



Agenda Date: 7/11/07
Agenda Item: 3B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF THE APPLICATION)	ORDER ADOPTING
OF COMCAST OF JERSEY CITY, LLC)	INITIAL DECISION
RATE CHANGE UNDER FCC FORM 1240)	
TO SET ITS MAXIMUM PERMITTED RATE)	BPU DOCKET NO. CR06070558
FOR BASIC CABLE SERVICE)	OAL DOCKET NO. CTV 09455-2006N

(SERVICE LIST ATTACHED)

BY THE BOARD

On July 31, 2006, Comcast Corporation (Comcast) filed a Federal Communications Commission (FCC) Form 1240 with the Board of Public Utilities (Board) for the purpose of adjusting its maximum permitted rate (MPR) for basic cable service. The Board is the local franchising authority in New Jersey, and is certified to regulate basic service rates and associated equipment and installation charges. Cable operators who choose the Form 1240 methodology may adjust their rates for basic cable service once per year to reflect quantified changes in external costs, for inflation and for the number of regulated channels that are projected for the 12 months following the rate change.

On August 11, 2006, the above filing was transmitted to the Office of Administrative Law (OAL) for determination and initial disposition. On January 23, 2006, a telephone pre-hearing conference was held by Administrative Law Judge (ALJ) Diana C. Sukovich with Comcast, the Division of Rate Counsel (Rate Counsel) and the Board's Staff (collectively, the Parties). The preliminary hearings for this filing were set for April 26 and 30, 2007. Comcast notified its customers of the rate change on March 6, 2007, by way of a newspaper announcement informing them of their opportunity to submit written comments to ALJ Sukovich, within thirty (30) days of the publication date. No comments were received by the ALJ.

On March 7, 2007, the Parties were advised by ALJ Sukovich that the above-captioned matter was reassigned to ALJ Walter M. Braswell.

After extensive discovery, the parties began settlement negotiations and reached preliminary settlement on April 23, 2007. ALJ Braswell subsequently adjourned the scheduled hearings. On June 20, 2007, after further settlement discussions, the Parties reached final agreement and executed a Stipulation of Settlement (Stipulation), memorializing the agreement.

On June 27, 2007, ALJ Braswell filed his Initial Decision (ID) with the Board, which recommended that the Stipulation be approved. ALJ Braswell found that the parties have voluntarily agreed to the settlement, and that the settlement is consistent with the law and fully disposes of all issues in controversy. The ALJ therefore concluded that the Stipulation met the requirements of N.J.A.C. 1:1-19.1.

The Board has reviewed the Stipulation and ID and HEREBY FINDS them to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation and ID (attached hereto) in their entirety as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

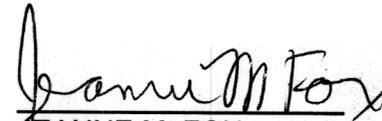
The Board FURTHER ORDERS that, subject to the ongoing review before the Federal Communications Commission, should this cable system, or any parts thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, their ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected systems, or any parts thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation shall be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of the merger, migration, upgrade, rebuild, sale or transfer.

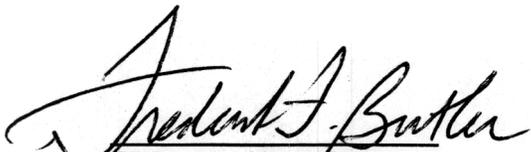
The cable system, or any parts thereof, may be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction that these systems or any portions thereof, are subject to effective competition.

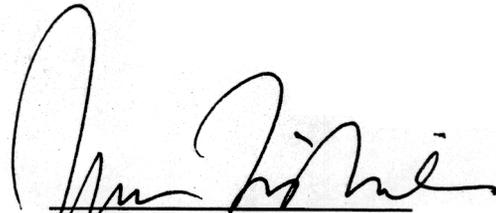
Should that occur, the last basic service rate established as a result of a prior FCC Form 1240, or such subsequent rate calculation method as may be adopted by the Board, the FCC or any other party of competent jurisdiction prior to the deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

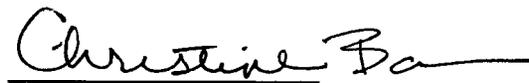
DATED: 7/12/07

BOARD OF PUBLIC UTILITIES
BY:

