

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888**

IN RE: Application Filing for a Certificate :
 Of Authority to Operate by Verizon : Docket No. 2006-C-4
 New England, Inc. :

REPORT AND ORDER

A. INTRODUCTION

The Rhode Island Division of Public Utilities and Carriers (“Division”) received an application filing on February 7, 2006 from Verizon New England, Inc. (“Verizon”), seeking authority to construct and operate a Community Antenna Television (“CATV”) System in Rhode Island’s CATV Service Area 6. Service Area 6 is comprised of the communities of Coventry, East Greenwich, Exeter, North Kingstown, Warwick, West Warwick and West Greenwich. Verizon’s application was filed in accordance with the requirements of Rhode Island General Laws, Section (“R.I.G.L. §”) 39-19-3 and the Division’s “*Rules Governing Community Antenna Television Systems*” (the “Cable Rules”).

As noted in prior orders issued in this docket, applications filed pursuant to R.I.G.L. §39-19-3 precipitate a three-phase regulatory response from the Division.¹ The first phase, called the “*Compliance Order Certificate*” phase, requires the Division to conduct a thorough evaluation of the applicant’s fitness, willingness, technical qualifications and financial ability to perform the proposed

¹ The three-phase CATV regulatory process was comprehensively described by the Division in a previous order issued in this docket (See Order No. 18789, issued on December 20, 2006).

CATV services.² Additionally, the Division must be satisfied that the applicant is willing and able to comply with the Division's Cable Rules and the laws of the State of Rhode Island. The Division must also find that the proposed operation will be consistent with the public interest.³

The Division completed the first regulatory phase with respect to Verizon's February 7, 2006 CATV application filing on December 20, 2006. On this date the Division issued a report and order granting Verizon a Compliance Order Certificate.⁴ Verizon formally accepted the Division's grant of a Compliance Order Certificate on January 11, 2007, a condition-subsequent required under the Cable Rules.⁵

The second regulatory phase, called the "*Construction Certificate*" phase, requires the Division to determine whether the applicant possesses a valid Compliance Order Certificate, and also determine whether the applicant seeking a Construction Certificate has properly submitted documentation in accordance with the information mandate delineated in Section 3.4 (b) (1-10) of the Cable Rules. Verizon filed an application for a "*Construction Certificate*" on January 26, 2007.

The Division completed the second regulatory phase with respect to Verizon's February 7, 2006 CATV System application filing on April 5, 2007. On

² See Section 3.3(d) of the Cable Rules.

³ See R.I.G.L. §39-19-4.

⁴ See Order Nos. 18789 and 18801.

⁵ See Section 3.3(e) of the Cable Rules.

this date the Division issued a report and order granting Verizon's application for a Construction Certificate.⁶

Verizon subsequently filed an application for a "*Certificate of Authority to Operate*" on April 6, 2007.⁷ Additionally, in accordance with the requirements of Section 3.5 (b) of the Cable Rules, Verizon contemporaneously notified the Division of its plans to commence initial service within sixty days ("...on or about June 5, 2007").⁸ These filings began the third and final regulatory phase regarding Verizon's quest for authority to construct and operate a cable television system in Service Area 6.

B. SUMMARY OF VERIZON'S APPLICATION

Verizon filed its application in conformance with the requirements established in Section 3.5 of the Cable Rules. The filing requirements mandated under Section 3.5 of the Cable Rules were enumerated and identified in the Division's December 20, 2006 report and order, previously issued in this docket, supra.⁹

In response to the obligatory filing requirements contained in Section 3.5 of the Cable Rules, Verizon proffered four exhibits with its application. The exhibits (attachments) consisted of:

"Exhibit 1" – Verizon FiOS TV Terms of Service

"Exhibit 2" – Informational Tariff for Service Area 6

⁶ See Order No. 18916

⁷ Verizon Exhibit O-1.

