



Agenda Date: 11/13/19
Agenda Item: IIIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMCAST)
GARDEN STATE, LP FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A)
CABLE TELEVISION SYSTEM IN AND FOR THE)
TOWNSHIP OF BERLIN, COUNTY OF CAMDEN,)
STATE OF NEW JERSEY)
AUTOMATIC RENEWAL)
CERTIFICATE OF APPROVAL)
DOCKET NO. CE19030293)

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck, LLC, on behalf of Comcast of Garden State, L.P.
Catherine Underwood, Clerk, Township of Berlin, New Jersey

BY THE BOARD:

On February 15, 1979 the Board of Public Utilities ("Board") granted Audubon Electronics, Inc. a Certificate of Approval in Docket No. 7812C-6429 for the construction, operation and maintenance of a cable television system in the Township of Berlin ("Township"). Due to a series of Board approved transfers, the Certificate was held by Garden State Cablevision, L.P. ("Garden State"). On November 30, 1990, the Board issued a Renewal Certificate of Approval to Garden State for a term of ten years, in Docket No. CE89040446. Thereafter, On August 27, 1997, the Board issued the Amendment of a Renewal Certificate of Approval, in Docket No. CE96030166, which amended several obligations, including extending the term length and the expiration date to February 15, 2004.¹ Through a series of subsequent transfers, with the required Board approvals, the current holder of the Certificate is Comcast of Garden State, L.P. ("Petitioner"). On February 23, 2005, the Board issued a Renewal Certificate of Approval to the Petitioner in Docket No. CE04040249. Although the Petitioner's above referenced Certificate expired on February 15, 2019 it 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 The Board issued an Amendment to the Renewal Certificate of Approval on June 10, 1998 in Docket No. CE98010017, which only modified the Petitioner's public, educational and governmental (PEG) access obligations.

On January 15, 2019, the Petitioner notified the Township of its intention to exercise its right under the automatic renewal provision of the Township's municipal consent and the Renewal Certificate of Approval. On March 1, 2019, the Petitioner filed with the Board for Automatic Renewal of its Certificate of Approval for the Township, pursuant to N.J.S.A. 48:5A-16, 19, and 25 and N.J.A.C. 14:17-6.9 and 14:18-13.6. The filing indicates that the Township's ordinance granting municipal consent to the Petitioner provided for an initial term of fifteen (15) years with an automatic renewal term of ten (10) years.

The petition for Automatic Renewal is based on the Township's ordinance adopted on December 22, 2003, granting renewal municipal consent to the Petitioner. On March 4, 2004, the Petitioner accepted the ordinance, which provided, in part, for an automatic renewal term of ten (10) years.

The Board has reviewed the petition for an Automatic Renewal Certificate of Approval and the Application filed therein by the Petitioner. 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, pursuant to N.J.S.A. 48:5A-22 to 29, N.J.A.C. 14:18-13.1 to .9.
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 ten (10) 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 ninety (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 utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 35.

7. 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 and Telecommunications. 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. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently the local office satisfying this provision is located at: 941 Haddonfield Road, Cherry Hill, New Jersey.
10. Pursuant to N.J.S.A. 48:5A-30, the franchise fee to be paid to the Borough 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 Borough. 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 ("PEG") access services, equipment and facilities as described in the application. The Petitioner currently offers a system-wide Educational and Governmental access channel and a community bulletin board.
12. The Petitioner shall provide standard installation and preferred cable television service, free of charge, to one outlet to each: police, fire, emergency management facility, and public library in the Township, provided the facility is within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Township. Monthly service charges shall be waived on all additional outlets.
13. The Petitioner shall provide or continue to provide standard installation and preferred cable television service, free of charge, to one outlet to each school in the Township, public and private, elementary, intermediate and secondary, provided the facility is within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
14. The Petitioner shall provide free basic Internet service via high-speed cable modem on one non-networked personal computer in each qualified existing and future school in the Township, public and private, elementary, intermediate and secondary, at no charge, provided the facility is within 200 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the students and shall not be used for administrative purposes only.

15. The Petitioner shall provide free basic Internet service via high-speed cable modem on one non-networked personal computer in each qualified existing and future public library in the Township, at no charge, provided the facility is within 200 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the library patrons and shall not be used for administrative purposes only.

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 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; that the Petitioner 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 Automatic Renewal Certificate of Approval as evidence of the Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Automatic 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 or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

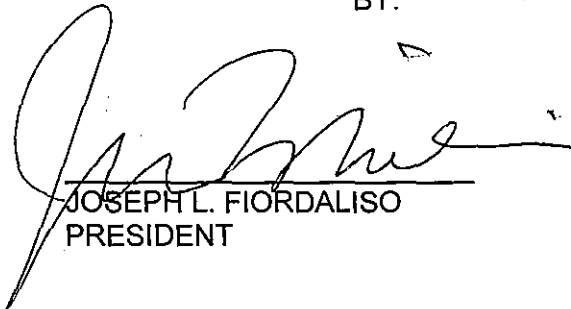
This Automatic Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Office of Cable Television and Telecommunications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

This Certificate shall expire on February 15, 2029.

This Order shall be effective on November 23, 2019.

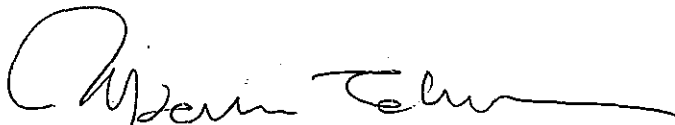
DATED: 11/13/19

BOARD OF PUBLIC UTILITIES
BY:

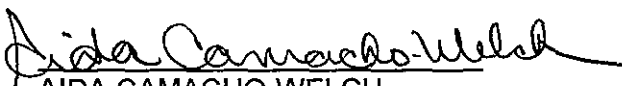

JOSEPH L. FIORDALISO
PRESIDENT


MARY ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER


ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
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 and Telecommunications
Line Extension Policy

Company: Comcast of Garden State, L.P.
Municipality: Township of Berlin

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. $\frac{\text{\# of homes in extension}}{\text{mileage of extension}}$ = homes per mile ("HPM") of extension
2. $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system*}}$ = ratio of the density of the extension to the minimum density that 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. $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}}$ = 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 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.

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CAMDEN, STATE OF NEW JERSEY

DOCKET NO. CE19030293

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