



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF  
TELECOMMUNICATIONS & ENERGY  
Cable Television Division**

In the Matter of	)	Docket No. CTV 02-2				
AT&T Broadband	)	Date Issued: April 8, 2003				
	)					
AT&T CSC, Inc.	)	Acton	Deerfield	Ipswich	North	Taunton
Intermedia Partners, a	)	Acushnet	Dennis	Lakeville	Attleborough	Templeton
California Limited	)	Agawam	Dighton	Lancaster	North	Tewksbury
Partnership	)	Amherst	Dover	Lawrence	Reading	Topsfield
MediaOne of Brockton, Inc.	)	Andover	Dracut	Leominster	Northampton	Townsend
MediaOne of	)	Ashburnham	East	Lincoln	Northfield	Truro
Massachusetts, Inc.	)	Ashland	Bridgewater	Littleton	Norton	Tyngsborough
MediaOne of Needham, Inc.	)	Attleboro	Eastham	Longmeadow	Norwell	Upton
MediaOne of	)	Avon	Easton	Lowell	Norwood	Wakefield
New England, Inc.	)	Ayer	Erving	Lunenburg	Orleans	Walpole
MediaOne of New York, Inc.	)	Barnstable	Everett	Lynn	Palmer	Waltham
MediaOne of Ohio, Inc.	)	Bedford	Fairhaven	Lynnfield	Peabody	Ware
MediaOne of Southern	)	Bellingham	Fall River	Malden	Phillipston	Wareham
New England, Inc.	)	Belmont	Fitchburg	Mansfield	Phillipston	Warren
MediaOne of Virginia, Inc.	)	Berkley	Foxborough	Marblehead	Plainville	Watertown
MediaOne of Western	)	Bernardston	Framingham	Marion	Provincetown	Wayland
New England, Inc.	)	Beverly	Franklin	Marlborough	Quincy	Wellesley
TCI Cablevision of	)	Billerica	Freetown	Mattapoisett	Randolph	Wellfleet
Georgia, Inc.	)	Blackstone	Gardner	Maynard	Raynham	Wenham
TCI TKR of Georgia, Inc.	)	Boxborough	Georgetown	Medfield	Reading	West
UACC Midwest, Inc.	)	Boxford	Gill	Medford	Rehoboth	Bridgewater
United Cable Television Corp.	)	Braintree	Granby	Medway	Revere	West
of Eastern Connecticut	)	Bridgewater	Granville	Melrose	Rochester	Newbury
United Cable Television	)	Brockton	Greenfield	Mendon	Rowley	West
Services Corporation	)	Brookline	Groveland	Methuen	Salem	Springfield
Westmarc Development	)	Buckland	Hamilton	Middleborough	Saugus	Westfield
Joint Venture	)	Burlington	Hanover	Middleton	Scituate	Westford
all d/b/a	)	Cambridge	Hanson	Milford	Seekonk	Westhampton
AT&T Broadband	)	Canton	Hardwick	Millis	Sharon	Westminster
For a Determination	)	Carlisle	Harwich	Milton	Shelburne	Weston
Of Cable	)	Chatham	Hatfield	Monson	Sherborn	Westwood
Television Rates	)	Chelmsford	Haverhill	Montague	Somerset	Weymouth
	)	Chelsea	Hingham	Nahant	South Hadley	Whitman
	)	Chester	Holbrook	Nantucket	Southwick	Williamsburg
	)	Clinton	Holliston	Natick	Springfield	Wilmington
	)	Cohasset	Holyoke	Needham	Stoneham	Winchendon
	)	Concord	Hopedale	New Bedford	Stoughton	Winchester
	)	Conway	Hopkinton	Newbury	Stow	Winthrop
	)	Danvers	Hudson	Norfolk	Sudbury	Wrentham
	)	Dartmouth	Hull	North	Sunderland	Yarmouth
	)	Dedham	Huntington	Andover	Swampscott	

**ORDER ON COMPLIANCE FILING**

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AND

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Limited Participant

I. INTRODUCTION

On February 19, 2003, the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy issued a rate order concerning AT&T Broadband’s (“AT&T Broadband” or “the Company”) basic service tier (“BST”) programming and equipment rates for the above-referenced communities. AT&T Broadband, CTV 02-2 (2003) (“Order”). In the Order, the Cable Division rejected several of the Companies’ filings and directed the Company to submit revised rate forms for further review. In addition, the Cable Division directed the Company to make certain refunds in the Town of Winchendon and to submit a refund plan outlining the means by which those refunds would be paid. The Company submitted the revised forms and refund plan (“Compliance Filing”) on March 14, 2003.<sup>1</sup>

II. ANALYSIS AND FINDINGS

A. Revised FCC Form 1240s

In our Order, the Cable Division found that for Westwood, AT&T Broadband inappropriately excluded certain franchise related costs (“FRCs”) from the calculation of the rate and directed the Company to refile its Federal Communications Commission (“FCC”) FCC Form 1240, with the inclusion of the FRCs. Order at 6. We find that AT&T Broadband has now included the appropriate FRCs on its FCC Form 1240 (Compliance Filing, Westwood). We conclude that the maximum permitted rate (“MPR”) for Westwood, as calculated in the Compliance Filing, is just, reasonable and in compliance with applicable law. As stated in the Order, this adjustment to the calculation does not require an adjustment to the Company’s BST rate actually charged in Westwood, as it is less than the BST MPR. Order at 6.

In reviewing AT&T Broadband’s proposed rates in Gardner, we determined that the calculation did not appropriately reflect the terms of a Memorandum of Understanding (“MOU”) between the City of Gardner and the Company. Id. at 11-12. The Cable Division directed AT&T Broadband to revise its FCC Form 1240, with its BST MPR calculated in compliance with the MOU. Id. at 12. Based on our review of the Compliance Filing, we find that the Company’s revised FCC Form 1240 for Gardner calculates a BST MPR in compliance with the MOU (Compliance Filing, Gardner). We conclude that the rate is just, reasonable and in compliance with applicable law.

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<sup>1</sup> The Company submitted its Compliance Filing under the name, “Comcast Cable Communications Inc.” During the pendency of this rate proceeding, on November 18, 2002, AT&T Broadband had merged with Comcast Corporation. Because the Order in this proceeding was issued while the merged company was operating under the name “AT&T Broadband,” we will continue to use that name in this Compliance Order.

For Amherst, Hardwick, Monson, Palmer, Pelham, Ware and Warren, AT&T Broadband overstated copyright costs. Order at 12. As a result, the Cable Division directed the Company to revise the FCC Form 1240s for these communities to reflect accurate copyright costs. Id. We find that the Company's revised FCC Form 1240s for these communities accurately stated copyright costs in accordance with the Order (Compliance Filing, Amherst, Hardwick, Monson, Palmer, Pelham, Ware and Warren). While this adjustment results in a reduction of the BST MPR, the BST MPR in each community continues to exceed the actual BST rate charged in that community and, thus, no refunds are due (id.). We conclude that the rates in the communities are just, reasonable and in compliance with applicable law.

The Cable Division determined that AT&T Broadband had agreed to reduce its BST MPR in Beverly and Danvers. Order at 9-10. We concluded that since the Company agreed to reduce its rate and not merely to defer recovery, the rate calculation should not include certain FRC amounts. Id. at 10. For both of these communities, we directed the Company to devise a methodology that would remove the FRC amounts in question from the rate forms in order to assure that these amounts may not, through the mechanics of the rate form, impact the BST rate at a future point in time. Id.

In its Compliance Filing, AT&T Broadband presented its methodology for accounting for FRCs in Danvers. To arrive at a FRC pass through of \$0.34 per subscriber per month, as required by the Danvers license, the Company subtracted \$0.16 from the FRC calculation before it computed the FRC amount entered on Worksheet 7<sup>2</sup> (Compliance Filing, Danvers at FRC Worksheet). By this method, the Danvers FRCs reported on Worksheet 7, Projected Period are reduced by an amount equivalent to the \$0.16 adjustment (id. at Worksheet 7, Projected Period, Line 707).<sup>3</sup> We accept this methodology as reasonable.

