STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888

IN RE: RULES GOVERNING COMMUNITY : ANTENNA TELEVISION SYSTEMS : Docket No. D-2006-C-8

REPORT AND ORDER

I. INTRODUCTION

On July 14, 2006, Title 16, Chapter 61, an amendment to Section 6 and a new Section 6.2 of the Rhode Island General Laws became law in the State of Rhode Island. G.L. § 16-61-6.2(b) affords existing Rhode Island Community Antenna Television ("CATV") operators an opportunity to transfer their public, education and government ("PEG") access and Interconnect operations to the Rhode Island Public Telecommunications Authority ("RIPTA"). The statute's amendments also expand RIPTA's authority to enable the nonprofit entity or its designee to purchase these assets, and vest the Division with regulatory authority over RIPTA's PEG and Interconnect operations, once a transfer has been made to RIPTA. G.L. § 16-61-6(a)(21) and § 16-61-6.2(a). Lastly, among other provisions, the statute affords existing CATV operators the right to elect to retain their respective PEG access and Interconnect operations if they so choose. G.L. § 16-61-6.2(e). CATV operators that make such an election may

transfer their PEG and Interconnect operations to RIPTA at any subsequent time in the future. Id.

During the past year, two events have marked Rhode Island's CATV landscape that has given impetus to the enactment of G.L. § 16-61-6 and § 16-61-6.2. First, early in 2006, Verizon New England, Inc., d/b/a Verizon Rhode Island ("Verizon") filed an application for a Compliance Order Certificate in Service Area 6. In its application, Verizon requested the Division to waive certain PEG and institutional network ("I-Net") requirements. Secondly, CoxCom, Inc., d/b/a Cox Communications ("Cox") communicated to the Cable Section the Company's desire to shed its PEG, I-Net and Interconnect obligations.

The former event raised the likelihood that a well financed, facilities based competitor would commence offering cable video programming to a significant portion of Rhode Island in the not-to-distant future. The latter event suggested the need to revise the regulatory landscape in order to ensure continued PEG, I-Net and Interconnect operations in the new competitive environment, all the while maintaining a "level-playing field" for incumbents and competitors alike as required by G.L. § 39-19-3.

II. TRAVEL OF CASE

Pursuant to its obligations under G.L. § 16-61-6 and § 16-61-6.2, the Division of Public Utilities and Carriers ("Division") instructed its Cable Section to prepare a draft set of amendments to the agency's Rules Governing Community Antenna Television Systems, as most recently amended in

February of 2005 ("Cable Rules"). The Cable Section circulated the proposed amendments to interested parties on October 18, 2006, along with a solicitation for comments on or before October 30, 2006.

Between October 18, 2006 and October 30, 2006, the Cable Section received comments from Cox, Verizon, Full Channel TV, Inc. ("FCTV"), Thomas Chinigo and Seymour Glantz. The Cable Section incorporated many of these entities' and individuals' comments into a second draft of the Cable Rules, which, in turn, was forwarded to interested parties for review and comment on November 1, 2006 (hereinafter referred to as the "November 1, 2006 Draft").

On October 31, 2006, the Division formally established Docket No. 2006-C-8. The Division posted the November 1, 2006 Draft on the agency's website, assigned a hearing officer to conduct a rulemaking proceeding in accordance with the requirements and procedures delineated in G.L. § 42-35-3 and § 42-35-6 and Rule 13(b) of the Division's Rules of Practice and Procedure, and issued a notice of rulemaking dated November 2, 2006.

On November 16, 2006, Verizon filed written comments with the Division regarding the November 1, 2006 Draft. In its written comments, Verizon expressed concern with two of the proposed revisions. First, Verizon proposed that the Division "insert a new sub-section (c) in Section 18.2," consisting of the following language:

> The Division may adjust the amount of the PEG access and Interconnect fee provided for in Section 18.2(b), not more than once annually, following public hearing and notice to RIPTA, all CATV Operators and others as provided in Section 12 of the Division's Rules of Practice and Procedure, and upon a finding that an adjustment is appropriate in light of the prudent and reasonable expenses incurred, or projected to be incurred, by

> RIPTA in operating and maintaining PEG access facilities, playback equipment, and Interconnect equipment as required and allowed by these Rules.

