

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

## TERMS OF PROPOSED RESOLUTION

In the Matter of

Cablevision  
Industries, Inc.

Rate Complaints

## ORDER

Adopted: October 27, 1995; Released: October 30, 1995

By the Commission:

1. Pursuant to 47 C.F.R. § 1.1204(b)(7), the Cable Services Bureau staff met with Cablevision Industries, Inc. ("CVI") to discuss the resolution of issues relating to complaints regarding the rates charged for cable programming services offerings. The staff of the Cable Services Bureau has received from CVI the attached proposal to resolve the rate complaints. On initial review the Commission believes that the proposal is a reasonable approach to resolve these matters. The Commission directs the Cable Services Bureau to serve a copy of this Proposed Resolution on (i) all local franchising authorities in benchmark and cost-of-service franchises at issue here; and (ii) any party other than a local franchising authority that filed a valid complaint. Parties wishing to comment on the proposal should do so by filing with the Secretary within thirty days of the date of this Order. Because it would be unduly burdensome to require that each complainant be served with every comment, pursuant to our Rate Order<sup>1</sup> we will not require the parties to serve their comments on all parties. However, all comments will be publicly available.

2. Accordingly, it is ORDERED that the staff shall serve the complainants with this proposal agreement and provide thirty days for comment.

## FEDERAL COMMUNICATIONS COMMISSION

William F. Caton  
Acting Secretary

## I. INTRODUCTION

1. These terms constitute a resolution of all Phase I<sup>2</sup> cable programming service ("CPS") complaints currently pending against systems owned and/or operated by Cablevision Industries Corporation and any of its affiliated entities as of the Publication Date (the entities collectively are referred to as "CVI" and the systems collectively are referred to as "CVI Systems").<sup>3</sup>

## II. BACKGROUND

2. Complaints have been filed with the Federal Communications Commission ("Commission") pursuant to Section 76.950 of the Commission's regulations, 47 C.F.R. § 76.950, concerning the cable programming service ("CPS") rates charged by CVI in communities listed in Schedule A. CVI filed benchmark rate justifications on FCC Form 393 for the rates charged in these communities.

3. The Commission's Cable Services Bureau (the "Bureau") under delegated authority, has reviewed these benchmark rate justifications on FCC Forms 393 pursuant to the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460(1992) ("1992 Cable Act"). As a result of that review, the Bureau determined that certain refunds were owed to subscribers.

4. CVI seeks to resolve all outstanding Phase I cable programming service tier complaints.

## III. DEFINITIONS

5. As used herein, the following definitions will apply:

- (a) Billing Cycle. The monthly period for which a particular subscriber is billed for receipt of services.
- (b) Columbia Communities. The South Carolina communities of Columbia, Richland County, and Forest Acres.
- (c) Measurement Date. The first day of the first Billing Cycle that commences after the release of a Commission order approving this Proposed Resolution.
- (d) Phase I. The time period beginning September 1, 1993 and ending July 14, 1994.
- (e) Phase II. The time period immediately following Phase I, beginning July 15, 1994 and continuing through the Effective Date.
- (f) Refund Amount. The aggregate amount to be credited to the bills of subscribers located in a particular community.

<sup>1</sup> See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd 5631 (1993) ("Rate Order") at ¶ 36.3. See also 47 C.F.R. § 1.1200(a).

<sup>2</sup> As defined in this Terms of Proposed Resolution, "Phase I" refers to the time period between September 1, 1993 and July 14, 1994.

<sup>3</sup> Complaints have been filed with the Federal Communica-

tions Commission ("Commission") pursuant to Section 76.950 of the Commission's regulations, 47 C.F.R. § 76.950, concerning the cable programming services ("CPS") rates charged by CVI in communities list in Schedule A. CVI filed benchmark rate justifications on FCC Form 393 for the rates charged in these communities.

(g) Refund Community. A local franchise area where subscribers who are entitled to refunds under the terms of this proposal are located.

(h) Subscriber of Record. Subscribers on the Measurement Date.

(i) Effective Date. The date on which the Commission issues an order approving the terms of this Proposed Resolution.

(j) Publication Date. The date on which the Commission orders the Proposed Settlement sent to complainants for comment.

#### IV. TERMS

6. CVI accepts the jurisdiction of the Commission over it and the subject matter of these rate resolutions for purposes of an order approving these terms.

7. All Phase I CPS rate cases currently pending against CVI<sup>4</sup> are finally resolved under the terms provided herein. CVI agrees to withdraw all Applications for Review of Phase I CVI rate orders.

8. CVI agrees that these terms shall be incorporated by reference in an order formally adopting these terms. Assuming such an order is adopted, CVI and the Commission will each actively defend the order adopting these terms against any appeal of, or other legal challenge, to such an order by any third party. CVI and the Commission will reasonably cooperate in any such defense of these terms.

9. CVI agrees that any violation of an order approving these terms shall constitute a violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

10. These terms are for purposes of settlement only, and do not constitute an admission by CVI of any violation of, or failure to conform to, any law, rule, or policy.

