

SUPPORTING STATEMENT

A. Justification

1. Section 623 of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to prescribe rules and regulations for determining reasonable rates for basic tier cable service and to establish criteria for identifying unreasonable rates for cable programming services and associated equipment which is the reason for the Commission creating FCC Forms 1210 and 1240.

FCC Form 1210

Cable operators use FCC Form 1210 to file for adjustments in maximum permitted rates¹ for regulated services to reflect external costs. Regulated cable operators submit this form to local franchising authorities or the Commission, in situations where the FCC has assumed jurisdiction. FCC 1210 Form is filed by cable operators quarterly.

FCC Form 1240

FCC Form 1240 is filed by cable operators seeking to adjust maximum permitted rates for regulated cable services to reflect changes in external costs. Cable operators submit FCC Form 1240 to their respective local franchising authorities (“LFAs”) to justify rates for the basic service tier and related equipment or with the Commission, in situations where the Commission has assumed jurisdiction. FCC Form 1240 is a filing alternative to FCC Form 1210. FCC Form 1240 is filed by cable operators annually.

HISTORY:

FCC Form 1210

On June 19, 2002, the Commission released a *Notice of Proposed Rulemaking* (“NPRM”), MB Docket No. 02-144, FCC 02-177, initiated to reflect the March 31, 1999 sunset of Commission jurisdiction to regulate rates for cable programming services (“CPS”) enacted by the Telecommunications Act of 1996 (“1996 Act”), 47 U.S.C. 543(c) (4).

Since the release of the *NPRM* in June 2002 as cited above, the Commission has taken no further action.

FCC Form 1240

¹ Maximum permitted are calculated through use of FCC Forms 1210 and 1240 and represent the highest rates a rate-regulated operator can charge.

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On September 22, 1995, the Commission released the *Thirteenth Order on Reconsideration* (“Order”), MM Docket No. 92-266, FCC 95-397, which adopted a new optional rate adjustment methodology permitting cable operators to make annual rate changes to their basic service tiers (“BSTs”) and cable programming service tiers (“CPSTs”). Operators electing to use this methodology adjusted their rates once per year to reflect reasonably certain and reasonably quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the 12 months following the rate change. To enable operators to use this optional rate adjustment methodology the Commission created FCC Form 1240, “Annual Updating of Maximum Permitted Rates for Regulated Cable Services.” Since March 31, 1999 (Telecommunications Act of 1996), the Commission no longer has jurisdiction to hear complaints on programming service rates and equipment.

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

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

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

2. **FCC Form 1210** - The Commission and local franchising authorities (“LFAs”) use this data to adjudicate permitted rates for regulated cable services and equipment, for the addition of new programming tiers and to account for the addition and deletion of channels, and for the allowance of external costs and costs due to inflation.

FCC Form 1240 - FCC Form 1240 is filed by cable operators seeking to adjust maximum permitted rates for regulated cable services to reflect changes in external costs. Cable operators submit FCC Form 1240 to their respective local franchising authorities (“LFAs”) to justify rates for the basic service tier and related equipment or with the Commission (in situations where the Commission has assumed jurisdiction).² New information contained in FCC Form 1240 filings is used by the LFAs to adjudicate permitted rates for regulated cable services and equipment, to account for the addition and deletion of channels, and for the allowance for pass through of external costs and costs due to inflation.

3. The use of information technology is feasible for this collection. Automated diskette versions of FCC Forms 1210 and 1240 are available to respondents. The Commission estimates that 90% of FCC Forms 1210 and 1240 filings are filed electronically with the LFAs.³ FCC Forms 1210 and 1240 are also available on the Commission’s Internet Website.

² The Commission may assume jurisdiction over local rates where an LFA is unable to perform its regulatory duties.

³ Respondents may file paper forms; however, FCC Forms 1210 and 1240 are rarely filed with the Commission, but mostly with the LFAs.

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4. The Commission does not impose a similar information collection requirement on the respondents.
5. This information collection requirement does not have a significant economic impact on a substantial number of small businesses/small entities.
6. If the Commission or LFAs did not collect this information, the FCC would not be able to carry out its statutory responsibilities under Section 623 of the Communications Act of 1934, as amended, and reduced administrative burdens on cable operators, LFAs and the Commission could not be realized.
7. There are no special circumstances associated with this information collection.
8. The Commission published a Notice (73 FR 63149) in the *Federal Register* on October 23, 2008. No comments were generated as a result of the Notice.
9. Respondents will not receive any payments.
10. There is no need for confidentiality with this collection of information.
11. This information collection does not address any private matters of a sensitive nature.
12. The FCC reports the following public burden:

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<u>Number of Respondents</u>	<u>Number of Filings/ Responses</u>	<u>Total Number of Applications / Responses</u>	<u>Respondent's Burden Hours</u>	<u>Total Annual Burden Hours</u>	<u>Hrly. In-House Cost</u>	<u>Total Annual In-House Cost</u>
FCC FORM 1210						
100	4	400 ⁴	15	6,000	\$25.00	\$150,000.00
100	4	400 ⁵	2	800	\$25.00	\$20,000.00
200	4	800 ⁶	10	8,000	\$25.00	\$200,000.00
FCC FORM 1240						
375	1	375 ⁷	1	375	\$25.00	\$9,375.00
1,125	1	1,125 ⁸	15	16,875	\$25.00	\$421,875.00
<u>1,500</u>	1	1,500 ⁹	8	12,000	\$25.00	\$300,000.00
		375 ¹⁰	1	375	\$25.00	\$9,375.00
		<u>375¹¹</u>	1	<u>375</u>	\$25.00	<u>\$9,375.00</u>

⁴ This number represents the total annual applications filed (100 respondents file 1 application quarterly for a total of 4 applications per year). These applications are completed by the respondent with in-house cable staff.

⁵ This number represents the total annual applications filed (100 respondents file 1 application quarterly for a total of 4 applications per year). These applications represent filings that the respondent coordinated information with outside contractors to allow the contractors to prepare the applications/filings, and required 2 hours of the respondent's time per application.

⁶ These 800 applications represent annual filings reviewed by the LFA. Each quarter the LFA reviews 200 filings; therefore, 200 respondents file 1 application quarterly for a total of 4 applications per year.

⁷ These 375 applications represent filings that the respondent coordinated information with outside contractors to allow the contractors to prepare the applications/filings, and required 1 hours of the respondent's time per application.

⁸ These 1,125 applications represent filings completed by the respondent with in-house cable staff.

⁹ These 1,500 applications represent filings reviewed by the LFA.

¹⁰ These are 375 cable operator inquiries to LFAs. 47 CFR § 76.933(g)(2) states if an LFA has taken no action within the 90-day review period, then the proposed rates may go into effect at the end of the review period, subject to a prospective rate reduction and refund if the LFA subsequently issues a written decision disapproving any portion of such rates. However, if an operator inquires as to whether the LFA intends to issue a rate order after the initial review period, the LFA or its designee must notify the operator of its intent in this regard within 15 days of the operator's inquiry. We estimate this will occur in 25% (25% of the total 1,500 applications = 375 inquiries) of the instances when Form 1240s are filed by cable operators with their LFAs.

¹¹ These are 375 LFA responses to cable operators.

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<u>Number of Respondents</u>	<u>Number of Filings/ Responses</u>	<u>Total Number of Applications / Responses</u>	<u>Respondent's Burden Hours</u>	<u>Total Annual Burden Hours</u>	<u>Hrly. In-House Cost</u>	<u>Total Annual In-House Cost</u>
3,400		5,350		44,800		\$1,120,000.00

Total Number of Annual Respondents: 3,400 Cable Operators

Total Number of Annual Responses: 5,350 responses

Total Annual Burden Hours: 44,800 hours

Total Annual "In-house" Cost: \$1,120,000

13. Annual Cost Burden:

a. Total capital and start-up costs: None

b. Total operation and maintenance costs: We estimate that cable operators that use outside legal and accounting contractors will pay for these services at an average rate of \$175/hour, and each filing will take 15 hours to complete.

FCC Form 1210: 400 filings x 15 hours x \$175/hour = \$1,050,000
600,000

FCC Form 1240: 375 filings x 15 hours x \$175/hour = \$ 984,375
\$2,034,375

c. **Total annual cost to respondents: \$2,034,375**

14. There is no cost to the Federal Government.

15. There is an adjustment to the annual cost burden of +\$871,375. This adjustment is due to an increase in the outside legal and accounting contractors hourly salary. There are no program changes.

16. The results of this information collection requirement are not planned to be published.

17. The Commission requests an extension of the waiver not to publish the expiration date on these forms requested. OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

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18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.