

RESOLUTION NO. 031227

PASSED APRIL 26, 2004

**A RESOLUTION OF THE CITY OF GAINESVILLE,
FLORIDA CONCERNING COX COMMUNICATIONS
GAINESVILLE/OCALA'S MAXIMUM PERMITTED
RATES FOR REGULATED CABLE SERVICES FOR
YEAR 2003.**

WHEREAS, pursuant to the public law and the regulations of the Federal Communications Commission ["FCC"], the City of Gainesville, Florida ["City"] retains regulatory authority over basic cable television services provided by Cox Communications Gainesville/Ocala ["Cox"] in the authorized franchise area encompassing the City; and

WHEREAS, Cox filed FCC Form 1240 and FCC Form 1205 with the City on May 1, 2003 for the purpose of requesting and justifying adjustments to the maximum permitted rates charged for basic cable service and for cable service equipment installations and rentals to be effective on June 1, 2003; and

WHEREAS, Cox filed FCC Form 1235 with the City on or about March 4, 2002 for the purpose of establishing a surcharge to the rates for basic cable service to cover the costs of a system network upgrade and to be included in rates after June 1, 2002; and

WHEREAS, in the exercise of its regulatory authority, the City has reviewed these filings and determined that Cox has not followed FCC regulations or has made errors in the determination of its maximum permitted rates; and

WHEREAS, the City has found that Cox has been overcharging for certain services and should be required to lower its rates and make refunds; and

WHEREAS, these findings and conclusions are described in a reports on review and analysis attached to and made part of this resolution.

WHEREAS, Cox filed amended Forms 1235 and 1240 on April 19, 2004.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Cox shall adjust its combined FCC Form 1240 and FCC Form 1235 rate for the basic service tier to the level of \$9.43 per subscriber per month. The maximum permitted rate for the FCC Form 1240 basic service tier cable rate is hereby established at the level of \$7.8311 per subscriber per month and Cox shall utilize this amount and its associated

components from its adjusted FCC Form 1240 filing as the starting point for its next annual FCC Form 1240 filing.

Section 2. The amended Form 1240 received by the City on April 19, 2004 is rejected because it is facially incomplete.

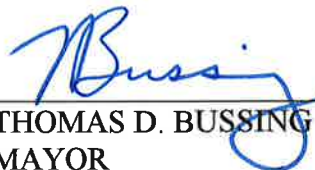
Section 3. The FCC Form 1235 surcharge to basic service tier rates shall be hereafter set to a level of \$1.60 per subscriber per month.

Section 4. The existing actual rates charged subscribers for regulated cable equipment installations and cable equipment rentals are herewith determined to be reasonable and may remain in effect.

Section 5. Cox shall, within 30 days from the date of this Rate Resolution, prepare a report and submit it to the City that accounts for the overcharges of cable rates between June 1, 2003 and April 30, 2004 and provides for a plan to make refunds, including interest, to subscribers. For the purposes of computing the overcharges, Cox shall use a combined basic service tier rate and upgrade surcharge of \$9.63 per subscriber per month. The methodology of making the refunds shall conform to FCC regulations for making refunds.

Section 5. This Resolution shall become effective immediately upon adoption.


PASSED AND ADOPTED this 26 day of April, 2004.


THOMAS D. BUSSING
MAYOR

ATTEST:

Approved as to form and legality:


KURT M. LANNON
CLERK OF THE COMMISSION


MARION J. RADSON
CITY ATTORNEY

APR 27 2004

RW

RICE, WILLIAMS ASSOCIATES

April 26, 2004

Mr. Wayne Bowers, City Manager
City of Gainesville
P.O. Box 490
Gainesville, FL 32602

Mr. Randy Reid, County Manager
County of Alachua
P.O. Box 2877
Gainesville, FL 32602

Dear Messrs. Bowers and Reid:

We have revisited our initial review and recommended rate orders previously furnished to you in light of the response of Cox to their review of our initial findings. However, our conclusions and recommendations have changed little. Our "Final" report with supporting schedules and our revised recommended rate orders are enclosed herewith. While this final report makes references to various points raised by the Cox response, we would like to take this opportunity to recap some of these points and otherwise comment on the recent communications from Cox.

We find the nature, tone and "attitude" of Cox's communications unusual to say the least, based upon our extensive experience dealing with cable operators on behalf of franchise authorities. Mr. Giampeitro's letter covering Cox's attorney's report is largely devoted to boasting about the exemplary service Cox provides in your area and condemning the exercise of regulatory oversight by the City and County as an "assault" on Cox. Our review and findings did not address the quality of Cox's service in the community or in any way comment on or disparage whatever commitment to the community Cox might maintain. The issues we addressed in the subject review related strictly to Cox's rates for the basic service tier.

Moreover, we have found no evidence that you have exercised your regulatory authority outside of the constraints of FCC regulations, and suggestions contrary to that fact are misplaced. What Mr. Giampeitro really is complaining about relates to bonafide disputes over rate making principles and practices, not an "assault" on Cox's business, and as Mr. Grover stated in his February 18, 2004 letter, the FCC has procedures in place for addressing such disputes. That Cox might have to complain to the FCC about rate orders issued by the City or County is just part of the routine business of being a cable operator and is not the result of an unlawful exercise of regulatory authority and oversight.

Mr. Giampietro states that Cox was forced into a "labor intensive and very costly response" as a result of the initial review we provided. Unfortunately, the suggestion of this statement that substantial additional documentation for the rate filings was developed was not evidenced in what was provided by Cox's response. The only bits of useful quantitative information contained in Mr. Lutzker's report were items that had to have been developed to prepare the initial filings and which should have been provided in supporting documentation when those filings first were submitted to the City and County.

With the exception of one acknowledged error, the revised and amended filings furnished with Mr. Lutzker's report were adjusted merely to include cost components that Cox, at its own election or oversight, failed to include in the original filings. These reports were supplied with even less documentation than the original filings and the limited adjustments made should have required little effort. Instead, Mr. Lutzker's report largely is the sort of legal brief that routinely is provided as part of the appeal to the FCC of a franchise

authority's order. To the extent that this represents the bulk of Cox's "very costly response," it merely is what Cox would have to have done within 45 days of the issue of any rate order no matter when that rate order was issued.

At the time of our initial review we attempted to incorporate all the information that had been supplied by Cox in its original filings and what the City and County staff had managed to glean from Cox and its own observations during its contact and negotiations with Cox since the filings were made. We did request and incorporate some additional information to which Mr. Grover's letter responded. Still, there were areas where additional documentation should have been supplied with the original filings but was missing. Thus, we appreciated the few quantitative bits of information provided by Mr. Lutzker that supported some of the costs Cox included in its original filings. If only Cox had seen fit to include this information with its original filings, as is required by FCC regulations, much of the controversy evidenced in Mr. Giampietro's and Mr. Lutzker's communications could have been resolved at a much earlier time. On the other hand, many of the explanatory details Mr. Lutzker offers simply comprise bald assertions as to what Cox did or did not do, or address the nature of what costs were or were not included, and are not supported by any factual, quantitative evidence.

We also considered Mr. Lutzker's presentation and perspectives on FCC rules, regulations and precedent and other critiques of our initial review. Contrary to Mr. Lutzker's extensive assertions otherwise, our adjustments were fully explained in our initial review and the supporting schedules prepared in conjunction with the review, as is also the case with our final report submitted herewith. [We suspect that Mr. Lutzker did not have the benefit of our initial supporting schedules.] We are confident that to the extent that Cox still takes exception to our findings, conclusions and recommended rate orders, that such matters are appropriate for review by the FCC in the context of its routine appeal procedures which are established for just the purpose of resolving such disputes.

Overall, then, since Cox did not take the opportunity in its communications to provide more factual substantiation and supporting detail for its filings, but rather spent considerable effort railing about assaults on the company, abusive regulatory practices by the City and County and alleged misapplication of FCC rules and regulations, we only can assume that these communications were designed more for political purposes than for increasing the clarity and validity of its filings. Because the City and County have not administered its regulatory authority outside of the constraints of FCC rules and regulations or federal laws, and because the analyses we have provided are reasonable efforts to conform the rate applications to the FCC rules and regulations, we believe the strident and vitriolic language contained in these recent Cox communications is designed to intimidate and influence the City and County staff and their respective governing bodies into withdrawing from consideration justifiable and perfectly routine regulatory actions. We respectfully suggest that the complaints and threats contained in these communications be substantially discounted when the City and County address the findings and recommendations contained in our final report.

Respectfully submitted,

John Weesner
Don Williams

**FINAL REPORT
OF**

**REVIEW & ANALYSIS OF FCC FORMS 1240, 1235 & 1205 - 2003
FILED BY
COX COMMUNICATIONS GAINESVILLE/OCALA
FOR
CITY OF GAINESVILLE AND COUNTY OF ALACHUA, FL**

April 26, 2004

This is a final report of a review ["Review"] of FCC Forms 1240, 1235 & 1205, filed by Cox Communications Gainesville/Ocala ["Cox"] relating to the updating of permitted rates for basic service tier ["BST"] cable programming and cable equipment installation and rental services which are regulated by the City of Gainesville ["City"] and the County of Alachua ["County"] [also referred to jointly as "Franchise Authorities"]. The original FCC Form 1240 & 1205 filings were received by the City on May 1, 2003 and by the County on May 2, 2003. The original FCC Form 1235 filings were received for review by the Franchise Authorities on or about March 4, 2002. Amended FCC Form 1240 & 1235 filings for the City and County were received on or about April 19, 2004. The conclusion of the Review is that Cox has not correctly determined its maximum permitted rates for BST cable programming service, equipment installations and rentals or the cable network upgrade surcharge.

Cox's original FCC Form 1240¹ calculations determine a maximum permitted rate ["MPR"] of \$9.3586 per subscriber per month for BST cable programming service in the City, while the Review has determined that the MPR should not exceed \$7.8311. Likewise, Cox has determined that the MPR for BST cable programming service in the County should be \$10.6124 while the Review yields an MPR of only \$9.1169. In its original/amended FCC Form 1235 filings, Cox determined that the City & County cable network surcharges should be \$1.8027/\$1.6817 & \$1.7422/\$1.6292, respectfully, while the Review has determined the proper surcharges to be \$1.5977 & \$1.5479. Cox did not propose changes to the actual BST rate of \$11.10 per subscriber per month in both the City and County as a result of its FCC Form 1240 and FCC 1235 analyses, but the conclusion of the Review is that this rate is too high and should have been lowered as of

¹ The amended FCC Form 1240 filings have been rejected for reasons stated in the body of the Report.

June 1, 2003. Since that time, the actual BST rate for City subscribers should not have exceeded \$9.63, and the actual BST rate for County subscribers should not have exceeded \$10.86.² Assuming 11 months of overcharges if the rates are adjusted by May 1, refunds (before interest) on the order of \$590,000 to City subscribers and some \$62,000 to County subscribers may be required.

Cox also did not propose changes in charges for equipment installations and rentals. The Review determined that the FCC Form 1205 also required adjustments and that some of rates that remained in effect last June should have been reduced. Any such rates that exceeded the revised maximum permitted rates are unreasonable and should be refunded.

The following analyses of Cox's filings rely upon the certified information supplied by Cox pursuant to its FCC regulatory filings and upon responses to informational requests and other information obtained by City/County staff related to the review of these filings. These analyses also respond to and incorporate considerations of materials received on or about April 19, 2004 from Mr. Mike Giampietro, Cox Vice President and General Manager.³ No audit of Cox's books and records has been done and none of its system cost assumptions has been checked against any independent sources.

FCC FORM 1240

Pursuant to Federal Communications Commission ("FCC") regulations, cable system operators are permitted to adjust their rates periodically for increases and decreases in costs relating to retransmission consent fees, copyright fees, programming costs, certain cable specific taxes, franchise-related costs, and FCC regulatory fees. On September 15, 1995, the FCC adopted new rules giving regulated cable operators the

² The time period for refunds of network upgrade surcharge overcharges has passed, so Cox's claimed surcharge is applicable until modified by order of the Franchise Authorities.

³ This letter responded to an initial review and recommended regulatory response provided by Rice Williams Associates to City/County staff which was provided to Cox. It includes a two page cover letter from Mr. Giampietro, a 17 page letter from Cox's attorney, Mr. Gary S. Lutzker, and several attachments including amended FCC Form 1240 and 1235 filings. Some of the issues raised by Mr. Lutzker will be addressed in the context of the Review while other commentary will be addressed at the end of the Review.

option of filing for rate adjustments on an annual basis instead of the existing quarterly system embodied in the FCC Form 1210. Subsequently, the FCC issued its instructions and analytical model for the FCC Form 1240 which implements the latest filing rules.

The FCC Form 1240 annual filing system examines a stream of historical costs that have occurred over a period of time, relates this to the revenues actually collected during the same period and computes a monthly adjustment to apply to a future rate. The rate to be charged in a future period is developed based on a projected 12 months of costs and the unit rate adjustment, or "true-up," from the historical period is added to this projected period maximum permitted rate to determine the total maximum permitted rate to be charged for the future 12 months period. Each subsequent annual FCC Form 1240 filing will evaluate a historical, or "True-up Period," and a future, or "Projected Period," as part of the process of establishing a new maximum permitted rate for a future 12 months period. Assuming that an operator correctly tracks and reports historical costs, and makes reasonable estimates regarding future costs, this regulatory scheme should insure that only the appropriate amounts of revenue, over time, are received by the cable operator.

For its 2003 - 2004 rate year filings, Cox has chosen to establish rates for the "Projected Period" of June 1, 2003, through May 31, 2004. The "True-up Period" chosen by Cox was from January 1, 2002 through December 31, 2002. Pursuant to FCC regulations, maximum permitted rates are determined by separate calculations for each of these two periods. Under the FCC Form 1240, the True-up Period maximum permitted rate is the sum of (1) the prior rate net of prior external costs; (2) an inflation segment; and, (3) the "actual" external costs experienced in that True-up Period. This rate is then utilized to determine the level of revenue that the cable system was entitled to collect in the true-up period. This permitted amount is compared to the "actual" amount collected which is determined by multiplying the average rate charged by the average number of subscribers and by the months in the True-up Period. The difference is an amount that the cable system is permitted to collect (or must refund), with interest, uniformly over the Projected Period.

As the first step in the review and analysis of Cox's filings, the information provided by Cox was incorporated into a specially prepared FCC approved analytical model. The result of this effort was the determination of BST MPRs for the City and

County subscribers that closely agreed with Cox's calculations using Cox's cost presentation. This demonstrates Cox's correct use of the FCC Form 1240 methodology. However, based upon discussions with the Franchise Authorities' staff and after a review of information supplied by Cox in response to an informational request⁴, it was determined that certain franchise related costs were improperly included in the FCC Form 1240 filings.

The FCC rules at 47CFR76.925 provide that external costs "may" include franchise costs imposed by a franchise authority. However, this rule does not "require" pass through and external cost treatment of such franchise imposed costs. If the operator chooses to include such costs in its external cost presentation, the FCC rules provide specific permissions and exclusions of what costs "may" be included. The FCC rules do not prohibit inclusion in franchise agreements of requirements that exceed FCC minimum requirements and the FCC rules permit cable operators and franchise authorities to agree to franchise provisions that prohibit the pass through of certain franchise imposed costs. Thus, costs which operators may be permitted to pass through pursuant to 47CFR76.925 may not be permitted pursuant to the franchise agreement between the operator and the franchise authority. This mutually agreed to prohibition does not violate federal law or FCC regulations.

Accordingly, while all of the costs Cox has claimed for external cost treatment relate to provisions of the franchise agreements between Cox and the City/County, not all of these costs are permitted to be included just because they may appear in the franchise agreement in some context. The detail of external costs associated with franchise requirements was included with Cox's FCC Form 1240 filings for rate years 2000 and 2001, but not with the 2002 or the subject 2003 rate filings. Accordingly, a properly certified detail of costs by Cox was not available for the Review.⁵

⁴ Letter dated February 18, 2004 from M. Grover, Cox Director of Governmental Affairs. Cost breakdowns supplied in attachments to this letter were incorporated into various adjustments discussed in the Review.

⁵ Mr. Lutzker took issue with the exclusion of any franchise related costs, but still did not provide any detail, breakdown or justification of those costs.

The City/County staff ["Staff"] reported that it had requested additional details from Cox during the FCC Form 1240 review period but had not received any formal response. Apparently during the course of discussions over the review period, certain information was obtained that allowed the Staff to assemble a franchise cost schedule that approximately reconciled these earlier Cox presentations with the level of franchise costs appearing in the 2003 FCC Form 1240 filings. It is noted that there were significant differences between the 2000 and 2001 Cox filings relative to the content and presentation of the franchise costs, and the Staff document apparently manipulated the costs further to achieve the reconciliation to the total figures that Cox included in the subject FCC Form 1240s. The reasons for these differences were not apparent from the materials provided for the Review. The February 18, 2004 letter formally responded to recent questions raised by Staff regarding the origins and justifications for some of the current levels of franchise charges and included some detailed costs. The following discussion utilizes the Staff materials and verbal communications relating to Staff knowledge of the various franchise costs, and also considers Cox's response, to set forth the bases for adjustments made to Cox's FCC 1240 filings⁶:

Customer Service Facility:

The franchise agreement contains language requiring Cox to establish and maintain an east side customer service facility. FCC rule 47CFR76.925(a)(3) permits [but doesn't require] the pass through of such costs, but only to the extent that they exceed federal standards. In this case, Cox has included the full cost of operation of this facility, both building and staffing costs. It is understood that this facility receives some 4,500 customer visits per month which, if it did not exist, would have to be accommodated by increasing customer service staff and facilities at some other location of Cox's choosing. Those sorts of customer service costs are considered part of benchmark rates and not subject to external cost treatment.

Mr. Lutzker states that all of the east side facility costs are properly included because, he argues, pursuant to Section 76.309 of the Commission's rules Cox is required only to maintain "telephone access" in order to satisfy FCC customer service standards, suggesting that even perhaps Cox's main customer service office exceeds the FCC

⁶ The Staff franchise cost presentation and the specific adjustments made to Cox's filings are detailed in the adjusted FCC Form 1240/1235/1205 materials included with the Review.

customer service standards presented in Section 76.309. This position greatly misconstrues these regulations which have specific requirements for customer service personnel availabilities and response times. In addition, Section 76.309 (c)(1)(B)(v) states: "Customer service center and bill payment *locations* will be open at least during normal business hours and will be conveniently located." (Emphasis added)

Clearly the FCC rules anticipate that cable operators may maintain multiple customer service center locations if necessary to achieve proper levels of customer service response and convenience. Accordingly, it could be argued that the subject franchise agreement provision is not in excess of FCC requirements, but rather a specification by the Franchise Authority as to where Cox is required to provide customer service that it would otherwise have to provide to meet the FCC customer service standards. Moreover, Mr. Lutzker has not provided any detail or quantitative analysis to show how the 4,500 customer contacts serviced by the east side facility would be accommodated without Cox incurring costs somewhere else whereby they would not be treated as external costs.

It seems clear that in the absence of the franchise requirement for an east side customer service center, to maintain customer service at a level consistent with the letter and intent of the FCC customer service standards Cox would have to increase its operating costs in some fashion to properly service customers. To accomplish this it is conservative to assume that Cox would expand staff to accommodate this increased customer service requirement at existing locations, likely by adding at least as much staff and equipment as is included in the Hawthorne Service Center costs Cox has detailed in its informational response.

Thus, the excess customer service standard requirement represented by the franchise agreement provision, if any, is represented by the Hawthorne Center building rental and maintenance costs. Accordingly, as detailed in the schedules, an adjustment to remove some \$155,000 of staffing and staff vehicle costs described by Cox as related to the Hawthorne Center was made.

Beautification Costs:

Cox's response to the informational request suggests that the so-called beautification cost components for which they claim external cost treatment are related to

the undergrounding of cable facilities, and that this occurred at the direction of the City/County. The Staff reported that is not aware of any separate verbal or written requests made to Cox requiring the undergrounding of facilities, and while Mr. Lutzker has argued that these costs are properly included, he did not provide any evidence of specific direction by the Franchise Authorities requiring such installations other than his references to the provisions of the franchise agreement.

The franchise agreements at Section 23(e) and (f) provide, and it is clear that the intent is, that the franchisee is to bear the cost of underground construction and/or relocations when electric and telephone utility wiring is placed underground and when necessary to accommodate paving and street improvement projects. This prohibition does not violate federal law or FCC regulations and is enforceable as part of the agreements between the Franchise Authorities and Cox.

Furthermore, Staff has reported that the activities associated with these so-called beautification projects were undertaken and completed within the same time frame as Cox's system rebuild activities - 2000 to 2001. FCC rules at 76.925(a)(5) do not permit inclusion of such costs when the cable operator also is in the process of upgrading its system. This was the case here with Cox as can be seen by the following discussion related to the FCC Form 1235 system network upgrade surcharge calculation.⁷ Accordingly, the amortization associated with beautification project costs of approximately \$747,000 were eliminated from the development of external franchise costs.

It is appropriate to note that even if such costs were permitted to be included as external costs, the annual amounts Cox apparently has included are in excess of levels that would be permitted by FCC regulations. As best could be determined from the Staff reconciliation of Cox's 2003 claimed franchise costs, Cox is amortizing beautification project costs over periods ranging from 2.25 to 3.25 years. These costs must be amortized over their useful lives.⁸ In its FCC Form 1235 filing, Cox has used a 12 year

⁷See also Thirteenth Order on Reconsideration, 11 FCC Rcd at 441, at para. 134

⁸ Thirteenth Order on Reconsideration, 11 FCC Rcd at 442, at para. 136

period for the useful life of its upgraded facilities. The application of a 12 year useful life would substantially reduce the annual amortization of the beautification project costs.

Educational/Government Access:

Cox has included costs for new fiber connections between the City/County's equipment and its facilities on the basis that the franchise agreement requires these connections to conform industry "standards" and that using fiber optics is "standard industry practice." Cox did not provide evidence that the use of fiber optics is an industry "standard" as opposed to being simply industry practice. The use of fiber, while also improving signal quality, has been adopted largely to allow greater bandwidth for the provision of digital and other higher level services. The Staff is not aware of any request by the Franchise Authorities for such bandwidth expansion, or any complaint by the Franchise Authorities that the original PEG facilities were inadequate.

Mr. Lutzker contends that the facilities included in Cox's franchise costs are the same facilities originally installed to provide for educational and governmental access and are not associated with a new fiber. However, he did not provide any documents to support this position. To the best knowledge of the Staff, Mr. Lutzker simply is wrong; these costs do not represent the original facilities installed for educational and governmental access. In the Staff's reconciliation of Cox's claimed 2003 franchise costs, these facilities are amortized over 3.25 years and the level and characterization of PEG related costs in the 2000 and 2001 franchise cost presentations provided by Cox in its prior FCC Form 1240 filings are completely different than those in the Staff's 2003 reconciliation.

