



Agenda Date: 9/7/22

Agenda Item: IIIC

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMCAST)
OF SOUTH JERSEY, LLC, FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE TO)
CONSTRUCT, OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE CITY OF)
OCEAN CITY, COUNTY OF CAPE MAY, STATE OF)
NEW JERSEY) DOCKET NO. CE21060922

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck, LLC, on behalf of Comcast of South Jersey, LLC
Melissa Rasner, Clerk, City of Ocean City, New Jersey

BY THE BOARD:

On January 31, 1979, the New Jersey Board of Public Utilities ("Board") granted Teleprompter Corporation a Certificate of Approval ("Certificate") in Docket No. 789C-6405 for the construction, operation and maintenance of a cable television system in the City of Ocean City ("City"). Due to a series of Board approved transfers, the Certificate was transferred to Sammons Communications of New Jersey, Inc. ("Sammons"), and on September 10, 1992, the Board issued an Order Adopting the Initial Decision Settlement and Renewal Certificate of Approval in Docket No. CE89060534. On February 28, 1996, in Docket No. CM95080358, the Board approved the transfer of the Certificate from Sammons to Lenfest Atlantic, Inc. ("Lenfest"). On June 5, 2003, the Board issued an Automatic Renewal Certificate of Approval to Lenfest in Docket No. CE00030178.¹ Through a series of transfers with the required Board approvals, the current holder of the Certificate is Comcast of South Jersey, LLC ("Petitioner"). On January 17, 2008, the Board issued a Renewal Certificate to the Petitioner in Docket No. CE07100782. Although the Petitioner's Renewal Certificate expired on January 31, 2021, it is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Renewal Certificate.

¹ In Docket No. CM99110855, the Board approved several transfers, which resulted in Comcast Cablevision of South Jersey, LLC d/b/a Comcast Cablevision being the final entity holding the Certificate of Approval.

On December 30, 2020, the Petitioner notified the City of its intention to exercise its right under the automatic renewal provision of the City's municipal consent and the Renewal Certificate. On June 17, 2021, the Petitioner filed with the Board for Automatic Renewal of its Renewal Certificate for the City, 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 ("Petition"). The Petition indicates that the City's ordinance granting municipal consent to the Petitioner provided for an initial term of 15 years with an automatic renewal term of 10 years.

The Petition is based on the City's ordinance adopted on August 16, 2007 granting renewal municipal consent to the Petitioner. On September 20, 2007, the Petitioner accepted the ordinance, which provided in part, for an automatic renewal term of 10 years.

DISCUSSION AND FINDINGS

The Board has reviewed the Petition 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 Renewal Certificate, 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 10 years, pursuant to N.J.S.A. 48:5A-19 and 25. The Board finds this franchise period reasonable.
5. The City has reserved the right to review the Petitioner's performance with regard to the ordinance. In the event that the City shall find that the Petitioner has not substantially complied with the material terms and conditions of the ordinance, the City 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 City 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 City 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 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 City. 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. The Petitioner currently maintains a local office located at 500 Consumer Square, Mays Landing, New Jersey.
10. The franchise fee to be paid to the City 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 City or any additional amount thereafter required by the New Jersey Cable Television Act, N.J.S.A. 48:5A et seq., or otherwise allowed by law. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of the Petitioner's gross operating revenues derived from intrastate operations, unless such amount is increased as required by N.J.S.A. 48:5A-30. The Board finds these fees to be reasonable.
11. The Petitioner shall provide public, educational, and governmental access services, equipment and facilities as required by the ordinance. Specifically, the Petitioner shall continue to provide one (1) channel to be used for educational and governmental access by the City. The Petitioner's Application states that it currently provides one (1) educational access channel and one governmental access channel.
12. The Petitioner shall provide Total Preferred cable television service, on one (1) outlet, free of charge, to each existing and future school in the City, public and private elementary, intermediate and secondary, provided that each school is located within 175 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. The Petitioner shall waive monthly service charges for any such additional outlets.
13. The Petitioner shall provide Total Preferred cable television service on one (1) outlet, free of charge, to each existing and future municipal buildings of the following types: a) police; b) fire; c) emergency management facility; and d) public library in the City, provided that each facility is located within 175 feet of active cable distribution plant. The City shall pay for each additional outlet to any of the above facilities; however, the Petitioner shall waive monthly service charges for any additional outlets.
14. The Petitioner shall provide free basic Internet service via high-speed cable modem on one (1) non-networked personal computer in each qualified existing and future school in the City, public and private, elementary, intermediate and secondary, at no charge, provided each facility is within 175 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 (1) non-networked personal computer in each qualified existing and future public library in the City, at no charge, provided that each facility is within 175 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.
16. Upon reasonable written request of the City, the Petitioner's representative shall appear annually at a public hearing or meeting to discuss matters pertaining to the provision of cable service to the residents of the City.

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. Furthermore, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 to -64 and 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. The Board also **FINDS** 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 City.

This Automatic Renewal Certificate of Approval 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 of Approval.

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.


The Board **HEREBY ORDERS** the Automatic Renewal Certificate of Approval be 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. 48:5A1 to -64.

This Certificate shall expire on January 31, 2031.

This Order shall be effective on September 14, 2022.

DATED: September 7, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER




ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST: 

CARMEN D. DIAZ
ACTING 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 South Jersey, LLC
Municipality: City of Ocean City

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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COUNTY OF CAPE MAY, STATE OF NEW JERSEY

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