

EX PARTE OR LATE FILED

RECEIVED

OCT - 8 1993

MILLER & HOLBROOKE

1225 NINETEENTH STREET, N. W.

WASHINGTON, D. C. 20036

TELEPHONE (202) 785-0800

FACSIMILE (202) 785-1234

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TERESA D. BAER
FREDERICK E. ELLROD III
LISA S. GELB
LARRINE S. HOLBROOKE
TILLMAN L. LAY
NICHOLAS P. MILLER
JOSEPH VAN EATON

WILLIAM R. MALONE
OF COUNSEL
BETTY ANN KANE*
FEDERAL RELATIONS ADVISOR

*NOT ADMITTED TO THE BAR

October 8, 1993

DOCKET FILE COPY ORIGINAL

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in MM Docket 92-266

Dear Mr. Caton:

Pursuant to 47 C.F.R. § 1.1206, the undersigned submits this original and one copy of a letter disclosing an oral ex-parte presentation.

On October 8, 1993, the undersigned and Stacey Sobel met on behalf of a coalition of municipalities and King County, Washington and Montgomery County, Maryland with Alexandra Wilson. The meeting dealt with the municipalities' interests in the proceeding and their concerns regarding potential violations of 1992 Cable Act rules. Attached are two copies of written exhibits which were given to Ms. Wilson at that meeting.

Very truly yours,

MILLER & HOLBROOKE

BY


Joseph Van Eaton

JVE:dmb

cc: Alexandra Wilson (via Hand Delivery)

sls\swexpart.ltr

No. of Copies rec'd
List ABCDE

041



TOWN OF OCEAN CITY RECEIVED

MAYOR & CITY COUNCIL
P.O. BOX 158
OCEAN CITY, MARYLAND 21842

OCT - 8 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY TO:

September 17, 1993

ROLAND E. POWELL
Mayor

COUNCIL MEMBERS

RICHARD W. MEEHAN
President

JAMES S. HALL
Secretary

VINCE GISRIEL, JR.
SALLY HACKING
WALTER C. MANN
JAMES N. MATHIAS, JR.
HENRY B. WESTFALL

DENNIS W. DARE
City Manager

CAROL L. JACOBS
City Clerk

(410) 289-8221

FAX (410) 289-7385

The Honorable Edward Markey, Chairman
House Subcommittee on Telecommunications and Finance
Room 316 Ford
Washington, D.C. 20515

ATTN: Ms. Karen Colannino

Dear Mr. Chairman:

It has come to my attention that your Subcommittee is conducting a hearing regarding cable television rates as affected by the FCC regulations.

The following documentation is provided for your information. TCI Cablevision of the Eastern Shore notified the Mayor and City Council of Ocean City verbally on August 16, 1993 that they would be restructuring their rates effective September 1, 1993 as dictated by the FCC regulations. On August 19, 1993 our City Attorney responded to TCI with several concerns:

1. The elimination of the Senior Citizen Discount;
2. The manner in which the rate change is described is inaccurate and misleading;
3. That the rate changes may violate the FCC rate freeze, and;
4. The violation of a "most-favored-nations provision" in TCI's franchise agreement with the Town of Ocean City.

A copy of our attorney's letter regarding these issues is enclosed for your information as well as the flyer mailed by TCI explaining their new rates.

In addition, I have had countless telephone calls and letters from citizens whose rates have risen ranging from 20% to over 100% increases due to these changes. The adjustments made for outlet changes and equipment are apparently now more accurately reflecting their true cost. This is fine, after years of charging customers outrageous prices for remote controls, converters and additional outlets. However, not everyone has all this equipment or extra outlets. Many of them are senior citizens or individuals on fixed incomes. They are the ones experiencing the most drastic increases in their cable bills. I've attached just a few of the letters I've

SEP 24 1993

White Marlin Capital of the World

RECEIVED

001 8 - 100

received from citizens complaining about the rates increases in their cable bill.

It's important to also note that TCI's letter responding to complaints put the blame all on Congress and the FCC. In the September 7th letter to Mr. Rozankowski TCI states "There have been many unpopular decisions that had to be made because of the Cable Act of 1992, one of which was the elimination of the Senior Citizen Discount." This is simply not true. There is nothing in the Cable Act that prohibits the cable operator from establishing a Senior Citizen rate. The letter continues "We can all thank Congress for intervening and creating this confusing and restrictive bill." If there is anything confusing, it's the cable operator's interpretation and manipulation of the Cable Act and of the FCC's rules and order.

I thank you for the opportunity to convey the concerns of many residents and visitors in Ocean City. Please do not hesitate to contact me if I can provide any additional information or assistance.

Sincerely,



Roland E. Powell
Mayor

Enclosures

- cc: Congressman Wayne Gilchrest
- City Council
- City Solicitor
- City Manager

Law Offices

AYRES, JENKINS, GORDY & ALMAND, P. A.

5200 B-COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842
(410) 723-1400
FAX (410) 723-1861

GUY R. AYRES III
M. DEAN JENKINS
HAROLD B. GORDY, JR.
JAMES W. ALMAND
BERNARD JAMES LACORTE
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER

OCEAN PINES OFFICE
11047 RACETRACK ROAD
BERLIN, MARYLAND 21811
(410) 641-5033
FAX (410) 641-6926

REPLY TO:

August 17, 1993

TCI Cablevision of Eastern Shore
8301 Coastal Highway
Ocean City, MD 21842

Attention: Joy E. Davison, General Manager

RE: Ocean City Cable Franchise -- Senior Citizens

Dear Joy:

I write this letter so that there will be no misunderstanding of my position relative to TCI's unilateral decision to discontinue senior citizens' discounts from the new cable rates to be effective September 1, 1993. It is not in dispute that the Cable Act of 1992 allows a cable operator to offer senior citizens' discounts. It is equally clear that the 1984 Franchise Agreement with Ocean City, which TCI is the successor franchisee, provides that senior citizens are to receive a discount of ten per centum (10%) of the scheduled cable rates. I direct your attention to Appendix A of said Agreement.

There is no preemption issue involved, since the 1992 Cable Act expressly permits what Ocean City and your predecessor negotiated. TCI is legally bound to continue to offer the discount notwithstanding any other rate changes precipitated by the 1992 Cable Act. Ocean City demands the benefit of the bargain, and will accept no less.

You are hereby advised that Ocean City considers your letter of August 16, 1993 and your comments at the Mayor and Council meeting of that date relative to the discontinuance of the discount as an anticipatory breach of the 1984 Franchise Agreement; and that, if put into effect on September 1, 1993, TCI will be in default under its contractual obligations to Ocean City. Be assured that Ocean City will seek redress for this unilateral, arbitrary breach of contract, including but not limited to damages for the overcharge to senior citizens and possible forfeiture of the franchise.

TCI Cablevision of Eastern Shore
August 17, 1993
Page Two

I would hope that TCI would reconsider its ill conceived position on this matter.

~~Very truly yours,~~

Guy R. Ayres III

GRA:mb

cc: Mayor and City Council of Ocean City
Dennis W. Dare, City Manager

Law Offices

AYRES, JENKINS, GORDY & ALMAND, P.A.

5200 B-COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842
(410) 723-1400
FAX (410) 723-1861

GUY R. AYRES III
M. DEAN JENKINS
HAROLD B. GORDY JR.
JAMES W. ALMAND
JEROME JAMES LACORTE
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER

OCEAN PINES OFFICE
11047 RACETRACK ROAD
BERLIN, MARYLAND 21811
(410) 641-5033
FAX (410) 641-6926

REPLY TO:

August 17, 1993

TCI Cablevision of Eastern Shore
8301 Coastal Highway
Ocean City, MD 21842

Attention: Joy E. Davison, General Manager

RE: Ocean City Cable Franchise -- Senior Citizens

Dear Joy:

I write this letter so that there will be no misunderstanding of my position relative to TCI's unilateral decision to discontinue senior citizens' discounts from the new cable rates to be effective September 1, 1993. It is not in dispute that the Cable Act of 1992 allows a cable operator to offer senior citizens' discounts. It is equally clear that the 1984 Franchise Agreement with Ocean City, which TCI is the successor franchisee, provides that senior citizens are to receive a discount of ten per centum (10%) of the scheduled cable rates. I direct your attention to Appendix A of said Agreement.

There is no preemption issue involved, since the 1992 Cable Act expressly permits what Ocean City and your predecessor negotiated. TCI is legally bound to continue to offer the discount notwithstanding any other rate changes precipitated by the 1992 Cable Act. Ocean City demands the benefit of the bargain, and will accept no less.

You are hereby advised that Ocean City considers your letter of August 16, 1993 and your comments at the Mayor and Council meeting of that date relative to the discontinuance of the discount as an anticipatory breach of the 1984 Franchise Agreement; and that, if put into effect on September 1, 1993, TCI will be in default under its contractual obligations to Ocean City. Be assured that Ocean City will seek redress for this unilateral, arbitrary breach of contract, including but not limited to damages for the overcharge to senior citizens and possible forfeiture of the franchise.

TCI Cablevision of Eastern Shore
August 17, 1993
Page Two

I would hope that TCI would reconsider its ill conceived position on this matter.

~~Very truly yours,~~

~~Guy R. Ayres III~~

GRA:mb

cc: Mayor and City Council of Ocean City
Dennis W. Dare, City Manager

Law Offices

AYRES, JENKINS, GORDY & ALMAND, P.A.

5200 B-COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842

(410) 723-1400

FAX (410) 723-1861

OCEAN PINES OFFICE
11047 RACETRACK ROAD
BERLIN, MARYLAND 21811
(410) 641-5033
FAX (410) 641-6926

GUY R. AYRES III
M. DEAN JENKINS
HAROLD B. GORDY, JR.
JAMES W. ALMAND
BROOME JAMES LACORTE
WILLIAM E. EXHAM, III
MARK SPENCER CROPPER

REPLY TO:

August 17, 1993

TCI Cablevision of Eastern Shore
8301 Coastal Highway
Ocean City, MD 21842

Attention: Joy E. Davison, General Manager

RE: Ocean City Cable Franchise -- Senior Citizens

Dear Joy:

I write this letter so that there will be no misunderstanding of my position relative to TCI's unilateral decision to discontinue senior citizens' discounts from the new cable rates to be effective September 1, 1993. It is not in dispute that the Cable Act of 1992 allows a cable operator to offer senior citizens' discounts. It is equally clear that the 1984 Franchise Agreement with Ocean City, which TCI is the successor franchisee, provides that senior citizens are to receive a discount of ten per centum (10%) of the scheduled cable rates. I direct your attention to Appendix A of said Agreement.

There is no preemption issue involved, since the 1992 Cable Act expressly permits what Ocean City and your predecessor negotiated. TCI is legally bound to continue to offer the discount notwithstanding any other rate changes precipitated by the 1992 Cable Act. Ocean City demands the benefit of the bargain, and will accept no less.

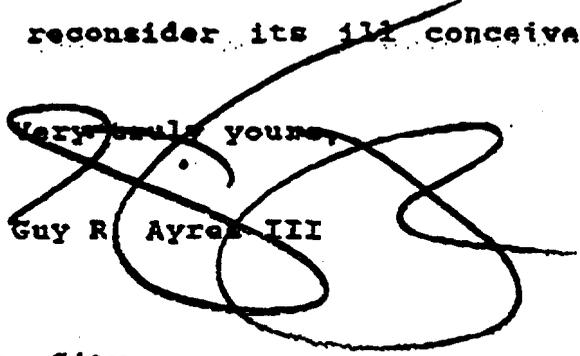
You are hereby advised that Ocean City considers your letter of August 16, 1993 and your comments at the Mayor and Council meeting of that date relative to the discontinuance of the discount as an anticipatory breach of the 1984 Franchise Agreement; and that, if put into effect on September 1, 1993, TCI will be in default under its contractual obligations to Ocean City. Be assured that Ocean City will seek redress for this unilateral, arbitrary breach of contract, including but not limited to damages for the overcharge to senior citizens and possible forfeiture of the franchise.

TCI Cablevision of Eastern Shore
August 17, 1993
Page Two

I would hope that TCI would reconsider its ill conceived position on this matter.

Very truly yours,

Guy R. Ayres III



GRA:mb
cc: Mayor and City Council of Ocean City
Dennis W. Dare, City Manager

Law Offices

AYRES, JENKINS, GORDY & ALMAND, P.A.

5200 B-COASTAL HIGHWAY
OCEAN CITY, MARYLAND 21842

(410) 723-1400
FAX (410) 723-1861

OCEAN PINES OFFICE
11047 RACETRACK ROAD
BERLIN, MARYLAND 21811
(410) 641-5033
FAX (410) 641-6926

GUY R. AYRES III
M. DEAN JENKINS
HAROLD R. GORDY, JR.
JAMES W. ALMAND
JEROME JAMES LACORTE
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER

REPLY TO:

August 19, 1993

Ms. Joy E. Davison
General Manager
TCI Cablevision of Eastern Shore
8301 Coastal Highway
Ocean City, Maryland 21842

RE: Ocean City Cable Franchise - TCI's Proposed September 1
Rate and Service Changes

Dear Joy:

I write to express Ocean City's additional concerns about TCI's proposed changes in rates and services that will take effect on September 1, and the manner in which those changes will be disclosed to cable subscribers. In a previous letter, I have already expressed Ocean City's concern about TCI's proposal to eliminate the senior citizen discount. This letter deals with additional concerns that have arisen as we have reviewed the materials you sent to us. Our concerns fall into three general categories: first, the proposed rate change appears to violate the most-favored-nations provision of TCI's franchise agreement with Ocean City; second, the manner in which the rate change is described is inaccurate and misleading; and third, the change may violate the FCC rate freeze.

The Most Favored Nations Provision in the Franchise

As you know, under its franchise, TCI is required to pay Ocean City a 5 percent franchise fee. While TCI pays no franchise fee in West Ocean City and in certain nearby Delaware communities, TCI (and United before it) have always charged a uniform rate throughout the area.

The "Products and Services Price List" you provided us, however, states that the "new rates" listed "exclude applicable franchise fees and taxes." If this is intended to mean that,

Ms. Joy E. Davison
Page Two
August 19, 1993

effective September 1, TCI will begin charging subscribers in areas like West Ocean City \$21.07 per month, while charging Ocean City subscribers a higher rate (\$21.07 plus a franchise fee of \$1.11), then the City strongly objects. I call your attention to Section 23(H) of TCI's franchise agreement, which provides:

In no event shall the Grantee charge to subscribers located within the City's geographic limit a rate higher than the rate which it charges for a like or substantially similar mix, quality or type of service in any other geographic area to which it provides cable television service on the Delmarva Peninsula, south of the C & P Canal.

Ocean City considers any effort by TCI to charge higher rates in Ocean City than in surrounding communities to be a clear violation of Section 23(H) of the franchise agreement. This provision is not preempted by the 1992 Cable Act or the FCC's new regulations, because neither prohibits TCI from charging uniform rates throughout the area.

I hope that you will promptly clarify that the September 1 rate change will not result in Ocean City subscribers being charged higher rates than surrounding communities. If not, be assured that Ocean City will consider any such action a breach of the franchise agreement, and will pursue all available remedies, including remedies available in the pending franchise renewal process, 47 U.S.C. §546.