Also, as noted with respect to beautification costs, it appears that these new government and educational access fiber costs were incurred during Cox's system network upgrade. Per the previously referenced FCC regulations, these costs should not be afforded external cost treatment. Accordingly, the amortization associated with about \$462,000 of government/educational fiber installations was eliminated from the franchise costs. Headend and maintenance costs have not been adjusted.

Also as noted with respect to the beautification costs, even if such costs were permitted to be included as external costs, they must be amortized over their useful lives. This would be 12 years based upon Cox's representation in its FCC Form 1235 filing and not the 3.25 years shown on the Staff franchise cost reconciliation. The application of a 12 year useful life would substantially reduce the annual amortization of the government/educational fiber installation costs.

Current Inflation Factor:

FCC rules permit adjustments to reflect the latest published inflation information when a franchise authority makes material adjustments to an operator's FCC Form 1240 filing. Accordingly, the most recent inflation factor of 1.66% has been utilized on Line C5.

Based upon analyses utilizing the cost adjustments described above, Cox's FCC Form 1240 filings were restated resulting in a revision to the MPR's for BST cable programming services. The revised MPR applicable to City subscribers was determined to be \$7.8311 per month, and the revised MPR applicable to County subscribers was determined to be \$9.1169 per month, in contrast to \$9.3586 and \$10.6124, respectfully, determined by Cox's analyses. Cox also is permitted to apply a surcharge to the FCC Form 1240 rates pursuant to its FCC Form 1235 filing that computed the incremental costs associated with a system network upgrade. The surcharge for City subscribers currently is set at \$1.80 per month and for County subscribers the surcharge is \$1.74 per month. A discussion of adjustments necessary to the FCC Form 1235 filings for the City and County follows this section.

The combination of these surcharges with the FCC Form 1240 MPR provides the not to exceed rates that can be charged to subscribers for BST cable programming services in the Projected Period. These combined amounts, rounded to the nearest cent, are \$9.63 per month for City subscribers and \$10.86 per month for County subscribers. During the Projected Period Cox has been charging subscribers in both the City and County at the level of \$11.10 per month. This level exceeds the maximum rates allowable and therefore is unreasonable. Subscriber rates should be reduced to the maximum levels stated above for the purpose of determining the level of overcharges that have occurred during the Projected Period. Based on the assumption that the rate

reduction would be effected by the beginning of May, refunds on the order of \$590,000 to City subscribers and \$62,000 to County subscribers may be required.

AMENDED FCC FORM 1240

Together with the previously referred to communications from Mr. Giampietro and Mr. Lutzker received on April 19, 2004, the Franchising Authorities received amended FCC Form 1240s for the City and the County. These filings were certified as true and correct by Ms. Faye Hill, Cox Director of Rate Regulation, on April 16, 2004. These filings contained no information to indicate why or how they were amended. While these filings have not been analyzed, it appears that Line C5 inflation has been updated and external costs have been increased. From an attached schedule it appears that the increase in external costs is due to an increase in franchise costs, but there is nothing included with these certified filings to explain the basis for the increase in external costs and/or why Cox feels it is entitled to make such amendments at this point in time. And as has been the problem all along with the original FCC Form 1240 filings, there is not a shred of detail provided by Cox as to what comprises the components of these adjusted franchise costs and how they have been developed into the total figures shown in the filings.

However, some guidance as to the reason for the amended filings is provided in the letter prepared by Cox's attorney, Mr. Lutzker.⁹ Mr. Lutzker's alleges that apparently his review of Cox's filings revealed that Cox had not been including a recovery of the 11.25% rate of return on unrecovered franchise costs as is permitted by FCC regulations, and he indicates that revised filings correcting this oversight have been prepared. Although Mr. Lutzker implies that these revisions are made simply to demonstrate that Cox's previously claimed MPRs should have been higher, the amended filings have been duly certified and filed, and so the Franchising Authorities must consider an appropriate disposition for the filings.

A review of FCC regulations covering annual rate adjustment filing procedures addresses how a franchise authority is to deal with amended filings that are filed within

⁹ Footnotes 5 & 8 and discussion on page 4.

90 days of the original filing.¹⁰ A concept expressed therein is that the Franchise Authority is to have 30 days to review the amended filing. Thus, when amended filings are made more than 60 days after the initial filing date, the implementation of the rate change will be delayed past the normal 90 day initial review period until at least 30 days have passed after the filing date of the amended filing. However, these rules do not address how to handle amended FCC Form 1240s that are filed after 90 days. The rules also provide that regardless of whether or not an amended filing has been made during the initial 90 day period, the franchising authority still has only one year from the initial filing date to complete its review and issue its rate order. In the instant case, the original filings were delivered to the City and County May 1 and May 2, 2003, respectively, and so the deadline for action by the Franchising Authorities would be May 1 and May 2, 2004, respectfully. Thus the April 19, 2004 filing date for the amended filings leaves little time for review by the Franchising Authorities before the deadline for the rate orders, and certainly much less than the 30 days normally afforded for reviewing amended filings.

As set forth in the FCC rule cite detailed by Mr. Lutzker, operators are “required” to amortize franchise imposed capital expenditures and “permitted” to recover the 11.25% return. Thus, the rules do not *require* the operator to recover the 11.25% return. Accordingly, this is something that the operator must request by proper incorporation into its FCC Form 1240 filing. Since Cox did not provide its own detailed explanation of the development of its claimed franchise costs in its original FCC Form 1240 filings, Mr. Lutzker’s allegation that recovery of the 11.25% had not been included in filings heretofore made cannot be verified from the certified records Cox has provided. Likewise, the continued failure of Cox to provide such details and explanation in the amended filings also prevents such determinations based directly on the materials filed.

Given Mr. Lutzker’s statements as to the only basis for making the amended filings [to correct for the alleged oversight of the 11.25%], it is logical and reasonable to expect that Cox would have explained and fully supported the development of the new level of franchise costs and filed this information with its amended returns. Certainly the FCC Form 1240 filings instructions require full support for the inclusion of such external costs. The applicable instruction states: “You should attach a complete list of all costs being claimed in Line 707 and include information on how they were calculated and

¹⁰ 47CFR76.933(g)(1)

when they occurred (or are projected to occur).”¹¹ The relevance and importance of this particular information to the reasons for making the amended filings is paramount, and so the failure of its inclusion with the filing at this point in time provides a reasonable basis for a finding that the filings are facially incomplete.

When Cox makes its FCC Form 1240 rate update filings, it is Cox’s choice to include or not to include any costs which it is entitled to recover, and the burden is on Cox to fully explain all the costs it chooses to include. That Cox may not have sought heretofore recovery of the 11.25% rate of return is a failure of Cox, not the Franchising Authorities’ regulatory oversight. The FCC Form 1240 filing rules impose a limited period in which a franchising authority can adjust an operator’s rates. After this period no changes or retroactive refunds can be ordered in those rates even if it later is determined that there were errors in the operator’s filing or the filing somehow violated FCC regulations. The franchise authority must wait until the next filing review period to make the necessary adjustments if the problems persist. It is reasonable believe that operators also should be foreclosed from reaching back in time to correct for oversights in cost recovery and limited to making their corrections in filings for future periods.

Also, that Cox has not fully explained in either the original filings or the amended filings the costs which it feels it is entitled to recover is a failure of Cox, not the Franchising Authorities’ regulatory oversight. Staff has indicated that it had no success in attempting to obtain specific details about, for instance, beautification costs, during the period available for review of the original FCC Form 1240 filings, so there is little expectation that this information would be readily available within the time constraints applicable for review of the amended filings.

Moreover, as noted above it is not clear in the FCC rules that making an amended filing after 90 days, and especially at this late date, even is permitted. Indeed, FCC regulations pursuant to the annual rate adjustment method prohibit rate adjustments more frequently than once per year.¹² Accordingly, on the basis of the above discussion, the amended filings should be rejected on the grounds of being untimely filed and facially

¹¹ FCC Form 1240 filing instructions for Worksheet 7, Line 707 - “Franchise Related Costs for the Period.”

¹² 47CFR76.922(e)

incomplete. If Cox wishes to adjust franchise costs applicable to a future time period to include the 11.25% rate of return which is alleged has having been not heretofore included, it may do so in a future FCC Form 1240 filed pursuant to FCC regulations.

FCC FORM 1235

For equitable reasons and in order to encourage cable system operators to continue to improve services to regulated cable subscribers, the FCC also permits rate adjustments based on a cost of service showing, which, when fully developed, typically is a substantial and time-consuming undertaking for both the operator and the regulatory authority. In the case of incremental, but substantial capital expenditures resulting from improvements such as bandwidth capacity increases, conversion to fiber optics and system rebuilds which could not otherwise be recovered under the benchmark and price cap approaches of the FCC Form 1240 rate adjustment mechanism, the FCC has permitted the use of an abbreviated cost of service presentation to justify charging additional rates. The FCC Form 1235 filing is designed to determine a step increase in rates associated with such system upgrades that meet certain criteria and typically is developed after the upgrade is completed and based on actual costs. While normal improvements and expansions of service are to remain subject to the usual rate review processes [FCC Form 1240], those upgrades that meet the requirements can be accounted for by using the FCC Form 1235 which will determine an incremental add-on rate that is designed to recover the operator's incremental capital and operating costs and provide a reasonable return on the invested capital.

On or about March 4, 2002, Cox provided FCC Form 1235 filings along with the FCC Form 1240 filings for the City and County that were submitted for the 2002 rate year. On April 19, 2004, Cox provided updated FCC Form 1235 filings for both jurisdictions. These filings for both the City and County were similarly prepared and duly certified by Ms. Faye Hill, Cox Director of Rate Regulation. At the time of the initial review of the original FCC Form 1235 filings, Staff reported that Cox had not filed any subsequent FCC Form 1235s, and that Staff had not taken any action on these initial filings. Accordingly, the requested surcharges went into effect within the time

period specified by FCC regulations and in this case are not subject to retroactive adjustment and refunds but are subject to prospective adjustment by a future rate order.¹³

A review of the initial FCC Form 1235 filings with respect to Cox's compliance with the FCC approved cost of service methodology was completed and several errors in the preparation of the forms were noted. Cox was given an opportunity to review these results and the April 19, 2004 letter prepared by Cox's attorney, Mr. Lutzker, responded to those findings. Enclosed with his letter were the updated FCC Form 1235 filings. As with the amended FCC Form 1240 filings, the Franchise Authorities must address the proper disposition of these updated FCC Form 1235 filings.

As noted, FCC Form 1235 filings are considered "cost of service" filings and the review period for such filings is stated differently in the FCC rules than those for the FCC Form 1240 filings. Also, while there is no provision in these rules for amending initial filings, cost of service filings, in general, may be elected by an operator, but not more than once every two years, in lieu of the benchmark rate methodology of the FCC Form 1240.¹⁴ However, the FCC Form 1235 is used to supplement the FCC Form 1240 charges, and can only be employed for significant system upgrades as previously described. So it is not clear from the rules as to if, how or when an original FCC Form 1235 could be amended.

Nonetheless, there does not appear to be any time limit established in which a franchise authority must render a final order on an FCC Form 1235 filing. Instead, the rules appear designed to encourage, though not require, a timely review by limiting to a maximum of 180 days the time which the franchising authority may delay implementation of the application of the surcharge. After that time period, unless the franchise authority has provided a certain specific notice to the operator, the rates are not subject to retroactive adjustment or refund. Thus, the penalty to the franchise authority for delay is the inability to recover overcharges that have resulted from surcharges that the franchise authority later determines to have been too high, and the operator gets the benefit of that delay.

¹³ 47CFR76.933(c)

¹⁴ 47CFR76.922(m)

Mr. Lutzker indicated that the purpose of the updated FCC Form 1235 filings was to correct an error noted by the initial review and to include a provision for state corporate income taxes that he asserts was not included before. The correction of a material error embedded in the FCC Form 1240 used by Cox is an appropriate action, while an amendment simply to include an omitted cost component may not be appropriate for similar reasons set forth in the discussion above relative to the alleged oversight of the 11.25% return applicable to franchise imposed costs. However, in view of the fact that no final order has yet occurred relative to the FCC Form 1235 filings and that the Franchise Authorities would have the time to properly analyze the amended filings if this was desired, it seems appropriate to accept the amended filings and incorporate the information provided thereby into the Review. The following sets forth the findings of the Review:

Estimated Costs vs. Actual Costs:

The nature of the initial pair of filings was ambiguously set forth. They were dated March 1, 2002, marked for "Final Approval" and Question 1 of Section B was answered affirmatively indicating that the upgrades had been completed. However, the response to Question 2 indicated that the upgrades were to be completed and providing services by October, 2002, some 7 months later than the FCC Form 1235 filing date. The attachment to the FCC Form 1235 that provides some documentation for filing makes the following statements:

The Form 1235 "add-on" portion will only be charged to subscribers receiving benefits of the upgrade. As our upgrade was completed in late October 2001, this is a final approval 1235 form.

The attached Form 1235 is a "Pre-Approval" filing. Therefore, a "Final Approval" Form 1235 will be filed again following the end of the month in which upgraded cable services become available and are providing benefits to all customers of rate-regulated services.

It is not unusual, in fact it is more likely than not, that the final accounting for upgrade costs cannot be completed as soon as the upgraded facilities are providing benefits to subscribers. Accordingly, the FCC permits operators to file for "Pre-Approval" of an FCC Form 1235 upgrade surcharge based estimated information. However, the operator must make a filing for "Final Approval" once actual information

April 26, 2004

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becomes available. Given the ambiguity of the nature of Cox's FCC Form 1235 filings, reasonable doubt may have been created as to whether actual or estimated costs were being used.

Mr. Lutzker's letter attempts to resolve any doubt about the nature of these filings by asserting that Cox "completed" its system upgrade by October 2001. However, in seeming contradiction to Mr. Lutzker's position, the recently received, revised and certified as true and correct FCC Form 1235 filings still state that the upgrade was completed *and began providing service to subscribers* on "Oct-02."¹⁵ Perhaps Mr. Lutzker is correct as to the upgrade completion date, but just did not note that *service* from the new facilities did not begin until October, 2002. Or perhaps the Cox staff is in error. The fact is that the City/County staff is aware from empirical evidence that the system network upgrade is, indeed, completed. Regardless of this confusion, the question that had been raised from this ambiguous information was whether or not the original filings had included actual information or estimated information. Mr. Lutzker has not answered this question one way or the other. Given that the revised FCC Form 1235 filings do not show any revised system installation costs, and for the purposes of advancing the analyses and conclusions with respect to a review of the FCC Form 1235 filings, it should be assumed with some confidence that at this point the costs included in these filings are derived from the actual costs of the system upgrade.

Cost Allocation:

Notes for the FCC Form 1235 state that allocation of costs to the BST is based on bandwidth and that each analog channel uses 6 MHz. The attachments to the initial FCC Form 1240 filings that detail the channel line up during the True-up and Projected Periods clearly show that the BST after the upgrade contains 20 channels. Thus the BST requires only 120 MHz of bandwidth, not the 126 MHz used by Cox.

Mr. Lutzker insists that "Cox has carried 21 channels on its BST for the past several years" and attaches to his letter "copies of the past several years' channel line-ups, which confirm that 21 channels are and have been carried on the BST."¹⁶ However, one

¹⁵ Abbreviated Cost of Service Filings for City and County amended April 16, 2004, page 2 of 8, Line B.2.

¹⁶ Lutzker letter at page 15.

of Mr. Lutzker's attachments shows that effective December 5, 2001 [which, according to Mr. Lutzker would be after the rebuild was completed and, presumably providing service to subscribers] there were only 20 channels on the BST channel line-up [channel 18 is absent from the list he provided]. Also, it was noted that the recently received amended FCC Form 1240 filings that were certified true and correct by Cox show a line up of 21 channels, but station WJXT is shown as both channel 4 and channel 19. Eliminating this duplication leaves only 20 channels on the BST line-up.

Moreover, the Franchising Authorities also recently received from Cox its certified true and correct FCC Form 1240 filings for the 2004-2005 rate period. The BST channel line-ups shown on attachments to these filings again demonstrate only 20 channels. The only evidence that has been offered to show 21 channels is the single attachment to Mr. Lutzker's letter that he purports to be a copy of a recent Cox channel line-up. The source and accuracy of this document is questionable when compared to the information contained in six separate, certified FCC Form 1240 filings [original and amended from last year and the original for this year for each of the City and County] that have been submitted by Cox for review.

The Franchise Authorities have a right to receive and obligation to rely upon the information that Cox submits under oath as being correct and accurate. Accordingly, it is reasonable to conclude in the absence in the record of clear and convincing evidence to the contrary that the BST consists of 20 channels for the purposes of cost allocation in the FCC Form 1235. Thus, the allocator has been revised from 16.8% to 16%, and this change reduces the cost allocated to the BST tier.

Incremental Revenues:

Cox failed to bring incremental revenues forward to the summary sheet as a credit [negative value] to costs. This is automatic on the FCC Cost of Service worksheet, but did not occur with Cox's presentation. Instead, the revenues were brought forward as a cost with the effect of a doubling of revenues treated as a cost which improperly increased the upgrade surcharge. This error has been corrected. Mr. Lutzker has acknowledged that this was an error embedded in Cox's FCC Form 1235 worksheet.

State corporate income tax:

The original FCC Form 1235 filings furnished by Cox did not include a provision for the State of Florida corporations income tax. Mr. Lutzker's review apparently

identified this omission. Subsequently, Cox filed the revised FCC Form 1235 documents showing the inclusion of a corporate tax of 5.5%. Whether or not this tax is included, indeed even whether or not an FCC Form 1235 is filed, is a choice that Cox is free to make; the FCC rules do not require it, they merely permit it. Cox chose not to include this tax component in its initial filing and it was not the burden of the Franchise Authority to impute some unknown level of taxes in the absence of its inclusion by Cox.

Additionally, Mr. Lutzker's response suggests that Cox may not even pay Florida corporate income tax, so his complaint that the initial review of the original FCC Form 1235 filings should have included such a non-existent payment is baseless. However, as Mr. Lutzker points out, the FCC has held that operators may claim federal and state taxes even if they don't actually pay them. In any event, for the reasons, stated above, the revised FCC Form 1235 filings have been accepted, and therefore it is reasonable to allow inclusion of this prior overlooked cost component. The original review of the FCC Form 1235 filings has been modified to include the 5.5% Florida corporate income tax.

Together these adjustments produce a reduction in the maximum permitted Form 1235 surcharge. The revised surcharge applicable to City subscribers was determined to be \$1.5977 per month, and the revised surcharge applicable to County subscribers was determined to be \$1.5479 per month, in contrast to \$1.8027 and \$1.7422 respectfully, determined by Cox's analyses. Accordingly, the maximum system network upgrade surcharge that can be added to the FCC Form 1240 BST rates for cable programming services is the amount of \$1.60 for City subscribers and \$1.55 for County subscribers.

It is noted that pursuant to FCC rules, the time period for application of these surcharges is limited to the weighted average service life of the upgrade facilities which appears to be approximately 13 years. Since the surcharges first were applied to the BST rates for the 2002 rate year, they must be discontinued after year 2014. It also is noted that if Cox does set rates in any one year at a level that allows full surcharge recovery, it is not permitted to make up any such under recovery in any future year.

The combination of these surcharges with the revised FCC Form 1240 MPRs establishes the maximum permitted rates that can be charged to subscribers for BST cable programming services between the date the adjusted rates are confirmed by rate resolutions adopted by the Franchising Authorities and the effective date of rates established by the next FCC Form 1240 filings, which presumably would be after June 1,

2004. These combined amounts, rounded to the nearest cent, are \$9.43 per month for City subscribers and \$10.66 per month for County subscribers. Accordingly, the continued application of Cox's existing rate of \$11.10 per subscriber per month during this time period would be unreasonable.

FCC FORM 1205

The FCC Form 1205 is used to update charges for renting regulated equipment [e.g., remotes and converters], equipment installations [e.g., house wiring, service drops, extra outlets, service tier changes] and the Hourly Service Charge ["HSC"] for service calls. Charges established pursuant to this form are based strictly upon the actual cost of regulated equipment and installations plus a reasonable profit. The financial information utilized in this form is to be derived directly from the operator's general ledger and subsidiary records that are to be maintained in accordance with generally accepted accounting principles. This form is required to be prepared and submitted on an annual basis regardless of whether or not an FCC Form 1240 filing is made. In this case Cox filed the FCC Form 1205 with its annual FCC Form 1240 filing. As permitted by FCC regulations, Cox has chosen to aggregate its equipment costs at the company level, and therefore this FCC Form 1205 filing applies to all systems owned and/or managed by Cox.

As with Cox's FCC Form 1240, the Review of Cox's FCC Form 1205 filing assumes the accuracy of the information supplied by Cox from its financial books and records and related sources. No audit of Cox's books and records has been done and none of its system cost assumptions has been checked against any independent sources. Cox state that the development of its costs for inclusion in the FCC Form 1205 is consistent with the methods and aggregation that it employed in prior years. This information has been incorporated into an official FCC analytical model which provides the formulas and format for all the calculations required for preparation and completion of the FCC Form 1205. It appears that Cox's calculations follow the FCC's analytical format and the results shown on the FCC Form 1205 filing made by Cox compare closely with the results obtained from the official FCC analytical model reconstructed with Cox supplied cost data for the purpose of the Review.

However, Cox's treatment of certain costs may be incorrect and adjustments to Cox's FCC Form 1205 filing have been made. The following is a discussion of these adjustments.

Network Controller:

Cox reports that it utilizes a particular device, a network controller, to remotely control the functions of all of its addressable converters which are located on customer premises. The capital costs for this equipment have been included on Schedule A, Column "Other 2" of the FCC Form 1205. Accounting for this capital cost in this way causes the recovery of this cost to become a portion of every service installation and equipment rental charge by virtue of its inclusion in the hourly service charge. Thus, a subscriber who does not utilize an addressable converter still will be paying a portion of the cost associated with the functioning of the addressable converters. Doing so, he pays for equipment that he does not use and this is contrary to established cost of service methodology and technique.

The FCC Form 1205 divides equipment and maintenance costs between system and subscriber premises equipment. This fulfills the appropriate goal in cost of service accounting to apply costs, as closely as is reasonable, to bear upon the subscribers that cause those costs. Costs incurred on a systemwide basis in multiple functions should be combined into charges applicable to all subscribers, while costs that are identifiable with equipment used on only subscriber premises should be assigned to that equipment so as to prevent subsidization among subscribers. For instance, as noted below, the FCC rules specifically require adjustments to the hourly service charge for costs that are included on Schedule B but which apply to customer premises equipment.

Similarly, the capital costs for the network controller really are directly related to addressable converters. This capital cost is unlike trucks, maintenance buildings, tools, mobile phones and the like because that equipment is used across all the functions of cable operations while network controller usage is limited strictly to the addressable converters which are located at subscriber premises. Accordingly, such specific and identifiable capital costs should be included with the addressable controllers. It should be removed from Schedule A treatment so as to eliminate the effect on the hourly service charge and added to the addressable controller capital costs accounted for on Schedule C. This action will limit recovery of the network controller costs only to those subscribers

that use addressable controllers, which is the correct cost of service treatment. This reassignment of costs has been incorporated into the FCC Form 1205.

