



Agenda Date: 9/16/10

Agenda Item: IIIE

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC.)
CERTIFICATION OF CAPABILITY TO PROVIDE) ORDER
CABLE TELEVISION SERVICE TO 60 PERCENT OF)
HOUSEHOLDS IN 13 DESIGNATED MUNICIPALITIES) DOCKET NO. CO10080518

Gregory Romano, Esq. General Counsel, Mid Atlantic Region, Verizon, for Verizon New Jersey, Inc.

Dennis C. Linken, Esq., Stryker, Tams and Dill, for Comcast and Time Warner

Sidney A. Sayovitz, Esq., Schenck, Price, Smith & King, for Cablevision

BY THE BOARD

On August 2, 2010, Verizon New Jersey, Inc. (Verizon) filed a petition with the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-30(d) and N.J.A.C. 14:18-15.7, seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in 13 municipalities.¹

Verizon was granted a systemwide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities² pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").³ Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 369 municipalities. The Act, as amended, allows for the granting of competitive systemwide

¹The 13 municipalities included in Verizon's application are: Aberdeen Township, Bellmawr Borough, Clayton Borough, Collingswood Borough, East Newark Borough, Elsinboro Township, Harrison Town, Leonia Borough, North Bergen Township, Randolph Township, Roselle Borough, Roselle Park Borough and South Brunswick Township.

²Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

³L.2006, c.83, signed into law August 4, 2006.

franchises for providers of cable television service by the Board. Prior to the passage of the amendments to the Act, cable television providers negotiated with each municipality separately for the grant of municipal consent, and then petitioned the Board for a certificate of approval to provide service within that municipality. Since the passage of the amendments to the Act, cable television companies now have a choice of continuing under the municipal consent based franchise system or proceeding under the systemwide franchise option.

Each cable television company operating in the State of New Jersey must pay franchise fees to each municipality in which it provides service. Currently, an incumbent cable operator operating under a municipal consent based franchise pays franchise fees each year in the amount of two percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers within the municipality for its cable television reception service, as such term is defined by N.J.S.A. 48:5A-3(e). The Act, as amended, requires that the holder of a systemwide cable television franchise pay to each municipality served each year a sum equal to 3.5 percent of gross revenues derived from cable television service charges or fees paid by subscribers in the municipality to the systemwide cable television franchisee. N.J.S.A. 48:5A-30(d). In addition, an amount not to exceed one-half of one percent of those gross revenues must be remitted to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for seniors and disabled persons. N.J.S.A. 48:5A-30(d). N.J.S.A. 48:5A-30(d) further provides that once a systemwide cable television franchise holder certifies that it is capable of providing service to at least 60 percent of the households within a municipality that is served by an incumbent cable television provider, and the Board approves that certification, the existing cable television company must also pay the increased franchise fee.

In conjunction with this statutory requirement, and in support of its petition, Verizon filed an Affidavit of John Gallup, Director, Video Network Services, explaining the methodology used by Verizon in calculating the percentage of households where Verizon is capable of providing cable television service. The affidavit states that Verizon first identified the number of residential addresses passed by Verizon's network and served by Verizon's cable television facilities, which were validated as capable of receiving Verizon's services (FiOS). Because the Act, as amended, requires the franchise operator to identify the percentage of households rather than addresses, Verizon performed additional calculations to convert the data on validated addresses to reflect household data by utilizing information from the 2000 U.S. Census and mid-2009 estimates from that data provided by a company called ESRI, Inc. Verizon projected the number of occupied households as of June 30, 2010 by comparing the number of households in 2000 to those in mid-2009 as estimated by ESRI, and adjusting that trend forward to the 2010 date. Verizon also multiplied its FiOS validated residential address counts in the filing by the ESRI estimated occupancy rates for mid-2009 to estimate the households in each town that were capable of being provided FiOS service. Verizon then divided these projected household numbers by the total number of estimated households in each municipality as of June 30, 2010 as calculated in the first step. Verizon provided a list of the final calculations, which demonstrated the percentage of occupied households where Verizon is capable of providing cable television service, ranging from a minimum of 65 percent in South Brunswick Township to a maximum of 82 percent availability in Harrison Town.⁴

⁴See Appendix "I" attached.

Staff has reviewed the petition and supporting documentation. As part of its analysis, Staff performed its own calculations to project the ESRI supplied mid-2009 data forward to June 30, 2010 and estimate the number of households within each municipality for the purpose of converting Verizon's FiOS validated residential address data to households capable of receiving FiOS service. In its review, Staff also reviewed several aspects of Verizon's service capabilities. This review included an analysis of whether Verizon's central offices/wire centers serving the subject municipalities had been converted to Video Serving Offices (VSOs) which are FiOS capable, as well as an analysis of Verizon's capability of serving residential households of all types, including one to four family structures located in underground utility service areas within a particular municipality and multiple-dwelling unit (MDU) structures located in both aerial and underground utility service areas within a particular municipality.

Furthermore, Staff reviewed additional data from Verizon demonstrating that the MDUs in the affected municipalities were not just passed by Verizon's cable television service, but capable of being provided cable television service if a resident requested it. Staff's review of MDU service capability also focused on important issues highlighted in Executive Order No. 25 (2006), which supplemented anti-redlining elements of the Act, as amended. Verizon also provided data indicating that no MDUs or any units within a particular MDU were included unless they could be provided service at the time they were included in the certification. Verizon represented that only households within MDUs that were able to be served upon request of a resident were counted towards the 60 percent certification. Verizon also provided a current status of additional MDUs which are not currently capable of being provided FiOS service, but where access agreements have been successfully negotiated. In each case, additional survey, engineering, or design work is underway, but not yet complete.