Misleading and Inaccurate Nature of the Price List

Even if federal law were to permit TCI to charge a higher rate in Ocean City due to the franchise fee, we believe that the manner in which TCI is disclosing and comparing the current rates and the new proposed rates is both inaccurate and misleading. The disclosure is deceptive in several ways. For instance, the current rates and the new rates are both listed in column form underneath a heading that states that "all prices exclude applicable franchise fees and taxes." But TCI knows that is not true. All of the current rates listed on the left-hand column include the franchise fee, while all of the new proposed rates on the right-hand column exclude the franchise fee. To use an example, the \$21.75 listed as the current rate for combined Broadcast Basic and Programming Plus includes the City's 5% franchise fee. In contrast, the \$21.07 listed as the new "rate" for Basic Service apparently does not include the franchise fee.

Ms. Joy E. Davison
Page Three
August 19, 1993

The result is grossly misleading because a subscriber would naturally believe that the \$21.75 and \$21.07 figures compare apples with apples, when in fact, the two figures are apples and oranges. The problem is compounded by the fact that this "apples and oranges" approach masks a rate increase and tries to make it look like a rate decrease. Thus, based on your price list, a subscriber would probably believe that the \$21.07 figure represents a 68-cent reduction from TCI's current \$21.75 rate. But the subscriber's new rate will actually be \$22.18 (\$21.07 plus \$1.11 in franchise fee), which will be an increase in rates of 43 cents.

Moreover, by suggesting that the "new rate" for Basic Service will be \$21.07, when in fact, with itemized franchise fees, it will be \$22.18 in subscribers' bills, TCI will be creating the misleading impression that the rate hike is due to the franchise fee, even though that is not true. In reality, the franchise fee already accounts for \$1.09 out of the current \$21.75 rate for combined Broadcast Basic and Programming Plus, even though franchise fees are not currently itemized on the bill. The franchise fee will account for \$1.11 of the new \$22.18 rate for Basic Service. Thus, although subscribers for this package will see a 43-cent increase in monthly charges, only 2 cents of that increase is accounted for by the franchise fee. Yet because the franchise fee has not previously been itemized, subscribers will naturally think that the newly-appearing \$1.11 franchise fee accounts for all of the price increase and more.

The fundamental problem with TCI's new price list is that it suggests that \$21.07 will be the rate subscribers will pay when, in fact, that figure will not be TCI's rate in Ocean City at all. The new rate in Ocean City will presumably be \$22.18 (\$21.07 plus \$1.11 franchise fee). While the law may permit TCI to itemize franchise fees on its subscriber bills, itemization does not change the fact that the franchise fee is still a part of TCI's retail price. The fee is not a tax on subscribers collected by TCI; it is a cost of doing business for TCI like any other expense, such as programming, equipment, or your salary. The fee is TCI's rent expense for use of Ocean City's rights-of-way and other property to place its cable system. As both the legislative history to the 1992 Cable Act and the FCC ruled in its May 3 Order on rate regulation, a cable operator may not identify itemized charges such as the franchise fee "as separate costs over and beyond the amount the cable operator charges a subscriber for cable service."

Ms. Joy E. Davison
Page Four
August 19, 1993

I recognize that you have informed us that TCI is disclosing the "new rate" exclusive of the franchise fee so that it can disclose one uniform "rate" to Ocean City, West Ocean City, and other communities served by the TCI system. While I understand TCI's desire for uniformity and simplicity, there is a simple solution: TCI can charge a uniform price in those areas as it has in the past. It cannot, however, mislead subscribers by suggesting that it will charge a uniform price if, in fact, TCI intends to charge Ocean City subscribers a non-uniform, higher rate due to the franchise fee.

We urge that TCI correct its presentation of the proposed September 1 rate change before notice is sent to subscribers. If TCI has already notified subscribers, we expect its disclosure will be promptly corrected. If these corrections are not promptly made, Ocean City will have no choice but to pursue remedies under applicable federal, state and local deceptive trade practices laws and FCC rules.

Rate Freeze

The third concern raised by your proposed September 1 rate change is whether TCI has complied with the FCC's rate freeze. As you probably know, until November 15, TCI cannot increase the average monthly subscriber bill for regulatable services above the average monthly subscriber bill based on rates in effect last April 5. The average monthly subscriber bill is calculated by taking the sum of all billed monthly charges for regulatable services and dividing it by the number of subscribers receiving those services.

From the information TCI has provided to date, it is impossible to determine whether the proposed September 1 rate change complies with the FCC rate freeze. We are concerned, however, that certain aspects of the rate change strongly suggest that the average monthly subscriber bill will increase in violation of the rate freeze. First of all, all subscribers that currently receive only the \$10 Broadcast Basic will either have to move to the new Basic, which will more than double their rates, or discontinue cable service altogether. Either option would result in an increase in the average monthly subscriber bill, because the former \$10 rate would disappear from the calculation of the average monthly subscriber bill.

Ms. Joy E. Davison
Page Five
August 19, 1993

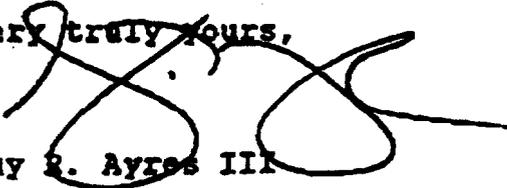
Second, all senior citizens will experience a significant rate increase under the new proposed rates, thereby increasing the average monthly subscriber bill. Whether these increases will be offset by decreases in rates to seasonal subscribers and reduced remote and converter charges is impossible to determine from the figures you have provided.

