

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

In the Matter of)
)
Cablevision Systems Corporation)
)
Resolution of)
Cable Programming Service)
Rate Complaints)

ORDER

Adopted: March 20, 1998

Released: March 25, 1998

By the Commission:

1. Pursuant to 47 C.F.R. § 1.1204(b)(10) and 47 C.F.R. § 1.1206(a)(11), (b),¹ the Cable Services Bureau staff met with Cablevision Systems Corporation ("Cablevision") to discuss the resolution of issues relating to complaints regarding the rates charged for cable programming service offerings. The staff of the Cable Services Bureau received from Cablevision the attached proposal to resolve the rate complaints. On initial review the Commission believes that the proposal is a reasonable approach to resolve these matters. The Commission directs the Cable Services Bureau to serve a copy of this Proposed Resolution on (i) all local franchising authorities in the franchises at issue here; and (ii) any party other than a local franchising authority who filed a valid complaint as to rates for the franchises at issue here for their comment. Parties wishing to comment on the proposal should do so by filing with the Secretary within thirty days of the date of this Order. There will be a fifteen day period for reply comments. Because it would be unduly burdensome to require that each complainant be served with every comment, pursuant to our Rate Order,² we will not require the parties to serve their comments on all parties. All comments and reply comments will be publicly available.

2. ACCORDINGLY, IT IS ORDERED That the staff shall serve the franchising authorities and complainants with this Proposed Resolution and provide thirty days for comments and fifteen days for reply comments.

FEDERAL COMMUNICATIONS COMMISSION

¹ See Amendment of 47 C.F.R. 1.1200, *et seq.*, FCC 97-92 (released Mar. 19, 1997).

² See 47 C.F.R. § 1.1200(a).

Magalie Roman Salas
Secretary

TERMS OF PROPOSED RESOLUTION**I. Introduction**

1. This Proposed Resolution finally resolves all Form 393, 1200 and 1210 cable programming services tier (“CPST”) complaints pending as of August 1, 1997 against Cablevision Systems Corporation (“Cablevision”) and its subsidiaries.

II. Background

2. Complaints have been filed with the Federal Communications Commission (“Commission”) pursuant to 47 C.F.R. § 76.950, concerning the CPST rates charged by Cablevision in the franchises listed in Exhibit 1. Rate justifications were filed in response to such complaints.

3. The Commission’s Cable Services Bureau (the “Bureau”), under delegated authority, has reviewed Cablevision’s rate justifications pursuant to the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992) (“1992 Cable Act”), and the Commission’s cable rate regulations. As a result of that review, the Bureau has determined that certain refunds are owed to subscribers.

4. Cablevision maintains that it has followed the letter and spirit of the Commission’s cable rate regulations and the 1992 Cable Act in the rate justification filings it has submitted and that the rates paid by its CPST subscribers are not unreasonable. Notwithstanding this position, Cablevision and the Bureau propose to resolve all of Cablevision’s CPST rates cases filed under FCC Form 393, 1200, and 1210, under the terms set forth below.

III. Definitions

5. As used herein, the following definitions will apply:

- (a) “Billing Cycle” means the time period during which monthly bills are sent to subscribers, but in no event longer than 31 days.
- (b) “BST” means basic service tier as defined in 47 C.F.R. § 76.901.
- (c) “CPST” means cable programming service tier as defined in 47 C.F.R. § 76.901.
- (d) “Commission Rules” means all Commission rules currently in effect, as well as all subsequent clarifications, amendments, and additions thereto, including, but not limited to, changes initiated by the Commission or changes required by or made pursuant to changes in federal law.

- (e) “Current Rates” means the CPST rates charged by Cablevision as of August 1, 1997 in the franchises listed in Exhibit 1, excluding any CPST rate adjustment implemented in 1997 in any such franchises that is sought to be justified (in whole or in part) through a pending or future Form 1235 filing.
- (f) “Effective Date” means the date on which the Commission issues the Resolution Order approving this Proposed Resolution.
- (g) “Eligible Subscribers” means CPST subscribers of record to Cablevision’s cable franchises listed in Exhibit 2 as of the date bills are issued reflecting Refunds.
- (h) “Form 393 Series” filings means Forms 393 filed by Cablevision with the Commission for the franchises listed on Exhibits 1 and 2.
- (i) “Form 1200 Series” filings means Forms 1200 and 1210 filed by Cablevision with the Commission for the franchises listed on Exhibits 1 and 2.
- (j) “Interest” means the Internal Revenue Service rate of interest for tax overpayments.
- (k) “Refund” means a credit on a subscriber’s bills.
- (l) “Resolution Order” means an order issued by the Commission approving the terms of this Proposed Resolution and any modifications thereto.
- (m) “Non-Final Bureau Rate Order” means any Bureau rate order issued concerning the reasonableness of Cablevision’s CPST rates in the franchises listed in Exhibit 1 for which a Petition for Reconsideration or Application for Review was filed by Cablevision or any other party.

