

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

In the Matter of)	
)	File No. EB-02-TC-015
Falcon Cable TV)	
)	CUID No. AL0116 (Attalla)
Petition for Reconsideration)	

ORDER ON RECONSIDERATION

Adopted: May 6, 2002

Released: May 8, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order, we consider a petition for reconsideration ("Petition") of Order, DA 98-652 ("Prior Order").² In the Prior Order, the Cable Services Bureau resolved complaints against the above-referenced operator's ("Operator's")³ cable programming services tier ("CPST") rates. Operator filed a petition for reconsideration and refund plan in response to the Prior Order. In this Order, we reconsider and amend the Prior Order, and dismiss Operator's Petition and refund plan as moot.

2. Under the provisions of the Communications Act⁴ that were in effect at the time the referenced complaints were filed, the Federal Communications Commission ("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 1992⁵ ("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.⁶ The

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 Falcon Cable TV*, DA 98-652, 13 FCC Rcd 7158 (CSB 1998).

³ The term "Operator" includes Operator's successors and predecessors in interest.

⁴ Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

⁵ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁶ *See* Section 76.956 of the Commission's rules, 47 C.F.R. §76.956.

Operator has the burden of demonstrating that the CPST rates complained about are reasonable.⁷ If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.⁸

3. In response to Operator's Petition, we reviewed the Prior Order and the record and found that two complaints were filed against Operator's CPST rates, with the most recent complaint filed on February 15, 1994. In the Prior Order, the Cable Services Bureau found that Operator justified its actual CPST rates through December 31, 1994. As there were no valid complaints received against Operator's CPST rates in effect after December 31, 1994, we will, on our own motion, amend the Prior Order to exclude the finding of any refund liability for the period beginning January 1, 1995, without addressing the merits of the arguments raised by Operator in its Petition. Because our review results in a finding of no refund liability, we dismiss Operator's Petition and refund plan as moot.

4. Accordingly, IT IS ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that In the Matter of Falcon Cable TV, DA 98-652, 13 FCC Rcd 7158 (1998), IS AMENDED 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.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁷ *Id.*

⁸ See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.