

Instruction: This is a model letter. Adapt to fit your facts and circumstances.

D A T E

N A M E

A D D R E S S L I N E 1

A D D R E S S L I N E 2

C I T Y , S T A T E Z I P C O D E

Re: Cable Form 393

Dear :

Enclosed herewith please find the original FCC 393 filed by Cable. This original document needs to be put on file with the City Clerk and made available for inspection by interested parties.

The Form 393 is 's calculation of the applicable benchmark rates for basic cable services, installation and equipment. The Form 393 serves as 's request for approval of its rate and the City must act within 30 days to either approve the proposed rates, reject the proposed rates or order itself an extension of 90 additional days in which time to make a determination. Moreover, prior to making a determination, the City must allow for the consideration of the views of interested parties. This is normally done through a public hearing. If the City fails to approve or reject the rates within the 30 day period and does not grant itself an extension, then the rates will become effective.

As you know, the FCC recently voted to roll back rates an addition 7%. The Report and Order which will set forth these new rules in detail, is due out this week and may result in being required to modify its filing. In light of these new rules and the 30 day time frame in which the City must act, I recommend that the City pass an Order at its next meeting granting itself the 90 day extension. This will give us sufficient time to schedule a public hearing and consider the impact of the new rules prior to making a determination. If this is agreeable with you, please let me know and I will provide you with the appropriate Order.

Although I have not analyzed 's filing in detail, I want to bring several matters to your attention. First, according to 's calculation, the basic cable service tier rate is 74 cents less than the authorized rate. Obviously, this is good for the City. However, there appear to be several problems with other installation charges proposed by . In particular, is charging \$ for changing tiers of cable services. Under the FCC rules, an operator may impose only a nominal charge for changing service tiers if that change can be effected solely by coded entry on a computer terminal or other similar simple method. The FCC considers any charge under \$ to be nominal. If the change in tiers cannot be effectuated by coded entry or a similar simple method, the FCC rules provide that the cable company can only charge its actual costs in making the changes. This is determined by multiplying the cable company's hourly service charge ("HSC") times the amount of time it takes to effect the change, or the Hourly Service Charge times the average time such changes take. 's Form 393 shows that its HSC is \$. This HSC

appears to be in line (County charges \$) but based on a rate of \$ indicates that it takes approximately 2.13 hours to make such a tier change. I believe this is extremely unreasonable, particularly in light of the fact that only charges \$ (approximately 1.4 hours) to install cable.

A second question arises with regard to the fact that proposes to charge \$ for the installation of both unwired homes and prewired homes. Again, is only entitled to charge its HSC times the actual time involved or its HSC times the average time involved to do such installations. I find it difficult to believe that it takes the same amount of time to install cable at both unwired and prewired homes. By comparison, County calculates that it is permitted to charge \$ for unwired homes and \$ for prewired homes. Hence, it appears that Cable is charging an excess of approximately \$11.00 on each installation of prewired homes.

Finally, FCC 393, Part II, Page 2, appears to indicate that 's rates have been in excess of the benchmark rates in the past and that the upper tier currently charged may be in excess of benchmark rates. Worksheet II shows a calculation of rates in effect on and compares it to the applicable benchmark rate. It appears that in D A T E had a basic tier for which it charged \$ and a second tier for which it charged \$. As you will note from the calculations, was charging a basic rate of \$ per channel when the benchmark only allows a rate of cents per channel. When this net overcharge of cents per channel is multiplied times the channels on the system, was overcharging at the rate of \$ per month. While we do not have any authority to regulate upper tier rates, I thought you might be interested in this information. Obviously, we will have to await 's response to the complaint filed with the FCC to determine if the current upper tier rates are in excess of the allowable benchmark.

I will review 's filing in more detail to determine if I see any other potential problems. In addition, it may be necessary that I obtain some additional information and explanations from . Once I have done so, I would like to schedule a meeting with you to go over this filing in more detail. In the meantime, should you have any questions or if you would like to discuss this matter, please do not hesitate to contact me.

Sincerely,

By:

/
cc: