

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Implementation of Sections of the)
Cable Television Consumer Protection)
and Competition Act of 1992)
)
Rate Regulation)

RM-9167

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To: The Commission

OPPOSITION OF COMCAST CABLE COMMUNICATIONS, INC.

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SUMMARY

The Petition filed by Consumers Union and the Consumer Federation of America requests the Commission to take actions which will harm the very consumers it seeks to protect by curtailing cable industry investment in new programming services and plant infrastructure. The thrust of the Petition runs contrary to the expressed policies of both Congress and the Commission, which have sought to encourage competition as a means to ensure reasonable rates and to promote innovation, investment, and growth in the cable industry.

Contrary to the Petition's assertions, increases in cable rates since the implementation of the Commission's rate regulations, as measured by the cable consumer price index, are actually less than the overall consumer price index for the same period, and rising programming costs that cable operators must bear have outstripped increases in cable rates by nearly two to one. The more accurate gauge for determining the degree to which rates have increased is the price per channel — and in this regard, rates have remained relatively stable.

The rationale for the Commission's initial rate freeze, which reflected a unique episode in the implementation phase of the rate regulation provisions of the 1992 Cable Act and which was used to maintain the *status quo* in order to allow for the orderly implementation of the Commission's rate regulations, is simply inapplicable to today's realities. It would be most unfortunate and unwarranted if a rate freeze were instituted after the industry expended billions of dollars on investment in infrastructure and the development of programming and set rates in accordance with the Commission's regulations and policies.

The Commission's rate regulations and policies have evolved over the past five years with the participation of all interested parties — including consumer advocates, local governments, and industry groups — and the cable industry in relying on them has made substantial investments to develop new services and expand existing capacity. These regulations and policies have succeeded in fulfilling the congressional objectives of protecting consumers while allowing for the expansion of cable system capacity and programming. At the same time, the Commission has authorized new technologies and implemented policies designed to promote competitive video services. Thus, the Petition should be denied because its proposals will do nothing more than curtail investment in cable programming and plant infrastructure rather than bring new and diverse services to the public in a competitive environment.

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OPPOSITION OF COMCAST CABLE COMMUNICATIONS, INC.

Comcast Cable Communications, Inc. (“Comcast” or the “Company”), by its attorneys and pursuant to Section 1.405 of the Commission’s rules, 47 C.F.R. § 1.405, hereby submits this Opposition to the Petition to Update Cable Television Regulations and Freeze Existing Cable Television Rates (the “Petition”) filed by Consumers Union (“CU”) and the Consumer Federation of America (“CFA”) (the “Petitioners”) in the above-captioned proceeding.

The Commission should deny the Petition because: (1) the rate freeze it advocates will result in an immediate curtailment of investment in new programming services and plant infrastructure, contrary to the expressed policy of the 1992 Cable Act; and (2) the Commission’s cable television rate regulations, which have evolved over the past five years with the full participation of all interested parties, have already achieved the difficult balance of protecting consumers while preserving the ability of cable operators to invest in the expansion of capacity and programming demanded by their customers. Indeed, it would be most unfortunate and unwarranted if a rate freeze were instituted after the industry expended billions of dollars on investment in infrastructure and the development of programming and set rates in accordance with the Commission’s regulations and

policies. And, because the cable industry is at a crossroads in the video and telecommunications revolution, such action also would be destructive of the industry's attempts to provide new and innovative services to the American public.

BACKGROUND

Congress balanced two competing concerns when it adopted the 1992 Cable Act. On the one hand, it sought to ensure that the rates charged by cable systems were not unreasonable. At the same time, Congress recognized that consumers wanted a wider choice of quality programming. Consequently, the following objectives were included in the statement of policies found at the beginning of the 1992 Cable Act:

- “promote the availability to the public of a diversity of views and information through cable television and other video distribution media”; and
- “ensure that cable operators continue to expand, where economically justified, their capacity and the programs offered over their cable systems.”^{1/}

Congress charged the Commission with the responsibility of devising, in short order, a completely new form of rate regulation which would ensure the expansion of cable system capacity, maximize the availability of programming, and protect consumers from rates exceeding those that would be charged in the presence of effective competition.^{2/}

^{1/} The Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 2(b), 106 Stat. 1460 (1992) (the “1992 Cable Act”).

