



**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 12-1

January 25, 2013

Petition of CoxCom, Inc. d/b/a Cox Communications to establish and adjust the basic service tier programming, equipment, and installation rates for the Town of Holland

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RATE ORDER

APPEARANCE:

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FOR: COXCOM, INC. d/b/a COX COMMUNICATIONS  
Petitioner

## I. INTRODUCTION

In this Order, the Department of Telecommunications and Cable (“Department”) approves the Maximum Permitted Rates (“MPR”) and Operator Selected Rates (“OSR”) proposed by CoxCom, Inc. d/b/a Cox Communications (“Cox” or “Company”) for installation, equipment, and basic service tier (“BST”) programming in the Town of Holland, Massachusetts. The Department also grants the motion for confidential treatment (“Motion”) filed by Cox during the course of this proceeding.

## II. PROCEDURAL HISTORY

Cox filed its Federal Communications Commission (“FCC”) Forms 1205 and 1240 with the Department on January 26, 2012,<sup>1</sup> proposing to establish the MPRs and the Company’s OSRs for equipment, installation, and BST programming.<sup>2</sup> *See* Ex. 1; Ex. 3. In its Form 1205, Cox proposed to retain the OSRs for its equipment and installation rates where those rates were at or below the MPRs. Ex. 1. In addition, Cox proposed to decrease its OSRs for digital and HD/DVR receivers as well as cableCARDS in coordination with its proposed decrease in its MPRs for those types of equipment. *Id.* In its Form 1240, the Company proposed an increased MPR for the monthly BST programming rate that it charges Holland subscribers. *Compare In the Matter of Petition of Cox Com, Inc. d/b/a Cox Commc’ns New England to establish and adjust the basic serv. tier programming, equipment, & installation rates for the Town of Holland, D.T.C. 10-10, Rate Order at Attachment A (Oct. 12, 2011) (“10-10 Order”), with Ex. 3. Cox*

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<sup>1</sup> On December 22, 2011, Cox notified the Department that it elected to change its annual rate filing date from December 30 to January 27. *See* Letter from Alan D. Mandl, Attorney for Cox, to Catrice C. Williams, Secretary, Department (filed Dec. 22, 2011).

<sup>2</sup> Citations in this Order to Cox’s Form 1205 are to “Ex. 1” and “RR 2.” Citations to Cox’s Form 1240 are to “Ex. 3.” Citations to Cox’s Proposed Rate Structure are to “RR 2.” Citations to the November 9, 2012 affidavit of John Wolfe, Senior Vice President and General Manager of Cox, are to “Wolfe Aff.” Citations to the hearing transcript are to “Tr. at [page].” Citations to Cox’s responses to the Information Requests are to “D.T.C. 1-1 through D.T.C. 1-5.” Citations to Cox’s responses to Record Requests issued at the evidentiary hearing are to “RR-1” through “RR-4.”

proposed to leave unchanged the OSR for its monthly BST programming rate. Ex. 3. Cox proposed that the new rates become effective on May 1, 2012. *Id.*

On October 18, 2012, the Department issued its First Set of Information Requests to Cox. Cox filed a portion of its responses on November 8, 2012, and the remainder of its responses on November 15, 2012.<sup>3</sup> Cox updated its response to D.T.C. 1-3 in a supplement filed on December 3, 2012. D.T.C. 1-3. The Department held a public and evidentiary hearing on Cox's proposed rates on November 28, 2012. The evidentiary record includes Cox's exhibits,<sup>4</sup> its responses to the Department's First Set of Information Requests, and its responses to the Department's four Record Requests. In addition, Cox requested confidential treatment of information provided in D.T.C. 1-1 on November 15, 2012. Motion at 1.

For the reasons set forth herein, the Department grants the Motion. In addition, based on its review of Cox's Forms 1205 and 1240, as well as Cox's responses to the Department's inquiries, the Department approves Cox's proposed MPRs and OSRs for installation, equipment, and BST programming in the Town of Holland. *See* 47 C.F.R. §§ 76.922(a), 76.923(a)(2).

