

ORDINANCE NO. 175231**ADOPTING A RATE REGULATION REGARDING CABLE TELEVISION RATES
FOR BASIC SERVICE AND EQUIPMENT ADELPHIA - FRANCHISE AREAS C, F, G,
H PURSUANT TO 2002 FCC FORMS 1240 AND 1205**

WHEREAS, under Section 623 of the Cable Communications Policy Act of 1984, 47 U.S.C. § 543, as amended ("Cable Act"), the City of Los Angeles, California ("City") is permitted to regulate rates for basic cable service and equipment (including installations), and has followed the rules and regulations of the City, see §§ 22.592(g)(2)(b) and 22.598 of the Los Angeles Administration Code ("City Rules"); and

WHEREAS, the City initiated basic rate regulation on October 1, 1993; and

WHEREAS, on March 29, 2002, Century-TCI California, L.P., d/b/a Adelphia Communications Corporation ("Adelphia") filed with the City FCC Form 1240, "Updating Maximum Permitted Rates for Regulated Cable Services," with its associated FCC Form 1205, "Determining Regulated Equipment and Installation Costs, 'Equipment Form'," ("2002 Rate Filing"), purporting to set forth and justify the rates it proposed to charge subscribers in Franchise Area C for basic cable service and equipment.

WHEREAS, on June 4, 2002, Adelphia filed with the City three FCC Forms 1240, "Updating Maximum Permitted Rates for Regulated Cable Services," with associated FCC Form 1205, "Determining Regulated Equipment and Installation Costs, 'Equipment Form'," ("2002 Rate Filing"), purporting to set forth and justify the rates it proposed to charge subscribers in Franchise Areas F, G, and H for basic cable service and equipment.

WHEREAS, the Information Technology Agency for the City of Los Angeles ("Agency") received and preliminarily reviewed the 2002 Rate Filing, and published notice that such filings were available for public review and comment.

WHEREAS, the City retained telecommunications legal and financial consultants to assist in the review of Adelphia's rate filings and supporting information

WHEREAS, the City submitted requests for information to Adelphia.

WHEREAS, allegations of fraud affecting Adelphia's financial information generally cast doubt on whether the City can rely on the financial information provided by Adelphia to support its 2002 Rate Filing.

WHEREAS, the City accordingly requested Adelphia to certify that the information supporting its 2002 Rate Filing and prior rate filings was accurate.

WHEREAS, in order to allow Adelphia a better opportunity to respond to the City's certification request, Adelphia and the City obtained an extension of time from the Federal Communications Commission to ensure that the City could act on the 2002 Rate Filing for Area C through June 1, 2003, which is approximately the date on which it would act on the other 2002 filings.

WHEREAS, Adelphia has not certified that the information supporting its 2002 Rate Filing is accurate.

WHEREAS, the Board of Information Technology Commissioners (Board) has reviewed the 2002 Rate Filing; has received and considered comments, evidence and information from interested parties, and has reviewed the rate report prepared by the City's financial consultant (the "A&S Report").

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

The City Council hereby adopts a rate regulation for Adelphia as detailed below:

Section 1. The City Council hereby finds and determines that the resolution of the Board of Information Technology Commissioners for the City of Los Angeles adopted 5-2-03 (the "Resolution"), submitted to this Council and maintained on file in Council File No. 03-0774-510 is approved, adopted and incorporated into this ordinance.

Sec. 2. Findings

A. Reliability of Information In the 2002 Rate Filing

(a) Federal Communications Commission ("FCC") rules place the burden on the cable operator to prove that its rates for basic service and equipment are reasonable under applicable federal law and regulations. 47 C.F.R. § 76.937(a). The City has provided Adelphia with ample opportunity to provide the necessary support for the rates it charged based on its 2002 Rate Filing. Hence, to the extent Adelphia has failed to carry its burden of proof, the City may order Adelphia to reduce its rates and provide refunds based on the best information available and the conclusions reached thereon by the City as the finder of fact.

