



Agenda Date: 12/17/09

Agenda Item: IIIB

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 GARDEN STATE, L.P. FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE BOROUGHS)
OF PINE HILL AND PINE VALLEY, COUNTY OF)
CAMDEN, STATE OF NEW JERSEY)

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE08121095

Stryker, Tams and Dill, Newark, New Jersey, by Dennis Linken, Esq., for the Petitioner

Acting Borough Clerk, Borough of Pine Hill, New Jersey, by Loretta Buchanan, for the
Borough

Borough Clerk, Borough of Pine Valley, New Jersey, by Patricia M. Porter, for the
Borough

BY THE BOARD:

On February 15, 1979, the Board granted Clear TV Cable of Lindenwold, Inc. a Certificate of Approval in Docket No. 7811C-6420 for the construction, operation, and maintenance of a cable television system in the Borough of Pine Hill ("Pine Hill"). Due to a series of Board approved transfers, the Certificate was held by New York Times Company d/b/a New York Times Cable Company of New Jersey ("NYT").

On July 10, 1984, NYT filed a petition for a Certificate of Approval for the Borough of Pine Valley ("Pine Valley"). On August 1, 1984, NYT filed an amended petition requesting the Board amend the Certificate of Approval for Pine Hill by incorporating the area of Pine Valley into the area certified for Pine Hill in above referenced docket number. On February 15, 1985, in Docket No. 847C-7083, the Board approved the amendment of Pine Hill's Certificate to include Pine Valley and stated that the Petitioner shall provide the same terms and conditions to Pine Valley¹ as to Pine Hill (hereafter to be referred to collectively as the "Boroughs").

Due to a series of Board approved transfers, the Certificate was held by Garden State Cablevision, L.P. ("Garden State"). On December 12, 1995, the Board issued a Renewal Certificate of Approval to Garden State for the Boroughs in BPU Docket No. CE94050168.

¹ On May 16, 1984, Pine Valley adopted a resolution that granted NYT the right to petition the Board for direct certification without first obtaining municipal consent. Pine Valley has a limited number of residents and is geographically contiguous to Pine Hill and other communities served by the Petitioner.

Through a series of subsequent transfers, with the required Board approvals, the current holder of the Certificate is Comcast of Garden State, L.P. ("Petitioner"). Although the Petitioner's above referenced Certificate expired on February 15, 2009, the Petitioner is authorized to continue to provide cable television service to the Boroughs 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 Pine Hill on May 14, 2008, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 et seq. Pine Hill, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on November 17, 2008. The Petitioner formally accepted the terms and conditions of the ordinance on December 2, 2008.

On December 29, 2008, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for Pine Hill. On August 27, 2009, the Petitioner amended its petition for the Renewal Certificate of Approval in Pine Hill, to incorporate Pine Valley under the direct regional certification provisions of N.J.S.A. 48:5A-17(b) based on the small size of Pine Valley and the fact that no public rights of way are used that would require municipal consent. In the amended petition, the Petitioner confirmed that the terms and conditions of service provided to Pine Valley are to be the same as provided to Pine Hill.

The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the amended petition, and Pine Hill's 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 Pine Hill 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 Pine Hill ordinance is 15 years with an automatic renewal provision for a term of ten years thereafter in conformance with N.J.S.A. 48:5A-19 and -25. The Board finds these periods to be of reasonable duration. These franchise periods shall also apply to Pine Valley.
5. Pine Hill has reserved the right to review the Petitioner's performance with regard to the ordinance. In the event that Pine Hill shall find that the Petitioner has not substantially complied with the material terms and conditions of the ordinance, Pine Hill shall have the right to petition the Board for appropriate administrative action, pursuant to N.J.S.A. 48:5A-47; provided however, that Pine Hill 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 provide service to any residence or business along any public right-of-way in the Primary Service Area at no cost beyond standard and non-

standard installation charges as set forth in the Petitioner's application. For any extension outside of the Primary Service Area, 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 Pine Hill ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers. In this case, the Office of Cable Television shall be the complaint officer for the Boroughs. 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 at 1490 Berlin Road in Cherry Hill, New Jersey.
10. The franchise fee to be paid to the Boroughs 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 Boroughs 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 equipment and facilities as described in the application and the Pine Hill ordinance. The Petitioner shall continue to provide one shared educational and governmental ("EG") access channel for use by the Boroughs and its designees for the purpose of cablecasting non-commercial educational and governmental programming. The EG channel is shared with the Boroughs, Berlin Township, Lindenwold Borough and Clementon Borough and is currently operated and maintained by the Pine Hill Public Schools. Governmental programming shall be provided by the governing bodies of the municipalities listed above and educational programming shall be provided by either those governing bodies or by designated educational institutions. The governing bodies of the municipalities listed above shall be responsible for developing, implementing and enforcing rules for the EG access channel, as stipulated in the Pine Hill ordinance. The Petitioner also maintains a community bulletin board.
12. Within 12 months of receipt of this Certificate, the Petitioner shall provide a technology grant to Pine Hill in the amount of \$25,500.00 for cable and technology related needs. Upon payment, the Petitioner shall submit proof of satisfaction of this provision to the Office of Cable Television.
13. The Petitioner shall provide standard installation and Total Preferred cable television service, on one outlet, free of charge, to each school in the Boroughs, public and private, elementary, intermediate and secondary. In order to qualify for free

installation, the school must be 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.

14. The Petitioner shall provide installation and Total Preferred cable television service, on one outlet, free of charge, to each Borough Hall, police, fire, emergency management facility, and public library in the Boroughs. In order to qualify for free installation, the facility must be located within 175 feet of active cable distribution plant. The requesting 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.
15. 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 school in the Boroughs, public and private, elementary, intermediate and secondary. To qualify for free installation, the facility must be located 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.
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 library in the Boroughs. To qualify for free installation, the facility must be 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 for Pine Hill, 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.

The Board **FURTHER CONCLUDES** 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 for Pine Valley, pursuant to N.J.S.A. 48:5A-17(b) and therefore does not need municipal consent to provide service to Pine Valley, and that it 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.

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 Boroughs.

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 February 15, 2024.

DATED: 12/17/09

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M. Fox

JEANNE M. FOX
PRESIDENT

Frederick F. Butler

FREDERICK F. BUTLER
COMMISSIONER

Joseph L. Fiordaliso

JOSEPH L. FIORDALISO
COMMISSIONER

Nicholas Asselta

NICHOLAS ASSELTA
COMMISSIONER

Elizabeth Randall

ELIZABETH RANDALL
COMMISSIONER

ATTEST: *Kristi Izzo*
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

Kristi Izzo

APPENDIX "I"
Office of Cable Television
Line Extension Policy

Company Municipality	Comcast of Garden State, L.P. Boroughs of Pine Hill and Pine Valley
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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 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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