

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

In the Matter of)	CUID Nos.	IL0613 (Deerfield)
)		IL0614 (Highland Park)
Post-Newsweek Cable)		IL1243 (Winnetka)
)		IL1262 (Lincolnshire)
Petition for Reconsideration)		

ORDER ON RECONSIDERATION

Adopted: July 25, 2001

Released: July 27, 2001

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 97-1141 ("Prior Order"),¹ filed with the Federal Communications Commission ("Commission") on July 3, 1997 by the above-referenced operator ("Operator").² Our Prior Order resolved complaints against Operator's cable programming service tier ("CPST") rates in effect beginning May 15, 1994. In this Order, we grant Operator's Petition and modify our Prior Order.

2. Under the Communications Act,³ at the time the referenced complaints were filed, the Commission was authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged were not unreasonable.⁴ The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),⁵ and our rules in effect at the time the complaints were filed, required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act")⁶ and our rules implementing the legislation ("Interim Rules"),⁷ required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint.⁸ The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its

¹ In the Matter of Post-Newsweek Cable, DA 97-1141, 12 FCC Rcd 23359 (1997).

² The term Operator includes Operator's successors and predecessors in interest.

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

⁴ 47 U.S.C. § 543(c) (1996).

⁵ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁷ See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

⁸ See Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

CPST rates.⁹ The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.¹⁰ If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.¹¹

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.¹² Cable operators may justify rate increases on a quarterly basis using FCC Form 1210, based on the addition and deletion of channels, changes in certain external costs and inflation.¹³ 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.¹⁴ Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹⁵

4. In its Petition, Operator argues that it made a clerical error when filing its FCC Form 1210 for the filing period ending September 30, 1995. Operator mistakenly included a channel adjustment for channels that were added on October 1, 1995. In our Prior Order, we reduced Operator's channel adjustment. Operator then later failed to adjust its FCC Form 1240 to account for the channel additions. In its Petition, Operator provides ample evidence that the channels were added on October 1, 1995. Operator also included amended forms using the correct information for the appropriate time periods. We find Operator's argument to be compelling and our review of the amended forms in issue reveals that Operator has incurred no refund liability for the period under review. Therefore, we will modify our Prior Order to exclude any refund liability.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's Petition for Reconsideration IS GRANTED TO THE EXTENT INDICATED HEREIN.

6. IT IS FURTHER ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that In the Matter of Post-Newsweek Cable, DA 97-1141, 12 FCC Rcd 23359 (1997) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

⁹ See Section 76.956 of the Commission's Rules, 47 C.F.R. §76.956.

¹⁰ *Id.*

¹¹ See Section 76.957 of the Commission's Rules, 47 C.F.R. § 76.957.

¹² See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

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 communities referenced above ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief
Cable Services Bureau