

## § 76.945

76.923. Appeals of ratemaking decisions by franchising authorities that do not depend upon determining whether a franchising authority has acted consistently with the Cable Act or §§ 76.922 and 76.923, may be heard in state or local courts.

(b) Any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision as computed under § 1.4(b) of this chapter. Appeals shall be served on the franchising authority or other authority that issued the rate decision. Where the state is the appropriate decisionmaking authority, the state shall forward a copy of the appeal to the appropriate local official(s). Oppositions may be filed within 15 days after the appeals is filed, and must be served on the party(ies) appealing the rate decision. Replies may be filed 7 days after the last day for oppositions and shall be served on the parties to the proceeding.

(c) An operator that uses the annual rate adjustment method under Section 76.922(e) may include in its next true up under Section 76.922(e)(3) any amounts to which the operator would have been entitled but for a franchising authority decision that is not upheld on appeal.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17974, Apr. 15, 1994; 60 FR 52121, Oct. 5, 1995]

### § 76.945 Procedures for Commission review of basic service rates.

(a) Upon assumption of rate regulation authority, the Commission will notify the cable operator and require the cable operator to file its basic rate schedule with the Commission within 30 days, with a copy to the local franchising authority.

(b) Basic service and equipment rate schedule filings for existing rates or proposed rate increases (including increases in the baseline channel change that results from reductions in the number of channels in a tier) must use the official FCC form, a copy thereof, or a copy generated by FCC software. Failure to file on the official FCC form or a copy may result in the imposition of sanctions specified in § 76.937(d).

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Cable operators seeking to justify the reasonableness of existing or proposed rates above the permitted tier rate must submit a cost-of-service showing sufficient to support a finding that the rates are reasonable.

(c) Filings proposing annual adjustments or rates within the rates regulation standards in §§ 76.922 and 76.923, must be made 30 days prior to the proposed effective date and can become effective on the proposed effective date unless the Commission issues an order deferring the effective date or denying the rate proposal. Petitions opposing such filings must be filed within 15 days of public notice of the filing by the cable operator and be accompanied by a certificate that service was made on the cable operator and the local franchising authority. The cable operator may file an opposition within five days of filing of the petition, certifying to service on both the petitioner and the local franchising authority.

(d) Filings proposing a rate not within the rate regulation standards of §§ 76.922 and 76.923, must be made 90 days before the requested effective date. Petitions opposing such filings must be filed within 30 days of public notice of the filing, and be accompanied by a certificate that service was made on the cable operator and the local franchising authority. The cable operator may file an opposition within 10 days of the filing of the petition, and certifying that service was made on the petitioner and the local franchising authority.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17974, Apr. 15, 1994]

### § 76.946 Advertising of rates.

Cable operators that advertise rates for basic service and cable programming service tiers shall be required to advertise rates that include all costs and fees. Cable systems that cover multiple franchise areas having differing franchise fees or other franchise costs, different channel line-ups, or different rate structures may advertise a complete range of fees without specific identification of the rate for each individual area. In such circumstances, the operator may advertise a "fee plus" rate that indicates the core rate plus

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the range of possible additions, depending on the particular location of the subscriber.

[59 FR 17974, Apr. 15, 1994]

### § 76.952 Information to be provided by cable operator on monthly subscriber bills.

All cable operators must provide the following information to subscribers on monthly bills:

(a) The name, mailing address and phone number of the franchising authority, unless the franchising authority in writing requests the cable operator to omit such information.

(b) The FCC community unit identifier for the cable system.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17960, Apr. 15, 1994; 64 FR 35950, July 2, 1999]

### § 76.962 Implementation and certification of compliance.

(a) *Implementation.* A cable operator must implement remedial requirements, including prospective rate reductions and refunds, within 60 days from the date the Commission releases an order mandating a remedy.

(b) *Certification of compliance.* A cable operator must certify to the Commission its compliance with any Commission order mandating remedial requirements. Such certification shall:

(1) Be filed with the Commission within 90 days from the date the Commission releases an order mandating a remedy;

(2) Reference the applicable Commission order;

(3) State that the cable operator has complied fully with all provisions of the Commission's order;

(4) Include a description of the precise measures the cable operator has taken to implement the remedies ordered by the Commission; and

(5) Be signed by an authorized representative of the cable operator.

### § 76.963 Forfeiture.

(a) If any cable operator willfully fails to comply with the terms of any Commission order, including an order mandating remedial requirements after a finding of unreasonable cable programming service or equipment rates, or any Commission rule, the Commis-

sion may, in addition to other remedies, impose a forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b).

(b) A cable operator shall not be subject to forfeiture because its rate for cable programming service or equipment is determined to be unreasonable.

### § 76.970 Commercial leased access rates.

(a) Cable operators shall designate channel capacity for commercial use by persons unaffiliated with the operator, and that seek to lease a programming channel on a full-time basis, in accordance with the requirement of 47 U.S.C. 532. For purposes of 47 U.S.C. 532(b)(1)(A) and (B), only those channels that must be carried pursuant to 47 U.S.C. 534 and 535 qualify as channels that are required for use by Federal law or regulation. For cable systems with 100 or fewer channels, channels that cannot be used due to technical and safety regulations of the Federal Government (e.g., aeronautical channels) shall be excluded when calculating the set-aside requirement.

(b) In determining whether an entity is an "affiliate" for purposes of commercial leased access, 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.

(c) Attributable interest shall be defined by reference to the criteria set forth in Notes 1-5 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.

(d) The maximum commercial leased access rate that a cable operator may charge for full-time channel placement on any tier is the average implicit fee for full-time channel placement on that tier.

(e) The average implicit fee identified in paragraph (d) of this section shall be calculated by first calculating the total amount the operator receives in