

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY
CABLE TELEVISION DIVISION

In the Matter of:)	
	)	Docket No. CTV 00-11
Adelphia Communications Corporation	)	Date Issued: August 1, 2001
)	
Adelphia Cablevision Associates, L.P.	)	Abington, CUID MA 0225
	)	Adams, CUID MA 0001
Campbell Communications, L.L.C.	)	Amesbury, CUID MA 0049
	)	Aquinnah, CUID MA 0275
	)	Bourne, CUID MA 0247
	)	Cheshire, CUID MA 0002
	)	Clarksburg, CUID MA 0003
Century Berkshire Cable Corp.	)	Duxbury, CUID MA 0302
	)	Edgartown, CUID MA 0273
	)	Essex, CUID MA 0153
Harron Cablevision of Cape Cod, Inc.	)	Falmouth, CUID MA 0072
	)	Gloucester, CUID MA 0136
	)	Great Barrington, CUID MA 0008
Harron Cablevision of Massachusetts, Inc.	)	Halifax, CUID MA 0229
	)	Kingston, CUID MA 0159
	)	Lee, CUID MA 0009
Martha's Vineyard Cablevision, L.P.	)	Lenox, CUID MA 0010
	)	Manchester-by-the-Sea, CUID MA 0154
	)	Marshfield, CUID MA 0191
Mountain Cable Company	)	Merrimac, CUID MA 0165
	)	North Adams, CUID MA 0004
	)	Oak Bluffs, CUID MA 0272
New England Cablevision of Massachusetts, Inc.	)	Pembroke, CUID MA 0228
	)	Plymouth, CUID MA 0123
	)	Plympton, CUID MA 0245
all d/b/a	)	Rockland, CUID MA 0224
Adelphia Communications Corporation	)	Rockport, CUID MA 0137
	)	Salisbury, CUID MA 0162
	)	Sandwich, CUID MA 0246
For a Determination of Cable Television Rates)	Sheffield, CUID MA 0346
)	Stockbridge, CUID MA 0011

RATE ORDER

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I. INTRODUCTION

On December 29, 2000, Adelphia Communications Corporation, also d/b/a as Adelphia Cable Communications (“Adelphia” or “the Company”)¹ filed with the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy proposed basic service tier (“BST”) programming rates on Federal Communications Commission (“FCC”) Form 1240s for the above-captioned communities.² Pursuant to 47 C.F.R. § 76.933(g), Adelphia put its proposed BST programming rates into effect on April 1, 2001.

The Cable Division held a public hearing on Adelphia’s pending filings in Boston on March 28, 2001. The Cities of Gloucester and North Adams and the Towns of Duxbury, Great Barrington, Lee, Lenox, Marshfield, Pembroke, Sheffield, and Stockbridge intervened in this proceeding. The evidentiary record consists of the Company’s rate forms admitted as Adelphia Exhibits 1 through 20, and Adelphia’s responses to our information requests admitted as Cable Division Exhibits 1 through 15. The evidentiary record also includes revised FCC Form 1240s for Amesbury and for the Martha’s Vineyard system, comprised of Aquinnah, Edgartown, and Oak Bluffs, which the Company submitted pursuant to a record request by the Cable Division.

In addition, the Cable Division issued a supplemental record request to Adelphia on May 25, 2001. The Company responded on June 1, 2001, by refileing its FCC Form 1240s, excluding the worksheets and supplemental information, for Adams, Amesbury, Aquinnah, Cheshire, Clarksburg, Duxbury, Edgartown, Essex, Falmouth, Gloucester, Great Barrington, Kingston, Lee, Lenox, Manchester-by-the-Sea,

¹ Adelphia holds its cable franchises under the following legal entities, according to its FCC Form 1240s: Adelphia Cablevision Associates, L.P., for Falmouth; Campbell Communications, L.L.C., for Duxbury, Kingston, Marshfield, and Plymouth; Century Berkshire Cable Corp. for Great Barrington, Lee, Lenox, Sheffield, and Stockbridge; Harron Cablevision of Cape Cod, Inc., for Bourne and Sandwich; Harron Cablevision of Massachusetts, Inc., for Abington, Halifax, Pembroke, Plympton, and Rockland; Martha’s Vineyard Cablevision, L.P., for Aquinnah, Edgartown, and Oak Bluffs; Mountain Cable Company for Adams, Cheshire, Clarksburg, and North Adams; and New England Cablevision of Massachusetts, Inc., for Amesbury, Essex, Gloucester, Manchester-by-the-Sea, Merrimac, Rockport, and Salisbury (Exhs. Adelphia-1 through -19).

² The FCC’s rate regulations require that a cable operator filing an FCC Form 1240 must also file, on the same date, an FCC Form 1205 for the purpose of adjusting regulated equipment and installation rates. 47 C.F.R. § 76.922(e)(1). Accordingly, Adelphia accompanied its FCC Form 1240s with an FCC Form 1205 for its Massachusetts communities, prepared for the year ending December 31, 1999. The Cable Division approved this FCC Form 1205 in Adelphia Communications Corporation, CTV 00-5 (2001); it will not be considered further in this rate proceeding.

Marshfield, Merrimac, North Adams, Oak Bluffs, Plymouth, Rockport, Salisbury, Sheffield, and Stockbridge. No briefs were filed by any party.

II. STANDARD OF REVIEW AND BURDEN OF PROOF

The standard under which the Cable Division must review rate adjustments on FCC rate forms is found in the FCC's rate regulations. Specifically, the regulations provide that the rate regulator shall assure that the rates comply with the requirements of 47 U.S.C. § 543 of the Cable Television Consumer and Competition Act of 1992 as amended (the "Cable Act"). 47 C.F.R. § 76.922(a). The Cable Division may accept as in compliance with the statute basic service tier rates that do not exceed the "Subsequent Permitted Per Channel Charge" as determined by 47 C.F.R. § 76.922(c), and may also accept equipment and installation charges that are calculated in accordance with 47 C.F.R. § 76.923. In addition, the Cable Division shall only approve rates it deems reasonable under federal law. 47 C.F.R. § 76.937(d) and (e); 47 C.F.R. § 76.942.

In establishing whether the proposed rates are reasonable and comply with federal regulations, the burden of proof is on the cable operator to demonstrate that its proposed rates for the basic service tier and accompanying equipment comply with 47 U.S.C. § 543 and implementing regulations. Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 93-177, 8 FCC Rcd 5631 (released May 3, 1993) at 5716, ¶ 128; see also 47 C.F.R. § 76.937(a).

The FCC has created specific forms incorporating the provisions of its rate regulations, upon which cable operators must calculate their rates. Local rate regulators, such as the Cable Division, are required to review the Company's FCC rate form filings to determine whether the rates are reasonable and in compliance with the Cable Act. 47 C.F.R. §§ 76.922, 76.923, 76.930.

FCC Form 1240 allows a cable operator to annually update its basic service tier programming rates to account for inflation, changes in external costs, and changes in the number of regulated channels. In order for rates to be adjusted on FCC Form 1240 for projections in external costs, or for projected changes to the number of regulated channels, the operator must demonstrate that such projections are reasonably certain and reasonably quantifiable. 47 C.F.R. § 76.922(e)(ii)(A); 47 C.F.R. § 76.922(e)(iii)(A). Although cable operators may project for increases in franchise related costs to the extent they are reasonably certain and reasonably quantifiable, such projections are not presumed to be reasonably certain and reasonably quantifiable. 47 C.F.R. § 76.922(e)(ii)(A).

III. DISCUSSION AND ANALYSIS

A. Interest on True-Up

As stated above, the FCC Form 1240 allows a cable operator to update annually its BST rates to account for inflation, changes in external costs, and changes in the number of regulated channels. A portion of the FCC Form 1240 computation is based upon projected costs. If a cable operator has underestimated its projected costs, it may “true-up” its projection to correct for the difference between its actual and projected costs. The issue is whether Adelphia calculated and reported the true-up amount in compliance with applicable law.

