

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS
AND ENERGY
CABLE TELEVISION DIVISION**

_____)	Docket No. CTV 01-4
In the Matter of)	Date Issued: August 12, 2002
Adelphia Communications)	
Corporation)	
)	Abington, CUID MA 0225
Adelphia Cablevision)	Adams, CUID MA 0001
Associates, L.P.)	Amesbury, CUID MA 0049
)	Aquinnah, CUID MA 0275
Campbell)	Bourne, CUID MA 0247
Communications, L.L.C.)	Cheshire, CUID MA 0002
)	Clarksburg, CUID MA 0003
Century Berkshire)	Duxbury, CUID MA 0302
Cable Corp.)	Edgartown, CUID MA 0273
)	Essex, CUID MA 0153
Harron Cablevision)	Falmouth, CUID MA 0072
of Cape Cod, Inc.)	Gloucester, CUID MA 0136
)	Great Barrington, CUID MA 0008
Harron Cablevision)	Halifax, CUID MA 0229
of Massachusetts, Inc.)	Kingston, CUID MA 0159
)	Lee, CUID MA 0009
Martha's Vineyard)	Lenox, CUID MA 0010
Cablevision, L.P.)	Manchester-by-the-Sea, CUID MA 0154
)	Marshfield, CUID MA 0191
Mountain Cable)	Merrimac, CUID MA 0165
Company)	North Adams, CUID MA 0004
)	Oak Bluffs, CUID MA 0272
New England Cablevision)	Pembroke, CUID MA 0228
of Massachusetts, Inc.)	Plymouth, CUID MA 0123
)	Plympton, CUID MA 0245
all d/b/a)	Rockland, CUID MA 0224
Adelphia Communications)	Rockport, CUID MA 0137
Corporation)	Salisbury, CUID MA 0162
)	Sandwich, CUID MA 0246
For a Determination)	Sheffield, CUID MA 0346
of Cable Television Rates)	Stockbridge, CUID MA 0011
_____)	

ORDER MANDATING COMPLIANCE

Craig A. Schmid
Director of Regulation
Adelphia Communications Corporation
1 North Main Street
Coudersport, PA 16915

AND

Jill McDonald, Area Manager
Gerald Buckley, Director of Government Relations
Adelphia Communications Corporation
35 Resnik Road
Plymouth, MA 02360

FOR: ADELPHIA COMMUNICATIONS CORPORATION
Petitioner

Mary E. MacQuarrie
878 Tremont Street
Duxbury, MA 02332

FOR: THE TOWN OF DUXBURY
Intervenor

Richard Carlotta
P.O. Box 6
Housatonic, MA 01236

FOR: THE TOWN OF SHEFFIELD
Intervenor

Michael A. McKenna
18 Herring Brook Lane
Pembroke, MA 02359

FOR: THE TOWN OF PEMBROKE
Limited Participant

I. INTRODUCTION

On July 18, 2002, the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy issued a rate order rejecting Adelphia Communications Corporation’s (“Adelphia” or “the Company”) equipment rate filing. Adelphia Communications Corporation, CTV 01-4 (2002) (“Rate Order”). In the Rate Order, the Cable Division directed the Company to amend its Federal Communications Commission (“FCC”) Form 1205 in compliance with the order and file it with the Cable Division on or before July 31, 2002. Rate Order at 6. On July 31, 2002, Adelphia notified the Cable Division that it would not comply with the Cable Division’s directives, claiming the Cable Division lacked authority in the matter and challenging the Cable Division’s rationale.

II. ANALYSIS AND FINDINGS

Adelphia contends that since it employs the FCC Form 1240 annual rate adjustment methodology, its FCC Form 1205 filings must be reviewed on a similar timetable, i.e., action must be taken within one year of the filing. Adelphia attempts to backdate the FCC Form 1205 filing to the date of its next previous FCC Form 1240 by calling it an “amended filing” in an effort to avoid the consequences of the Rate Order. However, the FCC Form 1205 at issue was not filed as part of an FCC Form 1240 proceeding and, thus, the one-year deadline does not apply.

Adelphia’s previous FCC Form 1240 filing was made on December 29, 2000. Pursuant to 47 C.F.R. § 76.922(e)(1), which requires that every FCC Form 1240 be filed with an FCC Form 1205, the Company also submitted an FCC Form 1205 prepared for the year ending December 31, 1999. The Company notified the Cable Division, however, that only the basic service tier (“BST”) rates were affected by the filing, furthering the understanding that the Form 1205 filing was procedural only. Further, because the form at issue was based on 2000 data and not amended 1999 data, it cannot be considered as an “amendment” of the earlier form.

Adelphia’s position not only lacks merit but also is patently flawed. The rules require that when an FCC Form 1240 is filed, rate adjustments for both equipment and BST programming rates must be made on the same day. Thirteenth Order on Reconsideration, MM Docket No. 92-266, FCC 95-397, 11 FCC Rcd 388 (released September 22, 1995), at 423-424, ¶ 87. While Adelphia changed its programming rates on April 1, 2001, it did not change equipment rates until August 2001. By filing its FCC Form 1205 and changing equipment rates in August, Adelphia availed itself of the flexibility provided by an annual submission of the FCC Form 1205 stand-alone

filing.¹ However, in its July 31, 2002 letter, Adelphia is now attempting to apply to the FCC Form 1205 the limited time frame for regulatory review and rate adjustments offered by the FCC Form 1240.

The FCC clearly has held that “annual submissions of Form 1205 not accompanied by a Form 1240 shall be subject to the standard franchising authority review procedures and effective dates.” Extension of Time to File FCC Form 1205 Pursuant to Sections 76.922, 76.923 of the Commission’s Rules, DA 96-2161 (released December 20, 1996), at ¶ 4, n. 14; see 47 C.F.R. §76.933(a), (b) and (c). The Cable Division followed these standard procedures by issuing an Extension Order on May 2, 2001, within 30 days of the filing, and an Accounting Order on July 20, 2001. Having issued the Accounting Order, the Cable Division was under no obligation to issue a final order by a date certain.

With respect to Adelphia’s substantive challenge, we will not address the issues raised as Adelphia failed to raise it in the proper forum. The Rate Order is a final order and, therefore, any appeal must be brought within 14 days of the issuance of said decision to the full body of the Commissioners of the Department of Telecommunications and Energy. No such appeal was filed.

Accordingly, we direct Adelphia to comply with the Rate Order by August 23, 2002. Failure to comply will result in the commencement of appropriate enforcement actions.

**By Order of the
Department of Telecommunications and Energy
Cable Television Division**

**/s/ Alicia C. Matthews
Alicia C. Matthews
Director**

¹ Adelphia’s last annual equipment rate change had been on August 1, 1999. Adelphia Cable Communications, Y-99 INC, Y-99 EQU (2000).