

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 15, 2011

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 11-V-0381 - Application of Cablevision of Wappinger Falls,
Inc. for Approval of the Renewal of its Cable
Television Franchise for the Town of New
Castle, Westchester County.

ORDER APPROVING RENEWAL

(Issued and Effective September 22, 2011)

BY THE COMMISSION:

INTRODUCTION

On July 19, 2011, Cablevision of Wappinger Falls, Inc. submitted an application for approval of the renewal of its cable television franchise (franchise renewal) with the Town of New Castle, Westchester County. The Town authorized renewal of the franchise by Resolution of the Town Board dated April 26, 2011, after a duly noticed public hearing held on the same date. The term of the renewal is 15 years, beginning on the date that this Order is issued and effective.

The franchise renewal will serve the public interest, because it continues the availability of cable service in the community. It is approved, subject to compliance with and governed by the obligations, requirements and standards in federal and state law, rules, regulations, standards and orders.

CABLE LAW AND RULES

No renewal of a franchise is effective without the approval of the Commission (Public Service Law (PSL) §222). Failure to conform to franchise standards established in Commission regulations does not preclude Commission approval, if the Commission finds that approval of the franchise renewal would serve the public interest; and, the Commission may approve the application contingent upon compliance with the statutory and regulatory standards, terms, or conditions that are not met by the franchise renewal (PSL §222(3) and (4)). Commission regulations (16 NYCRR §891.2 and Part 895) require an application for renewal to conform to minimum standards for required contents of franchises and set forth procedural requirements for municipal review of the franchise renewal, including public notice, opportunity for comment and a public hearing.

DISCUSSION

We determine that approval of the franchise renewal serves the public interest, as it results in the effective provision of cable service in the municipality. The franchise renewal may omit certain required provisions or contain provisions that may conflict with statutory and regulatory requirements. This Order does not identify and describe each specific omission and conflict because the principles and standards established in the law and rules apply to cable renewals, whether or not specifically identified in our orders, and a franchise agreement may not overrule, modify, or amend these minimum requirements.

Therefore, approval of the franchise renewal is conditioned upon full compliance at a minimum with these requirements, whether or not the provisions in this franchise agreement specifically state or are in conflict with these requirements. Any franchise provision required in the

Commission's rules that is omitted from the franchise agreement is added to it and is hereby incorporated in the franchise agreement; and, any federal and state law, rule, regulation and order, as amended, shall control the interpretation of and performance under this franchise renewal to the extent that any franchise provision does not meet the requirements in the Commission's rules or conflicts with or is inconsistent with federal and state laws, rules, regulations and orders.

The franchise renewal agreement may contain additional provisions that are not required by the Commission's rules. Our approval of these provisions is granted to the extent that they pertain to the provision of cable service and are, and remain, consistent with PSL Article 11, our regulations, policies and orders and applicable federal statutes and regulations. In the event of an ambiguity in any such provision or among separate provisions, the provision or provisions will be construed in the manner most favorable to the franchisor.

The Commission orders:

1. The application of Cablevision of Wappinger Falls, Inc. for renewal of its cable television franchise to provide cable television service in the Town of New Castle (Westchester County) is approved, subject to the conditions set forth in this Order. The term of the renewal shall expire in 15 years, beginning upon the date this Order is issued and effective.

2. This Order does not in any way confer rights or privileges other than those granted in the underlying franchise; and, the certificate holder remains subject to the obligations imposed by Public Service Law Article 11, the underlying franchise and all applicable rules, regulations and orders of this Commission.

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3. This proceeding is closed.

By the Commission,

Jaclyn A. Brillling

Digitally Signed by Secretary
New York Public Service Commission

JACLYN A. BRILLING
Secretary