

Department of Telecommunications and Energy
Cable Television Division

In the Matter of	)	Docket No. Y-99B INC, Y-99B EQU	
	)	Date Issued: March 28, 2000	
)		
MediaOne Enterprises, Inc.	)	Acushnet	Medway
	)	Andover	Melrose
	)	Ashland	Mendon
MediaOne of Massachusetts, Inc.	)	Barnstable	Middleton
	)	Bellingham	Millis
	)	Blackstone	Nantucket
MediaOne of Ohio, Inc.	)	Bridgewater	Norfolk
	)	Canton	North Attleborough
MediaOne of Western New England, Inc.	)	Chatham	North Reading
	)	Chelsea	Norton
	)	Dennis	Plainville
	)	Dover	Salem
	)	Dracut	Seekonk
	)	Everett	Sharon
For a Determination of Cable Television Rates	)	Fairhaven	Somerset
	)	Foxborough	Stoneham
	)	Franklin	Swampscott
	)	Harwich	Taunton
	)	Holliston	Wakefield
	)	Hopedale	Walpole
	)	Lynn	Waltham
)	Malden	Winthrop
)	Mansfield	Wrentham
)	Medfield	Yarmouth
)	Medford	

RATE ORDER

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I. INTRODUCTION

MediaOne of Delaware, Inc. (“MediaOne” or “the Company”), through its subsidiaries,¹ filed with the Cable Television Division (“Cable Division”) of the Department of Telecommunications and Energy proposed basic service tier programming rates on Federal Communications Commission (“FCC”) Form 1240² for all of the above-captioned communities. MediaOne also proposed equipment rates on FCC Form 1205 for the Towns of Blackstone, Franklin, Millis, North Attleborough, Norton, Plainville and Somerset, and the City of Taunton.³ Pursuant to federal rate regulations, MediaOne put all of the proposed rates into effect, subject to review and refund.⁴ 47 C.F.R. § 76.933(c).

The Cable Division held a public hearing on the pending filings in Boston on January 25, 2000. The Towns of Canton, Holliston, Nantucket, Stoneham, Swampscott and Wrentham petitioned for and were admitted as Intervenor in this proceeding, and the City of Chelsea and the Towns of Acushnet and Plainville were admitted as Limited Participants. The evidentiary record consists of the following: 49 MediaOne exhibits covering the Company’s rate filings for the above-captioned communities, 17 Cable Division exhibits consisting of MediaOne’s responses to our information requests, one exhibit from the Town of Stoneham, one exhibit from the Town of Swampscott, six MediaOne responses to record requests posed by the Cable Division, 13 MediaOne responses to record requests posed by the Town of Canton, two MediaOne responses to record requests posed by the Town of Holliston, two MediaOne responses to record requests posed by the Town of Nantucket, one

¹ MediaOne operates its Massachusetts franchises through subsidiary companies. The licenses of the above-captioned communities are held by the following legal entities:
MediaOne Enterprises, Inc.: Taunton;
MediaOne of Massachusetts, Inc.: Andover, Barnstable, Chatham, Dennis, Dracut, Harwich, Middleton, Nantucket, North Reading, Waltham and Yarmouth;
MediaOne of Ohio, Inc.: Acushnet, Ashland, Bellingham, Bridgewater, Canton, Chelsea, Dover, Everett, Fairhaven, Foxborough, Holliston, Hopedale, Lynn, Malden, Mansfield, Medfield, Medford, Medway, Melrose, Mendon, Norfolk, Salem, Seekonk, Sharon, Stoneham, Swampscott, Wakefield, Walpole, Winthrop and Wrentham. The franchises for these communities were acquired by MediaOne from Time Warner Entertainment Co., L.P. on July 31, 1999.
MediaOne of Western New England, Inc.: Blackstone, Franklin, Millis, North Attleborough, Norton, Plainville and Somerset. The franchises for these communities and for Taunton were acquired by MediaOne from Cox Communications, Inc. on August 30, 1999.

² FCC Form 1240s were initially filed on April 1, 1999 for the above MediaOne of Massachusetts, Inc. communities; on August 3, 1999 (by Cox Communications, Inc.) for the MediaOne of Western New England, Inc. communities and Taunton; and on October 1, 1999 for the above MediaOne of Ohio, Inc. communities.

³ MediaOne’s predecessor, Cox Communications, Inc., filed FCC Form 1205 for the MediaOne of Western Massachusetts, Inc. communities and Taunton on August 3, 1999.

⁴ MediaOne’s proposed programming rates were put into effect in the above MediaOne of Massachusetts, Inc. communities on July 1, 1999, and in all the other above-captioned communities on January 1, 2000.

MediaOne response to a record request posed by the Town of Stoneham, one MediaOne response to a record request posed by the Town of Swampscott, one MediaOne response to a record request posed by the Town of Winthrop, and 13 MediaOne responses to record requests posed by the Town of Wrentham. 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 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 5727, ¶ 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.

The 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 that rates 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).

The FCC Form 1205 allows a cable operator to annually adjust its costs for equipment and installations. Subscriber charges established by FCC Form 1205 shall not

exceed charges based on actual costs as determined in accordance with regulatory requirements. 47 C.F.R. § 76.923(a)(2).

III. DISCUSSION AND ANALYSIS

The Cable Division finds that MediaOne's FCC Form 1205 filing complies with applicable law. Accordingly, we find the equipment rates proposed therein to be reasonable. In reviewing the various FCC Form 1240 filings, we determine that a number of adjustments are necessary, as described below.

A. Former Time Warner Communities: ⁵ Adjustments to FCC Form 1240, Worksheet 8

For the former Time Warner communities, MediaOne based its basic service rate calculations, at Worksheet 8, "True-Up Rate Charged," for October through December 1998, on the basic service tier ("BST") maximum permitted rates ("MPR") established by the Cable Division in our rate order, Time Warner Cable, Acushnet et al., Y-97 INC (1998) (the "1998 Time Warner Rate Order") at 19 (Exhs. MediaOne -1, -3, -5, -7, -8, -10, -12, -14, -15, -16, -19, -20, -21, -22, -23, -24, -25, -26, -27, -28, -32, -37, -38, -39, -41, -42, -44, -45, -47, -48). However, the rates approved by the Cable Division were lower than the rates Time Warner had actually charged subscribers. 1998 Time Warner Rate Order at 19. At the hearing, MediaOne contended that Time Warner had paid refunds in these communities based upon the 1998 Time Warner Rate Order. MediaOne concluded that the Cable Division's approved BST MPR, rather than the actual rate, was appropriate on Worksheet 8. However, the Cable Division ordered Time Warner to pay refunds only for overcharges related to removal of the access fees from the BST. *Id.* All other overcharges were to flow through the FCC Form 1240 true-up mechanism, reducing the BST MPR for the projected period. *Id.* Accordingly, Time Warner revised the FCC Form 1240 filings for its next rate case to adjust for these overcharges.⁶ Therefore, MediaOne should have reported on Worksheet 8, for October through December 1998, the BST rates Time Warner actually charged during these three months. In response to Cable Division Record Request 4, MediaOne provided revised FCC Form 1240s containing the relative adjustments to Worksheet 8 (RR-CATV-4). In making this correction to Worksheet 8 of the Medway FCC Form 1240, MediaOne discovered that it had incorrectly used the Division approved BST MPR rather than the actual rate charged for January through September 1999 as well. In

⁵ The former Time Warner franchises are Acushnet, Ashland, Bellingham, Bridgewater, Canton, Chelsea, Dover, Everett, Fairhaven, Foxborough, Holliston, Hopedale, Lynn, Malden, Mansfield, Medfield, Medford, Medway, Melrose, Mendon, Norfolk, Salem, Seekonk, Sharon, Stoneham (Jerry Jingle portion), Swampscott, Wakefield, Walpole, Winthrop and Wrentham.

⁶ The 1998 Time Warner Rate Order was issued on September 30, 1998. Time Warner had originally filed its FCC Form 1240s for 1999 on September 30, 1998, and filed corrected FCC Form 1240s complying with the Rate Order on October 22, 1998. Time Warner Cable, Acushnet et al., Y-98 INC (1999) at 1.

correcting lines 801 through 803 of Worksheet 8 for all former Time Warner communities, MediaOne also corrected lines 804 through 812 of the Medway form.

