

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

In the Matter of)
)
Adelphia Cable Communications) CUID No. NY1240 (Westfield)
)
Complaint Regarding Cable Programming)
Services Tier Rates)

ORDER

Adopted: July 26, 2000

Released: July 28, 2000

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

1. In this Order we consider a complaint against the June 1, 1995 rate increase by the above-referenced operator ("Operator")¹ for its cable programming services tier ("CPST") in the community referenced above. On July 31, 1995, a complaint was filed with the Federal Communications Commission ("Commission") against Operator's June 1, 1995 CPST rate increase. On August 22, 1995, Operator filed a motion to dismiss the complaint. In this Order we grant Operator's motion and dismiss the complaint because it was not timely filed.

2. Under the Communications Act,² the Commission is authorized to review the CPST rates of cable systems not subject to effective competition upon the filing of a valid complaint. 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.³ We have determined that "a reasonable period of time" is 45 days.⁴ In order to facilitate subscriber knowledge of the nature and extent of a rate increase and provide evidence of subscribership and the rate and service involved, we determined that we would compute the time period for filing a complaint from the date the complainant receives a bill from a cable operator that reflects the rate change.⁵ Section 76.953 of the Commission's rules, in effect at the time the

¹ On November 12, 1997, the Federal Communications Commission received notification, pursuant to 47 C.F.R. § 76.400, of a change of ownership from US Cable of Evangola, L.P. to Adelphia Cable Communications.

² Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

³ 47 U.S.C. §543(c)(3) (1996).

⁴ *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").

⁵ *See* Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 92-266, 9 FCC Rcd 5631 at n. 333 (1993) ("Rate Order").

complaint was filed, provides that complaints against CPST rate increases must be filed with the Commission within 45 days from that date.⁶

3. The bill attached to the complaint indicates that Operator implemented a CPST rate increase of \$0.41 on June 1, 1995 and proposed a basic service tier ("BST") rate increase of \$0.42 on August 1, 1995. Although the complaint alleges that the first bill reflecting the CPST rate increase was received on June 30, 1995, our review of the subscriber bill reveals that the June 1, 1995 CPST rate increase was reflected in a bill which was received on or about May 31, 1995. Therefore the complaint which was filed on July 31, 1995, was not filed within 45 days of the first bill reflecting the rate increase. We will dismiss the July 31, 1995 complaint filed against Operator's June 1, 1995 CPST rate increase because the complaint was not timely filed with the Commission.

4. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. §0.321, that Operator's motion to dismiss the complaint IS GRANTED, and the July 31, 1995 complaint referenced herein against the CPST rate charged by Operator in the community referenced above IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

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

⁶ 47 C.F.R. § 76.953 (1995).