R & M and Commissions - Converters:

Cox has included as operating costs on Schedule B, Column "Other 2" of the FCC Form 1205 amounts related to repair, maintenance and commissions associated with converters which are rented to subscribers. While this cost treatment is not prohibited by FCC rules, the rules do provide that adjustments must be made to eliminate the effect that this cost treatment has on the hourly service rate. The FCC instructions for completing the FCC Form 1205 state:

If an expense amount is included on Schedule B for equipment sent out for repair, an appropriate adjustment to the total labor hours reported on this Form must be made. This adjustment adds "equivalent labor hours" to the total company labor hours. This may be calculated, for example, as total costs included on Schedule B for work sent out for repair divided by the average company technician wage rate. The total cost may be recovered by including the average hours in the computation for the appropriate equipment charges computed in Steps C through E. In any case that an amount is included on Schedule B for work sent out for repair, explain all the adjustments made on the Worksheet. This explanation must include the number of hours added on line 6 below as well as a description of and the number of hours added into the charges developed in Steps C through E.

Cox included such a cost component on Schedule B, but has not provided any supporting detail on how, or even if, the required adjustment was made. The FCC Form 1205 that Cox filed in 2002 included a discussion that appears to conform to the FCC required adjustment. In that filing Cox stated in the "Preparation Documentation" that:

Pursuant to FCC Form 1204 Instructions (June 1996) at page 14 (Note 1), and adjustment to the total labor hours reported on Step A Line 6 was determined by total costs billed from Wyndmoor divided by the average company technician wage rate. The "equivalent labor hours" (82,945) were added to the total company labor hours.

Cox's latest filing simply states that "Additionally, hours previously included for Cox's outside service repair center (Wyndmoor) have been shifted to in-house personnel." As this supporting information does not include reference to the adjustment performed in the prior filing, and yet the similarly identified amount appears on Schedule B, it originally was assumed that the FCC required adjustment was not made in the instant filing. Accordingly, an adjustment to the FCC Form 1205 was made by the following method. A current proxy for the average technician wage rate was obtained from information supplied with the February 18, 2004 letter previously identified. Therein the annual salary with benefits for two technicians was shown as \$104,192. This amount was divided by 2 and then by 2,080 to yield an average hourly rate of \$25.05. The Schedule B component for repair, maintenance and commissions on converters of \$4,650,873.58 was divided by this average hourly rate to produce 185,692 "equivalent hours." These hours then were added to the total labor hours in Step A as provided for by the FCC Form 1205 instructions, and also applied to the maintenance hours for both types of converters. In this way, the full costs of converter repair and maintenance are recovered through only the rental charges for the converters. These adjustments are clearly set forth in the adjusted FCC Form 1205 originally prepared as a part of the Review.

However, Mr. Lutzker has cast doubt on the necessity of this adjustment. In spite of the fact that the certified as true and correct Cox FCC Form 1205 filing did not describe this adjustment and therefore did not include the level of detail required by the FCC regulations supporting the adjustment, or indicate just how it was incorporated into the FCC Form 1205 format, he asserts that, indeed, this adjustment had properly been made. Accordingly, he alleges, the adjustment described above double counts what the FCC requires to Cox's unfair disadvantage and therefore is incorrect. He argues further that the adjustment method employed was incorrect.

In this case, Mr. Lutzker's letter provides significant persuasive detail about this matter. It is the sort of detailed explanation that should have been included in the original FCC Form 1205, and which is required but was absent, which fact gave rise to the necessity for proposing an adjustment. Accordingly, the FCC Form 1205 analyses prepared for the Review has been adjusted to accommodate this new information.

The adjustment for the network controller resulted in adjustments to the maximum permitted rates allowable for subscriber installation services and equipment rental from the levels determined by Cox's FCC Form 1205 filing. The following schedule provides

a comparison of the maximum rates determined by Cox to the rates derived from the above adjustments as well as showing the difference of actual rates charged to the adjusted maximum permitted rates.

	<u>Maximum Permitted Rates</u>		<u>Actual Rates</u>	
	<u>Per Cox</u>	<u>Adjusted</u>	<u>Current</u>	<u>Status</u>
Inst. Unwired Homes	\$57.56	\$53.94	\$48.00	OK
Inst. Prewired Homes	\$32.00	\$29.99	\$30.00	~High
Add. Con. Initial	\$30.45	\$28.53	\$21.00	OK
Add. Con. Separate	\$32.60	\$20.55	\$30.00	OK
HDTV installation	\$71.00	\$66.53	No Chg?	?
Remote Type 1	\$0.27	\$0.25	\$0.21	OK
Motorola Side Car	\$11.05	\$10.98	No Chg?	?
Addressable Converter	\$4.30	\$4.27	\$2.99	OK
Non-add. Converter	\$0.49	\$0.48	0.49	~High
HDTV Box	\$10.69	\$10.68	No Chg?	?
PVR Box	\$13.65	\$13.64	\$3.20	OK
Change Tiers	\$1.99	\$1.99	\$1.99	OK
Hourly Service Charge	\$51.16	\$47.94	?	High?

The result of the above comparison is a finding that Cox's listed existing rates do not materially exceed the properly determined MPRs. Cox did not provide a proposed "rate card" with its filings. It did provide an attachment to the FCC Form 1240 filing that listed the rates that would remain in effect as of June 1, 2004. This schedule of rates did not include charges for equipment and services that were priced out on the system wide FCC Form 1205 that Cox submitted. It is assumed that these services and equipment either are not available to subscribers in the City or County, or that Cox does not charge for such services or equipment. In any event, as noted above, the actual rate and status of such charges cannot be determined.

As with the FCC Form 1240 derived rates for BST cable programming services, any rates for service installations and equipment that exceed the maximum permitted rates during a particular time period are subject to refund. But it is important to note that the

rates determined by the FCC Form 1205 filing are not trued-up each year as is the case with rates that are determined by the FCC Form 1240 methodology. Thus, there is no process inherent in the FCC Form 1205 rate methodology that will adjust for over or undercharges to subscribers. Accordingly, there is no need to establish maximum permitted rates for customer equipment and rentals to be carried forward to another year. As long as the rates proposed to be into effect in the Projected Period do not materially exceed the properly determined maximum permitted rates, they may be considered reasonable and approved for implementation. In this case, the known rates Cox currently has in effect do not exceed materially exceed the maximum permitted rates and may be approved.

CONCLUSION

The Franchise Authorities should enact rate resolutions that require a reduction of Cox's current BST rate of \$11.60 per subscriber per month to the level of \$9.43 per month for City subscribers and \$10.66 per month for County subscribers. The rate resolution also should establish the 2003 FCC Form 1240 MPRs for the BST at the levels of \$7.8311 for City subscribers and \$9.1169 for County subscribers and require Cox to utilize these respective levels and the associated components as the starting point for its next annual FCC Form 1240 filings for the City and County. The amended Form 1240 filings should be rejected.

The rate resolutions also should establish the correct FCC Form 1235 system network upgrade surcharge at the level of \$1.60 for City subscribers and \$1.55 for County subscribers, and approve the continued application of the existing rates for equipment installations and rentals.

Finally, Cox should be ordered to account for and prepare a plan to refund revenues, with interest, that it received from subscribers since last June 1, 2003 to the extent that the rates charged for BST cable programming services exceeded the levels of \$9.63 for City subscribers and \$10.86 for County subscribers.

City of Gainesville & County of Alachua, FL
Cox Communications Gainesville/Ocala
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This refund report and plan should be submitted within 30 days of the adoption of the rate resolutions and must conform to FCC regulations for making refunds.

**FCC FORM 1205
DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
"EQUIPMENT FORM"**

Rice Williams Associates Review 2003 Filing *ADJUSTED*

Community Unit Identifier (CUID) of cable system		Date of Form Submission (mm/dd/yy)
FL0340 & FL0150		05/01/03
Name of Cable Operator		
COX COMMUNICATIONS		
Mailing Address of Cable Operator		
City	State	ZIP Code
Name and Title of person completing this form:		
Telephone number	Fax Number	
Name of Local Franchising Authority		
COUNTY OF ALACHUA AND CITY OF GAINESVILLE		
Mailing Address of Local Franchising Authority		
City	State	ZIP Code

1. This form is being filed: [Enter an "x" in the appropriate box]

In conjunction with FCC Form 1200, FCC Form 1220, or FCC Form 1225

Attach the completed FCC Form 1200, FCC Form 1220, or FCC Form 1225 to the front of this form.

OR

In order to fulfill FCC rules requiring an annual filing of this form

Enter the date on (mm/dd/yy)

Note: This should be the date on which the rates last justified, by using either FCC Form 353 or the prior filing of this form, were in effect.

2. Enter the date on which you closed your books for the fiscal year reflected in this form: (mm/dd/yy)

Note: This will indicate the end of the 12-month fiscal year for which you are filing this form.

3. Indicate the corporate status of your cable system [Enter an "x" in the correct box]

X	C-Corporation
	Subchapter S cor
	Partnership
	Sole Proprietorshi
	Other [Please exp

SCHEDULE A: CAPITAL COSTS OF SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT AND PLANT						
A	Equipment and Plant	Vehicles	Tools	Maintenance Facilities	Other 1. (Specify below)	Other 2. (Specify below)
B	Gross Book Value	\$56,250,734.0600	\$7,631,532.4300	\$7,126,564.8400	\$17,678,957.1500	\$0.0000
C	Accumulated Dep	\$28,883,490.4900	\$2,252,516.7900	\$2,569,618.5800	\$10,122,368.6600	\$0.0000
D	Deferred Taxes	\$2,252,524.9000	\$44,286.7400	-\$330,224.9600	\$53,960.9500	\$0.0000
E	Net Book Value [B]	\$25,114,718.6700	\$5,334,728.9000	\$4,887,171.2200	\$7,502,627.5400	\$0.0000
F	Rate of Return	0.1125				
G	<i>Calculation of Gross-up Rate</i>					
G1	Federal Income	0.3500				
G2	State Income Tax	0.0382				
G3	Net Total Income	0.3748				
G4	Adjustment to Reflect Interest Deductibility					
G4a	Actual Interest	\$650,905,520.6300				
G4b	Total Net Asset	\$18,904,376,034.5900				
G4c	Base Return on Investment	\$2,126,742,303.8914				
G4d	Interest Deduction	0.3061				
G5	Effective Tax Rate	0.2601				
G6	Adjustments for Non-C Corporations					
G6a	Base Return on Investment					
G6b	Distributions					
G6c	Contributions (may not exceed G6b)					
G6d	Returns Subject to Tax					
G6e	Returns Percent of Base					
G7	Gross-Up Rate [C]	1.3516				
H	Grossed-Up Rate	0.1520				
I	Return on Investment	\$3,818,685.9879	\$811,144.0453	\$743,093.0246	\$1,140,772.4305	\$0.0000
J	Current Provision	\$11,134,568.3500	\$1,381,438.2400	\$356,328.2400	\$3,789,405.2300	\$0.0000
K	Annual Capital Cost	\$14,953,254.3379	\$2,192,582.2853	\$1,099,421.2646	\$4,930,177.6605	\$0.0000
L	GRAND TOTAL [I+J+K]	23,175,435.5483				

Box 1.

Specify: Other 1. Fleetcom, Advantax Mobile Radio

Specify: Other 2. Network controller for addressable converters [These costs were shifted to Schedule C - Addressable Converter]

SCHEDULE B: ANNUAL OPERATING EXPENSES FOR SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT						
	Salaries & Benefits	Supplies	Utilities	Other Taxes	Other 1. (Specify below)	Other 2. (Specify below)
A	Annual Op. Expenses	\$2,053,351.3500	\$1,512,236.0400	\$8,377,258.0700	\$33,203,180.7900	\$4,650,873.5800
B	GRAND TOTAL	\$123,221,017.1500				

Box 2.

Specify: Other 1. Auto Operating, Outside Labor, Facilities rent

Specify: Other 2. R&M and Commissions Converters [Per FCC Instructions, this amount was converted to equivalent hours and added to total hours in Step A] Adj. NOT made per Lutzker letter.

SCHEDULE C: CAPITAL COSTS OF LEASED CUSTOMER EQUIPMENT

A	Equipment	Remote 1	Remote 2	Motorola Sidecar	Address/Digital Converter	NonAddress Converter	HDTV	PVR
B	Total Maintenance	3026.0000		1.0000	763341	6887	457.0000	1.0000
C	Total # of Units in	5988334.0000		4.0000	5710472	268440.0000	9306.0000	112.0000
D	Gross Book Value	\$54,717,031.0000		\$1,728.0000	1110603546	\$9,261,335.5700	\$4,222,791.0000	\$65,968.0000
E	Accumulated Dep	\$35,432,511.0000		\$288.0000	575900670.3	\$7,140,516.7400	\$703,798.5000	\$10,994.6700
F	Deferred Taxes	-\$1,784,046.8600		\$183.2300	53621644.06	-\$207,377.6700	\$448,072.0000	\$7,000.0000
G	Net Book Value [I]	\$21,069,566.8600	\$0.0000	\$1,256.7700	\$481,081,231.8700	\$2,328,196.5000	\$3,070,920.5000	\$47,973.3300
H	Grossed-Up Rate	0.1520						
I	Return on Investm	\$3,203,469.7306	\$0.0000	\$191.0915	\$73,148,267.4881	\$354,001.6302	\$466,932.6078	\$7,294.3315
J	Current Provision	\$14,310,170.0000		\$288.0000	182946430.4	\$862,242.0600	\$703,798.5000	\$10,994.6700
K	Annual Capital Co	\$17,513,639.7306	\$0.0000	\$479.0915	\$256,094,697.9981	\$1,216,243.6902	\$1,170,731.1078	\$18,289.0015
L	GRAND TOTAL [I]	\$276,014,080.5198						

Box 3.

SCHEDULE D: AVERAGE HOURS PER INSTALLATION

A.	Average Hours per Unwired Home Installation (attach an explanation)	1.1250
B.	Average Hours per Pre-Wired Home Installation (attach an explanation)	0.6255
C.	Average Hours per Additional Connection Installation at Time of Initial Installation (attach an explanation)	0.5951
D.	Average Hours per Additional Connection Installation Requiring Separate Installation (attach an explanation)	0.6372
E.	Other Installation (by Item Type):	
	Item 1. (Specify) 1. HDTV Install	
	Average Hours per Installation (attach an explanation)	1.3877
	Item 2. (Specify)	
	Average Hours per Installation (attach an explanation)	
	Item 3. (Specify)	
	Average Hours per Installation (attach an explanation)	

WORKSHEET FOR CALCULATING PERMITTED EQUIPMENT AND INSTALLATION CHARGES

STEP A. Hourly Service Charge

1	Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	\$23,175,435.5483
2	Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	\$123,221,017.1500
3	Total Capital Costs and Operating Expenses for Installation and Maintenance [Line 1 + Line 2]	\$146,396,452.6983
4	Customer Equipment and Installation Percentage (attach an explanation)	1.0000
5	Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment	\$146,396,452.6983
6	Total Labor Hours for Maintenance and Installation of Customer Equipment and Services (attach explanation)	3053486.8418
7	Hourly Service Charge (HSC) (Line 5/Line 6)	\$47.9440

[Includes "Equivalent Hours" for the network controller]

INSTALLATIONS (place an "x" in the appropriate box)

<input type="checkbox"/>	Installations billed by the hour based on the HSC calculated in Line 7.
<input checked="" type="checkbox"/>	Installations billed as a standard charge.

STEP B. Installation Charge

8	Uniform HSC for all installations (From Step A, line 7)	n/a
9	Average Charge for Installation Types	
	a. Unwired Home Installation	
	a1. HSC [Line 7]	\$47.9440
	a2. Average Hours per Unwired Home Installation (Schedule D, Line A)	1.1250
	a3. Charge per Unwired Home Installation [a1 x a2]	\$53.9370
	b. Pre-wired Home Installation	
	b1. HSC [Line 7]	\$47.9440
	b2. Average Hours per Pre-wired Home Installation (Schedule D, Line B)	0.6255
	b3. Charge per Pre-wired Home Installation [b1 x b2]	\$29.9890
	c. Additional Connection Installation at Time of Initial Installation	
	c1. HSC [Line 7]	\$47.9440
	c2. Average Hours per Additional Connection Installation at Time of Init.	0.5951
	c3. Charge per Additional Connection Installation at Time of Initial Installation [c1 x c2]	\$28.5315
	d. Additional Connection Installation Requiring Separate Installation	
	d1. HSC [Line 7]	\$47.9440
	d2. Avg. Hours per Additional Connection Installation Req. Separate Insta	0.6372
	d3. Charge per Additional Connection Installation Requiring Separate Installation [d1 x d2]	\$30.5499
	e. Other Installations (As specified in Schedule D, Line E):	
	e1. HSC [Line 7]	\$47.9440
	e2. Average Hours per Installation of Item 1 [Schedule D, Line E, Item 1]	1.3877
	e3. Charge per Installation of Item 1 [e1 x e2]	\$66.5319
	e4. HSC [Line 7]	\$47.9440
	e5. Average Hours per Installation of Item 2 [Schedule D, Line E, Item 2]	0.0000
	e6. Charge per Installation of Item 2 [e4 x e5]	\$0.0000
	e7. HSC [Line 7]	\$47.9440
	e8. Average Hours per Installation of Item 3 [Schedule D, Line E, Item 3]	0.0000
	e9. Charge per Installation of Item 3 [e7 x e8]	\$0.0000

Charges for leased Remotes

	a	b	c
	Remote 1	Remote 2	Remote 3
10 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	3026.0000	0.0000	1.0000
11 HSC [Line 7]	\$47.9440	\$47.9440	\$47.9440
12 Total Maintenance/Service Cost [Line 10 x Line 11]	\$145,078.6228	\$0.0000	\$47.9440
13 Annual Capital Costs [Corresponding column from Schedule C, Line K]	\$17,513.639.7306	\$0.0000	\$479.0915
14 Total Cost of Remote [Line 12 + Line 13]	\$17,658,718.3535	\$0.0000	\$527.0356
15 Number of Units in Service [Corresponding column from Schedule C, Line C]	5988334.0000	0.0000	4.0000
16 Unit Cost [Line 14/Line 15]	\$2.9469	\$0.0000	\$131.7589
17 Rate per Month [Line 16/(12)]	\$0.2457	\$0.0000	\$10.9799

Charges for leased Converter Boxes

	a	b	c
	Converter 1	Converter 2	Converter 3
18 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	763341.0000	6887.0000	457.0000
19 HSC [Line 7]	\$47.9440	\$47.9440	\$47.9440
20 Total Maintenance/Service Cost [Line 18 x Line 19]	\$36,597,640.7918	\$330,190.5074	\$21,910.4199
21 Annual Capital Costs [Corresponding column from Schedule C, Line K]	\$256,094.697.8981	\$1,216,243.6902	\$1,170,731.1078
22 Total Cost of Converter [Line 20+ Line 21]	\$292,692,338.6899	\$1,546,434.1976	\$1,192,641.5277
23 Number of Units in Service [Corresponding column from Schedule C, Line C]	5710472.0000	268440.0000	9306.0000
24 Unit Cost [Line 22/Line 23]	\$51.2554	\$5.7608	\$128.1583
25 Rate per Month [Line 24/(12)]	\$4.2713	\$0.4801	\$10.6799

Charges for Other Leased Equipment

26 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	1.0000
27 HSC [Line 7]	\$47.9440
28 Total Maintenance/Service Cost [Line 26 x Line 27]	\$47.9440
29 Annual Capital Costs [Corresponding column from Schedule C, Line K]	\$18,289.0015
30 Total Cost of Equipment [Line 28+Line 29]	\$18,336.9455
31 Number of Units in Service [Corresponding column from Schedule C, Line C]	112.0000
32 Unit Cost [Line 30/Line 31]	\$163.7227
33 Rate per Month [Line 32 / (12)]	\$13.6436

METHOD OF BILLING FOR CHANGING SERVICE TIERS OR EQUIPMENT [place an "x" in the appropriate box]

X as a Nominal Ch
 as a Uniform Hol
 as an Average Charge (Enter the Average Hour

STEP F. Charges for Changing Service Tiers or Equipment

34 Nominal Charge for Changing Service Tiers	\$1.9500
If you use an escalating scale of charges, place an "x" in the box at the right.	
OR	
Uniform Hourly Service Charge	n/a
OR	
Average Charge for Changing Service Tiers	\$47.9440
36a. HSC [Line 7]	
36b. Average Hours to Change Service Tiers	
36c. Average Charge for Changing Service Tiers [Line 36a x Line 36b]	n/a

WORKSHEET FOR CALCULATING TOTAL EQUIPMENT AND INSTALLATION COSTS		
1	Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	\$23,175,435.5483
2	Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	\$123,221,017.1500
3	Total Annual Capital Costs of Installation and Maintenance [Line 1 + Line 2]	\$146,396,452.6983
4	Customer Equipment and Installation Percentage (attach explanation)	1.0000
5	Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Leased Equipment [Line 3 x Line 4]	\$146,396,452.6983
6	Total Capital Costs of Leased Customer Equipment [Schedule C, Box 3]	\$276,014,080.5198
7	Annual Customer Equipment and Installation Costs [Line 5 + Line 6]	\$422,410,533.2181
8	Percentage Allocation to Franchise Area (see instructions)	1.0000
9	Allocated Annual Equipment and Installation Cost [Line 7 x Line 8]	\$422,410,533.2181
10	Monthly Equipment and Installation Cost [Line 9 / (12)]	\$35,200,877.7682
11	Number of Basic Subscribers in Franchise	6338924.0000
12	Monthly Equipment and Installation Cost per Subscriber [Line 10 / Line 11]	\$5.5531
13	Inflation Adjustment Factor [See Instructions]	1.0000
14	Adjusted Monthly Equipment and Installation Cost per Subscriber [Line 12 x Line 13]	\$5.5531

[From 2003 SEC 10K]

SUMMARY SCHEDULE

Current Equipment and Installation Rates	Permitted	Proposed
1. Charges for Cable Service Installations		
a. Hourly Rate [Step A, Line 7]	n/a	
b. Average Installation Charges:		
1. Installation of Unwired Homes [Step B, Line 9a3]	\$53.94	\$48.00
2. Installation of Prewired Homes [Step B, Line 9b3]	\$29.99	\$30.00
3. Installation of Additional Connections at Time of Initial Installation [Step B, Line 9c3]	\$28.53	\$21.00
4. Installation of Additional Connections Requiring Separate Install [Step B, Line 9d3]	\$30.55	\$30.00
5. Other Installations (specify) [Step B, Lines 9e3, 9e6, 9e9]		
a. HDTV	\$66.53	NO CHARGE ?
b.	\$0.00	
c.	\$0.00	
2. Monthly Charge for Lease of Remote Controls [Step C, Line 17, columns a-c]		
Remote Control Type 1:	\$0.25	\$0.21
Remote Control Type 2:	\$0.00	
Motorola Side Car	\$10.98	NO CHARGE ?
3. Monthly Charge for Lease of Converter Boxes [Step D, Line 25, columns a-c]		
Converter Box Type ADDRESSABLE	\$4.27	\$2.99
Converter Box Type NON ADDRESSABLE	\$0.48	0.49
Converter Box Type HDTV	\$10.68	NO CHARGE ?
4. Monthly Charge for Lease of Other Equipment [Step E, Line 33]		
PVR BOX	\$13.64	\$3.20
5. Charge for Changing Tiers (if any) [Step F, Line 34, 35 or 36c]	\$1.99	1.99

High

High

High

High

High

LABOR COST AND POLICY CHANGES

Indicate your answer to the following three questions by placing an "x" in the appropriate box

1. Have you included the labor costs associated with subscriber cable drops in your charges for initial installation?

YES	<input type="checkbox"/>
NO	<input checked="" type="checkbox"/>

2. Have you capitalized the labor costs associated with subscriber cable drops?

YES	<input checked="" type="checkbox"/>
NO	<input type="checkbox"/>

3. If you have filed this form before, have you changed any policy, e.g., cost accounting or cost allocation that causes an increase in the costs included in the computation of equipment and installations charges?

