



Agenda Date: 3/18/15  
Agenda Item: IIIA

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

CABLE TELEVISION

IN THE MATTER OF CABLEVISION OF PATERSON, ) ORDER  
LLC FOR THE CONVERSION TO A SYSTEM-WIDE )  
CABLE TELEVISION FRANCHISE IN THE CITY OF )  
PATERSON ) DOCKET NO. CE15010138

**Parties of Record:**

**R. Thurman Barnes, Area Director, Government and Public Affairs NJ, Cablevision**  
**Jane Williams-Warren, Clerk, City of Paterson, New Jersey**  
**Stefanie A. Brand, Esq., Director, Division of Rate Counsel**

**BY THE BOARD<sup>1</sup>:**

This matter was opened to the New Jersey Board of Public Utilities ("Board") by the filing of correspondence by Cablevision of Paterson, LLC ("Cablevision of Paterson"). The correspondence provided Cablevision's intention to convert its municipal-based franchise in the City of Paterson ("City") to a system-wide cable television franchise pursuant to P.L. 2006, c. 83 ("System-wide Cable Television Franchise Act" or "Act"), which modified the existing Cable Television Act, N.J.S.A. 48:5A-1 et seq.

BACKGROUND

The Cable Television Act, prior to the changes introduced by the System-wide Cable Television Franchise Act, vested the authority to grant a franchise for the operation of a cable television system in a joint process between the municipality and the Board. Pursuant to N.J.S.A. 48:5A-22, to obtain an initial franchise or a renewal, a cable television operator was required to negotiate with the municipality the terms of a municipal consent. The applicant was subsequently required to obtain a certificate of approval ("COA") from the Board. N.J.S.A. 48:5A-16. Board approval of a COA is issued upon a determination that the cable television operator has the "financial and technical capacity and the legal, character and other qualifications to construct, maintain and operate the necessary installations, lines and equipment and to provide the service proposed in a safe, adequate and proper manner."

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<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

N.J.S.A. 48:5A-28(c). Because the negotiation process occurs on a municipality by municipality basis, the contents of each franchise can differ significantly between each municipality and even between each cable television operator.

The System-wide Cable Television Franchise Act provided an alternative to this framework. Under the Act, an applicant for a system-wide cable television franchise applies to the Board for approval without first obtaining a municipal consent from the municipalities to be served. Under N.J.S.A. 48:5A-25.1, a cable television operator with a municipal consent-based franchise or franchises issued prior to the effective date of the Act may automatically convert any or all of its municipal franchises, upon notice to the Board and to the affected municipality, without meeting the requirements applicable to cable television operators applying for a system-wide cable television franchise, with the exception of the commitment requirements under N.J.S.A. 48:5A-28 (h)-(n). Cable television operators can add or convert municipal franchises at any time during the system-wide cable television franchise. Furthermore, the Act provides for an increase in franchise fees from 2% to 3.5% of gross revenues, as well as an amount not to exceed 0.5% of gross revenues for a Cable Television ("CATV") Universal Access Fund. N.J.S.A. 48:5A-30.

## DISCUSSION

On January 29, 2015, Cablevision of Paterson filed notice with the City, by certified mail, that it intended to convert its municipal consent-based franchise in the City to a system-wide cable television franchise, and confirmed that it would abide by the provisions of N.J.S.A. 48:5A-28 (h)-(n), as required by the Act. That notice was received by the Board on January 30, 2015. N.J.S.A. 48:5A-28(h)-(n) imposes requirements on all cable television companies operating under a system-wide cable television franchise and includes commitments as to line extensions; public, educational and governmental ("PEG") access channels; interconnection with other cable television companies; free cable and Internet service to public schools and municipal buildings; training and equipment for access users; PEG access return feeds; and compliance with customer protection regulations.

N.J.S.A. 48:5A-28(h) requires a cable television system-wide cable television franchise operator to meet or exceed the line extension policy commitments of the cable television company operating under a municipal consent-based franchise at the time the franchise is granted. Because Cablevision of Paterson is the incumbent, it is required to continue to provide, at a minimum, service to any residence in the City at no cost beyond the installation rates contained in its schedule of prices, rates, terms and conditions filed with the Board pursuant to N.J.A.C. 14:17-6.16 and 6.17. Businesses will be provided service in accordance with Cablevision of Paterson's commercial line extension policy attached to this order as Appendix "I".

N.J.S.A. 48:5A-28(i) requires a cable television company operating under a system-wide cable television franchise to provide two PEG access channels upon request of the municipality. Cablevision of Paterson, as a municipal consent-based franchise holder, currently provides one educational and one governmental access channel for the exclusive use of the City, as well as one public access channel. Pursuant to this section, the City will be responsible for the management, operations and programming of any PEG access channels that are in its control. Either Cablevision of Paterson or the City may request assistance from the Office of Cable Television ("OCTV") for resolution of any disputes regarding the terms and conditions of the provision of the access channels. N.J.A.C. 14:18-15.4(b) and (c). N.J.S.A. 48:5A-28(i) also requires all cable television companies operating in a municipality to provide PEG access interconnection on reasonable terms and conditions with all other cable television companies.

N.J.S.A. 48:5A-28(j) and (k) require a cable television operator under a system-wide cable television franchise to provide a single outlet of free basic cable television service and free Internet service, upon written request, to any fire station, public school, police station, public library, or other building used for municipal purposes. Cablevision of Paterson provided free service to many public schools and public buildings in the City and has committed to install cable and Internet services to any qualified building within 90 days of written request by the municipality, provided that the location is passed by active cable television plant. N.J.A.C. 14:18-15.5. Pursuant to N.J.A.C. 14:18-15.5(b), either party may request assistance from the OCTV for resolution of any disputes regarding the provision of these services.

N.J.S.A. 48:5A-28(l) requires a cable television company operating under a system-wide cable television franchise to provide equipment and training for PEG access users, without charge, on a schedule to be agreed upon between the municipality and the cable television company. The negotiated terms of the provision of equipment and training shall conform with N.J.A.C. 14:18-15.6. Furthermore, pursuant to N.J.A.C. 14:18-15.6(d), either party may request assistance from the OCTV for resolution of any disputes regarding the provision of these services.

N.J.S.A. 48:5A-28(m) requires a cable television company operating under a system-wide cable television franchise to provide a return line. Cablevision of Paterson is required to provide a return line, upon written request, from any one location in the City to Cablevision of Paterson's head-end or other location of interconnection to the cable television system for PEG access use. The return line must provide the City with the ability to cablecast live or tape access programming in real time. Cablevision of Paterson currently maintains return lines at City Hall, John F. Kennedy High School and at the public access studio in the City. Therefore, Cablevision of Paterson has met the requirements of this Section.

N.J.S.A. 48:5A-28(n) requires Cablevision of Paterson to continue to "meet any consumer protection requirements applicable, pursuant to Board regulations, to cable television companies operating under certificates of approval." Cablevision of Paterson certified in its notice that it will meet the requirements of this Section.

Cablevision of Paterson also committed to maintaining, under its system-wide cable television franchise, the same liability limits required under N.J.S.A. 48:5A-28(f). Cablevision of Paterson will maintain commercial general liability insurance coverage with respect to claims related to bodily injury, property damage or other claims arising out of Cablevision of Paterson's construction and operation of its cable television system in the minimum amounts of: (1) \$150,000 for bodily injury or death to any one person, within the limit, however, of \$500,000 for bodily injury or death resulting from any one accident; (2) \$100,000 for property damage resulting from any one accident; and (3) \$50,000 for other commercial general liability claims.