In its response to Record Request 4, MediaOne did not adjust the inflation figures on the forms to incorporate the FCC's two most recently released inflation factors; 1.35 percent for the period April 1, 1999 through June 30, 1999, and 1.04 percent for the period July 1, 1999 through September 30, 1999. The FCC has adopted a policy with respect to refreshing inflation that requires an operator to update inflation data when making other adjustments to the forms. Cencom Cable Income Partners II, L.P. (Jasper, TX), FCC 97-205, 12 FCC Rcd 22295 (released June 13, 1997) ("Cencom") at ¶ 11. Suburban Cable TV (Doylestown, PA), DA 97-2032 (released September 22, 1997) ("Suburban") at ¶ 14; see also Time Warner Cable (Chatham County, NC), DA 98-967, 13 FCC Rcd 10310 (released May 26, 1998) ("Chatham County"); Time Warner Cable (Raleigh, NC), DA 00-123 (released January 25, 2000) ("Raleigh").

In previous rate orders, the Cable Division adopted the FCC's policy with respect to updating inflation. See 1998 Time Warner Rate Order at 1; Cox Communications, Inc., Blackstone, Y-98 INC et al. at 4 (1999). Importantly, both the Chatham County and Raleigh decisions involved the review of BST rate orders, and upheld the local rate regulators' updating of inflation figures. Chatham County at ¶¶ 6-7; Raleigh at ¶¶ 8-9. We conclude that this policy is entirely consistent with federal regulations, to the extent it results in the inclusion of more accurate inflation data on FCC Form 1240, Worksheet 1, "True-Up Period Inflation." 47 C.F.R. § 76.922(b)(9)(iii).⁷ The adjustment is also reasonable because it corrects for a factor that will not be subject to review on future rate filings.

When MediaOne refiled its FCC Form 1240s in response to Record Request 4, the Company also made adjustments to Worksheet 5, "Channel Movement and Deletion Projected Period, Basic Tier" (RR-CATV-4) for eleven communities.⁸ MediaOne stated that since the date the original forms were filed for the communities, the Company had delayed its "anticipated date of transition to MediaOne's regional channel lineups" (RR-CATV-4). The Cable Division had not directed MediaOne to make such adjustments.

In Record Request 5, we asked MediaOne to refile the FCC Form 1240s without the Worksheet 5 adjustment. The Company sought clarification of this request (Request for Clarification). The Cable Division thereupon issued a revised version of Record Request 5, requesting the Company provide two versions of its FCC Form 1240 for each community: one incorporating the specific changes made by MediaOne in addition to the Division's

⁷ The regulation provides: [I]f the rates charged by a cable operator are not justified by an analysis based on the data available at the time it initially adjusted its rates, the cable operator must adjust its rates in accordance with the most accurate data available at the time of the analysis. 47 C.F.R. §6.922(b)(9)(iii).

⁸ The communities involved are Bridgewater, Dover, Foxborough, Holliston, Hopedale, Mansfield, Mendon, Norfolk, Seekonk, Sharon and Walpole.

requested changes and one with only the Division's requested adjustments. In response, MediaOne provided two versions of its FCC Form 1240s. Version 1, marked "RCL and Inflation Correction- 1," includes the inflation update, but does not include the revised Worksheet 5 incorporated in the response to Record Request 4. Version 2, marked "Inflation Only Correction - 2," includes both the inflation update and the revised Worksheet 5 (RR-CATV-5).

MediaOne's Worksheet 5 channel movement and deletion adjustments move channels from the BST to other tiers. The removal of BST channels results in a negative net per channel cost adjustment, which is applied to each month during the projected period. See FCC Form 1240 (July 1996), Worksheet 4 - "Residual, Projected Period" and Worksheet 5 - "Channel Movement and Deletion, Projected Period, Basic Tier." A delay in the transition to the new channel lineup would result in a smaller negative "Cumulative Net Per-Channel Cost Adjustment" on Worksheet 5. Because this adjustment is factored into the calculation of the BST MPR in Module I, Line I3, a smaller negative adjustment due to the delay of several months in the movement of the BST channels results in a higher BST MPR.

In support of its revised Worksheet 5, MediaOne cited Cencom and Suburban (Request for Clarification at 1). MediaOne contended that Cencom allows refiled forms to include "any correction." MediaOne also argued that in Suburban, the FCC approved new channel information supplied by the operator (*id.*) However, neither Cencom nor Suburban support MediaOne's position that the adjustments to Worksheet 5 are appropriate at this time. Cencom requires operators to use the most recently available inflation data when making corrections or adjustments to previously filed forms. Cencom at ¶ 11. In addition, Cencom was only concerned with FCC Form 393 and FCC Form 1200 filings, both of which utilize historical data and contain no projections. Cencom at ¶¶ 3-5; FCC Form 393 (August 1993) at 10-13; FCC Form 1200, Instructions (May 1994) at 2. Suburban is also distinguishable from the present case because it involved a correction of known historical data, where the operator had computed its FCC Form 393 using 23 cable programming services tier channels, instead of the 22 channels the operator had shown on its rate card. Suburban at ¶¶ 6, 16. Neither case addresses the proposition that projections, as opposed to historical data, can be "corrected" on an FCC Form 1240.

The FCC's rate regulations explicitly allow cable operators to amend FCC Form 1240 filings to make certain adjustments. The federal regulations state that "[i]f there is a material change in an operator's circumstances during the 90-day review period and the change affects the operator's rate change filing, the operator may file an amendment to its Form 1240 prior to the end of the 90-day review period." 47 C.F.R. § 76.933(g)(1). The FCC regulations contain no provision allowing a cable operator, on its own initiative, to amend an FCC Form 1240 beyond the end of the 90-day period, after which the proposed rates have become effective under the regulations. 47 C.F.R. § 76.933(g). In the present proceeding, MediaOne submitted its revised Worksheet 5s on February 11, 2000, over four months after the Company initially filed its FCC Form 1240s.

Moreover, the FCC's rate regulations, at 47 C.F.R. § 76.922(e)(2)(iii)(A), establish a test with respect to the appropriateness of projected channel changes: "[i]n order that rates be adjusted for projected changes to the number of regulated channels, the operator must demonstrate that such projections are reasonably certain and reasonably quantifiable." MediaOne had the opportunity to demonstrate the "reasonable certainty" of its proposed changes at the public hearing. MediaOne submitted these Worksheet 5 changes on February 11, 2000, after the public hearing had been held. The projections contained in revised Worksheet 5 have not been subject to the adjudicatory process.

Furthermore, MediaOne will be able to include the actual channel lineup changes implemented before September 30, 2000, as true-up adjustments on its next FCC Form 1240 filing. FCC Form 1240, Instructions (July 1996) at 5. As the FCC observed:

In many cases, we expect that operators' projections will not exactly reflect the actual changes in external costs, inflation, and the number of regulated channels. ... Therefore, as part of the annual rate change, a "true up" mechanism is available to correct projected cost changes with actual cost changes. ... Although operators electing this option will limit themselves to annual rate adjustments, the true up will provide them with the opportunity to recover for all costs associated with changes in external costs, inflation and the number of regulated channels.

Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Thirteenth Order on Reconsideration, MM Docket No. 92-266, FCC 95-397, 11 FCC Rcd 388 (released September 22, 1995) at 421, 422, ¶¶ 79, 81.

We conclude that because MediaOne had been requested to refile its FCC Form 1240s to adjust Worksheet 8, it is appropriate for MediaOne to update its inflation adjustments. We further conclude that subsequent adjustments based on revised projections rather than known historical data are inappropriate. Therefore, the Cable Division finds that the BST MPRs for the former Time Warner communities, excluding the Town of Foxborough, contained in the revised "Version 1" FCC Form 1240s filed on March 7, 2000, which contain only the inflation adjustment without the adjusted Worksheet 5" are reasonable and in compliance with applicable law. With respect to the filing for the Town of Foxborough, see Section III.D below.

