

STAN BARRETT | Partner

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April 27, 2023

Via Email (Board.Secretary@bpu.nj.gov) & E-filing Portal

Ashley Bliss, Administrative Analyst 1
Board of Public Utilities
44 South Clinton Avenue
1st Floor
Trenton, NJ 08625

Re: In the Matter of the Petition of Comcast of Central New Jersey II, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Far Hills, County of Somerset, State of New Jersey (Docket No. CE21020477)

Our File No. 041000.03000

Dear Ms. Bliss:

We write on behalf of Comcast of Central New Jersey II, LLC (“Comcast”) in regard to the above-captioned matter (the “Far Hills Petition”). Pursuant to the interim e-filing procedures adopted by the Board of Public Utilities (the “Board”) on March 19, 2020, we have submitted via the Board’s “InfoShare” e-filing portal a copy of this letter and certain supplemental information regarding the Far Hills Petition, also attached hereto, in response to Nancy J. Wolf’s letter request dated February 15, 2023.

We trust that the supplemental information will prove satisfactory. Please contact me should your office require further information or wish to discuss the information submitted. Thank you for your kind attention.

Very truly yours,

Stan Barrett

Stan Barrett

For the Firm

Enclosures

cc: Nancy J. Wolf, Administrative Analyst 4, Office of Cable Television & Telecommunications (via email)
Dorothy S. Hicks, Borough Clerk (via email)
Karen Mastriano, Director of Government & Regulatory Affairs (via email)

EXPLANATION: This Ordinance consents to Comcast's cable franchise renewal application with the NJ BPU for operation of a cable franchise within the Borough of Far Hills.

**BOROUGH OF FAR HILLS
ORDINANCE NO. 2020-10**

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF FAR HILLS, COUNTY OF SOMERSET, NEW JERSEY.

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Far Hills, in the County of Somerset and State of New Jersey as follows:

SECTION 1. PURPOSE OF THE ORDINANCE

The Borough hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Borough of a cable television and communications system. This consent is subject to the terms and conditions of this Ordinance and upon the condition that the Company accepts the provisions of this Ordinance, and confirms that it shall comply with the commitments contained herein.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 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 the federal and state definitions:

- a. "Borough" or "Municipality" is the Borough of Far Hills, County of Somerset, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Central New Jersey II, LLC
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.

- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

A public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of the Company to receive this consent, and the representations of the Company that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire ten (10) years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, N.J.S.A. 48:5A-30(d), the Company shall, during each year of operation under the consent granted herein, pay to the Municipality 3.5% of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law. The current franchise fee paid to the Borough is 3.5%.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance for the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application.

SECTION 8. CONSTRUCTION REQUIREMENTS

- a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as reasonably good a condition as existed prior to the commencement of said work.
- b. Relocation: If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough, shall remove, re-lay or relocate its equipment, at the expense of the Company.
- c. Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. Nothing herein shall impair the right of any subscriber or the Borough to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under applicable law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the Complaint Officer for the Borough pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Borough shall have the right to request copies of records and reports pertaining to complaints by Borough customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving local complaints regarding the quality of service, equipment malfunctions, and similar matters.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- a. The Company shall provide Expanded Basic or a similar tier of cable television service on one (1) outlet at no cost to each qualified existing or future school in the Borough, public and private, elementary, intermediate and secondary, provided the school is within 200 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. Comcast shall provide the above referenced services to any future such school upon written request.
- b. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost on one (1) outlet to each qualified existing police, fire, emergency management facility, public works and public library in the Borough, provided the facility is located within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Borough. Comcast shall provide the above referenced services to any future such facility upon written request.
- c. Within six (6) months of receipt of a Renewal Certificate of Approval, the Company shall provide the Borough with a one-time grant for PEG Access Capital support in the amount of five thousand (\$5,000.00) dollars. Said grant shall be used for PEG Access equipment and facilities or like purposes.

The Communications Act of 1934, as amended [47 U.S.C. §543(b)], allows the Company to itemize and/or identify the amount on the monthly bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, educational, and governmental channels, or the use of such channels or any other services required under the franchise. . The Company reserves its external cost, pass-through rights to the full extent permitted by law, including the services set forth in Section 14 subsections (a) and (b) herein which may be recovered at the fair market value as a pass-through in addition to the 3.5% franchise fee provided herein

SECTION 15. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

- a. The Company shall make available access channels for government and education use. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Company's published public access rules.
- b. The Company shall provide a system-wide leased access channel maintained by the Company for the purpose of cablecasting commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.
- c. The Company shall not exercise editorial control over any educational or governmental use of channel capacity, except Company may refuse to transmit any educational or governmental access program or portion of an educational or governmental access program that contains obscenity, indecency, or nudity.
- d. Indemnification. The Borough shall indemnify Company for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties on the EG channel and from claims arising out of the Municipalities' rules for or administration of EG access channel and its programming.

