

**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. 2009-C-2
 Notification Filing :

REPORT AND ORDER

On December 2, 2009, 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 An amendment to the filing was subsequently submitted by Cox on January 19, 2010.² The instant rate change notification only applies to those customers living in Rhode Island CATV Service Area 7, which is comprised of the communities of Newport, Middletown, Portsmouth, Tiverton, Little Compton and Jamestown.³ The rate changes are slated to go into effect on April 1, 2010.

¹ Cox Exhibit 1.

² Cox Exhibit 2.

³ Unlike in previous years, this rate notification filing is limited to Rhode Island's Service Area 7. Historically, Cox has filed annual rate notifications for seven (7) of the Service Areas in which it does business in Rhode Island (Cox is currently doing business in eight (8) of the State's nine (9) Service Areas). However, under federal law, such filings are not required in Service Areas in which "effective competition" is present. Currently, Cox is offering its cable services in seven (7) Service Areas that meet the Federal Communications Commission's ("FCC") standards for "effective competition," and as a result, has been authorized by the FCC to discontinue its rate notification filings for these Service Areas (Service Areas 1,2,3,4,5,6 and 8) to the State of Rhode Island (See FCC decisions: DA 08-852, released on April 10, 2008 (revoking Rhode Island's authority to regulate Cox's basic cable service rates in Service Area 6); and DA 09-416, released on February 20, 2009 (revoking Rhode Island's authority to regulate Cox's basis service rates in Service Areas 1, 2, 3,4 and 8)).

The notification of the rate changes was submitted on Federal Communications Commission (“FCC”) “1240” and “1205” forms. This federal rate form filing comports to rules and regulations previously promulgated by the FCC (“FCC Rules”).⁴

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.⁵ 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 calculations with respect to only Cox’s basic service tier and concomitant equipment rental, installation and miscellaneous charges⁶; and to provide an opportunity for interested parties to express their views.⁷

⁴ See FCC Cable Television Service Rules and Regulations, 47 Sec. 76.922, et seq.

⁵ See 47 C.F.R. Sec 76.922(3).

⁶ In its filing, Cox describes these “miscellaneous” charges as “other” charges. In this context, both words shall be treated synonymously.

⁷ See 47 C.F.R. Secs. 76.922, 76.933 and 76.935.

In Service Area 7, 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 Form to correct the inflation adjustment for the true-up period, which results in increases (or decreases) in the "Maximum Permitted Rates" ("MPR") and operator-selected rates. Cox's latest 1240 Form indicates that some of the updated MPRs, ones associated with current basic installation and equipment rates, are lesser than the current rates in Cox's Service Area 7. As a result of this MPR decrease, the filing indicates that Cox will be reducing the relevant basic rates at this time.

Additionally, for notification purposes, Cox provided the Division with a letter reflecting the Company's decision to implement a rate increase change that was approved, but never implemented, after last year's rate notification hearing. The rate change, affecting "limited basic" services, falls under the Division's regulatory oversight. Cox notified the Division that it was increasing this service by \$4.00, from \$12.99 to \$16.99, effective March 1, 2010.⁸ The Division acknowledges that although Cox had previously elected to keep this rate unchanged in last year's rate notification filing and proceeding, the

⁸ Cox Exhibits 2 and 3.

Company's approved MPR from last year permits the implementation of the rate change at this time.⁹

PUBLIC HEARING

The Division conducted a public hearing on the instant rate notification filing on February 3, 2010. 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: Jon Hagopian, Esq.
Special Assistant Attorney General

At the hearing, Cox proffered supporting testimony from Mr. Gary Dalton, Vice President, Business Affairs. Mr. Dalton explained how this year's FCC 1240 and 1205 forms were calculated.

After Mr. Dalton's testimony, the Advocacy Section proffered the Division's Associate Administrator of Cable Television, Mr. Eric Palazzo, as a

⁹ See Order No. 19544, issued by the Division on January 23, 2009.

witness, who recommended that the Division approve Cox's rate notification submittal. Mr. Palazzo also asked the Division to memorialize Cox's election to now implement the increase to its "Limited Basic" rate, that was previously authorized by the Division after Cox's 2009 rate notification filing and public hearing, in the text of the Division's decision regarding this year'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 either remaining the same or being decreased.

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.

The Division also acknowledges Cox's election to now implement the increase to its Limited Basic rate that was reviewed and approved by the Division in January 2009.

Now, therefore, it is
(19897) ORDERED:

That Cox's December 2, 2009 FCC Form 1240 and Form 1205 rate change notification filing, as amended on January 19, 2010, is hereby approved.

Dated and Effective at Warwick, Rhode Island on February 4, 2010.

John Spirito, Jr., Esq.
Hearing Officer

APPROVED:_____
Thomas F. Ahern
Administrator