

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

IN THE MATTER OF THE APPLICATION)
OF COMCAST CABLEVISION OF DELMARVA,)
INC., FOR A CHANGE IN ITS BASIC)
SERVICE RATES AND NECESSARY)
EQUIPMENT AND INSTALLATION CHARGES) PSC DOCKET NO. 03-324
IN THE UNINCORPORATED AREAS OF)
KENT, SUSSEX, AND NEW CASTLE)
COUNTIES SERVED BY THE DOVER AND)
SALISBURY HEAD-ENDS)
(FILED JULY 30, 2003))

ORDER NO. 6285

AND NOW, to-wit, this 7th day of October, A.D. 2003;

WHEREAS the Commission having, on October 7, 2003, conducted a public evidentiary hearing on the applications filed by Comcast Cablevision of Delmarva, Inc. ("Comcast"), seeking approval to make changes in the maximum permitted rates for basic cable television service and equipment and installation charges governing service provided by Comcast in the areas designated as Community Identifier Units CIU DE0034, DE0059, DE0062, DE0070, DE0074, DE0079, DE0088, DE0091, and DE0093; and

WHEREAS, based on the evidence so presented, the Commission having determined that Comcast's proposed rate adjustments as they appear on its amended FCC Forms 1240 and 1205, have been calculated in accordance with the Rules and Regulations of the Federal Communications Commission and, hence, should be approved for service after November 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 as set forth below for service offered by Comcast Cablevision of Delmarva, Inc., in the areas designated as Community Identifier Units CIU DE0034, DE0059, DE0062, DE0070, DE0074, DE0079, DE0088, DE0091, and DE0093, with such maximum permitted rates to be effective for service after November 1, 2003.

Basic Service Tier Rates

COMCAST SYSTEM	CURRENTLY EFFECTIVE MONTHLY MAXIMUM PERMITTED RATE	CURRENT COMPANY SELECTED RATE	COMPANY SELECTED RATE TO BE EFFECTIVE 11/1/03	FCC FORM 1240 MAXIMUM PERMITTED RATE EFFECTIVE 11/1/03
DOVER SYSTEM:				
New Castle-DE0093	\$20.20	\$19.25	\$19.25	\$20.59
Dover- DE0034, DE0059, DE0062, DE0070, DE0074, DE0088, De00991	\$21.52	\$19.25	\$19.25	\$22.16
SALISBURY SYSTEM:				
Delmar- DE0079	\$25.23	\$20.75	\$20.75	\$27.72

**Maximum Permitted Rates for Equipment and Installation Per FCC Forms 1205
(Costs Aggregated on Regional Basis)
Applicable to ALL CIUDs**

<u>Equipment and Installation</u>	<u>FCC Form 1205 Maximum Permitted Rate (Effective 11/1/03)</u>	<u>Actual Company Selected Rate</u>
Addressable converter	\$ 2.81	\$ 2.23
Non-addressable converter	0.36	.34
Remote control	0.34	.28
Hourly service charge (HS)	35.90	25.74
Change of Service (truck roll)	35.90	12.87
Change of Service (no truck roll)	1.99	1.99
Unwired home installation	43.08	43.08
Prewired home installation	28.72	25.74
Additional outlet connection at time of initial installation	14.36	12.87
Additional outlet connection, separate trip	25.13	25.13
HDTV Converter	7.84	5.00
HDTV Installation	62.82	49.95

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 Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Donald J. Puqlisi
Commissioner

PSC Docket No. 03-324, Order No. 6285 Cont'd.

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Norma J. Sherwood
Secretary/Acting

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COUNTIES SERVED BY THE DOVER AND)
SALISBURY HEAD-ENDS)
(FILED JULY 30, 2003))

FINDINGS AND OPINION TO ACCOMPANY PSC ORDER NO. 6285

APPEARANCES:

On behalf of the Applicant, Comcast Cablevision of Delmarva, Inc.:

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

On behalf of the Delaware Public Service Commission Staff:

GARY A. MYERS, RATE COUNSEL
DEPUTY ATTORNEY GENERAL

On January 13, 2004, the Commission enters the following Findings and Opinion:

I. BACKGROUND:

1. Comcast Cablevision of Delmarva, Inc. ("Comcast") holds a franchise issued by this Commission authorizing Comcast to provide cable television service throughout a single franchise area encompassing a small portion of southern New Castle County, all of Kent County, and all of Sussex County. See PSC Order No. 3463 (Aug. 25, 1992). As the Commission has recounted in various prior Orders, historically, Comcast has provided cable service to its subscribers in this franchise area through three separate cable systems: one emanating from a Dover head-

end; a second extending from a head-end in Georgetown; and a third reaching into southern Sussex County from a head-end in Salisbury, Maryland.