The FCC Form 1240, at Module H, computes true-up and the interest on true-up. FCC Form 1240 Instructions at 19-21. The cable operator begins by computing two versions of its true-up period revenue. First, it computes this revenue using the BST rates it actually charged for True-Up Period 1, reported on Line H1, “Revenue From Period 1.”³ *Id.* at 19. The operator then computes what its revenue would have been if it had charged its BST MPR, reported on Line H2, “Revenue From Maximum Permitted Rate for Period 1.” *Id.* at 20. Line H1 is then subtracted from Line H2 to derive Line H3, “True-Up Period 1 Adjustment,” which is the amount the operator’s actual revenue either exceeded or fell short of its maximum possible revenue. *Id.* The FCC allows interest to be accrued on the Line H3 true-up at 11.25 percent, for the period between the beginning of True-Up Period 1 and the end of the most recent Projected Period shown on the previous FCC Form 1240, reported on Line H4, “Interest on Period 1 Adjustment.” *Id.* The process is the same for True-Up Period 2 on Lines H5 through H11, with one exception. *Id.* at 20-21. The accrual of interest is cut off at the end of the most recent Projected Period. *Id.* at 5. Therefore, the calculation for True-Up Period 2 has two parts; Lines H5 through H8 apply to that portion of Period 2 eligible for interest, and Lines H9 through H11 apply to that portion of Period 2 ineligible for interest. *Id.* at 20-21.

The cable operator now calculates Line H13, “Total True-Up Adjustment,” which adds together true-up and interest from True-Up Periods 1 and 2, as well as the unclaimed true-up from previous filings on Line H12, “Previous Remaining True-Up

³ The Instructions to FCC Form 1240 provide that if a cable operator’s total true-up period exceeds 12 months, it must be divided into two True-Up Periods, and True-Up Period 1 should be 12 months long. FCC Form 1240 Instructions at 5. The two True-Up Periods are reported separately on the FCC Form 1240. *See* FCC Form 1240 at 3-4. Adelphia’s FCC Form 1240s for the true-up communities all have a true-up period exceeding 12 months (Exh. Adelphia-6, -7, -8, -12, -16 and -19).

Adjustment.”⁴ Id. at 21. Line H13 is then divided into Line H14, the “Amount of True-Up Being Claimed This Projected Rate Period,” and Line H15, “Remaining True-Up Adjustment.” Id.

On Adelphia’s FCC Form 1240s for Duxbury, Essex, Falmouth, Great Barrington, Kingston, Lee, Lenox, Plymouth, Sheffield and Stockbridge, (the “true-up communities”), the Company claimed Line H13’s entire true-up on Line H14, and included it within the BST MPR on Line I9 (Exhs. Adelphia-6, -7, -8, -12, -16, and -19 at 4).⁵ However, in the true-up communities, Adelphia’s actual operator selected BST rate on Line I10 is less than the Line I9 BST MPR (id.). Consequently, on the next annual FCC Form 1240s that Adelphia files for these communities, the true-up computation would incorporate the true-up included in this year’s MPR into Line H2,⁶ whereas Line H1 would incorporate this year’s lower actual BST rate, excluding much of this true-up.⁷ Some or all of this year’s excess true-up would appear on the next annual Line H3 and accrue interest for a second time on Line H4. Indeed, the next annual Line H4 would accrue interest on this year’s interest.

The FCC addressed interest on true-up in its rate regulations at 47 C.F.R. § 76.922(e)(3)(iii):

If an operator has underestimated its cost changes and elects not to recover these accrued costs with interest on the date the operator is entitled to make its annual rate adjustment, the interest will cease to accrue as of the date the operator is

⁴ Line H13 is the total of Line H3, “True-Up Period 1 Adjustment,” Line H4, “Interest on True-Up Period 1 Adjustment,” Line H7, “Period 2 Adjustment Eligible for Interest,” Line H8, “Interest on Period 2 Interest,” Line H11, “Period 2 Adjustment Ineligible for Interest,” and Line H12, “Previous Remaining True-Up Adjustment.” FCC Form 1240 Instructions at 21.

⁵ The true-up amount on Line H14 is carried over into the BST MPR calculation as follows. Line H14 is divided first by the estimated number of subscribers during the Projected Period (Line B3), and then by 12 for the number of months in the Projected Period; the resulting amount is included on the form as Line I8. FCC Form 1240 Instructions at 22-23. Line I8 is then added together with Lines I4, I5, I6, and I7 to calculate the BST MPR on Line I9. Id. at 23.

⁶ Line H2 is computed by multiplying together three numbers, including Line F9, “Maximum Permitted Rate for True-Up Period 1.” FCC Form 1240 Instructions at 20. Line F9 in turn is derived by adding together five numbers, including Line F8, “True-Up Segment for True-Up Period 1.” Id. at 18. Line F8 is computed by dividing Line H14 from the previous FCC Form 1240 by the estimated number of subscribers during the true-up period and by the number of months in the true-up period. Id. at 18. A similar process is followed to calculate Lines H5 and H9, applicable to True-Up Period 2. Id. at 20, 21.

⁷ The Instructions direct cable operators to report the “average rate you elected to charge.” FCC Form 1240 Instructions at 19.

entitled to make the annual rate adjustment, but the operator will not lose its ability to recover such costs and interest.

The FCC explained the rationale for this rule in its Thirteenth Order on Reconsideration, MM Docket No. 92-266, FCC 95-397, 11 FCC Rcd. 388 (released September 22, 1995) (“Thirteenth Order”). The FCC stated that operators would be able to recover excess accrued costs with interest to the extent that the projected costs did not cover the increases that actually took place. Id. at 422, ¶ 80. On the operator's next filing, the operator would be entitled to recover the excess costs plus interest between the date the costs are incurred and the date the operator is entitled to make its next annual rate adjustment. Id. The FCC reasoned that this rule gives operators the flexibility to delay rate increases without losing the opportunity to recover interest on costs that accrued due to circumstances beyond their control, while ensuring that where an operator makes a business decision to delay a rate increase, subscribers are not required to pay for the cost of the delay. Id.

The FCC Form 1240 ensures an operator's compliance with this rule. First, the FCC Form 1240 Instructions state that “the accrual of interest is cut off at the end of the most recent Projected Period (except for first time filers of Form 1240). For example, if, on your most recent Form 1240, you defined the Projected Period as running from January 1 to December 31, your next true-up has the accrual of interest stopping at the end of December 31.” FCC Form 1240 Instructions at 5.⁸

Second, the FCC designed Module H of the FCC Form 1240 to prevent operators from accruing interest on the same true-up on two successive FCC Form 1240s. Line H13 computes the “Total True-Up Adjustment.” Id. at 21. However, not all of this true-up adjustment is required to be reported on Line H14, “Amount of True-Up Being Claimed This Projected Rate Period,” in all instances. The Instructions to Line H14 begin: “[e]nter the amount of the True-Up Adjustment being passed through to your subscribers during the Projected Period.” (Emphasis added.) Id. Therefore, only true-up amounts that will be included in subscribers' rates at the outset of the Projected Period may be properly carried over to Line H14. The FCC provided Line H15, “Remaining True-Up Adjustment,” so the cable operator could report the excess true-up it would not pass through during the Projected Period, but could elect to recover in future years. Id. The FCC Form 1240 Instructions direct that on the next annual FCC Form 1240, Line H15 shall be reported as Line H12, “Previous Remaining True-Up Adjustment.” Id. The form indicates that Line H12 be added directly into the total true-up adjustment on Line H13, without any interest being accrued upon it. Id. In addition, on the next annual form, the BST rates used to compute true-up on Lines H1

⁸ See also the FCC's Cable Letter, Richard D. Treich, 12 FCC Rcd 10340, DA 97-1518, CSB-ILR 97-6 (released July 18, 1997).

and H2 shall contain the same amount of previous true-up.⁹ Id. at 19-20. Thus, none of this true-up is to be included on Line H3 and none of it is to accrue interest on Line H4.

