

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
COMCAST CABLEVISION OF NEW CASTLE)
COUNTY, LLC, D/B/A COMCAST CABLE,)
FOR AN ANNUAL ADJUSTMENT TO ITS) PSC DOCKET NO. 03-129
MAXIMUM PERMITTED BASIC CABLE RATES)
AND REGULATED EQUIPMENT AND)
INSTALLATION COSTS)
(FILED APRIL 1, 2003))

ORDER NO. 6259

AND NOW, this 9th day of September, 2003;

WHEREAS, on April 1, 2003, Comcast Cablevision of New Castle County, LLC, d/b/a Comcast Cable ("Comcast"), filed with this Commission FCC Forms 1240 and 1205 to justify adjustments to its basic cable tier service rate and equipment and installation charges for basic cable television service provided by it in its northern New Castle County franchise area; and

WHEREAS, the Commission having, on September 9, 2003, conducted a public evidentiary hearing on the proposed changes in the maximum permitted rates for basic cable television service and equipment and installation charges sought by Comcast;¹ and

WHEREAS, based on the evidence so presented, the Commission having determined that Comcast's proposed rate adjustments, as they appear on its FCC Forms 1240 and 1205, have been calculated in accordance with the rules and regulations of the Federal

¹By PSC Order No. 6195 (June 17, 2003), the Commission allowed the maximum permitted rates proposed by Comcast in its April 1, 2003 forms to go into effect pending further review. See 47 C.F.R. § 76.933(g).

Communications Commission and, hence, should be approved for service after July 1, 2003.

NOW, THEREFORE, IT IS ORDERED:

1. That the Commission hereby approves the maximum permitted rates for basic cable service and equipment and installation charges as set forth below for service offered by Comcast Cablevision of New Castle County, LLC, d/b/a Comcast Cable, in those unincorporated areas of New Castle County for which it has been granted a franchise by this Commission, with such maximum permitted rates to be effective for service after July 1, 2003.

BASIC SERVICE TIER RATES

	CURRENT MAXIMUM PERMITTED RATE	NEW MAXIMUM MONTHLY PERMITTED RATE (EFFECTIVE JULY 1 2003)	OPERATOR- SELECTED RATE (EFFECTIVE JULY 1, 2003)
BASIC SERVICE RATE	\$12.44	\$12.37	\$11.99

INSTALLATION RATES

	CURRENT MAXIMUM PERMITTED RATE	NEW MAXIMUM PERMITTED RATE (EFFECTIVE JULY 1, 2003)	OPERATOR- SELECTED RATE (EFFECTIVE JULY 1, 2003)
INSTALL UNWIRED HOME	\$65.17	\$67.17	\$65.17
INSTALL PRE-WIRED HOME	\$39.94	\$41.17	\$39.94
INSTALL A/O INITIAL	\$23.13	\$23.84	\$23.13
INSTALL A/O SEPARATE	\$31.54	\$32.50	\$31.54
RELOCATE OUTLET INITIAL	\$31.54	\$32.50	\$31.54
RELOCATE OUTLET SEPARATE	\$39.94	\$41.17	\$39.94
CONNECT CONVERTER ON VCR SEPARATE	\$18.92	\$19.50	\$18.92
HOURLY SERVICE CHARGE	\$42.05	\$43.34	\$42.05

EQUIPMENT RATES

	CURRENT MAXIMUM PERMITTED RATE	NEW MAXIMUM PERMITTED RATE (EFFECTIVE JULY 1, 2003)	OPERATOR- SELECTED MONTHLY RATES (EFFECTIVE JULY 1, 2003)
REMOTE CONTROL	\$0.36	\$0.32	\$0.30
NON-ADDRESSABLE CONVERTER	\$1.90	\$1.08	\$0.36
ADDRESSABLE CONVERTER	\$3.14	\$3.89	\$3.10

2. That the Commission will enter formal findings and an opinion at a later date.

3. That the Commission reserves the jurisdiction and authority to enter such further Order in this matter as may be deemed necessary or proper.

