

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

In the Matter of)	
)	
Suburban Cable Television Co. Inc.)	CUID No. PA1724 (Borough of Doylestown)
)	
Complaint Regarding)	
Cable Programming Services Tier)	
Rate and Rate Increases)	

ORDER

Adopted: November 20, 1996

Released: November 26, 1996

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

1. In this Order we consider complaints filed concerning the rates of Suburban Cable Television Co. Inc. ("Suburban") for its cable programming services tier ("CPST") in the Borough of Doylestown, Pennsylvania, CUID No. PA1724 (the "Borough"). Suburban has attempted to justify its CPST rates through a cost of service showing on FCC Form 1220. This Order addresses the reasonableness of Suburban's CPST rates from September 1993 to present.

2. The Communications Act¹ authorizes the Federal Communications 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 1992² ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchise authority ("LFA"). The Telecommunications Act of 1996³ ("1996 Act") and our rules implementing the new legislation,⁴ require that complaints against the CPST rates 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.

¹ 47 U.S.C. Section 543(c)(3)(1996).

² Pub. L. No. 102-235, 106 Stat. 1460 (1992).

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

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

3. The Commission has received valid complaints concerning Suburban's CPST rate in effect from September 1, 1993 through February 10, 1995,⁵ and against the CPST rate increase that Suburban implemented on the first billing after February 10, 1995.⁶ Accordingly, these complaints trigger the Commission's jurisdiction to review Suburban's CPST rates under the 1992 Cable Act.

4. On August 28, 1996, the Borough filed a complaint with the Commission regarding Suburban's \$0.73 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 Borough asserts that it has received more than one complaint against Suburban's CPST rate increase, thereby triggering the Commission's jurisdiction to review this complaint. The complaint from the Borough also triggers an obligation on behalf of the cable operator to file a justification of its CPST rate increase with the Borough.⁷ Thus, in this case, Suburban is required to justify the increase in its CPST rate which is the subject of the Borough's complaint. In response to the Borough's complaint, Suburban submitted a letter stating that it was relying upon its previously filed FCC Form 1220 to justify its rates.⁸

5. Suburban's FCC Form 1220 filing seeks 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 Suburban in its FCC Form 1220 cost of service showing, the franchise area comprised approximately 2,409 CPST subscribers at the time of the October 21, 1994 filing. Suburban provided 23 CPST channels at that time. In this review process, we analyzed Suburban's CPST cost of service showing 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 Suburban should be permitted to recover those items. Where a certain rate base or expense element was not supported, was excessive, or was unrelated to providing regulated cable service, such cost was disallowed in whole or in part.⁹ Where reported

⁵ The Commission received the first valid complaint against Suburban on February 22, 1994.

⁶ The Commission received a complaint against Suburban's CPST rate increase on February 21, 1995.

⁷ 47 C.F.R. Section 76.956.

⁸ See Letter from Robert A. Pfeiffer, General Manager, Suburban Cable TV, to John H. Davis, Township Manager, Borough of Doylestown (July 31, 1996).

⁹ 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).

costs were disallowed, we have made appropriate adjustments. Even with our adjustments and disallowances, however, we find that Suburban's monthly CPST rate has been justified.¹⁰

7. Based on our review of Suburban's cost of service filing, and applying the Commission's most current rules, we find that Suburban has justified the monthly CPST rate of \$12.53 charged from September 1993 to February 10, 1995, the monthly CPST rate of \$14.53 charged from February 11, 1995 to May 31, 1996, and the monthly CPST rate of \$15.26 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 \$12.53 charged from September 1993 to February 10, 1995, the monthly CPST rate of \$14.53 charged from February 11, 1995 to May 31, 1996, and the monthly CPST rate of \$15.26 implemented on June 1, 1996, **ARE NOT UNREASONABLE.**¹¹

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 Suburban, with respect to CUID No. PA1724, **ARE DENIED.**

FEDERAL COMMUNICATIONS COMMISSION

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

¹⁰ Information regarding the specific adjustments made to Suburban'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. PA1724 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.

¹¹ 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.