



Agenda Date: 5/23/12  
Agenda Item: IVA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF VERIZON )  
NEW JERSEY INC. FOR APPROVAL OF MUNICIPAL )  
CONSENTS PURSUANT TO N.J.S.A. 48:2-14 )  
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ORDER  
  
DOCKET NOS. TE11110839  
THROUGH TE11110843  
And TE12020161

Parties of Record:

**Sidney D. Weiss, Esq.**, on behalf of Verizon New Jersey Inc., Petitioner  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By verified petitions filed pursuant to N.J.S.A. 48:2-14 on November 16, 2011 and February 17, 2012, Verizon New Jersey Inc. (Verizon) requested approval of the Board of Public Utilities (Board) of consent ordinances adopted by (1) the Township of Clifton in Passaic County (Docket No. TE11110839); (2) Township of East Windsor in Mercer County (Docket No. TE11110840); (3) the Borough of Middlesex in Middlesex County (Docket No. TE11110841); (4) the City of Ventnor in the County of Atlantic (Docket No. TE11110842); (5) the Township of Winfield in Union County (Docket No. TE11110843); and (6) the Village of Ridgewood in Bergen County (Docket No. TE12020161). Said consents grant Verizon the continued right to install, maintain and operate its facilities in local rights-of-way in order to provide customers within the affected municipalities with telecommunications services.

Verizon is a public utility subject to the jurisdiction of the Board pursuant to the applicable provisions of Title 48 of the New Jersey statutes, and is authorized to provide telecommunications services in the State of New Jersey, including in the municipalities noted above.

After appropriate notice, a hearing in these matters was held on March 27, 2012, at the Division of Rate Counsel's (Rate Counsel) Offices in Newark before Carol Artale, Esq., the Board's duly designated Hearing Examiner.

At the hearing, Verizon relied on the testimony of Thomas A. Caserta, a freelance engineer and former Verizon Manager of Land Use Matters. Mr. Caserta noted that his duties include reviewing and negotiating consent ordinance renewals such as those that comprise the matters

now pending. The witness testified that the ordinances provide Verizon with the authority to use the public rights-of-way and designated areas for the purpose of locating, maintaining and operating its facilities, and are reasonably necessary in order that Verizon may provide its business and residential customers with proper and adequate telecommunications services.

Mr. Caserta also stated that the pending consents, which are not exclusive, are renewals of prior ordinances under which Verizon and its predecessors have been providing telecommunications services to the subject municipalities over an extended and uninterrupted period of time. He testified that the term of the consent granted by East Windsor was 15 years, and 10 years for City of Clifton and Village of Ridgewood, with a provision for re-review after five years. He further testified as to the minor differences between the terms of the individual consents and noted that the Middlesex, Ventnor and Winfield consents are silent as to the term. Mr. Caserta indicated the consents were consistent with the standard form of consent that Verizon uses in its negotiations with individual municipalities and indicated that Verizon had no problem with the Board's past policy of imputing a term of 50 years related to those consents that were silent as to the term.

Mr. Caserta outlined the clarifications made to the standard language of the ordinances respecting Clifton, particularly Section 1 regarding the non-exclusivity of the ordinance and the provision that no cell structure would be installed in the public right-of-way. Section 5 clarifies Clifton's right to invoke immunity from tort claims, which is already granted to it by operation of other laws. Additionally, language was included in Section 7 respecting notification of any joint-use agreements with third-party carriers on pole lines consistent with Verizon's policy. Section 15 clarified worker liability and workers compensation and Section 16 setting forth the term limit of ten years.

Regarding the Township of East Windsor, clarifications include Section 4 of the ordinance which provides for a map or plan for any work conducted in the municipality, as well as Section 10 which allows for repeal of the ordinance prior to the conclusion of the fifteen-year term. Verizon has the ability to dispute the repeal based on language added to its acceptance. With respect to the Village of Ridgewood, Section 4, regarding new construction and relocation work, Ridgewood requested ten days notice as opposed to five days prior notice of the work. Regarding Section 5, dealing with indemnification and hold-harmless clauses for any claims arising from injury or damage, language was included to defend Ridgewood in addition to indemnifying and holding it harmless. Lastly, as to Section 8.1, language was added to include surveillance cameras in the network.

By letter dated April 2, 2012, the Division of Rate Counsel submitted post-hearing comments wherein it submitted that where the ordinance is silent as to a durational term, the imputed term should not exceed fifty years (50), consistent with terms imputed in the past by the Board.

By letter dated April 4, 2012, Verizon responded to Rate Counsel's comments, stating that "while Petitioner does not believe that any specified term is necessary with respect to the ordinances (Middlesex, Winfield and Ventnor) it does not object to imputing a fifty year term to the three ordinances..."

Based on a review of the entire record, the Board HEREBY FINDS that said record reflects that Verizon complies with all pertinent local ordinances, including those that pertain to street openings and restorations, and provides indemnification for damages arising from any work performed by the utility. The record further reflects that Verizon pays real and personal property taxes to the affected municipalities as well as all reasonable fees charged by those

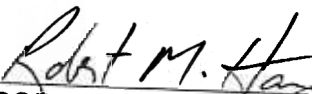
The Board FURTHER FINDS that the consents granted to Verizon New Jersey Inc. by the Township of Clifton, Township of East Windsor, Borough of Middlesex, City of Ventnor, Township of Winfield and Village of Ridgewood are reasonable and are necessary and proper for the public convenience and properly conserve the public interests. With regard to the consents that are silent as to length of duration, namely the Borough of Middlesex, City of Ventnor and Township of Winfield, the Board, consistent with its recent determinations in similar matters, and pursuant to its authority under N.J.S.A. 48:2-14, will continue to impose terms of 50 years to those consents that are silent as to the term.

Therefore, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consents granted to Verizon New Jersey Inc. by the Township of East Windsor for a fifteen (15) year term and by the City of Clifton and Village of Ridgewood each for a term of ten (10) years with a provision for a re-review after five (5) years. With regard to the consents granted by the Borough of

Middlesex and the Township of Winfield and the City of Ventnor, which included no specified term, the Board HEREBY MODIFIES said consents only to the extent necessary to impose therein a term of 50 years.


DATED: 5/23/12

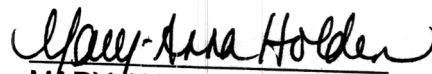
BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

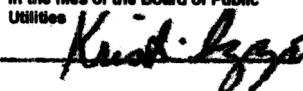
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

  
MARY-ANNA HOLDEN  
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  


I/M/O THE PETITION OF VERIZON NEW JERSEY INC. FOR APPROVAL OF MUNICIPAL  
CONSENTS PURSUANT TO N.J.S.A. 48:2-14  
DOCKET NOS. TE11110839 through TE11110843; and TE12020161

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