Agenda Date: 11/9/04
Agenda Item: III C

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF CABLEVISION OF MONMOUTH, INC. FOR RENEWAL OF A CERTIFICATE OF APPROVAL TO CONTINUE TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE BOROUGH OF SPRING LAKE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY	)	RENEWAL CERTIFICATE OF APPROVAL DOCKET NO. CE04040239

SERVICE LIST ATTACHED

BY THE BOARD:

On April 27, 1978, the Board granted Monmouth Cablevision Associates ("MCA") a Certificate of Approval in Docket No. 765C-6167 for the construction, operation and maintenance of a cable television system in the Borough of Spring Lake ("Borough"). On April 8, 1994, the Board issued a Renewal Certificate of Approval in Docket No. CE93060225 to MCA. On May 17, 1994, the Board approved the sale of MCA to Cablevision of Monmouth, Inc. ("Petitioner"), in Docket No. CM93120537. The Petitioner is now known as Cablevision of Monmouth, LLC. Although the Petitioner's above referenced Certificate expired on April 27, 2003, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on or about July 26, 2002, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On October 21, 2003, after public hearing, the Borough adopted an ordinance granting renewal municipal consent to the Petitioner. On February 11, 2004, the Petitioner accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

On April 5, 2004, pursuant to N.J.S.A. 48:5A-16, Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the Borough in conjunction with the municipal consent process.

2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.

3. The Petitioner has represented that all previously required construction within the franchise territory is complete.

4. The franchise period as stated in the ordinance is ten years. The Board finds this period to be of reasonable duration.

5. The Borough has reserved the right to review the performance of the Petitioner with regard to the ordinance and seek redress administratively through the Board. At the end of the first five years after the issuance of this Certificate, the Borough shall have the right to conduct a review to determine whether the Petitioner has substantially complied with the material obligations under the ordinance. If the Borough determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Borough shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner an opportunity to cure such deficiency within six months. If the Petitioner does not cure the deficiency, the Borough may petition the Board for appropriate administrative action.

6. The Petitioner shall install cable in all residences in the Borough at tariffed rates for standard and non-standard installation. Commercial establishments shall be constructed in accordance with the Petitioner's commercial line extension policy attached to this Certificate as Appendix "I".

7. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.

8. Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Borough. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with applicable rules.

9. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 1501 18th Avenue, in Wall Township.

10. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.

11. The Petitioner shall provide public, educational and governmental ("PEG") access services, equipment and facilities as described in the application and the ordinance.

Upon the reasonable request of the Borough and/or the Borough's Board of Education, the Petitioner shall provide a training session in video production, which will include technical assistance and, if appropriate, access to necessary equipment on a temporary basis to use for the training session. The Petitioner shall provide one composite PEG access channel for use by the Borough, which may be shared by residents of other municipalities in the area, for non-commercial programming.

12. The Petitioner shall provide the Borough with a one-time grant of $9,000.00 to be used by the Borough for cable and/or other telecommunications related purposes.

13. In the event that the Petitioner shall have any usable production equipment that it intends to discard from its PEG access studio, if reasonably feasible to do so, it shall donate such equipment to the Borough prior to its disposal. Upon receipt of a written request of the Borough, the Petitioner shall inform the Borough whether it has such equipment to donate. Any equipment which is donated to the Borough shall be used for the production of non-commercial PEG access programming by the Borough and its residents.

14. Upon written request of the Borough, the Petitioner shall provide, free of charge, one standard installation and monthly basic cable service, to all state or locally accredited elementary and secondary schools and all municipal public libraries; as well as the following municipal buildings in the Borough: a) the Borough hall; b) the police department; c) Spring Lake Fire Company #1; d) the department of public works; e) Erbe South End Pavilion & Beach Office; f) Goodwill Fire Company #2; g) community center building; and h) the first aid squad.

15. Upon written request of the Borough, the Petitioner shall provide one cable modem and Internet access service, including standard installation, free of charge, to all state or locally accredited elementary and secondary public schools and all municipal public libraries within the Borough.

16. Upon written request of the Borough, the Petitioner shall provide one cable modem and Internet access service including standard installation, free of charge, to the Borough Hall. The Borough shall be permitted, at its own cost, to network up to three additional personal computer terminals to the cable modem provided to the Borough.

17. The Petitioner shall implement a senior citizens discount in the amount of 10% of the basic monthly service for persons meeting the eligibility requirements, pursuant to N.J.S.A. 30:4D-21 and N.J.A.C. 14:18-3.20.

Based upon these findings, the Board **HEREBY CONCLUDES** that, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready to comply with all applicable rules and regulations imposed by or pursuant to State and federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system for the entirety of the

Borough.

This Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq. including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire April 27, 2013.

DATED: 11/10/04

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M. Fox
JEANNE M. FOX
PRESIDENT

Frederick F. Butler
FREDERICK F. BUTLER
COMMISSIONER

Connie O. Hughes
CONNIE O. HUGHES
COMMISSIONER

JACK ALTER
COMMISSIONER

ATTEST:

Kristi Izzo
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

Kristi Izzo

Company Cablevision of Monmouth.
Municipality Borough of Spring Lake

CABLEVISION

COMMERCIAL LINE EXTENSION RATE POLICY

1. Intent. It is the intent of CABLEVISION that a rate policy be established under which any businesses within the company's franchise areas would have the opportunity to obtain cable television service.

2. Applicability. This line extension rate shall apply to all cable television service extensions, aerial and underground, on public and private lands, provided by CABLEVISION.

3. Definitions.

(a) Line or Service. That situation where the company must extend its existing trunk line and/or distribution cable in order to make a tap available from which a drop line can be run so as to provide cable television service to the applicant's premises. The line or service extension shall include, but not be limited to, all poles, cables, amplifiers, extenders, splitters, taps, right-of-way acquisitions and clearing, trenching, backfilling and any other one-time costs incurred by CABLEVISION in connection with extending service to the applicant. A line or service extension shall not include facilities provided by CABLEVISION pursuant to its applicable installation rates then existing.

(b) Applicant. Any person, firm, corporation or association that applies to CABLEVISION for service to a commercial establishment in the franchise area.

(c) Commercial Establishment. Any building or structure, or portion thereof, not used for residential purposes including, but not limited to, profit and non-profit corporations or associations, which has requested the installation of cable television service requiring line or service extension as defined herein.

(d) Drop Line. That cable which connects the subscriber's television receiver to the cable transmission system by way of a tap.

(e) Tap. A connecting device inserted in the cable transmission line which allows for the connection of a drop line. An aerial or underground "drop line" constitutes a transmission cable running from the distribution or feeder cable to the subscriber's connection or receiver.

(f) Trunk Line. Transmission cable running from headend to trunk amplifiers and through each trunk amplifier in cascade in the system from which connections for distribution and feeder cable are provided.

(g) Distribution or Feeder Cable. Transmission cable which extends from the distribution amplifiers serving specific areas within the system and from which drop lines are extended.

(h) Qualified Subscriber. Any applicant who, as a potential subscriber, has committed to purchase at least the basic service from CABLEVISION for a period of not less than two (2) years.

4. Schedule.

(a) Within thirty (30) days after the date on which the service is requested, but not more than ninety (90) days from the date upon which the request for service was made, CABLEVISION shall furnish the applicant with (1) an estimate request form, (2) a copy of this line extension policy, and (3) notification that service can only be provided by means of a line or service extension.

(b) If the applicant requests a written estimate within thirty (30) days after being advised that service can only be provided by means of a line or service extension, CABLEVISION shall, within sixty (60) days of such request, furnish a written estimate, a construction schedule, and a service extension contract to be signed by the applicant.

(c) The applicant must return a signed service extension agreement within thirty (30) days after receipt of the material described in Paragraph (b) together with a check in the amount of $50.00 representing a service extension deposit which will be credited against the applicant's contribution in aid of construction invoice to the applicant which must be signed and returned to CABLEVISION with the full payment before construction will commence.

(d) If the applicant fails to meet any of the applicable deadlines or any of the terms herein before set forth without the approval of CABLEVISION, any obligations pertaining to the proposed line or service extension shall cease and be of no further force or effect.

5. Commercial Line Extension Rate Charges.

A commercial establishment requesting line or service extension shall bear all of the following costs to make a tap available from which a drop line may be installed:

(a) The actual cost to CABLEVISION of materials and equipment necessary to make service available plus shipping charges and applicable taxes.

(b) The actual labor costs incurred by CABLEVISION, exclusive of benefits.

(c) The actual costs of designs, surveys, prints and engineering or other such labor involved in the preparation or actual construction required.

(d) The direct costs of any easements, make-ready or other third party actions required to perform and complete construction such as, but not limited to, power companies, telephone companies, road work, trenching or the like.

(e) In addition, the applicant shall pay to CABLEVISION a sum equal to twenty percent (20%) of the entire actual cost of construction as set forth above.

(f) In the event additional commercial subscribers come on-line in an area in which service extension has been provided in accordance herewith, each additional subscriber shall, in addition to the applicable installation rate, be required to contribute their pro-rata share of the original construction costs. Said pro-rata share shall be derived by dividing the original construction cost by the number of then existing on-line subscribers including the additional subscriber(s).

(g) Any funds collected from additional subscribers will be retained by CABLEVISION in an interest-bearing account and distributed equitably so as to equalize all subscriber construction contributions. Distribution will be made two years after the original service extension was provided. After said two year period, there shall be no further apportionment of the original construction cost.

6. Record Keeping and Annual Reports. CABLEVISION shall maintain appropriate records of its costs, subscriber and applicant billings, and revenues resulting from a request for or the construction of a service extension.

7. Ownership of Facilities. CABLEVISION shall own and maintain the facilities for which a service extension is made and any applicant-subscriber shall not acquire any interest herein.

8. Method of Service Extension. CABLEVISION reserves the right to provide either an aerial or underground service extension.

9. Term of Service. The minimum term of at least basic subscriber service for an applicant requesting service extension, or his successors and assigns, shall be twenty-four (24) months after the service extension has been energized. Said term shall be guaranteed by the applicant in the service extension contract specified in Paragraph 4(c) hereof.

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