

Rhode Island Division of Public Utilities and Carriers – Cable Section

2006 Dockets

2006-C-1 COX COMMUNICATIONS EQUIPMENT AND INSTALLATION FILING (CLOSED)

On January 12, 2006 Cox Communications, Inc. filed a notification of certain rate adjustments related to analog/digital receivers and other digital and premium offerings. The Division has review authority on the regulated rate concerning analog/digital receivers, with the other rate changes in this filings being for informational purposes only. A public hearing was held on January 31, 2006 and an order approving the equipment increase was issued on February 14, 2006. The approved increase was within the maximum permitted rate specified in the computation of the federal form 1205.

2006-C-2 CATV COMPANY ASSESSMENT REPORTS (CLOSED)

Section 17.7 of the Rules Governing Community Antenna Television Service (Rules) require that cable companies file reports every five years providing evidence that they are in compliance with the Rules. Those reports were submitted, with modifications, by February 28, 2006. A public hearing was held on April 4, 2006 to evaluate the reports. The Cable TV advocacy section indicated that after its review Cox Communications and Full Channel TV were in compliance with the cable rules. An official Division order was issued on June 14, 2006 certifying company compliance.

2006-C-3 MANFREDI-TURRISI V SHELDON PUBLIC ACCESS COMPLAINT (CLOSED)

On January 4, 2006 Melissa Manfredi-Turrisi filed a complaint against public access producer, Marilyn Sheldon, alleging invasion of privacy, defamation, libel and slander as a result of the telecast of Ms. Sheldon public access show "Justice". The Cable Section of the DPUC held an informal hearing on the matter on January 31, 2006, at which time each side presented their case. The specifics of the case are contained in an order issued by Associate Administrator of the Cable Section on March 13, 2006, which in essence found that the Cable Section believes that a jury or justice of the appropriate judicial venue could find one or both communications slanderous and/or an invasion of privacy. The verdict would depend upon the presentation of additional evidence that was not presented at the informal hearing. Therefore, the order concludes that Ms. Turrisi should first address her causes of action to the appropriate judicial forum. Upon receipt of a duly-authenticated verdict, judgment or other court order identifying that Ms. Sheldon has committed a slander and/or invasion of privacy, the Cable Section will recommend that the Division take the appropriate action.

On March 16, 2006 Ms. Turissi appealed the informal decision and a formal hearing date of April 28, 2006 was established and then postponed at Ms. Turissi's request. A new hearing was scheduled and held on October 11, 2006. Ms. Turissi did not attend the hearing and gave the DPUC no notice as to why she would not attend. Ms. Sheldon was represented by legal counsel from the ACLU.

On October 12, 2006 a DPUC hearing officer issued a ruling that since Ms. Turissi did not attend the hearing to press her case, the DPUC had no recourse but to dismiss the appeal.

2006-C-4 VERIZON CABLE APPLICATION FOR SERVICE AREA 6 (CLOSED)

Verizon submitted a cable franchise application to the Division on February 6, 2006 for Service Area 6 which includes the following communities: Coventry, West Warwick, Warwick, West Greenwich, East Greenwich, Exeter and North Kingstown. After initial review, the Advocacy Section of the Division submitted supplemental requests for information to Verizon on February 15, 2006. Verizon responded with the additional information on March 16, 2006 and the Division officially docketed the matter on March 21, 2006.

The Division commenced the formal review process with a public advertisement for interveners on March 28, 2006. Those who submitted motions to intervene were: Cox Communications, Full Channel TV, the New England Cable and Telecommunication Association, the Division of Public Utilities Advocacy Section and the Town of Foster. Opposition to the Town of Foster's intervention was filed by Verizon and concerns to the Town's intervention were raised by the Advocacy Section. A hearing on the issue was held on April 27, 2006. Subsequent to the hearing, the hearing officer issued an order ruled that the Town of Foster was ineligible to participate as a party in the case.

The time frame from June 14, 2006 through September 15, 2006 was consumed with legal submittals related to direct testimony, intervenor data requests and responses, pre-filed intervenor direct testimony, intervenor position statements and pre-filed rebuttal testimony.

