

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

IN THE MATTER OF THE APPLICATION OF)
MEDIACOM DELAWARE, LLC, FOR A CHANGE)
IN ITS BASIC SERVICE RATE AND) PSC DOCKET NO. 05-183
NECESSARY EQUIPMENT AND INSTALLATION)
CHARGES (FILED MAY 27, 2005))

FINDINGS, OPINION, AND ORDER NO. 6906

APPEARANCES:

On behalf of the Applicant, Mediacom Delaware, LLC:

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

On behalf of the Delaware Public Service Commission Staff:

GARY A. MYERS, DEPUTY ATTORNEY GENERAL, RATE COUNSEL

On May 9, 2006, the Commission enters the following Findings, Opinion, and Order:

I. BACKGROUND:

1. Mediacom Delaware, LLC ("Mediacom"), operates, under a franchise granted by this Commission, a cable system which provides cable television service to unincorporated areas of southern Sussex County. As the "local franchising authority," this Commission regulates, consistent with the rules and formulas adopted by the Federal Communications Commission ("FCC"), the maximum permitted rates ("MPRs") that Mediacom may charge its subscribers for its basic service tier programming ("BST") and leased equipment and installation services associated with such BST service.

2. On May 27, 2005, Mediacom filed the appropriate FCC Form 1240 seeking to gain Commission approval to adjust its maximum

permitted BST rate for the then upcoming September, 2005 through August, 2006 "projected period." See 47 C.F.R. § 76.922(e)) (annual rate adjustment method). With that Form 1240, Mediacom also submitted another form, FCC Form 1205, to justify changes to the MPRs for its equipment rentals and installation charges during the same period. See 47 C.F.R. § 76.923 ("actual costs" equipment rates methodologies).

3. Due to administrative miscommunications, Mediacom did not initially publish notice of its proposed rate changes in sufficient time to allow the Commission to hold a hearing on those adjustments prior to the September 1 onset of the "projected period." Consequently, acting under the procedure permitted by 47 C.F.R. § 76.933(g)(2), the Commission allowed Mediacom's proposed adjustments to the MPRs to go into effect on September 1. The Commission would then conduct a prompt subsequent hearing on the rate changes. See PSC Order No. 6696 (Aug. 23, 2005).¹

4. Consistent with Order No. 6696, Mediacom then published notices of these proposed adjustments to its regulated cable rates on August 25, 2005 in the Delaware State News and The Sussex Post newspapers. The notices (Exhs. 1A & 1B) solicited comments concerning the changes and announced that the Commission would hold a hearing on the proposed rate adjustments at its regular meeting on September 20, 2005. No one submitted comments and no member of the public appeared at the later hearing. After considering the evidence presented by Staff and Mediacom at that September 20th hearing, the Commission

¹Mediacom proposed to increase its operator-selected BST rate by \$2 on September 1. The new operator-chosen rate would still be \$5.20 below the new MPR for BST that Mediacom proposed to apply after that date.

affirmed the proposed adjustments to Mediacom's MPRs for regulated BST service and regulated equipment and installation charges. These are the findings and Order which finally approve the MPRs proposed by Mediacom and that were earlier allowed to go into effect by Order No. 6696. The Findings and Order are based on a record of five exhibits and 17 pages of transcribed proceedings.

II. SUMMARY OF EVIDENCE:

5. As noted, Mediacom filed its FCC Form 1240 in order to obtain the Commission's approval for a proposed increase in its MPR for its BST offering. Under Mediacom's calculations, that MPR for BST service would move, due to inflation, changed programming costs, and "true-up" calculations, from the previously approved maximum of \$50.94 to a new - higher - maximum of \$53.15 for the September, 2005 to August, 2006 projected period. Exh. 2A. The operator-selected monthly BST rate for that period would increase from \$45.95 to \$47.95. Exh. 2A. With its BST rate form, Mediacom also filed its FCC Form 1205 to justify changes (based on its prior year's actual costs) to its MPRs for regulated equipment and installation services. Exh. 2B. While Mediacom proposed adjustments to the MPRs for equipment and installation services, it chose to continue its present operator-selected charges for the equipment and services during the upcoming 2005-2006 projected period.

6. In her pre-filed testimony (Exh. 3), Heidi L. Wagner, the Staff Analyst assigned to this docket, testified that Staff had verified the financial data and calculations used by Mediacom in its FCC Forms 1240 and 1205. Exh. 3 at 2-3. She reported (in both her

pre-filed submission and later in her oral testimony) that, in Staff's view, Mediacom's proposed maximum permitted BST rate and its proposed maximum permitted equipment leasing and installation service charges had been appropriately calculated utilizing the FCC's methodologies. Exh. 3 at 3. Accordingly, Ms. Wagner recommended that the Commission approve the proposed changes to those MPRs. Exh. 3 at 3.

7. At the hearing, Mediacom presented the oral testimony of David T. Kane, vice president of Operations for Mediacom's mid-Atlantic and Western regions. He indicated that, in his view, Mediacom had calculated the proposed rate adjustments in its Forms 1240 and 1205 in a complete and accurate manner utilizing the FCC's forms and corresponding rules. Tr. 11. Given that, Mr. Kane obviously saw no reason to disagree with Ms. Wagner's recommendation that the adjustments be approved. Tr. 11. Mr. Kane confirmed that the operator-selected BST rate of \$47.95, while increasing, would be below the "new" maximum permitted BST rate of \$53.15. Tr. 12.

8. Ms. Wagner also testified at the hearing, summarizing Staff's investigation and its recommendation to approve the rate adjustments. Tr. 4.²

²During the hearing, Staff Rate Counsel recounted that a large mobile home park owner within Mediacom's franchise area had increased the "access" fee it charges Mediacom for the "right" to provide cable service to the residents in the owner's several mobile home parks. Mediacom had originally sought to pass that increased "access fee" through to the parks' residents as a "surcharge" on their cable billings. After discussions with Staff, Mediacom withdrew that proposal in light of an earlier settlement that also focused on such type of surcharge. See PSC Order No. 4795 (May 26, 1998). In foregoing its proposal, Mediacom reserved its right to bring the matter back before the Commission at a later time and to then argue that both state and federal rate rules allow the "pass-through" of such private "access fees" to the affected cable customers. Tr. 15-16.

III. DISCUSSION AND CONCLUSIONS:

9. 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 DE0023) 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 several years, Mediacom has used the FCC's annual rate adjustment method to adjust this franchise's BST rates. 47 C.F.R. § 76.922(e). Under this methodology, the maximum permitted BST rate can be adjusted annually (subject to "true-up" changes) to reflect inflation, projected changes in external costs (including programming costs), and projected changes in channels. 47 C.F.R. § 76.922(e)(1). The maximum permitted charges for equipment and installation services are also adjusted on a similar annual basis to reflect changes in actual costs incurred in the preceding fiscal year. 47 C.F.R. § 76.923(a)(2).³

10. As noted above, in this matter, Mediacom has filed FCC Forms 1205 and 1240 to reflect adjustments to the MPRs for its BST service, related equipment, rentals, and installation services for its southern Sussex County franchise area. Based on the evidence presented, the Commission finds that the submitted Form 1240 reflects permissible adjustments to Mediacom's MPR for its BST service. Accordingly, the

³In 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).

Commission approves the MPR (\$53.15) set forth in the FCC Form 1240 applicable to this franchise area.

11. Furthermore, based on the evidence presented, the Commission finds that the maximum permitted equipment and installation rates set forth in the FCC Form 1205 submitted by Mediacom have been appropriately calculated. Accordingly, the Commission approves the MPRs set forth in the FCC Form 1205.

12. Because the MPRs approved here mirror the proposed MPRs allowed to go into effect on September 1, 2005 by Order No. 6696, there is no need for the Commission to now Order adjustments to Mediacom's rates going-forward or to award any part refunds.

Now, therefore, **IT IS ORDERED:**

1. That, for the reasons set forth in the body of this Order, the following rates are hereby approved for regulated basic service tier services and associated equipment by Mediacom Delaware, LLC, for the projected period September 1, 2005 through August 31, 2006.

BASIC SERVICE TIER

	PROPOSED NEW MAXIMUM PERMITTED RATE (effective Sept. 1, 2005)	PROPOSED OPERATOR- SELECTED RATE (effective Sept. 1, 2005)
Basic Service Rate	53.15	47.95

INSTALLATION SERVICES

	PROPOSED MAXIMUM PERMITTED RATES (effective Sept. 1, 2005)	OPERATOR- SELECTED RATES (effective Sept. 1, 2005)
Install unwired home	54.01	44.25
Install pre-wired home	36.01	29.50
Install A/O initial	45.01	20.00
Install A/O separate	45.01	24.95
Relocate outlet initial	27.07	24.95
Relocate outlet separate	27.07	24.95
Hourly service charge	36.01	29.00
Upgrade/downgrade service	1.99	1.99
Reconnect	36.01	29.50

EQUIPMENT CHARGES

	PROPOSED MAXIMUM PERMITTED RATES (effective Sept. 1, 2005)	OPERATOR- SELECTED RATES (effective Sept. 1, 2005)
Remote Control	0.46	0.35
Addressable Converter	7.51	2.00
Digital Converter	7.51	5.00
HDTV Converter	7.51	7.50

2. 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/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary