

The Commonwealth of Massachusetts  
Department of Telecommunications and Energy  
Cable Television Division

In the Matter of ) Docket No. CHA Y-00, Phase I  
) Date Issued: February 27, 2001  
)  
Charter ) Auburn, CUID MA 0073 North Brookfield, CUID MA 0308  
Communications ) Boylston, CUID MA 0260 Northborough, CUID MA 0197  
Entertainment I, ) Brookfield, CUID MA 0335 Northbridge, CUID MA 0180  
L.L.C. ) Charlton, CUID MA 0309 Oxford, CUID MA 0120  
) Chicopee, CUID MA 0087 Paxton, CUID MA 0304  
) Dudley, CUID MA 0036 Southborough, CUID MA 0259  
) East Brookfield, CUID MA 0312 Southampton, CUID MA 0184  
) East Longmeadow, CUID MA 0092 Southbridge, CUID MA 0029  
) Easthampton, CUID MA 0107 Spencer, CUID MA 0043  
) Grafton, CUID MA 0177 Sturbridge, CUID MA 0209  
For a ) Hampden, CUID MA 0103 Upton, CUID MA 0242  
Determination ) Hinsdale, CUID MA 0313 West Boylston, CUID MA 0319  
of ) Holden, CUID MA 0179 West Brookfield, CUID MA 0305  
Cable Television ) Lanesborough, CUID MA 0300 West Stockbridge, CUID MA 0311  
Rates ) Leicester, CUID MA 0044 Westborough, CUID MA 0198  
) Ludlow, CUID MA 0081 Wilbraham, CUID MA 0054  
) Millbury, CUID MA 0121 Worcester, CUID MA 0018

**ORDER REJECTING COMPLIANCE FILING**

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## I. INTRODUCTION

On November 30, 2000, the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy issued a rate order concerning Charter Communications I, L.L.C.’s (“Charter” or the “Company”) proposal to establish basic service tier programming and equipment rates for the above-referenced communities. Charter Communications I, L.L.C., CHA Y-00 (Phase I) (the “Rate Order”). In the Rate Order, the Cable Division found that the equipment and installation rates being charged in the Town of Upton (“Upton”) were not calculated appropriately. Id. at 6. The Cable Division directed the Company to file data supporting its installation charges in Upton and to cease charging the home wire maintenance fee in Upton. Id. Charter also could file a rate justification for its home wire maintenance fee. Id. The Cable Division further determined that the Company had not appropriately accounted for costs associated with certain channel changes and directed the Company to either correct the current filing or adopt the adjustments on a going forward basis. Id. at 5. The Cable Division directed the Company to make its compliance filing within 30 days of the issuance of the Rate Order. Id. at 7.

On December 22, 2000, Charter filed a letter purportedly in response to our directives (“December 22 Letter,”) and filed an amended letter on January 17, 2001 (“January 17 Letter”). In addition to providing certain supporting information, Charter’s response raised a number of issues. This Order addresses these issues.

## II. ANALYSIS AND FINDINGS

In the Rate Order, the Cable Division directed Charter to submit information to justify the installation rates charged in Upton. Rate Order at 6. Charter submitted the FCC Form 1205 Installation Summary for Upton (December 22 Letter, Attachment). The Installation Summary lists the average hours per task and the hourly service charge (id.). The Company multiplied these figures to arrive at the maximum permitted rate (“MPR”) for each type of cable service installation. We find that the Company has provided sufficient information to allow the Cable Division to find that the proposed installation MPRs are reasonable and in compliance with applicable law.

However, in comparing the proposed MPRs on the Installation Summary with the rates indicated on Upton’s rate card, we find that, in certain instances, the rates shown on the rate card exceed the MPRs calculated on the Installation Summary (Compare December 22 Letter, Attachment with Exh. Charter 30, Rate Card). For example, the rate card shows a rate of \$27.95 for a “Prewired Home Install (Aerial up to 300 feet)” whereas the Installation Summary shows a MPR of \$21.48, a difference of \$6.47 (id.). Further, the rate card shows a rate of \$13.98 for an “Add[itional] Outlet/FM at Initial Install” whereas the Installation

Summary shows a MPR of \$11.98 (id.). Five other installation activities show higher rates on the Upton rate card than the MPR calculated on the Installation Summary.<sup>1</sup> The Cable Division hereby directs Charter to cease charging rates in excess of the MPRs approved herein. The Cable Division further directs Charter to refund to subscribers any amounts charged in excess of the approved installation rates. Charter shall file with the Cable Division, within 10 days of this Order, its Refund Plan, including an accounting of amounts received from installation activity performed during the review period. See Rate Order at 6.

