

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

In the Matter of	)	
	)	
TCI Southeast, d/b/a/	)	
District Cablevision, L.P.	)	CUID No. DC0002 (District of Columbia)
	)	
Complaint Regarding	)	
Cable Programming Services Tier	)	
Rate Increase	)	

**ORDER**

**Adopted: November 12, 1996**

**Released: November 13, 1996**

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

1. In this Order we consider a complaint concerning the June 1, 1996 rate increase of TCI Southeast, d/b/a/ District Cablevision, L.P. ("TCI") for its cable programming services tier ("CPST") in the District of Columbia. This Order addresses only the reasonableness of TCI's rate increase of \$3.67 that became effective on June 1, 1996.<sup>1</sup> We conclude that TCI's June 1, 1996 CPST rate increase is not unreasonable.

2. The Communications Act<sup>2</sup> authorizes the Federal Communications Commission ("Commission") 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.<sup>3</sup> The Telecommunications Act of 1996<sup>4</sup> ("1996 Act") and our rules implementing the new legislation,<sup>5</sup> require that complaints

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<sup>1</sup> The Commission also received valid CPST complaints on November 16, 1993, February 18, 1994, February 22, 1994 and February 28, 1994 against TCI's CPST rate in the above referenced community. These complaints were incorporated in the TCI Communications, Inc. *Resolution* and it is therefore not necessary to address these complaints in this Order. See TCI Communications, Inc., FCC 96-187 (released April 26, 1996). The Commission also has already issued a separate order addressing the reasonableness of TCI's rates prior to the TCI Communications, Inc. *Resolution*. See, District Cablevision, 9 FCC Rcd 7167 (1994).

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

<sup>3</sup> See 47 U.S.C. Section 543(c) (1993).

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

against the CPST rates be filed with the Commission by a local franchising authority ("LFA") that has received subscriber complaints. An LFA may not file a CPST rate complaint unless it receives more than one subscriber complaint within 90 days after such increase becomes effective.

3. The Government of the District of Columbia, Office of Cable Television ("District") filed a complaint on August 26, 1996 regarding the June 1, 1996 increase in TCI's CPST rate in the District of Columbia. The District has certified that it has received subscriber complaints and has complied with the Interim Rules.<sup>5</sup> TCI submitted FCC Form 1240 to justify the rate increase that went into effect June 1, 1996.

4. In reviewing TCI's FCC Form 1240 filing we found that TCI did not include the changes for external costs and the inflation in a timely manner under 47 C.F.R. § 76.922 (c)(3)<sup>7</sup> on its previous FCC Form 1210 filing. Therefore, we adjusted the Current Maximum Permitted Rate (Line A1, Tier 2) on TCI's FCC Form 1240. This resulted in a correction to TCI's claimed Maximum Permitted Rate for Projected Period (Line 19, Tier 2).<sup>8</sup> Upon review of the record herein, we conclude that notwithstanding our adjustments, TCI has justified its June 1, 1996 rate increase of \$3.67.<sup>9</sup> On its next filing of FCC Form 1240, however, TCI shall adjust its Current Maximum Permitted Rate (Line A1, Tier 2) consistent with this Order.

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that TCI Southeast, d/b/a/ District Cablevision, L.P.'s CPST rate increase of \$3.67 which went into effect on June 1, 1996, in the District of Columbia, CUID DC0002, IS NOT UNREASONABLE.

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaint referenced herein against the June 1, 1996 CPST rate

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<sup>5</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 ("Interim Rules").

<sup>6</sup> See FCC Form 329 complaint filed by the District dated August 16, 18, 1996 to TCI: *see also* letter from TCI to the District dated August 9, 1996.

<sup>7</sup> In this instance, TCI's filing is defective in that it includes changes for the period July 1, 1994 through March 31, 1995. Changes occurring over that period were not eligible to be included in TCI's rates at June 1, 1996, the effective date of the rates under consideration.

<sup>8</sup> Information regarding the specific adjustments made to TCI's FCC 1240 filing can be found in the public files for CUID No. DC0002, which is 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.

<sup>9</sup> 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.

increase charged by TCI Southeast, d/b/a/ District Cablevision, L.P. in the District of Columbia, CUID DC0002. IS DENIED.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that TCI Southeast, d/b/a/ District Cablevision, L.P. in the District of Columbia, CUID DC0002, revise its calculation of its maximum permitted CPST rate in its next FCC Form 1240 filing.

FEDERAL COMMUNICATIONS COMMISSION

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