

**BEFORE THE STATE OF NEW JERSEY**

**BOARD OF PUBLIC UTILITIES**

**OFFICE OF ADMINISTRATIVE LAW**

In the Matter of Comcast Cablevision of	)	Docket Nos.	CR01030149
Long Beach Island Form 1240, Comcast	)		CR01050285
Cablevision of Toms River (Cedar Bonnet)	)		CR01030150
Form 1240, Comcast Cablevision	)		
Consolidated Form 1205	)		

DIRECT TESTIMONY OF

ANDREA C. CRANE

ON BEHALF OF

THE DIVISION OF THE RATEPAYER ADVOCATE

September 17, 2001

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1 **I. STATEMENT OF QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A My name is Andrea C. Crane and my business address is 38C Grove Street, Ridgefield,  
4 Connecticut 06877.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am Vice President of The Columbia Group, Inc., a financial consulting firm that  
8 specializes in utility regulation. In this capacity, I analyze rate filings, prepare expert  
9 testimony, and undertake financial studies regarding rates and regulatory policy. I have  
10 held several positions of increasing responsibility since I joined The Columbia Group,  
11 Inc. in January 1989.

12

13 **Q. Please summarize your professional experience in the utility industry.**

14 A. Prior to my association with The Columbia Group, Inc., I held the position of  
15 Economic Policy and Analysis Staff Manager for GTE Service Corporation, from  
16 December 1987 to January 1989. From June 1982 to September 1987, I was employed  
17 by various Bell Atlantic subsidiaries. While at Bell Atlantic, I held assignments in the  
18 Product Management, Treasury, and Regulatory Departments.

19

1 **Q. Have you previously testified in regulatory proceedings?**

2 A. Yes, since joining The Columbia Group, Inc., I have testified in over 120 regulatory  
3 proceedings in the states of New Jersey, Arizona, Connecticut, Delaware, Hawaii,  
4 Kansas, Maryland, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island,  
5 South Carolina, Vermont and the District of Columbia. These proceedings involved  
6 cable television, water, wastewater, electric, gas, telephone, solid waste, and navigation  
7 utilities. A list of dockets in which I have filed testimony is included in Appendix A.

8

9 **Q. What is your educational background?**

10 A. I received a Masters degree in Business Administration, with a concentration in  
11 Finance, from Temple University in Philadelphia, Pennsylvania. My undergraduate  
12 degree is a B.A. in Chemistry from Temple University.

13

14 **II. PURPOSE OF TESTIMONY**

15 **Q. What is the purpose of your testimony?**

16 A. On or about February 28, 2001, Comcast Cablevision of Long Beach Island<sup>1</sup> filed a  
17 Federal Communication Commission (“FCC”) Form 1240 with the State of New  
18 Jersey, Board of Public Utilities (“BPU”) to change the basic service rate for cable  
19 television service in the Long Beach Island (“LBI”) system. In addition, the Company  
20 filed an FCC Form 1205 to implement new equipment and installation rates in the LBI

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<sup>1</sup> Comcast has various corporate entities for its cable systems, including Comcast Cable of Long Beach Island, LLC and Comcast Cable Communications, Inc. These corporate entities will be collectively

1 system. On or about April 30, 2001, Comcast filed a revised Form 1205 that covered  
2 equipment and installation rates in the majority of Comcast’s systems, including LBI.  
3 Finally, on or about April 30, 2001, Comcast filed an FCC Form 1240 for its Cedar  
4 Bonnet system.

5 The Columbia Group, Inc. was engaged by the State of New Jersey, Division  
6 of the Ratepayer Advocate (“Ratepayer Advocate”) to review these filings and to  
7 provide recommendations to the BPU regarding the Company’s proposed basic  
8 service rates as well as its proposed equipment and installation rates. In developing  
9 my recommendations, I reviewed both of the Form 1240 filings and the Form 1205  
10 filing made by Comcast, as well as the responses to discovery requests propounded  
11 upon the Company by the Ratepayer Advocate and by the Cable Television Staff  
12 (“Staff”) of the Board of Public Utilities. It should be noted that the Company was  
13 not required to prefile testimony in advance of testimony being filed by other parties.  
14 Therefore, I have not had the benefit of a Company explanation for any of the  
15 amounts claimed in the Forms 1240 and 1205, other than through information  
16 provided in the discovery process. Accordingly, this testimony will be supplemented,  
17 if necessary, based on any additional information provided by the Company or other  
18 parties during the litigation phase of this proceeding.

