either of the methods described above because both methods of advertising reasonably informs potential subscribers of the true price of cable service. This approach is consistent with the Commission's goal of enhancing industry's flexibility in making business and marketing decisions wherever reasonably possible. Therefore, we affirm our decision to allow cable systems that cover multiple franchise areas to advertise a range of fees of a "fee plus" rate that take account of variations in the itemized costs throughout the franchise area.

Although Local Governments are concerned that the "fee plus" approach may result in a reduction in the amount of franchise fees that franchising authorities may assess, we decline to address this matter in this Order. The Cable Services Bureau has issued a decision regarding the proper assessment of franchise fees, and is currently reviewing a number of petitions for reconsideration filed in response to that decision.

Franchise Fee Refunds

On reconsideration, we find that franchising authorities may determine whether a franchise fee overpayment is to be returned to the cable operator in one lump sum payment or by offsetting the overcharges against future franchise fee payments, provided that the overcharges are returned to the operator within a reasonable period of time. We recognize that in most instances, the operator holds franchise fees on behalf of the franchising authority for lump sum payment at the end of an agreed upon period. In those situations, the operator should offset the overpayments against the franchise fees it then holds. In the rare instances where the overpayments are very large, the franchising authority has the discretion to determine a reasonable repayment period plus interest. Because we have already determined that 11.25% is presumptively the cable operator's cost of capital, we find that the interest rate presumptively should be 11.25%.

We agree with NATOA that franchising authorities should have the discretion to determine the means by which overpayments are to be returned to cable operators because it would be inappropriate to permit cable operators to dictate how the franchising authority should recompense operators.

Moreover, in certain cases, the franchise fee overpayment may have been spent before it has been determined that an overpayment has been made and the franchising authority may not have the funds to immediately return the overpayment. However, we also believe

that operators are entitled to receive interest on any franchise fee overpayments if franchising authorities delay returning overpayments to operators and that, in any case, operators should have overpayments returned within a reasonable period of time. We find that the meaning of "reasonable period of time" is dependent upon the amount of the overcharge and the relationship it bears to a franchising authority's budget. That is, the larger the absolute amount of the overpayment and the larger its amount in relation to a franchising authority's budget, the longer the franchising authority may need either to credit the operator for future franchise fee payments or to make a lump sum payment to the operator. We believe that this approach balances the franchising authority's need to have discretion in determining the means by which overcharges are returned with the operator's need to have such overcharges returned within a reasonable period of time.

Regulatory Review of Existing Rates

On our own motion, we have decided to end regulatory review of the operator's entire rate structure when we receive future CPST rate complaints. Operators that have never been subject to CPST rate regulation will not face Commission review of their entire rate structure if a complaint is filed after the effective date of these rules. Complaints filed after the effective date of these rules on subsequent CPST rate changes must be field with the Commission within 45 days of the date subscribers receive a bill reflecting the operator's next CPST rate increase, and will result in Commission review of only the amount of the rate increase complained about.

Although Commission review will be so limited, in order to meet its burden of showing that its CPST rates are not unreasonable, the operator nevertheless may have to provide the Commission with details about its previous increases where no earlier filing provides those details. For example, an operator that attempts to use the new Going Forward method for channel additions in its current filing may need to demonstrate that its current increase, in conjunction with its previous rate increases, does not exceed the operator's cap. As another example, if no complaint was filed for the operator's relevant earlier rate adjustments, an operator that adjusts its rates using the annual rate adjustment method should provide the projections on which the operator's previous rates were based so that the

Commission can review the operator's true up in its current filing.

We are eliminating review of an operator's entire rate structure because we find that continuing this policy creates an uncertain business environment for cable operators that have not had their CPSTs subject to rate regulation. We are concerned about this because an uncertain business environment may generally discourage investment, without which operators may lack the resources to upgrade their networks, add new programming services, and provide new innovative services.

We find that, if no rate complaint is filed prior to the effective date of these rules, the operator's initial CPST rates under regulation are not unreasonable. In our view, subscribers and franchising authorities have had ample opportunity to file a complaint that would result in Commission review of operators' entire rate structure. It has been nearly two years since subscribers and franchising authorities first had the opportunity to complain about their CPST rates. Since September 1, 1993, subscribers had an initial 180 day period to complain about initial CPST rates. If they missed the opportunity to complain during this initial 180 day period, they could have complained about any subsequent rate increase and that would have triggered a review of the operator's entire rate structure. We believe that if subscribers and the franchising authority have not filed a CPST rate complaint, it indicates a level of satisfaction with their current rates that would not exist if they believe CPST rates were unreasonable. We also believe that the Commission can fulfill its responsibility to ensure that CPST rates are not unreasonable when only reviewing rate changes.

Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601–612, the Commission's final analysis with respect to the *Thirteenth Order on Reconsideration* is as follows:

Need and purpose of this action. The Commission, in compliance with section 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 543 (1992), pertaining to rate regulation, adopts revised rules and procedures intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis. There were no comments submitted in response to the Initial Regulatory