

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

TELECOMMUNICATIONS
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In the Matter of:

Century-TCI California, L.P.

Order Setting Basic Service Rates

Los Angeles, CA (CA0253, CA1194)

File No. _____

REQUEST FOR EMERGENCY STAY OF LOCAL RATE ORDER

CENTURY-TCI CALIFORNIA, L.P.
d/b/a Adelphia Communications Corporation

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Introduction and Summary

Century-TCI California, L.P., d/b/a/ Adelpia Communications Corporation (“Adelpia” or “Company”), by its attorneys, hereby seeks a stay of the rate regulation ordinance (“Ordinance”) adopted by the City of Los Angeles, California (“City”) on May 30, 2003.¹ The contested Ordinance addresses four separate rate filings for four separate franchise territories -- Areas C, F, G, and H. In each instance, the Ordinance rejects the Form 1240 submitted by Adelpia in the spring of 2002 as being unreliable. It goes on to reset rates in the four franchise territories using conflicting methodologies, so as to maximize the magnitude of the mandated rate reductions and refunds in each Area.

Adelpia respectfully submits that the regulatory process pursued by the City and its consultant in reviewing the Company’s 2002 rate filings was unreasonable and that the resulting Ordinance is fatally flawed. The rate reductions and refunds for Area C, for example, are based almost entirely on an erroneous channel count. Adelpia promptly identified this factual error

¹ A copy of the Ordinance is appended hereto as Exhibit A. (Adelpia has not yet received a final, executed copy of the Ordinance, but believes that the Ordinance, as adopted, is precisely the same as the draft document provided in Exhibit A.)

for the City, and there was ample opportunity to correct the problem, yet the City failed to do so. As explained below, the City also failed to establish “default” rates in Areas F, G, and H based on the “best available information.” Unfortunately, the City and its consultant were more interested in penalizing Adelphia than in accurately calculating “maximum permitted rates.”

Contrary to the City’s claims, the Ordinance cannot be justified based on purported concerns regarding the reliability of Adelphia’s rate filings and the need to act before a supposedly imminent regulatory deadline. Adelphia was responsive to the City’s belated requests for information. It expressly committed to providing the City with additional evidentiary comfort (including a recertification of the Company’s underlying cost data). Moreover, Adelphia repeatedly volunteered that the City could continue its review during an additional extension period without fear of forfeiting its regulatory authority. When all is said and done, there is no valid excuse for the City hurriedly adopting and enforcing a patently flawed rate order.

Adelphia will soon file a formal Appeal of the City’s Ordinance. In the meantime, it is critical that the Commission immediately stay the contested Ordinance, so that the Company can avoid the irreparable harm that otherwise would result from the revenue loss, customer confusion, and administrative burden associated with the mandated rate reductions and refunds. The requested grant would be consistent with Commission precedent and would serve the public interest.

I. FACTUAL BACKGROUND

A. The City’s Regulatory Process

Adelphia submitted its 2002 Form 1240 filings on March 29, 2002, for Area C and on June 1, 2002, for Areas F, G, and H. The City raised no questions about Adelphia’s rate filings

during the initial 90 day review period. Not until February 27, 2003 – near the very end of the designated twelve month review period -- did the City formally contact Adelphia with respect to the Company's rate filings.² The City then raised concerns about alleged accounting improprieties by Adelphia's former management. The City asked the Company to take the unprecedented step of recertifying its rate filings.³

Adelphia provided a timely response, explaining that new management (officially approved by the Bankruptcy Court just days earlier) had not yet had sufficient opportunity to review the filings, and that it was not yet in a position to definitively address the City's recertification request.⁴ Adelphia, however, acknowledged the City's concerns, committed to work with the City, and offered an extension for Area C, where the City already was confronting an imminent regulatory deadline. In making this offer, Adelphia noted that the extension would provide the Company's new management an opportunity to meet with City officials and explore ways of amicably resolving the City's concerns. The City exercised this initial extension option. On March 30th, the FCC formally approved the agreed-upon extension to June 1, 2003.⁵

On April 7th, Adelphia received a letter from the City indicating that consultant Garth Ashpaugh of Ashpaugh & Sculco ("A&S") had been retained to assist in the review of Adelphia's rate filings. The letter included six single-spaced pages of "information requests" and gave Adelphia just over one week -- until April 15th -- to provide the requested information.⁶

² See Exhibit B.

³ Significantly, the City took this step without first asking for any supporting documentation. The City did not bother to issue its first information request until early April – more than a month later.

