



Agenda Date: 2/11/09
Agenda Item: IIIG

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)	RENEWAL
CONTINUE TO CONSTRUCT, OPERATE)	CERTIFICATE OF APPROVAL
AND MAINTAIN A CABLE TELEVISION)	
SYSTEM IN AND FOR THE TOWNSHIP OF)	
PLUMSTED, COUNTY OF OCEAN, STATE)	
OF NEW JERSEY)	DOCKET NO. CE08010058

(SERVICE LIST ATTACHED)

BY THE BOARD

On September 13, 1979, the Board granted Audubon Electronics, Inc. ("Audubon") a Certificate of Approval in Docket No. 796C-6495 for the construction, operation and maintenance of a cable television system in the Township of Plumsted ("Township"). Due to a series of Board approved transfers, the Certificate was held by Garden State Cablevision, L.P. and on October 5, 1995, the Board issued a Renewal Certificate of Approval to Garden State Cablevision, L.P. in Docket No. CE95030139. 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 September 13, 2004, Petitioner is authorized to continue to provide cable television service to the Township 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 Township on October 3, 2003, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 et seq. The Township, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on November 7, 2007. The Petitioner formally accepted the terms and conditions of the ordinance on January 3, 2008.

On January 22, 2008, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate for the Township. 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 Township 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, 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 Township has reserved the right to review the Petitioner's performance with regard to the ordinance. In the event that the Township shall find that the Petitioner has not substantially complied with the material terms and conditions of the ordinance, the Township 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 Township 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 30.
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 Township. 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 1490 Berlin Road in Cherry Hill, New Jersey.
10. The franchise fee to be paid to the Township 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 Township 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 application and the ordinance. Specifically, the Petitioner shall continue to provide one channel to be used for educational and governmental access which is shared by several municipalities. Currently, Burlington County College maintains this channel, which provides telecourses and a community bulletin board.
12. Within twelve months of receipt of this Certificate, the Petitioner shall activate a dedicated non-commercial governmental/educational (EG) access channel to be viewed by residents of the Township. The EG channel shall be located at the New Egypt High School at 117 Evergreen Road in the Township. The Petitioner shall provide and maintain the cable, modulators and equipment necessary for the Township's EG channel to send a signal to the Petitioner and to receive the return feed signal. The Petitioner will not be responsible for the acquisition or maintenance of any studio equipment used for the EG access channel. Upon completion, the Petitioner shall submit proof of satisfaction of this provision to the Office of Cable Television.
13. The Petitioner shall provide Total Preferred cable television service, on one outlet, free of charge, to each school in the Township, public and private, elementary, intermediate and secondary. 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. The Petitioner shall provide free installation and cable television service to the New Egypt Primary School on Evergreen Road through conduit provided by the school.
14. The Petitioner shall provide Total Preferred cable television service, on one outlet, free of charge, to the Municipal Building at 121 Evergreen Road; the Police Department Building at 2 Cedar Street; the Emergency Management Office at 2 Cedar Street; the New Egypt Fire Department at 59 Main Street; the Municipal Building Community Center at 31 Main Street; the Emergency Management Shelter Facility (American Legion Building) at 2 Meadowbrook Lane; the New Egypt First Aid Squad Building at 32 Brindletown Road and the Public Library at 119 Evergreen Road in the Township. To qualify for free installation the facility must be located in the Township and within 175 feet of active cable distribution plant. The Township 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 Township, 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 Township. 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.

It is noted herein that the municipal consent ordinance provides for cable television service and the standard installation of one outlet, free of charge, to the Emergency Management Shelter Facility which is the American Legion Building. The Board has allowed the provision of free services to schools and libraries which the Board found provided the optimum development of the educational and community-service potentials of the cable television medium.¹ The Board has also allowed the provision of free service to municipal buildings such as City Halls, Fire Departments, Police Departments and Board of Education buildings, because the Board found that such buildings served an important public safety and public information purpose.² In another matter, the Board has allowed for free service to senior citizens' centers and found that a "public exigency exists" that makes the provision of services to the elderly a "public necessity" under N.J.S.A. 48:5A-11.1.³

