

STAN BARRETT | Partner
sbarrett@sh-law.com
Phone: 848-482-8585

PUBLIC VERSION

September 5, 2023

Via E-mail (board.secretary@bpu.nj.gov) & E-filing Portal

Sherri L. Golden, RMC, Board Secretary
Board of Public Utilities
44 South Clinton Avenue
1st Floor
Trenton, NJ 08625

Re: In the Matter of the Petition of Spectrum of New Jersey, LLC, an Indirect Subsidiary of Charter Communications, Inc., for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Englewood Cliffs, County of Bergen, State of New Jersey
Docket No. CE23070428
Our File No. 41008.5000

Dear Secretary Golden:

We write to inform you on behalf of Spectrum of New Jersey, LLC (“Comcast”), an indirect subsidiary of Charter Communications, Inc. (“Charter”), that, in response to a Staff’s request for a revised system map in connection with the above-referenced matter, and pursuant to the interim e-filing procedures adopted by the Board of Public Utilities (the “Board”) on March 19, 2020, we have submitted a confidential and a public version of the revised map (the “Map”) via the Board’s “Infoshare” e-filing portal (“Infoshare”).

The confidential filing submitted via Infoshare includes a copy of this letter; a confidential and unredacted version of the Map; and the affidavit of Rodney S. Capel, Charter’s Vice President of State Government Affairs, in support of our request for confidential treatment of certain information in the Map (the “Affidavit”). The public filing submitted via Infoshare comprises a copy of this letter; the Affidavit; and a version of the Map with the confidential information having been redacted therefrom (collectively, the “Public Filing”).

We have also sent a copy of the Public Filing via email to Laura Borchers, Municipal Clerk for the Borough of Englewood Cliffs.

In accordance with N.J.A.C. 14:1-12 et seq., SNJ respectfully submits that the content of the Map is proprietary commercial information. Accordingly, the Responsive Materials do not constitute a government record under the New Jersey Open Public Records Act, P.L. 2001, c. 404 (N.J.S.A.

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47:1A-1 et seq.) and are exempt from public disclosure. The Affidavit filed simultaneously with the Responsive Materials substantiates Charter's request for confidential treatment.

Thank you for your kind consideration. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Stan Barrett

Stan Barrett
For the Firm

SB/db

Enclosures

cc: Nancy J. Wolf, Administrative Analyst 4 (via email)
Ashley Bliss, Administrative Analyst 1 (via email)
Stephanie Katz, Administrative Analyst 1 (via email)
Laura Borchers, Municipal Clerk (via email: lborchers@englewoodcliffsnj.org)

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
OFFICE OF CABLE TELEVISION & TELECOMMUNICATIONS**

SCARINCI & HOLLENBECK, LLC
150 Clove Road, 9th Floor
Little Falls, NJ 07424
(201) 896-4100
Attorneys for Petitioner Spectrum New Jersey, LLC,
indirect subsidiary of Charter Communications, Inc.
Our File No. 41008.5000

IN THE MATTER OF THE PETITION OF)
SPECTRUM NEW JERSEY, LLC, INDIRECT)
SUBSIDIARY OF CHARTER)
COMMUNICATIONS, INC., FOR A)
RENEWAL CERTIFICATE OF APPROVAL)
TO CONTINUE TO CONSTRUCT, OPERATE)
AND MAINTAIN A CABLE TELEVISION)
SYSTEM IN AND FOR THE BOROUGH OF)
ENGLEWOOD CLIFFS, COUNTY OF)
BERGEN, STATE OF NEW JERSEY)

Docket No. CE23070428

AFFIDAVIT

STATE OF NEW YORK)
) SS:
COUNTY OF MANHATTAN)

Rodney S. Capel, being of full age and duly sworn according to law, does hereby depose and state as follows:

1. I am Vice President, State Government Affairs, of Charter Communications, Inc., indirect parent company of Spectrum New Jersey, LLC (“Charter” or “Petitioner”), petitioner in the above-captioned matter. As such, I am familiar with the nature and contents of the Application for a Renewal Certificate of Approval (“Application”) filed in this matter on June 23, 2023 and with the supplemental system map (the “Map”) filed herewith.

2. I make this affidavit in support of the Map being filed by Charter in response to a request from Staff and in connection with its petition and application for renewal of a Certificate of Approval to continue to construct, operate and maintain its cable television system in the Borough of Englewood Cliffs, County of Bergen, New Jersey (“Municipality”).

3. Charter’s Map is being filed pursuant to N.J.S.A. 48:5A-1 et seq. and the Regulations of the New Jersey Board of Public Utilities (“Board”), N.J.A.C. 14:18-13 et seq.

4. In support of the Application in the above-captioned matter, Charter hereby provides a Map of the entire Municipality showing, *inter alia*, the location of Charter’s facilities placed therein (collectively referred to as “System Specifications”). The System Specifications contain sensitive proprietary commercial information (“Confidential Information”) that is confidential and non-public information and therefore does not constitute a “government record” under N.J.S.A. 47:1A-1.1.

5. I make this affidavit in accordance with N.J.A.C. 14:1-12.9 to substantiate Charter’s claim that the System Specifications submitted to the Board are confidential.

6. Public safety concerns related to the reliability of communications networks such as Charter’s system, and the increasingly competitive marketplace, warrant confidential treatment of this information. Circumstances in this regard have changed, such that while Charter may have provided similar information to the Board or to municipalities in the past without requesting confidential treatment, such treatment is now warranted. More specifically, significant additional competitors, such as Verizon, have begun to offer service in Charter’s New Jersey cable systems.

7. The System Specifications are protected by Charter by making them available only to senior management of Charter or such other management or employees who have a need to know such information in order to perform their functions on behalf of Charter. The System

Specifications may also be made available to Charter's lenders or outside accounting and legal professionals who are obligated to maintain confidentiality or privilege. However, to the extent that the System Specifications have been or may be disclosed to others, Charter has done or will do so by way of a confidentiality agreement, whereby it has been or will be agreed by the parties thereto that the Confidential Information: (i) shall be used solely for purposes relating to the matter specified therein, and (ii) shall be maintained in secure files, separate from public information. Such agreements provide or will provide that no other disclosure shall be made to any person or entity, except with the express written consent of Charter or its legal counsel.

8. The Confidential Information is not contained in materials that are routinely available to the general public, including but not limited to Board Orders, press releases, copies of speeches, promotional or educational materials (although some prior similar information may sometimes have been made available in years past).

9. To the best of my knowledge, the System Specifications have not previously been subject to a confidentiality determination by the Board or any other State or court of competent jurisdiction; however, a finding that such data are confidential would be entirely consistent with policies and decisions of the Federal Communications Commission ("FCC") with respect to submission of cable system and other data on FCC forms and in connection with other matters pending before the FCC. See, e.g., Request for Confidentiality for Information Submitted on Forms 325 for the Year 2004, Order, 21 FCC Rcd 2312, ¶ 12 (2006) (finding that certain subscriber data, plant metrics, and other information submitted on FCC Form 325 is entitled to confidential treatment and noting that the FCC generally does not publish similar data collected on FCC Form 477); Local Competition and Broadband Reporting, Report and Order, 15 FCC Rcd 7717, ¶ 91 (2000) (stating the FCC's general policy of affording confidentiality to the maximum extent

possible in order to encourage regulated entities to be fully forthcoming in response to requests for information); Appendix A to Order Adopting Protective Order, 20 FCC Rcd 10751 (2005) (reflecting that, in the context of its review of major cable transactions, the FCC typically treats any information that is not otherwise available from public sources as confidential and subject to protection from disclosure). Furthermore, to the extent that the Board has previously determined that any data submitted in connection with initial or renewal cable television franchise applications are confidential and protected from disclosure, Charter requests that its data be afforded similar treatment.

10. The System Specifications would provide criminals, terrorists, vandals, competitors and/or potential competitors with sensitive technical information regarding Charter's network design and system capabilities. The intentional or inadvertent disclosure of the System Specifications could pose a threat to the integrity of Charter's system—and by extension, a risk to public safety. Additionally, the disclosure of this information would provide competitors with valuable insights into the company's operational strengths and weaknesses and would facilitate the development of strategic and competitively harmful response by competitors.

11. Charter requests that the System Specifications provided to the Board be treated as confidential before, during, and after the proceedings in the above-captioned matter, unless the information or documents are formally adjudicated through an unappealed, final decision of the Board, the Office of Administrative Law, or other administrative agency of competent jurisdiction, or any court of competent jurisdiction, to be non-confidential.

12. Due to the sensitive nature of the System Specifications, Charter respectfully submits that it is appropriate for the Board to limit access to such information. The Confidential Information being provided is for the use of the Board, the Office of the New Jersey Attorney

General (“AG”), and the New Jersey Ratepayer Advocate (“RA”) in exercising their governmental functions relating to this matter and for no other purpose. There is no legitimate purpose to be served in disclosing this proprietary material to Charter’s competitors or, indeed, to any person other than the appropriate staff of the Board, AG and RA.

Charter therefore respectfully requests that the Board issue a determination that the System Specifications are confidential and as such exempt from public disclosure and that the availability of such information will be limited accordingly.



Rodney S. Capel

Date: September 1, 2023

PUBLIC VERSION

Spectrum New Jersey, LLC's responses contain proprietary commercial information and are therefore being submitted together with a request for confidential treatment of such information in accordance with N.J.A.C. 14:1-12 et seq.

