

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

In the Matter of)
) CUID No. TX0506 (Atlanta)
Falcon Telecable)
)
Complaint Regarding Cable Programming)
Services Tier Rate Increase)

ORDER

Adopted: June 9, 2000

Released: June 13, 2000

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

1. In this Order we consider a complaint against the rate the above-referenced operator ("Operator") was charging for its cable programming services tier ("CPST") in the community referenced above. A single complaint was filed with the Commission on January 12, 1995 against Operator's alleged December 4, 1994 CPST rate increase. In response to the complaint, Operator filed a Motion to Dismiss ("Motion") on February 3, 1995.

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 local franchising authority ("LFA") for the franchise area referenced above filed a complaint with the Commission on January 12, 1995. At the time the complaint was filed, Section 623 (c) (3) of the Communications Act required that complaints be filed within "a reasonable period of time" following a change in rates.² We determined that a "reasonable period of time" is forty-five days.³ An LFA must file a complaint within 45 days from the date the rate increase becomes effective.

3. In its Motion, Operator argues that the complaint against the alleged December 4, 1994 CPST rate increase should be dismissed because the rate increase complained about actually took place on July 14, 1994 and no subsequent increase took effect prior to the complaint being filed. Based on our review of the record, we find that the complaint filed on January 12, 1995 was not timely filed within 45 days of a rate change. Therefore, we will grant Operator's motion and dismiss the complaint because it was not timely filed.

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

² 47 U.S.C. §543(c)(3) (1995).

³ See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, First Order on Reconsideration, Second Report and Order, and Third Notice of Proposed Rulemaking, MM Docket No. 92-266, 9 FCC Rcd 1164 at n.314 (1994) ("First Reconsideration Order").

4. Accordingly, IT IS ORDERED, pursuant to Section 623 (c) (3) of the Communications Act of 1934, *as amended*, 47 U.S.C. Section 543 (c) (3) (1995) and Section 0.321 of the Commission's rules, 47 C.F.R. §0.321, that Operator's Motion to Dismiss IS GRANTED and the above-referenced complaint IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen F. Costello
Acting Chief, Financial Analysis and Compliance Division
Cable Services Bureau