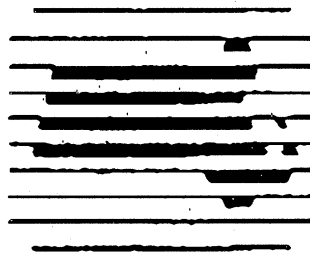


2.

May 25, 1994

COUNCILLOR WALSH

- WHEREAS:** The future setting of cable rates has become a major concern to many Cambridge residents; and
- WHEREAS:** The public at large does not have an understanding as to what the applicable rules and regulations are for future rate setting; and
- WHEREAS:** Continental Cable as of this date has not forwarded any communications to the City Council which would satisfactorily explain how they are dealing with the FCC rate regulation formulas; and
- WHEREAS:** On May 16, 1994, Massachusetts Cable Television Commission sent out the attached cable bulletin; and
- WHEREAS:** Said cable bulletin said that 22 cable operators servicing 277 Massachusetts communities are subject to rate regulation; and
- WHEREAS:** Said bulletin further states that the cable commission has collected and analyzed rate filings for those communities subject to rate regulation; now therefore be it
- ORDERED:** That the City Manager be and hereby is requested to ask the City Solicitor to prepare a summary letter to the City Council stating whether or not Continental is one of the cable operators subject to rate regulation and how they compare to other communities subject to rate regulation especially in the areas of monthly cost and to further inform the City Council as to what procedure is being followed regarding Continental Cable's compliance with the new FCC regulations and further to supply the City Council with any and all forms filed by Continental Cable with the Massachusetts Cable



Massachusetts Cable Television Commission

CABLE BULLETIN

Number 94-1

May 16, 1994

Over the past several months, the Massachusetts Cable Television Commission (the "Commission") has been deeply involved in rate regulation resulting from the enactment of the Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"). In our continued effort to keep communities abreast of rate regulation activity, this Bulletin is dedicated to updating local officials, Cable Advisory Committees, and interested parties on the status, time lines and issues the Commission is pursuing in connection with rate regulation. In addition, this Bulletin will update you on the recently announced Federal Communications Commission (the "FCC") Order which, among other things, adopts changes to the initial benchmark formula.

Rate Regulation Activity

Since the last Cable Bulletin in October 1993, the Commission has:

- Adopted state rules and regulations for rate regulation which are consistent with state and federal law;
- Filed for, and subsequently received, FCC certification to regulate basic service and equipment rates for communities in Massachusetts;
- Notified 22 cable operators servicing 277 Massachusetts communities that they are subject to rate regulation;
- Collected and analyzed rate filings for those communities subject to rate regulation; and
- Conducted rate hearings, as required by state law, to determine maximum reasonable rates for basic service and associated equipment rates in communities subject to rate regulation.

Initiating Rate Regulations

In order to obtain certification from the FCC, the Commission was required to adopt rules consistent with the FCC's rate regulations. On July 27, 1993 the Commission issued its first Notice of Proposed Rulemaking regarding rate regulation. After holding a series of public hearings across the state to gather public input on the proposed rules, the Commission released its rate regulation rules on September 24, 1993. The Commission became certified to regulate basic tier and equipment rates on October 7, 1993, and subsequently began to notify cable operators, in communities where the local issuing authority requested that the Commission regulate rates, that they are subject to rate regulation. After further public hearings, the Commission adopted rate regulations concerning rate proceedings and establishing the Pilot Program, which were released on December 17, 1993.

Benchmark Versus Cost-Of-Service Review

Under the FCC's rules, cable operators have the option to file either a benchmark ("streamlined") review or present a cost-of-service showing, if it feels that the benchmark rate will not afford the company a reasonable return. Of the 308 Massachusetts communities that have franchised cable systems, 277 communities have requested that the Commission regulate rates. All but thirty-four of the Communities are benchmark rate reviews. The Commission determined that for this year it will first review benchmark filings and, subsequently, begin rate determinations for communities where the operator has elected to make a cost-of-service showing.