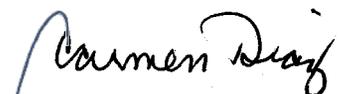

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

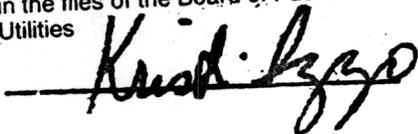

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



SERVICE LIST

**IN THE MATTER OF COMCAST OF JERSEY CITY, LLC RATE CHANGE UNDER FCC
FORM 1240 TO SET ITS MAXIMUM PERMITTED RATE (MPR) FOR BASIC CABLE
SERVICE**

DOCKET NO. CR06070558

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Newark, NJ 07102

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**Charles A. Russell, Esq., Deputy
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Newark, NJ 07102

gc

~~CMS~~
BBSLOW
RPA
DAG
CATV (2)



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

RECEIVED
MAIL ROOM

07 JUN 27 PM 1:32

BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

INITIAL DECISION

OAL DKT. NO. CTV 09455-06

AGENCY DKT. NO. CR06070558

IN THE MATER OF COMCAST OF
JERSEY CITY RATE CHANGE FORM
FCC FORM 1240

FORWARDED
CASE FILED
07 JUN 27 PM 1:37
NEWARK, N.J.

Dennis C. Linken, Esq., appearing on behalf of petitioner
(Stryker, Tams & Dill, LLP)

Ann Marie Shato, DAG, appearing on behalf of respondent
(Stuart Rabner, Attorney General of New Jersey)

James W. Glassen, RateCounsel
(Division of Ratepayer Advocate)

Record Closed: June 21, 2007

Decided: June 21, 2007

BEFORE WALTER M. BRASWELL, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) from the Board of Public Utilities on August 29, 2006, for hearing as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On or about March 7, 2007 this matte was reassigned.

A settlement conference was held on April 23, 2007 at the OAL, 33 Washington Street, Newark, New Jersey. The hearing was scheduled for April 26 & 30, 2007

however prior to the hearing, settlement discussions were held and settlement was reached

The parties have agreed to settlement and have prepared Stipulation of Settlement indicating the terms thereof, which is attached and fully incorporated herein.

have reviewed the record and the settlement terms and **FIND:**

- 1 The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures

The settlement fully disposes of all issues in controversy and is consistent with the law.

CONCLUDE that this agreement meets the requirements of N.J.A.C. 17:27.1 and that the settlement should be approved approve the settlement and, therefore, **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES** which by law is authorized to make final decision this matter If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended this recommended decision shall become final decision in accordance with N.J.S.A. 52: 4B- 0.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR OF THE OFFICE OF CABLE TELEVISION, BOARD OF PUBLIC UTILITIES, Two Gateway Center, Newark, New Jersey 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 2, 2007
DATE

Walter M. Braswell
WALTER M. BRASWELL, ALJ

Date Received at Agency: 6-07-07

Floyd Zang Jr
Mailed to Parties:

DATE
ljb

OFFICE OF ADMINISTRATIVE LAW

BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
OFFICE OF ADMINISTRATIVE LAW

IN THE MATTER OF COMCAST OF)
JERSEY CITY, LLC)
RATE CHANGE UNDER FCC FORM 1240)
UPDATING MAXIMUM PERMITTED RATE)
FOR REGULATED CABLE SERVICE)

BPU DOCKET NO. CR06070558
OAL DOCKET NO. CTV 09455-2006N

STIPULATION OF SETTLEMENT

Appearances:

Stryker, Tams & Dill LLP by Dennis C. Linken, Esq., and Richard P. DeAngelis, Esq., for Comcast of Jersey City, LLC.

Ronald K. Chen, Esq., Public Advocate, Kimberly K. Holmes, Esq., Acting Director, Maria Novas-Ruiz, Esq., Asst. Deputy Public Advocate and James Glassen, Asst. Deputy Public Advocate, on behalf of the Department of the Public Advocate, Division of Rate Counsel.

Anne Milgram, First Assistant Attorney General, Anne Marie Shatto, Esq., Deputy Attorney General, on behalf of the Staff of the Board of Public Utilities.

WHEREAS, the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), codified at 47 U.S.C. § 543 et seq., (the "Federal Act"), divided the delivery of cable television services into two separate rate regulable categories: (i) "basic service" (generally consisting primarily of "off-the-air" channels and public, educational and governmental channels) and associated equipment and installation and (ii) cable programming services ("CPS") (consisting of other television channels) and associated equipment;

WHEREAS, under the Federal Act, basic service (sometimes called "limited basic service") is regulated by the "local franchising authority," and until March 31, 1999, CPS was regulated by the Federal Communications Commission ("FCC") upon the filing of a complaint from the local franchising authority to the FCC with regard to a CPS tier rate;

WHEREAS, under the provisions of the New Jersey Cable Television Act ("New Jersey Act"), N.J.S.A. 48:5A-1 et seq., the local franchising authority is the Board of Public Utilities ("BPU" or "Board");

WHEREAS, the Federal Act required the FCC to issue regulations governing the standards to be used by local franchising authorities in regulating rates charged for basic service (or, as the case may be, limited basic service);

WHEREAS, under FCC rules, 47 CFR §76.900 *et seq.*, a cable operator may adjust its basic service rate under the annual rate adjustment system pursuant to the regulations adopted September 15, 1995 (47 CFR §76.922), by filing with the local franchising authority a FCC Form 1240, which computes the maximum permitted rate (“MPR”) for basic service (or, as the case may be, limited basic service) adjusted for inflation, external costs and channel changes;

WHEREAS, on July 31, 2006, pursuant to 47 U.S.C. 543 *et seq.* and N.J.S.A. 48:5A-1 *et seq.*, Comcast of Jersey City, LLC (“Comcast”), serving subscribers within the City of Jersey City, filed a FCC Form 1240 (the “Form 1240”) with the Board in the above-captioned docket number, seeking approval to update its MPR, as detailed in Exhibit A, for the rate cycle of November 1, 2006 to October 31, 2007, exclusive of franchise fees. Subsequently, Comcast decided to delay implementing a rate increase in the Jersey City system until January 1, 2007, and as a result, and notwithstanding that a revised Form 1240 filing was not submitted, the new rate cycle and projected period was changed to January 1, 2007 through December 31, 2007, accordingly. The Operator Selected Rate (“OSR”) which also went into effect on January 1, 2007, for the same rate cycle of January 1, 2007 through December 31, 2007, is also set forth in Exhibit A; said OSR will remain unchanged through December 31, 2007. However, during this period, if Petitioner chooses to decrease the OSR, with proper notice to subscribers and the Board, this decrease will not affect the established rate cycle;

WHEREAS, on August 11, 2006, the above Form 1240 rate filing was transmitted to the Office of Administrative Law (“OAL”) for initial disposition;

WHEREAS, on December 27, 2006, the Staff of the Board (“Staff”), Comcast and the Division of Rate Counsel (“Rate Counsel”) (each a “Party” and, collectively, the “Parties”) signed an Agreement of Non-Disclosure of Information Claimed to be Confidential;

WHEREAS, on January 23, 2007, pursuant to N.J.A.C. 1:1-13.1, a pre-hearing conference was held in this matter before the Honorable Diana C. Sukovich, Administrative Law Judge (“ALJ”), and dates for plenary hearings of April 26 and 30, 2007 were subsequently set;

WHEREAS, on February 28, 2007, Comcast agreed to extend the 12-month period within which the Board may review the Form 1240 to August 1, 2007;

WHEREAS, on March 6, 2007, Comcast notified its subscribers in the City of Jersey City of the proposed rate adjustment via newspaper announcement in The Jersey Journal, informing them of their opportunity to submit written comments for a period of thirty (30) days;

WHEREAS, on March 7, 2007, the Parties were advised by Judge Sukovich that the above-captioned matter was reassigned to Judge Walter M. Braswell;

WHEREAS, during the course of this proceeding, Staff and Rate Counsel propounded discovery requests upon Comcast, pursuant to which Comcast provided responses thereto;

WHEREAS, as part of said discovery responses, on March 14, 2007, Comcast provided to Staff and Rate Counsel, in response to RAR-15, a revised Form 1240 (the "RAR-15 Form 1240"), a copy of which is annexed hereto as Exhibit B only for the purpose of referring to certain components contained in RAR-15 Form 1240 and agreed to as set forth in Exhibit A¹;