PSC Docket No. 03-129, Order No. 6259 Cont'd.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

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OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
COMCAST CABLEVISION OF NEW CASTLE)
COUNTY, LLC, D/B/A COMCAST CABLE,)
FOR AN ADJUSTMENT TO ITS MAXIMUM) PSC DOCKET NO. 03-129
PERMITTED BASIC CABLE RATES AND)
REGULATED EQUIPMENT AND INSTALLATION)
COSTS (FILED APRIL 1, 2003))

FINDINGS AND OPINION TO ACCOMPANY PSC ORDER NO. 6259

APPEARANCES:

On behalf of the Applicant, Comcast Cablevision of New Castle County, LLC, d/b/a Comcast Cable:

RICHARDS, LAYTON & FINGER
BY: GLENN C. KENTON, ESQUIRE

On behalf of the Delaware Public Service Commission:

GARY A. MYERS, DEPUTY ATTORNEY GENERAL, RATE COUNSEL

I. BACKGROUND

1. Comcast Cablevision of New Castle County, LLC, d/b/a Comcast Cable ("Comcast Cable"), holds a franchise granted by this Commission ("the Commission" or the "PSC") to operate a cable television system in the unincorporated areas of northern New Castle County. The Commission regulates the maximum permitted rates that Comcast Cable may charge its subscribers for its basic service tier ("BST") and related equipment and installation charges. In doing so, the Commission applies the rate regulation rules and methodologies adopted by the Federal Communications Commission ("FCC"). See 47 U.S.C. § 543(a)(2)(A), (b); 26 Del. C. § 605(6).

2. On April 1, 2003, Comcast Cable filed an FCC Form 1240 seeking to gain Commission approval to adjust its maximum permitted

BST rate for the then upcoming July 2003 to June 2004 projected period. See 47 C.F.R. § 76.922(e) (annual rate adjustment methodology). With that Form 1240, Comcast Cable also submitted another form, FCC Form 1205, to make changes to the maximum permitted rates for its equipment and installation charges during the same period. See 47 C.F.R. § 76.923.¹

3. At the direction of Staff, Comcast Cable published notice of these proposed adjustments to its regulated rates. The notice (Exh. 1A) solicited comments and announced that the Commission would hold a hearing on the proposed rate adjustments at its meeting on September 9, 2003.² No one submitted comments and no member of the public appeared at the hearing. After considering the evidence presented by Staff and Comcast Cable at that September 9th hearing, the Commission approved the proposed adjustments to Comcast Cable's maximum permitted rates for regulated BST service and equipment and installation charges. PSC Order No. 6259 (Sept. 9, 2003). These are the findings in support of that earlier Order. They are based on a record of five exhibits and 16 pages of transcribed proceedings.

¹By PSC Order No. 6195 (June 17, 2003), the Commission allowed the maximum permitted rates proposed by Comcast Cable in its FCC Forms 1240 and 1205 filed on April 1, 2003, to go into effect, pending further Commission review. See 47 C.F.R. 76.933(g).

²The original notice was published in The News Journal newspaper on August 5, 2003. On September 4 & 5, Comcast Cable also published a correction to the earlier notice. Exh. 1B. The second notice corrected an erroneous operator-selected rate set forth in the original publication.

II. SUMMARY OF EVIDENCE:

4. As noted, Comcast Cable filed its FCC Form 1240 in order to obtain the Commission's approval for a proposed increase in its maximum permitted rate for its "limited" basic cable service. Under the proposal, that maximum rate for BST would move, due to inflation, changed programming costs, and "true-up" calculations, from the previously approved maximum of \$12.44 to a new - lower - maximum for the projected period of \$12.37. Exh. 2A. With its BST form, Comcast Cable also filed its FCC Form 1205 to justify changes (based on its prior year's actual costs) to its maximum permitted rates for equipment and installation charges. Exh. 2B. In most instances, that Form 1205 proposes increases in the maximum permitted equipment and installation charges. The exceptions would be for "remote controls" and "non-addressable converters."

5. In his pre-filed testimony (Exh. 3), William C. Schaffer, Staff Analyst, testified that Staff had verified the financial data and calculations used by Comcast Cable in its FCC Forms 1240 and 1205. Exh. 3 at 1-3. He reported (in both his pre-filed and oral testimony) that, in Staff's view, Comcast Cable's proposed maximum permitted BST rate and its proposed maximum permitted equipment and installation charges had been appropriately calculated utilizing the FCC's annual rate adjustment methodologies. Accordingly, Mr. Schaffer recommended that the proposed changes to such maximum permitted rates be approved. Exh. 3 at 3-4, Exh. A; Tr. 14.

