Commonwealth of Massachusetts
CABLE TELEVISION DIVISON

In the Matter of	)	Docket No. CTV 01-4
Adelphia Communications	)	Date Issued: July 18, 2002
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
	)	

RATE ORDER

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 April 2, 2001, Adelphia Communications Corporation ("Adelphia" or "the Company") filed with the Cable Television Division ("Cable Division") of the Department of Telecommunications and Energy proposed equipment and installation rates on FCC Form 1205 for the above-captioned communities. Adelphia's proposed equipment and installation rates became effective on August 1, 2001.

The Cable Division held a public hearing on Adelphia's pending filing in Rockport on November 6, 2001. The Towns of Duxbury and Sheffield intervened in this proceeding, and the Town of Pembroke appeared as a Limited Participant. The evidentiary record includes one Adelphia exhibit and Adelphia's responses to five record requests posed by the Cable Division. No briefs were filed.

A cable operator may calculate its equipment and installation rates on the FCC Form 1205 using data compiled on a franchise, system, regional or company level. 47 C.F.R. § 76.923(c)(1). In this rate proceeding, Adelphia filed with the Cable Division an FCC Form 1205, for the year ending December 31, 2000 (the "2000 FCC Form 1205"), using date compiled from its New England region, comprised of cable systems in Connecticut, Maine, Massachusetts, New Hampshire, eastern New York, and Vermont (Exh. Adelphia-1). This was the first time Adelphia filed a regional FCC Form 1205 with the Cable Division. Previously, the Company included only its Massachusetts systems in its FCC Form 1205 filing.[1]

In its filing, Adelphia proposed, as permitted by FCC rules, to establish a single blended maximum permitted rate ("MPR") applicable to both its addressable and digital equipment (Exh. Adelphia-1, at Exhibit I, at 9; see also 47 C.F.R. § 76.923(c)(1)). It proposed a single Remote 1 category combining its addressable and digital remote controls (id.). For converters, Adelphia established a Converter 1 category, combining its addressable and digital converters, and a Converter 2 category for its non-addressable converters (id.). This Order addresses the Company's rate proposal.

II. STANDARD OF REVIEW AND BURDEN OF PROOF

The FCC has created specific forms incorporating the provisions of its rate regulations, upon which cable operators must calculate their rates. Local rate regulators, such as the Cable Division, are required to review the Company's FCC rate

---

[1] The Cable Division most recently approved the FCC Form 1205 for the year ending December 31, 1999 (the "1999 FCC Form 1205"). Adelphia Communications Corporation, CTV 00-5 (2001). This FCC Form 1205 filed by Adelphia and approved by the Cable Division is a public document pursuant to G.L. c. 166A, § 15. The Cable Division hereby takes administrative notice of this document pursuant to G.L. c. 30A, § 11(5) and 801 C.M.R. § 1.01(10)(b).

form filings to determine whether the rates are reasonable and in compliance with the Communications Act. 47 C.F.R. §§ 76.922, 76.923, 76.930.

The FCC Form 1205 establishes rates for installations and equipment, such as converters and remote controls, based upon actual capital costs and expenses. FCC Form 1205 Instructions at 7, 12-13. FCC Form 1205 is prepared on an annual basis using information from the cable operator's previous fiscal year. Id. at 2. Subscriber charges established by FCC Form 1205 shall not exceed charges based on actual costs as determined in accordance with the FCC's regulatory requirements. 47 C.F.R. § 76.923(a)(2).

The standard under which the Cable Division must review rate adjustments on FCC rate forms is found in the FCC's rate regulations. Specifically, the regulations provide that the rate regulator shall assure that the rates comply with the requirements of 47 U.S.C. § 543 of the Cable Television Consumer and Competition Act of 1992 as amended (the "Cable Act"). 47 C.F.R. § 76.922(a). The Cable Division may accept equipment and installation charges that are calculated in accordance with 47 C.F.R. § 76.923. In addition, the Cable Division shall only approve rates it deems reasonable. G.L. c. 166A, §§ 2, 15; 47 C.F.R. § 76.937(d) and (e); 47 C.F.R. § 76.942.