WHEREAS, on April 23, 2007, the Parties engaged in settlement discussions, and reached agreement on the disposition of this matter;

NOW, THEREFORE, the Parties hereby STIPULATE and agree to the following for consideration by the Board:

1. Comcast notified its customers of the proposed rate adjustment via newspaper announcement, informing them of their opportunity to submit written comments for a period of thirty (30) days.
2. The effective date for the increase in the MPR for basic service due to inflation and external cost adjustments under the corresponding docket and in the OSR is January 1, 2007.
3. The rate cycle established and agreed to by the parties in Jersey City under the corresponding docket is January 1, 2007 to December 31, 2007.
4. On September 14, 2006, the Board issued Orders in Docket Nos. CR05090826 (Toms River-Rebuild), CR05090827 (Crestwood Village/Cedar Bonnet Island), CR05110935 (South Jersey/Vineland-Vineland) and CR05110937 (South Jersey/Vineland-Franklinville South) (hereinafter the "Toms River/South Jersey Matters") adopting Stipulations of Settlement among the parties therein (the "Toms River/South Jersey Stipulations"). These stipulations addressed, among other things, the cost of programming pertaining to CN8, a Comcast affiliated channel, to be reported on Worksheet 7 - Line 701 of the Form 1240. Specifically, the Toms River/South Jersey Stipulations provided that, for all "Comcast" affiliated rate districts in New Jersey, Line 701 on Worksheet 7 would be based upon rates of thirty-three (33) cents, thirty-four (34) cents and thirty-five (35) cents per subscriber per month for CN8 (excluding the Form 1240's permitted 7.5% markup), and that these rates would be frozen for specific true-up and projected periods listed for each rate district in Exhibit B to the Toms River/South Jersey Stipulations (hereinafter, the "CN8 Agreement"). For convenience, a copy of the Toms River/South Jersey Stipulations' Exhibit B is annexed hereto as Attachment 1. It was further agreed in the Toms River/South Jersey Stipulations that for the period during which the CN8 rates shall be frozen at the above rates, such rates shall be deemed not unreasonable and that documentation in support of such rates and/or discovery requests relating to such rates shall not be necessary. Accordingly, and pursuant to the CN8 Agreement, as set forth in the Toms River/South Jersey Matters, the cost of programming pertaining to CN8 in the instant matter has been calculated at the agreed upon rate per subscriber per month in Worksheet 7 - Line 701 of the Form 1240. Comcast further agrees to include this paragraph in future Stipulations for all

¹ This revised Form 1240 was a response to discovery and was not formally filed with the Board.

Comcast Form 1240 rate filings that include any true up or projected period subject to the CN8 rate freeze as indicated on Attachment 1.

5. In the event that a system listed in Attachment 1 changes its annual rate cycle, resulting in a concomitant change in the true-up and/or projected periods attributable to said system, the rate freeze periods set forth in Attachment 1 to the Toms River/South Jersey Stipulations shall remain unchanged.

6. (a) The monthly basic service MPR for the Jersey City rate district, effective January 1, 2007, shall be the rate set forth in Exhibit A (the "Stipulated MPR"), exclusive of franchise, FCC regulatory and State assessment fees. Said Stipulated MPR shall remain in effect at least through December 31, 2007 and is hereby deemed not unreasonable under the Federal Act and the regulations adopted by the FCC pursuant thereto.

(b) The next FCC Form 1240 rate filing, anticipated to be filed by Comcast with respect to the Jersey City rate district on or about October 1, 2007, shall reflect the following:

- 1) The MPR to be set forth on line A1 shall be the Stipulated MPR.
- 2) The applicable segments from Module I of the RAR-15 Form 1240 (Exhibit B) shall be brought forward to Module D of next year's filing.
- 3) For True-up Period 1 and True-up Period 2 in the next filing, anticipated to be made on or about October 1, 2007, the formulas for the True-up Segments in both Module F (Line F8) and Module G (Line G8) will be as set forth in Exhibit C.
- 4) The Base Rate (Line D8 in the next filing) shall be the Stipulated Base Rate as set forth in Exhibit A.