(b) The parent company of Adelphia, and officers of that company, have been charged with fraud with respect to the company's accounting practices and alleged falsification of financial data, including its number of subscribers. See, e.g., Securities and Exchange Commission, SEC Charges Adelphia and Rigas Family with Massive Financial Fraud (July 24, 2002), available at <http://www.sec.gov/news/press/2002-110.htm>; Christopher Stern, "Looking for a Cable Industry Rebound," Washington Post, July 25, 2002 at E1, E6; Associated Press, Ex-Adelphia Accountant Pleads Guilty to Fraud (Jan. 13, 2003), available at <http://www.smartpros.com/x36671.xml>.

(c) The charges and reports of fraud affecting Adelphia's accounts make it impossible for the City to reasonably rely on the financial information provided by Adelphia to support its 2002 Rate Filing, unless Adelphia can certify that the information supporting its 2002 Rate Filing is

accurate.

(d) The City has requested that Adelphia certify that the information supporting its 2002 Rate Filing is accurate. Adelphia has not provided such certification. See letter from Thera Bradshaw to Laurence Windsor dated February 27, 2003; letter from Thomas M. Wilson to Thera Bradshaw dated March 11, 2003. The City also asked Adelphia to certify the information in prior rate filings, since errors in the data in prior filings could affect the 2002 Rate Filings. Adelphia did not certify such prior data either.

(c) Each FCC rate form "requires a signed certification statement that the information on the FCC Form is true and correct." Time Warner Cable: Complaint Regarding Cable Programming Services Tier Rate Increase, DA 98-714, 13 FCC Rcd 7336 at 7 (1998); see also Marcus Cable Associates: Petition for Reconsideration and Refund Plan, DA 02-1380, 17 FCC Rcd 11020 at 5 (2002). Thus, the FCC forms are essentially unacceptable, and the operator fails to carry its burden of proof, if the cable operator cannot so certify.

(f) For this reason, the City cannot accept the 2002 Rate Filing as an accurate representation of the information needed to calculate rates pursuant to FCC regulations. Due to this extraordinary circumstance, the 2002 Rate Filing cannot be used as a basis for setting Adelphia's rates.

(g) Once Adelphia can certify its data, it may submit revised rate forms, as indicated below. However, pending the certification of the necessary data and the provision of other information, there is no basis on which the City can authorize an increase in Adelphia's rates over those Adelphia was charging at the time it made the 2002 Rate Filing.

As described in the A&S Report, however, there is evidence that if the 2002 Rate Filing could be certified, once necessary corrections were made, the rates Adelphia was charging in Area C at the time it made the 2002 Rate Filing were much higher than the best available information could justify. Thus, to protect subscribers from overcharges, the basic service rate in Area C must be set pursuant to the calculations in the A&S Report.

(h) The concerns stated above also raise questions concerning the validity of Adelphia's rate calculations for the 2001 Rate Filing and for previous years. Hence, the City reserves its right to review such earlier filings to determine, in the light of new information regarding Adelphia's financial data, whether the supporting information submitted by the cable operator for those filings was reliable, and if necessary to recalculate those rates and order any refunds permitted under law.

(i) As an independent basis for maintaining the rates indicated above, the City notes that the FCC's rate regulations presume that each cable operator will be able to satisfy the minimum FCC customer service standards, and general requirements such as applicable safety codes, without exceeding the maximum permitted rate derived applying the FCC's rate formulae. FCC rules specifically provide that if a community establishes customer service standards that are stricter than the FCC's minimum standards, the cable operator is permitted to pass additional costs required by such standards through to subscribers as external costs. It follows that where an operator consistently fails to meet the FCC's minimum standards, it should be required to reduce its external costs, and hence its rates, by the difference between the cost of complying with those requirements and the costs the cable operator actually incurred.

(j) The City lacks the necessary information to determine that difference in Adelphia's costs. Indeed, as explained below, Adelphia has not provided sufficient support for its calculations of external costs. It appears, however, that the company's failure to provide adequate customer

service nonetheless supports rate reductions from current rate levels.

B. Review of the Information Submitted By Adelphia

(k) Despite the issues indicated above as to the reliability of the information submitted by Adelphia in support of the 2002 Rate Filing, the City has sought to review those filings pursuant to applicable FCC regulations.