11. In consideration for the resolution of all Phase I rate complaints against CVI currently pending before the Commission, CVI hereby agrees to the following terms, conditions, and procedures, which will facilitate a fair and expeditious resolution of those matters in a manner that serves the public interest:

I. *Refunds.* CVI will pay Refund Amounts to subscribers in the Refund Communities as listed on Schedule B, in the following manner:

(a) *Computation of Per Subscriber Amount.* For each Refund Community, the amount of the individual subscriber refund will be computed by dividing the Refund Amount for that community by the number of Subscribers of Record in the Refund Community.

(b) *Refund as Credit.* CVI will issue Refund Amounts as one or more credits to the monthly bills of the Subscribers of Record.

(c) *Timing of Credit.* The initial credit will be reflected on the invoices of Subscribers of Record no later than the invoice for the third Billing Cycle that commences after the Measurement Date.

(d) *Installment Credits.* Refund Amounts which exceed one dollar per Subscriber of Record may be paid out in monthly credits of not less than \$.50 over a period not to exceed six months ("Payment Period"). In cases where multiple credits are given, Interest is to be calculated for the principal unpaid amount throughout the Payment Period at the Internal Revenue Service rate of interest for tax overpayments ("Installment Interest"). All amounts of Installment Interest shall be included in the amount of the total monthly credit.

II. *Columbia System "Value Pak" and "Sports Pak".* As of the Effective Date through March 31, 1997, the "Value Pak" and the "Sports Pak" will be offered to subscribers in the Columbia Communities under the following conditions:

(a) CVI will treat the Value Pak and Sports Pak as Migrated Product Tiers ("MPT") until April 1, 1997. CVI may not require the subscription to any level of service other than the Basic tier as a condition for subscription either to the Value Pak or the Sports Pak.

(b) Commencing with the first billing cycle beginning 30 days after the Effective Date, CVI will reduce the rates charged subscribers for the Value Pak from \$4.95 to \$4.90 and for Sports Pak from \$4.95 to \$2.90. The rates for both Value Pak and Sports Pak shall remain in effect until April 1, 1997, subject to increases for inflation and external cost increases, consistent with the Commission rate regulations governing the CPS tier.

(c) There will be no limitation on the number of new services CVI may add to either MPT. CVI may increase the price for either MPT by up to \$0.20 per channel plus the amount of the license fee, if any, for each new service added. Any additional channels added to the MPT will not limit or otherwise affect CVI's ability under the Commission's Going Forward Rules to add other channels to its regulated tiers.

<sup>4</sup> Pending cases include complaints for which no Commission Order or other resolutions have been released, and all appeals or applications for review filed by CVI.

(d) On or after April 1, 1997, CVI may reclassify either MPT as New Product Tiers, as defined in 47 C.F.R. § 76.987, consistent with the Commission's Going Forward rules.

(e) The terms and conditions involving Value Pak and Sports Pak will be uniformly applied to all subscribers located in the Columbia Communities, regardless of whether a complaint had been filed with respect to the local franchise area in which they reside. Similarly, the Commission's designation of the offerings as a MPT is intended to apply to all of the Columbia Communities.

(f) Uniform Columbia Area Rates. Through March 31, 1997, CVI agrees to maintain uniform rates for the provision of CPS tier services and each MPT for subscribers in all of the Columbia Communities, regardless of whether required by law or regulation, provided that the number of channel offerings on the respective tiers are identical between systems. Where a channel may be added to a tier in one or more systems serving a Columbia Community and may not be added to one or more Columbia Community systems due to technical limitations, CVI may increase its rates in the system or systems to which the channel is added even if such increase results in non-uniform rates. All rate increases in such systems resulting from such channel additions to MPTs shall be subject to the provisions of this Resolution. All rate increases resulting from a channel addition to non-MPT CPST in the case of any system having a CPST that is subject to regulation by the Commission shall be limited to the rate increase that is permitted under the Commission's regulations. All rate increases resulting from a channel addition to a non-MPT CPSTs shall, in the case of the system, be limited to the increase that would have been permitted if the system had been subject to rate regulation by the Commission.

12. These terms may not be terminated or modified without the mutual written agreement of CVI and the Commission. The Commission's consent to any such modification shall be demonstrated by an order issued by the Bureau or, at the Commission's option, by the Commission itself.

13. If any provision, clause, or part of this Proposed Resolution is invalidated, the remainder of this Proposed Resolution shall not be affected thereby and shall remain in effect; provided, however, that if such invalidation is material to this Proposed Resolution, CVI and the Commission shall attempt in good faith to reconstitute the Proposed Resolution in a form that is, to the maximum extent possible, consistent with the original intent of the Proposed Resolution.

14. These terms constitute final and complete resolution of all CPS tier rate complaints against CVI during Phase I.

15. These terms shall become effective when the Commission issues an order approving the terms of the Proposed Resolution.

