

16, 1981. Therefore, by dividing the sum of these accounts by year end 1980 net plant, we recompute the appropriate administrative expense component to be 2.70% percent. 11/

8. Total Carrying Charges. Substituting the revised administrative expense component we have determined the appropriate carrying charge to be 30.27 percent, as follows:

Maintenance Expense	4.01%
Depreciation	7.92
Administrative Expense	2.70
Taxes	5.76
Cost of Capital	9.88
Total Carrying Charge	<u>30.27%</u>

9. Maximum Rate. By inserting the values developed in our Order as modified in paragraphs 7 and 8 above into the formula, we calculate that the maximum rate per attachment is \$1.14.

11/ Administrative Accounts:

661	\$ 1,335,359
662	68,562,032
663	2,200,279
664	3,687,554
665	61,197,956
668	348,155
669	1,832,469
674	68,742,632
677	<u>(13,388,961)</u>
Total	\$194,517,475

$$\text{Administrative Expense} = \frac{\text{Total of Administrative Accounts}}{\text{Gross Plant Investment} - \text{Depreciation Reserve}}$$

$$\text{Administrative Expense} = \frac{\$194,517,475}{\$8,238,545,003 - \$1,044,820,000}$$

$$\text{Administrative Expense} = \frac{\$194,517,475}{\$7,193,725,003} = 2.70\%$$

(Our calculation of the administrative component using figures from the appropriate FERC Accounts listed above discloses there were additional errors in our earlier determination of the administrative and license contract components which Southwestern Bell did not challenge. However, in recalculating the combined administrative component, we have also corrected these errors.)

Maximum Rate	=	$\frac{\text{Space Occupied by CATV}}{\text{Total Usable Space}}$	X	Cost of a Bare Pole	X	Carrying Charges
Maximum Rate	=	$\frac{1 \text{ Foot}}{13.5 \text{ Feet}}$	X	\$50.72	X	30.27%
Maximum Rate	=	\$1.14				

Conclusion and Order

10. Remedies. Since we have determined that the maximum reasonable rate, based on 1980 Texas data, should have been \$1.14, rather than the \$1.41 determined in the Order before us on reconsideration, a refund of excess payments, retroactive to the date of the filing of each complaint, plus interest, is proper. 12/ Therefore, we are ordering a refund reflecting the difference between the \$1.41 and \$1.14 rates for all payments by complainants in excess of the \$1.14 rate made since the filing of the complaints.

11. Accordingly, IT IS ORDERED, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 U.S.C. §0.291, That, the petition for reconsideration filed by Southwestern Bell Telephone Company IS GRANTED to the extent indicated above and otherwise IS DENIED.

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12/ The Commission has determined previously that the current interest rate for Federal tax refunds and additional tax payments is the appropriate rate of interest in CATV pole attachment matters. See Teleprompter of Fairmont, Inc. v. Chesapeake and Potomac Telephone Co. of West Virginia, 79 FCC 2d 232, 238-39 (1980).

The following are the appropriate rates of interest for pole attachment refunds:

<u>Time Period</u>	<u>Rate of Interest</u>	<u>Source</u>
Date of Order through January 31, 1982	12 percent simple interest	Rev. Rul. 79-365, 79-45, I.R.B. 16
February 1, 1982, through December 31, 1982	20 percent simple interest	Rev. Rul. 81-260, 1981-44 I.R.B. 19
January 1, 1983 through June 30, 1982	16 percent simple interest	Rev. Rul. 82-182, 1982-44 I.R.B. 9
July 1, 1983 until the date of repayment of excess funds	11 percent simple interest	Rev. Rul. 83-76, 1983-18 I.R.B. 37

12. IT IS FURTHER ORDERED, That the previously determined maximum annual rate of \$1.41 for each pole attachment arising out of agreements between Southwestern Bell and each complaintant herein IS TERMINATED, effective upon the release of this Order.

13. IT IS FURTHER ORDERED, That an annual rate of 1.14 for each pole attachment IS SUBSTITUTED for the existing rate in the contracts involved herein, effective upon release of this Order.

14. IT IS FURTHER ORDERED, That Southwestern Bell SHALL REFUND, within 30 days of release of this Order, the difference between the payments made by the complainants and payments based on the maximum annual rate of \$1.14 per attachment.

15. IT IS FURTHER ORDERED, That the refund shall bear simple interest at the annual rate specified for Federal tax refunds and additional tax payments for the relevant periods, until the date of full payment of the refund by Southwestern Bell.

**FEDERAL COMMUNICATIONS COMMISSION**

  
Jack D. Smith  
Chief, Common Carrier Bureau

CERTIFICATE OF SERVICE

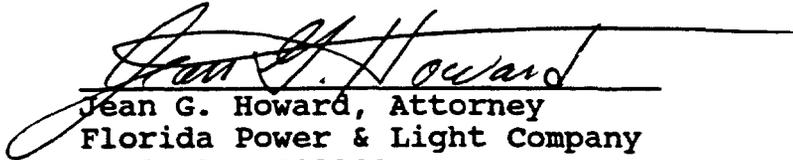
I, the undersigned, do hereby certify that the original and three copies of the foregoing Response were mailed by Federal Express to Mr. Stephen Steckler, Federal Communications Commission, Accounting & Audits Division, Common Carrier Bureau, 2000 L. Street. N.W., Room 812, Washington, D.C. 20554, and that a copy of the Response was mailed postage prepaid by first class mail, this 29<sup>th</sup> of September, 1992, to the following:

1. Attorney for Complainants; Continental Cablevision of Broward County and Continental Cablevision of Jacksonville, Inc.:

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