



Agenda Date: 05/16/11  
Agenda Item: IIIB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center, Suite 801**  
**Newark, NJ 07102**  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CABLE TELEVISION

IN THE MATTER OF CABLEVISION OF MONMOUTH, )  
LLC FOR THE CONVERSION TO A SYSTEM-WIDE )  
FRANCHISE IN OCEAN TOWNSHIP, COUNTY OF )  
MONMOUTH, STATE OF NEW JERSEY )

FOURTH ORDER OF  
AMENDMENT

DOCKET NO. CE10010023

Adam Falk, Vice President, Government and Regulatory Affairs, Cablevision Systems Corporation, Bethpage, New York, for the Petitioner

Township Clerk, Township of Ocean, New Jersey by Vincent Buttiglieri, for Ocean Township;

BY THE BOARD<sup>1</sup>:

On February 11, 2010, the Board of Public Utilities ("Board") issued an order memorializing the conversion by Cablevision of Monmouth, LLC ("Cablevision of Monmouth") of its municipal consent-based franchise in the Borough of Interlaken to a System-wide Franchise in the above referenced docket number for a term of seven years to expire on January 11, 2017. On June 7, 2010, the Board issued an Order of Amendment to include the Borough of Bradley Beach. On October 20, 2010, the Board issued a Second Order of Amendment to include six additional municipalities: the Township of Wall, the Borough of Avon by the Sea, the Borough of Belmar, the Borough of Lake Como, the Township of Neptune and the Borough of Spring Lake. On February 10, 2011, the Board issued a Third Order of Amendment to include five additional municipalities: the Borough of Brielle, the Borough of Englishtown, the Borough of Farmingdale, the Borough of Manasquan and the Borough of Sea Girt.

Pursuant to N.J.S.A. 48:5A-25.1 and N.J.A.C. 14:18-14.13, a cable television operator with a municipal consent-based franchise or franchises issued prior to the effective date of P.L. 2006, c. 83 ("System-wide Cable Television Franchise Act" or "Act") may automatically convert any or all of its municipal franchises upon notice to the Board and to the affected municipality or municipalities. In addition, pursuant to N.J.A.C. 14:18-14.14, a cable television company operating under a system-wide franchise may add municipalities to its system-wide franchise upon notice to the affected municipality or municipalities and the Board. On February 28, 2011, Cablevision of Monmouth, LLC filed notice with the Township of Ocean ("Township") that it would convert its municipal consent ordinance-based franchise in the municipality, thereby making it part of its Cablevision of Monmouth, LLC system-wide franchise; and confirmed that it would abide by the provisions of N.J.S.A. 48:5A-28 (h)-(n), as required by the System-wide Cable Television Franchise Act. That notice was received by the Board on March 1, 2011.

<sup>1</sup> Commissioner Nicholas Asselta did not participate in this matter.

## DISCUSSION

Under N.J.S.A. 48:5A-25.1, a cable television operator with a municipal consent-based franchise or franchises issued prior to the effective date of the Act may automatically convert any or all of its municipal franchises upon notice to the Board and to the affected municipality without meeting the requirements applicable to cable television operators applying for a system-wide franchise, except that the commitment requirements under N.J.S.A. 48:5A-28 (h)-(n) shall be applicable to all system-wide franchises, including conversions. N.J.S.A. 48:5A-28(h)-(n) impose requirements on all cable television companies operating under a system-wide franchise and include commitments as to line extensions; public, educational and governmental ("PEG") access channels; interconnection with other cable television companies; free cable and Internet service to public schools and municipal buildings; training and equipment for access users; PEG access return feeds; and compliance with customer protection regulations. As noted above, Cablevision of Monmouth, LLC has committed to provide service to the aforementioned municipality as required by these provisions.

## DISPOSITION OF CERTIFICATE OF APPROVAL AND UNDERLYING MUNICIPAL CONSENT

As discussed above, the Act allows a cable television company, operating under a municipal consent ordinance-based franchise, to "automatically convert" its system in any or all of its municipalities without approval from the Board or the impacted municipalities. N.J.S.A. 48:5A-25.1(a). Furthermore, N.J.S.A. 48:5A-19 provides that a "certificate of approval issued by the board shall be valid for 15 years from the date of issuance ... or until the expiration, revocation, termination or renegotiation of any municipal consent upon which it is based, whichever is sooner."

