



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 08-8

October 15, 2009

Petition of Cox Com, Inc. d/b/a Cox Communications New England to establish and adjust the basic service tier programming, equipment, and installation rates for the Town of Holland

RATE ORDER

APPEARANCE:

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FOR: COX COM, INC. d/b/a COX COMMUNICATIONS
NEW ENGLAND
Petitioner

I. INTRODUCTION AND PROCEDURAL HISTORY

On November 27, 2008, Cox Com, Inc. d/b/a Cox Communications New England (“Cox”) filed with the Department of Telecommunications and Cable (“Department”)¹ a Federal Communications Commission (“FCC”) Form 1240 that proposed an increase in its monthly programming basic service tier (“BST”) maximum permitted rate (“MPR”) from \$10.93 to \$11.23 for the Town of Holland, Massachusetts. *See* Exh. Cox 1.² Despite Cox’s proposed increase in its BST MPR for programming, Cox proposed to leave unchanged the actual monthly BST programming rate (i.e., Operator Selected Rate) of \$10.27 that it charges Holland subscribers. *Id.* Cox also filed its nationwide FCC Form 1205 for the year ending December 31, 2007, on which it proposed increased MPRs for installations, remotes, and non-addressable converters, but decreased MPRs for digital receivers and DVR/high definition receivers. *See* Exh. Cox 2. However, Cox proposed to leave unchanged its Operator Selected Rate for installations and equipment for Holland subscribers. *Id.* Cox proposed that the new MPR rates would become effective on April 1, 2009. *See* Exh. Cox 1, at “Proposed Rate Structure.”

The Department held a public and evidentiary hearing on Cox’s proposed filings in Boston on June 24, 2009. There were no interveners in this proceeding. The evidentiary record

¹ Pursuant to Governor Patrick’s Reorganization Plan, Chapter 19 of the Acts of 2007, the predecessor agency, the Department of Telecommunications and Energy (“D.T.E.”), ceased to exist, effective April 11, 2007. The Department of Telecommunications and Cable has assumed the duties and powers previously exercised by the Cable Division under G. L. c. 166A.

² Citations in this Order to Cox’s FCC Forms 1240 and 1205 and amended page 2 to Form 1205 are to “Exh. Cox 1,” “Exh. Cox 2,” and “Exh. Cox 2A,” respectively. Citations to the Department’s First Set of Information Requests and Cox’s responses thereto are to “Exh. D.T.C. – 1” through “Exh. D.T.C. – 13.” Citations to the evidentiary hearing transcript are to “Tr. at (page).” Citations to Cox’s responses to Record Requests issued at the evidentiary hearing are to “RR - 1” through “RR - 5.”

includes five Cox exhibits,³ Cox's responses to the Department's First Set of Information Requests, and Cox's responses to the Department's five Record Requests. Pursuant to G. L. c. 25C, §5, confidential treatment was granted to Cox's unredacted responses to the Department's Information Requests 2 and 3 containing channel by channel programming cost information. *See Hearing Officer's Ruling on Motion of Cox for Protective Order*, D.T.C. 08-8 (June 23, 2009).

Based on our review of Cox's FCC Forms 1240 and 1205, as well as Cox's responses to the Department's inquiries, the Department approves Cox's proposed BST MPRs for programming, installation, and equipment in the Town of Holland. 47 C.F.R. §§ 76.922(a), 76.923(a)(2). However, as explained below, the Department directs Cox to file an amended FCC Form 1205 that includes CableCARDS. 47 C.F.R. § 76.923(a)(1).

II. REVIEW OF THE FCC FORM 1240

On its FCC Form 1240, Cox proposed an increase in its BST MPR for programming from \$10.93 to \$11.23. *See* Exh. Cox 1, at 2, Line A1; at 4, Line I9. Cox also proposed to continue charging, unchanged, its current Operator Selected Rate of \$10.27 for BST programming. *See* Tr. at 7-8; Exh. Cox 1, at 4, Line I10, and at Proposed Rate Structure. Based on our review of Cox's FCC Form 1240, as well as Cox's responses to inquiries, the Department determines, as discussed below, that Cox's FCC Form 1240 was prepared in compliance with federal law and regulations. 47 C.F.R. § 76.922(a).