(l) The City retained a telecommunications financial consultant to review the 2002 Rate Filing. The results of that review are reflected in a letter report dated April 24, 2003, appended as Attachment 1 ("A&S Report").

(m) The City submitted requests for information to Adelphia with respect to the 2002 Rate Filing, and received partial responses from Adelphia. A&S Report at 1.

(n) In many respects, Adelphia failed to provide the requested information, as detailed in the A&S Report and below. In such circumstances, FCC regulations direct the City to use the best available information to determine Adelphia's rates. See, e.g., SBC Media Ventures, Inc.: Appeal of Local Rate Order of Montgomery County, Maryland, DA 94-1251, 9 FCC Rcd 7175 at 15 (1994); Century New Mexico Cable Corporation: Appeal of Local Rate Order of Silver City, New Mexico, DA 95-1134 (November 22, 1994); Comcast Cablevision of Detroit, Inc.: Appeal of Local Rate Order of Detroit, Michigan, DA 00-2748, 15 FCC Rcd 24022 at 3. See also Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Report and Order, FCC 99-57, 14 FCC Rcd 5296 at 48 (1999) ("Insufficient or incomplete cable operator responses may result in our finding that the rate increase is unreasonable").

(o) The A&S Report indicates that if Adelphia's 2002 Rate Filing were taken at face value, without regard to the general issues regarding reliability referred to above, a number of corrections would need to be made. A&S Report at 2-5.

(p) With respect to the Form 1240 calculation of the basic service tier rate, Adelphia failed to provide the necessary supporting information to confirm its subscriber numbers. This lack of support is of particular concern given the reported problems with Adelphia's subscriber counts, as mentioned above. In the absence of other information, however, A&S was forced to use the figures provided by Adelphia. A&S adjusted these figures to take into account non-paying subscribers, which had been omitted by Adelphia. A&S Report at 3.

(q) Adelphia also failed to reflect properly the deletions and movements of channels affecting the basic service tier. A&S has made the necessary corrections in Form 1240 to account for these channel changes. A&S Report at 3.

(r) Adelphia was requested to provide invoices to support its claimed programming costs for the basic service tier, and to account for any offsets to programming costs, such as launch fees. Adelphia failed to provide the requested information. In fact, the programming costs claimed by Adelphia in the 2002 Rate Filing were evidently incorrect. For example, Adelphia's calculations included the costs of channels not carried on the basic tier and failed to include the costs of channels that were. Adelphia also used inconsistent costs for programming in its four franchise area filings in the City. It showed one channel's costs on a per-subscriber basis where that channel is known to charge cable operators on a flat-fee basis. Accordingly, the A&S Report corrects Adelphia's programming costs to the extent possible using the best available information. A&S Report at 3-4.

(s) Adelphia was also requested to provide support for its franchise-related external costs. Adelphia is entitled to recover only increases in such costs, and must pass through to subscribers any decreases in those costs. Adelphia claimed that no such external costs exist. That is,

however, evidently false, given the obligations that apply to Adelphia under its franchise and associated agreements with the City. The A&S Report incorporates an estimate of Adelphia's franchise-related costs made by The Buske Group, a consultant working with the City in the renewal process. A&S Report at 4-5. This Regulation does not assume that Adelphia continues to hold a valid franchise.

(t) With respect to the Form 1205 calculation of equipment and installation rates, it appears that some corrections should be made, but the City's financial consultant did not receive sufficient information from Adelphia to do so. While Adelphia should not benefit from its failure to provide the information necessary for a full and complete filing pursuant to FCC regulations, the City does not have sufficient information at this time to establish corrected rates. A&S Report at 5.

(u) The City finds the A&S Report's adjustments to be reasonable and appropriate, if the 2002 Rate Filing were taken to be accurate despite the concerns regarding reliability described above.

Section 3. Ordering Clauses

(a) Because Adelphia cannot certify the accuracy of the information incorporated in its 2002 Rate Filing, the rate changes proposed in those filings are hereby disallowed. Adelphia's rates for the period under review for Area C only are hereby set as indicated below in Section 3(d). The rates for Areas F, G, and H must remain the same as those Adelphia was actually charging at the time it made the 2002 Rate Filing.

