



Agenda Date: 4/26/06

Agenda Item: 3A

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 THE PETITION OF SERVICE
ELECTRIC CABLE TV OF NEW JERSEY, INC. FOR
RENEWAL OF ITS CERTIFICATE OF APPROVAL
TO OWN, OPERATE, EXTEND AND MAINTAIN A
CABLE TELEVISION SYSTEM IN THE TOWNSHIP
OF ANDOVER, COUNTY OF SUSSEX, STATE OF
NEW JERSEY

) **RENEWAL**
) **CERTIFICATE OF APPROVAL**
)

DOCKET NO. CE05060531

SERVICE LIST ATTACHED

BY THE BOARD:

On December 18, 1980, the Board granted Service Electric Cable TV of New Jersey, Inc. d/b/a Garden State CATV ("Petitioner") a Certificate of Approval in Docket No. 7911C-6592, for the construction, operation and maintenance of a cable television system in the Township of Andover ("Township"). The Petitioner subsequently dropped the Garden State CATV name. On December 24, 1991, the Board granted the Petitioner a Renewal Certificate of Approval for the Township in Docket No. CE91020163. Although the Petitioner's above referenced Certificate expired on December 31, 2000, it 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 of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Township on or about July 14, 2000, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted a municipal ordinance granting renewal consent on April 1, 2002.

On June 13, 2005, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. On July 7, 2005, the Petitioner formally accepted the terms and conditions of the ordinance. On January 11, 2006, the Petitioner amended its petition to reference the acceptance of the ordinance. The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval and the 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, the Township reviewed these qualifications in conjunction with the municipal consent process.
2. The design and technical specifications of the system will 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 shall expire on June 12, 2010.
5. The Township has reserved the right to review the performance of the Petitioner with regard to the ordinance and to seek redress administratively through the Board. Any determination by the Township that the Petitioner has failed to substantially comply with the material terms and conditions of the amended ordinance shall only occur after written notice and an opportunity to cure said deficiency. Upon determination of any such findings of non-compliance, the Township may petition the Board for appropriate administrative action, including revocation of the franchise.
6. 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 informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. 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 the applicable rules.
8. The Petitioner shall maintain a local business office or agent within Sussex County for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 320 Sparta Avenue, Sparta, New Jersey.
9. In the event the Petitioner requires that a converter or other equipment must be exchanged for the customer to maintain the current level of service, the Petitioner shall cause such exchange to be effectuated by delivery of the equipment to the customer's home, and to the extent necessary, at night or on a weekend, all at no cost to the customer.

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. 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 utilize the line extension policy ("LEP") attached to the Certificate as Appendix "I." The minimum homes per mile figure is 35.
12. The Petitioner shall provide public, educational and governmental access channels and facilities in accordance with its application. The application provides that the Petitioner maintains one educational access channel, for which it has hired a contractor to develop community programming.
13. The Petitioner shall provide the installation and one outlet of basic monthly service, free of charge, to all school and libraries located in the Township. The Petitioner shall also provide the standard installation and one outlet of basic monthly service, free of charge, to the municipal building, the fire department and the senior citizen's center, provided that such free service is not made available to areas used for commercial purposes or areas where the public congregates.
14. If the Petitioner implements a senior citizens/disabled discount for persons meeting the eligibility requirements, pursuant to N.J.S.A. 30:4D-21 and N.J.A.C. 14:18-3.20, in any municipality where it provides service, it shall offer the same discount to residents of the Township.

The franchise period as stated in the ordinance is eight years from the date of issuance of this Certificate. However, the Petitioner did not file a petition for the renewal of its Certificate for the Township for three years after the statutorily mandated timeframe for filing. Furthermore, the Petitioner did not file the information necessary to complete the processing of the petition until January 11, 2006. While no harm has befallen the Township by this delay, if the Board were to issue the Certificate consistent with the franchise period in the Ordinance using the existing time frame, the Petitioner would receive a 12 year term. The Board does not believe that the Township's original intent in granting a term of eight years from the date of issuance of the Certificate would be met if the Board were to grant an effective 12 year renewal, and therefore, does not find this period to be of reasonable duration. A reasonable expiration date for this Certificate in this instance is more properly determined by calculating what would have been a reasonable date for issuance of a Renewal Certificate of Approval if all mandated time frames had been met, resulting in an expiration date of June 12, 2010.

The June 12, 2010 date provides for the statutory and administrative time periods for acceptance of the ordinance following its adoption, filing of a petition and issuance of a Certificate of Approval found at N.J.S.A. 48:5A-16, N.J.S.A. 48:5A-24, N.J.A.C. 14:18-12.1

N.J.A.C. 14:18-13.5. See, I/M/O the Application of the New Jersey Cable Television Association in Behalf of its Member Systems in Like Circumstances for a Declaratory Ruling Concerning the Expiration Date of Operating Authority, Order Adopting Presiding Officer's Report and Recommendations, Docket No. 825C-6912, which provided, in relevant part, that "[t]he Board should reserve its right to specifically address questions of commencement and expiration dates in cases of unusual delay or litigated matters..." (Condition No. 3, pg. 2)

This alteration is supported by N.J.S.A. 48:5A-47, which provides that "[t]he board may, after affording the holder an opportunity to be heard, revoke, suspend or alter any certificate of approval for the violation of any provisions of this act or the rules, regulations or orders made under authority of this act, or for other reasonable cause, upon a finding that such action will not adversely affect the public interest in the provision of safe, adequate and proper cable television service in this State." Board staff sent notice to the Township and the Petitioner on March 6, 2006 informing the parties of staff's intent to recommend an expiration date for the Certificate of June 12, 2010, and providing the parties with a reasonable time period to file comments objecting to the proposed action. No comments were received. Therefore, pursuant to N.J.S.A. 48:5A-47, finding that such alteration will not adversely affect the public interest, the Board **FINDS** that the expiration date of the Certificate shall be June 12, 2010.

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

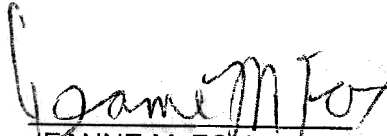
Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

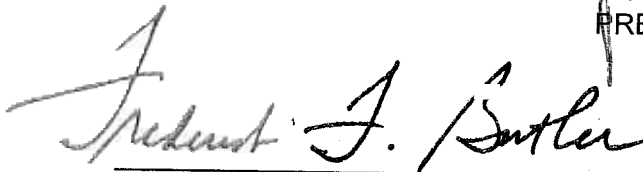
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained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

This Certificate shall expire on June 12, 2010.

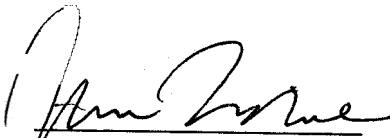
DATED: 4/27/06

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

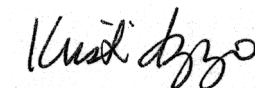

FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

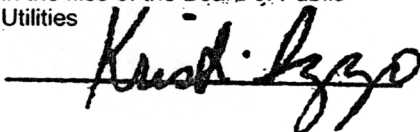

JOSEPH L. FIORDALISO
COMMISSIONER


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



APPENDIX "I"
OFFICE OF CABLE TELEVISION
LINE EXTENSION POLICY

SERVICE ELECTRIC CABLE TV OF NEW JERSEY, INC.
TOWNSHIP OF ANDOVER

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 which the company constructs in the system ("A") |
| 3. | $\text{Total cost of building the extension times "A"}$ | = | company's share of extension cost |
| 4 | $\text{Total cost of building extension less company's share of extension cost}$ | = | 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 break-even 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.

SERVICE LIST

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