

rate for cable programming service or associated equipment provided by a small system that was in effect on May 15, 1994 must be filed within 180 days from May 15, 1994.

(e) Petitions for extension of time: Small systems may obtain an extension of time to establish compliance with rate regulations provided they can demonstrate that timely compliance would result in severe economic hardship. Requests for extension of time should be addressed to the local franchising authority concerning basic service and equipment rates and to the Commission concerning rates for a cable programming service tier and associated equipment. The filing of a request for an extension of time to comply with the rate regulations will not toll the effective date of rate regulation for small systems or alter refund liability for rates that exceed permitted levels after May 15, 1994.

(f) Small systems owned by small cable companies: Small systems owned by small cable companies shall have 90 days from their initial date of regulation on a tier to bring their rates for that tier into compliance with the requirements of §§ 76.922 and 76.923. Such systems shall have sixty days from the initial date of regulation to file FCC Forms 1200, 1205, 1210, 1211, 1215, 1220, 1225, and 1230 and any similar forms as appropriate. Rates established during the 90-day period shall not be subject to prior approval by franchising authorities or the Commission, but shall be subject to refund pursuant to §§ 76.942 and 76.961.

(g) Alternative rate regulation agreements:

(1) Local franchising authorities, certified pursuant to § 76.910, and small systems owned by small cable companies may enter into alternative rate regulation agreements affecting the basic service tier and the cable programming service tier.

(i) Small systems must file with the Commission a copy of the operative alternative rate regulation agreement within 30 days after its effective date.

(ii) [Reserved]

(2) Alternative rate regulation agreements affecting the basic service tier shall take into account the following:

(i) The rates for cable systems that are subject to effective competition;

(ii) The direct costs of obtaining, transmitting, and otherwise providing signals carried on the basic service tier, including signals and services carried on the basic service tier, pursuant to §§ 76.56 and 76.64 of this subpart, and changes in such costs;

(iii) Only such portion of the joint and common costs of obtaining, transmitting, and otherwise providing such signals as is determined to be reasonably and properly allocable to the basic service tier, and changes in such costs;

(iv) The revenues received by a cable operator from advertising from programming that is carried as part of the basic service tier or from other consideration obtained in connection with the basic service tier;

(v) The reasonably and properly allocable portion of any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers;

(vi) Any amount required to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise; and

(vii) A reasonable profit. The rate agreed to in such an alternative rate regulation agreement shall be deemed to be a reasonable rate.

(3) Alternative rate regulation agreements affecting the cable programming service tier shall take into account, among other factors, the following:

(i) The rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

(ii) The rates for cable systems, if any, that are subject to effective competition;

(iii) The history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

(iv) The rates, as a whole, for all the cable programming, cable equipment, and cable services provided by the system, other than programming provided on a per channel or per program basis;

(v) Capital and operating costs of the cable system, including the quality and costs of the customer service provided by the cable system; and

(vi) The revenues received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues, or from other considerations obtained in connection with the cable

programming services concerned. The rate agreed to in such an alternative rate regulation agreement shall be deemed to be a reasonable rate.

(4) Certified local franchising authorities shall provide a reasonable opportunity for consideration of the views of interested parties prior to finally entering into an alternative rate regulation agreement.

(5) A basic service rate decision by a certified local franchising authority made pursuant to an alternative rate regulation agreement may be appealed by an interested party to the Commission pursuant to § 76.944 as if the decision were made according to §§ 76.922 and 76.923.

(h) Small system cost-of-service showings:

(1) At any time, a small system owned by a small cable company may establish new rates, or justify existing rates, for regulated program services in accordance with the small cable company cost-of-service methodology described below.

(2) The maximum annual per subscriber rate permitted initially by the small cable company cost-of-service methodology shall be calculated by adding

(i) The system's annual operating expenses to

(ii) The product of its net rate base and its rate of return, and then dividing that sum by (iii) the product of

(A) The total number of channels carried on the system's basic and cable programming service tiers and

(B) The number of subscribers. The annual rate so calculated must then be divided by 12 to arrive at a monthly rate.

(3) The system shall calculate its maximum permitted rate as described in paragraph (b) of this section by completing Form 1230. The system shall file Form 1230 as follows:

(i) Where the franchising authority has been certified by the Commission to regulate the system's basic service tier rates, the system shall file Form 1230 with the franchising authority.

(ii) Where the Commission is regulating the system's basic service tier rates, the system shall file Form 1230 with the Commission.

(iii) Where a complaint about the system's cable programming service rates is filed with the Commission, the system shall file Form 1230 with the Commission.

(4) In completing Form 1230:

(i) The annual operating expenses reported by the system shall equal the system's operating expenses allocable to its basic and cable programming service tiers for the most recent 12 month