### III. MOTION FOR CONFIDENTIAL TREATMENT

Cox requests confidential treatment of its retransmission consent payment per-subscriber for channels that require retransmission consent payments that were submitted as part of the Company's response to D.T.C. 1-1. Motion at 1. In its Motion, Cox also requests that the Department include safeguards against public disclosure of the information by explaining how the Department maintains the confidentiality of information granted protection and by providing notice to Cox of the Department's determinations with respect to any third-party public records

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<sup>3</sup> The Department granted Cox Motions for Extension of Time to file portions of its responses on November 5, 2012 and November 9, 2012, respectively.

<sup>4</sup> These Cox exhibits include Cox's letter to the Department dated December 22, 2011, notifying the Department of a change in its filing date; Cox's FCC Forms 1240 and 1205; and Cox's proof of cablecasting and proof of publication of the hearing notice.

requests for information deemed confidential by the Department. Motion at 7, 8. Finally, Cox requests that its confidentiality request be granted for a period of five (5) years and that the Department give Cox an opportunity to request renewals for confidential treatment upon expiration of the initial five-year period. *Id.* at 7-8. Cox's Motion is similar to previous requests that have been granted, and the Department grants the Motion because it is consistent with applicable law and Department precedent. *See, e.g.,* 10-10 *Order* at 2-3.

The FCC's rate regulations provide for the confidential treatment of proprietary information.<sup>5</sup> 47 C.F.R. § 76.938. Section 76.938 provides that "a franchising authority may require the production of proprietary information to make a rate determination" in cases where cable operators have submitted initial rates or have proposed rate increases. *Id.* The FCC also provides that "[p]ublic access to such proprietary information shall be governed by applicable state and local law." *Id.* In turn, the Department "is the certified 'franchising authority' for regulating basic service tier rates and associated equipment costs in Massachusetts." 207 C.M.R. § 6.02; *see also* G. L. c. 166A, § 15.

Information filed with the Department may be protected from public disclosure, subject to certain conditions:

[T]he [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

G. L. c. 25C, § 5.

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<sup>5</sup> For example, the FCC has suggested that data regarding a cable operator's incurred costs, while potentially proprietary, are "material and relevant" to a franchising authority's review of the operator's rates. *See, e.g., In the Matter of Comcast Cablevision of Dallas, Inc. Order Setting Basic Equip. & Installation Rates in Farmers Branch, TX (TX0624), et al., CSB-A-0698, et al., Order, ¶¶ 25-26* (rel. June 14, 2004); *In the Matter of TCI of Pa., Inc. Appeal of Local Rate Order of the City of Pittsburgh, Pa., CSB-A-0322, Memorandum Opinion & Order, ¶ 16* (rel. Jan. 9, 2004).

Pursuant to G. L. c. 25C, § 5, the Department is permitted, in certain narrowly-defined circumstances, to grant exemptions from the general statutory mandate that all documents and data received by an agency of the Commonwealth are to be viewed as public records and, therefore, to be made available for public review. *See* G. L. c. 4, § 7(26); G. L. c. 66, § 10.

Chapter 25C, § 5 establishes a three-part standard for determining whether, and to what extent, information filed by a party in the course of a Department proceeding may be protected from public disclosure. First, the information for which protection is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection must overcome the G. L. c. 66, § 10, statutory presumption that all such information is public information by “proving” the need for its non-disclosure. Third, even where a party proves such need, the Department may protect only so much of that information as is necessary to meet the established need and may limit the term or length of time such protection will be in effect. *See Investigation by the Dep’t of Telecomms. & Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Mass.’ intrastate retail telecomms. servs. in the Commonwealth of Mass., D.T.E. 01-31 Phase I, Hearing Officer Ruling (Aug. 29, 2001) (citing G. L. c. 25, § 5D, the predecessor to G. L. c. 25C, §5).*

Consistent with the three-part standard of G. L. c. 25C, § 5, the Department first examines whether retransmission consent payment amounts are confidential and competitively sensitive information. G. L. c. 25C, § 5. Cox states that the retransmission consent payments are “among Cox’s and the programmers’ most highly confidential information.” Motion at 4; *see also* Wolfe Aff. ¶ 5. Cox states that the payments are contained in confidential retransmission consent agreements. Motion at 4-5; *see also* Wolfe Aff. ¶¶ 7-9. Cox claims that disclosure of

this information would cause significant competitive harm to the Company because the information could be used by competitors in fashioning marketing and pricing plans. Motion at 5-6; Wolfe Aff. ¶¶ 10-12, 14. Cox also provides a sworn statement from John Wolfe, the Senior Vice President and General Manager of Cox, in support of its Motion. *See* Wolfe Aff.

