Synopsis of the Thirteenth Order on Reconsideration

## Introduction

The Cable Television Consumer Protection and Competition Act of 1992 ("the 1992 Cable Act") required the Commission to prescribe rate regulations that protect subscribers from having to pay unreasonable rates by ensuring that basic service tier ("BST") and cable programming service tier ("CPST") rate levels do not exceed rates that would be charged in the presence of effective competition. The 1992 Cable Act directed the Commission to "seek to reduce administrative burdens on subscribers, cable operators, franchising authorities and the Commission" in meeting this mandate.

Based on information we have secured from operators, we have concluded that we should further streamline the rate review process in ways that will benefit subscribers, cable operators, local franchising authorities, and the Commission. The current process allows, and to some degree encourages, operators to file for multiple rate adjustments during each year. This process can be costly for operators because they must file Form 1210s and provide subscribers with 30 days' advance written notice each time they file for a rate adjustment. In addition, multiple rate adjustments in one year could create subscriber confusion. Multiple rate adjustments also impose administrative burdens on regulatory authorities because they must review each proposed rate adjustment.

We have found that under the current rate framework, some operators are delayed when attempting to recover their costs because they are not permitted to file for recovery of external cost increases and additions of new channels until the quarter after costs are incurred or channel changes are made. Operators may experience further delay while regulatory authorities review the proposed adjustments. Further, operators are never able to recover costs between the date they are incurred and the date a rate adjustment is permitted. Also, under the so-called "use or lose" provision of the current rules, operators must file for rate increases that reflect cost increases within one year of the date they first incur those additional costs, or else lose the ability to pass through those costs.

In order to address these concerns, we are adopting on our own motion a new optional rate adjustment methodology where cable operators will be permitted to make only annual rate changes to their BSTS and CPSTs. Operators that elect to use this new methodology will

adjust their rates once per year to reflect reasonably certain and reasonably quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the 12 months following the rate change. Because operators will be permitted to estimate cost changes that will occur in the 12 months following the rate filing, we expect that this methodology will limit delays in recovering costs that operators may experience under the current system. Any incurred cost that is not projected may be accrued with interest and added to rates at a later time. If actual and projected costs are different during the rate year, a "true up" mechanism is available to correct estimated costs with actual cost changes. The "true up" requires operators to decrease their rates or alternatively, permits them to increase their rates to make adjustments for overor under-estimations of these cost changes. Operators would not lose the right to make a rate increase at a later date if they choose not to implement a rate adjustment at the beginning of the next rate year. Finally, in order that operators not feel compelled to make rate filings or increase rates when they otherwise would not, we will eliminate the "use or lose" requirement for operators that elect this methodology.

We believe that operators will benefit from this system because it will alleviate the difficulty of delays for rate adjustments that they now experience and will permit them to utilize annual rate adjustments without the loss of revenues they now incur as a result of the current methodology. Subscriber confusion will be alleviated because rate adjustments will take place once per year. Moreover, subscribers will be protected by this system because if an operator overestimates its permitted rate increase as a result of its projections, the operator would be required to rectify the error with interest when makes its rate adjustment at the beginning of the next rate year. Finally, franchising authorities and the Commission will benefit from this methodology because they will not be required to review more than one rate adjustment per year.

We are also requiring operators that elect the annual rate adjustment methodology to file BST rate adjustment requests 90 days prior to the effective date of the proposed changes. Operators may implement rate changes as proposed in their filings 90 days after they file unless the franchising authority rejects the proposed rate as unreasonable. If the franchising authority has not issued a rate decision and the operator makes a rate adjustment after the 90-day period has

expired, the franchising authority may order a prospective rate reduction and refunds at a later time, where appropriate. The franchising authority need not issue an accounting order to preserve its right to issue its rate order after the 90-day review period. However, if an operator inquires as to whether the franchising authority intends to issue a rate order after the 90day review period, the franchising authority must notify the operator of its intent in this regard within 15 days of the operator's request of lose its ability to order a refund or a prospective rate reduction. If a proposed rate goes into effect before the franchising authority issues its rate order, the franchising authority will have 12 months from the date the operator filed for the rate adjustment to issue its rate order. In the event that the franchising authority does not act within this time, it may not at a later date order a refund or a prospective rate reduction with respect

to the rate filing.
An operator that has a CPST complaint pending against it or has been ordered by the Commission to reduce its CPST rates, and that elects the annual rate adjustment option, must propose the annual rate adjustment at least 30 days prior to the effective date of the rate change. The Commission can deny an increase before the end of the 30-day period, but if the Commission does not act within 30 days, the operator may implement the rate increase as proposed on the Form 1240. The increase would go into effect, subject to a prospective rate reduction and refund, where appropriate, which the Commission may order at a later time.

Although operators that elect the annual rate adjustment option generally will not be permitted to make more than one rate adjustment per year, we will permit operators to make rate adjustments for the addition of channels to BSTs that the operator is required by federal or local law to carry, i.e., new must-carry, local origination, public, educational and governmental access and leased access channels. Franchising authorities will have 60 days to review these increases prior to their going into effect. The proposed rate adjustment will go into effect 60 days after filing unless the franchising authority finds that the adjustment would be unreasonable. We also will allow operators to make one additional rate adjustment during the year to reflect channel additions to CPSTs, and to BSTs where the operator offers only one regulated tier. Operators may make this additional rate adjustment reflecting channel additions to CPSTs at any time during the year. Subject to the existing