⁸ Verizon Exhibits O-1 and O-2. In its application Verizon states that it will be prepared to provide cable service to more than seventy-two percent (72%) of the residential households in Service Area 6, beginning on or about June 5, 2007. Verizon indicates that "the remaining portions of the Service Area will be activated over the next five years, in compliance with the terms of Section 8.2 of the Cable Rules".

⁹ Order No. 18789, pp. 15-16.

“Exhibit 3” – A copy of Verizon’s privacy policy

“Exhibit 4” – Amended Line Extension Policy¹⁰

In keeping with the requirements of Section 3.5 of the Cable Rules, Verizon also noted that it did “*not have any additional changes, corrections, additions, clarifications or amendments to its prior filings to offer at this time, except as noted below with respect to its line extension policy*”.¹¹ Verizon added that it “has complied with all applicable statutes, the Cable Rules and any additional terms, conditions and requirements which have been imposed on Verizon by the Administrator.”¹² Verizon’s application also reflects that the Company “*reaffirms...its commitment and intent to satisfy those obligations [identified in its previous Settlement Agreement with the Advocacy Section in this docket, which imposes certain payment, outreach and service obligations on Verizon] but notes that performance of those obligations will not come due until after... [it] obtains a Certificate of Authority to Operate for Service Area Six.*”¹³

With respect to the amended line extension policy included in the instant filing, Verizon cited language from the Division’s earlier decision regarding the Company’s preceding application for a Construction Certificate. As a condition of the award of its Construction Certificate, Verizon was ordered by the Division to “*amend Section 3(e) of its line extension policy to include language that would provide for a customer refund of the evaluation fee in the event that Verizon elects*

¹⁰ See Verizon Exhibit O-1, Exhibits 1-4.

¹¹ Verizon Exhibit O-1, p. 2.

¹² Id., p. 3.

¹³ Id.

to exercise the Section 3(e) option”.¹⁴ Verizon relates that its current application for a Certificate of Authority to Operate contains the required amended line extension policy.¹⁵

Based on the submittal of the aforementioned application and exhibits, Verizon contends that the Division “*should find that Verizon has complied with all applicable statutes, the Cable Rules (including Section 3.5(c) thereof) and all additional terms, conditions and requirements which have been imposed on Verizon by the Administrator.*”¹⁶

C. HEARINGS AND APPEARANCES

The Division conducted a duly noticed public hearing on the instant application on May 17, 2007. The hearing was conducted at the Division’s hearing room located at 89 Jefferson Boulevard in Warwick. The following counsel entered appearances in this proceeding¹⁷:

For Verizon:	Joseph DeAngelis, Esq., and Alexander W. Moore, Esq.
For Cox:	Alan D. Mandl, Esq.
For Full Channel TV, Inc.:	William C. Maaia, Esq.
For the Division’s Advocacy Section:	Leo J. Wold, Esq. Special Assistant Attorney General

¹⁴ Id., also see Order No. 18916, p. 31.

¹⁵ Verizon Exhibit O-1, Exhibit 4.

¹⁶ Id. p. 4, adopting language from Section 3.5(d) of the Cable Rules.

¹⁷ All of the following parties and counsel participated in the two previous Certificate phases of this docket.

None of the parties proffered any witnesses during the hearing. At the outset of the hearing Verizon indicated that it was prepared to offer those Verizon employees that were involved in the instant application filing to answer any cross-examination questions from the other parties. None of the parties however, expressed an interest in examining any of Verizon's witnesses. Indeed, the only other party that offered a position on Verizon's application filing was the Division's Advocacy Section.

The Advocacy Section indicated that it had reviewed the Company's application and found it to be complete. The Advocacy Section thereupon recommended that the Division approve Verizon's application.

D. FINDINGS

In order to satisfy the requirements for obtaining a Certificate of Authority to Operate an applicant must first possess a Construction Certificate. Verizon was issued a Construction Certificate on April 5, 2007.¹⁸

As an additional requirement, an applicant seeking a Certificate of Authority to Operate must also submit documentation in accordance with the information mandate delineated in Section 3.5 (c) of the Cable Rules. Verizon proffered detailed information and various documents with the instant application, which Verizon maintains satisfies the filing requirements set forth in Section 3.5 (c) of the Cable Rules.¹⁹

If upon receipt and after consideration the Division finds that the applicant for a Certificate of Authority to Operate has "*...complied with applicable statutes,*

¹⁸ See Order No. 18916.

¹⁹ Verizon Exhibit O-1 with attachments.

these rules, and any additional terms, conditions, and requirements which may be imposed upon it by the [Division], the [Division] shall issue a Certificate of Authority to Operate to the applicant.”²⁰

The Division has carefully examined the record in this matter. Predicated on the record evidence presented, the Division finds that Verizon has satisfied its requirements under the Cable Rules and that a Certificate of Authority to Operate must be issued.

Additionally, the Division notes that Section 3.5(b) of the Rules requires that: “...[t]he holder of a Construction Certificate shall give the Administrator sixty (60) days prior written notice before the anticipated date when the CATV System (or initial segment thereof) will be ready for commencement of actual service to the public”. Verizon provided such written notice on April 6, 2007.²¹ Accordingly, Verizon shall be precluded from commencing actual service until the sixty-day notice period has elapsed, which will be June 5, 2007.

Now, Accordingly, it is

(18962) ORDERED:

1. That the April 6, 2007 application filing of Verizon New England, Inc., seeking a Certificate of Authority to Operate a Community Antenna Television System in Rhode Island’s CATV System Service Area 6, is hereby granted.
2. That all of the written commitments and representations made by Verizon New England, Inc., through its representatives in the instant docket as

²⁰ See Section 3.5 (d) of the Cable Rules.

²¹ Verizon Exhibits O-1 and O-2.

contained in the Company's written application and supporting documents, which were made part of the record on May 17, 2007, are restated and incorporated as terms and conditions of the certificate and are hereby binding on Verizon New England, Inc.

3. That Verizon New England, Inc. shall remain bound by the terms and conditions contained in its Compliance Order Certificate and Construction Certificate, previously issued by the Division in this docket.
4. That in order to comply with the sixty-day notice provision contained in Section 3.5 (b) of the Cable Rules, the effective date of Verizon New England, Inc.'s Certificate of Authority to Operate shall be June 5, 2007.
5. The Certificate of Authority to Operate approved herein is attached to this Report and Order as "Appendix 1" and is incorporated by reference.

Dated and Effective at Warwick, Rhode Island on May 21, 2007.

John Spirito, Jr., Esq.
Hearing Officer

APPROVED: _____
Thomas F. Ahern
Administrator

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS

CERTIFICATE OF AUTHORITY TO OPERATE

(For Service Area 6, Consisting Of Warwick, West Warwick, East Greenwich,
North Kingstown, Coventry, West Greenwich and Exeter)

This Certificate of Authority to Operate is issued to Verizon New England, Inc., d/b/a Verizon Rhode Island ("Verizon") by the Division of Public Utilities and Carriers ("Division") pursuant to Order No. 18962 in Docket No. 2006-C-4. This Certificate of Authority to Operate authorizes Verizon to operate a community antenna television ("CATV") system in Service Area 6, and is issued upon, and subject to, Verizon's compliance with the following findings, terms and conditions:

1. Verizon is, and continues to be, of good character, fit, willing, financially and technically able properly to provide cable service to the residents of the Service Area.
2. Verizon has satisfied, and continues to satisfy, all of the terms, conditions and requirements of its Construction Certificate.
3. Operation of its CATV system in the Service Area is, and remains, consistent with the public interest.
4. Verizon has complied with, and continues to comply with, federal law, the Rhode Island General Laws, the Rules Governing Community Antenna Television Systems (2007), as amended and all Orders of the Division.

John Spirito, Jr., Esq.
Hearing Officer

Thomas F. Ahern
Administrator

Dated this 21st day of May, 2007.