⁴ See Exhibit C.

⁵ See Exhibit D.

⁶ See Exhibit E.

The City's data request set in motion an extensive effort on the Company's part. Under the supervision of Andrew Elson, Adelphia's Vice President of Regulatory Accounting and Compliance, Adelphia forwarded more than 400 hundreds pages of documents to A&S on April 14 and April 16, 2003.⁷ At the same time, Mr. Elson was communicating with City staff about options to lessen the evidentiary demands, and he was awaiting further instructions on how best to proceed. Mr. Elson never received those instructions, nor did Adelphia receive any follow-up questions or requests for clarification of its initial responses. Rather than seek the benefit of further information exchanges with Adelphia, A&S finalized (but did not share with Adelphia) its Rate Report, dated April 24, 2003.⁸

On May 1, 2003 the City's Board of Information Technology Commissioners ("Board") published a notice indicating that it would consider a rate resolution at its meeting the following day. At the May 2nd meeting, the Board approved a resolution (which was not shared in advance with Adelphia) recommending that the City Council adopt the draft Ordinance. On May 12th, the Board issued a clarification to its resolution.⁹

Adelphia received formal notification of the Board's action by letter, dated May 7, 2002.¹⁰ The letter stated that Adelphia was entitled to provide comments regarding the proposed ordinance and established a May 22nd response deadline.

While it was preparing its response, Adelphia continued to gather information responsive to the City's earlier information requests. As part of that effort, Adelphia forwarded hundreds of

⁷ Should the Commission desire, Adelphia would be happy to forward copies of this material.

⁸ See Exhibit F.

⁹ See Exhibit G.

¹⁰ See Exhibit H.

programming cost invoices on May 16th.¹¹ On May 20th, it formalized in writing an earlier informal offer to extend the City's review deadline.¹²

Consistent with the Board's instructions, Adelphia provided comments on the proposed Ordinance ("Comments") on May 22, 2003. Adelphia used the opportunity to: (1) identify multiple problems with the proposed Ordinance; (2) renew its offer to work with the City to provide the requested recertification; and (3) renew its offer to extend the review period so the City would not be prejudiced by further delay. A copy of Adelphia's Comments is attached hereto as Exhibit J and is expressly incorporated as part of this stay request.

The City chose to ignore Adelphia's Comments. In a May 28th meeting, the City Council Subcommittee on Information Technology and General Services rubberstamped the proposed Ordinance with no reference whatsoever to the Comments.

When the full Council met on May 30th, it, too, rubberstamped the proposed Ordinance with no reference whatsoever to Adelphia's Comments. The Council made absolutely no effort to rebut Adelphia's concerns or correct the errors Adelphia identified. Significantly, it failed to even acknowledge Adelphia's cooperative offers regarding a recertification and additional deadline extension. In fact, at the Council meeting, Council members were erroneously told that if they did not immediately adopt the Ordinance, the City would forfeit its rights regarding the underlying rate filings.

B. Adelphia's Objections To The Contested Ordinance

The Comments submitted by Adelphia on May 22, 2002, explain the City's error in rejecting the Company's rate filings based on customer service deficiencies and generalized

¹¹ Again, should the Commission desire, Adelphia would be happy to forward copies of this material.

¹² See Exhibit I.

concerns regarding the accounting practices of Adelphia's prior management. The cooperative offers made by Adelphia in its Comments undermine any argument that the City was compelled to act because of an inability to secure adequate evidentiary support from Adelphia's current management and a supposedly imminent review deadline.

Adelphia's Comments chronicle the City's mistakes in fashioning the Ordinance. The Comments note that there were no legal barriers to the City taking advantage of Adelphia's extension offer. They emphasize that declining the extension offer would be unfair and unreasonable, given the extraordinary circumstances confronting Adelphia, the Company's demonstrated commitment to cooperate, and the City's own delay in initiating a serious rate review. As Adelphia explained, "the rate review process which produced the proposed rate regulation ordinance was unusually late in getting started, conducted with undue haste, and terminated without giving Adelphia a realistic opportunity to fully substantiate and defend its rate filings."¹³

Adelphia's Comments next identify several specific errors that the City's consultant made in revising the Company's rate filings. To illustrate the point, Adelphia provided an exhibit comparing A&S's channel count on a month-by-month basis with the cable system's actual channel carriage. *Id.* at Exhibit 1. The discrepancies are obvious and substantial. The truth is that A&S's channel count errors constitute the principal factor leading to the Ordinance's mandated rate reductions and refunds for Area C.

