

May 10, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building
810 Third Avenue
Seattle, Washington 98104

REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: King County Office of Cable Communications File No. TCI96387
Proposed Ordinance No. 96-387

Rate Proceeding for
TCI CABLEVISION OF WASHINGTON, INC.
(Cable Systems WA0253, WA0082 & WA0083)

PRELIMINARY REPORT:

The King County Office of Cable Communications Report on Items Nos. WA0253, WA0082 and WA0083 for rate adjustments was received by the Hearing Examiner on April 24, 1996.

PUBLIC HEARING:

After reviewing the Report and examining available information on file with the Request for Cable Rate Approval, the Examiner conducted a public hearing on the subject as follows:

The hearing on Items No. WA0253, WA0082, and WA0083, was opened by the Examiner at 1:30 p.m., May 2, 1996, in Room No. 1, Department of Development and Environmental Services, 3500 - 136th Place SE, Bellevue, Washington, and adjourned at 2:05 p.m. The hearing was administratively continued to enable the applicant to submit citation of authority. On May 2, 1996, the Examiner received a facsimile transmission from the applicant and declared the public hearing to be closed. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner makes the following findings, conclusions and recommendation.

FINDINGS:

1. Except as provided herein, the Examiner adopts the Findings and Conclusions contained in the April 24, 1996 Report of the King County Office of Cable Communications (Exhibit No. 4), a copy of which is attached to this Report and Recommendation.
2. King County has agreed with the applicant's computation of maximum authorized rates for the basic service tier for the one-year period beginning June 1, 1996, as follows:

Maximum Permitted Basic Service Rates

<u>Cable System</u>	<u>Prior to Rebuild</u>	<u>Upon Rebuild</u>
WA082 & WA083	\$11.87	\$12.13
WA0253	\$11.97	N/A

3. TCI proposes to charge rates for basic service during the period beginning June 1, 1996, which are less than the maximum permitted rates. Under current FCC rules, TCI will be entitled to request inclusion of the revenue foregone during 1996-1997 in its application for maximum permitted rates in subsequent periods. However, interest on the revenue voluntarily foregone cannot be included in rates set for subsequent periods.
4. The applicant and the Office of Cable Communications have jointly requested deferral of action on maximum permitted fees for equipment rental and installation services. Pending the review of

additional information requested of the applicant by the Office of Cable Communications, it is reasonable to approve the monthly fee for basic cable service beginning June 1, 1996, while deferring action on equipment rental and installation service fees.

CONCLUSIONS:

1. The maximum monthly charge for basic service for subscribers within the franchise areas for Cable Systems WA082 and WA083 should be those amounts set forth in Finding No. 2 above for non-rebuild areas until such time or times as the subscriber is served by a rebuilt system, after which the maximum monthly rate for rebuilt areas should take effect.

For Cable System WA0253, the maximum monthly charge for basic service should be that set forth above for the entire period of June 1, 1996 through May 31, 1997.

2. Upon request of the parties, the Examiner will reopen the public hearing to give further consideration to the proposed charges for equipment rental and installation services.

RECOMMENDATION:

APPROVE the maximum permissible monthly charges for basic service set forth in Finding No. 2 above.

RECOMMENDED this 10th day of May, 1996.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 10th day of May, 1996, to the following parties and interested persons:

Stacie O. Kelley
Marie Fulghum
Deborah Grindle

Marlin Blizinsky, Manager, Office of Cable Communications
Chris Jaramillo, Office of Cable Communications

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before May 24, 1996**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before May 31, 1996**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless appealed to the Federal Communications Commission pursuant to Title 47, Code of Federal Regulations, §766.944, or within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken if review does not depend upon determining whether King County has acted consistently with the Cable Act or §§76.922 and 76.923 of the FCC Regulations.

MINUTES OF THE MAY 2, 1996 PUBLIC HEARING ON OFFICE OF CABLE COMMUNICATIONS
FILE NO. TCI96387 - TCI CABLEVISION:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chris Jaramillo, Deborah Grindle, and Marie Fulghum.

The following exhibits were offered and entered into the record:

Exhibit No. 1	March 1, 1996 Filing for Systems 082 & 083
Exhibit No. 2	March 1, 1996 Filing for System 253
Exhibit No. 3	Form 1240, Part I, dated January 1996
Exhibit No. 4	April 24, 1996 Cable Office Report to the Examiner for the May 2, 1996 Public Hearing
Exhibit No. 5	Copy of April 29, 1996 letter to Marlin Blizinsky from Marie Fulghum
Exhibit No. 6	May 1, 1996 memo to Marie Fulghum from Deborah Grindle
Exhibit No. 7	Faxed transmission dated May 2, 1996, from applicant to Examiner re: excerpts from FCC 13th Order on Reconsideration relating to annual rate adjustment system

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