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June 7, 1993

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 6, regarding the 1992 Cable Television Consumer Protection and Competition Act received from City Solicitor Russell B. Higley.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", is written over a horizontal line.

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

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May 28, 1993

Robert W. Healy
City Manager
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Cambridge, MA 02139

Re: **Council Order #27**
The 1992 Cable Television Consumer Protection
and Competition Act

Dear Mr. Healy:

I am writing in response to a request from the Cable Committee of the City Council for an update of the new cable law and advice on any actions that may need to be taken to conform with its provisions. It is hoped that this analysis of the 1992 Act will provide a basic understanding of the law and how it will affect Cambridge. There has been a lot of publicity and public expectations are high. It can be expected that there will be many challenges from cable operators.

The Cable Television Consumer Protection and Competition Act of 1992 (the 1992 Act) was enacted by Congress in October 1992. It was designed to protect consumers in

terms of rates, customer service, franchise renewals and station transmissions, by giving the FCC jurisdiction over cable service. The new rules and regulations were adopted April 1, 1993 and each section will become effective pending publication in the Federal Register.

CABLE SUBSCRIBER RATES

The full report and order issued on May 3, 1993 but has not yet been published in the Federal Register. The City has ordered a copy. Attached to this opinion is the summary of the rate regulations, which was distributed to the public in April.

Before the 1992 Act, local franchising authorities had no power to regulate the rates of cable companies. Under the new rules, the rates for basic service can be regulated by local authorities. Rates for services, other than basic, will be governed by the FCC.

Under the 1992 Act, local franchising authorities have to assert their jurisdiction to regulate rates. In Massachusetts (and in some other states) the state legislature gave the Community Antenna Television Commission (known as the Massachusetts Cable Commission) the power of rate regulation in M.G.L. C.166 §15. This means that local authorities, such as the City of Cambridge, can not assert jurisdiction themselves. They have the right to request the Cable Commission to exercise jurisdiction on their behalf or to have no rate regulation. The Cable Commission is in the process of promulgating new rules and procedures in accordance with the 1992 Act with the goal of allowing as much local input as possible. I will forward a copy of the new state procedures when they are available.

The following is a description of what the Massachusetts Cable Commission must do to assert jurisdiction under the new rules. (In states where an agency was not given the

power of rate regulation, the local franchising authority must follow these procedures.)

To implement the right to regulate the basic service, it is necessary for the Cable Commission to file a certificate with the FCC. A standard certification filing form will be made available by the FCC and can be filed 30 days or later, after publication of the rate regulation order in the Federal Register. Certification forms are scheduled to be available around June 15, 1993, after their approval by the federal Office of Management and Budget. The certification becomes effective 30 days after it is filed (no less than 60 days after publication of the order) unless the FCC finds that the local franchising authority does not qualify. One prerequisite for qualification is that there is no effective competition in the franchising area. This fact is presumed under the 1992 Act but opponents of the certification can try to rebut the presumption.

Once certified, and after adopting regulations consistent with the FCC guidelines, the Cable Commission can request rate rollbacks and refunds. Most rate increases made by cable operators since the October, 1992 passage of the 1992 Act will be eliminated. The Cable Commission will also be eligible to request a 10% rollback of basic cable rates under certain conditions.

The FCC conducted a survey of cable rates across the country as of 9/30/92 and found that prices for service were 10% lower in systems where there was effective competition. They devised a complicated calculation to determine what is considered a "reasonable rate" using a benchmark figure. Rate reductions are initially limited to a rollback to the benchmark figure or to 10% below the actual 9/30/92 rates, whichever is less. To provide time for implementation, the 1992 Act has temporarily frozen all cable rates (except

premium channel and pay per view rates) for 120 days from April 5, 1993.

Some cable equipment, including converter boxes, remote controls, additional outlets and wiring are covered by rate caps imposed by the FCC, but enforced on the local level. We will need to wait for the state regulations to see what role municipalities can take in enforcing these caps in Massachusetts.

Future cable rate increases will be approximately tied to the rate of inflation. Cable operators will be able to pass through to consumers, external costs and increases beyond their control, such as taxes or franchise fees. These pass through costs must be justified by a cost of service analysis.

Application of the 1992 Act regarding all other cable programming services (all services other than basic, premium and pay per view) is complaint driven. The FCC will not take action unless a formal complaint is made.

Members of the public, as well as the local franchising authority and the Cable Commission have the right to file a complaint with the FCC, if it is believed that the service rates are unreasonable. The complaint need only make a minimum showing of unreasonableness and must be filed within a certain amount of time.

Challenges to existing rates may only be made during the 180 days period following the effective date of regulation, which is thirty days after publication of the rate regulation order in the Federal Register. For example, if the order is published on June 15, 1993, the effective date of regulation is approximately July 15, 1993. Therefore challenges to existing rates could only be made up until January 15, 1994.

After the 180 day period has passed, ^{no} rate complaints must be made to the FCC within

45 days of subscribers' billing for the new rate. A standardized complaint form will be developed by the FCC and must be served on the cable operator. The FCC will use their benchmark formula plus cost of service in determining whether the rate is reasonable.

The 1992 Act helps to protect local franchising authorities from any claims related to regulation of cable service. If a lawsuit is brought, the City is immune from monetary damages. The City would still be subject to orders for injunctive or declaratory relief.

