



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

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

In the Matter of	)	Docket No. CTV 01-1/01-3		
AT&T Broadband	)	Date Issued: July 7, 2003		
MediaOne of Massachusetts, Inc.	)	Acushnet	Fall River	Middleborough
	)	Agawam	Foxborough	Middleton
	)	Amherst	Franklin	Milford
MediaOne Enterprises, Inc.	)	Andover	Freetown	Millis
	)	Ashland	Gill	Milton
	)	Attleboro	Granby	Monson
MediaOne of Brockton, Inc.	)	Avon	Granville	Montague
	)	Barnstable	Greenfield	Nahant
MediaOne of Milton, Inc.	)	Bellingham	Hamilton	Nantucket
	)	Berkley	Hanover	Natick
	)	Bernardston	Hanson	Needham
MediaOne of Needham, Inc.	)	Beverly	Hardwick	New Bedford
	)	Billerica	Harwich	Newbury
MediaOne of Ohio, Inc.	)	Blackstone	Hatfield	Norfolk
	)	Boxford	Hingham	North Andover
	)	Bridgewater	Holbrook	North Attleborough
MediaOne of Southern New England, Inc.	)	Brockton	Holliston	North Reading
	)	Buckland	Holyoke	Northampton
	)	Burlington	Hopedale	Northfield
MediaOne of Virginia, Inc.	)	Cambridge	Hopkinton	Norton
	)	Canton	Hull	Norwell
	)	Chatham	Huntington	Orleans
MediaOne of Western New England, Inc.	)	Chelmsford	Ipswich	Palmer
	)	Chelsea	Lakeville	Pelham
	)	Chester	Lancaster	Phillipston
	)	Clinton	Lawrence	Plainville
	)	Cohasset	Longmeadow	Provincetown
all d/b/a	)	Conway	Lowell	Quincy
AT&T Broadband	)	Dartmouth	Lynn	Randolph
	)	Dedham	Malden	Raynham
	)	Deerfield	Mansfield	Reading
	)	Dennis	Marblehead	Rehoboth
	)	Dighton	Marion	Revere
	)	Dover	Marlborough	Rochester
	)	Dracut	Mattapoissett	Rowley
For a Determination of Cable Television Rates	)	East Bridgewater	Medfield	Salem
	)	Eastham	Medford	Saugus
	)	Easton	Medway	Scituate
	)	Erving	Melrose	Seekonk
	)	Everett	Mendon	Sharon
	)	Fairhaven	Methuen	Shelburne
	)			Sherborn
	)			Somerset
	)			South Hadley
	)			Southwick
	)			Springfield
	)			Stoneham
	)			Stoughton
	)			Sunderland
	)			Swampscott
	)			Taunton
	)			Tewksbury
	)			Topsfield
	)			Truro
	)			Upton
	)			Wakefield
	)			Walpole
	)			Waltham
	)			Ware
	)			Wareham
	)			Warren
	)			Watertown
	)			Wayland
	)			Wellesley
	)			Wellfleet
	)			Wenham
	)			West Bridgewater
	)			West Newbury
	)			West Springfield
	)			Westfield
	)			Westhampton
	)			Weston
	)			Weymouth
	)			Whitman
	)			Williamsburg
	)			Wilmington
	)			Winchendon
	)			Winchester
	)			Wrentham
	)			Yarmouth

RATE ORDER ON REMAND

APPEARANCES: Warren O. Fitting
Director of Rate Regulation
Comcast Cable Corporation
1500 Market Street, 32nd Floor
Philadelphia, PA 19102-2148

Joseph Lance
Assistant Controller
Eastern Division
Comcast Cable Communications, Inc.
200 Cresson Boulevard
Oaks, PA 19456

James G. White
Manager of Government and Legal Affairs
Comcast Cable Communications, Inc.
85 E. Belcher Road
Foxboro, MA 02035
FOR: AT&T BROADBAND
Petitioner

Peter J. Epstein, Esq.
Epstein & August, LLP
101 Arch Street, Suite 900
Boston, MA 02110-1112
FOR: THE TOWN OF CANTON
Intervenor

John J. Coughlin, Esq.
Law Department
One Government Center
Fall River, MA 02722
FOR: THE CITY OF FALL RIVER
Intervenor

Louis P. Amoruso
Chairman, Board of Selectmen
Town Hall
6 Park Row
Mansfield, MA 02048
FOR: THE TOWN OF MANSFIELD
Intervenor

Michael K. McCormack
133 William Street
New Bedford, MA 02740
FOR: THE CITY OF NEW BEDFORD
Intervenor

Marjorie A. Kraskouskas
Bradley A. Plante
Geoff Morton
James Moynihan
Municipal Building
43 South Washington Street
North Attleborough, MA 02760
FOR: THE TOWN OF NORTH ATTLEBOROUGH
Intervenor

John Clorite
Chairman, Cable Advisory Committee
Somerset Town Offices
140 Wood Street
Somerset, MA 02726
FOR: THE TOWN OF SOMERSET
Intervenor

Edward Stanton
Attleboro Comprehensive High School
100 Rathbun Willard Drive
Attleboro, MA 02703
FOR: THE CITY OF ATTLEBORO
Limited Participant

Jerry McMahan
Chairman, Cable Advisory Committee
33 Green Way
Yarmouth, MA 02664
FOR: THE TOWN OF YARMOUTH
Limited Participant

This Rate Order on Remand is issued by the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy in compliance with a decision issued by the Media Bureau of the Federal Communications Commission (“FCC”) relating to FCC Forms 1240 filed by MediaOne of Massachusetts, Inc., MediaOne Enterprises, Inc., MediaOne of Brockton, Inc., MediaOne of Milton, Inc., MediaOne of Needham, Inc., MediaOne of Southern New England, Inc., MediaOne of Virginia, Inc., and MediaOne of Western New England, Inc., collectively offering services as AT&T Broadband (“AT&T Broadband”).¹ See AT&T Broadband, DA 03-1863 (released June 2, 2003).

On February 28, 2002, the Cable Division issued a Rate Order (“2002 Rate Order”) for the projected period from July 1, 2001, to June 30, 2002. In the 2002 Rate Order, we determined that the Company had not calculated and reported its true-up amount for the projected period in compliance with applicable law. Specifically, we found that contrary to the plain meaning of the instructions to the FCC Form 1240, AT&T Broadband included in the true-up claimed for the projected period amounts that were not passed through to subscribers. 2002 Rate Order at 8-9. As such, we ordered AT&T Broadband to refile its FCC Forms 1240 for the affected communities. Id. at 10.

The Company filed revised FCC Forms 1240 on March 21, 2002, as required by the 2002 Rate Order. See Order Accepting Compliance Filing, CTV 01-1/01-3 (March 21, 2002). Further, on March 29, 2002, AT&T Broadband appealed the 2002 Rate Order to the Media Bureau of the FCC. Because of the pending appeal, the Cable Division did not require the Company to implement the BST MPR as calculated on the Compliance filing.

The Media Bureau of the FCC has now determined that it is in keeping with the Communications Act of 1934, as amended (“Cable Act”) to permit cable operators to claim true-up amounts regardless of whether they are passed through to subscribers. AT&T Broadband at ¶ 11. The Cable Division, as the franchising authority authorized to regulate rates in the Commonwealth of Massachusetts, is required to comply with FCC decisions. Therefore, the Cable Division hereby rescinds Section III.F. of the 2002 Rate Order; the 2002 Rate Order stands in all other respects. Because the Company was not required by the Cable Division to implement its FCC Forms 1240 revised in accordance with the 2002 Rate Order for the affected communities, no further action is needed on CTV 01-1/01-3.

With respect to the subsequent period’s rate filing, the Cable Division, on February 19, 2003, approved AT&T Broadband’s FCC Forms 1240 docketed as CTV 02-2 (“2003 Rate Order”). The 2002 Rate Order was on appeal with the FCC, and the Media

¹ During the pendency of this rate proceeding, on November 18, 2002, AT&T Broadband merged with Comcast Cable Communications, Inc.. Because the Rate Order in this proceeding was issued while the company was operating under the name “AT&T Broadband,” we will continue to use that name in this Rate Order On Remand.

Bureau had ruled against the Cable Division in a similar issue. See CoxCom, Inc., DA 02-967 (released April 29, 2002). Thus, the Cable Division required that the Company, in addition to filing the FCC Forms 1240 using its preferred methodology, file a second set complying with the requirements set forth by the Cable Division in the 2002 Rate Order. In its 2003 Rate Order, the Cable Division ordered that in the event the Media Bureau of the FCC upheld the Cable Division's 2002 Rate Order, the Company would need to implement the alternative rates as calculated in its Compliance Filing. Because the FCC has now determined that the Company's methodology is in keeping with the Cable Act and FCC precedent, no further action is required on CTV 02-2.

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

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