Cablevision of Monmouth's Certificate of Approval and the underlying municipal consent ordinance in the Township of Ocean was set to expire on May 12, 2012. Because Cablevision of Monmouth has now converted this municipal consent based-franchise to a system-wide franchise, pursuant to N.J.S.A. 48:5A-19 and N.J.S.A. 48:5A-25.1(a), the Board **FINDS** that Cablevision of Monmouth's Certificate of Approval for the Township of Ocean is hereby terminated.

Cablevision of Monmouth is authorized to provide cable television service to the municipality pursuant to its converted system-wide franchise and the requirements of N.J.S.A. 48:5A-28 (h)-(n) and applicable law.

With regard to N.J.S.A. 48:5A-28(h), a system-wide cable television franchise operator is required to meet or exceed the line extension policy ("LEP") commitments of the cable television company operating under a municipal consent ordinance-based franchise at the time the franchise is granted. Therefore, because Cablevision of Monmouth was the incumbent municipal consent-based franchise holder in this municipality, it is required to continue to provide, at a minimum, service to any residence in the Township in accordance with its policies in effect at the time of conversion. Accordingly, Cablevision of Monmouth shall provide service to the primary service area ("PSA") of the Township at no cost beyond the installation rates as contained in its schedule of prices, rates, terms and conditions on file with the Board. Cablevision of Monmouth shall provide service to areas outside its PSA in accordance with the LEP attached to this order as Appendix "I" with a homes per mile figure ("HPM") of 25.

Based upon the elements of the System-wide Franchise, and the legal mandates under which the Board operates, this Order **HEREBY COMMEMORATES** the addition of the municipality to Cablevision of Monmouth's System-wide Franchise.

This Forth Order of Amendment to the System-wide Franchise serves to add the Township of Ocean to Cablevision of Monmouth's System-wide Franchise, and does not, in any manner, modify, change or otherwise affect the terms and conditions of the February 11, 2010 Order.

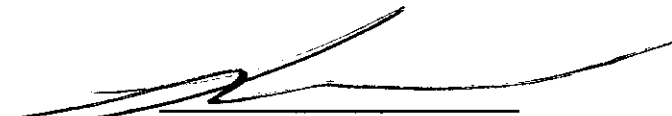
Without limitations to the full requirements set forth in that Order, the Board reminds Cablevision of Monmouth that, under the System-wide Franchise, it is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. To the extent possible based upon the technology used in providing service, Cablevision of Monmouth 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 the System-wide Franchise.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television, or the terms, conditions and limitations set forth herein, may subject Cablevision of Monmouth to penalties, as enumerated in N.J.S.A. 48:5A-51, or may constitute sufficient grounds for the suspension or revocation of the System-wide Franchise.

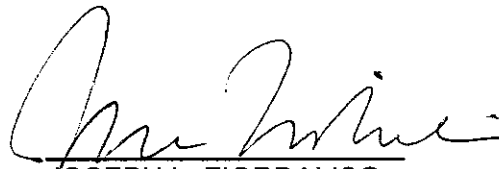
This Fourth Order of Amendment to the System-wide Franchise is issued on the representation that the statements contained in Cablevision of Monmouth's applications, notices, and other writings are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Board or the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.


DATED: 5/16/11

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

ATTEST:   
KRISTI IZZO  
SECRETARY

## APPENDIX "I"

### Office of Cable Television Line Extension Policy

Company      Cablevision of Monmouth, LLC  
Municipality      Township of Ocean

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.      $\frac{\text{HPM of extension}}{\text{Minimum HPM that company actually constructs in the system *}} = \text{ratio of the density of the extension to the minimum density which the company constructs in the system ("A")}$
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.      $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}} = \text{each subscriber's share}$

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 which 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.

**SERVICE LIST**

**IN THE MATTER OF CABLEVISION OF MONMOUTH, LLC  
FOR THE CONVERSION TO A SYSTEM-WIDE FRANCHISE IN THE TOWNSHIP OF OCEAN  
DOCKET NO. CE10010023**

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