^{2/} The Communications Act mandated that cable system “shall not be subject to regulation as a common carrier or utility by reason of providing any cable service.” 47 U.S.C. § 541(c).

The Commission met this difficult challenge. Although the regulatory process became contentious at times, extraordinary dedication by the Commission and its staff balanced competing interests and implemented important congressional policies. After extensive input from municipal governments, consumer advocates, and the cable television industry, on April 1, 1993, the Commission released its *Rate Report and Order*, which required that cable operators unbundle equipment charges from rates for cable services, base rates for equipment on actual costs, and reduce the rates for cable services by ten percent.^{3/} At the same time, the Commission ordered a 120-day freeze of regulated rates for cable services to: (1) transition from an unregulated to a regulated environment; (2) permit time for franchising authorities to become certified to regulate the basic service tier;^{4/} (3) allow consumers to file complaints invoking Commission oversight of rates for cable programming services; and (4) stabilize rates prior to the effective date of the regulations.^{5/} The Commission did not believe that the rate freeze would “harm cable operators because current rates [would] remain in effect and because the freeze [would be] of relatively short duration.”^{6/}

^{3/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, *Report and Order and Further Notice of Proposed Rulemaking*, 8 FCC Rcd 5631 (1993) (“*Rate Report and Order*”). Based upon a survey of cable systems, the Commission initially determined that a ten percent differential existed between the rates of cable systems subject to effective competition and those not subject to effective competition. 8 FCC Rcd at 5644.

^{4/} See 47 U.S.C. § 543(a)(3).

^{5/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, *Order*, 8 FCC Rcd 2921 (1993) (“*Rate Freeze Order*”).

^{6/} *Id.*

Nevertheless, for various reasons this “temporary” rate freeze was extended and lasted for over thirteen months.^{7/} By the time the freeze was lifted, the Commission released its *Second Reconsideration Order*,^{8/} and reduced rates further after settling on a 17 percent, rather than a 10 percent, reduction in cable rates.^{9/} The Commission’s rate freeze and first “benchmark” regulations essentially froze reinvestment in new programming because there was little incentive to make the necessary investments, and in fact, no mechanism with which to recover the costs of providing new services, much less a profit. But after a series of refinements and adjustments to its rules spanning fourteen reconsideration orders, and in accordance with the statutory directive to “prescribe, and periodically thereafter revise” its rate regulations,^{10/} the Commission developed a regulatory regime including the adoption of the “Going-Forward” rules, which has succeeded in providing more and diverse sources of programming to cable subscribers.^{11/}

^{7/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, *Order*, 73 Rad. Reg.2d 14 (June 15, 1993) (freeze extended to November 15, 1993); Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, *Order*, 74 Rad. Reg.2d 13 (Nov. 10, 1993) (freeze extended to February 15, 1994); Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, *Order*, 9 FCC Rcd 1299 (Feb. 8, 1994) (freeze extended to May 15, 1994).

^{8/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, *Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking*, 9 FCC Rcd 4119 (1994) (“*Second Reconsideration Order*”).

^{9/} *Id.*, 9 FCC Rcd at 4166.

^{10/} 47 U.S.C. § 543(b)(2).

^{11/} See 47 C.F.R. § 76.922(g)(3); Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, *Sixth Order on Reconsideration, Fifth Report and Order, and Seventh Notice of Proposed Rulemaking*, 10 FCC

In short, the Commission implemented Congress's directives by applying the regulatory equivalent of strong medicine. There were unintended side effects — but today the cable industry is making the investment necessary to bring new and diverse programming to the American public over cable systems which have increased their channel capacity and constructed technologically advanced plants while consumers remain protected from unreasonable rate increases.

I. The Petition Does Not Demonstrate That Rate Increases Have Been Unreasonable.

The Petitioners claim, among other things, that the Commission has failed to properly implement the rate regulation provisions of the 1992 Cable Act, and conclude that the Commission must again freeze cable television rates to rectify what the Petitioners perceive to be an inadequacy in the current rate regulations. But the Petitioners never identify how the existing rules are inadequate. The current rules allow only a recovery of inflation, “external costs” (which, by definition, are not subject to an operator’s control),^{12/} and a minimum recovery for the costs of new programming.^{13/}

Because the Petition bases its call for a freeze on cable rates upon unsupported statistics and fails to account for increased costs associated with providing cable service, both the major premise of its argument and its conclusion are false. The Commission’s initial rate freeze was “reflective of a *unique* episode in the *implementation phase* of the rate regulation provisions of the 1992 Cable

Red 1226 (1994), *aff'd Adelpia Communications Corp. v. FCC*, 88 F.3d 1250 (D.C. Cir 1996).