The FCC has created specific forms incorporating the provisions of its rate regulations, upon which a cable operator must calculate its rates. *See* 47 C.F.R. §§ 76.922, 76.930. The FCC Form 1240 allows a cable operator to annually update its BST programming rates to account for inflation; changes in the number of regulated channels; and changes in external

³ These Cox exhibits are Cox's FCC Form 1240, FCC Form 1205 (including amended page 2 to FCC Form 1205), and affidavits of publication.

costs, including programming costs, copyright costs, and franchise related costs. *See* 47 C.F.R. § 76.922(e). In order that rates be adjusted on the FCC Form 1240 for projections in external costs, or for projected changes to the number of regulated channels, the cable operator must demonstrate that such projections are reasonably certain and reasonably quantifiable. *See* 47 C.F.R. § 76.922(e)(2)(ii)(A), (iii)(A). Projections involving copyright fees, retransmission consent fees, other programming costs, Commission regulatory fees, and cable specific taxes are presumed to be reasonably certain and reasonably quantifiable. *See* 47 C.F.R. § 76.922(e)(2)(ii)(A).

The standard under which the Department must review rate adjustments on the FCC Form 1240 is found in the FCC's rate regulations. *See* 47 C.F.R. § 76.922(a). Specifically, the FCC directed local rate regulators, including the Department, to ensure that the approved rates are in compliance with the Communications Act of 1934, as Amended (the "Communications Act"), and do not exceed the maximum permitted charges calculated by the FCC's rate forms. *See* 47 C.F.R. § 76.922(a). The Department may accept, as in compliance with the statute, BST rates that do not exceed the approved maximum permitted charge as determined by federal regulations. *See* 47 C.F.R. § 76.922(c). In addition, the Department shall only approve rates it deems reasonable. *See* 47 U.S.C. § 543; 47 C.F.R. § 76.937(d)-(e); G. L. c. 166A, §§ 2, 15. The cable operator has the burden of proof to demonstrate that its proposed rates for BST programming comply with Section 623 of the Communications Act. 47 U.S.C. § 543; *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Report and Order and Further Notice of Proposed Rulemaking*, MM Docket No. 92-266, FCC 93-177, 8 FCC Rcd 5631, at 5716, ¶ 128 (1993) ("*FCC Rate Order*"). *See also* 47 C.F.R. § 76.937(a).

Here, the Department finds that Cox's proposed increase in its BST MPR for programming is reasonable. In its FCC Form 1240, Cox has proposed an increase in its BST MPR for programming from \$10.93 to \$11.23. *See* Exh. Cox 1 at 2, Line A1; at 4, Line I9. Cox testified that the primary factor driving this \$0.30 increase is the True-up segment for the Projected Period, which increased by approximately \$0.27 as reflected in Line I8 of Module I.⁴ *See* Tr. at 14; Exh. Cox 1 at 4, Line I8. Cox explained that the significant increase in the True-up segment occurred because Cox's Operator Selected Rate for BST programming (\$10.27) is well below the True-up rate as calculated in Module F of Form 1240 (\$10.80). *See* Tr. at 14; Exh. Cox. 1 at 3. Another, but less significant, contributing factor to the \$0.30 increase in BST MPR was an increase in the external costs segment for the Projected Period, including an increase in programming costs. *See* Exh. Cox 1 at 4, Lines I4, I5, and I7; Exh. D.T.C.-3 (Confidentiality granted).⁵

⁴ The True-up segment includes the compensation for overcharges or, as in this case, undercharges which have occurred during the True-up periods. The purpose of the True-up process is to compare the revenue a cable operator collected during the True-up period with the amount the operator should have been able to collect. If the sum collected is less than what should have been collected, as in this case, then the operator is allowed to collect the difference during later rate periods. Conversely, if the sum collected exceeds the amount that should have been collected, then the operator must lower its rates in future rate periods to compensate subscribers for the difference. *Instructions for FCC Form 1240 Annual Updating of Maximum Permitted Rates for Regulated Cable Services*, at 5 (July 1996).

