

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

SUPPORTING STATEMENT

A. Justification

1. **47 CFR 76.613(d)** requires that when Multichannel Video Programming Distributors (MVPDs) cause harmful signal interference MVPDs will be required by the Commission's engineer in charge (EIC) to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

47 CFR 76.802(b) states during the initial telephone call in which a subscriber contacts a cable operator to voluntarily terminate cable service, the cable operator—if it owns and intends to remove the home wiring—must inform the subscriber:

- (1) That the cable operator owns the home wiring;
 - (2) That the cable operator intends to remove the home wiring;
 - (3) That the subscriber has the right to purchase the home wiring; and
 - (4) What the per-foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge must be available for use during the initial phone call).
- (c) If the subscriber voluntarily terminates cable service in person, the procedures set forth in paragraph (b) of this section apply.
- (d) If the subscriber requests termination of cable service in writing, it is the operator's responsibility—if it wishes to remove the wiring—to make reasonable efforts to contact the subscriber prior to the date of service termination and follow the procedures set forth in paragraph (b) of this section.

47 CFR 76.804 (a)(1) states where an MVPD owns the home run wiring in an Multiple Dwelling Unit Building (MDU) and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the MDU owner, the MDU owner may give the MVPD a minimum of 90 days' written notice that its access to the entire building will be terminated to invoke the procedures in this section. The MVPD will then have 30 days to notify the MDU owner in writing of its election for all the home run wiring inside the MDU building: to remove the wiring and restore the MDU building consistent with

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

state law within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, whichever occurs first; to abandon and not disable the wiring at the end of the 90-day notice period; or to sell the wiring to the MDU building owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90-day notice period, the incumbent provider shall notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the incumbent provider elects to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, whichever occurs first. For purposes of abandonment, passive devices, including splitters, shall be considered part of the home run wiring. The incumbent provider that has elected to abandon its home run wiring may remove its amplifiers or other active devices used in the wiring if an equivalent replacement can easily be reattached. In addition, an incumbent provider removing any active elements shall comply with the notice requirements and other rules regarding the removal of home run wiring. If the MDU owner declines to purchase the home run wiring, the MDU owner may permit an alternative provider that has been authorized to provide service to the MDU to negotiate to purchase the wiring.

47 CFR 76.804 (a)(2) states if the incumbent provider elects to sell the home run wiring under paragraph (a)(1) of this section, the incumbent and the MDU owner or alternative provider shall have 30 days from the date of election to negotiate a price. If the parties are unable to agree on a price within that 30-day time period, the incumbent must elect: to abandon without disabling the wiring; to remove the wiring and restore the MDU consistent with state law; or to submit the price determination to binding arbitration by an independent expert. If the incumbent provider chooses to abandon or remove its wiring, it must notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90-day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment shall become effective at the end of the 90-day notice period or upon service termination, whichever occurs first. If the incumbent elects at this point to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90-day notice period or within 30 days of actual service termination, whichever occurs first.

47 CFR 76.804 (a) (3) states if the incumbent elects to submit to binding arbitration, the parties shall have seven days to agree on an independent expert or to each designate an expert who will pick a third expert within an additional seven days. The independent expert chosen will be required to assess a reasonable price for the home run wiring by the end of the 90-day notice period. If the incumbent elects to submit the matter to binding arbitration and the MDU owner (or the alternative provider) refuses to participate, the incumbent shall have no further obligations under the Commission's home run wiring disposition procedures. If the incumbent fails to comply with any of the deadlines established herein, it shall be deemed to have elected to

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

abandon its home run wiring at the end of the 90-day notice period.

47 CFR 76.804 (a) (4) states the MDU owner shall be permitted to exercise the rights of individual subscribers under this subsection for purposes of the disposition of the cable home wiring under §76.802. When an MDU owner notifies an incumbent provider under this section that the incumbent provider's access to the entire building will be terminated and that the MDU owner seeks to use the home run wiring for another service, the incumbent provider shall, in accordance with our current home wiring rules: offer to sell to the MDU owner any home wiring within the individual dwelling units that the incumbent provider owns and intends to remove; and provide the MDU owner with the total per-foot replacement cost of such home wiring. This information must be provided to the MDU owner within 30 days of the initial notice that the incumbent's access to the building will be terminated. If the MDU owner declines to purchase the cable home wiring, the MDU owner may allow the alternative provider to purchase the home wiring upon service termination under the terms and conditions of §76.802. If the MDU owner or the alternative provider elects to purchase the home wiring under these rules, it must so notify the incumbent MVPD provider not later than 30 days before the incumbent's termination of access to the building will become effective. If the MDU owner and the alternative provider fail to elect to purchase the home wiring, the incumbent provider must then remove the cable home wiring, under normal operating conditions, within 30 days of actual service termination, or make no subsequent attempt to remove it or to restrict its use.