We find that Adelphia's proposal to claim its entire true-up on Line H14 without passing it completely through in subscribers' rates does not comply with the Instructions to FCC Form 1240, and will result in the Company's improper accrual of interest on this true-up over a second Projected Period. The "discretion" in the Instructions to Line H14 merely gives cable operators the discretion of not passing on to subscribers the entire true-up during the Projected Period; it does not permit true-up to be claimed and included in the MPR but not passed through to subscribers. Moreover, we determine that Adelphia's calculation of true-up is not in the subscribers' interest, because the subscribers would be required to pay two years' interest on the same true-up, as well as interest on interest.

Accordingly, on the FCC Form 1240s for the true-up communities, Adelphia should remove the excessive true-up from Line H14, and record it on Line H15, "Remaining True-Up Adjustment." This adjustment will reduce the true-up communities' BST MPRs, but will have no effect on the Company's revenues during the Projected Period, because the Company chose not to charge its initial MPR. We note that under the FCC's regulations, the Company is generally prohibited from raising its rates later in the Projected Period. 47 C.F.R. § 76.922(e)(1).¹⁰ Nevertheless, the Company is not prejudiced by this adjustment, because the unused true-up, now on Line H15, will be available on its next filing, and could be passed on to subscribers during the next Projected Period. This process "ensures that where an operator makes a business decision to delay a rate increase, subscribers are not required to pay for the cost of the delay." Thirteenth Order at 422, ¶ 80.

The Cable Division concludes that neither Adelphia's original nor resubmitted FCC Form 1240s for Duxbury, Essex, Falmouth, Great Barrington, Kingston, Lee, Lenox, Plymouth, Sheffield and Stockbridge are in compliance with the applicable

⁹ Line H1 and H2 contain the same amount of true-up for two reasons. First, on this year's FCC Form 1240, the Line H14 true-up would have been carried over to Line I8 and been incorporated into both the MPR on Line I9, and the operator selected rate on Line I10. Because only true-up actually charged to subscribers on Line I10 appears on Line I9, the true-up on both lines is identical. Second, Lines H1 and H2 are both calculated by multiplying together three numbers. Two of them – the number of subscribers and the number of months in the true-up period – are the same for both lines; only the third number is different; the rates charged during the true-up period.

¹⁰ The first sentence of 47 C.F.R. § 76.922(e)(1) reads: "Except as provided for in paragraphs (e)(2)(iii)(B) and (e)(2)(iii)(C) of this section and Section 76.923(o), operators that elect the annual rate adjustment method may not adjust their rates more than annually to reflect inflation, changes in external costs, changes in the number of regulated channels, and changes in equipment costs."

statutes and regulations and are therefore unreasonable as filed. The Company is therefore directed to file further amended FCC Form 1240s filing to remove true-up which is claimed but not passed through to subscribers from Line H14, and report this true-up on Line H15. Lines I8 and I9 must also be changed to conform with Line H14, as amended.