^{12/} See 47 C.F.R. § 76.922(f).

^{13/} See 47 C.F.R. § 76.922(g)(3). The Going-Forward rules expire at the end of 1997, and there is currently no provision under the Commission’s benchmark rules to recoup the costs of new programming after they expire.

Act.”^{14/} It was designed as a transitory mechanism to move a previously unregulated industry into a new regulatory environment. Even during that period,^{15/} however, then Commissioner Andrew C. Barrett observed that the “freeze on cable revenues and the implementation of the benchmark mechanism . . . have already precipitated more than an estimated \$2 billion direct loss of revenues and cash flow [which resulted in] the complete foreclosure of growth avenues for cable TV programmers.”^{16/} Therefore, it was apparent that the effect of a rate freeze could not be reconciled with Congress’s policy to “ensure that cable operators continue to expand . . . their capacity and the programs offered over their cable systems.”^{17/} In its instant Petition, the CFA continues to fail to understand the economics and dynamics of the cable industry and the adverse impact of a new rate freeze and rate rollback. In an earlier “emergency petition” filed during the Commission’s initial rate freeze and before the effective date of its rate regulations, the CFA demanded that the Commission issue an order authorizing cable subscribers to unilaterally withhold 15 percent of their next cable bills. In response, Commissioner Quello observed that the CFA’s petition appeared “to be more of an effort to grab headlines and to engage in self-aggrandizement than a serious plan for

^{14/} Request for Clarification §76.981 Negative Option Billing, 11 FCC Rcd 6821 (1996) (emphasis added).

^{15/} *I.e.*, from April 1993 to May 1994.

^{16/} *Second Reconsideration Order*, 9 FCC Rcd at 4313-14 (separate statement of Commissioner Andrew C. Barrett, citing Study by Paul Kagan Associates, January 1994) (internal quotations and footnote omitted).

^{17/} 1992 Cable Act, §2(b)(3).

rate regulation. . . . But it underscores that organization's pathological disregard for the real world implications of its suggestions."^{18/}

The Petitioners attempt to bolster their conclusions with statistics culled from their own analysis of competition and pricing behavior in the cable television industry.^{19/} However, both their statistics and conclusions are puzzling and are contradicted by the Commission's own *Third Annual Report* analyzing the status of competition and its *Report on Cable Industry Prices*.^{20/} Comcast has attempted to replicate the process by which the Petitioners derived their statistics but has been unable to do so because nearly all of the Petition's pricing statistics are unsupported by source footnotes. We simply do not know where the numbers originated or how the Petitioners could have reached factual conclusions that are so sharply at variance with the Commission's analysis. Without a clear explanation of how these statistics were derived, it is impossible to evaluate the process by which the underlying data were chosen and evaluated.

^{18/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, *Order*, 73 Rad. Reg.2d 16 (July 27, 1993) (Separate Statement of Chairman James H. Quello).

^{19/} See Statement of Dr. Mark N. Cooper, Research Director for the Consumer Federation of America (attached to Petition).

^{20/} See Annual Assessment of Status of Competition in Markets for the Delivery of Video Programming, *Third Annual Report*, 12 FCC Rcd 4358 (1997) ("Competition Report"); Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basis Service, Cable Programming and Equipment, *Report on Cable Industry Prices*, 12 FCC Rcd 3239 (1997) ("Price Report").

