

Title: Section 76.944, Commission Review of Franchising Authority Decisions on Rates for Basic Service and Associated Equipment

SUPPORTING STATEMENT

A. Justification:

1. 47 CFR Section 76.944(b) provides that 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 appeal 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.

As noted on the OMB Form 83-I, this information collection does not affect individuals; therefore, there are no Privacy Act impacts.

The Commission is requesting an extension of this information collection in order to receive the full three year OMB clearance/approval.

Statutory authority for the collection of information is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

2. The Commission reviews this information to ensure that franchising authority decisions regarding cable rates are consistent with the provisions of the Cable Television Consumer Protection and Competition Act of 1992 and the Commission's rules regarding cable rate regulation. Commission review of appeals is necessary to ensure uniformity of interpretation of federal guidelines.

3. We do not believe that the use of information technology is feasible in this situation.

4. This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. This collection of information does not have a significant impact on a substantial number of small entities/businesses.

6. If the Commission did not collect this information and allow for an appeals process, then there would be no mechanism for the Commission to examine varying and conflicting rate determinations issued at the local level. The absence of an appeals process would therefore

Title: Section 76.944, Commission Review of Franchising Authority Decisions on Rates for Basic Service and Associated Equipment

jeopardize consistent interpretation of the rate regulations provisions set forth in the Cable Television Consumer Protection and Competition Act of 1992.

7. Oppositions to appeals may be filed within 15 days after appeals are filed. Replies may be filed seven days after the last day for oppositions to be filed.

8. The Commission published a Notice (71 FR 58607) in the *Federal Register* on October 4, 2006. No comments were generated as a result of the Notice.

9. No payment or gift was provided to the respondents.

10. There is no need for confidentiality.

11. These collections of information do not address any matters of a sensitive nature.

12. We estimate that approximately 16 cable operators will file annually. For all aspects of the filing process (including appeals, oppositions and replies), we estimate that cable operators spend an average of 30 hours on each filing and that local franchising authorities spend an average of 20 hours on each filing. We estimate that eight (8) cable operators will use in-house legal staff to file requests for appeals and the other eight (8) will use outside legal. When using outside legal assistance, operators are estimated to undergo an additional burden of two (2) hours per filing to coordinate information with the outside legal assistance

Total number of respondents:

16 cable operators

16 LFAs

32 (respondents)

Total number of responses:

16 filings by cable operators

16 LFAs reviews

8 Filing reviews with consulting attorney

40 (responses)

Total Annual Hour Burden:

16 cable operators' filings x 30 hours/filings = 480 hours

16 LFAs' filing reviews x 20 hours for each filing = 320 hours

8 cable operators' filings x 2 hours for legal consultation = 16 hours

Title: Section 76.944, Commission Review of Franchising Authority Decisions on Rates for Basic Service and Associated Equipment

816 hours

Annual In-House Cost: We estimate an average hourly wage of \$35 per hour for cable operator staff tasked with the filing process or coordinating information with legal counsel, and for LFA staff tasked with reviewing these filings.

16 cable operators' filings x 30 hours/filings x \$35/hour	= \$16,800
16 LFAs' filing reviews x 20 hours for each filing x \$35/hour	= \$11,200
8 cable operators' filings x 2 hours for legal consultation x \$35/hour	= \$ 560
Total Annual In-House Cost: \$28,560	

These estimates are based on FCC staff's knowledge and familiarity with the data required.

13. Annual Cost Burden:

a. Total capital and start-up costs. None.

b. Total operation and maintenance costs. We estimate that cable operators contracting out legal assistance will pay \$200 per hour for the assistance.

\$200/hour x 2 hours/filing = \$400/filing x 8 cable operators paying outside attorneys = \$3,200.

c. Total annual costs to respondents = **\$3,200**

14. Cost to the Federal Government. We estimate for each case:

<u>Staff</u>	<u>Hours</u> <u>p/Case</u>	<u>Cost</u> <u>p/Hour</u>	<u>Cost</u> <u>p/Case</u>
Professional (GS-13/5)	40 hours	\$42.00	\$1,680.00
Managerial (GS-14/5)	4 hours	\$49.64	\$ 198.56
Clerical (GS-5, step 5)	<u>6 hours</u>	\$16.08	<u>\$ 96.48</u>
Totals	50.0 hours		\$ 1975.04

16 filings x \$1975.04 = \$31,600.64
 30% overhead = 9,480.19

Total cost to the Federal Government: \$41,080.83

15. The Commission had adjustments to the total annual burden hours and total annual cost

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burden. These adjustments are due to the Commission making a mathematical error in its previous submission. There are no program changes to this information collection.

16. The data will not be published for statistical use.

17. We do not seek approval not to display the expiration date for OMB approval of the information collection.

18. The Commission made errors in its 60 day Federal Register Notice (“Notice”). The estimated time per response is “2 – 30 hours” and “Third Party Disclosure Requirement” should have been included in the Notice. There are no other exceptions to Item 19 of the Certification Statement, OMB 83-I.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.