

§ 1.1403

47 CFR Ch. I (10–1–16 Edition)

§ 1.1403 Duty to provide access; modifications; notice of removal, increase or modification; petition for temporary stay; and cable operator notice.

(a) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. Notwithstanding this obligation, a utility may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.

(b) Requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator must be in writing. If access is not granted within 45 days of the request for access, the utility must confirm the denial in writing by the 45th day. The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability or engineering standards.

(c) A utility shall provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to:

(1) Removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of the cable television system operator's of telecommunications carrier's pole attachment agreement;

(2) Any increase in pole attachment rates; or

(3) Any modification of facilities other than routine maintenance or modification in response to emergencies.

(d) A cable television system operator or telecommunications carrier may file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to paragraph (c) of this section within 15 days of receipt of such notice. Such submission shall not be considered unless it includes, in

concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunication service, a copy of the notice, and certification of service as required by § 1.1404(b). The named respondent may file an answer within 7 days of the date the Petition for Temporary Stay was filed. No further filings under this section will be considered unless requested or authorized by the Commission and no extensions of time will be granted unless justified pursuant to § 1.46.

(e) Cable operators must notify pole owners upon offering telecommunications services.

[61 FR 45618, Aug. 29, 1996, as amended at 63 FR 12025, Mar. 12, 1998; 79 FR 73847, Dec. 12, 2014]

§ 1.1404 Complaint.

(a) The complaint shall contain the name, address, telephone number, and email address of the complainant; name, address, telephone number, and email address of the respondent; and a verification (in accordance with the requirements of § 1.52), signed by the complainant or officer thereof if complainant is a corporation, showing complainant's direct interest in the matter complained of. Counsel for the complainant may sign the complaint. Complainants may join together to file a joint complaint. Complaints filed by associations shall specifically identify each utility, cable television system operator, or telecommunications carrier who is a party to the complaint and shall be accompanied by a document from each identified member certifying that the complaint is being filed on its behalf.

(b) The complaint shall be accompanied by a certification of service on the named respondent, and each of the Federal, State, and local governmental agencies that regulate any aspect of the services provided by the complainant or respondent.

(c) In a case where it is claimed that a rate, term, or condition is unjust or unreasonable, the complaint shall contain a statement that the State has not certified to the Commission that it regulates the rates, terms and conditions for pole attachments. The complaint