



Agenda Date: 1/20/10
Agenda Item: IIIB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF TWFANCH-)
ONE, CO. D/B/A TIME WARNER CABLE OF NEW)
YORK AND NEW JERSEY, FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE BOROUGH)
OF CLIFFSIDE PARK, COUNTY OF BERGEN, STATE)
OF NEW JERSEY)

RENEWAL
CERTIFICATE OF APPROVAL

DOCKET NO. CE09080697

Dennis C. Linken, Esq., Stryker, Tams and Dill, Newark, New Jersey, for the Petitioner

Borough Clerk, Borough of Cliffside Park, by Sercan Zoklu, for the Borough

BY THE BOARD:

On May 12, 1977, the Board of Public Utilities ("Board") granted Vision Cable Television ("Vision") a Certificate of Approval in Docket No. 773C-6253 for the construction, operation and maintenance of a cable television system in the Borough of Cliffside Park ("Borough"). On June 29, 1987, the Board granted Vision a Renewal Certificate of Approval for the Borough in Docket No. CE86101159. Through a series of transfers with required Board approvals, the holder of the Certificate is TWFanch-One, Co. d/b/a Time Warner Cable ("Petitioner"). On December 17, 2009, the Board authorized the transfer of the Certificate of the Borough to Time Warner Entertainment Company, L.P. ("Time Warner"), in Docket No. CM09080719. Time Warner is responsible for all commitments agreed to by the Petitioner and the Borough. Although the Petitioner's above referenced Certificate expired on May 12, 2002, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on August 28, 2001, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1. On December 20, 2005, the Borough adopted a municipal ordinance granting renewal consent to the Petitioner.

On June 9, 2009, the Borough amended its municipal consent ordinance to provide for a five year franchise term from the date of issuance. On August 11, 2009, the Petitioner formally accepted the terms and conditions of the ordinance, as amended. On August 17, 2009, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough.

The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance and amended municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval.
2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is five years from the date of issuance of this Certificate. The Board finds this period to be of reasonable duration.
5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain an informational schedule of prices, terms and conditions for unregulated service and promptly file any revisions thereto.
6. Pursuant to statutory requirements, the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.
7. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The current local office is located at 200 Roosevelt Place in the Borough of Palisades Park, New Jersey.
8. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough, and shall be increased as required by N.J.S.A. 48:5A-30. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.

9. The Petitioner shall proffer service along any public right-of-way to any person's residence or business in the Borough at no cost beyond charges for standard and non-standard installation on file with the Office of Cable Television. For any future construction within the Borough, the Petitioner shall use the line extension policy attached to this Certificate as Appendix "I" with a homes per mile figure of 25.
10. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application. Specifically, the Petitioner shall provide access time for non-commercial PEG access entities on a PEG access channel. Public access is administered by the Petitioner, and programming may be produced at the Petitioner's studio which is located in the Borough of Palisades Park. The PEG access channel is shared with other municipalities in the Petitioner's system.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards of 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire five years from the date of its issuance.

DATED: 12/10

BOARD OF PUBLIC UTILITIES
BY:


ELIZABETH RANDALL
ACTING PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JEANNE M. FOX
COMMISSIONER

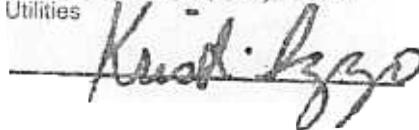

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

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



APPENDIX "I"

LINE EXTENSION POLICY

**TWFANCH-ONE, CO. D/BA TIME WARNER CABLE
BOROUGH OF CLIFFSIDE PARK**

Time Warner Cable (a/k/a "TWC") shall be required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system, as detailed hereinbelow. Actual subscribers served by the extension are required to absorb the remainder of the cost, as also detailed hereinbelow.

If new subscribers are added (within two years) to the area served by an extension, the cost shall be adjusted (by recomputing step 5 below) and those who previously paid a portion of the cost of the extension shall receive an appropriate rebate (provided, however, that no such rebate shall exceed the subscriber's contribution).

The following will be utilized to determine the respective costs to be borne by TWC and potential subscribers in connection with a proposed extension of plant:

A. If the average density of homes per mile ("HPM") (measured within 150 feet of the existing public right-of-way, if the area is to be served aerially, or 100 feet if the area is to be served underground) to be passed by the proposed extension is 25 or more, TWC will build the extension at its full cost.

B. If the average density HPM is less than 25, the cost of the extension will be shared in accordance with the following formula:

- | | | |
|---|---|---|
| 1. $\frac{\text{\# of homes in extension}}{\text{mileage of extension}}$ | = | homes per mile (HPM) of extension |
| 2. $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system (i.e., 25)}}$ | = | ratio of the density of the extension to the minimum density which the company constructs in the system ("A") |
| 3. Total cost of building the extension times "A" | = | TWC's share of extension cost |
| 4. Total cost of building extension less TWC's share of extension cost | = | total amount to be recovered from subscribers |
| 5. $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}}$ | = | each subscriber's share |

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