The Department finds that the disclosure of Cox's retransmission consent payments could expose Cox to competitive disadvantage by potentially enabling Cox's competitors to formulate competing marketing strategies and pricing offers. This finding is consistent with Department precedent for granting confidential treatment to programming cost information in other dockets. *See, e.g., 10-10 Order at 2-3; In the Matter of Petition of Cox Com, Inc. d/b/a Cox Commc 'ns New England to establish and adjust the basic serv. tier programming, equipment, & installation rates for the Town of Holland, D.T.C. 09-7, Hearing Officer Ruling on Request for Confidential Treatment (July 9, 2010).* Accordingly, the Department finds that this information is competitively sensitive to Cox. *See Review by the Cable Television Div. of the Dep't of Telecomms. & Energy of Fed. Commc 'ns Comm 'n Forms 1240 & 1205 filed by Time Warner Cable, Inc., CTV 04-05 Phase II, Rate Order at 7 (Nov. 30, 2005) ("CTV 04-05 Rate Order")* (channel operating cost information, including programming expenses, deemed competitively sensitive).

The second requirement of G. L. c. 25C, § 5 directs the Department to treat the putatively confidential information as public unless the need for protection is proven. G. L. c. 25C, § 5. Cox asserts that it takes significant measures to protect the confidentiality of its retransmission consent payments. *See* Motion at 4-5. Specifically, Cox maintains that the information is not generally available within the Company and that only those employees that need to know the information have access to it. Motion at 4; Wolfe Aff. ¶ 6. The Department is satisfied that Cox

has met its burden under G. L. c. 25C, § 5 of proving that confidential treatment is warranted because of the restrictions in place to protect the information. *See Investigation by the Dep't of Telecomms. & Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Mass.' intrastate retail telecomms. servs. in the Commonwealth of Mass., D.T.E. 01-31 Phase I, Interlocutory Order* at 9 (Aug. 29, 2001) (acknowledging the provider's extensive measures taken to protect the information when made available to non-employees and employees alike).

With respect to the third and final requirement of G. L. c. 25C, § 5, that protection can be granted only to the extent necessary to avoid competitive harm, the Department has typically granted confidential treatment to programming costs for a limited period of time. *See, e.g., Review by the Dep't of Telecomms. & Cable of Fed. Commc'ns Comm'n Forms 1240 & 1205 filed by Cox Com, Inc. d/b/a Cox Commc'ns New England, D.T.C. 07-10, Hearing Officer Ruling* at 5-6 (May 30, 2008) ("07-10 *Hearing Officer Ruling*") (granting confidential treatment for channel-by-channel programming costs for a period of five years and affording the provider an opportunity to renew its request for confidential treatment at the end of the period); *CTV 04-05 Rate Order* at 7 (same). Thus, as requested, the Department grants confidential treatment to the per-subscriber retransmission consent payments provided by Cox for a period of five years from the date of this Order. Cox may renew its request for confidential treatment at the end of that five-year period upon a showing of need for continuing protection.

As to Cox's request that the Department explain how it maintains information subject to confidential treatment, the Department notes that it maintains information subject to confidential treatment separately from the public record and only authorized Department staff are permitted access to it. *See, e.g., Review by the Dep't of Telecomms. & Cable of Fed. Commc'ns Comm'n*

*Forms 1240 & 1205 filed by Cox Com, Inc. d/b/a Cox Commc'ns New England, D.T.C. 08-8, Hearing Officer Ruling at 6 (June 23, 2009); 07-10 Hearing Officer Ruling at 6.* The Department does not produce information in response to a public records request that it has determined to be subject to confidential treatment unless otherwise directed by the supervisor of records or a court of lawful jurisdiction in accordance with G. L. c. 66, § 10 and 950 C.M.R. §§ 32.00-32.09. The Department will notify Cox should it receive a public records request by a third party to review confidential information submitted by Cox. The Department leaves it to Cox in such instances to notify any affected third parties that the Company deems appropriate.

