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August 27, 2018

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MAIL ROOM

AUG 29 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Aida Camacho-Welch
Secretary
N.J. Board of Public Utilities
44 South Clinton Avenue
Trenton, N.J. 08625

RECEIVED
CASE MANAGEMENT

AUG 30 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

RE: BPU Docket CE18030348
Service Electric Cable TV of Hunterdon, Inc

Dear Ms. Camacho-Welch:

On March 28, 2018 a petition was filed in your office by Service Electric Cable T.V. of Hunterdon Inc. for renewal of operating authority for its cable television system in the Township of Pohatcong, County of Warren State of New Jersey.

That petition asserted that Pohatcong had not complied with the New Jersey Cable Television Act nor the applicable federal statutes regarding renewal of cable television franchises. Thereafter, Pohatcong adopted an ordinance awarding renewal of the consent to operate.

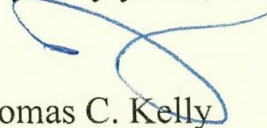
A copy of that ordinance is attached. Service Electric Cable T.V. of Hunterdon, Inc. accepts the ordinance and asks that the Board process the matter in accordance with the ordinance and grant the requested Renewal Certificate of Approval, the ultimate relief sought by the petition in this matter

CMS
Cable
Legal
DAB
K. Marlowe, cable
C. Antale, legal

Please contact me if you have any questions,

Thank you.

Very truly yours,



Thomas C. Kelly

C with enclosure via 8/14/2018 email:

Lawanda Gilbert, Director, OCTV&T

Karen Marlowe, OCTV

Service Electric Cable T.V. of Hunterdon, Inc

Clerk, Township of Pohatcong

Kevin Benbrook, Esq, Attorney for Pohatcong

RECEIVED
CASE MANAGEMENT

AUG 30 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

18-03

ORDINANCE

CHAPTER 264

**OF THE CODE OF THE TOWNSHIP OF POHATCONG
ENTITLED "CABLE TELEVISION FRANCHISE"
(AS AMENDED, PER ORDINANCE 18-03)**

RECEIVED
MAIL ROOM

AUG 29 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

§ 264-4. Short title.

This ordinance shall be known and may be cited as the "Service Electric Cable TV of Hunterdon, Inc., Franchise Renewal Ordinance."

§ 264-5. Purpose of the ordinance.

The municipality hereby grants to the Company its non-exclusive consent, franchise, right and privilege (the "franchise") to construct, erect, operate, modify and maintain or place in, upon, along, across, above, over and under the now laid out or dedicated, and all extensions thereof, and additions thereto, in the Township such highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the municipality of a cable television system and cable communications system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said highways, streets, alleys public ways and public places, and all manner of easements for the purposes herein set forth and as provided by the federal and the state act. Construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

§ 264-6. Definitions and word usage.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Such meaning or definition of terms is supplemental to those definitions given by the Federal Communications Commission, F.C.C. Rules and Regulations 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act 47 U.S.C. § 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq. and shall in no way be construed to broaden, alter or conflict with federal or state definitions.

APPLICATION -- The application for renewal of municipal consent filed with the Township on or about January 10, 2018, as modified by the statements of Service Electric Cable T.V. of Hunterdon, Inc., at the public hearing held on May 15, 2018.

BOARD -- The Board of Public Utilities of the State of New Jersey.

CABLE COMMUNICATIONS SYSTEM -- Any communications service other than cable television reception service delivered through the facilities of a CATV system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

CABLE TELEVISION COMPANY or CATV COMPANY -- Any person owning, controlling, operating, or managing a cable television system. The term "person" as used herein shall be construed, without limiting the generality thereof, to include specifically any agency or instrumentality of this state or of any of its political subdivisions; but this definition shall not include a telephone, telegraph, or electric utility company regulated by the Board in a case where it merely leases or rents or otherwise provides to a CATV company wires, conduits, cables, or pole space used in the redistribution of television signals to or toward subscribers or customers of such CATV company.

CABLE TELEVISION SYSTEM or CATV SYSTEM -- Any facility within this state which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable, or other device or means for accomplishing such redistribution, to members of the public who subscribe to such service; or distributing through its facility any television signals, whether broadcast or not; or any part of such facility. The term "facility" as used in this subsection includes all real property, antennas, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures, and other personal property used by a CATV company in providing service to its subscribers and customers.

COMPANY -- The grantee of rights under this ordinance awarding a franchise and is known as "Service Electric Cable TV of Hunterdon, Inc."

FCC -- The Federal Communications Commission.

FEDERAL ACT -- That federal statute relating to cable communications commonly known as "47 U.S.C. § 521 et seq.," or as that statute may be amended.

FEDERAL REGULATIONS -- Those federal regulations relating to cable television service, 47 C.F.R. 76.1 et seq., and, to the extent applicable, any other federal rules and regulations relating to cable television, including, but not limited to, those described in 47 C.F.R. 76.3, or as such regulations may be amended.

HIGHWAY -- As used herein, includes every street, road, alley, thoroughfare, way or place of any kind used by the public or open to use by the public.

PERSON -- Any person, firm, partnership, association, corporation, company, or organization of any kind.

STATE ACT -- That statute of the State of New Jersey relating to cable television, known as the "Cable Television Act, N.J.S.A. § 48:5A-1 et seq.," or as that statute may be amended.

STATE REGULATIONS -- Those regulations of the Board relating to cable television, N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1.1 et seq., or as such state regulations may be amended.

TOWNSHIP -- The Township of Pohatcong, County of Warren, State of New Jersey, and shall include, as appropriate, the governing body of the Township.

§ 264-7. Qualifications of grantee; grant of authority.

A public hearing concerning the renewal of the franchise herein granted to the Company was held on May 15, 2018 after proper public notice pursuant to the terms and conditions of the state act. Said hearing, having been held as above stated and having been fully open to the public, and the Township, having received at said hearing all comments regarding the qualifications of the Company to receive this franchise, hereby finds that the Company continues to possess the necessary legal, technical, character, financial, and other qualifications and that the Company's operating and construction arrangements are adequate and feasible, and that, therefore, the Township hereby grants the Company a nonexclusive consent as set forth above in § 264-5.

§ 264-8. Franchise term.

The franchise granted the Company herein shall expire ten (10) years from the date of issuance of a renewal certificate of approval by the Board. The Township reserves the right at any time to seek the Board's assistance to enforce and/or terminate the franchise according to applicable laws, rules and regulations for the Company's failure to perform any of its material commitments and obligations as set forth in this ordinance. If the Township determines that the Petitioner has not complied with the material terms of the ordinance and the Petitioner has been provided with written notice and a reasonable opportunity to cure, the Township may petition the Board for a reduction of the franchise term or other appropriate relief. The extent of the reduction sought from the Board by the Township shall be commensurate with the nature and extent of the material non-compliance.

§ 264-9. Payments to the Township for Franchise Fees.

- A. The Company shall, during each year of operation under this franchise, pay to the Township 2% of the annual gross revenues received by the Company for cable television reception services rendered to subscribers located within the Township—or any other amount as may be fixed by law.
- B. In the event applicable law hereafter permits a larger franchise fee to be collected, but

does not fix the amount thereof, the Township and the Company shall negotiate in good faith with respect to the amount.

§ 264-10. Rates.

The rates of the Company shall be subject to regulation as permitted by federal and state law. In the event federal and state law is hereafter amended to permit the exercise of regulatory power over rates by municipalities, the Township reserves the right to exercise the maximum power permitted by Law.

§ 264-11. Complaint procedures.

- A. During the term of this franchise, the Company shall maintain a local business office or agent for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters in accordance with N.J.A.C. 14:18-5.1. All complaints shall be received and processed by the Company pursuant to N.J.A.C. 14:17-6.5. The local office shall be open to receive inquiries and complaints and to receive payment of bills from subscribers during normal business hours.
- B. In addition to the requirements of Subsection A of this section, the New Jersey Office of Cable Television ("OCTV") is hereby designated as the complaint officer pursuant to N.J.S.A. 48:5A-26(b) to receive and act upon complaints by subscribers to cable television reception service provided pursuant to this franchise. All complaints shall be received, processed and maintained in accordance with N.J.A.C. 14:17-6.7 and N.J.S.A. 48:5A-26 and -26.1.
- C. The Company shall comply with any and all requirements of the OCTV, or other appropriate regulatory bodies with respect to telephone accessibility, facilities and personnel, and shall use reasonable efforts to comply with any OCTV guidelines relating to the foregoing.
- D. The Company shall continue to maintain a telephone number by which subscribers wishing to communicate with the Company for any reason can reach it by a toll-free or local telephone number 24 hours per day, seven days per week.
- E. In the event that the Company requires the converter or other equipment provided to a subscriber to be exchanged in order for the subscriber to maintain his current level of service, the Company shall cause such exchange to be effectuated by delivery of the equipment to the subscriber's home, and to the extent necessary, at night or on a weekend, at no cost to the subscriber.

§ 264-12. Liability and indemnification.

- A. The Company shall pay, and by its acceptance of this franchise the Company expressly agrees that it will pay, all damages and penalties which the Township may legally be required to pay as a result of the Company's negligence in the installation, operation, or maintenance of the cable television system authorized herein. The Township shall notify the Company's general manager within 30 days after the presentation of any claim or demand to the Township, either by suit or otherwise, made against the Township on account of any negligence or contract as aforesaid on the part of the Company.

B. Furthermore, the Company shall carry liability insurance in at least the minimum amounts required by law. The Township shall be named as an additional insured under the insurance policies.

§ 264-13. Performance Bonds.

During the life of the franchise, the Company shall give a bond to the Township in accordance with N.J.S.A. 48:5A-28(d), which bond shall be in the amount of \$25,000. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application and incorporated herein.

§ 264-14. System construction, maintenance and procedures.

- A. **Franchise territory.** The consent granted under this ordinance shall apply to the entirety of the Township, and any property hereafter annexed thereto.
- B. **Facilities and equipment.** In transmitting its television signals to subscribers in the Township, the Company shall provide a quality of signal that is at least as good as that customarily provided under prevailing industry standards, and shall comply with any requirements imposed by the federal regulations, any federal pronouncements, and (to the extent not preempted by federal law) any state pronouncements relating to technical standards for the transmission of television signals, transmission quality, or facilities and equipment.
- C. **Extension of service.** The Company shall be required to offer service to any residents located in those areas of the franchise territory in accordance with the proposal for the provision of services as described in the application. Any additional extension of the system will be made in accordance with the proposal in the application which contemplates a line extension policy with a homes per mile figure of 35.
- D. **Relocation of poles.** In the event that, at any time during the term of this ordinance, the Township shall lawfully elect to alter or change the grade of any street, alley, or other public way, the Company, upon reasonable notice by the Township, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at the Company's own expense.
- E. **Restoration.** In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, the Company shall at its sole expense restore and replace such places or things so disturbed in as good condition as existed prior to the commencement of said work.
- F. **Temporary wire changes.** The Company shall, on the request of any person holding a valid building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of buildings, machinery or other similar circumstances. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than 10 days advance notice to arrange for temporary wire changes.
- G. **Tree trimming.** The Company shall have the authority to trim trees upon and overhanging streets, highways, alleys, sidewalks, and public places within the Township so as to prevent the branches of such trees from coming into contact with the wires and cables of the Company. Such tree trimming shall be performed only to

the extent reasonably necessary to maintain proper clearance for the Company's wires and equipment.

- H. **Compliance with standards.** All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements and specifications of the applicable ordinance and regulations set forth by the Township and/or any other local, state or federal agencies.

§ 264-15. Company rules and regulations.

The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with federal and/or state laws.

§ 264-16. Approval of transfer.

The Company shall not sell or transfer its CATV system to another, nor transfer any rights under this franchise to another, except as provided in the state act.

§ 264-17. Compliance with state and federal acts.

This ordinance and franchise is subject to all provisions of the state act and federal act and to all lawful rules and regulations of the Board and OCTV adopted pursuant thereto. The Company shall at all times comply with the rules and regulations governing cable television operations lawfully promulgated and adopted by the Board. In the event of a conflict between the state act and state regulations and any FCC or federal regulations, the FCC or federal regulations shall prevail.

§ 264-18. Activities prohibited.

The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the Township.

§ 264-19. Public, Educational or Governmental Access Channels.

The cable operator shall provide access time to non-commercial public, governmental and educational entities, currently on Channel 50. This channel is shared with Phillipsburg and other communities and provides service to Phillipsburg Middle School. The amount of time available to the Township on the shared channel shall be determined by the sharing municipalities. The cable operator shall provide the listed equipment and/or personnel for public, educational or governmental use, as provided in the application.

§ 264-20. Free services.

The Company shall provide installation and basic monthly service, free of charge, to the governmental services building (s) that exist now or will exist in the future including, but not limited to, the library, Pohatcong Schools, Police Department, Fire Department (including the Huntington and Warren Glen firehouses), emergency squad (s), and the municipal building(s). The Municipality shall obtain and provide easements and rights of way to the Company for the above access. Installation shall be to each building. The Municipality shall be responsible for all equipment and costs associated with the wiring of the interior of the buildings to receive the services identified in this paragraph.

§ 264-21. Incorporation of application.

All of the statements and commitments contained in the application and any oral or written amendments thereto, including but not limited to the amendments made at the March 15, 2018 public hearing except as modified herein, are binding upon the Company as terms and conditions of this consent. The application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference as long as they do not conflict with state or federal law.

§ 264-22. Separability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid, preempted, or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision of this ordinance, and such holding shall not affect the validity of the remaining portions hereof.

§ 264-23. Consistency with future federal and state statutes, regulations, rules and orders.

Should any of the federal or state acts, regulations or pronouncements applicable to the regulation of cable television service be modified in any way, such modification, to the extent it embodies required terms and conditions and meaningfully can be incorporated into this ordinance, shall be so incorporated, consistent with any applicable effective dates specified in such modification. To the extent that any such modification places limits on permissible terms and conditions, and any provision of this ordinance becomes invalid by virtue of such modification, the separability clause set forth in §264-19 shall apply.

§ 264-24. Meeting between Company and Township.

The Company is available to meet with the Township upon reasonable notice to the Company during the franchise period to address any issue arising under this agreement or

in connection with cable television in general.

§ 264-25. Senior citizen discount.

The Company has agreed to continue its senior citizen's discount in conformity with law and as reflected in the Company's tariff.

§ 264-26. Programming.

Although nothing herein shall require the Company to carry or transmit any particular television stations or programming source, the Company shall provide at least the same broad categories of programming in at least the same quantity as now provided.

§ 264-27. Emergency Uses.

The Company shall be required to have the capability to comply with the Emergency Alert System to permit the broadcasting of emergency messages. The Company shall in no way be held liable of injury suffered by the Municipality or any other person if for any reason the Municipality is unable to make full use of the cable system as contemplated herein. The Municipality shall establish reasonable procedures for such emergency use and coordination in accordance with applicable State and Federal guidelines and requirements.

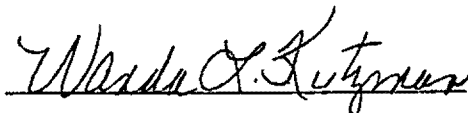
Introduced: June 19, 2018

Adopted: July 17, 2018

Certification:

I, Wanda L. Kutzman, Township Clerk of the Township of Pohatcong, County of Warren and State of New Jersey, DO HEREBY CERTIFY that this is a true and correct copy of an Ordinance presented and adopted upon second and final reading, after a public hearing thereon at a meeting of the Township Council held on July 17, 2018. This Ordinance was adopted by Council with a vote of 4-0 (ayes: Babinsky, Oertel, Slack and Kern, nays: none, absent: Vangeli).

WITNESS, my hand and seal of the Township of Pohatcong on this 25th day of July, 2018.



Wanda L. Kutzman, RMC
Township Clerk