



Agenda Date: 4/11/12

Agenda Item: IIIB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.) ORDER
CERTIFICATION OF CAPABILITY TO PROVIDE)
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN THE TOWNSHIP OF HILLSIDE)
AND THE TOWNSHIP OF TOMS RIVER) DOCKET NO. CO12020179

Parties of Record:

William D. Smith, Esq., Assistant General Counsel, Mid Atlantic Region, Verizon, for Verizon New Jersey, Inc.
Dennis C. Linken, Esq., Scarinci & Hollenbeck, for Comcast
Sidney A. Sayovitz, Esq., Schenck, Price, Smith & King, for Cablevision
Stefanie A. Brand, Director, Division of Rate Counsel

BY THE BOARD

On February 28, 2012, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) 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 the Township of Hillside and the Township of Toms River. Notice was provided, pursuant to N.J.A.C. 14:18-15.7(b)(2), to both municipalities and the cable television company or companies serving the municipalities.

Verizon was granted a system-wide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities¹ pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").² Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 370 municipalities. The Act, as amended, allows for the granting of competitive system-wide

¹Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

²L.2006, c.83, signed into law August 4, 2006.

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 system-wide 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 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 system-wide 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 system-wide 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 system-wide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that is 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 Kevin N. Smith, 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 U.S. Census and mid-2010 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of January 31, 2012 by comparing the number of households in 2000 to those in mid-2010 as estimated by ESRI, and adjusting that trend forward to the 2012 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for mid-2010 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 January 31, 2012 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; in Hillside Township, 66 percent and in Toms River Township, 71 percent.³

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2010 data forward to January 31, 2012 and estimate the number of households within both municipalities for the purpose of converting Verizon's FiOS validated residential address data to households capable

³See Appendix "I" attached.

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 Township of Hillside and the Township of Toms River 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 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 reviewed additional data from Verizon demonstrating 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 Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon also provided data indicating 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. 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 the Township of Hillside and the Township of Toms River and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the two 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 Township of Hillside and the Township of Toms River 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 effective date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d) and N.J.S.A. 48:2-40.

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

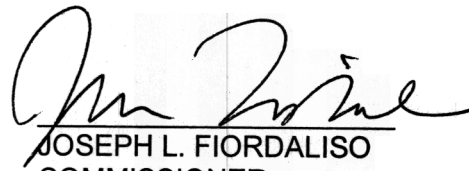
This order shall be effective on April 23, 2012.

DATED: 4/11/12

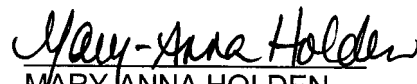
BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
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
Hillside Township	Union	66%
Toms River Township	Ocean	71%

I/M/O VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY
TO PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS
IN THE TOWNSHIP OF HILLSIDE AND THE TOWNSHIP OF TOMS RIVER
BPU DOCKET NO. CO12020179

SERVICE LIST

William D. Smith, Esq.
Assistant General Counsel
Verizon
One Verizon Way
VC54S222
Basking Ridge, NJ 07920

Sidney A. Sayovitz, Esq.
Schenck, Price, Smith & King
PO Box 991
Florham Park, NJ 07932-0991

Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
1100 Valley Brook Avenue
PO Box 790
Lyndhurst, NJ 07071-0790

Adam Falk, Vice President
Government and Public Affairs
Cablevision Systems Corporation
1111 Stewart Avenue
Bethpage, NY 11714-3581

William Kettleon, Vice President
Comcast
1191 Fries Mill Road
Franklinville, NJ 08322

Lawanda R. Gilbert, Acting Director
Board of Public Utilities
Office of Cable Television
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

William H. Furlong, Bureau Chief
Karen A. Marlowe, Admin. Analyst I
Richard Wagenblast, Admin. Analyst I
Steven Rastatter, Telco Sys Analyst
Board of Public Utilities
Office of Cable Television
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

Geoffrey R. Gersten
Deputy Attorney General
State of New Jersey, Division of Law
124 Halsey Street
PO Box 45029
Newark, New Jersey 07101

Stefanie Brand, Director
Division of Rate Counsel
31 Clinton Street, 11th Floor
P O Box 46005
Newark, NJ 07102

Chris White, Esq.
Division of Rate Counsel
31 Clinton Street, 11th Floor
PO Box 46005
Newark, NJ 07102