

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

In the Matter of)	
)	
Comcast Cablevision of Paducah, Inc.)	CUID No. KY0189 (City of Paducah)
)	
)	
)	
Complaints Regarding)	
Cable Programming Services Tier Rates)	

ORDER

Adopted: November 13, 1996

Released: November 18, 1996

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

1. In this Order we consider complaints about the rate increase the above-captioned operator ("Operator") was charging for its cable programming services tier ("CPST") in the community referenced above. Operator's response includes benchmark justifications filed on FCC Form 1200 and multiple FCC Forms 1210, the latest FCC Form 1210 filed for the period ending in the fourth quarter of 1995. This Order addresses only the reasonableness of Operator's rates starting May 15, 1994 through December 31, 1995.

2. Under the Communications Act,¹ the Federal Communications Commission ("Commission") is authorized to review CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. If the Commission finds rates to be unreasonable, it shall determine correct rates and any refund liability.

3. Pursuant to the Cable Television Consumer Protection and Competition Act of 1992,² and our rules implementing it, 47 C.F.R. Part 76, Operator filed its FCC Form 1200 and FCC Form 1210s in response to the complaints referenced herein. The Operator has requested dismissal of a complaint filed on April 3, 1995. The Operator argues that the subject of the complaint its Value Pak Service is a New Product Tier ("NPT") which was created and is

¹ Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

² Pub. L. No. 102-385, 106 Stat. 1460 (1992) ("1992 Cable Act"); Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1993).

therefore not subject to regulation as a CPST.³ In two instances, we have previously determined that Operator's Value Pak Service which consists of four channels that could be purchased individually or as a package may be treated as a NPT.⁴ Our review indicates that the Value Pak Service offered in the City of Paducah is similar to the Value Pak Service offered in Tallahassee, Florida CUID No. FL0033 and Howard County, Maryland CUID No. MD0077. Therefore, we find that the complaint concerns a NPT, not the CPS tier and we grant Operator's request to dismiss this complaint. However, an additional complaint filed on November 2, 1995 is valid, timely and concerns the Operator's CPST rate and therefore triggers our jurisdiction.

4. Operator asserts that its CPST rates are justified by its FCC Forms 1200 and 1210s. Upon review of Operator's FCC Form 1200 and FCC Forms 1210, we conclude that Operator has justified its CPST rates charged during the period under review. Therefore, we find that Operator's CPST rates in the above referenced community are justified and not unreasonable.⁵

5. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the CPST rates charged by the Operator in the above referenced community ARE NOT UNREASONABLE.

6. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, the complaint referenced herein filed on April 3, 1995 against the NPT rates charged by Operator in the franchise area referenced in the caption IS DISMISSED.

³ See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Nos. 92-266, 92-215, Sixth Order on Reconsideration, Fifth Report And Order, and Seventh Notice of Proposed Rule Making ("Going Forward Order"), 10 FCC Rcd 1226, 1228 (1994).

⁴ See Comcast Cablevision, City of Tallahassee, Florida, 9 FCC Rcd 7773 (1994); Comcast Cablevision Tallahassee, Florida, 11 FCC Rcd 1246 (1995); and See also Comcast Cablevision, Howard County, Maryland, 10 FCC Rcd 614 (1994).

⁵ This finding is based solely on the representations of 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 by any party to this proceeding not specifically addressed herein.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaints referenced herein against CPST rates charged by Operator in the franchise area referenced in the caption during the period May 15, 1994 to December 31, 1995 ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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