#### IV. REVIEW OF THE FCC FORM 1205

In Cox's Form 1205, which the Company filed using a modified cost aggregation methodology, Cox proposed multiple changes in its MPRs and OSRs. *See* Letter from Alan D. Mandl, Attorney for Cox, to Catrice C. Williams, Secretary, Department, D.T.C. 12-1 (filed Jan. 26, 2012). Cox proposed a decreased MPR for HD/DVR Receivers, Digital Receivers, and cableCARDS. *See* Tr. at 13. *Compare* 10-10 Order at Attachment A, with RR 2. Cox proposed an unchanged MPR for Change of Service (In Office). *Compare* 10-10 Order at 13, with RR 2. Cox proposed an increased MPR for remote controls, Change of Service (Home Visits), Service Visits Unrelated to Cox Equipment or Signal Delivery, and all installations. *Compare* 10-10 Order at 10, Attachment A, with RR 2. Additionally, Cox proposed to decrease the OSR for HD/DVR Receivers, Digital Receivers, and cableCARDS, and to leave OSR unchanged for other equipment and all installations. *See* RR 2; Tr. at 13. Cox's proposed rates for installations and equipment appear on the Rate Schedule attached to this Order. As discussed below, the Department finds that Cox's Form 1205 establishes MPRs for installations and listed equipment that are in compliance with applicable law, and that Cox's selected rates for installations and

listed equipment do not exceed the MPRs established by its Form 1205. *See* 47 C.F.R. § 76.923(a)(2).

The Form 1205 establishes rates for installations and equipment, such as converters and remote controls, based upon actual capital costs and expenses. *Instructions for FCC Form 1205* at 7, 12-13. A cable operator prepares the Form 1205 on an annual basis using information from the cable operator's previous fiscal year. *Id.* at 2. In this proceeding, the Department reviews Cox's Form 1205 for the fiscal year ending December 31, 2010. *See* Ex. 1; RR 2. Subscriber charges established by the Form 1205 may not exceed charges based on actual costs as determined in accordance with the FCC's regulatory requirements. *See* 47 C.F.R. § 76.923(a)(2). The cable operator has the burden of proof to demonstrate that its proposed rates for installations and equipment comply with Section 623 of the Communications Act of 1934, as amended ("Communications Act"), and the FCC's implementing regulations. *See* 47 U.S.C. § 543; 47 C.F.R. § 76.937(a); *Implementation of Sections of the Cable Television Consumer Protection & Competition Act of 1992: Rate Regulation*, MM Docket No. 92-266, *Report & Order & Further Notice of Proposed Rulemaking*, FCC 93-177, ¶ 128 (rel. May 3, 1993) ("*FCC Rate Order*").

The Department first examines the changes in Cox's MPRs for installations and equipment. As part of this examination, the Department carefully reviews the information and calculations reported by Cox on its Form 1205 and the accompanying explanation of the calculations. The Department also carefully considers Cox's responses to Department inquiries and testimony from the evidentiary hearing. As set forth below, the Department finds that Cox's Form 1205 establishes MPRs for installations and equipment that are in compliance with applicable law. *See* 47 C.F.R. §§ 76.923(d), (e).

Cox has proposed: decreasing the MPR for HD/DVR Receivers from \$5.10 to \$3.36, Digital Receivers from \$5.10 to \$3.36, and cableCARDS from \$2.10 to \$1.90; leaving the MPR unchanged for Change of Service (In Office) (\$1.99); and increasing the MPR for remote controls from \$0.11 to \$0.13, Change of Service (Home Visits) from \$21.93 to \$28.12, and Service Visits Unrelated to Cox Equipment or Signal Delivery from \$21.93 to \$28.12. *See* Tr. at 13. *Compare* 10-10 *Order* at 10, Attachment A, *with* RR 2. Cox also proposed increasing the MPRs for all installations. *Compare* 10-10 *Order* at 10, Attachment A, *with* RR 2. Specifically, Cox proposed increasing the MPR for Installation of Unwired Home from \$41.30 to \$51.56, Installation of Prewired Home from \$20.95 to \$23.44, Add/Move/Reconnect Additional Outlet at Time of Initial Install from \$17.50 to \$28.12, Add/Move/Reconnect Additional Outlet After Initial Install from \$20.20 to \$28.12, and Digital Installation from \$41.30 to \$51.56. *Compare* 10-10 *Order* at Attachment A, *with* RR 2.