The Act requires cable television companies operating under a system-wide cable television franchise to pay increased franchise fees from 2% of basic cable television service revenues to 3.5% of gross cable television service revenues, as well as an amount not to exceed 0.5% of gross revenues for a CATV Universal Access Fund. N.J.S.A. 48:5A-30. It is noted that Cablevision of Paterson is already collecting and paying the increased franchise/CATV Universal Access Fund fee in the City because Verizon New Jersey, Inc., a competing cable television company operating under a system-wide cable television franchise, certified that it was capable of serving at least sixty percent (60%) of the residents in the City. The Board approved Verizon New Jersey, Inc.'s certification in November of 2014 (BPU Docket No. C14101411).

Pursuant to N.J.A.C. 14:18-5.1, all cable television operating companies are required to maintain "in or within reasonable proximity of its service area, a local business office, the current location of which shall be furnished to the Office where applications for service, complaints, service inquiries, bill payments, and so forth will be received." Cablevision of Paterson currently maintains a local office in the City of Paterson, New Jersey, and any modification to the location of the office will be subject to N.J.A.C. 14:18-5.1.

#### DISPOSITION OF CERTIFICATE OF APPROVAL AND UNDERLYING MUNICIPAL CONSENT

As discussed above, the Act allows a cable television company, operating under a municipal consent-based franchise, to "automatically convert" its system in any or all of its municipalities without approval from the Board or the impacted municipalities. N.J.S.A. 48:5A-25.1(a). Furthermore, N.J.S.A. 48:5A-19 provides that a "certificate of approval issued by the board shall be valid for 15 years from the date of issuance... or until the expiration, revocation, termination or renegotiation of any municipal consent upon which it is based, whichever is sooner." Cablevision of Paterson's Certificate of Approval and the underlying municipal consent ordinance in the City was set to expire on January 13, 2020. Because Cablevision of Paterson has now converted this municipal consent based-franchise into a system-wide cable television franchise, pursuant to N.J.S.A. 48:5A-19 and N.J.S.A. 48:5A-25.1(a), the Board **FINDS** that Cablevision of Paterson's Certificate of Approval for the City is **HEREBY TERMINATED**.

Additionally, the Board notes that N.J.S.A. 48:5A-25.1(b) provides that nothing shall "preclude a municipality from enforcing its right-of-way management powers on a reasonable and nondiscriminatory basis." However, a municipality is prohibited from imposing any fees, taxes, assessments or charges for the use of public rights-of-way by a cable television operator except where permitted under the Act. Accordingly, the City may impose reasonable and non-discriminatory rights-of-way management powers on Cablevision of Paterson, but may not impose any fees, taxes, assessments or charges for use of the public rights-of-way pursuant to N.J.S.A. 48:5A-25.1(a) and as further discussed in City of Middletown v. Storer Cable Communications, Inc., 206 N.J. Super. 572 (App. Div. 1985).

Based upon the above, the Board **HEREBY RATIFIES** Cablevision of Paterson's conversion of its franchise for the City in the Cablevision of Paterson system to a System-wide Cable Television Franchise, which shall be in effect for a period of seven (7) years, pursuant to the provisions of the System-wide Cable Television Franchise Act. The Board **HEREBY ORDERS** that Cablevision of Paterson shall meet the requirements of N.J.S.A. 48:5A-28 (h)-(n) and the following terms and conditions:

1. Cablevision of Paterson shall maintain an informational schedule of prices, terms and conditions for unregulated service and promptly file any revisions thereto. Rate and channel line-up changes shall be performed in accordance with applicable rules.
2. As explicitly required by the Act, the OCTV is the designated complaint officer for the City and any municipality added to its system-wide cable television franchise. All complaints shall be received and processed in accordance with applicable rules.
3. Cablevision of Paterson shall pay a franchise fee to the City in the amount of 3.5% of Cablevision of Paterson's gross revenues in the City, as defined by N.J.S.A. 48:5A-3(x) and N.J.S.A. 48:5A-30.

4. Cablevision of Paterson shall pay to the State Treasurer an amount up to 0.5% of Cablevision of Paterson's gross revenues in the City, in accordance with N.J.S.A. 48:5A-3(x) and N.J.S.A. 48:5A-30. Cablevision of Paterson shall provide copies to the Board of all documentation regarding payment of this fee to the State Treasurer.
5. Cablevision of Paterson shall continue to pay additional regulatory fees to the State in an amount not to exceed 2% of Cablevision of Paterson's gross operating revenues derived from intrastate operations.
6. Pursuant to the Act, either Cablevision of Paterson or the City may request assistance from the OCTV for resolution of disputes, and the OCTV shall use the procedures specified in N.J.A.C. 14:18-15.3 through 15.6.
7. Under N.J.A.C. 14:18-5.1(a), Cablevision of Paterson shall maintain a local office in or within reasonable proximity of its service area where applications for service, complaints, service inquiries, bill payments, and so forth will be received. Furthermore, Cablevision of Paterson shall not close or relocate a local office, except as provided pursuant to N.J.A.C. 14:18-5.1(c).

This System-wide Cable Television Franchise 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. Cablevision of Paterson 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 found at 47 C.F.R. § 76.601 through § 76.630. Any modifications to the provisions thereof shall be incorporated into this System-wide Cable Television Franchise.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television, and the terms, conditions and limitations set forth herein, may subject Cablevision of Paterson to penalties, as enumerated in N.J.S.A. 48:5A-51, and may constitute sufficient grounds for the suspension or revocation of this System-wide Cable Television Franchise.

This System-wide Cable Television Franchise is issued on the representation that the statements contained in Cablevision of Paterson's conversions are true, and that the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Board or the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

The System-wide Cable Television franchise ratified by this Order shall expire on January 30, 2022.

This Order shall be effective on April 1, 2015.

DATED: 3/18/15

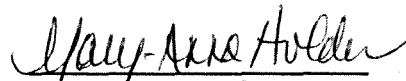
BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER

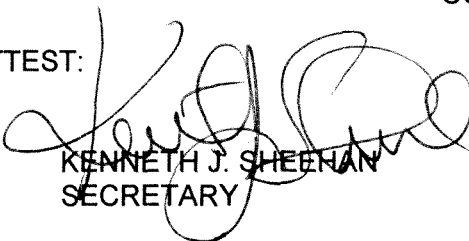


MARY-ANNA HOLDEN  
COMMISSIONER



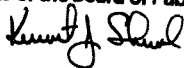
DIANNE SOLOMON  
COMMISSIONER

ATTEST:



KENNETH J. SHEEHAN  
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"

### CABLEVISION OF PATERSON, LLC SYSTEM-WIDE CABLE TELEVISION FRANCHISE

#### COMMERCIAL LINE EXTENSION RATE POLICY

1. Intent. It is the intent of CABLEVISION that a rate policy be established under which any businesses within the company's franchise areas would have the opportunity to obtain cable television service.

2. Applicability. This line extension rate shall apply to all cable television service extensions, aerial and underground, on public and private lands, provided by CABLEVISION.

3. Definitions.

(a) Line or Service. That situation where the company must extend its existing trunk line and/or distribution cable in order to make a tap available from which a drop line can be run so as to provide cable television service to the applicant's premises. The line or service extension shall include, but not be limited to, all poles, cables, amplifiers, extenders, splitters, taps, right-of-way acquisitions and clearing, trenching, backfilling and any other one-time costs incurred by CABLEVISION in connection with extending service to the applicant. A line or service extension shall not include facilities provided by CABLEVISION pursuant to its applicable installation rates then existing.

(b) Applicant. Any person, firm, corporation or association that applies to CABLEVISION for service to a commercial establishment in the franchise area.

(c) Commercial Establishment. Any building or structure, or portion thereof, not used for residential purposes including, but not limited to, profit and non-profit corporations or associations, which has requested the installation of cable television service requiring line or service extension as defined herein.

(d) Drop Line. That cable which connects the subscriber's television receiver to the cable transmission system by way of a tap.

(e) Tap. A connecting device inserted in the cable transmission line which allows for the connection of a drop line. An aerial or underground "drop line" constitutes a transmission cable running from the distribution or feeder cable to the subscriber's connection or receiver.

