



Agenda Date: 2/22/06
Agenda Item: III Q

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 COMCAST OF SOUTHEAST	)	
PENNSYLVANIA, LLC (HOPEWELL) FOR APPROVAL	)	ORDER ADOPTING
OF THE FILING OF FCC FORM 1240, AN ANNUAL	)	STIPULATION
UPDATING OF THE MAXIMUM PERMITTED RATE FOR	)	
THE REGULATED BASIC CABLE SERVICE USING THE	)	
OPTIONAL EXPEDITED RATE PROCEDURES	)	DOCKET NO. CR05110997

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 30, 2005, Comcast of Southeast Pennsylvania, LLC (Hopewell) ("Petitioner") filed Federal Communications Commission ("FCC") Form 1240, Docket Number CR05110997, 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 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. 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 filing with the Board through the approved procedures. To that end, a pre-transmittal conference was held on January 6, 2006, and attended by representatives of the Petitioner, the Division of the Ratepayer Advocate ("Ratepayer") and Board Staff. The Petitioner agreed to waive its Office of Administrative Law ("OAL") litigation rights for this matter. It should be noted that the 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.

The Petitioner notified its customers of the rate decrease 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 Hopewell Valley News on December 22, 2005. No comments or resolutions were received as a result of the public notice.

After review by Staff and the Ratepayer of the supporting documentation, schedules and other discovery requests, a settlement conference was held on January 12, 2006. On February 1, 2006, the parties entered into a Stipulation of Settlement.

The Board has reviewed the Stipulation of Settlement and FINDS it to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation 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 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, is 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: 2/24/06

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M. Fox
JEANNE M. FOX
PRESIDENT

Frederick F. Butler
FREDERICK F. BUTLER
COMMISSIONER

Connie O. Hughes
CONNIE O. HUGHES
COMMISSIONER

Joseph L. Fiordaliso
JOSEPH L. FIORDALISO
COMMISSIONER

Christine V. Bator
CHRISTINE V. BATOR
COMMISSIONER

ATTEST:

Kristi Izzo
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

Kristi Izzo

IN THE MATTER OF
COMCAST OF SOUTHEAST PENNSYLVANIA, LLC (HOPEWELL)
FCC FORM 1240 USING THE
OPTIONAL EXPEDITED RATE PROCEDURES

DOCKET NUMBER: CR05110997

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IN THE MATTER OF COMCAST OF	)	<u>CABLE TELEVISION</u>
SOUTHEAST PENNSYLVANIA, LLC -	)	
HOPEWELL.'S FILING OF FCC FORM	)	
1240, AN ANNUAL UPDATING OF THE	)	
MAXIMUM PERMITTED RATE FOR	)	STATE OF NEW JERSEY
REGULATED CABLE SERVICES	)	BOARD OF PUBLIC UTILITIES
USING THE OPTIONAL EXPEDITED	)	
RATE PROCEDURES	)	BPU DOCKET NUMBER CR05110997

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), Comcast of Southeast Pennsylvania, LLC - Hopewell ("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 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 30, 2005, Petitioner, serving the Township of Hopewell filed a Form 1240, Docket Number CR05110997 with the Board seeking approval of inflation and

external cost adjustments for a total decrease in the Maximum Permitted Rate ("MPR") of 2.7% for the rate cycle of March 1, 2006 to February 28, 2007 for a rate decrease from \$13.32 to \$12.96, exclusive of franchise fees, which would result in a total decrease in the MPR for basic service of \$.36 per month. The Operator Selected Rate ("OSR") will be \$12.80 effective March 1, 2006 for the same rate cycle of March 1, 2006 to February 28, 2007. 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 Ratepayer Advocate, 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, the Ratepayer Advocate and Petitioner have engaged in discussions of this matter; and

WHEREAS, Staff, the Ratepayer Advocate 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, the Ratepayer Advocate, and Petitioner hereby STIPULATE AS FOLLOWS:

1. Petitioner notified its customers of the proposed MPR rate decrease 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 decrease in the MPR for basic service due to inflation and external costs adjustments under Docket Number CR05110997 and the OSR is March 1, 2006.
3. The rate cycle established under Docket Number CR05110997 is March 1, 2006 to February 28, 2007.
4. On October 5, 2004, in Docket Nos. CR03100879, CR03100880, CR03100876 and CR03100877 (hereinafter the "Pleasantville/Vineland Matters"), the Board issued an Order approving a Stipulation of Settlement among the Parties therein (the "Pleasantville/Vineland Stipulation"), which, among other things, addressed 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 Pleasantville/Vineland Stipulation provided that, for all "Comcast" affiliated rate districts in New Jersey, Line 701 on Worksheet 7 would be based upon a rate of thirty cents (30¢) per subscriber per month for CN8 (excluding the Form 1240's permitted 7.5% markup), and that this rate would be frozen for the true-up and projected periods listed for each rate district in Exhibit B to the Pleasantville/Vineland Stipulation (hereinafter, the "CN8 Agreement"). For convenience, a copy of the Pleasantville/Vineland Stipulation Exhibit B is annexed hereto as Attachment 1. It was further agreed in the

Pleasantville/Vineland Stipulation that for the period during which the CN8 rate shall be frozen at thirty (30) cents, such rate shall be deemed not unreasonable and that documentation in support of such rate and/or discovery requests relating to such rate shall not be necessary. Accordingly, and pursuant to the CN8 Agreement, as set forth in the Pleasantville/Vineland Matters, the cost of programming pertaining to CN8 in the instant matters has been calculated at thirty cents (30¢) 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 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 Exhibit B to the Pleasantville/Vineland Stipulation shall remain unchanged.
6. This stipulated rate decrease 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.
7. This Stipulation of Settlement resolves all issues raised by this filing which are the subject of the within matter.
8. 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: 2/1/06

By: Gloria J. Furlong
Supervising Administrative Analyst

**SEEMA SINGH, ESQ.,
RATEPAYER ADVOCATE**

DATED: 2/1/06

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

**COMCAST OF SOUTHEAST
PENNSYLVANIA, LLC - HOPEWELL**

DATED: 1/25/06

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

ATTACHMENT 1

Exhibit B

Current Pending Filings:

Date Filed:			First Filing		Second Filing		Third Filing
			True-Up Period	Projected Period	True-up Period	Projected Period	True-up Period
October 1, 2003	Comcast of New Jersey, LLC	Toms River Rebuild	5/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
		Cedar Bonnet Island	5/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
		Crestwood Village	5/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
	Comcast of Long Beach Island, LLC	Long Beach Island	5/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
	Comcast of Central New Jersey, LLC	East Windsor	10/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
		West Windsor	10/01/02 to 9/30/03	1/01/04-12/31/04	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05
November 1, 2003	Comcast of South Jersey, LLC	Vineland/Franklinville South	11/01/02 to 10/31/03	2/01/04-1/31/05	11/01/03 to 10/31/04	2/01/05-1/31/06	11/01/04 to 10/31/05
		Vineland/Salem	11/01/02 to 10/31/03	2/01/04-1/31/05	11/01/03 to 10/31/04	2/01/05-1/31/06	11/01/04 to 10/31/05
		Vineland	11/01/02 to 10/31/03	2/01/04-1/31/05	11/01/03 to 10/31/04	2/01/05-1/31/06	11/01/04 to 10/31/05
March 1, 2004	Comcast of Wildwood, LLC	Gloucester	12/01/02-11/30/03	6/01/04-5/31/05	12/01/03-11/30/04	6/01/05-5/31/06	12/01/04-11/30/05
		Maple Shade	12/01/02-11/30/03	6/01/04-5/31/05	12/01/03-11/30/04	6/01/05-5/31/06	12/01/04-11/30/05
	Comcast of Avalon, LLC	Avalon	3/01/03-2/29/04	6/01/04-5/31/05	3/01/04-2/28/05	6/01/05-5/31/06	3/01/05-2/28/06
Non-Pending Filings:							
Next Filing Date:							
August 1, 2004	Comcast of Jersey City, LLC	Jersey City	8/01/03-7/31/04	11/01/04-10/31/05	8/01/04-7/31/05	11/01/05-10/31/06	8/01/05-7/31/06
October 1, 2004	Comcast of Monmouth County, LLC	Monmouth	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
		Freehold	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
	Comcast of Ocean County, LLC	Ocean	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
	Comcast of Burlington, LLC	Burlington	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
	Comcast of Central New Jersey, LLC	East Brunswick	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
	Comcast of Gloucester County, LLC	Gloucester	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
November 1, 2004	Comcast of Garden State, L.P.	Garden State	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
		Carney's Point	10/01/03-9/30/04	1/01/05-12/31/05	10/01/04-9/30/05	1/01/06-12/31/06	10/01/05-9/30/06
	Comcast of Northwest New Jersey, LLC	Northwest	10/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Plainfield	10/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
	Comcast of South Jersey, LLC	Vineland/Franklinville North	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Vineland/Turnersville	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
	Comcast of South Jersey, LLC	Vineland/Franklin Township-6 towns	No True-up per rate cap settlement in 2001	2/1/05-1/31/06	2/1/05-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Pleasantville /East 1	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Pleasantville/East 2	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Pleasantville West/Mullica	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Pleasantville/Downbeach	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Pleasantville/Atlantic City	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
November 30, 2004	Comcast of Wildwood, LLC	Wildwood	11/01/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Meadowlands	8/1/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
		Union/Verona/Woodbridge	8/1/03-10/31/04	2/01/05-1/31/06	11/01/04-10/31/05	2/01/06-1/31/07	11/01/05-10/31/06
	Comcast of Mercer County, LLC	Trenton	8/1/03-11/30/04	3/01/05-2/28/06	12/01/04-11/30/05	3/01/06-2/28/07	12/01/05-11/30/06
	Comcast of Southeast Pennsylvania, Inc	Lambertville	11/01/03-11/30/04	3/01/05-2/28/06	12/01/04-11/30/05	3/01/06-2/28/07	12/01/05-11/30/06
		Hopewell	11/01/03-11/30/04	3/01/05-2/28/06	12/01/04-11/30/05	3/01/06-2/28/07	12/01/05-11/30/06