

RESOLUTION NUMBER R-284035

ADOPTED ON JUNE 6, 1994

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, PURSUANT TO SECTIONS 76.933(C), 76.936, 76.940, 76.941, 76.942, 76.986(a) and 76.937(b) OF THE RULES AND REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") APPROVING THE EXISTING RATES AND CHARGES FOR THE BASIC SERVICE TIER AND ASSOCIATED EQUIPMENT FOR SOUTHWESTERN CABLE TV ("SOUTHWESTERN").

WHEREAS, the City of San Diego (the "City") was certified by the Federal Communications Commission ("FCC") to regulate the Basic Service Tier, and associated equipment on November 11, 1993; and

WHEREAS, the City provided written notice of said certification to Southwestern Cable TV ("Southwestern") on November 22, 1993; and

WHEREAS, the City has adopted regulations with respect to the Basic Service Tier and associated equipment that are consistent with the regulations prescribed by the FCC; and

WHEREAS, the City has adopted procedural laws and regulations applicable to rate regulation proceedings which provide a reasonable opportunity for consideration of the views of interested parties; and

WHEREAS, the City delivered a written request to Southwestern to file their schedule of rates for the Basic

Service Tier and associated equipment with the City on November 22, 1993; and

WHEREAS, on December 16, 1993 Southwestern filed with the City a substitute form for FCC Form 393 ("Form 393") dated December 1, 1993; and

WHEREAS, the City notified Southwestern on January 10, 1994 pursuant to Section 76.933(b) of the FCC Rules and Regulations that it was unable to determine based upon the materials submitted by Southwestern that the existing or proposed rates were within FCC's permitted Basic Service Tier charge or actual cost of equipment and that the City was tolling the thirty-day deadline found in Section 76.933(a) of FCC Rules and Regulations for an additional ninety days for the purpose of requesting and/or considering additional information; and

WHEREAS, the City has reviewed all relevant information including, but not limited to, the Form 393, the Auditor's Report, and other relevant written evidence; and

WHEREAS, the City has not made a final decision approving, disapproving, or conditionally approving, or otherwise, Southwestern's rates and charges for "a la carte" channel services; and

WHEREAS, Southwestern failed to use the proper FCC Form as required by Section 76.937(b) of FCC Rules and Regulations; and

WHEREAS, on March 28, 1994 Southwestern was ordered to keep an accurate accounting of all amounts received for Basic Service

Tier charges, to provide a Refund Plan by May 6, 1994 and to appear on June 6, 1994; and

WHEREAS, in the Third Order on Reconsideration adopted February 22, 1994, the FCC clarified the point of discrepancy between the Auditors Report of March 16, 1994 and Southwestern's Form 393.

BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO AS FOLLOWS:

Section 1. The existing rates and charges for the Basic Service Tier and associated equipment as identified in Southwestern's Form 393 dated December 1, 1993 appear to be in substantial conformity with the applicable FCC benchmark standards, as indicated in the Auditor's Report dated May 23, 1994, a copy of which is incorporated into this Resolution by reference as Enclosure (1) and as if fully stated herein.

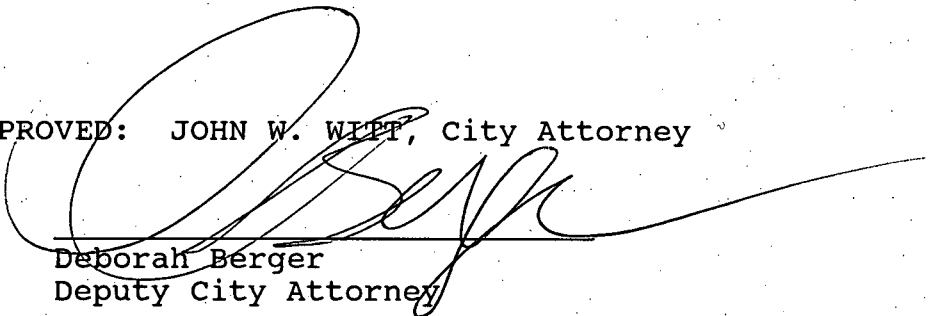
Section 2. Southwestern is hereby directed pursuant to use the appropriate FCC Form with future filings as required by Section 76.937(b) of the FCC Rules and Regulations.

Section 3. Southwestern is hereby directed and ordered to provide information with the filing of Forms 1200, et seq, as to whether the "a la carte" services it offers should be treated as a "regulated tier" pursuant to Section 76.986 of the FCC Rules and Regulations as required in the FCC's Second Order on

Reconsideration, Fourth Report and Order and Fifth Notice of
Proposed Rules and Regulations adopted February 22, 1994.

APPROVED: JOHN W. WIEFF, City Attorney

By


Deborah Berger
Deputy City Attorney

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THE CITY OF
SAN DIEGO
AUDIT DIVISION
OFFICE OF THE CITY AUDITOR & COMPTROLLER

Audit Division Manager
Eugene T. Ruzzini
(619) 533-3180

May 23, 1994

Coleman Conrad, Deputy City Manager
City Manager's Office

**Subject: Southwestern Cable TV
Federal Communications Commission Form 393 Review**

After reviewing the recently released rulings from the Federal Communications Commission (FCC) and consulting with the City Attorney's Office, we have concluded Southwestern's maximum initial permitted rate per channel of \$0.605 (or \$10.89 per month for the 18 channels on the basic service tier) is substantially correct. In its Third Order on Reconsideration, the FCC clarified issues we noted previously in our review of Southwestern's Form 393: inflation factors based on the GNP Price Index (GNP-PI) and actual versus estimated depreciation. The FCC stated cable operators will not be required to change their rates if they developed those rates using data that was accurate at that time. This is the case for Southwestern.

Our findings have been discussed with the City Attorney's Office who concurs with the position taken.

If you have any questions please contact me.

Eugene T. Ruzzini

ETR:EN

cc: John W. Witt, City Attorney
Jack McGrory, City Manager

