

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

In the Matter of)	
)	
Margate Video Systems, Inc.)	
d/b/a TCI of North Broward, Inc.)	CUID No. FL0368 (City of Margate)
)	
Complaint Regarding)	
Cable Programming Services Tier)	
Rate Increase)	

ORDER

Adopted: September 20, 1996

Released: September 24, 1996

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

1. In this Order we consider a complaint against the June 1, 1996 rate increase by Margate Video Systems, Inc. d/b/a TCI of North Broward, Inc. ("TCI") for its cable programming services tier ("CPST") in the City of Margate, Florida, CUID No. FL0368.¹ We conclude that, for the reasons discussed in this Order, the rate increase TCI began charging after June 1, 1996 is not unreasonable.

2. Under the Communications Act,² the Federal Communications Commission ("Commission") is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. If the Commission finds the rate unreasonable, it shall determine the correct rate and any refund liability.³ The Telecommunications Act of 1996⁴ and our rules implementing the new legislation,⁵ require that complaints against the CPST rates be filed with the Commission by a franchising authority that has received subscriber complaints. A franchising authority may not file a CPST rate complaint unless, within 90 days after such increase becomes effective, it receives subscriber complaints.

¹ TCI notified the local franchising authority of the rate increase on April 4, 1996, followed by a 1240 filed with the local franchising authority on March 1, 1996.

² Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c)(3)(1996).

³ See 47 U.S.C. Section 543(c)(1993)

⁴ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (February 8, 1996) ("the 1996 Act").

⁵ See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, FCC 96-154 (released April 9, 1996) ("Interim Rules").

This standard requires more than one subscriber rate complaint. The provisions under the 1996 Act became effective upon its enactment on February 8, 1996.⁶

3. On June 26, 1996 the City of Margate ("City") filed a complaint against TCI's June 1, 1996 CPST rate increase. The City has certified that it has received subscriber complaints regarding the CPST rate increase within 90 days after the date of the increase first appeared on the subscriber's cable bill.⁷ On March 1, 1996, TCI submitted to the City an FCC Form 1240 to justify the rate increase that went into effect on June 1, 1996 in the above-captioned community. As required by our rules, the City's complaint also included a copy of the rate justification that TCI submitted to the City.

4. To justify rates for the period beginning May 15, 1994 through a benchmark or cost of service showing, operators must use the FCC Form 1200 series. Operators may justify adjustments to their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.⁸ Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.⁹ If actual and projected costs are different during the rate year a "true-up" mechanism is available to correct estimated costs with actual cost changes.¹⁰ The "true-up" requires operators to decrease their rates or alternatively permits them to increase their rates to make an adjustment for over or under estimations of these cost changes.¹¹

⁶ See Communications Act, Section 623 (c), *as amended*, 47 U.S.C. Section 543(c)(3) (1996).

⁷ See FCC Form 329 Complaint filed by the City dated June 18, 1996; *see also* Letter dated June 18, 1996 from Leonard B. Golub, City Manager, City of Margate, Florida.

⁸ See *In the Matter of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, MM Docket No. 92-266, Thirteenth Order on Reconsideration ("Thirteenth Reconsideration Order"), 11 FCC Rcd 388, 391 (1996).

⁹ *Id.* at 392.

¹⁰ *Id.*

¹¹ *Id.* The Commission granted TCI a waiver to allow TCI, in its initial filing of FCC Form 1240, to include cost adjustments over the period of time between the last date for which actual cost data is available and the effective date of TCI's new rates. The cost adjustments included for this period are subject to a true-up at the same time that the required true-up is performed on TCI's initial Form 1240 Projected Period Rates. See *In the Matter of Annual Rate Adjustment System for Cable Services Rates - Request for Waiver of Requirements Contained in the Thirteenth Order on Reconsideration*, DA 96-220, released February 22, 1996.

5. Upon review of the record before us, we find that TCI has provided sufficient evidence to support a CPST rate increase of \$0.98.¹²

6. ACCORDINGLY, IT IS ORDERED, pursuant to Section 0.321 of the Commission's Rules, 47 C.F.R. Section 0.321 that the monthly CPST rate increase of \$0.98 charged by Margate Video Systems, Inc. d/b/a TCI of North Broward, Inc. ("TCI") in CUID No. FL0368, City of Margate, Florida, beginning June 1, 1996 IS JUSTIFIED.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's Rules, 47 C.F.R. Section 0.321 that the City of Margate's complaint against the CPST rate, effective June 1, 1996, charged by Margate Video Systems, Inc. d/b/a TCI of North Broward, Inc. ("TCI") in CUID No. FL0368, City of Margate, Florida, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹² This finding is based solely on the representations of TCI. 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.