

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

January 12, 2015

VIA OVERNIGHT DELIVERY

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

In the Matter of Time Warner Cable Inc., Appeal of Local Rate Order, filed December 29, 2014.

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 76.6(b), I have attached an original and two copies of the Opposition of the Massachusetts Department of Telecommunications and Cable to Time Warner Cable Inc.'s Appeal of Local Rate Order, filed on December 29, 2014. Please contact me directly at (617) 368-1161 if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sean M. Carroll", written over a horizontal line.

Sean M. Carroll, Hearing Officer
Legal Division

Encs.

cc: Katie Costello, Policy Division, Media Bureau, Federal Communications Commission
Seth A. Davidson, Mintz Levin Cohn Ferris Glovsky and Popeo PC
Ari Z. Moskowitz, Mintz Levin Cohn Ferris Glovsky and Popeo PC
Counsel for Time Warner Cable Inc.
John Fogarty, Vice President & Assistant Chief Counsel, Time Warner Cable Inc.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Time Warner Cable Inc.

Appeal of Local Rate Order

File No. _____

**OPPOSITION OF
THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO TIME WARNER CABLE INC.'S
APPEAL OF LOCAL RATE ORDER**

Commonwealth of Massachusetts
Department of Telecommunications and Cable

KAREN CHARLES PETERSON,
COMMISSIONER

1000 Washington Street, Suite 820
Boston, MA 02118-6500
(617) 305-3580

Dated: January 12, 2015

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I. INTRODUCTION AND SUMMARY

The Federal Communications Commission ("FCC") should deny Time Warner Cable Inc.'s Appeal of Local Rate Order ("Appeal") filed on December 29, 2014. The Massachusetts Department of Telecommunications and Cable ("MDTC") files this Opposition to the Appeal pursuant to section 76.944 of the FCC's rules and in its capacity as franchising authority in the Commonwealth of Massachusetts.¹

In its Appeal, Time Warner Cable Inc. ("Time Warner" or "Company") inappropriately introduces new information never proffered in its rate case, but fails to address the actual issue on appeal: whether there was a reasonable basis for the MDTC's conclusions in the Rate Order. That the MDTC acted reasonably in rejecting Time Warner's proposed installation and

¹ The MDTC "is the certified 'franchising authority' for regulating basic service tier rates and associated equipment costs in Massachusetts." 207 C.M.R. § 6.02; *see also* MASS. GEN. LAWS ch. 166A, §§ 2A, 15 (establishing the MDTC's authority to regulate cable rates). Also, the MDTC regulates telecommunications and cable services within the Commonwealth of Massachusetts and represents the Commonwealth before the FCC. MASS. GEN. LAWS ch. 25C, § 1; ch. 166A, § 16.

equipment rates pursuant to FCC rules and because of the paucity of relevant information provided by the Company is clear from the MDTC's Rate Order and is explained in further detail below. Accordingly, the FCC should deny the Appeal.

II. BACKGROUND

The MDTC rejected Time Warner's proposed installation and equipment rates for the Company's basic service tier because Time Warner failed to show that its FCC Form 1205 and proposed rates therein complied with FCC rules.² Specifically, the MDTC found that Time Warner did not carry its burden of demonstrating that: (1) its proposed increase in its hourly service charge complied with FCC rules; (2) the Navigator is not equipment used to receive the basic service tier, and, in turn, the Company did not attempt to show that its proposed charge for the Navigator was reasonable; and (3) its proposed Additional Outlet (A/O) Service Fee complied with FCC rules.³ Accordingly, the MDTC found that Time Warner was in default, and using the best information available, found the aforementioned proposed charges to be unreasonable, prescribed an hourly service charge for Time Warner, and prescribed a rate of zero for the Navigator and Time Warner's additional outlets.⁴ The MDTC directed Time Warner to file a refund plan in accordance with the Rate Order.⁵ As discussed below, there was a reasonable basis for the MDTC's conclusions in the Rate Order.

² Time Warner Exh. 1 ("Rate Order"). The MDTC cites to Time Warner's exhibits where appropriate.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

III. STANDARD OF REVIEW

In reviewing a cable operator's appeal of a franchising authority's local rate order, the FCC does not conduct a de novo review, and will sustain the franchising authority's decision as long as there is a reasonable basis for the decision.⁶ Indeed, Congress intended to leave franchising authorities a "certain amount of latitude" in this realm, and the FCC may reverse a franchising authority's decision only if the franchising authority unreasonably applied FCC rules.⁷

IV. THE MDTC'S CONCLUSIONS WERE REASONABLE

As noted above, the sole issue before the FCC in Time Warner's Appeal is whether there was a reasonable basis for the MDTC's conclusions in the Rate Order.⁸ The MDTC explained its conclusions and the reasoning behind them in detail in its Rate Order. Given the FCC's rules and the lack of information presented by Time Warner in the rate case, the MDTC had a reasonable basis to conclude that Time Warner failed to demonstrate that its proposed hourly service charge, proposed Navigator charge, and proposed Additional Outlet (A/O) Service Fee complied with FCC rules.