Adelphia's Comments finally explain why the rates prescribed in the Ordinance do not reflect the "best available information." They highlight the irreconcilable schism between the

¹³ Exhibit J at 4.

City's rate setting methodology in Area C and the alternative (and inadequate) methodology used in Areas F, G, and H.

II. ADELPHIA SATISFIES THE STANDARDS FOR SECURING A STAY

A. The Law Generally Supports the Issuance of Stays in Cases Involving Bona Fide Cable Rate Disputes

In ruling on stay petitions, the Commission traditionally has employed the four-factor test established in *Virginia Petroleum Jobbers Ass'n v. F.P.C.*, 259 F.2d 921, 925 (D.C. Cir. 1958), as modified in *Washington Metro. Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977); see also *Wisconsin Gas Co. v. FERC*, 758 F.2d 673-4 (D.C. Cir. 1985) (*per curiam*). The Commission must grant a stay of the contested Application if: (1) the petitioner is likely to succeed on the merits of its appeal; (2) the petitioner would suffer irreparable injury absent a stay; (3) a stay would not substantially injure other interested parties; and (4) a stay is in the public interest.¹⁴

In *Holiday Tours*, the court moved away from a rigid application of the four factors and adopted instead a more flexible approach. *Holiday Tours*, 559 F.2d at 844. Under current standards, a stay will be granted if the petitioner demonstrates "either a combination of probable success and the possibility of irreparable injury or that serious questions are raised and the balance of hardships tips sharply in his favor."¹⁵

¹⁴ See, e.g., *TCI Cablevision of Dallas, Inc.*, 15 FCC Rcd. 9535 (2000) at ¶ 2; *TCI TKR of Georgia, Inc.*, 15 FCC Rcd. 4451 (2000) at ¶ 2; *TCI Cablevision of Dallas, Inc.*, 14 FCC Rcd. 9252 (1999) at ¶ 2; *TCI of Arlington, Inc., et al.*, 14 FCC Rcd. 8937 (1999) at ¶ 3; *Heritage Cablevision, Inc. d/b/a TCI of Central Iowa*, 13 FCC Rcd. 22842 (1998) at ¶ 3.

¹⁵ *Holiday Tours*, 559 F.2d at 844, quoting *Charlie's Girls, Inc. v. Revlon, Inc.*, 483 F.2d 953, 954 (2d Cir. 1973) (*per curiam*) (emphasis added). See also *Cuomo v. United States Nuclear Regulatory Comm'n*, 772 F.2d 972, 974 (D.C. Cir. 1985) ("A stay may be granted with either a high probability of success and some injury, or *vice versa*.").

Once the petitioner has demonstrated a likelihood of success on the merits, it is necessary only to raise substantial issues as to the remaining facts.¹⁶ The Commission's orders in the cable rate regulation area reflect this more flexible approach to issuing stays. Indeed, the Commission has routinely granted stays based on a strong showing with regard to just one of the four identified factors.¹⁷

B. The Facts of This Case Support Adelphia's Stay Request

The contested Ordinance is violative of the City's basic obligation to conduct its rate review in a reasonable and cooperative basis. For purposes of this stay, Adelphia asks the Commission to focus on two areas where the City and its consultant made their most glaring and inexcusable errors – (1) miscounting channels; and (2) failing to employ the “best available information” in prescribing alternative rates. As explained below, the errors in these two areas are indisputable and fatal.

By the time its Appeal is resolved, Adelphia will have suffered irreparable injury. The City has rejected repeated offers to extend the review process and insisted on proceeding so as to “send a message” to Adelphia. Given its existing disputes with the City and the pendency of its

¹⁶ See, e.g., *TCI Cablevision of Dallas, Inc.*, 15 FCC Rcd. 7379 (2000) at ¶ 9; *TCI TKR of Georgia, Inc.*, 15 FCC Rcd. 4451 (2000) at ¶ 6.