In establishing whether proposed rates are reasonable and comply with federal regulations, the burden of proof is on the cable operator to demonstrate that its proposed rates for equipment and installations comply with 47 U.S.C. § 543 and implementing regulations. Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 93-177, 8 FCC Rcd 5631 (released May 3, 1993) at 5716, ¶ 128; see also 47 C.F.R. § 76.937(a).

III. DISCUSSION AND ANALYSIS

A. Adelphia's Inventory of Converters and Remote Controls

In Adelphia's current filing, as is permitted by FCC regulations, the Company combined its addressable and digital equipment for the purpose of calculating a monthly rate (Exh. Adelphia-1 at 3, and at Exhibit I, at 9). On the FCC Form 1205, the per-unit cost for converters is calculated by dividing the total costs by the number of units in service. By including on the form the costs associated with the inventory units but not including this inventory in the number of units in service, operators are able to recover the carrying costs for spare units necessary to replace defective equipment. On its form, Adelphia included not only the inventory costs but the inventory units as well (Exh. Adelphia-1, at 3). At first glance, including the inventory units as part of units in service would appear to offset any gross book value increase. (This is because both the denominator and numerator increase.) However, since the additional units are all higher cost digital units, each additional converter included in the calculation increases the costs per unit in service.[2] An increase in the number of digital units in inventory will, therefore, impact the cost-per-unit in service. Accordingly, the Cable Division must consider the propriety of Adelphia's inventory levels.

On Adelphia's 2000 FCC Form 1205, the Company reported that on December 31, 2000, in its New England region, the Company had 67,491 digital converters in service and 43,854 digital converters in inventory (Exh. Adelphia-1, at Exhibit I, at 9). Adelphia also reported that on December 31, 2000, it had 66,874 digital remote controls in actual service and 54,818 digital remote controls in inventory (id.). Based on these figures, on December 31, 2000, Adelphia's digital converter inventory was 65.0 percent of the digital converters in actual service, and its digital remote control inventory was 82.0 percent of the digital remote controls in actual service (id.).[3]

In support of Adelphia's December 31, 2000 inventory levels, the Company stated that it had increased its inventory of digital equipment because, during the second half of 2000, it "embarked on a program to substantially increase the deployment of digital service in all of our cable systems" (RR-CTV-3). This program had a short-term objective of increasing digital units nationally from 325,000 units as of June 30, 2000 to 850,000 units as of December 31, 2000 (id.). The Company reported that its deployment plan affected all of Adelphia's operating regions (id.). Adelphia also explained that concurrent with its deployment plan, the Company had entered into purchase agreements with two digital converter manufacturers that "included specific purchase commitments for deliveries in specific time periods" (id.). As a result, the Company was "required to warehouse many digital converters during 2000 as the purchase commitments exceeded the growth in units deployed during that period" (id.).

---

2 Adelphia's addressable converters have a per-unit gross book value of $50.27, compared with $229.36 for digital converters, and addressable remote controls have a per-unit gross book value of $5.35, compared with $8.75 for digital remote controls (Exh. Adelphia–1, at Exhibit I, at 9). These amounts are calculated for each type of equipment by dividing, on Schedule C, Capital Costs of Leased Customer Equipment, the Gross Book Value reported on Line D by the Total Units reported on Line C (id.).

