

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 within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) 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 conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of Allison Cole-Best, 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 television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because 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-2007 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of September 30, 2008 by comparing the number of households in 2000 to those in mid-2007 as estimated by ESRI, and adjusting that trend forward to the 2008 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for 2007 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 September 30, 2008 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 65 percent in the Borough of Red Bank to a maximum of 79.41 percent availability in the Borough of Pennington.⁴

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2007 data forward to September 30, 2008 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 several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures located in underground utility

⁴See Appendix "I" attached.

service areas within a particular municipality and multiple-dwelling unit (MDU) structures located in both aerial and underground utility service areas within a particular municipality.

Furthermore, staff 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 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 represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. At staff's request, Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that it is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in each of the 19 listed municipalities, and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 19 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.

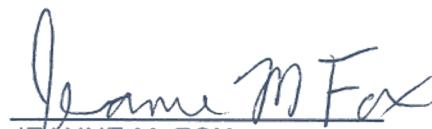
Each cable television operator currently operating in the 19 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from 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 television 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, pursuant to N.J.A.C. 14:18-15.7(d).

Cable television 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: 12/18/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
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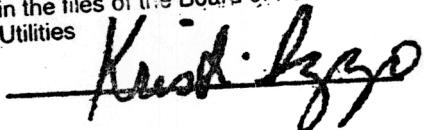

NICHOLAS ASSELTA
COMMISSIONER


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



APPENDIX "I"

Municipality	County	Percentage
Cedar Grove Township	Essex	66.62%
East Hanover Township	Morris	71.67%
Englishtown Borough	Monmouth	73.12%
Fairfield Township	Essex	66.68%
Freehold Borough	Monmouth	65.45%
Hamilton Township	Mercer	69.48%
Hopewell Township	Mercer	69.16%
Loch Arbour Village	Monmouth	77.37%
Madison Borough	Morris	70.30%
Montvale Borough	Bergen	68.78%
Morristown Town	Morris	65.68%
Pennington Borough	Mercer	79.41%
Ramsey Borough	Bergen	70.91%
Red Bank Borough	Monmouth	65.00%
Rockaway Township	Morris	65.77%
Roosevelt Borough	Monmouth	69.68%
Saddle River Borough	Bergen	76.40%
West Orange Township	Essex	67.17%
Woodbury City	Gloucester	65.65%

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