B. Former CVI Communities: Removal of Non-Capital Public Access Payments from the Basic Service Tier Rate

On July 31, 1999, Time Warner Cable transferred to MediaOne several franchises, including 19 franchises that until January 5, 1996 had been held by Cablevision Industries Corporation ("CVI") (the "former CVI communities"). In its 1998 Time Warner Rate Order, the Cable Division directed Time Warner, upon the license renewal of each former

CVI community, to remove non-capital access payments from the BST MPR, and charge these payments separately on the monthly statement. 1998 Time Warner Rate Order at 16. The cable franchises in the former CVI communities of Foxborough, Norfolk, Holliston, Sharon, Walpole and Wrentham have been renewed since the last rate proceeding. In preparing its initial FCC Form 1240s for these communities, MediaOne conceded that it had misinterpreted Time Warner's methodology for removing access payments from FCC Form 1240s in newly renewed communities, when it completed the appropriate entries on the FCC Form 1240 (RR-CATV-1). At the Cable Division's request, the Company refiled its FCC Form 1240s for these communities with the access payments properly removed (*id.*). The Cable Division hereby accepts as reasonable and consistent with the 1998 Time Warner Rate Order the corrections made by MediaOne on the revised Version 1 FCC Form 1240s for the communities of Holliston, Norfolk, Sharon, Walpole and Wrentham filed on March 7, 2000. We also find that the BST MPRs established therein are reasonable.

C. Chelsea Filing: Copyright Fee

On MediaOne's FCC Form 1240 for Chelsea, the Company improperly omitted allowable copyright fees from Worksheet 7, "True-Up Period" (Exh. MediaOne-10; see FCC Form 1240, Instructions (July 1996) at 39, Line 703). In response to the Cable Division's request, MediaOne submitted a revised Chelsea FCC Form 1240 with a \$7,558.06 copyright fee included on Worksheet 7 (Exh. CATV-10). The inclusion of this copyright fee in the FCC Form 1240 results in a \$0.09 increase to the BST MPR in Chelsea. This change was incorporated in the later revised FCC Form 1240s that MediaOne filed for Chelsea. The Cable Division hereby accepts as reasonable the BST MPR established by the revised Version 1 FCC Form 1240 filed for Chelsea on March 7, 2000.

D. Foxborough Filing: True-Up Correction

The FCC Form 1240 requires a cable operator to carry Line I8, "True-Up Segment for Projected Period," from the previous year's FCC Form 1240 over to the current FCC Form 1240 at Line D6, "Current True-Up Segment." FCC Form 1240, Instructions, July 1996, at 15. On the initial FCC Form 1240 MediaOne filed for Foxborough, the Company included a positive true-up of \$0.1184 on Line D6 (Exh. MediaOne-16). However, the FCC Form 1240 for Foxborough, filed on April 27, 1999 and approved by the Cable Division in Time Warner Cable, Acushnet et al, Y-99 INC (1999) (the "1999 Time Warner Rate Order"), shows a negative true-up amount of \$0.1184 on Line I8. Carrying over the negative true-up results in a higher true-up rate and consequently a higher BST MPR. In response to a Cable Division inquiry on this issue, MediaOne submitted a revised FCC Form 1240 for Foxborough on January 25, 2000 with a corrected Line D6 (Exh. CATV-57). This corrected Line D6 has been incorporated in later FCC Form 1240 filings for Foxborough. However, we determine that Worksheet 4, "Residual, Projected Period" at Line 405 on the FCC Form 1240 filed for Foxborough on March 7, 2000, revised Version 1, shows an "Average Channels per Regulated Tier" figure of 25.0000, whereas a

figure of 23.3333 appears on the same line on the original Foxborough FCC form 1240 and the Foxborough FCC Form 1240 filed in response to Record Request 1. Thus, the Cable Division directs the Company to refile the FCC Form 1240 for Foxborough that is consistent with the findings in this Order.

