

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

In the Matter of	)	
	)	
Marcus Cable Partners, LP	)	CUID No. WI0066 (Hartford)
	)	
Petition for Reconsideration and Refund Plan	)	

**ORDER ON RECONSIDERATION  
AND REFUND PLAN ORDER**

**Adopted: September 7, 2001**

**Released: September 14, 2001**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 97-1533 ("Prior Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") on August 22, 1997 by the above-referenced operator ("Operator"). Our Prior Order resolved complaints against Operator's cable programming service tier ("CPST") rates in effect beginning May 15, 1994. On August 22, 1997, Operator also filed a refund plan ("Refund Plan") in response to our Prior Order. In this Order, we reconsider and modify our Prior Order and dismiss Operator's Petition and Refund Plan as moot.

2. Under the Communications Act,<sup>2</sup> the Commission was authorized, at the time the referenced complaint was filed, 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>3</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 Telecommunications Act of 1996 ("1996 Act")<sup>4</sup> and our rules implementing the legislation ("Interim Rules"),<sup>5</sup> required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint.<sup>6</sup> The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.<sup>7</sup> The Operator has the

<sup>1</sup> In the Matter of Marcus Cable Partners, LP, DA 97-1533, 13 FCC Rcd 4778 (1998).

<sup>2</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

<sup>3</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>4</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>5</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

<sup>6</sup> See Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

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

burden of demonstrating that the CPST rates complained about are reasonable.<sup>8</sup> If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>9</sup>

3. In response to Operator's Petition, we reviewed our Prior Order and found that Operator justified its actual CPST rate beginning July 1, 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 1, 1994. Because the arguments raised by Operator in its Petition concern only our calculation in the Prior Order of refund liability for time periods beginning after July 1, 1994, we will dismiss Operator's Petition as moot, without addressing the merits of Operator's arguments. Secondly, our review reveals that the total overcharges per subscriber for the period from May 15, 1994 through June 30, 1994 are *de minimis* and it would not be in the public interest to order a refund.

4. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that In the Matter of Marcus Cable Partners, LP, DA 97-1533, 13 FCC Rcd 4778 (1998) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

5. IT IS FURTHER ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's Petition for Reconsideration and Refund Plan ARE DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief  
Cable Services Bureau

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

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