

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

| | | |
|---------------------------------------|---|----------------------------------|
| In the Matter of |) | |
| Cencom Cable Income Partners II, L.P. |) | |
| |) | CUID No. TX0061 (City of Jasper) |
| |) | TX0803 (City of Angleton) |
| |) | |
| Small System Filing to Support |) | |
| Cable Programming Services Rate |) | |
| |) | |

ORDER

Adopted: August 19, 1996

Released: August 28, 1996

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider an application for small system relief filed by Cencom Cable Income Partners II, L.P. ("Cencom") for its cable programming services tiers ("CPST") in the franchise areas referenced above.¹ On February 7, 1996, Cencom filed with the Federal Communications Commission ("Commission") FCC Forms 1230 for the above referenced franchise areas seeking to justify its rates through the simplified small system cost of service procedures under the Commission's *Small System Order*.² In response to requests for information relating to earlier FCC Form 1230 filings by Cencom,³ Cencom provided organizational charts of all entities related to Charter Communications, Inc, of which Cencom is a part.⁴ In this Order

¹ The first valid complaint regarding the CPST rate charged in CUID No. TX0061 was filed on November 16, 1993. The first valid complaint regarding the CPST rate charged in CUID No. TX0803 was filed on October 5, 1993.

² Sixth Report and Order and Eleventh Order on Reconsideration, MM Docket Nos. 92-266 & 93-215, 10 FCC Rcd 7393 (1995)(*Small System Order*).

³ See Letter dated January 18, 1996, from Janet L. Sievert, Senior Attorney Advisor, Financial Analysis and Compliance Division, to Theodore W. Browne II, Executive Vice President, General Counsel and Secretary, Cencom Partners, L.P.

⁴ See Attachment A of this Order consisting of the Letter and Exhibit B filed February 7, 1996, from Trudi M. Foushee, Esq., attorney for Cencom, to Janet L. Sievert. Specifically, Exhibit B of Ms. Foushee's letter is an organizational chart indicating all entities related to Charter Communications. The entire document is available for inspection by the public in the Cable Services Bureau's Public Reference Room or through the Commission's copy contractor, International Transcription Services (ITS), 1919 M Street N.W., Washington, DC 20554 or by calling

we deny Cencom's request for small system relief for these franchise areas under the *Small System Order*.

2. Under the Cable Television Consumer Protection and Competition Act of 1992,⁵ and the Commission's rules implementing it, 47 C.F.R. Part 76, the Commission must review a cable operator's rates 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 rates.⁶ 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 showing.⁷ In any case, the operator has the burden of demonstrating that its CPST rates are not unreasonable.⁸

3. The Commission's original rate regulations took effect on September 1, 1993.⁹ The Commission subsequently revised its rate regulations effective May 15, 1994.¹⁰ 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 or affiliated with a company having 400,000 or fewer subscribers as of both the effective date of the *Small System Order* and the period during which the disputed rates were in effect, 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. If the maximum rate established on FCC Form 1230 does not exceed \$1.24 per channel, the rate shall be presumed reasonable.¹¹

ITS at (202) 857-3800.

⁵ Pub. L. No. 102-385, 106 Stat. 1460 (1992) ("1992 Cable Act"); Communications Act, § 623(c), as amended, 47 U.S.C. § 543(c)(1993).

⁶ 47 C.F.R. § 76.956.

⁷ 47 C.F.R. §§ 76.956(b) and 76.934(h).

⁸ *Id.*

⁹ Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation Order, MM Docket No. 92-266, 58 Fed. Reg. 41042 (Aug. 2, 1993).

¹⁰ See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, MM Docket No. 92-266, Second Order on Reconsideration Fourth Report and Order and Fifth Notice of Proposed Rulemaking, 9 FCC Rcd 4119 ("Second Order on Reconsideration"); 47 C.F.R. § 76.922(b).

¹¹ See *Small System Order*, 10 FCC Rcd at 7428.

4. Cencom's supplemental filing and Commission records indicate that Cencom was affiliated with Crown Media for the period during which the rates under review were in effect. We find that Crown Media was a company with more than 400,000 total subscribers prior to the acquisition of Cencom by entities related to Charter Communications, Inc. This makes Cencom ineligible for small system relief. There is nothing in the record of this proceeding that refutes this presumption, therefore, Cencom is not qualified for small system relief.

