

## §76.961

(b) For an operator that adjusts its rates using the annual rate adjustment system pursuant to Section 76.922(e), for one year following the Commission's decision, the operator shall provide the Commission at least 30 days' notice of any proposed change.

[60 FR 52121, Oct. 5, 1995]

EFFECTIVE DATE NOTE: At 60 FR 52121, Oct. 5, 1995, §76.960 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.

### §76.961 Refunds.

(a) Upon a finding that a rate for cable programming service or associated equipment is unreasonable, the Commission may order the cable operator to refund to subscribers that portion of previously paid rates which is deemed unreasonable.

(b) The cumulative refund due subscribers shall be calculated from the date of the first complaint filed with the franchising authority until the date a cable operator implements a prospective rate reduction as ordered by the Commission pursuant to §76.960. The Commission shall calculate refund liability according to the rules in effect for determining the reasonableness of the rates for the period of time covered by the complaint.

(c) The cable operator, in its discretion, may implement a refund in the following manner:

(1) By returning overcharges to those subscribers who actually paid the overcharges, either through direct payment or as a specifically identified, one-time credit to those subscribers' bills; or

(2) By means of a prospective percentage reduction in the unreasonable cable programming service rate or equipment charge to cover the cumulative overcharge. This shall be reflected as a specifically identified, one-time credit on prospective bills to the class of subscribers that currently subscribe to the cable programming service or associated equipment at issue.

(d) Refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments. Interest shall accrue from the date a

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valid complaint is filed until the refund issues.

(e) At the time the Commission orders a cable operator to pay refunds to subscribers, the franchising authority must return to the cable operator an amount equal to that portion of the franchise fee that was paid on the total amount of the refund to subscribers. The franchising authority may return the franchise fee overcharge either in an immediate lump sum payment, or the cable operator may deduct it from the cable system's future franchise fee payments.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17975, 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 Commission may, in addition to other remedies, impose a forfeiture pursuant to Section 503(b) of the Communications