



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 CABLEVISION OF NEWARK,)	
CABLEVISION OF NEW JERSEY, INC. – BAYONNE)	
AND CSC TKR, INC. D/B/A CABLEVISION OF)	
HAMILTON FOR APPROVAL OF THE FILING OF FCC)	
FORMS 1240, AN ANNUAL UPDATING OF THE)	DOCKET NO. CR07110891
MAXIMUM PERMITTED RATE FOR THE REGULATED)	CR07110892
BASIC CABLE SERVICE)	CR07110895

(SERVICE LIST ATTACHED)

BY THE BOARD:

At the request of the Office of Cable Television (“OCTV”), on November 27, 2007, Cablevision of Newark, Cablevision of New Jersey, Inc. – Bayonne, and CSC TKR, Inc. d/b/a Cablevision of Hamilton (collectively, “Petitioner”) filed Federal Communications Commission (“FCC”) Forms 1240, in Docket Numbers CR07110891, CR07110892 and CR07110895. These FCC Forms calculated a maximum permitted rate (“MPR”) resulting from an adjustment to the current rate for inflation, channel changes, programming costs and copyright fees pursuant to the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 et seq., and provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq.

Pursuant to 47 C.F.R. § 76.7, 47 C.F.R. § 76.905 and 47 C.F.R. § 76.907, on or around April 9, 2007, Petitioner filed an effective competition petition with the FCC for Hamilton Township. On or around September 21, 2007, Petitioner filed additional effective competition petitions with the FCC for the Borough of Allentown, and the Cities of Bayonne and Newark. In its response to the OCTV accompanying the filings of the FCC Forms, Petitioner stated that since all the communities that presently compose these rate districts have been the subject of the pending effective competition petitions, the FCC Forms were provided solely at the request of the OCTV, and should not be construed as a waiver of any rights that Petitioner has under law or an admission that the basic tier rates in these districts remain subject to rate regulation. Petitioner maintains that the mere filing of a petition for effective competition divests the Board, as the local franchising authority (“LFA”), of its authority to regulate basic service tier rates, and therefore, relieves Petitioner of the obligation to file an appropriate FCC Form 1240 with the Board.

Pursuant to 47 C.F.R. § 76.910, the Board, as the LFA, has responsibility to adopt and administer regulations with respect to the rates for the basic service tier that are consistent with the regulations prescribed by the FCC. That responsibility continues until the FCC concludes that effective competition exists, issues its Order determining such findings, and revokes the Board's authority to regulate the basic service tier rates pursuant to 47 U.S.C. § 543 (a) (2).

The FCC has consistently held that in the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition, 47 C.F.R. § 76.906, as that term is defined by 47 C.F.R. § 76.905. The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area. 47 C.F.R. § 76.907. The LFA is entitled to rely on the presumption of no effective competition absent actual knowledge that it does exist. 47 C.F.R. § 76.910 (b) (4).

The Board FINDS that the mere filing of a petition for a finding of effective competition is insufficient to rebut the presumption that effective competition does not exist, and any statement to the contrary is inconsistent with FCC rules and policies¹. Until such time as the FCC has determined, based on evidence provided by the cable operator, that effective competition is present within the relevant franchise area, the presumption that effective competition does not exist remains in place, along with all of the regulatory obligations imposed upon a cable operator to the LFA including, but not limited to, the requirement to file FCC rate Forms to calculate allowed adjustments to its rates.

As of this date, the FCC has not issued an Order on Petitioner's effective competition filings for these cable systems. Therefore, they remain subject to rate regulation under the Board's jurisdiction. 47 CFR § 76.905 (a).

These FCC Forms 1240 were reviewed by Staff who determined that the rates, both MPR and Operator Selected Rates ("OSR"), were correctly calculated using the FCC's benchmark methodology, and recommended that the rates be accepted as filed under the FCC rules and regulations.

The effective date for the MPRs and OSRs calculated in these filings was February 1, 2008. The rates are effective for the period of February 1, 2008 until January 31, 2009 ("Rate Cycle") unless the FCC issues an Order declaring these municipalities unregulated due to effective competition.

Pursuant to 47 C.F.R. § 933 (g) 2, the Board must issue an Order within twelve (12) months from the date Petitioner filed the forms to retain the power to order any refund or prospective rate reduction. The filings were also reviewed by the Department of the Public Advocate, Division of Rate Counsel, which concurs with Staff's recommendation that the Board should issue an Order accepting these filings and the rates contained therein.

¹ See *Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, Report and Order, Federal Communications Commission, 14 *FCC Rcd* 5296, 5311, (1999) ("A finding of effective competition must be made based on a record that demonstrates effective competition exists, not on a mere claim by the cable operator that it is subject to effective competition.")

Therefore, based on its review, the Board, HEREBY ACCEPTS the FCC Forms as filed which are attached hereto, and APPROVES the MPRs and OSRs effective as of February 1, 2008 for the Rate Cycle of February 1, 2008 through January 31, 2009. However, during this Rate Cycle, if Petitioner chooses to decrease the OSRs, with proper notice to its subscribers and the Board, the decrease will not affect the time period of the established rate cycle.

The Board FURTHER ORDERS that, subject to the ongoing review before the FCC, should these cable systems, or any part thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, its 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 should 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 said merger, migration, upgrade, rebuild, sale or transfer.

The cable systems, or any part 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 portion 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 heretofore 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.

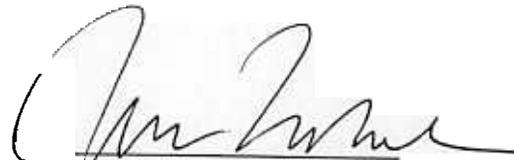
The above referenced true-up procedure does not exclude any cable system party to this order.

DATED: 3/4/08

BOARD OF PUBLIC UTILITIES
BY:

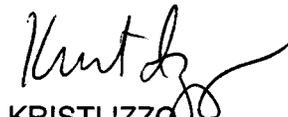

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
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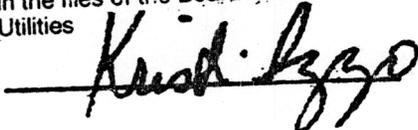

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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



IN THE MATTER OF
CABLEVISION OF NEWARK, CABLEVISION OF NEW JERSEY, INC. -
BAYONNE AND CSC, TKR D/B/A CABLEVISION OF HAMILTON
FILING OF FCC FORMS 1240

DOCKET NUMBER: CR07110891, CR07110892 & CR07110895

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