

INF 7-7 PUT 9-1 (PR) 94
Rules Regarding Cable Television Rate
Regulation -Original C/Ar



King County **Public Rules**

Title

Rules Regarding Cable Television Rate Regulation

Document Code No.

PUT 9-1 (PR)

Department/Issuing Agency

DEA/Office of Cable Communications

Effective Date

January 28, 1994



Document Code No.

Title

Rules Regarding Cable Television Rate Regulation

PUT 9-1 (PR)

RECEIVED
93 DEC 30 AM 10:45

Department/Issuing Agency

DEA/OFFICE OF CABLE COMMUNICATIONS

Effective Date

January 28, 1994

Approved

[Signature] 12/29/93

1.0 SUBJECT TITLE: Rules Regarding Cable Television Rate Regulation

1.1 EFFECTIVE DATE: January 28, 1994

1.1.1. FILE DATE: December 29, 1993

1.2 TYPE OF ACTION: New

1.3 KEY WORDS: (1) Cable Office; (2) Franchisees (3) Basic Subscriber Rates; (4) Federal Communications Commission (FCC); (5) Toll The Effective Date; (6) Cost Of Service Showing; (7) Benchmark Rate; (8) Rate Rollback; (9) Proprietary Information

2.0 PURPOSE: To establish rules and procedures by which the County shall regulate the basic subscriber rates of its Cable Systems Owners and Operators (franchisees) consistent with FCC rules and regulations.

3.0 ORGANIZATIONS AFFECTED:

- 3.1 County Residents who Subscribe to Cable Television
- 3.2 County Executive
- 3.3 County Council
- 3.4 Department of Executive Administration
- 3.5 Office of the Hearing Examiner
- 3.6 Office of Cable Communications
- 3.7 Office of Financial Management
- 3.8 Franchisees

4.0 REFERENCES:

4.1 King County Ordinance 10159 codified as King County Code 6.27A as amended by King County Ordinance 10731 and 11075.

4.2 Cable Act of 1984, codified at 47 U.S.C. §§ 521 et. seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992.

5.0 DEFINITIONS: The definitions contained in the ordinances and federal law listed above are incorporated in their entirety by this reference.

6.0 POLICIES:

6.1 REGULATION OF RATES:

6.1.1 The Cable office shall notify a franchisee within thirty (30) days of when the County has both been certified and has adopted the necessary rules, if the County intends to regulate that franchisee's basic subscriber rates.

6.1.2 Once initial regulated rates have been set, a franchisee must file any proposed increase with the County for its review at least thirty (30) days in advance of any proposed increase.

6.1.3 A reduction in the number of services provided on any service tier or a reduction in customer services shall be considered an increase in rates.

6.1.4 Filings shall be made using forms prescribed by the FCC or Cable office where applicable if no form is prescribed, the franchisee shall state the rate it proposes to charge, explain how it derived that rate, provide supporting documentation where it proposes to base that rate upon its costs, and show that the rate is reasonable under the circumstances.

6.1.5 Rates shall go into effect thirty (30) days after they are submitted unless the County issues an order to extend the time to review or contest a rate.

6.1.6 If the Director, Department of Executive Administration, tolls the effective date of a proposed rate, the proposed rate may not be

charged until a final order is issued or until after the period specified in the tolling order.

- 6.1.7 The Cable Office shall determine whether the rate for basic cable service and equipment exceeds the levels permitted under FCC rules.
- 6.1.8 The Cable Office is authorized to take such other actions as may be appropriate to enable the County to regulate rates, to ensure that a reasonable rate is established for cable programming service, and to enable the County to respond to challenges to certification.
- 6.1.9 No decision by the County setting rates or determining that rates are reasonable shall prohibit it from ordering further rate reductions and refund to the extent it is permitted by the FCC.
- 6.1.10 No policy or procedure shall take effect if it is contrary to a mandatory provision of federal law or is outside the scope of the County ordinances under which these rules are adopted.
- 6.1.11 No rate regulatory provision shall take effect to the extent that it conflicts with any mandatory provision of the FCC's rate regulations.
- 6.2. FILING OF RATE COMPLAINTS: The Cable Office may file rate complaints with the FCC and such other filings as may be appropriate to ensure each franchise complies with applicable FCC regulations.
- 6.3 REQUEST OF INFORMATION FROM FRANCHISEES:
 - 6.3.1. If a request for information requires the production of proprietary information by the franchisee, the franchisee must produce the information.
 - 6.3.2 At the time the allegedly proprietary information is submitted, a franchisee may request in writing that specific, identified portions of its response be treated as confidential and withheld from public disclosure.
 - 6.3.3 The franchisee should segregate such

information from the main body of the submission. The franchisee's request must state the reason why the information should be treated as proprietary and the facts that support those reasons.

6.3.4 The request will be granted if the County determines the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information act, 5 U.S.C. 552.

6.3.5 If the request is granted, the decision to withhold information shall be placed in a public file for inspection.

6.3.6 If the request is denied,

- a. Where the franchisee is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or
- b. The franchisee may seek review within five working days of the denial in any appropriate forum.

6.3.7 Release of the information will be stayed pending review.

6.4 PROPRIETARY INFORMATION REQUEST FROM INTERESTED PARTIES:

6.4.1 Any interested party may file a written request to inspect material withheld as proprietary with the King County Office of Cable Communications. Except as provided by applicable, superceding law, the King County Office of Cable Communications shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case.

6.4.2 The Office of Cable Communications will then promptly notify the requesting party and the franchisee which submitted the information as to the disposition of the request and may grant, deny or condition a request.