3 The Cable Division notes that Adelphia continued to charge the $3.25 addressable and digital converter monthly rate it had been charging in its "old Adelphia" communities, while increasing the addressable converter rate in its acquisition communities to $3.25, from the previous $1.60, $1.93 or $1.95 (Exh. Adelphia-1, at 7; 1999 FCC Form 1205, at 7; Adelphia Communications Corporation, CTV 00-5 (2001), at 2, n.5). (The "old Adelphia" communities are those for whom it held franchises before its acquisitions on October 1, 1999. The "acquisition communities" are those whose licenses it obtained, effective October 1, 1999, from Century, FrontierVision and Harron.) Moreover, although the current FCC Form 1205's MPR of $3.25 for addressable and digital converters is a decrease from the old Adelphia communities' previous MPR of $3.65 (which the Company did not charge subscribers); for the acquisition communities, the $3.25 addressable and digital converter MPR reflects a significant increase from the previous MPR of $1.95 (id.).

Adelphia explained that the "significant increase in the number of digital units in inventory compared with the number of digital units in service has affected the historical inventory rate" (id.).

An operator may include in its equipment rate calculation "the cost of a reasonable number of spare customer equipment units that the operator keeps on-hand as replacements for broken equipment." FCC Form 1205 Instructions at 13. While the FCC has not explicitly defined "a reasonable number of spare customer equipment units," the FCC has held that the determination of whether a cable operator should be allowed to recover the costs of allegedly excess inventory in its rates is an issue to be left to the discretion of the local franchising authority, and that the FCC would not disturb the findings of local franchising authorities if there is a reasonable basis for its decision. Crown Media, Inc., d/b/a Crown Cable, DA 95-720 (released April 5, 1995). The FCC also has recognized that a cable operator may keep some inventory of spare equipment available because of a new product, if it can demonstrate the demand for this equipment. Warner Cable Communications, DA 96-1241 (released August 13, 1996).

In its testimony, Adelphia concedes that it has significantly increased the number of digital units in inventory (RR-CTV-3). According to Adelphia, these units were purchased not as spare replacement equipment but to implement its plan to deploy its digital product (id.). Thus, Adelphia does not claim that its inventory reflects a reasonable number of spare equipment. Moreover, Adelphia provided no evidence to support a claim that the cost of these additional units is justified because of an increased demand for digital service. Adelphia merely outlined its plan to rapidly deploy these units, but provided no evidence that subscriber demand for digital service had similarly increased. In fact, the testimony indicates that Adelphia's motivation to purchase these units at this time was to take advantage of special purchase agreements with digital converter manufacturers and, since Adelphia had to take delivery of these units on a specific date and the number of units purchased exceeded the demand for deployment at that time, Adelphia was required to warehouse the units (id.). Adelphia provided no legal analysis to support its apparent position that subscribers should bear the burden of this business decision, yet receive no benefit.

The Cable Division provided the Company the opportunity to submit additional information that would put the Company's inventory figures in perspective given that this was the Company's first regional equipment rate filing. In response to a record request, the Company provided the Schedule C information on a Massachusetts-only basis as of December 31, 2000 (the "2000 Massachusetts Schedule C"), similar to the information reported on the 1999 FCC Form 1205 (RR-CTV-1).[4] Our review of this

---

[4] The Cable Division originally requested that Adelphia provide the Schedule C information for the New England region as of December 31, 1999 (Hearing Audiotape, Side 1, at Counter Nos. 176-

document has raised a question as to the reliability of data submitted. For example, Adelphia reported that during 2000 in its Massachusetts systems, there was a 2.4 percent increase in digital units deployed in its "old" systems, and a 5.6 percent increase in the systems acquired from Century and Harron (RR-CTV-3). However, the 1999 FCC Form 1205, at Exhibit I, page 9, reported that on December 31, 1999, no digital equipment was in service in the systems Adelphia acquired from Century and Harron, which makes a 5.6 percent increase mathematically impossible. (1999 FCC Form 1205, at Exhibit 1, at 9). As a further example, the 2000 FCC Form 1205 covering the entire New England region reported 8,761 addressable remote controls and 8,761 addressable converters in inventory as of December 31, 2000; whereas the 2000 Massachusetts Schedule C reported 26,860 addressable remotes and 11,804 addressable converters in inventory as of December 31, 2000 (Exh. Adelphia-1, at Exhibit I, at 9; RR-CTV-1). We find that the evidence submitted is unreliable and thus does not justify the Company's inventory costs.

We determine, based on the record before us, that Adelphia has failed to establish the appropriateness of its inventory costs. Therefore, the Cable Division determines that although costs associated with a reasonable level of inventory are properly included in the equipment rate calculations, Adelphia has failed to establish that the level of inventory included in this filing is reasonable. Accordingly, the Cable Division orders Adelphia to re-file its FCC Form 1205, removing from the gross book value and accumulated depreciation totals the costs associated with the digital units purchased for deployment at a future date. Adelphia may include the costs of a reasonable number of spare digital units. As part of the revised filing, the Company must also provide support for the digital inventory level selected. Parties desiring to comment on the Company's revised filing must do so within 10 days of receipt of the filing.

B. Depreciation

As stated above, Adelphia has established a single blended equipment rate that includes both addressable and digital equipment (Exh. Adelphia-1, at 3, and at Exhibit I, at 9; see 47 C.F.R. § 76.923(c)(1)). The issue here is whether Adelphia included depreciation on its FCC Form 1205, not only for the digital converters and remote controls deployed during 2000, but also for the corresponding addressable converters and remote controls being replaced by the digital units. Although at the end of 2000, fewer digital units were in service than addressable units, the digital units are newer and more expensive, and consequently have higher per-unit gross book values and depreciation expenses (Exh. Adelphia 1, at Exhibit I, at 9). The proper treatment of

---

201). However, the Company responded that the compilation of such information from its various 1999 FCC Form 1205s "would not be an easy process" (id. at 203-211).

depreciation for equipment being deployed and removed from service can have significant effects on the monthly equipment rates.

While the Cable Division has reviewed carefully the record in this proceeding, Adelphia's switch from a statewide FCC Form 1205 to a form covering the New England region has posed some uncertainty in reviewing how Adelphia is depreciating its customer premises equipment. The Cable Division also understands that the rate review process requires the timely resolution of filings before the Cable Division in order for the Company to implement the Cable Division's rate orders and properly prepare subsequent filings. Based on these considerations, the Cable Division will accept the depreciation numbers Adelphia has provided in its current FCC Form 1205 for this matter. We make no finding as to Adelphia's depreciation methodology. However, the Cable Division puts Adelphia on notice that the Company's depreciation methodology will be at issue in the next proceeding.

IV. CONCLUSION AND ORDER

Upon due notice, hearing and consideration, the Cable Division hereby rejects Adelphia's FCC Form 1205 as filed on April 2, 2001 for Abington, Adams, Amesbury, Aquinnah, Bourne, Cheshire, Clarksburg, Duxbury, Edgartown, Essex, Falmouth, Gloucester, Great Barrington, Halifax, Kingston, Lee, Lenox, Manchester-by-the-Sea, Marshfield, Merrimac, North Adams, Oak Bluffs, Pembroke, Plymouth, Plympton, Rockland, Rockport, Salisbury, Sandwich, Sheffield and Stockbridge. The Cable Division directs Adelphia to refile its FCC Form 1205 in accordance with this Rate Order, on or before July 31, 2002.

The Cable Division hereby orders that any Party may file comments on Adelphia's revised filing within 10 days of receipt of the filing.

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

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

APPEALS

Appeals of any final decision, order or ruling of the Cable Division may 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 by the filing of a written petition with the Secretary of the Department praying that the Order of the Cable Division be modified or set aside in whole or in part. G.L. c. 166A, § 2, as most recently amended by St. 2002, c. 45, § 4. Such petition for appeal shall be supported by a brief that contains the argument and areas of fact and law relied upon to support the Petitioner's position. Notice of such appeal shall be filed concurrently with the Clerk of the Cable Division. Briefs opposing the Petitioner's position shall be filed with the Secretary of the Department within 7 days of the filing of the initial petition for appeal.