

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

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In the Matter of)	
)	
Suburban Cable TV Co., Inc.)	CUID No. PA2384 (Lower Salford Township)
)	
)	
)	
Complaint Regarding)	
Cable Programming Services Tier Rates)	

ORDER

Adopted: September 16, 1997

Released: September 19, 1997

By the Acting Chief, Financial Analysis and Compliance Division, Cable Services Bureau:

1. In this Order we consider a complaint concerning the rates of the above-captioned operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above. Operator's response includes a rate justification filed on FCC Form 1240.

2. Under the Communications Act,¹ the Federal Communications Commission ("Commission") is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),² and our rules implementing the 1992 Cable Act, required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber. The filing of a valid complaint under the 1992 Cable Act triggered an obligation on behalf of the cable operator to file a justification of its CPST rates.³ The Telecommunications Act of 1996 ("1996 Act")⁴ and our rules implementing the new legislation ("Interim Rules"),⁵ require that complaints against CPST rates be filed with the Commission by a local franchising authority ("LFA") that has received subscriber complaints. An LFA may not file a CPST rate complaint unless it receives more than one subscriber complaint within 90 days after such increase becomes effective.⁶ Under both the 1992 Cable Act and the

¹ Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

² Pub. L. No. 102-385, 106 Stat. 1460 (1992).

³ 47 C.F.R. § 76.956 (1996).

⁴ Pub. L. 104-104, 110 Stat. 56 (Feb. 8, 1996), codified at 47 U.S.C. §§ 151 *et seq.*

⁵ *Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd. 5937 (1996).

⁶ 47 C.F.R. § 76.1402 (1996).

1996 Act, if the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.⁷

3. The Commission's original rate regulations took effect on September 1, 1993.⁸ The Commission subsequently revised its rate regulations effective May 15, 1994.⁹ Operators must use the FCC Form 1200 series to justify their rates for the period beginning May 15, 1994 using a benchmark showing.¹⁰ Operators may justify adjustments to their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.¹¹ Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹²

4. On August 11, 1997, the LFA for the community referenced above filed a complaint against Operator's April 1, 1997 CPST rate increase. The LFA certified that it has received more than one subscriber complaint for the community referenced above and that it has complied with the Interim Rules.¹³ Operator stated that it received its first valid complaint for the community referenced above on April 8, 1997. Upon review of Operator's FCC Form 1240 for the projected period April 1, 1997 to March 31, 1998, we find that Operator's actual CPST rate of \$15.95, effective April 1, 1997, in the above-referenced community, is not unreasonable.¹⁴

⁷ See 47 C.F.R. § 76.957 (1996).

⁸ Order in MM Docket No. 92-266, *Implementation of Sections of the Cable Consumer Protection and Competition Act of 1992: Rate Regulation*, FCC 93-372, 58 Fed. Reg. 41042 (Aug. 2, 1993).

⁹ 47 C.F.R. § 76.922(b) (1996); see also *Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking*, MM Docket No. 92-266, FCC 94-38, 9 FCC Rcd. 4119, 4190 (1994) ("*Second Order on Reconsideration*").

¹⁰ 47 C.F.R. § 76.922(b)(6) (1996); see *Second Order on Reconsideration, supra*, at 4183, paras. 135-138; *supra* at 4190, n.136; see also Public Notice "Questions and Answers on Cable Television Rate Regulation" (April 26, 1994).

¹¹ 47 C.F.R. § 76.922(e) (1996).

¹² *Id.*

¹³ See 47 C.F.R. § 76.1402 (1996).

¹⁴ The findings herein are based solely on the representations of Operator. Should information come to our attention that these representations were materially inaccurate, we reserve the right to take appropriate action. This Order is not to be construed as a finding that we have accepted as correct any specific entry, explanation, or argument made by any party to this proceeding not specifically addressed herein.

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the monthly CPST rate of \$15.95 charged by Operator in the communities referenced above, effective April 1, 1997, IS NOT UNREASONABLE.

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaint referenced herein against the CPST rates charged by Operator in the communities referenced above IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Margaret M. Egler
Acting Chief, Financial Analysis and Compliance Division
Cable Services Bureau