



Agenda Date: 05/8/08

Agenda Item: III A

## **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 CSC TKR, INC. ) RENEWAL  
D/B/A CABLEVISION OF MORRIS FOR RENEWAL OF A ) CERTIFICATE OF APPROVAL  
CERTIFICATE OF APPROVAL TO CONTINUE TO )  
OPERATE AND MAINTAIN A CABLE TELEVISION )  
SYSTEM IN THE TOWN OF MORRISTOWN, COUNTY )  
OF MORRIS, STATE OF NEW JERSEY ) DOCKET NO. CE07020130

(SERVICE LIST ATTACHED)

#### **BY THE BOARD:**

On April 15, 1981, the Board granted Morris Cablevision a Certificate of Approval in Docket No. 806C-6690 for the construction, operation and maintenance of a cable television system in the Town of Morristown ("Town.") Through a series of transfers with required Board approvals, Sammons Communications of New Jersey, Inc. ("Sammons") became the holder of the Certificate. On May 3, 1996, the Board issued an Order Adopting in Part and Modifying in Part the Initial Decision-Settlement and Renewal Certificate of Approval to Sammons in Docket No. CE93050191. 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 Morris ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on April 15, 2006, the Petitioner is authorized to continue to provide cable television service to the Town 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 Town on July 5, 2005, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Town, after public hearing, adopted a municipal ordinance granting renewal consent on August 15, 2006.

On February 22, 2007, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Town pursuant to N.J.S.A. 48:5A-17d, the arbitrary refusal provisions of the New Jersey Cable Television Act. The Petitioner alleged that the Town's actions in adopting an ordinance it did not agree to were arbitrary and capricious. The Town filed an answer to the petition on March 6, 2007. Subsequently a settlement was reached, and on December 11, 2007, the Town adopted a municipal consent ordinance outlining the terms of the settlement. On January 30, 2008, the Petitioner formally accepted the terms and conditions of the ordinance, and on April 1, 2008, the Petitioner amended its petition to reflect the terms of the settlement.

The Board has reviewed the application for municipal consent, the petition, the amended petition for a Renewal Certificate of Approval, and the revised municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Town 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 Town. 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 683 Route 10 East, Randolph, New Jersey.

8. The franchise fee to be paid to the Town 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 Town, 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 utilize the line extension policy attached to this Certificate as Appendix "I" with a homes per mile figure of 25.
10. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall continue to maintain two fiber optic return lines for the Town, one at the Town's municipal complex and one at Morristown High School in order to allow the Town to originate non-commercial PEG access programming on the Petitioner's system. The Petitioner shall provide the Town with the ability to override the existing regional public access channel or educational access channel with its own narrowcast programming which shall be seen only by subscribers in the Town. When used by the Town for narrowcast purposes, administration, operation and use of the channel shall be at the Town's discretion.
11. The application provides that the Petitioner maintains two channels for PEG access use; one channel carries non-commercial government/community access and the other channel, currently coordinated by the County College of Morris, carries educational access. These channels may be shared with other municipalities in the system. In addition, the Petitioner maintains a public access studio located in Randolph Township, which is equipped with video and audio recording/playable equipment for public access use. The Petitioner conducts workshops to instruct interested community members in the aspects of operating the studio.
12. The Petitioner shall provide the Town with a capital contribution for cable and/or telecommunications related purposes in the total amount of \$70,000.00, payable as follows: \$15,000.00 within 30 days from the date of this Certificate; \$10,000 per year within 90 days of receipt of the written request of the Town following the second and third year anniversaries of this Certificate; and, \$5,000.00 per year within 60 days of receipt of the written request of the Town following the anniversary date of this Certificate, for each of the subsequent seven years. The Petitioner shall be relieved of any remaining payments if it converts its system to a system-wide franchise as authorized 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.

13. Upon written request of the Town, the Petitioner shall provide one standard installation and monthly basic cable service, free of charge, to all state and locally accredited public and private primary and secondary schools, all municipal public libraries, and the following municipal buildings: all Town firehouses, the Senior Center, Morristown Ambulance Squad and the Department of Public Works. Within Town Hall, the Petitioner shall provide one standard installation and monthly basic cable service, free of charge, to six locations as follows: Town Clerk's office, Administration, Police Department, Emergency Management Center, Council Room and Room 201.
14. Upon written request of the Town, the Petitioner shall provide, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to all state or locally accredited public and private primary and secondary schools and all municipal public libraries in the Town.
15. Upon written request of the Town, the Petitioner shall provide, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to a location in the Town. The Town shall be permitted to network, at its own cost, up to four personal computer terminals to the cable modem provided by the Petitioner.
16. The Petitioner shall implement a senior citizens' discount program in the Town 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.

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., 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 Town.

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.

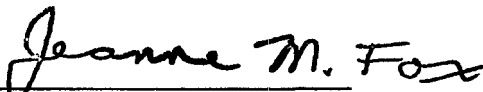
Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

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: 5/9/08

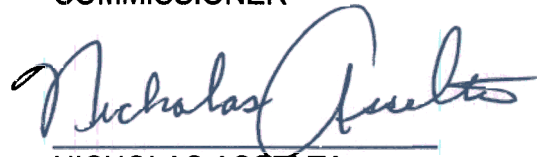
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

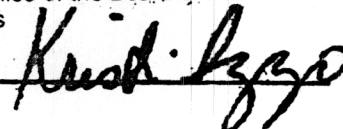
  
CHRISTINE V. BATOR  
COMMISSIONER

  
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**

**CSC TKR, INC. D/B/A CABLEVISION OF MORRIS**  
**TOWN OF MORRISTOWN**

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

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\* 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 the share of the extension cost for an individual dwelling has been paid, 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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