In reviewing Cox's Form 1205, the Department notes numerous changes from the Company's previous Forms 1205, most notably a modification to Cox's selected cost aggregation methodology. *See* Ex. 1. Federal regulations permit some flexibility in the methodology chosen by cable operators when preparing the Form 1205. *See* 47 C.F.R. §§ 76.923(c)(1), (3). The cable operator, however, must describe the methodology and justify its use. *See* 47 C.F.R. §§ 76.923(c)(1), (3). Cox stated that its cost aggregation methodology is "consistent with the prior company-wide 1205 filing with the exception that only costs for New England were included." Ex. 1. In response to Information Request D.T.C 1-4, Cox indicated the reason for this modification was that the FCC has found effective competition in all other Cox franchises across the country except for Cox's New England franchises, and thus the non-New England franchise areas that were previously regulated are no longer subject to rate

regulation. D.T.C. 1-4. Cox stated that including only the regulated New England franchises in the Form 1205 greatly reduces the amount of data that the Company needs to collect. *Id.*

The Department finds that Cox's modification of its cost aggregation methodology is permissible. In reviewing the change, the Department requested that Cox re-file its previous Form 1205 using the adjusted methodology so that the Department could compare the previous rates with what the rates would have been had Cox used its updated methodology last year. *See* D.T.C. 1-5. This comparison enabled the Department to verify that the adjusted methodology resulted in comparable and reasonable rates. *See id.* The Department finds that the two versions of the previous Form 1205 are sufficiently comparable to warrant Department approval. Cox's modification is not so much a change in methodology as a justifiable adjustment in Cox's previously selected methodology that reflects a reduction in the number of its regulated communities. By including only data from New England communities, Cox refocused its methodology to produce costs more in line with those incurred in Holland.

Cox's modified Form 1205 resulted in the following: first, all Schedule A capital costs and Schedule B expense categories, along with the number of remote controls and the number of converter units in service were substantially lower than on the previous Form 1205. *Id.* Second, the hourly service charge used to calculate installation rates was higher than on the previous Form 1205, increasing from \$43.86 to \$56.24 in the current projected period. *Id.* This change increased the MPRs for installation rates.<sup>6</sup> *Id.* Finally, the rates for Digital and HD converter units were lower than on the previous Form 1205, reducing the MPRs from \$5.10 to \$3.36. *Id.* The Department has reviewed these changes and finds them justifiable in light of the modified methodology.

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<sup>6</sup> In response to Record Request 2, Cox indicated that the 1.08 hours listed on Cox's initial Form 1205 was incorrect and that the actual time for unwired installation is .92 hours. RR 2. Cox submitted an amended FCC Form 1205 to reflect this adjustment. *Id.*

The Department next considers Cox's OSRs for equipment and installation. Cox proposed to either decrease or maintain its OSRs. *See* RR 2. In no case did Cox propose to increase its OSR. *Id.* Where the OSRs are decreased, they match the corresponding MPRs, which also decreased. *Id.* In no event do the OSRs exceed the MPRs. *Id.* The Department, after examination of Cox's Form 1205 and Cox's responses to the Department's inquiries in this proceeding, accepts the Company's proposed OSRs to be in compliance with applicable law. *See* 47 C.F.R. § 76.923(a)(2).

The Department concludes that Cox's Form 1205 establishes MPRs for installations and equipment that are in compliance with applicable law, and that Cox's OSRs for installations and equipment do not exceed the MPRs established by Cox's Form 1205. *See id.* § 76.923(a)(2). The Department therefore approves the amended Form 1205 that Cox submitted on December 10, 2012 as part of its response to Record Request 2. *See* RR 2.

