



Agenda Date: 09/21/11
Agenda Item: IIIC

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

CABLE TELEVISION

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

FIFTH ORDER OF
AMENDMENT

DOCKET NO. CE10010023

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

Borough Clerk, Borough of Spring Lake Heights, New Jersey by Janine Gillis, for the Borough;

BY THE BOARD:

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. On May 16, 2011, the Board issued a Fourth Order of Amendment to include the Township of Ocean.

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 June 8, 2011, Cablevision of Monmouth, LLC filed notice with the Borough of Spring Lake Heights ("Borough") 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 June 9, 2011.

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 Borough of Spring Lake Heights was set to expire on April 27, 2018. 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 Borough of Spring Lake Heights 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 Borough in accordance with its policies in effect at the time of conversion. Accordingly, Cablevision of Monmouth shall provide service to all residences along any public right-of-way located in the Borough at tariffed rates for standard and non-standard installation. Installations to commercial establishments shall be constructed in accordance with the Petitioner's commercial line extension policy attached to this Certificate as Appendix "I".

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 Fifth Order of Amendment to the System-wide Franchise serves to add the Borough of Spring Lake Heights 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 Fifth 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.

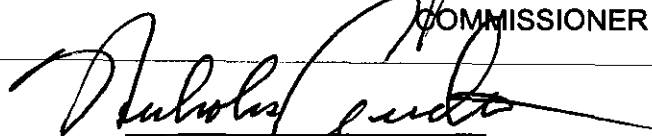
DATED: 9/22/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

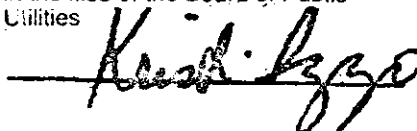

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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"

CABLEVISION OF MONMOUTH, LLC SYSTEM-WIDE FRANCHISE

COMMERCIAL LINE EXTENSION RATE POLICY

1. Intent. It is the intent of CABLEVISION that a rate policy be established under which any businesses within the company's franchise areas would have the opportunity to obtain cable television service.

2. Applicability. This line extension rate shall apply to all cable television service extensions, aerial and underground, on public and private lands, provided by CABLEVISION.

3. Definitions.

(a) Line or Service. That situation where the company must extend its existing trunk line and/or distribution cable in order to make a tap available from which a drop line can be run so as to provide cable television service to the applicant's premises. The line or service extension shall include, but not be limited to, all poles, cables, amplifiers, extenders, splitters, taps, right-of-way acquisitions and clearing, trenching, backfilling and any other one-time costs incurred by CABLEVISION in connection with extending service to the applicant. A line or service extension shall not include facilities provided by CABLEVISION pursuant to its applicable installation rates then existing.

(b) Applicant. Any person, firm, corporation or association that applies to CABLEVISION for service to a commercial establishment in the franchise area.

(c) Commercial Establishment. Any building or structure, or portion thereof, not used for residential purposes including, but not limited to, profit and non-profit corporations or associations, which has requested the installation of cable television service requiring line or service extension as defined herein.

(d) Drop Line. That cable which connects the subscriber's television receiver to the cable transmission system by way of a tap.

(e) Tap. A connecting device inserted in the cable transmission line which allows for the connection of a drop line. An aerial or underground "drop line" constitutes a transmission cable running from the distribution or feeder cable to the subscriber's connection or receiver.

(f) Trunk Line. Transmission cable running from headend to trunk amplifiers and through each trunk amplifier in cascade in the system from which connections for distribution and feeder cable are provided.

(g) Distribution or Feeder Cable. Transmission cable which extends from the distribution amplifiers serving specific areas within the system and from which drop lines are extended.

(h) Qualified Subscriber. Any applicant who, as a potential subscriber, has committed to purchase at least the basic service from CABLEVISION for a period of not less than two (2) years.

4. Schedule.

(a) Within thirty (30) days after the date on which the service is requested, but not more than ninety (90) days from the date upon which the request for service was made, CABLEVISION shall furnish the applicant with (1) an estimate request form, (2) a copy of this line extension policy, and (3) notification that service can only be provided by means of a line or service extension.

(b) If the applicant requests a written estimate within thirty (30) days after being advised that service can only be provided by means of a line or service extension, CABLEVISION shall, within sixty (60) days of such request, furnish a written estimate, a construction schedule, and a service extension contract to be signed by the applicant.

(c) The applicant must return a signed service extension agreement within thirty (30) days after receipt of the material described in Paragraph (b) together with a check in the amount of \$50.00 representing a service extension deposit which will be credited against the applicant's contribution in aid of construction invoice to the applicant which must be signed and returned to CABLEVISION with the full payment before construction will commence.

(d) If the applicant fails to meet any of the applicable deadlines or any of the terms herein before set forth without the approval of CABLEVISION, any obligations pertaining to the proposed line or service extension shall cease and be of no further force or effect.

5. Commercial Line Extension Rate Charges.

A commercial establishment requesting line or service extension shall bear all of the following costs to make a tap available from which a drop line may be installed:

(a) The actual cost to CABLEVISION of materials and equipment necessary to make service available plus shipping charges and applicable taxes.

(b) The actual labor costs incurred by CABLEVISION, exclusive of benefits.

(c) The actual costs of designs, surveys, prints and engineering or other such labor involved in the preparation or actual construction required.

(d) The direct costs of any easements, make-ready or other third party actions required to perform and complete construction such as, but not limited to, power companies, telephone companies, road work, trenching or the like.

(e) In addition, the applicant shall pay to CABLEVISION a sum equal to twenty percent (20%) of the entire actual cost of construction as set forth above.

(f) In the event additional commercial subscribers come on-line in an area in which service extension has been provided in accordance herewith, each additional subscriber shall, in addition to the applicable installation rate, be required to contribute their pro-rata share of the original construction costs. Said pro-rata share shall be derived by dividing the original

construction cost by the number of then existing on-line subscribers including the additional subscriber(s).

(g) Any funds collected from additional subscribers will be retained by CABLEVISION in an interest-bearing account and distributed equitably so as to equalize all subscriber construction contributions. Distribution will be made two years after the original service extension was provided. After said two year period, there shall be no further apportionment of the original construction cost.

6. Record Keeping and Annual Reports. CABLEVISION shall maintain appropriate records of its costs, subscriber and applicant billings, and revenues resulting from a request for or the construction of a service extension.

7. Ownership of Facilities. CABLEVISION shall own and maintain the facilities for which a service extension is made and any applicant-subscriber shall not acquire any interest herein.

8. Method of Service Extension. CABLEVISION reserves the right to provide either an aerial or underground service extension.

9. Term of Service. The minimum term of at least basic subscriber service for an applicant requesting service extension, or his successors and assigns, shall be twenty-four (24) months after the service extension has been energized. Said term shall be guaranteed by the applicant in the service extension contract specified in Paragraph 4(c) hereof.

SERVICE LIST

**IN THE MATTER OF CABLEVISION OF MONMOUTH, LLC
FOR THE CONVERSION TO A SYSTEM-WIDE FRANCHISE IN THE BOROUGH OF SPRING LAKE
HEIGHTS
DOCKET NO. CE10010023**

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