

relevant time periods since the periods used in the operator's most recent previous FCC Form 1240.

(iii) Channel Adjustments.

(A) Permitted charges for a tier may be adjusted annually to reflect changes not yet accounted for in the number of regulated channels provided by the cable system, as well as for projected changes in the number of regulated channels for the 12-month period on which the filing is based. In order that rates be adjusted for projected changes to the number of regulated channels, the operator must demonstrate that such projections are reasonably certain and reasonably quantifiable.

(B) An operator may make rate adjustments for the addition of required channels to the basic service tier that are required under federal or local law at any time such additions occur, subject to the filing requirements of Section 76.933(g)(2), regardless of whether such additions occur outside of the annual filing cycle. Required channels may include must-carry, local origination, public, educational and governmental access and leased access channels. Should the operator elect not to pass through the costs immediately, it may accrue the costs of the additional channels plus interest, as described in paragraph (e)(3) of this section.

(C) An operator may make one additional rate adjustment during the year to reflect channel additions to the cable programming services tiers or, where the operator offers only one regulated tier, the basic service tier. Operators may make this additional rate adjustment at any time during the year, subject to the filing requirements of Section 76.933(g)(2), regardless of whether the channel addition occurs outside of the annual filing cycle. Should

the operator elect not to pass through the costs immediately, it may accrue the costs of the additional channels plus interest, as described in paragraph (e)(3) of this section.

(3) True-up and Accrual of Charges Not Projected. As part of the annual rate adjustment, an operator must "true up" its previously projected inflation, changes in external costs and changes in the number of regulated channels and adjust its rates for these actual cost changes. The operator must decrease its rates for overestimation of its projected cost changes, and may increase its rates to adjust for underestimation of its projected cost changes.

(i) Where an operator has underestimated costs, future rates may be increased to permit recovery of the accrued costs plus 11.25% interest between the date the costs are incurred and the date the operator is entitled to make its rate adjustment.

(ii) Where there is an overestimation of these costs, future rates will be reduced or the amount of the increase will be reduced to reflect the accrued amount of the overcharge plus 11.25% interest. The operator must make such adjustments within 12 months of the date the operator implemented its rates based on the projections.

(iii) If an operator has underestimated its cost changes and elects not to recover these accrued costs with interest on the date the operator is entitled to make its annual rate adjustment, the interest will cease to accrue as of the date the operator is entitled to make the annual rate adjustment, but the operator will not lose its ability to recover such costs and interest. An operator may recover accrued costs between the date such costs are incurred and the date the operator actually implements its rate adjustment.

(iv) Operators that use the annual methodology in their next filing after the release date of

this Order may accrue costs and interest incurred since July 1, 1995 in that filing. Operators that file a Form 1210 in their next filing after the release date of this Order, and elect to use Form 1240 in a subsequent filing, may accrue costs incurred since the end of the last quarter to which a Form 1210 applies.

(4) Sunset Provision. The Commission will review paragraph (e) of this section prior to December 31, 1998 to determine whether the annual rate adjustment methodology should be kept, and whether the quarterly system should be eliminated and replaced with the annual rate adjustment method.

(f) External costs.

(1) External costs shall consist of costs in the following categories:

(i) State and local taxes applicable to the provision of cable television service;

(ii) Franchise fees;

(iii) Costs of complying with franchise requirements, including costs of providing public, educational, and governmental access channels as required by the franchising authority;

(iv) Retransmission consent fees and copyright fees incurred for the carriage of broadcast signals;

(v) Other programming costs; and

(vi) Commission cable television system regulatory fees imposed pursuant to 47 U.S.C. § 159.

(2) The permitted charge for a regulated tier shall be adjusted on account of programming costs, copyright fees and retransmission consent fees only for the program channels or

broadcast signals offered on that tier.

(3) The permitted charge shall not be adjusted for costs of retransmission consent fees or changes in those fees incurred prior to October 6, 1994.

(4) The starting date for adjustments on account of external costs for a tier of regulated programming service shall be the earlier of the initial date of regulation for any basic or cable service tier or February 28, 1994.

(5) Changes in franchise fees shall not result in an adjustment to permitted charges, but rather shall be calculated separately as part of the maximum monthly charge per subscriber for a tier of regulated programming service.

(6) Adjustments to permitted charges to reflect changes in the costs of programming purchased from affiliated programmers, as defined in § 76.901, shall be permitted as long as the price charged to the affiliated system reflects either prevailing company prices offered in the marketplace to third parties (where the affiliated program supplier has established such prices) or the fair market value of the programming.

(7) Adjustments to permitted charges on account of increases in costs of programming shall be further adjusted to reflect any revenues received by the operator from the programmer. Such adjustments shall apply on a channel-by-channel basis.

(8) In calculating programming expense, operators may add a mark-up of 7.5% for increases in programming costs occurring after March 31, 1994, except that operators may not file for or take the 7.5% mark-up on programming costs for new channels added on or after May 15, 1994 for which the operator has used the methodology set forth in paragraph (g)(3) of this section for adjusting rates for channels added to cable programming service

tiers. Operators shall reduce rates by decreases in programming expense plus an additional 7.5% for decreases occurring after May 15, 1994 except with respect to programming cost decreases on channels added after May 15, 1994 for which the rate adjustment methodology in paragraph (g)(3) of this section was used.

(g) Changes in the number of channels on regulated tiers.

(1) Generally. A system may adjust the residual component of its permitted rate for a tier to reflect changes in the number of channels offered on the tier on a quarterly basis. Cable systems shall use FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240 to justify rate changes made on account of changes in the number of channels on a basic service tier ("BST") or a cable programming service tier ("CPST"). Such rate adjustments shall be based on any changes in the number of regulated channels that occurred from the end of the last quarter for which an adjustment was previously made through the end of the quarter that has most recently closed preceding the filing of the FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240. However, when a system deletes channels in a calendar quarter, the system must adjust the residual component of the tier charge in the next calendar quarter to reflect that deletion. Operators must elect between the channel addition rules in paragraphs (g)(2) and (g)(3) of this section the first time they adjust rates after December 31, 1994, to reflect a channel addition to a CPST that occurred on or after May 15, 1994, and must use the elected methodology for all rate adjustments through December 31, 1997. A system that adjusted rates after May 15, 1994, but before January 1, 1995 on account of a change in the number of channels on a CPST that occurred

after May 15, 1994, may elect to revise its rates to charge the rates permitted by paragraph (g)(3) of this section on or after January 1, 1995, but is not required to do so as a condition for using the methodology in paragraph (g)(3) of this section for rate adjustments after January 1, 1995. Rates for the BST will be governed exclusively by paragraph (g)(2) of this section, except that where a system offered only one tier on May 14, 1994, the cable operator will be allowed to elect between paragraphs (g)(2) and (g)(3) of this section as if the tier was a CPST.

(2) Adjusting Rates for increases in the number of channels offered between May 15, 1994, and December 31, 1997, on a basic service tier and at the election of the operator on a cable programming service tier. The following table shall be used to adjust permitted rates for increases in the number of channels offered between May 15, 1994, and December 31, 1997, on a basic service tier and subject to the conditions in paragraph (g)(1) of this section at the election of the operator on a CPST. The entries in the table provide the cents per channel per subscriber per month by which cable operators will adjust the residual component using FCC Form 1210 (or FCC Form 1211, where applicable) or FCC Form 1240.

Average Number of Regulated Channels	Per-Channel Adjustment Factor	Average Number of Regulated Channels	Per-Channel Adjustment Factor
7	\$0.52	14	0.14
7.5	0.45	14.5	0.13

8	0.40	15-15.5	0.12
8.5	0.36	16	0.11
9	0.33	16.5-17	0.10
9.5	0.29	17.5-18	0.09
10	0.27	18.5-19	0.08
10.5	0.24	19.5-21.5	0.07
11	0.22	22-23.5	0.06
11.5	0.20	24-26	0.05
12	0.19	26.5-29.5	0.04
12.5	0.17	30-35.5	0.03
13	0.16	36-46	0.02
13.5	0.15	46.5 -99.5	0.01

In order to adjust the residual component of the tier charge when there is an increase in the number of channels on a tier, the operator shall perform the following calculations:

(i) Take the sum of the old total number of channels on tiers subject to regulation (i.e., tiers that are, or could be, regulated but excluding New Product Tiers) and the new total number of channels and divide the resulting number by two;

(ii) Consult the above table to find the applicable per channel adjustment factor for the

number of channels produced by the calculations in step (1). For each tier for which there has been an increase in the number of channels, multiply the per-channel adjustment factor times the change in the number of channels on that tier. The result is the total adjustment for that tier.

(3) Alternative methodology for adjusting rates for changes in the number of channels offered on a cable programming service tier or a single tier system between May 15, 1994, and December 31, 1997. This paragraph at the Operator's discretion as set forth in paragraph (g)(1) of this section shall be used to adjust permitted rates for a CPST after December 31, 1994, for changes in the number of channels offered on a CPST between May 15, 1994, and December 31, 1997. For purposes of paragraph(g)(3) of this section, a single tier system may be treated as if it were a CPST.

(i) Operators Cap Attributable to New Channels on All CPSTs Through December 31, 1997. Operators electing to use the methodology set forth in this paragraph may increase their rates between January 1, 1995, and December 31, 1997, by up to 20 cents per channel, exclusive of programming costs, for new channels added to CPSTs on or after May 15, 1994, except that they may not make rate adjustments totalling more than \$1.20 per month, per subscriber through December 31, 1996, and by more than \$1.40 per month, per subscriber through December 31, 1997 (the "Operator's Cap"). Except to the extent that the programming costs of such channels are covered by the License Fee Reserve provided for in paragraph (g)(3)(iii) of this section, programming costs associated with channels for which a rate adjustment is made pursuant to this paragraph (g)(3) of this section must fall within the Operator's Cap if the programming costs (including any increases therein) are reflected in

rates before January 1, 1997. Inflation adjustments pursuant to paragraph (d)(2) or (e)(2) of this section are not counted against the Operator's Cap.

(ii) Per Channel Adjustment. Operators may increase rates by a per channel adjustment of up to 20 cents per subscriber per month, exclusive of programming costs, for each channel added to a CPST between May 15, 1994, and December 31, 1997, except that an operator may take the per channel adjustment only for channel additions that result in an increase in the highest number of channels offered on all CPSTs as compared to May 14, 1994, and each date thereafter. Any revenues received from a programmer, or shared by a programmer and an operator in connection with the addition of a channel to a CPST shall first be deducted from programming costs for that channel pursuant to paragraph (f)(7) of this section and then, to the extent revenues received from the programmer are greater than the programming costs, shall be deducted from the per channel adjustment. This deduction will apply on a channel by channel basis.

(iii) License Fee Reserve. In addition to the rate adjustments permitted in paragraphs (g)(3)(i) and (g)(3)(ii) of this section, operators that make channel additions on or after May 15, 1994 may increase their rates by a total of 30 cents per month, per subscriber between January 1, 1995, and December 31, 1996, for license fees associated with such channels (the "License Fee Reserve"). The License Fee Reserve may be applied against the initial license fee and any increase in the license fee for such channels during this period. An operator may pass-through to subscribers more than the 30 cents between January 1, 1995, and December 31, 1996, for license fees associated with channels added after May 15, 1994, provided that the total amount recovered from subscribers for such channels, including the

License Fee Reserve, does not exceed \$1.50 per subscriber, per month. After December 31, 1996, license fees may be passed through to subscribers pursuant to paragraph (f) of this section, except that license fees associated with channels added pursuant to this paragraph (3) will not be eligible for the 7.5% mark-up on increases in programming costs.

(iv) Timing. For purposes of determining whether a rate increase counts against the maximum rate increases specified in paragraphs (g)(3)(i) through (g)(3)(iii) of this section, the relevant date shall be when rates are increased as a result of channel additions, not when the addition occurs.

(4) Deletion of Channels. When dropping a channel from a BST or CPST, operators shall reflect the net reduction in external costs in their rates pursuant to paragraphs (d)(3)(i) and (d)(3)(ii) of this section, or paragraphs (e)(2)(ii)(A) and (e)(2)(ii)(B) of this section. With respect to channels to which the 7.5% mark-up on programming costs applied pursuant to paragraph (f)(8) of this section, the operator shall treat the mark-up as part of its programming costs and subtract the mark-up from its external costs. Operators shall also reduce the price of that tier by the "residual" associated with that channel. For channels that were on a BST or CPST on May 14, 1994, or channels added after that date pursuant to paragraph (g)(2) of this section, the per channel residual is the charge for the tier, minus the external costs for the tier, and any per channel adjustments made after that date, divided by the total number of channels on the tier minus the number of channels on the tier that received the per channel adjustment specified in paragraph (g)(3) of this section. For channels added to a CPST after May 14, 1994, pursuant to paragraph (g)(3) of this section, the residuals shall be the actual per channel adjustment taken for that channel when it was

added to the tier.

(5) Movement of Channels Between Tiers. When a channel is moved from a CPST or a BST to another CPST or BST, the price of the tier from which the channel is dropped shall be reduced to reflect the decrease in programming costs and residual as described in paragraph (g)(4) of this section. The residual associated with the shifted channel shall then be converted from per subscriber to aggregate numbers to ensure aggregate revenues from the channel remain the same when the channel is moved. The aggregate residual associated with the shifted channel may be shifted to the tier to which the channel is being moved. The residual shall then be converted to per subscriber figures on the new tier, plus any subsequent inflation adjustment. The price of the tier to which the channel is shifted may then be increased to reflect this amount. The price of that tier may also be increased to reflect any increase in programming cost. An operator may not shift a channel for which it received a per channel adjustment pursuant to paragraph (g)(3) from a CPST to a BST.

(6) Substitution of Channels on a BST or CPST. If an operator substitutes a new channel for an existing channel on a CPST or a BST, no per channel adjustment may be made. Operators substituting channels on a CPST or a BST shall be required to reflect any reduction in programming costs in their rates and may reflect any increase in programming costs pursuant to paragraph (d)(3)(i) and (d)(3)(ii), or paragraphs (e)(2)(ii)(A) and (e)(2)(ii)(B) of this section. If the programming cost for the new channel is greater than the programming cost for the replaced channel, and the operator chooses to pass that increase through to subscribers, the excess shall count against the License Fee Reserve or the Operator Cap when the increased cost is passed through to subscribers. Where an operator

substitutes a new channel for a channel on which a 7.5% mark-up on programming costs was taken pursuant to paragraph (f)(8) of this section, the operator may retain the 7.5% mark-up on the license fee of the dropped channel to the extent that it is no greater than 7.5% of programming cost of the new service.

(7) Headend upgrades. When adding channels to CPSTs and single-tier systems, cable systems that are owned by a small cable company and incur additional monthly per subscriber headend costs of one full cent or more for an additional channel may choose among the methodologies set forth in paragraphs (g)(2) and (g)(3) of this section. In addition, such systems may increase rates to recover the actual cost of the headend equipment required to add up to seven such channels to CPSTs and single-tier systems, not to exceed \$5,000 per additional channel. Rate increases pursuant to this paragraph may occur between January 1, 1995, and December 31, 1997, as a result of additional channels offered on those tiers after May 14, 1994. Headend costs shall be depreciated over the useful life of the equipment. The rate of return on this investment shall not exceed 11.25 percent. In order to recover costs for headend equipment pursuant to this paragraph, systems must certify to the Commission their eligibility to use this paragraph, and the level of costs they have actually incurred for adding the headend equipment and the depreciation schedule for the equipment.