B. True-Up Period Months Eligible for Interest Accrual

The Cable Division, in its review of Adelphia's FCC Form 1240s, noticed that on all filings containing true-up, the number of months shown on Line E3, "Number of months between the end of True-Up Period 1 and the end of the most recent Projected Period," was always entered as "3" (Exhs. Adelphia-2, -3, -4, -6, -7, -8, -9, -10, -11, -13, -14, -15, -16, -17, -18, and -19). However, on Line E4, "Number of Months in True-Up Period 2 Eligible for Interest," the number of months was entered as either "8," "11," or "12," corresponding to the length of True-Up Period 2 (*id.*). The instructions for Line E4 specifically state, "[i]n months, enter the portion of True-Up Period 2 which came prior to the end of the most recent Projected Period." FCC Form 1240 Instructions at 17. On all Adelphia filings, True-Up Period 2 commenced when True-Up Period 1 ended, three months before the end of the most recent projected period (Exhs. Adelphia-2, -3, -4, -6, -7, -8, -9, -10, -11, -13, -14, -15, -16, -17, -18, and -19). In response to a record request, Adelphia admitted that Line E4 had been erroneously completed, and on June 1, 2001, refiled its FCC Form 1240s with Line E4 completed pursuant to the FCC's Instructions and with the accrual of interest adjusted accordingly (RR-CTV-3). (These refiled FCC Form 1240s did not include the attached worksheets and supplemental information, which were not affected by this correction and hence did not need to be refiled.) The Cable Division accepts these adjustments on the refiled forms as reasonable.

C. True-Up Segment Computations

One component in the true-up calculations on Module F and Module G is the True-Up Segment: Line F8, "True-Up Segment for True-Up Period 1," and Line G8, "True-Up Segment for True-Up Period 2." FCC Form 1240 at 3. Lines F8 and G8 in turn are included in the computation of the MPR for each true-up period on Lines F9 and G9. *Id.* The Instructions provide that two of the three numbers used to calculate Lines F8 and G8 are identical; for both lines, the amount of the true-up reported on Line H14 of the previous FCC Form 1240 is divided by the number of months in the entire true-up period (True-Up Period 1 plus Period 2). FCC Form 1240 Instructions at 18, 19. The product is then divided, for Line F8, by Line B1, "Average Subscribership During True-Up Period 1," and for Line G8, by Line B2, "Average Subscribership During True-Up Period 2." *Id.* Therefore, under the FCC's formula, only if Lines B1 and B2 are different, will Lines F8 and G8 differ from each other. Also, if no true-up was claimed on Line H14 of the previous FCC Form 1240, because

one item of the calculation of Lines F8 and G8 is zero, no amount will be entered on Lines F8 and G8. Id.

On all of Adelphia's FCC Form 1240s that reported true-up, Lines F8 and G8 were identical (Exhs. Adelphia-2, -3, -4, -6, -8, -9, -10, -12, -13, -14, -15, -16, -17, -18, and -19). In response to a Cable Division information request, Adelphia acknowledged that it had erroneously used Line B1's subscriber totals to compute both Lines F8 and G8 (Exh. CTV-4). The Company provided a spreadsheet that showed the BST MPRs that resulted from correctly using the Line B2 subscriber totals to compute Line G8 (id.). In all but two communities, the result was a decrease in the BST MPR of \$0.02 or less,¹¹ and in all cases, the operator selected rate in all communities remained less than the new BST MPR (Exh. CTV-4; Exhs. Adelphia-2, -3, -4, -6, -8, -9, -10, -12, -13, -14, -15, -16, -17, -18, and -19). Adelphia incorporated these adjustments into the FCC Form 1240s filed on June 1, 2001 (RR-CTV-3). The Cable Division accepts the BST MPRs, including the adjustments, on the refiled forms as reasonable.

On the initial FCC Form 1240 filed for the Martha's Vineyard communities of Aquinnah, Edgartown, and Oak Bluffs, the Company included true-up amounts on Lines F8 and G8 (Exh. Adelphia-4). However, no true-up had been included on Line H14 of the previous FCC Form 1240's projected period. Adelphia acknowledged that it had incorrectly included amounts on Lines F8 and G8 (Exh. CTV-5). The Company submitted an FCC Form 1240 that reported no amounts on Lines F8 and G8 (RR-CTV-2). This FCC Form 1240 also claimed no true-up for the projected period on Line H14.¹² Adelphia's revised FCC Form 1240 filed on June 1, 2001, for these communities also contained these adjustments (RR-CTV-3). The Cable Division accepts these adjustments on the refiled forms for Aquinnah, Edgartown, and Oak Bluffs as reasonable.

