

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

In the Matter of )  
 )  
Suburban Cablevision of New Jersey ) CUID No. NJ0030 (Atlantic City)  
 )  
Complaint Regarding Cable Programming )  
Services Tier Rates )

ORDER

Adopted: June 10, 2000

Released: June 13, 2000

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

1. In this Order we consider complaints against the rates charged by the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above. We have already issued a separate order in which we found Operator's rates in effect before May 15, 1994 to be unreasonable ("Prior Order").<sup>1</sup> In our Prior Order, we stated that our findings "do not in any way prejudice the reasonableness of the prices for CPS service after May 14, 1994 under our new rate regulations."<sup>2</sup> This Order addresses the reasonableness of Operator's CPST rates in effect after May 14, 1994.

2. Under the Communications Act,<sup>3</sup> the Federal Communications Commission ("Commission") is authorized to review the CPST rates of cable systems not subject to effective competition upon the filing of a valid complaint. The local franchise authority ("LFA") for the franchise area referenced above filed a complaint with the Commission on September 8, 1994 against Operator's July 15, 1994 CPST rate increase. 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.<sup>4</sup> We determined that "a reasonable period of time" is 45 days.<sup>5</sup> An LFA must file a complaint within 45 days of the date the rate increase becomes effective. Therefore, we will dismiss the September 8, 1994 complaint filed by the LFA because the complaint was not timely filed with the Commission.

<sup>1</sup> See In the Matter of Sammons Communications, Inc., 10 FCC Rcd 10022 (1995). The first valid subscriber complaint addressed by our Prior Order was filed on November 2, 1993.

<sup>2</sup> *Id.* at n. 1.

<sup>3</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

<sup>4</sup> 47 U.S.C. §543 (c) (3) (1995).

<sup>5</sup> 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).

3. To justify rates for the period beginning May 15, 1994, operators must use the FCC Form 1200 series.<sup>6</sup> Operator elected to defer refund liability for overcharges associated with its FCC Form 1200, for the period May 15, 1994 through July 14, 1994, pursuant to the Commission's Rules.<sup>7</sup> Operator included its overcharges for the period May 15, 1994 through July 14, 1994 in the refund plan approved in Order DA 99-853.<sup>8</sup> Therefore, Operator's refund liability for the FCC Form 1200 does not begin until July 15, 1994.

4. Upon review of Operator's FCC Form 1200, we find Operator's actual CPST rate of \$10.15, effective July 15, 1994, to be reasonable.<sup>9</sup>

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. §0.321, that the CPST rate of \$10.15, charged by Operator in the franchise area referenced above, effective July 15, 1994, IS REASONABLE.

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. §0.321, that the September 8, 1994 complaint referenced herein against the CPST rate charged by Operator in the community referenced above IS DISMISSED.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. §0.321, that the complaints referenced herein against the CPST rate charged by Operator in the community referenced above, effective July 15, 1994, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>6</sup> 47 C.F.R. §76.922.

<sup>7</sup> See Letter dated May 18, 1994 from Alton C. Rye, Vice-President, Regional Operations, Sammons Communications of New Jersey, Inc. to the Federal Communications Commission. The Commission's rules provide for a refund liability deferral period beginning May 15, 1994 and ending July 14, 1994, if timely requested by Operator, for any overcharges resulting from Operator's calculation of a new MPR on the FCC Form 1200. See 47 C.F.R. §76.922(b)(6)(ii). However, Operator will incur refund liability between May 15, 1994 and July 14, 1994 for any CPST rates charged above the FCC Form 393 MPR approved by the Commission. 47 C.F.R. §76.922(b)(6)(ii).

<sup>8</sup> See In the Matter of Lenfest Atlantic, Inc., 13 FCC Rcd 10457 (1998); *recon. den.* In the Matter of Lenfest Atlantic, Inc., 14 FCC Rcd 7131 (1999).

<sup>9</sup> These findings 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.