

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

In the Matter of)	File No. EB-02-TC-047
)	
CableOne, Inc.)	CUID No. TX0024 (Port Lavaca)
)	
Refund Plan)	

ORDER

Adopted: May 6, 2002

Released: May 8, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order we consider the refund plan filed by the above-referenced operator ("Operator") in the above-referenced community pursuant to the Order, DA 95-1071² ("Refund Order").³ Our review of Operator's refund plan⁴ reveals that the refund plan does not fulfill the requirements of the Refund Order. Operator did not calculate the interest correctly. Operator also requested that we offset its cable programming services tier ("CPST") overcharges with its basic service tier ("BST") equipment undercharges. The Commission addressed the issue of inter-tier offsets in *Cencom Cable Income Partners ("Cencom")*.⁵ In *Cencom*, the Commission determined that such inter-tier offsets are "inconsistent with the Commission's conclusion in the [Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, MM Docket 92-266, Report and Order and Further Notice of Proposed Rulemaking]⁶ that cable operators should not balance low BST rates with CPST rates that exceed the maximum permitted rate for the tier."⁷ Therefore, we will not allow Operator to offset its CPST overcharges with its BST undercharges.

2. We calculate Operator's refund liability as follows: For the period from October 8, 1993 through May 14, 1994, we calculate an overcharge of \$0.14 per month per subscriber. Our total calculation, including five percent franchise fees plus interest on the overcharges and franchise fees through April 30,

¹ Effective March 25, 2002, the Commission transferred responsibility for resolving cable programming services tier rate complaints from the former Cable Services Bureau to the Enforcement Bureau. *See Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau and Other Organizational Changes*, FCC 02-10, 17 FCC Rcd 4672 (2002).

² *In the Matter of Post-Newsweek Cable, Inc.*, DA 95-1071, 10 FCC Rcd 9839 (CSB 1995). On July 3, 1997, the Federal Communications Commission received notification, pursuant to 47 C.F.R. § 76.400, of a change of operator name from Post-Newsweek Cable, Inc. to Cable One, Inc.

³ The Refund Order required Operator to determine the overcharges to cable programming service tier ("CPST") subscribers for the period stated in the Refund Order and file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount determined (including franchise fees and interest), describing the calculation thereof, and describing its plan to implement the refund within 60 days of Commission approval of the plan.

⁴ Operator calculated a total refund liability of \$6,212.44.

⁵ *See In the Matter of Cencom Cable Income Partners II, LP*, 12 FCC Rcd 7948 (1997).

⁶ 8 FCC Rcd 5631 (1993).

⁷ *Cencom* at ¶22 (footnote omitted).

2002, equals \$7,493.00. We order Operator to refund this amount, plus any additional interest accrued to the date of refund, to its CPST subscribers within 60 days of the release of this Order.

3. Accordingly, IT IS ORDERED that Operator's refund plan IS NOT APPROVED.

4. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator shall refund to subscribers in the franchise area referenced above the total amount of \$7,493.00, plus interest accruing from April 30, 2002 to the date of refund, within 60 days of the release of this Order.

5. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator shall file a certificate of compliance with the Chief, Enforcement Bureau, within 90 days of the release of this Order certifying its compliance with this Order.

6. This action is taken pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau