



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 TIME)	RENEWAL CERTIFICATE
WARNER ENTERTAINMENT COMPANY, L.P.,)	OF APPROVAL
D/B/A TIME WARNER CABLE, FOR A RENEWAL)	
CERTIFICATE OF APPROVAL TO CONTINUE TO)	
CONSTRUCT, OPERATE AND MAINTAIN A)	
CABLE TELEVISION SYSTEM IN AND FOR THE)	
BOROUGH OF FORT LEE, COUNTY OF)	
BERGEN, STATE OF NEW JERSEY)	DOCKET NO. CE12090828

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, for the Petitioner
Neil Grant, Borough Clerk, Borough of Fort Lee, New Jersey

BY THE BOARD:

On June 24, 1981, the New Jersey Board of Public Utilities ("Board") granted Vision Cable Television Company ("Vision") a Certificate of Approval in Docket No. 7910C-6561 for the construction, operation and maintenance of a cable television system in the Borough of Fort Lee ("Fort Lee"). Then, on December 20, 1989, the Board granted Vision a Renewal Certificate of Approval for Fort Lee in Docket No. CE89060578. The underlying municipal consent ordinance provided for an automatic renewal term of ten years, in accordance with N.J.S.A. 48:5A-19 and N.J.S.A. 48:5A-25. Through a series of transfers with required Board approvals, the holder of the Certificate is now Time Warner Entertainment Company, L.P., d/b/a Time Warner Cable ("Petitioner"). Although the latest Certificate of Approval expired on October 9, 2004, the Petitioner is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

As described in the petition, Fort Lee and Petitioner¹ began negotiating the terms and conditions of the renewal prior to the expiration of the Renewal Certificate of Approval issued in Docket No.

¹ According to the petition, these negotiations began with Petitioner's predecessor, TWFanch-One, Co. d/b/a Time Warner Cable of New York and New Jersey ("TWFanch-One, Co."). Petitioner merged with and succeeded to TWFanch-One's rights and interests following Board approval dated December 19, 2009, in Docket No. CM09080719. Petitioner states that TWFanch-One Co. filed the petition for renewal on February 8, 2009, under Docket No. CE09120985.

CE89060578.² According to Petitioner, negotiations between Fort Lee and Petitioner became protracted, resulting in the Board's request that Petitioner file a petition for automatic renewal of its franchise. Before the Board approved Petitioner's request for automatic renewal, Fort Lee and Petitioner agreed to the terms and conditions of the renewal, resulting in the adoption of an April 15, 2010 consent ordinance by Fort Lee. Petitioner accepted the terms and conditions of the ordinance on April 22, 2010 and filed for a renewal of its Certificate of Approval with the Board in Docket No. CE10050352 on May 21, 2010.³

However, Fort Lee failed to hold a public hearing before issuing its April 15, 2010 ordinance as required by the State Cable Act. Specifically N.J.S.A. 48:5A-23 requires a municipality to hold a public hearing on an application, prior to introduction and adoption of an ordinance granting municipal consent to a cable television company. Fort Lee subsequently agreed to hold the required public hearing on Petitioner's application and readopt its municipal consent ordinance in accordance with applicable law. Therefore, on July 19, 2012, Fort Lee re-adopted the municipal ordinance granting its renewal consent to the Petitioner following the required public hearing. On August 15, 2012, the Petitioner formally accepted the terms and conditions of the ordinance. On September 17, 2012, and pursuant to N.J.S.A. 48:5A-16, the Petitioner re-filed this matter with the Board for a renewal of its Certificate of Approval with Fort Lee. Within the petition considered herein, the Petitioner requested withdrawal of Docket Nos. CE09120985 and CE10050352 as they are moot.

The Board has reviewed the application for cable television franchise, 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, Fort Lee reviewed these qualifications in conjunction with the requisite hearing 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 ten years from the date of issuance of this Certificate. The Board finds this period to be of reasonable duration.
5. 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.

² The date on which these negotiations began is not included in this petition.

