



Agenda Date: 12/15/21  
Agenda Item: IIIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMCAST )  
OF CENTRAL NEW JERSEY, LLC FOR A )  
RENEWAL CERTIFICATE OF APPROVAL TO )  
CONTINUE TO CONSTRUCT, OPERATE AND )  
MAINTAIN A CABLE TELEVISION SYSTEM IN )  
AND FOR THE TOWNSHIP OF WEST WINDSOR, )  
COUNTY OF MERCER, STATE OF NEW JERSEY )

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE20050366

**Parties of Record:**

**Dennis C. Linken, Esq.**, Scarinci Hollenbeck, LLC, on behalf of Comcast of New Jersey II, LLC  
**Gay Huber, Clerk**, Township of West Windsor, New Jersey

BY THE BOARD:

On March 22, 1982, the New Jersey Board of Public Utilities (“Board”) granted Storer Cable Communications of Princeton, Inc. (“Storer Princeton”) a Certificate of Approval in Docket No. 8111C-6840, for the construction, operation, and maintenance of a cable television system in the Township of West Windsor (“Township”). On July 2, 1986, the Board approved the transfer of the Certificate of Approval and internal corporate reorganization from Storer Princeton to Storer Cable Communications of Central Jersey, Inc. d/b/a/ Storer Cable Communications (“Storer Central Jersey”) in Docket No. CM86050542. On or about September 22, 1988, the Board issued an order approving the transfer of the stock of Storer Communications, Inc. (“SCI”), parent of Storer Central Jersey, to Comcast Corporation, Tele-Communications, Inc. (“TCI”), and Knight Ridder, Inc. (“Knight Ridder”) in Docket No. CM88080942. On November 30, 1992, in Docket No. CM92080843, the Board approved the petition of Comcast Cablevision to acquire TCI’s and Knight Ridder’s interest in certain SCI subsidiaries. On October 8, 1993, in Docket No. CE92010011, the Board issued a Renewal Certificate of Approval to Storer to continue to provide cable television to the Township. On June 27, 1994, Storer notified the Board that it would now be known as Comcast Cablevision of Central New Jersey, Inc. (“Comcast CNJ”). On May 8, 2003, the Board issued Comcast CNJ a Renewal Certificate for the Township, in Docket No. CE02100705. Due to a name change, the current holder of the Certificate is Comcast of Central New Jersey, LLC (“Petitioner”). Although by its terms the Petitioner’s above referenced Certificate expired on March 22, 2017, which was the term specified by the Township, the Petitioner 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 June 22, 2016, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 to 9. On December 16, 2019, the Township, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner ("Ordinance"). The Petitioner formally accepted the terms and conditions of the ordinance on March 1, 2020. On May 27, 2020, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate for the Township.

The Board has reviewed the application for municipal consent, the municipal consent ordinance, and the petition for a Renewal Certificate of Approval. Based upon this review and the recommendation of the Office of Cable Television and Telecommunications, 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, these qualifications were reviewed by the Township in conjunction with the municipal consent process.
2. The design and technical specifications of the system shall 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, pursuant to N.J.S.A. 48:5A-19 and 25. The Board finds this franchise period reasonable.
5. The Township has reserved the right to review the Petitioner's performance with regard to the ordinance. In the event that the Township shall find that the Petitioner has not substantially complied with the material terms and conditions of the ordinance, the Township shall have the right to petition the Board for appropriate administrative action, pursuant to N.J.S.A. 48:5A-47, provided, however, that the Township shall first have given the Petitioner written notice of all alleged instances of non-compliance and an opportunity to cure the same within 90 days of that notification. If, after such reasonable notice and opportunity to cure, the Petitioner has not cured any such findings of non-compliance, the Township may petition the Board for appropriate administrative action, including modification and/or termination of the Certificate of Approval.
6. The Petitioner shall provide service along any public right of way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation charges as indicated. While service is currently available to the entirety of the Township, the Petitioner shall apply the line extension policy attached to the Certificate (Appendix "I") should any future situations warrant. The minimum homes per mile ("HPM") figure is 35.
7. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.

8. 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 and Telecommunications. All complaints shall be received and processed in accordance with any applicable rules.
9. During the term of this franchise, and any renewal thereof, the Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating, and resolving complaints regarding the quality of service, equipment malfunctions, and similar matters. The Petitioner currently maintains a local office located at the Mercer Mall, 3371 US Route 1, Lawrence, New Jersey.
10. Pursuant to N.J.S.A. 48:5A-30, the franchise fee to be paid to the Township 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 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 provide public, educational, and governmental access ("PEG") channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall continue to provide residents with a system-wide public access channel maintained by the Petitioner. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Petitioner's published access rules. The Petitioner shall continue to provide one channel for governmental and educational ("EG") access. The Petitioner shall continue to carry the EG access programming on the channel number currently assigned. If the Petitioner decides to change the channel designation, it must provide at least 30 days prior written notice to the Township.
12. Within six months of issuance of this Certificate, the Petitioner shall provide to the Township a one-time PEG access Capital grant of \$75,000 to meet the PEG access capital needs of the community. Upon completion, the Petitioner shall submit proof to the Office of Cable Television and Telecommunications indicating its compliance with this provision.
13. The Petitioner shall provide standard installation and Expanded Basic or a similar tier of cable television service, on one (1) outlet, free of charge, to each qualified existing and future school in the Township, public and private, elementary, intermediate and secondary. In order to qualify for free installation, the school must be located within 200 feet active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service.