#### V. REVIEW OF THE FCC FORM 1240

On its Form 1240, Cox proposed increasing its MPR for BST programming from \$10.11 to \$13.08. *Compare* 10-10 Order at Attachment A, with RR 2. Cox proposed to maintain its OSR for BST programming at \$10.11. *See* RR 2; Tr. at 13. The Department determines that Cox's Form 1240 was prepared in compliance with federal law, and the Department approves Cox's proposed rates. *See* 47 C.F.R. § 76.922(a).

The Form 1240 allows a cable operator to update annually its BST programming rates to account for inflation; changes in the number of regulated channels; and changes in external costs, including programming costs, copyright costs, and franchise related costs. *Id.* § 76.922(e). So that rates can be adjusted on the Form 1240 for projections in external costs, or for projected changes to the number of regulated channels, the cable operator must demonstrate that such

projections are reasonably certain and reasonably quantifiable. *Id.* §§ 76.922(e)(2)(ii)(A), (iii)(A). Projections involving copyright fees, retransmission consent fees, other programming costs, FCC regulatory fees, and cable specific taxes are presumed to be reasonably certain and reasonably quantifiable. *Id.* § 76.922(e)(2)(ii)(A).

The FCC's rate regulations establish the standard under which the Department must review rate adjustments on the FCC Form. *Id.* § 76.922(a). Specifically, the FCC directed local rate regulators, such as the Department, to ensure that the approved rates are in compliance with the Communications Act, and do not exceed the maximum permitted charges calculated by the FCC's rate forms. *Id.* § 76.922(a). The Department may accept BST rates that do not exceed the approved maximum permitted charge as determined by federal regulations. *Id.* § 76.922(c). In addition, the Department may only approve rates it deems reasonable. *See* 47 U.S.C. § 543; 47 C.F.R. §§ 76.937(d)-(e); G. L. c. 166A, §§ 2, 15. The cable operator has the burden to demonstrate that its proposed rates for BST programming comply with Section 623 of the Communications Act. 47 U.S.C. § 543; *FCC Rate Order*, ¶ 128; *see also* 47 C.F.R. § 76.937(a).

In addition, the FCC permits cable operators to report projected costs, including costs associated with programming, that they believe are reasonably certain and reasonably quantifiable. *Implementation of Sections of the Cable Television Consumer Protection & Competition Act of 1992: Rate Regulation*, MM Docket No. 92-266, *Report & Order & Further Notice of Proposed Rulemaking*, FCC 95-397, ¶¶ 72-73 (rel. Sept. 22, 1995). In particular, the FCC has built into its Form 1240 a true-up mechanism to account for actual costs that vary from those Projected Period estimates.<sup>7</sup>

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<sup>7</sup> The True-up segment includes the compensation for overcharges or undercharges which have occurred during the True-up periods. The purpose of the True-up process is to compare the revenue a cable operator collected during the True-up period with the amount the operator should have been able to collect. If the sum collected is less than what should have been collected, then the operator is allowed to collect the

Cox's proposed MPR of \$13.08 for BST programming is justifiable. Cox included retransmission consent costs in its Form 1240 for the first time. *See* Ex. 3 at Worksheet 7. Cox has included \$13,377.21 in retransmission consent fees in the True-Up Periods as well as \$14,737.87 in retransmission consent fees in the Projected Period. *Id.* Cox testified that it historically did not have to pay retransmission consent fees, but instead launched a digital channel or offered another free service in return for carriage of a channel. Tr. at 24. Currently, however, Cox pays certain broadcasters directly for the right to carry the broadcasters' channels, making Cox's external costs higher than in previous years. *Id.* These cost increases resulted in the increased MPR. The Department finds that Cox's proposed MPR for BST programming is in compliance with applicable law.