Finally, we are concerned that the "apples and oranges" problem relating to the franchise fee (discussed above) may have distorted TCI's calculations as to whether the new rates violate the rate freeze. If, for instance, TCI is measuring compliance with the rate freeze with the \$21.07 figure, and yet intends to bill subscribers for a franchise fee on top of the \$21.07, then it has understated its "average monthly subscriber bill" under the new rate schedule for purposes of compliance with the rate freeze. TCI cannot, for purposes of determining rate freeze compliance, measure its April 5 average monthly subscriber bill based on rates that include the franchise fee, and then measure its new September 1 average monthly subscriber rates based on a "rate" that excludes the franchise fee. As noted above, if the franchise fee is added to the new \$21.07 figure, the true new rate is \$22.18, which results in an increase in monthly rates for all subscribers on the system other than the seasonal subscribers. We doubt that, under these circumstances, TCI's rate change is consistent with the rate freeze.

Accordingly, we request that you provide us immediately with the underlying assumptions and information TCI used to determine whether the proposed September 1 rate change complies with the rate freeze. If you are unwilling to do so, Ocean City will have no choice but to pursue its available remedies.

I look forward to your prompt response to the concerns described in this letter.

Very truly yours,


Guy R. Ayres III

GRA/vmk

CC: Mayor and City Council of Ocean City
Dennis W. Dare, City Manager

Due to a possible lack of retransmission consent from the local broadcasters, the lineup is subject to change in October, 1993.

- 2/ NBC (WMAF) Baltimore
- 3/ Public Access
- 4/ Government Access
- 5/ FOX (WTTG) Washington
- 6/ CBS (WBOC) Salisbury
- 7/ ABC/NBC (WMDT) Salisbury
- 8/ The Real Estate Channel
- 9/ PBS (WCPB) Salisbury
- 10/ Educational Access
- 11/ CBS (WBAL) Baltimore
- 12/ Resort Video Guide
- 13/ ABC (WJZ) Baltimore
- 14/ (HBO) Home Box Office
- 15/ CINEMAX
- 16/ ENCORE
- 17/ THE DISNEY CHANNEL
- 18/ HOME TEAM SPORTS
- 19/ Cable Marketplace
- 20/ THE MOVIE CHANNEL
- 21/ SHOWTIME
- 22/ Pay Per View Daily Listings/Special Events
- 23/ Pay Per View I - Movies
- 24/ Pay Per View II - Movies
- 25/ Pay Per View - Adult Entertainment
- 26/ WTBS
- 27/ ESPN
- 28/ C-Span I
- 29/ USA
- 30/ ACTS
- 31/ Nickelodeon/Nick at Nite
- 32/ Lifetime
- 33/ MTV
- 34/ VH-1
- 35/ The Nashville Network
- 36/ Country Music TV
- 37/ Arts & Entertainment
- 38/ CNBC
- 39/ CBN/The Family Channel
- 40/ Nostalgia
- 41/ CNN
- 42/ Pay Per View - Free Preview
- 43/ Preview Guide
- 44/ CNN Headline News
- 45/ C-Span II
- 46/ Black Entertainment Television
- 47/ The Weather Channel
- 48/ The Travel Channel (6 AM - 6 PM)
- 48/ BRAVO (6 PM - 6 AM)
- 49/ The Learning Channel
- 50/ AP News Plus
- 51/ Thrity
- 52/ The Discovery Channel
- 53/ TNT - Turner Network Television
- 54/ Comedy Central
- 55/ QVC
- 56/ AMC/American Movie Classics

Effective 9/1/93

ALL SHADED AREAS ARE BASIC SERVICE

CABLE ACT - 1992 QUESTIONS & ANSWERS

Q: What is the 1992 Cable Act?

A: In October of 1992, Congress passed a bill that regulates certain activities of cable television companies. In the spring of 1993, the Federal Communications Commission (FCC), which is charged with enacting the law, began issuing its comprehensive and complex regulations for the 1992 Act.

Q: What does the Cable Act regulate?

A: The Act regulates many things, including:

- 1) What cable companies can charge for certain levels of service.
- 2) The type of programming available on certain levels of service.
- 3) It gives local broadcast TV stations the option to demand carriage on a specific channel on the cable system or to negotiate for their consent to be carried. If a station chooses negotiation, the cable operator cannot carry the station unless an agreement is reached and the TV station gives its "retransmission consent."

Q: What does that mean to me as a customer?

A: It means that over the next couple of months, your cable company will be forced to make numerous changes to your system. On the whole, these changes will be good — but they might cause you some short-term confusion and inconvenience.

Q: I've heard that cable bills will go down anywhere from 10 to 15 percent. Is that true? If so, can I start taking my credits now?

A: The FCC issued "benchmark" rates in May of 1993. These rates are the standard that cable companies must reach by September 1, 1993. Many cable companies were at or near these benchmark rates even before regulation. Consequently, customers in those systems will not see dramatic decreases in their bills. Other companies were above the benchmarks and will reduce their rates accordingly. While some customer bills will stay the same and others will actually go up, the average bill for the entire cable industry — over 57 million customers — will go down.

Q: Whom can I call for more information?

A: For more information call 1-800-876-2288

IMPORTANT

CHANGES ARE COMING TO CABLE...

NEW RATES



TCI Cablevision of
Eastern Shore

We're taking television into tomorrow.

800-876-2288

524-3401

CHANGE

You may wonder why your cable system is changing again.

To comply with federal government rules, a few months ago we changed your channel line-up. And now the government is asking us to make additional changes in rates and service. We are sorry for any confusion caused by these government regulations. We are doing everything we can to minimize any inconvenience.

Generally, this is good news for our customers. Many customers will see a slight decrease in their total monthly bills. Some will see an increase due to the regulations requiring consistency in rates.

When we're finished, we know you'll agree it's a change for the better.



**TCI Cablevision of
Eastern Shore**

We're taking television into tomorrow.

524-3401 • 800-876-2288

OFFICIAL NOTICE #1 NEW RATES

Due to the rate formula the government requires, we have eliminated the Broadcast Basic level of service, as well as the Seasonal rate and other discounts. Therefore, effective September 1, 1993, only one level of service will be available, "BASIC SERVICE" for \$21.07. "BASIC SERVICE" will include: Broadcast Channels, Access Channels, and Satellite Programming such as CNN, Discovery, Lifetime, WTBS and ESPN. Premium channels can be purchased ala carte or in entertainment packages. Pay-Per-View is available for Events, Movies and Adult Entertainment.

Effective September 1, 1993, Premium Service customers will see a slight increase in rates.

Please refer to the "PRODUCTS AND SERVICES PRICE LIST" for a complete description of our new rates and services.

PLEASE NOTE

Even though rate adjustments are effective September 1, most of our customers will not see that change until their October bill, which will include an adjustment back to September 1.

OFFICIAL NOTICE #2 RETRANSMISSION CONSENT

Because of government regulation, effective October 6, 1993 we may be forced to remove some of the local broadcast TV stations from your cable system.

According to the federal law, local broadcast TV stations must grant their "retransmission consent" in order for us to continue to carry them on our cable system.

Many broadcasters have demanded payment in return for this "retransmission consent," but we refuse to allow you to pay extra for TV others may receive for free.

At present, we have not received consent from WBOC and WMDT.

We want to carry these broadcast TV stations as long as we are permitted to do so, and without any additional cost to you—our customer.

That is why we will continue to negotiate with these stations down to the last minute.

If we don't receive the broadcast TV stations' consent before October 6, federal law will require us to discontinue carriage of those stations.

If that happens, we will do everything we can to minimize the inconvenience to our customers. We also will replace the stations with other high-quality programming at no extra charge to you.

We will contact you when we have a final settlement of this issue.

For additional information, please call us day or night and we'll be happy to help you.

1-800-421-2082

PRODUCTS AND SERVICES PRICE LIST

<u>YEAR ROUND SERVICE</u>	<u>WAS</u>	<u>NEW RATE AND SERVICE LEVEL</u> <small>(All new rates exclude applicable franchise fees and taxes.)</small>	<u>SEASONAL SERVICE</u>	<u>WAS</u>	<u>NEW RATE AND SERVICE LEVEL</u> <small>(All new rates exclude applicable franchise fees and taxes.)</small>
BROADCAST BASIC	\$10.00	"BASIC SERVICE" 44 CHANNELS	BROADCAST BASIC	\$13.00	"BASIC SERVICE" 44 CHANNELS
PROGRAMMING PLUS	11.75	_____	PROGRAMMING PLUS	12.05	_____
	\$21.75	\$21.07		\$25.05	\$21.07
 SENIOR BROADCAST BASIC	 \$10.00	 "BASIC SERVICE" 44 CHANNELS	 SENIOR BROADCAST BASIC	 \$13.00	 "BASIC SERVICE" 44 CHANNELS
PROGRAMMING PLUS	8.95	_____	PROGRAMMING PLUS	9.85	_____
	\$18.95	\$21.07		\$22.85	\$21.07

EQUIPMENT

ADDRESSABLE CONVERTER..... \$.94 PER MONTH PER OUTLET
 REMOTE CONTROL \$.08 PER MONTH PER OUTLET
 You will need a converter to receive channels 26 - 56 if TV is not "Cable-ready".

PREMIUM SERVICES

Premium services may be purchased individually or, for greater savings,
 buy more than one and receive the "package price."

NEW A LA CARTE PRICES AND DISCOUNTED PACKAGES

A La Carte Premium Service Prices (per month)

HBO.....	\$12.50
Showtime	\$12.50
The Disney Channel.....	\$11.95
The Movie Channel	\$11.95
Cinemax	\$11.95
Home Team Sports.....	\$11.95
Encore	\$1.75

Package Premium Service Prices (per month)

2 Premium Services	\$20.45
3 Premium Services	\$27.40
4 Premium Services	\$34.35
5 Premium Services	\$41.30
6 Premium Services	\$48.25
Add Encore to any other Premium Service..	\$1.00
(Price may vary depending on which premium services are packaged)	

PAY-PER-VIEW SERVICES

(With the use of an addressable converter — monthly charge listed above)