E. Mansfield Filing: Channel Line-up

Along with its FCC Form 1240 filings, MediaOne submitted a projected regional channel line-up for certain former CVI communities. This line-up would eliminate a number of broadcast channels from the Providence, Rhode Island market. Under FCC rules, communities within a specific Dominant Market Area (“DMA”) must carry all signals from that market. 47 C.F.R. § 76.55(e). The Town of Mansfield is located in Bristol County, which is part of the Providence DMA, but the channel line-up submitted was intended for CVI communities in other counties that are part of the Boston DMA. Warren Television and Cable Factbook, 1999 Edition at A-553; A-998. In response to Cable Division Record Request 3, MediaOne admitted that the Mansfield FCC Form 1240 included the wrong projected channel line-up. MediaOne provided a corrected line-up for Mansfield that includes the Providence channels (RR-CATV-3). The same channel line-up will be used in the Town of Seekonk, which is also part of the Providence DMA. Because channels have only been substituted, with no net additions, the alterations to the channel line-up do not affect BST rates. The Cable Division hereby accepts as reasonable the BST MPR established by the FCC Form 1240 filed for Mansfield on March 7, 2000, revised Version 1.

F. Nantucket Filing: Franchise Related Costs

The initial Nantucket FCC Form 1240 filed by MediaOne on April 1, 1999 did not include franchise related costs on Worksheet 7, “True-Up Period 2” (Exh. MediaOne-31). In response to the Cable Division’s information request, MediaOne submitted a revised FCC Form 1240 with a \$2,280.00 franchise fee included on Worksheet 7 (Exh. CATV-2). The inclusion of this franchise fee on the FCC Form 1240 results in a \$0.02 increase in the BST MPR in Nantucket (*id.*). The Cable Division finds that the BST MPR established by this refiled FCC Form 1240 is reasonable (*id.*).

G. Norfolk Filing: True-Up Correction and Channel Decrease

FCC Form 1240 requires a cable operator to carry Line I8, “True-Up Segment for Projected Period,” from the previous year’s FCC Form 1240 over to the current FCC Form 1240 at Line D6, “Current True-Up Segment.” FCC Form 1240, Instructions, July 1996, at 15. On MediaOne’s initial Norfolk FCC Form 1240, the Company included a negative true-up of \$0.4938 on Line D6 (Exh. MediaOne-32). However, the FCC Form 1240 approved by the 1999 Time Warner Rate Order reported a negative true-up of \$0.4839 on Line I8. Correcting for this error results in a \$0.02 increase in the BST MPR in Norfolk. MediaOne submitted a revised FCC Form 1240 for Norfolk on January 25, 2000 with a

corrected Line D6 (Exh. CATV-14). This corrected Line D6 was included in all later revised FCC Form 1240s filed for Norfolk.

MediaOne's initial FCC Form 1240 reported a 10 channel reduction on the BST on Worksheet 5, "Projected Period." However, the "channel line-up tracking sheets" as of October 1, 1998 and July 1, 2000 that were attached to the Norfolk FCC Form 1240 showed a nine-channel decrease from 29 to 20 channels. In response to a question from the Cable Division, MediaOne reported that one of the channel line-up tracking sheets had omitted a channel, and it provided a corrected channel line-up showing 30 channels (Exh. CATV-15). This change in the channel line-up was incorporated in the later revised FCC Form 1240s that MediaOne filed for Norfolk. The Cable Division accepts as reasonable the FCC Form 1240 filed for Norfolk on March 7, 2000 revised Version 1.

H. North Reading Filing: Overcharge

MediaOne's North Reading FCC Form 1240 reported a BST MPR of \$6.15 (Exh. MediaOne-34). This rate is reasonable and in compliance with applicable law. The rate card for North Reading, however, shows a current BST rate of \$6.21 (*id.*). At the public hearing, MediaOne acknowledged that because of an administrative error, it was charging a higher rate in North Reading than was justified by the FCC Form 1240. The Cable Division finds that the rate MediaOne is charging subscribers is unreasonable and not consistent with applicable law.