In addition, the Department determines that Cox appropriately accounted for the removal of the TV Guide Channel from its BST lineup on July 27, 2011. The channel deletion was originally planned for April 1, 2011, at the beginning of the Projected Period from Cox's previous Form 1240, but was delayed until July 27, 2011. *See* 10-10 *Order* at 9. Because it was filed before the delay occurred, Cox's previous Form 1240 did not account for this delay, but rather accounted for removal of the TV Guide Channel based on the planned April 1, 2011 date. *Id.* The Department found such accounting consistent with FCC regulations and ordered Cox to account for the discrepancy in the current Form 1240. *Id.* After reviewing Cox's current Form 1240, the Department determines that Cox has appropriately accounted for the correct timeframe for the removal of the TV Guide Channel from the BST.

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difference during later rate periods. Conversely, if the sum collected exceeds the amount that should have been collected, then the operator must lower its rates in future rate periods to compensate subscribers for the difference. *Instructions for FCC Form 1240 Annual Updating of Maximum Permitted Rates for Regulated Cable Services* at 5 (July 1996).

Based on the foregoing analysis, the Department concludes that Cox's MPR and OSR for BST programming established in the Company's Form 1240 for the Projected Period from May 1, 2012 to April 30, 2013, is in compliance with applicable law and reasonable. *See* 47 C.F.R. § 76.922(a). Cox's proposed and approved BST programming MPR and operator selected BST programming rate appear in the Rate Schedule attached to this Order.

VI. ORDER

Accordingly, after due notice, hearing, and consideration, it is

ORDERED: That Cox's Motion for Protective Order is GRANTED as discussed herein; and it is

FURTHER ORDERED: That the MPRs and OSRs for installations and equipment listed on Cox's FCC Form 1205, as filed on January 26, 2012, are APPROVED; and it is

FURTHER ORDERED: That the MPR and OSR for BST programming listed on Cox's FCC Form 1240 for the Town of Holland, as filed on January 26, 2012, are APPROVED.

By Order of the Department

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Geoffrey G. Why, Commissioner

**RIGHT OF APPEAL**

Appeals of any final decision, order, or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable state and federal laws.

**D.T.C. 12-1 – ATTACHMENT A**

**CoxCom, Inc. d/b/a Cox Communications  
Basic Service Tier Programming, Installation, and Equipment Rates  
Town of Holland, Massachusetts**

<b>Rate Category</b>	<b>Operator Selected Rate Effective April 1, 2011</b>	<b>Previous Maximum Permitted Rate Effective April 1, 2011</b>	<b>Proposed &amp; Approved Maximum Permitted Rate Effective May 1, 2012</b>	<b>Operator Selected Rate Effective May 1, 2012</b>
Basic Tier Programming Rate	\$ 10.11	\$ 10.11	\$ 13.08	\$ 10.11
HD/DVR Receiver	\$ 4.98	\$ 5.10	\$ 3.36	\$ 3.36
Digital Receiver	\$ 4.98	\$ 5.10	\$ 3.36	\$ 3.36
Non-Addressable Converter*	--	\$ 0.04	\$ 0.04	--
cableCARD	\$ 1.99	\$ 2.10	\$ 1.90	\$ 1.90
Remote Control	\$ 0.11	\$ 0.11	\$ 0.13	\$ 0.11
Installation of Unwired Home	\$ 41.30	\$ 41.30	\$ 51.56	\$ 41.30
Installation of Prewired Home	\$ 20.95	\$ 20.95	\$ 23.44	\$ 20.95
Additional Outlet at Initial Install	\$ 17.50	\$ 17.50	\$ 28.12	\$ 17.50
Add. Outlet After Initial Install	\$ 20.20	\$ 20.20	\$ 28.12	\$ 20.20
Digital Installation	\$ 41.30	\$ 41.30	\$ 51.56	\$ 41.30
Change of Service (In Office)	\$ 1.99	\$ 1.99	\$ 1.99	\$ 1.99
Change of Service (Home Visit)	\$ 21.93	\$ 21.93	\$ 28.12	\$ 21.93
Service Visits Unrelated to Cox Equipment or Signal Delivery	\$ 21.93	\$ 21.93	\$ 28.12	\$ 21.93

\* The Department takes notice of Cox's April 28, 2006, letter to the Department's predecessor agency, the Cable Division of the Department of Telecommunications and Energy, wherein Cox states it will offer basic-only subscribers a converter without any charge. In its testimony, Cox reiterated that it will offer basic-only subscribers a converter without any charge.