



Agenda Date: 5/8/08

Agenda Item: III B

## STATE OF NEW JERSEY

### Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

### CABLE TELEVISION

IN THE MATTER OF TIME WARNER CABLE OF	)	
BERGEN COUNTY FOR APPROVAL OF THE FILINGS	)	
OF FCC FORM 1240, AN ANNUAL UPDATING OF THE	)	ORDER ADOPTING
MAXIMUM PERMITTED RATE FOR THE REGULATED	)	STIPULATION
BASIC CABLE SERVICE AND IN CONNECTION	)	
THEREWITH FCC FORM 1205 DETERMINING	)	
REGULATED EQUIPMENT AND INSTALLATION COSTS	)	
USING THE OPTIONAL EXPEDITED RATE	)	DOCKET NOS. CR07110841
PROCEDURES	)	CR07110842

(SERVICE LIST ATTACHED)

#### BY THE BOARD:

On November 1, 2007, Time Warner Cable of Bergen County ("Petitioner") filed Federal Communications Commission ("FCC") Form 1240, in Docket Number CR071100841, seeking approval by the Board of Public Utilities ("Board") for an annual rate adjustment in its maximum permitted rate resulting from an adjustment for inflation, programming costs and copyright fees, and filed Form 1205 in Docket Number CR07110842, seeking rate adjustments for regulated equipment and installation costs 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.

The Board, at its public meeting on January 10, 1996, in Docket Number CX95120636, approved the implementation of Optional Expedited Rate Procedures for the processing of certain filings made with the Office of Cable Television ("OCTV"). The intended purpose of these procedures is to grant final rates as quickly as possible to any cable company that chooses this process. In the spirit of cooperation based on the principles of Alternate Dispute Resolution, the discovery content is limited, thereby reducing the timeframe for settlement.

Petitioner chose to pursue its filings with the Board through the approved procedures. To that end, pre-transmittal conferences were held on December 11, 2007 for Form 1240, and December 18, 2007 for Form 1205, and were attended by representatives of the Petitioner, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff. Petitioner agreed to waive its Office of Administrative Law ("OAL") litigation rights for these matters. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect Petitioner's right to appeal in that forum.

Petitioner notified its customers of the rate changes by way of a newspaper announcement, informing them of their opportunity to submit written comments to the Board for a period of thirty days. The notice appeared in The Record on January 4, 2008. No comments or resolutions were received as a result of the public notice.

On September 14, 2004 in Docket Number CR03100764, the Board approved a Stipulation of Settlement that included a requirement that subscribers be notified within thirty days of the availability of a basic only converter at a cost not to exceed \$1.00 per converter per month. On October 10, 2004, Petitioner published the required notice.

On January 3, 2005 in Docket Number CR04101090, the rate for the basic only converter was reduced to \$ .55 per converter per month, and that rate remained in effect until February 1, 2008.

During the initial review of the Form 1205, Staff and the Rate Counsel discovered that no basic only subscribers were utilizing the low cost converter that was part of the prior settlement.

After several conversations between the Petitioner, Rate Counsel and Staff (collectively, "the Parties") about this issue, it was agreed that Petitioner would offer the converter at no charge to any basic only subscriber who requested it. In addition, Petitioner agreed to inform all of its basic only subscribers of the free converter offer in January 2008, including that if they chose the downgrade, the converter exchange would be of no cost to them. The deadline for the offer was February 29, 2008.

Since Petitioner's records indicated that twenty-four new basic only subscribers had been added since the October 10, 2004 notification, the parties agreed to limit the refund liability to those subscribers.

After additional review of both FCC Forms by Staff and Rate Counsel of the supporting documentation, schedules and other discovery requests, settlement conferences were held on December 18, 2007 for Form 1240 and December 20, 2007 for Form 1205. The parties entered into Stipulations of Settlement for both the FCC Forms 1240 and 1205 on February 15, 2008.

On February 29, 2008, Petitioner notified Staff that only two subscribers requested the free converter. However, these subscribers were not part of the previously identified twenty-four subscribers that initiated service after the October 2004 notification.