⁵ The Department asked Cox to explain the reasons for the change in the basic copyright rate from \$0.1047 (Oct. 2007 – Dec. 2007) to \$0.1005 (Jan. 2008 – Sept. 2008) for True-up Period 1 as reflected in the "Monthly Subscriber Costs" attachment to Cox's Form 1240. *See* Exh. D.T.C. – 4(b). Cox responded that the change was due to a decrease in gross receipts from subscribers for secondary transmission services (i.e., the retransmission of television by Cox to subscribers). *See* Exh. D.T.C. - 4(b); Tr. at 17. However, in Cox's response to Record Request No. 5, Cox stated that the copyright filing fee used in the instant Form 1240 filing for the true-up months of October, November, and December 2007 was incorrect. *See* RR-5. Cox explained that using the correct copyright filing fee would increase the amount of the basic copyright rate an additional \$0.0027 to \$0.1073 (from \$0.1047) per subscriber. Despite this correction, Cox is not seeking to adjust its Form 1240 or its Operator Selected Rate for BST programming. The Department finds that no amended filing is necessary because this correction increases the BST MPR in Line I9 of Form 1240 by approximately \$0.0045, a relatively *de minimus* amount. However, the Department emphasizes that the approved BST MPR is \$11.23 as reflected in Cox's original Form 1240. Exh. Cox 1 at 4, Line I9.

The Department finds that the True-up segment is the primary reason for the BST MPR increase. Therefore, the Department concludes that the BST MPR established by Cox's FCC Form 1240 for the Projected Period from April 1, 2009 to March 31, 2010, is reasonable and in compliance with applicable law. 47 C.F.R. § 76.922(a). Cox's proposed and approved BST MPR and actual BST programming rate appear in the Rate Schedule below, at page 15.

III. REVIEW OF THE FCC FORM 1205

Cox's FCC Form 1205 is a national filing. Tr. at 9. On its FCC Form 1205, Cox proposed to increase its MPRs for installations, remotes, and non-addressable converters. *See* Exh. Cox 2. Cox also proposed to decrease its MPRs for digital receivers and DVR/high definition receivers. *Id.* However, Cox proposed to leave unchanged its Operator Selected Rates for installations and equipment for Holland BST subscribers, and Cox continues to provide non-addressable converters to Holland BST subscribers at no charge. *See* Exh. Cox 2; Exh. D.T.C.-11. Cox's proposed rates for installations and equipment appear on the Rate Schedule below, at page 15. As discussed below, the Department finds that Cox's FCC Form 1205 establishes MPRs for installations and listed equipment that are in compliance with applicable law, and that Cox's selected rates for installations and listed equipment do not exceed the MPRs established by its FCC Form 1205. 47 C.F.R. § 76.923(a)(2). However, as discussed below, Cox has neglected to include CableCARDs on its FCC Form 1205, and the Department directs Cox to amend its FCC Form 1205 to include this equipment. 47 C.F.R. § 76.923(a)(1).

The FCC Form 1205 establishes rates for installations and equipment, such as converters and remote controls, based upon actual capital costs and expenses. *Instructions for FCC Form 1205*, at 7, 12-13. A cable operator prepares the FCC Form 1205 on an annual

basis using information from the cable operator's previous fiscal year. *Id.* at 2. In this proceeding, the Department reviews Cox's FCC Form 1205 for the fiscal year ending December 31, 2007. *See* Exh. Cox 2, at 1.

Subscriber charges established by the FCC Form 1205 may not exceed charges based on actual costs as determined in accordance with the FCC's regulatory requirements. *See* 47 C.F.R. § 76.923(a)(2). The cable operator has the burden of proof to demonstrate that its proposed rates for installations and equipment comply with Section 623 of the Communications Act and implementing regulations. *See* 47 U.S.C. § 543; *FCC Rate Order* at 5716, ¶ 128; 47 C.F.R. § 76.937(a) (regulation assigning the burden of proof to the cable operator).

A. MPRs for Installations

The Department first examines Cox's proposed increases in its MPRs for installations. As part of this examination, the Department carefully reviews the information and calculations reported by Cox on its FCC Form 1205 and the accompanying explanation of the calculations. The Department also carefully considers Cox's responses to Department inquiries and testimony from the evidentiary hearing. As set forth below, the Department finds that Cox's FCC Form 1205 establishes MPRs for installations that are in compliance with applicable law. *See* 47 C.F.R. § 76.923(d), (e).

Here, Cox has proposed increasing its MPRs for installation of an unwired home and for digital installation by \$0.14 (from \$54.66 to \$54.80); for a prewired home installation by \$0.08 (from \$30.24 to \$30.32); for additional work after initial installation by \$0.07 (from \$30.15 to \$30.22); and for additional work at the time of initial installation by \$0.06 (from \$25.55 to \$25.61). *See* Exh. Cox 2, at 4. Cox testified that there was no one driving factor in

particular for these MPR increases. Tr. at 14-15. However, Cox did explain that the increases were driven in part by a notable increase in vehicle cost resulting from Cox's investment in a new vehicle fleet as reflected in Schedule A.⁶ See Cox 2A, at 2; Tr. at 15. Upon review of Cox's FCC Form 1205, the Department finds Cox's testimony to be credible.

Additionally, in reviewing Cox's calculated Hourly Service Charge ("HSC") in support of its proposed MPRs for installations, the Department examines Cox's reported costs associated with outsourcing installations and maintenance of equipment. See Exh. Cox 2A, at 2; Exh. Cox 2, at 4. As reflected in Schedule B, Line A (under "Other 1"), Cox reported paying \$25.1 million for outside labor.⁷ See Exh. D.T.C. – 8. Cox also reported to the Department that its costs for outside labor "take[] into account labor rates of outside contractors, associated benefits and operating expenses, plus vendor profit mark-up." See Exh. D.T.C. – 13. Cox testified that it negotiates contracts with outside vendors for an agreed upon rate per category of job (e.g., installation of unwired home) that takes the above factors (i.e., outside labor rates, associated benefits and operating expenses, vendor profit mark-up) into consideration. Tr. at 22. The Department finds that Cox's approach to calculating and reporting outside costs is reasonable as it reflects Cox's actual costs associated with outsourcing.

Furthermore, in Cox's calculation of the HSC, Cox reported 1,840,963 total labor hours for installation and maintenance of customer equipment and services. See Exh. Cox 2, at 4,

⁶ *Schedule A: Capital Costs of Service Installation and Maintenance of Equipment and Plant* computes the annual costs of the equipment and plant necessary for the installation and maintenance of customer equipment used to receive basic tier services. It does not include, however, the annual capital costs of customer equipment.

⁷ *Schedule B: Annual Operating Expenses for Service Installation and Maintenance of Equipment* computes the total annual operating expenses for installation and maintenance of cable facilities including salaries, benefits, supplies, utilities, taxes, outside labor, and communication expenses.

Worksheet for Calculating Permitted Equipment and Installation Charges (“*Form 1205 Worksheet*”), Step A, Line 6.⁸ Cox represented to the Department that 27% of the total labor hours reported in Step A, Line 6 of the *Form 1205 Worksheet* consist of outside labor. See RR – 2. Cox explained that the total labor hours reported in Step A, Line 6, were obtained directly from billing records and information collected from outside vendors. See Exh. Cox 2, attached “Preparation Documentation.” More specifically, Cox stated that the “[t]otal labor hours for installers and service technicians were calculated based on billing records maintained by Cox cable systems, which individually track actual installation and service activity, by task, in their service area ... [and] only those tasks performed inside the house were included.” *Id.* Cox also explained that “Outside converter repair hours [were] obtained from outside repair vendors.” *Id.* Ultimately, Cox’s calculations in Step A resulted in an HSC of \$47.455. See Exh. Cox 2, at 4, *Form 1205 Worksheet*, Step A, Line 7.⁹

Likewise, regarding the average hours per installation reported in Schedule D that were used to calculate MPR installation charges in Step B of the *Form 1205 Worksheet*, Cox explained that the “average times were calculated based on time studies provided by each cable system.”¹⁰ See Exh. Cox 2, attached “Preparation Documentation.” Cox also testified that it includes outsourced labor hours in its calculation of average hours per installation reported in Schedule D. Tr. at 27-28.

⁸ *Worksheet for Calculating Permitted Equipment and Installation Charges* computes the Hourly Service Charge and the resulting maximum rates that may be charged for regulated installations and equipment.

⁹ In response to Information Request D.T.C. – 13, Cox stated that it outsources for equipment installation services at an average hourly rate of \$51.00. See Exh. D.T.C. – 13. Cox contends that this rate is consistent with the HSC of \$47.455. Tr. at 23.

¹⁰ *Schedule D: Average Hours Per Installation* collects the average hours required to complete various types of installations.

The Department now considers whether Cox's calculation of outside labor hours described above is in compliance with applicable law. 47 C.F.R. § 76.923(a)(2). As discussed below, the Department concludes that these calculations are in compliance with applicable law. *Id.* According to the FCC's Cable Services Bureau, neither the FCC's rules nor the instructions to Form 1205 "specify a particular method for counting labor hours as long as the operator uses the same method for counting hours in calculating the HSC that it uses in setting rates for installations, maintenance, and equipment leases." *In the Matter of Comcast Cablevision of Detroit, Inc., Memorandum Opinion and Order by the Cable Services Bureau*, DA 00-2748, 15 FCC Rcd 24022, at 24030, ¶ 21 (December 7, 2000). *See also In the Matter of Jones Communications of Georgia/South Carolina, Inc. d/b/a Jones Communications, Memorandum Opinion and Order by the Policy Division, Media Bureau*, DA 04-2448, 19 FCC Rcd 14814, at 14818, ¶ 14 (August 4, 2004) (rather than specifying any particular method for counting labor hours, Form 1205 instructions require operators only to explain how they derived the figures they report and the consistent use of a particular method should result in proper cost recovery). Furthermore, according to the Cable Services Bureau, if the cable operator uses outside contractors for installations or repairs and includes the amount of these operating expenses on Schedule B of Form 1205, an appropriate adjustment to the total labor hours reported on Form 1205 must be made so that "equivalent labor hours" can be added to the total company labor hours. *In the Matter of Comcast Cablevision of Detroit, Inc.*, FCC Rcd at 24030, ¶ 21. According to the Cable Services Bureau, these "equivalent labor hours" should be treated like other labor hours. *Id.*

Here, the record demonstrates that Cox uses the same method for counting labor hours in calculating the HSC that it uses in setting rates for installations, maintenance, and equipment

leases. Tr. at 27-28; Exh. Cox 2, attached “Preparation Documentation.” Furthermore, because Cox has included the operating expenses of outside contractors in Schedule B, Cox must add “equivalent labor hours” to the total company labor hours. Exh. D.T.C. – 8; *In the Matter of Comcast Cablevision of Detroit, Inc.*, FCC Rcd at 24030, ¶ 21. The record establishes that Cox obtains labor hours from outside vendors and that Cox includes these labor hours in Step A, Line 6 of the *Form 1205 Worksheet* (i.e., Cox’s total labor hours) when calculating the HSC. Tr. at 27-28; Exh. Cox 2, attached “Preparation Documentation.” The record also establishes that Cox includes these outside labor hours in Schedule D (i.e., average hours per installation) and in Step B of the *Form 1205 Worksheet* when calculating installation rates. Tr. at 27-28; Exh. Cox 2, attached “Preparation Documentation.” Finally, the record demonstrates that Cox reports outside labor hours in the same or very similar manner that it reports internal labor hours. *Id.* Accordingly, based on the record in this proceeding, the Department finds that Cox has reported outside labor hours on FCC Form 1205 in compliance with applicable law. *In the Matter of Comcast Cablevision of Detroit, Inc.*, FCC Rcd at 24030, ¶ 21. Therefore, the Department concludes that Cox’s MPRs for installations are also in compliance with applicable law. 47 C.F.R. § 76.923(a)(2). The Department further finds that Cox is charging actual rates for installations that do not exceed the MPRs established by its FCC Form 1205. *Id.*

B. MPR for Digital Receivers and DVR/High Definition Receivers

Next, the Department examines Cox’s proposed decrease in its MPR for digital receivers and DVR/high definition receivers, and concludes that because the decreases are based on actual (i.e., depreciated) costs, the proposed MPR is in compliance with applicable law. 47 C.F.R. § 76.923(a)(2). Here, Cox has proposed to decrease its MPR for digital receivers and DVR/high definition receivers by \$0.15 (from \$5.69 to \$5.54). *See* Exh. Cox 2,

at 5. Cox testified that the primary reason for the decrease is the increased depreciation of this particular equipment as reflected in Schedule C.¹¹ *See* Exh. Cox 2, at 3; Tr. at 15. Cox explained that the depreciation of its equipment is cyclical and that currently its digital receivers and DVR/high definition receivers are aging, thereby resulting in lower book value. *Id.* The Department is persuaded by Cox's explanation. Therefore, the Department finds that Cox's Form 1205 establishes MPRs for listed equipment that are in compliance with applicable law. 47 C.F.R. § 76.923(a)(2).¹² The Department further finds that Cox is charging actual rates for listed equipment that do not exceed the MPRs established by its FCC Form 1205. *Id.*

C. CableCARDS

Finally, the Department discusses its authority to regulate rates for CableCARDS, and for the reasons set forth below, the Department directs Cox to file an amended FCC Form 1205 that includes CableCARDS. Here, the Department observed that Cox's rate card for the Town of Holland lists "CableCARD" under the category of equipment rental for \$1.99 per month. *See* Exh. D.T.C. – 5. Cox testified that the CableCARD is used in instances where a cable tuner is built into a television and the CableCARD, instead of a converter, is used to obtain Cox's services. Tr. at 18. Cox also testified that BST signals pass through the CableCARD. *Id.*

The Department has jurisdiction to regulate rates over "all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service tier, regardless of whether such equipment is additionally used to receive other tiers of regulated

¹¹ *Schedule C: Capital Costs of Leased Customer Equipment* computes the annual capital costs for each category of customer equipment offered by the cable operator in connection with regulated service.

¹² Cox also proposed to increase its MPRs for remotes by \$0.02 and non-addressable converters by \$0.03. Based on the Department's review of Cox's FCC Form 1205, as well as Cox's responses to inquiries, the Department finds that the proposed MPRs for remotes and non-addressable converters are in compliance with applicable law. 47 C.F.R. § 76.923(a)(2).

programming service and/or unregulated service.” 47 C.F.R. § 76.923(a)(1). In June 2004, the Department’s predecessor agency, the Department of Telecommunications and Energy (“D.T.E.”),¹³ citing its authority under 47 C.F.R. § 76.923(a), ruled that it has jurisdiction over CableCARDS because they are used in a subscriber’s home and because BST signals pass through them. *See Charter Rate Order*, D.T.E./C.T.V. 04-1 at 3 (June 16, 2004).¹⁴ On October 28, 2004, the D.T.E. issued the *Cox Rate Order* which reiterated its position that the “Cable Division has concluded that CableCARDS are subject to regulation, because the basic service tier’s signals pass through the card.” *See Cox Rate Order*, D.T.E./C.T.V. 04-2 at 8, n.5 (October 28, 2004). The *Cox Rate Order* further directed Cox to include CableCARD charges on its next annual FCC Form 1205 filing. *Id.* However, Cox has not included CableCARD charges on its annual FCC Form 1205 filings since the issuance of the *Cox Rate Order*.

Here, Cox has testified that Cox’s deployment of CableCARDS is minimal because the technology is becoming outdated. Tr. at 18-19. Cox further testified that only a few manufacturers make the type of television that are operational with CableCARDS and that more and more consumers are purchasing regular high-definition television sets that do not require the CableCARD. *Id.* Despite this testimony, the Department finds that Cox is currently leasing CableCARDS to subscribers, and as long as Cox continues to do so, it must include CableCARDS in its FCC Form 1205. This is consistent with the reporting requirement imposed by the Department on other cable providers in Massachusetts. Therefore, Cox is directed to

¹³ *See supra* at n.1.

¹⁴ Following the issuance of the *Charter Rate Order*, the D.T.E. issued a Notice to Cable Operators requesting that all cable operators provide analysis concerning the regulatory status of CableCARDS. *D.T.E. Notice to Cable Operators* (July 19, 2004). Cox responded to this notice by letter on August 20, 2004, and argued that CableCARD equipment is used solely to decrypt digital television transmissions that are not provided on the BST. Cox further stated that, because cable television customers will receive BST signals regardless of whether or not they use a CableCARD, such equipment is not subject to rate regulation. *See RR - 1*. Cox continues to assert this position in this proceeding. *Id.*

submit an amended FCC Form 1205 that includes CableCARDS to the Department within thirty (30) days of this Order.

IV. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the MPR for BST programming on Cox's FCC Form 1240, for the Town of Holland as filed on November 27, 2008, is approved;

FURTHER ORDERED: That the MPRs for installations and equipment listed on Cox's FCC Form 1205, as filed on November 27, 2008, are approved; and it is

FURTHER ORDERED: That Cox must submit an amended FCC Form 1205 that includes CableCARDS to the Department within thirty (30) days of this Order.

By Order of the Department

/s/ Geoffrey G. Why
Geoffrey G. Why, Commissioner

**Cox Com, Inc. d/b/a Cox Communications New England
Basic Service Tier Programming and Equipment Rates
Town of Holland,
Massachusetts**

Rate Category	Operator Selected Rate Effective Apr. 1, 2008	Previous Maximum Permitted Rate Effective Apr. 1, 2008	Proposed & Approved Maximum Permitted Rate effect. April 1,2009	Operator Selected Rate Effective April 1, 2009
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Basic Tier Programming Rate	\$ 10.27	\$ 10.93	\$ 11.23	\$ 10.27
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HD / HD-DVR Converter	\$ 4.98	\$ 5.69	\$ 5.54	\$ 4.98
Addressable/Digital Converter	\$ 4.98	\$ 5.69	\$ 5.54	\$ 4.98
Non-Addressable Converter*	--	\$ 0.04	\$ 0.07	--
Remote Control	\$ 0.17	\$ 0.17	\$ 0.19	\$ 0.17

Installation of Unwired Home	\$ 54.66	\$ 54.66	\$ 54.80	\$ 54.66
Installation of Prewired Home	\$ 29.99	\$ 30.24	\$ 30.32	\$ 29.99
Additional Outlet at Initial Install	\$ 21.23	\$ 25.55	\$ 25.61	\$ 21.23
Add. Outlet After Initial Install	\$ 30.15	\$ 30.15	\$ 30.22	\$ 30.15
Digital Installation	\$ 49.95	\$ 54.66	\$ 54.80	\$ 49.95

* The Department takes notice of Cox's April 28, 2006, letter to the Department's predecessor agency, the Cable Division of the Department of Telecommunications and Energy, wherein Cox states it will offer basic-only subscribers a converter without any charge. In its response to information request D.T.C. – 11, Cox reiterated that it will offer basic-only subscribers a converter without any charge.

RIGHT OF APPEAL

Appeals of any final decision, order or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable state and federal laws.