Movie Schedule — Channels 22 & 23.....	\$3.99 a movie
Spice - Adult Entertainment — Channel 25	\$5.95 a movie
(Residential Rates)	

DIGITAL MUSIC EXPRESS

DMX - 30 channels of commercial free music for your stereo
 (includes the cost of the tuner and a DJ remote)\$9.95 a month



TCI Cablevision of Eastern Shore

Mr. John A. Rozankowski, President
Montego Bay Civic Association, Inc.
Box 1801
Ocean City, Maryland 21842

September 7, 1993

Re: Letter of August 25, 1993

Dear Mr. Rozankowski:

Thank you for your letter concerning the recent changes to our cable system here in Ocean City. I respond to your concerns as follows:

A decision to eliminate the Broadcast Basic level of service was unavoidable in the face of the recent cable regulation. After our benchmark per channel was established, we would have had to shift an additional 8 channels down to that level to equal the \$10.00 rate that we charged. Since initiating the Broadcast Basic level in April, an additional 1000 subscribers moved to that level, the majority being those who live elsewhere and either rent or lease their units out. The shifting of additional channels would have driven even greater numbers to this level of service.

There have been many unpopular decisions that had to be made because of the Cable Act of 1992, one of which was the elimination of the Senior Citizen Discount. We were the only cable company on the shore that offered this discount, along with 20 percent more programming for 20% less cost. For the majority of our Seniors, a reduction in their overall bill will occur if they have additional outlets and remotes in their homes. This does not just affect Senior Citizens. ANYONE with just one outlet and no additional outlets or equipment may see an increase. Clearly this was not the intention of Congress, but nonetheless, this is what occurred.

I have attached a recent article for your review. This is happening nationwide. Subscribers everywhere are not happy and quite frankly, neither are we. Our subscribers have enjoyed many discounts and low rates for years. Although some cable companies may have abused the system, TCI Cablevision of Eastern Shore has not and did not need the regulation. We can all thank Congress for intervening and creating this confusing and restrictive bill.

INSTALLATION AND REPAIR

Unwired Home Install (within 125' of existing cable plant).....	\$38.97*
Restart/Reconnect Home Installation	\$19.49*
Additional Connection at Time of Initial Installation.....	\$6.50*
Additional Connection Requiring Separate Installation.....	\$19.49*
Relocate Outlet.....	\$19.49*
Upgrade or Downgrade of Optional Services (Addressable)	\$2.00*
Connect VCR at Initial Installation	\$6.50*
Connect VCR Requiring Separate Installation.....	\$12.99*
Install DMX at Initial Installation	\$6.50*
Install DMX Requiring Separate Installation	\$12.99*
Purchase A/B Switch	\$5.00
Install A/B Switch at Time of Initial Installation	\$4.34*
Install A/B Switch Requiring Separate Installation	\$12.99*
Administrative Fee for delinquent payment	\$5.00
Non-Sufficient Funds Charge	\$20.00
Unreturned Addressable Converter Charge	\$150.00

*These prices are formulated by using the Hourly Service Charge (HSC) as prescribed by the FCC formulas multiplied by the average time for each installation activity based on historical data.

Commercial and non-standard installations and other services not listed will be charged at the Hourly Service Charge. Prices do not include franchise fees or taxes. All prices are subject to change.

Some service levels may increase in price while others decrease based on the Federal Government's rate formula. Overall, most customers will see their total bill decrease.

BROADCAST BASIC ONLY -

Please choose one of the following by calling 524-3401 or 1-800-876-2288 OR

Mail to: TCI Cablevision
8301 Coastal Hwy.
Ocean City, MD 21842

Name _____

Service Address _____

Phone _____

Please upgrade me to "BASIC SERVICE" for \$21.07. (Price does not include franchise fees or taxes.)

Please disconnect my BROADCAST BASIC service on 9/1/93.

YOUR CABLE SERVICE WILL AUTOMATICALLY BE DISCONNECTED AFTER 9/1/93 IF YOU HAVE NOT RESPONDED TO THIS NOTICE. SOMEONE WILL ATTEMPT TO CONTACT YOU BY PHONE PRIOR TO THE DISCONNECT.



Montego Bay

CIVIC ASSOCIATION, INC.

Box 1801 - Ocean City, Maryland 21842 - (410) 250-3080

August 25, 1993

Ms. Joy Davison
General Manager
TCI Cablevision of Eastern Shore
8301 Coastal Highway
Ocean City, Maryland 21842

Dear Ms. Davison:

The Annual Meeting of the Montego Bay Civic Association was held on August 21, 1993.

During the meeting; it was discussed and agreed that this Association, as a representative of 1,523 property owners, write to complain about the basic cable rates which will be doubled as of September 1, 1993. This is going to present a hardship on many of our residents. It is too large an increase; offering no discounts or choice to the public. Contrary to your statement, many Senior Citizens do not have additional outlets. Their bills will only increase; forcing them to accept channels/prices they do not need or want.

This letter is to advise that we support the actions of our Mayor and City Council and will work with them in bringing this matter to a better and fairer conclusion than what you are now offering.

