

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

In the Matter of:)	
)	
Cablevision of Newark)	File No. CSR-4853-R
)	CUID No. NJ0476
Petition for Declaratory Ruling)	
)	
)	

ORDER

Adopted: July 10, 2007

Released: July 12, 2007

By the Deputy Chief, Policy Division, Media Bureau:

1. Cablevision of Newark ("Cablevision") filed a Petition for Declaratory Ruling on October 7, 1996 to determine whether Cablevision is permitted to offset undercharges for its cable programming services tier ("CPST") rates against overcharges for its basic service tier ("BST") rates. For the reasons set forth below, we deny Cablevision's Petition.

2. The Commission addressed the issue of inter-tier offsets in *Cencom Cable Income Partners* ("Cencom").¹ In *Cencom*, the Commission explained why it does not allow such offsets: If both BST and CPST rates were within the Commission's jurisdiction, we might have considered inter-tier offsets when ordering refunds for overcharges on CPST where less than the maximum permitted rate has been charged on the BST. However, the Communications Act set up a dual regulatory structure for cable services during the period at issue here, giving local franchising authorities jurisdiction to regulate BST and associated equipment rates, and until April 1999, giving the Commission jurisdiction to regulate CPST rates upon the filing of a valid complaint.² While the Commission prescribed standards and procedures for local rate regulation,³ and is authorized to consider appeals from local rate orders,⁴ the Commission generally is not otherwise involved in local rate regulation and is not in a position to evaluate offsets between tiers as a matter of routine. Absent an appeal, the Commission may be uninformed about local matters potentially affecting BST rates. The Commission's review of CPST rates was not coordinated with local rate review processes.⁵ In short, allowing inter-tier offsets would have created practical problems in determining the correct BST rates for offset purposes, further burdening the

¹ See *Cencom Cable Income Partners II, L.P.*, 12 FCC Rcd 7948 (1997).

² Communications Act § 623, 47 U.S.C. § 543.

³ Communications Act § 623(b)(1), (3), 47 U.S.C. § 543(b)(1), (3); 47 C.F.R. §§ 76.922, 76.923.

⁴ Communications Act § 623 (b)(5)(B), 47 U.S.C. § 543(b)(5)(B); 47 C.F. R. § 76.944.

⁵ See *Cencom*, 12 FCC Rcd 7948, 7958.

administrative processes of cable rate regulation.⁶ We see no reason to deviate from our general rule of prohibiting inter-tier offsets.⁷

3. Accordingly, **IT IS ORDERED** that the Petition for Declaratory Ruling filed by Cablevision of Newark **IS DENIED** to the extent indicated herein.

4. This action is taken pursuant to authority delegated by § 0.283 of the Commission's rules. 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

John B. Norton
Deputy Chief, Policy Division
Media Bureau

⁶ See *id.*

⁷ We most recently addressed this issue in *Cablevision of New Jersey, Inc.*, 18 FCC Rcd 24018 (2003). In addition, all CPST complaint issues involving the referenced community, CUID No. NJ0476, were resolved by resolution. See *Cablevision Systems Corporation*, 13 FCC Rcd. 15894 (1998).