

## § 76.1404

that must be filed to justify a rate increase or, where appropriate, certification that the operator is not subject to rate regulation. The operator must file a complete response with the local franchise authority within the time period specified by the local franchise authority. The local franchise authority shall file with the Commission the complaint and the operator's response to the Complaint. If the operator's response to the complaint asserts that the operator is exempt from rate regulation, the operator's response can be filed with the local franchise authority without filing specific FCC Forms.

### § 76.1404 Use of cable facilities by local exchange carriers.

(a) For purposes of § 76.505(d)(2), the Commission will determine whether use of a cable operator's facilities by a local exchange carrier is reasonably limited in scope and duration according to the procedures in paragraph (b) of this section.

(b) Based on the record created by § 76.1617 of the rules, the Commission shall determine whether the local exchange carrier's use of that part of the transmission facilities of a cable system extending from the last multi-use terminal to the premises of the end user is reasonably limited in scope and duration. In making this determination, the Commission will evaluate whether the proposed joint use of cable facilities promotes competition in both services and facilities, and encourages long-term investment in telecommunications infrastructure.

[65 FR 53617, Sept. 5, 2000]

## Subpart S—Open Video Systems

SOURCE: 61 FR 28708, June 5, 1996, unless otherwise noted.

### § 76.1500 Definitions.

(a) *Open video system.* A facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, provided that the

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Commission has certified that such system complies with this part.

(b) *Open video system operator (operator).* Any person or group of persons who provides cable service over an open video system and directly or through one or more affiliates owns a significant interest in such open video system, or otherwise controls or is responsible for the management and operation of such an open video system.

(c) *Video programming provider.* Any person or group of persons who has the right under the copyright laws to select and contract for carriage of specific video programming on an open video system.

(d) *Activated channels.* This term shall have the same meaning as provided in the cable television rules, 47 CFR 76.5(nn).

(e) *Shared channel.* Any channel that carries video programming that is selected by more than one video programming provider and offered to subscribers.

(f) *Cable service.* This term shall have the same meaning as provided in the cable television rules, 47 CFR 76.5(ff).

(g) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(h) *Attributable Interest.* The term "attributable interest" shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(i) *Other terms.* Unless otherwise expressly stated, words not defined in this part shall be given their meaning as used in Title 47 of the United States Code, as amended, and, if not defined therein, their meaning as used in Part 47 of the Code of Federal Regulations.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43175, Aug. 21, 1996; 64 FR 67197, Dec. 1, 1999]