

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

In the Matter of	)	
	)	
Marcus Cable Associates, L.P.	)	CUID No. IN0702
	)	(Community of Bartholomew)
	)	
Complaints Regarding	)	
Cable Programming Services Tier Rates	)	

**ORDER**

**Adopted: February 20, 1998**

**Released: February 23, 1998**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider complaints concerning the rates of the above-captioned operator ("Operator") for its cable programming services tier ("CPST") in the community referenced above.<sup>1</sup> Operator's response includes benchmark justifications filed on FCC Form 1200, FCC Form 1210 and two FCC Forms 1240. We have already issued an order which found that Operator's CPST rates in effect before May 15, 1994 ("1994 Order") were unreasonable.<sup>2</sup> In this Order we address Operator's refund plan ("1994 Refund Plan")<sup>3</sup> filed in response to our 1994 Order. This Order also addresses the reasonableness of Operator's rates for the period beginning May 15, 1994, as justified on Operator's FCC Forms 1200, 1210 and 1240.

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<sup>1</sup> The first valid complaint against the Operator's CPST rate in the community referenced above was filed on February 10, 1994. On November 13, 1995, pursuant to 47 C.F.R. Section 76.400, the Federal Communications Commission received notification of a change in the name of ownership from Sammons Communications to Marcus Cable Associates, L.P. ("Marcus") effective November 1, 1995 (see Letter to the Federal Communications Commission from J. Christopher Redding, Counsel for Marcus, dated November 13, 1995). The term "operator" as used in this Order includes operator's predecessor-in-interest. Mr. Redding attached a list of communities to his letter which were acquired by Marcus on November 1, 1995. This list includes the CUID numbers corresponding to the acquired communities. For Bartholomew, Indiana, the list identifies two CUID numbers (IN0002 and IN0702) as belonging to Marcus. This is incorrect. The correct CUID number for the Marcus system in Bartholomew, Indiana is IN0702. The other CUID number, IN0002, belongs to the system in Bartholomew, Indiana served by Fanch Communications, Inc. d/b/a Mark Twain Cablevision Limited Partnership. On July 23, 1997, pursuant to 47 C.F.R. Section 76.400, the Federal Communications Commission received notification of a change in the name of ownership from White River Cablevision Limited Partnership to Fanch Communications d/b/a Mark Twain Cablevision Limited Partnership (see Letter to William F. Caton, Secretary, Federal Communications Commission, from Steven J. Horvitz, Esq., Cole, Raywid & Braverman, dated July 22, 1997). This Order addresses only the complaints filed against Marcus. In this Order, we also consider a complaint filed on November 25, 1997 by Bartholomew County, Indiana against Operator's CPST rate of \$13.38, effective June 1, 1997.

<sup>2</sup> See In the Matter of Sammons Communications, Inc., (DA 95-659, released April 4, 1995).

<sup>3</sup> See Letter and attachment to William Caton, Federal Communications Commission from Rebecca A. McMichael, Staff Attorney, Sammons Communications dated April 27, 1995.

2. We first address Operator's 1994 Refund Plan. Our review of Operator's 1994 Refund Plan reveals that the refund plan does not comply with the requirements of our 1994 Order. In its 1994 Refund Plan, Operator states that it does not dispute the Commission's findings, regarding its CPST rates, however, Operator raises an issue which Operator believes requires a calculation of the refund amount which differs from the calculation prescribed in the 1994 Order. Operator did not file a petition for reconsideration or application for review of the 1994 Order. Consequently, Operator is now attempting to raise in its refund plan an issue concerning inter-tier offsets that it failed to properly place before the Commission in accordance with the Commission's Rules.

3. Specifically, Operator argues, in its refund plan, that it is entitled to offset its undercharges on its basic service tier ("BST") with its overcharges on its cable programming services tier ("CPST"). The Commission has addressed the issue of inter-tier offsets in *Cencom Cable Income Partners* ("*Cencom*").<sup>4</sup> In *Cencom*, the Commission determined that such inter-tier offsets are "inconsistent with the Commission's conclusion in the [Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, MM Docket 92-266, Report and Order and Further Notice of Proposed Rulemaking]<sup>5</sup> that cable operators should not balance low BST rates with CPST rates that exceed the maximum permitted rate for the tier."<sup>6</sup> Based on the Commission's holding in *Cencom* we have determined that Operator's refund plan is unacceptable and that Operator has failed to comply with the 1994 Order. Operator shall have thirty days from the release of this Order to resubmit a refund plan which complies with this Order and with the 1994 Order.

4. Under the Communications Act,<sup>7</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. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),<sup>8</sup> and our rules in effect at the time the complaints were filed, required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber. The filing of a valid complaint triggers an obligation on behalf of the cable operator to file a justification of its CPST rates.<sup>9</sup> If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>10</sup>

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<sup>4</sup> In the Matter of *Cencom Cable Income Partners II, L.P.*, FCC 97-205 (released June 13, 1997).

<sup>5</sup> 8 FCC Rcd 5631 (1993).

<sup>6</sup> *Cencom* at para. 22 (footnote omitted).

<sup>7</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

<sup>8</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>9</sup> 47 C.F.R. Section 76.956.

<sup>10</sup> *See* 47 C.F.R. Section 76.957.

5. The Commission's original rate regulations took effect on September 1, 1993.<sup>11</sup> The Commission subsequently revised its rate regulations effective May 15, 1994.<sup>12</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>13</sup> Cable operators attempting to justify their rates for the period prior to May 15, 1994 using a benchmark showing must complete and file FCC Form 393.<sup>14</sup> Operators must use the FCC Form 1200 series to justify their rates for the period beginning May 15, 1994 using a benchmark showing.<sup>15</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>16</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>17</sup> Operators may alternatively 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>18</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>19</sup>

6. The Commission's rules also provide for a refund liability deferral period, if timely requested by Operator, beginning May 15, 1994 and ending July 14, 1994, for any overcharges resulting from Operator's calculation of a new maximum permitted rate ("MPR") on FCC Form 1200.<sup>20</sup> This deferral of refund liability, however, does not apply to refund liability that may have occurred because Operator's March 31, 1994 rates for its CPST subject to regulation were higher than levels permitted

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<sup>11</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>12</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>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> 47 C.F.R. Section 76.922(b)(6); *see Second Order on Reconsideration, supra at 4183, paras. 135-138; supra at 4190, n.136; see also* Public Notice "Questions and Answers on Cable Television Rate Regulation" (April 26, 1994).

<sup>16</sup> 47 C.F.R. Section 76.922(d).

<sup>17</sup> 47 C.F.R. Section 76.960.

<sup>18</sup> 47 C.F.R. Section 76.922(e).

<sup>19</sup> *Id.*

<sup>20</sup> *See* 47 C.F.R. Section 76.922(b)(6)(ii).

under the Commission's rules in effect before May 15, 1994.<sup>21</sup> Accordingly, while the liability period for Operator's overcharges associated with its FCC Form 1200 filing does not begin to run until July 15, 1994, Operator will incur refund liability between May 15, 1994 and July 14, 1994 for any CPST rates charged above the MPR approved by the Commission on Operator's FCC Form 393.<sup>22</sup>

7. Upon review of Operator's FCC Form 1200, filed to justify its CPST rates beginning May 15, 1994, we adjusted Line A6 to \$10.15 to correspond to the maximum permitted rate ("MPR") determined in our 1994 Order.<sup>23</sup> We find Operator's CPST MPR of \$9.25 to be reasonable.<sup>24</sup> Because Operator's actual CPST rate was \$10.47,<sup>25</sup> however, we find Operator's CPST rate to be unreasonable for the period May 15, 1994 through July 14, 1994. However, Operator elected to take advantage of the refund liability deferral period in accordance with the Commission's Rules.<sup>26</sup> Accordingly, Operator does not incur refund liability for charging in excess of the MPR calculated on its FCC Form 1200 for the period May 15, 1994 through July 14, 1994. However, Operator does incur refund liability for charging a CPST rate of \$10.47, for the period May 15, 1994 through July 14, 1994, which is above the MPR of \$10.15 approved by the Commission on Operator's FCC Form 393. In addition, because Operator's actual CPST rate of \$11.21, in effect from July 15, 1994 through October 31, 1995, exceeded its FCC Form 1200 MPR, we find Operator's actual CPST rate of \$11.21 to be unreasonable effective July 15, 1994 through October 31, 1995.

8. Upon review of Operator's FCC Form 1210 covering the period March 31, 1994 to September 30, 1995, we find that Operator claimed an excessive inflation factor. Operator is a "transition rate" benchmark operator and, therefore, may apply an inflation adjustment factor of no more than 1.0215 for the period October 1, 1993 to June 30, 1994. Accordingly, we adjusted Operator's inflation factor on Lines I5 (Inflation Adjustment Factor) and J5 (Inflation Adjustment Factor) each from 1.0521 to 1.0215. These adjustments to Operator's FCC Form 1210 have reduced Operator's MPR from \$9.81 to \$9.65, effective October 1, 1995. Because Operator's actual CPST rate continued to be \$11.21, from October 1, 1995 through October 31, 1995, we find Operator's CPST rate, effective October 1, 1995, to be

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Information regarding the specific adjustments made to Operator's FCC Forms can be found in the public files for the above-referenced community which are available in the Cable Services Bureau's public reference room, or through the Commission's copy contractor, International Transcription Services (ITS), 1231 20th Street N.W., Washington, DC, 20554, or by calling ITS at (202) 857-3800.

<sup>24</sup> 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 any 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.

<sup>25</sup> See 1994 Order, Appendix B. In its 1994 Refund Plan, Operator states that the "Commission found [in its 1994 Order] that [Operator's] actual monthly charge for its CPS tier was \$10.47 per month (plus franchise fee)." 1994 Refund Plan at p. 1. Operator further states that it "does not dispute these calculations or findings ..." *Id.*

<sup>26</sup> See Letter from Sandra K. Turley, Vice President-Regional Operations, Sammons Communications, Inc., to the Federal Communications Commission dated May 18, 1994. See also 47 C.F.R. Section 922(b)(6)(ii) (1996).

unreasonable. On November 1, 1995 Operator implemented a CPST rate \$9.81 to conform with its FCC Form 1210 filing. Because Operator's actual CPST rate of \$9.81 exceeded its reduced MPR of \$9.65, we find Operator's actual CPST rate of \$9.81, effective November 1, 1995 through May 31, 1996, to be unreasonable. However, because Operator's rates have been adjusted to remove excess inflation, pursuant to our "Public Notice: Cable Rates for Inflation Applied to Transition Rates," Operator will not incur refund liability because of its excess inflation until April 1, 1996.<sup>27</sup>

9. Upon review of Operator's first FCC Form 1240 for the period June 1, 1996 through May 31, 1997, we have adjusted Module A, Line A1 to reflect Operator's previous MPR of \$9.65. On its first FCC Form 1240, Operator's selected time period for performing its true-up adjustments overlapped the time period covered by Operator's prior FCC Form 1210. This is incorrect. The FCC Form 1240 instructions clearly state that "[f]or first time filers of FCC Form 1240, the beginning date of the True-Up Period on the initial filing is . . . the end of the last quarter to which [an operator's] most recently filed Form 1210 applied if the rate adjustment after . . . September 22, 1995 was done with Form 1210."<sup>28</sup>

10. Based on this instruction, we have adjusted the true-up period in Operator's first FCC Form 1240 from 11 months to 8 months.<sup>29</sup> This adjustment reduced the number of months on Worksheet 1, True Up Period 1, from 11 months to 8 months. Our adjustments to Worksheet 1 required that we revise Operator's inflation factors. As a result, the inflation factor in Module C, Line C1 for the 8 month true-up period was corrected to 1.0152.

11. The reduction in the length of the true-up period also results in a reduction in Line H2 (Revenue From MPR for Period 1). This results in a corresponding reduction in Line I8 (True-Up Segment for the Projected Period). In total, our adjustments to Operator's first FCC Form 1240 result in a reduction of the MPR for the Projected Period to \$11.32 (Line I9). Thus, Operator has failed to demonstrate that its June 1, 1996 rate of \$11.69 for its CPST was not unreasonable. To the extent that external costs from the 3 months disallowed from Operator's true-up period<sup>30</sup> have been averaged into the rates charged in the 8 months allowed in Operator's true-up period, and have not been removed by our adjustments, we will order Operator to make a month-by-month accounting of such external costs. Such accounting shall allow a comparison of the actual external costs for the permitted 8 month true-up period with the recovery of external costs afforded by the external cost segment for that period as calculated on Worksheet 7. We will order the removal of any over-recovery, plus interest, identified thereby in Operator's next FCC Form 1240 filed with the Commission. Any such over-recovery of external costs shall be added to the amount otherwise reportable on Line H1 of Operator's next FCC Form 1240 rate calculation.

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<sup>27</sup> 11 FCC Rcd 1151 (1995).

<sup>28</sup> FCC Form 1240 Instructions p. 7.

<sup>29</sup> Operator selected an 11 month true-up period for its first FCC Form 1240 filing beginning July 1, 1995 through May 31, 1996. Operator's true-up period in its first FCC Form 1240 filing overlapped by three months the period covered by its prior FCC Form 1210, which began March 31, 1994 and ended September 30, 1995. Accordingly, we adjusted Operator's true-up period in its first FCC Form 1240 filing to begin on October 1, 1995 and end on May 31, 1996, thereby reducing Operator's true-up period from 11 months to 8 months.

<sup>30</sup> As found on Operator's Worksheets 7 and 8.

12. Upon review of Operator's second FCC Form 1240 for the period June 1, 1997 through May 31, 1998, we have adjusted Module A, Line A1 to reflect Operator's previous MPR of \$11.32. On its second FCC Form 1240, Operator's selected time period for performing its true-up adjustments overlapped its selected time period for true-up adjustments from its first FCC Form 1240. As discussed above, this is incorrect. In addition, Operator made true-up adjustments through to the effective date of the increase. This is also incorrect. The annual adjustment afforded by FCC Form 1240 allows operators to project changes in external costs, inflation, and the number of regulated channels. This structure avoids the delay some operators experienced in recouping costs through multiple rate adjustments throughout the year. Because projections will not reflect the costs that actually occur, the Commission provided, as part of the annual adjustment, a "true-up" to correct projected cost changes with the actual cost changes. However, the Commission has noted that, as FCC Form 1240 must be filed 90 days before an increase is to take effect, the period for the true-up will not coincide with the previous year's projections.<sup>31</sup> The true-up data is intended to indicate real, not projected data.<sup>32</sup> This policy is reflected in the instructions accompanying FCC Form 1240.<sup>33</sup>

13. Based on this instruction and considering evidence in the filing and reasonable time for closing accounts and completing forms, we have adjusted the true-up period in Operator's second FCC Form 1240 from 15 months to 11 months.<sup>34</sup> This adjustment reduced the number of months on Worksheet 1, True Up Period 1, from 12 months to 11 months and eliminated the three months that Operator had listed for True Up Period 2. Our adjustments to Worksheet 1 required that we refresh Operator's inflation factors. In particular, on Worksheet 1, Operator incorrectly reported the inflation factor of 2.22 percent for the first 4 months of True Up Period 1 and 2.21 percent for the remaining 11 months listed in True Up Periods 1 and 2. As a result, Operator reported the incorrect inflation factor of 1.0221 on Lines C1 and C3 of its second FCC Form 1240. Therefore, we have adjusted Worksheet 1 to reflect the correct inflation factor of 2.22 percent, 2.21 percent, 1.83 percent, 2.70 percent, and 1.77 percent for the second quarter of 1996, the third quarter of 1996, the fourth quarter of 1996, the first quarter of 1997, and the first month of the second quarter of 1997, respectively. As a result, the inflation factor in Module C, Line C1 for the 11 month true-up period was corrected to 1.0202 instead of the 1.0221 used by the Operator for a 12 month period. The current inflation factor in Module C, Line C3 was corrected to 1.0177 instead of the 1.0221 used by the Operator.

14. The reduction in the length of the true-up period also results in a reduction in Line H2 (Revenue From MPR for Period 1). This results in a corresponding reduction in Line I8 (True-Up Segment for the Projected Period). In total, our adjustments to Operator's second FCC Form 1240 result

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<sup>31</sup> Thirteenth Reconsideration Order, 11 FCC Rcd 388, 420 fn 151 (1995).

<sup>32</sup> *Id.*

<sup>33</sup> See FCC Form 1240 Instructions for Timing at pp. 3-4.

<sup>34</sup> Operator selected a 15 month true-up period for its second FCC Form 1240 filing beginning March 1, 1996 through May 31, 1997 (12 months for Period 1 and 3 months for Period 2). Operator's true-up period in its second FCC Form 1240 filing overlapped by three months the selected true-up period from its first FCC Form 1240, which began July 1, 1995 and ended May 31, 1996. In addition, Operator ended its true-up period in its second FCC Form 1240 filing on the day before its projected period begins. Accordingly, we adjusted Operator's true-up period in its second FCC Form 1240 filing to begin on June 1, 1996 and end on April 30, 1997, thereby reducing Operator's true-up period from 15 months to 11 months.

in a reduction of the MPR for the Projected Period to \$12.06 (Line I9). Thus, Operator has failed to demonstrate that its June 1, 1997 rate of \$13.38 for its CPST was not unreasonable. To the extent that external costs from the four months disallowed from Operator's true-up period<sup>35</sup> have been averaged into the rates charged in the 11 months allowed in Operator's true-up period, and have not been removed by our adjustments, we will order Operator to make a month-by-month accounting of such external costs. Such accounting shall allow a comparison of the actual external costs for the permitted 11 month true-up period with the recovery of external costs afforded by the external cost segment for that period as calculated on Worksheet 7. We order the removal of any over-recovery, plus interest, identified thereby in Operator's next FCC Form 1240 filed with the Commission. Any such over-recovery of external costs shall be added to the amount otherwise reportable on Line H1 of Operator's next FCC Form 1240 rate calculation.

15. Accordingly, IT IS ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. 76.962, that Operator's 1994 Refund Plan IS NOT ACCEPTED.

16. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 76.961, that Operator revise its 1994 Refund Plan as detailed herein and resubmit its plan to the Chief, Cable Services Bureau, within thirty days of the release of this Order.

17. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that Operator's CPST rate of \$10.47, effective May 15, 1994 through July 14, 1994, in the community set forth above, IS UNREASONABLE.

18. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that Operator's CPST rate of \$11.21, effective July 15, 1994 through October 31, 1995, in the community set forth above, IS UNREASONABLE.

19. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that Operator's CPST rate of \$9.81, effective November 1, 1995 through May 31, 1996, in the community set forth above, IS UNREASONABLE.

20. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that Operator's CPST rate of \$11.69, effective June 1, 1996 through May 31, 1997, in the community set forth above, IS UNREASONABLE.

21. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321 that Operator's CPST rate of \$13.38, effective June 1, 1997 through May 31, 1998, in the community set forth above, IS UNREASONABLE.

22. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 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 \$10.15 per month (plus franchise fees), plus interest to the date of the refund, for the period May 15, 1994 through July 14, 1994.

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<sup>35</sup> As found on Operator's Worksheets 7 and 8.

23. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 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 \$9.25 per month (plus franchise fees), plus interest to the date of the refund, for the period July 15, 1994 through September 30, 1995.

24. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 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 \$9.65 per month (plus franchise fees), plus interest to the date of the refund, for the periods October 1, 1995 through October 31, 1995 and April 1, 1996 through May 31, 1996.

25. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 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 \$11.32 per month (plus franchise fees), plus interest to the date of the refund, for the period June 1, 1996 through May 31, 1997.

26. IT IS FURTHER ORDERED, pursuant to Section 76.961 of the Commission's rules, 47 C.F.R. Section 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 \$12.06 per month (plus franchise fees), plus interest to the date of the refund, for the period June 1, 1997 to the day before it reduces its rate to \$12.06.

27. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321, that Operator shall conduct a month-by-month accounting of its external costs from Operator's eight-month true-up as found on Operator's first FCC Form 1240 Worksheets, and from Operator's eleven-month true-up as found on Operator's second FCC Form 1240 Worksheets, and that Operator shall file, within 30 days of the release of this Order, a report detailing the over-recovery of all external costs, plus interest, with the Chief, Cable Services Bureau.

28. 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.

29. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321, that the complaints referenced herein against the rates charged by Operator in the community set forth above ARE GRANTED.



30. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. Section 0.321, that Operator revise the calculation of its maximum permitted CPST rate in its next FCC Form 1240 filing in accordance with our findings in this order.

FEDERAL COMMUNICATIONS COMMISSION

John E. Logan  
Deputy Chief, Cable Services Bureau