



Agenda Date: 4/12/23
Agenda Item: IIIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMCAST)
OF NEW JERSEY II, LLC, FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE BOROUGH)
OF GARWOOD, COUNTY OF UNION, STATE OF)
NEW JERSEY) DOCKET NO. CE19091271

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck, LLC, on behalf of Comcast of New Jersey II, LLC
Catherine D. Cameron, Clerk, Borough of Garwood, New Jersey

BY THE BOARD:

On September 19, 1979, the New Jersey Board of Public Utilities ("Board") granted Suburban Cablevision ("Suburban") a Certificate of Approval ("Certificate") in Docket No. 797C-6516 for the construction, operation and maintenance of a cable television system in the Borough of Garwood ("Borough"). On November 30, 1994, the Board approved the acquisition of the shares of the parent company of Suburban, Maclean Hunter, Inc., by Comcast MH Holdings, Inc. in Docket No. CM94080365. On February 22, 1995, the Board approved the renewal of the Certificate in Docket No. CE94080342 to Suburban, as Suburban was the entity that filed the petition. However, according to the terms of the acquisition agreement, Comcast MH Holdings, Inc. was responsible for all commitments made to the Borough. Subsequently, Suburban's name was changed to Comcast Cablevision of New Jersey, Inc. ("Comcast New Jersey"). On January 24, 2003, Comcast New Jersey notified the Board that it would operate as a limited liability company, Comcast Cablevision of New Jersey II, LLC. On September 9, 2003, Comcast Cablevision of New Jersey, LLC notified the Board that it would be known as Comcast of New Jersey II, LLC ("Petitioner"). On March 11, 2005, the Board issued a Renewal Certificate of Approval ("Renewal Certificate") to the Petitioner in Docket No. CE05010015. Although the Petitioner's Renewal Certificate expired on September 19, 2019, it 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 Renewal Certificate.

On July 29, 2019, the Petitioner notified the Borough of its intention to exercise its right under the automatic renewal provision of the Borough's municipal consent and the Renewal Certificate. On September 19, 2019, the Petitioner filed with the Board for Automatic Renewal of its Renewal Certificate for the Borough, pursuant to N.J.S.A. 48:5A-15, 16, 17, 19, and 25 and N.J.A.C. 14:17-6.9 and 14:18-13.6 ("Petition"). The Petition is based on the Borough's ordinance adopted on November 23, 2004, granting renewal municipal consent to the Petitioner. On December 6, 2004, the Petitioner accepted the ordinance, which provided for an initial term of 15 years with an automatic renewal term of 10 years.

DISCUSSION AND FINDINGS

The Board has reviewed the Petition and the application filed therein by the Petitioner. Based upon this review and the recommendation of the Office of Cable Television and Telecommunications, 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, pursuant to N.J.S.A. 48:5A-22 to 29, N.J.A.C. 14:18-13.1 to .9.
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 10 years, pursuant to N.J.S.A. 48:5A-19 and 25. The Board finds this franchise period reasonable.
5. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
6. 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 and Telecommunications. All complaints shall be received and processed in accordance with any applicable rules.
7. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently the local office satisfying this provision is located at 2345 US Route 22, Union, New Jersey.
8. Pursuant to N.J.S.A. 48:5A-30, the franchise fee to be paid to the Borough is specified to be 3.5% of the Petitioner's gross revenues, as defined in N.J.S.A. 48:5A-3(x), derived from cable television charges or fees paid by subscribers for its cable television service in the Borough. 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.
9. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall

utilize the line extension policy attached to the Certificate ("Appendix "I"). The minimum homes per mile ("HPM") figure is 35.

10. The Petitioner shall continue to provide public, educational, and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall continue to provide residents with a system-wide public access channel maintained by the Petitioner. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Petitioner's published public access rules. The Petitioner also maintains a fully equipped operational local production studio in Union Township for the creation of local and access programming.
11. The Petitioner shall make available to the Borough its mobile production vehicle for the purposes of producing non-commercial community, governmental or educational access programming consistent with the Petitioner's written rules on the use of the vehicle.
12. The Petitioner shall provide basic training in the use of video production and post-production equipment available to access programming producers.
13. The Petitioner shall continue to designate an employee as responsible for taking and addressing comments or complaints with respect to the quality of access channel transmissions. The Petitioner shall lend to the PEG access designees, for PEG access cablecasts, videotapes of programming related to the Borough or matters of particular interest to the Borough, provided that the Petitioner may withhold such videotapes for reasonable grounds including the rights of copyright holders or its other commitments with respect to such programming.
14. The Petitioner shall continue to provide an internal channel at Lincoln School in the Borough. The Office of Cable Television and Telecommunications as required by the ordinance has received proof that this obligation was satisfied.
15. The Petitioner shall continue to provide free basic service to those facilities currently receiving free basic service. The Petitioner shall also provide the standard installation and basic service to one (1) outlet, free of charge, to the planned community center and to the department of public works, provided that each facility is within 200 feet of activated cable distribution plant.
16. The Petitioner shall provide free basic Internet service, via high-speed cable modem, to one (1) non-networked personal computer at the Borough public schools and the Borough public library, provided that each facility is within 200 feet of activated cable distribution plant. The Internet connection shall be installed on a computer that is accessible for student and library patron use, and may not be installed on a computer that is reserved for administrative use.
17. Upon written request of the Borough, the Petitioner and the Borough's designee shall meet at least annually to review all matters related to cable television in the Borough. Minutes of the meeting shall be delivered to the Petitioner and shall be filed with the Borough.

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. Furthermore, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 to -64 and 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. The Board also **FINDS** that the Petitioner has sufficient financial and technical capacity; that the Petitioner 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 Automatic Renewal Certificate of Approval as evidence of the Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Automatic Renewal Certificate of Approval is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television and Telecommunications, 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 Telecommunications or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

The Board **HEREBY ORDERS** the Automatic Renewal Certificate of Approval be 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 and Telecommunications pursuant to the authority contained in N.J.S.A. 48:5A-1 to -64.

This Certificate shall expire on September 19, 2029.

This Order shall be effective on April 19, 2023.

DATED: April 12, 2023

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH H. FIORDALISO
PRESIDENT

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



SHERRIL L. GOLDEN
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 and Telecommunications
Line Extension Policy**

Company: Comcast of New Jersey II, LLC
Municipality: Borough of Garwood

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. $\frac{\text{\# of homes in extension}}{\text{mileage of extension}}$ = homes per mile ("HPM") of extension
2. $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system*}}$ = ratio of the density of the extension to the minimum density that 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. $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}}$ = 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 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 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 thirty (30) days of such a request.
2. Begin construction within sixty (60) days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six (6) 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 (5) years from the installation of the first dwelling unit in the extension, no further adjustments shall be made. Installations after five (5) 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 NEW JERSEY II, LLC, FOR A RENEWAL
CERTIFICATE OF APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE
TELEVISION SYSTEM IN AND FOR THE BOROUGH OF GARWOOD, COUNTY OF UNION, STATE OF
NEW JERSEY

DOCKET NO. CE19091271

SERVICE LIST

Dennis C. Linken, Esq.
Scarinci Hollenbeck, LLC
150 Clove Road, 9th Fl
Little Falls, NJ, 07424
dlinken@sh-law.com

Stan Barrett, Esq.
Scarinci Hollenbeck, LLC
331 Newman Springs Road
Building 3, Suite #310
Red Bank, NJ 07701-5692
sbarrett@sh-law.com

Catherine D. Cameron
Borough Clerk
Borough of Garwood
Garwood Borough Hall
403 South Avenue
Garwood, NJ 07027
clerk@garwood.org

Karen Mastriano
Director of Govt. and Reg. Affairs
Comcast
800 Rahway Avenue
Union, New Jersey 07083
karen_mastriano@comcast.com

Robert Clifton
Senior Director
Govt. & Regulatory Affairs
Comcast Cable
403 South Street
Eatontown, New Jersey 07724
robert_clifton@comcast.com

Meliha Arnautovic, DAG
NJ Department of Law & Public Safety
Division of Law
Richard J. Hughes Justice Complex
Public Utilities Section
25 Market Street,
Post Office Box 112
Trenton, NJ 08625
meliha.arnautovic@law.njoag.gov

Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

Sherri L. Golden, Board Secretary
board.secretary@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Office of Cable Television and
Telecommunications

Lawanda R. Gilbert, Esq., Director
lawanda.gilbert@bpu.nj.gov

Nancy J. Wolf, Administrative Analyst 4
nancy.wolf@bpu.nj.gov

Stephanie Katz, Administrative Analyst 1
stephanie.katz@bpu.nj.gov

Counsel's Office

Carol Artale, Deputy General Counsel
carol.artale@bpu.nj.gov

Steven Athanassopoulos, Legal Specialist
steven.athanassopoulos@bpu.nj.gov