VII. THE COMMISSION SHOULD NOT ADOPT A UNIFORM SYSTEM OF ACCOUNTS FOR CABLE COMPANIES AT THIS TIME.

The Commission has proposed adopting a Uniform System of Accounts for cable companies. The Commission recognizes, however, that there is little need for such detailed accounting information regarding the vast majority of cable operators, who will be relying on benchmark regulation to establish the reasonableness of their rates. As a result, the Commission has proposed to require only those cable operators who rely on cost-of-service regulation to conform to the proposed uniform accounting system.[98] For the reasons discussed below, the Commission should not adopt the proposal in the ***Cost-of-Service Order.***

Cable operators today use a wide variety of accounting systems depending upon their particular circumstances. Publicly held corporations, for example, keep their books in compliance with Generally Accepted Accounting Principles, as required by relevant rules of the Securities and Exchange Commission. Small subchapter S corporations, partnerships, and sole proprietorships use a variety of accounting approaches suited to their unique needs.

The Commission has promulgated Forms 1220 and 1225 for use in cost-of-service showings. Each operator making such a showing, therefore — whether a large MSO with millions of subscribers or a small operator serving a single franchise — must determine how to translate its existing internal accounting system into the dozens of categories of

---

[98] ***Cost-of-Service Order*** at ¶¶ 227, 306.

revenues, investments and expenses identified on the appropriate form. Once this translation has been accomplished, different operators' results will be reasonably comparable. Nothing in the ***Cost-of-Service Order***, or, indeed, any other portion of the record of this proceeding, suggests that any additional uniformity of accounting among different cable companies is necessary. To the contrary, there appears to be little benefit to be derived from the enormous burdens on the industry associated with converting to a new uniform accounting system.

In this regard, the Commission's attempt to limit the impact of its proposed accounting requirements to cable operators relying on cost-of-service justifications for their rates is illusory.[99] First and foremost, as long as local franchising authorities are free to certify to regulate at any time, and to demand justifications of ***existing*** rates, cable operators will be required to adopt the uniform system of accounts unless they are absolutely certain that the benchmarks will provide an adequate basis for justifying their rates. Moreover, as time goes on and operators upgrade their systems with improved technologies, more and more of them will be required to rely on cost-of-service principles. In these circumstances, many, if not most, operators will be required by the Commission's rules to incur the expense of converting to the uniform system of accounts.[100]

---

[99] ***Id.***

[100] The Commission could avoid this latter problem by adopting a substantially more generous modification to the allowance for plant upgrades than included in the current benchmark rules, such as that proposed by Continental Cablevision in connection with pending petitions for reconsideration. ***See*** Response of Continental Cablevision, Inc., to Petitions for Reconsideration, MM Docket No. 92-266 (filed June 16, 1994) at 10-12. But as long as the general tenor of the Commission's approach to rate regulation is to be deeply suspicious of all rate increases,

(continued...)

Furthermore, it is likely that increased competition will move cable systems into a deregulated status within the next several years.[101] When that happens, the major goal of the 1992 Cable Act will have been accomplished, and the need for a uniform system of accounts will be obviated. The fact that whatever benefits the Commission might derive from imposing a uniform accounting system will likely be very short-lived strongly militates against imposing the requirement in the first place.

In these circumstances, undersigned operators and associations urge the Commission to proceed cautiously in this area. There is no evidence that cable operators will be unable to translate their existing accounting systems, with reasonable consistency and accuracy, into the categories of costs and revenues identified on the relevant cost-of-service forms. Once the Commission has had the opportunity to consider the Forms 1220 and 1225 filed by a reasonable sample of operators, the Commission will be in a position to assess whether additional uniformity in accounting is needed. Until the Commission gains more experience in this area, however, it should refrain from imposing major new accounting requirements.[102]

---

[100](...continued)
irrespective of the efforts of cable operators to upgrade their plant, cost-of-service regulation will ultimately be the only available avenue for meaningful rate relief.

[101] Cable Act of 1992, §3; ***Cost-of-Service Order*** at ¶ 2.

[102] For example, if the Commission observes that the filed forms reveal a relatively constant ratio a particular category of expense to a particular category of investment, that would suggest that there is no need to impose more detailed uniform accounting requirements on cable operators in this area. On the other hand, to the extent that wide divergences exist regarding the relationship of certain categories of costs on the form, and those divergences are not fully explained by actual differences in the operating characteristics of the affected entities, additional clarification ***of the forms*** may be appropriate. But the possible need for such additional clarification hardly justifies the imposition of a full-blown uniform accounting system.

VIII. PROCEDURAL ISSUES.

A. The Commission's Policies Regarding Cost-of-Service Showings Should Reflect The Many Legitimate Reasons That May Lead A Cable Operator To Rely On Cost-of-Service.

The Commission established the cost-of-service option to allow operators for whom the benchmarks are inadequate to justify above-benchmark rates.[103] Nonetheless, the Commission has made clear that cost-of-service showings are not the primary method of regulating cable television rates.[104] The Commission should modify the interim cost-of-service rules in certain respects, based on the recognition that there are any number of legitimate circumstances that might make the benchmarks inadequate for a particular cable operator.

First, some systems are more expensive to build and maintain than others, for a variety of reasons. Rural systems may have very low subscriber densities (subscribers per mile of plant), with correspondingly high plant and maintenance costs per subscriber. Similarly, in some urban situations, construction costs can be quite high as well, due, for example, to a requirement that cable facilities be placed underground rather than run on utility poles. Expense levels are generally higher in urban areas as well.

---

[103] ***See Cost-of-Service Order*** at ¶¶ 5, 17-21.

[104] ***See, e.g., id.*** at ¶ 5 ("In the Report and Order, we establish rules implementing a cost-of-service alternative to our primary benchmark and price cap approach to setting regulated cable service rates."); and ¶ 25 ("Our primary approach to rate regulation of cable service, the benchmark/price cap approach, is not cost-based and does not impose the concomitant regulatory burdens such as tariff and cost support obligations.")

Second, the Commission's benchmark analysis begins with the rates an operator had in effect as of September 30, 1992, and calculates rate reductions (net of inflation) from that point forward. Unfortunately, by relying on a specific date for assessing the reasonableness of cable prices, the Commission has created a built-in bias against operators who showed restraint in their price increases in preceding periods. Operators with relatively modest rate increases in the late 1980s and early 1990s will be subject to the same rollback as operators who may have increased rates 17% or more in 1992 alone.[105]

The Cable Act of 1992 directs the Commission to consider an operator's history of rate increases as compared to the level of inflation generally.[106] The interim rules, however, fail to reflect this requirement in any way. To correct this situation, the Commission should establish a streamlined cost-of-service approach for cable operators who have increased rates less rapidly than inflation on a per-channel basis. The base year for these estimates should be 1987, the first full year when the rate deregulation provisions of the 1984 Act were in effect. Operators who meet this standard should be permitted to offer it as an initial defense against a rate complaint. Once such a defense has been established, the party challenging the rate should be required to come forward with additional, specific evidence that a current or challenged rate is unreasonably high before requiring the operator to provide a full-blown cost-of-service justification. In addition, the fact that an operator

---

[105] In addition, it was common in the industry for operators to implement only one rate increase each year. Those operators whose normal annual rate increase occurred after the September 30 date are particularly prejudiced by the Commission's reliance on a single date for purposes of determining the appropriate benchmark rate, and, therefore, particularly likely to need to rely on cost-of-service showings.

[106] Cable Act of 1992 at § 3(c)(2)(C).

has increased rates only modestly when compared with inflation should relieve the operator of any adverse presumptions that may be retained in the permanent rules.

Third, the benchmarks do not contain any explicit recognition for high levels of customer service. Providing high-quality customer service often costs more than providing lower-quality service. These higher costs might include, for example, additional investment in telephone or other business office equipment; a higher-than-average number of employees per subscriber; and the level of training and expertise each employee is required to maintain. To reflect the value of high-quality service, the Commission should amend the permanent cost-of-service rules to provide that a history of excellent customer service will lead the Commission and local franchising authorities to exercise their reasonable discretion on all ratemaking matters in an operator's favor.

Fourth, the benchmark system does not make adequate allowance for the costs of adding new channels or other significant capital expenditures. This means that cable operators have continued with the improvement of their systems have no realistic mechanism other than a cost-of-service showing to reflect the costs of these capital improvements in rates. As noted above, however, one purpose of the 1992 Cable Act is to encourage system upgrades and expansion. Clearly, therefore, cost-of-service showings based on recent capital improvements should also lead to favorable discretionary rulings be the Commission.

Finally, for the reasons described below, and in order to avoid unfairness in the treatment of similarly situated operators, the Commission should rule that an operator relying on a cost-of-service showing will not have its rates set below the applicable benchmark rate. An operator's benchmark rate is clearly a "reasonable" rate for purposes of the 1992 Cable Act; otherwise, it would not be lawful for the Commission to allow benchmarks to be used as a defense to a rate complaint. A cable operator who has (mistakenly) chosen to present a cost-of-service justification, therefore, will have actually presented the regulator with evidence supporting ***two*** reasonable rates: the benchmark rate and the (in this example) lower cost-of-service rate. No legitimate policy supports penalizing an operator who, in retrospect, was mistaken about how the Commission or a local franchising authority would view the cost showing. This is particularly true where other operators who chose to rely on the benchmarks may have done so precisely because they correctly surmised that their costs would not justify an above-benchmark rate.

Establishing a rule that a cable operator relying on cost-of-service principles will not have its rates set below the applicable benchmark is particularly appropriate during the initial period of cost-of-service regulation. The situation may be different in the future. As of now, however, there has been so much uncertainty surrounding a number of key issues that it would unfairly penalize cable operators who legitimately, but mistakenly, relied on cost-of-service to saddle them with below-benchmark rates.[107]

---

[107] Many of the undersigned cable operators who have filed cost-of-service justifications for their rates have noted in those filings that it would constitute a due process violation for them to be prejudiced by virtue of any purported "election" of cost-of-service, as opposed to benchmark, regulation in light of the vagueness and uncertainty of the underlying substantive rules.

B. The Permanent Cost-Of-Service Rules Should Make Clear That All Reasonable Discretion On Cost-of-Service Issues Will Be Exercised In The Cable Operator's Favor.

In any cost-of-service proceeding, there will be some number of individual issues as to which the Commission or a local franchising authority will conclude that discretion exists. A particular element of cost may be allowed or disallowed; a particular proposed adjustment may be sufficiently "known and measurable" or not; a cost allocation decision may be approved or disapproved. As discussed below, to the extent that such discretion exists, it should be exercised in a cable operator's favor.

First, the Commission is still in the early stages of the process of learning about cable industry costs, financing, and operations. This is reflected in the fact, for example, that even the current cost-of-service rules are still "interim." Cable operators generally operate in a highly leveraged financial status.[108] As a result, access to funds to upgrade and expand its systems depends heavily on cash flow, which, of course, is driven by revenue levels. Moreover, Congress directed the Commission to consider many factors other than price in regulating cable operators, including the ability to upgrade and provide additional programming options to consumers.[109] In these circumstances, prudence suggests that rate reductions not be imposed on cable operators if the facts reasonably support the operator's

---

[108] ***Cost-of-Service Order*** at ¶ 198.

[109] Cable Act of 1992, § 2(b). ***See also*** Public Interest Petitioners, Petition for Expedited Reconsideration, MM Docket No. 93-215 (filed May 16, 1994) at 6-8.

current rate, and a rate reduction could be justified only on the basis of exercising discretionary judgment against the operator.[110]

Second, the Commission should exercise its regulatory discretion in a cable operator's favor because the First Amendment requires it to do so. The provision of cable services is clearly "speech" for purposes of the First Amendment.[111] Equally clearly, governmental regulation of the price charged for protected speech "burdens" that speech for First Amendment purposes.[112] At a minimum, therefore, the FCC's regulatory approach must be "narrowly tailored" to implement a significant governmental purpose.[113]

Here, the purpose of the regulations is met by establishing a rate at the very top of the zone of reasonableness. The highest reasonable rate is, by definition, a reasonable rate.

---

[110] This concern would support a Commission order approving a cable operator's current rate, without establishing a specific maximum rate, which would allow a cable operator to seek future rate increases if it so chose, and allow the Commission to adjudicate particular ratemaking issues in the context of a particular rate increase request.

[111] "There can be no disagreement on an initial premise: Cable programmers and cable operators engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment." ***Turner Broadcasting System, Inc. v. FCC,*** No. 93-44, slip op. (June 27, 1994) at 11. This portion of the Supreme Court's decision was unanimous. ***See also Leathers v. Medlock,*** 499 U.S. 439, 444 (1991).

[112] ***Riley v. National Federation of the Blind of North Carolina,*** 487 U.S. 781, 790 (1988).

[113] In ***Turner, supra,*** all nine justices agreed that the simple "rational basis" test that normally applies to statutes that do not raise First Amendment concerns does ***not*** apply to the Cable Act's "must carry" provisions, and four justices concluded that "strict scrutiny" applied to these Cable Act provisions. Clearly, therefore, at the very least, the intermediate level of scrutiny — which requires that the regulations be narrowly tailored to advance an important governmental interest — applies to the regulation of the rates charged for cable operators' protected speech. ***See Turner, supra; Ward v. Rock Against Racism,*** 491 U.S. 781, 789-90 (1989).

Any lower rate, therefore, would unnecessarily and impermissibly burden protected speech.[114] Indeed, targeting cable ratemaking decisions to set the highest rate that is reasonable under traditional regulatory principles is the ***minimum*** accommodation that could be made to reflect the fact that the rates being regulated are rates for speech that is protected by the First Amendment. Without this minimal accommodation, the Commission and local franchising authorities would be free to set rates anywhere within the zone of reasonableness — which is what regulators are allowed to do only in cases with no First Amendment restraints.

In this regard, the proper approach to determining rates for cable services is analogous to the Commission's task, in certain circumstances, in establishing reasonable rates for cable operators to pay to attach their facilities to poles owned by electric and telephone utilities. There, the statute establishes a defined maximum and minimum rate. The D.C. Circuit has held that, if an existing contractual rate is challenged as excessive, the Commission's job is to determine the upper end of the defined range of reasonableness and lower the rate to that level.[115] Here, the range of reasonable rates is determined not

---

[114] "A regulation is not 'narrowly tailored' — even under the more lenient tailoring standards applied in ***Ward*** and ***Renton*** — where, as here, 'a substantial portion of the burden on speech does not serve to advance [the Government's] content-neutral goals.'" ***Simon & Schuster v. New York State Crime Victim's Board,*** 502 U.S. ___, 112 S.Ct. 501, 116 L.Ed. 2d 476, 491 n.* (1991). In the context of rate regulation, a requirement to charge a price below the highest reasonable rate imposes a burden "that does not serve to advance" the content-neutral goal of the regulations.

[115] ***See Alabama Power v. FCC***, 773 F.2d 362 (D.C. Cir. 1985). As noted above, the best way to avoid ***First*** Amendment constitutional questions here is to interpret the 1992 Cable Act to require only the minimum amount of price regulation required to make rates "reasonable" under Fifth Amendment. ***See Bell Atlantic v. FCC***, Nos. 92-1619 ***et al.,*** (D.C. Cir. June 10, 1994), ***slip op***. ("Within the bounds of fair interpretation, statutes will be construed to defeat administrative orders that raise substantial constitutional questions.") In the cost-of-service context, this means

(continued...)

directly by a statute, but, instead, by familiar Fifth Amendment principles governing the discretion of rate-setting bodies such as the Commission. In each case, however, the rate that should be set is the maximum rate within the Commission's discretion to approve.[116]

C. The Commission Should Clarify And Improve The Procedures It And Local Franchising Authorities Will Apply To Cost-of-Service Cases.

The Commission should clarify certain aspects of the procedures that apply when an operator determines that it will rely on cost-of-service principles, as opposed to benchmark regulation, to justify a rate increase.

First, the Commission should amend its rules to require its staff (for a CPS filing) or a local franchising authority (for a BBT filing) to conduct a preliminary review of a cost-of-service showing and to give the operator notice of all specific areas in which the showing appears to be inadequate to support the operator's analysis. This approach would substantially improve the ability of the Commission and local franchising authorities to reach fair and accurate decisions by ensuring that they have the best available information on whichever issues turn out to be of greatest significance in any particular proceeding.

---

[115](...continued)
setting rates at the very top of the zone of reasonableness. In this regard, the ***Bell Atlantic*** court noted that the presence of "substantial constitutional questions [will] override our customary deference to the Commission's interpretation of its own authority."

[116] For this reason, the Commission ***must*** use the applicable benchmark rate as a floor in any rate proceeding. As noted above, the Commission clearly views the benchmark rate applicable to a given operator as a reasonable rate. If a cost-of-service analysis results in a different, lower reasonable rate, then, for the reasons discussed above, the First Amendment requires the Commission to choose the higher of the two reasonable rates.

Simple fairness also compels that this or some similar procedure be adopted. In traditional utility cost-of-service cases, there are detailed rules, promulgated by the affected regulatory body, that give the affected utility notice of exactly what kind of information, including back-up information, must be provided to accompany a filing. Once a filing has been made, moreover, the affected utility is uniformly given the opportunity to respond to claimed deficiencies in the filing that are identified either by the staff of the regulatory authority or by third parties questioning it.[117] Here, the Commission could adopt the mechanism of a "deficiency letter," under which the Commission's staff or a local franchising authority would be required to provide notice to the affected operator detailing any perceived problems with the operator's cost-of-service showing and allowing the operator an appropriate period of time to provide more information on those topics.

Second, the Commission should amend its rules to require that where a local franchising authority is going to rely on an analysis or report on the cable operator's cost-of-service presentation in making its decision (typically, although not always, prepared by a third party consultant or accounting firm), then that report must be made part of the record of the proceeding, and the cable operator must be given a reasonable opportunity to respond to it. Without an opportunity for thorough review, errors embodied in the detailed analysis of the cable system may not be discovered and remedied. By giving the cable operator an opportunity to respond to an analysis prepared by a consultant or the regulator's

[117] In the telephone context, for example, the Common Carrier Bureau generally designates for investigation certain specific issues raised by a tariff filing, and allows both the affected telephone company and third parties to provide information regarding those issues. A review of cable rates is not technically the same as a proceeding to consider a proposed tariff, but the same basic considerations of procedural fairness and efficiency apply.

staff, these errors can be ferreted out and highlighted so that the regulatory authority will not rely on them.[118]

Even if a report on a cable operator's filing is absolutely accurate in its accounting and mathematics, there will generally be areas of discretionary judgment or appropriate ratemaking policy where a consultant or the regulator's staff will recommend one approach and the cable operator another. The quality of the process will be improved if these contested ***policy*** issues are highlighted for the decision maker so that the considerations underlying the decision will be clear.[119]

Finally, the Commission should modify the procedural deadlines applicable to cost-of-service cases. Under current procedures, an operator does not know if a proposed rate increase will be subject to challenge, either by customer complaint (for CPS increases) or by a local franchising authority (for BBT increases). Indeed, for BBT rates, if the local franchising authority has not previously passed on the validity of current rates, it may certify to regulate and demand a justification of those rates at any time. In each of these cases, the cable operator is given thirty days to respond to the challenge to its rates. This

---

[118] By the same token, it is not uncommon in state-level utility rate cases for there to be inadvertent mathematical or similar errors in the utility's original submission that are identified by the regulator's staff and/or third party witnesses. In those circumstances, the utility, in its response, is able to acknowledge these errors and present an analysis that is agreed to be mathematically accurate.

[119] In this regard, the rules should specify that the cable operator has reasonable rights of discovery into the data and methodology employed in any such report. This is fully consistent with the practice before every state utility commission of which undersigned operators and associations are aware in the case of a cost-of-service rate case.

may be enough time to put together a benchmark-based filing, but it can be a grossly inadequate period to assemble a cost-of-service filing. As a result, the Commission should amend its rules to allow an operator whose actual or proposed rate has been challenged to state, within the present thirty-day response period, that the rate will be defended on the basis of a cost-of-service showing and to automatically extend the filing date for its rate justification by up to an additional ninety days.[120]

This rule will improve the quality of the decision making process by providing regulators with the most complete and accurate filings possible. Moreover, this benefit will be achieved with no countervailing costs to the public. In the case of BBT-related filings, a proposed rate increase does not take final effect until the local franchising authority has approved it,[121] so customers are not harmed by the delay. In the case of CPS-related filings, current rules already provide that rate changes take effect subject to refunds if the Commission determines them not to have been justified, so, again, customers are not at risk by permitting cable operators to take additional time to prepare their responses. In any case, the cable operators themselves will have a strong motivation to obtain final approval for their rates, and so can be expected to make their filings as soon as it is reasonably possible to do so.

---

[120] Of course, if an operator can provide a cost-of-service showing in a shorter period of time, it will have every incentive to do so. In this regard, operators should be permitted to file an initial showing as soon as it is available, but take advantage of the proposed ninety-day deferral to update and refine the presentation, if appropriate.

[121] If a local franchising authority cannot reach a decision on a cost-of-service rate filing within six months, the rate will go into effect, but, at the local franchising authority's option, the rate may be subject to an accounting order. 47 C.F.R. § 76.933(c).

D. The Commission Should Clarify That Regulators May Establish Maximum Rates And That The Two-Year Limit On Filing Cost-of-Service Cases Does Not Apply When The Operator Has Been Called Upon To Justify Existing Rates.

The ***Cost-of-Service Order*** established a presumption that, once an operator's rates have been set on the basis of a cost-of-service showing, the operator would not be permitted to seek a general rate increase (that is, one not justified by inflation or specific external costs) for two years.[122] The Commission should clarify the operation of this rule in two respects. First, the Commission should explicitly rule that it, and local franchising authorities, may establish ***maximum*** rates for a cable operator that are higher than current rates and that the cable operator implement these rates over the two-year period established by the rule. Second, the Commission should not apply the two-year rule at all in cases where the operator has been called upon to justify the rates that it had in effect as of September 1, 1993 or, in the case of a small operator, as of May 15, 1994.

