

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Media General Cable of	)	
Fairfax County, Inc.	)	
	)	DA 97-2241
Application for Review	)	CSB-A-0211
(CUID No. VA0301)	)	
	)	
	)	
	)	

**MEMORANDUM OPINION AND ORDER ON REVIEW**

**Adopted: August 14, 2001**

**Released: August 17, 2001**

By the Commission:

**I. INTRODUCTION**

1. Fairfax County, Virginia ("County") filed a Request for Reinstatement of Application for Review in the above-captioned proceeding. The County seeks Commission rescission of a Memorandum Opinion and Order issued by the Chief, Cable Services Bureau ("*Bureau Order*")<sup>1</sup> and *de novo* Commission review of the petition addressed in the *Bureau Order*.<sup>2</sup> The *Bureau Order* granted, in part, a petition filed by Media General Cable of Fairfax County, Inc. ("MGC") requesting review of an earlier Bureau action<sup>3</sup> and provided that refund liability for the initial regulated rates should be calculated by offsetting equipment overcharges with basic service tier ("BST") undercharges.<sup>4</sup> The BST rate had been justified using a cost-of-service showing. Alternatively, the County asks that its request be treated as an application for review.<sup>5</sup> MGC filed an opposition to the County's Request, and the County filed a reply.

<sup>1</sup> *Media General Cable of Fairfax County, Inc.*, 12 FCC Rcd 17,424 (Chief, Cab. Serv. Bur. 1997).

<sup>2</sup> The County asserts that although MGC's filing was miscaptioned "Petition," it was filed pursuant to Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, governing applications for review by the full Commission, and that it was therefore beyond the Bureau's authority to decide. The request did not raise any additional new matters.

<sup>3</sup> The *Bureau Order* at issue here reversed, in part, an earlier consolidated order issued by the Chief, Cable Services Bureau, regarding five similar local rate orders issued by the Cities of Fairfax, Falls Church, Herndon and Vienna and by Fairfax County. *Media General of Fairfax County, Inc.*, 10 FCC Rcd 3129 (Cab. Serv. Bur. 1995).

<sup>4</sup> 12 FCC Rcd at 17431-17434 para. 20-25.

<sup>5</sup> The County seeks review on the basis of prejudicial procedural error pursuant to 47 C.F.R. § 1.115(b)(2)(v). The prejudice alleged is further delay to a final resolution of the matter that would be caused by a third round of staff  
(continued...)

## II. DISCUSSION

2. We are treating the County's request for reinstatement as an application for review of the *Bureau Order* with regard to refund offsets.<sup>6</sup> We need not reach the issue of whether the Bureau improperly acted on MGC's petition because Media General's arguments have now been reviewed by the Commission, and we agree with the Bureau's disposition as set forth in the *Bureau Order*. Therefore, the communities have suffered no prejudicial error. The facts, applicable law, arguments of the parties, and a detailed analysis of those matters are set forth in the *Bureau Order* and need not be repeated here. The *Order* correctly determined that refund liability for the initial regulated rates within the local franchising authority's jurisdiction should be determined from aggregated actual and permitted rates for BST and equipment and installation, regardless of whether the permitted BST rate is established by the benchmark or cost-of-service methodology.<sup>7</sup> We affirm the *Bureau Order's* grant of MGC's petition regarding the issue of calculation of refund liability.

## III. ORDERING CLAUSE

3. Accordingly, **IT IS ORDERED** that the Request for Reinstatement of Application for Review filed by Fairfax County, Virginia in the above-captioned matter **IS GRANTED** in that it is treated as an application for review and otherwise **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary

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review or a second round of Commission review.

<sup>6</sup> The *Bureau Order* also affirmed the County's local rate order regarding the treatment of income tax adjustments for interest expenses in computing equipment rates. Since MGC has not sought further review of that action, we need not address that matter here.

<sup>7</sup> See Section 76.942 of the Commission's Rules, 47 C.F.R. § 76.942.