

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

In the Matter of )  
 ) CUID No. NC0569 (Burke)  
Falcon Cable )  
 )  
Petition for Reconsideration )

ORDER ON RECONSIDERATION

Adopted: April 17, 2000

Released: April 19, 2000

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 95-1589 ("Prior Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") by the above-referenced operator ("Operator"). Operator filed its Petition on September 15, 1995 along with a petition for stay and refund plan. The stay was granted by Order, DA 96-425.<sup>2</sup> Our Prior Order resolved all pending complaints against Operator's CPST rates in the above-referenced community through May 14, 1994, and found Operator's cable programming services tier ("CPST") rates to be unreasonable. Subsequent to our Prior Order, we resolved all complaints filed against Operator's CPST rates for the period beginning May 15, 1994, and found the CPST rates to be reasonable.<sup>3</sup> In this Order, we vacate our Prior Order and the stay and dismiss Operator's Petition and refund plan as moot.

2. Under the Communications Act, the Commission is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable.<sup>4</sup> The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),<sup>5</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 upon the cable operator to file a justification of its CPST rates.<sup>6</sup> If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>7</sup>

<sup>1</sup> In the Matter of Falcon Holding Group, Inc., DA 95-1589, 10 FCC Rcd 8756 (1995).

<sup>2</sup> In the Matter of Petitions for Stay, DA 96-425, 11 FCC Rcd 4196 (1996).

<sup>3</sup> See In the Matter of Falcon Holding Group, Inc., 11 FCC Rcd 4263 (1996).

<sup>4</sup> 47 U.S.C. §543(c) (1996).

<sup>5</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>6</sup> 47 C.F.R. §76.956.

<sup>7</sup> 47 C.F.R. §76.957.

3. We do not address any of the issues raised in Operator's Petition. Our review of the record reveals that the single complaint filed against Operator's rates was filed by a subscriber who received only the basic tier. This finding is supported by the subscriber's bill attached to the complaint which showed only a charge for a single basic tier. Therefore, the complaint does not trigger the Commission's jurisdiction. Consequently, we will vacate our Prior Order. Because we are vacating our Prior Order, we will vacate the stay and dismiss Operator's Petition and refund plan as moot.

4. Accordingly, IT IS ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that In the Matter of Falcon Holding Group, Inc., DA 95-1589, 10 FCC Rcd 8756 (1995) IS VACATED.

5. IT IS FURTHER ORDERED, pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321, that the stay of DA 95-1589, granted in Petitions for Stay, DA 96-425, 11 FCC Rcd 4196 (1996), IS VACATED.

6. IT IS FURTHER ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's Petition for Reconsideration and refund plan ARE DISMISSED AS MOOT.

7. 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 DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau