

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

In the Matter of)
)
)
)
Cox Communications, Inc.) CUID No. FL0143 (Okaloosa)
d/b/a Emerald Coast Cable Television)
)
Order on Reconsideration)
)

ORDER ON RECONSIDERATION

Adopted: December 18, 1997

Released: December 18, 1997

By the Chief, Cable Services Bureau:

1. In this Order we reconsider on our own motion, pursuant to Section 1.108 of the Commission's Rules,¹ our decision in *Cox Communications, Inc., d/b/a Emerald Coast Cable Television* ("Petition Order").² The Petition Order resolved a Petition for Reconsideration of a Cable Services Bureau ("Bureau") order regarding the rates Cox Communications, Inc. d/b/a Emerald Coast Cable Television ("Operator") was charging for its cable programming services tier ("CPST") in the community referenced above. Previously, we issued an order in which we found that Operator's rates in effect prior to May 15, 1994 were unreasonable ("First Order").³ Next, we issued an order vacating and superseding our First Order and resolving all the complaints filed from September 1, 1993 through June 30, 1995 against Operator's CPST rates ("Second Order").⁴ We then issued an Order in which we found Operator's March 1, 1997 CPST rate increase to be unreasonable ("Third Order").⁵ On September 25, 1997, Operator filed a timely Petition for Reconsideration of our Third Order ("Petition"). On September 25, 1997, Operator also filed a revised FCC Form 1240 for the projected period March 1, 1997 through February 28, 1998, pursuant to the Third Order ("Modified 1240"). In the Petition Order we reviewed Operator's Modified 1240. We now make a correction to the review of the Modified FCC Form 1240 for the projected period March 1, 1997 through February 28, 1998.

2. Specifically, in the Petition Order, upon review of Operator's Modified 1240 for the projected period March 1, 1997 through February 28, 1998, we adjusted Operator's Line A1 to \$15.73

¹ 47 C.F.R. §1.108.

² DA 97-2448 (Cable Services Bureau, released November 24, 1997).

³ See *In The Matter of Cox Cable Pensacola, Inc.*, 10 FCC Rcd 8656 (1995).

⁴ See *In the Matter of Cox Communications, Inc., et al.* 11 FCC Rcd. 1972 (1996).

⁵ See *In the Matter of Cox Communications, Inc. d/b/a Emerald Coast Cable Television*, DA 97-1828 (Released August 26, 1997).

to coincide with Operator's MPR from its previous unrevised FCC Form 1240. We also used the data from Operator's previous unrevised FCC Form 1240 where required by FCC Form 1240 instructions. In its Modified 1240, Operator used a ten month true-up period pursuant to our Third Order. We now correct the entry at Line F8 from \$0.2126 to \$0.2552 to reflect the ten month true-up period, in accordance with the FCC Form 1240 Instructions. This adjustment resulted in a revised MPR of \$16.94, for the projected period March 1, 1997 through February 28, 1998, rather than our previously calculated MPR of \$16.91 for the projected period. Because Operator's actual CPST rate of \$17.02, effective March 1, 1997, exceeds its newly revised MPR, we find Operator's actual CPST rate of \$17.02 to be unreasonable.⁶

3. Accordingly, IT IS ORDERED, that In the Matter of Cox Communications, Inc. d/b/a Emerald Coast Cable Television, DA 97-2448 (released November 24, 1997) IS VACATED IN PART AND AFFIRMED IN PART TO THE EXTENT INDICATED HEREIN.

4. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the CPST rate of \$17.02, charged by Operator in the franchise area referenced above, effective March 1, 1997 through the present, IS UNREASONABLE.

5. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. § 76.961, that Operator shall refund to subscribers in the franchise area referenced above that portion of the amount paid in excess of the maximum permitted CPST rate of \$16.94 per month (plus franchise fees), plus interest to the date of the refund, for the period March 1, 1997 through the day before Operator implements the maximum permitted rate of \$16.94.

6. IT IS FURTHER ORDERED that Operator shall promptly determine the overcharges to CPST subscribers for the stated periods, and shall within 30 days of the release of this Order, file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount so determined (including franchise fees and interest), describing the calculation thereof, and describing its plan to implement the refund within 60 days of Commission approval of the plan.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that Operator take into account our FCC Form 1240 adjustments when calculating its maximum permitted rate and performing the true-up calculation on its next FCC Form 1240.

FEDERAL COMMUNICATIONS COMMISSION

Meredith J. Jones
Chief, Cable Services Bureau

⁶ These findings are 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. Information regarding the specific adjustments made to Operator's filings can be found in the public file for CUID No. FL0143, 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.