14. The Petitioner shall provide standard installation and Expanded Basic or a similar tier of cable television service, on one outlet, free of charge, to every Township building listed in Exhibit A<sup>1</sup> of the Ordinance and each qualified existing and future Municipal Building, Police, Fire, Emergency Management Facilities, and Public Library located in the Township. To qualify for free installation, the facility must be located within 200 feet of active cable distribution plant or through customer owned conduit. The Township shall pay for each additional outlet installed to any of the above facilities on a materials plus labor basis.

The Board notes that a provision of the Township's Ordinance could be interpreted in a manner inconsistent with the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 *et seq* ("NJ Cable Act"). Specifically, Section 14(d) of the Ordinance regarding the provision of PEG Access channels contains language that states, in part, the following: "The Company reserves its external cost, pass-through rights to the extent permitted by law including the services set forth in Section 14(a) and 14(b) which may be recovered at the fair market value *as a pass-through in addition to the 4.0% franchise fee provided herein.*"

The above provision is problematic for several reasons, as it appears to modify the collection of the amount of franchise fees, which is outside of the purview of the parties under existing statutory provisions. The Federal Communications Act of 1934 ("Act") requires the cable company to pay a franchise fee and allows the Petitioner to itemize and/or identify the amount on the monthly bill assessed to satisfy any requirements imposed on the Petitioner by the cable franchise to support PEG channels, or any other services required under the franchise. However, with respect to the amount of the franchise fee, the Act states at 47 U.S.C. Sec. 542 (b): "For any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5% of such cable operator's gross revenues derived in such period from the operation of the cable system to provide cable services." The current franchise fee required in New Jersey pursuant to N.J.S.A. 48:5A-30 is a total of either 2% or 3.5% of the cable operator's gross revenues, which in either instance, does not reach the federal maximum of 5%. As stated above, the Petitioner is currently required to pay the Township a franchise fee of 3.5%. Any amendment to franchise fees paid by the Petitioner must be brought before the Board, as the duly designated franchising authority responsible for the enforcement of cable television franchise agreements, for review. While the Petitioner may reserve its pass-through rights to the full extent permitted by law on external costs, it may not make changes to the franchise fee collected, which do not exceed the federal 5% cap without prior Board approval. Therefore, the Board **HEREBY CLARIFIES** that the language identified above in Section 14(d) of the Ordinance, which appears to allow a change in the franchise fee without prior review by the Board, is not in conformity with the NJ Cable Act, and the Board's rules, regulations and orders pursuant to N.J.S.A. 48:5A-25, and is, therefore, not applicable to this Renewal Certificate of Approval.

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, subject to the exception noted above; that such consent and issuance thereof are in conformity with the

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<sup>1</sup> Exhibit A of the Township ordinance requires free services to the following Township buildings: Township Municipal Building, 271 Clarksville Road; Police and Municipal Court Facility, 271 Clarksville Road; Senior Center, 271 Clarksville Road; Health and Recreation Divisions, 331 North Post Road; Department of Public Work, 70 Southfield Road; Fire and Emergency Services Building, 45 Sean Kehler Way; Community Pool Building, 193 Princeton-Hightstown Road; West Windsor Volunteer Fire Company, Station 43, 153 South Mill Road; and Princeton Junction Volunteer Fire Company, Station 44, 245 Clarksville Road.

requirements of N.J.S.A. 48:5A-1 to 64; 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 and federal law as preconditions for engaging in the proposed cable television operations; that the Petitioner has sufficient financial and technical capacity, and 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 Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television and Telecommunications, 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 operating 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 the Office of Cable Television and Telecommunications and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

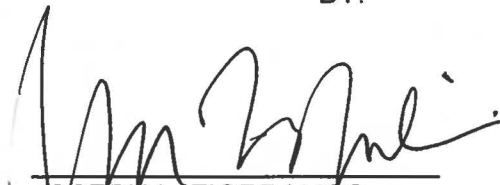
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Office of Cable Television and Telecommunications pursuant to the authority contained in N.J.S.A. 48:5A-1 to 64.

This Certificate shall expire on March 22, 2032.

This Order shall be effective on December 22, 2021.

DATED: December 15, 2021

BOARD OF PUBLIC UTILITIES  
BY:

  
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JOSEPH L. FIORDALISO  
PRESIDENT


  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
UPENDRA J. CHIVUKULA  
COMMISSIONER

  
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ROBERT M. GORDON  
COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
AIDA CAMACHO-WELCH  
SECRETARY

**APPENDIX "I"**  
**Office of Cable Television and Telecommunications**  
**Line Extension Policy**

Company: Comcast of Central New Jersey, LLC  
Municipality: Township of West Windsor, County of Mercer

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.  $\frac{\text{\# of homes in extension}}{\text{mileage of extension}} = \text{homes per mile ("HPM") of extension}$
2.  $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system*}} = \text{ratio of the density of the extension to the minimum density that the company constructs in the system ("A")}$
3.  $\text{Total cost of building the extension times "A"} = \text{company's share of extension cost}$
4.  $\text{Total cost of building extension less company's share of extension cost} = \text{total amount to be recovered from subscribers}$
5.  $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}} = \text{each subscriber's share}$

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 breakeven 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 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 thirty (30) days of such a request.
2. Begin construction within sixty (60) days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six (6) 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 (5) years from the installation of the first dwelling unit in the extension, no further adjustments shall be made. Installations after five (5) 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 CENTRAL NEW JERSEY, LLC FOR  
A CERTIFICATE OF APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE AND  
MAINTAIN A CABLE TELEVISION SYSTEM IN AND FOR THE TOWNSHIP OF WEST  
WINDSOR, COUNTY OF MERCER, STATE OF NEW JERSEY

DOCKET NO. CE20050366

SERVICE LIST

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