

ORDINANCE NO. 2007-28

AN ORDINANCE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY TO AMEND AN ORDINANCE ENTITLED “AN ORDINANCE GRANTING MUNICIPAL CONSENT TO THE RENEWAL OF A FRANCHISE TO COMVIDEO SYSTEMS, INC. D-B-A RCN OF NEW JERSEY TO CONSTRUCT, OWN, OPERATE, EXTEND AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SAID FRANCHISE AND PROVIDING FOR THE REGULATION AND USE OF SAID SYSTEM.”

WHEREAS, on November 25, 1997, the Township of Hillsborough (“Township”) adopted Ordinance 97-38 granting municipal consent to ComVideo Systems, Inc., d/b/a RCN of New Jersey (“RCN”), to construct, own, operate, extend and maintain a cable television system (“System”) in the Township of Hillsborough, County of Somerset, State of New Jersey and setting forth conditions accompanying the grant of said franchise and providing for the regulation and use of said system; and

WHEREAS, on February 3, 1999, the New Jersey Board of Public Utilities (“BPU” or “Board”) in Docket No. CE98050308, issued a Renewal Certificate of Approval (“COA”) to RCN to provide cable television service in the Township; and

WHEREAS, on February 6, 2003, in Docket No. CM02090653, the Board approved the sale and transfer of the System, including the COA with respect to the Township, from RCN to Patriot Media & Communications CNJ, LLC (“Patriot”); and

WHEREAS, the current COA is set to expire on June 19, 2010; and

WHEREAS, the Township and Patriot have agreed to provide for an automatic renewal of the COA under the terms and conditions set forth hereinafter for a period of five (5) years in accordance with N.J.S.A. 48:5A-19 and N.J.A.C. 14:18-13.6; and

WHEREAS, in exchange for the automatic renewal of the COA, Patriot has agreed to provide, free of charge, cable modem service, including a cable modem, to one outlet in each of the institutions referenced in Section 20 of Ordinance 97-38.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hillsborough, in the County of Somerset, and State of New Jersey, as follows:

Section 1

On or about on November 25, 1997, the Township adopted Ordinance 97-38 granting municipal consent to RCN, to construct, own, operate, extend and maintain a cable television system in the

Township and setting forth conditions accompanying the grant of said franchise and providing for the regulation and use of said system.

Patriot is the successor-in-interest to RCN, pursuant to the Board's Order of Approval in Docket No. CM02090653.

Section 2

Ordinance 97-38 is hereby amended as follows:

(a) Section 4 of Ordinance 97-38 (Franchise Term):

A)-B) No change.

Insert:

C) At the end of the fifteen (15) year term provided for in subsection 4.B) above, the franchise shall automatically renew for a term of five (5) years in accordance with N.J.S.A. 48:5A-19 and N.J.A.C. 14:18-13.6, provided that Patriot shall have complied with the material terms and conditions of Ordinance 97-38, as amended herewith.

(b) Section 20 of Ordinance 97-38 (Service to Certain Institutions):

A)-B) No change.

Insert:

C) Upon the acceptance by Patriot of this amending Ordinance, Patriot shall provide, free of charge, standard residential high-speed cable modem service, including a cable modem, to one outlet in each of the institutions referenced in subsection 20.A) above. Standard residential high-speed cable modem service and cable modems will be made available for additional outlets in such buildings at the normal rates applicable thereto. Upgraded high-speed cable modem service will be made available for all outlets in such buildings at a rate equal to the difference between the normal rate applicable to such upgraded service and the rate applicable to standard residential cable modem service.

Section 3 All ordinances of the Township of Hillsborough that are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4 If any 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 unaffected portions.

Section 5 This Ordinance shall take effect upon final adoption of an amended COA by the BPU in accordance with N.J.A.C. 14:18-12.1, provided, however, that, as noted above in subsection 20.C), Patriot's obligation to begin providing free cable modem service and cable modems, in accordance with the terms set forth therein, shall begin as of Patriot's acceptance of this amending Ordinance.

Introduced: June 26, 2007
Published: June 28, 2007
Public Hearing: July 10, 2007

Adoption: July 10, 2007
Published: July 19, 2007

ATTEST:

HILLSBOROUGH TOWNSHIP COMMITTEE

By: _____
Kevin P. Davis, Clerk

By: _____
Anthony Ferrera, Mayor