Attachment A

Rec 4/4/05

TELECOMMUNICATIONS MANAGEMENT CORP.
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March 29, 2005

Mr. Ernie De Frenchi
Analyst
Information Technology Service
City of Sunnyvale
650 West Olive Avenue
Sunnyvale, CA 94086

Dear Mr. De Frenchi:

Enclosed is a copy of Telecommunications Management Corp.'s (TMC's) review of the FCC Forms 1205 and 1240 submitted by Comcast to the City of Sunnyvale. Please feel free to contact me with any questions you may have.

Sincerely,

Michael J. Friedman
Vice President

Enclosures

TELECOMMUNICATIONS MANAGEMENT CORP.
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REVIEW OF FCC FORMS 1205 AND 1240 SUBMITTED BY COMCAST OF CALIFORNIA IX, INC. TO THE CITY OF SUNNYVALE March 29, 2005

Telecommunications Management Corp. (TMC) has received the FCC Forms 1205 and 1240[1] submitted by Comcast of California IX, Inc. (Comcast) to the City of Sunnyvale. This report constitutes TMC's review of this information.

The following caveats should be noted:

- The financial information has not been audited for accuracy. However, the data have been examined for consistency with industry standards. It is noted that the Forms are submitted with a signature under a provision that states that willful false statements are punishable by fine and/or imprisonment.

- The findings contained herein are based solely on the representations made in the materials provided by the cable operator. Should information come to TMC's attention that these representations (including representations as to equipment, installation and programming costs) were materially inaccurate, TMC reserves the right to modify its conclusions.

- The rules established by the FCC are subject to revision and modification. The evaluation is based on the rules established and available as of the date of this report.

As noted in TMC's previous reports to the City, the cable operator is required to submit the Form 1240 to the City 90 days prior to a proposed rate change. Key review periods for Form 1240 are as follows:

- The franchising authority has 45 days to determine whether the filing was <u>incomplete</u>.

- The rates may go into effect after 90 days if the franchising authority has taken no action to disapprove the rates, subject to refund liability if the franchising authority subsequently issues a rate decision disapproving any portion of the proposed rates.

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[1] Form 1205 updates the permitted rates for regulated equipment and installation charges. Form 1240 updates the permitted rates for cable services.

- At the end of the 90 days, if the cable operator inquires as to whether the franchising authority intends to issue a rate order, the franchising authority has 15 days to notify the operator of the intent to issue an order. If no response is provided within this period, the franchising authority loses its ability to order subsequent refunds.

- Subject to the conditions indicated above, the franchising authority has 12 months from the date the Form is filed to order refunds. Failure to act within this period results in the franchising authority losing its right to order refunds.

With limited exceptions, an operator who files Form 1240 is allowed only one rate change per year for regulated services. It is for this reason that the Form 1240 is required to be accompanied by a Form 1205 (for equipment and installation rates). With all regulated subscriber rates changed at the same time, the subscriber experiences only one annual rate change.[2]

Form 1240 allows an operator to project costs which are "reasonably certain and reasonably quantifiable." If the operator is incorrect in its projections, there is a "true-up" process for the subsequent Form 1240 filing. Past undercharges and overcharges can be factored into future rates. In the City, the true-up period is December 1, 2003 through November 30, 2004.

The City received the Forms 1205/1240 (and supporting materials) on, or about March 1, 2005, for a rate change permitted to be implemented on June 1, 2005.

As previously noted, it is beyond the scope of TMC's review to determine whether the projected programming costs indicated are, in fact, "reasonably certain and reasonably quantifiable." However, the costs indicated appear to be within a range of reasonableness.

The City is reminded that its regulatory authority is limited by FCC regulations to the Basic Service Tier (marketed as "Limited Basic") and the equipment and installation services associated with this tier. In the past, the Cable Programming Services Tier (marketed as "Expanded Basic") was regulated by the FCC upon receipt of a "complaint" from the franchising authority. However, by law, the FCC authority to regulate the rate for Expanded Basic expired on March 31, 1999.[3]

TMC's review of the Forms is summarized below.

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[2] For regulated rates only.

[3] 47 U.S.C. 543(c)(4)

FORM 1205

The computations contained in the Form have been completed accurately.

In the opening paragraph of its "Preparation Documentation," the cable operator indicates that it has chosen to aggregate its costs at the company level. This is permitted by an FCC ruling issued in 1996. Comcast goes on to indicate that, "The average hours per installation, costs and hours of installation and maintenance of customer equipment were estimated based on a sample of Comcast's cable systems." A copy has been provided of the "Sampling Plan & Analysis for Comcast Cable System Rates" which documents the methodology utilized in determining the averages.

In the past, a few communities have challenged whether the sampling methodology previously utilized by AT&T Broadband, and now Comcast, is an appropriate means of establishing estimates. Most local franchising authorities (including the City) have accepted the methodology as one reasonable attempt to estimate actual costs.

Comcast indicates that the "Operator Selected Rate" is equal to the "Maximum Permitted Rate" in each case. Last year, the operator implemented rates which were less than the Maximum Permitted,[4] and this may be the case again.

At this time, it is not possible to determine whether rates will increase, decrease or remain unchanged. If rates are modified to the Maximum Permitted, all rates would increase with the exception of the remote control.

The "permitted" rates are summarized in Figure 1. It is noted that the regulatory authority of the City is for the "permitted" rate (i.e., this is the only rate which can be found to be reasonable or unreasonable).

FORM 1240

Comcast has completed the calculations on the Form 1240 in a manner consistent with the FCC regulations. The following items are noted:

- The new maximum permitted rate for the Basic Service Tier is $14.80 (excluding franchise fees and the FCC regulatory fee). The current Basic Service rate is $15.58, so the rate will be <u>decreasing</u> by at least $0.78 or 5.3%.[5]

- The calculations for the "Expanded Basic" rate are not provided, since this service is no longer subject to rate regulation.

- Comcast indicates that in June 2004, two services (The Weather Channel and Hallmark) were dropped from the

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[4] Based on the rate card included with the rate Forms.

[5] It is noted that during the true-up period (December 1, 2003 through November 30, 2004) the Basic rate was $15.08. This rate was increased to $15.58 in February 2005.

Basic Tier and two other services (C-SPAN and C-SPAN2) were added.

- The cost of programming for the Basic Service Tier is indicated as $1.00 per subscriber per month during the projected period. As can be seen, this is a relatively small portion of the cost for this tier of service.

- Comcast has reversed the previous trend of decreasing subscribers. Comparing the average subscriber count[6] from several previous and current Forms 1240 for the true-up period, the changes are as follows:

	2001	2002	2003	2004
Sunnyvale	29,539	28,356	28,291	28,855

Even with the 564 (2.0%) subscriber increase last year, there are 684 (2.3%) fewer subscribers in the City than there were in 2001.

The permitted rates for Basic Service, equipment and installation are summarized on Figure 1.

Based on the preceding, the following actions are recommended:

1. The City should provide Comcast with the opportunity to comment on the conclusions of this report. Perhaps the simplest way to do this is to provide the operator with a copy of this report and request written comments by a specific date.

   No objections from the operator are expected.

2. No action by the City is necessary to accept the rates as proposed. FCC regulations require the participation of interested parties (including the cable operator) and a "rate order" only in circumstances where a rate other than that calculated by the cable company is prescribed by the City.

3. If the City believes it is necessary to take action on the proposed rates, the City can approve the rates contained in the Forms 1205 and 1240, and summarized in Figure 1, as being calculated in a manner consistent with FCC regulations.

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[6] For the current submission, the subscriber count is from Attachment 6. In previous filings, the subscriber count was found on Line B1. The current Form 1240 includes additional subscribers (identified as "Olive Gardens") requiring Comcast to make an adjustment (shown in Attachment 6) to reflect the modification.

As with any rate order (if the City elects to issue an order), the cable operator has the option to appeal any decision to the FCC. According to Section 76.944 of the FCC regulations, the cable operator has 30 days from the release of the text of the City's decision to submit its appeal to the FCC. The City then has 15 days to respond to the appeal, with cable operator replies to franchising authorities' response due 7 days thereafter. Because of the potential for appeal, the City may wish to have legal counsel review any decisions prior to final action.

FIGURE 1
FCC FORMS 1205 & 1240 PERMITTED RATES

	Current	Permitted Rate @6/1/05*	Operated Selected Rate	Change to Selected Rate
Basic Service	$15.58	$14.80	TBD	--
Installations				
Unwired Home	$43.99	$51.34	TBD	--
Prewired Home	27.99	32.72	TBD	--
Add'l. Outlet – Initial Trip	13.99	17.11	TBD	--
Add'l. Outlet – Separate Trip	21.99	26.30	TBD	--
Relocate Outlet	19.99	23.44	TBD	--
Upgrade (non-addressable)	15.99	18.27	TBD	--
Downgrade (non-addressable)	10.99	14.37	TBD	--
Upgrade/Downgrade (addressable)	1.99	1.99	TBD	--
VCR Connect – Initial Trip	5.99	8.55	TBD	--
VCR Connect - Separate Trip	12.99	16.76	TBD	--
Hourly Service Charge	28.49	37.14	TBD	--
Equipment				
Remote Control	0.30	0.28	TBD	--
Converter (Basic Only)	1.25	1.47	TBD	--
Converter (All Non-HD)	4.70	4.83	TBD	--
Converter (HD)	NI	11.37	TBD	--
CableCARD	NI	1.22	TBD	--

Notes:

Basic Service rate excludes FCC regulatory fee.
All rates exclude franchise fee.
TBD = To be determined. In each case, Comcast has listed the permitted and selected rates as being the same, although also indicating that some rates may be lower than permitted. Last year, Comcast did not adjust its equipment and installation rates even though increases were permitted.
NI = Not Indicated
* Rounded to two digits.