



Agenda Date: 3/19/08

Agenda Item: IIIE

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 COMCAST OF)
AVALON, LLC FOR A CERTIFICATE OF APPROVAL TO)
TO CONTINUE TO CONSTRUCT, OPERATE AND)
MAINTAIN A CABLE TELEVISION SYSTEM IN AND FOR)
THE BOROUGH OF AVALON, COUNTY OF CAPE MAY,)
STATE OF NEW JERSEY)

RENEWAL
CERTIFICATE OF APPROVAL

DOCKET NO. CE07100837

SERVICE LIST ATTACHED

BY THE BOARD:

On December 5, 1974, the Board granted Warner Cable of New Jersey ("WCNJ") a Certificate of Approval ("Certificate") in Docket No. 735C-5033(A) for the construction, operation and maintenance of a cable television system in certain areas of the Borough of Avalon ("Borough"). Based on a name change WCNJ became Warner-Amex Communications, and on June 24, 1981 the Board granted Warner-Amex Communications a Renewal Certificate in Docket No. 8010C-6725 for the entirety of the Borough. Due to a series of Board approved transfers, the Certificate was transferred to Time Warner Cable Communications, Inc., and on March 5, 1998, the Board issued an Automatic Renewal Certificate of Approval in Docket No. CE95110547. Through a series of subsequent transfers, with the required Board approvals, the current holder of the Certificate is Comcast of Avalon, LLC ("Petitioner"). Although the Petitioner's above referenced Certificate expired on June 24, 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.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on September 22, 2005, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Borough, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on September 12, 2007. The Petitioner formally accepted the terms and conditions of the

ordinance on September 20, 2007.

On October 31, 2007, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate 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 previously 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 fifteen years, with an automatic renewal provision for a term of ten 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 Borough has reserved the right to review the Petitioner's performance with regard to the ordinance. In the event that the Borough shall find that the Petitioner has not substantially complied with the material terms and conditions of the ordinance, the Borough shall have the right to petition the Board for appropriate administrative action, pursuant to N.J.S.A. 48:5A-47; provided however, that the Borough shall first have given the Petitioner written notice of all alleged instances of non-compliance and an opportunity to cure same within 90 days of that notification.
- 6 The Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 35.
- 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 schedules of prices, terms and conditions for unregulated service, 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 any applicable rules.

9. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The Petitioner currently maintains a local office located at 3246 Dune Drive in the Borough.
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 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. The Board finds these fees to be reasonable.
11. The Petitioner shall provide public, educational, and governmental ("PEG") access services, equipment and facilities as required by the ordinance. Specifically, the Petitioner shall continue to provide one channel to be used for educational and governmental access for shared use by the residents of the Borough, Sea Isle City and Stone Harbor Borough. Within twelve months of a written request from the Borough, and after at least twelve months following receipt of this Renewal Certificate, the Petitioner shall activate and thereafter maintain an access point for the purpose of utilizing the educational and governmental access channel, to be located at the Avalon Public School/Library Building. Upon activation, the Petitioner shall submit proof of satisfaction of this provision to the Office of Cable Television.
12. Within six months of the date of issuance of this Certificate, the Petitioner shall provide to the Borough with a one time technology grant of \$40,000.00 to meet the cable related needs of the Borough. Upon payment, the Petitioner shall submit proof of satisfaction of this provision to the Office of Cable Television.
13. If the municipalities of the Borough, the Borough of Stone Harbor and the City of Sea Isle City all agree to grant municipal consent for a Certificate to be granted to the Petitioner for a term of fifteen years with a ten year automatic renewal term, an additional grant will be made to the Borough in the amount of \$20,000.00 to be applied to the operation of the local access channel for the benefit of all of the above listed municipalities.
14. The Petitioner shall provide Total Preferred cable television service, on one outlet, free of charge, to each school in the Borough, public and private, elementary, intermediate and secondary, provided that each school is located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. The Petitioner shall waive monthly service charges for any such additional outlets.
15. The Petitioner shall provide Total Preferred cable television service, on one outlet, free of charge, to each of the municipal buildings of the following types: a) police; b) fire; c) emergency management facility; and d) public library in the Borough, provided that each facility is located within 175 feet of active cable distribution plant. The

Borough shall pay for each additional outlet installed to any of the above facilities on a materials plus labor basis; however, the Petitioner shall waive monthly service charges for any such additional outlets.

16. The Petitioner shall provide free basic Internet service via high-speed cable modem on one non-networked personal computer in each qualified existing and future public school in the Borough, elementary, intermediate and secondary, provided the facility is within 175 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the students, and shall not be used for administrative purposes only.
17. The Petitioner shall provide free basic Internet service via high-speed cable modem on one non-networked personal computer in each qualified existing and future public library in the Borough, provided the facility is within 175 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the library patrons and shall not be used for administrative purposes only.

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 within 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.

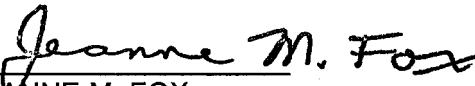
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be

adhered to and be 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.

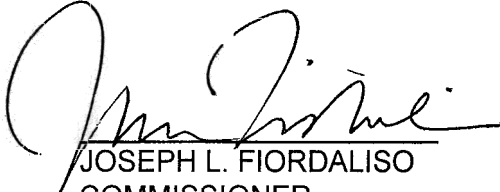
This Certificate shall expire on June 24, 2021

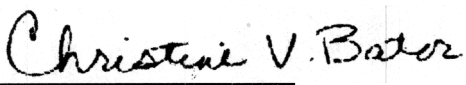
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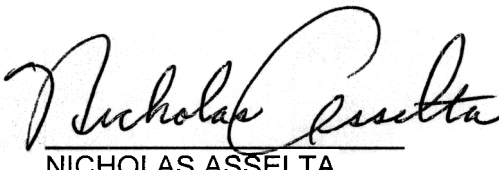
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

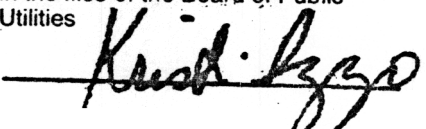

CHRISTINE V. BATOR
COMMISSIONER


NICHOLAS ASSELTA
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 Avalon, LLC
Municipality	Borough of Avalon

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.

	$\frac{\text{\# of homes in extension}}{\text{mileage of extension}}$	=	homes per mile (HPM) of extension
2.	$\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system *}}$	=	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.	$\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}}$	=	each subscriber's share

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

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:

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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