

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

In the Matter of )  
 ) CUID No. PA1554 (West Norriton)  
Suburban Cable TV Company, Inc. )  
 )  
Complaint Regarding )  
Cable Programming Services Tier Rates )

**ORDER**

**Adopted: February 7, 2000**

**Released: February 8, 2000**

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

1. In this Order we consider a complaint against the August 1, 1995 rate increase of the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above. This Order addresses only the reasonableness of Operator's August 1, 1995 CPST rate increase.

2. Under the Communications Act,<sup>1</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. The Cable Television Consumer Protection and Competition Act of 1992<sup>2</sup> ("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.<sup>3</sup> The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.<sup>4</sup> If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>5</sup>

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.<sup>6</sup> Cable operators may file an FCC Form 1210 to justify quarterly rate increases based on the addition and deletion of channels, changes in certain external costs and inflation.<sup>7</sup> 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

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

<sup>2</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>3</sup> See Section 76.956 of the Commission's Rules, 47 C.F.R. §76.956.

<sup>4</sup> *Id.*

<sup>5</sup> See Section 76.957 of the Commission's Rules, 47 C.F.R. § 76.957.

<sup>6</sup> See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

<sup>7</sup> *Id.*

following the rate change.<sup>8</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>9</sup>

4. Upon review of Operator's FCC Form 1200, we find Operator's calculated maximum permitted rate ("MPR") of \$9.71 to be reasonable. Upon review of Operator's FCC Form 1210 for the period April 1, 1994 through December 31, 1994, we adjusted the Inflation Adjustment Factor at Lines I5 and J5 to 1.0215 rather than 1.0251 pursuant to the Ninth Reconsideration Order.<sup>10</sup> Our adjustment resulted in a revised MPR of \$10.27 rather than Operator's calculated MPR of \$10.29. Upon review of Operator's FCC Form 1210 for the period January 1, 1995 through June 30, 1995, we adjusted Line A2 (Permitted Charge) to coincide with the prior revised FCC Form 1210. We also corrected the entry at Line C14 (Previous Ext. Costs per Tier per Sub.) to coincide with Line D9 (Current Ext. Costs per Subscriber) from the prior FCC Form 1210. Our adjustments resulted in a revised MPR of \$12.28 rather than Operator's calculated MPR of \$12.76. Because Operator's actual CPST rate of \$12.68, effective August 1, 1995, exceeds its revised MPR, we find Operator's actual CPST rate of \$12.68, effective August 1, 1995 through March 31, 1996, to be unreasonable.<sup>11</sup>

5. Upon review of Operator's FCC Form 1240 for the projected period April 1, 1996 through March 31, 1997 ("1996 1240"), we adjusted Line A1 (Current Maximum Permitted Rate) to coincide with the prior revised FCC Form 1210. Our adjustment resulted in a revised MPR of \$14.51 rather than Operator's calculated MPR of \$15.26. Because Operator's actual CPST rate of \$13.80, effective April 1, 1996 does not exceed its revised MPR, we find Operator's actual CPST rate of \$13.80, effective April 1, 1996 through March 31, 1997, to be reasonable. Upon review of Operator's FCC Form 1240 for the projected period April 1, 1997 through March 31, 1998 ("1997 1240"), we adjusted Line A1 (Current Maximum Permitted Rate) to coincide with the prior revised FCC Form 1240. Our adjustment resulted in a revised MPR of \$16.22, rather than Operator's calculated MPR of \$17.17. Because Operator's actual CPST rate of \$14.75, effective April 1, 1997, does not exceed its revised MPR, we find Operator's actual CPST rate of \$14.75, effective April 1, 1997, to be reasonable.<sup>12</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Ninth Order on Reconsideration, 11 FCC Rcd 1151 (1996) ("Ninth Reconsideration Order").

<sup>11</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. Information regarding the specific adjustments made to Operator's FCC Forms can be found in the public files for the above-referenced community which are available in the Cable Services Bureau's public reference room, or through the Commission's copy contractor, International Transcription Services (ITS), 1231 20th Street NW, Washington, DC, 20036, or by calling ITS at (202) 857-3800.

<sup>12</sup> Because Operator's refund liability for the period from August 1, 1995 through March 31, 1996, was trued-up in its 1996 and 1997 1240s, which we review herein, Operator is not required to separately calculate that refund liability and submit a refund plan.

6. 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 \$12.68, charged by Operator in the community referenced above, effective August 1, 1995 through March 31, 1996, IS UNREASONABLE.

7. IT IS FURTHER 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 April 1, 1996, ARE REASONABLE.

8. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaint referenced above IS GRANTED TO THE EXTENT INDICATED HEREIN.

FEDERAL COMMUNICATIONS COMMISSION

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