D. WTBS programming costs in Bourne and Sandwich

On the FCC Form 1240s filed for the former Harron communities, Abington, Bourne, Halifax, Pembroke, Plympton, Rockland, and Sandwich, the Cable Division noted that on the channel lineups filed with the forms, WTBS was listed as being on both the BST and cable programming services tiers (Exhs. Adelphia-1, -5, and -11). On the combined Bourne and Sandwich filing, no BST programming costs for WTBS were shown (Exh. Adelphia-5). However, the FCC Form 1240 filings for the remaining communities included programming costs associated with WTBS on the BST

¹¹ The two exceptions were Falmouth and Sheffield, where there was an increase in the BST MPR of less than \$0.004 (Exh. CTV-4).

¹² Adelphia's initial FCC Form 1240 for the Martha's Vineyard communities included true-up on Line H14, not all of which was passed through to subscribers on Line I10 (Exh. Adelphia-4).

(Exhs. Adelphia-1 and -11). Adelphia explained that in all of the former Harron communities, WTBS is carried on the BST (Exh. CTV-7). The absence of WTBS programming costs on the Bourne and Sandwich filing was an omission (*id.*). Adelphia refiled the FCC Form 1240 for Bourne and Sandwich, and included the appropriate WTBS programming costs on the BST (*id.*). The effect of this change was a \$0.22 increase in the Bourne and Sandwich BST MPR; but the Company did not change the operator selected rate (Exh. Adelphia-5, Exh. CTV-7). The other filings for the former Harron communities report the correct BST programming costs (Exh. Adelphia-1 and -11). The Cable Division accepts this adjustment on the refiled form for Bourne and Sandwich as reasonable.

E. Worksheet Adjustment in Great Barrington, Lee, Lenox, Sheffield, and Stockbridge

On the FCC Form 1240s for Great Barrington, Lee, Lenox, Sheffield, and Stockbridge, Worksheet 3 for the Projected Period showed an average adjustment of \$0.02, whereas Worksheet 3 for the True-Up Period showed an average adjustment of \$0.03 (Exhs. Adelphia-10 and -19). In response to a Cable Division information request, Adelphia acknowledged that it had not followed the FCC's directive that the projected period increment should be carried over directly from the true-up period (Exh. CTV-9; FCC Form 1240 Instructions at 30). Adelphia provided a spreadsheet reporting that correctly completed FCC Form 1240s would change the MPRs by less than \$0.01 and have no impact on the operator selected rate (Exh. CTV-9). Adelphia's revised FCC Form 1240s filed on June 1, 2001, for these communities contained this adjustment (RR-CTV-3). The Cable Division accepts this adjustment on the refiled forms for Great Barrington, Lee, Lenox, Sheffield, and Stockbridge as reasonable. We further direct that when Adelphia refiles the FCC Form 1240s for these communities in compliance with Section III.A of this Rate Order, that Adelphia include corrected versions of Worksheet 3 for the Projected Period.

F. Amesbury True-Up Adjustment

In an information request concerning the FCC Form 1240 for Amesbury, the Cable Division noted that the amount on Line H15, "Remaining True-Up Adjustment," on the previous filing had not been carried over to Line H12, "Previous Remaining True-Up Adjustment," on the current filing (Exh. CTV-15; Exh. Adelphia-3). The FCC Form 1240 Instructions direct cable operators to enter on Line H12 of the current form the amount reported on the previous form's Line H15. FCC Form 1240 Instructions at 21. In response, Adelphia acknowledged that it had failed to carry the previous Line H15 amount forward, and filed a revised FCC Form 1240 that included this amount (RR-CTV-1). Adelphia also included this amount on the FCC Form 1240 for Amesbury filed on June 1, 2001 (RR-CTV-3). It results in a \$0.10 increase to the remaining per subscriber true-up, but does not impact the Amesbury operator selected

rate. The Cable Division accepts this adjustment on the refiled form for Amesbury as reasonable.