I. Wrentham Filing: Franchise Fee Verification

The Town of Wrentham questioned whether the monthly statements MediaOne sent to Wrentham subscribers properly itemized the public access fee separately in accordance with the 1998 Time Warner Rate Order (RR-Wrentham-5). In response, MediaOne stated that the access fee is "now" itemized separately (*id.*). To confirm this statement, the Cable Division asked the Company to provide a copy of its most recent Wrentham monthly statement (RR-CATV-6). The Cable Division has reviewed copies of actual monthly statements provided by Wrentham as attachments to Wrentham Record Requests 11 through 13. The Cable Division has also reviewed the Company's responses to these record requests. We have determined that on the initial FCC Form 1240 filed for Wrentham, the removal of the 5 percent franchise fee from the BST MPR was calculated incorrectly (RR-Wrentham12; see Part III, Section C above). MediaOne has filed a corrected version of the FCC Form 1240 with the 5 percent access fee removed from the BST rate established for Wrentham. (See the Wrentham revised Version 1 FCC Form 1240 filed on March 7, 2000.) In addition, as stated in MediaOne's response to Wrentham, the Company will no longer separately charge the monthly \$0.11 statutory license fee, because it is now included in the 5 percent being charged externally (RR-Wrentham-12). MediaOne has agreed to make the necessary refunds and will promptly adjust its rates following the issuance of this Rate Order (*id.*).

J. Record Requests from the Intervenors

Intervenors Canton, Holliston, Nantucket, Stoneham, Swampscott, Winthrop and Wrentham submitted record requests to MediaOne. Except for the record requests made by Stoneham and Wrentham discussed above, these requests raised no issues that have a specific rate impact on MediaOne's FCC Form 1240 filings. Instead, they primarily sought clarification concerning the treatment of public access payments, license fees and other charges on MediaOne's monthly statements, as well as programming changes, the cost of equipment, and system upgrades. MediaOne also provided an explanation to Swampscott of its BST rate increase (RR-Swampscott-1). The Cable Division has reviewed the Intervenors' Record Requests and MediaOne's responses thereto, and we find that the responses appear to satisfactorily address the Intervenors' concerns.

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, MediaOne's FCC Form 1205 as filed on August 3, 1999 for Blackstone, Franklin, Millis, North Attleborough, Norton, Plainville, Somerset and Taunton.

Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, MediaOne's FCC Form 1240s as filed on May 17, 1999 for Andover, Barnstable, Chatham, Dennis, Dracut, Harwich, Middleton, North Reading, Waltham and Yarmouth. With respect to North Reading, the Cable Division hereby orders MediaOne to adjust its BST rate in North Reading as soon as possible, and to refund the accumulated overcharge to all affected subscribers on the next available monthly statement. MediaOne must also present a written statement to the Cable Division that the refund has been made, as soon as the payment of the refund has been completed.

Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, MediaOne's FCC Form 1240s as filed on November 24, 1999 for Blackstone, Franklin, Millis, North Attleborough, Norton, Plainville, Somerset and Taunton.

Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, MediaOne's FCC Form 1240 as filed on January 25, 2000 for Nantucket.

Further, the Cable Division hereby accepts as reasonable and in compliance with applicable statutes and regulations, MediaOne's revised Version 1 FCC Form 1240s as filed on March 7, 2000 for Acushnet, Ashland, Bellingham, Bridgewater, Canton, Chelsea, Dover, Everett, Fairhaven, Holliston, Hopedale, Lynn, Malden, Mansfield, Medfield, Medford, Medway, Melrose, Mendon, Norfolk, Salem, Seekonk, Sharon, Stoneham, Swampscott, Wakefield, Walpole, Winthrop and Wrentham. With respect to Wrentham,

the Cable Division directs MediaOne to file with the Cable Division and the Town of Wrentham a copy of a monthly statement once the rate adjustment has taken place. MediaOne must also present a written statement to the Cable Division that the refund has been made, as soon as the payment of the refund has been completed.

Further, the Cable Division hereby directs MediaOne to refile its FCC Form 1240 for Foxborough in accordance with this Rate Order.

Further, the Cable Division hereby directs MediaOne to file refund plans consistent with this order for Acushnet, Ashland, Bellingham, Bridgewater, Canton, Chelsea, Dover, Everett, Fairhaven, Foxborough, Holliston, Hopedale, Lynn, Malden, Mansfield, Medfield, Medford, Melrose, Mendon, Norfolk, North Reading, Salem, Seekonk, Sharon, Stoneham, Swampscott, Wakefield, Walpole, Winthrop and Wrentham on or before Friday, April 14, 2000. MediaOne must present a written statement to the Cable Division that the refund has been made, as soon as the payment of the refund has been completed.

The attached schedule provides the previous, current permitted and approved basic service tier programming and equipment rates for each community.

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

**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.