Verizon Comments at 2. According to Verizon, this language "provides at least minimal procedural rights and safeguards for all parties whose interests would be affected by a change in the fee and provides a reasonable standard to guide the Division in determining the appropriateness of any proposed change…" Verizon Comments at 2.

Second, in its written comments, Verizon expressed concern that Section 7.2(a)-(c) and (e) "overstep[ped] the Division's legal authority to regulate cable systems in Rhode Island" and was "inapplicable to Verizon RI's FTTP[1] Network." Verizon Comments at 2-3.

Pursuant to the Notice dated November 2, 2006, published in the Providence Journal, the Division conducted a public hearing regarding the proposed revisions to the Cable Rules on November 17, 2006. The hearing took place in the Division's hearing room, at 89 Jefferson Boulevard in Warwick, Rhode Island. The following counsel entered appearances on behalf of their respective principals:

For the Cable Section:	Leo J. Wold Spec. Asst. Attorney General
For Cox:	Alan D. Mandl, Esq.
For FCTV:	William C. Maiaa, Esq.
For Verizon:	Alexander W. Moore Assoc. General Counsel – N.E.

[1] i.e., fiber to the premises.

At the hearing, the Cable Section made a brief opening statement, and introduced the November 1, 2006 Draft in evidence as Cable Section Exhibit 1. Transcript dated November 17, 2006, at 3-9. The Cable Section, through counsel, further agreed to recommend that the Division adopt Verizon's proposed subsection (c) to Section 18.2. Transcript dated November 17, 2006, at 8, and agreed to work out mutually acceptable language to Section 7.2. Transcript dated November 17, 2006, at 8-9.

Verizon made a brief opening statement that reiterated the substance of its written comments. Transcript dated November 17, 2006, at 9-11.

Cox, through public comment provided by its Vice President of Government and Public Affairs, John Wolfe, stated that Cox "shared the same concern that Verizon ha[d] concerning the impact on ratepayers and customers going forward," and believed that Verizon's "language [concerning Section 18.2(c)] looks good . . . in terms of making sure that there is at least some degree of stakeholder oversight and Division oversight of any increases in funds." Transcript dated November 17, 2006, at 13. Other than this one proposed change, Mr. Wolfe opined that, "if these rules go forward pretty much as they've been developed . . . we think that in terms of public access and in terms of the video obligations for the B cable that those level playing field concerns have been addressed." Transcript dated November 17, 2006, at 14.

FCTV had not reviewed the November 1, 2006 Draft even though that document had been posted on the Division's website for two weeks and had

been e-mailed to FCTV's Chief Executive Officer and legal counsel.[2] FCTV, therefore, was not prepared to address any of the proposed revisions contained in that draft. Transcript dated November 17, 2006, at 11-12.

Only one member of the public—Thomas Chinigo—provided comment regarding the proposed revisions to the Cable Rules at the November 17, 2006 hearing. Mr. Chinigo, too, had not taken the opportunity to review the November 1, 2006 Draft on the Division's website in the intervening period between November 2, 2006 and the hearing date. Transcript dated November 17, 2006, at 15. Nonetheless, four of his comments raise issues that require further discussion.

According to Mr. Chinigo, Cox was participating in the Amber Alert system "voluntarily;" however, the Cable Rules do not contain any section requiring all cable providers to participate in this system. Without offering any specific language, Mr. Chinigo proposed that the Division promulgate a rule making Amber Alert system participation mandatory. Transcript dated November 17, 2006, at 16.

Secondly, Mr. Chinigo was concerned that the Cable Section had proposed to strike language requiring cable operators to provide "free drops to qualifying buildings." Transcript dated November 17, 2006, at 16.[3] Mr.

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[2] On October 26, 2006, FCTV observed in written comments forwarded to the Cable Section that FCTV "would not transfer its studio since it is part of [FCTV's] business office building," FCTV suggested that the term "studio," in Section 18.1 should mean, where applicable, the "operation of PEG access facilities," so as not to bar FCTV from taking advantage of its rights under G.L. § 16-61-6.2.

[3] The proposed stricken language provides as follows: "A standard installation for both Residential and Institutional Networks shall be provided to each institution designated for inclusion in that network at the Certificate holder's expense." November 1, 2006 Draft, Section 7.3(a) of the Cable Rules.

Chinigo believed this proposed revision adversely impacted a right that subscribers possess under the existing rules, and thus, proposed that the language "be retained." Transcript dated November 17, 2006, at 17.

A third concern conveyed by Mr. Chinigo relates to Section 15.1(f)(7). According to Mr. Chinigo, "there's language in there regarding the advisory committee identifying the non-profits that would qualify . . . [for] free cable service."[4] Transcript dated November 17, 2006, at 17. Deleting the existing language of the rule, Mr. Chinigo believed, adversely circumscribes the authority of the advisory committee. Accordingly, Mr. Chinigo proposed that the Division "reinstate" the crossed out language "under the new rule changes." Transcript dated November 17, 2006, at 17.

Lastly, Mr. Chinigo opined that the Cable Section erroneously proposes to strike Section 7.4(d)[5] from the existing rules. That section provides that "[e]ach Certificate holder shall pay its proportionate share of capital and operating expenses to the Interconnect. Such shares shall be determined by the terms of the contract between the system operators, the Interconnect and the Administrator." Transcript dated November 17, 2006, at 18. According to Mr. Chinigo, "subscribers to Verizon or Cox would see a portion of their monthly cable bill go to pay for the [I]nterconnect whereas subscribers to the third cable operator would not." Transcript dated November 17, 2006, at 18.

[4] In its current form, Section 15.1(f)(7) authorizes each Service Area Citizens' Advisory Committee, "to recommend to the Administrator, in consultation with the [C]ertificate holder and affected agencies, which public buildings and non profit organization buildings within the Service Area should be connected to the Institutional Network and/or receive free residential service."

[5] Section 7.4(d) of the existing Cable Rules erroneously appears as Section 7.4(c). Since Section 7.4(d) will be deleted in its entirety in the revised Cable Rules, this typographical error does not require further correction.

This in turn would create an unlevel playing field, which is contrary to G.L. § 39-19-3. Transcript dated November 17, 2006, at 18. Mr. Chinigo, therefore, recommended that the Division retain the stricken language.

On November 21, 2006, Verizon suggested that the Division substitute the following proffered language for Section 7.2, as that rule appears in the November 1, 2006 Draft:

> All CATV Systems in Rhode Island shall meet the following minimum standards:
>
> (a) be capable of providing a minimum of seventy-five (75) television channels to all residential subscribers; and
>
> (b) possess stand-by powering.

The language purportedly revises Section 7.2 to render the entire section in conformity with the company's assessment of the Division's proper "legal authority to regulate cable systems in Rhode Island" and Verizon's Rhode Island FTTP network. The Cable Section duly transmitted the proposed language to the Division.

On or about the same date, Verizon also orally communicated one further suggestion to the Cable Section: ensure consistency between Section 14.1(c) and Section 7.4(b) in terms of when cable operators must render specially designated channels operational in their systems. Again, the Cable Section duly transmitted Verizon's concern to the Division.[6]

[6] Between November 1 and November 16, 2006, the Cable Section received one further proposed revision to the November 1, 2006 Draft. As the Cable Section observed at the hearing, the word "applications" in Section 3.4(b)(10) is a typographical error, and should appear as the word "amplifications." Transcript dated November 17, 2006, at 6. This recommended revision is adopted without further discussion.

III. FINDINGS

The Division has reviewed the November 1, 2006 Draft as filed and has further carefully considered each of following proposed revisions: (a) Verizon's proposed language for Sections 7.2 and 18.2, as well as the company's concern regarding consistency between Sections 7.4(b) and 14.1(c); (b) FCTV's request for further clarification of Section 18.1; and (c) the concerns raised by Mr. Chinigo regarding a mandatory Amber Alert System rule, as well as language that the Cable Section proposes to strike in Sections 7.3(a), 15.1(f)((7) and 7.4(d) of the existing Cable Rules.

