procedures as required by law.

**Status:** This is a violation of State law and Charter is not in compliance. We are asking the Office of the Attorney General for a ruling on this.

**14. Charter is not offering a senior citizen discount although Time Warner did so under the Franchises that Charter purchased.**

**Status:** Dropping this benefit without subscriber notification is a poor business practice and is noted here for your information.

**15. Charter has discontinued the “whole house DVR” feature that Time Warner carried.** If subscribers were paying extra for this service, there has not been a corresponding reduction in price.

**Status:** Dropping this benefit without subscriber notification is a poor business practice and is noted here for your information.

**16. At least one Town Franchise requires universal service. Charter refuses to comply.**

**Status:** This is a possible franchise violation of the Town franchise and should be addressed by the Town Attorney. It is noted here for your information.

**17. Hidden Opt-out privacy notices.**

Municipal Ordinances and Franchises that contain privacy notice requirements such as the right to prevent the cable operator from collecting and selling personal information and provide annual notice to each subscriber of the right to view or withdraw such authorization are typically ignored and such notices are always buried in their legal documentation so that subscribers do not know they have these rights.

**Status:** This is a questionable business practice and should be investigated by the Office of the Attorney General.

Summary:

We have no illusions that these Statute violations and franchise compliance issues with Charter are basically hidden from the public eye, but we are convinced that the facts we are presenting are only the tip of the iceberg and we will eventually have to take Statewide action against their business practices as has been done in other States.

<https://www.nytimes.com/2018/07/27/nyregion/new-york-spectrum-charter-cable-broadband.html>

<https://buffalonews.com/2018/09/27/buffalo-lawmakers-will-vent-to-state-about-spectrum/>  
and

<https://www.berkshireeagle.com/stories/pattern-of-neglect-in-letter-north-adams-says-charter-should-pay-city-500000.551586>

[http://www.lockportjournal.com/news/local\\_news/state-pursuing-legal-action-against-charter-communications/article\\_fdb1c5e6-865a-594b-8c34-be7f871c26d4.html](http://www.lockportjournal.com/news/local_news/state-pursuing-legal-action-against-charter-communications/article_fdb1c5e6-865a-594b-8c34-be7f871c26d4.html)

<http://wamc.org/post/spectrum-cable-changes-berkshire-county-prompt-federal-response>

<http://www.miamiherald.com/news/nation-world/national/article147715819.html>

-T. Vigue for the Community Television Association of Maine  
(207) 642-5055 (h) (207) 329-6243 (m)