

§ 76.952

(8) A certification that, to the best of the complainant's knowledge, the information provided on the form is true and correct.

[61 FR 18979, Apr. 30, 1996]

§ 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]

§ 76.953 Limitation on filing a complaint.

(a) *Complaint regarding a rate change.* A complaint alleging an unreasonable rate for cable programming service or associated equipment may be filed against a cable operator only in the event of a rate change, including an increase or decrease in rates, or a change in rates that results from a change in a system's service tiers. A rate change may involve an implicit rate increase (such as deleting channels from a tier without a corresponding lowering of the rate for that tier). A complaint regarding a rate change for cable programming service or associated equipment may be filed against a cable operator only in the event of a rate change.

(b) Late-filed complaints will be dismissed with prejudice.

[58 FR 29753, May 21, 1993, as amended at 58 FR 46736, Sept. 2, 1993; 59 FR 17960, 17974, Apr. 15, 1994; 60 FR 35868, July 12, 1995; 61 FR 18979, Apr. 30, 1996]

§ 76.954 Initial review of complaint; minimum showing requirement; dismissal of defective complaints.

(a) The Commission will conduct an initial review of a complaint to determine if it meets the minimum showing required to allow the complaint to go forward. The minimum showing shall be satisfied if the complaint is filed using the standard complaint form de-

47 CFR Ch. I (10-1-03 Edition)

scribed in § 76.951 and includes all information and attachments required by that form. A complainant will not be required, as part of the minimum showing, to provide the underlying information and calculations necessary to judge the cable programming service rate in question against the Commission's rate standards.

(b) A complaint that does not meet the minimum showing requirement described in paragraph (a) of this section will be considered defective. A defective complaint will be dismissed without prejudice to filing a corrected complaint as provided by § 76.955. The Commission will notify the complainant by mail of the dismissal. The filing of a complaint on the applicable form, but which is otherwise defective, will toll the limitation period established by § 76.953.

§ 76.955 Additional opportunity to file corrected complaint.

(a) If the Commission dismisses an initial complaint without prejudice pursuant to § 76.954, the complainant shall have one additional opportunity to cure the defect and file a corrected complaint.

(b) For a complaint filed on the applicable form but is otherwise defective, the complainant must cure the defect and file a corrected complaint with the Commission within 30 days from the date of the Commission's dismissal notice. Failure to cure the defect and file a corrected complaint within this time period will result in dismissal of the complaint with prejudice.

§ 76.956 Cable operator response.

(a) Unless otherwise directed by the local franchising authority, a cable operator must file with the local franchise authority a response to the complaint. The response shall indicate when the cable operator received notice of the complaint. Service by mail is complete upon mailing. See § 1.47(f) of this chapter. The response shall include the information required by the appropriate FCC form, including rate cards, channel line-ups, and an explanation of any discrepancy in the figures provided in these documents and the rate filing. The cable operator

Federal Communications Commission

§ 76.960

must file its response with the local franchise authority via first class mail.

(b) The burden shall be on the cable operator to prove that the service rate or equipment charge in question is not unreasonable. The cable operator may carry its burden in the following manner:

(1) For a service rate at or below the permitted level, by providing information and calculations that demonstrate that the rate in question falls at or below the permitted level;

(2) For a service rate that exceeds the permitted level;

(i) By providing proof that the cable system has reduced the rate for the cable programming service at issue to a level at or below the permitted level; or

(ii) By providing detailed cost-based information that demonstrates that the rate in question is reasonable despite the fact that it exceeds the permitted level.

(3) For a charge for equipment installation or rental, by providing information that demonstrates that the charge is based on the cable operator's actual cost.

(c) In addition to responding to the merits of a complaint, the cable operator may also move for dismissal of the complaint for failure to meet the minimum showing requirement. Any such motion for dismissal must state with particularity the reasons the cable operator believes the complaint is defective and shall not relieve the cable operator of its obligation to respond to the merits of the complaint.

(d) A cable operator may file a consolidated response to multiple complaints regarding the identical rate or rate increase. A consolidated response must be filed within 30 days from the date of service of the first complaint received, unless the Commission notifies the cable operator to the contrary. A cable operator may amend a consolidated response to address new issues raised by complaints received after the cable operator's initial response.

(e) A cable operator that fails to file and serve a response to a valid complaint may be deemed in default. If the Commission deems a cable operator in default, the Commission may enter an order against the cable operator find-

ing the rate to be unreasonable and mandating appropriate relief.

(f) A cable operator need not respond to any complaint that is:

(1) Not filed on the applicable form; or

(2) That the Commission determined is defective *and* has so notified the cable operator.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17975, Apr. 15, 1994; 61 FR 18979, Apr. 30, 1996; 64 FR 35950, July 2, 1999]

§ 76.957 Commission adjudication of the complaint.

The Commission will consider the complaint and the cable operator's response and then determine by written decision whether the rate for the cable programming service or associated equipment is unreasonable or not. In making its determination, the Commission will only review the amount of the rate increase subject to the complaint. If the Commission determines that the rate change in question is unreasonable, it will grant the complaint and may order appropriate relief, including, but not limited to, prospective rate reductions and refunds. If it determines that the rate in question is reasonable, the Commission will deny the complaint.

[60 FR 52121, Oct. 5, 1995]

EFFECTIVE DATE NOTE: At 60 FR 52121, Oct. 5, 1995, § 76.957 was revised. This section contains information collection and record-keeping requirements and will not become effective until 30 days after approval has been given by the Office of Management and Budget.

§ 76.960 Prospective rate reductions.

Upon a finding that a rate for cable programming service or associated equipment is unreasonable, the Commission may order the cable operator to implement a prospective rate reduction to the class of customers subscribing to the cable programming service at issue.

(a) For an operator that adjusts its rates using the quarterly rate adjustment system pursuant to Section 76.922(d), the Commission's decision regarding a prospective rate reduction shall remain binding on the cable operator for one year unless the Commission specifies otherwise.