Even though the information collection requirements may affect individuals or households, we do not believe that there are any impacts under the Privacy Act due to the type of information that is being collected.

Statutory authority for this collection of information is contained in Sections 1, 4, 224, 251, 303, 601, 623, 624 and 632 of the Communications Act of 1934, as amended.

2. The various disclosure, notification and election requirements in this collection are set forth in order to promote competition and consumer choice by minimizing any potential disruption in service to a subscriber switching video providers.
3. The disclosure requirements are usually conducted via telephone. The notification and election requirements will be unique filings in the form of written letters. Therefore, there is no opportunity to use automated or electronic collection techniques.

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

4. The Commission does not impose similar requirements on respondents.
5. This information collection will not have a significant economic impact on a significant number of small businesses/entities.
6. These information collections are necessary in order to protect consumers from unnecessary disruption of service and expense caused by the removal of home wiring and to allow consumers to use the wiring for service received from alternative MVPDs.
7. There are no special circumstances that cause these collections of information to be conducted in a manner inconsistent with the requirements set forth in the Paperwork Reduction Act of 1995.
8. The Commission published a Notice (74 FR 53239) in the *Federal Register* on October 16, 2009. No comments were generated as a result of the Notice.
9. There will be no payment or gifts to respondents in providing the necessary information.
10. There is no need for confidentiality with this information collection.
11. This collection does not address any private matters of a sensitive nature.
12. Public burden estimates:
 - a. **47 CFR 76.613** - We estimate that no more than 10 interference reports will be submitted annually to the Commission's EIC, each having an average burden of 2 hours to prepare.

10 reports x 2 hours/report = **20 hours**

- b. **47 CFR 76.802** - The burden to disclose the information at the time of termination will vary depending on the manner of disclosure, *e.g.* by telephone, customer visit or registered mail. The estimated average time consumed in the process of the MVPD's disclosure and subscriber's election is 5 minutes (0.083 hours). Estimated annual number of occurrences is 216,000.

216,000 x 0.083 hours/disclosure/subscriber election = **17,928 hours**

- c. **47 CFR 76.802** - The estimated average time for MDU owners to provide such notice is estimated to be 15 minutes (0.25 hours). The estimated average time consumed in the process of the MVPD's subsequent disclosure and the MDU owner or alternative provider's election is 5

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

minutes (0.083 hours).

2,000 notifications x 0.333 hours/notice/disclosure = **666 hours**.

d. **47 CFR 76.802** - The annual recordkeeping burden for these cost schedules is estimated to be 0.5 hours per MVPD.

10,000 cost schedules x 0.5 hours/recordkeeping requirement = **5,000 hours**

e. **47 CFR 76.804** – We estimate that there will be approximately 12,500 notices and 12,500 elections made on an annual basis. We assume all notifications and elections (except when an individual subscriber is terminating service) will be in writing and take an average burden of 30 minutes (0.5 hours) to prepare.

25,000 notifications and elections x 0.5 hours = **12,500 hours**

Total Number of Annual Respondents: 20,000 MVPDs + 2,000 MDU owners = **22,000**

Total Number of Annual Responses:

10 interference reports
216,000 disclosures to subscribers
2,000 advance notices
10,000 cost schedules
+ 25,000 notifications/elections
253,010 (responses)

Total Annual Hour Burden: 20 + 17,928 + 666 + 5,000 + 12,500 = **36,114 hours**

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

13. Cost burden to Respondents:

Sections 76.613, 76.802 and 76.804, Home Wiring Provisions

Total annualized capita/startup costs: **None**

Total annual costs (O&M): **None**

Total annualized cost requested: **None**

14. Cost to the Federal Government:

We estimate that professional staff at the GS-15, step 5 level (\$65.62/hour) will review the section 76.613 interference reports at one (1) hour per report.

10 reports x 1 hour x \$65.62 per hour = \$653.20.

Total Cost to the Government: \$653.20

15. There are no program changes or adjustments to this information collection.

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

17. We are not seeking approval to not display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.