The Petition states that overall increases in cable rates have outpaced the general rate of inflation since adoption of the Telecommunications Act of 1996,^{21/} and on that basis concludes that the Commission's implementation of the 1992 Cable Act has failed — but this is a dubious, if not disingenuous comparison. Inflation, as an index, measures the changing price of static goods or services over a period of time. Cable services, however, have not remained static. In Comcast's case, increased prices not only reflect inflation, but the addition of *new services* as well as the migration of former premium services to regulated tiers (such as Disney and regional sports services), which enhances the quality of the regulated services that consumers receive. The use of an inflation index to measure cable rates fails to account for the expanded and enhanced product consumers now receive compared to the package of services they received previously. In short, cable is not a 12 oz. can of soup or a gallon of gasoline. It is a dynamic product. After the Going Forward rules were implemented and in the last three years, Comcast's systems, on average, have increased capacity by 8 channels or more, and where systems have been upgraded or rebuilt many more channels have been added. In large measure this additional programming accounts for recent system rate increases. However, the average *per channel* price has not materially increased, much less increased anywhere near the magnitude alleged in the Petition. In order to recognize that customers are receiving more channels now than before, the proper measurement is not whether cable rate increases have exceeded inflation, but rather whether rates have risen significantly on a *per channel* basis, which they have not.

^{21/} Petition at 4. See The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

The Commission's most recent Price Report^{22/} noted anecdotal evidence suggesting that rate increases occurring in 1996 were attributable to "higher programming costs, system upgrades which provide additional channels, and the pass through of the effects of general inflation on cable operators' costs."^{23/} Indeed, the Commission's rate regulation rules specifically contemplate that certain cable rates may rise faster than inflation and consequently treat increases in programming costs and copyright fees, *e.g.*, as supplemental to its price cap rules.^{24/}

Despite those increased costs incurred by cable operators, however, the rate increases experienced by subscribers have been comparatively modest. During the entire period of rate regulation from April 1993 through November 1996, the cable Consumer Price Index ("CPI") increased at a compound annual rate of 2.2 percent, which, despite the increase in cable services provided, is *actually less than the overall CPI* for the same period of 2.7 percent.^{25/} Moreover, the price for cable services clearly has not kept pace with the rising costs that cable operators must bear to provide subscribers with the programming they demand. For example, while programming costs increased an average 12.9% through August 1997, cable prices rose during the same period by an average of only 7.5%, just over half as much.^{26/} In other words, the Petition's alarmist assertion that "prices are going up faster than ever before, and at a rate that far exceeds what the Commission

^{22/} Price Report, 12 FCC Rcd 3239, 3244-46 (1997).

^{23/} *Id.* at 3246 (footnote omitted).

^{24/} See 47 C.F.R. § 76.922.

^{25/} Price Report, 12 FCC Rcd at 3245.

^{26/} Electronic Media, *The Numbers Back Operators on Cable Costs*, Monday, October 6, 1996.

claimed would occur”^{27/} has no basis in reality. The truth is that the Commission’s regulations clearly have succeeded in maintaining reasonable rates while encouraging investment in cable programming and facilities.

As the Commission has recognized since it began implementing its Going Forward Rules, the level of services provided by the cable television industry is not static — the industry is characterized by continuous investment in both cable plant and programming services. Although this increased investment tends to be reflected in higher rates implemented in accordance with the Commission’s rate regulations, there is no doubt that consumers benefit from these investments through an increase in the quality and quantity of available programming. And, this is how it should be. The Model T Ford was highly successful for several years, but General Motors correctly sensed that consumers wanted more amenities in their vehicles and were willing to pay for them. And, Ford lost market share before it reached the same conclusion and upgraded its product line. If Petitioners’ methodology were applied to the automobile industry, one would conclude that competition “failed” because cars cost more in 1939 than they did in 1920. If the Commission were to implement the Petition’s recommendations, the effect would be not only to freeze prices in the cable industry, but to freeze the quality and diversity of its offerings at the Model T stage of industrial development, at precisely the time when powerful new competitors are providing and preparing to provide expanded program offerings.

^{27/} Petition at 6.

II. The Commission's Rate Policies Have Restrained Rates While Promoting Re-Investment

A. The Commission's Policies Are Promoting Competition With Other Video Providers

The Commission has followed a different path than that advocated by petitioners — both by assuring through its regulations that rates will not be unreasonable and by adopting policies to spur competition with the cable industry. In keeping with the 1992 Cable Act's preference for marketplace solutions, the Commission has established a series of pro-competitive initiatives. By providing a regulatory environment which encourages the creation of new, diverse, and competitively priced program services, these policies have done and will do more to benefit consumers than any of the misguided and counter-productive proposals set forth in the Petition.