A public hearing was held on October 4, 2006 at which time the Cable Advocacy Section and Verizon submitted a settlement agreement intended to address the requirements of level playing field. Verizon has agreed to comply with all cable rules and requested a waiver of the PEG and I-Net requirements. As compensation for approval of the waiver requests, Verizon has agreed to contribute, upon buildout of the entire State, \$1,615,906 in grants for the operation of PEG. This funding will allow for DPUC compliance with legislation approved by the RI General Assembly in the 2006 session, that requires that rules be completed by December 31, 2006 to effectuate the transfer of the PEG operation from the cable companies to the Rhode Island Telecommunications Authority. It also is contributory toward a waiver of the video I-Net requirement pending the potential of a I-Net rule change.

After review and deliberation by the DPUC hearing officer and the DPUC Administrator, a Division order was issued on December 20, 2006 approving Verizon's request for a Compliance Order Certificate.

Verizon filed a letter of acceptance for the Compliance Order Certificate on January 11, 2007 and filed an application for a Construction Certificate on January 26, 2007. The

Hearing Officer held a scheduling/briefing meeting on February 12, 2007 and a public hearing is scheduled for March 21, 2007 to evaluate award of a construction certificate. Cox Communications raised issues concerning Verizon's record of underground construction deficiencies in the State of Virginia and other locations, suggesting that safeguards be put into place to assure cooperation amongst the cable companies and safety for the subscribers. The Cable Advocacy Section of the DPUC raised concerns about Verizon's cable line extension policy endeavoring to protect consumers from paying line extension design engineering fees, that are not charged by other cable companies, for consumers who live outside of the required build-out areas, but are interested in securing cable service.

On April 5, 2007, the Hearing Officer issued an Order approving the Construction certificate, while rejecting Cox's suggestions and authorizing a change in the Verizon line extension policy eliminating the design charge if Verizon elects not to complete the actual construction project for the requested extension.

On April 6, 2007, Verizon filed its application for an Operating Certificate and a letter defining interest in commencing service on June 5, 2007 and complying with the required 60 day notification to the Division to begin cable service operation. The Division scheduled and held public hearings on May 17, 2007 at which there were no objections to approval. Accordingly, an Operating Certificate was issued on May 21, 2007 authorizing Verizon to commence service on June 5, 2007.

2006-C-5 ROBERT VENTURINI PUBLIC ACCESS INDECENCY COMPLAINT (CLOSED)

On May 8, 2006, a complaint was filed by a cable subscriber against Robert Venturini of the public access show Big Bob's Adventure alleging a violation of indecency with one of his shows. The violation concerned the airing of a bare-breasted women apparently asleep in a hotel room bed at a hotel in South America where Mr. Venturini was recording his show.

The Division held a hearing on the complaint on May 25, 2006. Subsequent to the hearing, the Division ruled "No matter how inadvertent Mr. Venturini's conduct in this matter, the Division cannot condone a violation of one of its rules – particularly when the violation, as here, results in exposure of young children to indecent material." The Division suspended Mr. Venturini's public access privileges for 30 days and imposed a 90 day probation. Because of Mr. Venturini's history as a public access producer and the absence of ill-intent, the 30 day suspension was, itself, suspended. Mr. Venturini was warned that future editing or production violations "will require the Division to impose a substantial penalty".

2006-C-6 THOMAS CHINIGO PUBLIC ACCESS COMMERCIALIZATION COMPLAINT

(CLOSED)

On April 27, 2006 Marilyn Sheldon filed a complaint against Thomas Chinigo's public access shows, specifically including "*Health and Home Report*", alleging violation of the public access rules concerning commercialization. On May 1, 2006, the Division acknowledged the complaint and requested that Cox Communications provide the Division

with a report on the matter after reviewing recent show tapes. On June 2, 2006 the Division received a report from Cox highlighting the fact that the show "*Health and Home Report* is loaded with commercial content which is prohibited under sections 6.4 and 9.1 of the rules". The report also indicates that the Cox Westerly public access staff has been operating under the misconception that the public access station was functioning as both a public access station and a local origination station, and therein commercial use was acceptable. The report also questioned Mr. Chinigo's use of excerpts from *American Idol*, possibly without the proper copyright releases.

