

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6996

Investigation of Opticable, Inc., for renewal )  
of its Certificate of Public Good for the Town )  
of Readsboro, Vermont )

Order entered: 3/15/2005

**I. INTRODUCTION**

This docket concerns the renewal of the Certificate of Public Good ("Certificate") held by Opticable, Inc. ("Opticable") to provide cable television service in the Town of Readsboro, Vermont. The petition by Opticable was unopposed; after some months of negotiation, the Vermont Department of Public Service ("Department") and Opticable (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 Opticable 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 Opticable, the testimony and exhibits attached thereto, the testimony of the Department's witness, the representations made by Opticable 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 December 23, 1993, in Docket 5690, the Board issued a Certificate to Opticable for the Town of Readsboro, Vermont, for a period of eleven years. On August 31, 2004, the Board opened Docket 6996 to investigate whether to renew Opticable's Certificate and on October 6, 2004, the Board issued an Order extending Opticable'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 13, 2004, a public hearing was held in Readsboro, Vermont. On December 1, 2004, Opticable filed

its application for renewal of its Certificate for the Town of Readsboro, Vermont (the "Application").

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Opticable, Inc. is a Vermont corporation with its business address at PO Box 2123, Brattleboro, Vermont 05203. Application at ¶ 1.

2. Opticable'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 450 MHz system. Opticable offers a basic analog service of 28 channels. PEG access is available; however, no Access Management Organization has come forward to organize any dedicated channel. The system has growth potential of 13 more analog channels. Application, Exhibit J and Supplementary Questionnaire Form, No.11; Martin pf. at 2–3.

3. Opticable's system provides adequate and technically sound facilities and equipment, and signal quality, as required by 30 V.S.A. § 504(b)(2). Supplementary Questionnaire Form generally; Martin pf. at 3.

4. Opticable provides a reasonably broad range of PEG programming consistent with the small size of the system, as required by 30 V.S.A. § 504(b)(3), in that it provides a channel with local weather audio from the National Oceanic and Atmospheric Administration and it has the ability to add channels to provide PEG programming. However, no entity has come forward to request PEG access in the small community of Readsboro. Brigham pf. at 1; Application, Exhibit J; Martin pf. at 3.

5. Opticable 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 of 150 homes in the Town of Readsboro. Application, Exhibit J; Martin pf. at 3.

6. Opticable meets the requirements of 30 V.S.A. § 504(b)(5) in that it competes with satellite companies and offers basic service at reasonable rates. Brigham pf. at 3; Application, Amended Exhibit G; Martin pf. at 3.

7. Opticable meets the requirements of 30 V.S.A. § 504(c)(1) in that it has a 450 MHz System. Supplementary Questionnaire Form generally and Application, Exhibit J; Martin pf. at 3.
8. Opticable 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, Opticable completes weekly routine plant maintenance including head-end adjustments and amplifier adjustments. Brigham pf. at 3; Supplementary Questionnaire No. 16; Martin pf. at 3–4 .
9. Opticable meets the requirements of 30 V.S.A. § 504(c)(3) and (4) in that it has a competent staff sufficient to provide adequate and prompt service to its customers. Opticable's President and Manager oversees approximately 3.4 miles of plant. Opticable's office is located in Brattleboro, because an office in Readsboro would be cost prohibitive for a system of this size. Customers may call the office using a toll-free number during regular office hours of 9am–5pm, Monday through Friday, and that number is available to receive messages 24/7. Brigham pf. at 1 and 3–4; Supplementary Questionnaire Item 10 and Item 4; Martin pf. at 4.
10. Opticable 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). Application, Amended Exhibit G; Martin pf. at 4–5.
11. Opticable meets the additional requirements of Board Rule 8.214 as follows:
  - a. Opticable is sufficiently financially sound and stable. Opticable files its annual reports with the Department that show a sufficient cash flow and stable balance sheet and income statement. Brigham pf. at 1; Martin pf. at 5.
  - b. Opticable has sufficient capacity and service offerings at the present time with enough capacity to offer additional services. Brigham pf. at 1; Application, Exhibit J; Martin pf. at 5.
  - c. Opticable has completed its system-wide construction and in-service schedule and has operated in the Town of Readsboro since 1993, serving 80 subscribers and passing approximately 150 homes. Brigham pf. at 1; Application, Exhibit J; Martin pf. at 5.
  - d. Opticable has operated since 1993 under the direction of James Brigham, who has numerous years of qualified experience. Brigham pf. at 1–2; Application in general; Martin pf. at 5.
  - e. Opticable has an approved tariff on file with the Board. Application, Amended Exhibit G; Martin pf. at 6.

- f. Opticable has an approved tariff on file with the Board that is not inconsistent with Vermont customer service regulations. Brigham pf. at 2; Application, Amended Exhibit G; Martin pf. at 6.
- g. Opticable performs annual house count surveys and builds down to 25 homes per mile, consistent with Board Rule 8.313. Brigham pf. at 2; Application, Exhibits B and J; Martin pf. at 6.
- h. Opticable meets this criterion because it rebuilt the system in 1994. The system is a Sylvania Pathmaker 450 MHz System with quality engineering and materials. Brigham pf. at 2; Supplementary Questionnaire in general; Martin pf. at 6.
- i. There are no neighboring systems which would logically fit with Opticable's system in Readsboro. Brigham pf. at 3; Application, Exhibit B; Martin pf. at 6.

#### **IV. PUBLIC COMMENTS**

The Board received public comments at the public hearing on October 13, 2004, and also received several letters from individuals in Readsboro regarding Opticable's Certificate renewal. Comments received expressed concern about the lack of prior notice of changes in the channel line up, impaired quality of reception on some channels, and the length of time to restore service following a channel outage and expressed interest in increased channel selection, including adding a Vermont channel, additional premium channels, and interest in broadband service. Other comments expressed general satisfaction with the level and quality of service and price. The Board encourages Opticable to take appropriate steps to address the concerns expressed by its subscribers.

#### **V. CONCLUSION**

In conclusion, Opticable meets the requirements of 30 V.S.A. §§ 504 and 506 and Board Rule 8.214 and therefore renewal of the Certificate of Opticable to serve the Town of Readsboro, as conditioned in the attached Renewed 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 10<sup>th</sup> day of March, 2005.

s/John P. Bentley

John P. Bentley, Esq.  
Hearing Officer

**VI. 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 Opticable for a period of eleven years to expire on May 1, 2016, to operate a cable system in the Town of Readsboro according to the terms and conditions in the attached Renewed Certificate of Public Good.

Dated at Montpelier, Vermont, this 15<sup>th</sup> 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.*