

FCC MAIL SECTION

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 Before the  
 FEDERAL COMMUNICATIONS COMMISSION  
 Washington, D.C. 20554  
 FCC 95-150

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

**TENTH ORDER ON RECONSIDERATION**

Adopted: April 7, 1995 Released: April 26, 1995

**I. Introduction**

1. In this Order, the Commission on its own motion modifies reporting requirements described in its *Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking ("Second Reconsideration Order")*<sup>1</sup> which direct certain small systems and low price systems to calculate both their "transition" rates and their "full reduction rates" for submission on applicable rate forms.

**II. Elimination of Parallel Rate Tracking**

**A. Background**

2. In the *Second Reconsideration Order*, we required regulated cable systems, as a general matter, to reduce their rates by the full competitive differential established in that Order.<sup>2</sup> We further provided, however, that certain qualifying systems would be eligible for transition treatment under which such systems would not be required to reduce their rates by the full competitive differential. These transition systems include "cable operators which have a total subscriber base of 15,000 or fewer customers and which are not affiliated with a larger operator."<sup>3</sup> They also include systems having March 31, 1994 rates that are at or

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<sup>1</sup> *Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 94-38, 9 FCC Rcd 4119 (1994).*

<sup>2</sup> *Id.* at para. 109.

<sup>3</sup> *Id.* at para. 110.

below the revised benchmark and systems having March 31, 1994 rates above the benchmark but having permitted rates at or below the benchmark.<sup>4</sup>

3. We further provided in the *Second Reconsideration Order* that a system qualifying for transition relief would not be able to adjust its transition rate for inflation until its transition rate equaled its full reduction rate.<sup>5</sup> We required transition systems to calculate both their transition and full reduction rates for the purpose of future rate adjustments.<sup>6</sup> To enable parallel tracking of the transition and full reduction rates, we established on the FCC Form 1210, the form used to modify already justified rates, a reporting module acknowledging the difference in inflation adjustments for the two rates. All other cost adjustments, however, were allowed for both transition and full reduction rate calculations.

## B. Discussion

4. In the *Ninth Order on Reconsideration*,<sup>7</sup> we determined that it would be appropriate to allow transition systems to adjust their transition rates for inflation. By lifting the prohibition on inflation adjustments for transition rates, we eliminated the only difference in adjustment mechanisms between transition and full reduction rates. Accordingly, it is no longer necessary to require systems eligible for transition relief to render separate calculations for adjustments in transition and full reduction rates.

5. In light of the foregoing, and in order to relieve transition system operators of burdens associated with the separate calculation of transition and full reduction rates, we are eliminating the requirement that transition system operators report both rates in their applications for external rate adjustments. Rather, such systems will only be required to report their transition rates adjusted pursuant to the commission's price cap rules for inflation, changes in external costs and changes in the number of channels on regulated tiers.<sup>8</sup>

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<sup>4</sup> *Id.* at para. 110.

<sup>5</sup> *Id.* at para. 131.

<sup>6</sup> *Id.* at para. 130.

<sup>7</sup> Ninth Order on Reconsideration, MM Docket No. 92-266, FCC 95-43 (February 6, 1995).

<sup>8</sup> If there are any systems that were eligible for transition relief, but for which the full reduction rate exceeded the transition rate prior to the effective date of the Ninth Order on Reconsideration, such systems are no longer transition systems as of the effective date of the *Ninth Order on Reconsideration* and will continue to report their full reduction rate.

We will make correlative adjustments on the FCC Form 1210.<sup>9</sup>

### III. Regulatory Flexibility Act Analysis

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601-12, the Commission's final analysis with respect to the Eleventh Order on Reconsideration is as follows:

7. Need and purpose of this action. The Commission, in compliance with § 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 (1992), pertaining to rate regulation, adopts revised rules and procedures intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

8. Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis. There were no comments submitted in response to the Initial Regulatory Flexibility Analysis. The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in the original rulemaking order. The Commission addressed the concerns raised by the Office of Advocacy in the *Report and Order and Further Notice of Proposed Rulemaking*.<sup>10</sup>

9. Significant alternatives considered and rejected. In the course of this proceeding, petitioners representing cable interests and franchising authorities submitted several alternatives aimed at minimizing administrative burdens. The Commission has attempted to accommodate the concerns expressed by these parties. In this order, the Commission is providing relief to small systems and low-price systems by terminating the requirement that such systems report both their adjusted transition rate and their full reduction rate on forms requesting external cost adjustments.

### IV. Paperwork Reduction Act

10. The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified information collection requirements on the public. Implementation of any new or modified requirement

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<sup>9</sup> In light of pending petitions for reconsideration in this docket, the Commission retains jurisdiction to grant reconsideration on its own motion. See 47 U.S.C. § 405; 47 C.F.R. § 1.108; *Central Florida Enterprises v. FCC*, 598 F. 2d 37, 48, n.51 (D.C. Cir. 1978), cert. dismissed, 441 U.S. 957 (1979); *Rebecca Radio of Marco*, 5 FCC Rcd 2913, 2914 n.8 (1990). See also Order, MM Docket No. 92-266, FCC 93-372, n. 1, summarized at 41 Fed. Reg. 41042 (August 2, 1993).

<sup>10</sup> 8 FCC Rcd 5631 (1993).

will be subject to approval by the Office of Management and Budget as prescribed by the Act.

**V. Ordering Clauses**

11. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), 303(r), 612 and 623 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j), 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Order ARE ADOPTED.

12. IT IS FURTHER ORDERED that the revised reporting requirements adopted in this Order will become effective as soon as they may be approved by the Office of Management and Budget but not sooner than thirty days after publication of this ORDER in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary