

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

In the Matter of)	
)	
Adelphia Cable Partners, L.P.)	CUID No. FL0528 (City of Key Biscayne)
)	
Complaint Regarding)	
Cable Programming Services Tier)	
Rate and Rate Increases)	

ORDER

Adopted: November 8, 1996

Released: November 13, 1996

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

1. In this Order we consider complaints filed concerning the rates of Adelphia Cable Partners, L.P. ("Adelphia") for its cable programming services tier ("CPST") in the City of Key Biscayne, Florida, CUID No. FL0528 (the "City"). Adelphia has chosen to attempt to justify its CPST rates through a cost of service showing on FCC Form 1220, an FCC Form 1210, and an FCC Form 1240. This Order addresses the reasonableness of Adelphia's CPST rates from September 1993 to present.

2. Under the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),¹ 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.² The Telecommunications Act of 1996³ and our rules implementing the new legislation,⁴ require that complaints against CPST rates be filed with the Commission by a local franchising authority ("LFA") that has received subscriber complaints. A franchising authority may not file a CPST rate complaint unless, within 90 days after such

¹ Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-235, 106 Stat. 1460 (1992).

² See 47 U.S.C. Section 543(c) (1993).

³ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (February 8, 1996) ("1996 Act").

⁴ See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 ("Interim Rules").

increase becomes effective, it receives subscriber complaints. This standard requires more than one subscriber rate complaint. The provisions under the 1996 Act became effective upon its enactment on February 8, 1996.⁵

3. The Commission has received valid complaints concerning Adelphia's CPST rate in effect from September 1, 1993 through September 30, 1995,⁶ and against the CPST rate increase that Adelphia implemented on October 1, 1995.⁷ Accordingly, these complaints trigger the Commission's jurisdiction to review Adelphia's CPST rates under the 1992 Cable Act.

4. On August 19, 1996, Metropolitan Dade County ("County"), the LFA, filed a complaint, for the City, with the Commission regarding Adelphia's \$1.15 CPST rate increase which was implemented on June 1, 1996 in the above-referenced franchise area. This complaint is therefore subject to the requirements of the 1996 Act. The County asserts that it has received more than one complaint against Adelphia's CPST rate increase, thereby triggering the Commission's jurisdiction to review this complaint. The complaint from the LFA also triggers an obligation on behalf of the cable operator to file a justification of its CPST rate increase with the LFA.⁸ Thus, in this case, Adelphia is required to justify the increase in its CPST rate which is the subject of the County's complaint. In response to the County's complaint, Adelphia filed an FCC Form 1240 to justify its June 1, 1996 CPST rate increase.⁹

5. Adelphia's FCC Forms 1220, 1210, and 1240 filings seek to establish that its CPST rate, including subsequent increases, is below the maximum permitted rate and is justified based on its cost of providing regulated cable service. According to information provided by Adelphia in its FCC Form 1220 cost of service showing, the franchise area comprised approximately 60,435 CPST subscribers at the time of the December 9, 1994 filing. Adelphia provided 33 CPST channels at that time. In this review process, we analyzed Adelphia's CPST cost of service showing, and subsequent FCC Form 1210 and 1240 filings, to ensure that the initial CPST rate, and subsequent rate increases, were not unreasonable and to determine any associated refund liability.

6. In reviewing the cost of service showing, rate base and expense items have been evaluated to determine whether Adelphia should be permitted to recover those items. Where a certain rate base or expense element was not supported, was excessive, or was unrelated to

⁵ See Communications Act, Section 623(c), as amended, 47 U.S.C. Section 543(c)(3) (1996).

⁶ The Commission received the first valid complaint against Adelphia on September 24, 1993.

⁷ The Commission received a complaint against Adelphia's CPST rate increase on October 6, 1995.

⁸ 47 C.F.R. Section 76.956.

⁹ See Letter from Leslie J. Brown, Assistant General Counsel, Adelphia Cable Communications, to Mario E. Goderich, Cable Television Coordinator, Metropolitan Dade County (August 8, 1996).

providing regulated cable service, such cost was disallowed in whole or in part.¹⁰ Where reported costs were disallowed, we have made appropriate adjustments. Even with our adjustments and disallowances, however, we find that Adelphia's monthly CPST rate has been justified.¹¹

7. Based on our review of Adelphia's cost of service filing, and subsequent FCC Form 1210 and 1240 filings, and applying the Commission's most current rules, we find that Adelphia has justified the monthly CPST rate of \$12.75 charged from September 1993 to September 30, 1995, the monthly CPST rate of \$13.27 charged from October 1, 1995 to May 31, 1996, and the CPST rate of \$14.42 implemented on June 1, 1996.

8. 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 of \$12.75 charged from September 1993 to September 30, 1995, the monthly CPST rate of \$13.27 charged from October 1, 1995 to May 31, 1996, and the CPST rate of \$14.42 implemented on June 1, 1996, ARE NOT UNREASONABLE.

9. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321, that the complaints against the initial CPST rate, and the subsequent monthly CPST rate increases implemented by Adelphia, with respect to CUID No. FL0528, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁰ The Commission made clear that the fact that an operator has incurred costs does not necessarily establish its right to recover those costs from subscribers. See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Report and Order and Further Notice of Proposed Rulemaking ("*Rate Order*"), 8 FCC Rcd 5631, 5794 n.619 (1993).

¹¹ Information regarding the specific adjustments made to Adelphia's filing for Asset Valuation, Capitalized Losses and Accumulated Amortization, Direct Assignments of Other Cable Revenues, Cost Allocations, Rate of Return and the basis for such adjustments, can be found in the public files for CUID No. FL0528 which are available 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 ITS at (202) 857-3800.