Cable operators will often be able to justify a rate that is significantly higher than their current rate, but may believe that current market conditions in a particular franchise would not warrant increasing rates to the maximum justifiable level. Subscribers would benefit from the operator's discretion to maintain low rates for some period of time. The operator should then be allowed to increase its rates up to the maximum over the two year

---

[122] ***Cost-of-Service Order*** at ¶ 29.

period, without being required to justify, or respond to complaints regarding, rate changes below the maximum.[123]

A special concern in this area arises when an operator has been called upon to justify its current rates, either by virtue of a local franchising authority deciding to certify or a customer complaining about a CPS rate under the provisions of the Commission's rules allowing a 180-day window for such complaints following the date on which rate restructuring is expected to have occurred.[124] In this case, the cable operator should be allowed to respond to the issue at hand — a demonstration that its existing rate is reasonable — without having either to determine what its maximum allowable rate might be or to waive its right to rate increases for two years.

This rule would allow cable operators and regulators to avoid some of the expense and administrative burdens associated with cost-of-service regulation until an operator's need for rate relief made such burdens unavoidable. In some cases, for example, a "plain vanilla" rate filing might justify current rates, but a more elaborate showing, designed to rebut one or more presumptions, might be needed to justify a significant rate increase. If the only reason a proceeding has been undertaken in the first place is to justify current rates, then administrative efficiency would be served by allowing the operator to make a

---

[123] In this regard, the regulatory authority could request the operator to propose a schedule of anticipated rate increases, all below the maximum level, that would avoid undue "rate shock" for customers over the two-year period covered by a particular cost-of-service justification. ***See Cost-of-Service Order*** at ¶ 29 n.41.

[124] ***See*** 1992 Cable Act, § 3(c)(3).

filing that raises fewer contentious issues, and defer disputes over them until an actual need for current rate relief makes them unavoidable. Indeed, once a current rate has been approved, the allowance in the price cap rules for increases to cover inflation and external costs may make it unnecessary ever to resolve some of these more difficult questions in the case of a particular operator.

IX. CONCLUSION

The Commission should modify its interim cost-of-service rules, and adopt permanent rules, consistent with the discussion in these Comments.

Respectfully Submitted,

By: _____

Paul Glist
John D. Seiver
Christopher W. Savage
Frederick W. Giroux
COLE, RAYWID & BRAVERMAN

1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006
(202) 659-9750

Attorneys for Continental Cablevision, Inc., Crown Media, Inc., Jones Intercable, Inc., KBLCOM, Inc., Scripps Howard Cable Co., TeleCable Corporation, Greater Media, Inc., Rifkin & Associates, Inc., TCA Cable, Inc., Western Communications, Allen's TV Cable Service, Inc., American Cable Entertainment, Benchmark Communications, Brownwood Television Cable Services, Inc., CableAmerica Corp., CableSouth, Columbus Television Cable Corp., Daniels Cablevision, Inc., Gilmer Cable Television Co., Halcyon Communications, Inc., James Cable Partners, OCB Cablesystems, Inc., Sjoberg's Inc., Starstream Communications, United Video Cablevision, Zylstra Communications Corp.; Cable Television Association of Georgia, Cable Television Association of Maryland, Delaware and the District of Columbia, New Jersey Cable Television Association, South Carolina Cable Television Association, Tennessee Cable Television Association, Texas Cable TV Association.

July 1, 1994

Exhibit A

Declaration

I, Colleen Millsap, hereby declare, under penalty of perjury, that the following is true and correct to the best of my knowledge, information, and belief:

1. I am Chief Financial Officer of Benchmark Communications, L.P. I am also a Certified Public Accountant. Prior to holding my current position, I was employed by Hoffman, Dykes and Fitzgerald, P.C. In that capacity, I was involved in reviewing and evaluating a number of cable system acquisitions. This declaration is based on my experience in cable industry financial matters.

2. Cable systems generally do not produce steady "book" earnings over the course of their operation. To the contrary, in early years of system operation, high investment levels and low subscribership leads to significant "book" losses and low earnings. In later years of system operation, increased penetration and the "book" depreciation of original investment leads to higher "book" earnings levels. Investors considering cable properties understand this situation and expect to receive an appropriate return on their investment, including compensation for long periods with no return paid on their investment at all.

3. When a cable system is purchased by another cable system, the sale price is generally based on multiples of the expected cash flow of the system being sold. Factors which affect the precise multiple of cash flow for which a system will sell include the buyer's view of operational efficiencies and improvements that could be added to the system and the likelihood of significant growth in the subscriber base that the buyer anticipates (whether through population growth, additional system build-out, or improved marketing and service).

4. Cable system cash flow is, generally, approximately equal to one-half of system revenues. Although this figure will vary from system to system, this is a generally accurate rule that is used in evaluating the prospective financial performance of a cable system being considered for acquisition.

5. The result of this relationship between revenue and cash flow is that, as a general rule, if expenses are held constant, a $1.00 decline in revenue will result in a $1.00 decline in cash flow. Because cash flow is about one-half of revenue, however, a 1 percent decline in revenue will result in a 2 percent decline in cash flow, again, with expenses held constant.

Colleen M Millsap

Colleen Millsap

Exhibit B

KBLCOM INCORPORATED
CABLESYSTEM HISTORICAL DATA
THROUGH SEPTEMBER, 1993

LAREDO, TEXAS CABLESYSTEM

The Laredo system was originally franchised in 1957. UA-Columbia acquired the system in 1959. In November, 1981, the Rogers Cable Group acquired a 51% indirect ownership interest. On August 21, 1983 Rogers acquired the remaining 49% ownership interest at which time it acquired full operational control of the system.

In March 1989 KBLCOM Incorporated acquired the system assets from the Rogers Cable Group.

SAN ANTONIO, TEXAS CABLESYSTEM

The San Antonio system was originally franchised in 1978 by UA-Columbia. In November, 1981, the Rogers Cable Group acquired a 51% ownership interest from UA-Columbia. On August 31, 1983, the Rogers Cable Group acquired the remaining 49% ownership interest and assumed full operational control of the system.

On November 30, 1986, Rogers Cablesystems of Texas, Inc. was merged into Rogers Cablesystems of the Southwest, Inc.

On October 31, 1986, the Rogers Cablesystems of West Texas, Inc. and Rogers Cablesystems of Alamogordo, Inc. exchanged their San Angelo, Texas and Alamogordo, New Mexico cablesystem assets, respectively, for cablesystem assets serving the unincorporated areas of Bexar County. On October 31, 1989, Rogers Cablesystems of West Texas, Inc. and Rogers Cablesystems of Alamogordo, Inc. merged into Rogers Cablesystems of the Southwest, Inc.

In March, 1989, KBLCOM Incorporated acquired the system assets of Rogers Calesystems of the Southwest, Inc., Rogers Calesystems of West Texas, Inc., and Rogers Cablesytems of Alamogordo, Inc. from the Rogers Cable Group.

MINNEAPOLIS, MINNESOTA CABLESYSTEM

A. City of Minneapolis Cablesystem

The City of Minneapolis system was originally franchised in 1982 by Rogers Cablesystems of Minneapolis Limited Partnership. Rogers Cablesystems of Minneapolis, Inc. held an initial 10.71% interest in the partnership, which interest increased to 50% if certain profit and cash distribution levels were attained. The remaining partnership interest was held by outside limited parties.

During June and August, 1988, Rogers Cablesystems of Minneapolis, Inc. purchased an 81.14% interest in the partnership from outside limited partners (total partnership interest of 91.85%).

In March, 1989, KBLCOM Incorporated acquired the cablesystem assets.

In June, 1989, Rogers Cable TV, Inc., a wholly-owned subsidiary of KBLCOM Incorporated, purchased 1.25% interest in the partnership from Rogers Cablesystems of Minneapolis, Inc. (total partnership interest of 91.85%). At various times from August 1990 - August 1992 KBLCOM acquired additional ownership interests in the partnership such that its current ownership is at 97.36%.

B. Suburban Minneapolis Cablesystem

The cablesystem serving suburban Minneapolis, including the contiguous cities of Eden Prairie, Richfield, Edina, Hopkins and Minnetonka, Minnesota, was originally franchised in 1981 by Minnesota Cablesystems-Southwest, a limited partnership. Minnesota Cablesystems, Inc., a wholly-owned subsidiary of the Rogers Cable Group, which later changed its name to Rogers Cablesystems, held an initial 82.18% interest in the partnership; the remaining partnership interest was held by outside limited parties.

At various times from August 22, 1986 - August 31, 1988, additional ownership interests were purchased until the partnership was wholly owned by the Rogers Cable Group.

C. Suburban Minneapolis Cablesystem

In March, 1989, KBLCOM Incorporated acquired the system assets, and Rogers Cablesystems of the Southwest, Inc., from the Rogers Cable Group.

PORTLAND, OREGON CABLESYSTEM

A. City of Portland Cablesystem

The City of Portland system was originally franchised in 1981 by Cablesystems Pacific, a limited partnership. Cablesystems Investment, Inc., a wholly-owned subsidiary of the Rogers Cable Group, held an initial 66.68% interest in the partnership. The remaining partnership interest was held by outside limited parties.

At various times subsequent to the original franchise date, different named subsidiaries of Rogers Cable Group bought, sold and transferred ownership interests until the Rogers Cable Group owned 100% by August 31, 1988.

In March, 1989, KBLCOM Incorporated acquired the system assets, Rogers-Portland Cablesystems Limited Partnership, and Rogers Cablesystems of the Southwest, Inc. and Rogers Cablesystems of Multnomah, Inc. (including their interests in the partnership), from the Rogers Cable Group.

B. Suburban Portland Cablesystem

The cablesystem serving the Multnomah County, Oregon, area contiguous to Portland, Oregon, was originally franchised in 1983 by Rogers-Multnomah Cablesystems Limited Partnership. Rogers Cablesystems of Multnomah, Inc., a wholly-owned subsidiary of the Rogers Cable Group, held an initial 62.60% interest in the partnership; the remaining partnership interest was held by outside limited parties.

During the fiscal year ended August 31, 1988, Rogers Cablesystems of Multnomah, Inc. purchased a 25.10% interest in the partnership from outside limited partners (total partnership interest of 87.70%).

In March, 1989, KBLCOM Incorporated acquired the system assets, Rogers-Multnomah Cablesystems Limited Partnership, and Rogers Cablesystems of the Multnomah, Inc. (including its partnership interest) from the Rogers Cable Group.

During June, 1989, Rogers Cablesystems of Multnomah, Inc. transferred a 1.00% interest in the partnership to Rogers Cable TV, Inc., a wholly-owned subsidiary of KBLCOM Incorporated, and acquired the remaining 12.30% interest in the partnership from outside limited partners. The partnership, as of June 30, 1989, was wholly-owned by the KBLCOM Incorporated and Subsidiaries.

ORANGE COUNTY, CALIFORNIA CABLESYSTEM

A. Dickinson Pacific Cablesystems

The cablesystems serving the cities of Huntington Beach, Westminster and Fountain Valley, California were originally franchised in October, 1979, which franchises were transferred to Dickinson Pacific Cablesystems in November, 1979. Dickinson Pacific Cablesystems also holds franchises for the cities of Stanton and Midway City, California, which were awarded in 1981 and 1982, respectively, and franchises for unincorporated areas of Orange County, California, contiguous to the aforementioned municipalities.

California Cablesystems, Inc., a wholly-owned subsidiary of the Rogers Cable Group, held an initial 50.00% interest in the partnership; the remaining partnership interest was held by an outside party.

From August 1983 - March 1988 various subsidiaries of Rogers Cable Group bought and sold and transferred ownership interests in the partnership until, at March 30, 1988 it was wholly owned by Rogers.

In March, 1989, KBLCOM Incorporated acquired the system assets, the Dickinson Pacific Cablesystems partnership, Rogers Cablesystems of the Southwest, Inc. and Rogers Cable TV, Inc. (including their partnership interests) from the Rogers Cable Group.

B. Orange County, California Cablesystems
(other than Dickinson Pacific Cablesystems)

The cablesystems serving the cities of Los Alamitos and Garden Grove, California were originally franchised in May, 1982 and August, 1982, respectively, by California Cablesystems, Inc., a wholly-owned subsidiary of the Rogers Cable Group. California Cablesystems, Inc. also holds franchises for unincorporated areas of Orange County, California, contiguous to the aforementioned cities.

During the fiscal year ended August 31, 1984, California Cablesystems, Inc. changed its name to Rogers Cablesystems of California, Inc.

In July, 1987, Rogers Cablesystems of California, Inc. was merged into Rogers Cablesystems of the Southwest, Inc., a wholly-owned subsidiary of the Rogers Cable Group. From July, 1987 through the present time, the Los Alamitos and Garden Grove, et al, cablesystems have operated as the California Division of KBL Cablesystems of the Southwest, Inc. (fka Rogers Cablesystems of the Southwest, Inc.).

In March, 1989, KBLCOM Incorporated acquired the system assets, and Rogers Cablesystems of the Southwest, Inc., from the Rogers Cable Group.