IV. Terms

6. Cablevision accepts the jurisdiction of the Commission over it and the subject matter of these rate resolutions for purposes of the Resolution Order approving these terms.

7. All of Cablevision’s CPST rates cases involving the franchises listed in Exhibit 1 filed under FCC Forms 393, 1200, and 1210, for the period through August 1, 1997, are finally resolved under the terms provided herein.

8. Cablevision agrees that the terms contained in this Proposed Resolution shall be incorporated by reference in the Resolution Order. Assuming the adoption of these terms in the Resolution Order, Cablevision and the Commission will each actively defend the Resolution Order against any appeal of, or other legal challenge to, the Resolution Order by any third party. Cablevision and the Commission will reasonably cooperate in any such defense of these terms.

9. Assuming the adoption of these terms in the Resolution Order, Cablevision agrees that any violation of the Resolution Order approving these terms shall constitute a violation of a Commission Order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

10. These terms are for purposes of settlement only, and do not constitute an admission by Cablevision of any violation of, or failure to conform to, the 1992 Cable Act, the Commission's Rules, or any other applicable law, rule, or policy.

11. The Commission will not institute, on its own motion, any proceedings against Cablevision based on the information obtained during consideration of the Proposed Resolution. In addition, in the absence of additional facts, any allegations and other circumstances involved in consideration of this Proposed Resolution will not be used by any party against Cablevision with respect to any future proceeding.

12. In consideration for the resolution of Cablevision's CPST rate cases pending as of August 1, 1997, Cablevision hereby agrees to the following terms, conditions and procedures which will facilitate a fair and expeditious resolution of those matters in a manner that serves the public interest:

- (a) Cablevision will issue Refunds to the Eligible Subscribers in the amounts listed in Exhibit 2. The Refunds covering the Form 393 Series period issued for Eligible Subscribers in the New Jersey Franchises covered by DA 95-579, DA 95-682, DA 95-683, DA 95-684 and DA 95-685 have been computed in accordance with the requirements of those Orders. All refunds to Eligible Subscribers will include applicable Interest through April 30, 1998. Refunds will be reflected as a one-time credit on subscriber bills.
- (b) Cablevision will provide Refunds to Eligible Subscribers during the May 1998 billing cycle or the first monthly billing cycle beginning 60 days after the Effective Date, whichever is later. If Refunds are not included in the Billing Cycle beginning May 1, 1998, Cablevision will adjust the Refunds to reflect additional Interest for the period from May 1, 1998 to the date on which the Billing Cycle that includes the Refunds begins.
- (c) Except as otherwise noted below in subparagraphs (d) and (e) and in the notes to Exhibit 1, the Resolution Order will find that in each of the Cablevision franchises listed in Exhibit 1 and covered by this Resolution, the Current Rate is deemed not unreasonable under the 1992 Cable Act and Commission Rules.

- (d) The Resolution Order will find that, as of August 1, 1997, the maximum permitted CPST rates for the franchises listed in this subparagraph are as follows: for Port Chester, NY (NY1092), \$13.26; for Dover, NY (NY0213), \$13.40; and for North Haven, NY (NY0240), \$13.86. Notwithstanding any other provision of this Resolution, any refund liability that may arise from the CPST rates currently charged in any of the franchises listed in this subparagraph (e) shall continue to accrue until such time as the present CPST rates are adjusted either (i) to the maximum-permitted levels set forth in this subparagraph or (ii) to reflect changes in external and other costs permitted under the Commission's rules, provided that the starting rate for any such adjustment will be the maximum-permitted CPST rates set forth in this subparagraph. The CPST rates currently charged in the franchises listed in this subparagraph shall be adjusted in accordance with the requirements of the preceding sentence (and any Refunds owed shall be issued) no later than the first monthly billing cycle beginning 60 days after the Effective Date. Nothing in this subparagraph shall be deemed to constitute a finding that the CPST rates currently charged in the franchises listed in this subparagraph are unreasonable.
- (e) Nothing in this Proposed Resolution shall be deemed to resolve the reasonableness of any rate increases implemented in 1997 in any of the franchises listed in Exhibit 1 that Cablevision has sought, or will seek, to justify (in whole or in part) through the filing of a FCC Form 1235. The Resolution Order shall deem not unreasonable the CPST rates in effect in any such franchises up until the implementation of any such 1997 Form 1235 rate increase.
- (f) As of the Effective Date, any Non-Final Bureau Rate Order concerning Cablevision's CPST rates in any of the franchises listed in Exhibit 1 is hereby vacated. The Resolution Order shall supersede any such vacated Bureau orders.
- (g) As of the Effective Date, the Petitions for Reconsideration and the Petitions for Stay of any Bureau orders filed by Cablevision with the Commission for any of the franchises listed in Exhibit 1 will be deemed withdrawn.
- (h) A copy of this Proposed Resolution shall be provided to: (i) each local franchising authority ("LFA") in the franchises listed in Exhibit 1 and (ii) to each party that filed a valid complaint on FCC Form 329 pursuant to 47 C.F.R. § 76.950 in the franchises listed in Exhibit 1, for comment.
- (i) Except as provided in subparagraph (j) hereof, these terms may not be terminated or modified without the mutual written agreement of Cablevision and the Commission. The Commission's consent to any such modification shall be demonstrated by an order issued by the Bureau or, at the Commission's option, by the Commission itself.

- (j) Notwithstanding the terms hereof, Cablevision may avail itself of any applicable modifications of any law or regulation governing the CPST rates charged in any Cablevision franchise listed in Exhibit 1, including the adoption by the Commission of any regulation governing rates as applied to the cable industry generally. If Cablevision exercises this election, the terms contained herein shall be superseded upon the effective date of such law or regulation, except that Cablevision shall provide Refunds to Eligible Subscribers pursuant to the terms of this Proposed Resolution.

13. The Resolution Order shall affirmatively state that any and all waivers of the Commission's rules, and any modifications to Commission forms, necessary to effectuate these terms are deemed to be granted. Such waivers shall include Cablevision's right to adjust, if necessary, any Form 1240 rate filing to reflect the CPST rates approved by the Resolution Order without affecting the implementation date or annual cycle elected for Form 1240 filings. The Commission will not assert in any proceeding that Cablevision's compliance with the terms of this Proposed Resolution violates any Commission rule or order, and, in any proceeding before the Commission brought by a third party, a showing by Cablevision that it has complied with these terms shall constitute a defense to any claim that Cablevision's action in meeting the terms constitute a violation of any applicable Commission rule or order. Notwithstanding the foregoing, nothing in this Proposed Resolution should be construed to preempt the authority of a local franchising authority to regulate the basic service tier and related equipment rates, consistent with the Commission's regulations and orders.

14. Assuming the adoption of these terms in the Resolution Order, these terms shall become effective when the Commission issues the Resolution Order approving these terms.

15. If any provisions, clause, or part of this Proposed Resolution is invalidated, the remainder of this Proposed Resolution shall not be affected thereby and shall remain in effect: provided, however, that if such invalidation is material to this Proposed Resolution, Cablevision and the Commission shall attempt in good faith to reconstitute the Proposed Resolution in a form that is, to the maximum extent possible, consistent with the original intent of the Proposed Resolution.

EXHIBIT 1

Cablevision Systems Corporation Franchises Covered By Proposed Resolution		
System	Franchise	CUID No.
AR Cable/Massachusetts - Braintree	Braintree	MA 0217
AR Cable/Massachusetts - Framingham	Framingham *	MA 0094*
AR Cable/Massachusetts - Lexington	Bedford Lexington	MA 0210 MA 0140
AR Cable/Massachusetts - Middlesex	Maynard	MA 0146
AR Cable/Massachusetts - Montachusets	Fitchburg Gardner Leominster Templeton Westminister	MA 0015 MA 0016 MA 0017 MA 0127 MA 0230
AR Cable/Massachusetts - Nashoba	Belmont Townsend Danvers	MA 0316 MA 0296 MA 0279
AR Cable/Massachusetts - Norwood	Norwood Westwood	MA 0148 MA 0204
AR Cable/Massachusetts - Peabody	Peabody	MA 0119
AR Cable/Maine - Coastal	Brewer *	ME 0026*
Cablevision of Michigan - Kalamazoo	Kalamazoo, T Kalamazoo, C	MI 0039 MI 0095
Cablevision of Newark - Newark	Newark South Orange	NJ 0476 NJ 0582
Cablevision of Monmouth - Jackson	Jackson Township	NJ 0346
Cablevision of Monmouth - Lakewood	Lakewood Howell	NJ 0503 NJ 0531
Cablevision of Monmouth - Seaside	Berkeley Township Dover Township Lavallette Seaside Heights Seaside Park	NJ 0214 NJ 0213 NJ 0128 NJ 0127 NJ 0129

* Cablevision's August 1, 1997 CPST rate for this franchise is approved on condition that the rate for basic service in this franchise is not increased in a way that would result in combined rates for the BST and the CPST in excess of the combined maximum permitted level for both tiers as computed under the Commission's rate regulation rules.

Cablevision of Monmouth - Wall	Asbury Park Avon Belmar Bradley Beach Brielle Farmingdale Interlaken	NJ 0069 NJ 0277 NJ 0278 NJ 0279 NJ 0280 NJ 0483 NJ 0456
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EXHIBIT 1

Cablevision Systems Corporation Franchises Covered By Proposed Resolution		
System	Franchise	CUID No.
	Manasquan	NJ 0281
	Neptune Township	NJ 0283
	Neptune City	NJ 0282
	Ocean Township	NJ 0161
	SeaGirt	NJ 0284
	South Belmar	NJ 0286
	Spring Lake	NJ 0285
	Spring Lake Heights	NJ 0287
	Wall Township	NJ 0288
Cablevision of Monmouth - Freehold	Colts Neck	NJ 0556
	Englishtown	NJ 0429
	Freehold Township	NJ 0428
	Manalapan Township	NJ 0430
	Marlboro Township	NJ 0557
Cablevision of Hudson County	Hoboken	NJ 0111
	North Bergen	NJ 0083
	West New York	NJ 0365
	Union City	NJ 0366
	Weehawken	NJ 0345
Cablevision of Westchester - Dutchess	Dover Plains	NY 0213
Cablevision of Westchester - Westchester	Mount Kisco	NY 0427
	North Castle	NY 1056
	Bedford	NY 0426
	Port Chester	NY 1092
	Somers	NY 1066
	Yorktown	NJ 0942
Cablevision of Westchester - Yonkers	Yonkers	NY 0638
AR Cable/New York - Rensselaer	Cobleskill, T	NY 0986
AR Cable/New York - Wellsville	Wellsville, V	NY 0019
Cablevision of Long Island - Great Neck	Great Neck	NY 1033
	Great Neck Plaza	NY 1034
	North Hills	NY 1047
	Thomaston	NY 1040

EXHIBIT 1

Cablevision of Long Island - Woodbury	Babylon, T East Hills (Roslyn) East Rockaway Hempstead, T * Hempstead, V Huntington ** Islip *** Lindenhurst Long Beach Massapequa Park * North Hempstead Oyster Bay * Rockville Centre Westbury *	NY 0423 NY 1032 NY 0849 NY 0454* NY 0772 NY 0392** NY 0379*** NY 0421 NY 0740 NY 0635* NY 0453 NY 0489* NY 0953 NY 0703*
Cablevision of Long Island East End - Riverhead	East Hampton, T Greenport, V Sag Harbor, V Southampton, T Southampton, V Southold ****	NY 0149 NY 0176 NY 0187 NY 0190 NY 0192 NY 0188****
V Cable Long Island	Brookhaven, T ***** Islip, T ***** North Haven	NY 0237***** NY 0239***** NY 0240
Cablevision of Cleveland	Cleveland, C	OH 1632
Cablevision of the Midwest	Bedford Heights Brook Park Chardon Cuyahoga Heights Hinckley Independence Lakewood North Royalton Richfield, V Brecksville Sheffield Lake Solon Valley View Westlake	OH 0967 OH 0823 OH 1109 OH 1196 OH 1601 OH 0993 OH 1449 OH 0971 OH 1275 OH 1274 OH 1022 OH 0968 OH 1195 OH 0746

* CPST rate is approved through April 30, 1997. Current Rate (including Form 1235 component) was approved in DA 97-2512.

** CPST rate is approved through February 28, 1997. Current Rate was approved in DA 97-2403.

*** CPST rate is approved through March 31, 1997. Current Rate was approved in DA 97-2283.

**** CPST rate is approved through February 28, 1997. Current Rate was approved in DA 97-2422.

***** CPST rate is approved through February 28, 1997. Current Rate was approved in DA 97-2377.

EXHIBIT 1

V Cable Ohio	Bedford Chagrin Falls Cleveland Heights Euclid Gates Mills Granger Township Highland Heights Mayfield Heights Northfield Pepper Pike Richmond Heights Shaker Heights University Heights Willowick Woodmere Mayfield Village	OH 0805 OH 0804 OH 0695 OH 0109 OH 1944 OH 1272 OH 0986 OH 0777 OH 0969 OH 1062 OH 0765 OH 0175 OH 0662 OH 0776 OH 0775 OH 0862
US Cable - Gulf Shores	Gulf Shores	AL 0247
US Cable - Lucedale	Lucedale	MS 0199
US Cable - Wiggins	Wiggins *	MS 0155*
US Cable - Osceola	Osceola	MO 0603

* Cablevision's August 1, 1997 CPST rate for this franchise is approved on condition that the rate for basic service in this franchise is not increased in a way that would result in combined rates for the BST and the CPST in excess of the combined maximum permitted level for both tiers as computed under the Commission's rate regulation rules.

EXHIBIT 2
TOTAL REFUNDS WITH INTEREST BY COMMUNITY
CABLEVISION SYSTEMS CORPORATION

<u>Community (System)</u>	<u>CUID</u>	<u>TOTAL</u>
Fitchburg	MA0015	\$34,166.06
Leominster	MA0017	\$45,554.47
Belmont	MA0316	\$52,489.22
Brewer	ME0026	\$5,927.92
Lakewood, Howell	NJ0503, NJ0531	\$269,998.07
Jackson	NJ0346	\$45,909.78
Seaside Heights:		\$47,088.09
Seaside Heights, Lavallette Seaside Park, Dover, Berkeley	NJ0127, NJ0128 NJ0129, NJ0213, NJ0214	
Freehold	NJ0428	\$58,017.63
Englishtown	NJ0429	\$2,007.59
Manalapan	NJ0430	\$64,343.31
Colts Neck	NJ0556	\$8,649.00
Marlboro	NJ0557	\$43,371.55
Wall:		\$188,490.10
Asbury Park, Ocean Avon by the Sea Belmar, Bradley Beach Brielle, Manasquan Neptune City, Neptune Village Sea Girt, Spring Lake South Belmar Spring Lake Heights, Wall Interlaken, Farmingdale	NJ0069, NJ0161 NJ0277 NJ0278, NJ0279 NJ0280, NJ0281 NJ0282, NJ0283 NJ0284, NJ0285 NJ0286 NJ0287, NJ0288 NJ0456, NJ0483	
Newark, South Orange	NJ0476, NJ0582	\$42,096.80
Hudson:		\$84,232.65
North Bergen, Hoboken Weehawken, West New York, Union	NJ0083, NJ0111 NJ0345, NJ0365, NJ0366	

EXHIBIT 2
TOTAL REFUNDS WITH INTEREST BY COMMUNITY
CABLEVISION SYSTEMS CORPORATION

<u>Community (System)</u>	<u>CUID</u>	<u>TOTAL</u>
Dover	NY0213	\$7,051.93
North Haven	NY0240	\$9,479.91
Port Chester	NY1092	\$90,758.96
Westlake	OH0746	\$5,474.56
Shaker Heights	OH0175	\$8,409.00
Bedford Heights	OH0967	\$4,530.44
Solon	OH0968	\$9,454.67
Northfield Village	OH0969	\$5,513.06
North Royalton	OH0971	\$56,699.15
Independence	OH0993	\$10,202.10
Sheffield Lake	OH1022	\$1,753.95
Chardon Village	OH1109	\$600.80
Valley View	OH1195	\$345.42
Lakewood	OH1449	\$429.89
Granger Township	OH1272	\$472.11
Brecksville	OH1274	\$4,320.21
Richfield Village	OH1275	\$896.50
Hinckley	OH1601	\$674.29
Cuyahoga Heights	OH1196	\$785.30
TOTAL		\$1,210,194.49