



**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 THE PETITION OF )  
COMCAST OF SOUTH JERSEY, LLC FOR A )  
RENEWAL CERTIFICATE OF APPROVAL TO )  
CONTINUE TO CONSTRUCT, OPERATE )  
AND MAINTAIN A CABLE TELEVISION )  
SYSTEM IN AND FOR THE CITY OF )  
ATLANTIC CITY, COUNTY OF ATLANTIC, )  
STATE OF NEW JERSEY )

RENEWAL  
CERTIFICATE OF APPROVAL

DOCKET NO. CE07090678

SERVICE LIST ATTACHED

BY THE BOARD

On February 27, 1975, the Board granted Atlantic Coast TV Cable Corporation a Certificate of Approval ("Certificate") in Docket No. 749C-6050 for the construction, operation and maintenance of a cable television system in the City of Atlantic City ("City"). Due to a series of Board approved transfers, the Certificate was held by Sammons Communications of New Jersey, Inc. ("Sammons") and on May 4, 1994, the Board issued a Renewal Certificate<sup>1</sup> to Sammons in BPU Docket No. CE91030409. As a result of a further series of Board approved transfers, the current holder of the Certificate is Comcast of South Jersey, LLC ("Petitioner"). Although the Petitioner's above referenced Certificate expired on February 27, 2000, the Petitioner is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate.

The Petitioner filed an application for the renewal of its municipal consent with the City on March 31, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The City held a public hearing and conducted extensive negotiations; however, the City and the Petitioner were unable to reach an agreement.

<sup>1</sup> Order Modifying Initial Decision – Settlement and Renewal Certificate of Approval, BPU Docket No. CE91030409 and OAL Docket No. 4078-93.

On May 17, 2001, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed a petition with the Board for a renewal of its Certificate for the City in Docket No. CE01050325. The Petitioner alleged that the City's actions, and its failure to grant municipal consent, were arbitrary and capricious. On July 2, 2001, the City filed an answer to the petition. Several pre-transmittal settlement conferences between the parties were held. The initial conference took place on November 19, 2001, in accordance with N.J.A.C. 14:17-8.1 et seq. but no settlement could be reached. On September 19, 2002, the Board transmitted the case to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. After the completion of discovery, disposition of several motions, submission of pre-filed written testimony by both parties and following extensive negotiations, the parties reached a settlement that resolved the matter. The City adopted an ordinance granting renewal of its municipal consent to the Petitioner on May 23, 2007, formalizing the settlement reached by the parties. On July 5, 2007, the Petitioner accepted the terms and conditions of the ordinance. On August 7, 2007, by notice to the Board and the OAL, the Petitioner withdrew its petition filed as Docket No. CE01050325.

On September 19, 2007, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a Renewal Certificate of Approval for the City based on the City's May 23, 2007 ordinance. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate, 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 City 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 with an automatic renewal provision for a term of 10 years thereafter pursuant to N.J.S.A. 48:5A-19 and -25. The Board finds these periods to be of reasonable duration.
- 5) The Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 35.
- 6) 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 schedules of prices, rates, terms and conditions for unregulated service, and promptly file any revisions thereto.

- 7) Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the City. In this case, it is the City Clerk. All complaints shall be received and processed in accordance with any applicable rules.
- 8) The Petitioner shall maintain a local business office, bill payment center or agent within the City for the purpose of receiving, investigating and resolving complaints. However, in lieu of the Petitioner establishing an office or bill center within the City, the City agrees that the Petitioner may maintain an office within twenty airline miles of the City as stipulated in the ordinance at §A265-16. In lieu of the local office being located within the City, the Petitioner agrees to the following: 1) maintain a toll-free number for subscribers, 2) provide the City Clerk's office with the name, address and toll free number of the Petitioner's agent who is to receive inquiries and complaints regarding service and 3) implement the customer service requirements outlined in the ordinance. The Petitioner currently maintains a local office at 901 W. Leeds Avenue, in Absecon.
- 9) The franchise fee to be paid to the City 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 City 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 or any additional amount thereafter required by N.J.S.A. 48:5A-30. The Board finds these fees to be reasonable.
- 10) The Petitioner shall provide public, educational, and governmental ("PEG") access equipment and facilities as described in the application and the ordinance. The Petitioner currently provides one system-wide channel for local origination programming, one system-wide educational access channel and one public access channel for use by community and educational entities for the purpose of cablecasting non-commercial programming. Within three months of issuance of this Renewal Certificate, the Petitioner shall provide one educational/governmental ("EG") access channel which shall be provided to the City at no cost for the live or taped cablecasting of all meetings of the City council and all boards, bodies and agencies of the City government, and for mayoral addresses not of a political nature. The EG channel shall be shared with other municipalities which transmit out of the same headend as the City. Currently included are the Cities of Brigantine, Ventnor and Margate, and the Borough of Longport. Upon delivery of the channel, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
- 11) The Petitioner shall maintain a return path, at its sole cost and expense, in the Atlantic City High School, located at 1400 North Albany Avenue in the City, and a return path in the Atlantic County Building located at 1333 Atlantic Avenue in the City with a "jumper/connection" to the City's Public Works Garage. Each return path shall be capable of being connected to equipment to permit the live cablecasting of programming by the City on the municipal access channel.
- 12) The Petitioner shall, at its sole cost and expense provide, transport and operate all equipment necessary to facilitate the live cablecasting and/ or taping of the meetings and addresses, as required by the ordinance; provided, however, that the Petitioner's

