RESOLUTION NUMBER R-284343

ADOPTED ON JULY 25, 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), 76.937(b) AND 76.942 OF
THE RULES AND REGULATIONS OF THE FEDERAL
COMMUNICATIONS COMMISSION ("FCC")
DISAPPROVING THE EXISTING RATES AND CHARGES
FOR THE BASIC SERVICE TIER AND ASSOCIATED
EQUIPMENT FOR COX CABLE SAN DIEGO, INC.
("COX"), PRESCRIBING RATES AND CHARGES FOR
BASIC SERVICE TIER, AND ORDERING A REFUND.

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 Cox Cable San Diego, Inc. ("Cox") 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 Cox 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 9, 1993 Cox filed with the City a substitute form for FCC Form 393 ("Form 393") dated September 1, 1993; and

WHEREAS, the City notified Cox on January 4, 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 Cox 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, the April 22, 1994 written response of Cox, and other relevant written evidence; and

WHEREAS, Cox 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 Cox 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; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the City Council hereby finds and determines that the existing and proposed rates and charges for the Basic Service Tier and associated equipment as identified in Cox's Form 393

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dated September 1, 1993 are not reasonable because they are not in compliance with the applicable FCC benchmark standards for the reasons, and on the grounds, contained in the Auditor's Reports dated March 16, 1994 and May 23, 1994, copies of which are incorporated into this resolution by reference as Enclosure (1) and (2) respectively and as if fully stated herein, and Cox is hereby directed and ordered to immediately implement the rates and charges specified in Enclosure (2) to this resolution.

2. That this resolution constitutes a written decision disapproving in part the initial rate within the meaning of Section 76.936 of the FCC Rules and Regulations.

3. That pursuant to an approved Refund Plan and Section 76.942 of FCC Rules and Regulations, Cox is hereby directed and ordered to implement a refund to subscribers for rates and charges collected since September 1, 1993 in excess of the rates and charges contained in the Auditor's Reports.

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

APPROVED: JOHN W. WITT, City Attorney

By _____
Deborah Berger
Deputy City Attorney

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