



Agenda Date: 8/1/07
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 VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE) ORDER
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN DESIGNATED MUNICIPALITIES) BPU DOCKET NO. CO07060420
)

(SERVICE LIST ATTACHED)

BY THE BOARD

On June 29, 2007, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board) pursuant to N.J.S.A. 48:5A-30d 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 18 municipalities.¹ Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (Act).³ The Act, as amended, allows for the granting of competitive systemwide franchises for certain 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.

¹ The 18 municipalities included in Verizon's application are the Boroughs of Audubon, Bogota, Emerson, Hillsdale, Hopewell (Mercer), Kenilworth, Little Silver, Midland Park, Paramus, Park Ridge, Rumson and Upper Saddle River; the Townships of Berlin, Cranford, Long Hill, Mine Hill and Washington (Bergen); and the Town of Westfield.

² Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³ L. 2006, ch.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 for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3e, within the municipality. The Act, as amended, at N.J.S.A. 48:5A-30d requires that the holder of a systemwide cable television franchise 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-3x, derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide 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 seniors and disabled persons who are eligible for the Pharmaceutical Assistance for the Aged and Disabled ("P.A.A.D."). N.J.S.A. 48:5A-30d 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 are 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 support of its petition, Verizon filed an Affidavit of Jeffrey B. Olson, 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 facilities, which were validated as capable of receiving Verizon's services. Since 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 census and 2005 estimates from 2000 census data provided by a company called ESRI, Inc. Verizon determined the percentage of occupied households by comparing the number of housing units to the actual number of households within each municipality, and then multiplied the percentage of households by the number of validated addresses to determine the number of households in each municipality where Verizon's cable service is available. The number of households capable of receiving Verizon's cable service was divided by the total number of households in the municipality. 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 65 percent to a maximum of 77 percent availability.⁴

Staff reviewed the petition and supporting documentation. As part of its analysis, Staff calculated adjustments to Verizon's estimated occupied households to reflect 2007 data so that both the number of households within the municipality and those where Verizon is capable of providing service would reflect the same period. In its review, Staff also reviewed Verizon's capabilities of serving multi-dwelling unit (MDU) households within a

⁴ See Appendix "I" attached.

particular municipality, and requested additional data from Verizon 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), to supplement 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 were capable of being provided service at the time they were included in the certification. Verizon provided information that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification.

Based on Staff's recommendation, and the Board's review of the information provided in support of the petition, the Board FINDS that Verizon is capable of providing service to at least 60 percent of the households currently served by a cable television company that operates under a municipal consent in each of the 18 municipalities, and hereby APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 18 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households currently provided with cable service by another cable company, and the percentages of those households.

As previously stated, N.J.S.A. 48:5A-30d requires that once the Board approves the 60 percent certification of a systemwide franchisee, each cable operator currently providing service in the affected municipalities must also pay increased franchise fees. To effectuate the legislative objectives while at the same time recognizing the needs of both cable companies and their subscribers as mandated by N.J.S.A. 48:5A-2, the Board HEREBY DETERMINES that the effective date of this increase shall be the date on which the cable companies first bill their subscribers for this increased fee.

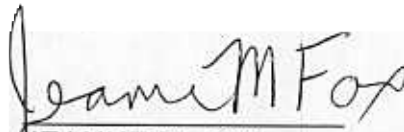
Therefore, beginning no later than 90 days from the date of this Board Order approving Verizon's certification, pursuant to N.J.S.A. 48:5A-30d, each cable operator currently operating in the 18 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED, to pay to 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-3x, 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.

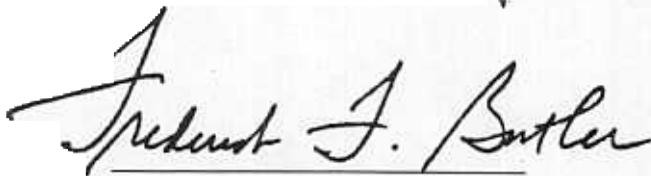
Cable operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification.

Cable operators shall notify each municipality, Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

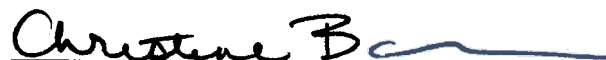
DATED: 8/1/07

BOARD OF PUBLIC UTILITIES
BY:

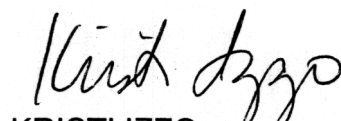

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

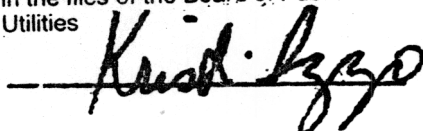

JOSEPH L. FIORDALISO
COMMISSIONER


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"

Municipality	County	Percentage of Households capable of receiving service
Audubon Borough	Camden	67%
Berlin Township	Camden	65%
Bogota Borough	Bergen	71%
Cranford Township	Union	73%
Emerson Borough	Bergen	77%
Hillsdale Borough	Bergen	70%
Hopewell Borough	Mercer	73%
Kenilworth Borough	Union	68%
Little Silver Borough	Monmouth	68%
Long Hill Township	Morris	68%
Midland Park Borough	Bergen	71%
Mine Hill Township	Morris	66%
Paramus Borough	Bergen	71%
Park Ridge Borough	Bergen	66%
Rumson Borough	Monmouth	68%
Upper Saddle River Borough	Bergen	66%
Washington Township	Bergen	67%
Westfield Town	Union	65%

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CERTIFICATION OF CAPABILITY TO PROVIDE
CABLE TELEVISION SERVICE TO 60 PERCENT OF
HOUSEHOLDS IN DESIGNATED MUNICIPALITIES

BPU DOCKET NO. CO07060420

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