excluded acquisition costs for reasons that, again, were more applicable to cable systems as a whole than to the subset of systems at issue in this proceeding. For example, whereas we found that acquisition costs were attributable in part to the growing number of programs and channels available only by subscribing to cable service, the limited channel line-ups of smaller systems means that a greater portion of their offerings consist of broadcast channels that many consumers can view for free without subscribing to cable. Thus, the acquisition costs of a smaller system are less likely to include a supra-competitive valuation of services over which the system has exclusive control. Likewise, in the Cost Order, 59 FR 17975 (April 15, 1995), we concluded that excess acquisition costs reflected, in part, the value of unregulated services, such as premium and pay-per-view programming, that should not be included in regulated rates. Smaller systems with more limited channel line-ups are less likely to have such programming available. As we noted above, the average premium revenue per subscriber is more than $32.00 less for systems with fewer than 15,000 subscribers than for systems with more than 15,000 subscribers. Thus, acquisition costs for small systems will reflect more accurately the value of the regulated services, a value which the operator should be able to recover.

40. At a minimum, the permitted rate of return shall equal the operator's actual cost of debt as set forth in any loan agreements with third parties. However, the operator may make reasonable adjustments to this rate to reflect other relevant factors such as, but not limited to, its cost of equity and its capital structure. The operator will have substantial discretion in determining the precise manner in which its rate of return is calculated. Thus, the operator will not be limited to the single methodology for establishing cost of equity that we identified in the *Cost Order*. We selected that methodology because it included a large group of publicly traded companies that we found to be representative of the universe of nonregulated firms. While such a sampling is an appropriate source of surrogates for regulated cable service generally, we believe that small systems owned by small cable companies should be able to pursue any methodology that is appropriate based on their individual characteristics. Likewise, operators will not be limited to the range of debt-to-equity ratios applicable in a standard cost-of-service showing, but instead may establish a system-specific or assumed ratio. (Those systems that currently have a negative equity percentage could not achieve a reasonable rate of return using its actual debt/equity ratio. Therefore, these companies may use a reasonable assumed ratio.)

41. Finally, eligible systems shall not face the heavy burden imposed on operators seeking rates of return higher than 11.25% in standard cost-of-service proceedings. On the basis of the comments in this proceeding, we now recognize that, of all cable companies, smaller systems and operators are the ones for whom this rate is most likely to be inadequate to compensate them for the risks they encounter in providing service. Therefore, for operators seeking to establish rates no higher than $1.24 per channel, the rate of return claimed by the operator will be subject to the same strong presumption of reasonableness that will apply to all other aspects of the operator's calculation of its permitted rate.

42. Because it takes into account all operating expenses and the net rate base, the formula will generate a rate that covers the cost of providing all regulated services and all equipment necessary to receive those services. Thus, eligible systems will not be required to make a separate showing with respect to equipment. Operators may establish equipment rates in the manner they choose, so long as this results in equipment rates that comply with the 1992 Cable Act.

43. To implement this scheme of rate regulation, we have created FCC Form 1230, a one-page form on which the system inserts its expense, rate base, rate of return, channel count and subscriber count figures and then calculates its permitted rate. The system can set rates at any level up to the rate generated by FCC Form 1230. Before increasing rates, the system must comply with the 30-day notice requirement applicable whenever a system takes a rate increase. In giving notice to the certified local franchising authority of its first rate increase taken pursuant to this procedure, the operator shall include the completed FCC Form 1230 showing the maximum permitted rate, although the system need not raise rates to the maximum permitted level. As noted above, when filing the form the system shall not be required to file documentation or calculations underlying the expense and rate base figures included on the form. Upon filing of the form, however, our existing rules, permitting a certified local franchising authority to review the proposed rates, to request additional information, and to toll the effective date of the proposed rates, will then apply, subject to certain conditions set forth below. Because Form 1230 is a modified cost-of-service showing, the franchising authority may toll the rate for up to 150 days.

44. In view of our intent to minimize burdens upon operators, local franchising authorities, and the Commission, we urge franchising authorities to carefully limit their requests for information, should they deem it necessary to request further information upon the filing of Form 1230. We recognize that certified franchise authorities have a responsibility to protect consumers from the exercise of market power by cable operators and may have a legitimate need to request information to verify operators' rate requests. We believe that, particularly since operators have been given wide discretion in choosing methods of calculating operating costs, rate base, and rate of return, franchise authorities should have access to the information necessary for judging the validity of methods used for calculating these costs. With respect to requested rates not exceeding $1.24 per channel, a reasonable request for information, if deemed necessary at all, should seek only existing, relevant documents or other data compilations and should not require the operator to create documents, although the operator should replicate responsive documents that are missing or destroyed. Where the requested rate exceeds $1.24 per channel, a broader request for supporting documentation, and greater scrutiny of that documentation, will be permitted.

45. In order to guard against burdensome and unnecessary data requests from franchising authorities, cable operators will be permitted to seek relief from the Commission. If a request for information by the franchising authority exceeds a reasonable scope as described above, or if the franchising authority tolls a rate request,[3] the operator may file an interlocutory appeal requesting the Commission to quash the request. The appeal of a

[3] As noted above, small systems owned by small cable companies may make their initial basic tier rates, established in accordance with the Commission's rate regulations, effective on 30 days' notice without prior approval from their local franchising authority, subject to refund liability if the rates are found later to be unreasonable. Therefore, with respect to small systems owned by small cable companies, the tolling provision of our rules applies when a system seeks to increase rates above a level previously established pursuant to one of our regulatory schemes, but does not apply when a system establishes rates after first becoming subject to regulation.