



Agenda Date: 10/15/15
Agenda Item: IIIG

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 MONMOUTH COUNTY, LLC FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE)
TOWNSHIP OF MIDDLETOWN, COUNTY OF)
MONMOUTH, STATE OF NEW JERSEY)

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE15050557

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck, LLC, for the Petitioner
Heidi R. Brunt, Clerk, Township of Middletown, New Jersey

BY THE BOARD:¹

On August 3, 1979, the Board of Public Utilities (“Board”) granted Monmouth Cablevision, Inc. a Certificate of Approval in Docket No. 797C-6468 for the construction, operation and maintenance of a cable television system in the Township of Middletown (“Township”). Through a series of transfers with required Board approvals, Storer Cable Communications of Monmouth County, Inc. d/b/a Storer Cable Communications (“Storer”) became the holder of the Certificate. On September 12, 1990, the Board granted Storer a Renewal Certificate of Approval for the Township, in Docket No. CE89080734. Through a series of additional transfers with required Board approvals, Comcast Cablevision of Monmouth County, Inc. (“Comcast Cablevision”) became the holder of the Certificate. On May 15, 2000, the Board granted Comcast Cablevision a Renewal Certificate of Approval for the Township, in Docket No. CE00020093. Based on a name change, the current holder of the Certificate is Comcast of Monmouth County, LLC (“Petitioner”). On October 8, 2009, the Board granted the Petitioner a Renewal Certificate of Approval for the Township, in Docket No. CE09070533. Although by its terms the Petitioner’s above referenced Certificate expired on August 3, 2014, 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.

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

The Petitioner filed an application for the renewal of its municipal consent with the Township on November 3, 2013, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13.1 et seq. The Township, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on March 2, 2015. On March 18, 2015, the Petitioner formally accepted the terms and conditions of the ordinance. On May 12, 2015, 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.

The Board 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 Renewal 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 as stated in the ordinance is 15 years, with an automatic renewal provision for a term of ten years thereafter in conformance with N.J.S.A. 48:5A-19 and N.J.S.A. 48:5A-25. The Board finds these periods to be reasonable.
5. The Township may review the performance of the Petitioner with regard to the ordinance at its discretion. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Township 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 Township 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 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 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 for the purpose of receiving, investigating and resolving complaints. Currently, the local business office is located at: 403 South Street, Eatontown, New Jersey.
9. 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, and shall be increased as required by N.J.S.A. 48:5A-30. 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 person's residence or business located in the Primary Service Area as indicated on the map on file with the Office of Cable Television at no cost beyond standard and non-standard installation charges. 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 ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall provide one channel for educational and governmental access for the use by the Township. The Petitioner also maintains a system-wide educational access channel and a system-wide community access channel for the purpose of cablecasting non-commercial PEG access programming, in accordance with its guidelines.
12. Within six months of issuance of this Certificate, the Petitioner shall pay the Township a one-time technology grant in the amount of \$125,000.00 to meet the technology and/or cable-related needs of the Township. Upon payment, the Petitioner shall provide the Office of Cable Television with proof of satisfaction of this obligation.
13. The Petitioner shall provide the installation to one outlet and expanded basic or similar tier of cable television service, free of charge, to each qualified existing and future school in the Township, public and private, elementary, intermediate and secondary. To qualify for free installation, the facility must be within 175 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.

14. The Petitioner shall provide the installation to one outlet and expanded basic or similar tier of cable television service, free of charge, to each qualified existing and future public building in the Township, including the municipal building, police, fire, emergency management facility and public library. To qualify for free installation, the facility must be within 175 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 Township.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), Petitioner has the municipal consent necessary to support the petition, that such consent and that the issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., except as modified above, 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, 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 continued 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.

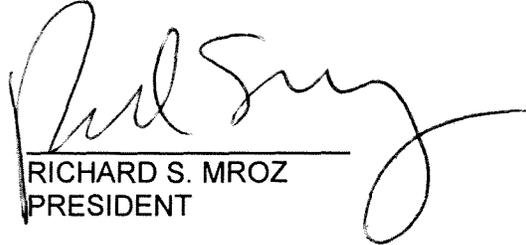
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained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

This Certificate shall expire on August 3, 2029.

This Order shall be effective on October 25, 2015.

DATED: *October 15, 2015*

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

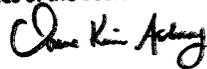

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 MONMOUTH COUNTY, LLC
TOWNSHIP OF MIDDLETOWN

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 MONMOUTH COUNTY, LLC FOR A RENEWAL CERTIFICATE OF APPROVAL TO CONTINUE TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN AND FOR THE TOWNSHIP OF MIDDLETOWN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

DOCKET NO. CE15050557

SERVICE LIST

Dennis C. Linken, Esq.
Scarinci Hollenbeck, LLC
Post Office Box 790
Lyndhurst, NJ 07071-0790
dlinken@scarincihollenbeck.com

Heidi R Brunt
Township Clerk
Township of Middletown
1 Kings Highway
Middletown, NJ 07748-2085
mhbrunt@middletownnj.org

Rob Clifton, Senior Director
Government and Regulatory Affairs
Comcast
90 Lake Drive
East Windsor, NJ 08520
robert_clifton@cable.comcast.com

Veronica Beke
Deputy Attorney General
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Lawanda R. Gilbert, Director
Board of Public Utilities
Office of Cable Television &
Telecommunications
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Karen A. Marlowe
Administrative Analyst I
Board of Public Utilities
Office of Cable Television &
Telecommunications
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350