



STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC)
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) ORDER

DOCKET NO. CO11080473

Parties of Record:

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

BY THE BOARD:

On July 27, 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 System-wide 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 letters dated October 27, 2011, December 22, 2011 and January 6, 2012, provided the property owners the opportunity to comment on Verizon's request for relief. To date, owners or representatives of 27 of the subject properties have offered comments as more fully outlined below, or in Appendix A attached to this Order. Of the comments received, several are seeking additional compensation to allow access or are seeking contract terms from Verizon that are similar to those given by the incumbent cable company, while others have expressed concern over potential damage or aesthetic issues posed by Verizon's installation. In addition, certain property managers have indicated a willingness to grant access if their tenants requested service.

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 owners that it 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.

On January 24, 2012, Verizon amended its petition to withdraw seven properties from its waiver request, electing to proceed with the remainder. These include the following properties, with the reason for withdrawal for each indicated: property number 6 (419-425 Franklin Street/70 Fremont Street, Bloomfield) due to a request for service received on November 9, 2011 resulting in a mandatory access request; property number 21 (6808 Bergenline Avenue, Guttenberg) due to wiring issues requiring special review; property number 25 (7021 Madison Street, Guttenberg) due to design approval by the property representative on December 13, 2011 and subsequent pathway creation; Hoboken properties numbers 33 and 38 (1308 Hudson Street and 1200 Washington Street respectively) due to notification from Verizon on January 5, 2012 that both properties are now in the process of having pathways created; and Jersey City properties number 49 and 52 (425 Washington Boulevard and 636 5th Street respectively), which Staff informed Verizon were both previously granted waivers by Order dated June 15, 2011 in Docket No. CO10100800. Verizon indicates that the removal of these seven properties is appropriate at this time for the reasons indicated.

The properties specified in Verizon's filing are attached as Appendix A.

On January 25, 2012, 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, subject to the conditions imposed on Verizon, pursuant to the June 15, 2011 Board Order in Docket No. CO10100800.

Regarding properties number 34, 35, 36 and 37 in Hoboken (233 Grand Street, 457 2nd Street, 1108 Hudson Street, and 1300 Hudson Street) and properties number 50, 51 and 52 in Jersey City (5 Laidlaw Avenue, 7 Laidlaw Avenue and 636 5th Street), Mr. Christopher R. Burk of RELB Property Management, LLC, responded via facsimile with a letter dated November 1, 2011 that it has worked with Verizon's representatives on installation of FiOS at several of RELB's properties, but was informed by Verizon's representative that work would be discontinued for the remainder of 2011. Property number 52 was removed from the filing after Staff determined that the Board had previously granted Verizon a waiver for this property on June 15, 2011, as noted above. With regard to the other six RELB properties in the filing, Verizon has complied with Staff's request for information concerning all other RELB properties in its FiOS service territory, including those where it has created networks previously and those where work remains or access is still being sought. This information appears to support RELB's contention that it has worked with Verizon's representatives at most of its properties in the past. Verizon also maintains, however, that with regard to those RELB properties where FiOS networks have not been created to date, one of the managers of the properties in question is reluctant to allow Verizon access unless there is a request for service from a tenant or tenants of a building.

There are no such requests in the six properties remaining in the filing, while premises access licenses have only been obtained for two of the six properties (properties number 50 and 51). The Board notes that the existence of a premises access license is common and is not a guarantee that physical access will subsequently be obtained. The Board also notes that without the existence of a properly executed premises access license, physical access to the property to construct its facilities has been effectively denied.

Given that Verizon's deadline to meet its obligation to fully construct its FiOS network in the cities of Hoboken and Jersey City, where these properties are located, is not until December, 2013 and August, 2013 respectively, and since there is no indication that Verizon is not pursuing construction of its FiOS network in New Jersey in calendar year 2012, the Board declines at this time to address RELB's contention that Verizon stopped installation work in the final months of 2011. Notwithstanding the Board's action here in granting the company conditional relief, Verizon remains obligated to continue to pursue access at the RELB properties contained in this filing, as well as at other properties in all 70 municipalities where it is obligated to make its FiOS service available to all residents sometime between December, 2012 and December, 2015. Verizon also remains obligated to construct its facilities at the six RELB properties contained in this filing once access is granted and design plans are approved. If a request for service is received from any property, it is additionally obligated to petition the Board for access in the event it is unable to reach an agreement under reasonable terms and conditions for any specific property.

With regard to property number 47, the Board notes the property representative's comments that access was never denied to Verizon, but that it wished to enter into a contract similar to that employed by the incumbent cable operator "with a few refinements as to methodology and the positioning of Verizon's equipment, wiring and boxes." However, the Board also notes that the "refinements" that may be desired with regard to Verizon's installation proposal can essentially be interpreted as constituting an impermissible requirement under N.J.S.A. 48:5A-25.2 and

N.J.A.C. 14:18-15.3, which, as explained above, 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, among other exceptions, “[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.”

Verizon’s filing indicates that the company received via facsimile a marked up copy of a premises access license requesting that Verizon “pay for its own power and provide its own meter.” Additionally, the property representative’s letter of December 29, 2011 to the Board went on to state that “if Verizon cannot accommodate us with a contract agreeable to us, they may wish to seek an exception to install FiOS in our building as your letter suggests.” The Board notes that although the building’s owner has engaged in negotiations with Verizon, it appears that the parties have failed to reach a reasonable agreement following good faith negotiations and that it is unlikely that additional time will lead to a different result. Given these facts, the Board concludes that 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 Systemwide 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.

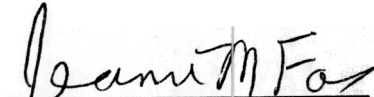
5. Within ten (10) days of its completion of all necessary construction needed to extend FiOS service to all residents or tenants of any of the subject property or properties, Verizon will file a certification of completion with the OCTV.

This Order shall be effective on March 22, 2012.

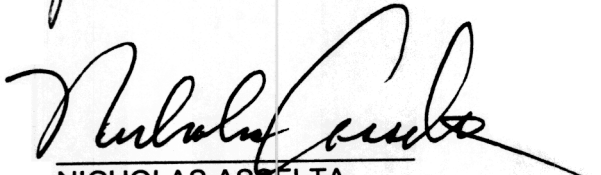
DATED: 3/12/2012

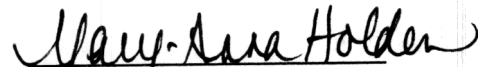
BOARD OF PUBLIC UTILITIES
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JEANNE M. FOX
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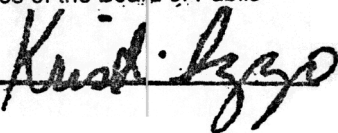

NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
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


KRISTI IZZO

Appendix A

Property Name (if applicable)	Address	Municipality	Status
1.	309 Sunset Avenue	Asbury Park	
2. Parkway Arms Inc.	16 Cuozzo Street	Belleville	
3. Parkway Arms Inc.	28 North 8 th Street	Belleville	
4.	92 Frederick Street	Belleville	
5. Simone Place Apartments	1 Simone Place	Bergenfield	
6. Franklin Manor	419-425 Franklin Street, a/k/a 70 Fremont Street	Bloomfield	Removed
7.	602 LaReine Avenue	Bradley Beach	
8.	251 Day Avenue	Cliffside Park	
9. The Chateau	555 Gorge Road	Cliffside Park	
10. Madeline Apartments	248 Walker Street	Cliffside Park	
11.	456 Anderson Avenue	Cliffside Park	
12. Monaco Arms Apartments	268-278 Lexington Ave.	Dumont	No objection after clarification given to attorney
13.	156 Anderson Avenue	Fairview	
14.	423 Walker Street	Fairview	Homeowner's Association voted not to proceed
15. Bridge Plaza Co-Op	2185 LeMoine Avenue	Fort Lee	
16. Bridgeview Apartments	326-328 Bridge Plaza North	Fort Lee	
17. Cambridge Court	1018 Palisade Avenue	Fort Lee	
18.	139 Ray Street	Garfield	Owner will allow if resident requests
19.	104 Prospect Street	Garfield	
20. Virginia Apartments	50 Spencer Place	Garfield	
21.	6808 Bergenline Avenue	Guttenberg	Removed
22. Herman G. Klein Towers	7005 Boulevard East	Guttenberg	Access not denied; proceeding with significant delays
23.	136 69 th Street	Guttenberg	See property 22
24. Broadway Tower Apts.	6900 Broadway	Guttenberg	See property 22
25.	7021 Madison Street	Guttenberg	Removed – owner strongly objected
26. Beechwood Arms	119 First Street	Hackensack	Landlord sought clarification from Verizon; provided but not interested
27.	289-297 Essex Street	Hackensack	
28. The Vanderbeck	60 Vanderbeck Street	Hackensack	

