



State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN 25 DESIGNATED MUNICIPALITIES)

ORDER

BPU DOCKET NO. CO07110884

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 19, 2007, Verizon New Jersey, Inc. ("Verizon") filed a petition with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:5A-30d and N.J.A.C. 14:18-15.7 seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 25 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ The Act, as amended, allows the Board to grant competitive systemwide franchises to certain providers of cable television service. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

¹ The 25 municipalities included in Verizon's application are Borough of Barrington, Borough of Carlstadt, City of Clifton, Township of Denville, Borough of Elmwood Park, Borough of Hasbrouck Heights, Borough of Lawnside, Borough of Lodi, Township of Lyndhurst, Borough of Maywood, Township of Medford, Township of Millburn, Borough of Moonachie, Borough of New Providence, Borough of Norwood, Township of Nutley, City of Passaic, Village of Ridgefield Park, Borough of Rockleigh, Borough of Somerville, Borough of Spring Lake, Borough of Wallington, Township of Waterford, Borough of Woodcliff Lake and Borough of Wood-Ridge.

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³ L. 2006, c. 83, signed into law August 4, 2006.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e, within the municipality. The Act, as amended, requires at N.J.S.A. 48:5A-30d that the holder of a systemwide cable television franchise pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D.") program. N.J.S.A. 48:5A-30d further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that are served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable facilities, which were validated as capable of receiving Verizon's services ("FiOS"). Since the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 US Census and mid-2006 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of October 31, 2007 by comparing the number of households in 2000 to those in mid-2006 as estimated by ESRI, and adjusting that trend forward to the 2007 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2006 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of October 31, 2007 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 62 percent to a maximum of 70 percent availability.⁴

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2006 data forward to October 31, 2007 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit ("MDU") households within a particular municipality, and requested additional data from Verizon that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in the Governor's Executive Order No. 25 (2006), which supplemented anti-redlining elements of the

⁴ See Appendix "I" attached.

Act, as amended. Verizon clarified in its discovery responses that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

By letter dated December 14, 2007, CSC TKR, Inc. ("Cablevision") filed a motion to intervene and/or reject the certifications as they relate to Verizon's operations in the City of Passaic and the Borough of Norwood. Based on its own internal records concerning households and requests for underground facility mark-outs as required by the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., Cablevision believes that Verizon is not capable of serving at least 60 percent of the households in the City of Passaic and the Borough of Norwood. In particular, Cablevision questions Verizon's ability to provide its FiOS service to those households served by underground facilities and those in the majority of the MDUs in the City of Passaic and the two MDUs in the Borough of Norwood. Accordingly, Cablevision seeks leave to intervene in the proceeding and requests that the Board provisionally reject Verizon's certifications for these two municipalities subject to further review and demonstration by Verizon that it is currently capable of serving 60 percent of the households in the subject towns. By letter dated December 18, 2007, the Department of the Public Advocate, Division of Rate Counsel recommended approval of Cablevision's motion and deferral of Verizon's certification with respect to the two towns pending resolution of the issues raised by Cablevision in its motion.

After reviewing Cablevision's papers and the information provided in support of the motion, the Board HEREBY FINDS that there are sufficient grounds: 1) to grant Cablevision's intervention in this matter, pursuant to N.J.A.C. 1:1-16.3a, as it will be specifically and directly affected by the outcome of the matter, due to the resulting increase in franchise fees; and 2) to request additional information from Verizon concerning its capability of serving at least 60 percent of the households in the City of Passaic and the Borough of Norwood. Therefore, the Board HEREBY GRANTS Cablevision's motion for intervention in this matter, and DEFERS consideration of Verizon's certifications for the City of Passaic and the Borough of Norwood at this time, pending further investigation. Verizon has agreed to waive the 45 day period for approval or disapproval as contained in N.J.S.A. 48:5A-30g with regard to the certification of these two towns.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 23 remaining municipalities that are the subject of Verizon's petition, and hereby APPROVES Verizon's certification as it relates to them. Attached as Appendix "I" is a list of the 23 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, N.J.S.A. 48:5A-30d requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

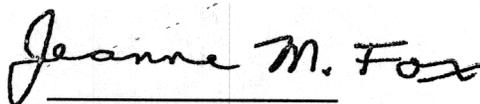
Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30d, each cable operator currently operating in the 23 municipalities listed in Appendix "1" approved under Verizon's certification is HEREBY REQUIRED, to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

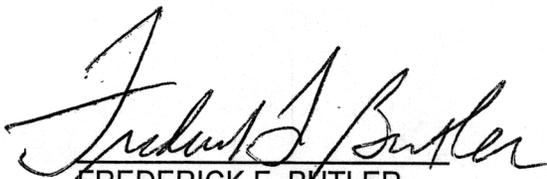
Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

DATED: 12/21/07

BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER

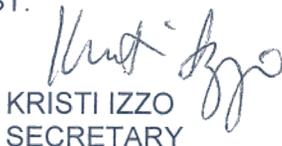


JOSEPH L. FIORDALISO
COMMISSIONER



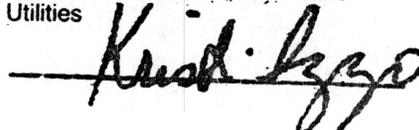
CHRISTINE V. BATOR
COMMISSIONER

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



APPENDIX "I"

| Municipality | County | Percentage |
|---------------------------|------------|------------|
| Barrington Borough | Camden | 62% |
| Carlstadt Borough | Bergen | 64% |
| Clifton City | Passaic | 64% |
| Denville Township | Morris | 63% |
| Elmwood Park Township | Bergen | 63% |
| Hasbrouck Heights Borough | Bergen | 65% |
| Lawnside Borough | Camden | 65% |
| Lodi Borough | Bergen | 64% |
| Lyndhurst Township | Bergen | 62% |
| Maywood Borough | Bergen | 63% |
| Medford Township | Burlington | 63% |
| Millburn Township | Essex | 65% |
| Moonachie Borough | Bergen | 70% |
| New Providence Borough | Union | 65% |
| Nutley Township | Essex | 66% |
| Ridgefield Park Village | Bergen | 62% |
| Rockleigh Borough | Bergen | 63% |
| Somerville Borough | Somerset | 65% |
| Spring Lake Borough | Monmouth | 64% |
| Wallington Borough | Bergen | 68% |
| Waterford Township | Camden | 67% |
| Woodcliff Lake Borough | Bergen | 62% |
| Wood-Ridge Borough | Bergen | 65% |

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