



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**CABLE TELEVISION**

IN THE MATTER OF CABLEVISION – SCRIPPS )  
NETWORK IMPASSE RESULTING IN THE LOSS )  
OF HGTV AND THE FOOD NETWORK CHANNELS )  
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 )

ORDER ACCEPTING  
OFFER OF SETTLEMENT

DOCKET NO. CO10010017

Paul Fader, Esq., Florio, Perrucci, Steinhardt & Fader, L.L.C., Rochelle Park, New Jersey, for  
CSC TKR, LLC

BY THE BOARD:

CSC TKR, LLC itself and through its subsidiaries<sup>1</sup>, (referred to collectively as "Cablevision"), operates certain cable television systems in the State of New Jersey, and such cable systems provide cable television services to some 900,000 subscribers in 176 municipalities in Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren counties.

On January 27, 2010, the Board issued two companion orders regarding Cablevision's alleged failure to provide advance notice of the elimination of the HGTV and Food Network channels. These Orders memorialized the rulings made during the January 20, 2010 agenda meeting. The Board's Order Denying Waiver Request rejected Cablevision's request for a waiver, as within time, of the advance notice requirements under N.J.A.C. 14:18-3.17. The Board also issued an Order to Show Cause, directing Cablevision to file an answer with the Board within thirty (30) days of the Order, or by February 26, 2010. On February 17, 2010, the Board issued an order granting an extension of time by which Cablevision could file a motion of reconsideration of the Board's Order Denying Waiver Request.

On February 26, 2010, Cablevision filed an Answer and Motion for Reconsideration in response to the Board's Order to Show Cause and Denial of Cablevision's Waiver Request. Cablevision relied on its Answer to support its Motion for Reconsideration. A Certification of Thomas

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<sup>1</sup> CSC TKR, LLC; Cablevision of Monmouth, LLC; Cablevision of Hudson County, LLC; Cablevision of New Jersey, LLC; Cablevision of Newark; Cablevision of Warwick, LLC; Cablevision of Paterson, LLC; Cablevision of Rockland/Ramapo, LLC and Cablevision of Oakland, LLC.

Montemagno, a Senior Vice President for Programming Acquisition, also accompanied the submission.

On April 5, 2010, the Board issued an Order denying Cablevision's Motion and found Cablevision's arguments that it did not violate the Board's rules to be without merit. Accordingly, the Board directed Cablevision to submit comments within ten (10) days on why it should not be assessed fines of up to \$60,000.

On April 15, 2010, Cablevision submitted comments that mirrored its earlier arguments, suggesting that it had acted in good faith and that no penalty should be imposed. In the alternative, Cablevision suggested that any penalty imposed should be de minimus given the circumstances. These arguments had already been considered by the Board and rejected in its Order of April 5, 2010.

Cablevision, now seeks to resolve this matter without further delay and to avoid the costs of potential litigation, and therefore, on July 21, 2010, Cablevision submitted an Offer of Settlement including a monetary payment in the amount of \$30,000.00.

The Board has reviewed the matter and HEREBY FINDS that the Offer represents a reasonable settlement of the alleged violations. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Cablevision subject to the following conditions:

- 1 Cablevision shall tender \$30,000.00, payable to Treasurer, State of New Jersey within fifteen (15) days of receipt of the Board's Order accepting the Offer of Settlement.
- 2 Going forward, Cablevision shall:
  - a file with the Office written notice of an alteration in channel allocation at least thirty (30) days prior to the effective date as required by N.J.A.C. 14:18-3.17 (a);
  - b. notify its customers and affected municipalities of an alteration in channel allocation thirty (30) days prior to the effective date as required by N.J.A.C. 14:18-3.17 (b); and
  - c. comply with all terms and conditions of Orders and directives issued by this Board and the Director as required by N.J.S.A. 45:5A-9.

The Office will monitor Cablevision or its successor's future notice and filing requirements and procedures as set forth in the State Cable Television Act and the New Jersey Administrative Code.

The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses only those specific allegations and timeframes in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting Cablevision or a successor company or operator.

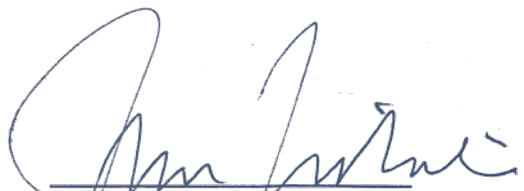
For purposes of assessing penalties for future offenses by Cablevision, their parents, affiliates, subsidiaries and successors that may now or in the future operate the cable television systems that are the subject of this Offer of Settlement, such future offenses shall be considered second, third or subsequent offenses, in accordance with N.J.S.A. 48:5A-51(b).

DATED: 8/24/10

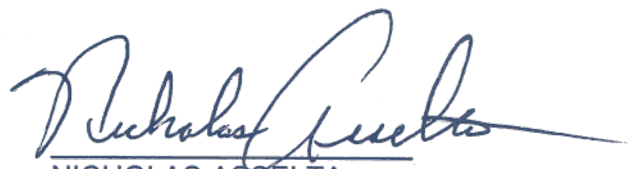
BOARD OF PUBLIC UTILITIES  
BY:



LEE A. SOLOMON  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER



NICHOLAS ASSELTA  
COMMISSIONER

**DISSENT OF COMMISSIONERS JEANNE M. FOX AND ELIZABETH RANDALL**

We dissent from the Board's decision to accept the Offer of Settlement from CSC TKR, LLC, itself, and through its subsidiaries (referred to here as "Cablevision"). The majority of the Board accepted a \$30,000 offer of settlement from Cablevision in satisfaction of the Board's assertion that Cablevision failed to provide regulatory-required advanced notice to the Board, subscribers, and affected municipalities of the elimination of the Food Network and HGTV channels, as required under N.J.A.C. 14:18-3.17.

As the Board is aware, any number of violations of Board rules and Orders has been asserted against Cablevision. In light of this history, and based upon the Board's finding of an apparent violation in the underlying Order to Show Cause, a monetary fine is appropriate. The amount of that fine, however, should be significantly higher than the \$30,000 offer of settlement provided here, based upon the nature of the case, the history with the party, and our concern that this is simply a "cost of doing business" to a company as large as Cablevision. We know that Cablevision is familiar with the Board's rule that it must either provide 30 days' notice before eliminating channels from their lineup or request a waiver of this notification rule, because Cablevision has been cited for allegedly violating this rule before. In fact, the Board has issued Cablevision no less than seven warnings for alleged violations regarding channel change notices to the Office of Cable Television (OCTV), as well as two warnings for alleged violations regarding channel change notices to customers and municipalities. Despite this, Cablevision is once again before the Board. It appears to us that Cablevision's bottom line is that its \$30,000 Offer of Settlement is just the cost of doing business, as that amount still puts it significantly ahead of where it would have been if it had complied with the regulation and sent out the appropriate notices.

Once again, Cablevision neither gave the BPU's OCTV, customers, and municipalities prior notice before going off the air with these two popular stations, nor did it seek a waiver. Over 900,000 customers in 176 municipalities from Sussex to Monmouth County were affected and customers did not receive any rebate from Cablevision. Accordingly, we believe the Board should reject the Offer of Settlement and instead assess the maximum original fine of \$60,000 against the company. While even this fine may not be an appropriate reflection of the value to Cablevision of its alleged failure, it would nevertheless send a clearer message to Cablevision that the Board's regulations and Orders must be complied with and should not simply be treated as a minor impediment or a nuisance.

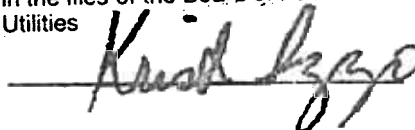
  
JEANNE M. FOX  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**I/M/O CABLEVISION-SCRIPPS NETWORK IMPASSE  
RESULTING IN THE LOSS OF HGTV AND FOOD NETWORK CHANNELS**

**OFFER OF SETTLEMENT**

**DOCKET NO. CO10010017**

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IN THE MATTER OF CABLEVISION-SCRIPPS) )  
NETWORK IMPASSE RESULTING IN THE ) )  
LOSS OF HGTV AND THE FOOD NETWORK ) )  
CHANNELS ) )  
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OFFER OF SETTLEMENT

BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

DOCKET NO.: C010010017

**WHEREAS**, CSC TKR, LLC, itself and through its subsidiaries, (referred to collectively as "Cablevision" or the "Company"), operates certain cable television systems (the "Cable Systems") as that term is defined in N.J.S.A. 48:5a-3(D), in the State of New Jersey, pursuant to applicable State and Federal law, and such cable systems provide cable television services to almost 1,000,000 subscribers in the State of New Jersey; and