YES (You must attach a full explanation)	<input type="checkbox"/>
NO	<input checked="" type="checkbox"/>

CERTIFICATION STATEMENT

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of the Cable Operator	Signature
Cox	Title
Date	Reviewed by Rice Williams Associates
12/23/03	

CITY OF GAINESVILLE AND COUNTY OF ALACHUA
 DEVELOPMENT OF ADJUSTED SYSTEM UPGRADE SURCHARGE

Part I. Revenue Requirement Computation

(c) Line Number and Description CITY COUNTY		(a)	(b) CITY COUNTY	
1	Net Rate Base		*****	
2	Return on Investment			
	a. Rate of Return Percentage	11.250%		
	b. Computed Return	on	Rate	Base
\$312,645	\$283,554			
3	Allowance for Income Taxes			
	a. Federal Income Tax Rate	0.35000		
	b. State Income Tax Rate	0.05500		
	c. Return on Rate Base		\$312,645	\$283,554
	d. Interest Charges		\$129,921	\$117,832
	e. Distributions (Non-C corp. filers only)			
	f. Contributions (Non-C corp. filers only)			
	g. Return Amount Subject to Income Tax		\$182,724	\$165,721
	h. Income Tax Allowance			
\$114,751	\$104,073			
4	Total Operating Expenses			
\$228,237	\$206,999			
5	Total Revenue and Income Adjustments			
(\$32,193)	(\$28,450)			
6	Total Revenue Requirement			
\$623,440	\$566,176			

Part II. Charges for Regulated Services Computation

Line Number and Description	CITY	COUNTY
1 Revenue Requirements	\$623,440	\$566,176
2 Number of Subscribers [per Cox 1235 f	32,517	30,480
3 Annual Revenue Requirement per Subscr	\$19.1727	\$18.5753
4 Monthly Charge (Ex. Fee)	\$1.5977	\$1.5479

BST ADJ BST ALLOCATION ALLOCATOR CITY COUNTY	ADJUSTED COUNTY CITY	COST CITY	TOTAL UPGRADE ALLOCATION COUNTY
BST Channels	20	20	Net Rate Base

Bandwidth @ 6MHz/C	120	120	Interest Expense \$736,452
\$812,006	\$117,832	\$129,921	
Total Bandwidth MH	750	750	Operating Costs

	\$206,999	\$228,237	
BST Allocation Fac	16.00%	16.00%	Incremental Revenue Assigned by
Cox	\$28,450	\$32,193	
Allocator per Cox	16.80%	16.80%	

BASES FOR ADJUSTMENTS

1. The FCC 1235 explanation states that allocation of costs to BST is based on bandwidth and each anal

2. Cox failed to bring incremental revenues forward to summary sheet as a credit [negative value] to

3. Cox's calculation of income tax allowance did not follow the FCC Cost of Service worksheet. The F

These presentations are based upon the FCC 1235s filed by Cox dated 2/25/02.

CITY OF GAINESVILLE AND COUNTY OF ALACHUA FLORIDA

REDEVELOPMENT OF FORM 1240 WKS

7 FRANCHISE COSTS

City/County Allocation

Monthly	City of Alachua	Per	Cox	Adjustment
Totals	Gainesvil County			
Franchise	Required	CSC	[Hawthorne	Rd]
56%	44%			
Annual Building Expenses		\$71,372		\$0
\$5,948				
Annual Staffing Expenses		\$152,739		(\$152,739)
\$0				
Annual Staff Vehicle		\$1,980		(\$1,980)
\$0				
	Total Annual for Hawthorne	C\$226,090		(\$154,719)
\$5,948	\$3,331 \$2,617			
Capitalized Assets (10 years)		\$12,218		\$0
\$102	\$57 \$45			
Beautification Projects				
Gainesville Beautification - 2000		-\$356,756		(\$356,756)
\$0	0			
Alachua Beautification - 2000 - 3.2		\$336,863		(\$336,863)
\$0	\$0			
Gainesville Beautification - 2001 -		\$53,206		(\$53,206)
\$0	\$0			
			(\$746,825)	
Franchise Contribution Costs				
Capital Grants [Annual Cost]		\$39,045		\$0
\$3,254	\$1,822 \$1,432			
BST Portion Refranchising Costs [An		\$17,521		\$0
\$1,460	\$818 \$642			
Additional Capital Grants 7/96 - 7.		\$62,170		\$0
\$715	\$715			
Required Channels				
L.O. Channel 12 Fiber (2000/3.25 yr		\$243,813		(\$243,813)
\$0				
Education Channel 6 - UF Fiber (200		\$218,046		(\$218,046)
\$0				
Incremental PEG Costs [Annual - See		\$10,730		\$-0
\$894	\$894 \$0			
	TOTALS			(\$461,859)
\$12,372	\$7,636 \$4,736			

ADJUSTMENTS FOR FORM 1240 - WKS 7
FRANCHISE F City County
Per Company Annual \$439,394 \$275,353
Per Company Annual \$372,000 \$228,000

Adj. Monthly TU & \$7,636 \$4,736
Adj. Annual TU & P \$91,635 \$56,830

NOTE:

Figures for this analysis developed from Cox 1240 filings for
2000/2001, Franchise Authority w
dated February 18, 2004.

	CITY	COUNTY
BST MPR PER COX 1240-2003 ATTACHMENT	\$9.3600	\$10.6100
FCC FORM 1235 SURCHARGE	\$1.8000	\$1.7400
TOTAL MPR PER COX	\$11.1600	\$12.3500
RATE CHARGED BY COX	\$11.1000	\$11.1000
BST MPR ADJ. - LIMITED FRANCHISE FEES	\$7.8311	\$9.1169
ADJUSTED FCC FORM 1235	\$1.5977	\$1.5479
TOTAL ADJUSTED THEORETICAL MPR	\$9.4289	\$10.6649
EXCESS OF CURRENT RATE	\$1.6711	\$0.4351
2003 PROJ. PERIOD AVG. SUBS [from 124	36,489	23,154
THEORETICAL OVERCHARGE FOR		
2003 PROJECTED PERIOD	\$731,737	\$120,899
BST MPR ADJ. - LIMITED FRANCHISE FEES	\$7.8311	\$9.1169
EXISTING FCC FORM 1235 CHARGE	\$1.8000	\$1.7400
TOTAL ADJUSTED MPR	\$9.6311	\$10.8569
EXCESS OF CURRENT RATE	\$1.4689	\$0.2431
2003 PROJ. PERIOD AVG. SUBS [from 124	36,489	23,154
REFUNDABLE OVERCHARGE FOR FULL		
2003 PROJECTED PERIOD	\$643,168	\$67,536
REFUNDABLE OVERCHARGE FOR 11 MO		
OF 2003 PROJECTED PERIOD	\$589,571	\$61,908

April 19, 2004

Mr. Wayne Bowers, City Manager
City of Gainesville
P.O. Box 490
Gainesville, FL 32602

Mr. Randy Reid, County Manager
County of Alachua
P.O. Box 2877
Gainesville, FL 32602

Dear Wayne and Randy,

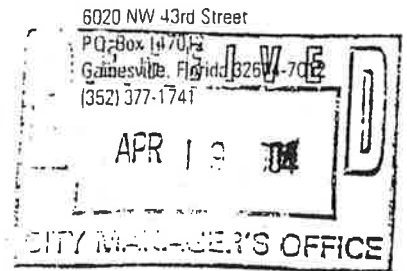
Please find enclosed the response of our counsel to issues raised by Rice, Williams Associates. As you will see, there is one non-material calculation error found as well as a series of incorrect, unsubstantiated allegations made by the consultant which would not result in a change in our rates. Please remember that our basic operator selected rate has not increased in 2 years and will decrease in June as the result of our most recent filing.

I hope that, upon consideration, you agree that there is no basis to advise Commissioners to proceed with a rate order. As you can see, the consultant report is not just a critique of Cox, but is an indictment of the city and county's rate regulation as well, since many of the items with which the report finds fault have either been affirmatively accepted, or not challenged by the city and county for years. This last minute analysis by Rice, Williams Associates, presented literally at the eleventh hour, erroneously attempts to read into franchise language interpretations that were neither intended nor anticipated by either of the parties.

We have filed forms 1240, 1235 and 1205 with the city and county each year and have used the same methodology to calculate rates. Neither the city nor the county has raised any concerns about the filing in prior years. Cox methodology has been repeatedly confirmed by the county in writing and by the city, county and Cox in numerous discussions and in practice.

If you have questions about the report of our attorney, please contact us. We are confident that, given its contents, you will not proceed with a rate order that contravenes FCC regulation, City and County past practice and common sense understanding of the intent of the franchise.

In the event that the city and county reverse their prior determinations on Cox's rate filings and issue an order prescribing rates as suggested by the consultant, Cox will appeal to the FCC. When the FCC inevitably reverses such an order, maximum permitted rates will, under the FCC's rules, increase to recover the costs unjustifiably



denied by the consultant's report, plus an additional 11.25% per year. In the unlikely event, the FCC, some years hence, confirms the consultant's interpretations, the result will be a true up of rates for customers in whatever year the decision is made. Customer credits are not part of the process.

Finally, I would be remiss if I did not mention that both the timing and findings of the Rice, Williams report were completely unexpected by us. Receipt of the report more than 330 days after our rate filing forced a labor intensive and very costly response on our part in just 2 weeks time. The tone of the consultant's assertions continues a dialogue which began more than a year ago with the audit of our past franchise fee payments; a dialogue in which our actions are condemned and penalties are threatened.

We continue to provide exemplary service to customers as evidenced in the consultant's survey results and our own quarterly surveys. We are an outstanding community servant as demonstrated in our receipt of the Business Leadership Award by Governor Bush last year and our Business Recognition Award as a leader in education by the State Commissioner of Education next Tuesday. We continue to invest massive amounts of capital in the community in the absence of a franchise agreement as is obvious in our system upgrade, DVR launch (first in the nation) and high definition availability. Through the customer base we built at great cost, we contribute more than one million dollars annually to your budgets.

I am unaware of any other business that plays a greater role in furthering the financial, technological, educational, cultural and emotional well-being of the city and county.

We are perplexed by the continued assault on our business by consultants advising the city and county. We find their efforts wholly irreconcilable with our contributions to the community, to our history of strict adherence to federal, state and local regulation and to our understanding of the positive relationship we have built with city and county officials.

Sincerely,



Mike Giampietro

Vice President and General Manager

cc: Richard Mulligan, Cox
Michael Cox Grover, Esq.,

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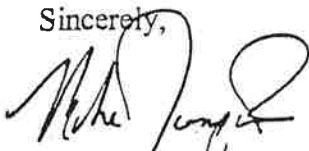
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Sincerely,



Mike Giampietro

Vice President and General Manager

cc: Richard Mulligan, Cox
Michael Cox Grover, Esq.,

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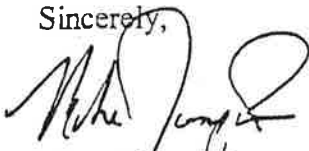
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Sincerely,



Mike Giampietro

Vice President and General Manager

cc: Richard Mulligan, Cox
Michael Cox Grover, Esq.,

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

GARY S. LUTZKER
DIRECT DIAL 202.776.2107
glutzker@dlalaw.com

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ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770.901.8800
FACSIMILE 770.901.8874

April 19, 2004

BY HAND DELIVERY

Mr. Wayne F. Bowers
City Manager
City of Gainesville
P.O. Box 490
200 East University Avenue
Gainesville, Florida 32602-0490

Mr. Randall Reid
County Manager
Alachua County
12 SE 1st Street
Gainesville, Florida 32601

Re: CoxCom, Inc.; Rice Williams Associates Report on Review & Analysis of FCC
Forms 1240, 1235 & 1205 – 2003 Filed by Cox Communications
Gainesville/Ocala for City of Gainesville and County of Alachua, Florida

Dear Mr. Bowers and Mr. Reid:

As legal counsel with extensive experience in cable television franchising and regulatory matters, including, among other things, the Communications Act of 1934, as amended (the "Communications Act" or the "Act"), and the applicable cable television rate regulations and policies of the Federal Communications Commission (the "FCC"), CoxCom, Inc. and its subsidiary Cox Communications Gainesville/Ocala (collectively, "Cox") have asked us to review and comment upon the above-referenced report prepared by Rice Williams Associates (the "Report").

We recognize that the FCC's rate forms and regulations are extremely complex and consequently are subject to good-faith misinterpretations and miscalculations by local franchising authorities or their consultants. Nevertheless, our review has revealed several mathematical and methodological errors in the Report that have resulted in inaccurate conclusions and unsupportable recommendations. As discussed in greater detail below, these errors and methodologies are inconsistent with the FCC's rules, policies, and precedents; the franchise agreements between Cox, the City, and the County; and the well-established methodologies agreed upon among Cox, the City, and the County in all the previous rate proceedings. Indeed, the Report reflects fundamental misapprehensions regarding both the FCC's governing cable television rate regulations and the franchise agreements.

Mr. Wayne F. Bowers
Mr. Randall Reid
April 19, 2004
Page 2

We understand that in the past, cooperative efforts between Cox and the City and County resulted in the reasonable rates and exceptional service Cox's customers have enjoyed and continue to enjoy.¹ Adoption of the Report's adversarial and objectively incorrect positions, however, would result in decisions that are both unfair to Cox and incapable of withstanding review by the FCC. We consequently believe the City and the County have little choice but to reject the Report.²

One of the Report's fundamental flaws is that in most cases it fails to explain the specific adjustments made in revising Cox's rate filings and fails, beyond mere assertions, to substantiate the reasons the consultant believes Cox's accounting for certain costs either is inaccurate or inconsistent with FCC rules. This obviously created difficulties for Cox in understanding and analyzing the consultant's positions. More importantly, however, the absence of those explanations fails the FCC's standard for local rate orders. Under the FCC's rules and precedents a franchising authority's rate order must affirmatively demonstrate both why the proposed rate is unreasonable and why the recomputed rate it prescribes is reasonable. Because Cox justified its proposed rates in accordance with the FCC's rate regulations, the consultant here "carries the burden of affirmatively demonstrating . . . why [Cox's] proposed BST rate was unreasonable and why, on the other hand, its prescribed rate is reasonable."³ To satisfy this test under the FCC's standards, the Report may not simply put forth an "acceptable alternative," but rather must "demonstrate clearly and convincingly a fatal flaw" in the proposed rates.⁴

¹ Despite substantial increases in the costs Cox incurs to provide service basic service, equipment, and installations, Cox's rates in the City and the County have remained unchanged since June 2002.

² As you know, Cox's actual rates in the City and the County remain significantly below the MPRs justified on its May 2003 and March 2001 rate filings. Due to the consultant's errors, however, the Report recommends unprecedented and unwarranted refunds of \$590,000 in the City and \$62,000 in the County (excluding interest). Although our review also has identified minor, good-faith errors in Cox's rate calculations, the correction of those minor errors actually results in an *increase* to the maximum permitted rate ("MPR") justified by Cox's FCC Forms 1240. We understand that Cox has no intention of increasing its actual rates; nevertheless, Cox is re-submitting its FCC Forms 1240 and 1235 to re-establish the correct MPR. These revised filings are attached hereto and demonstrate that Cox's MPR is \$11.24 in the City and \$12.43 in the County. Cox's actual BST rate in both the City and the County remains \$11.10.

³ *Falcon Community Ventures I*, 13 FCC Rcd 12503, 12505 at para. 5 (1998) (footnote omitted, citing 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*, 8 FCC Rcd 5631, 5723-24 (1993) ("*Rate Order*").

⁴ *Nader v. FCC*, 520 F.2d 182, 195 (D.C. Cir. 1975) (cited in *Rate Order*, 8 FCC Rcd at 5723, n.366).

The Report fails to satisfy this standard because it neither explains the specific adjustments to Cox's revised Forms 1235, 1240, and 1205 nor substantiates its vaguely asserted belief that certain costs were not accounted for properly. With one exception related to a minor error on Cox's FCC Forms 1235 caused by an incorrect formula embedded in the Form 1235 computerized spreadsheet Cox used to calculate its upgrade costs, to the extent the Report has attempted to provide rationales for its revisions, those rationales conflict with the mathematical principles of the FCC's regulations, the FCC's policies, and the explicit terms of the franchise agreements.⁵

The Report's various errors and the analysis supporting our conclusions are explained in the following paragraphs.

I. FCC Form 1240 Issues

A. Franchise Related Costs ("FRCs")

Under the FCC's rules and orders, cable operators are "permitted to include increases in franchise requirement costs that the operator would not have incurred in the absence of the franchise requirement[;]" this policy applies to "both new requirements . . . and increases in the cost of complying with existing requirements."⁶ In addition to the costs of providing public, educational, and governmental ("PEG") access channels and programming, such FRCs also include: (i) the costs of technical and customer service standards that exceed federal standards; (ii) the costs of institutional networks and the provision of video services, voice transmissions and data transmissions to or from governmental institutions and educational institutions, including private schools; and (iii) the costs of removing cable from utility poles and placing the same cable underground.⁷ Although the calculation is not performed

⁵ Until now, Cox has not reflected in its MPR all the costs specifically permitted under the FCC's rules. For example, Cox previously has not incorporated the 11.25% rate-of-return it is allowed on the Franchise Related Costs ("FRCs") reported on Line 707 of FCC Form 1240. *See* Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, *Thirteenth Order on Reconsideration*, 11 FCC Rcd 388, 442 at para. 136 (1995) ("*Thirteenth Order*"). Inasmuch as the Report has inappropriately and inaccurately revised Cox's FCC Forms 1240 and has identified a minor error in one of the FCC Form 1235 embedded formulas, Cox has revised its rate filings to include the rate-of-return permitted under the FCC's rules in the FCC Form 1240 and to correct the embedded formula in the FCC's computerized FCC Form 1235 spreadsheet. Although this revision to include the permitted rate-of-return has no effect on Cox's actual rates, it demonstrates that Cox's MPR actually is greater than previously justified and confirms that the Report's conclusions are incorrect.

⁶ *Thirteenth Order*, 11 FCC Rcd at 441, para. 132.

⁷ *See id.*; 47 C.F.R. § 76.925.

automatically in the FCC Form 1240 computerized spreadsheet, the FCC's rules and policies also explicitly permit operators to recover an 11.25% rate of return on any funds expended to satisfy such franchise requirements.⁸

Despite the FCC's explicit rules that guarantee Cox's ability to recover its FRCs in regulated rates, the Report disallows various costs associated with franchise-required customer service facilities that exceed federal standards, the removal of aerial facilities and replacement of those facilities underground, and the provision of video, voice, and data services to and from governmental institutions.⁹ Moreover, the Report has ignored the FCC rule that specifically permits Cox to recover an 11.25% rate of return on its amortized FRCs. Although Cox previously has not incorporated a rate-of-return for FRCs in its MPR, the consultant's failure to account for this aspect of the FCC's rules in the analysis of Cox's rates undermines the validity of the Report's conclusions.

Given governing FCC rules and policies, as well as the plain language of the franchise agreements discussed below, the Report's erroneous removal of Cox's FRCs from the MPR calculation is incapable of withstanding review and should therefore be rejected.

1. Customer Service Facility

The Report concedes that the franchise agreements require Cox "to establish and maintain a full customer service facility in the eastern portion of franchisee's service area"¹⁰ and that the FCC rules permit the inclusion of such costs to the extent they exceed federal standards.¹¹ Nevertheless, the Report asserts that it made unspecified "[a]djustments to remove the staffing costs and staff vehicle costs"¹² without regard to the fact that such costs exceed federal requirements and that the franchise agreements acknowledge as much. The Report attempts to rationalize this adjustment by positing that customer visits to Cox's east side customer service facility would otherwise be accommodated by "increasing staffing and

⁸ *Thirteenth Order*, 11 FCC Rcd at 442, para. 136. The Commission determined in the *Thirteenth Order* that "operator[s] will be required to amortize the cost of franchise imposed capital expenditures over the useful life of the items. . . . [and] that operators will be permitted to recover an 11.25% rate of return on this investment." *Id.* See also *TCI Cablevision of Arcadia/Sierra Madre*, 13 FCC Rcd 311, n. 19 (Cab. Serv. Bur. 1998) ("The Form . . . does not have separate entries where the return amount is reported. Rather, costs that include a return amount are reported as a lump sum.").

⁹ Report at 4-6.

¹⁰ Franchise Agreement § 21(b); Report at 4.

¹¹ Report at 4.

¹² *Id.*

facilities at the customer service facility that Cox maintains pursuant to federal requirements.”¹³

The Report’s misapprehension of the FCC’s rules and the franchise agreements is obvious and its speculation is irrelevant. First, contrary to the Report’s assertion, no federal standard requires that Cox maintain any customer service facilities in its franchise area. Section 76.309 of the FCC’s rules requires only that cable operators maintain telephone access for customer service and that any customer service facilities the operator chooses to establish will be open during normal business hours.¹⁴ Therefore, all the costs of operating and maintaining Cox’s east side customer service facility constitute FRCs under Section 76.925 of the FCC’s rules¹⁵ because such franchise-required expenditures obviously exceed federal standards, which do not mandate the walk-in customer service facilities Cox maintains pursuant to the requirements of franchises.

Second, the franchise agreements explicitly recognize that the requirement for Cox to establish and maintain the east side customer service facility exceeds federal standards. Section 21(a) of the franchise agreements state that “[t]he franchisee will be required . . . to adhere to the Customer Service Standards as promulgated by the Federal Communications Commission,” and Section 21(b) states that “[i]n addition, franchisee will establish and maintain a full customer service facility in the eastern portion of franchisee’s service area.”¹⁶ Thus, no doubt can exist that the franchise agreements contemplated the requirement for an east side customer service facility would be *in addition* to federal standards.

Inasmuch as all Cox’s costs associated with operation of the east side customer service facility exceed federal standards under the plain language of the FCC rules and the franchise agreements, the Report’s speculation regarding costs that Cox might incur if it were not required by the franchise agreements to establish and maintain the east side customer service center are irrelevant. To comply with the FCC’s rules, therefore, the City and the County must reject the exclusion of Cox’s acknowledged FRCs from the MPR calculations.

2. Beautification Costs

Section 23(e) of the franchise agreements states that “[o]n streets and roads where electrical and telephone wiring is installed underground, at the time of initial cable construction, or if subsequently both go underground, the cable must also be installed

¹³ *Id.*

¹⁴ 47 C.F.R. § 76.309.

¹⁵ 47 C.F.R. § 76.925(a)(3).

¹⁶ Franchise Agreement § 21(b) (emphasis added).

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Mr. Randall Reid
April 19, 2004
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underground at no expense to the City.” Pursuant to City and County “Beautification Projects” under Section 23(e) of the franchise, Cox has expended substantial sums in removing cable from utility poles and placing it underground and included an amortized portion of those costs in its FCC Form 1240 calculation.¹⁷ As noted above, the FCC’s rules specifically identify such costs as eligible FRCs.¹⁸

The consultant nevertheless removed all costs associated with the required removal of aerial facilities and the placement of those facilities underground from Cox’s MPR calculation. The rationales for doing so, according to the Report, are that (i) “[t]he City/County staff is not aware of any verbal or written requests made to Cox for the undergrounding of facilities *other than during situations where it was required by the franchise agreement*”; and (ii) “[t]he franchise agreement provides that the cost of such installations and relocations are to be born [sic] by Cox and are not to be included in rates.”¹⁹ The Report’s initial rationale actually demonstrates that Cox properly included such costs in its FCC Form 1240; the second is both inaccurate and contrary to the plain language of the franchise agreements and the FCC’s rules.

First, because the Report acknowledges that verbal or written requests for undergrounding were made to Cox “where it was required by the franchise agreement,” the Report concedes that the costs associated with such franchise-required undergrounding activities qualify as FRCs under Section 76.925(a)(5) of the FCC’s rules.²⁰ Second, contrary to the Report’s assertion, the franchise agreements in no way provide that Cox is required to bear such costs while being prohibited from incorporating them in its regulated rates. As the franchise provision quoted above makes clear, the only requirement regarding undergrounding costs is that such costs shall be “at no expense” to the City or County.²¹ Even if the franchises required that Cox bear such costs or even if the franchises prohibited Cox from incorporating such costs in rates, which they do not, those provisions would be preempted by

¹⁷ See Letter, dated February 18, 2004, from Michael McL. Grover (Cox Director of Government Affairs) to Jean Rice (Rice Williams Associates). Cox expended \$356,756.08 and \$336,863.04 in the City and County respectively during 2000 for the undergrounding of aerial facilities as required under the franchises.

¹⁸ 47 C.F.R. § 76.925(a)(5); *Thirteenth Order*, 11 FCC Rcd at 441, para. 134.

¹⁹ Report at 4 (emphasis added).

²⁰ 47 C.F.R. § 76.925(a)(5).

²¹ Franchise Agreement § 23(e). We also observe that Section 23(f) of the franchises, which require the relocation of Cox’s facilities to accommodate street improvements or re-surfacing, is not relevant to costs Cox incurred for undergrounding and that Cox’s costs associated with relocation of its facilities pursuant to Section 23(f) are not included in any Cox rate filing.

the Communications Act because the FCC's rules promulgated under Section 623 of the Act specifically provide for the inclusion of these FRCs in Cox's maximum permitted rate.²²

Finally, contrary to the Report's unsubstantiated speculation, we understand that Cox's expenditures in removing its aerial facilities and placing them underground as required in the franchises are not reflected in Cox's FCC Form 1235 and were not undertaken in conjunction with any system upgrade. Not surprisingly, the Report fails to identify any entry in any rate filing or supporting schedule, any correspondence, any conversation, or any other evidence that would indicate otherwise. The Report's unexplained and unsupported belief "that these costs were included in [the system network upgrade] project for which a rate surcharge is being assessed,"²³ therefore is not only untrue, but also fails to satisfy the FCC's standards applicable to local rate orders.

Because the Report acknowledges that Cox's costs associated with removal and placement of aerial facilities underground were incurred pursuant to "verbal or written requests . . . during situations where it was required by the franchise agreement" and because such costs were not incurred in connection with a system upgrade and are not reflected in any other rate filings, the Report's exclusion of such costs from Cox's regulated rates should be summarily rejected as inconsistent with the FCC's rules.

3. Educational/Governmental Access

FCC rules and policies also specifically permit Cox to include in its rate filings "the costs of institutional networks and the provision of video services, voice transmission and data transmission to or from governmental institutions and educational institutions, including private schools."²⁴ Section 18 of the franchise agreements requires that Cox provide, among other things, educational and governmental access channels,²⁵ "live and taped replay coverage of City and County Commission meetings and School Board meetings,"²⁶ "two-way communication" for use by the educational and governmental channels,²⁷ "equipment and connections between the City's [and County's] equipment and the Franchisee's trunk facilities

²² *Id.* Under Section 636 of the Act, "any provision of law of any State, political subdivision, or agency thereof, or franchising authority, or any provision of any franchise granted by such authority, which is inconsistent with this Act shall be deemed to be preempted and superseded." 47 U.S.C. § 556.

²³ See Report at 4.

²⁴ *Thirteenth Order*, 11 FCC Rcd at 441, para. 133; 47 C.F.R. § 76.925(a)(4).

²⁵ Franchise Agreement, § 18(a)(1).

²⁶ *Id.*, § 18(a)(2).

²⁷ *Id.*, § 18(a)(4).

[that] conform to accepted CATV and broadband communications standards,"²⁸ "[s]tudios and related equipment and facilities" for use by the City and County local origination channels,²⁹ and connections "to facilities within the City [and County] . . . which are owned or occupied by a local governmental entity for predominantly educational or governmental use."³⁰

Pursuant to the FCC's rules and the explicit requirements of the franchises noted above, Cox included in its FRC calculation franchise-required costs for connections to the Journalism Building (Channel 6) and City Hall (Channel 12).³¹ The Report, however, eliminated such costs based upon its erroneous and unsubstantiated beliefs that: (i) Cox "included costs for new fiber connections" to the Journalism Building and City Hall; (ii) "[t]here is no indication that the City/County staff requested such bandwidth expansion"; and (iii) "the installation of fiber . . . was part of Cox's overall system network upgrade" whose costs were included in "the rate surcharge associated with that project."³²

The Report's rationales are without merit and are irreconcilable with the FCC's rules. Contrary to the Report's unsupported assumptions, our investigation confirmed that the fiber connections Cox installed to the Journalism Building and City Hall are not new and are not related to Cox's system upgrade, but are the original facilities Cox installed to comply with its franchise obligations. Moreover, the FCC's rules specifically include as FRCs "both new requirements . . . and increases in the cost of complying with existing requirements."³³ Therefore, even if the facilities were new as the Report inaccurately asserts, the associated costs would be properly reflected in Cox's FCC Form 1240.

The Report's subsidiary argument that fiber connections are not "standard industry practice" as opposed to "simply industry practice" also is unavailing. The franchise requires that such facilities "shall conform to accepted CATV and broadband communications standards."³⁴ No reasonable argument can exist that Cox's use of fiber connections does not conform to accepted standards, as required by the franchise agreement.³⁵ The Report's

²⁸ *Id.*, § 18(a)(5).

²⁹ *Id.*, § 18(a)(6).

³⁰ *Id.*, § 18(a)(8).

³¹ See Letter, dated February 18, 2004, from Michael McI. Grover (Cox Director of Government Affairs) to Jean Rice (Rice Williams Associates) at Exhibit D.

³² Report at 5.

³³ *Thirteenth Order*, 11 FCC Rcd at 441, para. 132.

³⁴ Franchise Agreement, § 18(a)(5).

³⁵ Indeed, given the consultant's approach, had Cox not used fiber, the Report likely would have claimed a franchise violation.

tautology must therefore be rejected as inconsistent with both the franchise and the FCC's rules.

The Report also argues that Cox's governmental and educational access costs should be disallowed because the consultant found "no indication that the City/County staff requested such bandwidth expansion." This claim is both inaccurate and irrelevant. It is inaccurate because the original facilities Cox installed to connect the Journalism Building and City Hall were not part of any "bandwidth expansion." The Report's claim also is irrelevant because Cox's obligation to install such facilities is independent of any request made by the City or County staff; that obligation is specifically required by Section 18 of the franchise and consequently constitutes an FRC under the FCC's rules regardless of whether Cox received an additional request from the staff.

Finally, the Report again recites an unsubstantiated belief that "the installation of fiber . . . was part of Cox's overall system network upgrade and that those costs already are included in the rate surcharge associated with that project."³⁶ The Report offers no reason for its belief and points to no aspect of Cox's FCC Form 1235 (network upgrade) rate filing or any other evidence to support its conclusion. As noted above, far more is required of the consultant by the FCC's rules. In fact, and contrary to the Report's unsupported speculation, we understand that no FRCs are reflected in Cox's FCC Form 1235, which by design includes only "significant capital expenditures used to improve rate-regulated cable services."³⁷ Cox properly reflected the costs of complying with franchise requirements such as the governmental and educational access obligations required by Section 18 in Cox's FCC Form 1240, and the Report provides no reason to believe otherwise. In the final analysis, the Report's conclusions are inconsistent with the facts, the FCC's rules, and the franchise agreements and consequently cannot be accepted as the basis for a reasonable decision by the City or the County.

II. FCC Form 1205 Issues

A. Network Controller

The Report claims the costs Cox reported on Schedule A of the FCC Form 1205 for the network controller — which is used in cable system headends to maintain the proper functioning of customer premises equipment — should be eliminated and restated on Schedule C because "[a]ccounting for this capital cost in this way causes the recovery of this cost to become a portion of every service installation and equipment rental charge by virtue of

³⁶ Report at 5.

³⁷ FCC Form 1235 Instructions at 1.

its inclusion in the hourly service charge.”³⁸ We agree that costs reflected on Schedule A of FCC Form 1205 are a component of the FCC’s hourly service charge calculation. The Report’s suggestion that cable system headend equipment such as the network controller may be accounted for in Schedule C, however, is incorrect and would violate the FCC’s rules if adopted.

The FCC’s equipment and installation rate regulations require separate calculations for the hourly service charge (“HSC”), which is used primarily for determining installation and maintenance rates, and for the lease rates of customer premises equipment such as set-top converters and remote control units.³⁹ Contrary to the methodology adopted in the Report, the FCC’s rules do not permit the restatement of network equipment and maintenance costs (which must be reported on Schedule A of the FCC Form 1205) as customer premises equipment costs (which must be reported on Schedule C).⁴⁰ Operators are required to report the capital costs of installing and maintaining cable plant and equipment (*i.e.*, network costs such as trucks, buildings, and headend equipment such as the network controller, *etc.*) on Schedule A of FCC Form 1205 and to report the associated operating expenses (salaries, benefits, supplies, *etc.*) on Schedule B. The HSC is calculated on Worksheet A of the Form 1205 by dividing the sum of those costs and expenses, both of which by definition exclude the costs of customer premises equipment, by the number of associated labor hours.⁴¹

The FCC Form 1205 Instructions require that the items to be reported on Schedule A include “annual costs of the equipment and plant necessary for the *installation and maintenance* of customer equipment used to receive basic tier services. . . . [and] exclude[] the annual capital costs of customer equipment.”⁴² The Instructions specifically direct cable operators to “include all equipment that you own” on Schedule A (other than customer premises equipment such as addressable converters).⁴³ Because the network controller Cox uses to maintain control of set-top converters is headend equipment rather than customer equipment, FCC rules require that the cost of network controllers be included on Schedule A, as reflected in Cox’s FCC Form 1205. In contrast, the Instructions direct cable operators to include on Schedule C only “capital costs for each model or category of customer premises

³⁸ Report at 10.

³⁹ See 47 C.F.R. § 76.923(d). The capital costs of customer premises equipment such as addressable converters are specifically excluded from the HSC calculation. *Id.*

⁴⁰ FCC Form 1205 Instructions at 2, 3, 7, 12.

⁴¹ 47 C.F.R. § 76.923(d).

⁴² FCC Form 1205 Instructions at 2 (emphasis added).

⁴³ *Id.* at 7.

equipment that you offer in connection with regulated service”⁴⁴ and therefore to “list all customer equipment for which you wish there to be a separate charge.”⁴⁵ The FCC consequently has held that Schedule C “is used only to compute the annual capital costs of equipment leased to customers”⁴⁶ and repeatedly has stated that “Schedule C of Form 1205 is the schedule operators are *required* to use for their for their capital costs of leased customer equipment.”⁴⁷ The Report’s contention that network controller costs should be restated on Schedule C cannot be reconciled with the FCC’s rules because network controllers are headend equipment and are not leased to customers or used on customer premises.

The simple reason for these bright-line distinctions in the FCC’s rules is that under the Act, regulated rates for equipment leased to customers are limited to the actual cost of purchasing and servicing equipment that customers use on their premises to receive basic (“BST”) cable service.⁴⁸ The Communications Act and the FCC’s rules consequently require that the costs of headend equipment such as the network controller must be incorporated in the HSC calculation and recovered ratably through all installations and customer premises equipment maintenance charges. Thus, although the Report is correct to some extent that “a subscriber who does not utilize an addressable converter still will be paying a portion” of the network controller costs,⁴⁹ the same is true for all the other capital costs reflected on Schedule A such as trucks, mobile radios, tools, buildings, *etc.*, which the subscriber also does not use.⁵⁰ The fact of the matter is that the FCC’s rules require the methodology about which the Report complains, and Cox as well as the City and the County are obligated to comply with those rules and the mathematical principles underlying the FCC Form 1205 rate calculations.⁵¹

⁴⁴ *Id.* at 3.

⁴⁵ *Id.* at 12.

⁴⁶ *TCI of Richardson, Inc.*, 13 FCC Rcd 21690, 21694 at para. 12 (Cab. Serv. Bur. 1998) (footnote and internal quotation omitted, citing FCC Form 1205 Instructions at 12).

⁴⁷ *TCI Cablevision of St. Louis, Inc.*, 12 FCC Rcd 15287, 15288 at para. 4 (emphasis added) (Cab. Serv. Bur. 1997). *See also*, *TCI of Seattle, Inc.*, 13 FCC Rcd 5103, 5104 at para. 3 (Cab. Serv. Bur. 1998); *TCI of Auburn, Inc.*, 13 FCC Rcd 2588, 2589 at para. 4 (Cab. Serv. Bur. 1998)..

⁴⁸ *Rate Order*, 8 FCC Rcd at 5801-07 (1993); *see* 47 U.S.C. § 543(b)(3).

⁴⁹ Report at 10.

⁵⁰ Moreover, because the FCC’s allow for the aggregation of both addressable and non-addressable converters into a single rate, the Report’s objection has little meaning. In other words, Cox could, if it chose, not charge a separate, lower rate for non-addressable converters, in which case network controller costs would still be incorporated in the HSC and recovered from all subscribers. *See* Implementation of Section 301(j) of the Telecommunications Act of 1996, Aggregation of Equipment Costs By Cable Operators, *Report and Order*, 11 FCC Rcd 6778 (1996).

⁵¹ The FCC has repeatedly and consistently held that “[r]egardless of the particular

The City and the County consequently cannot reasonably adopt the Report's recalculation of Cox's equipment rates.

B. R&M and Commissions - Converters

The Report observes that Cox included contract labor costs associated with repair and maintenance of converters on Schedule B, but assumes incorrectly that Cox failed to adjust its total labor hours to reflect contract labor.⁵² As the City and the County are no doubt aware, Cox has used the same FCC-approved methodology to account for contract labor hours in all its previous and current rate filings.⁵³ In fact, Cox's current national FCC Form 1205 rate filing included \$4,650,873.58 in contract labor costs and included 106,936 additional labor hours to account for contract labor in the HSC calculation.

Although we understand that prior to issuing the Report the consultant never requested any information from Cox regarding its standard contract labor adjustment, the Report states that "it is assumed that no adjustment was made."⁵⁴ The Report then concocts an adjustment that added to the HSC calculation 185,692 contract labor hours in addition to the actual 106,936 hours Cox had already included. As demonstrated below, the Report's assumption is unwarranted and its adjustment of labor hours is inaccurate and inconsistent with FCC rules.

(...continued)

obstacles facing a local authority, the Commission expects local franchising authorities to adhere strictly to the mathematical principles underlying the benchmark approach of regulating rates in their determination of rates for the basic cable service and associated equipment." *TCI Cablevision of St. Louis, Inc.*, 9 FCC Rcd 2141, 2142 at para. 7 (Cab. Serv. Bur. 1994). See also, e.g., *Maryland Cable Partners, L.P.*, 13 FCC Rcd 5218, 5224 at para. 14 (1998); *Sammons Communications of New Jersey, Inc.*, 11 FCC Rcd 17255, 17262 at para. 14 (1996); *Cox Cable San Diego, Inc.*, 10 FCC Rcd 10050, 10052 at para. 9 (Cab. Serv. Bur. 1995); *Telenois, Inc.*, 10 FCC Rcd 911, 912 at para. 8 (Cab. Serv. Bur. 1994); Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Buy-Through Prohibition, *Third Order on Reconsideration*, 9 FCC Rcd 4316, 4346 (1994); *Rate Order*, 8 FCC Rcd at 5731.

⁵² Report at 10-11.

⁵³ See FCC Form 1205 Instructions at 14, Note 1. We understand that in the nearly twelve months since Cox submitted its rate filings, the consultant never sought information from Cox regarding this aspect of its calculations.

⁵⁴ The only basis advanced in the Report for this erroneous assumption is the statement in Cox's filing that Cox was no longer using the Wyndmoor (contract labor) repair center and now employs in-house labor for the work formerly sent there. This fact, however, is irrelevant to the rate calculation.

First, the City and County already are familiar with the contract labor adjustment Cox has used consistently in its previous rate filings. That FCC-approved contract labor adjustment is calculated by dividing total contract labor costs by the average company technician wage rate. The result is added to the total labor hours reported on Step A, Line 6 of the FCC Form 1205. As noted above, in this case Cox included an additional 106,936 hours to account for contract labor hours. If the consultant had any questions regarding this calculation, it easily could have requested such information from Cox prior to issuing the Report, and Cox easily could have provided that information. Instead, the consultant assumed incorrectly that no contract labor hour adjustment had been made and, rather than inquire about contract labor hours or Cox's average company technician wage, simply invented an arbitrary adjustment based upon the compensation of only two Cox employees. The resulting adjustment of 185,692 hours obviously is inaccurate.

Second, because the HSC is calculated by dividing the sum of equipment installation and maintenance costs and expenses by the number of associated labor hours, the Report's addition of 185,692 non-existent contract labor hours to the denominator of the HSC calculation causes a substantial and incorrect reduction of Cox's installation and maintenance rates. The Report's erroneous adjustment is particularly egregious because Cox's HSC calculation already included 106,936 additional hours to account for contract labor. Even assuming for the sake of argument that the Report's additional hours were properly included, however (which they were not), the Report failed to make a corresponding adjustment to installation task times as required by FCC rules. Therefore, the Report's recalculation of the HSC simply is wrong and cannot be accepted.

The Report's inconsistent treatment of labor hours is confirmed by the fact that it inflated Cox's total labor hours for the purpose of calculating the HSC (FCC Form 1205, Step A, Line 6), but failed to similarly increase the average labor hours for each of the tasks used to calculate installation charges (FCC Form 1205, Schedule D). These hours must be included or excluded from both sides of the equation, both as a simple matter of fairness and to comply with the FCC's rules.⁵⁵ The Report's failure to do so precludes the proper matching of hours

⁵⁵ The FCC has illustrated this point in an analogous context as follows:

Assume a small operator with no leased equipment that performed one installation per year. Further assume that the installation took two hours, one direct and one indirect, and that the operator's costs for the installation were \$ 80. The HSC would be \$ 80 if computed using only direct labor hours, and \$ 40 if using direct and indirect hours. In order to fully recover its costs, the operator must be permitted to either use only direct hours in both calculation of the HSC and the installation charge, or direct and indirect hours in both calculations. In our example, the two options that would allow full cost recovery are: \$ 80 HSC X 1 hour = \$ 80 (using only direct

(continued...)

and costs necessary to accurately calculate equipment and installation rates under the FCC's rules. Therefore, even if the Report's inaccurate increase in the number of hours used to determine the HSC were accepted for the sake of argument, the FCC's precedents mandate that a commensurate increase be reflected in the hours assigned to the various installation tasks, which the Report failed to do.⁵⁶

Unfortunately, the Report's methodology, if accepted, would effectively prevent Cox from fully recovering its actual equipment basket costs and consequently would violate the FCC's rules. Because the Report's adjustment for contract labor hours is based upon a false assumption and is inaccurately calculated in any event, it cannot form the basis of a reasonable decision and consequently cannot be accepted.

III. FCC Form 1235 Issues

The Report makes several unwarranted adjustments to Cox's network upgrade calculation, which are discussed in greater detail below. Nevertheless, our analysis confirms that the Report correctly identified one issue concerning an error in the embedded formula for incremental revenues on the computerized Form 1235 spreadsheet Cox used to calculate its upgrade costs.⁵⁷ Correcting for the error in the embedded formula slightly reduces the Form 1235 network upgrade calculation, but has no effect on Cox's actual rate in either the City or the County. Therefore, attached hereto are revised filings for the City and the County that incorporate the corrected incremental revenue formula on Part II, Line 5 of the FCC Form 1235.⁵⁸

(...continued)

labor hours); and \$ 40 HSC X 2 hours = \$ 80 (using direct and indirect hours). On the other hand, using direct and indirect hours to compute the HSC and using only direct hours to calculate the installation charge would result in under-recovery of costs: \$ 40 HSC X 1 hour = \$ 40.

Ventura County Cablevision v. City of Thousand Oaks, California, 10 FCC Rcd 13394, 13400, n.24. (Cab. Serv. Bur. 1995).

⁵⁶ See, e.g., *Falcon Cablevision*, 11 FCC Rcd 10534, 10539-40, para. 12 (Cab. Serv. Bur. 1996) ("an operator must be permitted to use the same method of counting person hours in calculating the HSC as it does in applying the resulting specific charges for performing various installations and equipment maintenance tasks." footnote omitted); *Comcast Cablevision of Detroit, Inc.*, 15 FCC Rcd 24022 at para. 24 (Cab. Serv. Bur. 2000), *reconsideration denied*, 16 FCC Rcd 13287 (Cab. Serv. Bur. 2001).

⁵⁷ Report at 7-8.

⁵⁸ The revised network upgrade add-on is \$1.6817 in the City and \$1.6292 in the County,

(continued...)