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's Rules, 47 C.F.R. § 0.321, that Cencom's request for small system relief, with respect to the above-referenced CUID numbers, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

John E. Logan
Deputy Chief, Cable Services Bureau

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314-965-0555
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RECEIVED

FEB - 7 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

February 6, 1996

Janet L. Sievert
Senior Attorney Advisor
Federal Communications Commission
Washington, DC 20554

Re: Cencom Partners, L.P.
Lincoln County
NC0281, NC0750

Dear Ms. Sievert:

Please find enclosed responses to your phone inquiry of January 17, 1996 and your letter of January 18, 1996 to Theodore W. Browne requesting additional information relative to the small system qualification of the above-referenced entity and other entities managed by Charter Communications, Inc.

If you have further questions or concerns in this regard, please do not hesitate to call.

Sincerely,



Trudi M. Foushee

TMF:smf

Enclosures

cc: Ted Browne, w/encl.
Paul Glist, w/encl.
Fred Giroux, w/encl.

FEB - 7 1996

**CENCOM PARTNERS, L.P. RESPONSES TO
FCC WRITTEN DATA REQUEST DATED
JANUARY 18, 1996**

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

Question 1:

Supplemental organizational charts depicting the 3 ownership groups mentioned during the discussion: Kelso, Charterhouse and Cencom ownership chains; and their relationships to Charter Communications, Inc. (Charter, Inc.) Please include details identifying all petitioning small systems, and total subscriber counts of cable systems in these ownership structures.

Response:

Please see Exhibits A, B and C attached hereto and incorporated herein by reference. Additionally, no entity or individual shown on the respective charts holds any ownership or interest other than that depicted on the respective charts.

Please note that the overall ownership and management structure depicted in the above-referenced charts existed prior to June, 1995.

Question 2:

Statement confirming that Kelso and Company's only cable asset is its 85% equity ownership interest in Charterhouse.

Response:

Kelso does not hold any interest, ownership or otherwise, in Charterhouse. The total cable ownership of Kelso is depicted at Exhibit A.

Question 3:

Excerpts from management agreements that disclose the extent of programming discounts or other financial or marketplace benefits to the small system petitioners by Charter Communications, Inc., or other related or non-related entities.

Response:

Please see Exhibit D - excerpt from Charter Communications Entertainment I, L.P. Management Agreement relative to programming; and Exhibit E - excerpt from Charter Communications II, L.P. Management Agreement relative to programming.

Question 4:

A short narrative reconciling the difference between subscriber totals listed in the supplemental information filed on behalf of CableSouth and the NCTA's "Cable Television Developments", Spring 1995 edition.

Response:

Although Charter, Inc. has no editorial control over the referenced publication, it is entirely possible that the publication grouped all of the systems managed by Charter, Inc. and those systems which Charter, Inc. serves only as a consultant, and "attributed" ownership of those systems and their subscribers to Charter, Inc. Exhibits A, B and C clearly depicts the cable ownership and subscribership of entities managed by Charter, Inc. and those owned by Charter, Inc.

Question 5:

A listing of Cencom's public partnerships and related cable holdings, if any.

Response:

The Cencom partnerships are depicted at Exhibit B. Also, see Exhibit F attached hereto and incorporated herein by reference, which lists the Cencom systems by headend.

Question 6:

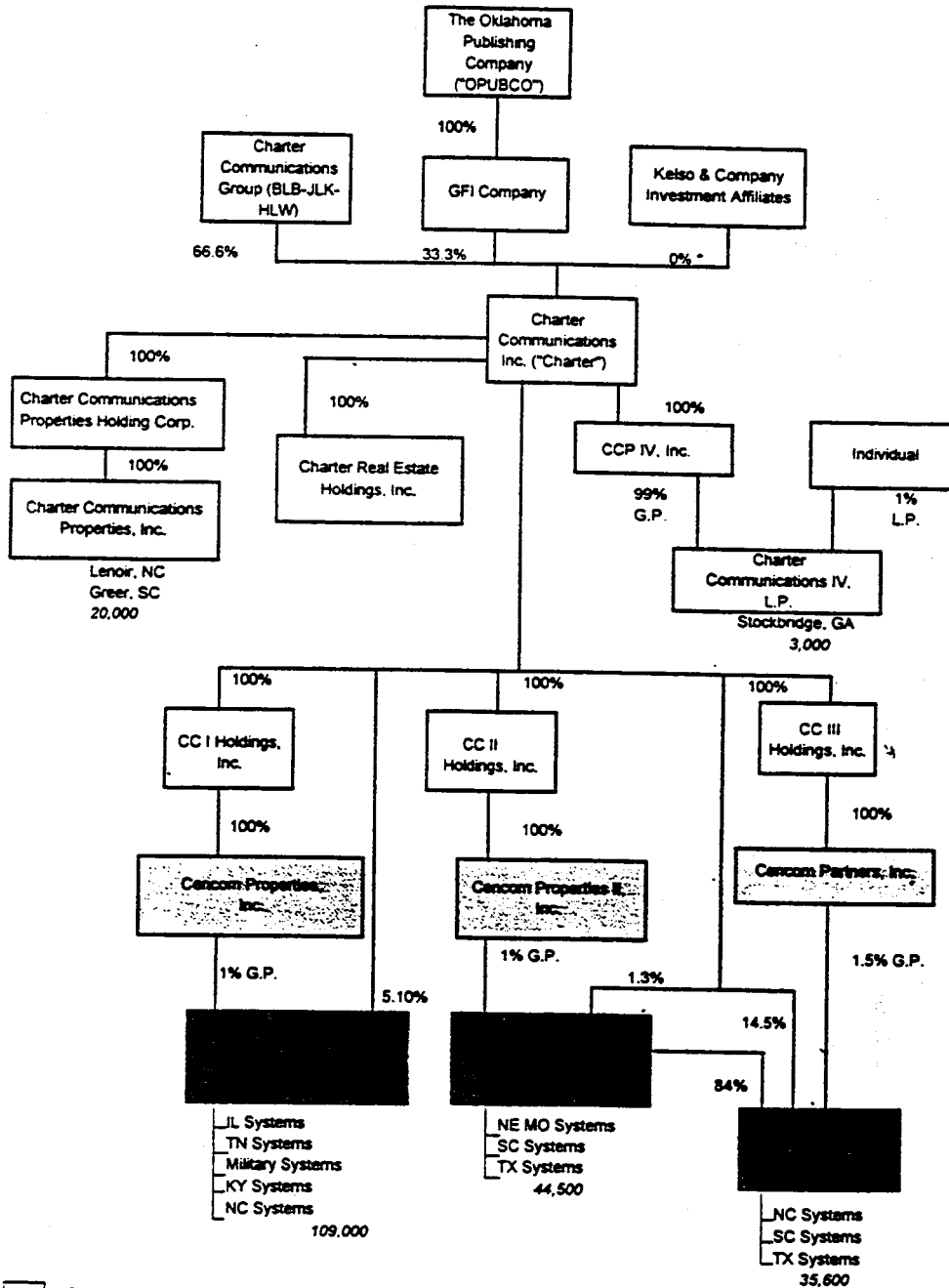
Listings of all systems (by headend if possible) under Charter Communications control or management subsequent to the purchase of Crown Media's cable assets that was consummated in early 1995. Please divide these listings according to those systems directly or indirectly owned by any Charter-related entity, and those with no direct or indirect ownership ties to any Charter-related entity.

Response:

Please see Exhibit G attached hereto and incorporated herein by reference relative to systems by headend that Charter, Inc. manages subsequent to the Crown Media transaction. Please see Exhibits A, B and C relative to ownership and relationship to Charter, Inc.

CHARTER COMMUNICATIONS, INC. CABLE OWNERSHIP

Dated as of 1/1/96
Subscriber Numbers as of 12/31/95



- Previously Gaylord Owned and Managed by Crown
- Crown Previously Owned G.P. Interest
- Publicly Held Partnership Acquired G.P. Interest From Crown

* Non-voting interest