



Agenda Date: 11/22/13
Agenda Item: IIIB

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 THE PETITION OF COMCAST OF)
THE MEADOWLANDS, LLC FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE TOWN OF)
KEARNY, COUNTY OF HUDSON, STATE OF NEW)
JERSEY) DOCKET NO. CE13080706

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, for the Petitioner
Patricia Carpenter, Clerk, Town of Kearny, New Jersey

BY THE BOARD:

On May 25, 1978, the Board of Public Utilities ("Board") granted Meadowlands Communications Systems, Inc. ("Meadowlands") a Certificate of Approval in Docket No. 767C-6189 for the construction, operation and maintenance of a cable television system in the Town of Kearny ("Town"). Through Board approved transfers, Comcast Cablevision of the Meadowlands, Inc. ("Comcast") became the holder of the Certificate. On August 3, 1994, the Board granted Comcast an Automatic Renewal Certificate of Approval for the Town in Docket No. CE93050149. Based on a name change, the current holder of the Certificate is Comcast of the Meadowlands, LLC ("Petitioner"). On September 25, 2003, the Board issued the Petitioner a Renewal Certificate of Approval for the Town in Docket No. CE03070544. Although by its terms the Petitioner's above referenced Certificate expired on May 25, 2013, the Petitioner is authorized to continue to provide cable television service to the Town 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 Town on August 22, 2012, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 et seq. The Town, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on May 28, 2013. On June 27, 2013, the Petitioner formally accepted the terms and conditions of the ordinance. On August 5, 2013, 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 Town.

The Board has reviewed the application for municipal consent, the 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 Town 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 as stated in the ordinance is 15 years. The Board finds this period to be of reasonable duration.
5. The Town may review the performance of the Petitioner with regard to the ordinance at its discretion. If the Town determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Town shall provide written notice to the Petitioner of such alleged instances of non-compliance, and shall grant the Petitioner 90 days to cure such deficiency. The Town may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, but only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
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 and file with the Board an informational schedule of prices, terms and conditions for unregulated service 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 Town. 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 for the purpose of receiving, investigating and resolving complaints. Currently, the temporary local business office serving this provision is located at 2121 Kennedy Boulevard, Jersey City, New Jersey.

9. Pursuant to N.J.S.A. 48:5A-30, the franchise fee to be paid to the Town 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 Town.¹ 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.
10. The Petitioner shall provide service to any residence or business along any public right-of-way in the Primary Service Area at no cost beyond standard and non-standard installation charges as set forth in the Petitioner's application. For any extension outside of the Primary Service Area, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner shall provide public, educational and governmental access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall maintain one system-wide public access channel for the purpose of cablecasting non-commercial access programming. Qualified individuals and organizations may utilize the public access channel for the purpose of cablecasting non-commercial access programming in accordance with the Petitioner's published public access rules.
12. Within six months of issuance of this Certificate, the Petitioner shall pay the Town a one-time grant in the amount of \$45,000.00 for technology and access related needs. Upon payment, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
13. The Petitioner shall provide one standard installation and monthly basic cable television service, free of charge, to each school in the Town, public and private, elementary, intermediate and secondary. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting the installation. Monthly service charges, except equipment, shall be waived on all additional outlets.
14. The Petitioner shall provide one standard installation and basic cable service, free of charge, to the following locations in the Town: Town Hall and Annex Building; and each police, fires, emergency management, public library and branch library; Recreation Center at 925 Passaic Avenue; Board of Health Facility at 645 Kearny Avenue; and Senior Citizens Center at 60 Columbia Avenue in the Town. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Town. Monthly service charges, except equipment, shall be waived on all additional outlets.

¹ Pursuant to the Board's Order of Approval issued on May 9, 2008, in Docket No. CO08040206 of the petition filed by Verizon New Jersey, Inc. seeking approval of its certification that it is capable of providing cable television service to at least 60 percent of the households in the Town, the Petitioner's franchise fee to the Town was increased from 2% to 3.5%.

15. The Petitioner shall provide the installation of one non-networked outlet of Internet service via high speed cable modem, free of charge, to each public or private, elementary, middle or secondary schools, and to the public library in the Town. To qualify for free installation, the facility must be within 200 feet of the Petitioner's active cable television plant. The connection shall be installed in a location accessible for student or community use, and shall not be restricted to administrative use.
16. Upon written request of the Town, the Petitioner shall appear at least once annually, at a public meeting of the governing body, to discuss matters pertaining to the provision of cable television service to residents of the Town and other related issues as the Town and the Petitioner may see fit.

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 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 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 Town.

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 May 25, 2028.


This order shall be effective on December 2, 2013.

DATED: 11/22/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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

COMCAST OF THE MEADOWLANDS, LLC
TOWN OF KEARNY

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. <u># of homes in extension</u>
mileage of extension | = | homes per mile (HPM) of
extension |
| 2. <u>HPM of extension</u>
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. 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. Total amount to be
<u>recovered from subs</u>
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.

IN THE MATTER OF THE PETITION OF COMCAST OF THE MEADOWLANDS, LLC FOR A
RENEWAL CERTIFICATE OF APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE AND
MAINTAIN A CABLE TELEVISION SYSTEM IN AND FOR THE TOWN OF KEARNY, COUNTY
OF HUDSON, STATE OF NEW JERSEY
DOCKET NO. CE13080706

SERVICE LIST

<p>Dennis C. Linken, Esq. Scarinci & Hollenbeck Post Office Box 790 Lyndhurst, NJ 07071-0790</p> <p>Patricia Carpenter Town Clerk Town of Kearny 402 Kearny Avenue Kearny, NJ 07032</p> <p>Charles L. Smith, III, Area Director Government and Community Affairs Comcast 800 Rahway Avenue Union, NJ 07083</p>	<p>Ayelet Hirschhorn Deputy Attorney General State of New Jersey Department of Law & Public Safety Division of Law 124 Halsey Street Post Office Box 45029 Newark, NJ 07101-45029</p> <p>Lawanda R. Gilbert, Acting Director State of New Jersey Board of Public Utilities Office of Cable Television 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Karen A. Marlowe Administrative Analyst I State of New Jersey Board of Public Utilities Office of Cable Television 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p>
--	---