The Division held a hearing on the complaint on June 27, 2006. Subsequent to the hearing, Cox and Mr. Chinigo reached a settlement agreement that defined: that Mr. Chinigo would no longer air the program; Mr. Chinigo waives any right to contend that the programming should be carried on the Westerly public access channel; the Division will not rule on propriety of the programming; this action does not constitute an impermissible exercise of editorial control by Cox; this action does not constitute a finding that either party is or has been in violation; and this action is not an admission by any party regarding the propriety of the programming. The Division adopted the settlement agreement in an order issued on August 25, 2006.

2006-C-7 BLOCK ISLAND CABLE LICENSE ABANDONMENT (CLOSED)

On May 9, 2006 Mr. Cliff McGinnes, President of Block Island Cable Television (BICTV) met with the Cable Section to discuss the future of the company. Mr. McGinnes indicated that operation of BICTV had become financially unfeasible and he would be looking to abandon his certificate in the near future.

On September 20, 2006 Mr. McGinnes forwarded correspondence to the Division requesting abandonment and defining a plan for termination which include: meeting with Town officials, a public meeting with subscribers, coordination with satellite cable providers to afford customers with an alternative provider and removal of all cable lines and equipment from utility poles.

The Division responded by letter on September 21, 2006 accepting the proposed plan and also requiring that a notice of termination of service be sent to each customer and that the public meeting notice be posted in the Town Hall and public library. The Division also indicated that if the plan was implemented and verified, the Division would issue and "interim abandonment order" until completion of the removal of the cable lines. A "final abandonment order" would be issued at the time pending verification of the work.

On November 10, 2006 BICTV submitted its "Abandonment Report" to the Division. The report was reviewed and approved by the Cable Advocacy Section and forwarded to the Administrator for action on November 15, 2006. On November 17, 2006 an interim abandonment order was promulgated. The Division issued a final order upon all removal work of cable lines by BICTV.

2006-C-8 CABLE RULES AMMENDMENTS FOR PEG, INTERCONNECT AND I-NET (CLOSED)

In order to comply with General Law 16-61-6 & -6.2, the Division was required to amend the Cable Rules to allow for the transfer of the operation of the PEG and Interconnect public access stations from the cable companies to the Rhode Island Telecommunications Authority. In addition the Division also reviewed the sections of the Rules which related to the Institutional Network as part of it's "level playing field" analysis in the Verizon cable service area 6 franchise case (Docket 2006-C-4).

Accordingly, the Division developed an initial draft rules amendment and forwarded it to interested parties for comment. After receiving comments a final draft was developed, docketed and made available for public comment through an advertisement in the Providence Journal on November 2, 2006 and on the RIPUC web site. A public hearing was held on November 17, 2006 to accept public comment. The Hearing Officer issued his Division Order on December 8, 2006 approving the amended rules with additional minor revisions. A final copy can be found on the DPUC web site.

2006-C-9 COX RATE FILING

(CLOSED)

On December 1, 2006 Cox Communications submitted Forms 1205 and 1240 which represent their annual rate filing for the period April 1, 2007 through March 31, 2008. The filing calls for no increase in basic cable rates for the period and calls for several equipment rate adjustments. Reductions include: installation of unwired homes by \$.01, remotes by \$.03, DVR/high definition receiver rental by \$5.01, high definition receiver by \$4.97, change of service (home visit) by \$.19 and service visits unrelated to Cox equipment of signal delivery by \$.19. Digital receiver rental cost will go up \$.03.

A public hearing originally scheduled for January 3, 2007, was rescheduled and held on February 6, 2007. On February 8, 2007, the Hearing Officer approved the equipment rate changes stating "The Division has performed the federally prescribed review of Cox's form 1240 and 1205 filings, with respect to Cox's basic tier services and rental, installation and miscellaneous charges, and finds that the proposed rates comport with the FCC rules".