In an attempt to ensure that rates for basic service remain reasonable and competitive, the Commission has encouraged lower rates for basic cable service and has proposed implementing regulations to bring this about.^{28/} The Commission has steadily encouraged competition in the multichannel video marketplace through the authorization of competing technologies. These include implementation of video-dialtone rules which have evolved into "open video systems,"^{29/} its

^{28/} Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Cable Pricing Flexibility, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, FCC 96-316, CS Docket No. 96-157, __ FCC Rcd __ (released Aug. 15, 1996).

^{29/} Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems, *Fourth Report and Order*, 12 FCC Rcd 7545 (1997); Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems, *Third Report and Order and Second Order on Reconsideration*, 11 FCC Rcd 20227 (1996).

streamlining of wireless cable processing procedures,^{30/} and recent proposals to permit two-way digital wireless services.^{31/} It has sought to establish and promote new technologies such as LMDS systems.^{32/} The Commission also has taken steps to broaden competition by preempting governmental and non-governmental restrictions on the installation of various reception devices^{33/}

^{30/} Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Report and Order*, 10 FCC Rcd 9589 (1995).

^{31/} Amendment of Parts 1, 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, MM Docket No. 97-217, *Notice of Proposed Rulemaking*, FCC 97-360, __ FCC Rcd __ (released Oct. 10, 1997).

^{32/} Rulemaking to Amend Parts 1, 2, 21, and 25 Of the Commission's Rules to Redesignate The 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service And for Fixed Satellite Services; Petitions for Reconsideration of the Commission's Competitive Bidding Rules, CC Docket No. 92-297, *Second Order on Reconsideration*, FCC 97-323, 1997 FCC LEXIS 5047 (released Sept. 12, 1997); Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, CC Docket No. 92-297, *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking*, FCC 97-82, __ FCC Rcd __ (released Mar. 13, 1997).

^{33/} CS Wireless Systems, Inc. d/b/a OmniVision of San Antonio, CSR 4947-O, *Memorandum Opinion and Order*, DA 97-2187, __ FCC Rcd __ (released Oct. 14, 1997); Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities, MM Docket No. 97-182, *Notice of Proposed Rulemaking*, FCC 97-296, __ FCC Rcd __ (released Aug. 19, 1997); Preemption of Local Zoning Regulation of Satellite Earth Stations; Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service, *Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 19276 (1996); Preemption of Local Zoning Regulation of Satellite Earth Stations, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-78, __ FCC Rcd __ (released Mar. 11, 1996).

and establishing procedures for the disposition of inside and home run wiring in MDUs.^{34/} And, the cable industry has been spurred to continue and intensify its investment in plant and services by the present and prospective competitive offerings of competing multichannel media such as direct broadcast satellites and digital terrestrial television.

B. The Commission's Rate Policies and Rules Have Promoted a Stable Regulatory Environment Conducive to Growth

The cable industry has relied upon the stability of the Commission's regulatory regime to lay plans for future growth. According to the *Cable Television Factbook*, the percentage of cable subscribers served by systems with 54 or more channels increased from 46.7 percent on October 1, 1995, to 54.4 percent on October 1, 1996.^{35/} Through the adoption of upgrade incentive plans, known as a social contracts,^{36/} the Commission has also pursued a policy of "promoting innovation,

^{34/} Telecommunications Services Inside Wiring, Customer Premises Equipment, CS Docket No. 95-184, Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring, MM Docket No. 92-260, *Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 97-376, __ FCC Rcd __ (released Oct. 17, 1997).

^{35/} Warren Publishing, Inc., *Channel Capacity of Existing Cable Systems*, Television & Cable Factbook: Services Volume 65, 1997 Edition at I-81. In contrast, as of April 1, 1992, only 10.22% of cable systems offered 54 or more channels and served just 33.01% of cable subscribers. Warren Publishing, Inc., *Channel Capacity of Existing Cable Systems*, Television & Cable Factbook: Services Volume 60, 1992 Edition at G-65. According to Paul Kagan Associates, Inc., average channel capacity will increase to 75 in 1998, 105 in 2000, 130 in 2002, and 150 channels by 2004. Paul Kagan Associates, Inc., *Cable TV Programming*, No. 219 (July 31, 1996).

