

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

	)	Docket No. Y-00 INC, Y-00 EQU	
In the Matter of:	)	Date Issued: August 4, 2000	
)		
A-R Cable	)	Acton, CUID MA 0196	Hudson, CUID MA 0139
Investments, Inc.	)	Ashburnham, CUID MA 0337	Leominster, CUID MA 0017
	)	Ayer, CUID MA 0257	Lexington, CUID MA 0140
Cablevision of Boston, Inc.	)	Bedford, CUID MA 0210	Lincoln, CUID MA 0324
	)	Belmont, CUID MA 0316	Littleton, CUID MA 0294
Cablevision of Brookline	)	Boston, CUID MA 0182	Lunenburg, CUID MA 0077
Limited Partnership	)	Boxborough, CUID MA 0289	Lynnfield, CUID MA 0167
	)	Braintree, CUID MA 0217	Maynard, CUID MA 0146
Cablevision of	)	Brookline, CUID MA 0219	Norwood, CUID MA 0148
Massachusetts, Inc.	)	Carlisle, CUID MA 0293	Peabody, CUID MA 0119
	)	Concord, CUID MA 0270	Stow, CUID MA 0256
	)	Danvers, CUID MA 0279	Sudbury, CUID MA 0255
	)	Fitchburg, CUID MA 0015	Templeton, CUID MA 0127
For a Determination of	)	Framingham, CUID MA 0094	Townsend, CUID MA 0296
Cable Television Rates	)	Gardner, CUID MA 0016	Tyngsborough, CUID MA 0232
	)	Georgetown, CUID MA 0133	Westford, CUID MA 0192
	)	Groveland, CUID MA 0071	Westminster, CUID MA 0230
	)	Haverhill, CUID MA 0031	Westwood, CUID MA 0204

ORDER ON COMPLIANCE FILING

APPEARANCES: Marti Green, Vice President, Law – Cable and Network Operations
Cablevision Systems Corporation
1111 Stewart Avenue
Bethpage, NY 11714

- and -

John M. Urban, Vice President, Public Affairs
Cablevision of Massachusetts
28 Travis Street
Boston, MA 02134

FOR: CABLEVISION SYSTEMS CORPORATION
Petitioner

Charles J. Beard, Esq.
Foley, Hoag & Eliot LLP
1 Post Office Square
Boston, MA 02109-2170

- and -

Michael J. Lynch, Director
Office of Cable Communications
43 Hawkins Street
Boston, MA 02114
FOR: THE CITY OF BOSTON
Intervenor

David G. Kanter
48 Fifer Lane
Lexington, MA 02420-1224
FOR: THE TOWN OF LEXINGTON
Intervenor

Robert Zurek
78 Morse Lane
Boxborough, MA 01719
FOR: THE TOWN OF BOXBOROUGH
Limited Participant

Timothy F. McCoy
Elaine Baly
Town Hall
78 Main Street
Hudson, MA 01749
FOR: THE TOWN OF HUDSON
Limited Participant

Docket No. Y-00 INC, Y-00 EQU

On June 28, 2000, the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy issued our Rate Order, A-R Cable Investments, Inc., Y-00 INC, Y-00 EQU (the “Rate Order”), with respect to rate filings by Cablevision Systems Corporation (“Cablevision” or “the Company”) on Federal Communications Commission (“FCC”) Forms 1205 and 1240 for all of the above-captioned communities. In the Rate Order, we directed Cablevision to refile its FCC Form 1240 for Boston and Brookline, and its FCC Form 1205s for all communities. Rate Order at 5-6. Cablevision responded by refiling its FCC Form 1240 for Boston and Brookline with the Cable Division on July 13, 2000, and by refiling two FCC Form 1205s, one for its Boston/Brookline system, and the other for its suburban Massachusetts communities, on July 14, 2000.

With respect to Cablevision’s FCC Form 1240 for Boston and Brookline, the Cable Division directed the Company to refile the form removing franchise-related payments not actually made during the true-up period from Worksheet 7, Line 707. Id. at 5. We find that the Company’s FCC Form 1240 complies with our directive in the Rate Order. Accordingly, we find that the rates calculated on the FCC Form 1240 for Boston and Brookline are reasonable and in compliance with state and federal law.

Cablevision’s refiled FCC Form 1205s raise several issues concerning the Company’s new digital converters and associated remote controls (the “digital equipment”), which are expected to be offered in upgraded communities before the end of 2000. Id. at 3. In our Rate Order, the Cable Division found that Cablevision inappropriately included digital converter preparation time as repair or service hours in its FCC Form 1205 calculation. Id. at 3-4. Based on FCC regulations, the Cable Division concluded that the costs associated with this preparation time should not be recovered through maintenance time; instead, these costs should be included as capital costs increasing the per unit basis of the equipment. Id. at 4. Accordingly, we directed Cablevision to refile its FCC Form 1205, including any costs associated with preparation time it seeks to recover in the UCE calculation. Id. We noted that this method would not include any repair time in the equipment rate calculation. Id. In its compliance filing, Cablevision removed this converter preparation time from the maintenance hours and included the cost as a capital cost.

However, in Cablevision’s cover letter, the Company did “not agree with [our] conclusion that [FCC] Form 1205 be filed to not include any repair time....” Given this, Cablevision’s refiled FCC Form 1205s incorporate estimates of maintenance and repair hours in the calculation of the monthly rate for its new digital converters (Compliance Filing, FCC Form 1205s at 3, Schedule C, Line B). Cablevision stated that the FCC’s regulations, at 47 C.F.R. § 76.923(o), permit cable operators, when introducing new equipment, to estimate the average annual expected time required to maintain and repair that equipment. We find the Company has misconstrued our Rate Order. In its initial FCC Form 1205 filings, Cablevision

Docket No. Y-00 INC, Y-00 EQU

expected maintenance or repair time in the calculation of its monthly digital equipment rates. Instead, it had only included the preparation time for its digital converters, which the Cable Division concluded was properly a capital cost. Rate Order at 3-4. When we stated in the Rate Order that “[w]e recognize that by this method, the Company’s initial equipment rate calculation will not include any repair time,” we were observing that with the preparation time removed, no maintenance or service costs remained on the Company’s FCC Form 1205s. Id. at 4. We were not determining that the estimates authorized by 47 C.F.R. § 76.923(o), but not included on the Company’s FCC Form 1205s, were inappropriate.

However, the Cable Division finds that the inclusion of these estimates in the refiling is not appropriate. These estimates change the monthly rates established by the form for digital converters. These estimates are evidence, which Cablevision seeks to admit after the record in this proceeding has been closed, in contravention of the administrative regulations applicable to the Cable Division. These regulations state: “No evidence shall be admitted after the close of the record unless the Presiding Officer reopens the record.” 801 CMR 1.01(10)(k)(2). Including these estimates in the record at this time would afford no party the opportunity to conduct discovery or cross-examination as required under G.L. c. 30A, § 11. Cablevision’s appropriate course of action would have been to file a motion for reconsideration before the time for appeal had expired, pursuant to 801 CMR 1.01(7)(l). Alternatively, Cablevision could have filed, for separate review by the Cable Division pursuant to 47 C.F.R. § 76.923(o), a limited FCC Form 1205 consisting only of Schedule C and the relevant worksheet. Because Cablevision followed neither course, its refiled FCC Form 1205 may include only information provided as part of the record. The Cable Division hereby directs Cablevision to refile its FCC Form 1205s with the maintenance and repair time for digital converters removed.

We further suggested in the Rate Order that the Company show only one unit of each item of digital equipment, and include only the Company’s per unit capital costs in its computation of the monthly rate. Id. Cablevision, however, believed that including only one unit of digital equipment was not consistent with the FCC’s regulations. The Company has included the total number of units in its refiled FCC Form 1205s. As a practical matter, because the Company would only be using its per-unit capital costs to compute its monthly equipment rate, the number of units included in the computation of the rate will not affect the rate. We will permit Cablevision to compute its monthly rate for digital equipment using the total number of units it plans to place in service during 2000.

Upon due notice, hearing and consideration, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Cablevision’s FCC Form 1240s as filed on July 13, 2000, for Boston and Brookline. The attached schedule provides the proposed and approved maximum permitted basic service tier programming rates for Boston

and Brookline.
Cablevision

Page

3

Docket No. Y-00 INC, Y-00 EQU

The Cable Division hereby directs Cablevision to refile its FCC Form 1205s as originally filed on October 1, 1999, and refiled on April 25, 2000 and July 14, 2000, for Acton, Ashburnham, Ayer, Bedford, Belmont, Boston, Boxborough, Braintree, Brookline, Carlisle, Concord, Danvers, Fitchburg, Framingham, Gardner, Georgetown, Groveland, Haverhill, Hudson, Leominster, Lexington, Lincoln, Littleton, Lunenburg, Lynnfield, Maynard, Norwood, Peabody, Stow, Sudbury, Templeton, Townsend, Tyngsborough, Westford, Westminster and Westwood in compliance with this Rate Order, on or before August 18, 2000.

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

**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. 1997, c. 164, § 273. 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 seven days of the filing of the initial petition for appeal.

Cablevision

Page

5

Docket No. Y-00 INC, Y-00 EQU