

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

In the Matter of ) CUID No. MI0008 (Marquette)  
 )  
 Bresnan Communications Company )  
 )  
 Complaints Regarding )  
 Cable Programming Services Tier Rates )

**ORDER**

**Adopted: February 4, 2000**

**Released: February 7, 2000**

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

1. In this Order we consider complaints concerning the rates of the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above.<sup>1</sup> We also consider a complaint against Operator's October 1, 1995 CPST increase to \$12.51.<sup>2</sup> We have already issued a separate order addressing the reasonableness of Operator's rates from September 1, 1993 to May 14, 1994 ("Prior Order").<sup>3</sup> In our Prior Order, we stated that our findings "do not in any way prejudice the reasonableness of the price for CPS service after May 14, 1994 under our new rate regulations."<sup>4</sup> This Order addresses the reasonableness of Operator's rates in effect after May 14, 1994 as well as Operator's October 1, 1995 CPST rate increase to \$12.51.

2. Under the Communications Act,<sup>5</sup> 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. If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>6</sup> The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")<sup>7</sup> requires the Commission to review CPST rates upon the filing

<sup>1</sup> The complaints were filed with the Commission between February 28, 1994 and October 16, 1995.

<sup>2</sup> Operator's actual CPST rate including franchise fees is \$13.16.

<sup>3</sup> See In the Matter of Bresnan Communications Company, 10 FCC Rcd 9848 (1995).

<sup>4</sup> *Id.* at n. 1.

<sup>5</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

<sup>6</sup> See Section 76.957 of the Commission's Rules, 47 C.F.R. §76.957.

<sup>7</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

of a valid complaint by a subscriber or local franchise authority (“LFA”). The Telecommunications Act of 1996 (“1996”)<sup>8</sup> and our rules implementing the new legislation (“Interim Rules”),<sup>9</sup> require that, beginning February 8, 1996, complaints against CPST rates be filed with the Commission by an LFA that has received more than one subscriber complaint.<sup>10</sup>

3. To justify rates for the period beginning May 15, 1994, operators must use the FCC Form 1200 series.<sup>11</sup> Operators are permitted to make changes to their rates on a quarterly basis using FCC Form 1210.<sup>12</sup> Operators may adjust their rates on an annual basis using FCC Form 1240 to reflect reasonable certain and quantifiable changes in external cost, inflation, and the number of regulated channels that are projected for the twelve months following their rate change.<sup>13</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>14</sup>

4. Upon review of Operator's FCC Form 1200, and multiple FCC Forms 1210 covering the period from April 1, 1994 through June 30, 1995, filed by Operator in response to the complaints referenced herein, we find Operator's actual CPST rates, effective May 15, 1994 through September 30, 1995, to be reasonable.<sup>15</sup> We also find Operator's actual CPST rate of \$12.51, effective October 1, 1995, to be reasonable.

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321 that the CPST rates charged by Operator in the community referenced above, effective May 15, 1994 through September 30, 1995, ARE REASONABLE.

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321 that the CPST rate of \$12.51, charged by Operator in the community referenced above, effective October 1, 1995, IS REASONABLE

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<sup>8</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>9</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

<sup>10</sup> See Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543 (1996).

<sup>11</sup> See Section 76.922 of the Commission's Rules, 47 C.F.R. §76.922.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</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 any 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.

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 rates charged by Operator in the community referenced above ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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