



Agenda Date: 5/8/08  
Agenda Item: 3

**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 VERIZON NEW JERSEY, INC.  
CERTIFICATION OF CAPABILITY TO PROVIDE ) ORDER  
CABLE TELEVISION SERVICE TO 60 PERCENT OF )  
HOUSEHOLDS IN 11 DESIGNATED MUNICIPALITIES ) BPU DOCKET NO. CO08040206

(SERVICE LIST ATTACHED)

BY THE BOARD

On April 3, 2008, 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 11 municipalities.<sup>1</sup> Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities<sup>2</sup> pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").<sup>3</sup> Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 358 municipalities. The Act, as amended, allows for the granting of competitive systemwide franchises for providers of cable television service by the Board. 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.

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

<sup>1</sup> The 11 municipalities included in Verizon's application are Borough of Berlin, Borough of Chatham, Borough of East Rutherford, Town of Kearny, Township of Montclair, Borough of National Park, Borough of North Arlington, Borough of Pitman, Borough of Rocky Hill, Borough of Rutherford, and Borough of Woodbury Heights.

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

<sup>3</sup> L. 2006, c. 83, signed into law August 4, 2006.

by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e. 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 television 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 February 29, 2008 by comparing the number of households in 2000 to those in mid-2006 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 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 February 29, 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 to a maximum of 83.5 percent availability.<sup>4</sup>

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 February 29, 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 and multi-dwelling unit ('MDU') structures located in underground utility service areas within a particular municipality.

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See Appendix "I" attached

Furthermore, staff requested additional data from Verizon that the MDUs in the affected municipalities (in both aerial and underground service areas) 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 FINDS that Verizon 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 11 listed municipalities, and hereby APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 11 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 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 television 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 television 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 television companies first bill their customers 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 television operator currently operating in the 11 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-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 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.

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: 5/9/08

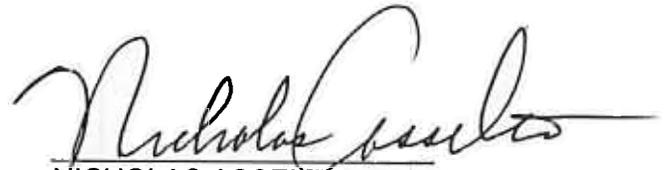
BOARD OF PUBLIC UTILITIES  
BY:

  
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FREDERICK F. BUTLER  
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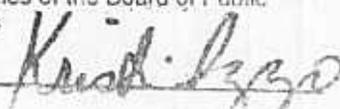
  
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COMMISSIONER

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"

<b>Municipality</b>	<b>County</b>	<b>Percentage</b>
Berlin Borough	Camden	65.0%
Chatham Borough	Morris	68.4%
East Rutherford Borough	Bergen	65.4%
Kearny Town	Hudson	78.8%
Montclair Township	Essex	65.9%
National Park Borough	Gloucester	83.5%
North Arlington Borough	Bergen	66.5%
Pitman Borough	Gloucester	68.2%
Rocky Hill Borough	Somerset	70.1%
Rutherford Borough	Bergen	65.9%
Woodbury Heights Borough	Gloucester	82.4%

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