A. SECTION 18.2(c)

The Cable Section, Verizon and Cox all agree to the additional subsection that Verizon proposes to add to Section 18.2. See Transcript dated November 17, 2006, at 8 and 14. Neither FCTV nor any member of the public has offered any opposition to the proposed supplemental language. The Division finds that subsection (c) does nothing more than reflect the existing processes and standards that are already in place for determining the frequency and merit of a requested rate increase and for providing notice to interested parties. Accordingly, the Division adopts Section 18.2(c) as proposed by Verizon.

B. SECTIONS 7.2(a), 7.2(b), 7.2(c) AND 7.2(e)

As proposed by the Cable Section, 7.2(a) and (b) require Rhode Island CATV operators to "use electronic equipment of at least 750 MHz capability" and "possess underlying distribution plant (not electronics with the capacity of

at least 1 GHz)." See Cable Section Exhibit 1 at 28. In proposing alternative language to Section 7.2(a) and (b), Verizon contends that these two rules "are inapplicable to Verizon RI's cable system." Verizon explains that "passive optical signals cannot be expressed in megahertz or gigahertz," and additionally may be interpreted to "prohibit, condition or restrict a cable systems use of . . . any transmission technology." Verizon Comments at 4. According to Verizon, designation of a rule providing for minimum channel capacity for cable systems in Rhode Island accomplishes the same objective and is network architecture neutral. Verizon Comments at 5.

Verizon, however, never reconciles its proposed language with the fact that Verizon related entities have entered into franchise agreements that establish requirements for their respective FTTP cable systems in terms of MHz. For example, franchise agreements between GTE Southwest, Inc. d/b/a Verizon Southwest and Wylie, Texas (Para. 5.1.1) and Verizon California, Inc. and Beaumont, California (Para. 5.1.1), among many others, provide that the Verizon related entities' cable systems "shall be designed with an initial analog passband of 860 MHz."

Verizon's concerns regarding proposed Section 7.2(c) and 7.2(e) encounter a similar difficulty. These sections require that Rhode Island CATV systems: "be two-way capable," and "be capable of providing the public with high-speed Information Services, and digital video and voice services." See Cable Section Exhibit 1 at 28. Verizon contends that these two rules condition the grant of Verizon's franchise on the company's provision of telecommunications services and facilities in contravention of federal law.

Verizon Comments at 4. Further, Verizon contends that in today's competitive marketplace "it is highly unlikely that any competitive entrant in the cable marketplace would not provide these services to consumers." Verizon Comments at 4.

At least with respect to the requirement that cable plant possess two-way capability, Verizon related entities, again, have negotiated and agreed to similar, yet concededly narrower language. In these arrangements, Verizon related entities are required to ensure that their respective FTTP cable systems "shall be designed to be an active two-way plant utilizing the return bandwidth to permit such services as impulse pay-per-view and other interactive services."[7]

Based on this unresolved inconsistency, Verizon has not persuaded the Division that the minimum MHz and two-way capability requirements are contrary to the Telecommunications Act of 1996 or incompatible with Verizon's Rhode Island FTTP network. To ensure that the Division's treatment of a minimum cable system standard comports with Verizon's Rhode Island FTTP network, the Division will revise the Section 7.2 in the November 1, 2006 Draft to reflect the language that Verizon related entities have adopted in their franchise agreements. As revised, Section 7.2 will be promulgated as follows:

> All CATV Systems in Rhode Island shall meet the following minimum standards:
>
> (a) shall be designed with an initial analog passband of 750 MHz;

[7] See e.g., franchise agreements between Verizon California, Inc. and Hermosa Beach, California, dated December 13, 2005, Para. 5.1.2; GTE Southwest, Inc. d/b/a Verizon Southwest and Sachse, Texas, Para. 5.1.2, etc.

(b) be designed to be an active two-way plant utilizing the return bandwidth to permit such services as impulse pay-per-view and other interactive services; and

(c) possess stand-by powering. [8]

C. SECTIONS 7.4(b) AND 14.1(c)

In its existing form, Section 7.4(b) provides that CATV Systems shall "…begin to provide for the transmission of programming for the Statewide Interconnecton System within six (6) months of commencing operation." Verizon observes, that as proposed, Section 14.1(c) requires that "[t]he minimum number of specially designated access channels . . . shall be made available immediately upon commencement of Subscriber service." Since, specially designated channels include Interconnect Channels, Sections 7.4(b) and 14.1(c) are inconsistent with one another in terms of the time-period within which a CATV operator must commence providing Interconnect programming to the public after the company receives a Certificate of Authority to Operate.

Until the Cable Rules were amended in 2005, CATV operators were required to make PEG, not Interconnect channels, available to the public upon the commencement of residential subscriber service. When the Division amended Section 14.1 in 2005 to designate Interconnect channels as "channels reserved for access purposes," the agency did not revise Section 7.4(b) to require the immediate transmission of programming for the Statewide

[8] Verizon did not contest proposed Section 7.2(d) requiring that Rhode Island CATV operators' networks possess stand-by powering. Accordingly, this requirement will be included in the revised rule.

Interconnection System upon a CATV Operator's commencing operation.[9] This inadvertent omission will be corrected in the revised Cable Rules. Thus, Section 7.4(b) will be amended to require CATV operators "to provide for the transmission of programming for the Statewide Interconnection System *immediately upon* commencing operation." (Emphasis added).

D. SECTIONS 18.1(a) AND 18.1(c)

As proposed by the Cable Section, Section 18.1(a) provides that "any existing CATV operator may transfer to RIPTA the *ownership of its PEG access studios* and playback equipment, and existing Interconnect playback equipment." (Emphasis added). Section 18.1(c) contains virtually the same language for CATV operators who decide to transfer their PEG access operations and Interconnect equipment after March 31, 2007.

FCTV's existing PEG access studio is located in the "business office building" where most, if not all of the company's executive and office functions take place. The entire building, FCTV informs the Division, is owned by FCTV. FCTV, literally, cannot transfer "ownership of its PEG access studio" to RIPTA under the rule without transferring other corporate assets as well, thereby causing significant disruption to the company's operations.

The Division finds that FCTV's concern in this regard is legitimate. In order to ensure that Section 18.1 does not bar FCTV from taking full advantage of the opportunity to shed its PEG access operations and Interconnect

[9] Further, in a competitive environment, the Division is concerned that affording a competitive CATV operator six months to transmit Interconnect programming over its network while all the while requiring incumbent operators to carry such programming may create a "level playing field" issue.

equipment at any time, the Division will revise Section 18.1(a) and (c) as follows:

> (a) On or after January 1, 2007, any existing CATV Operator may transfer to RIPTA the ownership of its PEG access studios *(or where applicable the operation of its PEG access facilities)*, and the ownership of playback equipment and existing Inter-connect playback equipment . . . [subsection (b) omitted] . . .
>
> (c) On or before March 31, 2007, any existing CATV Operator electing to continue to operate and manage its PEG access studio(s) within its Service Area shall provide written notice to the Division of its election to do so, without prejudice to deciding at a subsequent time to transfer its PEG access studios *(or where applicable the operation of its PEG access facilities)*, and the ownership of playback equipment and existing Interconnect playback equipment.

(Emphasis added). The italicized language in the revised rule will ensure that where the Division finds a CATV operator cannot transfer ownership of its PEG access studio without disrupting its business, <u>etc.</u>, the CATV operator may still take advantage of the opportunity afforded to it by G.L. § 16-61-6.2 by transferring only "the operation of its PEG access facilities" as well as the "ownership of playback equipment and existing Interconnect playback equipment."

E. <u>MANDATORY AMBER ALERT SYSTEM PARTICIPATION</u>

In public comment offered at the November 17, 2006 hearing, Thomas Chinigo proposed that the Division promulgate a rule mandating CATV operator participation in the Amber Alert System. After the hearing, the Division inquired of Cox's Vice President of Government and Public Affairs, John Wolfe, whether such a rule was necessary. Mr. Wolfe represented to the Division that all cable operators are *required* by the networks to participate in

the Amber Alert System. Based on this representation, the Division does not believe that it is necessary at this time to promulgate an additional rule making such participation mandatory. The Division, however, may revisit this issue should the agency find that Rhode Island CATV operators participate in the system in an inconsistent manner.

F. SECTION 7.3(a)

Mr. Chinigo also expressed concern that the Cable Section inadvertently eliminated an important subscriber benefit by proposing to delete the clause, "[a] standard installation for both Residential and Institutional Networks shall be provided to each institution designated for inclusion in that network at the Certificate holder's expense," contained in Section 7.3(a) of the existing Cable Rules.

Section 8.6(a) of the November 1, 2006 Draft provides that a "standard installation" consists of "an aerial drop of no more than one hundred and fifty (150) feet from a single pole attachment to the customer's residence or other structure to be served. Drops in excess of one hundred and fifty (150) feet . . . are charged at rates set forth in the CATV Company's filed tariff." The practice of existing CATV Operators has been, and the Division's interpretation of Section 8.6 is that, a subscriber does not receive a bill for a standard installation. The Division will adopt Mr. Chinigo's suggestion by incorporating the stricken language of Section 7.3(a) into Section 8.6(a). (See italicized language below.) As promulgated, Section 8.6(a) will appear as follows:

> The standard installation shall consist of an aerial drop of no more than one hundred fifty (150) feet from a single pole attachment to the customer's residence or other structure to be served. *A standard installation shall be provided to each Subscriber at the certificate holder's expense.* Drops in excess of one hundred and fifty (150) feet, any concealed wiring or other custom installation work, and all underground drops, shall be charged at the rates set forth in the CATV Company's filed tariff.

(Emphasis added).

G. SECTION 15.1(f)(7)

Mr. Chinigo's third proposed revision consists of reinstating stricken language contained in Section 15.1(f)(7) of the existing Cable Rules that authorizes the Service Area Citizens' Advisory Committees "to recommend to the Administrator, in consultation with the certificate holder and affected agencies, which public buildings and non profit organization buildings within the Service Area should be connected to the Institutional Network and/or receive free residential service."

The stricken language merely authorizes the Service Area Citizens' Advisory Committees to recommend which public buildings and non-profit organizations the various committees *believe should* be afforded free cable service. As such, the language is advisory only and completely non-binding. The Division, therefore, will adopt Mr. Chinigo's proposal and will re-include a majority of the stricken language in the revised set of Cable Rules. Section 15.1(f)(7) will appear as follows:

to recommend to the Administrator, in consultation with the certificate holder and affected agencies, which public buildings and non-profit organization buildings within the Service Area should receive free residential service.

H. SECTION 7.4(d)

Mr. Chinigo's last relevant proposal concerns Section 7.4(d) of the existing Cable Rules. [10] By proposing to strike this section, the Cable Section, Mr. Chinigo intimates, allows FCTV to obtain all of the benefits of the Interconnect (e.g., program carriage) without assuming any of the burdens (e.g., operating and maintenance expenses). This result, Mr. Chinigo opines is contrary to Rhode Island's "level playing field" requirement. See G.L. § 39-19-3.

The Division acknowledges Mr. Chinigo's concern but believes that proposed Section 18.2 resolves the issue. That rule requires RIPTA to forward an itemized statement to "each CATV Operator" for RIPTA's "operating and maintenance expenses . . . for the preceding calendar year quarter for PEG access facilities, playback equipment and Interconnect equipment and other

[10] None of Mr. Chinigo's other proposed revision requires much discussion. The November 1, 2006 Draft already incorporated his suggestion to increase the number of required Interconnect channels from 2 to 3. Compare November 1, 2006 Draft, Section 7.4. and Transcript dated November 17, 2006 at 16. G.L. § 16-61-6.2(d) and Section 18.1(b), further, already address Mr. Chinigo's concerns regarding existing PEG staff. See Transcript dated November 17, 2006 at 22. Lastly, Mr. Chinigo's concerns about redundant drops, Transcript dated November 17, 2006 at 19; the PEG access rules that RIPTA must implement, Transcript dated November 17, 2006 at 19; the location of the existing studio in Service Area 8, Transcript dated November 17, 2006 at 21, all raise issues that are irrelevant and immaterial to this proceeding and require no discussion whatsoever here.

PEG related expenses…"[11] The words "each CATV Operator" in this clause include Electing CATV Operators. Thus, even if FCTV elected to retain its PEG access operations and Interconnect equipment, the company would still receive a statement from RIPTA that would include an allocation for FCTV's proportionate share of its Interconnect operating and maintenance expenses.[12] FCTV would then be required to provide RIPTA with an Interconnect fee in "such other amount set by the Division" (not the prescribed $.50 per month fee) pursuant to Section 18.2(b). Based on the foregoing explanation, the Division will not adopt Mr. Chinigo's recommendation to reinstate Section 7.4(d) of the existing Cable Rules.[13]

III. SUMMARY AND CONCLUSION

The Division finds that the November 1, 2006 Draft, subject to the modifications set forth below (and elsewhere in this decision), reflects revisions to the Cable Rules that are fair, reasonable and in accordance with law and regulatory policy. The Division modifies Section 7.2 to accord with language contained in Verizon's existing franchise agreements. The Division also adopts Verizon's proposed subsection (c) to Section 18.2 in its entirety and ensures consistency between Sections 7.4(b) and 14.1(c) by requiring CATV operators to

[11] The words "other PEG related expenses" contained in Section 18.2(a) of the November 1, 2006 Draft should read "other PEG and Interconnect related expenses." This typographical error will be corrected in the final version of the Cable Rules.

[12] The statement would not include FCTV's share of RIPTA's operating and maintenance expenses for PEG access facilities and playback equipment since FCTV elected to retain those operations and equipment.

[13] In keeping with the requirements of G.L. § 42-35-3(a)(4), the Division also concludes that the proposed revisions to the Cable Rules would not, if adopted by the Division, have a significant adverse economic impact on any small business or on any city or town.

provide Interconnect channels to the public immediately upon the commencement of service.

FCTV's request for clarification of Section 18.1 is approved. Section 18.1(a) and (c) in the November 1, 2006 Draft will be modified to ensure that FCTV can take advantage of all of the benefits of G.L. § 16-61-6.2.

Lastly, two of Mr. Chinigo's proposals are rejected and two are approved. The Division rejects Mr. Chinigo's proposal to make Amber Alert system participation mandatory for CATV operators at this time, and, further rejects his request to re-include stricken language from Section 7.4(d) in the revised Cable Rules. The Division, however, adopts Mr. Chinigo's requests to re-include the stricken language from Sections 7.3(a) and 15.1(f)((7) in the new set of rules when they are promulgated. Based on all of the foregoing, it is hereby,

(18785) ORDERED:

1. That the Cable Rules, showing all of the amendments made through the instant rulemaking process, are attached to this Report and Order as "Appendix 1," and are hereby incorporated herein by reference.

2. That the Division's Rules Coordinator is hereby instructed to file a certified copy of the amended Cable Rules with the Rhode Island Secretary of State as soon as practicable, and also to fully comply with the filing requirements contained in G.L. § 42-35-3.1 and § 42-35-4. The Division will endeavor to file the instant amended Rules with the Rhode Island Secretary of State on or before December 8, 2006 in order to facilitate an effective date of January 1, 2007.

3. That the newly amended Cable Rules shall take effect on January 1, 2007 and shall replace the currently effective Cable Rules thereafter.

Dated and effective at Warwick, Rhode Island on December 8, 2006.

_____
Anthony R. Marciano, Jr., Esq.
Hearing Officer

APPROVED:

_____
Thomas F. Ahern
Administrator