

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6995

Petition of North Country Cablevision, Inc.)
for renewal of its Certificate of Public Good)
for the Towns of Bakersfield, Berkshire, and)
Montgomery, Vermont)

Order entered: 3/15/2005

I. INTRODUCTION

This docket concerns the renewal of the Certificate of Public Good ("Certificate") held by North Country Cablevision, Inc. ("North Country") to provide cable television service in the Towns of Bakersfield, Berkshire and Montgomery, Vermont. The petition by North Country was unopposed; after some months of negotiation, the Vermont Department of Public Service ("Department") and North Country (collectively, the "Parties") filed a joint proposed Order and Certificate. The following Proposal for Decision, which concludes that renewal of the Certificate will promote the public good and that North Country meets the criteria of 30 V.S.A. §§ 504 and 506 and Board Rule 8.214, is based upon the application for a renewed certificate filed by North Country, the testimony and exhibits attached thereto, the testimony of the Department's witness, the representations made by North Country and by counsel, and the joint proposed Order.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following findings of fact and conclusions of law to the Board.

II. HISTORY

On January 28, 1994, in Docket 5689, the Board issued a Certificate to North Country for the Towns of Bakersfield, Berkshire and Montgomery, Vermont, for a period of eleven years, until January 28, 2005. On August 31, 2004, the Board opened Docket 6995 to investigate whether to renew North Country's Certificate and on October 6, 2004, the Board issued an Order extending North Country's Certificate until May 1, 2005, to allow sufficient time for the investigation to proceed.

A prehearing conference was held in this matter on September 17, 2004. On October 18, 2004, a public hearing was held in Enosburg Falls, Vermont. On December 9, 2004, North

Country filed its application for renewal of its Certificate for the Towns of Bakersfield, Berkshire and Montgomery, Vermont (the "Application").

On January 28, 2005, the Parties filed a Joint Proposed Decision and Proposed Certificate of Public Good that, by its terms, recommended that the Certificate be renewed on conditions, and that no further hearings be held. The following material, and the accompanying Certificate, embody the recommendations made by the Parties.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. North Country is a Vermont corporation with its business address at 271 Main Street, PO Box 576, Enosburg Falls, Vermont 05450. Application at ¶ 1.

2. North Country's system provides designation of adequate channel capacity and appropriate facilities for public, educational, or governmental ("PEG") use, as required by 30 V.S.A. § 504(b)(1), in that it operates a 550 MHz hybrid fiber/cable system, but can be expanded to 750 MHz. North Country offers a basic analog service of 40 channels and 30 local FM stations. A digital service of 55 channels, 30 music stations, 45 premium stations in 4 packages, 4 pay-per-view channels, and internet broadband service are also offered. PEG access is available through 132 live broadcast points and Channel 15 is dedicated for local use. The system has growth potential of 21 more analog channels or 252 more digital channels. Fiske pf. at 2 and 3; Application, Exhibits G (Section 25), J, and K; Martin pf. at 2–3.

3. North Country's system provides adequate and technically sound facilities and equipment, and signal quality, as required by 30 V.S.A. § 504(b)(2) in that the system is "fiber rich" and uses the latest electronics and equipment sold in the industry. Fiske pf. at 3; Martin pf. at 3.

4. North Country provides a reasonably broad range of PEG programming, as required by 30 V.S.A. § 504(b)(3), in that the system offers two channels, one of which airs programming 24/7 and the other provides programming about 12 hours a week. An additional channel can be provided if needed. In addition, North Country has recently hired a person to refresh the PEG access system and to help bring in more local material to fill the programming opportunities for two channels. Fiske pf. at 3; Application, Exhibits G (Tariff at 13) and K; Martin pf. at 3.

5. North Country does not discriminate among customers of basic service and therefore meets the requirements of 30 V.S.A. § 504(b)(4). Basic service is offered to all customers throughout the service area and customers over the age of 70 receive a 5% discount. Fiske pf. at 3; Application, Exhibit G (Tariff at 11); Martin pf. at 3–4.

6. North Country meets the requirements of 30 V.S.A. § 504(b)(5) in that it competes with two "small dish" companies and offers basic service at reasonable rates. Fiske pf. at 3; Application, Exhibit J; Martin pf. at 4.

7. North Country meets the requirements of 30 V.S.A. § 504(c)(1) in that it has a 550 MHz hybrid fiber/coaxial system that can be expanded to 750 MHz. North Country offers digital and internet services at reasonable cost, and most of the channel additions in the past fifteen years were based on results of system-wide customer votes. Fiske pf. at 3; Application, Exhibit J; Martin pf. at 4.

8. North Country has constructed and installed its system to conform to state and federal laws and regulations, as required by 30 V.S.A. § 504 (c)(2). In addition, North Country completes routine plant maintenance of system sweep tests and cumulative leakage index tests weekly. Fiske pf. at 3; Application Form, Supplementary Questionnaire No. 16; Martin pf. at 4.

9. North Country meets the requirements of 30 V.S.A. § 504(c)(3) and (4) in that it employs two service technicians equipped with bucket trucks to oversee approximately 65 miles of plant and also employs an office manager and an additional part-time employee. North Country's office is on Main Street in Enosburg and customers may place local calls to the office toll free during regular office hours and phone messages are taken care of 24/7. Fiske pf. at 4; Martin pf. at 4–5.

10. North Country has an approved tariff on file with the Board that complies with Board rules and policies and therefore meets the requirements of 30 V.S.A. § 504(c)(5). Fiske pf. at 4; Application, Exhibit G; Martin pf. at 5.

11. North Country meets the additional requirements of Board Rule 8.214 as follows:

- a. North Country is sufficiently financially sound and stable. North Country uses the accounting firm of KBS in St. Albans to prepare its annual reports to the Department, which show a sufficient cash flow and stable balance sheet and income statement. Fiske pf. at 4; Martin pf. at 5.

- b. North Country has sufficient capacity and service offerings at the present time with enough capacity to offer additional services in the future. Fiske pf. at 3–4; Martin pf. at 5–6.
- c. North Country has completed its system-wide construction and in-service schedule for the communities of Bakersfield, Berkshire, and Montgomery. Fiske pf. at 2; Martin pf. at 6.
- d. North Country has operated since 1980 under the direction of Gary Fiske, who has numerous years of qualified experience. Fiske pf. at 2; Martin pf. at 6.
- e. North Country has an approved tariff on file with the Board. Application, Exhibit G; Martin pf. at 6.
- f. North Country has an approved tariff on file with the Board that is not inconsistent with Vermont customer service regulations. Application, Exhibit G; Martin pf. at 6.
- g. North Country performs annual house count surveys and builds down to 25 homes per mile, consistent with Board Rule 8.313. Fiske pf. at 4; Application, Exhibit G (Tariff Section 22); Martin pf. at 6–7.
- h. North Country has built a Phillips/Magnavox designed 550 MHz hybrid fiber/coaxial system with quality engineering and materials. Fiske pf. at 3 and 5; Martin pf. at 7.
- i. North Country's system in the Towns of Berkshire, Montgomery and Bakersfield all fit logically with North Country's other neighboring systems of Richford and Enosburg. Fiske pf. at 5; Martin pf. at 7.

IV. CONCLUSION

I conclude that North Country meets the requirements of 30 V.S.A. §§ 504 and 506 and of Board Rule 8.214, and that renewal of the Certificate of North Country to serve the Towns of Bakersfield, Berkshire and Montgomery, as conditioned in the accompanying proposed Certificate, will promote the general good of the state.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 10th day of March, 2005.

s/John P. Bentley

John P. Bentley, Esq.
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings and Conclusions of the Hearing Officer are accepted.
2. A renewed Certificate of Public Good shall be issued to North Country Cablevision, Inc., for a period of eleven years to expire on May 1, 2016, to operate a cable system in the Towns of Bakersfield, Berkshire, and Montgomery according to the terms and conditions in the attached Renewed Certificate of Public Good.

Dated at Montpelier, Vermont, this 15th day of March, 2005.

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)	PUBLIC SERVICE
)	
s/David C. Coen)	BOARD
)	
)	OF VERMONT
s/John D. Burke)	

OFFICE OF THE CLERK

FILED: March 15, 2005

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.