decision to permit operators to adjust rates on account of changes in Commission regulatory fees within 30 days of filing. We do not believe this rule presents a serious risk of harm to consumers because we believe franchising authorities normally should be able to complete their review of rate adjustments reflecting the pass through of Commission annual regulatory fees within 30 days of an operator's filing. In most cases, the franchising authority's review of the franchise fee pass through should entail minimal administrative burdens because the amount of any rate adjustment reflecting an increase should be easy to determine since it is fixed on a per subscriber basis. To the extent Commission annual regulatory fees are miscalculated, we believe that our approach fully protects subscribers' interests in paying reasonable rates because fee increases are subject to refunds.

We also affirm our decision to require operators to assign the Commission's annual regulatory fee directly to the BST. As we noted in the Fourth Reconsideration Order, the fee is intended to reimburse the Commission for its costs of regulating cable service, including oversight of basic cable service and other regulatory activities. We continue to believe that direct assignment to the BST is the most equitable means of permitting cable systems to pass through regulatory fees to subscribers because cable system annual regulatory fees are assessed on a per subscriber basis and all subscribers receive the BST. If we were to allocate these costs among the tiers, some subscribers would pay more than others even though the cost is imposed on the cable operator evenly per subscriber. Moreover, the administrative burdens associated with calculating and assigning fees among the BST and CPSTs weigh against such an assignment.

External Cost Treatment of Franchise Requirements

On reconsideration, we believe that operators should be permitted to include increases in franchise requirement costs that the operator would not have incurred in the absence of the franchise requirement. Such increases include both new requirements that the franchising authority imposes and increases in the cost of complying with existing requirements. Our current rules permit external cost treatment for increases in the cost of satisfying franchise requirements for (a) PEG access channels, (b) public, educational, and governmental access programming, and

(c) customer service standards and technical standards that exceed federal requirements. In our view, such increased costs would not have been incurred in the absence of a franchise agreement because we believe that the operator would not have chosen to provide such services.

We believe that operators also should be permitted to pass through increases in the costs of institutional networks and the provision of video services, voice transmissions and data transmissions to or from governmental institutions and educational institutions, including private schools, to the extent such services are required by the franchise agreement. We believe that such costs should be afforded external cost treatment because we believe that operators generally would not provide such services in the absence of a franchising requirement. Because such costs are largely beyond the control of the cable operator, we believe they should be passed on to subscribers without a cost-of-service showing.

In addition, under certain circumstances, we will permit operators to pass through to subscribers the cost of meeting franchise requirements that they remove aerial facilities and place them underground. However, the external cost pass through should be limited to cases where the operator has been required to actually remove cable from utility poles and place the same cable underground. We do not believe that external cost treatment should be afforded in cases where the franchise agreement requires the operator to place new cable facilities underground because we believe that this is a cost associated with a rebuild or an upgrade of the cable system and we have determined that we will not permit external cost treatment of upgrades or rebuilds. Moreover, costs associated with placing cable underground in these circumstances are costs that the operator could have incurred in absence of the franchise requirement as a result of the upgrade or rebuild.

We believe that increased costs resulting from normal maintenance or from a simple expansion of service within the franchise area should not be subject to external treatment. An operator may not pass through the costs associated with expanding the reach of its cable system even if such expansion is contained in the franchise documents. Accordingly, we reject NCTA's suggestion that external cost treatment should be imposed as long as the service is "specifically required" in the franchise agreement. Such a formulation of the rule could encompass costs that the cable operator could have incurred

even in the absence of a specific franchise requirement or would be obligated to incur under pre-existing federal standards. We reject NATOA's suggestion to allow only obligations enumerated in a franchise agreement by a specific dollar amount as unduly complicating franchise negotiations. This would require parties to specify the costs of providing certain services or facilities where such costs may not be certain when the contract is negotiated.

As for the timing of the pass throughs of these costs, the operator will be required to amortize the cost of franchise imposed capital expenditures over the useful life of the items. We find such treatment appropriate because current subscribers should not be required to pay all costs associated with a service that will benefit future ratepayers as well. Consistent with interim rules governing cost-of-service showings, we find that operators will be permitted to recover an 11.25% rate of return on this investment.

Advertising of Rates

On reconsideration, we continue to believe that cable system operators covering multiple franchise areas that have different franchise fees, franchise costs, channel line-ups, or rate structures should be permitted to use the "fee plus" approach when they advertise their rates. We find that the "fee plus" approach provides operators that cover multiple franchise areas the flexibility to efficiently advertise their services to consumers. We disagree with Local Governments' assertion that the "fee plus" approach violates Section 622(c) of the Communications Act. Section 622(c) permits operators to itemize certain fees imposed by franchise and governmental authorities. While operators are allowed to itemize certain fees on a subscribers bill, Congress intended that cable operators only be permitted to require one payment from subscribers for services. We find that because the "fee plus" approach only addresses how an operator serving multiple franchise areas may advertise services, it is not related to the operator's billing practices and does not, therefore, violate the intent of Section 622(c). Moreover, we believe that the "fee plus" approach is consistent with the spirit of the subscriber bill itemization requirements in Section 622(c) of the 1992 Cable Act and Section 76.985 of the Commission's rules because it permits operators to inform consumers of the amount of franchise fees without confusing them as to the total cost of cable service.

We believe that operators should be permitted to advertise their rates using