A. Time Warner's Proposed Hourly Service Charge

Based on the information provided by Time Warner in its rate case, the MDTC reasonably concluded that Time Warner failed to demonstrate that its proposed hourly service

⁶ *In re Implementation of Sections of the Cable Television Consumer Prot. & Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, 5731, *Report & Order & Further Notice of Proposed Rulemaking* (1993) ("FCC Rate Order"); see also *In re Implementation of Sections of the Cable Television Consumer Prot. & Competition Act of 1992: Rate Regulation Buy Through Prohibition*, 9 FCC Rcd 4316, 4346, *Third Order on Reconsideration* (1994) ("FCC Third Rate Order").

⁷ *FCC Third Rate Order*, 9 FCC Rcd at 4346; *FCC Rate Order*, 8 FCC Rcd at 5731.

⁸ *FCC Third Rate Order*, 9 FCC Rcd at 4346; *FCC Rate Order*, 8 FCC Rcd at 5731.

charge complied with FCC rules.⁹ Specifically, it was reasonable for the MDTC to conclude that Time Warner failed to comply with the MDTC's requests for relevant information, and that the information that Time Warner provided was insufficient for the MDTC to approve the proposed increase, particularly with respect to the MDTC's concern that the increase was the result of a double recovery.¹⁰

The MDTC had a reasonable basis to conclude that Time Warner failed to demonstrate that it was not attempting double recovery by assigning costs to its equipment basket that were already included in its program service rates because they were not unbundled pursuant to the *FCC Rate Order*.¹¹ According to the FCC, a cable operator could alleviate such double recovery concerns by supplying "copies of its financial records showing that it had previously unbundled the costs in question."¹² Time Warner did not provide such documentation to the MDTC, despite the MDTC's requests for "some form of detailed numerical analysis, cost analysis."¹³ Time Warner's excuse that it has purchased and sold a number of cable systems and its claim that it does not have sufficient records to prove that unbundling occurred are untenable.¹⁴ The FCC has found a cable operator's "appeal to the passage of time" unconvincing, stating that "[i]t is not unreasonable to expect [a cable operator] to have preserved records that would satisfy a franchising authority that double recovery will not occur, or to require that cable systems [the

⁹ See 47 C.F.R. § 76.937(a).

¹⁰ See Rate Order at 8-16.

¹¹ See, e.g., *In re TCI Cablevision of St. Louis, Inc.*, 12 FCC Rcd 15287, 15296-97, *Memorandum Opinion & Order* (CSB 1997); Rate Order at 9; Time Warner Exh. 5 at 26-28.

¹² *In re Comcast of Dallas, L.P.*, 20 FCC Rcd 5892, 5896, *Order* (MB 2005).

¹³ Rate Order 11 (quoting Time Warner Exh. 5 at 29).

¹⁴ See Appeal at 7-8.

cable operator] acquired have such records.”¹⁵ Nevertheless, Time Warner curiously argues that while the FCC requires cable operators to show that newly included costs were previously unbundled, the Company should not have to make that showing here.¹⁶ The absurdity of Time Warner’s plea that the rules not apply to it notwithstanding, this is not the proper forum for the Company’s argument for a change in well-established FCC precedent. The question before the FCC is whether the MDTC had a reasonable basis to conclude that Time Warner failed to show that there was no double recovery.¹⁷ The MDTC submits that well-established and directly applicable FCC precedent is a reasonable basis for its rejection of Time Warner’s proposed hourly service charge.¹⁸

The balance of Time Warner’s Appeal as to its proposed hourly service charge is a restatement of the record in the rate case without application of legal authority or any persuasive explanation as to why the MDTC’s conclusions were unreasonable.¹⁹ As the MDTC explained throughout its Rate Order, it requested that Time Warner provide actual dollar amounts of the Company’s claimed added costs that would allow the MDTC to confirm that the proposed hourly

¹⁵ *Dallas*, 20 FCC Rcd at 5896.

¹⁶ Appeal at 8 (acknowledging that the FCC “has required cable operators to establish that their current Form 1205 calculations reflect the cost-unbundling required when regulated equipment and service rates were first calculated”). Moreover, Time Warner’s claims that certain generic cost categories “did not exist when cable operators first ‘unbundled’ their equipment related costs and expenses” were not raised in the record below and thus are irrelevant to the FCC’s review on appeal. *Id.* at 7; see *In re Falcon First Commc’ns, L.P.*, 15 FCC Rcd 17059, 17060, *Memorandum Opinion & Order* (2000).

¹⁷ See *FCC Rate Order*, 8 FCC Rcd 5631, 5731.

¹⁸ See Appeal at 8 (acknowledging the FCC’s requirement that cable operators demonstrate that claimed costs were unbundled); *In re Comcast Cable Commc’ns, LLC (North Metro)*, 29 FCC Rcd 2885, 2890, *Order* (MB 2014) (finding that the franchising authority’s reliance on the FCC’s rules was reasonable).

¹⁹ See Appeal at 5-8.

service charge complied with FCC rules.²⁰ Time Warner did not do so, but chose instead to describe its accounting methodology in narrative form with only general descriptions of newly added cost categories.²¹ In its Appeal, Time Warner argues that it was sufficient to simply describe the change in methodology and the fact that it resulted from a change in the Company's accounting practices.²² The FCC is explicit that when such a change occurs, however, responses like Time Warner's are inadequate:

Changing accounting practices when changing to company-wide cost aggregation necessarily involves some burden, but this does not relieve an operator of either the requirement in the statute and the Commission's rules that rates be based on the company's actual cost experience, or the requirement in 47 C.F.R. § 76.923(c)(1) that the operator provide a justification that its averaging methodology produces reasonable rates, in accordance with the Commission's rules and rate forms. Merely arguing that a company has changed its accounting methods or cost classification policy does not meet the operator's burden or establish that the methodology produced reasonable results²³

Finally, Time Warner's claim that the Company "responded fully . . . to each of the DTC's inquiries" is incorrect.²⁴ Indeed, Time Warner acknowledges in its Appeal that it did not provide a sample Form 1205 that the MDTC requested.²⁵ This violated the FCC's rule that a cable operator "shall comply with franchising authorities' . . . requests for information, orders,

²⁰ Rate Order at 10, 11-12, 14, 15. As noted in the Rate Order, the MDTC tried to verify independently Time Warner's claim that certain purportedly recoverable costs had dropped off in recent years, but was not able to do so. *See id.* at 14 & n.8.

²¹ *See id.* at 10-15.

²² Appeal at 5-6.

²³ *In re TCI Cablevision of Or., Inc.*, 14 FCC Rcd 17685, 17688, *Memorandum Opinion & Order* (CSB 1999) (denying the cable operator's appeal on this issue); *see also In re TCI Cablevision of Nev., Inc.*, 14 FCC Rcd 14378, 14385, *Consolidated Order* (CSB 1996) ("A result of changes in [a cable operator's] policy for cost classification, however, is not a sufficient justification to include the costs on Form 1205.").

²⁴ Appeal at 5.

²⁵ *Id.* at 7-8; *see also* Rate Order at 10-12.

and decisions.”²⁶ The MDTC’s request for a Form 1205 with the current year’s costs and the previous year’s methodology was straightforward and was the most direct way for Time Warner to demonstrate that its proposed increase was reasonable.²⁷ As the MDTC stated in the Rate Order, the requested Form 1205 would have allowed the MDTC to “isolate[] the effect the change in methodology has on the proposed rates and thus . . . determine the reasonableness of the proposed rates under the new methodology.”²⁸ Simply put, the MDTC needed relevant information in order to approve the Company’s proposed hourly service charge and was unable to get the needed information despite repeated requests.²⁹ The MDTC also afforded Time Warner the opportunity to provide other information in place of the requested Form 1205, which Time Warner also chose to not provide.³⁰ Thus, it was reasonable for the MDTC to conclude that Time Warner violated FCC rules by failing to comply with the MDTC’s requests for information.³¹

²⁶ 47 C.F.R. § 76.939. Indeed, “[a]n operator failing to comply with a reasonable data request in a timely fashion or failing to provide complete information in good faith does so at the risk of being found in default and having a rate prescribed on the basis of the best information available to the franchising authority.” *In re Comcast Cablevision of Detroit, Inc.*, 15 FCC Rcd 24022, 24023, *Memorandum Opinion & Order* (CSB 2000).

²⁷ For example, the MDTC received similar Forms 1205 from two cable operators in recent years and was therefore able to approve their Forms 1205. *Petition of Comcast Cable Commc’ns, LLC to establish & adjust the basic serv. tier programming, equip., & installation rates for the cntys. in Mass. served by Comcast Cable Commc’ns, LLC that are currently subject to rate regulation*, D.T.C. 13-5, Record Request RR-1 (Nov. 14, 2013) (providing a Form 1205 from the prior year in a MDTC-requested format, in addition to the format that the cable operator used nationally, and thus allowing the MDTC to compare the Form 1205 under review to the similarly formatted Form 1205 from the prior year); *Petition of CoxCom, Inc. d/b/a Cox Commc’ns to establish & adjust the basic serv. tier programming, equip., & installation rates for the Town of Holland*, D.T.C. 12-1, Information Request D.T.C. 1-5 (Oct. 18, 2012) (providing two sample Forms 1205 requested by the MDTC when CoxCom, Inc. changed its Form 1205 methodology).

²⁸ Rate Order at 11. For a full explanation of the MDTC’s request and the reasoning behind it, see *id.* at 10-12.

²⁹ See *id.* at 8-16.

³⁰ *Id.* at 13 & n.7.

³¹ See 47 C.F.R. § 76.939.

Thus, despite the MDTC's repeated attempts to obtain the information needed to approve Time Warner's proposed hourly service charge increase, there were in the end multiple grounds on which the MDTC reasonably concluded Time Warner failed to demonstrate that its proposed hourly service charge complied with FCC rules. Accordingly, the Rate Order should be affirmed.

B. Time Warner's Navigator

There was a reasonable basis for the MDTC's conclusion that Time Warner did not demonstrate that the Navigator is not regulated equipment. Time Warner had the burden of proving that its proposed equipment rates complied with FCC rules.³² In turn, as regulated equipment consists of "all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service tier," Time Warner had the burden of proving that the Navigator was not used to receive the basic service tier.³³ Based on the record, the MDTC could not conclude that Time Warner carried this burden.

Time Warner states that "non-BST services are unregulated even where they are provided by means of a regulated device."³⁴ The Company, however, failed to demonstrate during the rate case that the Navigator is a non-basic service tier service.³⁵ Time Warner repeatedly argues that subscribers are able to view the basic service tier without a Navigator-enabled box.³⁶ This

³² See *id.* § 76.937(a).

³³ *Id.* §§ 76.923(a)(1), 76.937(a).

³⁴ Appeal at 10-11 (citing *In re Comcast Cable Commc'ns, LLC (North Metro)*, 29 FCC Rcd 2885, Order (MB 2014)).

³⁵ See Rate Order at 22-25.

³⁶ Appeal at 9-10, 12, 13, 14 (arguing that the Navigator is not received by all subscribers; that subscribers can view the basic service tier by using a DTA, a cable-ready television, or a third party device such as TiVo; that the Navigator is "not a required part" of the basic service tier; and that the Navigator is "optional

statement is irrelevant to the MDTC's inquiry in the rate case.³⁷ Under FCC rules, regulated equipment consists of "all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service tier."³⁸ Thus, the MDTC's inquiry was whether Time Warner subscribers use the Navigator to receive the basic service tier.³⁹ The MDTC's holding in the rate case was that the Navigator is "used to receive the basic service tier."⁴⁰ Stated another way, the MDTC's holding was that a subscriber who uses a Navigator-enabled set top box cannot receive the basic service tier without using the Navigator.⁴¹ Time Warner does not state—either in the rate case or in this Appeal—that a subscriber who uses a Navigator-enabled set top box can receive the basic service tier without using the Navigator.⁴² Without such a declaration, the MDTC had no choice but to come to the reasonable conclusion that Time Warner did not carry its burden.⁴³

for basic service tier customers"). Time Warner never mentioned cable-ready television sets or TiVo (or the Navigator's "suite of music channels") in the record below.

³⁷ To analogize, a subscriber can view the basic service tier without an additional outlet, but that does not mean that an additional outlet is not regulated equipment when a fee for it is charged to basic service tier subscribers. *See Comcast (North Metro)*, 29 FCC Rcd at 2890; *infra* section IV.C.

³⁸ 47 C.F.R. § 76.923(a)(1).

³⁹ *See id.*

⁴⁰ *Id.*; Rate Order at 22.

⁴¹ Rate Order at 22.

⁴² In fact, as noted in the Rate Order, Time Warner said the opposite at the evidentiary hearing. *See id.* at 23 (quoting Time Warner Exh. 5 (testifying that the Navigator "goes with every box because every box . . . has to have a Navigator attached to it to use it.")).

⁴³ Time Warner also attempts to compare the Navigator to DVR service on a DVR-enabled box, arguing that a DVR is unregulated and claiming that the "exact same reasoning is applicable to the Navigator." Appeal at 15. Time Warner simply has not demonstrated that this is an apt comparison. Subscribers with a DVR-enabled box can view the basic service tier without using the DVR service; on the contrary, Time Warner did not demonstrate that subscribers with a Navigator-enabled box can view the basic service tier without using the Navigator.

Time Warner plays a game of semantics in its Appeal rather than focusing on the application of the FCC's rules and precedent to the MDTC's conclusions, namely that there was a reasonable basis for the MDTC's conclusion that Time Warner failed to demonstrate that the Navigator is not used to receive the basic service tier.⁴⁴

C. Time Warner's Proposed Additional Outlet (A/O) Service Fee

Similarly, Time Warner failed to demonstrate that there was not a reasonable basis for the MDTC's conclusions regarding the Company's Additional Outlet (A/O) Service Fee. Time Warner was unresponsive to the MDTC's requests for information regarding its proposed Additional Outlet (A/O) Service Fee.⁴⁵ Accordingly, under authority granted by the FCC, the MDTC used the best information available and prescribed a rate for Time Warner's additional outlets.⁴⁶

As explained above and in the Rate Order, a cable operator "shall comply with franchising authorities' . . . requests for information, orders, and decisions" and "[a]n operator failing to comply with a reasonable data request in a timely fashion or failing to provide complete information in good faith does so at the risk of being found in default and having a rate prescribed on the basis of the best information available to the franchising authority."⁴⁷ The MDTC's request to Time Warner as to its proposed Additional Outlet (A/O) Service Fee was

⁴⁴ See *id.* at 12-14; 47 C.F.R. §§ 76.923(a)(1), 76.937(a). And, because the Navigator charge is assessed to all subscribers, including basic-only subscribers, it is regulated equipment and subject to the MDTC's jurisdiction. See *In re Comcast Cable Commc'ns, LLC (North Metro)*, 29 FCC Rcd 2885, 2890, Order (MB 2014); 47 C.F.R. § 76.923(a)(1).

