

RESOLUTION NUMBER 286078

ADOPTED ON JUL 17 1995

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, PURSUANT TO SECTIONS 76.933, 76.936, 76.937, 76.940, 76.941 AND 76.942 OF THE RULES AND REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") APPROVING THE RATES FOR THE BASIC SERVICE TIER AND ASSOCIATED EQUIPMENT FOR SOUTHWESTERN CABLE TV ("SOUTHWESTERN") CONTAINED IN THE FCC FORM 1210 RATE FILING OF OCTOBER 1994 ("FORM 1210 FILING"), AND CONTAINED IN THE TWO FCC FORM 1205 RATE FILINGS OF FEBRUARY AND MAY 1995 ("FORM 1205 FILINGS"), AND DISAPPROVING A CURRENT EQUIPMENT CHARGE

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, on October 15, 1994 Southwestern filed FCC Form 1210 ("Form 1210 Filing") and on February 28, 1995 and May 30, 1995 filed a FCC Form 1205 ("Form 1205 Filings"); and

WHEREAS, the City notified Southwestern on November 4, 1994 as to the Form 1210 Filing and on March 21, 1995 and June 8, 1995 as to the Form 1205 Filings, that the City 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 installation and that, pursuant to Section 76.933(b) of the FCC Rules and Regulations, the City was tolling the thirty-day deadline for an additional ninety days for the purpose of requesting and/or considering additional information; and

WHEREAS, Southwestern was ordered on January 30, 1995 for the Form 1210 Filing and on June 8, 1995 for the Form 1205 Filing, to keep an accurate accounting of all amounts received for Basic Service Tier charges and associated equipment; and

WHEREAS, the City has reviewed all relevant information including, but not limited to, the FCC Forms 1205 and 1210 filed by Southwestern, the Auditor's Reports of March 13, 1995 and June 29, 1995, and other relevant written evidence; NOW, THEREFORE,

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

1. That the City Council hereby finds and determines that the rates for the Basic Service Tier as identified in Southwestern's FCC Form 1210 Filing of October 15, 1994 are reasonable because they are in compliance with the applicable FCC benchmark standards for the reasons, and on the grounds, contained in the Auditor's Report dated March 13, 1995, a copy of which is incorporated into this Resolution by reference as Enclosure (1) as if fully stated herein.

2. That the City Council hereby finds and determines that the rates for equipment and installation as identified in Southwestern's Form 1205 Filings of February 28, 1995 and May 30, 1995 are reasonable because they are in compliance with the applicable FCC benchmark standards for the reasons, and on the grounds, contained in the Auditor's Reports dated June 29, 1995, a copy of which is incorporated into this Resolution by reference as Enclosure (2) as if fully stated herein.

3. That Southwestern's current remote control rental charge exceeds the maximum permitted amount allowed under FCC Rules and Regulations and Southwestern is hereby directed to immediately implement the charge contained in Enclosure (2).

4. That this Resolution constitutes a written decision within the meaning of Section 76.936 of the FCC Rules and Regulations.

APPROVED: JOHN W. WITT, City Attorney

By


Deborah L. 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

March 13, 1995

Coleman Conrad
Deputy City Manager

**SUBJECT: Southwestern Cable TV
Federal Communications Commission (FCC) Form 1210**

We have completed our review of FCC Form 1210, "Updating Maximum Permitted Rates for Regulated Cable Services", filed by Southwestern Cable TV (Southwestern) on October 14, 1994. By this filing, Southwestern requested approval of a \$0.26 increase in its monthly basic service rate for changes in programming costs during the period April 1, 1994 through September 30, 1994 and inflation. Our review disclosed Southwestern's requested monthly basic service rate increase, as calculated on FCC Form 1210, is substantially correct.

We recommend you, in conjunction with the City Attorney, take appropriate actions deemed necessary in accordance with FCC regulations.

If you have any questions, please contact me.

Eugene T. Ruzzini

cc: John W. Witt, City Attorney
Jack McGrory, City Manager
Patricia T. Frazier, Financial Management Director

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SAN DIEGO
AUDIT DIVISION
OFFICE OF THE CITY AUDITOR & COMPTROLLER



DIVERSITY
BRINGS US ALL TOGETHER

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

AUDIT REPORT

June 29, 1995

Coleman Conrad
Deputy City Manager

**SUBJECT: Southwestern Cable TV
Federal Communications Commission (FCC) Form 1205**

We have completed our review of two FCC Forms 1205, "Equipment Form," filed by Southwestern Cable TV (Southwestern). Form 1205 determines maximum permitted rates for equipment rentals and installation. Southwestern filed one Form for calendar year 1994 and a separate Form for a new type of equipment that will be implemented in the near future. Our review disclosed the equipment and installation rates calculated by Southwestern on both Forms 1205 are substantially correct. However, Southwestern's current monthly charge for remote control rental (\$0.40) exceeds the maximum permitted rate (\$0.26) by \$0.14. All other rates charged for equipment and installation are below the maximum permitted by FCC regulations.

Although the remote control rental charge exceeds the maximum permitted rate, it is our understanding, based on FCC rules, that a refund is not in order for the excess. FCC rules allow for offset of other undercharges, and in the case of Southwestern, other equipment and installation charges are below the maximum to offset the difference. Southwestern advised they will adjust the remote control rental charge to be at or below the maximum permitted rate in October, 1995.

Southwestern Cable TV

June 29, 1995

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We recommend you, in conjunction with the City Attorney, take appropriate actions deemed necessary in accordance with FCC regulations.

If you have any questions, please contact me.

A handwritten signature in cursive script, appearing to read "Eugene T. Ruzzini".

Eugene T. Ruzzini

cc: John W. Witt, City Attorney
Jack McGrory, City Manager
Patricia T. Frazier, Financial Management Director

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