Round One Benchmark Reviews

The FCC's initial rules for determining benchmark rates were based on regulations drafted in the FCC's First, Second, and Third Reports and Orders on rate regulation which were released in 1993. As outlined in last October's Cable Bulletin Number 93-7, this process was designed to be implemented as follows:

In implementing rate regulation in Massachusetts, the Commission will use a FCC-established benchmark to set a cable operator's initial maximum permitted per-channel rate for basic tier service in those communities which have requested rate regulation. If a cable operator's existing per-channel rate is at or below the benchmark rate on the date of initial regulation, it will be deemed reasonable; if the rate is above the benchmark rate, it will be presumed unreasonable and must be reduced unless justified by a cost-of-service showing. If a cable operator's per-channel rate is above the benchmark, it must be reduced either to the benchmark level or to a level which is 10% less than the operator's September 30, 1992 rate; whichever will yield a higher per-channel rate. Once the Commission has set an operator's initial per-channel rate, subsequent increases of this per-channel rate will be tied to inflation under a price cap mechanism.

[T]he 1992 Cable Act ties charges for equipment to cable operators' actual cost (plus a reasonable profit) and requires them to "unbundle" equipment charges

from service charges. The Commission will use FCC Form 393 to set initial rates and unbundle equipment charges from programming charges.

The FCC's rate regulation process requires each cable operator to submit financial information and subscriber data in order to determine its basic service tier rate. To streamline this process, the FCC developed FCC Form 393, which must be completed by all cable operators submitting benchmark filings.

FCC Form 393 consists of three parts. Part I is the cover sheet where a cable operator summarizes information from Part II and III. Part II will enable each operator to determine its maximum permitted per-channel rate and to unbundle equipment charges from its programming charges. The cable operator will use Part III to establish equipment and installation rates.

Cable operators experienced some difficulty compiling the Form 393 due to the newness of the forms, cable operators' differing accounting practices, and the lack of explicit directions from the FCC. For these reasons, some issues concerning the Form 393 were left open to interpretation. In order to clarify these and other issues, the Commission has been in constant contact with the FCC. To date all parties -- the Commission, local governments, and cable operators -- have found that rate making under the FCC's regulations is an intricate, involved process.

Public Participation

According to state law, the Commission is required to hold a public hearing on each rate filing. In complying with this requirement, considerable effort was given to balancing the 1992 Cable Act's policy goal of minimizing administrative and procedural burdens with the Commission's goal of creating an open rate making process that is accessible to the public and formally involves issuing authorities in the proceeding. The Commission has undertaken its commitment to regulate rates for each community across the state, but out of practical necessity was forced to hold consolidated hearings in Boston. In order to incorporate additional local input into the rate making process, the Commission also conducted six regional public meetings on rate regulation.

The Commission scheduled pre-hearing conferences and public hearings for all cable operators that submitted benchmark filings. This hearing schedule, which began in mid-January and concluded in mid-March, was aggressive, yet necessary for the Commission to meet the time frames imposed on the process by the FCC rules.

In keeping with the goal of localism, the Commission established the issuing authority as a party in the rate regulation process. In addition, the Commission adopted regulation 207 CMR 6.36 establishing the Statement of Clarification as a vehicle by which an issuing authority may submit written comments on the cable operator's rate filing. This allows for a local government to participate in the rate regulation process even if it is unable to attend the public hearing. Thirty-one of the 277 filed a Statement of Clarification, which provided the

Commission with valuable information and became an important part of the record. The Commission will continue to seek and welcome comment on ways to enhance meaningful local participation as it continues implementation of cable rate regulation in Massachusetts.

Pilot Program

The Commission has further tried to achieve its commitment to local participation by establishing a Pilot Program allowing selected local governments to determine basic service and associated equipment rates. The Pilot Program is designed to provide the Commission and issuing authorities with a record that will assist it in determining the best way to proceed with rate regulation in those communities that wish to regulate rates at the local level in the future. The Cities of Boston, Holyoke, and Lowell and the Towns of Concord, Hopkinton, and Southbridge have been selected for enrollment in the Pilot Program. The Pilot Program officially began on April 1, 1994 and the Commission will update all local governments on any major Pilot Program events.

Recent Modifications To FCC Rate Regulation Rules

Some subscribers have seen their rates increase as a result of the FCC's initial rate regulations, which took effect last September. In response to these unanticipated increases, the FCC's economists made revisions to their rate model that may eventually result in a wide reduction in cable rates for all subscribers. On February 22, 1994, the FCC adopted further changes to its cable television rate regulation rules, which it expects to further reduce cable rates by 7%. While the actual impact of the FCC's action is not yet known, the following excerpts are taken from its February 22, 1994 statements:

The [FCC's] revised rules will better ensure that consumers are offered regulated services at reasonable rates, and will provide incentives for cable operators to launch new program services and invest in advanced technology. The modified rate regulations will apply to regulated rates in effect on and after the effective date of the new rules; regulated rates in effect before that date will continue to be governed by the old benchmark system.

The [FCC's] revised competitive differential is based on a strengthening of its statistical and economic model for estimating the difference between rates charged by non competitive systems and systems subject to "effective competition," as that term is defined in the 1992 Cable Act. The [FCC's] model is based on a survey of industry rates conducted by [FCC] staff in the winter of 1992. The competitive differential represents the [FCC's] best determination of the average amount by which the rates charged by a cable operator not subject to effective competition exceed "reasonable" rates.

Under the revised approach for determining the competitive differential, the [FCC] computed, and considered, the competitive differential for each of the three types of systems deemed subject to effective competition. After analyzing the various

characteristics of the three types of effectively competitive systems, and exercising its expertise and discretion, the [FCC] determined that the best estimate of the average competitive differential is 17 percent.

The FCC's new Orders, Forms and regulations (released in late March) total approximately 500 pages. Copies of these documents are available from the Downtown Copy Center, 1990 M Street N.W., Suite 640, Washington D.C. 20036-3404, Telephone (202) 452-1422. This documentation is also on file at the Commission, if you wish to review it.

Notice of Emergency Regulation

The Commission adopted, on May 12, 1994, an emergency regulation which amends 207 CMR 6.43, Refunds. This is a technical amendment only. It changes the end of 6.43 (3)(a) from "shorter; or" to "shorter." This eliminates the "or" and changes the punctuation. The Commission will adopt this amendment as a permanent regulation pursuant to 207 CMR 2.06, after proper notice and hearing, within the next three months.

Other Matters

In previous mailings to issuing authorities, the Commission described changes in the law other than rate regulation, in which issuing authorities have an interest. These areas include home wiring and customer service standards. To date, thirty-three Massachusetts communities have incorporated all or parts of the FCC's customer service standards. Rather than incorporating standards into our state regulations, the Commission left consideration of these standards to local governments. Our belief is that issuing authorities are best able to determine community needs and then act on the standards accordingly. For those communities that have not reviewed the customer services standards presented in Cable Bulletin Number 93-1, the Commission strongly recommends that you review these provisions. Nevertheless, the Commission will continue to leave any determination of these matters to the issuing authority.

* * * *

We also want to mention that since joining the Commission last fall as Municipal Liaison, Frank Foss has worked with many of you and has made franchise renewal presentations to the communities of Hampden, Lexington, Clinton, Gloucester, Templeton, Swansea, Somerset, North Attleborough, Granby, Essex, Manchester, Southwick, Franklin, Marshfield, Carver, Plymouth, Kingston, Dracut, and Rockport. Please do not hesitate to call Frank, on his direct line (617) 727-6328, with any questions you have.

CHRONOLOGY OF RATE REGULATION RULES

Chronologically listed below are the FCC's and Commission's rate regulation rulemakings pertaining to the 1992 Cable Act.

Report and Order and Further Notice of Proposed Rulemaking, MM Docket 92-266, FCC 93-177, Adopted April 1, 1993, Released May 3, 1993.

- *FCC adopts initial rate regulation rules for the basic tier and associated equipment and cable programming tier.*

Notice of Proposed Rulemaking, Docket R-22, Released July 27, 1993.

- *Commission issues Notice of Proposed Rulemaking on Massachusetts' rate regulation.*

First Order on Reconsideration, Second Report and Order, and Third Notice of Proposed Rulemaking, MM Docket 92-266, FCC 93-428, Adopted and Released August 27, 1993.

- *FCC clarifies and expands on rate regulation rules adopted in its First Report and Order.*

Report and Order and Further Notice of Proposed Rulemaking, Docket R-22 Released September 24, 1993.

- *Commission adopts Massachusetts' rate regulation rules consistent with FCC regulations, and proposes procedural regulations and Pilot Program.*

Third Report and Order, MM Docket 92-266, FCC 93-519, Adopted November 23, 1993, Released November 24, 1994.

- *FCC requires same method of initial regulation (benchmark or cost-of-service) for both basic and cable programming services tiers.*

Second Report and Order, Docket R-22, Released December 17, 1993.

- *Commission adopts Massachusetts' procedural rules consistent with FCC regulations and rules governing implementation of Pilot Program.*

Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, MM Docket 92-266, FCC 94-38, Adopted February 22, 1994, Released March 30, 1994

- *FCC adopts new rate regulation rules applicable to second round of benchmark rate reviews.*

Third Order on Reconsideration, MM Dockets 92-266 and 92-262, FCC 94-40, Adopted February 22, 1994, Released March 30, 1994.

- *FCC clarifies many rate regulation questions and amends certain rate regulation rules.*

Report and Order and Further Notice of Proposed Rulemaking, MM Docket 93-215, CS Docket 94-28, FCC 94-39, Adopted February 22, 1994, Released March 30, 1994.

- *FCC adopts interim cost-of-service regulations.*

RECEIVED BY
 OFFICE OF THE
 FACSIMILE TRANSMITTAL FORM/LAW OFFICES
 Telephone Number: 547-1772
 Facsimile Number: 491-0923

CAMBRIDGE MA.

DATE: 5/25/94
 TO: City Clerk's office
 FROM: Bill Walsh

Telephone:

Fax: 349-4307

If you do not receive 8 pages including this cover sheet, please call immediately.

REMARKS:

for the consent agenda

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City of Cambridge

2.

IN CITY COUNCIL

June 6, 1994

COUNCILLOR WALSH
 VICE MAYOR RUSSELL
 COUNCILLOR SULLIVAN
 COUNCILLOR TOOMEY

WHEREAS: The future setting of cable rates has become a major concern to many Cambridge residents; and

WHEREAS: The public at large does not have an understanding as to what the applicable rules and regulations are for future rate setting; and

WHEREAS: Continental Cable as to this date has not forwarded any communications to the City Council which would satisfactorily explain how they are dealing with the FCC rate regulation formulas; and

WHEREAS: On May 16, 1994, Massachusetts Cable Television Commission sent out the attached cable bulletin; and

WHEREAS: Said cable bulletin said that 22 cable operators servicing 277 Massachusetts communities are subject to rate regulation; and

WHEREAS: Said bulletin further states that the cable commission has collected and analyzed rate filings for those communities subject to rate regulation; now therefore be it

ORDERED: That the City Manager be and hereby is requested to ask the City Solicitor to prepare a summary letter to the City Council stating whether or not Continental is one of the cable operators subject to rate regulation and how they compare to other communities subject to rate regulation especially in the areas of monthly cost to further inform the City Council as to what procedure is being followed regarding Continental Cable's compliance with the new FCC regulations and further to supply the City Council with any and all forms filed by Continental Cable with the Massachusetts Cable.

In City Council June 6, 1994.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury, City Clerk

WHEREAS: The Cambridge Lavender Alliance Parents, Teachers and Allies (CLA PTA) has recently come together to represent the interests of the families of lesbian and gay individuals as well as the needs of lesbian, gay, bisexual, and transgender children; and

WHEREAS: This anniversary will be celebrated in Cambridge as well as in communities all over the United States by holding cultural and athletic events, conferences, rallies, and parades; and

WHEREAS: The Cambridge Lavender Alliance will hold its fourth annual Lesbian, Gay, and Bisexual Pride Day Celebration by hosting a breakfast and awards ceremony at Cambridge City Hall on Saturday, June 11, 1994; and

WHEREAS: The City of Cambridge wishes to acknowledge the many and varied contributions of its lesbian, gay, and bisexual citizens, as well as the efforts of the members of the CLA and CLA PTA to increase the visibility and acceptance of this community within Cambridge; now therefore be it

RESOLVED: That the City of Cambridge does hereby recognize Saturday, June 11, 1994 as the official Cambridge Lesbian, Gay, and Bisexual Pride Day, and urges the citizens of Cambridge to recognize this special tribute by joining in the activities of the day; and be it further

RESOLVED: That the City Clerk be and hereby is requested to prepare a suitably engrossed copy of this resolution for presentation to the Cambridge Lavender Alliance.

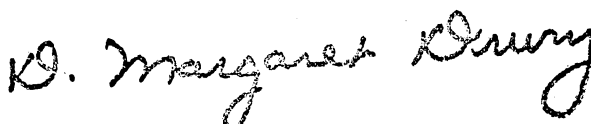
In City Council June 6, 1994.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk

A true copy;

ATTEST:-



D. Margaret Drury
City Clerk



City of Cambridge

2.

IN CITY COUNCIL

June 6, 1994

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Russell, Sullivan, Goomey

CM-201

Consent Order #2

Councillor Walsh re: Setting cable
rates in Cambridge.

In City Council June 6, 1994

Order adopted.