CUSTOMER SERVICE STANDARDS

The rules and regulations regarding customer service standards under the 1992 Act were published in the April 19, 1993 edition of the Federal Register with an effective date of July 1, 1993. (Copy enclosed.) The FCC has jurisdiction but no direct role in enforcement. The rules are to be enforced by local franchising authorities. The franchising authority must give cable operators 90 days notice, by certified mail, of its intent to enforce the federal rules. The Cable Commission has requested a copy of the letter of intent. The local authority and the operator can agree to exceed the federal standards. The local authority has the right to continue to enforce existing provisions that exceed federal standards through the end of the franchise agreements without the cable operator's further consent. These rules specifically state that they do not prohibit enforcement of applicable state or municipal consumer protection laws.

The federal standards are detailed with the specific obligations clearly outlined in the rules. The specifics involve standards for business hours, telephone access, installations, outages, other service problems, service calls and installations, billing and information on

changes.

ANTI-BUY THROUGH PROVISIONS

Effective October 6, 1993, cable operators are prohibited from requiring subscribers to purchase any tier of service, other than the basic service tier, as a condition of access to programs offered on a per channel or per program basis. In addition, a cable operator can not discriminate between basic and other subscribers in the rates charged on a per channel or per program basis.

The purpose of the provisions is to increase options for consumers who do not wish to purchase upper cable tiers but who do wish to subscribe to premium or pay per view programming. Under the 1992 Act, subscribers have greater assurance that they are not paying for programs that they do not desire.

Discounts on rates are permissible as long as basic-only subscribers are able to take advantage of them. This includes multi-pay discounts that don't distinguish between basic and upper level subscribers. Cable operators can offer certain discounts to non-subscribers as an inducement to subscribe. In addition they can charge basic-only subscribers for a converter if it is necessary to have one to gain access for the buy through options.

There is a full 10 year transition period available for cable systems unable to immediately comply with the new rules due to technical limitations. The FCC also has the authority to grant a waiver, upon request of the cable operator, if it is in the public interest to do so or if enforcement of the provisions would result in higher consumer costs.

The rules discuss possible evasion of the provisions and state:

"Generally actions not taken to accomplish legitimate technical or customer service objectives that have the effect or are intended to delay or frustrate compliance with the buy-through requirement are prohibited."

RENEWAL

The 1992 Act changes the 1984 Act by giving municipalities the power to reserve the right to raise noncompliance and quality of service issues until the time of the renewal process.

The state Cable Commission advises the following:

"Therefore, if you have certain noncompliance or quality of service issues you wish to raise during renewal you should be conscientious about maintaining a paper trail of (1) notice(s) given to your operator regarding noncompliance and opportunity(s) to cure and (2) your responses to any reply of an operator that it cannot comply with the license. In this way, you will preserve the most flexibility at the time of renewal.

If issues of noncompliance or quality of service arise, you may want to write your operator explaining the issues and stating that you are giving the operator notice of the problem and an opportunity to cure. Failure by the operator to either cure or to respond to the problem should be followed by an additional letter from you stating that a reasonable time has passed since your notification of the problem and the failure to cure and therefore, you consider this noncompliance or quality of service issue to be an issue that you have preserved and may raise at the time of the license renewal as a basis of denial."

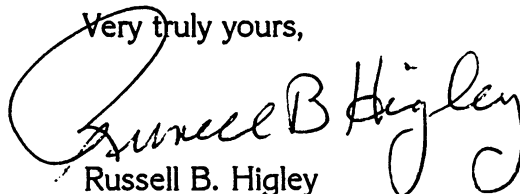
MUST-CARRY AND RETRANSMISSION CONSENT RULES

These regulations, which apply to cable operators and broadcasters, require cable systems to carry on demand, educational and commercial broadcast stations. They don't require action by the local franchising authority but their existence may explain why some channels change positions or other channel modifications.

It appears that local franchising authorities can require more than 30 days notice of channel changes as a customer service issue. Local authorities retain the right to be able to determine the use of the public access channels, including non-use of the channels, even if it means the cable operator must juggle its lineup to fulfill its other transmission obligations.

In summary, the City of Cambridge will need to decide if it will enforce the federal rules for customer service and send out the appropriate letters of notice. The City should continue to document and respond to noncompliance and quality of service issues as advised by the Massachusetts Cable Commission. The City should also remain in contact with the Cable Commission so that it will be able to take advantage of its role in rate regulation which may result in lower prices of the citizens of Cambridge.

Very truly yours,

A handwritten signature in cursive script that reads "Russell B. Higley". The signature is written in black ink and is positioned above the printed name.

Russell B. Higley

Enclosures:

SUMMARY OF CABLE RATE REGULATION REPORT AND ORDER

(MM DOCKET NO. 92-266)

Temporary Freeze of Regulated Cable Rates

1. Cable service and equipment rates not subject to effective competition will be frozen for 120 days effective April 5, 1993. This action will prevent cable operators from raising rates before the Commission's rules become effective and will enable local governments and cable subscribers a reasonable period of time to start the rate regulation process before new rate increases are implemented. During the freeze, the average monthly subscriber bill for regulated services and equipment may not increase above the average monthly subscriber bill for such services and equipment as calculated under rates in effect on April 5, 1993. The freeze does not preclude operators from adding subscribers, retiering services, unbundling services and equipment, or providing additional services and equipment, as long as cable operator does not intend to evade the freeze and the average monthly subscriber bill does not increase over the April 5, 1993 level.

Standards and Procedures for Identifying Cable Systems Not Subject to Effective Competition

Definitional Issues:

2. Cable service and equipment rates may only be regulated under the Cable Consumer Protection and Competition Act of 1992 ("1992 Act") if the cable system is not subject to effective competition. Under the statute, "effective competition" exists if: (a) fewer than 30 percent of households in the franchise area subscribe to the cable system; (b) (i) the franchise area is served by at least two unaffiliated multichannel video programming distributors ("multichannel distributors"), each of which offers comparable programming to at least 50 percent of households in the franchise area, and (ii) the number of households subscribing to programming services offered by multichannel distributors other than the largest multichannel distributor exceeds 15 percent of households in the franchise area; or (c) the franchise authority itself is a multichannel distributor and offers video programming to at least 50 percent of the households in the franchise area.

3. When applying this definition, multichannel distributors will include cable systems, MMDS operators, SMATV systems, DBS operators, TVRO distributors and video dialtone service providers. Programmers using leased access channels on cable systems will not be considered multichannel distributors.

4. A multichannel distributor's service is "offered" in a franchise area if the service is both technically and actually available, with no regulatory, technical or other impediments to households taking service. Service will be deemed to be "technically available" when the multichannel distributor is physically able to deliver the service to a household wishing to subscribe, with

only minimal additional investment by the distributor. A service will be considered "actually available" if subscribers in the franchise area are reasonably aware through marketing efforts that the service is available.

5. The term "household" is defined as each separately billed or billable customer, except that individual residents of multiple dwelling units will be treated as separate households.

6. For purposes of applying the 15 percent threshold in the second effective competition test, subscribership of alternative multichannel distributors will be calculated on a cumulative basis; however, only those multichannel distributors that offer programming to at least 50 percent of households in the franchise area will be included in the 15 percent cumulative measurement.

7. A multichannel distributor will be deemed to offer "comparable programming" to that provided by a cable system if it offers at least twelve channels of video programming, including at least one nonbroadcast channel.

Finding of Effective Competition:

8. For purposes of implementing rate regulation by local franchising authorities, cable operators will be presumed not to be subject to effective competition. Franchising authorities may rely on this presumption when filing a certification to regulate basic rates with the Commission. The cable operator will then have the burden of rebutting this presumption with evidence demonstrating that effective competition does in fact exist.

9. To ensure that cable operators have access to the data they need to mount a successful challenge to the presumption against effective competition, alternative multichannel distributors will be required to respond, within 15 days, to requests from cable operators for relevant information. Responses by the alternative distributors may be limited to the numerical totals needed to calculate the distributor's reach and penetration in the franchise area.

Assertion of Jurisdiction over Basic Service and Equipment Rates

Division of Jurisdiction Between FCC and Local Governments:

10. The 1992 Cable Act requires local authorities wishing to regulate basic service and equipment rates to certify in writing to the Commission that (1) its rate regulations will be consistent with the rate regulations we prescribe; (2) it has the legal authority to adopt, and the personnel to administer, rate regulations; and (3) its procedural rules provide an opportunity for consideration of the views of interested parties.

11. Under the statute, local franchising authorities and the Commission have shared jurisdiction over the regulation of basic service and equipment rates. However, the Commission will not exercise its jurisdiction unless either (a) a local franchising authority's certification is denied or revoked, or (b) the franchising authority requests us to regulate basic rates because it has insufficient resources to regulate or it lacks the legal authority to do so.

Franchising authorities requesting Commission intervention on the basis of insufficient funds must submit a showing explaining why the franchise fees it obtains cannot be used to cover the cost of rate regulation at the local level. The Commission will not regulate basic rates where a local government voluntarily chooses not to seek certification because it is satisfied with the rates charged by the local cable operator.

Preemption Issues:

12. Franchising agreements that prohibit rate regulation are preempted by the 1992 Cable Act. By contrast, state laws that preclude rate regulation are not preempted, although in such cases the Commission will assume jurisdiction over basic service and equipment rates. Similarly, state laws that prohibit local governments from engaging in rate regulation are not preempted; in these cases, basic rate regulation will be conducted at the state level.

The Certification Process:

13. Franchising authorities intending to regulate basic rates must first submit a form certification with the Commission. This form, which will be available from the FCC, will certify that the franchising authority has met the statutory requirements (set forth above) for seeking certification and will further certify that, to the best of the franchising authority's knowledge, effective competition does not exist in the franchise area.

14. Franchising authorities may begin filing certifications with the Commission 30 days after publication of the Report and Order in the Federal Register, although there is no deadline by which a franchising authority must seek certification. Under the statute, a certification will go into effect in 30 days unless Commission finds that it is defective. However, franchising authorities will not be able to begin regulating rates until they have adopted regulations consistent with those adopted by the Commission in the Report and Order and have implemented rules which give interested parties a reasonable opportunity to comment during the rate regulation process.

Certification Challenges:

15. The Commission recognizes that cable operators are likely to challenge franchising authority certifications on a number of grounds. The most serious challenge is the assertion that effective competition exists and thus rate regulation is not permitted under the Act. Cable operators who believe they currently face effective competition (as defined by the Act) should file a petition for reconsideration of the franchising authority's certification request. Such petitions may be filed any time within the 30 day period after a certification has become effective. An operator filing a petition for reconsideration on the ground that it is subject to effective competition will be granted an automatic stay of rate regulation until resolution of the petition, subject to refund liability back to the date the petition was filed if the Commission subsequently determines that there is no effective competition. Cable operators that file frivolous effective competition petitions to take advantage of the automatic stay provision will be subject to forfeitures.

16. If a cable operator that is not now subject to effective competition later faces such competition, it may petition the franchising authority for a change in its regulatory status. The burden will be on the cable operator to prove that effective competition now exists.

17. If an operator believes that a franchise authority cannot be certified due to other defects (e.g., it does not have the legal authority, it lacks adequate resources or its rate regulations are not consistent with ours), the operator may file either a petition for reconsideration (which would be filed within 30 days after the certification becomes effective) or a petition for revocation (which could be filed at any time). Operators filing such petitions will not be entitled to an automatic stay of regulation.

18. Where the Commission denies a certification on other than effective competition grounds, the franchising authority will be notified and informed of any modifications that must be made in order to obtain Commission approval. If, after this opportunity to cure, the authority still fails to meet the certification requirements, its certification will be revoked.

Rate Regulation Procedures Used by Local Franchising Authorities:

19. Once a franchising authority has been certified and has adopted the appropriate rules, it must notify the cable operator that these requirements have been met and that it intends to regulate basic service rates. The cable operator will then have 30 days to file its basic rate schedule (and any supporting material concerning the reasonableness of its rates) with the franchising authority.

20. Upon receipt of the operator's basic rate schedule, the franchising authority will have 30 days either to find that the rates are within the FCC's benchmarks, that the rates are outside the benchmark, or that it cannot make that determination on the basis of the material before it. In either of the latter two cases, the franchising authority will issue a brief order to that effect and will have additional time in which to reach a final decision.

21. If the franchising authority finds the rates to be unreasonable, it may order a reduction of those rates to the maximum level permitted by the Commission's benchmarks and caps. Reductions below the benchmarks may be ordered based upon a cost-of-service showing. The franchising authority also may prescribe a reasonable rate above the benchmark where appropriate. If the franchising authority orders a rate reduction, it may also order refunds (including interest) dating back to the effective date of the Commission's rules or one year, whichever is shorter.

22. The same two-step review process will be used on a going-forward basis when a regulated cable operator seeks a rate increase.

Appeals of Local Franchising Authority Rate Decisions:

23. Appeals of a local franchising authority's rate decision that involve questions of whether or not the decision is consistent with the Commission's rate regulations will be resolved by the Commission; other challenges will be appealed

to local courts. Subscribers and other interested parties who participated in the local rate proceeding will have standing to appeal rate decisions.

Assumption of Jurisdiction by the Commission:

24. If the Commission denies or revokes a franchising authority's certification, it will exercise the franchising authority's jurisdiction over basic rate regulation until the authority requalifies.

Regulation of Basic Service and Equipment Rates

Components of the Basic Service Tier Subject to Rate Regulation:

25. The 1992 Cable Act requires cable operators to offer subscribers a separately available basic service tier to which subscription is required for access to any other tier of service. The basic tier must include, at a minimum, all must-carry signals, all PEG channels, and all television signals other than superstations. The cable operator may add other channels of programming to its basic tier at its discretion. The statutory definition preempts provisions in franchise agreements that require additional services to be carried on the basic tier.

26. Subscribers must purchase the basic service tier in order to gain access to video programming offered on a per-program or per-channel basis. Purchase of the basic tier is not required in order to buy non-video programming services such as cable radio.

27. Cable operators subject to rate regulation may have only one "basic" tier which must be unbundled from all other tiers; multiple basic tiers will not be permitted for rate regulation purposes.

Regulation of Basic Service Tier Rates:

The Benchmark System:

28. A benchmark system will be used to regulate basic service tier rates, with cost-of-service showings available only to allow cable operators to justify rates above the benchmark. Local franchising authorities may not elect cost-of-service as their primary form of rate regulation but must apply the FCC benchmark system.

29. The same benchmark structure and rate levels will be adopted for the basic and cable programming service tiers. This approach will decrease incentives to create "stripped down" basic tiers and cost-shift between tiers in an effort to justify rates above the benchmark levels.

30. The Commission's survey of September 30, 1992 cable rates reveals that, on average, the rates charged by cable systems facing no effective competition are approximately 10 percent higher than rates charged by similarly-situated systems that do face competition. The data further reveal that this "competitive differential" occurs across the industry.

31. The Commission survey results have been used to develop a benchmark formula that will enable regulators to approximate what the competitive rates should be for a given cable system with particular characteristics. This formula will be used to calculate what the competitive rate should be for an individual system.

32. When assessing the reasonableness of a cable system's rates, local franchising authorities may not require systems whose September 30, 1992 rates were below the competitive benchmark to reduce rates below that level. However, the current reasonable rate for the system will be calculated by taking the system's September 30, 1992 rates and adjusting those rates forward for inflation. Regulated systems whose September 30, 1992 rates are above the competitive benchmark will be required to reduce their September 30, 1992 rates to the benchmark or by 10 percent, whichever is less. Their current reasonable rate will then be determined by adjusting the reduced rate forward for inflation. Cable systems not making the 10 percent rate reduction will be required to justify the higher rate to a regulating franchise authority by using a cost-of-service showing.

Special Scrutiny for "Outliers":

33. After August 1, 1993, the Commission will begin investigating the rates of "outlier" systems. Systems subject to investigation will be selected from among those systems, identified by local franchising authorities or subscriber complaints, whose September 30, 1992 rates were substantially above the competitive benchmark. An outlier system subject to such an investigation will have to demonstrate that its high rates are justified by high costs. This enforcement scheme will put systems whose September 30, 1992 rates were well above the benchmark on notice that they face investigation by the FCC. If the Commission finds that their rates are not cost-justified, the systems could be ordered to reduce their rates to whatever level is found to be appropriate, even if that level is below the benchmark.

Rate Increases:

34. Increases in basic service rates regulated by local franchising authorities will be capped by a Commission-established price cap formula. In particular, requested increases may not exceed the GNP fixed weight price index (GNP-PI), which reflects general increases in the cost of doing business and measures changes in overall inflation. Limited exceptions will be made for increases in external costs that are beyond the cable operator's control, such as taxes, franchise fees, the costs of other franchise requirements, and increases in programming costs which exceed the GNP-PI. A proposed rate increase that exceeds the permitted cap must be justified by a cost-of-service showing or will be disallowed.

Cost-of-Service Showings:

35. The Commission, not local franchising authorities, will set standards to govern cost-of-service showings. However, the record does not contain sufficient information for the Commission to adopt final standards at this time. Accordingly, a further Notice of Proposed Rulemaking is being issued to seek

additional comment on the development of appropriate standards. (See paragraphs 63-64, below.)

36. Until final cost-of-service standards are adopted, local franchising authorities will have the discretion to apply general cost-of-service regulatory principles to cost-of-service showings submitted by regulated cable operators. If the local authority's decision is appealed, the operator's cost-of-service showing will be reviewed by the Commission on a case-by-case basis.

Regulation of Equipment Used to Receive the Basic Service Tier:

37. The 1992 Act requires the Commission to establish standards for setting, on the basis of actual cost, the rate for installation and lease of equipment used by subscribers to receive the basic service tier, and installation and lease of monthly connections for additional television receivers.

38. The Commission concludes that equipment "used" to receive the basic service tier includes converter boxes, remote controls, connections for additional television sets and cable home wiring. Such equipment is subject to basic service rate regulation even if it is also used to receive cable programming services. However, equipment used only to receive cable programming services will be regulated by the Commission.

39. Operators must completely unbundle charges for all equipment, additional outlets and installations. Local franchising authorities regulating basic service equipment shall use the actual cost standards developed by the Commission.

Subscriber Bill Itemization:

40. Cable operators may identify as a separate line item on each subscriber bill the amount of any fee, tax, assessment or charge imposed by a government entity on the transaction between the operator and the subscriber.

Regulation of Cable Programming Service Rates and Equipment by FCC

Procedural Issues:

41. Under the 1992 Act, regulation of "cable programming service" rates and equipment is to be conducted by the Commission, not local franchising authorities. "Cable programming service" is defined broadly in the statute as all video programming provided over a cable system except that provided on the basic service tier or on a per-channel or per-program basis. The Commission will also exclude per-program and per-channel premium services offered on a multiplexed or time-shifted basis.

42. The 1992 Act provides that rate regulation of cable programming services and equipment will be a complaint-driven process -- i.e., the Commission will not regulate cable programming service rates until it receives a complaint that a particular operator's rates are unreasonable. Thus, the procedures adopted by the Commission for handling cable programming rate regulation are significantly different from those used to regulate basic service rates.

43. The 1992 Act permits subscribers, franchising authorities and other relevant government entities to file complaints about the rates for cable programming services and equipment. As required by law, complainants alleging that a cable operator's current cable programming rates are unreasonable will have 180 days from the effective date of the Commission's rules to challenge existing rates. On a going-forward basis, complainants must file complaints about cable programming service and equipment rates within 45 days from the time subscribers receive a bill that reflects the rate increase (that is, roughly 75 days from the announcement of the proposed rate increase).

44. In order to avoid dismissal of a complaint, the complainant must supply certain readily available factual information and must allege that the rate is unreasonable because it violates the Commission's rate regulations. Complainants must use the complaint form adopted by the Commission and serve a copy on the cable operator.

45. Subscribers need not obtain the franchising authority's concurrence before filing a complaint with the Commission. However, franchising authorities are encouraged to assist subscribers in completing complaint forms and subscribers are free to attach the views of the franchising authority when submitting a complaint to the FCC. Franchising authorities will not be permitted to formally review and adjudicate cable programming service complaints in the first instance.

46. Upon receipt of a cable programming service complaint submitted on the FCC form, the Commission will review the complaint to determine whether it meets the minimum showing needed to permit the complaint to go forward. The operator must respond to a complaint within 30 days of its receipt, unless the Commission notifies the operator that the complaint fails to satisfy the minimum showing requirement.

47. If cable programming service rates are found to be unreasonable, the Commission will order the operator to reduce the rates to a specific reasonable level and to reflect that reduction in prospective bills to customers. Generally, the rate specified as reasonable will be the applicable benchmark, although the Commission may specify a higher rate depending on an operator's cost-of-service showing. The operator will then be required to refund overages (plus interest) to subscribers, with refunds being calculated from the date the complaint was filed until the date the operator implements the reduced rate prospectively in bills to subscribers.

Substantive Issues:

48. The Commission does not believe that the 1992 Act mandates use of a "bad actor" test for cable programming service rates, and the Commission's standards for reviewing complaints about such rates will not be designed simply to reach those cable operators whose rates for cable programming services are "egregious." Rather, when assessing a complaint that a system's cable programming service rates are unreasonable, the Commission will use the same test of reasonableness adopted for basic service rate regulation.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Notifications to subscribers—

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

(ii) Billing—

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) *Normal business hours*—The term "normal business hours" means those hours during which most similar

businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) *Normal operating conditions*—The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular pe or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) *Service interruption*—The term "service interruption" means the loss picture or sound on one or more cable channels.

[FR Doc. 93-9056 Filed 4-16-93; 8:45 am]

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must respond to a written complaint within 30 days. Refund checks must be issued promptly, but no later than (i) the next billing cycle or 30 days thereafter, or (ii) the return of the equipment supplied by the cable operator if service is terminated. Credits for service must be issued no later than the customer's next billing cycle.

11. The Commission declined to add to its standards a flat late fee charge. It also declined at this time to adopt customer service standards in areas not specified in the statute. The Commission concluded that if there are other areas of concern, the statute and the Commission's rules allow the franchising authority to address those issues.

