



Agenda Date: 8/23/17
Agenda Item: IIC

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION &
TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
COMCAST OF CENTRAL NEW JERSEY, LLC) RENEWAL CERTIFICATE
FOR A RENEWAL CERTIFICATE OF APPROVAL) OF APPROVAL
TO CONTINUE TO CONSTRUCT, OPERATE AND)
MAINTAIN A CABLE TELEVISION SYSTEM IN)
AND FOR THE TOWNSHIP OF EAST)
BRUNSWICK, COUNTY OF MIDDLESEX, STATE)
OF NEW JERSEY) DOCKET NO. CE15040425

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck, LLC, for the Petitioner
Nennette Perry, Clerk, Township of East Brunswick, New Jersey

BY THE BOARD:

On January 17, 1980, the Board of Public Utilities ("Board") granted Middlesex Cablevision, Inc. ("Middlesex") a Certificate of Approval in Docket No. 797C-6508 for the construction, operation and maintenance of a cable television system in the Township of East Brunswick ("Township"). On March 27, 1980, the Board approved the acquisition of all stock in Middlesex by Storer Communications, Inc. ("SCI"). On July 2, 1986, the Board approved the reorganization of SCI, for which the Certificate of Approval was transferred to Storer Cable Communications of Central New Jersey, Inc. d/b/a Storer Cable Communications (Storer"). On August 6, 1990, the Board granted Storer a Renewal Certificate of Approval in Docket No. CE89080733, for the Township. Storer was subsequently named Comcast Cablevision of Central New Jersey, Inc. ("Comcast") and, on February 2, 2000, the Board issued a Renewal Certificate of Approval to Comcast in Docket No. CE99120928. Comcast the current holder of the Certificate was later renamed Comcast of Central New Jersey, LLC ("Petitioner"). Although by its terms the Petitioner's above referenced Certificate expired on January 17, 2015, the 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.

The Petitioner filed an application for the renewal of its municipal consent with the Township on April 10, 2014, 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 March 9, 2015. The Petitioner formally rejected the terms and conditions of the ordinance on April 1, 2015. Thereafter on April 8, 2015, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board seeking a Renewal Certificate of Approval, alleging that the ordinance to which the Petitioner objected was not based on the record and therefore arbitrary and capricious. On May 6, 2015, the Township was granted an extension of time to file an answer to the petition. Thereafter, the Township indicated that a settlement could not be reached and filed an answer to the petition on December 2, 2015. A pre-transmittal settlement conference was held on February 17, 2016, in accordance with N.J.A.C. 14:17-8.1 et seq., but no settlement was reached.

On March 4, 2016, 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 et seq. and N.J.S.A. 52:14F-1 et seq. The case was assigned to Administrative Law Judge ("ALJ") Michael Antoniewicz. A prehearing telephone conference was held on May 16, 2016. On March 20, 2017, the Petitioner notified ALJ Antoniewicz that the parties had reached a settlement which disposed of all issues. Subsequently, on May 16, 2017, the OAL returned the file to Board for disposition.

Thereafter, on July 25, 2017, the Petitioner filed an amended petition with Board, pursuant to N.J.S.A. 48:5A-16, for a renewal of its Certificate, supplementing an amended ordinance adopted by the Township granting municipal consent to the Petitioner on January 9, 2017. The Petitioner formally accepted the terms and conditions of the amended ordinance on February 14, 2017.

The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval and the amended 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 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 ten years from the date of issuance of this Certificate. The Board finds this duration to be reasonable.
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 provide service to any residence or business along any public right-of-way in the Primary Service Area ("PSA") at no cost beyond standard and non-standard installation charges. For any extension outside of the PSA, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. ("Appendix I"). The minimum homes per mile figure is 35.
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 and file with the Board, 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. During the term of the franchise, the Petitioner shall use its best effort to locate a local business office within five miles of the Township border. Currently, the local office is located at 3 Auer Court, East Brunswick, 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 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 equipment and facilities as described in the application and ordinance. The Petitioner shall continue to provide one educational and governmental ("EG") access channel for use by the Township to air non-commercial programming. The Petitioner shall continue to provide a public access channel. The Petitioner shall continue to provide to the Township local TV guide information for local updates.
12. Within one year of issuance of this Certificate and upon written request of the Township, the Petitioner shall activate and make available one channel for educational access for use by the Township. If necessary to enable the Township to utilize the educational access channel, the Township shall select one location within the Township and the Petitioner shall provide and install, within 180 days of written request by the Township, the cable, wires, lines and other signal distribution equipment between the video origination location and the Petitioner's headend to enable the educational access programming to originate from the selected location and be distributed via the cable system to subscribers in the Township.

13. The Township or its designee shall be responsible for providing any necessary production or playback equipment and shall be responsible for securing and supervising any trained/qualified personnel for the purpose of operating the educational and/or governmental access channels.
14. Within six months of the issuance of this Certificate, the Petitioner shall provide the Township with a one-time capital grant of \$228,000.00 for the purchase of equipment. Upon payment, the Petitioner shall submit proof of satisfaction of this provision to the Office of Cable Television.
15. The Petitioner shall provide standard installation and Expanded Basic cable television service or a similar tier of cable television service, on one outlet, free of charge, to each qualified existing and future public building including the municipal building, public works, parks and recreation, water and sewer, police, fire and emergency management facility, and to each public library in the Township. In order to qualify for free installation, the facility must be located 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.
16. The Petitioner shall provide standard installation and Expanded Basic cable television service or a similar tier of cable television service, on one outlet, free of charge, to each qualified existing and future school in the Township, public and private, elementary, intermediate and secondary. In order 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.
17. Upon written request of the Township's governing body, the Petitioner's representative shall appear once annually.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that 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 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 that the Petitioner 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 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 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.

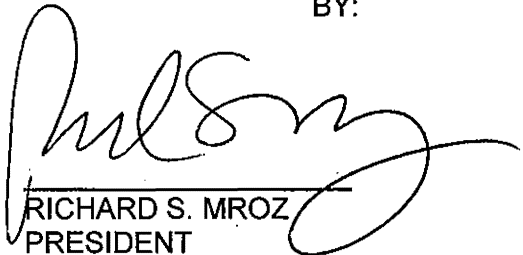
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to, and be enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire September 2, 2027.

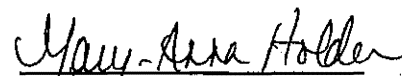
This Order shall be effective on September 2, 2017.

DATED: 8/23/17

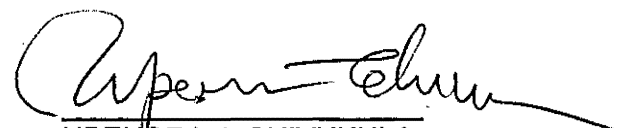
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

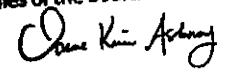

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 Central New Jersey, LLC
Municipality Township of East Brunswick

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. $\frac{\text{\# of homes in extension}}{\text{mileage of extension}} = \text{homes per mile (HPM) of extension}$

2. $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system *}} = \text{ratio of the density of the extension to the minimum density which the company constructs in the system ("A")}$

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. $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}} = \text{each subscriber's share}$

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 which the company has historically constructed at its own cost. This is a function of the operator's breakeven 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.

IN THE MATTER OF THE PETITION OF COMCAST OF CENTRAL NEW JERSEY, LLC FOR
A RENEWAL CERTIFICATE OF APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE
AND MAINTAIN A CABLE TELEVISION SYSTEM IN AND FOR THE TOWNSHIP OF EAST
BRUNSWICK, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

DOCKET NO. CE15040425

SERVICE LIST

Dennis C. Linken, Esq.
Scarinci Hollenbeck, LLC
Post Office Box 790
Lyndhurst, NJ 07071-0790
dlinken@scarincihollenbeck.com

Nennette Perry
Township Clerk
Township of East Brunswick
PO Box 1081
East Brunswick, NJ 08816
nennette.perry@eastbrunswick.org

Robert Clifton
Senior Director Govt. & Regulatory Affairs
Comcast Cable
195 Leonardville Road
Belford, NJ 07718
Robert.Clifton@cable.comcast.com

Lawanda R. Gilbert, Esq., Director
Board of Public Utilities
Office of Cable Television &
Telecommunications
44 South Clinton Avenue, 3rd Floor – Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Lawanda.gilbert@bpu.nj.gov

Nancy J. Wolf
Administrative Analyst 4
Board of Public Utilities
Office of Cable Television &
Telecommunications
44 South Clinton Avenue, 3rd Floor – Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Nancy.wolf@bpu.nj.gov

Carol Artale, Esq., Legal Specialist
Board of Public Utilities
Office of Cable Television &
Telecommunications
44 South Clinton Avenue, 3rd Floor – Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Carol.artale@bpu.nj.gov

Veronica Beke
Deputy Attorney General
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
veronica.beke@law.njoag.gov