

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

In the Matter of)	
)	
)	
Robin Cable Systems of Tucson d/b/a Tucson Cablevision)	CUID No. AZ0159 (Tucson)
)	
Complaints Regarding Cable Programming Services Tier Rate Increase)	
)	

ORDER

Adopted: August 22, 1996

Released: September 3, 1996

By the Chief, Financial Analysis and Compliance Division, Cable Services Bureau:

1. In this Order we consider complaints about the rate the above-captioned operator ("Operator") was charging for its cable programming services tier ("CPST") in the community referenced above.¹ Operator's response includes benchmark justifications filed on FCC Form 393 and FCC Form 1200.

2. Under the Communications Act,² and our rules implementing it, 47 C.F.R. Part 76, the Federal Communications Commission ("Commission") must review a cable operator's rate for its CPST upon the filing of a valid complaint. The filing of a valid complaint triggers an obligation on behalf of the cable operator to file a justification of its CPST rate.³ Under our rules, an operator may attempt to justify its rate through either a benchmark showing or a cost-of-service showing.⁴ In either case, the operator has the burden of demonstrating that its CPST rate are not unreasonable.⁵

¹ The Commission received the first valid complaint filed against the Operator on December 9, 1993.

² Communications Act, § 623(c), *as amended*, 47 U.S.C. § 543(c) (1996).

³ 47 C.F.R. § 76.956.

⁴ 47 C.F.R. § 76.956(b).

⁵ *Id.*

3. The Commission's original rate regulations took effect on September 1, 1993.⁶ The Commission subsequently revised its rate regulations effective May 15, 1994.⁷ Operators with valid CPST rate complaints filed against them prior to May 15, 1994 must demonstrate that their CPST rates were in compliance with the Commission's initial rules from the time the complaint was filed through May 14, 1994, and that their rates were in compliance with the revised rules from May 15, 1994 forward.⁸ Operators attempting to justify their rate for the period prior to May 15, 1994 through a benchmark showing must complete and file FCC Form 393.⁹ To justify their rates for the period beginning May 15, 1994 through a benchmark showing, operators must use the FCC Form 1200.¹⁰

4. Operator asserts that its monthly CPST rate is justified because the rate is equal to or lower than the maximum permitted charge. Upon review of Operator's FCC Form 393 and FCC Form 1200, we agree. We found no apparent errors in Operator's calculation of its maximum permitted CPST rate.¹¹ Therefore, Operator's monthly CPST rates for the periods under review ARE justified.

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaints referenced herein against the CPST rate charged by Operator in the franchise area referenced in the caption as reflected on Operator's FCC Forms 393 and 1200 filings, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Elizabeth W. Beaty
Chief, Financial Analysis and Compliance Division
Cable Services Bureau

⁶ Order in MM Docket No. 92-266, Implementation of Sections of the Cable Consumer Protection and Competition Act of 1992: Rate Regulation, FCC 93-372, 58 Fed. Reg. 41042 (Aug. 2, 1993).

⁷ 47 C.F.R. § 76.922(b).

⁸ Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 94-38, 9 FCC Rcd 4119, 4190 (1994) ("*Second Order on Reconsideration*").

⁹ *Id.*

¹⁰ 47 C.F.R. § 76.922(b)(6); *see also Second Order on Reconsideration*, 9 FCC Rcd at 4189 n.195.

¹¹ This finding is based solely on the representations of Comcast Cable Communications, Inc. in its rate filings. Should information come to our attention that these representations were materially inaccurate, we reserve the right to take appropriate action. This Order is not to be construed as a finding that we have accepted as correct any specific entry, explanation or argument made by any party to this proceeding not specifically addressed herein.