**Schedule A**  
**CPS Tier Complaints Filed**  
**Cablevision Industries Corporation**

<b>Community</b>	<b>CUID</b>
Long Beach, CA	CA0161
Northridge, CA	CA0833
Encino, CA	CA0838
Cape Coral, FL	FL0106
Edgewater, FL	FL0118
New Smyrna Beach, FL	FL0125
Deltona, FL	FL0264
Groveland, FL	FL0269
Naples, FL	FL0577
Alachua County, FL	FL1149
Covington, LA	LA0152
Jarreau, LA	LA0175
Medway, MA	MA0189
Ashland, MA	MA0231
Dover, MA	MA0314
Smithfield, NC	NC0064
Fuquay Varina, NC	NC0066
Apex, NC	NC0067
Garner, NC	NC0069
Holly Springs, NC	NC0078
Goldsboro, NC	NC0096
Carrboro, NC	NC0130
Cary, NC	NC0136
Goldsboro, NC	NC0146
Mount Olive, NC	NC0226
Morrisville, NC	NC0277
Wake Forest, NC	NC0314
Greensboro, NC	NC0323
Wendell, NC	NC0341
Wendell, NC	NC0416
Wake Forest, NC	NC0417
Rolesville, NC	NC0449
Holly Springs, NC	NC0451
Morrisville, NC	NC0452
Liberty, NY	NY0262
Saugerties, NY	NY0262
Glenn Falls, NY	NY0322
Clyde, NY	NY0347
Newark, NY	NY0349
Oneida, NY	NY0356
Saratoga Springs, NY	NY0397

**Schedule A**  
**CPS Tier Complaints Filed**  
**Cablevision Industries Corporation**

<b>Community</b>	<b>CUID</b>
Ellenville, NY	NY0437
Woodridge, NY	NY0440
Olivebridge, NY	NY0473
Saugerties, NY	NY0481
Montgomery, NY	NY0492
Blooming Grove, NY	NY0502
Washingtonville, NY	NY0503
Pine Bush, NY	NY0514
Pine Bush, NY	NY0515
Canastota, NY	NY0574
Montour Falls, NY	NY0584
Odessa, NY	NY0585
New Paltz, NY	NY0600
Newburgh, NY	NY0602
Wurtsboro, NY	NY0628
Walkkill, NY	NY0717
Mamakating, NY	NY0721
Owego, NY	NY0745
Highland Falls, NY	NY0773
Lysander, NY	NY0782
Sodust Point, NY	NY0788
Middletown, NY	NY0821
Goshen, NY	NY0845
Bergen, NY	NY0878
Bolton Landing, NY	NY0898
Shandakin, NY	NY0918
Ballston Lake, NY	NY0928
Churchville, NY	NY0943
Fort Ann, NY	NY1020
Union Springs, NY	NY1081
Middletown, NY	NY1088
Highland, NY	NY1291
Portland, NY	NY1384
Royalton, NY	NY1394
Pryor, OK	OK0057
Philadelphia, PA	PA2894
Scranton, SC	SC0005
Bishopville, SC	SC0029
Lexington, SC	SC0052
Kingstree, SC	SC0108
Cayce, SC	SC0126

**Schedule A**  
**CPS Tier Complaints Filed**  
**Cablevision Industries Corporation**

<b>Community</b>	<b>CUID</b>
West Columbia, SC	SC0127
Batesburg-Leesville, SC	SC0307
Chapin, SC	SC0370
Danville, VA	VA0029
Danville, VA	VA0154
Clarksburg, WV	WV0032

**Schedule B**  
**Total Refunds By Community**  
**Cablevision Industries Corporation**

<b>Community</b>	<b>CUID</b>	<b>Refund Amount</b>
Long Beach, CA	CA0161	7,143.41
Alachua County, FL	FL1149	166.74
Covington, LA	LA0152	22,376.15
Jarreau, LA	LA0175	1,268.26
Fuquay Varina, NC	NC0066	3,748.25
Apex, NC	NC0067	2,184.89
Goldsboro, NC	NC0096	1,574.33
Carrboro, NC	NC0130	4,820.54
Cary, NC	NC0136	59,336.57
Goldsboro, NC	NC0146	3,675.24
Mount Olive, NC	NC0226	148.42
Morrisville, NC	NC0277	1,043.66
Wake Forest, NC	NC0314	10,739.66
Greensboro, NC	NC0323	38,681.93
Wendell, NC	NC0341	1,532.24
Rolesville, NC	NC0449	300.88
Holly Springs, NC	NC0451	350.66
Glenn Falls, NY	NY0322	2,221.46
Clyde, NY	NY0347	738.37
Ellenville, NY	NY0437	5,247.70
Montour Falls, NY	NY0584	430.93
Bergen, NY	NY0878	504.40
Churchville, NY	NY0943	628.47
Portland, NY	NY1384	48.62
Scranton, SC	SC0005	57.05
Lexington, SC	SC0052	317,227.50
Cayce, SC	SC0126	50,025.51
West Columbia	SC0127	59,098.41
Batesburg-Leesville, SC	SC0307	747.17
Chapin, SC	SC0370	1,277.32
Clarksburg, WV	WV0032	27,655.26
<b>Total</b>		<b>625,000.00</b>