Because there were only two subscribers who requested these converters, Petitioner agreed to refund the monies to them calculating the refund from November 2004.

The amount of the refund has been calculated to be \$362.10, including interest, through June, 2008, which will be shared equally by the two subscribers.

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

The Board has, also, reviewed the basic only converter refund calculation, and HEREBY FINDS it to be reasonable.

Therefore, the Board, HEREBY ORDERS that Time Warner shall issue refund checks to its two basic only subscribers who had requested the basic only converters within sixty (60) days of the date of this Order, and that Time Warner shall inform the subscribers of the reason for the refunds as a "BPU Refund".

The Board FURTHER ORDERS that Time Warner, within ten (10) days of effectuating the entire refund to its subscribers, certify in writing to the OCTV that the refunds have been completed.

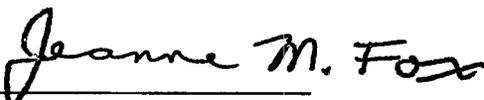
The Board FURTHER ORDERS that, subject to the ongoing review before the Federal Communications Commission, should these cable systems, or any part thereof, merge and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold or transferred to another entity, 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.

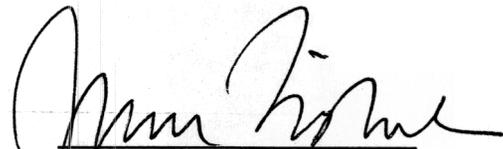
The above referenced true-up procedure does not exclude any cable system party to this order.

DATED: 5/9/08

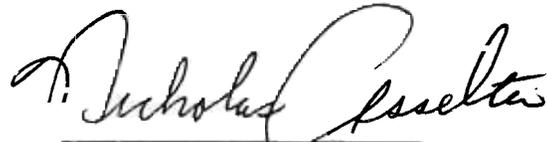
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

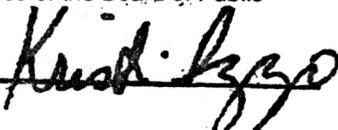
  
CHRISTINE V. BATOR  
COMMISSIONER

  
NICHOLAS ASSELTA  
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  
TIME WARNER CABLE OF BERGEN COUNTY  
FCC FORMS 1240 AND 1205 USING THE  
OPTIONAL EXPEDITED RATE PROCEDURES

DOCKET NUMBERS: CR07110841, CR07110842

Tom Longstreet  
Vice President of Finance  
Time Warner Cable of New York  
120 East 23<sup>rd</sup> Street  
New York, N. Y. 10010

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Gloria Furlong  
Supervising Administrative Analyst  
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Office of Cable Television  
Two Gateway Center  
Newark, NJ 07102

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Department of the Public Advocate  
Division of the Rate Counsel  
31 Clinton Street - 11th Floor  
Newark, NJ 07102

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Deputy Attorney General  
State of New Jersey  
Dept. of Law & Public Safety  
124 Halsey Street  
Newark, NJ 07101

RECEIVED  
MAIL ROOM

IN THE MATTER OF TIME WARNER )  
CABLE OF BERGEN COUNTY'S FILING )  
OF FCC FORM 1240 UPDATING THE )  
MAXIMUM PERMITTED RATE FOR )  
REGULATED CABLE SERVICE USING )  
THE OPTIONAL EXPEDITED RATE )  
PROCEDURES )

CABLE TELEVISION

08 FEB 15 AM 10:21

STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

BPU DOCKET NUMBER CR07110841

STIPULATION OF FINAL RATES

The undersigned parties, as a result of a review of the Federal Communications Commission ("FCC") Form 1240 and timely filed public comments in this matter hereby stipulate to the following findings of fact and conclusions of law for consideration by the Board of Public Utilities ("Board"); and,

As part of the Optional Expedited Rate Procedures (Approved January 12, 1996, Docket No. CX95120636), Time Warner Cable of Bergen County ("Petitioner") agreed to waive the Company's litigation rights at the Office of Administrative Law ("OAL") in this proceeding. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect the Company's right to appeal in that forum.

