

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

In the Matter of )  
 )  
Suburban Cable TV Co., Inc. ) CUID No. PA1686 (Northampton Township)  
 )  
 )  
Complaints Regarding )  
Cable Programming Services Tier Rates )  
and Rate Increases )

**ORDER**

**Adopted: November 20, 1996**

**Released: November 20, 1996**

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

1. In this Order we consider complaints regarding the rate increases of Suburban Cable TV Co., Inc. ("Suburban") for its cable programming services tier ("CPST") in the Township of Northampton, Pennsylvania, CUID No. PA1686. Suburban increased its CPST rate on March 1, 1995 in the amount of \$2.00 and on June 1, 1996 in the amount of \$0.71. Suburban has attempted to justify its CPST rates through benchmark showings on FCC Forms 1200, 1210, and 1240. We have already issued an order addressing the reasonableness of Suburban's CPST rates in effect before May 15, 1994.<sup>1</sup> Accordingly, this order addresses the CPST rates in effect from May 15, 1994 to present.

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. The Cable Television Consumer Protection and Competition Act of 1992<sup>3</sup> ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The

<sup>1</sup> See *In the Matter of Suburban Cable TV Co., Inc.*, 10 FCC Rcd 6517 (1995). Because Suburban's CPST rate in these communities during the period September 1, 1993 through May 14, 1994 is under review by the Commission due to a Petition for Reconsideration and Stay filed by Suburban on July 12, 1995, we reserve the right to make further adjustments to Suburban's underlying CPST rates upon completion of our review. In this Order, we address only the rate increases which are the subject of the complaints in this proceeding.

<sup>2</sup> 47 U.S.C. Section 543(c)(3)(1996).

<sup>3</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

Telecommunications Act of 1996<sup>4</sup> ("the 1996 Act") and our rules implementing the new legislation,<sup>5</sup> require that complaints against the CPST rate be filed with the Commission only by an LFA that has received subscriber complaints. An LFA may not file a CPST rate complaint unless, within 90 days after such increase becomes effective, it receives more than one subscriber complaint. The filing of a valid complaint triggers an obligation on behalf of the cable operator to file a justification of its CPST rate. If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.

3. The Commission has received valid complaints regarding Suburban's CPST rate increase implemented on March 1, 1995.<sup>6</sup> On August 22, 1996, the Township of Northampton, filed a valid complaint<sup>7</sup> with the Commission with respect to Suburban's June 1, 1996 CPST rate increase.<sup>8</sup> As required by our rules, the Township of Northampton included with its complaint a copy of the rate justification that Suburban provided to the Township.

4. The Commission's original rate regulations took effect on September 1, 1993.<sup>9</sup> The Commission subsequently revised its rate regulations effective May 15, 1994.<sup>10</sup> Cable operators with valid CPST complaints filed against them prior to May 15, 1994 must demonstrate that their CPST rates were in compliance with the Commission's initial rules from the time the complaint was filed through May 14, 1994, and that their rates were in compliance with the revised rules from May 15, 1994 forward.<sup>11</sup> Cable operators attempting to justify their rates for the period prior to May 15, 1994 through a benchmark showing must complete and file FCC

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

<sup>5</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, FCC 96-154, 11 FCC Rcd 5937 (1996) ("Interim Rules").

<sup>6</sup> The Commission received the first valid complaint against Suburban's March 1, 1995 CPST rate increase on March 8, 1995.

<sup>7</sup> 11 FCC Rcd 5937 (1996).

<sup>8</sup> The Township of Northampton, the local franchising authority, has certified that it has received more than one complaint against Suburban's June 1, 1996 CPST rate increase within 90 days of the date of the increase first appeared on the subscribers' bills. See FCC Form 329 filed by the Township of Northampton on August 22, 1996.

<sup>9</sup> Order in MM Docket No. 92-266, Implementation of Sections of the Cable Consumer Protection and Competition Act of 1992: Rate Regulation, FCC 93-372, 58 Fed. Reg. 41042 (Aug. 2, 1993).

<sup>10</sup> 47 C.F.R. Section 76.922(b); see also Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 94-38, 9 FCC Rcd 4119, 4190 (1994) ("Second Order on Reconsideration").