⁴⁵ Time Warner Exh. 4B at 7 ("Time Warner Cable is still researching information in order to respond to this additional request for information. We hope to be able to provide the response shortly."); Appeal at 17 (acknowledging that Time Warner did not respond).

⁴⁶ Rate Order at 19-21; see 47 C.F.R. §§ 76.937(d), 76.941.

⁴⁷ *In re Comcast Cablevision of Detroit, Inc.*, 15 FCC Rcd 24022, 24023, Memorandum Opinion & Order (CSB 2000); 47 C.F.R. § 76.939.

simple: “state whether basic service tier subscribers are charged this fee.”⁴⁸ Despite Time Warner’s plea that it “should not be penalized” for failing to respond, the question was directly relevant to the MDTC’s inquiry.⁴⁹

To determine whether Time Warner’s proposed Additional Outlet (A/O) Service Fee is regulated, the MDTC needed to know which Time Warner subscribers are assessed the fee.⁵⁰ If the fee is not assessed to basic-only subscribers, it would not be subject to MDTC jurisdiction.⁵¹ However, if the fee is assessed to all subscribers, including basic-only subscribers, it is subject to the MDTC’s purview because it is equipment used to receive the basic service tier, even if it is also used to receive unregulated services.⁵² The question of whether basic service tier subscribers are charged the Additional Outlet (A/O) Service Fee was thus directly relevant to the MDTC’s inquiry. Indeed, Time Warner’s reliance on the MDTC’s Rate Order in D.T.C. Docket 12-2 is unavailing as the MDTC made clear in that proceeding that Comcast did not assess the fees in question to basic-only subscribers.⁵³

⁴⁸ Time Warner Exh. 4A at 2. The MDTC also asked two additional questions regarding the proposed the Additional Outlet (A/O) Service Fee, but if Time Warner had responded to the first question in the negative, the other questions would have been moot. *See id.*; *infra* p. 11-12.

⁴⁹ Appeal at 17 (arguing that the request was irrelevant to the MDTC’s inquiry).

⁵⁰ This information is not in Time Warner’s rate cards where the fee is delineated. A copy of the rates cards for the relevant municipalities is attached as Exhibit A.

⁵¹ *See In re Comcast of Dallas, L.P.*, 20 FCC Rcd 5892, 5894, *Order* (MB 2005).

⁵² *See In re Comcast Cable Commc’ns, LLC (North Metro)*, 29 FCC Rcd 2885, 2890, *Order* (MB 2014); 47 C.F.R. § 76.923(a)(1).

⁵³ *Petition of Comcast Cable Commc’ns, LLC to Establish & Adjust the Basic Serv. Tier Programming, Equip., & Installation Rates for Cmtys. in Mass. Served by Comcast Cable Commc’ns, LLC that are Currently Subject to Rate Regulation*, D.T.C. 12-2, *Rate Order* at 16 (Jan. 30, 2013) (concluding that because Comcast did not assess additional fees like the HD Technology Fee or the *HD Additional Outlet Service Fee* to basic-only subscribers, the fees were not subject to MDTC jurisdiction); *see also* Appeal at 17.

Given that the question of whether or not Time Warner assessed its basic service tier subscribers with its Additional Outlet (A/O) Service Fee was relevant to the MDTC's inquiry, Time Warner's failure to respond constituted a reasonable basis for the MDTC to find Time Warner in default and prescribe a rate based on the best information available.⁵⁴

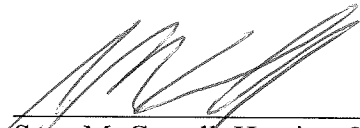
V. CONCLUSION

The MDTC requested relevant information from Time Warner in the rate case needed to ensure compliance with FCC rules and approve Time Warner's proposed charges. Time Warner did not provide the MDTC with the requested information, and did not provide information sufficient to carry the Company's burden. Accordingly, there was a reasonable basis for each of the MDTC's conclusions in the Rate Order and the FCC should deny the Appeal.

Respectfully submitted,

KAREN CHARLES PETERSON,
COMMISSIONER

By:


Sean M. Carroll, Hearing Officer

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Telecommunications and Cable
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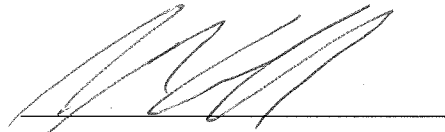
January 12, 2015

⁵⁴ Even if it turns out that Time Warner does not charge its Additional Outlet (A/O) Service Fee to its basic-only subscribers, given the information that the MDTC had at the time of the Rate Order, or lack thereof, it was reasonable for the MDTC to conclude as it did. *See In re Falcon First Commc'ns, L.P.*, 15 FCC Rcd 17059, 17060, *Memorandum Opinion & Order* (2000).

CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

I have read the foregoing Opposition, and, to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and it is not interposed for any improper purpose.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sean M. Carroll', is written over a horizontal line.

Sean M. Carroll

Commonwealth of Massachusetts
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
(617) 305-3580

January 12, 2015

Exhibit A

By subscribing to these services, customer agrees to be bound by the terms of TWC's Subscriber Agreement which can be found at http://help.twcable.com/html/twc_sub_agreement.html. Time Warner Cable leases CableCARDs[®] for \$2.50 per month per CableCARD[®], for use in customer-owned retail CableCARD[®]-compatible devices. Our leased digital converters also include either a CableCARD[®] or integrated security inside the device. Our lease rate for digital converters that contain a CableCARD[®] includes a \$2.50 imputed charge for the CableCARD[®]. If you lease a CableCARD[®] in lieu of such a digital converter, we now offer a prospective monthly credit to reflect the difference between the standard lease rates of digital converters and CableCARDs[®]. Please contact us by filling out the form available via the following link if you believe you may be eligible for or would like more information regarding this credit: <http://www.twc.com/CableCARD>.

For customers receiving service through commercial accounts or bulk arrangements, some products, pricing and other information contained herein may not apply. Please refer to the terms and conditions of the separate agreement. Where terms are inconsistent with information in the Service Rates, the terms and conditions of the separate agreement will apply.

Some restrictions apply. Starter TV service must be purchased to subscribe to any other optional video service or tier services. Pricing, programming and packaging subject to change without notice. Service prices shown are monthly and do not include sales tax, installation fees, franchise fees and FCC user fees. Not all equipment supports all services. All services may not be available in all areas. Subject to change without notice. Additional charges apply for installation, equipment, surcharges, applicable taxes and fees. ©2014 Time Warner Cable Enterprises L.L.C. All Rights Reserved. Time Warner Cable and the eye/ear logo are trademarks of Time Warner Inc. Used under license. All other trademarks are property of their respective owners.



LEE, LENOX, STOCKBRIDGE

For TWC store locations, please visit twc.com/stores

TV SERVICES AND PACKAGES

Starter TV ¹	\$ 12.31
Essential TV ²	\$ 49.99
(Includes Starter TV and selection of 40+ cable networks)	
Standard TV	\$ 76.99
(Includes Starter TV)	
Preferred TV ³	\$ 86.99
(Includes Starter TV, Standard TV, Variety Pass)	
Variety Pass	\$ 10.00
HD Pass	\$ 4.95
TWC Sports Pass	\$ 8.99
TWC Movie Pass	\$ 5.99
TV en Español	\$ 4.95
Preferred TV en Español	\$ 86.99
(Includes Starter TV, Standard TV, TV en Español)	
Broadcast TV Fee	\$ 2.25

¹ Subscription to Starter TV is required for all TV Packages. Starter TV-only customers requiring equipment to view certain channels may obtain it for that purpose at no charge.

² Cannot be combined with any other tiers. Restricted to Standard Definition on non-DVR equipment only. Other restrictions apply.

³ Viewing on certain television sets may require additional equipment that can be provided by Time Warner Cable or that may be available for purchase from retail stores in certain locations.

PREMIUM SERVICES

HBO [®]	\$ 15.95
Showtime [®] & The Movie Channel [™]	\$ 15.95
STARZ [®]	\$ 15.95
Cinemax [®]	\$ 15.95

ADULT PREMIUM SERVICES

Playboy TV	\$ 12.95
Penthouse	\$ 12.95
Hustler	\$ 12.95
TEN	\$ 12.95
REAL	\$ 12.95
Manhandle	\$ 12.95
Adult 3-Pack	\$ 24.95



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Filipino (Filipino Pass Plus - Filipino On Demand, GMA Life, GMA Pinoy, GMA DWLS Radio, GMA DZBB Radio & TFC)	\$ 24.99
French (TV5 Monde)	\$ 9.99
German (DW Amerika)	\$ 9.99
Hindi (Hindi Star Pass - Star Plus, Star Gold, Life OK & APB News)	\$ 19.99
(Hindi Pass - Star Plus, Sony & Zee TV)	\$ 24.99
(Hindi Pass Plus - Star Plus, Sony, Zee TV, Life OK, Willow, TV Asia, NDTV 24/7 & ITV Golo)	\$ 39.99
(Hindi Passport - Star Plus, Sony, Zee TV, Life OK, Willow, TV Asia, NDTV 24/7, Star Gold, Filmy, UTV Movies, ITV Gold & Bollywood On Demand)	\$ 69.99
Italian (Rai Italia)	\$ 9.99
Japanese (TV Japan)	\$ 24.99
Mandarin (CCTV-4 & CTI Zhong Tian)	\$ 9.95
(Mandarin Language Pack - CCTV-4, CTI Zhong Tian, Phoenix InfoNews & Phoenix North America)	\$ 19.99
Polish (TV Polonia & Polskie Radio)	\$ 19.99
Russian (Russian Language Pack - CIR, RTN, RTVI & TV1000 Russian Kino)	\$ 25.99
Vietnamese (Vietnamese Pass - SBTN & TVBw)	\$ 19.99