2. Since the return of "federalized" cable rate regulation in 1993, Comcast has carried forward two differing maximum permitted "basic-service" tier ("BST") rates for subscribers served by its Dover system. One BST rate applies to subscribers in New Castle County; another to all other subscribers in the unincorporated areas of Kent County. In addition, Comcast also has a separate maximum permitted BST rate for the small number of Sussex County subscribers linked to Comcast's Salisbury, Maryland system. Since 1997, Comcast has chosen to adjust the maximum permitted rates in these three areas under the annual rate adjustment methodology crafted by the Federal Communications Commission ("FCC"). See 47 C.F.R. § 76.922(e). Consequently, on August 1 of each year, Comcast files the necessary FCC forms to justify changes to its BST rates for the above-described areas served by the Dover and Salisbury systems. If approved, these rate adjustments then become effective on the following November 1.¹

3. Consistent with this practice, on July 30, 2003, Comcast filed separate applications to change the maximum permitted BST rates for the areas served by its Dover and Salisbury systems. One application (accompanied by an FCC Form 1240) proposed a new maximum permitted BST rate for the New Castle County area (CUID DE0093) served from the Dover head-end. A second application (with FCC Form 1240) advanced a separate,

¹Comcast also maintains separate maximum permitted BST rates for five differing areas, mostly in Sussex County, served from its Georgetown head-end system. On each October 1, Comcast files separate FCC forms to justify changes to the BST rates for these five areas. Those later changes become effective on the following January 1.

differing, maximum permitted BST rate for subscribers in "Kent County Unincorporated." Finally, a third application (and a third FCC Form 1240) set forth a separate, and also different, maximum permitted BST rate for the Sussex County area (CUID DE0079) served by the Salisbury system. Each of the three applications also included a separate FCC Form 1205 proposing adjustments to the equipment and installation charges for each area. However, because the cost-based equipment and installation charges are calculated on a regional basis, the resulting proposed charges were the same in each separate Form 1205.²

4. This single docket was initiated for these three filings and Comcast published, on October 7, 2003, public notices of its three applications. See Exhs. 1A (The News Journal) and 1B (Delaware State News). The notices solicited comments concerning the proposed rate adjustments and announced that the Commission would consider the three applications during its regularly scheduled meeting on October 7, 2003. No written comments were received in response to the published notice.

5. At about the same time (due to Staff's investigation), on October 2, 2003, Comcast submitted revised FCC Forms 1240 for the New Castle County area (Exh. 3A) and the "Kent County Unincorporated" area (Exh. 2A). Under these revised forms, the maximum permitted rate for basic cable tier service in the New Castle County area would be \$20.59, a reduction of \$0.16 from Comcast's original FCC Form 1240 filing. The maximum permitted rate for "Kent County Unincorporated" would be \$22.16,

²Governing FCC rules allow a cable operator to aggregate its equipment and installation costs on a regional basis and use such costs to determine equipment and installation charges applicable throughout that region. 47 C.F.R. § 76.923(c).

again reflecting a \$0.16 decrease from the earlier submission. Finally, the maximum permitted rate for the Sussex County area served from the Salisbury head-end would be \$27.72, as proposed in the original FCC Form 1240 (Exh. 4A).³ Under the FCC Forms 1205, the maximum permitted charges for most regulated equipment and installation services would rise. The exceptions would be "Change of Service" (remaining unchanged); "Unwired Home Installations" (\$2.27 decrease); and "Additional Outlet Connection, separate trip" (\$0.51 decrease). Exhs. 2B, 3B, & 4B.

6. At the announced October 7th hearing, the Commission Staff and Comcast introduced into the record the FCC Forms 1240 (as revised) and 1205 for the two Dover system areas (Exhs. 2A & 2B; 3A & 3B), as well as similar forms for the area served by the Salisbury system. Exhs. 4A & B.

In addition, Comcast offered the oral testimony of Thomas Worley, the area Director of Government Relations for Comcast. The Commission Staff presented the pre-filed (Exh. 5) and oral testimony of William C. Schaffer, a Staff Public Utilities Analyst. No member of the public sought to speak at the hearing concerning these applications.

7. At the conclusion of the hearing, the Commission determined, from the evidence presented, that the rate adjustments sought by Comcast in the FCC forms entered into the record were consistent with the governing FCC's rate methodologies. It thus entered PSC Order No. 6285 (Oct. 7, 2003) approving the revised maximum permitted rates for BST service and installation and equipment charges for the three areas covered in this docket.

³The published notices reflected the originally proposed BST rates as calculated by the Forms 1240 filed by Comcast in July 2003.

8. In PSC Order No. 6285, the Commission said it would explain the reasons for its actions in a later-filed Findings and Opinion. This is that document. The findings are based upon a record consisting of nine exhibits and a thirteen page *verbatim* transcript of testimony.

