

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

In the Matter of	)	
	)	
TCI Cablevision of Western Michigan, Inc.	)	CUID No. MI0125 (Wyoming)
	)	
Complaint Regarding	)	
Cable Programming Services Tier	)	
Rate Increase	)	

**ORDER**

Adopted: November 25, 1996

Released: November 27, 1996

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

1. In this Order we consider a complaint against the June 1, 1996 rate increase by TCI Cablevision of Western Michigan, Inc. ("TCI") for its cable programming services tier ("CPST") in Wyoming, Michigan, CUID No. MI0125. In response, TCI filed its FCC Form 1240. This Order addresses only the reasonableness of TCI's rate increase of June 1, 1996. We have already issued an order addressing the reasonableness of the rates prior to that date.<sup>1</sup> We conclude that the CPST rate increase of \$2.01 that TCI began charging on June 1, 1996 is not unreasonable.

2. Under the Communications Act,<sup>2</sup> 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.<sup>3</sup> The 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 rates be filed with the Commission by a franchising authority that has received subscriber complaints. A franchising authority may not

<sup>1</sup> See In the Matter of TCI Communications, Inc., FCC 96-187 (released April 26, 1996).

<sup>2</sup> Communications Act, Section 623(c)(3), 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> Pub. L. No. 104-104, 110 Stat. 56 (1996).

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

file a CPST rate complaint unless, within 90 days after such increase becomes effective, it receives more than one subscriber complaint.<sup>6</sup>

3. To justify rates for the period beginning May 15, 1994 through a benchmark or cost of service showing, operators must use the FCC Form 1200 series. Operators may justify adjustments to their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.<sup>7</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>8</sup> If actual and projected costs are different during the rate year a "true-up" mechanism is available to correct estimated costs with actual cost changes.<sup>9</sup> The "true-up" requires operators to decrease their rates or alternatively permits them to increase their rates to make an adjustment for over or under estimations of these cost changes.<sup>10</sup>

4. On October 17, 1996, the City of Wyoming (the "City") filed a complaint against TCI's June 1, 1996 CPST rate increase. The City has certified that it has received subscriber complaints regarding the CPST rate increase within 90 days after the date the increase first appeared on the subscribers' cable bills.<sup>11</sup> As required by our rules, the City's complaint also included a copy of TCI's rate justification.

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<sup>6</sup> See Communications Act, Section 623(c)(3), as amended, 47 U.S.C. Section 543(c)(3) (1996).

<sup>7</sup> See In the Matter of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Thirteenth Order on Reconsideration ("*Thirteenth Reconsideration Order*"), 11 FCC Rcd 388, 391 (1996).

<sup>8</sup> *Id.* at 392.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* The Commission granted TCI a waiver to allow TCI, in its initial filing of FCC Form 1240, to include cost adjustments over the period of time between the last date for which actual cost data is available and the effective date of TCI's new rates. The cost adjustments included for this period are subject to a true-up at the same time that the required true-up is performed on TCI's initial Form 1240 Projected Period Rates. See In the Matter of Annual Rate Adjustment System for Cable Services Rates - Request for Waiver of Requirements Contained in the Thirteenth Order on Reconsideration, DA 96-220, released February 22, 1996.

<sup>11</sup> See FCC Form 329 Complaint filed by the City on October 17, 1996.

5. Upon review of the record before us, we find that TCI has provided sufficient evidence to support a CPST rate increase of \$2.01.<sup>12</sup> We conclude, therefore, that TCI's CPST rate increase of \$2.01 which went into effect June 1, 1996 is justified.

6. 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 increase of \$3.18 charged by TCI in CUID No. MI0125, Wyoming, Michigan, beginning June 1, 1996 IS NOT UNREASONABLE.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that the City of Wyoming's complaint against the CPST rate increase, effective June 1, 1996, charged by TCI in CUID No. MI0125, Wyoming, Michigan IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>12</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.