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"), classified the delivery of cable television services into two separate rate regulated categories: (i) "basic service" (consisting primarily of "off-the-air" and public educational and governmental channels) and associated equipment and installation and (ii) cable programming services ("CPS") (consisting of other regulated tiers of channels) and associated equipment; and

WHEREAS, under the Federal Act, basic service is regulated by the "franchising authority"; and

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

WHEREAS, the Federal Act required the FCC to issue regulations governing the standards to be used by franchising authorities in regulating basic service rates; and

WHEREAS, under the regulations adopted March 30, 1994, 47 C.F.R. § 76.900 *et seq.*, a cable operator may adjust its rates by electing the annual rate adjustment system under the regulations adopted September 15, 1995 (47 C.F.R. § 76.922) by filing a Form 1240 and a Form 1205 on the same date; and

WHEREAS, on November 1, 2007, Petitioner, serving Cliffside Park, Edgewater, Englewood, Englewood Cliffs, Fairview, Fort Lee, Guttenburg, Leonia, Little Ferry, Moonachie, Palisades Park, Ridgefield, Ridgefield Park and Teterboro filed a Form 1240, Docket Number CR07110841 with the Board seeking approval of inflation and external cost adjustments for a total increase in the Maximum Permitted Rate ("MPR") of 10.5% for the rate cycle of February 1, 2008 to January 31, 2009 for a rate increase from \$11.19 to \$12.36, exclusive of franchise fees, which would result in a total increase in the MPR for basic service of \$1.17 per month. The Operator Selected Rate ("OSR") will be \$9.86 effective February 1, 2008 for the same rate cycle

of February 1, 2008 to January 31, 2009. However, during this period, if Petitioner chooses to decrease the OSR, with proper notice to its subscribers and the Board, this decrease will not affect the established rate cycle; and

WHEREAS, the Board Staff ("Staff") and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), upon review of the FCC Form 1240, supporting documentation and schedules thereto agree that the proposed MPR and OSR rates are just and reasonable; and

WHEREAS, Staff, Rate Counsel and Petitioner have engaged in discussions of this matter; and

WHEREAS, Staff, Rate Counsel and Petitioner have concluded that the Company is entitled to the above-referenced adjustment which it seeks in its FCC Form 1240 filing;

NOW, THEREFORE, Staff, Rate Counsel, and Petitioner hereby STIPULATE AS FOLLOWS:

1. Petitioner notified its customers of the proposed MPR rate increase via a newspaper announcement and has informed 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 costs under Docket Number CR07110841 and the OSR is February 1, 2008.
3. The rate cycle established under Docket Number CR07110841 is February 1, 2008 to January 31, 2009.
4. This stipulated rate increase shall be subject to the approval of the Board and all revenues collected as a result of this adjustment shall be subject to refund, pursuant to the rules and regulations of the FCC as well as those of the Board if the Board finds this rate increase to be unjustified in whole or in part or in any way implemented improperly.
5. This Stipulation of Settlement resolves all issues raised by this filing which are the subject of the within matter.
6. The signatories agree that, except as expressly provided herein, this Stipulation has been made exclusively for the purpose of this proceeding and that the Stipulation contained herein, in total or by specific items, is in no way binding upon the parties in other proceedings before the Board or in other forums or jurisdictions, nor are the contents of this Stipulation, in total or by specific items, by inference, inclusion, or deletion, in any way to be considered or used by another party as any indication of the position of any party hereto on any issue litigated or to be litigated in other proceedings.

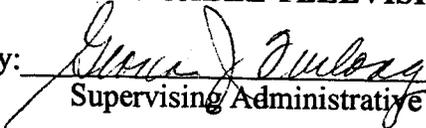
This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the parties expressly and jointly state that they would not have signed the agreement had any term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