Very truly yours,

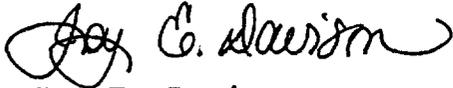
John A. Rozankowski
John A. Rozankowski
President

JAR/rbd

Cc: Mayor and City Council
Ocean City, Maryland

Should you or any of your members wish to discuss further, I am available to speak to your organization.

Sincerely,

A handwritten signature in cursive script that reads "Joy E. Davison". The signature is written in dark ink and is positioned above the typed name.

Joy E. Davison,
General Manager

cc: Kathy Mathias, City Hall

*We're taking television
into tomorrow.*



TCI Cablevision of Eastern Shore

Mr. and Mrs. Ken McFarlin
117 Seabreeze Drive
P.O. Box 1612 M.B.S.
Ocean City, Md. 21842

September 1, 1993

Re: Letter of Aug. 27, 1993

Dear Mr. and Mrs. McFarlin:

Thank you for your letter expressing your concern over the recent changes reregulation has dictated must occur by the September 1st deadline.

Your first concern was whether we had to make changes in the rates per government regulation and my response is yes. Every cable company nationwide established a cost per channel, which is called a benchmark, which was applied to all residential subscribers in order to be rate consistent.

The majority of our subscribers will see an overall decrease in their bills. Those subscribers had additional outlets (those costs have been eliminated) and remotes. (now \$.08) Those subscribers who had only one outlet and reside in an area where a franchise fee is paid to the local government, may see an increase in their overall bill. Clearly Congress did not intend for the one outlet home to subsidize those with additional outlets and equipment.

As for the \$.94 charge for the converters, we were required by the FCC to break out all equipment charges and have them listed separately on the bill, which we have done.

Should you have any additional concerns, please do not hesitate to contact me direct at 524-3452. I would be more than happy to speak with you both at any time.

Sincerely,

Joy E. Davison,
General Manager

P.S. I enclose a recent
article for your review.

cc: Kathy Mathias, Mayor's Office

8301 Coastal Highway
Ocean City, Maryland 21842
(410) 524-3401

Faxed to 410/289-7385, 9/3/93, page 1 of 1.

TO: Ms. Kathy Mathias, Town of Ocean City Manager's office.

FROM: Joseph R. Russo, 951 Ocean Pines, Berlin, Md. 21811.

RE: Our telcon today on #101 Condo unit, Laurens II,
12006 Assawomen Dr., Ocean City, Md.

Per the above, thanks for returning my call on the increase in our TV cable annual rate by TCI Cablevision of Eastern Shore, effective 9/1/93 to \$ 265.44 from \$ 215.40.

As noted we are Senior Citizens and the \$ 215.40 rate included the 10% discount. We have one cable outlet with a cable ready TV set.

We object to both the price increase and the elimination of the Senior Citizen discount.

We read with interest the planned legal approach of the Town of Ocean City to review both rate increases and the Senior discount question. Please include our data in any such case.

Sincerely,

Joseph R. Russo, Sr.

Joseph R. Russo, Sr.

Tel. 410/641-8667, Fax 410/641-5120.

Federal Communications Commission
1919 M St, N.W.
Room 822
Washington, D.C. 20554
August 30, 1993

Dear Ms. Florence Setzer,

Thank you for assistance this date concerning cable television rates. As I mentioned, I am concerned with TCI Cablevision of Eastern Shore's (Ocean City, Md.) new rate structure. Some rates will more than double and senior citizen rates will be eliminated (see enclosure). The cable vision company implies that the Government is responsible for these new rates. Is the Government responsible for these new rates? It appears that TCI is violating the spirit and perhaps the letter of the law.

I would greatly appreciate your reviewing this situation to see if TCI has violated any regulations regarding the new law. Your help in this matter is greatly appreciated.

Sincerely,



John C. Stewart
3705 Dupont Ave.
Kensington, MD. 20895

Enclosure

cc Roland Powell, Mayor
Ocean City, Maryland

Dear Sirs:

Sept. 3, 93

On August 28, 1993, I received a telephone call from TCI Cablevision of Eastern Shore telling me that a change is to take place in my TV service

- 1) no more senior citizen consideration
- 2) no more bonus of one month for annual payment in advance
- 3) rental charge, per month, if you don't have a cable ready TV set
- 4) substantial increase in my monthly rental (about 30%) not counting tax.

In addition, all the service is not yet agreed to and therefor all the costs have not yet been calculated. If you don't help FCC sure will not!

Respectfully,

Donald Dozier
Donald Dozier
 12020 Old Frederick Road
 Marriottsville, Md.,
 21104
 303 141st Street
 Ocean City, Md.

NOT DUE



INDICATE ENCLOSED

7

PAYMENTS MADE BY

4-2295
2288

OCEAN CITY MD 21042
XNFCC ID #MD0006

RATES CHANGE EFFECTIVE 9/1/93. ANY ADJUSTMENTS REFLECTING THE 9/1/93 RATES WILL BE MADE ON A SUBSEQUENT BILL.

TO FURTHER PROTECT YOUR PRIVACY, TELEPHONE ACCESS TO ACCOUNT INFORMATION WILL REQUIRE YOUR ACCOUNT NUMBER.

AS OF 9/1/93, THERE WILL BE NO SEASONAL OR SENIOR RATES.

BROADCAST BASIC WILL NO LONGER BE AVAILABLE.