SEASONAL SPORTS SERVICES

ESPN Full Court, ESPN GamePlan, MLB Extra Innings, MLS Direct Kick, NBA League Pass, NHL Center Ice	Varies
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ON DEMAND & PAY-PER-VIEW

On Demand (New Releases & Classic Movies, Adult & Special Events)	Varies
Pay-Per-View (Special Events, Adult Blocks)	Varies
Disney On Demand	\$ 3.99
Disney Family Movies On Demand	\$ 4.99
Here TV On Demand	\$ 15.95

INTERNET

Standard Internet	\$ 57.99
Basic Internet	\$ 47.99
Everyday Low Price Internet	\$ 14.99
Turbo Upgrade ¹	\$ 10.00
Extreme Upgrade ¹	\$ 20.00
Ultimate Upgrade ¹	\$ 50.00
Home WiFi	\$ 10.00
Music To-Go	\$ 14.95
Music Pack	\$ 9.95
Variety Pack	\$ 7.95
FunWays	\$ 4.95

¹ Turbo, Extreme or Ultimate Upgrade can be added to Standard Internet.

HOME PHONE

Home Phone National	\$ 49.99
Second Line Option ⁵	\$ 29.99
International OnePrice ⁶ Plan ⁶ (additional)	\$ 19.99
Global Penny Phone Plan (additional)	\$ 2.95
Voicemail Service (per phone number)	\$ 3.95
Private Listing (per phone number)	\$ 4.99

⁵ Requires primary Home Phone line.

⁶ Subscription to Home Phone with TV and/or Internet is required.

EQUIPMENT & EXTRAS

Digital, HD, DVR or HD-DVR Set-Top Box Package (Includes Set-Top Box and Remote)	\$ 10.25
Digital, HD, DVR or HD-DVR Set-Top A/O Package (Includes Set-Top Box, Remote and Additional Outlet Service Fee)	\$ 11.75
DVR Service Fee (per DVR)	\$ 12.95
Whole House DVR Service Fee (per WH-DVR)	\$ 19.95
CableCARD TM (each)	\$ 2.50
Digital Adapter	\$ 1.50
Additional Outlet (A/O) Service Fee (For 2nd and each additional Set-Top Box or CableCARD TM)	\$ 1.50
Internet Modem Lease	\$ 5.99

INSTALLATION

Video Installation, Primary Outlet (Unwired or prewired)	\$ 47.99
Internet Installation	\$ 47.99
Home Phone Installation	\$ 47.99
Additional Outlet at Time of Installation	\$ 24.99
WH-DVR Installation	\$ 49.99
Home WiFi Installation (per device)	\$ 49.99
Easy Connect Rescue Fee	\$ 29.99
Easy Connect Shipping Charge	\$ 9.99
Trip Charge ⁷	\$ 39.99
Custom Work Hourly Service Charge	\$ 37.62

⁷ Applicable when adding and/or relocating outlet, upgrading and/or downgrading services and picking up equipment. Applicable if technician determines that the problem is not related to Time Warner Cable's service or equipment. This charge may be waived if the customer subscribes to the Time Warner Cable Service Protection Plan.

OTHER SERVICE CHARGES

Agent Assisted Payment	\$ 5.00
Collections Trip Fee	\$ 9.95
COD (Payment Collected at Time of Installation)	\$ 9.95
Equipment Pick Up	\$ 39.99
Service Reconnection	\$ 29.99
Service Restore Fee	\$ 5.95
Telephone Activation	\$ 19.99
Telephone Number Transfer Charge ⁸	\$ 19.99
Upgrade/Downgrade	\$ 39.99

⁸ Home Phone customers transferring existing phone numbers are subject to a one-time \$19.99 telephone number transfer charge and subject to current provider's ability to release the telephone number.

UNRETURNED/LOST/DAMAGED EQUIPMENT

CableCARD TM	\$ 50.00
Digital Set-Top Box	\$ 175.00
HD Set-Top Box	\$ 175.00
HD-DVR	\$ 250.00
Modem	\$ 75.00
MR-DVR	\$ 300.00
MTA	\$ 75.00
Tuning Adapter	\$ 50-75.00
Wireless Modem	\$ 100.00
Wireless MTA	\$ 125.00

By subscribing to these services, customer agrees to be bound by the terms of TWC's Subscriber Agreement which can be found at http://help.twcable.com/nim/twc_sub_agreement.html. Time Warner Cable leases CableCARDs™ for \$2.50 per month, per CableCARD™, for use in customer-owned retail CableCARD™-compatible devices. Our leased digital converters also include either a CableCARD™ or integrated security inside the device. Our lease rate for digital converters that contain a CableCARD™ includes a \$2.50 imputed charge for the CableCARD™. If you lease a CableCARD™ in lieu of such a digital converter, we now offer a prospective monthly credit to reflect the difference between the standard lease rates of digital converters and CableCARDs™. Please contact us by filling out the form available via the following link if you believe you may be eligible for or would like more information regarding this credit: <http://www.twc.com/CableCARD>.

