

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

In the Matter of	)	CUID Nos. MN0313 (Birchwood Village)
	)	MN0314 (Dellwood)
Meredith Cable	)	MN0315 (Lake Elmo)
	)	MN0316 (Mahtomedi)
	)	MN0317 (Maplewood)
	)	MN0318 (North St. Paul)
	)	MN0319 (Oakdale)
	)	MN0320 (Vadnais Heights)
	)	MN0321 (White Bear Lake)
	)	MN0322 (Willernie)
	)	MN0323 (Grant)
	)	MN0324 (White Bear)
	)	MN0335 (White Bear Lake)
	)	MN0362 (Anoka)
	)	MN0363 (Andover)
	)	MN0364 (Champlin)
	)	MN0365 (Ramsey)
	)	MN0370 (Blaine)
	)	MN0371 (Centerville)
	)	MN0372 (Circle Pines)
	)	MN0373 (Coon Rapids)
	)	MN0374 (Ham Lake)
	)	MN0375 (Lexington)
	)	MN0376 (Lino Lakes)
Petitions for Reconsideration	)	MN0377 (Spring Lake Park)
Application for Review	)	MN0378 (Spring Lake Park)
)	
	)	CSR No. 4855-R

ORDER ON RECONSIDERATION

Adopted: September 7, 2001

Released: September 14, 2001

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider petitions for reconsideration ("Petitions"), of our Orders, DA 98-1151,¹ DA 98-1311,² and DA 98-1312³ ("Prior Orders"). In our Prior Orders, we resolved complaints

¹ In the Matter of Meredith Cable, DA 98-1151, 13 FCC Rcd 16676 (1998).

² In the Matter of Meredith Cable, DA 98-1311, 13 FCC Rcd 17409 (1998).

³ In the Matter of Meredith Cable, DA 98-1312, 13 FCC Rcd 17414 (1998).

against the cable programming service tier ("CPST") rates charged by the above referenced operator ("Operator")⁴ in the above referenced communities, beginning May 15, 1994. In DA 98-1151, we also denied a petition for special relief ("PSR"), CSR No. 4855-R, in which Operator requested a waiver of the Commission's rules preventing Operator from offsetting basic services tier ("BST") rate reductions with CPST rate increases in the communities referenced above. Operator filed an application for review ("Application") of that part of DA 98-1151 that rejected the PSR along with a petition for stay. Operator also filed refund plans in response to our Prior Orders. In this Order, we grant Operator's Petitions in part, amend our Prior Orders and dismiss Operator's Application, petition for stay, and refund plans as moot.

2. Under the Communications Act,⁵ at the time the referenced complaints were filed, the Federal Communications Commission ("Commission") was 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 1992⁶ ("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.⁷ The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.⁸ If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.⁹

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.¹⁰ 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.¹¹ 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.¹² Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹³

4. In its Petitions, Operator raises several issues, only one of which is addressed herein. In our Prior Orders, we concluded that Operator incurred refund liability for the period May 15, 1994 to July 14, 1994, for overcharges associated with its FCC Form 1200 CPST rate calculations, because Operator had

⁴ The term "Operator" includes Operator's successors and predecessors in interest.

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

⁶ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁷ See Section 76.956 of the Commission's rules, 47 C.F.R. §76.956.

⁸ *Id.*

⁹ See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.

¹⁰ See Section 76.922 of the Commission's rules, 47 C.F.R. § 76.922.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

not elected to defer its CPST refund liability for that period as permitted by the Commission's rules.¹⁴ In its Petitions, Operator asserts that it timely filed BST refund deferral request letters with the above referenced LFAs.¹⁵ Operator requests that we accept these timely filed BST refund deferral request letters for the purpose of deferring CPST refund liability.¹⁶ Upon review, we will accept Operator's BST deferral request letters as evidence of Operator's deferral election, and we will grant Operator's request to defer its FCC Form 1200 CPST refund liability until July 14, 1994. Our further review of our Prior Orders reveals that Operator justified its actual CPST rates beginning July 14, 1994. As there were no valid complaints received against Operator's CPST rates in effect after that time period, we will modify our Prior Order to exclude the finding of any refund liability for any time periods beginning after July 14, 1994. Because our resolution of the refund deferral issue and our further review dispose of Operator's refund liability, we decline to address any other issue raised by Operator in its Petitions or Application. We will grant Operator's Petitions in part, modify our Prior Orders to reflect no refund liability, and dismiss Operator's Application, petition for stay and refund plans as moot.

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

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that In the Matter of Meredith Cable, DA 98-1151, 13 FCC Rcd 16676 (1998), In the Matter of Meredith Cable, DA 98-1311, 13 FCC Rcd 17409 (1998), and In the Matter of Meredith Cable, DA 98-1312, 13 FCC Rcd 17414 (1998) ARE MODIFIED TO THE EXTENT INDICATED HEREIN.

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 communities referenced above, effective May 15, 1995, ARE REASONABLE.

8. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Operator's Application for Review, Petition for Stay Pending Review, and Refund Plans ARE DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief
Cable Services Bureau

¹⁴ Commission's rules provide for a refund liability deferral period beginning May 15, 1994 and ending July 14, 1994, if timely requested by Operator, for any overcharges resulting from Operator's calculation of a new MPR on the FCC Form 1200. See 47 C.F.R. § 76.922 (b)(6)(ii).

¹⁵ Operator included copies of the letters along with its Petitions.

¹⁶ Operator cites In the Matter of Marcus Cable Associates, LP, DA 97-2663, 13 FCC Rcd 9012 (1998) as precedent for the acceptance of these letters.