19  
20 **III. SUMMARY OF CONCLUSIONS**

1 **Q. Please summarize your conclusions and recommendations.**

2 A. Although I am not an attorney, based upon my review and analysis of the Company's  
3 filings, on its responses to data requests, and on my general knowledge and experience  
4 as an expert witness in the area of cable regulation in New Jersey, I have developed the  
5 following conclusions and recommendations:

- 6 • Comcast should be required to support all claims for programming costs,  
7 including actual costs incurred in the True-up Period and programming costs  
8 estimated for the Projected Period. In the absence of such documentation,  
9 cost increases relating to programming should be disallowed.
- 10 • Comcast should be required to provide all programming contracts for review  
11 by Staff and the Ratepayer Advocate in order to support its claim for  
12 programming costs.
- 13 • With regard to programming that is owned in whole or in part by Comcast,  
14 the Company should demonstrate that it does not discriminate in its treatment  
15 of third parties relative to its treatment of affiliates.
- 16 • Comcast's rates in its LBI system should be revised to eliminate the franchise-  
17 related costs that have not been supported by the Company.
- 18 • All adjustments in the Company's filings that relate to channel count changes,  
19 including those relating to the caps method, the mark-up method, or the  
20 channel movement / deletion method should be eliminated from the

- 1           Company's filings.
- 2           • The BPU should approve a Maximum Permitted Rate of \$31.14 for LBI and
- 3           of \$28.18 for Cedar Bonnet
- 4           • The Company should demonstrate the need for the substantial increases in the
- 5           number of converters added during 2000.
- 6           • The Company should be required to identify its deferred income taxes and to
- 7           modify its Form 1205 to reflect such taxes.
- 8           • The Company should demonstrate that it is in compliance with FCC
- 9           requirements regarding basic-only equipment.
- 10          • As a matter of public policy, Comcast's fees for a downgrade in service
- 11          should be rejected.
- 12          • This testimony may be updated as a result of additional issues identified
- 13          during the hearing phase of the case.
- 14

1 **IV. BACKGROUND OF THE FILINGS**

2  
3 **1. FCC Form 1240**

4 **Q. Please provide a brief description of the Form 1240.**

5 A. Form 1240 is filed in support of a cable operator's basic service tier ("BST") rates.<sup>2</sup>  
6 Form 1240 was designed as a vehicle to permit cable operators to change rates  
7 annually to reflect inflation, changes in channel counts, and changes in external costs,  
8 which are primarily programming, copyright fees, and franchise-related costs. Form  
9 1240 contains both a Projected Period and a True-up Period. The Projected Period is  
10 the period of time over which the requested rates will be in effect. The Projected  
11 Period rates were designed to include estimates of inflation, channel  
12 additions/deletions, external costs, and subscribers. Each year, the prior year's  
13 Projected Period is subject to true-up to reflect actual inflation, channel  
14 additions/deletions, external costs and subscribers.<sup>3</sup> The Company's LBI filing is  
15 based on a Projected Period of June 1, 2001 to May 31, 2002 and on a True-up  
16 Period of December 1, 1999 to November 30, 2000. The Company's Cedar Bonnet  
17 filing is based on a Projected Period of August 1, 2001 to July 31, 2002 and on a  
18 True-up Period of May 1, 2000 to April 30, 2001.

19  

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<sup>2</sup> The Form 1240 was also used previously to support Cable Programming Service ("CPS") tier rates. Although I am not an attorney, it is my understanding that the CPS rates are no longer regulated.

<sup>3</sup> As will be discussed later in this testimony, the provisions with regard to channel additions/deletions have not been renewed by the FCC and are, therefore, no longer applicable.



1 **Q. Please explain how rates are determined using the Form 1240.**

2 A. The Form 1240 begins with the Maximum Permitted Rate (“MPR”) approved in the  
3 prior year’s Form 1240 filing. In Module D of the form, several estimated  
4 components of that rate, such as inflation, external costs, other costs relating to  
5 channel counts, and the prior year’s estimated true-up are backed out in order to  
6 determine the “Base Rate”. The actual rate that should have been charged during the  
7 True-up Period is then calculated based on actual inflation, external costs, other costs  
8 relating to channel counts, and the actual number of subscribers during the True-up  
9 Period. This True-up rate is then compared with the actual rates charged during the  
10 True-up Period to determine if an under-collection or over-collection occurred.

11 The MPR for the Projected Period is then determined by taking the Base  
12 Rate, adjusting for inflation that occurred during the True-up Period, and further  
13 adjusting for estimated costs during the Projected Period. The result is the MPR for  
14 the Projected Period. It is this MPR that the BPU is charged with reviewing, and if  
15 appropriate, approving. The Company has the right to actually implement a rate that  
16 is lower than the MPR. The rate that is actually implemented is referred to as the  
17 Operator Selected Rate (“OSR”).

18

1 **Q. Please describe the Form 1240 filings made by Comcast.**

2  
3 A. In its LBI system, Comcast is requesting an increase in its MPR from \$29.60 per  
4 month to \$33.12 per month, for an increase of \$3.52. This increase is composed of the  
5 following: \$1.59 in external costs, primarily increases in projected programming costs;  
6 \$0.92 in True-up costs; \$0.66 in inflation; and \$0.35 in channel additions. The True-up  
7 cost increase is the result of the fact that an average rate of \$28.95 was actually  
8 charged in the LBI system during the True-up Period, although the Company claims  
9 that its actual costs would have justified a rate of \$29.79. Therefore, this difference,  
10 with interest, is permitted by the FCC to be recovered in the subsequent Projected  
11 Period.

12 In its Cedar Bonnet system, Comcast is requesting an increase in its MPR from  
13 \$25.47 per month to \$30.59 per month, for an increase of \$5.12. This increase is  
14 composed of the following: \$2.37 in external costs, primarily increases in projected  
15 programming costs; \$2.42 in True-up costs; and \$0.33 in inflation. During the True-  
16 up period, an average rate of \$23.47 was actually charged although the Company  
17 claims that its actual costs would have justified a rate of \$25.54.

18  
19 **Q. What concerns do you have with regard to the MPRs being requested in these**  
20 **cases?**

21 A. As discussed in further detail below, I have concerns with regard to the following

1 issues:

- 2 1. Programming costs for LBI and Cedar Bonnet;
- 3 2. Franchise-related costs in LBI;
- 4 3. Claims for channel movements/deletions and other channel changes.

5

6 **2. FCC Form 1205**

7 **Q. Please provide a brief description of the FCC Form 1205.**

8 A. Form 1205 is used to establish a cable operator's equipment and installation rates.

9 With regard to installation rates, these rates are developed by determining an Hourly  
10 Service Charge ("HSC") for the cable operator and then applying the HSC to the  
11 estimated hours to complete various installation tasks. The HSC is determined by  
12 dividing the total costs related to installation and equipment repair activities by the  
13 number of hours necessary to complete these activities.

14 With regard to equipment, the cable operator must first determine the total  
15 annual capital costs associated with remotes and converters, as well as maintenance  
16 hours. The HSC is then applied to the annual maintenance hours to develop total  
17 annual maintenance costs for each type of equipment. The maintenance service costs,  
18 together with the capital costs, are then recovered over the total base of remotes and  
19 converters through the development of a monthly rate.

20

1 **Q. How do the equipment and installation rates being requested by Comcast**  
2 **compare with the prior year's rates?**

3 A. The rates that are being requested in this case apply to the consolidated Comcast  
4 system, including LBI and the Avalon system. LBI and the Avalon system were  
5 acquired by Comcast during 2000 and, therefore, the LBI and Avalon systems were  
6 not included in the consolidated Form 1205 filing made by Comcast last year. The  
7 equipment and installation rates for Cedar Bonnet are not included in the consolidated  
8 Form 1205. The equipment and installation rates for the Cedar Bonnet system, as  
9 well as for the other systems of Comcast Cablevision of New Jersey, LLC – Tom's  
10 River, were resolved by stipulation earlier this year when Comcast agreed to retain  
11 the current equipment and installation rates in these systems until July 31, 2002.

12 In order to undertake a meaningful comparison, it is necessary to review the  
13 proposed rates in comparison to both the former LBI and Avalon equipment and  
14 installation rates, as well as the former Comcast consolidated rates, which included  
15 the following systems: Monmouth, Northwest, Plainfield, Ocean, Meadowlands,  
16 Burlington, Central, Gloucester, Trenton, Union, Jersey City.

17 As shown on Schedule 1, which can be found in Appendix B, the proposed  
18 rates generally represent a reduction of 2.1% over the installation rates charged in the  
19 Comcast Consolidated systems. The proposed equipment rates reflect higher  
20 increases, although the Company is not proposing to implement the full Maximum

1 Permitted Rate with regard to equipment. For example, the MPR for addressable  
2 converters would increase from \$2.84 to \$3.61 pursuant to the Company's filing,  
3 primarily as a result of significant new converters being acquired in 2000. However,  
4 Comcast is proposing to implement a rate of \$3.25.

5 In LBI, the proposed installation rates reflect both increases and decreases, as  
6 shown in Schedule 2. While the proposed HSC is higher than the prior HSC in the  
7 LBI system, the time required to perform various installation functions will decline as  
8 a result of making a consolidated filing. Therefore, some of LBI's charges will  
9 increase and some will decrease. A similar pattern is observed with regard to Avalon,  
10 as shown in Schedule 3.

11  
12 **Q. What concerns do you have with the equipment and installation rates as filed**  
13 **by Comcast?**

14 A. I have concerns about the treatment of deferred income taxes, the inclusion of  
15 significant new converters in the Company's rates, the Company's failure to offer a  
16 basic-only converter in certain systems, and proposed rates for downgrade of service.

17

1 **V. DISCUSSION OF THE FCC FORM 1240**

2 **1. Programming Costs**

3 **Q. What concerns do you have about the Company's programming costs?**

4 A. As described earlier in this testimony, the manner in which basic service rates are  
5 established is largely proscribed by the FCC's Form 1240. Since the FCC generally  
6 permits external costs to be passed through directly to ratepayers, it is critical to  
7 ensure that external costs are not being unnecessarily inflated by the cable operator.  
8 External costs include programming costs, franchise-related costs, copyright fees, and  
9 a 7.5% mark-up that is permitted by the FCC. External costs can account for a  
10 significant portion of a cable operator's overall rate. For example, external costs  
11 account for approximately 27% of the MPR being requested in LBI and 37% of the  
12 MPR being requested in Cedar Bonnet.

13 Cable operators have significant discretion over the cable programming that is  
14 carried on the basic service tier. While there is a minimum level of programming that  
15 must be carried, cable operators are free to add additional channels to the basic  
16 service tier. In the two Form 1240s that are under review in this case, both LBI and  
17 Cedar Bonnet had 45 channels on the basic service tier during the True-up Period and  
18 projected that one channel, CN8, would be added during the Projected Period. The  
19 programming carried on the basic service tier in LBI and Cedar Bonnet is identical.

20 **Q. How are programming costs determined?**

1 A. Comcast has provided little or no information regarding how programming costs are  
2 negotiated between its systems and the owners of the programming. Moreover, in  
3 some cases, cable operators also own the programming that is being carried on the  
4 basic service tier and, therefore, they are negotiating rates with themselves for this  
5 programming. For example, per the response to SRA-30, nine of the channels  
6 included on the basic service tier in the LBI and Cedar Bonnet systems involve  
7 programming owned in whole or in part by Comcast. These channels include CN8,  
8 Comcast SportsNet, E!Entertainment TV, In Demand, Outdoor Life, QVC, Inc.,  
9 Speedvision, Style, and the Golf Channel. We have no way of knowing how the price  
10 charged to each system for this programming is determined. Nor do we know how  
11 the price paid by the Comcast systems compares with the prices charged to other  
12 cable operators for this programming.

13 The issue of programming charges is also important for programming that is  
14 not owned by Comcast. The Company has consistently objected to identifying the  
15 cost incurred for each channel, although it did provide per channel cost information  
16 with the identities of the channels deleted. Very little information has been provided  
17 about either how the decision to carry a particular channel is made or about the  
18 manner in which costs for each channel are determined. Rather, Comcast continues  
19 to reflect higher and higher programming costs and to request recovery of these  
20 escalating costs from ratepayers without adequately supporting either its

1 programming decisions or the related costs.

2

3 **Q. Are the programming costs included in the Company’s filing actual costs or**  
4 **estimated costs?**

5 A. The extent to which estimated costs, rather than contractual programming costs, have  
6 been used in the Company’s filings is not clear. In several data requests, both the  
7 Ratepayer Advocate and the Staff of the BPU requested copies of programming  
8 contracts and other supporting documentation from the Company in order to verify  
9 the programming costs included in both the True-up and Projected Periods. The  
10 Company has consistently refused to provide this information. For example, in  
11 response to RAR-8 seeking “all supporting documentation, workpapers, and analysis  
12 for the programming cost per subscriber of \$7.6328” for LBI, the Company  
13 responded that,

14 This information cannot be revealed due to the fact  
15 that it is commercially valuable, confidential and  
16 proprietary, market-sensitive information that  
17 constitutes trade secrets. Comcast has continually  
18 used its best efforts to maintain this information as  
19 secret and would be harmed if this information were to  
20 become publicly available.

21

22 While I am not unsympathetic to the position that these programming  
23 contracts include confidential information, such information is routinely provided  
24 pursuant to a confidentiality agreement in all utility rate proceedings. In the very



1 sensitive area of telecommunications proceedings in New Jersey, Verizon and all  
2 other providers routinely provide data and information that is perceived as  
3 confidential. Confidential information is provided subject to a confidentiality  
4 agreement which results in two briefs being filed by all parties, one is a redacted  
5 public version and the other one is proprietary. This is standard pro forma procedure.  
6 There is no reason why this information could have not been furnished subject to such  
7 an agreement when requested in early June. I understand that just within the last  
8 week or so, the Ratepayer Advocate has been informed that the Company would  
9 provide at least certain programming contracts subject to a confidentiality agreement,  
10 but it is my understanding that neither the confidentiality agreement nor the exact  
11 documentation to be provided has been agreed upon by the parties. Therefore, as of  
12 the preparation date of this testimony, I still do not have the applicable programming  
13 contracts or other documentation supporting Comcast's claim for programming  
14 costs.

15  
16 **Q. Is there also an issue regarding the reasonableness of the programming costs**  
17 **being claimed for the True-up period?**

18 A. Yes, there is. Both LBI and Cedar Bonnet were acquired by Comcast during 2000.  
19 These systems were both purchased by AT&T and subsequently swapped to  
20 Comcast. Programming costs for LBI during the True-up Period were not identified

1 on a per channel basis. In response to RAR-7, requesting “a per channel breakdown  
2 of the programming costs of \$5.8689” for the True-up Period, the Company  
3 responded that “Due to the nature and confidentiality of this information, individual  
4 programming costs by channel were not available from the previous owner (AT&T).”  
5 Therefore, this calls into question the programming rates used during the True-up  
6 period as well. While some per channel data was provided for the Cedar Bonnet  
7 system, no documentation to support these costs, such as programming contracts, has  
8 been furnished.

9  
10 **Q. How do the True-up Period programming costs and Projected Period**  
11 **programming costs generally compare with the programming costs approved in**  
12 **the prior Form 1240 filings?**

13 **A.** As previously stated, in LBI the Company is requesting an increase of \$1.59 in  
14 external costs over costs embedded in the prior rates while in Cedar Bonnet the  
15 Company is requesting an increase of \$2.37. In LBI, the Company claims that actual  
16 programming costs were \$5.3846 per subscriber for the month of December 1999  
17 and \$5.8689 for the first eleven months of 2000. For the Projected Period, the  
18 Company assumed a cost of \$7.3285 for June and July 2001; of \$7.6328 for the  
19 remainder of 2001; and of \$7.3285 for the first five months of 2002. As stated  
20 previously, the information provided for the True-up Period was not separately

1 identified by channel but was simply provided as a bundled amount. The information  
2 provided for the Projected Period was shown on a per channel basis but the channel  
3 identification was deleted. The Company did not specify why the costs increased so  
4 dramatically from the end of the True-up Period to the beginning of the Projected  
5 Period, or why they increased in the later part of 2001. The issue of increasing cable  
6 costs is of great concern to all New Jersey cable customers and both the Ratepayer  
7 Advocate and the BPU should have this information for review.

8 With regard to Cedar Bonnet, the Company is claiming programming costs of  
9 \$8.1578 per subscriber from May 2000 to December 31, 2001 and of \$8.4468 from  
10 January 1, 2001 to April 30, 2001. During the Projected Period, the Company is  
11 projecting programming costs of \$10.5511 from August 1, 2001 to the end of the  
12 year and then a decline to \$10.2468 through the end of the Projected Period. The  
13 Company did identify these costs on a per channel basis. The largest increase is due  
14 to two channels that are not shown as charging any costs during the True-up Period,  
15 but are shown as charging costs during the Projected Period. Again, all of the rates  
16 proposed in the Company's filings, especially those involving rate increases, require  
17 supporting data for review.

18

19 **Q. Did the Company provide any support for these estimates?**

20 A. No, it did not. Comcast routinely refused to provide documentation supporting these

1 costs. It is interesting to note that in this case we are reviewing two Form 1240  
2 filings that have exactly the same channel line-up in the basic service tier. In spite of  
3 these identical program line-ups, programming costs included in the LBI system are  
4 vastly different than those included in Cedar Bonnet. In LBI, Comcast has included  
5 Projected Period costs of \$7.46, on average, while costs of \$10.37 are included for  
6 Cedar Bonnet. At the present time, we have no explanation for this significant  
7 difference between the two systems, but this variation does illustrate why it is so  
8 important to obtain documentation of all programming costs prior to approving a  
9 company's Form 1240 rates. Form 1240 rates are not automatically passed through  
10 and require data and documentation in support.

11

12 **Q. What do you recommend?**

13 A. Given the lack of documentation provided by Comcast, I recommend that all cost  
14 increases in programming costs be disallowed. The Company has not supported either  
15 its True-up Period costs or its Projected Period costs. Therefore, I recommend that  
16 the BPU continue to utilize the programming costs included in the Company's prior  
17 Form 1240 filings for the LBI and Cedar Bonnet systems. In order to recover any  
18 additional amounts from ratepayers, Comcast should be required to provide a full  
19 explanation for the cost increases in each of these systems and to support the  
20 estimated costs included in its filing. In the absence of such documentation, I

1 recommend that these cost increases be excluded from the Company's basic service  
2 rates.

3  
4 **Q. Do you have any additional recommendations?**

5 A. Yes, I further recommend that Comcast be required to provide all programming  
6 contracts in effect during the True-up Period and the Projected Period for review by  
7 Staff and the Ratepayer Advocate. This information would allow us to gather some  
8 detail regarding the contract terms and provisions being offered to Comcast by its  
9 subsidiaries and affiliates relative to contract terms offered to other cable operators by  
10 Comcast. This is to prevent discriminatory behavior on the part of Comcast in its  
11 dealings with independent third parties relative to its dealings with its affiliates. Such  
12 discriminatory behavior would ultimately harm New Jersey ratepayers. In addition,  
13 having access to these contracts would allow us to begin to develop an estimate of  
14 costs per channel being paid by each cable operator and to ascertain if those costs are  
15 reasonable. Absent this information, Comcast essentially requests that this Court and  
16 the parties to this proceeding simply take its statements as true without any  
17 verification as to the reasonableness of its proposed rates.

18  
19  
20 **2. Franchise-Related Costs**

1 **Q. Did Comcast include any franchise costs in its claim?**

2 A. Yes, Comcast included franchise costs for its LBI system. No franchise costs were  
3 included for Cedar Bonnet. In LBI, two types of franchise costs were included.  
4 First, the Company included costs for 27 accounts that are provided free of charge to  
5 various municipal entities. Second, the Company included production costs ranging  
6 from \$2,000 per month to \$3,000 per month, depending on the time period.

7  
8 **Q. What criteria should the BPU utilize to evaluate the reasonableness of a cable  
9 operator's claim for franchise-related costs?**

10 A. The BPU should first examine if the cost is the type of cost that is appropriately  
11 included in regulated cable rates. Second, the BPU should examine if the level of  
12 cost is reasonable given the cable operator's franchise agreement. Third, the BPU  
13 should ensure that the cost is well-documented and that any costs that are the result  
14 of corporate allocations have been allocated based on cost-causative factors.

15  
16 **Q. Was any support provided for the Company's production costs?**

17 A. No, it was not. The Company indicated that production costs of \$2,000 per month  
18 were allocated to LBI in 1999, \$2,500 per month in 2000, and \$3,000 per month in  
19 2001. However, no documentation for these costs was provided nor did the  
20 Company provide any explanation for the annual cost increases.

21 In response to SRA-49, the Company stated that,

1  
2 Local origination production is provided to LBI by the  
3 Wildwood system. The fee charged by the Wildwood  
4 system includes the production costs relating to one  
5 “Island Current” (local origination) show per month and,  
6 per Long Beach Township’s franchise agreement, the  
7 production and broadcast of the Long Beach Township  
8 Borough meeting once per month. Production costs  
9 relating to these programs include labor, travel expenses,  
10 production, filming, editing and delivering of a ¾” tape  
11 and two VHS tapes. Further details relating to these costs  
12 are not currently available and will be forwarded under  
13 separate cover.  
14

15 No additional documentation has been furnished to date.  
16

17 **Q. What do you recommend?**

18 A. Given that the Company has failed to adequately support these production costs, I  
19 recommend that all such costs be disallowed. My adjustment is shown in Schedule 4.

20 I recognize that the Company’s franchise agreement requires production costs  
21 associated with one meeting per month for the Long Beach Township Borough  
22 meeting. However, there is no evidence that the costs included in the Company’s  
23 Form 1240 bear any relation to the costs actually being incurred and, therefore, I  
24 recommend that such costs be disallowed. I am not recommending disallowance of  
25 the franchise-related costs for 27 municipal accounts, as I believe that these costs  
26 have been adequately supported by Comcast.  
27

1           **3. Changes in Channel Counts**

2           **Q. Please explain your recommended adjustment with regard to claims for channel**  
3           **movement/deletions.**

4           A. The Company has included an adjustment of \$0.35 in the LBI system for channel  
5           movements and deletions. This reflects an increase in channel movement/deletion  
6           costs from \$3.95 included in prior rates to \$4.30.

7  
8           **Q. Do you believe that this adjustment is appropriate?**

9           A. No, I do not. Pursuant to FCC Rule Section 76.922(g)(8), Parts 1 through 7 of  
10           Section 76.922(g) of the FCC's Rules, which address various adjustments that may  
11           be included on the Form 1240, "shall cease to be effective on January 1, 1998 unless  
12           renewed by the Commission." Since no such renewal has occurred, Section  
13           76.922(g) is no longer applicable and adjustments in the 1240 Forms relating to this  
14           section should be eliminated.

15  
16           **Q. What sections of the Form 1240 are affected by this change?**

17           A. This section of the FCC rules addresses all changes in rates relating to channel  
18           counts. This would include changes in the costs under the caps method (Line I1 of  
19           the Form 1240), the mark-up method (Line I2), and the channel movement/deletion  
20           segment (Line I3).



1

2 **Q. Why is it especially appropriate to eliminate the rules for channel movement/  
3 deletions?**

4 A. Although I am not an attorney, I understand that these rules originally called for the  
5 calculation of a per channel residual that would be added to or subtracted from each  
6 tier when channels were added, dropped, or moved. This made particular sense when  
7 channels were transferred from (or to) the basic service tier to (or from) the CPS tier.  
8 The purpose of these rules was to prevent one category (basic or CPT) of subscriber  
9 from subsidizing another category of subscriber due to the movement of channels  
10 without some corresponding adjustment in rates. However, effective March 31,  
11 1999, CPS rates are no longer regulated by the FCC.<sup>4</sup> Therefore, companies are free  
12 to charge whatever they want on the CPS tier. What this means is that channels that  
13 get moved from the CPS tier to the basic tier and vice versa no longer result in a  
14 revenue neutral situation for the majority of customers who receive both basic service  
15 as well as CPS.

16

17 **Q. Given the sunset provision of the FCC Rules, what do you recommend?**

18 A. I recommend that all changes in the Company's LBI filing that relate to channel  
19 counts, including those relating to the caps method, the mark-up method, or the  
20 channel/movement deletion method be eliminated from the Company's filing. I would

1 permit the Company to continue to recover amounts for channel count changes that  
2 are embedded in the Company's beginning MPR.

3  
4 **Q. Have you quantified the impact of all your recommended Form 1240**  
5 **adjustments on the MPRs for the LBI and Cedar Bonnet systems?**

6 A. Yes, these calculations are shown on Schedule 5. My recommendations will reduce  
7 the MPR for LBI from \$33.1183 to \$31.1407. The Company's current operator-  
8 selected rate is \$32.66 and therefore refunds would be applicable in the LBI system.  
9 Since LBI included the FCC regulatory fee in its external cost claim, these rates are  
10 inclusive of the FCC regulatory fee.

11 With regard to Cedar Bonnet, my recommendations will reduce the MPR  
12 from \$30.5863 to \$28.1786. The Company's current OSR in Cedar Bonnet is \$23.47  
13 and, therefore, my recommendations would not result in a rate reduction for Cedar  
14 Bonnet customers. However, my recommendations will reduce the amount of any  
15 true-up that Comcast can claim in Cedar Bonnet (and in LBI) in next year's filings.  
16 The FCC regulatory fee was not included in Cedar Bonnet's external cost claim and,  
17 therefore, the FCC regulatory fee would be an additional charge to subscribers in the  
18 Cedar Bonnet system.

19  
20 **VI. DISCUSSION OF THE FCC FORM 1205**

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<sup>4</sup> 47 U.S.C. 623 ( c ) ( 4 ).

1           **1.       Deferred Income Taxes**

2   **Q.       Did the Company include deferred income taxes in its Form 1205 filing?**

3   A.       No, as shown on Schedule A, Line D of the Form 1205 filing, the Company did not  
4           include deferred income taxes in its calculation of the rate base associated with  
5           installation and maintenance activities. Pursuant to the Form 1205 and its  
6           instructions, the FCC clearly intended accumulated deferred income taxes to be  
7           reflected in the rate base calculation. Deferred income taxes should also be  
8           considered in the determination of the capital costs of leased customer equipment,  
9           Schedule C to the FCC Form 1205.

10                   Deferred income taxes reflect the tax impact resulting from the difference  
11           between the depreciation rates used for book (ratemaking) purposes and the  
12           depreciation rates used for tax purposes. Whether or not actual income taxes are  
13           paid, the Company does report depreciation expenses on both a book and tax basis.  
14           Therefore, it is reasonable to conclude that the Company would have deferred income  
15           taxes, unless it is using identical book and tax depreciation rates.

16  
17   **Q.       What do you recommend?**

18   A.       I recommend that the Company be required to provide the amount of its accumulated  
19           deferred income taxes and to reflect this amount in its rate base calculation. The  
20           Company should also reflect the appropriate deferred income tax adjustment in

1 calculating its leased customer equipment costs. In the alternative, the Company  
2 should demonstrate that its depreciation rates for book and tax purposes are identical.  
3

## 4 2. Purchase of New Converters

5 **Q. Please explain the reason for the increase in converter rates being proposed by**  
6 **Comcast.**

7 A. In the Comcast Consolidated system, the MPR for addressable converters is proposed  
8 to increase from \$2.84 to \$3.61. A review of the Form 1205 reveals that a significant  
9 reason for this increase is the increase in gross book value for converters. In  
10 Comcast's prior Form 1205, it reported a gross book value of \$93,948,476 for  
11 converters, while the current filing includes converters of \$117,728,000, a 25%  
12 increase. While the current filing does include an increase in the number of  
13 converters that is presumably at least partially attributable to the inclusion of the LBI  
14 and Avalon systems, the number of converters increased by only 11.4%. In last  
15 year's filing, the average cost of the converters included in the Form was \$172.84  
16 while in this year's filing the average cost increased to \$194.36.

17 Comcast has not provided any explanation for this increase in average  
18 converter costs. While the operator-selected rate for converters is \$3.25, well below  
19 the \$3.61 MPR, the Company should still be required to support this significant  
20 increase in average converter costs. The Company was asked to provide invoices for

1 equipment purchased during 2000, but to date such documentation has not yet been  
2 furnished. This issue will be pursued further in the hearing phase of this case.

3  
4 **3. Basic-Only Equipment Rates**

5 **Q. Are cable operators required to provide a basic-only equipment option?**

6 A. Yes, cable operators who aggregate their equipment costs are required by the FCC to  
7 provide either a basic-only equipment option for basic-only subscribers or to charge  
8 basic-only subscribers for equipment based on the lowest cost model available. The  
9 purpose of this requirement is to prevent basic-only subscribers from paying for more  
10 sophisticated remotes and converters than they require.

11 It appears that a basic-only (or non-addressable) converter is offered in those  
12 systems that were previously included in the Comcast Consolidated Form 1205. The  
13 rate for this converter is \$0.33, which compares favorably to the rate of \$3.25 for  
14 addressable or digital converters. However, it is unclear if this option is available in  
15 all of Comcast's systems. For example, in SEI-13, the Company was asked if it  
16 planned to charge a monthly fee for non-addressable converters in the LBI or other  
17 systems. The Company responded that, while it proposed to charge a non-  
18 addressable converter rate of \$0.33 in the majority of its systems, "[t]here is no non-  
19 addressable converter charge in the LBI system." It is unclear from this response if  
20 non-addressable converters are free in the LBI system or if they are unavailable.

1

2 **Q. What do you recommend?**

3 A. I recommend that the Company be required to verify that it is in compliance with the  
4 FCC requirement to offer a basic-only converter in all of its systems or, in the  
5 alternative, to charge basic-only subscribers a rate based on the least expensive  
6 equipment.

7

8 **4. Downgrade Rates**

9 **Q. What rates does the Company charge for downgrade of service?**

10 A. According to the Company's response to SEI-14, the Company is proposing to  
11 charge a rate of \$15.63 for deletion of a non-addressable service in the LBI service  
12 area and \$15.64 in its other service areas. Addressable downgrades would be  
13 charged at a rate of \$1.99.

14

15 **Q. Do you have any comments regarding the Company's proposed rates?**

16 A. Yes, as a matter of public policy, I do not believe that it is appropriate to charge  
17 customers for a downgrade. Customers are inundated with cable television  
18 advertisements providing incentives for hook-ups and incentives for subscriptions to  
19 advanced services. If a customer tries a service and later decides that he does not  
20 want the service, he should not be penalized with a downgrade fee. Similarly, if a

1 customer's economic situation changes and he can no longer afford cable service, it is  
2 burdensome and unreasonable to require him to pay up to a \$15.64 fee to terminate  
3 the service. There are very few services that require payment of a fee in the event  
4 that the customer decides to terminate service. For instance, local telephone service  
5 providers such as Verizon, do not charge customers who downgrade their service by  
6 canceling certain vertical services to downgrade to basic telephone service. I believe  
7 that this downgrade fee should be eliminated on public policy grounds.

8

9 **Q. Does this complete your testimony?**

10 A. Yes, it does.

11