



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

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

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In the Matter of )	
AT&T CSC, Inc., )	
AT&T Corp., and )	Docket No. CTV 02-5
AT&T Comcast Corporation )	
Appellants )	
v. )	Date Issued: July 31, 2002
Board of Selectmen of the )	
Town of Westford )	
Appellees )	
_____ )	

**INTERLOCUTORY ORDER ON MOTION FOR EXPEDITED PROCESSING,  
MOTION TO EXTEND TIME, AND PRELIMINARY GROUND RULES**

I. INTRODUCTION

On June 18, 2002, the Board of Selectmen of the Town of Westford (“Town”) voted to withhold approval of a request by AT&T CSC, Inc., AT&T Corp., and AT&T Comcast Corporation (“Companies”) to transfer the control of the cable license with the Town. Pursuant to G.L. c. 166A §§ 7 and 14, the Companies filed a Petition for Appeal and Claim for Adjudicatory Hearing (“Appeal”) with the Cable Television Division (“Cable Division”) on July 18, 2002. On the same date, the Companies filed a Motion for Expedited Processing

of Appeal and a Motion for Summary Decision. On July 25, 2002, the Town filed a motion seeking an extension of time in which to respond to the Companies' Motion for Summary Decision ("Motion To Extend Time"). On July 26, 2002, the Town filed an Opposition to the Companies' Motion for Expedited Processing of Appeal. On July 29, 2002, the Companies filed an Opposition to the Town's Motion To Extend Time.

## II. DISCUSSION AND ANALYSIS

In the Motion for Expedited Processing at page 2, the Companies requested that the Cable Division require all parties to adhere strictly to all time requirements in the Adjudicatory Rules and establish an expedited schedule for the processing of this appeal. The Companies requested that the Appeal be processed on an expedited basis in order to ensure that the proposed merger, scheduled to close in 2002, is not delayed. In opposition, the Town claimed it would be denied a full and fair hearing were the Cable Division to grant the Companies' request.

The Massachusetts Administrative Procedures Act, and regulations promulgated thereunder, ensure that all parties to an administrative proceeding receive a full and fair hearing. G.L. c. 30A; 801 C.M.R. § 1.00 et seq. While the law and regulations establish many of the procedures to be followed during an administrative proceeding, including the time periods for certain filings and responses, they also allow the administrative agency discretion to deviate from these procedures where good cause exists. See 801 C.M.R. § 1.01(4)(e).

Federal law allows a 120-day period for issuing authorities to review a transfer application. 47 U.S.C. § 537. A protracted review of such a decision would violate the spirit

of the federal law. However, we must ensure that all parties rights to due process are protected. Therefore, we plan to proceed expeditiously, requiring a showing of good cause for any deviation of the procedural schedule. In order to further ensure an efficient and expeditious process, we have attached Preliminary Ground Rules to be adhered to by all parties.

With respect to the Appellee's Motion to Extend Time, the Town, in support of its request, notes that the answer to the Appeal is due twenty-one days after service, while the answer to the Motion for Summary Decision is due seven days after service. We find that the issues to be addressed in the Motion for Summary Decision are intricately entwined with the substantive matters raised in the Appeal. While Appellants are correct in the assertion that a response to the Appeal involves an "admitting" or "denying" of the allegations, to require a substantive response to the claim before the party has actually denied that claim would be illogical. In this instance, given the nature of the claim for an adjudicatory proceeding and the issues raised in the motion for summary judgement, it is appropriate that the answers to the Motion for Summary Decision and the Appeal be filed concurrently. Therefore, we find good cause exists to grant an extension for time to file the answer to the Motion for Summary Decision. However, while the Town requested the deadline for filing be set on August 12, 2002, we find it appropriate to extend the time to coincide with the filing of the answer to the Appeal. Therefore, the answer to the Motion for Summary Decision must be served on or before August 8, 2002, twenty-one days from the date of service.

Parties are hereby placed on notice of the Cable Division's intent to conduct a procedural conference in this matter as soon after August 8, 2002, as practicable. Parties should confer with one another and contact the Cable Division with proposed dates for the procedural conference.

III. ORDER

Accordingly, after due consideration, it is

ORDERED: Appellants' Motion for Expedited Processing filed in CTV 02-5 is hereby GRANTED to the extent deemed appropriate; and it is

FURTHER ORDERED: Appellee's Reply to Appellants' Motion for Summary Decision that was to be filed by July 25, 2002, shall be served on all parties **by or on August 8, 2002**; and it is

FURTHER ORDERED: The parties must comply with the attached Preliminary Ground Rules; and it is

FURTHER ORDERED: The parties should contact the Cable Division with proposed dates for a procedural conference by August 5, 2002.

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

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