

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

In the Matter of)	
)	
Falcon Community Cable, L.P.)	CUID No. KY0078 (Corbin)
)	
Petition for Reconsideration)	

ORDER ON RECONSIDERATION

Adopted: November 9, 2001

Released: November 14, 2001

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 96-1082 ("Prior Order"),¹ filed with the Federal Communications Commission ("Commission") on August 5, 1996 by the above-referenced operator ("Operator"). Our Prior Order resolved a complaint against Operator's April 1, 1996 cable programming services tier ("CPST") rate increase. Operator also filed a refund plan in response to our Prior Order. In this Order, we grant Operator's Petition, amend our Prior Order and dismiss the refund plan as moot.

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

¹ In the Matter of Falcon Community Cable, LP, DA 96-1082, 11 FCC Rcd 8027 (1996).

² 47 U.S.C. §543(c) (1996).

³ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁴ Pub. L. No. 104-104, 110 Stat. 56 (1996).

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

justification of its CPST rates.⁶ If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.⁷

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.⁸ Cable operators may justify quarterly rate increases based on the addition and deletion of channels, changes in certain external costs and inflation, by filing FCC Form 1210.⁹ 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.¹⁰ Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹¹

4. In our Prior Order, we concluded that Operator did not submit sufficient information for us to determine the reasonableness of its April 1, 1996 CPST rate increase. In its Petition, Operator submits all of the necessary information for us to review the CPST rate increase. Based on our review of the material submitted with the Petition, we find Operator's calculated maximum permitted rate ("MPR") of \$1.65 to be reasonable, effective April 1, 1996. Because Operator's actual CPST rate of \$1.70 exceeds its MPR, we find its actual rate to be unreasonable.¹² However, we find the total overcharges for the period under review to be *de minimis* and it would not be in the public interest to order a refund. We will amend our Prior Order to exclude any refund liability and consequently, we will dismiss Operator's refund plan 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 Petition for Reconsideration IS GRANTED 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 Falcon Community Cable, LP, DA 96-1082, 11 FCC Rcd 8027 (1996) IS AMENDED TO THE EXTENT INDICATED HEREIN.

⁶ 47 C.F.R. §76.956.

⁷ 47 C.F.R. §76.957.

⁸ See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² 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 FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Operators refund plan IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau