

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

In the Matter of)	
	)	CUID Nos.:
	)	MD0222 (Rockville)
	)	MD0223 (Chevy Chase)
	)	MD0224 (Silver Spring)
	)	MD0225 (Washington Grove)
Prime Communications-Potomac	)	MD0226 (Takoma Park)
d/b/a Cable TV Montgomery	)	MD0227 (Somerset)
	)	MD0228 (Poolesville)
	)	MD0229 (Barnesville)
	)	MD0230 (Brookville)
	)	MD0231 (Garret Park)
	)	MD0233 (Glen Echo)
	)	MD0234 (Kensington)
	)	MD0235 (Laytonsville)
	)	MD0236 (Montgomery)
	)	MD0274 (Chevy Chase)
	)	MD0275 (Chevy Chase Sec IV)
	)	MD0276 (Chevy Chase Sec V)
	)	MD0277 (Chevy Chase VIII)
	)	MD0340 (Germantown)
Complaints Regarding	)	MD0341 (Burtonsville)
Cable Programming Services Tier	)	MD0342 (Potomac)
Rate Increase	)	MD0343 (Boys)
	)	MD0344 (Wheaton)
	)	MD0345 (Derwood)
	)	MD0346 (Olney)
	)	MD0347 (Cabin John)
	)	MD0348 (Bethesda)
	)	MD0349 (West Bethesda)

ORDER

Adopted: January 26, 1999

Released: January 29, 1999

By the Assistant Chief, Consumer Protection and Competition Division, Cable Services Bureau:

1. In this Order we consider complaints against the July 1, 1998 rate increase by the above-referenced operator ("Operator") for its cable programming services tier ("CPST") in the communities referenced above. We have previously resolved all prior complaints against Operator's CPST rates.¹ This Order addresses only the reasonableness of Operator's July 1, 1998 CPST rate increase.

¹ See In the Matter of SBC Media Ventures, Inc. d/b/a Montgomery Cable TV, 13 FCC Rcd 10210 (1998).

2. Under the Communications Act,² 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 a rate to be unreasonable, it shall determine the correct rate and any refund liability.³ The Telecommunications Act of 1996 ("1996 Act")⁴ and our rules implementing the new legislation ("Interim Rules"),⁵ require that complaints against the CPST rates be filed with the Commission by a local franchising authority ("LFA") that has received more than one subscriber complaint.⁶

3. The LFA for the franchise areas referenced above filed a complaint with the Commission on December 30, 1998, for each community referenced above, against Operator's July 1, 1998 CPST rate increase from \$17.41 to \$18.58.⁷ The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.⁸ The Operator has the burden of demonstrating that the CPST rates complained about are reasonable.⁹

4. To justify rates for the period beginning May 15, 1994 through a benchmark showing, operators must use the FCC Form 1200 series.¹⁰ Operators may justify 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.¹¹ Any

² Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c)(3) (1996).

³ See Section 76.957 of the Commission's Rules, 47 C.F.R. §76.957.

⁴ **Pub. L. No. 104-104, 110 Stat. 56 (1996).**

⁵ **See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).**

⁶ **See Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).**

⁷ **The LFA's complaint referenced a CPST rate increase from \$18.34 to \$19.56, which included franchise and public access fees. We review Operator's CPST rate increase exclusive of the added fees.**

⁸ **47 C.F.R. §76.956.**

⁹ *Id.*

¹⁰ 47 C.F.R. §76.922.

¹¹ *Id.*

incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹²

5. Upon review of Operator's FCC Form 1240 for the projected period July 1, 1998 through June 30, 1999, we find that Operator has justified its calculated maximum permitted rate ("MPR") of \$18.58. Because Operator's actual CPST rate of \$18.58¹³ does not exceed its MPR, we find Operator's actual CPST rate of \$18.58 to be reasonable.¹⁴

6. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the CPST rate of \$18.58, exclusive of franchise and public access fees, charged by Operator in the communities referenced above, effective July 1, 1998, IS REASONABLE.

7. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaints against the July 1, 1998 CPST rate increase, charged by Operator in the communities referenced above, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Patrick A. Boateng, Assistant Chief
Consumer Protection and Competition Division
Cable Services Bureau

¹² *Id.*

¹³ **Although the LFA complained about Operator's CPST rate of \$19.56, we calculate Operator's actual CPST rate to be \$18.58, once the franchise and public access fees are removed.**

¹⁴ **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.**