<sup>11</sup> *Id.*

Form 393.<sup>12</sup> Generally, to justify their rates for the period beginning May 15, 1994 through a benchmark showing, operators must use the FCC Form 1200 series.<sup>13</sup> Cable operators may also justify rate increases based on the addition and deletion of channels, changes in certain external costs, and inflation, by filing FCC Form 1210.<sup>14</sup> FCC Form 1210 must be filed at least 30 days before new rates are scheduled to go into effect where the Commission has found the cable programming service rate to be unreasonable less than one year prior to the filing, or where there is a pending complaint against the CPST rate.<sup>15</sup>

5. FCC Forms 1200, 1210 and 1240. Upon review of Suburban's FCC Form 1200, we determined that an adjustment was required to Module A, Line A6.<sup>16</sup> This adjustment lowered the maximum permitted rate. Upon review of Suburban's FCC Form 1210, we brought forward the maximum permitted rate from the FCC Form 1200, which lowered the maximum permitted rate for the purposes of the FCC Form 1210. Our review of Suburban's FCC Form 1240, required similar adjustments to the maximum permitted rate, by bringing forward the adjustments from the FCC Forms 1200 and 1210. As a result, the maximum permitted rate on Suburban's 1240 was also lowered. In addition to the adjustments carried forward, Suburban's FCC Form 1240 was also revised to eliminate previous cost increases not included in a timely manner in CPST rates charged to customers. These adjustments should be taken into account in Suburban's next filing and Suburban's maximum permitted CPST rate should be revised accordingly.<sup>17</sup> Notwithstanding our adjustments to Suburban's FCC Forms 1200, 1210 and 1240, we have found no errors that would result in Suburban's actual CPST rate exceeding its maximum permitted CPST rate.<sup>18</sup> Therefore, Suburban's CPST rate for the period under review in the above-referenced franchise area is justified.

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<sup>12</sup> *Id.*

<sup>13</sup> 47 C.F.R. Section 76.922(b)(6); see also *Second Order on Reconsideration*, 9 FCC Rcd at 4189 n. 195.

<sup>14</sup> 47 C.F.R. Section 76.922(d).

<sup>15</sup> 47 C.F.R. Section 76.960; see also *Second Order on Reconsideration*, 9 FCC Rcd at 4190.

<sup>16</sup> Specifically, pursuant to our prior Order against this Operator, Suburban was required to reduce its CPST rate to \$11.66. The filings under review do not reflect that rate and were therefore adjusted to the rate established in the Bureau's prior Order. As indicate in footnote 1, *supra.*, we reserve the right to make further adjustments to Suburban's underlying CPST rates. See 10 FCC Rcd 6517 (1995).

<sup>17</sup> Information regarding the specific adjustments made to Suburban's FCC Forms 1200, 1210, and 1240 filings can be found in the public file for CUID PA1686 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>18</sup> This finding is based solely on the representations of Suburban. 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.

6. Accordingly, IT IS ORDERED, that the CPST rate charged by Suburban Cable TV Co., Inc. in CUID No. PA1686, Township of Northampton, Pennsylvania from May 15, 1994 to February 28, 1995 IS NOT UNREASONABLE.

7. IT IS FURTHER ORDERED, that the CPST rate charged by Suburban Cable TV Co., Inc. in CUID No. PA1686, Township of Northampton, Pennsylvania from March 1, 1995 to May 31, 1996 IS NOT UNREASONABLE.

8. IT IS FURTHER ORDERED, that the CPST rate charged by Suburban Cable TV Co., Inc. in CUID No. PA1686, Township of Northampton, Pennsylvania from June 1, 1996 to present IS NOT UNREASONABLE.

9. 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 with respect to the Township of Northampton, Pennsylvania, CUID No. PA1686, against the March 1, 1995 CPST rate increase charged by Suburban Cable TV Co., Inc. ARE DENIED.

10. 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 with respect to the Township of Northampton, CUID No. PA1686, against the June 1, 1996 CPST rate increase charged by Suburban Cable TV Co., Inc. ARE DENIED.

11. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Suburban Cable TV Co., Inc. revise its calculation of its maximum permitted CPST rate in its next filing.

FEDERAL COMMUNICATIONS COMMISSION

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