IV. CONCLUSION AND ORDER

Upon due notice, hearing and consideration, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Adelphia's FCC Form 1240s as filed on December 29, 2000, for Abington, Halifax, Pembroke, Plympton, and Rockland.

Further, the Cable Division hereby rejects Adelphia's FCC Form 1240 as filed on December 29, 2000, for Bourne and Sandwich. The Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Adelphia's FCC Form 1240 as filed on March 27, 2001 as Exh. CTV-5 for Bourne and Sandwich.

Further, the Cable Division hereby rejects Adelphia's FCC Form 1240 as filed on December 29, 2000, for Amesbury. Further, the Cable Division hereby rejects Adelphia's FCC Form 1240 as filed on April 2, 2001, for Amesbury. The Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Adelphia's worksheets and supplemental information accompanying the FCC Form 1240 as filed on April 2, 2001 as RR CTV-1 for Amesbury. Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, the FCC Form 1240 as submitted for Amesbury by Adelphia on June 1, 2001 as part of RR-CTV-3.

Further, the Cable Division hereby rejects Adelphia's FCC Form 1240s as filed on December 29, 2000, for Adams, Cheshire, Clarksburg, Gloucester, Manchester-by-the-Sea, Marshfield, Merrimac, North Adams, Rockport, and Salisbury. Upon due notice, hearing and consideration, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Adelphia's worksheets and supplemental information accompanying the FCC Form 1240s as filed on December 29, 2000 for Adams, Cheshire, Clarksburg, Gloucester, Manchester-by-the-Sea, Marshfield, Merrimac, North Adams, Rockport, and Salisbury. Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, the FCC Form 1240s as submitted for Adams, Cheshire, Clarksburg, Gloucester, Manchester-by-the-Sea, Marshfield, Merrimac, North Adams, Rockport, and Salisbury by Adelphia on June 1, 2001 as part of RR-CTV-3.

Further, the Cable Division hereby rejects Adelphia's FCC Form 1240 as filed on December 29, 2000, and refiled on April 2, 2001, for Aquinnah, Edgartown, and Oak Bluffs. Upon due notice, hearing and consideration, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, Adelphia's worksheets and supplemental information accompanying the FCC

Form 1240s as filed on April 2, 2001 as RR-CTV-2 for Aquinnah, Edgartown, and Oak Bluffs. Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, the FCC Form 1240 as submitted for Aquinnah, Edgartown, and Oak Bluffs by Adelphia on June 1, 2001 as part of RR-CTV-3.

Further, the Cable Division hereby rejects Adelphia's FCC Form 1240s as filed on December 29, 2000, and June 1, 2001, for Duxbury, Essex, Falmouth, Great Barrington, Kingston, Lee, Lenox, Plymouth, Sheffield, and Stockbridge. The Cable Division directs Adelphia to refile its FCC Form 1240s for Duxbury, Essex, Falmouth, Great Barrington, Kingston, Lee, Lenox, Plymouth, Sheffield, and Stockbridge in compliance with this Rate Order, on or before August 13, 2001.

The attached schedule provides the current and maximum permitted equipment and installation rates for each community.

**By Order of the
Department of Telecommunications and Energy
Cable Television Division**

**/s/ Alicia C. Matthews
Alicia C. Matthews
Director**

APPEALS

Appeals of any final decision, order or ruling of the Cable Division may be brought within 14 days of the issuance of said decision to the full body of the Commissioners of the Department of Telecommunications and Energy by the filing of a written petition with the Secretary of the Department praying that the Order of the Cable Division be modified or set aside in whole or in part. G.L. c. 166A, § 2, as most recently amended by St. 1997, c. 164, § 273. Such petition for appeal shall be supported by a brief that contains the argument and areas of fact and law relied upon to support the Petitioner's position. Notice of such appeal shall be filed concurrently with the Clerk of the Cable Division. Briefs opposing the Petitioner's position shall be filed with the Secretary of the Department within seven days of the filing of the initial petition for appeal.