

service is terminated without notification that another service provider intends to use the existing home run wiring to provide service to that particular subscriber, the incumbent provider will not be required to carry out its election to sell, remove or abandon the home run wiring; the incumbent provider will be required to carry out its election, however, if and when it receives notice that a subscriber wishes to use the home run wiring to receive an alternative service. Section 76.802 of the Commission's rules regarding the disposition of cable home wiring will apply where a subscriber's service is terminated without notifying the incumbent provider that the subscriber wishes to use the home run wiring to receive an alternative service.

(5) The parties shall cooperate to avoid disruption in service to subscribers to the extent possible.

(6) Section 76.802 of the Commission's rules regarding the disposition of cable home wiring will continue to apply to the wiring on the subscriber's side of the cable demarcation point.

(c) The procedures set forth in paragraphs (a) and (b) of this section shall apply unless and until the incumbent provider obtains a court ruling or an injunction within forty-five (45) days following the initial notice enjoining its displacement.

(d) After the effective date of this rule, MVPDs shall include a provision in all service contracts entered into with MDU owners setting forth the disposition of any home run wiring in the MDU upon the termination of the contract.

(e) Incumbents are prohibited from using any ownership interest they may have in property located on or near the home run wiring, such as molding or conduit, to prevent, impede, or in any way interfere with, the ability of an alternative MVPD to use the home run wiring pursuant to this section.

(f) Section 76.804 shall apply to all MVPDs.

[62 FR 61032, Nov. 14, 1997, as amended at 68 FR 13855, Mar. 21, 2003]

**§ 76.805 Access to molding.**

(a) An MVPD shall be permitted to install one or more home run wires within the existing molding of an MDU

where the MDU owner finds that there is sufficient space to permit the installation of the additional wiring without interfering with the ability of an existing MVPD to provide service, and gives its affirmative consent to such installation. This paragraph shall not apply where the incumbent provider has an exclusive contractual right to occupy the molding.

(b) If an MDU owner finds that there is insufficient space in existing molding to permit the installation of the new wiring without interfering with the ability of an existing MVPD to provide service, but gives its affirmative consent to the installation of larger molding and additional wiring, the MDU owner (with or without the assistance of the incumbent and/or the alternative provider) shall be permitted to remove the existing molding, return such molding to the incumbent, if appropriate, and install additional wiring and larger molding in order to contain the additional wiring. This paragraph shall not apply where the incumbent provider possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

(c) The alternative provider shall be required to pay any and all installation costs associated with the implementation of paragraphs (a) or (b) of this section, including the costs of restoring the MDU owner's property to its original condition, and the costs of repairing any damage to the incumbent provider's wiring or other property.

[62 FR 61033, Nov. 14, 1997]

**§ 76.806 Pre-termination access to cable home wiring.**

(a) Prior to termination of service, a customer may: install or provide for the installation of their own cable home wiring; or connect additional home wiring, splitters or other equipment within their premises to the wiring owned by the cable operator, so long as no electronic or physical harm is caused to the cable system and the physical integrity of the cable operator's wiring remains intact.

(b) Cable operators may require that home wiring (including passive splitters, connectors and other equipment

used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable operator; provided however, that if electronic or physical harm is caused to the cable system, the cable operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installations or rearrangements of wiring degrade the signal quality of or interfere with other customers' signals, or cause electronic or physical harm to the cable system, the cable operator may discontinue service to that subscriber until the degradation or interference is resolved.

(c) Customers shall not physically cut, substantially alter, improperly terminate or otherwise destroy cable operator-owned home wiring.

(d) Section 76.806 shall apply to all MVPDs.

[62 FR 61034, Nov. 14, 1997, as amended at 68 FR 13855, Mar. 21, 2003]

## Subpart N—Cable Rate Regulation

SOURCE: 58 FR 29753, May 21, 1993, unless otherwise noted.

EFFECTIVE DATE NOTE: The effective date of the amendments to part 76, published at 58 FR 29737 (May 21, 1993), extended to October 1, 1993, by an order published at 58 FR 33560 (June 18, 1993), and moved to September 1, 1993, by an order published at 58 FR 41042 (August 2, 1993), is temporarily stayed for those cable systems that have 1,000 or fewer subscribers. This limited, temporary stay is effective September 1, 1993, and will remain in effect until the Commission terminates the stay and establishes a new effective date in an order on reconsideration addressing the administrative burdens and costs of compliance for small cable systems. The Commission will publish in the FEDERAL REGISTER the new effective date of the rules with respect to small cable systems at that time.

### § 76.901 Definitions.

(a) *Basic service.* The basic service tier shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system)

any public, educational, and governmental programming required by the franchise to be carried on the basic tier, and any additional video programming signals a service added to the basic tier by the cable operator.

(b) *Cable programming service.* Cable programming service includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

(1) Video programming carried on the basic service tier as defined in this section;

(2) Video programming offered on a pay-per-channel or pay-per-program basis; or

(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

(i) Consists of commonly-identified video programming; and

(ii) Is not bundled with any regulated tier of service.

(c) *Small system.* A small system is a cable television system that serves 15,000 or fewer subscribers. The service area of a small system shall be determined by the number of subscribers that are served by the system's principal headend, including any other headends or microwave receive sites that are technically integrated to the principal headend.

(d) *New Product Tier.* A new product tier ("NPT") is a cable programming service tier meeting the conditions set forth in § 76.987.

(e) *Small cable company.* A small cable company is a cable television operator that serves a total of 400,000 or fewer subscribers over one or more cable systems.

(f) *Small cable operator.* A small cable operator is an operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000. For purposes of this definition, an operator shall be deemed affiliated with another entity if that entity holds a 20 percent