¹⁷ See *In the Matter of Petitions for Stay of Actions*, 11 FCC Rcd. 4196 (1996) at ¶ 2 (where equities justify granting stay of order and there is no harm to subscribers or any other party from such a stay, Bureau did not need to reach question of likelihood of operators' success on merits). See also *TCI of Arlington, Inc. et al.*, 11 FCC Rcd. 4196 (1999); *TCI of Plano, Inc.*, 13 FCC Rcd. 23351 (1998); *Heritage Cablevision, Inc. d/b/a TCI of Central Iowa*, 13 FCC Rcd. 22842 (1998); *InterMedia Partners on Behalf of Robin Media Group, Inc.*, 11 FCC Rcd. 978 (1995) (resolution of stay petition rests primarily on the strength of Operator's argument regarding the third prong of the test); *TCI Cablevision of Oregon, Inc.*, 1995 FCC Lexis 3085, DA 95-1047 (May 8, 1995) (resolution of stay petition rests primarily on the strength of Operator's argument regarding the third prong of the test); *Paragon Cable*, 9 FCC Rcd. 4091 (Aug. 9, 1994); *Sammons Communications, Inc.*, 9 FCC Rcd. 2518 (1994); *Paragon Cable*, 9 FCC Rcd. 5750 (Sept. 30, 1994).

franchise renewal, Adelphia cannot risk ignoring the City's Ordinance and incurring the severe sanctions that would surely follow.

On the other hand, if Adelphia complies with the Order, it will experience an immediate and substantial monetary loss. It is unlikely that Adelphia will be in a position to recover that lost revenue later. The large revenue loss would be compounded by administrative burdens on Adelphia and confusion among its customers.

A grant of the requested stay would enable Adelphia to defer compliance pending Commission review. Not only would such deferral protect the Company's revenue stream, but (in the unlikely event that Adelphia's Appeal is denied) the Company still could issue any necessary refunds (with interest) at a later date. Simply put, the balance of hardships in this case tips sharply in Adelphia's favor.

C. Adelphia Is Likely To Succeed On The Merits

1. The City's Regulatory Approach Was Not Reasonable

Adelphia respectfully submits that it is likely to prevail on the substantive merits of its Appeal. The record shows that the City unreasonably rebuffed Adelphia's efforts to address the City's concerns and chose instead to embark on a regulatory scheme designed to exploit Adelphia's management transition. Although the City professes an interest in verifying the accuracy of Adelphia's rate calculations, its actions are at odds with those expected from a franchising authority trying to set rates based on a full and accurate understanding of the underlying data. In fact, the City delayed its substantive rate review and then rushed to a conclusion in total disregard of Adelphia's evidence and arguments.¹⁸

¹⁸ Although the City is theoretically allowing Adelphia to seek higher rates in the future by certifying its data, that option does not excuse or mitigate the errors in the existing Ordinance. It certainly does not eliminate the need for the requested stay.

The inappropriateness of the City's regulatory approach is perhaps best illustrated by its failure to consider Adelphia's Comments on the proposed Ordinance. Adelphia submitted its Comments on May 22nd -- the due date established by the City. Accordingly, the City could not possibly argue that the information was provided too late to be considered. Nor could the City offer any credible basis why it needed to act on May 30th, when Adelphia had repeatedly offered to extend the City's review deadline and provide additional evidentiary support. Unable to respond in a reasonable fashion to Adelphia's Comments and still justify the dramatic rate reductions and refunds it sought, the City chose the politically attractive, but legally unacceptable, solution of simply ignoring the Comments.¹⁹ Adelphia respectfully submits that the City's actions are irreconcilable with Commission expectation that franchising authorities conduct rate regulation proceedings in a cooperative and reasonable fashion.²⁰

2. The Ordinance Fails To Use Proper Channel Counts

Adelphia highlighted the channel count issue in its Comments, because the issue is easy to understand, easy to verify, and has a dramatic impact on cable rate calculations. In an exhibit to its Comments, Adelphia demonstrated that A&S calculations miscounted the Company's

¹⁹ The City officially notified Adelphia of its decision to reject the extension offer in a letter, dated May 29, 2003. See Exhibit K. Other than a conclusory statement that the rejection serves the public interest, *id.* at 4, the City offers no explanation for its decision. It is telling that the City informally notified Adelphia of the decision to reject the extension offer prior to receiving and reviewing the Comments.

²⁰ See, e.g., *Third Order on Reconsideration, Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992*, 9 FCC Rcd. 4316 at ¶ 85 (1994) (a franchising authority's "remedial power is not unbounded and must be exercised reasonably. It should not be exercised in a case of a *de minimis* failure on the part of the cable operator to respond. We do not mean to countenance over-zealous behavior by franchising authorities.") (footnotes omitted); *Continental Cablevision of Ohio, Inc.*, 12 FCC Rcd. 21337 (1997) at ¶ 13 ("[o]ur procedural requirements are not so inflexible [sic] to override the substantive issues involved in a particular proceeding."); *Falcon Telecable*, 14 FCC Rcd. 18573 (1999) at ¶ 21 ("the City's ... Rate Order is arbitrary and not shown to be reasonable").

actual channel count by varying amounts at varying times. For example, A&S used a 35 channel count for several months when 38 channels were actually offered by the cable system.²¹

The impact of A&S's errors is dramatic. Adelphia and A&S calculate maximum permitted rates for Area C that are almost \$3 apart. Virtually all of the discrepancy is attributable to A&S's use of erroneous channel counts.

A&S's miscounts are particularly egregious because they involve channel data, which are in no way implicated by accounting allegations against Adelphia's prior management. The consultant proceeded without any apparent attempt to reconcile his counts with the physical channel line up cards in his possession. Moreover, A&S's mistakes involve channel counts presented in prior rate filings, which were not directly at issue in this proceeding and about which A&S never issued any inquiries to Adelphia.

Significantly, the City neither explored nor rebutted Adelphia's channel count correction. Even if every other aspect of the Ordinance was justified, the channel count error would compel the Commission to stay enforcement of the contested Ordinance. The City's decision to knowingly establish rates based on an erroneous channel count is patently improper and cannot possibly withstand Commission review.²²

²¹ See Exhibit J (Exhibit 1). Additional channel count errors for areas F, G, and H are identified in Exhibit L.

²² As explained in Adelphia's Comments, A&S made additional errors in adjusting the Company's 2002 Form 1240 rate calculations. For example, A&S revisited the prior rate filing and altered figures advanced by Adelphia's predecessor (Century Cable), even though no conceivable rationale exists for questioning Century's entries at this late date. A&S also erred in using unverifiable programming costs, without any identification of those costs or explanation of how they were likely to compare to Adelphia's actual programming costs. See Exhibit J.

3. **The Ordinance Fails To Prescribe Rates Based On The “Best Available Information”**

Assuming *arguendo* the City was somehow justified in rejecting Adelphia’s rate filings, it still was obligated to establish “default” rates based on the “best available information.”²³ The City’s peculiar prescription of rates cannot be reconciled with this regulatory obligation.

The first problem with the City’s rate prescription is that it is internally inconsistent. For Areas F, G, and H, the Ordinance repudiates the 2002 Form 1240 filings in their entirety and requires a rate rollback to the prior year’s rate levels. For Area C, the Ordinance follows a very different approach. It accepts the 2002 Form 1240 filing, but adjusts the calculation downward in several discrete aspects. The different approaches make no sense, as there is no material difference in the evidence supporting Adelphia’s 2002 Form 1240 filings for the different franchise territories.

The City ultimately makes no secret that it employed different methodologies in the different areas for the pragmatic purpose of maximizing the rate rollback.²⁴ If the methodology applied in Area C were applied to Areas F, G, and H, it would not reduce rates as dramatically in those Areas as the rate rollback prescribed under the Ordinance. Likewise, if the methodology applied in Areas F, G, and H were applied to Area C, it would not reduce rates as dramatically in that Area as the rate rollback prescribed under the Ordinance.

The City never claims that its consultant could not adjust the rate form calculations for Areas F, G, and H, just as it did for Area C. In fact, the Ordinance identifies the precise rates

²³ See, e.g., *Falcon Classic Cable v. McCreary County*, 15 FCC Rcd. 5717 (2000) (“If a cable operator fails to comply with the deadline or provide complete information in good faith, the franchising authority can hold an operator in default and mandate appropriate relief for the failure, including reducing a current rate and ordering refunds or prescribing a prospective rate. Such action should be based on the best information available....”) (footnotes omitted).

²⁴ See Exhibit G (Letter to Board of Information Technology Commissioners from Liza M. Lowery, dated May 12, 2003).

that would result from that calculation, even while mandating much lower rates by repealing the Company's last rate increase.²⁵

Adelphia disagrees with A&S's adjustments to the Company's rate forms, but the consultant's ability to propose and calculate specific adjustments to address alleged problems in Adelphia's filings (and the City's willingness to rely on those adjustments in setting Area C rates) stands as incontrovertible evidence that the City failed to use the "best available information" in setting rates in Areas F, G, and H. The City erred in ignoring the consultants' adjusted Form 1240 calculations for these Areas and resetting rates based on nothing more than a flat rejection of the Company's last rate increase.

Even if the City had been unable to calculate new rates for Areas F, G, and H by making adjustments to Adelphia's own rate forms, the City had a responsibility to do something more than just rollback the last rate increase. The City's mandate is particularly troubling, because the required rate rollback sets Adelphia's current rates below the "maximum permitted rate" established through the prior year's rate regulation process.²⁶ The City is, of course, precluded from setting rates below the previously established "maximum permitted rates," as those rates were not the subject of the current proceeding.

If the City truly were committed to establishing new rates by building upon historic rates, proper consideration of the "best available information" would dictate a very different approach than that adopted by the City. At a minimum, the City would need to consider inflation, the rapid escalation in cable programming costs (particularly important here given the large number of cable programming services included in the basic service tier), and the Commission's own surveys reporting significant annual rate increases across the cable industry. The City

²⁵ See Exhibit A.

²⁶ See Exhibit M.

unreasonably failed to accommodate even these most basic considerations in resetting rates for Areas F, G, and H.

D. The Ordinance Threatens Adelphia With Irreparable Injury

The contested Ordinance would impose an immediate and substantial revenue loss on Adelphia. The mandated refunds alone would be several million dollars, and the aggregate prospective impact on Adelphia's operations would be considerable. Given Adelphia's current efforts to emerge from bankruptcy, the financial blow would be particularly painful.

In an increasingly competitive marketplace, it is unlikely that Adelphia will be in a position to recover the lost revenue at a later juncture. Current subscribers, after all, are under no contractual obligation to return to Adelphia the revenue lost under operation of the City's Ordinance. Adelphia clearly would be irreparably harmed if the revenue loss and administrative burdens imposed under the contested Ordinance were allowed to go into effect.

E. A Stay Would Not Injure Any Other Interested Party

If the Commission stays the effectiveness of the Order pending the outcome of the current Appeal, Adelphia's customers would be fully protected. The accounting mechanism set forth in Section 76.933(c) of the Commission's rules directs operators to keep track of their revenue so that they can make appropriate refunds (with interest) later. Adelphia pledges to the Commission that it will continue to track its revenue and make appropriate refunds (with interest) if required to do so under the final disposition of this case.

Adelphia does not believe it should be required to provide further financial guarantees, as it should not be burdened in any additional manner by the City's patently unreasonable

Ordinance. Adelphia is prepared, however, to post a bond for its potential rate liability, if the Commission believes this step is truly necessary.

The Commission has already ruled that a "delay in the implementation of [any] refunds owed by [Petitioner] will not harm any interested party. . . ." ²⁷ The Commission explained, "Since interest charges on any required refunds will continue to accrue during the period of this stay, operator's subscribers will not be adversely affected." ²⁸ That same logic applies here -- Adelphia's customers will not be harmed by issuance of the requested stay.

F. A Stay Would Serve The Public Interest

A stay in this case would protect Adelphia from an unlawful rate order. It would avoid unreasonable revenue losses and the related administrative expenses and customer confusion. In so doing, it would promote the integrity of the Commission's rate regulation regime. As the Commission itself has stated in issuing other stays, a stay here would "minimize [customer] confusion and ensure regulatory consistency. . . ." ²⁹ Simply by preserving the status quo and minimizing potentially unnecessary rate changes, a stay would serve the public interest.

The public interest in affording Adelphia a stay in this case is heightened by the obvious need to afford Adelphia -- as the nation's fifth largest cable operator -- a reasonable opportunity to develop its operations under new management and emerge from bankruptcy. Adelphia's potential for success could be greatly hampered by a barrage of unwarranted local rate orders.

²⁷ *TCI Cablevision of Oregon*, 1995 FCC LEXIS 3085, DA 95-1047 (1995) at ¶ 4.

²⁸ *Colony Cablevision of Florida*, 10 FCC Rcd. 5144 (1995) at ¶ 10.

²⁹ *Paragon Cable*, 9 FCC Rcd. 5750 (1994) at ¶ 2. The Ordinance itself suggests that the City might consider additional adjustments to the rate mandate in the future based on new evidence. This possibility, which could further aggravate Adelphia's administrative burden and customer confusion, makes issuance of a stay all the more important.

DECLARATION OF ANDREW ELSON

I, Andrew Elson, am the Vice President of Regulatory Accounting and Compliance for Adelpia Communications Corporation ("Adelpia").

1. I have read the foregoing Request for Emergency Stay of Local Rate Order ("Request") and am familiar with the contents thereof and the matters referred to therein.
2. I declare under penalty of perjury that the facts contained within the Request are true and correct to the best of my knowledge, information and belief.

6-9-03
Date

Andrew Elson
Andrew Elson