Administrative Procedure Act

12. Adelphia Communications Corporation ("Adelphia") challenged the Commission's proposed action in this proceeding as failing to comply with the notice provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq. ("APA"). Specifically, it argues that the Notice in this proceeding has given inadequate notice of the customer service standards it intends to adopt, how such standards will be enforced, the interaction of the proposed Federal standards with State and local laws and existing cable franchise agreements, or any alternative approaches under consideration. The Commission rejected this argument, concluding that the Notice amply articulated the purposes intended to be served by the Commission's action. Specifically, the Commission noted that the Notice adequately set forth and elicited comment on specific proposals to implement section 8 of the Cable Act of 1992 as discussed in detail in the Report and Order.

Final Regulatory Flexibility Analysis

13. Pursuant to the Federal Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need and Purpose of This Action

The Commission's goal is to implement Section 8 of the Cable Act of 1992, which concerns customer service standards to be applied to cable operators nationwide.

II. Issues Raised in Response to the Initial Regulatory Flexibility Analysis

The Chief Counsel for Advocacy of the United States Small Business Administration ("USSBA") took no position on adoption and enforcement issues raised in the Notice. It did, however, urge the Commission to limit the standards to be developed to those

specifically enumerated in the statute, and suggested that a later Notice of Inquiry could be launched if it appears that further standards might be appropriate. USSBA also stated that the Commission should establish more than one Federal customer service benchmark. Specifically, it advocated tiering customer service standards based on the size and type of system, then further subdivide categories based on the age of the cable system, and then further classify systems based on the number of subscribers. Once separate tiers have been established, USSBA would not select specific customer service targets, but rather a range of standards from which cable operators and franchising authorities could agree. Although it acknowledges that this type of stratification may be complex, USSBA states that it will work to ensure that comparable type systems meet comparable customer service standards.

III. Significant Alternatives Considered

USSBA's and other commenting parties' comments concerning small business concerns and alternatives were fully considered in this proceeding. The Commission agreed with USSBA regarding the establishment of customer service standards specifically enumerated in the statute. However, this Report and Order does not accept USSBA's specific arguments concerning the establishment of multiple national standards based on classifications of cable systems. The Commission did, however, consider various alternatives, including USSBA's, in responding to the concerns regarding the impact of these matters on small cable systems.

Ordering Clauses

14. Accordingly, it is ordered, That, pursuant to authority contained in sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, and the Cable Television Consumer Protection and Competition Act of 1992, Public Law No. 102-385, part 76 of the Commission's Rules, 47 CFR part 76, is hereby amended as set forth below.

15. It is further ordered, that the rule changes made herein will become effective July 1, 1993.

List of Subjects in 47 CFR Part 76

Cable television.
Federal Communications Commission.
Donna R. Searcy,
Secretary.

Amendatory Text

Title 47 CFR, part 76 is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 is revised to read as follows:

Authority: Sections 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309; secs. 612, 614-615, 623, 632, as amended, 106 Stat. 1460; 47 U.S.C. 532, 533, 535, 543, 552.

2. Section 76.309 is added to subpart H to read as follows:

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

enforced by local franchising authorities, which will be required to provide cable operators with 90-days written notice of their intent to enforce them.

4. The Commission found that, as a general principle, specific customer service requirement enforcement mechanisms and processes are to be determined by the franchise authorities. To the extent that existing franchise agreements may prohibit franchise authority enforcement of customer service standards, such provisions are preempted by the Federal statute. A franchise authority that chooses to enforce the FCC standards may unilaterally modify the franchise agreement to the extent necessary to implement local enforcement of the Commission's customer service requirements. Franchise authorities may also enforce service requirements either pursuant to the terms of an existing franchise agreement which provides for effective enforcement; with the consent of the affected cable operator; pursuant to applicable State or municipal consumer protection or customer service law or regulation; or pursuant to the franchising process. Existing customer service requirements exceeding the standards developed by the FCC contained in current franchise agreements will be grandfathered through the end of the franchise term. The Commission declined to adopt a flat exemption for small cable systems, but instead will permit small systems to seek waivers of its standards should they conclude that one or more of those standards is too onerous. The Commission will consider small systems to be those with 1,000 or fewer subscribers.

5. The Commission declined to establish specific customer service reporting requirements or refund or penalty guidelines applicable to all cable operators nationwide. It was concerned that adoption of Federal enforcement standards could preempt local enforcement mechanisms and hamper effective local enforcement of customer service requirements. Similarly, and based on the record before it, the Commission did not establish specific, universally applicable remedies or penalties for operators that do not comply with their customer service obligations. Local governments, it reasoned, should be free to avail themselves of reasonable remedies to assure compliance and fairness to all parties and free to pursue nonmonetary forms of relief to assure customer satisfaction. The Commission expected that overall system-wide compliance based on aggregate performance will be

a fundamental concern to franchise authorities. However, the Commission concluded that it is not appropriate to preclude local resolution of individual subscriber complaints that cannot be resolved between the cable operator and its customer.

6. The Commission also found that the Cable Act of 1992 provides the FCC with no direct role in the enforcement of customer service standards. Accordingly, the Commission found that the customer service standards it adopted should be enforced by local franchise authorities. However, consistent with the Commission's overall obligation to effectuate the reforms mandated by the 1992 Cable Act, the Commission retained the authority to address, as necessary, systemic abuses that undermine the statutory objectives.

7. For purposes of its customer service standards, the Commission defined the key terms underlying the standards to prevent confusion. *Normal business hours:* For purposes of the Commission's customer service standards, the term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours. *Normal operating conditions:* The term "normal operating conditions" includes those conditions which are within the control of the cable operator, including special promotions, pay-per-view events, rate increases, and maintenance or upgrade of the cable system. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather. *Service interruption:* A "service interruption" means the loss of picture or sound on one or more channels.