³ The Board did not issue an order for the automatic renewal in Docket No. CE 09120985 because it was preempted by Petitioner's May 21, 2010 filing for a renewal of its Certificate of Approval under Docket No. CE10050352. Similarly, the Board did not issue an order for the May 21, 2010 filing because the municipal ordinance was adopted without the required public hearing, as described below.

6. Pursuant to statutory requirements, the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.
7. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The current local office is located at 200 Roosevelt Place, Palisades Park, New Jersey.
8. The franchise fee to be paid to Fort Lee 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 Borough, 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.
9. The Petitioner shall proffer service along any public right-of-way to any person's residence or business in Fort Lee at no cost beyond charges for standard and non-standard installation on file with the Office of Cable Television. For any future construction within Fort Lee, the Petitioner shall use the line extension policy attached to this Certificate as Appendix "I" with a homes per mile figure of 25.
10. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with Fort Lee's ordinance and the application for cable television franchise. Specifically, the Petitioner shall provide access time for non-commercial PEG access entities on a PEG access channel. Public access is administered by the Petitioner, and programming may be produced at the Petitioner's studio which is located in the Borough of Palisades Park. The PEG access channel is shared with other municipalities in the Petitioner's system.
11. The Petitioner shall provide Fort Lee a grant for PEG access programming purposes in the total amount of \$75,000.00 as follows: \$7,500.00 within 30 days of issuance of this Certificate, and on or about the anniversary of this Certificate, \$7,500.00 annually for the following nine years. Upon payment of each portion of the grant, the Petitioner shall provide proof of payment to the Office of Cable Television.

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 Fort Lee.

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 of 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.

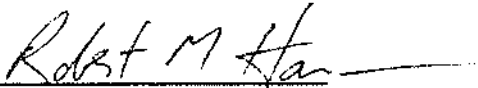
This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained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


This Certificate shall expire ten years from the date of its issuance.

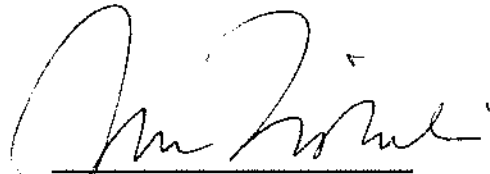
This order shall be effective on January 2, 2013.

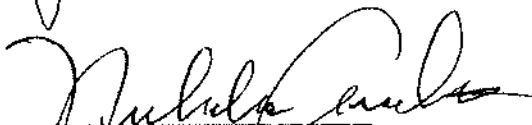
DATED: 12/19/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

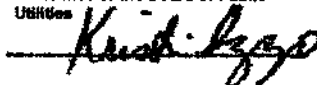

NICHOLAS ASSELTA
COMMISSIONER


MARYANNA 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



APPENDIX "I"

LINE EXTENSION POLICY

**TIME WARNER ENTERTAINMENT COMPANY, L.P., D/B/A TIME WARNER CABLE
BOROUGH OF FORT LEE**

Time Warner Cable (a/k/a "TWC") shall be required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system, as detailed hereinbelow. Actual subscribers served by the extension are required to absorb the remainder of the cost, as also detailed hereinbelow.

If new subscribers are added (within two years) to the area served by an extension, the cost shall be adjusted (by recomputing step 5 below) and those who previously paid a portion of the cost of the extension shall receive an appropriate rebate (provided, however, that no such rebate shall exceed the subscriber's contribution).

The following will be utilized to determine the respective costs to be borne by TWC and potential subscribers in connection with a proposed extension of plant:

A. If the average density of homes per mile ("HPM") (measured within 150 feet of the existing public right-of-way, if the area is to be served aerially, or 100 feet if the area is to be served underground) to be passed by the proposed extension is 25 or more, TWC will build the extension at its full cost.

B. If the average density HPM is less than 25, the cost of the extension will be shared in accordance with the following formula:

- | | | |
|--|---|---|
| 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 (i.e., 25) | = | 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" | = | TWC's share of
extension cost |
| 4. Total cost of building
extension less TWC'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 |

SERVICE LIST

TIME WARNER ENTERTAINMENT COMPANY, L.P., D/B/A TIME WARNER CABLE
RENEWAL CERTIFICATE OF APPROVAL
BOROUGH OF FORT LEE
DOCKET NO. CE12090828

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