



Agenda Date: 3/17/10
Agenda Item: IIIA

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 NEW JERSEY II, LLC FOR A RENEWAL) RENEWAL
CERTIFICATE OF APPROVAL TO CONTINUE TO) CERTIFICATE OF APPROVAL
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE BOROUGH)
OF CARTERET, COUNTY OF MIDDLESEX, STATE)
OF NEW JERSEY) DOCKET NO. CE09120986

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

Borough Clerk, Borough of Carteret, by Kathleen Barney, for the Borough

BY THE BOARD:

On November 21, 1979, the Board of Public Utilities ("Board") granted Suburban Cablevision ("Suburban") a Certificate of Approval in Docket No. 799C-6550 for the construction, operation and maintenance of a cable television system in the Borough of Carteret ("Borough"). On July 21, 1995, the Board granted Suburban a Renewal Certificate of Approval for the Borough in Docket No. CE94120593. Through a series of transfers, with the required Board approvals, the current holder of the Certificate is Comcast of New Jersey II, LLC ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on November 21, 2004, 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 of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on February 17, 2004, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 et seq. The Borough held a public hearing, but took no further action.

On July 24, 2006, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed a petition with the Board for a renewal of its Certificate of Approval for the Borough in Docket No. CE06070541. The Petitioner alleged that the Borough's actions in not adopting a municipal consent ordinance were arbitrary and capricious. The Borough filed an answer to the petition on November 2, 2007.

On December 13, 2007, the Board transmitted the case to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The case was assigned to Administrative Law Judge ("ALJ") Mumtaz Bari-Brown. A plenary hearing was held before ALJ Bari-Brown on August 8, 2008. Subsequently, the parties reached a settlement that disposed of the matters in contention and on October 8, 2009, the Borough adopted an ordinance granting renewal municipal consent to the Petitioner. On November 9, 2009, the Petitioner formally accepted the terms and conditions of the ordinance. On December 8, 2009, by notice to the Board and the OAL, the Petitioner withdrew its petition filed in Docket No. CE06070541.

On December 8, 2009, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township based on the October 8, 2009 municipal consent ordinance. 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 Renewal Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process.
2. The design and technical specifications of the system will 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 ten years. The Board finds this period to be of reasonable duration.
5. The Borough may review the Petitioner's compliance with the municipal consent ordinance. If the Borough determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Borough shall provide written notice to the Petitioner of such alleged instances of non-compliance, and shall grant the Petitioner 90 days to cure such deficiency. The Borough may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, but only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
6. 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 and file with the Board an informational schedule of prices, terms and conditions for unregulated service and promptly file any revisions thereto.

7. 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 the applicable rules.
8. The Petitioner shall maintain a local business office for the purpose of receiving, investigating and resolving complaints. Currently, the local business office serving this provision is located at 800 Rahway Avenue, Union, New Jersey.
9. 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, 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.
10. 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. The minimum homes per mile figure is 35.
11. The Petitioner shall provide public, educational and governmental access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner maintains three channels for PEG access which are shared with surrounding communities: one for governmental and educational access which originates from Perth Amboy High school and two for governmental access, one each which originate from the Woodbridge Municipal Building and the Borough's Municipal Building.
12. Within 12 months of request from the Borough, the Petitioner shall provide an additional fiber optic return line at a site of the Borough's choosing, provided that the location of the origination site is within 200 feet of activated cable plant.
13. If the Borough can demonstrate that it cablecasts at least 40 hours of original programming per week for a period of 13 consecutive weeks, the Petitioner shall provide a dedicated digital local access channel and return line, for use by the Borough. A digital converter box will be required to view this access channel.
14. The Petitioner shall also maintain a system-wide public access channel for use by qualified individuals and organizations in the municipalities served by the Petitioner's system. The Petitioner maintains a fully equipped and operational local production studio in Union Township for the creation of local and access programming.
15. The Petitioner shall make available a mobile production vehicle including cameras, recording and editing equipment for the purpose of producing non-

commercial community governmental and educational access programming in accordance with the Petitioner's rules for use of the vehicle. The Petitioner shall provide basic training to all users of the production vehicle.

16. Within 12 months of the date of issuance of this Certificate, the Petitioner shall provide to the Borough a grant for local access related needs in the amount of \$40,000.00. Upon payment, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
17. The Petitioner shall provide or continue to provide standard installation and monthly basic cable television service, to one outlet, free of charge, in each school in the Borough, public and private, elementary, intermediate and secondary. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
18. The Petitioner shall provide or continue to provide one standard installation and monthly basic cable television service, free of charge, on one outlet, to each police, fire, emergency management facility, public library, municipal senior citizen's facility and municipal community center in the Borough. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Borough. Monthly service charges shall be waived on all additional outlets.
19. The Petitioner shall provide or continue to provide standard installation and one non-networked outlet of Internet service via high speed cable modem, free of charge, to all public and private schools and public library buildings. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. The connection shall be installed in a location accessible for community and student use, and shall not be restricted to administrative use.

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 continued authority to construct and operate a cable television system within the entirety of the Borough.

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 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.

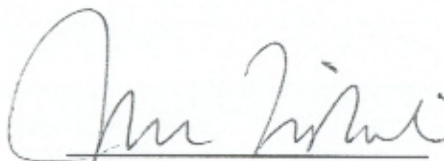
This Certificate shall expire on November 21, 2014.

DATED: 3/17/10

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

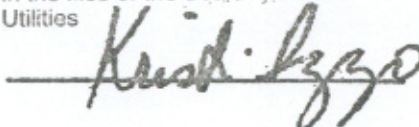

JOSEPH L. FIORDALISO
COMMISSIONER


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

COMCAST OF NEW JERSEY II, LLC
BOROUGH OF CARTERET

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 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 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.

COMCAST OF NEW JERSEY II, LLC
RENEWAL CERTIFICATE OF APPROVAL
BOROUGH OF CARTERET
DOCKET NO. CE09120986

SERVICE LIST

Dennis C. Linken, Esq.
Stryker, Tams and Dill
Two Penn Plaza East
Newark, NJ 07105

Kathleen Barney
Borough Clerk
Borough of Carteret
61 Cooke Avenue
Carteret, NJ 07008

Charles L. Smith, III, Area Director
Government and Community Affairs
Comcast
800 Rahway Avenue
Union, NJ 07083

Jessica L. Campbell
Deputy Attorney General
Division of Law
124 Halsey Street
Newark, NJ 07102

Celeste M. Fasone, Director
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Karen A. Marlowe
Administrative Analyst I
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102