6. At the hearing, Comcast Cable presented the oral testimony of Todd Eachus, its Director of Governmental Affairs. He indicated that Comcast Cable had, in his view, calculated the proposed

adjustments in a complete and accurate manner utilizing the FCC's forms and corresponding rules. Tr. 10-11. Given that, he obviously saw no reason to disagree with Mr. Schaffer's recommendation that the adjustments be approved. Tr. 11. Mr. Eachus also testified that while Comcast Cable was seeking an adjustment to its maximum permitted BST rate, the present operator-selected BST rate (\$11.99) was below the proposed lower maximum permitted BST rate. Tr. 12.³ In contrast, while the maximum permitted equipment and installation charges would rise, in most instances, Comcast Cable's operator-selected charges for equipment and installation services would remain the same. See Exh. 3, Exh. A.

7. At the hearing, Mr. Schaffer also re-affirmed Staff's investigatory efforts and its recommendation that the new maximum permitted rates and charges be approved. Tr. 13-14.

III. DISCUSSION AND CONCLUSIONS

8. This Commission has jurisdiction over this matter. Section 605(6) of Title 26 of the Delaware Code grants this Commission the authority to implement any federal regulations or legislation governing the provision of cable television service. Since 1993, the PSC has acted as the local franchising authority for this franchise (CUID DE0011) and, hence, has regulated (under the rules adopted by the FCC) the maximum rates the cable operator may charge for BST, related equipment, and related installation services. Over the last

³Comcast Cable raised its operator-selected BST rate in February 2003. Accordingly, it could not again raise its actual BST charge until the lapse of one year. See 47 C.F.R. § 76.922(e)(1). See generally In the Matter of Frontiervision Operating Partners Order Setting Basic Service Rates: Winchester KY & Mt. Sterling KY, DA 03-3127 at ¶¶ 11-16 (Media Bur. FCC rel. Oct. 10, 2003).

several years, Comcast Cable (and its predecessor) have used the FCC's annual rate adjustment methodology to adjust the franchisee's BST rates. 47 C.F.R. § 76.922(e). Under this methodology, the maximum permitted BST rate can be adjusted annually (subject to a "true-up") to reflect inflation and changes in external costs (including programming costs). 47 C.F.R. § 76.922(e)(1). At the same time, the maximum permitted charges for equipment and installation services are also adjusted on a similar annual basis to reflect the operator's preceding year's actual costs. 47 C.F.R. § 76.923(a)(2).⁴

9. As noted above, in this matter, Comcast Cable has filed FCC Forms 1205 and 1240 to reflect adjustments to the maximum permitted rates for its BST service, related equipment, and installation charges for the New Castle County franchise area. Based on the evidence presented, the Commission finds that the submitted Form 1240 reflects permissible adjustments to Comcast Cable's maximum permitted rate for BST service. Accordingly, the Commission approves the maximum permitted rate (\$12.37) set forth in the FCC Form 1240 applicable to this franchise area. In so doing, the Commission notes that, despite the increase in the maximum rate, Comcast Cable will, for some period, continue - as an operator-selected rate - its current operator selected BST rate of \$11.99.

10. Furthermore, based on the evidence presented, the Commission finds that the maximum permitted equipment and installation rates set forth in the submitted FCC Form 1205 have been appropriately

²In setting rates for equipment and installation, a cable operator may aggregate its equipment costs on a franchise, system, regional, or company level. See 47 C.F.R. § 76.923(c)(1), (3). For its northern New Castle County franchise, Comcast Communications has chosen to set its equipment and installation charges on the basis of costs calculated at a level consisting of franchises in the

calculated. Accordingly, the Commission approves the maximum permitted rates set forth in the FCC Form 1205.

NOW, THEREFORE, IT **IS** directed this 13th day of January, 2004, that these Findings and Opinion shall be filed with PSC Order No. 6259 (Sept. 9, 2003).

BY THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

Philadelphia region and the New Castle County, Delaware franchise.