(f) Trunk Line. Transmission cable running from headend to trunk amplifiers and through each trunk amplifier in cascade in the system from which connections for distribution and feeder cable are provided.

(g) Distribution or Feeder Cable. Transmission cable which extends from the distribution amplifiers serving specific areas within the system and from which drop lines are extended.

(h) Qualified Subscriber. Any applicant who, as a potential subscriber, has committed to purchase at least the basic service from CABLEVISION for a period of not less than two (2) years.

#### 4. Schedule.

(a) Within thirty (30) days after the date on which the service is requested, but not more than ninety (90) days from the date upon which the request for service was made, CABLEVISION shall furnish the applicant with (1) an estimate request form, (2) a copy of this line extension policy, and (3) notification that service can only be provided by means of a line or service extension.

(b) If the applicant requests a written estimate within thirty (30) days after being advised that service can only be provided by means of a line or service extension, CABLEVISION shall, within sixty (60) days of such request, furnish a written estimate, a construction schedule, and a service extension contract to be signed by the applicant.

(c) The applicant must return a signed service extension agreement within thirty (30) days after receipt of the material described in Paragraph (b) together with a check in the amount of \$50.00 representing a service extension deposit which will be credited against the applicant's contribution in aid of construction invoice to the applicant which must be signed and returned to CABLEVISION with the full payment before construction will commence.

(d) If the applicant fails to meet any of the applicable deadlines or any of the terms herein before set forth without the approval of CABLEVISION, any obligations pertaining to the proposed line or service extension shall cease and be of no further force or effect.

#### 5. Commercial Line Extension Rate Charges.

A commercial establishment requesting line or service extension shall bear all of the following costs to make a tap available from which a drop line may be installed:

(a) The actual cost to CABLEVISION of materials and equipment necessary to make service available plus shipping charges and applicable taxes.

(b) The actual labor costs incurred by CABLEVISION, exclusive of benefits.

(c) The actual costs of designs, surveys, prints and engineering or other such labor involved in the preparation or actual construction required.

(d) The direct costs of any easements, make-ready or other third party actions required to perform and complete construction such as, but not limited to, power companies, telephone companies, road work, trenching or the like.

(e) In addition, the applicant shall pay to CABLEVISION a sum equal to twenty percent (20%) of the entire actual cost of construction as set forth above.



(f) In the event additional commercial subscribers come on-line in an area in which service extension has been provided in accordance herewith, each additional subscriber shall, in addition to the applicable installation rate, be required to contribute their pro-rata share of the original construction costs. Said pro-rata share shall be derived by dividing the original construction cost by the number of then existing on-line subscribers including the additional subscriber(s).

(g) Any funds collected from additional subscribers will be retained by CABLEVISION in an interest-bearing account and distributed equitably so as to equalize all subscriber construction contributions. Distribution will be made two years after the original service extension was provided. After said two year period, there shall be no further apportionment of the original construction cost.

6. Record Keeping and Annual Reports. CABLEVISION shall maintain appropriate records of its costs, subscriber and applicant billings, and revenues resulting from a request for or the construction of a service extension.

7. Ownership of Facilities. CABLEVISION shall own and maintain the facilities for which a service extension is made and any applicant-subscriber shall not acquire any interest herein.

8. Method of Service Extension. CABLEVISION reserves the right to provide either an aerial or underground service extension.

9. Term of Service. The minimum term of at least basic subscriber service for an applicant requesting service extension, or his successors and assigns, shall be twenty-four (24) months after the service extension has been energized. Said term shall be guaranteed by the applicant in the service extension contract specified in Paragraph 4(c) hereof.

IN THE MATTER OF CABLEVISION OF PATERSON, LLC FOR THE CONVERSION TO A  
SYSTEM-WIDE CABLE TELEVISION FRANCHISE FOR THE CITY OF PATERSON  
DOCKET NO. CE15010138

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