8. As to the standards themselves, the Commission will require that cable operators will maintain a local, toll-free or collect call telephone access line which will be available 24 hours a day, seven days a week, with trained representatives answering the phone during normal business hours; telephones will be answered within 30 seconds and call transfers will be made within another 30 seconds; the caller will receive a busy signal less than three percent of the time and customer service and bill payment centers will be open at least during normal business hours and will be conveniently located. The cable operator will not be required to acquire equipment or perform surveys

to measure compliance with the telephone answering standards unless an historical record of complaints indicates a clear failure to comply.

9. Under normal operating conditions, the following standards will be met no less than 95 percent of the time as measured on a quarterly basis: (A) Standard installation will be performed within seven business days after an order has been placed. "Standard" installations are those that are local up to 125 feet from the existing distribution systems. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem; (B) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer); (C) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment; and (D) If an installer or technician is running late and will not be able to keep the service appointment as scheduled, the customer will be contacted and the appointment will be rescheduled at a time which is convenient for the customer.

10. The Commission will require cable operators to provide written information at the time of installation, and, at least annually, to all subscribers on products and services, prices and options and conditions of subscription to programming and other services, installation and service maintenance policies, instructions on how to use the cable service, channel positions of programming carried on the cable system, and billing and complaint procedures. Customers must be notified of any changes in rates, programming or channel positions as soon as possible through announcements on the cable systems and in writing. Subscribers must be notified at least 30 days before changes in any of the customer service standards within the control of the cable operator, or any other significant changes in the information conveyed to subscribers. Bills must be clear, concise and understandable and must be fully itemized, including basic and premium service and equipment charges. In case of a billing dispute, the cable operator

Synopsis of Report and Order

1. By this Report and Order ("Order"), the Commission implements section 632 of the Communications Act of 1934, as amended by section 8 of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992" or "1992 Act"). That provision governs the establishment, implementation and enforcement of customer service standards for cable operators nationwide. In the Notice of Proposed Rule Making, 57 FR 61038 (December 23, 1992) ("Notice"), in this proceeding, the Commission solicited comment on issues concerning the implementation of section 8 of the Cable Act of 1992.

2. Section 632(a) of the Communications Act, as amended by section 8 of the Cable Act of 1992 provides that a franchising authority may establish and enforce customer service requirements and construction schedules and other construction-related requirement, including construction-related performance requirements, of the cable operator. Section 632(b) requires the Commission to establish standards by which cable operators may fulfill their customer service requirements, including, at a minimum, requirements governing (1) cable systems office hours and telephone availability; (2) installations, outages, and service calls; and (3) communications between the cable operator and the subscriber (including standards governing bills and refunds. Section 632(c) permits franchise authorities to agree with cable operators to adopt stricter standards, and to enact any State or municipal law or regulation which imposes a stricter or different customer service standard than that set by this Commission.

3. After analyzing the comments of interested parties, the Commission concluded that the implementation scheme most consonant with the language of the statute and Congress' intent is for the Commission to establish self-executing standards which set forth customer service obligations of cable operators nationwide in the specific areas delineated by section 8 of the Cable Act of 1992. The Commission used existing voluntary industry standards as a starting point for its Federal standards. However, the Commission modified and added to those standards to include definitions of key terms in the standards, and to strengthen other standards to ensure more satisfactory customer service. These standards will become applicable to all cable operators on a nationwide basis on July 1, 1993 and will be

47 CFR Part 76

[MM Docket No. 92-263; FCC 93-145]

Cable Act of 1992—Consumer Protection and Customer Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order ("Order"), the Commission implements section 632 of the Communications Act of 1934, as amended by section 8 of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992" or "1992 Act"). That provision governs the establishment, implementation and enforcement of customer service standards for cable operators nationwide. The Notice of Proposed Rule Making in this proceeding sought comment on issues concerning the implementation of section 8 of the Cable Act of 1992. This action is taken in order to comply with the 1992 Act.

EFFECTIVE DATE: July 1, 1993.**FOR FURTHER INFORMATION CONTACT:**

Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792 or David Krech, Office of Legislative Affairs, (202) 632-6405.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 92-263, FCC 93-145, adopted March 11, 1993, and released April 7, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service (ITS), at (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

necessary to compile this report.

Leased Commercial Access

60. The Communications Act requires that cable systems with 36 or more channels make available a portion of their channel capacity for lease by outside unaffiliated parties. The Commission is provided with expanded authority under the 1992 Act to determine the maximum reasonable rates that may be charged for use of these leased access channels. The rules adopted set a maximum channel rate based on the highest implicit fee charged to any nonaffiliated programmer within the same program category. The implicit rate is calculated by determining the amount paid per month by subscribers for the service and deducting from that the amount that is paid per month to the programming service vendor. The difference between the amount received and the amount paid is the implicit leased channel rate. Such rates are to be calculated separately for pay-per-program or pay channels, channels containing more than fifty percent direct sales (home shopping networks), and all other channels.

61. In accordance with the statutory provisions, up to 33 percent of a system's designated leased channel capacity may be used for qualified minority or educational programming purchased by the system operator rather than by leased channel programming. The operator may also be required to provide billing and collection services, unless the operator can demonstrate that third parties provide services which, in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased programming.

62. Given the lack of focus on leased channel issues in this proceeding and the absence of Commission experience in administering rules of this type, the Commission will collect additional information regarding the functioning of the leased access rate rules and will revise the rules as necessary. An expedited complaint process will be used to address complaints regarding leased channel rate and access issues.

Further Notice of Proposed Rulemaking on Cost-of-Service Standards

63. The Commission has determined that it does not have sufficient information to adopt cost-of-service standards to govern cost showings by cable operators seeking to raise rates above capped levels. Cost-of-service standards will govern the level of cost averaging permitted and define the costs and level of earnings that will permit rate increases above capped levels.

64. The Commission thus seeks further comment on what level of cost averaging should be permitted in cost-of-service showings: franchise, system or company level. It also seeks comment on what determinations should be made with respect to allowable rate base, earning and depreciation of plant and equipment. Pending resolution of the further rulemaking, cable operators will be required in any cost-of-service showing to present costs averaged in accordance with current practices. Local authorities and the Commission will review cost-of-service showings in the interim on a case-by-case basis.

formula developed by the Commission should be further refined. Although the Commission will not at this time require all cable operators to file annual financial information, it will explore this issue further in the Further Notice on cost accounting and cost allocation rules.

55. The Commission observes that including all types of "competitive" systems, as defined under the 1992 Act, in its analysis of September 30, 1992 cable rates resulted in an average difference in prices between competitive and noncompetitive systems that was lower than if some competitive systems -- i.e., those with lower than 30 percent penetration -- were not included in the analysis. The Commission thus will issue a Further Notice to request further comment on whether there is a legal basis for excluding these low penetration systems from its analysis and, if so, whether they should be excluded and rates reduced even further.

Prevention of Evasions:

56. Prohibited "evasions" will be defined as any practice or action which avoids the rate regulation provisions of the 1992 Act or the Commission's rules contrary to the intent of the Act or its underlying policies.

Treatment of Small Systems:

57. Franchise authorities regulating small cable systems will be permitted to exempt those systems from having to file an initial rate schedule with the franchising authority. In such cases, the small system need simply certify to the authority that its rates for basic service and equipment are reasonable and are within the applicable benchmark formula. However, a small system whose rates exceed the benchmark, a small system proposing to increase its basic service rates or a small system answering a cable programming service complaint will not be exempted from the procedures the Commission has established. For these purposes, a "small system" is a system with fewer than 1,000 subscribers.

Grandfathering Existing Rate Agreements:

58. Franchising authorities already regulating rates pursuant to a franchise agreement executed before July 1, 1990 may continue to regulate basic service and equipment rates for the remainder of the franchise term without filing a certification with the Commission. Authorities with agreements signed after that date must be certified by the Commission. Moreover, franchising authorities regulating rates pursuant to grandfathered franchise agreements must nonetheless comply with the Commission's rate regulation procedures and standards.

Reports on Average Prices:

59. The 1992 Act requires the Commission to annually publish statistical reports regarding average cable rates and associated fees, including a comparison of such charges between those cable systems that are subject to effective competition and those systems that are not. The Commission will use the results of the survey described above in paragraph 54 to collect the information

49. As with basic service rates, the Commission will use a benchmark approach as the principal form of rate regulation for cable programming services, with cost-of-service showings used only by cable systems whose rates exceed the benchmarks. The same benchmark system developed for basic service rate regulation discussed above in paragraphs 28-34 will be applied when evaluating complaints about the alleged unreasonableness of cable programming service rates.

50. Complaints concerning the rates for equipment used to receive cable programming services also will be evaluated using the same "actual cost" approach developed for equipment used to receive the basic service tier. Operators whose cable programming service equipment rates are the subject of a complaint filed at the Commission will have to unbundle its equipment charges and establish that those charges comply with the Commission's "actual cost" standard.

Provisions Applicable to Cable Service Generally

Geographically Uniform Rate Structure:

51. A cable system must have a uniform rate structure throughout the franchise area. This requirement, however, does not preclude operators from establishing reasonable categories of customers and services. The reasonableness of such categories will be determined on a case-by-case basis by the governmental entity regulating rates.

Discrimination:

52. A cable operator may offer reasonable discounts to senior citizens and other economically disadvantaged individuals. For this purpose, an "economically disadvantaged individual" will be defined as a person who receives federal, state or local welfare assistance.

Negative Option Billing:

53. The 1992 Act provides that an operator may not charge a subscriber for "any service or equipment that the subscriber has not affirmatively requested by name." This limitation on so-called "negative option billing" applies whenever a new tier or single channel service is added. However, restructuring undertaken to respond to the Commission's new rate regulations will not bring the negative option billing provision into play as long as subscribers continue to receive the same number of channels and the same equipment, and the total price for the services does not change. On a going-forward basis, the provision does not apply to changes in the mix of channels in a tier, even when those changes are accompanied by a rate increase, unless the changes alter the fundamental nature of the service tier.

Further Notice and Survey of Cable Service and Equipment Rates:

54. The Commission will conduct detailed cost studies of selected cable operations to test the accuracy of its benchmark. In addition, next fall, the Commission will conduct another survey of a random sample of cable systems to collect information about equipment and program service rates. The results of this survey and the cost studies will be used to assess whether the benchmark



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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
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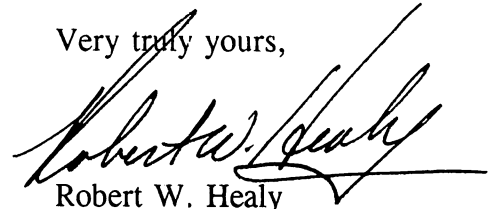
RICHARD C. ROSSI
Deputy City Manager

June 7, 1993

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 6, regarding the 1992 Cable Television Consumer Protection and Competition Act received from City Solicitor Russell B. Higley.

Very truly yours,



Robert W. Healy
City Manager

RWH/mev
attachment

Consent Agenda #6 5- 273
RE: Awaiting Report #6 RE: 1992
Cable Television Consumer Protection
and Competition Act.

In City Council,
June 7, 1993

Referred to Cable TV
Committee by Councilor Duchay