SECTION 16. EMERGENCY USES

- a. The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.
- b. The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the Municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 17. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 18. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, 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 provided same do not conflict with applicable State or Federal law.

SECTION 19. COMPETITIVE EQUITY

Should the Municipality grant a franchise or other authorization to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that

is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 20. SEPARABILITY

If any section, subsection, sentence, clause, phrase, or other portion of this Ordinance is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 21. PROPRIETARY INFORMATION

The Company shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Borough agrees to treat any information disclosed by the Company as confidential and only to disclose it to those employees, representatives, and agents of the Borough that have a need to know in order to enforce this Ordinance Agreement and who agree to maintain the confidentiality of all such information.

The Company shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Company to be competitively sensitive. The Company may make proprietary or confidential information available for inspection but not copying or removal by the Municipality's representative. In the event that the Municipality has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Company has designated as confidential, trade secret or proprietary, the Borough shall notify the Company of such request and cooperate with Company in opposing such request.

SECTION 22. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 23. NEW DEVELOPMENTS

The Municipality, for its part, shall endeavor to exercise reasonable efforts to require developers and utility companies to provide the Company with at least fifteen (15) days advance notice of an available open trench for the placement of necessary cable.

SECTION 24. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

BE IT FURTHER ORDAINED that if any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

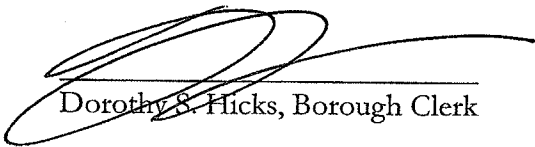
BE IT FURTHER ORDAINED in the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Far Hills, specifically with regard to the repeal of Ordinance No. 2012-09 (which shall continue to be repealed), and the revisions to Ordinance No. 2016-09 set forth herein, the provisions hereof shall be determined to govern, and the inconsistencies of the prior ordinance are hereby repealed. All other parts, portions and provisions of the Ordinances of the Borough of Far Hills are hereby ratified and confirmed, except where inconsistent with the terms hereof.

BE IT FURTHER ORDAINED within five (5) days after its adoption by the Council, this Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40A:60-5(d). If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

BE IT FURTHER ORDAINED this Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40A:60-5(d); and (3) publication in accordance with the laws of the State of New Jersey.

Introduced: July 27, 2020
Published: July 30, 2020
Adopted: August 10, 2020
Published: August 13, 2020

ATTEST:


Dorothy S. Hicks, Borough Clerk

BOROUGH OF FAR HILLS

By: 
Paul J. Vallone, M.D., Mayor



September 22, 2020

Hon. Paul J. Vallone, MD
And Members of the Governing Body
Borough of Far Hills
6 Prospect Street
Far Hills, NJ 07931

Dear Mayor Vallone and Members of the Governing Body:

On or about September 11, 2020 Comcast received via electronic mail a certified copy of the Borough of Far Hills Ordinance #2020-10 adopted on August 10, 2020, granting Renewal of Municipal Consent to Comcast of Central New Jersey II, LLC to continue to operate and maintain a cable television and communications system in Far Hills.

Please accept this letter as formal acceptance of the ordinance. As you may know, Comcast must now petition the New Jersey Board of Public Utilities for issuance of a renewal Certificate of Approval.

Also, I would like to express a sincere thank you to Borough Attorney Joseph V. Sordillo for his assistance and professionalism demonstrated throughout the renewal process.

Sincerely,

Charles L. Smith

Charles L. Smith III
Sr. Director of Government and Regulatory Affairs

cc: Dorothy Hicks, Borough Clerk
Joseph V. Sordillo, Esq., Borough Attorney
Lawanda R. Gilbert, Director, NJBPU Office of Cable Television
Stephanie Kosta, Vice President of Government Affairs, Comcast
Dennis C. Linken, Esq., Scarinci Hollenbeck

Application Section I, Question 9

9. System Personnel (if not applicable, so indicate):

- (a) System Manager: Daniel Bonelli Tel No.: (860) 436-7689
Present Position: Regional Senior Vice President Yrs. Exp. 16
- (b) Chief Engineer: Victoria Boston Tel No.: (720) 527-1369
Present Position: RVP of Network Engineering Yrs. Exp. 4.7
- (c) Accountant: Daniel Ware Tel No.: (801) 419-1403
Address: 3800 Horizon Blvd., Ste. 300, Trevoise, PA 19053
- (d) Attorney: Jeffery Jacobs Tel No.: (215) 286-8989
Address: 1701 John F. Kennedy Blvd., Philadelphia, PA 19103
- (e) Consultant: N/A Tel No.: _____
Address: _____
- (f) Registered Agent: United States Corp. Tel No.: (302) 674-1221
Address: _____

Note: Personnel indicated for operations positions shall be those persons who, in fact, will have responsibility, authority and control of the day-to-day system construction and operation. Include those individuals who should be contacted by OCTV representatives during the normal course of business.

- (g) Other: Juan Perez, Dir. Technical Operations, 908-258-8208
Karen Mastriano, Dir. of Government & Regulatory Affairs, 908-481-6148
Sue Ruffino, Local Access Coordinator, 908-851-8917

3. Provide information as to the number, cable channel designation, type of access channels and their manner of operation, including proposed date for commencement of services and channel sharing.

| <u>Cable Channel</u> | <u>Type of Access</u> | <u>Shared With</u> |
|----------------------|-----------------------|--------------------|
| 14 | Education | None |
| 25 | Government | None |
| 280 | Community | None |
| 965 | Government | Jewelry |

4. Each applicant shall title by category and list the following information concerning program origination;

| <u>Type</u> | <u>Proposed Inception</u> | <u>Cable Channel Designation</u> |
|-------------------|---------------------------|----------------------------------|
| Education | In Service | 14 |
| Government | In Service | 25 |
| Community | In Service | 280 |
| Government | In Service | 965 |

IX. Line Extension Policy

In accordance with N.J.A.C. 14:18-11.2(a)6, Comcast is required to state that it “shall comply with N.J.A.C. 14:3-8, more specifically . . . N.J.A.C. 14:18-3-8.1, 8.2 through 8.5, 8.6(b), 8.8 and 8.13, regarding extension of service.” Comcast will comply with all lawful regulations governing the operation of its cable television system and cable communications system within the Borough of Far Hills. Comcast, however, reserves its right to seek administrative or judicial review of the validity of any statute, regulation or ordinance.

Comcast adopts the Office of Cable Television’s Line Extension Policy with a density threshold of 25 homes-per-mile.

APPENDIX "I"

Office of Cable Television
Line Extension Policy

Company Patriot Media and Communications CNJ, LLC
Municipality Borough of Far Hills

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 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. $\frac{\text{Total amount to be recovered from subs}}{\text{Total subscribers in extension}}$ = 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

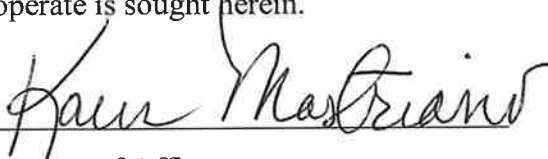
Potential subscribers residing outside the PSA who request service are entitled to an estimate of their share of the cost to secure service. When conducting a survey and estimating costs, a cable company should factor-in all potential subscribers who could practicably be included in the extension and give consideration to apparent residential construction in areas contiguous to the proposed extension.

XVI. Verification

State of New Jersey)
)
County of Union) ss:
)
)

Karen Mastriano (hereinafter referred to as affiant) being duly sworn upon his oath according to law, deposes and says that he is Senior Director of Government & Regulatory Affairs for Comcast of Central New Jersey II, LLC; that he is authorized on the part of the applicant to verify and file with Borough of Far Hills this application and appendices attached hereto; that he has carefully examined all of the statements contained in such application and the appendices attached hereto and made a part hereof; that he has knowledge of the matters set forth herein and that all such statements made and matters set forth herein are true and correct to the best of his knowledge, information and beliefs. Affiant further says that the applicant makes this application intending in good faith to present evidence which the applicant believes will support the application as to which authority to operate is sought herein.

Dated: April 20, 2023



Signature of Affiant

Karen Mastriano
Area Director of Government & Regulatory Affairs
Comcast of Central New Jersey II, LLC
800 Rahway Avenue, Union, NJ 07083
Tel: 908 481-6148