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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 Rate Regulation	MM Docket No. 92-266

TO: The Commission

COMMENTS ON THE COMMISSION'S RATE SURVEY BY THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS, THE NATIONAL LEAGUE OF CITIES, THE UNITED STATES CONFERENCE OF MAYORS, AND THE NATIONAL ASSOCIATION OF COUNTIES

The National Association of Telecommunications Officers and Advisors, the National League of Cities, the United States Conference of Mayors, and the National Association of Counties (collectively, "Local Governments")[1] hereby submit these comments on the cable

[1] The National Association of Telecommunications Officers and Advisors represents local franchising authorities in more than 4,000 local franchise jurisdictions, which collectively regulate cable television systems that serve an estimated 40 million cable subscribers. The National League of Cities represents more than 16,000 cities and towns across the nation. The U.S. Conference of Mayors represents the more than 950 cities with populations exceeding 30,000 residents. The National Association of Counties represents the approximately 2,000 counties across the nation.

television rate survey data that cable operators submitted in response to the Commission's December 10, 1992 Order in the above-captioned proceeding.

I. INTRODUCTION

Local Governments believe that the survey results represent a significant step in identifying the magnitude of the monopoly rents charged to subscribers by most cable systems. The survey results demonstrate that cable rates have increased dramatically since deregulation in 1986 and that cable operators not subject to "effective competition" charge rates to subscribers that are significantly higher than rates charged by cable systems which face competition. They support the establishment of a benchmark rate that reflects the Cable Television Consumer Protection and Competition Act of 1992's ("1992 Cable Act's") overriding objective of establishing rates at a level comparable to those charged in competitive markets. The survey results also demonstrate, however, the need for the Commission to conduct additional fact-gathering activities to refine further the price survey data and to collect cost data from cable operators.[2]

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[2] It has been reported that some survey responses submitted in this proceeding may contain information that is clearly wrong or duplicative. See Warren's

[Footnote continued on next page]

II. DISCUSSION

The rate surveys clearly demonstrate that rates are significantly higher in monopoly markets than in competitive markets.[3] For instance, competitive cable systems charged an average per channel rate of only $0.46 for the provision of basic service and one additional tier of service.[4] Noncompetitive cable systems, however, charged a per channel rate of $0.67.

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Cable Regulation Monitor (March 1, 1993) (data includes "numbers that are clearly wrong" and "several duplications"). Local Governments urge the Commission to review the survey responses submitted by cable operators to ensure they are responsive to the intent of the survey. Similar review should be conducted of data submitted in response to future surveys.

[3] The data reveals 46 systems that are subject to competition from other privately-owned multichannel video programming distributors which meet the "effective competition" standard defined by the 1992 Cable Act. These cable systems hereinafter are referred to as "competitive cable systems." Cable systems that did not meet any of the "effective competition" tests -- the vast majority of the cable systems that responded to the survey -- are referred to hereinafter as "noncompetitive cable systems."

[4] The combined average rate per channel for basic service and an additional tier of service was determined as follows: For each competitive system that provided a basic service tier and an additional tier, the sum of the rates charged for the basic tier and the additional tier was divided by the sum of channels on the basic tier and the additional tier. The sum of the per channel rates for all such systems were then divided by the number of systems.

(A calculation was not made for cable systems providing basic and two additional tiers of service since the database did not include a competitive cable system that provides basic and two additional tiers of service.)

The average rate for noncompetitive cable systems was therefore 46 percent higher than the average rate for competitive cable systems.[5] This percentage differential is consistent with studies submitted in this proceeding and before Congress that estimated that noncompetitive cable systems charge monopoly rates that are approximately 50 percent higher than the rates charged by competitive cable systems.[6]

In addition to tier charges, noncompetitive cable systems also charge significantly more for installation and certain other items. For example, noncompetitive

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[5] There also was a significant difference in the per channel rate charged for individual tiers of service. For the additional tier of service, competitive cable systems charged an average of only 31 cents per channel, compared to an average of 49 cents per channel for non-competitive cable systems -- a difference of 58 percent. Competitive cable systems charged an average of 67 cents per channel for the basic tier, compared to 88 cents per channel for non-competitive cable systems -- a difference of 31 percent.

[6] Compare, e.g., Robert Rubinovitz, "Market Power and Price Increases for Basic Cable Service Since Deregulation" (U.S. Department of Justice, Antitrust Division, Economic Analysis Group) (Aug. 6, 1991) (estimating that approximately 50 percent of basic rate increases since rate deregulation in 1986 is attributable to the monopoly power of cable systems). See Comments of Austin, Texas, et al., filed January 27, 1993, at Appendix 1.

cable systems charge an average of $34.86 for installation, whereas competitive cable systems charge an average of only $26.79 -- a difference of 30 percent. Similarly, noncompetitive cable systems charge a tier change rate of $22.89, while competitive cable systems charge $13.58 -- a difference of 69 percent. In addition, noncompetitive cable systems charge an average reconnection fee of $27.30, compared to $20.35 for competitive cable systems -- a difference of 34 percent.[7]

Additional price and cost research is necessary. Local Governments believe that the overall per channel rate for competitive cable systems may be even lower than the 46 cents per channel suggested by the survey

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[7] The survey results suggest that non-competitive cable systems charge less than competitive cable systems for converters and remote control devices. Further surveys may better explain this anomaly since most of the survey results show that noncompetitive cable systems typically charge higher rates for cable services. Moreover, the lower rates non-competitive cable systems may charge for remote control devices and converters are more than offset by the monopolistic prices charged for service tiers, installation and the other service fees identified above. Moreover, competitive cable systems appear to provide more choice and greater diversity, which probably means that they better meet consumers' needs and interests. For example, subscribers to competitive cable systems enjoy an average of 25 basic channels and 45 total channels on their cable systems, while subscribers to noncompetitive cable systems receive an average of only 20 basic channels and 37 total channels -- a decrease of 25 percent and 22 percent respectively in service value, as measured by the number of channels, to consumers.

data. Indeed, the 46 systems that claim they are subject to "effective competition" from another private competitor may not all be actually subject to such competition. These cable systems may not, for example, compete head-to-head with their rivals. As Local Governments stated in their Comments, a determination of whether a cable system is subject to effective competition should be measured in that cable system's service area, rather than the area in which it has a franchise to provide service.[8] Two cable systems may each serve 50 percent of the franchise area they are authorized to serve, yet they may serve different portions of the franchise area or have only a slight overlap in service areas. Such cable systems are not actually competing in any meaningful sense.

Furthermore, cable systems that have been subject to effective competition for a long period of time may be expected to have lower rates than those charged by systems that have only recently experienced effective competition. Cable systems that only recently faced effective competition thus may be skewing the per channel rate upwards.[9] It is not possible to

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[8] Comments of NATOA, et al., filed January 27, 1993, at 14-15.

[9] Furthermore, rates for small cable systems may be skewing the average rate upwards -- to the disadvantage

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distinguish such systems based on the surveys.

With these essential refinements taken into account, the average per channel rate for competitive cable systems likely will be much lower than $0.46 per channel. Based on the economic studies submitted by the Consumer Federation of America, the National Association of Broadcasters and Austin, Texas, et al., Local Governments continue to believe that a "reasonable" per channel rate is approximately 34 cents per channel, with a zone of reasonableness of 15 percent.[10] The survey data, adjusted for the considerations described above, support such a finding, and a second price and cost

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of subscribers to larger cable systems. For example, the eleven competitive cable systems responding to the survey with less than 1,000 subscribers provided a basic tier and one additional tier at an average per channel rate for the combined tiers of 51 cents. The twelve competitive cable systems that serve between 1,000 and 20,000 subscribers reported a per channel rate of only 43 cents. The two competitive cable systems that reported serving more than 20,000 subscribers had per channel rates significantly lower than the 51 cents per channel rate for competitive cable systems with less than 1,000 subscribers. A competitive cable system that serves 36,948 subscribers had a per channel rate of only 44 cents per channel. A competitive cable system with 75,816 subscribers reported a per channel rate of only 37 cents. In order to protect subscribers to larger systems from an unfair benchmark rate, the Commission might create a matrix of benchmark rates that includes lower rates for larger systems.

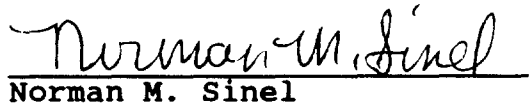
[10] See Reply Comments of NATOA, et al., filed February 11, 1993, at 12 (recommending a per channel rate of 34 cents per channel, with a 15 percent zone of reasonableness).

survey by the Commission would provide additional relevant information for future refinements of the benchmark(s).

III. CONCLUSION

The FCC's cable rate survey provides a significant first step in identifying the magnitude of monopoly rents in current cable rates. For the reasons identified above, Local Governments encourage the Commission to conduct additional fact-gathering activities in the near future in order to refine further the magnitude of monopoly rents charged by cable operators. As part of such additional activities, the Commission should collect cost data from cable operators. Until monopoly rents are purged from cable rates, cable subscribers will not be assured that they are paying "reasonable" rates for cable service as mandated by the 1992 Cable Act.

Respectfully Submitted,



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