

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

In the Matter of)	CUID No. GA0088 (Chickamauga)
)	
Comcast Cablevision)	
)	
Refund Plan and Complaint Regarding)	
Cable Programming Services Tier Rates)	

**REFUND PLAN
AND RATE ORDER**

Adopted: February 8, 2000

Released: February 10, 2000

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

1. In this Order we consider a complaint concerning the rates the above-referenced operator ("Operator")¹ was charging for its cable programming services tier ("CPST") in the community referenced above. We have already issued an order ("Prior Order") addressing the reasonableness of Operator's CPST rate for the period December 27, 1993² through May 14, 1994.³ In our Prior Order, we stated that our findings "do not in any way prejudice the reasonableness of the price for CPS service after May 14, 1994 under our new rate regulations."⁴ On June 2, 1995, Operator filed a refund plan ("Refund Plan") pursuant to our Prior Order. This Order addresses the reasonableness of Operator's CPST rates beginning May 15, 1994 as well as Operator's Refund Plan.

2. Under the Communications Act,⁵ 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.⁶ The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")⁷ requires the Commission to review CPST rates upon the filing

¹ On October 21, 1999, the Federal Communications Commission received notification, pursuant to 47 C.F.R. § 76.400, of a change of ownership from TeleScripps Cable Company to Comcast Cablevision of the South, Inc. The term "Operator" includes all of Operator's predecessors in interest.

² The first valid complaint against Operator's CPST rate in the community referenced above was filed on December 27, 1993. No further complaints were filed with the Federal Communications Commission.

³ See In the Matter of Battlefield Cable Company, DA 95-1006, 10 FCC Rcd 8160 (1995).

⁴ *Id.* at n. 1.

⁵ Communications Act, Section 623(c), as amended, 47 U.S.C. §543(c) (1996).

⁶ See Section 76.957 of the Commission's Rules, 47 C.F.R. §76.957.

⁷ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

of a valid complaint by a subscriber or local franchise authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act")⁸ and our rules implementing the new legislation ("Interim Rules"),⁹ require that, beginning February 8, 1996, complaints against CPST rates be filed with the Commission by an LFA that has received more than one subscriber complaint¹⁰

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.¹¹ Cable operators may file an FCC Form 1210 to justify quarterly rate increases based on the addition and deletion of channels, changes in certain external costs and inflation.¹² 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.¹³ Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹⁴

4. Upon review of Operator's FCC Form 1200, we find Operator's calculated MPR of \$11.14 to be reasonable. The Commission's rules 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 MPR on the FCC Form 1200.¹⁵ Operator elected to defer refund liability for overcharges associated with its FCC Form 1200 pursuant to the Commission's Rules.¹⁶ However, Operator will incur refund liability from May 15, 1994 through July 14, 1994 for any CPST rates charged above the FCC Form 393 MPR approved by the Commission.¹⁷ In our Prior Order, we found that Operator had justified an MPR of \$12.13. Because Operator's actual CPST rate of \$12.46, effective May 15, 1994 through June 30, 1994, exceeds its FCC Form 393 MPR, we find Operator's actual CPST rate of \$12.46, effective May 15, 1994 through June 30, 1994, to be unreasonable. Because Operator's actual CPST rate of \$11.48, effective July 1, 1994, exceeds its FCC Form 1200 MPR of \$11.14, we find Operator's actual CPST rate of

⁸ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁹ See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

¹⁰ See Communications Act, Section 623(c), as amended, 47 U.S.C. §543(c) (1996).

¹¹ See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See 47 C.F.R. Section 76.922(b)(6)(ii).

¹⁶ See Letter dated June 13, 1994 from Gary M. Steffen, Staff Accountant, Scripps Howard to the Federal Communications Commission.

¹⁷ 47 C.F.R. §76.922(b)(6)(ii).

\$11.48, effective July 1, 1994 through December 31, 1995, to be unreasonable.¹⁸

5. Upon review of Operator's FCC Form 1210 covering the period April 1, 1994 through December 31, 1995, we find Operator's calculated MPR of \$12.13 to be reasonable. Because Operator's actual CPST rate of \$11.48, effective January 1, 1996 does not exceed its MPR, we find Operator's actual CPST rate of \$11.48, effective January 1, 1996, to be reasonable. Upon review of Operator's Refund Plan filed pursuant to our Prior Order, we find that the Refund Plan fulfills the requirements of the Refund Order, provided Operator accrues refund interest up to the date of refund.

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 \$12.46, charged by Operator in the community referenced above, effective May 15, 1994 through June 30, 1994, IS UNREASONABLE.

7. 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 \$11.48, charged by Operator in the community referenced above, effective July 1, 1994 through December 31, 1995, IS UNREASONABLE.

8. 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 \$11.48, charged by Operator in the community referenced above, effective January 1, 1996, IS REASONABLE.

9. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rule, 47 C.F.R. § 0.321 and § 76.962, that Operator's Refund Plan IS APPROVED, provided Operator modifies its Refund Plan to the extent indicated herein, and that Operator implement its refund plan within 60 days of the date of this Order and file a certificate of compliance with the Chief, Cable Services Bureau, within 90 days of the release of this Order certifying its compliance with this Order.

10. 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 \$12.13 per month (plus franchise fees), plus interest to the date of the refund, for the period beginning May 15, 1994 through June 30, 1994.

11. 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 \$11.14 per month (plus franchise fees), plus interest to the date of the refund, for the period July 1, 1994 through December 31, 1995.

¹⁸ 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 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, NW, Washington, DC, 20036, or by calling ITS at (202) 857-3800.

12. 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 with 60 days of Commission approval of the plan.

13. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the complaint referenced herein against the CPST rates charged by Operator in the community referenced above IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen F. Costello, Acting Chief
Financial Analysis and Compliance Division
Cable Services Bureau