^{36/} See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation and Adoption of a Uniform Accounting System for Provision of Regulated Cable Service, *Report and Order and Further Notice of Proposed Rulemaking*, 9 FCC Rcd 4527, 4678 (1994) ("*First Cost Order*").

investment and growth in the cable industry while at the same time ensuring reasonable rates for regulated services.^{37/} Companies such as Comcast have relied upon the Commission's policies and regulations and have committed billions of dollars in investment to introduce and develop new services predicated on a stable rate environment. In 1996, Comcast spent \$177 million for upgrades and will spend another \$280 million in 1997. The Company's total capital spending and reinvestment in cable plant was over \$1.1 billion in the last two years alone.

Under the terms of its Social Contract,^{38/} Comcast committed to provide at least 550 MHz and 750 MHz systems to eighty percent and sixty percent of its subscribers, respectively, by March 1, 1999. Comcast agreed that systems serving at least eighty percent of its subscribers will use fiber optic technology and at least eighty percent of its systems will use addressability or other technology to make interactive services available to subscribers. Additionally, for both public and private schools in its franchise areas, Comcast committed to provide free connections (including additional wiring in many cases), free service (including a monthly educational program listing), and free cable modems and modem service. Comcast will offer 250 public libraries a free cable modem and free unlimited cable modem service within one year of its making personal computer-based Internet access service available to residential customers, and will provide many with free cable service connections. The Commission has also entered into social contracts with Time Warner Cable and with Continental Cablevision, ensuring consumers of substantial increases in the quality and quantity

^{37/} *Second Reconsideration Order*, 9 FCC Rcd at 4150.

^{38/} *Social Contract for Comcast Cable Communications, Order*, FCC 97-375, __ FCC Rcd __ (released Oct. 10, 1997).

of reasonably priced cable services, and at the same time, providing cable operators the wherewithal to expand their cable systems and to offer new and innovative services.^{39/}

CONCLUSION

The rate freeze demanded in the Petition and its called for increased rate regulation and a roll-back of rates is a misguided response to an imaginary problem, which, if implemented, would harm consumers by freezing investment in cable systems and forestalling innovations in the programming and services which consumers demand. The Commission utilized the rate freeze as a temporary and extraordinary measure to maintain the *status quo* while allowing for an orderly implementation of its rate regulations. Obviously, that time has long past. Since then, however, the Commission has implemented an extensive series of rules and implemented policies designed to stimulate competition which have succeeded in protecting consumers while simultaneously allowing cable operators the

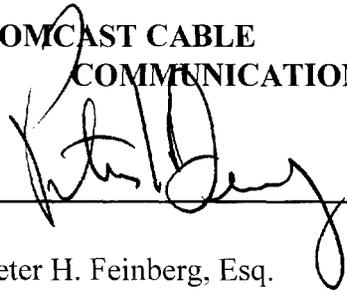
^{39/} *Social Contract for Time Warner Cable*, 11 FCC Rcd 2788 (1995), *appeal pending sub nom. Intercommunity Cable Regulatory Comm'n v. FCC*, No. 96-1027 (D.C. Cir., filed Jan. 29, 1996) (motion to hold in abeyance granted by order dated June 12, 1996); *Social Contract for Continental Cablevision*, 11 FCC Rcd 299 (1995); *Continental Cablevision, Inc., Amended Social Contract*, 11 FCC Rcd 11118 (1996); *Social Contract for Continental Cablevision*, 11 FCC Rcd 299 (1995); *Continental Cablevision, Inc., Amended Social Contract*, 11 FCC Rcd 11118 (1996).

ability to develop the capital necessary for investment and expansion. Therefore, for the foregoing reasons, the Commission should deny the Petition.

Respectfully submitted,

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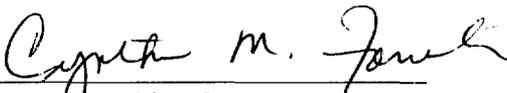
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CERTIFICATE OF SERVICE

I, Cynthia M. Forrester, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 30th day of October, 1997, I caused to be delivered the foregoing Opposition of Comcast Cable Communications, Inc. to be delivered by first class mail, postage prepaid to:

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