Flexibility Analysis. The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in the original rulemaking order. The Commission addressed the concerns raised by the Office of Advocacy in the Rate Order 58 FR 29736 (5/21/93). The SBA also filed reply comments in response to the Fifth Notice 59 FR 18064 (4/15/94). The Commission addressed those comments in the Fifth Report and Order 59 FR 62614 (12/6/94).

Significant alternatives considered and rejected. Petitioners representing cable interests and franchising authorities submitted several alternatives aimed at minimizing administrative burdens. In this proceeding, the Commission has attempted to accommodate the concerns expressed by these parties. For example, the revised rules permitting the expedited pass through of certain external costs are designed to reduce administrative burdens on industry. In addition, the revised rules permitting operators to recover the full portion of previously incurred increases in external costs are designed to maintain and enhance incentives for cable operators to achieve efficiency cost savings and reduce administrative burdens on both industry and regulators. Finally, the Order further reduces burdens by clarifying rules concerning the advertising of rates, the refunds of franchise fees, and the costs related to franchise requirements.

Paperwork Reduction Act

The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 303(r), 612, 622(c) and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Thirteenth Order on Reconsideration, are adopted and part 76 of the Commission's rules, 47 CFR part 76, is amended as set forth below.

It is further ordered that the Secretary shall send a copy of this Report and Order to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the

Regulatory Flexibility Act. Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

It is further ordered that the requirements and regulations established in this decision shall become effective thirty (30) days after publication in the Federal Register, except that new reporting requirements shall take effect thirty (30) days after approval by the Office of Management and Budget.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission. William F. Caton, Acting Secretary.

Amendatory Text

Part 76 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309; Secs. 612, 614-615, 623, 632 as amended, 106 Stat. 1460, 47 U.S.C. 532; Sec. 623, as amended, 106 Stat. 1460; 47 U.S.C. 532, 533, 535, 543, 552.

2. Section 76.922 is amended by redesignating paragraphs (e) through (k) as paragraphs (g) through (m), respectively, revising paragraphs (c) and (d), and newly redesignated paragraphs (g), (h), (i), (j), (k), (l), (m) and adding new paragraphs (e) and (f), to read as follows:

§76.922 Rates for the basic service tier and cable programming services tiers. *

*

(c) Subsequent permitted charge. (1) The permitted charge for a tier after May 15, 1994 shall be, at the election of the cable system, either:

(i) A rate determined pursuant to a cost-of-service showing,

(ii) A rate determined by application of the Commission's price cap requirements set forth in paragraph (d) of this section to a permitted rate determined in accordance with paragraph (b) of this section, or

(iii) A rate determined by application of the Commission's price cap requirements set forth in paragraph (e) of this section to a permitted rate determined in accordance with paragraph (b) of this section.

(2) The Commission's price cap requirements allow a system to adjust

its permitted charges for inflation, changes in the number of regulated channels on tiers, or changes in external costs. After May 15, 1994, adjustments for changes in external costs shall be calculated by subtracting external costs from the system's permitted charge and making changes to that "external cost component" as necessary. The remaining charge, referred to as the "residual component," will be adjusted annually for inflation. Cable systems may adjust their rates by using the price cap rules contained in either paragraphs (d) or (e) of this section.

(3) An operator may switch between the quarterly rate adjustment option contained in paragraph (d) of this section and the annual rate adjustment option contained in paragraph (e) of this section, provided that:

(i) Whenever an operator switches from the current quarterly system to the annual system, the operator may not file a Form 1240 earlier than 90 days after the operator proposed its last rate adjustment on a Form 1210; and

(ii) When an operator changes from the annual system to the quarterly system, the operator may not return to a quarterly adjustment using a Form 1210 until a full quarter after it has filed a true up of its annual rate on a Form 1240 for the preceding filing period.

(4) An operator that does not set its rates pursuant to a cost-of-service filing must use the quarterly rate adjustment methodology pursuant to paragraph (d) of this section or annual rate adjustment methodology pursuant to paragraph (e) of this section for both its basic service tier and its cable programming services tier(s)

(d) Quarterly rate adjustment method—(1) Calendar year quarters. All systems using the quarterly rate adjustment methodology must use the following calendar year quarters when adjusting rates under the price cap requirements. The first quarter shall run from January 1 through March 31 of the relevant year; the second quarter shall run from April 1 through June 30; the third quarter shall run from July 1 through September 30; and the fourth quarter shall run from October 1 through December 31.

(2) Inflation Adjustments. The residual component of a system's permitted charge may be adjusted annually for inflation. The annual inflation adjustment shall be used on inflation occurring from June 30 of the previous year to June 30 of the year in which the inflation adjustment is made, except that the first annual inflation adjustment shall cover inflation from September 30, 1993 until June 30 of the year in which the inflation adjustment