



Agenda Date: 4/3/09  
Agenda Item: 3B

**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  
CABLE TELEVISION SERVICE TO 60 PERCENT OF )  
HOUSEHOLDS IN SEVEN DESIGNATED  
MUNICIPALITIES

ORDER

BPU DOCKET NO. CO09020140

(SERVICE LIST ATTACHED)

BY THE BOARD

On February 17, 2009, 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 seven 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 359 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.

---

<sup>1</sup>The seven municipalities included in Verizon's application are Allentown Borough, Berkeley Heights Township, Brielle Borough, Chesterfield Township, Manasquan Borough, Wall Township and Winfield Township.

<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.

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 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 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 January 31, 2009 by comparing the number of households in 2000 to those in mid-2007 as estimated by ESRI, and adjusting that trend forward to the 2009 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for mid-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 January 31, 2009 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 66.17 percent in the Township of Berkeley Heights to a maximum of 88.13 percent availability in the Borough of Allentown.<sup>4</sup>

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 January 31, 2009 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.

---

<sup>4</sup>See Appendix "I" attached.

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 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 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 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 seven listed municipalities, and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the seven 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 seven 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: 4/3/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

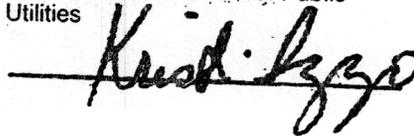
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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"

<b>Municipality</b>	<b>County</b>	<b>Percentage</b>
Allentown Borough	Monmouth	88.13%
Berkeley Heights Township	Union	66.17%
Brielle Borough	Monmouth	68.39%
Chesterfield Township	Burlington	66.71%
Manasquan Borough	Monmouth	69.85%
Wall Township	Monmouth	69.46%
Winfield Township	Union	68.56%

## SERVICE LIST

Richard Chapkis, Esq.  
Vice President and General Counsel  
Verizon New Jersey, Inc  
540 Broad Street, Floor 20  
Newark, NJ 07102

Hesser G. McBride, Jr., Esq.  
Wilentz, Goldman & Spitzer P.A.  
90 Woodbridge Center Drive  
Suite 900, Box 10  
Woodbridge, NJ 07095-0958

William Kettleson, Vice President  
Comcast  
One Cable TV Lane  
Sicklerville, NJ 08081

Dennis C. Linken, Esq.  
Stryker, Tams and Dill  
Two Penn Plaza East  
Newark, NJ 07105

Adam Falk, Vice President  
Cablevision  
683 Route 10 East  
Randolph, NJ 07869

Sidney A. Sayovitz, Esq.  
Schenck, Price, Smith & King  
PO Box 905  
Morristown, NJ 07963

Celeste Fasone, Director  
Board of Public Utilities  
Office of Cable Television  
Two Gateway Center  
Newark, NJ 07102

William H. Furlong, Bureau Chief  
Karen A. Marlowe, Admin. Analyst I  
Richard Wagenblast, Admin. Analyst  
Board of Public Utilities  
Office of Cable Television  
Two Gateway Center  
Newark, NJ 07102

Lawanda Gilbert, Esq.  
Legal Specialist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Kenneth J. Sheehan  
Deputy Attorney General  
State of New Jersey, Division of Law  
124 Halsey Street  
Newark, New Jersey 07101

Ronald Chen, Public Advocate  
Department of the Public Advocate  
240 West State Street  
16<sup>th</sup> Floor  
Trenton, NJ 08625-0851

Chris White, Esq.  
Division of the Rate Counsel  
Department of Public Advocate  
31 Clinton Street  
Newark, NJ 07102