A. Date of Upgrade Completion

As both the City and the County know, and as our investigation confirmed, Cox completed its system upgrade in October 2001 and filed its FCC Forms 1235 on or about March 4, 2002. The Report acknowledges that documentation included with Cox's filings confirmed the October 2001 completion date. Nevertheless, the Report claims that "reasonable doubt may have been created as to whether actual or estimated costs were being used"⁵⁹ based upon an obvious, non-substantive typographical error on Part I, Question B.2, which indicates October 2002 rather than October 2001 as the completion date. The Report also notes that since Cox filed the Forms 1235 more than two years ago, neither the City nor County has questioned or taken action on the filings. Although this issue (to the extent any issue exists) has no effect on the Form 1235 rates, we can only observe that apparently the only party with doubts about the completion date of Cox's upgrade is the consultant.

B. Cost Allocation

The FCC's rules and precedents allow Cox to allocate the cost of its network upgrade among its various service tiers based upon the bandwidth required for the channels carried on each of those tiers.⁶⁰ As the City and County undoubtedly know due to the free services Cox provides to governmental locations under Section 18 of the franchises, Cox has carried 21 channels on its BST for the past several years.⁶¹ Cox therefore allocated upgrade costs to the

(...continued)

which results in a total MPR of \$11.24 in the City and \$12.44 in the County. As noted above, Cox has elected to maintain its rate at \$11.10 in both the City and the County rather than increase rates to the MPR as allowed by the FCC's rules.

⁵⁹ Report at 7.

⁶⁰ See 47 C.F.R. §§ 76.922(j)(4); 76.924(f). See also Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation and Adoption of a Uniform Accounting System for Provision of Regulated Cable Service, *Report and Order and Further Notice of Proposed Rulemaking*, 9 FCC Rcd 4527, 4653-54, 4676 (1994). The recovery of upgrade costs from the BST does not depend on the addition of new channels to the BST. See *Cox Communications San Diego, Inc. (Chula Vista, CA)*, 13 FCC Rcd 17653, 17658-59 (Cab. Serv. Bur. 1998). However, because "[t]he cost of physical plant is directly related to the provision of cable channels and the amount of channel capacity a particular system has," *Second Report and Order, First Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 2220, 2237 (1996), "a straight channel ratio would be a reasonable measure of the current usage of the tangible plant in many cases." *Mountain Cable d/b/a Adelpia Cable Communications, Inc.*, 14 FCC Rcd 11807 (Cab. Serv. Bur. 1999).

⁶¹ The BST on Cox's system in the City and the County includes channels 2-22. Attached hereto are copies of the past several years' channel line-ups, which confirm that 21 channels are and have been carried on the BST.

BST on Worksheet B of the FCC Form 1235 based upon the ratio of 126 MHz used for BST channels to the system's total 750 MHz capacity using 6 MHz of capacity per channel ($21 \times 6 = 126$); namely, a 16.8% allocation factor ($126 \div 750 = 0.168$).

The Report reduced Cox's cost allocation for the BST reported on Worksheet B from 16.8% to 16% because, according to the Report, "[t]he BST after the upgrade contains 20 channels requiring 120 MHz of bandwidth, not the 126 MHz used by Cox."⁶² As demonstrated above and by the attached channel line-ups, because Cox actually carries 21 BST channels, rather than the 20 channels assumed by the consultant, the Report's downward adjustment of Cox's allocation factor is inaccurate.

C. Income Tax Allowance

The Report claims that "Cox's calculation of income tax allowance does not follow the FCC Cost of Service Worksheet and results in an improper increase to the upgrade surcharge."⁶³ The Report is wrong. Tellingly, the Report does not explain how Cox's calculation is inconsistent with the FCC's Worksheet or the basis for the consultant's belief regarding same; neither does the Report explain how "[t]he results have been adjusted."⁶⁴

Contrary to the Report's assertion and its conclusion, our review confirms that Cox's calculation of the income tax allowance conforms precisely to the method set forth in the FCC Form 1235 Instructions.⁶⁵ Moreover, our analysis demonstrates that Cox actually understated its income tax allowance by excluding the 5.5% Florida Corporate Income Tax from its tax gross-up calculation.⁶⁶ Restoring the state component of the calculation increases the tax allowance from \$103,309 to \$120,488 in the City and from \$93,696 to \$109,277 in the

⁶² Report at 7.

⁶³ Report at 8.

⁶⁴ *Id.*

⁶⁵ Cox computed the income tax gross-up as follows: $[(\text{Federal Income Tax Rate} + \text{State Income Tax Rate}) - (\text{Federal Income Tax Rate} * \text{State Income Tax Rate})] / 1 - [(\text{Federal Income Tax Rate} + \text{State Income Tax Rate}) - (\text{Federal Income Tax Rate} * \text{State Income Tax Rate})]$. See FCC Form 1235 Instructions at 7. Our review confirmed that this is the formula embedded in Part II, Line 3.h. of the Form 1235 computerized spreadsheet Cox used to calculate its upgrade costs.

⁶⁶ The tax gross-up calculation in the FCC Form 1235 is substantially identical to that reflected in the FCC Form 1205, Schedule A, Line G. The FCC has held repeatedly that all cable operators are entitled to the tax gross-up for both federal and state taxes regardless of whether taxes have actually been paid. See, e.g., *Maryland Cable Partners*, 12 FCC Rcd 11951 (Cab. Serv. Bur. 1996); *Maryland Cable Partners, L.P. v. City of Bowie, Maryland*, 13 FCC Rcd 5218 (Cab. Serv. Bur. 1998), application for review denied, 15 FCC Rcd 10964 (2000).

Mr. Wayne F. Bowers
Mr. Randall Reid
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County.⁶⁷ Therefore, contrary to the Report's conclusion, to the extent Cox's tax computation deviated from the gross-up permitted by the FCC's rules, adjusting the Form 1235 to correct the deviation would increase, rather than decrease, Cox's network upgrade adjustment.

Conclusion

As the foregoing demonstrates, with the exception of an inadvertent error in the embedded revenue adjustment formula in the Form 1235 Cox used to calculate its upgrade costs, which the consultant correctly identified, the Report is premised upon a series of misinterpretations, inaccurate assumptions, and erroneous calculations that are inconsistent with the FCC's governing rate regulations. Indeed, our analysis confirms that Cox actually understated its MPR on the FCC Forms under review. However, because the Report recommends substantial and unwarranted refunds based on incorrect methodologies, Cox is amending its rate filings to include additional costs permitted by the FCC's rules, but is not increasing its actual rates at this time.

Sincerely,



Gary S. Lutzker
Counsel for CoxCom, Inc.

cc: Ms. Audrey W. Lewis
Michael McL. Grover, Esq.
Mr. Michael Giampietro
Mr. Richard Mulligan
Ms. Kathy Grimes

⁶⁷ See revised FCC Forms 1235 attached hereto at Part II. Line 3.h.



RICE, WILLIAMS ASSOCIATES

REPORT ON
REVIEW & ANALYSIS OF FCC FORMs 1240, 1235 & 1205 - 2003
FILED BY
COX COMMUNICATIONS GAINESVILLE/OCALA
FOR
CITY OF GAINESVILLE AND COUNTY OF ALACHUA, FL

April 2, 2004

This is a review of FCC Forms 1240, 1235 & 1205, filed by Cox Communications Gainesville/Ocala ["Cox"] relating to the updating of permitted rates for basic service tier ["BST"] cable programming and cable equipment installation and rental services which are regulated by the City of Gainesville ["City"] and the County of Alachua ["County"] [also referred to jointly as "Franchise Authorities"]. The FCC Form 1240 & 1205 filings were received by the City on May 1, 2003 and by the County on May 2, 2003. The FCC Form 1235 filings were received for review by the Franchise Authorities on or about March 4, 2002. The conclusion of this review is that Cox has not correctly determined its maximum permitted rates for BST cable programming service, equipment installations and rentals or the cable network upgrade surcharge.

Cox's FCC Form 1240 calculations determine a maximum permitted rate ["MPR"] of \$9.3586 per subscriber per month for BST cable programming service in the City, while this review has determined that the MPR should not exceed \$7.8311. Likewise, Cox has determined that the MPR for BST cable programming service in the County should be \$10.6124 while this review yields an MPR of only \$9.1169. Cox has determined that the City & County cable network surcharges should be \$1.8027 & \$1.7422, respectfully, while this review has determined the proper surcharges to be \$1.558 & \$1.5074. Cox did not propose changes to the actual BST rate of \$11.10 per subscriber per month in both the City and County as a result of its FCC Form 1240 and FCC 1235 analyses, but the conclusion of this review is that this rate is too high and should have been lowered as of June 1, 2004. Since that time, the actual BST rate for City subscribers should not have exceeded \$9.63, and the actual BST rate for County subscribers should not have exceeded \$10.86. Assuming 11 months of overcharges if the rates are adjusted by May 1, refunds (before interest) on the order of \$590,000 to City subscribers and some \$62,000 to County subscribers may be required.

Cox also did not propose changes in charges for equipment installations and rentals. This review determined that the FCC Form 1205 also required adjustments and that some of rates that remained in effect last June should have been reduced. Any such rates that exceeded the revised maximum permitted rates are unreasonable.

The following analyses of Cox's filings assume the accuracy of the information supplied by Cox in its filings and in informational responses with respect to Cox's particular costs of providing cable services. No audit of Cox's books and records has been done and none of its system cost assumptions has been checked against any independent sources.

FCC FORM 1240

Pursuant to Federal Communications Commission ("FCC") regulations, cable system operators are permitted to adjust their rates periodically for increases and decreases in costs relating to retransmission consent fees, copyright fees, programming costs, certain cable specific taxes, franchise-related costs, and FCC regulatory fees. On September 15, 1995, the FCC adopted new rules giving regulated cable operators the option of filing for rate adjustments on an annual basis instead of the existing quarterly system embodied in the FCC Form 1210. Subsequently, the FCC issued its instructions and analytical model for the FCC Form 1240 which implements the latest filing rules.

The FCC Form 1240 annual filing system examines a stream of historical costs that have occurred over a period of time, relates this to the revenues actually collected during the same period and computes a monthly adjustment to apply to a future rate. The rate to be charged in a future period is developed based on a projected 12 months of costs and the unit rate adjustment, or "true-up," from the historical period is added to this projected period maximum permitted rate to determine the total maximum permitted rate to be charged for the future 12 months period. Each subsequent annual FCC Form 1240 filing will evaluate a historical, or "True-up Period," and a future, or "Projected Period," as part of the process of establishing a new maximum permitted rate for a future 12 months period. Assuming that an operator correctly tracks and reports historical costs, and makes reasonable estimates regarding future costs, this regulatory scheme should

insure that only the appropriate amounts of revenue, over time, are received by the cable operator.

For its 2003 - 2004 rate year filings, Cox has chosen to establish rates for the "Projected Period" of June 1, 2003, through May 31, 2004. The "True-up Period" chosen by Cox was from January 1, 2002 through December 31, 2002. Pursuant to FCC regulations, maximum permitted rates are determined by separate calculations for each of these two periods. Under the FCC Form 1240, the True-up Period maximum permitted rate is the sum of (1) the prior rate net of prior external costs; (2) an inflation segment; and, (3) the "actual" external costs experienced in that True-up Period. This rate is then utilized to determine the level of revenue that the cable system was entitled to collect in the true-up period. This permitted amount is compared to the "actual" amount collected which is determined by multiplying the average rate charged by the average number of subscribers and by the months in the True-up Period. The difference is an amount that the cable system is permitted to collect (or must refund), with interest, uniformly over the Projected Period.

As the first step in the review and analysis of Cox's filings, the information provided by Cox was incorporated into a specially prepared FCC approved analytical model. The result of this effort was the determination of BST MPRs for the City and County subscribers that closely agreed with Cox's calculations. This demonstrates Cox's correct use of the FCC Form 1240 methodology. However, based upon discussions with the Franchise Authorities and after a review of information supplied by Cox, it was determined that certain franchise related costs were improperly included in the FCC Form 1240 filings.

The FCC rules at 47CFR76.925 provide that franchise requirement costs "may" include cost increases required by a franchise authority. Some of the costs addressed in this section, however, also are governed by the franchise agreement between Cox and the City/County. The detail of external costs associated with franchise requirements was included with Cox's FCC Form 1240 filings for rate years 2000 and 2001, but not with the 2002 or the subject 2003 rate filings. The client staff provided a franchise cost schedule that reconciled these earlier Cox presentations with the level of franchise costs appearing in the 2003 FCC Form 1240 filings. It is noted that there were significant differences between the 2000 and 2001 Cox filings relative to the content and presentation of the franchise costs, and the client staff document manipulated the costs further to achieve the reconciliation to the total figures that Cox included in the subject

FCC Form 1240s. The reasons for these differences are not apparent from the materials presented for review. A letter received from Cox dated February 18, 2004 responded to recent questions raised by City/County staff regarding the origins and justifications for the current level of franchise charges. Utilizing the staff materials and verbal communications and considering Cox's responses, the following discussion sets forth the bases for adjustments made to Cox's FCC 1240 filings:

Customer Service Facility: The franchise agreement does require Cox to establish and maintain an east side customer service facility. FCC rule 47CFR76.925(a)(3) allows the inclusion of such costs, but only to the extent that they exceed federal standards. In this case, Cox has included the full cost of operation of this facility, both building and staffing costs. It is understood that this facility receives some 4,500 customer visits per month which, if it did not exist, would have to be accommodated by increasing staffing and facilities at the customer service facility that Cox maintains pursuant to federal requirements. Accordingly, only the building related costs for the Hawthorne Service Center are properly included in rates. Adjustments to remove the staffing costs and the staff vehicle cost were made.

Beautification Costs: The FCC Form 1240 benchmark rate methodology limits what costs can be included and/or adjusted, and certainly costs incurred by Cox at its own election are not permitted to be included or added to rates for cable services except, perhaps, in the context of a system network upgrade. Cox's response suggests that the so-called beautification cost components are related to the undergrounding of cable facilities at the direction of, or as required by, the City/County. The City/County staff is not aware of any verbal or written requests made to Cox for undergrounding of facilities other than during situations where it was required by the franchise agreement, and Cox has not provided any evidence to support its assertion to the contrary. The franchise agreement provides that the cost of such installations and relocations are to be born by Cox and are not to be included in rates. Moreover, Cox undertook an extensive system network upgrade during the time period that these beautification projects took place and the City/County staff believes that these costs were included in that project for which a rate surcharge is being assessed. Accordingly, the beautification costs were eliminated from the franchise costs.

Educational/Government Access: Cox has included costs for new fiber connections between the City/County's equipment and its facilities on the basis that the franchise agreement requires these connections to conform industry "standards" and that using fiber optics is "standard industry practice." Cox did not provide evidence that the use of fiber optics is an industry "standard" as opposed to being simply industry practice. The use of fiber, while also improving signal quality, has been adopted largely to allow greater bandwidth for the provision of digital and other higher level services. There is no indication that the City/County staff requested such bandwidth expansion over the facilities that originally were installed. The City/County staff believe that the installation of fiber for servicing the City/County equipment was part of Cox's overall system network upgrade and that those costs already are included in the rate surcharge associated with that project. These fiber costs were eliminated from the franchise costs.

Current Inflation Factor: FCC rules permit adjustments to reflect the latest published inflation information when a franchise authority makes material adjustments to an operator's FCC Form 1240 filing. Accordingly, the most recent inflation factor of 1.66% has been utilized on Line C5.

Based upon analyses utilizing the cost adjustments described above, Cox's FCC Form 1240 filings were restated resulting in a revision to the MPR's for BST cable programming services. The revised MPR applicable to City subscribers was determined to be \$7.8311 per month, and the revised MPR applicable to County subscribers was determined to be \$9.1169 per month, in contrast to \$9.3586 and \$10.6124, respectfully, determined by Cox's analyses. Cox also is permitted to apply a surcharge to the FCC Form 1240 rates pursuant to its FCC Form 1235 filing that computed the incremental costs associated with a system network upgrade. The surcharge for City subscribers currently is set at \$1.80 per month and for County subscribers the surcharge is \$1.74 per month. A discussion of adjustments necessary to the FCC Form 1235 filings for the City and County follows this section.

The combination of these surcharges with the FCC Form 1240 MPR provides the not to exceed rates that can be charged to subscribers for BST cable programming services in the Projected Period. These combined amounts, rounded to the nearest cent, are \$9.63 per month for City subscribers and \$10.86 per month for County subscribers. During the Projected Period Cox has been charging subscribers in both the City and

County at the level of \$11.10 per month. This level exceeds the maximum rates allowable and therefore is unreasonable. Subscriber rates should be reduced to the maximum levels stated above for the purpose of determining the level of overcharges that have occurred during the Projected Period. Based on the assumption that the rate reduction can be effected by the beginning of May, refunds on the order of \$590,000 to City subscribers and \$62,000 to County subscribers may be required.

FCC FORM 1235

For equitable reasons and in order to encourage cable system operators to continue to improve services to regulated cable subscribers, the FCC also permits rate adjustments based on a cost of service showing, which, when fully developed, typically is a substantial and time-consuming undertaking for both the operator and the regulatory authority. In the case of incremental, but substantial capital expenditures resulting from improvements such as bandwidth capacity increases, conversion to fiber optics and system rebuilds which could not otherwise be recovered under the benchmark and price cap approaches of the FCC Form 1240 rate adjustment mechanism, the FCC has permitted the use of an abbreviated cost of service presentation to justify charging additional rates. The FCC Form 1235 filing is designed to determine a step increase in rates associated with such system upgrades that meet certain criteria and typically is developed after the upgrade is completed and based on actual costs. While normal improvements and expansions of service are to remain subject to the usual rate review processes [FCC Form 1240], those upgrades that meet the requirements can be accounted for by using the FCC Form 1235 which will determine an incremental add-on rate that is designed to recover the operator's incremental capital and operating costs and provide a reasonable return on the invested capital.

On or about March 4, 2002, Cox provided FCC Form 1235 filings along with the FCC Form 1240 filings for the City and County that were submitted for the 2002 rate year. The filings for both the City and County were similarly prepared. The nature of these filings was ambiguously set forth. They were dated March 1, 2002, marked for "Final Approval" and Question 1 of Section B was answered affirmatively indicating that the upgrades had been completed. However, the response to Question 2 indicates that the upgrades were to be completed and providing services by October, 2002, some 7 months

later than the FCC Form 1235 filing date. The attachment to the FCC Form 1235 that provides some documentation for filing makes the following statements:

The Form 1235 "add-on" portion will only be charged to subscribers receiving benefits of the upgrade. As our upgrade was completed in late October 2001, this is a final approval 1235 form.

The attached Form 1235 is a "Pre-Approval" filing. Therefore, a "Final Approval" Form 1235 will be filed again following the end of the month in which upgraded cable services become available and are providing benefits to all customers of rate-regulated services.

It is not unusual, in fact it is more likely than not, that the final accounting for upgrade costs cannot be completed as soon as the upgraded facilities are providing benefits to subscribers. Accordingly, the FCC permits operators to file for "Pre-Approval" of an FCC Form 1235 upgrade surcharge based estimated information. However, the operator must make a filing for "Final Approval" once actual information becomes available. Given the ambiguity of the nature of Cox's FCC Form 1235 filings, reasonable doubt may have been created as to whether actual or estimated costs were being used. The City/County staff reports that Cox has not filed any subsequent FCC Form 1235s, and that no action was taken on these initial filings. Accordingly, the requested surcharges went into effect.

A review of the FCC Form 1235 filings with respect to Cox's compliance with the FCC approved cost of service methodology now has been completed. Cox's calculations and supporting worksheets were examined and several errors were noted as follows:

Cost Allocation: Notes for the FCC Form 1235 state that allocation of costs to BST is based on bandwidth and that each analog channel uses 6 MHz. The BST after the upgrade contains 20 channels requiring 120 MHz of bandwidth, not the 126 MHz used by Cox. Cox's error increases the allocation of costs to the BST and therefore improperly increases the upgrade surcharge. The allocator has been revised from 16.8% to 16%.

Incremental Revenues: Cox failed to bring incremental revenues forward to summary sheet as a credit [negative value] to costs. This is automatic on the FCC

Cost of Service worksheet, but did not occur with Cox's presentation. Instead, the revenues were brought forward as a cost with the effect of a doubling of revenues treated as a cost which improperly increased the upgrade surcharge. This error has been corrected.

Allowance for Income Taxes: Cox's calculation of income tax allowance does not follow the FCC Cost of Service worksheet and results in an improper increase to the upgrade surcharge. The results have been adjusted to use the FCC method.

These adjustments produce a reduction in the maximum permitted Form 1235 surcharge. The revised surcharge applicable to City subscribers was determined to be \$1.5558 per month, and the revised surcharge applicable to County subscribers was determined to be \$1.5074 per month, in contrast to \$1.8027 and \$1.7422 respectively, determined by Cox's analyses. Accordingly, the maximum system network upgrade surcharge that can be added to the FCC Form 1240 BST rates for cable programming services is the amount of \$1.56 for City subscribers and \$1.51 for County subscribers. The time period for application of these surcharges is limited to the weighted average service life of the upgrade facilities which appears to be approximately 13 years. Since the surcharges first were applied to the BST rates for the 2002 rate year, they must be discontinued after year 2014. It is noted that if Cox does set rates in any one year at a level that allows full surcharge recovery, it is not permitted to make up any such under recovery in any future year.

The combination of these surcharges with the revised FCC Form 1240 MPRs establishes the maximum permitted rates that can be charged to subscribers for BST cable programming services between the date the adjusted rates are confirmed by rate resolutions adopted by the Franchising Authorities and the effective date of the next FCC Form 1240 filings, which presumably would be June 1, 2004. These combined amounts, rounded to the nearest cent, are \$9.39 per month for City subscribers and \$10.62 per month for County subscribers. Accordingly, the continued application of Cox's existing rate of \$11.10 per subscriber per month during this time period would be unreasonable.

The FCC Form 1205 is used to update charges for renting regulated equipment [e.g., remotes and converters], equipment installations [e.g., house wiring, service drops, extra outlets, service tier changes] and the Hourly Service Charge ["HSC"] for service calls. Charges established pursuant to this form are based strictly upon the actual cost of regulated equipment and installations plus a reasonable profit. The financial information utilized in this form is to be derived directly from the operator's general ledger and subsidiary records that are to be maintained in accordance with generally accepted accounting principles. This form is required to be prepared and submitted on an annual basis regardless of whether or not an FCC Form 1240 filing is made. In this case Cox filed the FCC Form 1205 with its annual FCC Form 1240 filing. As permitted by FCC regulations, Cox has chosen to aggregate its equipment costs at the company level, and therefore this FCC Form 1205 filing applies to all systems owned and/or managed by Cox.

As with Cox's FCC Form 1240, this review of Cox's FCC Form 1205 filing assumes the accuracy of the information supplied by Cox from its financial books and records and related sources. No audit of Cox's books and records has been done and none of its system cost assumptions has been checked against any independent sources. Cox state that the development of its costs for inclusion in the FCC Form 1205 is consistent with the methods and aggregation that it employed in prior years. This information has been incorporated into an official FCC analytical model which provides the formulas and format for all the calculations required for preparation and completion of the FCC Form 1205. It appears that Cox's calculations follow the FCC's analytical format and the results shown on the FCC Form 1205 filing made by Cox compare closely with the results obtained from the official FCC analytical model reconstructed with Cox supplied cost data for the purpose of this review.

However, Cox's treatment of certain costs appear to be incorrect and adjustments to Cox's FCC Form 1205 filing have been made. The following is a discussion of these adjustments.

Network Controller: Cox reports that it utilizes a particular device, a network controller, to remotely control the functions of all of its addressable converters which are located on customer premises. The capital costs for this equipment have been included on Schedule A, Column "Other 2" of the FCC Form 1205. Accounting for this capital cost in this way causes the recovery of this cost to

become a portion of every service installation and equipment rental charge by virtue of its inclusion in the hourly service charge. Thus, a subscriber who does not utilize an addressable converter still will be paying a portion of the cost associated with the functioning of the addressable converters. Doing so, he pays for a service that he does not take and this is contrary to established cost of service methodology and technique. As noted below, the FCC rules specifically require adjustments to the hourly service charge for costs that are included on Schedule B but which apply to customer premises equipment. Similarly, the capital costs for the network controller should be removed from Schedule A so as to eliminate the effect on the hourly service charge, and added to the addressable controller capital costs accounted for on Schedule C. This action will limit recovery of the network controller costs only to those subscribers that use addressable controllers, which is the correct cost of service treatment. This reassignment of costs has been incorporated into the FCC Form 1205.

R & M and Commissions - Converters: Cox has included as operating costs on Schedule B, Column "Other 2" of the FCC Form 1205 amounts related to repair and maintenance and commissions associated with converters which are rented to subscribers. While this cost treatment is not prohibited by FCC rules, the rules do provide that adjustments must be made to eliminate the effect that this cost treatment has on the hourly service rate. The FCC instructions for completing the FCC Form 1205 state:

If an expense amount is included on Schedule B for equipment sent out for repair, an appropriate adjustment to the total labor hours reported on this Form must be made. This adjustment adds "equivalent labor hours" to the total company labor hours. This may be calculated, for example, as total costs included on Schedule B for work sent out for repair divided by the average company technician wage rate. The total cost may be recovered by including the average hours in the computation for the appropriate equipment charges computed in Steps C through E. In any case that an amount is included on Schedule B for work sent out for repair, explain all the adjustments made on the Worksheet. This explanation must include the number of hours added on line 6 below as well as a description

of and the number of hours added into the charges developed in Steps C through E.

Cox has included such a cost component on Schedule B, but has not provided any supporting detail on how, or if, the required adjustment was made. The FCC Form 1205 that Cox filed in 2002 included a discussion that appears to conform to the FCC required adjustment. In that filing Cox stated in the "Preparation Documentation" that:

Pursuant to FCC Form 1204 Instructions (June 1996) at page 14 (Note 1), and adjustment to the total labor hours reported on Step A Line 6 was determined by total costs billed from Wyndmoor divided by the average company technician wage rate. The "equivalent labor hours" (82,945) were added to the total company labor hours.

Cox's latest filing simply states that "Additionally, hours previously included for Cox's outside service repair center (Wyndmoor) have been shifted to in-house personnel." As this supporting information does not include reference to the adjustment performed in the prior filing, it is assumed that no adjustment was made in the instant filing.

The FCC Form 1205 has been conformed to the FCC's instructions by the following method. A current proxy for the average technician wage rate was obtained from information supplied with the February 18, 2004 letter previously identified. Therein the annual salary with benefits for two technicians was shown as \$104,192. This amount was divided by 2 and then by 2,080 to yield an average hourly rate of \$25.05. The Schedule B component for repair, maintenance and commissions on converters of \$4,650,873.58 was divided by this average hourly rate to produce 185,692 "equivalent hours." These hours then were added to the total labor hours in Step A as provided for by the FCC Form 1205 instructions.

These adjustments resulted in reductions of the maximum permitted rates allowable for subscriber installation services and equipment rental from the levels determined by Cox's FCC Form 1205 filing. The following schedule provides a comparison of the maximum rates determined by Cox to the rates derived from the above adjustments as well as showing the difference of actual rates charged to the adjusted

maximum permitted rates. The numeric notations describe rate inconsistencies and the situations giving rise to the possibility of overcharges.

	<u>Maximum Permitted Rates</u>			<u>Actual Rates</u>	
	<u>Per Cox</u>	<u>Adjusted</u>	<u>Change</u>	<u>Current</u>	<u>Status</u>
Inst. Unwired Homes	\$57.56	\$52.22	-9.3%	\$48.00	OK
Inst. Prewired Homes	\$32.00	\$29.04	-9.3%	\$30.00	High
Add. Con. Initial	\$30.45	\$27.63	-9.3%	\$21.00	OK
Add. Con. Separate	\$32.60	\$29.58	-9.3%	\$30.00	~High
HDTV installation	\$71.00	\$64.42	-9.3%	No Chg?	?
Remote Type 1	\$0.27	\$0.25	-7.4%	\$0.21	OK
Motorola Side Car	\$11.05	\$10.95	-0.9%	No Chg?	?
Addressable Converter	\$4.30	\$4.25	-1.2%	\$2.99	OK
Non-add. Converter	\$0.49	\$0.48	-2.0%	0.49	~High
HDTV Box	\$10.69	\$10.67	-0.2%	No Chg?	?
PVR Box	\$13.65	\$13.64	-0.1%	\$3.20	OK
Change Tiers	\$1.99	\$1.99	0.0%	\$1.99	OK
Hourly Service Charge	\$51.16	\$46.42	-9.3%	?	High?

Cox did not provide a proposed "rate card" with its filings. It did provide an attachment to the FCC Form 1240 filing that listed the rates that would remain in effect as of June 1, 2004. This schedule of rates did not include charges for equipment and services that were priced out on the system wide FCC Form 1205 that Cox submitted. It is assumed that either this service and equipment is not available to subscribers in the City or County, or that Cox does not charge for such service or equipment. In any event, as noted above, the actual rate and status of such charges cannot be determined.

As with the FCC Form 1240 derived rates for BST cable programming services, any rates for service installations and equipment that exceed the maximum permitted rates during a particular time period are subject to refund. It is important to note that the rates determined by the FCC Form 1205 filing are not trued-up each year as is the case with rates that are determined by the FCC Form 1240 methodology. Thus, there is no process inherent in the FCC Form 1205 rate methodology that will return overcharges to subscribers. Refunds, if appropriate, must be demanded by the Franchise Authorities.

CONCLUSION

The Franchise Authorities should enact rate resolutions that require a reduction of Cox's current BST rate of \$11.60 per subscriber per month to the level of \$9.39 per month for City subscribers and \$10.62 per month for County subscribers. The rate resolution also should establish the 2003 FCC Form 1240 MPRs for the BST at the levels of \$7.8311 for City subscribers and \$9.1169 for County subscribers and require Cox to utilize these respective levels and the associated components as the starting point for its next annual FCC Form 1240 filings for the City and County.

The rate resolutions also should establish the correct FCC Form 1235 system network upgrade surcharge at the level of \$1.56 for City subscribers and \$1.51 for County subscribers, and require that the actual charges for equipment installations and rentals be reduced as necessary so as to not exceed the maximum permitted rates determined by the revised FCC Form 1205 presentation as set forth above.

Finally, Cox should be ordered to account for and prepare a plan to refund revenues, with interest, that it received from subscribers since last June 1, 2003 to the extent that the rates charged for BST cable programming services exceeded the levels of \$9.63 for City subscribers and \$10.86 for County subscribers as well as for rates for equipment installations and rentals that exceeded the maximum levels determined herein.

This refund report and plan should be submitted within 30 days of the adoption of the rate resolutions and must conform to FCC regulations for making refunds.

FCC FORM 1205
DETERMINING REGULATED EQUIPMENT AND INSTALLATION COSTS
EQUIPMENT FORM

Rice Williams Associates Review 2003 Filing *ADJUSTED*
Community Unit Identifier (CUID) of cable s Date of Form Submission (mm/dd/yy)
FL0340 & FL0150 5/1/2003

Name of Cable Operator
COX COMMUNICATIONS
Mailing Address of Cable Operator

City State ZIP Code

Name and Title of person completing this form:

Telephone number Fax Number

Name of Local Franchising Authority
COUNTY OF ALACHUA AND CITY OF GAINESVILLE
Mailing Address of Local Franchising Authority

City State ZIP Code

- 1 This form is being filed: [Enter an "x" in the appropriate box]
In conjunction with FCC Form 1200, FCC Form 1220, or FCC Form 1225
Attach the completed FCC Form 1200, FCC Form 1220, or FCC Form 1225 to the front of this form.
OR
X In order to fulfill FCC rules requiring an annual filing of this form
Enter the date: 5/1/2002 (mm/dd/yy)
Note: This should be the date on which the rates last justified, by using either FCC Form 393 or the prior filing of this form, were in effect.

- 2 Enter the date on which you closed your books for the fiscal year reflected in 12/31/2002 (mm/dd/yy)
Note: This will indicate the end of the 12-month fiscal year for which you are filing this form.

- 3 Indicate the corporate status of your cable system [Enter an "x" in the correct box]
X C-Corporation
Subchapter S corporation
Partnership
Sole Proprietorship
Other [Please explain below]

SCHEDULE A: CAPITAL COSTS OF SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT AND PLANT

	Equipment and Vehicles	Tools	Maintenance Facilities	Other 1. (Specify below)	Other 2. (Specify below)
A	Gross Book Value	\$56,250,734.06	\$7,631,532.43	\$17,126,564.84	\$0.00
B	Accumulated Depreciation	\$28,883,490.49	\$2,252,516.79	\$2,569,618.58	\$0.00
C	Deferred Taxes	\$2,252,524.90	\$44,286.74	(\$330,224.96)	\$0.00
D	Net Book Value	\$25,114,718.67	\$5,334,728.90	\$4,887,171.22	\$0.00
E	Rate of Return	0.1125			
F	Calculation of Gross-up Rate				
G	Federal Income	0.35			
G1	State Income	0.0382			
G2	Net Total Income	0.3748			
G3	Adjustment to Reflect Interest Deductibility				
G4	Actual Interest	\$650,905,520.63			
G4a	Total Net Assets	\$18,904,376,034.59			
G4b	Base Return	\$2,126,742,303.89			
G4c	Interest Deduction	0.3061			
G4d	Effective Tax Rate	0.2601			
G5	Adjustments for Non-C Corporations				
G6	Base Return n/a				
G6a	Distributions				
G6b	Contributions (may not exceed G6b)				
G6c	Returns Sub n/a				
G6d	Returns Per n/a	1.3516			
G6e	Gross-Up Rate	0.152			
G7	Grossed-Up Rate	\$3,818,685.99	\$811,144.05	\$743,093.02	\$0.00
H	Return on Investment	\$11,134,568.35	\$1,381,438.24	\$356,328.24	\$0.00
I	Current Provisions	\$14,953,254.34	\$2,192,582.29	\$1,099,421.26	\$0.00
J	Annual Capital Cost	23,175,435.55			
K	GRAND TOTAL				

Specify: Other 1 Fleetcom, Advantax Mobile Radio
 Specify: Other 2 Network controller for addressable converters [These costs were shifted to Schedule C - Addressable Converter]

SCHEDULE B: ANNUAL OPERATING EXPENSES FOR SERVICE INSTALLATION AND MAINTENANCE OF EQUIPMENT

	Salaries & Benefits	Supplies	Utilities	Other Taxes	Other 1. (Specify below)	Other 2. (Specify below)
A	Annual Op. Exp	\$73,424,117.32	\$2,053,351.35	\$1,512,236.04	\$8,377,258.07	\$33,203,180.79
						\$0.00

B GRAND TOTAL \$118,570,143.57

Box 2.

Specify: Other 1 Auto Operating, Outside Labor, Facilities rent

Specify: Other 2 R&M and Commissions Converters [Per FCC Instructions, this amount was converted to equivalent hours and added to total hours in Step A]

SCHEDULE C: CAPITAL COSTS OF LEASED CUSTOMER EQUIPMENT

Equipment	Remote 1	Remote 2	Motorola Sidecar	Address/Digital Convert	NonAddress Conve	HDTV	PVR
Total Maintenan	3026		1	947372	8547	457	1
Total # of Units	5988334		4	5710472	268440	9306	112
Gross Book Val	\$54,717,031.00			\$1,110,603,546.20	\$9,261,335.57	\$4,222,791.00	\$65,968.00
Accumulated Di	\$35,432,511.00			\$575,900,670.27	\$7,140,516.74	\$703,798.50	\$10,994.67
Deferred Taxes	(\$1,784,046.86)			\$53,621,644.06	(\$207,377.67)	\$448,072.00	\$7,000.00
Net Book Value	\$21,068,566.86			\$481,081,231.87	\$2,328,196.50	\$3,070,920.50	\$47,973.33
Grossed-Up Ra	0.152						
Return on Inves	\$3,203,469.73			\$73,148,267.49	\$354,001.63	\$466,932.61	\$7,294.33
Current Provisic	\$14,310,170.00			\$182,946,430.41	\$862,242.06	\$703,798.50	\$10,994.67
Annual Capital C	\$17,513,639.73			\$256,094,697.90	\$1,216,243.69	\$1,170,731.11	\$18,289.00
GRAND TOTAL	\$276,014,080.52						

Box 3.

SCHEDULE D: AVERAGE HOURS PER INSTALLATION

A	Average Hours per Unwired Home Installation (attach an explanation)	1.125
B	Average Hours per Pre-Wired Home Installation (attach an explanation)	0.6255
C	Average Hours per Additional Connection Installation at Time of Initial Installation (attach an explanation)	0.5951
D	Average Hours per Additional Connection Installation Requiring Separate Installation (attach an explanation)	0.6372
E	Other Installation (by Item Type):	
Item 1.	(1. HDTV Install)	
	Average Hours per Installation (attach an explanation)	1.3877
Item 2.	(Specify)	
	Average Hours per Installation (attach an explanation)	
Item 3.	(Specify)	
	Average Hours per Installation (attach an explanation)	

WORKSHEET FOR CALCULATING PERMITTED EQUIPMENT AND INSTALLATION CHARGES

STEP A. Hourly Service Charge

1	Total Capital Costs of Installation and Maintenance [Schedule A, Box 1]	\$23,175,435.55
2	Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2]	\$118,570,143.57
3	Total Capital Costs and Operating Expenses for Installation and Maintenance [Line 1 + Line 2]	\$141,745,579.12
4	Customer Equipment and Installation Percentage (attach an explanation)	1
5	Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Le	\$141,745,579.12
6	Total Labor Hours for Maintenance and Installation of Customer Equipment and Service	3053486.842 [Includes "Equivalent Hours"]
7	Hourly Service Charge (HSC) (Line 5/Line 6)	\$46.42

METHOD OF BILLING FOR INSTALLATIONS (place an "X" in the appropriate box)

Installations billed by the hour based on the HSC calculated in Line 7.

X Installations billed as a standard charge.

STEP B. Installation Charge

8 Uniform HSC for all installations (From Step A, line 7)

OR

n/a

9 Average Charge for Installation Types

a. Unwired Home Installation

a1. HSC [Line 7]

\$46.42

1.125

a2. Average Hours per Unwired Home Installation (Schedule D,

a3. Charge per Unwired Home Installation [a1 x a2]

\$52.22

b. Pre-wired Home Installation

b1. HSC [Line 7]

\$46.42

0.6255

b2. Average Hours per Pre-wired Home Installation (Schedule D

b3. Charge per Pre-wired Home Installation [b1 x b2]

\$29.04

c. Additional Connection Installation at Time of Initial Installation

c1. HSC [Line 7]

\$46.42

0.5951

c2. Average Hours per Additional Connection Installation at Time

c3. Charge per Additional Connection Installation at Time of Initial Installation [c1 x

\$27.63

d. Additional Connection Installation Requiring Separate Installation

d1. HSC [Line 7]

\$46.42

0.6372

d2. Avg. Hours per Additional Connection Installation Req. Sepa

d3. Charge per Additional Connection Installation Requiring Separate Installation [d1

\$29.58

e. Other Installations (As specified in Schedule D, Line E):

e1. HSC [Line 7]

\$46.42

1.3877

e2. Average Hours per Installation of Item 1 [Schedule D, Line E

e3. Charge per Installation of Item 1 [e1 x e2]

\$64.42

e4. HSC [Line 7]

\$46.42

0

e5. Average Hours per Installation of Item 2 [Schedule D, Line E

e6. Charge per Installation of Item 2 [e4 x e5]

\$0.00

e7. HSC [Line 7]

\$46.42

0

e8. Average Hours per Installation of Item 3 [Schedule D, Line E

e9. Charge per Installation of Item 3 [e7 x e8]

\$0.00

STEP C. Charges for leased Remotes

(Calculate separately for each significantly different type)

10 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]

11 HSC [Line 7]

12 Total Maintenance/Service Cost [Line 10 x Line 11]

13 Annual Capital Costs [Corresponding column from Schedule C, Line K]

a Remote 1

b Remote 2

c Remote 3

3026

\$46.42

\$140,469.62

\$17,513,639.73

0

\$46.42

\$0.00

\$0.00

1

\$46.42

\$46.42

\$479.09

14 Total Cost of Remote [Line 12 + Line 13] \$17,654,109.35 \$525.51
 15 Number of Units in Service [Corresponding column from Schedule C, Line C] 5988334 4
 16 Unit Cost [Line 14/Line 15] \$2.95 \$131.38
 17 Rate per Month [Line 16/(12)] \$0.25 \$10.95

STEP D. Charges for leased Converter Boxes

(Calculate separately for each significantly different type)

	a	b	c
	Converter 1	Converter 2	Converter 3
18 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	947372.4767	8547.3651	457
19 HSC [Line 7]	\$46.42	\$46.42	\$46.42
20 Total Maintenance/Service Cost [Line 18 x 19]	\$43,977,874.25	\$396,776.30	\$21,214.35
21 Annual Capital Costs [Corresponding column from Schedule C, Line K]	\$256,094,697.90	\$1,216,243.69	\$1,170,731.11
22 Total Cost of Converter [Line 20+ Line 21]	\$300,072,572.15	\$1,613,019.99	\$1,191,945.45
23 Number of Units in Service [Corresponding column from Schedule C, Line C]	5710472	268440	9306
24 Unit Cost [Line 22/Line 23]	\$52.55	\$6.01	\$128.08
25 Rate per Month [Line 24/(12)]	\$4.38	\$0.50	\$10.67

STEP E. Charges for Other Leased Equipment

	1
26 Total Maintenance/Service Hours [Corresponding column from Schedule C, Line B]	
27 HSC [Line 7]	\$46.42
28 Total Maintenance/Service Cost [Line 26 x Line 27]	\$46.42
29 Annual Capital Costs [Corresponding column from Schedule C, Line K]	\$18,289.00
30 Total Cost of Equipment [Line 28+ Line 29]	\$18,335.42
31 Number of Units in Service [Corresponding column from Schedule C, Line C]	112
32 Unit Cost [Line 30/Line 31]	\$163.71
33 Rate per Month [Line 32 / (12)]	\$13.64

METHOD OF BILLING FOR CHANGING SERVICE TIERS OR EQUIPMENT [place an "x" in the appropriate box]

x as a Nominal Charge (Enter the nominal charge in Line 34)
 as a Uniform Hourly Service Charge
 as an Average Charge (Enter the Average Hours for Changing Service Tiers in Line 36b.)

STEP F. Charges for Changing Service Tiers or Equipment

34 Nominal Charge for Changing Service Tiers	\$1.99
If you use an escalating scale of charges, place an "x" in the box at the right.	
OR	
35 Uniform Hourly Service Charge	n/a
OR	
36 Average Charge for Changing Service Tiers	\$46.42
36a. HSC [Line 7]	
36b. Average Hours to Change Service Tiers	
36c. Average Charge for Changing Service Tiers [Line 36a x Line 36b]	n/a

WORKSHEET FOR CALCULATING TOTAL EQUIPMENT AND INSTALLATION COSTS

1 Total Capital Costs of Installation and Maintenance [Schedule A, Box 1] \$23,175,435.55
 2 Total Annual Operating Expenses for Installation and Maintenance [Schedule B, Box 2] \$118,570,143.57

3 Total Annual Capital Costs of Installation and Maintenance [Line 1 + Line 2]	\$141,745,579.12	
4 Customer Equipment and Installation Percentage (attach explanation)		
5 Annual Customer Equipment Maintenance and Installation Costs, Excluding Costs of Le [Line 3 x Line 4]	\$141,745,579.12	
6 Total Capital Costs of Leased Customer Equipment (Schedule C, Box 3)	\$276,014,080.52	
7 Annual Customer Equipment and Installation Costs [Line 5 + Line 6]	\$417,759,659.64	
8 Percentage Allocation to Franchise Area (see instructions)		
9 Allocated Annual Equipment and Installation Cost [Line 7 x Line 8]	\$417,759,659.64	
10 Monthly Equipment and Installation Cost [Line 9 / (12)]	\$34,813,304.97	
11 Number of Basic Subscribers in Franchise	6338924	[From 2003 SEC 10K]
12 Monthly Equipment and Installation Cost per Subscriber [Line 10 / Line 11]	\$5.49	
13 Inflation Adjustment Factor [See Instructions]	1	
14 Adjusted Monthly Equipment and Installation Cost per Subscriber [Line 12 x Line 13]	\$5.49	

SUMMARY SCHEDULE

Current Equipment and Installation Rates

1 Charges for Cable Service Installations

a. Hourly Rate [Step A, Line 7] n/a

b. Average Installation Charges:

1. Installation of Unwired Homes [Step B, Line 9a3] \$52.22
2. Installation of Wired Homes [Step B, Line 9b3] \$29.04
3. Installation of Additional Connections at Time of Initial Installa \$27.63
4. Installation of Additional Connections Requiring Separate Insti \$29.58
5. Other Installations (specify) [Step B, Lines 9e3, 9e6, 9e9]
 - a. HDTV \$64.42 NO CHARGE ?
 - b. \$0.00
 - c. \$0.00

2 Monthly Charge for Lease of Remote Controls [Step C, Line 17, columns a-c]

Remote Control Type 1:

Remote Control Type 2:

Motorola Side Car \$0.25

NO CHARGE ? \$0.00

3 Monthly Charge for Lease of Converter Boxes [Step D, Line 25, columns a-c]

Converter Box Type ADDRESSABLE \$4.38

Converter Box Type NON ADDRESSABLE \$0.50

Converter Box Type HDTV \$10.67 NO CHARGE ?