For customers receiving service through commercial accounts or bulk arrangements, some products, pricing and other information contained herein may not apply. Please refer to the terms and conditions of the separate agreement. Where terms are inconsistent with information in the Service Rates, the terms and conditions of the separate agreement will apply.

Some restrictions apply. Starter TV service must be purchased to subscribe to any other optional video service or tier services. Pricing, programming and packaging subject to change without notice. Service prices shown are monthly and do not include sales tax, installation fees, franchise fees and FCC user fees. Not all equipment supports all services. All services may not be available in all areas. Subject to change without notice. Additional charges apply for installation, equipment, surcharges, applicable taxes and fees. ©2014 Time Warner Cable Enterprises LLC. All Rights Reserved. Time Warner Cable and the eye/logo are trademarks of Time Warner Inc. Used under license. All other trademarks are property of their respective owners.



PITTSFIELD, DALTON, RICHMOND, ALBANY, MENANDS, WATERVLIET, GUILDERLAND, COLONIE, GREEN ISLAND, WATERVLIET ARSENAL, ALTAMONT, SUNY ALBANY, NORTHVILLE, EDINBURG, DAY, MOREAU, QUEENSBURY, ARGYLE, GRANVILLE, ADAMS, CHESIRE, CLARKSBURG, N. ADAMS, WILLIAMSTOWN

For TWC store locations, please visit twc.com/stores

TV SERVICES AND PACKAGES

Starter TV ¹	\$ 12.79
Essential TV ²	\$ 49.99
(Includes Starter TV and selection of 40+ cable networks)	
Standard TV	\$ 76.99
(Includes Starter TV)	
Preferred TV ³	\$ 86.99
(Includes Starter TV, Standard TV, Variety Pass)	
Variety Pass	\$ 10.00
HD Pass	\$ 4.95
TWC Sports Pass	\$ 8.99
TWC Movie Pass	\$ 5.99
TV en Español	\$ 4.95
Preferred TV en Español	\$ 86.99
(Includes Starter TV, Standard TV, TV en Español)	
Broadcast TV Fee	\$ 2.25

¹ Subscription to Starter TV is required for all TV Packages. Starter TV-only customers requiring equipment to view certain channels may obtain it for that purpose at no charge.

² Cannot be combined with any other tiers. Restricted to Standard Definition non-DVR equipment only. Other restrictions apply.

³ Viewing on certain television sets may require additional equipment that can be provided by Time Warner Cable or that may be available for purchase from retail stores in certain locations.

PREMIUM SERVICES

HBO ³	\$ 15.95
Showtime ² & The Movie Channel™	\$ 15.95
STARZ ²	\$ 15.95
Cinemax ²	\$ 15.95

ADULT PREMIUM SERVICES

Playboy TV	\$ 12.95
Penthouse	\$ 12.95
Hustler	\$ 12.95
TEN	\$ 12.95
REAL	\$ 12.95
Manhandle	\$ 12.95
Adult 3-Pack	\$ 24.95



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INTERNATIONAL PREMIUMS

Arabic (ART)	\$ 12.99
Cantonese (TVB Jade World - TVB1, TVB2, TVB6, TVB5 & CCTV4)	\$ 39.99
Filipino (Filipino Pass Plus - Filipino On Demand, GMA Life, GMA Pinoy, GMA DWLS Radio, GMA DZBB Radio & TFC)	\$ 24.99
French (TV5 Moncler)	\$ 9.99
German (DW Amerika)	\$ 9.99
Hindi (Hindi Star Pass - Star Plus, Star Gold, Life OK & APB News)	\$ 19.99
(Hindi Pass - Star Plus, Sony & Zee TV)	\$ 24.99
(Hindi Pass Plus - Star Plus, Sony, Zee TV, Life OK, Willow, TV Asia, NDTV 24/7 & ITV Gold)	\$ 39.99
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MR-DVR	\$ 300.00
MTA	\$ 75.00
Tuning Adapter	\$ 50 - 75.00
Wireless Modem	\$ 100.00
Wireless MTA	\$ 125.00

CERTIFICATE OF SERVICE

I, Sara Clark, do hereby certify on this 12th day of January, 2015, that a true and correct copy of the foregoing Opposition to Time Warner Cable Inc.'s Appeal of Local Rate Order has been sent via U.S. mail, postage prepaid, to the following:

Katie Costello
Federal Communications Commission
Media Bureau, Policy Division
445 12th Street, S.W.
Washington, DC 20554

Seth A. Davidson
Mintz Levin Cohn Ferris Glovsky and Popeo PC
701 Pennsylvania Avenue, NW
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Sara Clark

Sara Clark