(b) Because the purpose of the rate regulation rules is to set rates at a level approximating those that would be charged in a competitive marketplace, Adelphia may submit information showing rates it charges (on an absolute and per channel basis) in areas of metropolitan Los Angeles where Adelphia faces direct competition from another wireline cable service provider, for those customers that have a choice of wireline providers, and ask for relief from this rate order based on that information.

(c) If Adelphia wishes to justify different rates than those set in Section 3(a), it may file corrected and certified FCC Forms 1240 and 1205 for each rate year since it obtained control of the system, together with the supporting information for each year requested by the City in connection with the 2001 and 2002 Rate Filings. It should also submit information regarding (i) its actual costs incurred to comply with customer service standards, and (ii) its actual costs incurred to comply with plant safety standards, in such detail as to enable the City to determine the difference between these actual costs and the costs required to comply with applicable standards, as soon as it is able to certify the accuracy of the information thus provided, and the City will review such filings pursuant to applicable law.

(d) If a court or agency of competent jurisdiction should determine that the financial information provided by Adelphia to support its 2002 Rate Filing is accurate, or that the City otherwise must rely on that information, the City hereby adopts (and by this reference incorporates herein), as appropriate and to the extent not inconsistent with this Rate Regulation, the findings, assumptions and other information set forth in the A&S Report. In such case Adelphia's maximum permitted rates for basic service and equipment are hereby set in accordance with the rates calculated in the A&S Report, as follows:

	Rate In Effect At 2002 Rate Filing	Rate Excluding 5% Franchise Fee	Rate With 5% Franchise Fee
(a) Basic service tier, Area C	12.00	10.44	10.99
Basic service tier, Area F	29.18	31.21	32.85
Basic service tier, Area G	30.49	32.86	34.59
Basic service tier, Area H	24.86	26.12	27.49
(b) Remote control		0.28	0.29
(c) Addressable converter		3.82	4.02
(d) Additional outlet		0.92	0.97
(e) Installation of unwired home		47.20	49.68
(f) Installation of prewired home		35.40	37.26
(g) Additional connection at initial installation		23.60	24.84
(h) Additional connection, separate trip		35.40	37.26
(i) Downgrade to basic		47.20	49.68
(j) Relocate service		35.40	37.26
(k) Trip charge		31.62	33.28
(l) Underground installation		82.60	86.95
(m) Tier change without service call		1.99	2.09

(c) The rates set in this Regulation will govern Adelphia's basic service and equipment rates in the Franchise Area until Adelphia lawfully implements a further rate change pursuant to applicable FCC regulations.

(f) The findings herein are based on the representations of Adelphia. Should information come to the City's attention that these representations were inaccurate in any material way, the City reserves the right to take appropriate action. This Regulation is not to be construed as a finding that the City has accepted as correct any specific entry, explanation or argument made by Adelphia not specifically addressed herein.

(g) To the extent that any lawful review by the City of Adelphia's prior rate filings may require adjustments in the maximum permitted rates determined herein, the City reserves the right to make further adjustments to Adelphia's underlying basic rates upon completion of its review of those prior rate filings.

(h) Adelphia shall place into effect, as soon as possible, but in no event more than sixty days from the date of this Regulation, current rates that reflect any changes in Adelphia's rates determined in this Regulation, as subsequently adjusted in later rate filings pursuant to applicable law, pursuant to 47 C.F.R. § 76.940.

(i) Adelphia shall file with the City within thirty days of the date of this Regulation materials sufficient to demonstrate its proposed methodology for making the refunds required herein for the period under review. Such materials shall include, without limitation, a narrative explanation in detail of the methods used to calculate all refunds, including how the refund amount was determined and how interest was calculated on a per-subscriber basis, both for any refunds previously made and for any refunds required by this Regulation; the aggregate amounts of any refunds to be made for each affected rate, including separate itemization of the amounts attributable to interest; and specific examples (from which any individual identifying information may be redacted) of sample calculations of all refunds for representative classes of subscribers. If Adelphia claims that no refunds are due, Adelphia shall provide a complete explanation including sample calculations as described above. The materials provided should be sufficient to permit the City to verify whether Adelphia's refunds comply with the requirements of this Regulation and applicable law.

(j) As soon as possible, but in any event within sixty days from the effective date of this Regulation, Adelphia shall make any rate reductions and refunds that are necessary based on the rates shown above. Adelphia shall refund any amounts charged to subscribers for service or equipment that exceed the maximum permitted amounts specified herein. Refunds shall be made in accordance with 47 C.F.R. § 76.942(d), and shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments, pursuant to 47 C.F.R. § 76.942(c).

(k) Adelphia shall file with the City within ninety days from the date of this Regulation a certification, signed by an authorized representative of Adelphia, stating whether Adelphia has complied fully with all provisions of this Regulation, describing in detail the precise measures taken to implement this Regulation, and showing how any refunds (including interest) were calculated and distributed.

(l) Adelphia shall not charge any rate higher than the rate set herein, nor increase that rate, nor impose on subscribers any other charge for basic service or equipment not specified herein or in the City's previous rate orders, including but not limited to bulk and commercial rates (to the extent such limitation is permitted by applicable law), unless such charge is first filed with and

approved by the City, in accordance with applicable law and regulations, including but not limited to the notice requirements imposed by 47 C.F.R. § 76.932, or as otherwise expressly permitted under applicable law and regulations.

(m) Adelphia may charge rates less than the maximum rate indicated above for any basic service or equipment, as long as such rates are applied in a uniform and nondiscriminatory way, pursuant to applicable federal, state, and local laws and regulations.

(n) Adelphia shall continue to keep adequate accounts and records of all amounts received with respect to basic service and equipment rates, and on whose behalf such amounts were paid, so that it is able to pay refunds to subscribers if such refunds are later required.

(o) While this order is limited to setting basic service and equipment rates, it has become apparent in the course of reviewing the information submitted by Adelphia that there may be other violations of applicable law and regulations that affect the amounts that must be paid to the operator to obtain service, including but not limited to potential violations of the "anti-buy-through" provisions and rules, the FCC's point of deployment device rules, and non-discrimination provisions and rules. Staff is investigating such potential violations. We direct Adelphia to cooperate with the staff in that investigation.

(p) The City reserves all of its rights with respect to rate regulation, including, but not limited to, any right it may have to reopen this rate proceeding based on new information or rulings by governing authority, if it appears that such new information or rulings could alter the reasonable rates prescribed by FCC regulations, and any right it may have to "true up" overcharges or undercharges in connection with future rate filings pursuant to 47 C.F.R. § 76.922(e)(3).

(q) This Regulation constitutes the written decision required by 47 C.F.R. § 76.936(a).

(r) This Regulation shall be operative on May 30, 2003.

(s) This Regulation shall be released to the public and to Adelphia, and a public notice shall be published stating that this Regulation has been issued and is available for review, pursuant to 47 C.F.R. § 76.936(b).

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, majority of all of its members, at its meeting of MAY 30 2003.

J. MICHAEL CAREY, City Clerk

By *Maria Kookandi*
Deputy

Approved MAY 30 2003

James Hahn
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Josh Perttala*
JOSH PERTTALA
Deputy City Attorney

Date MAY 30 2003

File No. 02-0774-310

DECLARATION OF POSTING ORDINANCE

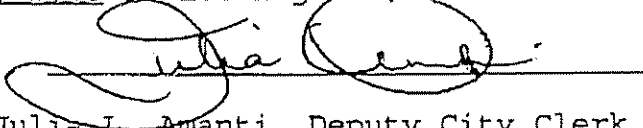
I, JULIA L. AMANTI, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 175231 - Rate Regulation Regarding Cable Television Rates for Basic Service & Equipment Adelphia - Franchise Areas C, F, G & H Pursuant to 2002 FCC Forms 1240 & 1205 - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on May 30, 2003, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on May 30, 2003, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on May 30, 2003 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30th day of May, 2003 at Los Angeles, California.


Julia L. Amanti, Deputy City Clerk

Ordinance Operative date: May 30, 2003 Council File No. 02-0774 s10

(Rev. 3/21/03)