The Board has considered the provision of free service to a privately-run entity on a case-by-case basis. It is noted that the Board has previously denied the provision of free service to an American Legion building because the facts of that case were distinguished from the cases mentioned above.⁴ Furthermore, the Board found that the provision of free services to the American Legion, a privately-run entity, would be preferential to other subscribers and, as a result, would be in conflict with N.J.S.A. 48:5A-39. However, in I/M/O/ Petition of Comcast Cablevision of Central New Jersey, Inc., for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Helmetta, BPU Docket No. CE95090417, dated Oct. 9, 1996, the Board did approve the provision of free service to privately-owned buildings when the buildings, two churches, were utilized by the municipality, the provision of free service was voluntarily agreed upon, the need for the provision of free service was supported by the record, and the municipality was able to demonstrate that free service to the noted facilities was in keeping with the explicit goals of the Legislature. There, the municipality argued that one of the churches served as a recreational facility and the other maintained a nutritional center, both open and available to all residents. Additionally, the churches served in lieu of municipal service properties. The Board agreed that the provision of free service to the private buildings was proper because the churches provided

¹ See I/M/O the Petition of Futurevision Cable Enterprises, Inc. for a Revision in Rate and Charges, Docket No. 7511C-6136, dated August 12, 1976.

² See Order Adopting Initial Decision – Settlement, I/M/O the Petition of Cablevision Systems d/b/a Cablevision of Bayonne for a Renewal Certificate of Approval for the Construction and Operation of a Cable Television System in the City of Bayonne, Docket No. CE89070646, dated November 1, 1990.

³ See Order Adopting Initial Decision – Settlement, I/M/O the Petition of TKR Cable Company/Tri-System for a Renewal Certificate of Approval for the Construction and Operation of a Cable Television System in the Township of Green Brook, Docket No. CE92060646 dated March 24, 1993.

⁴ See I/M/O the Petition of TCI of Northern New Jersey, Inc. for a Renewal of the Certificate of Approval for the Construction and Operation of a Cable Television System in the Borough of West Paterson, Docket No. CE95020080, dated August 21, 1995.

“a valuable public safety and public information source” and such provision was in compliance with the goals of the Legislature, as provided under N.J.S.A. 48:5A-2(c).⁵

In the instant matter, the Township has informed the Office of Cable Television that the American Legion Building is an “off site receiving facility”, which is an evacuation center, and that the facility would need to have up-to-date news, weather information and emergency alerts in order to properly serve its function in the case of an emergency. The American Legion is listed in the Township’s Emergency Management Plan, which was certified by the State of New Jersey, as an emergency shelter. In the event of an emergency evacuation from the coast of Ocean County, including severe weather situations or a nuclear accident, this facility would act as an integral part of the Township’s Municipal Complex Emergency Operations Plan. The Township also contends that this facility is utilized for numerous municipal functions and receives financial support from the Township, as well as in-kind municipal services. Accordingly, the free service provision to this facility was included in the Township’s municipal consent ordinance.

When the Board has issued Renewal Certificates of Approval providing for free service, it has done so in an attempt to service the public interest in meeting public safety, public education and informational needs of the institutions receiving the service. Therefore, the Board finds that, in this particular instance, the American Legion, also known as the Emergency Management Shelter Facility, serves as a municipal service institution and functions as a valuable public safety facility that requires a public information source for emergencies. Accordingly, the Board finds that the provision of free service to the American Legion is reasonable and in accordance with law. The Board believes that the provision of free services to the American Legion in this instance achieves the explicit goals of the Legislature as stated in the New Jersey Cable Television Act, N.J.S.A. 48:5A-2(c). Therefore, the Board **HEREBY FINDS** that service to the Emergency Management Shelter Facility (American Legion Building) is in keeping with the legislative objective of the Act and approves the installation of one outlet and the provision of cable television service, as provided above, free of charge.

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 Township.

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

⁵ See I /M/O/ Petition of Comcast Cablevision of Central New Jersey, Inc., for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Helmetta, Docket. No. CE95090417, dated Oct. 9, 1996 at p. 5.

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.

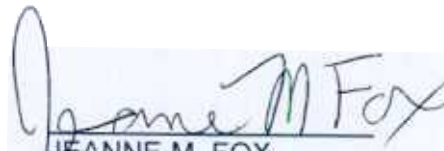
Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.


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.

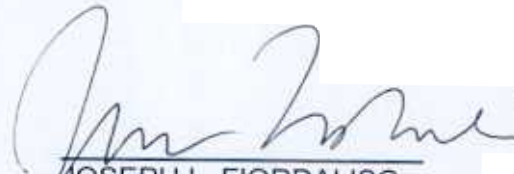
This Certificate shall expire on September 13, 2019.

DATED: 2/11/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

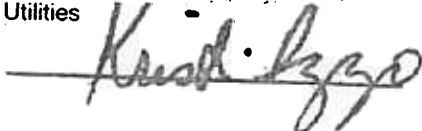

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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 Garden State, L.P.
Municipality	Township of Plumsted

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. | $\frac{\text{\# of homes in extension}}{\text{mileage of extension}}$ | = | 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.

SERVICE LIST

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