



Agenda Date: 1/28/09
Agenda Item: IIIA

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF CABLEVISION) RENEWAL
OF OAKLAND, LLC FOR RENEWAL OF A CERTIFICATE) CERTIFICATE OF APPROVAL
OF APPROVAL TO CONTINUE TO OPERATE AND)
MAINTAIN A CABLE TELEVISION SYSTEM IN THE)
BOROUGH OF RINGWOOD, COUNTY OF PASSAIC,)
STATE OF NEW JERSEY) DOCKET NO. CE08090399

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 11, 1974, the Board granted Micro-Cable Communications Corporation ("Micro-Cable") a Certificate of Approval, in Docket No. 735C-5017, for the construction, operation and maintenance of a cable television system for certain areas in the Borough of Ringwood ("Borough"). On October 22, 1974, the Board issued a supplemental Certificate of Approval to Micro-Cable for the entirety of the Borough. On March 26, 1982, the Board granted Micro-Cable a Renewal Certificate of Approval for the Borough in Docket No. 801C-6623. Through a series of transfers with required Board approvals, TCI of Northern New Jersey, Inc. ("TCI") became the holder of the Certificate. On February 4, 1998, the Board granted a Renewal Certificate of Approval to TCI in Docket No. CE97050348. Through a series of subsequent transfers with the required Board approvals, the current holder of the Certificate is Cablevision of Oakland, LLC ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on March 26, 2007, the Petitioner 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 June 27, 2006, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On September 20, 2006, the Borough, after public hearing, passed a resolution indicating its intention to grant renewal municipal consent to the Petitioner and setting forth its underlying reasons. On March 20, 2008, the Borough adopted a municipal ordinance granting renewal consent to the Petitioner. On June 5, 2008, the Petitioner formally accepted the terms and conditions of the ordinance. On September 2, 2008, pursuant to N.J.S.A. 48:5A-16, the 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 Renewal Certificate of Approval. Further, the Borough reviewed these qualifications 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 15 years from the date of issuance of this Certificate. The Board finds this period to be of reasonable duration.
- 5 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 an informational schedule of prices, terms and conditions for unregulated service and promptly file any revisions thereto.
- 6 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 the applicable rules.
- 7 The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The current local office is located at 40 Potash Road in the Borough of Oakland, New Jersey.
- 8 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 and shall be increased as required by N.J.S.A. 48:5A-30. 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.
- 9 The Petitioner shall install cable in all residences in the Borough at tariffed rates for standard and non-standard installation. Installations to commercial establishments shall be constructed in accordance with the Petitioner's commercial line extension policy attached to this Certificate as Appendix "I."
- 10 The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. The Petitioner shall provide two channels for PEG access purposes.

The channels are available for use by schools, libraries, religious, government and other organizations within the community wishing to cablecast their non-commercial programming. Entities with radiant gear set up and fiber return feed may cablecast directly from their own facilities; otherwise, it is necessary to deliver tapes to the Petitioner's Oakland studio for playback into the local hub area.

11. The Petitioner shall provide the Borough with a capital contribution for cable and/or telecommunications related purposes in the total amount of \$32,500.00 as follows: \$12,900.00 within the first year and, within 60 days of receipt of the Borough's annual written request, \$1,400.00 per year for the following 14 years. The Petitioner shall be relieved of any remaining payments if it converts its system to a system-wide franchise as provided by N.J.S.A. 48:5A-25.1a. Upon payment of each portion of the contribution, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
12. The Petitioner maintains access studios for use by interested groups for production of PEG access programming and provides television production training. Use of the access studios, equipment and editing facilities shall be available free of charge to interested groups on a first-come, first-served basis. The Petitioner also provides some remote equipment for use on field shoots.
13. Upon request of the Borough, the Petitioner shall provide one standard installation and monthly cable service, free of charge, to all state and local accredited elementary and secondary schools, all public municipal libraries and municipal buildings located in the Borough.
14. Upon written request of the Borough, the Petitioner shall provide, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to one municipally-owned facility at the Borough's choosing.
15. Upon written request of the Borough, the Petitioner shall provide, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to each state or locally accredited elementary and secondary school, and each municipal public library in the Borough.
16. The Petitioner shall implement a senior citizens discount program in the Borough in the amount of 10% off the monthly rate for basic service for senior citizens who meet the income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled ("PAAD") program, as allowed by N.J.S.A. 48:5A-11.2. If the Petitioner shall be required to increase the franchise fee in accordance with N.J.S.A. 48:5A-30d, then at such time as the new fee is instituted, the Petitioner shall no longer be obligated to maintain or offer a senior citizens discount. Notice of discontinuance of the discount shall be provided in accordance with N.J.A.C. 14:18-3.20(b).

It is noted here that a provision of the Borough's ordinance contains language contrary to the provisions of the New Jersey State Cable Act, N.J.S.A. 48:5A-1 et seq. The provision found in "Section 18. Equitable Terms" states:

In the event that another multi-channel video provider obtains the right to provide video service within the Borough through a statewide, system-wide, regional or other non-municipally governed franchising process, and to the extent that such other provider's franchise does not contain a Grant either equal to or greater than the amount of the Grant provided by Cablevision in Section 20(C) of this ordinance, the Borough agrees to relieve the Company of its obligations to provide the annual Grant beginning from the date that the other multi-channel video provider obtains the right to provide service and continuing through the expiration of the initial term of this Ordinance.

The Petitioner cannot reserve to its sole discretion the ability to alter its commitments. Furthermore, the Petitioner cannot modify its franchise obligations without any review or approval by the Board. While the parties may consider modifying the terms and conditions of an ordinance at any time, any modification to the ordinance would require an agreement between the parties and a formal petition for approval to the Board, pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. Board Staff recommended that this provision be removed because it is not in compliance with the aforementioned statute and regulation.

The alteration is supported by N.J.S.A. 48:5A-47, which provides that:

[t]he board may, after affording the holder an opportunity to be heard, revoke, suspend or alter any certificate of approval or franchise for the violation of any provisions of [the State Cable Act] or the rules, regulations or orders made under the authority of [the State Cable Act], or for other reasonable cause, upon a finding that the revocation, suspension or alteration will not adversely affect the public interest in the provision of safe, adequate and proper cable television service in this State.

Board Staff sent notices to the Borough Clerk and Petitioner on October 23, 2008 informing the parties of Staff's intent to recommend that the Board strike the provision of the ordinance at issue. On November 10, 2008, the Petitioner filed a letter stating that it did not object to the removal of this language from the Borough's ordinance. The Borough filed no comments. Therefore, pursuant to N.J.S.A. 48:5A-47, finding that the provision is not in compliance with the State Cable Act (N.J.S.A. 48:5A-1 et seq.) and N.J.A.C. 14:17-6.7 and that such alteration will not adversely affect the public interest, the Board FINDS that the provision shall be removed from the Borough's ordinance. Accordingly, this Certificate strikes that provision from the Borough's ordinance and the provision is not to be considered effective herein.

Based upon these findings, the Board HEREBY CONCLUDES, 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., except as modified above, that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or 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 within the entirety of the Borough.

This Renewal 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 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 of 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

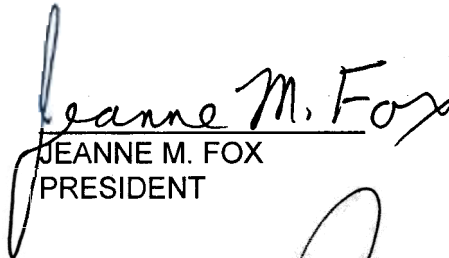
Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

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.

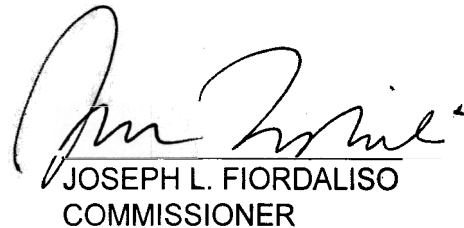
This Certificate shall expire 15 years from the date of its issuance.

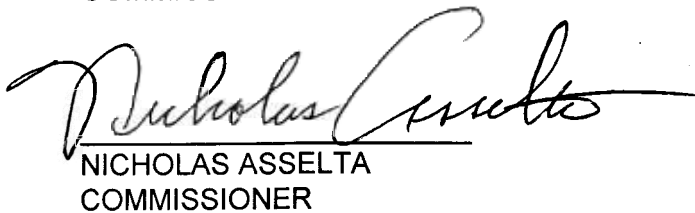
DATED: 1/28/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

APPENDIX "I"
CABLEVISION OF OAKLAND, LLC
BOROUGH OF RINGWOOD

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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