Property Name (if applicable)	Address	Municipality	Status
29.	26-28 Fair Street	Hackensack	
30.	102 Sussex Street	Hackensack	
31.	166-168 Williams Ave.	Hasbrouck Heights	Owner contacted by telephone; no objection. Provided address correction
32.	255 10 th Street	Hoboken	
33.	1308 Hudson Street	Hoboken	Removed
34.	233 Grand Street	Hoboken	Detailed in Order
35.	457 2 nd Street	Hoboken	Detailed in Order
36.	1108 Hudson Street	Hoboken	Detailed in Order
37.	1300 Hudson Street	Hoboken	Detailed in Order
38.	1200 Washington Street	Hoboken	Removed
39. Hoboken Fine Arts Co-op	227-229 Grand Street	Hoboken	
40.	2677 JFK Boulevard	Jersey City	
41.	492-498 Jersey Avenue	Jersey City	
42.	500 Jersey Avenue	Jersey City	
43.	2675 JFK Boulevard	Jersey City	
44.	148 Kensington Avenue	Jersey City	
45.	138-144 Baldwin Ave.	Jersey City	
46.	40 Booram Avenue	Jersey City	
47.	133 Bowers Street	Jersey City	Detailed in Order
48. The Portofino Condos	1 2 nd Street	Jersey City	
49. Roseland Marbella	425 Washington Blvd.	Jersey City	Removed – previously granted
50.	5 Laidlaw Avenue	Jersey City	Detailed in Order
51.	7 Laidlaw Avenue	Jersey City	Detailed in Order
52.	636 5 th Street	Jersey City	Removed – previously granted
53. Woodland Square Condos	1606 Main Street	Lake Como	
54. Mira Garden Apartments	627 Seventeenth Ave.	Lake Como	Owner / manager has damage concerns; seeking compensation also
55. J C Gardens	476 Harrison Avenue	Lodi	
56.	578 Maywood Avenue	Maywood	
57. Beverly Gardens	35 Flagler Street	Morristown	
58.	864 N. 7 th Street	Newark	
9.	888 N. 7 th Street	Newark	
0.	133 73 rd Street	North Bergen	

Property Name (if applicable)	Address	Municipality	Status
61. Hudson Park Condominium	31 75 th Street	North Bergen	Owner / manager call was returned; left message – no further contact
62. Stonehenge	8200 Boulevard East	North Bergen	
63. Nutley Senior Manor	47 Vincent Place	Nutley	
64.	151 Bloomfield Avenue	Nutley	
65.	131 Passaic Avenue	Nutley	
66. Regency Townhouse Apts.	442-462 River Road	Nutley	
67.	341-343 Franklin Ave.	Nutley	
68. Devonshire Gardens	111 West Central Blvd.	Palisades Park	
69.	427 Broad Street	Palisades Park	
70. Lafayette Oaks Apartments	458 Lafayette Avenue	Passaic	
71.	106 Howe Avenue	Passaic	
72. Cahn Estates	204 President Street	Passaic	Owner / manager does not wish to have large-scale work performed
73. Cahn Estates	192 Parker Avenue	Passaic	See property 72
74. Cahn Estates	185 Parker Avenue	Passaic	See property 72
75. Cahn Estates	442-446 Monroe Street	Passaic	See property 72
76. Cahn Estates	175 Broadway	Paterson	See property 72
77. Cahn Estates	185 E. 33 rd Street	Paterson	See property 72
78. Cahn Estates	330 E. 33 rd Street	Paterson	See property 72
79.	25-27 Division Street	Somerville	
80.	138-140 West Main St.	Somerville	
81.	81 West Main Street	Somerville	
82.	143 Fairview Avenue	Somerville	
83.	6 West Main Street	Somerville	
84. Lafayette Arms Apartments	777 West State Street	Trenton	Owner / manager will not authorize FiOS installation
85. Kingsbury Apartments	107 Market Street	Trenton	Attorney provided property manager's address; no reply
86.	502 26 th Street and 2601 -2615 Bergenline Ave.	Union City	
87.	517-519 12 th Street	Union City	
88.	530 28 th Street	Union City	
89.	540 28 th Street	Union City	
90.	512 26 th Street	Union City	
91.	3317 Palisade Avenue	Union City	
Gregory Common Condos	515 Gregory Avenue	Weehawken	

Property Name (if applicable)	Address	Municipality	Status
93.	6205 Palisade Avenue	West New York	
94.	5704 Hudson Avenue	West New York	
95.	6704 Bergenline Avenue	West New York	
96. 501-56 th Street Corp.	501 56 th Street	West New York	Owner says no tenant interest; has damage concerns
97. Riverbend	25 Avenue at Port Imperiale	West New York	
98. Riverbend	28 Avenue at Port Imperiale	West New York	
99. Riverbend	30 Avenue at Port Imperiale	West New York	
100. Riverwalk	55 Riverwalk Place	West New York	

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IS REQUIRED UNDER THE TERMS OF ITS SYSTEMWIDE FRANCHISE**

DOCKET NUMBER: CO11080473

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