



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

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC) ORDER
FOR RELIEF OF A REQUIREMENT TO EXTEND ITS)
FIOS SERVICE TO CERTAIN MULTI-DWELLING UNIT)
PROPERTIES LOCATED IN MUNICIPALITIES WHERE)
EXTENSION OF FIOS SERVICE IS REQUIRED UNDER)
THE TERMS OF ITS SYSTEM-WIDE FRANCHISE) DOCKET NO. CO11060342

Gregory M. Romano, General Counsel, Mid Atlantic Region, Verizon New Jersey, Inc., New Jersey for Petitioner
Stefanie Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

On June 1, 2011, Verizon New Jersey (Verizon NJ) filed with the New Jersey Board of Public Utilities (Board) and its Office of Cable Television (OCTV) a request for relief from certain deployment requirements pursuant to N.J.S.A. 48:5A-25.2(a)(2) and N.J.A.C. 14:18-15.3(a).

Under the requirements of its system-wide franchise granted by the Board in I/M/O the Application of Verizon New Jersey, Inc. for a System-wide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006) and N.J.S.A. 48:5A-25.2, Verizon is required to make its cable television service available to residential areas of county seats and municipalities with a population density greater than 7,111 persons per square mile of land area that are within Verizon's service area. N.J.S.A. 48:5A-25.2(a)(1)(a) and (b). However, N.J.S.A. 48:5A-25.2 and N.J.A.C. 14:18-15.3 provide that any cable television company that provides more than 40 percent of the local exchange telephone service market in New Jersey shall not be required to provide access to developments or buildings where:

1. [the system-wide franchisee] cannot access a development or building because of a claimed exclusive arrangement with another cable television company;
2. [the system-wide franchisee] cannot access a development or building using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; or
3. [the system-wide franchisee] cannot access the public rights-of-way under reasonable terms and conditions.

The Board notes that Verizon provides more than 40 percent of the local exchange telephone service market in New Jersey. I/M/O the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, supra, page 3.

Verizon claims that it has been unable to negotiate access to the properties or multiple dwelling units (MDUs)¹ noted in its petition under one of these allowable exceptions and accordingly seeks to be relieved from its requirement to extend its cable service, FiOS, to residents of the MDUs. Verizon contends in its filing that it has been unable to negotiate access to serve the subject properties using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiations and therefore seeks relief pursuant to N.J.A.C. 14:18-15.3(a)1-2. Verizon attached to its petition correspondence from Verizon to representatives of the MDUs.

In response to Verizon's petition, the OCTV, by letter dated June 13, 2011, provided the property owners the opportunity to comment on Verizon's request for relief. To date, owners or representatives of three of the subject properties have offered comments. Ms. Terry Kessler, Esq., the attorney representing Bridgebrooke Gardens (725 Joralemon Avenue, Belleville), responded verbally and confirmed by e-mail that the owner does not want FiOS in his building. The remaining two commenters dispute Verizon's claim that access was denied to their respective properties. The Manager of 1 State Street, Hackensack, Mr. Joseph Giardina indicates that access to his property was not denied and states that Verizon could obtain access to the building by appointment. In a follow-up conversation with Staff, Mr. Giardina indicated that he has had some follow-up conversations with Verizon and that he had provided a contact to gain access to the property, but has not heard anything further regarding plans to wire the building. The Manager of 25 Sherman Avenue, Jersey City, Mr. Shimon Ginsburg, responded that he wishes to have Verizon wire the building for FiOS as it will be of benefit to the tenants.

As noted above, Verizon provided copies to the Board of correspondence wherein Verizon attempted to gain access to all of the subject properties. Verizon also informed the property

¹ The properties specified in Verizon's filing are as follows:

Property Name	Address	Municipality
1. Grand Avenue	1201 Grand Avenue	Asbury Park
2. Asbury Avenue	611 Asbury Avenue	Asbury Park
3. Santander Condominium Assoc.	400 Deal Lake Dr.	Asbury Park
4. Bridgebrooke Gardens	725 Joralemon Street	Belleville
5. East Fort Lee Rd.	130 East Fort Lee Rd.	Bogota
6. Long View Manor	61 East Main Street	Bogota
7. Century Tower	1600 Parker Avenue.	Fort Lee
8. State Street	1 State Street.	Hackensack
9. Essex Street	325-329 Essex Street	Hackensack
10. Terrace Avenue Apts.	175 Terrace Place	Hackensack
11. Sherwood Towers	417 Main Street	Hackensack
12. The Beechwood	100 Prospect Avenue	Hackensack
13. Victorian Manor	24 Oak Street	Hackensack
14. Sherman	25-27 Sherman Avenue	Jersey City
15. Lafayette Court	70 Hill Street	Morristown

owners that they would be seeking relief from the Board if the property owners continued to be unresponsive to Verizon's efforts to gain access to provide its FiOS service.

Also, in response to Verizon's petition, Rate Counsel, by letters dated June 14, 2011, requested the affected property owners or management companies to provide information relating to Verizon's request for relief. No responses to Rate Counsel's letter have been received.

On September 16, 2011, Rate Counsel submitted a letter to the Board stating that there are no outstanding issues that would preclude a finding that Verizon has met the conditions for waivers for the subject properties and, therefore, it does not object to a grant of Verizon's waiver request.

On September 22, 2011, Verizon amended its petition to withdraw property number 8 (1 State Street, Hackensack) from its waiver request electing to proceed with the remainder. Verizon indicates that the removal of that property is appropriate at this time because the company has obtained access to the property necessary to proceed with FiOS deployment.

Regarding property 14, the Board notes the property owner's comments and stated desire for Verizon to wire his building for FiOS service. However, the Board also notes that there is the lingering issue that the building owner has not approved Verizon's FiOS installation plan since it was submitted to the owner in February 2010. Verizon insists it made several attempts to get the owner's approval, but has not been successful in getting a response from the owner on its design plans. On this basis, Verizon believes it satisfies the allowable exception which permits it to seek a waiver where it cannot access a development or building using standard technical solutions, under commercially reasonable terms and conditions, after good faith negotiations.

The Board notes that although the building's owner has indicated his willingness to allow Verizon to install its service by signing a premises access agreement in 2007 and through his filed comments in this proceeding, the fact remains that he has failed to act since February 2010 on Verizon's proposed installation design plans, even after follow-up by the company. The property owner has had adequate time to consider Verizon's FiOS installation plan and approve them or propose a reasonable alternative for discussion. Given these facts, Verizon is entitled to relief here.

As the Board noted in the Order granting Verizon's System-wide Franchise, both the legislation and Executive Order No. 25 (2006) acknowledge the special significance the issue of access and service to MDUs has in the system-wide franchise scheme. Moreover, the Board stated in that Order that Verizon "has committed to providing service to MDUs on a non-discriminatory basis, with specific configurations dependent upon the nature of the MDU In the event [Verizon] can not find a solution to an MDU issue, [Verizon] has committed to notifying [the Division of Rate Counsel] and the Board with the appropriate information." I/M/O the Application of Verizon New Jersey, Inc. for a System-wide Cable Television Franchise, supra, page 4.

Therefore, the Board HEREBY GRANTS Verizon's amended request for relief subject to the following conditions:

1. In the event that Verizon and the property owner should reach an agreement for access to the property, the rights of each party with regard to said access will be governed by the terms of N.J.S.A. 48:5A-49 and N.J.A.C. 14:18-4.5. A copy of all such agreements will be filed with the OCTV within ten (10) days of their execution.

2. In the event that Verizon receives a request for service by one or more residents or tenants of any of the properties but does not have an agreement for access in place, Verizon will immediately commence proceedings for formal access to the property as provided by N.J.S.A. 48:5A-49 and N.J.A.C. 14:18-4.5.
3. Within ninety (90) days of the execution of an access agreement or the date that an Order of Access is issued by this Board, Verizon will undertake and complete any and all necessary site surveys, engineering, wiring design and pre-construction activities for the subject property or properties and submit a copy of same to the OCTV.
4. Within one-hundred eighty (180) days of the completion of all necessary site surveys, engineering, wiring design and landlord approval of the proposed method of wiring or installation, Verizon will complete all necessary construction needed to extend FiOS service to all residents or tenants of the property.
5. Within ten (10) days of its completion of all necessary construction needed to extend FiOS service to all residents or tenants of any of the subject property or properties, Verizon will file a certification of completion with the OCTV.

This Order shall become effective upon the service thereof, in accordance with N.J.S.A. 48:2-40.

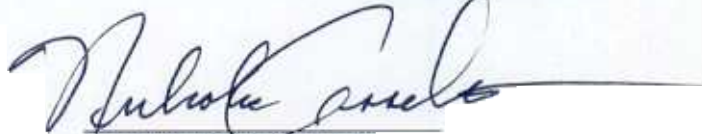
DATED: 10/13/11

BOARD OF PUBLIC UTILITIES
BY:



LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

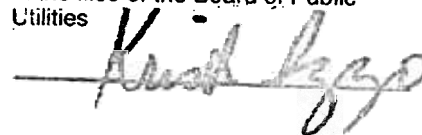

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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



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Gregory M. Romano, Esq.
Vice President and General Counsel
Verizon New Jersey, Inc
540 Broad Street, Floor 20
Newark, NJ 07102

Hesser G. McBride, Jr., Esq.
Wilentz, Goldman & Spitzer P.A.
90 Woodbridge Center Drive
Suite 900, Box 10
Woodbridge, NJ 07095-0958

William Kettleon, Vice President
Comcast
1191 Fries Mill Road
Franklinville, NJ 08322

Harriet Novet, Regional VP
Time Warner Cable
120 East 23rd Street
New York, NY 10010

Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
1100 Valley Brook Avenue
PO Box 790
Lyndhurst, NJ 07071-0790

Adam Falk, Vice President
Government and Public Affairs
Cablevision Systems Corporation
1111 Stewart Avenue
Bethpage, NY 11714-3581

Sidney A. Sayovitz, Esq.
Schenck, Price, Smith & King
PO Box 905
Morristown, NJ 07963

Celeste Fasone, Director
Board of Public Utilities
Office of Cable Television
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

William H. Furlong, Bureau Chief
Karen A. Marlowe, Admin. Analyst I
Richard Wagenblast, Admin. Analyst I
Anthony Udechukwu, Admin Analyst II
Board of Public Utilities
Office of Cable Television
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

Lawanda Gilbert, Esq.
Legal Specialist
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

Alex Moreau
Deputy Attorney General
Division of Law
124 Halsey Street
Newark, New Jersey 07101

Stefanie Brand, Esq., Director
Division of Rate Counsel
31 Clinton Street
11th Floor
Newark, NJ 07102

Christopher White, Esq.
Division of Rate Counsel
31 Clinton Street
11th Floor
Newark, NJ 07102