



Agenda Date: 3/29/06  
Agenda Item: III A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

**CABLE TELEVISION**

IN THE MATTER OF PATRIOT MEDIA AND	)	
COMMUNICATIONS CNJ, LLC REQUEST FOR WAIVER,	)	
<u>NUNC PRO TUNC</u> , OF THE 30-DAY NOTICE PERIOD	)	ORDER
FOR FILING OF AN ALTERATION IN CHANNEL	)	
ALLOCATION PURSUANT TO <u>N.J.A.C. 14:18-3.17(A)</u>	)	
AND (B)	)	CO05121084

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated December 30, 2005, Patriot Media and Communications CNJ, LLC (Patriot or Petitioner), sought a nunc pro tunc Board waiver of the thirty (30) day notice period for the filing of an Alteration in Channel Allocation pursuant to N.J.A.C. 14:18-3.17(a) and (b). Under N.J.A.C. 14:18-3.17 (a) and (b), a cable company is required to notify the OCTV, subscribers, and municipalities of any channel deletions at least 30 days prior to the effective date of the deletion. N.J.A.C. 14:18-3.17(c) (3) provides for the relaxation of the time for providing notification when the programming service has been discontinued or withdrawn by the provider in such a manner as to leave the cable television operator without sufficient time to comply. In addition to this requirement, the cable television operator must "provide the required notice at the earliest possible date". Based upon this regulation, Petitioner seeks a waiver nunc pro tunc, of the 30-day notice requirements of N.J.A.C. 14:18-3.17 because Petitioner claims that it was unable to provide sufficient notice to the Office of Cable Television (OCTV), subscribers and municipalities prior to the deletion taking effect.

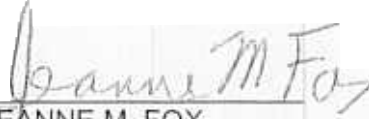
The waiver request is necessary, claims Patriot, because it was not given sufficient time to comply with the 30 day notice requirement. According to Patriot, it was notified on December 15, 2005 by NBC/Universal, which owns and provides the digital tier channel TRIO, that effective January 1, 2006, TRIO would cease programming. Patriot asserts that it has no choice in this matter since the decision to delete the programming was made by NBC/Universal. Patriot claims it did not receive the deletion notice in sufficient time to provide the OCTV, its customers, and municipal officials 30 days notice. Patriot further states that the deletion of the TRIO channel will have no effect on any service rate to current Patriot subscribers.


Patriot asserts that municipal officials were notified of the channel change on or about December 28, 2005 and subscribers were notified on or about December 29, 2005 . Patriot attempts to explain the thirteen and fourteen day delays in notifying affected parties by noting that the additional time was needed to fully consider the merits of the notice by NBC/Universal (NBC) of the TRIO deletion, which included replacement programming alternatives. At the same time, Patriot claims it had to explore options for its subscribers. Patriot went on to say that it had to determine whether it had continuing obligations remaining with NBC with regard to the TRIO deletion. Patriot asserts that a period of two weeks within which to carefully consider all options, to evaluate all courses of action and then to arrive at a determination was not unreasonable at all – especially as it occurred in the last weeks of December.

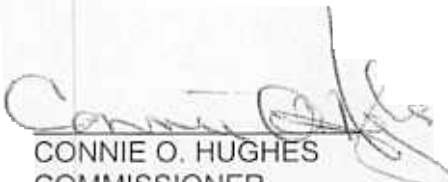
Having reviewed this matter, the Board HEREBY FINDS that, despite the delay in notification to the OCTV, subscribers and municipalities, the waiver is appropriate in this instance. The Board is concerned, however, with Patriot's failure to treat notification of the Board, its customers and municipal officials with the level of importance that the Board deems appropriate. Patriot was aware of the termination of programming on the part of TRIO on December 15, 2005, and nothing presented by Patriot indicates that any element of the notice left that ultimate termination in doubt. Whatever plans or implications that might have arisen from the notice, Patriot could have, and should have, notified the Board, its customers and the municipal officials of the termination of the TRIO channel. Nevertheless, the explanation provided by Patriot indicates that the delay may not have been intentional, and the Board will accept this argument. Thus, the Board HEREBY APPROVES, nunc pro tunc, Petitioner's request for a waiver of the Alteration in Channel Allocation filing requirements as hereinabove described, and calls upon Patriot to ensure that notice is provided in a more timely manner from this point forward.

DATED: 3/31/06

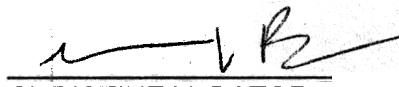
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

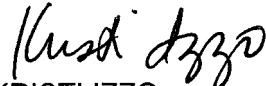
  
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CHRISTINE V. BATOR  
COMMISSIONER

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



**PATRIOT MEDIA AND COMMUNICATIONS CNJ, LLC  
REQUEST FOR WAIVER, NUNC PRO TUNC, OF THE 30-DAY NOTICE PERIOD FOR  
FILING OF AN ALTERATION IN CHANNEL ALLOCATION PURSUANT TO N.J.A.C. 14:18-  
3.17(A) AND (B)  
DOCKET NO CO05121084**

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