

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

In the Matter of)
)
Cable One, Inc.) CUID No. TX0045 (Odessa)
)
Refund Plan)

ORDER

Adopted: June 16, 2000

Released: June 20, 2000

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

1. In this Order we consider the refund plan filed by the above-referenced operator ("Operator") in the above-referenced community pursuant to our Order, *In the Matter of Post-Newsweek Cable, Inc.*¹ ("Refund Order").² Our review of Operator's refund plan reveals that Operator improperly attempted to offset its cable programming services tier ("CPST") refund liability with undercharges for equipment used to receive the basic services tier ("BST"). The Commission has addressed the issue of inter-tier offsets in *Cencom*.³ 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 Rulemaking⁴] that cable operators should not balance low BST rates with CPST rates that exceed the maximum permitted rate for the tier."⁵ Therefore, we will not accept Operator's refund plan.

2. Operator also calculated its refund liability without offsets in the amount of \$28,183.98. We recalculated Operator's refund liability using a corrected refund liability period and subscriber count and determined that Operator's refund liability, including interest through June 30, 2000, equals \$28,911.65, plus franchise fees, if any. We will order Operator to refund this amount, plus franchise fees, to its CPST subscribers within 60 days of the release of this Order.

3. Accordingly, IT IS ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. §0.321 and §76.962, that Operator's refund plan IS NOT ACCEPTED.

¹ See *In the Matter of Post-Newsweek Cable, Inc.*, DA 95-960, 10 FCC Rcd 9324 (1995).

² The Refund Order required Operator to determine the overcharges to cable programming service tier ("CPST") subscribers for the period stated in the Refund Order and file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount 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.

³ See *In the Matter of Cencom Cable Income Partners II, LP*, 12 FCC Rcd 7948 (1997).

⁴ 8 FCC Rcd 5631 (1993).

⁵ *Cencom* at ¶ 22 (footnote omitted).

4. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. §0.321 and §76.962, that Operator shall refund to subscribers in the franchise area referenced above the total amount of \$28,911.65, plus franchise fees, within 60 days of the release of this Order.

5. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. §0.321 and §76.962, that Operator 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.

FEDERAL COMMUNICATIONS COMMISSION

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