refunds or to order prospective rate reductions. In its response, the franchising authority must indicate whether it is continuing to review the operator's filing. If a proposed rate goes into effect before the franchising authority issues its rate order, the franchising authority will have 12 months from the date the operator filed for the rate adjustment to issue its rate order. In the event that the franchising authority does not act within the 12month period, it may not at a later date order a refund or a prospective rate reduction with respect to the rate filing. We set this time constraint on franchising authorities because we believe that one year should provide ample time for review, and because operators need to have certainty with respect to their liability for refunds and whether their rates will be permitted to remain in effect.

We believe that a 90-day regulatory review period strikes a good balance among the interests of subscribers, franchising authorities and cable operators. If operators were required to file any more than 90 days before a rate adjustment is scheduled to take effect, they would encounter much greater difficulty in projecting their costs accurately. On the other hand, if operators were permitted to file less than 90 days before a rate adjustment is scheduled to take effect, franchising authorities may not have enough time to review a complete rate filing because the franchising authority must simultaneously determine whether an operator has (a) justified projected inflation, changes in external costs, and changes in the number of regulated channels; (b) accurately estimated any undercharges or overcharges in its true up of the previous year; and (c) accurately determined its actual costs for customer equipment and installations in its annual Form 1205 filing. Without ample time to review operators' rate filings, franchising authorities may be unable to ensure that subscribers are paying reasonable rates for BSTs. This 90-day review period will also help operators develop their business plans because it provides them with certainty as to when rate changes will become effective.

If there is a material change in an operator's circumstances during the 90day review period and the change affects the operator's rate change filing, the operator may file an amendment to its Form 1240. Such an amendment must be filed, however, before the end of the 90-day review period. If the operator files such an amendment to its filing, the franchising authority will have at least 30 days to review the filing. Therefore, if the amendment is filed more than 60 days after the operator made its initial filing, the operator's proposed rate change may not go into effect any earlier than 30 days after the filing of its amendment. However, if the operator files its amended application on or prior to the sixtieth day of the 90-day review period, the operator may implement is proposed rate adjustment, as modified by the amendment, 90 days after its initial filing.

b. Cable Programming Services Tiers

Section 76.960 of the Commission's rules provides that if the Commission has ordered an operator to make a prospective rate reduction for a CPST, the rate reduction will be binding on the operator for one year, unless the Commission specifies otherwise. Accordingly, operators that have been required to reduce their CPST rates have not been permitted to increase their rates under our price cap rules for one year without prior Commission approval.

Treatment of Franchise Fees and Commission Regulatory Fees Under Quarterly Rate Adjustment Option

We affirm our decision to permit operators that file rate adjustments under the quarterly system to pass through franchise fees within 30 days of filing unless the franchising authority finds that the rate adjustment is unreasonable before 30 days has expired. If the franchising authority does not issue a rate decision within this 30 day period, the proposed rate will go into effect, subject to subsequent refund orders. In order to issue a refund order, the franchising authority must issue a written order at the end of the 30 day period directing the operator to keep an accurate account of all amounts received by reason of the proposed rate and on whose behalf such amounts are paid.

We do not believe this rule presents a serious risk of harm to subscribers because, contrary to the assertions of Local Governments, we believe franchising authorities normally should be able to complete their review of rate adjustments reflecting the pass through of franchise fees within 30 days of an operator's filing. In most cases, the franchising authority's review of the franchise fee pass through generally should entail minimal administrative burdens since the franchising authority is intimately familiar with how the fee is assessed. Because the operator pays the franchise fee to the franchising authority, there should not be any dispute over the amount of franchise

fees that were actually paid to the franchising authority. Further, the franchise fee is generally easily determined by computing a fixed percentage of the operator's gross annual revenues or some other easily ascertainable amount. We find that franchising authorities can easily determine how the pass through of such fees should be reflected in a BST rate adjustment because the entire cost of franchise fees is directly assigned to the BST. Finally, to the extent franchise fees are miscalculated, we believe that our approach fully protects subscribers' interests in paying reasonable rates because franchise fee increases are subject to refunds.

As with all other rate adjustment filings, if an operator files for a rate adjustment to reflect an increase in franchise fees and fails to complete its rate justification form or to include supporting information called for by the form, the franchising authority may order the cable operator to file supplemental information. While the franchising authority is waiting to receive this information from the cable operator, the deadline for the franchising authority to rule on the reasonableness of the proposed rates is tolled. Once the supplemental information has been filed with the franchising authority, the time for determining the reasonableness of the rate by the franchising authority will recommence. We believe that this requirement is essential if franchising authorities are going to have the minimum information necessary to complete a review of an operator's rate adjustment request within 30 days of the filing.

We affirm our decision to permit operators to pass through Commission annual regulatory fees as external costs. As we stated in the Fourth Reconsideration Order, Commission annual regulatory fees should be afforded external cost treatment because they are exceptional, newly imposed, governmentally assessed fees that are easily measurable and beyond the control of operators. We disagree with NATOA's argument that Commission regulatory fees are like CARS fees in that they do not impose a significant financial burden on cable operators. We find that Commission regulatory fees can reach significant levels because they are assessed on a per subscriber basis, as opposed to CARS fees, which are assessed on a flat fee basis of \$220 per license and which comprise only a small expense for most cable systems.

In addition, with respect to operators that elect to file rate adjustments under the quarterly system, we affirm our