

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on November 7, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman
Maureen F. Harris
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 07-V-0679 - Application of Midtel Cable TV, Inc., for Approval of the Renewal
of its Cable Television Franchise for the Town of Middleburgh
(Schoharie County).

ORDER APPROVING RENEWAL

(Issued and Effective November 23, 2007)

BY THE COMMISSION:

The above application was submitted by Midtel Cable TV, Inc. (Midtel or “the Company”) on or about September 7, 2007. A copy of the same was served on the Town of Middleburgh and local residents were notified of a public hearing concerning proposed ratification by the Town Board of the *de facto* renewal of the cable television franchise herein, effective as of September 22, 2005, through September 21, 2010. On April 12, 2005 the Board duly convened and, upon motion approved unanimously, determined that the Company had substantially complied with all requirements of the franchise and had provided good and reliable service. Thereafter, on May 9, 2007, further notice of the Company’s application for approval of the franchise renewal was published, soliciting public review and comments thereon. No comments or objections have been received.

This application is governed by Section 222 of the Public Service Law, which requires our approval unless we find specific violations of law, Commission regulations or the public interest. Section 222(4) of the statute provides that we may approve renewals contingent upon compliance with standards or conditions consistent

with the public interest. Having reviewed the application in the context of applicable statutory and regulatory standards, we will approve the Town's ratification of the renewal subject to such further terms, conditions, and understandings as are hereinafter set forth.

As determined by the Town Board, the renewal agreement substantially complies with Section 895.1 of the Commission's rules, except as follows.

First, Section 895.1(d) of our rules requires that access to a cable system may not be denied to any group of potential residential subscribers based on income. It is a condition of our approval that Section 895.1(d) be deemed a part of the franchise agreement as if specifically set forth therein.

Second, Section 12 of the agreement, which pertains to rates, is not consistent with Section 895.1(e) of our rules, which requires that any rates and charges be subject to regulation in accordance with federal law. It will be a condition of this order that Section 895.1(e) be deemed a part of the renewal agreement as if specifically set forth therein.

Third, this order will be granted upon condition that the franchisee comply with minimum consumer protection and customer service standards set forth in Parts 890 and 896 of the Commission's rules, the minimum standards for public, educational and governmental (PEG) access contained in Section 895.1(f) and 895.4 thereof, and line extension standards contained in Section 895.5 of our rules.

Fourth, to the extent the agreement purports to extend the current franchise automatically, we wish to remind the parties that Section 895.1(g) of our rules limits the term of a franchise to fifteen years. If the parties intend to renew the agreement, Part 891 of our rules sets forth the procedures for such renewal, and the parties are required to comply with these rules.

Fifth, the parties are reminded that Public Service Law Section 226 requires our approval, in addition to the municipality's approval, prior to the company's abandonment of any service or portion thereof. It will be a condition of this order that Section 895.1(h) be deemed a part of the renewal agreement as if specifically set forth therein.

Sixth, we wish to remind the parties that Section 895.1(q) of our rules requires a provision stating that the terms of the franchise are subject to the Commission's approval. It will be a condition of this order that Section 895.1(q) be deemed a part of the renewal agreement as if specifically set forth therein.

Seventh, we wish to remind the parties that Section 895.1(r) of our rules requires that all applications for necessary approvals are to be filed with the Commission and the FCC within 60 days from the date the franchise is granted or amended. It will be a condition of this order that Section 895.1(r) be deemed a part of the renewal agreement as if specifically set forth therein.

Eighth, Section 895.1(t) of the Commission's rules requires a provision in the franchise that any valid reporting requirements in the franchise may be satisfied with system-wide statistics except those related to franchise fees and customer complaints. It is a condition of our approval that Section 895.1(t) be deemed a part of the agreement as if specifically set forth therein.

The franchise agreement contains additional provisions not required by Part 895 of the Commission's rules. Our approval of these provisions will be granted to the extent that they pertain to the provision of cable service and are, and remain, consistent with 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 will be construed in the manner most favorable to the franchisor.

The Commission orders:

1. Pursuant to Section 222 of the Public Service Law and the rules and regulations of this Commission, the ratification of the approval by Town board of the franchise renewal application of Midtel Cable TV, Inc. extending the Company's cable television franchise for the Town of Middleburgh (Schoharie County) is hereby approved, subject to the conditions set forth herein. The term of the renewal is for five years and will expire on September 21, 2010.

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 Article 11 of the Public Service Law, the underlying franchise and all applicable rules, regulations and orders of this Commission.

3. This proceeding is closed.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary