



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

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

_____)
In the Matter of)
)
MediaOne of Massachusetts, Inc.,)
AT&T Corp., and)
AT&T Comcast Corporation	Docket No. CTV 02-9)
)
Appellants)
)
v.	Date Issued: August 6, 2002)
)
Board of Selectmen of the)
Town of Yarmouth)
)
Appellees)
_____)

**INTERLOCUTORY ORDER ON MOTION FOR EXPEDITED PROCESSING,
MOTION TO EXTEND TIME, AND PRELIMINARY GROUND RULES**

I. INTRODUCTION

On June 25, 2002, the Board of Selectmen of the Town of Yarmouth (“Town”) voted to withhold approval of a request by MediaOne of Massachusetts, Inc., AT&T Corp., and AT&T Comcast Corporation (“Companies”) to transfer the control of the cable license with the Town. Pursuant to G.L. c. 166A §§ 7 and 14, the Companies filed a Petition for Appeal and Claim for Adjudicatory Hearing (“Appeal”) with the Cable Television Division (“Cable Division”) on July 25, 2002. On the same date, the Companies filed a Motion for Expedited Processing of Appeal and a Motion for Summary Decision. On August 2, 2002, the Town filed a motion seeking an extension of time in which to respond to the Companies’ Motion for

Summary Decision (“Motion To Extend Time”) and an Opposition to the Companies’ Motion for Expedited Processing of Appeal. On August 2, 2002, the Companies filed an Opposition to the Town’s Motion To Extend Time.

II. DISCUSSION AND ANALYSIS

In the Motion for Expedited Processing at page 2, the Companies request that the Cable Division require all parties to adhere strictly to all time requirements in the Adjudicatory Rules and establish an expedited schedule for the processing of this appeal. The Companies request that the Appeal be processed on an expedited basis in order to ensure that the proposed merger, scheduled to close in 2002, is not delayed. In opposition, the Town claims it would be denied a full and fair hearing were the Cable Division to grant the Companies’ request.

The Massachusetts Administrative Procedures Act, and regulations promulgated thereunder, ensure that all parties to an administrative proceeding receive a full and fair hearing. G.L. c. 30A; 801 C.M.R. § 1.00 et seq. While the law and regulations establish many of the procedures to be followed during an administrative proceeding, including the time periods for certain filings and responses, they also allow the administrative agency discretion to deviate from these procedures where good cause exists. See 801 C.M.R. § 1.01(4)(e).

Federal law allows a 120-day period for issuing authorities to review a transfer application. 47 U.S.C. § 537. A protracted review of such a decision would violate the spirit of the federal law. However, we must ensure that all parties rights to due process are protected. Therefore, we plan to proceed expeditiously, requiring a showing of good cause for any deviation of the procedural schedule. In order to further ensure an efficient and

expeditious process, we have attached Preliminary Ground Rules to be adhered to by all parties.

With respect to the Appellee's Motion to Extend Time, the Town, in support of its request, notes that the answer to the Appeal is due twenty-one days after service, while the answer to the Motion for Summary Decision is due seven days after service. The Town further notes that it intends to file a responsive pleading to the Motion for Summary Decision. In opposition, Appellants contend that the issues here are virtually identical to those set forth in a previously-docketed case involving the Town of Westford, a party also represented by Appellee's counsel. Given this, Appellants maintain that Appellee's counsel should be prepared to respond to the filings in this matter on the same schedule as the previously-docketed matter.

While the matters appear similar and involve the same general questions of license transfer law, we are not prepared, on the limited information before us, to make a determination that these matters can proceed on a consolidated schedule. Since we find that the issues to be addressed in the Motion for Summary Decision are intricately entwined with the substantive matters raised in the Appeal, we find that in this instance it is appropriate that the answers to the Motion for Summary Decision and the Appeal be filed concurrently. Therefore, we find good cause exists to grant an extension for time to file the answer to the Motion for Summary Decision. However, we feel it necessary to clarify that twenty-one days from the date of service of the Appeal is Thursday, August 15, not Friday, August 16, as put forth by the Appellee. Therefore, the extension of time to file the Motion for Summary Decision is granted until Thursday, August 15, 2002.

Parties are hereby placed on notice of the Cable Division's intent to conduct a procedural conference in this matter as soon after August 15, 2002, as practicable. Parties should confer with one another and contact the Cable Division with proposed dates for the procedural conference.

III. ORDER

Accordingly, after due consideration, it is

ORDERED: Appellants' Motion for Expedited Processing filed in CTV 02-9 is hereby GRANTED to the extent deemed appropriate; and it is

FURTHER ORDERED: Appellee's Motion to Extend Time filed in CTV 02-9 is hereby GRANTED and Reply to Appellants' Motion for Summary Decision shall be served on all parties **by or on August 15, 2002**; and it is

FURTHER ORDERED: The parties must comply with the attached Preliminary Ground Rules; and it is

FURTHER ORDERED: The parties should contact the Cable Division with proposed dates for a procedural conference by August 19, 2002.

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

Alicia C. Matthews
Director