

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

In the Matter	)	
	)	
Upper St. Clair Cablevision, Inc.	)	CUID No. PA1519 (Peters Township)
d/b/a Adelphia Cable Communications	)	
	)	
Petition for Reconsideration	)	

**ORDER ON RECONSIDERATION**

**Adopted: April 6, 2001**

**Released: April 11, 2001**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 99-433 ("Prior Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") by the above-referenced operator ("Operator") on April 5, 1999. Our Prior Order resolved a complaint against Operator's August 1, 1998 cable programming services tier ("CPST") rate increase in the above-referenced community, and found Operator's CPST rate to be reasonable. The local franchising authority ("LFA") filed an opposition to the Petition on April 19, 1999, and Operator filed a reply on April 28, 1999. In this Order, we dismiss Operator's Petition because a review of Operator's Petition would have no effect on Operator's refund liability and would encumber limited Commission resources.

2. Under the Communications Act,<sup>2</sup> 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. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")<sup>3</sup> required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber. The Telecommunications Act of 1996 ("1996 Act"),<sup>4</sup> and our rules implementing the legislation ("Interim Rules"),<sup>5</sup> which were in effect at the time the complaint was filed, require 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 justification of its CPST rates.<sup>6</sup> If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>7</sup>

<sup>1</sup> See In the Matter of Upper St. Clair Cablevision, Inc. d/b/a Adelphia Cable Communications, DA 99-433, 14 FCC Rcd 3530 (1999).

<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> 47 C.F.R. §76.956.

<sup>7</sup> 47 C.F.R. §76.957.

3. Section 623(c) of the Communications Act,<sup>8</sup> which establishes the criteria for Commission regulation of the cable programming service tier, does not apply to cable programming services provided after March 31, 1999.<sup>9</sup> The Commission does not have authority to review CPST rates which became effective after March 31, 1999. Since 1993, the Commission has been receiving and resolving complaints from subscribers and LFA's regarding CPST rates. Although the Commission has resolved almost 18,000 complaints involving 5,700 communities during that time frame, there are still complaints that are pending and need to be resolved. In addition to the pending complaints, there are a number of pending petitions for reconsideration of prior orders. Most of these prior orders that are the subject of a pending appeal determined that a cable system operator had incurred refund liability for overcharges on its CPST. Several petitions are against prior orders which found that the operator did not incur any refund liability, either because its CPST rate was found to be reasonable or because the total amount of the refund was *de minimis* and it would not have been in the public interest to order a refund.

4. It would not be a judicious use of Commission resources to attempt to resolve appeals of CPST rate orders which had no adverse affect on the petitioner, either because the order found no refund liability at all or found a *de minimis* liability which did not later result in the petitioner incurring actual refund liability. Resolution of such appeals will have no consequences other than to put additional strain on limited Commission resources which are better put to resolving pending complaints and appeals of orders which involve potential or actual refund liability. Therefore, we have determined that appeals of CPST rate orders which do not involve actual refund liability will be dismissed because there is no real relief which may be granted through resolution of the appeal.

5. In our Prior Order, we made adjustments to Operator's FCC Form 1240 filing. Despite our adjustments, we found Operator's actual CPST rate to be reasonable. Although Operator did not incur any refund liability, Operator chose to file its Petition, challenging our adjustments to the FCC Form 1240 filing. Our review of the record indicates that a resolution of the appeal will have no effect on Operator's refund liability for its CPST. Therefore, in order to conserve Commission resources, we will dismiss Operator's Petition without addressing the merits of Operator's arguments.

6. 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 DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief, Cable Services Bureau

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<sup>8</sup> 47 U.S.C. § 543(c).

<sup>9</sup> See 47 U.S.C. § 543(c)(4) (1996).