

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

In the Matter of )  
 ) CUID No. PA1656 (Darby Borough)  
Suburban Cable TV Company, Inc. )  
 )  
Complaint Regarding )  
Cable Programming Services Tier Rates )

ORDER

Adopted: February 10, 2000

Released: February 11, 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. This Order addresses only the reasonableness of Operator's October 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 a 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

<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.*

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.<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 \$10.95 to be reasonable. Upon review of Operator's FCC Form 1210 for the period April 1, 1994 through December 31, 1994, we find Operator's calculated MPR of \$11.86 to be reasonable. Upon review of Operator's FCC Form 1210 for the period January 1, 1995 through June 30, 1995, we find Operator's calculated MPR of \$12.74 to be reasonable. Because Operator's actual CPST rate of \$13.01, effective October 1, 1995, exceeds its MPR, we find Operator's actual CPST rate of \$13.01, effective October 1, 1995 through March 31, 1996, to be unreasonable.<sup>10</sup>

5. Upon review of Operator's FCC Form 1240 for the projected period April 1, 1996 through March 31, 1997 ("1996 1240"), we find Operator's actual CPST rate of \$14.05, 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 find Operator's actual CPST rate of \$16.05, effective April 1, 1997 through March 31, 1998 to be reasonable.<sup>11</sup>

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 \$13.01, charged by Operator in the community referenced above, effective October 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 rate of \$14.05, charged by Operator in the community referenced above, effective April 1, 1996, IS 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

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

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

<sup>10</sup> Because Operator's refund liability for the period from October 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.

<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.

Financial Analysis and Compliance Division  
Cable Services Bureau