

Rhode Island Division of Public Utilities and Carriers – Cable Section

2003 Docket Items

2003-C-1 SALE OF BLOCK ISLAND CABLE TV (CLOSED)

Inquiry was made to the Division concerning the transfer of the license to Mr. Cliff McGinnes, Sr. by his attorney from Schacht and McElroy in January 2001 although no formal paperwork was ever filed. Apparently the license was transferred without authorization by the Division and Attorneys from the Attorney General Office, on behalf of the Cable Section, questioned Attorney McElroy on this matter in January 2003. Attorney McElroy responded with correspondence dated January 31, 2003 explaining the circumstances of the transfer. The Division determined that a hearing on the matter was required based on the Cable Rules governing license transfers. A hearing was held on April 23, 2003 and testimony was presented on the matter. The hearing officer issued a decision on June 3, 2003 granting the license transfer, fining Block Island Cable TV the sum of \$200.00 and directing that a new set of cable certificates be drafted. The fine was paid in June and the certificates issued on July 2, 2003.

2003-C-3 COX COMMUNICATION RATE FILING (CLOSED)

On May 5, 2003 Cox submitted a rate filing to the DPUC concerning basic service, equipment and installation services. The filing called for an increase in basic cable rates ranging from \$0.89 to \$2.25 (9.8% to 25.5%) depending on the cable service area and a commensurate dollar reduction in standard service (the combination of basic and expanded services). The summary result is that the 13% of subscribers who purchase only basic were requested to absorb the above referenced increases and the remaining 87% of subscribers would see cable rates remain the same. Cable rates, per the FCC, are unregulated for expanded service tiers. The basic tier is regulated through the FCC mandated 1205 and 1240 forms only to the extent that proposed rates do not exceed the maximum permitted rate derived from the calculations included in the forms. Cox's filing was determined to be within the specified parameters.

In addition, Cox moved to recover Public, Education and Government access costs that are franchise mandated costs related to the annual state assessment, public access studios and front counter locations in each service area. These costs, which Cox indicated it had not sought to recover in the past, are reimbursable according to Federal Communication Commission regulations. The Division asked a series of questions and proffered a series of data requests as a result of the June 3, 2003 briefing session and June 23, 2003 public hearing. Adjustments were made in several categories related to the front counter charges. The concluding result was a \$0.50, per customer, assessment in the rate filing for PEG fees.

The Division issued an order on July 3, 2003 approving the basic rate increases and the institution of the PEG fee.

2003-C-2 FULL CHANNEL TV APPLICATION TO PROVIDE CABLE TV
SERVICE TO AREA 4, EAST PROVIDENCE

Full Channel TV (FCTV) filed an application with the Division on August 20, 2003 to obtain a compliance order certificate to provide cable service to the Service Area 4, East Providence. After initial review the Advocacy Section of the Division met with FCTV representatives on September 5, 2003 to request certain additional information about the application.

Subsequently, FCTV submitted a response to these data requests dated October 9, 2003 and received by the Division on October 16, 2003. After reviewing the supplemental information, the Division docketed the request as 2003-C-2 to begin the process of formal consideration.

An advertisement was published in the Providence Journal on October 30, 2004, noticing the filing and establishing the deadline for interveners. Cox Communications and the New England Cable and Telecommunications Association were approved as interveners by the hearing officer.

Cox has submitted four sets of data requests and the Division Advocacy Section submitted additional requests for information. Responses were received for those questions the hearing officer felt were reasonable. With the completion of the data request and response phase, the hearing officer amended the procedural schedule to allow for position statements by May 28, 2004 and pre-filed testimony by June 4, 2004. Pre-filed rebuttal submittals were filed by June 21.

The public hearing schedule commenced with hearings on July 28 and 29 and August 4. Full Channel began the presentation of their case and a continuation hearing scheduled for August 30 was canceled at the request of FCTV to allow them additional time to gather financial information requested during the hearings.

With the death of Mr. John Donofrio, President of FCTV, FCTV requested cancellation of the hearings scheduled for the last week of September while the Company was reorganizing. A "status conference" was held on November 18, 2004 and it was determined that FCTV provide a supplemental application and additional data to the Division by January 31, 2005. FCTV met this deadline and at a February 14 status conference, the hearing officer established a new procedural schedule. Also, on February 24, 2005, the Advocacy Section met with FCTV representatives and an official from UBS Financial Services concerning FCTV's financing for the project.

In late May 2005, the Rhode Island Attorney Generals Office announced the indictment of two high level officials in the employ of Full Channel TV, namely the General Manager and the Chief Engineer. The indictment was based on a comprehensive investigation by several arms of law enforcement that allege the stealing of certain programming from Cox Communication that was rebroadcast over the Full Channel network. With disposition of the allegations still pending, the Cable Advocacy Section moved to stay the proceeding. This action was taken to assure that sufficient information about the facts relating to the indictment and the ultimate judicial result is defined, allowing the Advocacy Section to determine the "fitness" of FCTV to have their license extended to East Providence. Questioning the indicted employees at public hearings

would have potentially jeopardized the criminal case by potentially providing transactional immunity to those employees. The Attorney General's Office opposed any action by the Division that would jeopardize their case.

On August 12, 2005 the Division issued an order granting the stay. Full Channel appealed that decision and on October 13, 2005 the Division reaffirmed the stay through a formal order.

On October 10, 2006 Michael D. McGonagle, General Manager and David Rasmussen, Chief Engineer of Full Channel TV pleaded no contest to obtaining telecommunications services by using an unlawful device and conspiring to steal telecommunications services. A Superior Court judge sentenced McGonagle to 5 years probation and Rasmussen received a deferred sentence and will also be on probation.