On its revised FCC Form 1240, the Company proposes a BST MPR of \$8.85, which when combined with the network upgrade surcharge of \$3.10, results in an adjusted BST MPR of \$11.95. The BST MPR exceeds the actual BST rate of \$9.88 that

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<sup>2</sup> On the original Danvers filing, this \$0.16 had been subtracted after the FRC total was computed, which resulted in its inclusion on Worksheet 7 (Exh. AT&T Broadband-35, at FRC Worksheet, and Worksheet 7, Projected Period, Line 707).

<sup>3</sup> The reduction was \$15,552, the difference between the \$48,492 reported on the original filing and the \$32,940 reported on the Compliance Filing (Exh. ATR&T Broadband-35, Worksheet 7, Projected Period; Compliance Filing, Danvers, Worksheet 7, Projected Period.). This reduction, \$15,552, is \$0.16 multiplied by 8,100, the number of Danvers subscribers, and by 12, to convert months into years (Compliance Filing, Danvers, FRC Worksheet).

the Company charges in Danvers (id. at 4; see Exh. AT&T Broadband-35, at Summary of Maximum Permitted Rate). We conclude that the rate is just, reasonable and in compliance with applicable law.

The Company did not apply the same method for resolving the FRC issue for Beverly. In the Compliance Filing, AT&T Broadband deleted any reference to the \$0.20 per subscriber per month reduction from the FRC Worksheet (Compliance Filing, Beverly, FRC Worksheet). The Company made no adjustment to Worksheet 7, Line 707, to remove the equivalent of this \$0.20 from the FRC component of the BST rate calculation (id. at FRC Worksheet, and Worksheet 7, Projected Period).<sup>4</sup> The Compliance Filing for Beverly contains no evidence that the Company reduced the FRCs on its FCC Form 1240 by \$0.20 as directed by the Order, nor did the Company explain its use of different methods for the two communities. Therefore, we find that AT&T Broadband's proposed method for Beverly is unacceptable, and that it has not complied with the Order.

B. Winchendon Refund Plan

For Winchendon, we directed AT&T Broadband to provide a refund plan for our approval. Order at 9. AT&T Broadband had submitted a revised FCC Form 1240 for Winchendon with several adjustments that reduced the BST MPR to \$6.33, below the actual BST rate in Winchendon of \$6.77. Id. We further find that the Company's refund plan for Winchendon has been properly calculated, and will appropriately return overpayments to the affected subscribers (Compliance Filing, Winchendon). Subscribers will receive a one-time refund of \$1.72 (id.).

III. ORDER

Accordingly, after review and consideration, it is

ORDERED: That the Compliance Filing by AT&T Broadband is hereby rejected in part and approved in part; and it is

FURTHER ORDERED: That upon due notice and consideration, the Cable Division hereby rejects AT&T Broadband's FCC Form 1240 as submitted on March 14, 2003 for Beverly. The Cable Division directs AT&T Broadband to refile its

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<sup>4</sup> AT&T Broadband did make an adjustment to the Beverly Compliance Filing that was neither directed by the Order nor explained by the Company. On the FRC Worksheet, the Company reduced the amount of the "aggregated equipment funding" capital payment made on May 4, 2002 from \$230,000 on the original FRC Worksheet to \$45,000 on the revised FRC Worksheet (Exh. AT&T Broadband -15, FRC Worksheet; Compliance Filing, Beverly, FRC Worksheet). This adjustment reduced the total monthly FRC per subscriber by \$0.17 (id.).

FCC Form 1240 for Beverly, in compliance with the Order and this Order On Compliance Filing, on or before April 16, 2003; and it is

FURTHER ORDERED: That upon due notice, hearing, and consideration, the Cable Division hereby accepts, as reasonable and in compliance with applicable statutes and regulations, AT&T Broadband's FCC Form 1240s as submitted on March 14, 2003, for Amherst, Danvers, Gardner, Hardwick, Monson, Palmer, Pelham, Ware, Warren and Westwood; and it is

FURTHER ORDERED: That upon due notice, hearing, and consideration, the Cable Division hereby finds that AT&T Broadband's refund plan for Winchendon is just and reasonable and in compliance with applicable law.

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

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