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

**GLORIA J. FURLONG**  
**OFFICE OF CABLE TELEVISION**

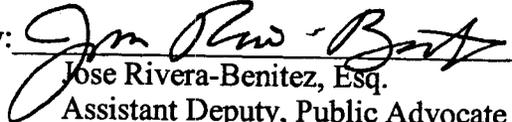
DATED: 2/15/08

By:   
Supervising Administrative Analyst

**RONALD K. CHEN, ESQ.**  
**PUBLIC ADVOCATE OF NEW JERSEY**

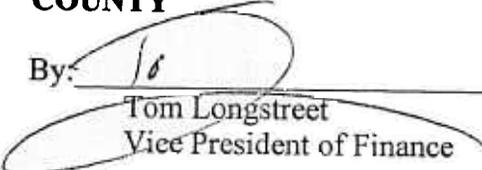
**STEPHANIE BRANS, ESQ., DIRECTOR,**  
**DIVISION OF RATE COUNCIL**

DATED: 2/15/08

By:   
Jose Rivera-Benitez, Esq.  
Assistant Deputy, Public Advocate

**TIME WARNER CABLE OF BERGEN**  
**COUNTY**

DATED: 2/14/08

By:   
Tom Longstreet  
Vice President of Finance

RECEIVED  
MAIL ROOM

08 FEB 15 AM 10:21

IN THE MATTER OF TIME WARNER )  
CABLE OF BERGEN COUNTY'S FILING )  
OF FCC FORM 1205 FOR AN ANNUAL )  
RATE ADJUSTMENT FOR REGULATED )  
INSTALLATION AND EQUIPMENT )  
COSTS USING THE OPTIONAL )  
EXPEDITED RATE PROCEDURES )

CABLE TELEVISION BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

BPU DOCKET NUMBER CR07110842

STIPULATION OF FINAL RATES

The undersigned parties, as a result of a review of the Federal Communications Commission ("FCC") Form 1205 and timely filed public comments in this matter hereby stipulate to the following findings of fact and conclusions of law for consideration by the Board of Public Utilities ("Board"); and,

As part of the Optional Expedited Rate Procedures (Approved by the Board on January 12, 1996, Docket No. CX95120636), Time Warner Cable of Bergen County ("Petitioner") agreed to waive their litigation rights at the Office of Administrative Law ("OAL") in this proceeding. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and the waiver did not constitute a circumvention of the FCC rules nor did it affect the Company's right to appeal in that forum.

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"), classified the delivery of cable television services into two separate rate regulated categories: (i) "basic service" (consisting primarily of "off-the-air" and public, educational and governmental channels) and associated equipment and installation; and (ii) cable programming services ("CPS") (consisting of other tiers of channels) and associated equipment; and

WHEREAS, under the Federal Act, basic service is regulated by the "franchising authority," and

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

WHEREAS, the Federal Act required the FCC to issue regulations governing the standards to be used by franchising authorities in regulating basic service rates; and

WHEREAS, under the regulations adopted March 30, 1994, 47 C.F.R. §76.922 et seq., a cable operator may adjust its rates by electing the annual rate adjustment system under the regulations adopted September 15, 1995 (47 C.F.R. §76.922) by filing a Form 1240 and a Form 1205 on the same date; and

WHEREAS, on November 1, 2007, Petitioner, serving Cliffside Park, Edgewater, Englewood, Englewood Cliffs, Fairview, Fort Lee, Guttenburg, Leonia, Little Ferry, Moonachie, Palisades Park, Ridgefield, Ridgefield Park and Teterboro filed an aggregate Form 1205, Docket Number CR07110842, with the Board, seeking approval of regulated installation and equipment rate adjustments for its New Jersey systems listed on the attached Schedule A for the rate cycle of February 1, 2008 to January 31, 2009. However, during this period, if Petitioner chooses to decrease these rates, with proper notice to its subscribers and the Board this decrease will not affect the established rate cycle; and

WHEREAS, the Board Staff ("Staff") and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), upon review of the FCC Form 1205 filed in this matter, supporting documentation and schedules thereto, agree that the proposed rates as set forth in Schedule A are just and reasonable; and

WHEREAS, the Staff, Rate Counsel and Petitioner have engaged in discussions of this matter; and

WHEREAS, the Staff, Rate Counsel and Petitioner have concluded that the Company is entitled to the agreed upon rates which it seeks in its aggregate FCC 1205 filing in this matter;

NOW, THEREFORE, Staff, Rate Counsel, and Petitioner hereby STIPULATE AS FOLLOWS:

1. Petitioner notified its customers of the proposed rate changes via newspaper announcements and has informed them of their opportunity to submit written comments for a period of thirty (30) days.
2. The effective date for the equipment and installation service rates reflected on Schedule A, under Docket Number CR07110842, is February 1, 2008.

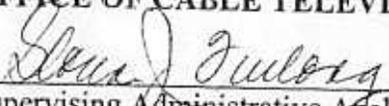
3. The rate cycle established under Docket Number CR07110842, is February 1, 2008 to January 31, 2009.
4. These stipulated rates shall be subject to the approval of the Board and all revenues collected as a result of these rates shall be subject to refund, pursuant to the rules and regulations of the FCC as well as those of the Board if the Board finds these rates to be unjustified in whole or in part or in any way implemented improperly.
5. This Stipulation of Settlement resolves all issues raised by the filing which is the subject of the within matter.
6. The signatories agree that, except as expressly provided herein, this Stipulation has been made exclusively for the purpose of this proceeding and that the Stipulation contained herein, in total or by specific items, is in no way binding upon the parties in other proceedings before the Board or in other forums or jurisdictions, nor are the contents of this Stipulation, in total or by specific items, by inference, inclusion, or deletion, in any way to be considered or used by another party as any indication of the position of any party hereto on any issue litigated or to be litigated in other proceedings.

This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. 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. That is, the signatory party must be given the right to be placed in the position it was in before the Stipulation was entered. Therefore, if any modification is made to the terms of this Stipulation, it is essential that each party be given the option, before the implementation of any new rate resulting from this action, either to modify its own position to accept the proposed changes, or to resume the proceeding as if no agreement had been reached.

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

DATED: 2/15/08

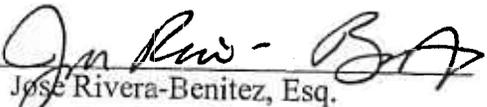
**GLORIA J. FURLONG**  
**OFFICE OF CABLE TELEVISION**

By:   
Supervising Administrative Analyst

**RONALD K. CHEN, ESQ.**  
**PUBLIC ADVOCATE OF NEW JERSEY**

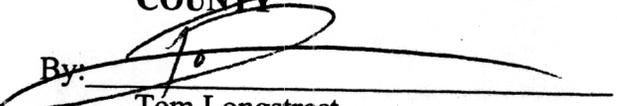
**STEPHANIE BRAND, ESQ.,**  
**DIRECTOR, DIVISION OF RATE**  
**COUNCIL**

DATED: 2/15/08

By:   
Jose Rivera-Benitez, Esq.  
Assistant Deputy Public Advocate

**TIME WARNER CABLE OF BERGEN**  
**COUNTY**

DATED: 2/14/08

By:   
Tom Longstreet  
Vice President of Finance

**Time Warner Cable of Bergen County**  
**1205 Schedule A**

**EQUIPMENT AND INSTALLATION**  
**CHARGES/MONTHLY LEASE RATE**

**PRESENT**      **PROPOSED**

**STANDARD INSTALLATION RATES:**

Unwired Home – first set*	\$40.00	\$40.00
Each additional set at initial install	\$19.00	\$19.00
Prewired Home – first set*	\$30.30	\$30.30
Each additional set at initial install	\$19.00	\$19.00
Reconnect*	\$30.30	\$30.30
Trip Charge**	\$30.30	\$30.30
Addressable Transaction (No Home Trip required)	\$1.99	\$1.99
Hourly Service Rate	\$37.62	\$37.62

**ANCILLARY EQUIPMENT CHARGES:**

Basic Only Converter Box (month per converter)	\$0.55	No Charge
Addressable Converter (month per converter)	\$4.40	\$4.40
Digital Converter (month per converter)	\$4.40	\$4.40
Digital Video Recorder ("DVR") Converter (month per converter)	\$4.40	\$4.40
Basic Remote Rental (month per device)	\$0.34	\$0.34
Universal DTV Remote (month per device)	\$0.34	\$0.34
VCR Commander, purchase (plus NJ Sales Tax)	\$14.95	\$14.95
Converter deposit (per Household)	\$25.00	\$25.00
CableCARD (month per card)	\$1.75	\$1.75