obligation to so provide, transport and operate such equipment using the Petitioner's personnel shall not be greater than two meetings or addresses per month. The City Council or its authorized designee shall have the sole authority to require the live cablecasting or taping of its meetings or the meetings of boards or agencies of the legislative branch of City government. The Mayor or his authorized designee shall have the sole authority to require the live cablecasting or taping of all meetings and addresses. In no event however, shall the Petitioner be given fewer than five days written notice of the City's need for such equipment. The Petitioner shall, at its sole cost and expense, make its studio personnel available to provide, transport and operate available equipment to facilitate the live cablecasting and/ or taping at remote locations of the events, as required and specified by the ordinance. In no event however, shall the Petitioner be given fewer than five days written notice of the City's need for such studio equipment and personnel.

- 13) The Petitioner shall provide to the City with a one time capital contribution of \$20,000.00, to be utilized by the City for educational and governmental video equipment. Upon delivery, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation
- 14) Before disposing of any usable video production equipment, the Petitioner shall advise the City and its designee of the availability of such equipment and the price, if any, and, to the extent practical, shall offer such equipment to the City for sale as stipulated in the ordinance.
- 15) The Petitioner shall provide cable television service, on one outlet, free of charge, to each school, library and municipal building or facility within the City that is under the jurisdiction of the City or the City Board of Education.
- 16) The Petitioner shall provide free Internet service via high-speed cable modem on one non-networked personal computer to each school, library and municipal building or facility within the City that is under the jurisdiction of the City or the City Board of Education.
- 17) Upon the request of the City, the Petitioner shall meet at least annually with the City's designee to review all matters relating to cable television in the City, with the minutes of such meeting to be delivered to the Petitioner and filed with the City.

It is noted herein that two provisions of the ordinance adopted by the City require modification as they may violate the New Jersey State Cable Act, N.J.S.A. 48:5A-1 et seq. Therefore, this Certificate takes exception to and hereby reforms the following provisions:

§A265.7. Use of streets H. This section states that the Petitioner may perform the work outlined for tree trimming in a manner approved by the City Engineer, who may impose reasonable restrictions as stipulated in the ordinance. It further states that should the City Engineer or the Police Department determine that any tree trimming interferes with traffic, the Petitioner shall pay the cost of providing a police or traffic control officer to direct traffic during the tree trimming.

The Petitioner is required to pay to the municipality a franchise fee equal to two percent of "gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service..." and that franchise fee shall be increased as required by N.J.S.A. 48:5A-30. That fee is paid to the municipality "in lieu of all other franchise taxes and municipal license fees...as a yearly franchise revenue for the use of the streets." N.J.S.A. 48:5A-30(a).

The Board has held that this fee is paid in lieu of any other franchise fees, municipal license fees or fees to the municipality for the use of the streets. Township of Middletown v. Storer Cable Communications, Inc., 206 N.J. Super. 572 (App. Div. 1985). Therefore, while the City may require that the Petitioner provide for traffic control, the City may not charge Petitioner fees for providing a traffic control officer. Therefore, the requirement for payment is not applicable, and is hereby stricken.

The Board notes that another portion of the ordinance also requires modification:

§A265.15. Extension of service C This section states, in part: "...extension of service shall not be required into an area where there are less than a total of 35 homes, living or rental units and commercial units per linear mile within 500 feet of the Franchisee's existing trunk cable..."

Pursuant to N.J.S.A. 48:5A-23(e) Petitioner is obligated to provide service to all residents of a municipality that grants a municipal consent. Petitioner may require that the resident requesting service pay a portion of the costs of any extension of service where the specified density requirement is not met. Therefore, this section is interpreted to indicate that cable television service shall be afforded to any resident in the City in accordance with the Petitioner's Line Extension Policy ("Appendix I") with a homes per mile figure of 35, as stated above, and pursuant to the Petitioner's application for municipal consent and this Certificate.

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, with the above modification, 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 within the entirety of the City.

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.

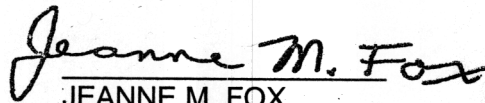
Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

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.

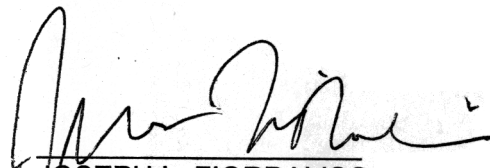
This Certificate shall expire fifteen years from the date of issuance.

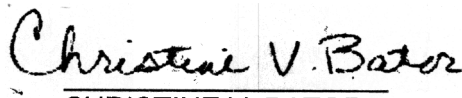
DATED: 12/21/07

BOARD OF PUBLIC UTILITIES  
BY:

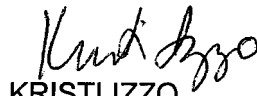
  
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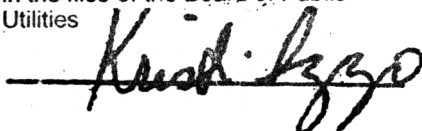
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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

Company	Comcast of South Jersey, LLC
Municipality	City of Atlantic City

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.

	<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 which 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:

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 the share of extension cost have been paid for an individual dwelling unit, future reconnections or installations to that unit 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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