**WHEREAS**, New Jersey cable television companies are subject to the jurisdiction of the Board of Public Utilities (the "Board"), Office of Cable Television (the "Office" or "OCTV"), pursuant to the provisions of the New Jersey Cable Act, N.J.S.A. 48:5A-1 et seq. (the "Act") and the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et seq. (the "Regulations"); and

**WHEREAS**, the New Jersey cable television companies are required to comply with the Act, the Regulations and duly promulgated orders and directives of the Board and Director of the Office "Board Orders"); and

**WHEREAS**, without prior notice to Cablevision, and contrary to industry practice and its own prior course of dealing with

Cablevision, Scripps Networks, Inc., the parent company of The Food Network "Food" and Home and Garden Television "HGTV" at 12:01 am on the morning of January 1, 2010, unexpectedly removed the programming from Cablevision customers as a result of a carriage dispute, this dispute having affected Cablevision's customers in New Jersey;

**WHEREAS,** Cablevision provided electronic notice to subscribers on January 1, 2010 informal notice to OCTV on January 1, 2010 and formal written notice on January 5, 2010 when the Company filed a letter with the Board and requested a waiver, of the 30-day period for the filing of advance notice of an alteration in channel allocation, as required under N.J.A.C. 14:18-3.17 (a and (b) and also served to notify the Office and the affected municipalities of the elimination of HGTV and Food from Cablevision's channel line up; and

**WHEREAS,** on January 27, 2010, the Board denied the waiver request and issued an Order to Show Cause, directing Cablevision to file an Answer within 30 days of the Order why the Board should not find that Cablevision failed to satisfy the requirements of N.J.A.C. 14:18-3.17 by failing to provide timely notice of channel deletions for HGTV and Food at least 30 days prior to the effective date of the deletions; and

**WHEREAS**, on February 26, 2010, Cablevision filed an Answer and Motion for Reconsideration in response to the Board's Order to Show Cause and denial of Cablevision's Waiver Request; and

**WHEREAS**, by Order dated April 5, 2010, the Board found that Cablevision failed to provide advance notice to the Board, subscribers, and affected municipalities of the elimination of the Food and the HGTV channels as required under N.J.A.C. 14:18-3.17 and found that the maximum fine committed to be assessed pursuant to N.J.S.A. 48:5A-51 is \$60,000.00 and directed Cablevision to submit comments on why it should not be assessed fines of up to \$60,000.00;

**NOW THEREFORE**, the Company submits this **OFFER OF SETTLEMENT** as follows

1. The Company offers to the Board the sum of \$30,000.00 payable to the Treasurer, State of New Jersey, in full settlement of any costs which may be imposed or assessed, in this matter. Such payment is conditioned upon the Board's accepting the terms of this **OFFER OF SETTLEMENT**.

2. In consideration of the terms set forth in this **OFFER OF SETTLEMENT** regarding the temporary removal of the HGTV and Food channels from Cablevision's channel lineup on January 1, 2010 and upon approval by the Board of this **OFFER OF SETTLEMENT** and fulfillment of the terms set forth hereinabove, the Board and OCTV release Cablevision from any and all liability with



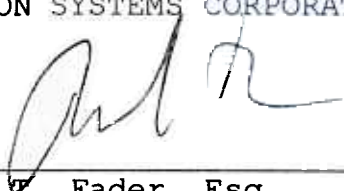
respect to the violations described in this **OFFER OF SETTLEMENT**

3. The **OFFER OF SETTLEMENT** made herein is neither an admission of guilt or responsibility for, nor an admission of a violation of, any provision of the Act or Regulations, rather is made strictly to resolve any outstanding issues with the Board and Office in an amicable and expeditious manner. In the event of any future repeated violation(s) of the Act and the Regulations which are the subject of this **OFFER OF SETTLEMENT**, Cablevision agrees that any such violation(s) shall be considered as second, third or subsequent violations, appropriate, pursuant to the provision of N.J.S.A. 48:5A-51(b), for the purpose of determining the amount of any applicable penalty. Cablevision further agrees to continue to comply with the Act, the Regulations, and Board Orders including the notice provisions of N.J.A.C. 14:18-3.17

DATED: 7/20/10

CABLEVISION SYSTEMS CORPORATION

By: \_\_\_\_\_

  
Paul F. Fader, Esq.  
Florio Perrucci Steinhardt &  
Fader, LLC  
Attorneys for Offeror