6.4.3 The requesting party or the franchisee may seek review of the decision by filing an appeal with any appropriate forum.

6.4.4 Disclosure will be stayed pending resolution of any appeal.

7.0 PROCEDURES:

Action By Action

- | | |
|--------------|--|
| Franchisee | 7.1 When notified that the County is certified to regulate basic subscriber rates and has adopted the necessary rules, submits the appropriate filing to the Cable Office within thirty (30) days, or the date otherwise provided by the FCC, proving that its rates for basic service and equipment are reasonable. |
| | 7.2 After initial regulated rates have been set, submits any proposal to increase rates with the Cable Office at least thirty (30) days in advance of any proposed increase. |
| | 7.3 Once a final determination is made, implements an order requiring a rate reduction, rate prescription, or refunds within sixty (60) days of the effective date of the ordinance approved in accordance with K.C.C. 20.24.070. |
| Cable Office | 7.4 Reviews the submitted information and may require the franchisee to provide such information as is necessary to verify the accuracy of the filing and the reasonableness of the rates, consistent with FCC regulations. |
| | 7.5 May request the assistance of the Office of Financial Management in reviewing the submitted rate information. |
| | 7.6 Solicits the comments of interested parties to help in determining the reasonableness of the submitted rate by placing an advertisement in the County's newspaper of record. |
| | 7.7 Makes a recommendation to the Director, Department of Executive Administration, whether a franchisee's current rates or a proposed rate increase are reasonable under the FCC's rate standards. |
| | 7.8 May require the franchisee to submit additional information in a supplementary filing. |

- 7.9 Based upon its determination, forwards a proposed ordinance to the Director, Department of Executive Administration, and the Council proposing one or more of the following:
- 7.9.1 A prospective rate reduction appropriate in light of FCC rules;
 - 7.9.2 If rates are below the benchmark that they stay below the benchmark;
 - 7.9.3 A rate in lieu of the current rate or proposed rate increase, as appropriate in light of FCC rules;
 - 7.9.4 A refund of rates appropriate in light of FCC rules. Refunds shall include interest and shall be returned to the actual subscribers who paid the unreasonable charge if those subscribers can be identified without undue burden. If identification of those subscribers is not practicable, or is too costly, the franchisee may implement the refund through a credit issued to the class of subscribers who were charged the unreasonable rate; and
 - 7.9.5 Adoption of the rate as submitted.
- 7.10 Notifies the franchisee of the proposed ordinance.
- 7.11 At the same time the proposed ordinance is sent to the franchisee and the Council, sends a copy of the proposed ordinance and supporting material to the Hearing Examiner who handles the material in accordance with K.C.C. 20.24.070.
- DEA Director 7.12 If the County is unable to determine whether the current or proposed rates are reasonable as provided in this section, issues a brief order, within the thirty (30) day-period, explaining that the County needs additional time to review the current rates or the proposed rate increase.
- 7.13 Tolls the effective date of the current rates or proposed rate increases or any part thereof, for ninety (90) days if necessary to

make a final determination on the reasonableness of rates for basic service and equipment.

7.14 Tolls the effective date of the current rates or proposed rate increases for one hundred fifty (150) days to make a final determination on whether a rate above the reasonable level is justified if the franchisee has submitted a cost-of-service showing.

Hearing
Examiner

7.15 Before adopting, rejecting or modifying the proposed ordinance, provides interested parties, including the franchisee, an opportunity to participate in a hearing as provided by K.C.C. 20.24.070.

8.0 RESPONSIBILITIES

8.1 The Department of Executive Administration is responsible for:

8.1.1 Issuing a brief order explaining the County needs additional time to review the current rates or proposed rate increases.

8.1.2 Tolling the effective date of current rates for 90 or 150 days.

8.2 The County Executive is responsible for:

8.2.1 Forwarding an ordinance to the King County Council rejecting or accepting a change in rates.

8.3 The County Council is responsible for:

8.3.1 Upholding or modifying the recommendation of the Hearing Examiner.

8.4 The Hearing Examiner is responsible for:

8.4.1 Holding a public hearing and making a recommendation to the King County Council in accordance with K.C.C. 20.24.070.

8.5 The Office of Cable Communications is responsible for:

8.5.1 Notifying a franchisee the County has been certified and has adopted necessary rules.

8.5.2 Reviewing information and requiring the

franchisee to provide such other information as is necessary to verify the accuracy of the filing and the reasonableness of the rates; consistent with FCC regulations.

8.5.3 Soliciting comments of interested parties to help in determining the reasonableness of the submitted rate.

8.5.4 Making recommendations to the Director, Department of Executive whether the submitted or proposed rates are reasonable.

8.5.5 Forwarding a proposed ordinance to the Director, Department of Executive Administration and in light of FCC rules, a rate reduction, increase or refund.

8.5.6 Sending a copy of the proposed ordinance to the Hearing Examiner and acts as the County's main witness for the Hearing Examiner proceeding.

8.5.7 Filing complaints with the FCC to ensure that each franchisee applies with applicable FCC regulations.

8.6 The Office of Financial Management is responsible for:

8.6.1 Assisting the Office of Cable Communications in reviewing the information submitted by the cable companies to verify the accuracy of the filing and the reasonableness of the rates.

8.7 The franchisees are responsible for:

8.7.1 Submitting the appropriate filing.

8.7.2 Submitting any additional information, consistent with FCC regulations, needed to determine the reasonableness of a rate.

8.7.3 Complying with these rules and decisions made thereunder.