



Agenda Date: 8/22/07

Agenda Item: 3A

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 CSC TKR,)
INC. D/B/A CABLEVISION OF RARITAN VALLEY) AUTOMATIC RENEWAL
FOR RENEWAL OF A CERTIFICATE OF APPROVAL) CERTIFICATE OF APPROVAL
TO CONTINUE TO OPERATE AND MAINTAIN A)
CABLE TELEVISION SYSTEM IN THE BOROUGH)
OF SAYREVILLE, COUNTY OF MIDDLESEX,)
STATE OF NEW JERSEY) DOCKET NO. CE06110787

SERVICE LIST ATTACHED

BY THE BOARD:

On August 3, 1979, the Board granted Cross Country Cable III ("Cross Country") a Certificate of Approval in Docket No. 794C-6458, for the construction, operation and maintenance of a cable television system in the Borough of Sayreville ("Borough"). Through a series of transfers with the required Board approvals, TKR Cable Company/Tri-System ("TKR") became the holder of the Certificate, and on November 6, 1996, the Board granted TKR an Order Adopting Initial Decision/Settlement Including an Order of Severance and Renewal Certificate of Approval for the Borough in Docket No. CE94040117. Through a series of subsequent transfers, with the required Board approvals, the current holder of the Certificate is CSC TKR, Inc. d/b/a Cablevision of Raritan Valley ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on November 6, 2006, 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.

On October 3, 2006, the Petitioner filed notice with Office of Cable Television staff and the Borough that it intended to proceed in accordance with the automatic renewal provision of its Certificate of Approval. On November 3, 2006, the Petitioner filed with the Board for Automatic Renewal of its Certificate of Approval for the Borough, pursuant to N.J.S.A. 48:5A-16, -19 and -25, and N.J.A.C. 14:17-6.9 and 14:18-13.6, for a term to expire on November 6, 2016. On November 13, 2006, the Borough submitted a letter requesting that the Board not issue the Automatic Renewal Certificate of Approval so that it might negotiate a new agreement with the Petitioner. On December 12, 2006, the Borough issued a municipal report outlining the past performance of the Petitioner and the Borough's future cable related needs.

Pursuant to the Board's procedures governing automatic renewals at N.J.A.C. 14:18-13.6, a municipality must notify the cable television company and the Office of Cable Television within sixty (60) days prior to the expiration of the initial term of the franchise that it will deny renewal of the franchise. Prior to such notification, the municipality must hold a public hearing with 30 days notice to the public and the cable television company, and provide substantial evidence in the record leading to a finding that the cable operator has failed to meet the necessary criteria for granting renewal of the Certificate of Approval. Although the Borough was informed of the requirements of N.J.A.C. 14:18-13.6 on several occasions, it failed to provide the necessary notices of intent not to accept renewal, and failed to timely hold the requisite public hearing. In addition, the Borough's report did not provide substantial evidence that the Petitioner had failed to meet any or all of the criteria specified under N.J.A.C. 14:18-13.7(a)1-4, as required.

On February 23, 2007, the Office of Cable Television sent a letter to the Borough asking for documentation that it had proceeded in accordance with N.J.A.C. 14:18-13.6 in making its decision not to accept the automatic renewal. In its letter, the Office of Cable Television indicated that if no further documentation was received, it would recommend to the Board that it approve the Automatic Renewal Certificate of Approval. No response was received from the Borough.

The Board notes that the procedural rules provided at N.J.A.C. 14:18-13.6, unless expressly waived by this Board, must be satisfied prior to the issuance of a notice of intention not to accept an automatic renewal. The Borough did not request a waiver prior to the expiration of the initial term, and stated that it did not have the opportunity to conduct the required proceedings; however, the Board notes that the Office of Cable Television notified the Borough in writing on December 2, 2003 that it was entering the three year "review period" during which a municipality may determine the fitness of a cable television company and the capability of the cable television company to meet the municipality's future cable related needs. In addition, the Borough was notified several times verbally by Office of Cable Television staff of the applicable rules and regulations. The Borough conducted proceedings during this time but did not issue a municipal report or a denial of franchise until after the initial franchise term expired. The report, when finally filed, did not demonstrate substantial noncompliance with the criteria articulated in N.J.A.C. 14:18-13.7(a).