In the Rate Order, the Cable Division also directed Charter either to cease charging a home wire maintenance fee of \$0.33 or to submit a rate justification for this charge. Rate Order at 6. Charter disputed our authority to review this fee, claiming that wire maintenance is not a regulated service (January 17 Letter). This is contrary to Charter's position in its previous rate proceeding, in which it filed an FCC Form 1205 that supported a home wiring fee of \$0.33 in its Central Massachusetts communities. That fee was approved by the Cable Division. Charter Communications Entertainment I, L.L.C., Order on Refund Plan, Y-99 INC, Y-99 EQU, at Rate Schedule (2000). The Cable Division notes that the same Central Massachusetts FCC Form 1205 was filed pursuant to 47 C.F.R. § 76.922(e)(1) in this rate proceeding and entered as an exhibit (Exh. Charter-27). Charter's argument that wire maintenance is not subject to regulation in Upton lacks merit given Charter's concession that it is subject to regulation in its other 19 Central Massachusetts rate regulated communities, especially since the fee is \$0.33 in all 20 communities (id.; Exh. Charter-30, Rate Card).

In addition to treating home wire maintenance as a regulated service in its other Central Massachusetts communities, Charter has presented no evidence that the service is treated differently in Upton. For example, Charter has not provided the Cable Division with any documentation establishing that subscribers in Upton have a choice whether or not to subscribe to the service, or that they affirmatively requested the service by name. See 47 C.F.R. § 76.981. Moreover, Charter has stated that it "will probably move to a comprehensive, optional maintenance plan," and that "a comparable regulated offering, based on Charter's Hourly Service Charge, would remain available for customers who did not elect to join the plan" (January 17 Letter, emphasis added). The Company's statement infers that a regulated offering exists currently. In reviewing the Upton rate card, the Cable Division determines that there is no other comparable regulated offering (Exh. Charter-30, Rate Card). Thus, according to the Company's own statement, we determine that the wire maintenance service currently offered in Upton is the regulated service offering.

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<sup>1</sup> These five other categories are: (1) Two Add[itional] Outlets/FM at Initial Install; (2) Three Add[itional] Outlet/FM at Initial Install; (3) Add[itional]Outlet/FM after Original Install; (4) Relocate at Initial Install; and (5) Relocate after Initial Install (Compare December 22 Letter, Attachment with Exh. Charter 30, Rate Card).

Although Charter disputed our authority to regulate Upton's home wire maintenance fee, it provided a calculation of the rate (January 17 Letter). However, the record lacks sufficient information on which we may base a finding of reasonableness of this fee. We cannot determine from the record whether the calculation includes data concerning Charter's Massachusetts franchises or its nationwide operations. Specifically, the calculation contains no information that appears in evidence in this proceeding (*id.*, Exh. Charter-30).<sup>2</sup> Therefore, the Cable Division is unable to determine whether or not the fee is reasonable. Accordingly, we cannot accept this calculation as justifying the home wire maintenance fee of \$0.33 per month in Upton. We direct Charter to file, within 10 days of this Order, a more specific calculation, using record evidence, to justify its home wire maintenance fee.

Finally, Charter states its disagreement with the Cable Division's determination regarding the appropriate ratemaking treatment of channel movements, additions or deletions (December 22 Letter). A compliance filing is not the appropriate means by which to challenge an Order of the Cable Division. Under G.L. c. 166A, § 2, 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. No such appeal was brought. Thus, the Cable Division's Order is final.

### III. ORDER

Accordingly, after review and consideration, it is

ORDERED: That the compliance filing made by Charter Communications I, L.L.C. on December 22, 2000 is hereby rejected in part and approved in part; and it is

FURTHER ORDERED: That the installation rates for Upton as calculated on the FCC Form 1205 Installation Summary are reasonable and in compliance with applicable law, and thus approved; and it is

FURTHER ORDERED: that Charter Communications I, L.L.C. immediately cease charging installation rates in the Town of Upton listed on the Town of Upton's rate card filed with the Cable Division; and it is

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<sup>2</sup> The hourly service charge of \$20.35 that Charter used in its calculation of the Upton wire maintenance fee appears on the FCC Form 1205 that Charter filed with the Cable Division on December 1, 2000 as part of its annual FCC Form 1240 filing, and was not the hourly service charge of \$22.91 that appears in the FCC Form 1205 the Company filed for Upton (January 17 Letter; Exh. Charter-30).

FURTHER ORDERED: that Charter Communications I, L.L.C. refund to subscribers in the Town of Upton any amounts charged in excess of the installation rates approved herein during the review period, and it is

FURTHER ORDERED: that Charter Communications I, L.L.C. shall file with the Cable Division, within 10 days of this Order, a more specific calculation to justify its home maintenance fees in the Town of Upton; and it is

FURTHER ORDERED: that Charter Communications I, L.L.C. shall file with the Cable Division, within 10 days of this Order, its Refund Plan, including an accounting of amounts received from installation activity performed in the Town of Upton during the review period.

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

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