

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888**

IN RE: CoxCom, Inc. d/b/a/Cox :
 Communications - Rate Change : Docket No. 2008-C-2
 Notification Filing :

REPORT AND ORDER

On December 1, 2008, CoxCom, Inc. d/b/a Cox Communications New England (“Cox”), 9 J.P. Murphy Highway, West Warwick, Rhode Island, filed a notification of rate changes with the Rhode Island Division of Public Utilities and Carriers (“Division”).¹ The rate change notification applies to those customers living in the following six (6) Rhode Island CATV Service Area communities:

Service Area 1 – Woonsocket, Smithfield, Lincoln, North Smithfield, Cumberland, Central Falls, Burrillville and Glocester.

Service Area 2 – Providence and North Providence.

Service Area 3 – Cranston, Johnston, Scituate and Foster.

Service Area 4 – East Providence and Pawtucket.

Service Area 7 – Newport, Middletown, Portsmouth, Tiverton, Little Compton and Jamestown.

Service Area 8 – Westerly, Richmond, Charlestown, Hopkinton, Narragansett and South Kingstown.

The notification of the rate changes was submitted on Federal Communications Commission (“FCC”) “1240” and “1205” forms. This federal

¹ Cox Exhibits 1, 2, 3 and 4.

rate form filing comports to rules and regulations previously promulgated by the FCC (“FCC Rules”).²

For purposes of complying with the FCC Rules, Cox’s rate form filing identifies the communities it serves in Rhode Island by grouping them under various “channel line-up” classifications recognized by the FCC, rather than by the CATV Service Area designations recognized by the Division. In satisfaction of the FCC Rules, Cox’s rate form filing categorizes the Rhode Island communities it serves under the following franchise listings:

<u>Franchise</u>	<u>FCC ID</u>
• <u>Glocester</u>	
Burrillville	RI0038
Glocester	RI0037
• <u>Cranston</u>	
Cranston	RI0013
Johnston	RI0014
Scituate	RI0032
Foster	RI0045
• <u>Providence</u>	
Providence	RI0003
North Providence	RI0004
• <u>Rhode Island - North</u>	
Central Falls	RI0018
Cumberland	RI0019
Lincoln	RI0017
Woonsocket	RI0020
Smithfield	RI0015
North Smithfield	RI0016
• <u>Rhode Island - South</u>	
Narragansett	RI0021
South Kingstown	RI0023

² See FCC Cable Television Service Rules and Regulations, 47 Sec. 76.922, et seq.

Newport	RI0027
Portsmouth	RI0026
Tiverton	RI0025
Little Compton	RI0029
Middletown	RI0028
Jamestown	RI0030
• <u>Pawtucket</u>	
Pawtucket	RI0005
• <u>East Providence</u>	
East Providence	RI0024
• <u>Westerly</u>	
Westerly	RI0001
Hopkinton	RI0004
Charleston	RI0035
Richmond	RI0036

The “Form 1240” and “Form 1205” rate filing methodologies permit Cox to seek rate increases in accordance with a formula established by the FCC. The parameters for the formula are similarly provided in the FCC Rules. Under the FCC Rules, Cox is granted substantial flexibility in setting rates for new service tiers offering additional program channels. In exchange for the flexibility, rates for existing services must be limited to changes permitted by a specific benchmark formula. Under the formula, Cox may adjust its rates on an annual basis in order to recover inflation and external costs.³ The FCC’s Forms 1240 and 1205, supra, facilitate the annual adjustment.

The Division, referred to as the local franchising authority under the federal law, is barred under the FCC Rules from altering any permitted rate changes filed in accordance with the formula. Indeed, the Division’s role is to substantiate the accuracy of the Forms 1240 and 1205 information and

³ See 47 C.F.R. Sec 76.922(3).

calculations with respect to only Cox's basic service tier and concomitant equipment rental, installation and miscellaneous charges⁴; and to provide an opportunity for interested parties to express their views.⁵

In its authorized Service Areas, Cox's total cable rate is comprised of two tiers of cable service. "Basic" service constitutes the first tier and "expanded" service constitutes the second tier. The Division has rate jurisdiction over the "basic" service tier (and concomitant equipment rental, installation and miscellaneous charges) only.

Cox filed the FCC 1240 Forms to correct the inflation adjustment for the true-up period, which results in increases in the "Maximum Permitted Rates" ("MPR") and operator-selected rates. Cox's 1240 Forms indicate that the updated MPRs are greater than the current basic rates applicable in Cox's Service Areas. Despite its ability to raise basic rates under the FCC formula on August 1, 2009, the filing indicates that Cox decided to not increase its basic rates at this time. The filing also reflects permitted changes to some "installation and equipment" rates, consistent with the MPR formula and applicable law. However, Cox is similarly not proposing any increases in its installation and equipment rates at this time. Cox's FCC 1205 Form filing supports the permitted "installation and equipment" related MPR changes.

⁴ In its filing, Cox describes these "miscellaneous" charges as "other" charges. In this context, both words shall be treated synonymously.

⁵ See 47 C.F.R. Secs. 76.922, 76.933 and 76.935.

PUBLIC HEARING

The Division conducted a public hearing on the instant rate notification filing on January 22, 2009. The hearing was held at the Division's hearing room, located at 89 Jefferson Boulevard, in Warwick. The hearing was conducted in accordance with the mandate contained in Rhode Island General Laws, Section 39-19-6. The pertinent provisions of the aforementioned mandate are provided below:

The cable television section of the division of public utilities and carriers shall take all necessary steps to ensure that Rhode Island shall regulate the rates charged by cable television companies to the full extent allowable under federal law, provided however, the division shall hold public hearings and the cable television companies shall justify and explain at the hearings the necessity for all rate increases of regulated rates.

The following counsel entered appearances at the hearing:

For Cox: Alan D. Mandl, Esq.

For the Division's
Advocacy Section: Leo J. Wold, Esq.
Special Assistant Attorney General

At the hearing, Cox proffered supporting testimony from Mr. Michael Patrie, Manager of Strategic Planning. Mr. Patrie explained how this year's FCC 1240 and 1205 forms were calculated.

After Mr. Patrie's testimony, the Advocacy Section recommended that the Division approve Cox's rate notification submittal.

FINDINGS

The Cable Television Consumer Protection and Competition Act of 1992, and the FCC Rules promulgated thereunder limit the Division's jurisdiction to a

review of “basic” cable service only. Regarding Cox’s concomitant equipment rental, installation and miscellaneous charges, the Division’s review is limited to checking compliance with a federally prescribed rate formula. In this specific filing, Cox’s basic service rates and concomitant equipment rental, installation and miscellaneous charges are remaining the same.

The Division has performed the federally prescribed review of Cox’s Form 1240 and Form 1205 filings, with respect to Cox’s basic tier services and rental, installation and miscellaneous charges, and finds that the proposed MPR rate changes comport with the FCC rules. Accordingly, the Division must approve Cox’s basic service rates and the charges related to Cox’s equipment rental, installation and miscellaneous charges.

Now, therefore, it is

(19544) ORDERED:

That Cox’s December 1, 2008 FCC Form 1240 and Form 1205 rate change notification filing, is hereby approved.

Dated and Effective at Warwick, Rhode Island on January 23, 2009.

John Spirito, Jr., Esq.
Hearing Officer

APPROVED:_____
Thomas F. Ahern
Administrator