

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

In the matter of	)	
	)	
James Cable Partners, L.P.	)	CUID Nos. LA0136 Town of Westlake
dba Video Design	)	LA0137 Moss Bluff
	)	LA0548 Old Town
James Cable Partners	)	TN0154 City of Jamestown
dba Big South Fork Cable	)	TN0297 Morgan County (SE)
	)	
Small System Filing to Support	)	
Cable Programming Services Rate	)	
	)	

**ORDER**

**Adopted: September 20, 1996**

**Released: September 25, 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 rates that James Cable Partners, L.P. ("James Cable") was charging for its cable programming services tier ("CPST") in the franchise areas referenced above.<sup>1</sup> On September 29, 1995, James Cable filed with the Commission FCC Form 1230s, seeking to justify its CPST rates through the simplified small system cost of service procedures under the Commission's *Small System Order*.<sup>2</sup> James Cable revised its FCC Form 1230s on November 13, 1995. In this Order we grant James Cable's request for small system relief under the *Small System Order* and, based on our review of James Cable's FCC Form 1230 filings, deny the pending CPST complaints and find the CPST rates 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

<sup>1</sup> The filing date of the first valid complaint in each franchise was as follows: CUID No. LA0136 October 12, 1994; CUID No. LA0137 October 18, 1993; CUID No. LA0548 October 21, 1994; CUID No. TN0154 February 25, 1994; and CUID No. TN0297 November 29, 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*"). James Cable initially filed general cost of service justifications on November 15, 1993, for LA0137; and March 28, 1994, for TN0154. Those filings are superseded by the later-filed FCC Form 1230s.

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 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 September 29, 1995, James Cable initially 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 James Cable 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, James Cable'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>

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<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).

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

<sup>5</sup> *Third Recon. Order*, 9 FCC Rcd at 4338.

<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

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

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

7. IT IS FURTHER ORDERED that the complaints against the CPST rates charged by James Cable 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

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by any party to this proceeding not specifically addressed herein.