Additionally, with respect to the Borough's request for additional time to negotiate a new agreement with the Petitioner, the Board notes that, although the Petitioner is not required to renegotiate the franchise, N.J.A.C. 14:18-13.6 requires that any renegotiation of the terms must be submitted to the Board for approval as an amended consent ordinance at least 60 days prior to the expiration of the initial certificate which in this case occurred on November 6, 2006.

In light of the Borough's failure to timely issue a notice not to accept the automatic renewal, and its failure to present substantial evidence that the Petitioner has not met the criteria of N.J.A.C. 14:18-13.7, and given the requirement of N.J.A.C. 14:18-13.6 that the Board issue the renewal in the absence thereof, the Board HEREBY **DENIES** the Borough's request to not issue the Certificate of Automatic Renewal.

The Board has reviewed the petition for an Automatic Renewal Certificate of Approval and the application filed therein by the Petitioner. 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.
2. The design and technical specifications of the system will 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. It is noted here that the Borough's municipal consent ordinance required the Petitioner to maintain a performance bond in the amount of \$75,000.00 above the statutorily mandated \$25,000.00 until the completion of the rebuild in the Borough. The rebuild was completed in 1996 and the Petitioner requested the Borough release it from its obligation to maintain this bond by letter dated November 7, 2002. However, the Petitioner never filed a formal request with the Board. The Petitioner has completed all required construction in the Borough, and therefore, the Petitioner is hereby released from the requirement to maintain an additional performance bond in the amount of \$75,000.00 for the Borough.
4. The franchise period for the automatic renewal as stated in the ordinance is ten years, in conformance with N.J.S.A. 48:5A-19, N.J.S.A. 48:5A-25, and N.J.A.C. 14:18-13.6. 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 informational tariffs for unregulated service rates 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 Borough's Cable Advisory Board. All complaints shall be received and processed in accordance with the applicable rules. The Petitioner shall provide to the Advisory Board, on a monthly basis, a summary of the reasons for all complaints, the action taken by the Petitioner, and if the problem was not resolved, why it was not resolved.
7. 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 275 Centennial Avenue, Piscataway, New Jersey. In addition, the Petitioner shall maintain a local office in the Borough for the purpose of receiving customer payments and complaints and for returning and exchanging equipment. The current location of this facility is 499 Ernston Road, Parlin, 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 or any additional amount thereafter 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

unless such amount is increased as required by N.J.S.A. 48:5A-30. The Board finds these fees to be reasonable.

9. The Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate as Appendix "I" with a minimum homes per mile figure of 35.
10. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with the Borough's ordinance and its application. Specifically, the Petitioner provides one system-wide community/governmental access channel for use by subscribers, organizations and entities served by the cable television system, which is shared with its local origination channel. The Petitioner also provides one system-wide PEG access channel. The Petitioner provides coverage of local events and happenings. The Petitioner maintains a local access studio in Piscataway Township for production of programming by PEG access users in the Petitioner's system after completion of a training course.
11. The Petitioner shall continue to provide free basic service of one outlet to each school and public library currently receiving free service as well as to the Borough Public Works Building, the Morgan First Aid Squad, Sayreville Emergency Squad, Sayreville Engine Company No. 1, Melrose Hose Company No. 1, Morgan Hose and Chemical Company and the President Park Fire Company.
12. The Petitioner shall make a representative available to meet on a quarterly basis for the purpose of reviewing the Petitioner's performance. The Borough's Cable Advisory Board shall provide at least 30 days' notice to the Petitioner of the meeting and of the matters to be discussed in order that the Petitioner sends the appropriate personnel to discuss them. The Petitioner shall make its general manager or the equivalent available for one meeting a year to review the Petitioner's performance.

Based upon these findings, the Board **HEREBY CONCLUDES** that the Petitioner has previously secured the municipal consent necessary to support the petition, that such consent has not been effectively revoked, 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, 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 Automatic 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 Board, 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 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

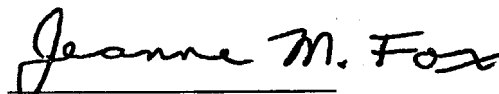
Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

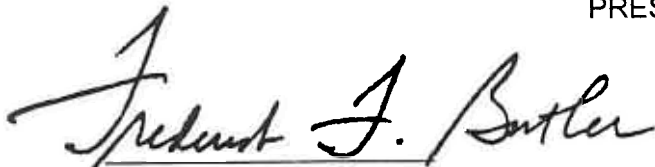
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Board pursuant to the authority contained in N.J.S.A. 48:5A-1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


This Certificate shall expire on November 6, 2016.

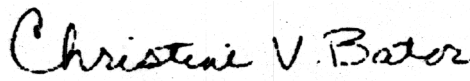
DATED: 10/3/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

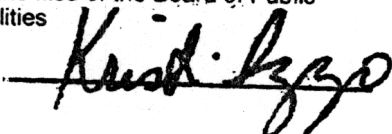

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
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"
OFFICE OF CABLE TELEVISION
LINE EXTENSION POLICY

CSC TKR, INC. D/B/A CABLEVISION OF RARITAN VALLEY
BOROUGH OF SAYREVILLE

A cable operator is required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system.

Actual subscribers served by the extension are required to absorb the remainder of the cost.

If new subscribers are added to the extension the cost is adjusted and those who previously paid receive an appropriate rebate.

- | | | |
|---|---|---|
| 1. <u># of homes in extension</u>
mileage of extension | = | homes per mile (HPM) of
extension |
| 2. <u>HPM of extension</u>
Minimum HPM that
company actually
constructs in the
system * | = | ratio of the density of
the extension to the
minimum density which the
company constructs in the
system ("A") |
| 3. Total cost of building
the extension times "A" | = | company's share of
extension cost |
| 4. Total cost of building
extension less company's
share of extension cost | = | total amount to be
recovered from
subscribers |
| 5. Total amount to be
<u>recovered from subs</u>
Total subscribers in extension | = | each subscriber's share |

In any case, the company shall extend its plant along public rights of way to:

- 1 All residences and businesses within 150 aerial feet of the operator's existing plant at no cost beyond the normal installation rate.
2. All residences and businesses within 100 underground feet of the operator's plant at no cost beyond the normal installation rate.

* The minimum HPM that the company actually constructs in the system or municipality is the minimum number of homes that the company has historically constructed at its own cost. This is a function of the operator's break-even point and its rate of return. Unbuilt systems will use the primary service area rather than construction.

The operator's installation policies shall apply to construction beyond the public right of way.

Detailed accounting and/or financial information to support the minimum HPM shall be supplied to the Office for its approval in such form as required. The minimum HPM shall be updated as appropriate.

When a request for service is received, and unless good cause is shown, cable companies shall:

1. Provide a written estimate within 30 days of such a request.
2. Begin construction within 60 days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six months of receipt of any deposit monies from potential subscribers.
4. Inform each home passed along the extension of the potential costs for subscribers.

Subscribers who pay for an extension shall be entitled to rebates in the following manner:

1. If the company acquires new subscribers subsequent to the initial calculation of step 5 above, the formula will be adjusted and those who have previously paid for the extension will be entitled to an appropriate rebate. In no event shall the amount of the rebate exceed the subscriber's contribution.
2. The company shall keep accurate records of the cost of the extension, the amounts paid by subscribers and any appropriate adjustments.
3. The company shall notify subscribers in the extension of their rights and responsibilities concerning the extension.
4. Once an individual dwelling has paid its share of the extension cost future reconnections or installations shall be made at the company's standard rates.
5. After a period of five years from the installation of the first dwelling unit in the extension no further adjustments shall be made. Installations after five years shall be at the company's standard rate.
6. Once a subscriber is installed, that person shall not normally be entitled to a refund of any monies paid for the installations, except in accordance with the rebate procedure outlined in this policy.

Definitions

Primary Service Area

The Primary Service Area (PSA) can be an entire municipality, but in many instances the PSA is a limited area within a community outside of which a line extension policy may apply. The PSA is depicted by a franchise map and narrative, presented and recorded during the franchise proceedings. It normally remains a fixed geographic area throughout the life of the franchise.

Line Extension Survey

Potential subscribers residing outside the PSA who request service are entitled to an estimate of their share of the cost to secure service. When conducting a survey and estimating costs, a cable company should factor in all potential subscribers who could practicably be included in the extension and give consideration to apparent residential construction in areas contiguous to the proposed extension.

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