Based on Staff's recommendation and the Board's review of the information provided in support of the petition, the Board accepts Verizon's certification that it is capable of providing service to at least 60 percent of the households in municipalities currently served by a cable television company that operates under a municipal consent in the 13 municipalities and HEREBY APPROVES Verizon's certification. Attached as Appendix "I" is a list of the 13 municipalities where Verizon is capable of providing cable service to more than 60 percent of the households in the municipality that is currently provided with cable service by another cable company, and the percentage of FiOS availability to those households.

Each cable television operator currently operating in the 13 municipalities listed in Appendix "I" approved under Verizon's certification is HEREBY REQUIRED to pay to each municipality each year a sum equal to 3.5 percent of gross revenues, as such term is defined by N.J.S.A. 48:5A-3(x), derived from cable television service charges or fees paid by subscribers in the municipality to the cable television franchisee, and an additional amount not to exceed one-half of one percent of those gross revenues to the State Treasurer for a "CATV Universal Access Fund" to offset basic cable television service rates for low income (P.A.A.D. eligible) seniors and disabled persons.

Cable television operators may begin implementation of the increased franchise fee collection from their subscribers up to, but no later than, 90 days following the date of this Board Order approving the certification, pursuant to N.J.A.C. 14:18-15.7(d).

Cable television operators shall notify each municipality, the Division of Rate Counsel and the Office of Cable Television in writing of the effective date of the increased franchise fee.

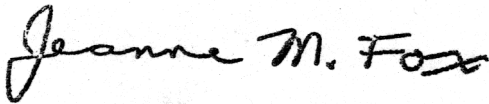
DATED:

9/16/10

BOARD OF PUBLIC UTILITIES

BY:

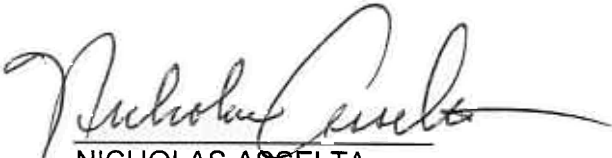

LEE A. SOLOMON
PRESIDENT



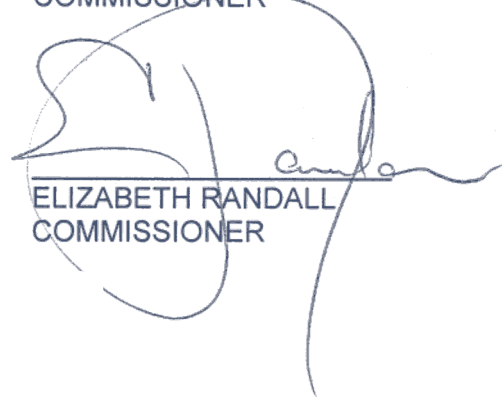
JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



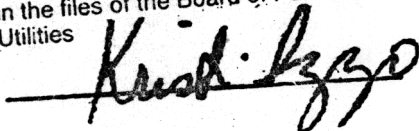
ELIZABETH RANDALL
COMMISSIONER

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"

Municipality	County	Percentage
Aberdeen Township	Monmouth	66%
Bellmawr Borough	Camden	69%
Clayton Borough	Gloucester	66%
Collingswood Borough	Camden	70%
East Newark Borough	Hudson	71%
Elsinboro Township	Salem	66%
Harrison Town	Hudson	82%
Leonia Borough	Bergen	66%
North Bergen Township	Hudson	70%
Randolph Township	Morris	67%
Roselle Borough	Union	71%
Roselle Park Borough	Union	71%
South Brunswick Township	Middlesex	65%

SERVICE LIST

**I/M/O VERIZON NEW JERSEY, INC. CERTIFICATION OF CAPABILITY
TO PROVIDE CABLE TELEVISION SERVICE TO 60 PERCENT OF HOUSEHOLDS
IN 13 DESIGNATED MUNICIPALITIES
BPU DOCKET NO. CO10080518**

Gregory Romano, Esq.
General Counsel, Mid Atlantic Region
Verizon
One Verizon Way
VC54S204
Basking Ridge, NJ 07920

Hesser G. McBride, Jr., Esq.
Wilentz, Goldman & Spitzer P.A.
90 Woodbridge Center Drive
Suite 900, Box 10
Woodbridge, NJ 07095-0958

William Kettleson, Vice President
Comcast
1191 Fries Mill Road
Franklinville, NJ 08322

Harriet Novet, Regional VP
Time Warner Cable
120 East 23rd Street, 7th Floor
New York, NY 10010

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

Adam Falk, Vice President
Government and Public Affairs
Cablevision Systems Corporation
1111 Stewart Avenue
Bethpage, NY 11714-3581

Sidney A. Sayovitz, Esq.
Schenck, Price, Smith & King
PO Box 991
Florham Park, NJ 07932-0991

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

William H. Furlong, Bureau Chief
Karen A. Marlowe, Admin. Analyst I
Richard Wagenblast, Admin. Analyst I
Steven Rastatter, Telco Sys Analyst
Board of Public Utilities
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Lawanda Gilbert, Esq.
Legal Specialist
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Alex Moreau
Deputy Attorney General
State of New Jersey, Division of Law
124 Halsey Street
Newark, New Jersey 07101

Stefanie Brand, Director
Division of Rate Counsel
31 Clinton Street, 11th Floor
Trenton, NJ 08625-0851

Chris White, Esq.
Division of Rate Counsel
31 Clinton Street, 11th Floor
Newark, NJ 07102