4 Monthly Charge for Lease of Other Equipment [Step E, Line 33]

PVR BOX \$13.64

Charge for Changing Tiers (if any) [Step F, Line 34, 35 or 36c] \$1.99

LABOR COST AND POLICY CHANGES

Indicate your answer to the following three questions by placing an "X" in the appropriate box

1 Have you included the labor costs associated with subscriber cable drops in your charges for initial installation?

YES

NO

X

2. Have you capitalized the labor costs associated with subscriber cable drops?
 YES
 NO

3. If you have filed this form before, have you changed any policy, e.g., cost accounting or cost allocation that causes an increase in the costs included in the computation of equipment and installations charges?
 YES (You must attach a full explanation)
 NO

CERTIFICATION STATEMENT

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of the Cable Operator
 Comcast Cablevision by Joseph C. Lance
 Signature
 Easter Division - Assistant Controller
 Date
 12/23/2003
 Reviewed by Rice Williams Associates

ANALYSIS TO TRANSFER NETWORK CONTROLLER AND CONVERTER R&M COSTS TO CUSTOMER EQUIPMENT

Asset Adjustment			
From Schedule Network Controller	\$1,778,250	Addressable Converter	Add. Conv. + Net. Cont.
Gross Book Val	\$1,385,113	\$1,108,825,296	\$1,110,603,546
Accumulated De	\$574,515,557	\$574,515,557	\$575,900,670
Deferred Taxes	\$5,428	\$53,616,216	\$53,621,644
Current Provisic	\$272,703	\$182,673,728	\$182,946,430

Step A. Adjustment - Total Maintenance Hours

From Schedule B	
R&M Commissi	\$4,650,874
Annual Salary &	\$104,192
Average hourly	\$25.05
Equivalent Hour	185,692

Schedule C. Adjustment - Maintenance Hours

From Schedule Addressable Converter	763,341	Non-Addressable Conv	6,887	Total Converters	770,228
Original Conver	184,031		1,660		185,692
Additional Hours	947,372		8,547		955,920
New Total Hour					

**FCC FORM 1240
 UPDATING MAXIMUM PERMITTED RATES FOR REGULATED CABLE SERVICES
 RWA 2003 REVISED**

Name of Cable Operator CoxCom, Inc d/b/a Cox Communications Gainesville/Ocala		
Mailing Address of Cable Operator		
City	State	ZIP Code

1. Does this filing involve a single franchise authority and a single community unit? YES NO

If yes, complete the franchise authority information below and enter the associated CUID number here:

FL 0150 - City of Gainesville

2. Does this filing involve a single franchise authority but multiple community units? YES NO

If yes, enter the associated CUIDs below and complete the franchise authority information at the bottom of this page:

**REVISED TO REDUCE CERTAIN FRANCHISE COSTS IN THE TRUE-UP AND PROJECTED PERIODS ON WKS 7
 & TO UPDATE LATEST INFLATION FOR LINE C5**

3. Does this filing involve multiple franchise authorities?

If yes, attach a separate sheet for each franchise authority and include the following franchise authority information with its associated CUID(s):

Franchise Authority Information:

Name of Local Franchising Authority Alachua County		
Mailing Address of Local Franchising Authority 12 SE 1 st. Street		
City Gainesville	State FL	ZIP Code 32601
Telephone number 352-374-5226	Fax Number 352-338-7363	

4. For what purpose is this Form 1240 being filed? Please put an "X" in the appropriate box.

- a. Original Form 1240 for Basic Tier
- b. Amended Form 1240 for Basic Tier
- c. Original Form 1240 for CPS Tier
- d. Amended Form 1240 for CPS Tier

5. Indicate the one year time period for which you are setting rates (the Projected Period).

TO (mm/yy)
06/01/03 05/31/04

6. Indicate the time period for which you are performing a true-up.

TO (mm/yy)
01/02/02 12/31/02

7. Status of Previous Filing of FCC Form 1240 (enter an "x" in the appropriate box)

- a. Is this the first FCC Form 1240 filed in any jurisdiction? YES NO
- b. Has an FCC Form 1240 been filed previously with the FCC? YES NO

If yes, enter the date of the most recent filing: 04/18/97 (mm/dd/yy)

- c. Has an FCC Form 1240 been filed previously with the Franchising Authority? YES NO

If yes, enter the date of the most recent filing: 03/01/02 (mm/dd/yy)

8. Status of Previous Filing of FCC Form 1210 (enter an "x" in the appropriate box)

an FCC Form 1210 been previously filed with the FCC?

YES	NO
X	

If yes, enter the date of the most recent filing:

10/01/95	(mm/dd/yy)
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b. Has an FCC Form 1210 been previously filed with the Franchising Authority?

YES	NO
X	

If yes, enter the date of the most recent filing:

10/01/95	(mm/dd/yy)
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9. Status of FCC Form 1200 Filing (enter an "x" in the appropriate box)

a. Has an FCC Form 1200 been previously filed with the FCC?

YES	NO
X	

If yes, enter the date filed:

08/14/94	(mm/dd/yy)
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b. Has an FCC Form 1200 been previously filed with the Franchising Authority?

YES	NO
X	

If yes, enter the date filed:

08/14/94	(mm/dd/yy)
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10. Cable Programming Services Complaint Status (enter an "x" in the appropriate box)

a. Is this form being filed in response to an FCC Form 329 complaint?

YES	NO
	X

If yes, enter the date of the complaint:

	(mm/dd/yy)
--	------------

11. Is FCC Form 1205 Being Included With This Filing

YES	NO
X	

12. Selection of "Going Forward" Channel Addition Methodology (enter an "x" in the appropriate box)

Check here if you are using the original rules [MARKUP METHOD].

Check here if you are using the new, alternative rules [CAPS METHOD].

If using the CAPS METHOD, have you elected to revise recovery for channels added during the period May 15, 1994 to Dec. 31, 1994?

YES	NO

13. Headend Upgrade Methodology

Operators must certify to the Commission their eligibility to use this upgrade methodology and attach an equipment list and Depreciation schedule.

Check here if you are a qualifying small system using the streamlined headend upgrade methodology.

Part I: Preliminary Information

Module A: Maximum Permitted Rate From Previous Filing

Line	Line Description	a Basic	b Tier 1	c Tier 3	d Tier 4	e Tier 5
A1	Current Maximum Permitted Rate	\$9,797.1				

Module B: Subscribership

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
B1	Average Subscribership For True-Up Period 1	32,564				
B2	Average Subscribership For True-Up Period 2					
B3	Estimated Average Subscribership For Projected Period	36,489				

Module C: Inflation Information

Line	Line Description				
C1	Unclaimed Inflation: Operator Switching From 1210 To 1240				1.0000
C2	Unclaimed Inflation: Unregulated Operator Responding to Rate Complaint				1.0000
C3	Inflation Factor For True-Up Period 1 [Wks 1]				1.0131
C4	Inflation Factor For True-Up Period 2 [Wks 1]				
C5	Current FCC Inflation Factor				1.0166

Module D: Calculating the Base Rate

Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
Current Headend Upgrade Segment					
D2 Current External Costs Segment	\$1,7685				
D3 Current Caps Method Segment					
D4 Current Markup Method Segment	\$0,0700				
D5 Current Channel Movement and Deletion Segment					
D6 Current True-Up Segment	\$0,4782				
D7 Current Inflation Segment	\$0,1661				
D8 Base Rate (A1-D1-D2-D3-D4-D5-D6-D7)	\$7,3143				

**Part II: True-Up Period
Module E: Timing Information**

Line	Line Description		
E1	What Type of True-Up Is Being Performed? (Answer "1", "2", or "3" See Instructions for a description of these types.) If "1", go to Module I. If "2", answer E2 and E3. If "3", answer E2, E3, E4, and E5.		2
E2	Number of Months in the True-Up Period 1		12
E3	Number of Months between the end of True-Up Period 1 and the end of the most recent Projected Period		5
E4	Number of Months in True-Up Period 2 Eligible for Interest		0
E5	Number of Months True-Up Period 2 Ineligible for Interest		0

Module F: Maximum Permitted Rate For True-Up Period 1

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
F1	Caps Method Segment For True-Up Period 1 (Wks 2)					
F2	Markup Method Segment For True-Up Period 1 (Wks 3)	\$0,0700				
F3	Chan Mvmnt Deleat Segment For True-Up Period 1 (Wks 4/5)					
F4	True-Up Period 1 Rate Eligible For Inflation (D8+F1+F2+F3)	\$7,3843				
F5	Inflation Segment for True-Up Period 1 ((F4*C5)-F4)	\$0,0969				
F6	Headend Upgrade Segment For True-Up Period 1 (Wks 0)					
F7	External Costs Segment For True-Up Period 1 (Wks 7)	\$0,8230				
F8	True-Up Segment For True-Up Period 1	\$0,4590				
F9	Max Perm Rate for True-Up Period 1 (F4+F5-F6-F7-F8)	\$8,7633				

Module G: Maximum Permitted Rate For True-Up Period 2

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
G1	Caps Method Segment For True-Up Period 2 (Wks 2)					
G2	Markup Method Segment For True-Up Period 2 (Wks 3)					
G3	Chan Mvmnt Deleat Segment For True-Up Period 2 (Wks 4/5)					
G4	TU Period 2 Rate Eligible For Inflation (D8-F5-G1-G2-G3)					
G5	Inflation Segment for True-Up Period 2 ((G4*C4)-G4)					
G6	Headend Upgrade Segment For True-Up Period 2 (Wks 0)					
G7	External Costs Segment For True-Up Period 2 (Wks 7)					
G8	True-Up Segment For True-Up Period 2					
G9	Max Perm Rate for True-Up Period 2 (G4+G5-G6-G7+G8)					

Module H: True-Up Adjustment Calculation

Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
Adjustment For True-Up Period 1					
H1 Revenue From Period 1	\$3,674,847.4000				
H2 Revenue From Max Permitted Rate for Period 1	\$3,424,413.2939				
H3 True-Up Period 1 Adjustment (H2-H1)	(\$250,434.1061)				
H4 Interest on Period 1 Adjustment	(\$26,486.3415)				
Adjustment For True-Up Period 2					
H5 Revenue From Period 2 Eligible for Interest					
H6 Revenue From Max Perm Rate for Period 2 Eligible For Interest					
H7 Period 2 Adjustment Eligible For Interest (H6-H5)					
H8 Interest on Period 2 Adjustment (See instructions for formula)					
H9 Revenue From Period 2 Ineligible for Interest					
H10 Revenue From Max Perm Rate for Period 2 Ineligible for Interest					
H11 Period 2 Adjustment Ineligible For Interest (H10-H9)					
Total True-Up Adjustment					
H12 Previous Remaining True-Up Adjustment					
H13 Total True-Up Adjustment (H3+H4+H7+H8+H11+H12)	(\$276,920.4476)				
H14 Amount of True-Up Claimed For This Projected Period	(\$276,920.4476)				
H15 Remaining True-Up Adjustment (H13-H14)	\$0.0000				

**Part III: Projected Period
Module I: New Maximum Permitted Rate**

Line	Line Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
11	Caps Method Segment For Projected Period (Wks 2)					
17	Markup Method Segment For Projected Period (Wks 3)	\$0.0700				
	Chan Mvmt Deletn Segment For Projected Period (Wks 4/5)					
	Proj. Period Rate Eligible For Inflation (D8+FS+G5+I1+I2+I3)	\$7.4812				
15	Inflation Segment for Projected Period ((I4*CS)-I4)	\$0.1242				
16	Headend Upgrade Segment For Projected Period (Wks 6)					
17	External Costs Segment For Projected Period (Wks 7)	\$0.8582				
18	True-Up Segment For Projected Period	(\$0.6324)				
19	Max Permitted Rate for Projected Period (I4+I5+I6+I7+I8)	\$7.3311				
110	Operator Selected Rate For Projected Period	\$9.2600				

Certification Statement

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503). I certify that the statements made in this form are true and correct to the best of my knowledge and belief, and are made in good faith.

Signature	Date
FAYE EDEN HILL DIRECTOR RATE REGULATION	APRIL 29, 2003
RWA Recheck	
Telephone number	Fax Number

**FCC FORM 1240
 UPDATING MAXIMUM PERMITTED RATES FOR REGULATED CABLE SERVICES
 RWA 2003 REVISED**

Name of Cable Operator CoxComm, Inc d/b/a Cox Communications Gainesville/Ocala		
Mailing Address of Cable Operator		
City	State	ZIP Code

1. Does this filing involve a single franchise authority and a single community unit? YES NO
X

If yes, complete the franchise authority information below and enter the associated CUID number here: FL 0340 - County of Alachua YES NO
X

2. Does this filing involve a single franchise authority but multiple community units? YES NO
X

If yes, enter the associated CUIDs below and complete the franchise authority information at the bottom of this page:
REVISED TO REDUCE CERTAIN FRANCHISE COSTS IN THE TRUE-UP AND PROJECTED PERIODS ON WKS 7
 & TO UPDATE LATEST INFLATION FOR LINE C5

3. Does this filing involve multiple franchise authorities?
 If yes, attach a separate sheet for each franchise authority and include the following franchise authority information with its associated CUID(s):

Franchise Authority Information:

Name of Local Franchising Authority Alachua County		
Mailing Address of Local Franchising Authority 12 SE 1 st. Street		
City	State	ZIP Code
Gainesville	FL	32601
Telephone number	Fax Number	
352-374-5226	352-338-7363	

4. For what purpose is this Form 1240 being filed? Please put an "X" in the appropriate box.

a. Original Form 1240 for Basic Tier	X
b. Amended Form 1240 for Basic Tier	
c. Original Form 1240 for CPS Tier	
d. Amended Form 1240 for CPS Tier	

5. Indicate the one year time period for which you are setting rates (the Projected Period). (mm/yy)

06/01/03	TO	05/31/04
----------	----	----------

6. Indicate the time period for which you are performing a true-up. (mm/yy)

01/02/02	TO	12/31/02
----------	----	----------

7. Status of Previous Filings of FCC Form 1240 (enter an "X" in the appropriate box)

a. Is this the first FCC Form 1240 filed in any jurisdiction? YES NO
X

b. Has an FCC Form 1240 been filed previously with the FCC? YES NO
X
 If yes, enter the date of the most recent filing: 04/18/97 (mm/dd/yy)

c. Has an FCC Form 1240 been filed previously with the Franchising Authority? YES NO
X
 If yes, enter the date of the most recent filing: 03/01/02 (mm/dd/yy)

States of Previous Filing of FCC Form 1210 (enter an "x" in the appropriate box)

1. FCC Form 1210 been previously filed with the FCC? YES NO
 If yes, enter the date of the most recent filing: 10/01/94 (mm/dd/yy)

Has an FCC Form 1210 been previously filed with the Franchising Authority? YES NO
 If yes, enter the date of the most recent filing: 10/01/94 (mm/dd/yy)

2. States of FCC Form 1200 Filing (enter an "x" in the appropriate box)
 Has an FCC Form 1200 been previously filed with the FCC? YES NO
 If yes, enter the date filed: 08/14/94 (mm/dd/yy)

Has an FCC Form 1200 been previously filed with the Franchising Authority? YES NO
 If yes, enter the date filed: 08/14/94 (mm/dd/yy)

3. Cable Programming Services Complaint Status (enter an "x" in the appropriate box)
 Is this form being filed in response to an FCC Form 329 complaint? YES NO
 If yes, enter the date of the complaint: (mm/dd/yy)

4. Is FCC Form 1205 Being Included With This Filing

5. Selection of "Going Forward" Channel Addition Methodology (enter an "x" in the appropriate box)

Check here if you are using the original rules [MARKUP METHOD].
 Check here if you are using the new, alternative rules [CAPS METHOD].
 If using the CAPS METHOD, have you elected to revise recovery for channels added during the period May 15, 1994 to Dec. 31, 1994? YES NO

6. Headend Upgrade Methodology

*NOTE: Operators must certify to the Commission their eligibility to use this upgrade methodology and attach an equipment list and depreciation schedule.
 Check here if you are a qualifying small system using the streamlined headend upgrade methodology.

Part I: Preliminary Information
Module A: Maximum Permitted Rate From Previous Filing

Line Description	Maximum Permitted Rate				
	a Base	b Tier 1	c Tier 3	d Tier 4	e Tier 5
1	\$10,59871				

Module B: Subscriberhip

Line	Line Description	Subscriberhip				
		a Base	b Tier 1	c Tier 3	d Tier 4	e Tier 5
B1	Average Subscriberhip For True-Up Period 1	25,219				
B2	Average Subscriberhip For True-Up Period 2					
B3	Estimated Average Subscriberhip For Projected Period	23,154				

Module C: Inflation Information

Line	Line Description	Inflation Factor
C1	Unclassified Inflation: Operator Switches From 1210 To 1240	1.0000
C2	Unclassified Inflation: Unregulated Operator Responding to Rate Computations	1.0000
C3	Inflation Factor For True-Up Period 1 (Wkt 1)	1.0131
C4	Inflation Factor For True-Up Period 2 (Wkt 1)	1.0166
C5	Current FCC Inflation Factor	

Module D: Calculating the Base Rate

Line	Description	a Basic	b Tier 1	c Tier 2	d Tier 4	e Tier 5
	Current Headend Upgrade Segment					
2	Current External Costs Segment	\$1,4871				
3	Current Caps Method Segment					
4	Current Markup Method Segment	\$0,0700				
15	Current Channel Movement and Deflection Segments					
16	Current True-Up Segment	\$0,8969				
17	Current Inflation Segment	\$0,1808				
18	Base Rate (A1-D1-D2-D3-D4-D5-D6-D7)	\$7,9639				

**Part II: True-Up Period
Module E: Timing Information**

Line	Description	1	2
21	What Type of True-Up is Being Performed? (Answer "1", "2", or "3". See instructions for a description of these types.) If "1", go to Module L. If "2", answer E2 and E3. If "3", answer E2, E3, E4, and E5.		
E2	Number of Months in the True-Up Period 1		
E3	Number of Months between the end of True-Up Period 1 and the end of the most recent Projected Period		
E4	Number of Months in True-Up Period 2 Eligible for Interest		
E5	Number of Months True-Up Period 2 Ineligible for Interest		

Module F: Maximum Permitted Rate For True-Up Period 1

Line	Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
F1	Caps Method Segment For True-Up Period 1 (Wks 2)					
F2	Markup Method Segment For True-Up Period 1 (Wks 1)	\$0,0700				
F3	Class Movement Deflect Segment For True-Up Period 1 (Wks 4/5)					
F4	True-Up Period 1 Rate Eligible for Inflation (D8+F1+F2+F3)	\$8,0339				
F5	Inflation Segment for True-Up Period 1 ((F4*C3)-F4)	\$0,1024				
F6	Headend Upgrade Segment For True-Up Period 1 (Wks 6)					
F7	External Costs Segment For True-Up Period 1 (Wks 7)	\$0,7717				
F8	True-Up Segment For True-Up Period 1	\$0,9304				
	Max Perms Rate for True-Up Period 1 (F4+F5+F6+F7+F8)	\$9,8613				

Module G: Maximum Permitted Rate For True-Up Period 2

Line	Description	a Basic	b Tier 2	c Tier 3	d Tier 4	e Tier 5
G1	Caps Method Segment For True-Up Period 2 (Wks 2)					
G2	Markup Method Segment For True-Up Period 2 (Wks 1)					
G3	Class Movement Deflect Segment For True-Up Period 2 (Wks 4/5)					
G4	TU Period 2 Rate Eligible for Inflation (D8+F3+G1+G2+G3)					
G5	Inflation Segment for True-Up Period 2 ((G4*C4)-G4)					
G6	Headend Upgrade Segment For True-Up Period 2 (Wks 6)					
G7	External Costs Segment For True-Up Period 2 (Wks 7)					
G8	True-Up Segment For True-Up Period 2					
G9	Max Perms Rate for True-Up Period 2 (G4+G5+G6+G7+G8)					

Module H: True-Up Adjustment Calculation

Line Description	a Basic	b Tier 1	c Tier 2	d Tier 4	e Tier 5
For True-Up Period 1					
Revenue From Period 1	\$2,987,190.5500				
Revenue From Max Permitted Rate for Period 1	\$2,984,263.41861				
True-Up Period 1 Adjustment (H2-H1)	(\$2,327.1314)				
Interest on Period 1 Adjustment	(\$299.0023)				
For True-Up Period 2					
Revenue From Period 2 Eligible for Interest					
Revenue From Max Perm Rate for Period 2 Eligible For Interest					
Period 2 Adjustment Eligible For Interest (H6-H5)					
Interest on Period 2 Adjustment (See instructions for formula)					
Revenue From Period 2 Ineligible for Interest					
0 Revenue From Max Perm Rate for Period 2 Ineligible for Interest					
1 Period 2 Adjustment Ineligible For Interest (H10-H9)					
Total True-Up Adjustment					
2 Previous Remaining True-Up Adjustment					
3 Total True-Up Adjustment (H3+H4+H7+H8+H11+H12)	(\$3,126.1336)				
4 Amount of True-Up Charged For This Projected Period	(\$3,126.1336)				
5 Remaining True-Up Adjustment (H13-H14)	\$0.0000				

**Part III: Projected Period
Module I: New Maximum Permitted Rate**

Line	Line Description	a Basic	b Tier 1	c Tier 2	d Tier 4	e Tier 5
1	Case Method Segment For Projected Period (Wks 2)					
2	Mortgage Method Segment For Projected Period (Wks 3)	\$0.0700				
3	Class Mortgage Delerm Segment For Projected Period (Wks 4-5)					
4	Proj. Period Rate Eligible For Inflation (D8+F5+G3+H1+H2+U)	\$8.1393				
5	Inflation Segment for Projected Period ((I4*CS)-I4)	\$0.1331				
6	Homebased Upgrade Segment For Projected Period (Wks 6)	\$0.8537				
7	External Costs Segment For Projected Period (Wks 7)	(\$0.0112)				
8	True-Up Segment For Projected Period	\$9.1169				
	Max Permitted Rate for Projected Period (I4+I5+H6+H7+H8)	\$10.6100				
	Current Selected Rate For Projected Period					

Certification Statement

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Signature	Date
PAYE EDEN HILL, DIRECTOR RATE REGULATION	APRIL 29, 2003
Revised By Rice Williams March 31, 2004	
Telephone number	Fax Number

Worksheet 1 - True-Up Period Inflation

See Appendix A of Instructions For FCC Form 1240

Line	Period	FCC Inflation Factor
101	Month 1 JANUARY 2002	1.21%
102	Month 2	1.21%
103	Month 3	1.21%
104	Month 4	1.24%
105	Month 5	1.24%
106	Month 6	1.24%
107	Month 7	1.02%
108	Month 8	1.02%
109	Month 9	1.02%
110	Month 10	1.78%
111	Month 11	1.78%
112	Month 12 DECEMBER 2002	1.78%
113	Average Inflation Factor for True-Up Period 1	1.0131
114	Month 13	
115	Month 14	
116	Month 15	
117	Month 16	
118	Month 17	
119	Month 18	
120	Month 19	
121	Month 20	
122	Month 21	
123	Month 22	
124	Month 23	
125	Month 24	
126	Average Inflation Factor for True-Up Period 2	