

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

In the Matter of

ML MEDIA PARTNERS, L.P.
TRADING AS MULTIVISION
CABLE TV

Request for Stay of
Local Rate Order of the
City of Fairfield, California

AMENDED ORDER

Adopted: December 1, 1994; Released: December 2, 1994

By the Chief, Cable Services Bureau:

1. On November 10, 1994, we issued an Order in this proceeding granting a stay request made by ML Media Partners, L.P., d/b/a Multivision Cable TV ("Multivision"), the franchisee in the above matter.¹ In that Order, we stated that the City of Fairfield, California ("City") had not filed any pleadings in opposition to the stay request. The City had, in fact, submitted an opposition to the stay request on September 2, 1994. Multivision subsequently submitted a reply to that opposition on September 8, 1994. Accordingly, and on our own motion, we now reconsider that decision. Upon review of the responsive pleadings, we conclude that our decision to grant the stay request remains the same.

2. The local rate order adopted by the City establishes a new rate schedule for Multivision's basic service tier, associated equipment, and installations, and directs Multivision to issue refunds to subscribers for charges assessed since September 1, 1993 which were in excess of the newly established rates.² The main issue raised by Multivision in its petition involves the proper regulatory treatment of Multivision's a la carte offerings.³ Multivision argues that, absent a stay, it will be harmed irreparably. Further, it argues that a stay is in the public interest. The City opposes Multivision's Request for Stay and argues that Multivision has failed to demonstrate that it will suffer irreparable harm or that the public interest favors the granting of a stay. Multivision replies that the City has conceded that

Multivision would be harmed if the Commission reverses the City's order but is unable to provide for recovery of refunds paid by Multivision.

3. The regulatory treatment of a la carte offerings is the subject of numerous Letters of Inquiry issued by the Commission to cable operators.⁴ While a Letter of Inquiry has not been issued to the operator in this case, we will grant Multivision's petition pending the resolution of its Appeal in order to minimize subscriber confusion and ensure regulatory consistency in this important area, as the Commission has done in other cases involving the a la carte issue.⁵

4. During the period of this stay, Multivision is ordered to deposit in an interest-bearing escrow account the total amount of money that the City has ordered Multivision to refund to its customers. Alternatively, Multivision may elect to post a bond for the benefit of the City. The amount of the bond shall be the total amount of money subject to the refund order, plus interest on that amount for a twelve (12) month period from the date of this Order. The bond shall provide that if Multivision is unable to fulfill its refund obligations for any reason, then the surety will fulfill that obligation to the City, on behalf of Multivision's subscribers.⁶

5. Accordingly, IT IS ORDERED that the local rate order adopted by the City of Fairfield, California is STAYED pending the resolution of Multivision's Request for Review.

6. IT IS FURTHER ORDERED that the amount of the refunds required by the City of Fairfield, California's local rate order SHALL BE PLACED by Multivision in an interest-bearing escrow account, OR SHALL BE SECURED by the posting of a bond for the benefit of the City of Fairfield in the amount of money the City of Fairfield has ordered Multivision to refund, plus interest. The amount of the bond shall be the total amount of money subject to the refund order, plus interest on that amount for a twelve (12) month period from the date of this Order. Proof of Multivision's compliance with this Order shall be filed with the Commission within thirty (30) days of the release of this Order. Interest shall accrue, or be computed, at the prevailing U.S. Internal Revenue Service Rate.

7. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by Section 0.321 of the Commission's rules. 47 C.F.R. § 0.321.

¹ See *ML Media Partners, L.P., Trading as Multivision Cable TV* (Fairfield, CA), DA 94-1246 (rel. November 10, 1994).

² Under the Cable Television Consumer Protection and Competition Act of 1992 and the Commission's implementing regulations, local franchising authorities may regulate rates for basic cable service, associated equipment, and installations. See Cable Television Consumer Protection and Competition Act, Pub. L. No. 102-385, 106 Stat. 1460 (1992); Communications Act, § 623(b), as amended, 47 U.S.C. § 543(b) (1993).

³ In addition, Multivision takes issue with the calculation of hourly service charges, the deletion of "cap labor inside wiring" costs and disallowance of the home wiring maintenance fee.

⁴ Very recently, we have begun to issue orders involving those

Letters of Inquiry. See, e.g., *Adelphia Cable Partners, L.P., South Dade County, Florida*, LOI-93-42, DA 94-1277 (rel. November 18, 1994).

⁵ See *Century Cable of Southern California* (Brea, CA), DA 94-512 (rel. May 17, 1994); *Century Cable of Southern California* (La Habra, CA), DA 94-513 (rel. May 17, 1994); *Warner Cable Communications, Inc.* (Wadsworth, OH), DA 94-511 (rel. May 17, 1994); and *Paragon Cable* (Grapevine, TX), DA 94-1072 (rel. September 30, 1994).

⁶ See *Comcast Cablevision of Tallahassee, Inc.*, DA 94-1071 (rel. September 30, 1994), in which the Commission authorizes the operator to post a bond in lieu of establishing an escrow account.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Acting Chief, Cable Services Bureau