



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

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

CTV 03-6

Review by the Cable Television Division of the Department of Telecommunications and Energy of Federal Communications Commission Forms 1240 and 1205 filed by Charter Communications Entertainment I, L.L.C.

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FOR: CHARTER COMMUNICATIONS ENTERTAINMENT I,
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ORDER ON RESPONSES TO RECORD REQUESTS

The Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy is currently reviewing the proposed basic service tier programming and equipment rates filed by Charter Communications Entertainment I, L.L.C. (“Charter” or “the Company”) in the above-referenced docket. As part of the Cable Division’s review, an evidentiary hearing commenced on March 16, 2004. During this hearing, the Cable Division posed seven record requests. Charter submitted its responses to the record requests on March 30, 2004.

Upon review, we determine that the Company did not adequately or appropriately respond to the record requests. In Record Request 1, the Cable Division asked Charter to provide a copy of its original Federal Communications Commission (“FCC”) Form 1205 prepared for 2002 along with a statement as to whether the form had been reviewed or approved in any other jurisdiction and if so, a list of those jurisdictions. In its response, Charter provided a copy of the originally-prepared FCC Form 1205. However, Charter then made a statement that the form had been “submitted in those regulated communities where the annual filing date preceded the completion of the financial restatements and the preparation of the amended 1205.” Charter did not identify these jurisdictions nor did Charter provide information as to whether these jurisdictions reviewed or approved the FCC Form 1205. Charter’s response, therefore, is unresponsive to the Cable Division’s record request. Charter’s response to Record Request 2 is similarly incomplete and thus unresponsive to the Cable Division’s record request.

For Record Request 3, the Cable Division asked for a detailed narrative explaining capitalized labor costs. Charter provided information that it stated was prepared by “Charter Corporate Accounting.” Record requests are extensions of sworn testimony presented by a witness whose memory fails or who is unable to compute calculations on the spot. As sworn testimony, responses to record requests are typically considered part of the record and hence do not need to be admitted as exhibits. The two witnesses that testified on behalf of Charter at the hearing are not members of the Company’s Corporate Accounting Division. Allowing testimony from persons that were not sworn in at the hearing and therefore were not subject to cross-examination is contrary to the rules and regulations of administrative law governing formal adjudicatory proceedings and we must, therefore, reject the response as inappropriate. Similarly, there is no indication that the responses to the remaining record requests (RR-CTV-4; RR-CTV-5; RR-CTV-6; RR-CTV-7) are extensions of the sworn testimony by Charter’s witnesses. Further, in its response to Record Request 7, Charter provided supplemental information that the Company would need to offer into the record as an exhibit. Given the inappropriate nature of the responses, we will not accept into the record Charter’s responses to Record Requests 4 through 7 at this time.

The evidentiary hearing will continue on May 25, 2004. At that time, the Company should provide a witness that is able to present responsive testimony on cross-examination concerning the Company's rate forms. We will allow such a witness or witnesses to further testify as to the record requests and to authenticate the responses as submitted on March 30, 2004. Based on the witness' testimony, the Cable Division will determine whether the Company's responses will be included in the record.

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

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

Issued: April 27, 2004