

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

In the Matter of	)	
Booth American Company d/b/a	)	CUID Nos. VA0014 (Town of Blacksburg)
Blacksburg Cable TV	)	VA0175 (Montgomery)
	)	
Small System Filing to Support	)	
Cable Programming Services Tier Rate	)	
	)	

**ORDER**

**Adopted: August 19, 1996**

**Released: August 28, 1996**

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

1. In this Order we consider complaints filed with the Federal Communications Commission ("Commission") regarding the rate that Booth American Company ("Booth") was charging for its cable programming services tier ("CPST") in the franchise areas referenced above.<sup>1</sup> On November 7, 1995, Booth filed with the Commission FCC Form 1230, seeking to justify its CPST rate through the simplified small system cost of service procedures under the Commission's *Small System Order*.<sup>2</sup> In this Order we grant Booth's request for small system relief under the *Small System Order* and, based on our review of Booth's FCC Form 1230 filing, deny the pending CPST complaints and find the CPST rate to be not unreasonable.

2. Under the Cable Television Consumer Protection and Competition Act of 1992, and the Commission's rules implementing it, 47 C.F.R. Part 76, Subpart N, the Commission must review a cable operator's rates for its CPST upon the filing of a valid complaint.<sup>3</sup> The filing of a valid complaint triggers an obligation on behalf of the cable operator to file a justification of its CPST rates. Under the Commission's rules, an operator may attempt to justify its rates through a benchmark showing, a cost of service showing, or a small system cost of service

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<sup>1</sup> The earliest complaint in VA0014 was filed November 8, 1993. The earliest complaint filed in VA0175 was received December 21, 1993.

<sup>2</sup> Sixth Report and Order and Eleventh Order on Reconsideration, MM Docket Nos. 92-266 & 93-215, 10 FCC Rcd 7393 (1995) ("*Small System Order*"). Booth initially filed FCC Form 393s on November 29, 1993, and December 21, 1993, for the communities listed above. Those forms are superseded by the later-filed FCC Form 1230s.

<sup>3</sup> Pub. L. No. 102-385, §§ 3, 9, 14, 106 Stat. 1460 (1992) ("1992 Cable Act"); Communications Act, § 623(c), as amended, 47 U.S.C. § 543(c) (1993).

showing. In any case, the operator has the burden of demonstrating that its CPST rates are not unreasonable.<sup>4</sup>

3. The Commission's original rate regulations took effect on September 1, 1993. The Commission subsequently revised its rate regulations effective May 15, 1994.<sup>5</sup> In a further effort to offer small cable companies administrative relief from rate regulation, the Commission amended the definition of small cable companies and small systems and introduced a simplified form of small system rate relief in the *Small System Order*. Cable systems serving 15,000 or fewer subscribers, and owned by a company having 400,000 or fewer subscribers, may elect to use the new small cable system rate mechanism in lieu of other Commission rate processes, provided the Commission has not reached a final resolution on the rate complaints filed against the system. Operators attempting to justify their rates through small system relief must file FCC Form 1230. FCC Form 1230 requires that the Operator Selected Per Subscriber Monthly Programming Rate Per Channel (FCC Form 1230, Line A11) not exceed the Per Subscriber, Per Channel Monthly Programming Costs (FCC Form 1230, Line A6).<sup>6</sup> If the maximum rate established on FCC Form 1230 does not exceed \$1.24 per channel, the rate shall be presumed reasonable.

4. On November 7, 1995, Booth filed FCC Form 1230s seeking to justify its CPST rates in the above-referenced communities through the simplified small system cost of service procedures under the Commission's *Small System Order*. We find that Booth is a company with fewer than 400,000 total subscribers and that the systems in question serve fewer than 15,000 subscribers, making them eligible for small system relief. Further, Booth's filings show that its actual rate per channel for regulated cable service (FCC Form 1230, Line A11) in each of the franchise areas does not exceed its per subscriber, per channel monthly programming costs (FCC Form 1230, Line A6) and the Maximum Permitted Rate (FCC Form 1230, Line A10) in each franchise area does not exceed \$1.24. We, therefore, find the rates in the above-referenced communities to be not unreasonable.<sup>7</sup>

5. Accordingly, IT IS ORDERED, pursuant to section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Booth's request for small system relief IS GRANTED.

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<sup>4</sup> 47 C.F.R. §§ 76.956(d) and 76.934.

<sup>5</sup> *Third Recon. Order*, 9 FCC Rcd at 4338; see also 47 C.F.R. § 76.933(d).

<sup>6</sup> See instructions for Line A11, FCC Form 1230, page 3.

<sup>7</sup> This finding is based solely on the representations of the operator. 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.

6. IT IS FURTHER ORDERED that the CPST rate charged by Booth in each of the above-referenced CUID numbers during the period under review IS JUSTIFIED.

7. IT IS FURTHER ORDERED that the complaints against the CPST rate charged by Booth during the period under review with respect to the above-referenced CUID numbers ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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