

Federal Communications Commission

§ 76.911

§ 76.910 Franchising authority certification.

(a) A franchising authority must be certified by the Commission in order to regulate the basic service tier and associated equipment of a cable system within its jurisdiction.

(b) To be certified, the franchising authority must file with the Commission a written certification that:

(1) The franchising authority will adopt and administer regulations with respect to the rates for the basic service tier that are consistent with the regulations prescribed by the Commission for regulation of the basic service tier;

(2) The franchising authority has the legal authority to adopt, and the personnel to administer, such regulations;

(3) Procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties; and

(4) The cable system in question is not subject to effective competition. Unless a franchising authority has actual knowledge to the contrary, the franchising authority may rely on the presumption in § 76.906 that the cable operator is not subject to effective competition.

(c) The written certification described in paragraph (b) of this section shall be made by filing the FCC form designated for that purpose. The form must be filed by

(1) Registered mail, return receipt requested, or

(2) Hand-delivery to the Commission and a date-stamped copy obtained. The date on the return receipt or on the date-stamped copy is the date filed.

(d) A copy of the certification form described in paragraph (c) of this section must be served on the cable operator before or on the same day it is filed with the Commission.

(e) Unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, *provided, however*, That the franchising authority may not regulate the rates of a cable system unless it:

(1) Adopts regulations:

(i) Consistent with the Commission's regulations governing the basic tier; and

(ii) Providing a reasonable opportunity for consideration of the views of interested parties, within 120 days of the effective date of certification; and

(2) Notifies the cable operator that the authority has been certified and has adopted the regulations required by paragraph (e)(1) of this section.

(f) If the Commission denies a franchising authority's certification, the Commission will notify the franchising authority of any revisions or modifications necessary to obtain approval.

§ 76.911 Petition for reconsideration of certification.

(a) A cable operator (or other interested party) may challenge a franchising authority's certification by filing a petition for reconsideration pursuant to § 1.106. The petition may allege either of the following:

(1) The cable operator is not subject to rate regulation because effective competition exists as defined in § 76.905. Sections 76.907(b) and (c) apply to petitions filed under this section.

(2) The franchising authority does not meet the certification standards set forth in 47 U.S.C. 543(a)(3).

(b) Stay of rate regulation. (1) The filing of a petition for reconsideration pursuant to paragraph (a)(1) of this section will automatically stay the imposition of rate regulation pending the outcome of the reconsideration proceeding.

(2) A petitioner filing pursuant to paragraph (a)(2) of this section may request a stay of rate regulation.

(3) In any case in which a stay of rate regulation has been granted, if the petition for reconsideration is denied, the cable operator may be required to refund any rates or portion of rates above the permitted tier charge or permitted equipment charge which were collected from the date the operator implements a prospective rate reduction back in time to September 1, 1993, or one year, whichever is shorter.

(c) The filing of a petition for reconsideration alleging the presence of effective competition based on frivolous grounds is prohibited, and may be subject to forfeitures.