



THE COMMONWEALTH OF MASSACHUSETTS

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

ORDER ON COMPLIANCE FILINGS

CTV 04-3/04-4

Petition of Comcast Cable Communications, Inc. to establish and adjust the basic service tier programming and equipment rates for the communities currently served by Comcast that are subject to rate regulation.

APPEARANCES:

Peter H. Feinberg
Associate General Counsel
Comcast Cable Communications, Inc.
1500 Market Street
Philadelphia, PA 19102
FOR: COMCAST CABLE COMMUNICATIONS, INC.
Petitioner

William H. Solomon, Esq.
319 Main Street
Stoneham, MA 02180
FOR: THE TOWNS OF ACTON, ASHBURNHAM,
BOXBOROUGH, DEERFIELD, FRANKLIN,
HUDSON, SHERBORN, STONEHAM,
SUNDERLAND, TOWNSEND, AND
WHITMAN, AND THE CITY OF ATTLEBORO
Intervenor

Gilbert Hoy, Jr.
Board of Selectmen
333 Washington Street
Brookline, MA 02445

- and -

Peter J. Epstein, Esq.
Epstein & August, LP
101 Arch Street, Suite 900
Boston, MA 02110

FOR: THE TOWN OF BROOKLINE
Intervenor

Christopher Petrini, Esq.
Town Counsel
Town of Framingham
150 Concord Street
Framingham, MA 01702

- and -

Peter J. Epstein, Esq.
Epstein & August, LP
101 Arch Street, Suite 900
Boston, MA 02110

FOR: THE TOWN OF FRAMINGHAM
Intervenor

Marlene Michonski
Board of Selectmen
Town of Hatfield
59 Main Street
Hatfield, MA 01038

FOR: THE TOWN OF HATFIELD
Intervenor

Peter J. Epstein, Esq.
Epstein & August, LP
101 Arch Street, Suite 900
Boston, MA 02110

FOR: THE CITIES OF FALL RIVER, FITCHBURG
AND MALDEN, AND THE TOWN OF NORTH
ATTLEBOROUGH
Intervenor

Jane Medeiros Friedman
City of New Bedford
Office of the City Solicitor
133 William Street
New Bedford, MA 02740
FOR: THE CITY OF NEW BEDFORD
Intervenor

The Honorable Mary Anne Clancy
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950
FOR: THE CITY OF NEWBURYPORT
Intervenor

The Honorable Michael J. Bonfanti
City of Peabody
24 Lowell Street
Peabody, MA 01960
FOR: THE CITY OF PEABODY
Intervenor

Peter J. Epstein, Esq.
Epstein & August, LP
101 Arch Street, Suite 900
Boston, MA 02110

- and -

John J. Clorite, Jr.
145 Windward Drive
Somerset, MA 02726
FOR: THE TOWN OF SOMERSET
Intervenor

William August, Esq.
Epstein & August, LP
101 Arch Street, Suite 900
Boston, MA 02110
FOR: THE TOWN OF WINCHESTER
Intervenor

On March 31, 2006, the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy issued an order granting in part and rejecting in part the Petition for Reconsideration (“Petition”) filed by Comcast Cable Communications, Inc. (“Comcast” or “the Company”). Order on Petition for Reconsideration and on Compliance Filing, CTV 04-3/04-4 (2006) (“Order”). We directed Comcast to submit a Federal Communications Commission (“FCC”) Form 1240 for Newburyport, completed in compliance with the Order. Id. at 17. We also directed Comcast to refile its FCC Form 1205, with its commission expenses and service drop installation times adjusted in compliance with the Order. Id.

In its Petition, Comcast requested that the Cable Division reconsider the methodology approved to determine the initial regulated basic service tier maximum permitted rate (“BST MPR”) for Newburyport. Id. at 3-4. Comcast argued that we should have included the true-up incorporated in the comparison communities’ rates to establish the initial Newburyport BST MPR. Id. at 4. Upon reconsideration, we agreed that Newburyport’s rate calculation should include some portion of the comparison communities’ true-up that resulted from an underestimation of the previous year’s external costs and inflation, but should not include any true-up from prior years that had been carried through the forms. Id. at 5. We determined that it would be administratively burdensome to recreate these true-up calculations for the comparable communities’ forms. Id. We noted that Comcast had determined that \$9.25 was an adequate rate to charge in Newburyport. Id. Since we had now determined that some amount of true-up could be included in the rate, we approved \$9.25 as reasonable. Id. We directed Comcast to submit an FCC Form 1205 that calculated a BST MPR of \$9.25. Id. at 6.

In compliance with the Order, Comcast filed a revised FCC Form 1240 for Newburyport on April 21, 2006, that establishes an initial BST MPR of \$9.25 for Newburyport.

In its Petition, Comcast also requested that the Cable Division reconsider two findings regarding the FCC Form 1205: (1) the exclusion of all commission costs from the FCC Form 1205 rate calculations; and (2) the application of a single method to recover drop labor costs. Id. at 6, 11. Comcast argued that the commissions were an integral component of the compensation paid to technical staff engaged in regulated activities, and hence should be included. Id. at 6. Upon reconsideration, we concluded that Comcast's compensation practices did not override the explicit language of the FCC's rule, and confirmed our original finding that the commissions must be excluded. Id. at 7-8. In the Order, we also noted that the Company had included its entire operating expenses on Schedule B, not merely its regulated expenses, as had been originally indicated on the Company's filing. Id. at 9-10. Accordingly, we directed the Company not to remove its commissions from Schedule B, but only remove them from Step A, Line 5, an adjustment that simply reduces the ratio of regulated costs to total costs. Id. at 11.

With respect to the issue of drop labor costs, Comcast reiterated its argument that these costs could be included in the equipment basket, even if the costs are also capitalized as an accounting matter. Id. at 12. The Company referenced three FCC orders and the FCC's First Order on Reconsideration which, it asserted, supported its position. Id. We declined to reconsider our findings with respect to drop labor costs, because our analysis of the three FCC orders that Comcast cited and the First Order on Reconsideration provided no support for the Company's argument. Id. at 13-16.

In compliance with the Order, Comcast filed a revised FCC Form 1205 on April 13, 2006. Comcast has made a number of adjustments on this revised form. The Company has removed all commissions from Step A, Line 5, while leaving commissions in Schedule B. The Company also removed the costs associated with the installation of the initial drop from Step A, Line 5, removed the corresponding hours from Step A, Line 6, and reduced the average time associated with the installation of the primary drop by 14 minutes at Schedule D, Line A.

We find that Comcast's Compliance Filings, consisting of the revised FCC Form 1240 for Newburyport and the revised FCC Form 1205, comply with the Order. We therefore approve the Compliance Filings.

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

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

Issued: May 3, 2006