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**VIA ECFS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
455 12th Street SW  
Washington, DC 20554

**Re: Revisions to Cable Television Rate Regulations; MB Docket No. 02-144, MM Docket No. 92-266, MM Docket No. 93-215, CS Docket No. 94-28, CS Docket No. 96-157**

Dear Ms. Dortch,

On June 29, 2018, I spoke with Martha Heller and Brendan Murray of the FCC's Media Bureau regarding a potential modified approach to simplify and update the cable rate regulation process. The attached proposal would allow cable operators to justify regulated basic service and equipment rates based on a comparison to contemporary rates established in communities subject to "effective competition."

Respectfully submitted,

**/s/ Diane Burstein**

Diane Burstein

cc: Martha Heller  
Brendan Murray

Attachment

## Rate Regulation Reform

**Premise:** The 25-year-old benchmark rate regulation regime was intended to set Basic service and equipment rates for non-competitive systems in parity with rates for competitive systems. The existing regime is based on a complex, cumulative calculation starting with 1993 service and equipment rates and including a series of incremental adjustments for subsequent changes in channels, external costs, and rates, with projections and true-ups, as well as burdensome annual calculations of capital costs and operating expenses. It is time for reform, and the proposal set forth below would greatly simplify the regulatory process and better replicate the competitive marketplace, while fully protecting consumers.

## Updated Comparative Benchmark

**Proposal:** Under the Updated Comparative Benchmark (“UCB”) proposal, an operator’s regulated Basic service and equipment rates would be deemed “reasonable” if they do not exceed the standard service and equipment rates the operator charges for comparable offerings in its many communities subject to “effective competition.” Operators complying with the UCB could avoid all formal rate filings.

- The UCB would apply separately for Basic service and equipment rates. In each regulated community, the operator would compare the regulated service rate to the UCB service rate, and the regulated equipment rate(s) to the UCB equipment rate(s).
- If either the basic service or the basic equipment rates in regulated systems exceeds the UCB, the operator could either: (1) reduce the rate to the UCB level; or (2) justify the excess through alternative rate support –either the existing Forms 1240 and 1205 (or their replacements), or a new demonstration of local costs exceeding the average costs upon which the UCB was established.

**Rationale:** The vast majority of cable systems today face “effective competition.” Accordingly, an operator’s rate in these communities already reflects a market-based, competitive rate. Using this rate for regulatory purposes would fulfill the objectives and match the historical underpinnings of benchmark regulation, while also being much simpler to administer and easier to calculate.

**Benefits:** This approach would benefit consumers by facilitating consistent, market-driven Basic Service Tier (“BST”) rates across an operator’s cable systems. It would provide a built-in incentive for operators to offer competitive prices to all subscribers, even in markets without “effective competition”. With respect to operator benefits, this approach would facilitate more efficient region-wide and company-wide marketing, without the need for special rate adjustments for the remaining handful of regulated communities. These benefits would be achieved while simultaneously reducing the administrative burdens on federal, state, and local regulators and minimizing rate differentials based on historical anomalies.

**Implementation:**

- Operators would have the choice of establishing either a single, national UCB rate for Basic service or DMA/regional UCB rates (similar to the aggregation rules that are already applicable to Basic equipment rates).
- Operators would be allowed to calculate UCB rates based on reasonable system sampling.
- Operators would have the choice of establishing either an “all in” UCB rate for Basic service (excluding franchise fees and taxes) or a “core” benchmark rate to which the operator could add local “external” costs (e.g., franchise-related costs, retransmission consent costs, and other programming costs).
- The UCB Basic service rate would be compared to the regulated Basic service rate without regard to the particular number of BST channels offered in either regulated or unregulated communities, provided the UCB rate encompasses at least the same services that must be included in a rate regulated BST (i.e., local broadcast channels and PEG channels, where applicable).
- An operator would have the choice of when to compile its UCB, but the calculation would be made at least annually (unless it is not changing the Basic rate from the previous year). Regulated service and equipment rates would be deemed “reasonable” if they were equal to or less than the existing UCB rates or any new UCB rates established within 12 months of the last regulated rate increase.