7. The OSR currently being charged by Comcast with respect to the Jersey City rate district is as set forth in Exhibit A. Said OSR shall remain unchanged at least through December 31, 2007, subject to Comcast's ability to reduce said OSR.

8. This Stipulation of Settlement is subject to the approval of the Board. If this Stipulation of Settlement is approved by the Board, but the Board later finds the Stipulated MPR in whole or in part to have been implemented improperly, all revenues collected as a result of the Stipulated MPR shall be subject to refund, pursuant to the rules and regulations of the FCC as well as those of the Board.

9. This Stipulation of Settlement resolves all issues raised by any Party, relating or pertaining in any way to or in connection with the FCC Form 1240 filing in Docket No. CR06070558.

10. The signatories agree that, except as expressly provided herein, this Stipulation of Settlement has been made exclusively for the purpose of these proceedings and that the provisions contained herein, in total or by specific items, shall not be used against any of the Parties in any other proceedings before the Board or in other forums or jurisdictions, nor shall the contents of this Stipulation of Settlement, in total or by specific items, by inference, inclusion, or deletion, in any way be considered or used by any other Party as any indication of the position of any Party hereto on any issue litigated or to be litigated in other proceedings. All signatories acknowledge that the terms of this Stipulation of Settlement shall not be effective until approved by the Board.

11. This Stipulation of Settlement contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation of Settlement. Each term is vital to the agreement as a whole, since the Parties expressly and jointly state that they would not have signed the agreement had any term been modified in any way. Each Party is entitled to certain procedures in the event that any modification is made to the terms of this Stipulation of Settlement, pursuant to which each of the signatory Parties hereto must be given the right to be placed in the position it was in before this Stipulation of Settlement was entered. Therefore, if any modification is made to the terms of this Stipulation of Settlement, it is essential that each Party be given the option, before the implementation of any new rate resulting from said action, either to modify its own position, to accept the proposed changes, or to resume the proceedings as if no agreement had been reached.

12. The Parties believe these provisions are fair to all concerned and therefore they are made an integral and essential element of this Stipulation of Settlement. This being the case, all Parties expressly agree to support the right of any other Party to this Stipulation of Settlement to enforce all terms and procedures detailed herein.

COMCAST OF JERSEY CITY, LLC

Dated: 6/20/07

By: 
Dennis C. Linken, Esq.
Stryker, Tams & Dill LLP

RONALD K. CHEN, ESQ.
PUBLIC ADVOCATE
KIMBERLY K. HOLMES, ESQ., ACTING
DIRECTOR, DIVISION OF RATE COUNSEL

Dated: 6/20/07

By: 
Maria Novas-Ruiz, Esq.
Assistant Deputy Public Advocate

ANNE MILGRAM
FIRST ASSISTANT ATTORNEY GENERAL
Attorney for the Staff of the
Board of Public Utilities

Dated:

By: 
Anne Marie Shatto, Esq.
Deputy Attorney General

EXHIBIT C

For True-up Period 1 and True-up Period 2 in the next filing, anticipated to be made on or about October 1, 2007, the formulas for the True-up Segments in both Module F (Line F8) and Module G (Line G8) will be as follows:

- Line F8 - \$621,457.6433 (True-up from RAR-15 Form 1240: Module H: Line H14/ 14 months) (extended true-up due to movement of filing date from August 1st to October 1st) / True-up Period 1 avg. subs

- Line G8 - \$621,457.6433 (True-up from RAR-15 Form 1240: Module H: Line H14/ 14 months) (extended true-up due to movement of filing date from August 1st to October 1st) / True-up Period 2 avg. subs

COPY



COPY

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, New Jersey 07102
(973) 648-6008
(973-648-6058)

Robert J. Giordano, ALJ &
Manager of Organizational Development

RECEIVED
MAIL ROOM
07 JUN 27 PM 1:32
BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

NORTH

Date JUN 25 2007

Re: Initial Decisions for Receipt

We are hereby forwarding to you the following decisions from the office of Administrative Law. **Receipt is acknowledged as of the next business day of the date indicated below.** Should a listed decision not be included in this batch, please call 973-648-6008.

OAL Docket No. CTV

Case Name

9455-06

COMCAST OF Jersey City

Office of Cable Television
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Date: _____

Office of Cable Television