II. SUMMARY OF THE EVIDENCE:

9. As noted above, in this matter, Comcast seeks approval of three separate maximum permitted BST rates for service provided by two of its three systems within its single franchise area. Under the filed FCC Forms 1240, the new maximum permitted BST rate for subscribers in "Kent County Unincorporated" would rise to \$22.16 (Exh. 2A); for those in New Castle County, to \$20.59 (Exh. 3A); and for those in Sussex County served from Salisbury, to \$27.72 (Exh. 4A). In contrast, the new maximum permitted equipment and installation charges are the same across all of the above areas. (Exhs. 2B, 3B, & 4B).⁴

10. In pre-filed testimony (later adopted at the hearing), William C. Schaffer, a Staff Public Utilities Analyst, reported that Staff had verified the financial data and calculations that Comcast had used in its FCC Forms 1240 and 1205. Staff had done so by tracing the forms' information back to Comcast's supporting documentation. Exh. 5 at 2-5. Mr. Schaffer also outlined how Staff's initial investigation revealed a discrepancy in the "true-up" adjustment component of the originally submitted FCC Forms 1240 for the Dover head-end system. The "true-up" adjustment seeks to carry forward the difference (either plus or minus) between the amount of revenue theoretically collected during

⁴In many instances, Comcast has chosen an operator-selected equipment or installation charge below its proposed maximum permitted rate.

the prior projected period under the previously approved BST rate and the amount of revenue actually collected during that time. Mr. Schaffer recounted that such discrepancy led to Comcast submitting revised FCC Forms 1240 for the two areas served by its Kent County system. Exh. 5 at 6. Mr. Schaffer indicated that, in his view, Comcast had (after making its revisions) correctly applied the FCC rate regulation rules in calculating the proposed basic maximum permitted BST rates for the three areas. Similarly, he suggested that Comcast had also correctly applied the federal rules in calculating the maximum permitted equipment and installation charges applicable to all of the three areas. Exh. 5 at 5-6. He thus recommended that the Commission approve the proposed adjustments to the maximum permitted rates for both BST and equipment and installation services. Exh. 5 at 6.

11. At the hearing, Thomas Worley, Comcast's Director of Government Relations, testified that the cable company agreed with the conclusion reached by Mr. Schaffer in his pre-filed testimony. Tr. 6-7. He confirmed that for its Kent County system, Comcast had filed revised FCC Forms 1240 to correct an earlier error in calculating the "true-up" component. Tr. 7-8. Finally, on cross-examination, Mr. Worley indicated that the operator-selected rate in each of the three areas would be below the maximum permitted rate. Tr. 8. In the Kent County system, the operator-selected BST rate (for both Kent and New Castle Counties) would be \$19.25; for the Sussex County/Salisbury area, the actual rate would be \$20.75. See Exh. 5, Exh. A.

12. In his oral testimony, Staff Analyst Schaffer initially adopted his pre-filed testimony. Tr. 11. He recommended approval of the proposed maximum permitted rates for BST service and equipment and

installation charges as set forth in the various FCC Forms 1240 (as revised) and 1205 filed by Comcast. Tr. 9-10.

III. FINDINGS AND OPINION:

13. The Commission has jurisdiction over this matter. The General Assembly has conferred upon the Commission the jurisdiction to implement federal regulations or legislation concerning the provision of cable television service. 26 Del. C. § 605(b). Since the return of federal BST cable rate regulation in 1993, the Commission has been certified as the local franchising authority for the franchise held by Comcast covering New Castle, Kent, and Sussex Counties.

14. The Commission approves the proposed maximum permitted rates for BST service as set forth in the three FCC Form 1240s (Exhs. 2A, 3A, and 4A) entered at the hearing. According to Staff's written and oral testimony, those new maximum permitted BST rates were calculated in a manner consistent with the FCC's rate regulation rules under the annual rate adjustment methodology. 47 C.F.R. § 76.922(e). Similarly, based on Staff's testimony, the Commission approves the maximum permitted rates for equipment and installation charges set forth in the FCC Forms 1205 filed for the three areas. Exhs. 2B, 3B, and 4B. Again, according to Staff's testimony, those rates, calculated on a region-wide basis, have been determined in accordance with the FCC's rate rules applicable to equipment and installation charges. 47 C.F.R. § 76.923. The Commission notes that Comcast has decided to actually charge BST rates lower than the maximum permitted rates approved here in each area.⁵

⁵An exhibit to Mr. Schaffer's pre-filed testimony (Exh. 5) details the actual impact of the new rates on subscribers in these three areas. As noted there, at this time, Comcast's operator-selected BST rates for these three areas will not change from the operator-selected rates previously in place.

15. These Findings and Opinion shall be filed with PSC Order No. 6285 (Oct. 7, 2003).

BY OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Donald J. Puqlisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary