

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

In the Matter of)		
)	CUID No.	GA0378 (Richmond Hill)
Bresnan Communications)		CSR No. 4746-R
)		
Complaint Regarding Cable Programming)		
Services Tier Rate and Cost of Service)		
Showing to Support Basic Service Tier Rate)		

ORDER

Adopted: July 20, 2000

Released: July 24, 2000

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

1. In this Order we consider a complaint against the October 1, 1995 rate increase of the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above. In this Order we also review the FCC Form 1235 (Abbreviated Cost of Service Filing for Cable Network Upgrades) filed to support the rate Operator was charging for its basic service tier ("BST") in the community referenced above. On February 12, 1996, the City of Richmond Hill petitioned the Federal Communications Commission ("Commission") requesting assistance in reviewing Operator's BST cost of service showing.¹ The Commission granted the City's request on July 8, 1996, and agreed to review Operator's FCC Form 1235 abbreviated cost of service showing regarding its BST rate.² This Order addresses the reasonableness of Operator's October 1, 1995 CPST rate increase and the reasonableness of Operator's calculated FCC Form 1235 maximum permitted rate ("MPR") for the BST.

2. Under the Communications Act,³ the 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 1992⁴ ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.⁵ The Operator has the burden of demonstrating that the

¹ See 47 C.F.R. § 76.933 (d).

² See Letter dated July 8, 1996 from Lenworth Smith, Jr., Deputy Chief, Financial Analysis and Compliance Division, to the Honorable Richard R. Davis, Mayor, City of Richmond Hill, GA.

³ Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

⁴ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁵ See Section 76.956 of the Commission's Rules, 47 C.F.R. §76.956.

CPST rates complained about are reasonable.⁶ If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.⁷

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.⁸ Cable operators may file an FCC Form 1210 to justify rate increases quarterly based on the addition and deletion of channels, changes in certain external costs and inflation.⁹ Operators may justify 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.¹⁰ Additionally, an Operator may file an FCC Form 1235, which allows cable operators to justify rate increases related to significant capital expenditures used to improve rate-regulated services. This option is extended only in cases of significant upgrades requiring added capital investment, such as bandwidth capacity and conversion to fiber optics, and for system rebuilds. Normal improvements and expansions of service remain subject to the usual rate adjustments allowed by filing FCC Form 1210s, 1220s and 1240s. Cable operators that incur increases in operating costs associated with a significant network upgrade will be permitted to charge additional rates as justified by their FCC Form 1235 filing.

4. In response to the complaint against Operator's October 1, 1995 CPST rate increase, we reviewed Operator's FCC Form 1200 as well as four FCC Form 1210s covering the period from April 1, 1994 through June 30, 1995. Based upon our review, we find Operator's actual CPST rate of \$13.17, effective October 1, 1995, to be reasonable. Upon review of Operator's FCC Form 1235, we find Operator's calculated MPR for the BST of \$1.63 to be reasonable.¹¹

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 \$13.17, charged by Operator in the community referenced above, effective October 1, 1995, 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 complaint referenced herein IS DENIED.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Operator's calculated FCC Form 1235 maximum permitted rate of \$1.63 for the basic service tier IS REASONABLE.

⁶ *Id.*

⁷ See Section 76.957 of the Commission's Rules, 47 C.F.R. § 76.957.

⁸ See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 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.

8. IT IS FURTHER ORDERED, pursuant to Sections 76.933(d) and 0.321 of the Commission's rules, 47 C.F.R. §§ 76.933(d) and 0.321, that this FCC Form 1235 decision is binding on the local franchising authority, the City of Richmond Hill, Georgia, and the cable operator, Bresnan Communications.

FEDERAL COMMUNICATIONS COMMISSION

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