(8) Sunset Provision. Paragraph (g) of this section shall cease to be effective on January 1, 1998 unless renewed by the Commission.

(h) Permitted charges for a tier shall be determined in accordance with forms and

associated instructions established by the Commission.

(i) Cost of Service Charge.

(1) For purposes of this section, a monthly cost-of-service charge for a basic service tier or a cable programming service tier is an amount equal to the annual revenue requirement for that tier divided by a number that is equal to 12 times the average number of subscribers to that tier during the test year, except that a monthly charge for a system or tier in service less than one year shall be equal to the projected annual revenue requirement for the first 12 months of operation or service divided by a number that is equal to 12 times the projected average number of subscribers during the first 12 months of operation or service. The calculation of the average number of subscribers shall include all subscribers, regardless of whether they receive service at full rates or at discounts.

(2) A test year for an initial regulated charge is the cable operator's fiscal year preceding the initial date of regulation. A test year for a change in the basic service charge that is after the initial date of regulation is the cable operator's fiscal year preceding the mailing or other delivery of written notice pursuant to Section 76.932. A test year for a change in a cable programming service charge after the initial date of regulation is the cable operator's fiscal year preceding the filing of a complaint regarding the increase.

(3) The annual revenue requirement for a tier is the sum of the return component and the expense component for that tier.

(4) The return component for a tier is the average allowable test year ratebase allocable to the tier adjusted for known and measurable changes occurring between the end of the test

year and the effective date of the rate multiplied by the rate of return specified by the Commission or franchising authority.

(5) The expense component for a tier is the sum of allowable test year expenses allocable to the tier adjusted for known and measurable changes occurring between the end of the test year and the effective date of the rate.

(6) The ratebase may include the following:

(i) Prudent investment by a cable operator in tangible plant that is used and useful in the provision of cable services less accumulated depreciation. Tangible plant in service shall be valued at the actual money cost (or the money value of any consideration other than money) of property at the time it was first used to provide cable service. The actual money cost of plant may include an allowance for funds used during construction at the prime rate or at the operator's actual cost of funds used during construction. Cost overruns are presumed to be imprudent investment in the absence of a showing that the overrun occurred through no fault of the operator.

(ii) An allowance for start-up losses, if any, that is equal to the lesser of the first two years of operating costs or accumulated losses incurred until the system reached the end of its prematurity stage as defined in Financial Accounting Standards Board Standard 51 ("FASB 51") less straight-line amortization over a reasonable period not exceeding 15 years that commences at the end of the prematurity phase of operation.

(iii) Intangible assets less amortization that reflect the original costs prudently incurred by a cable operator in organizing and incorporating a company that provides regulated cable services, obtaining a government franchise to provide regulated cable services, or obtaining

patents that are used and useful in the provision of cable services.

(iv) The cost of customer lists if such costs were capitalized during the prematurity phase of operations less amortization.

(v) An amount for working capital to the extent that an allowance or disallowance for funds needed to sustain the ongoing operations of the regulated cable service is demonstrated.

(vi) Other intangible assets to the extent the cable operator demonstrates that the asset reflects costs incurred in an activity or transaction that produced concrete benefits or savings for subscribers to regulated cable services that would not have been realized otherwise and the cable operator demonstrates that a return on such an asset does not exceed the value of such a subscriber benefit.

(vii) The portion of the capacity of plant not currently in service that will be placed in service within twelve months of the end of the test year.

(7) Deferred income taxes shall be deducted from items included in the ratebase.

(8) Allowable expenses may include the following:

(i) All regular expenses normally incurred by a cable operator in the provision of regulated cable service, but not including any lobbying expense, charitable contributions, penalties and fines paid on account of violations of statutes or rules, or membership fees in social, service, recreational or athletic clubs or organizations.

(ii) Reasonable depreciation expense attributable to tangible assets allowable in the ratebase.

(iii) Reasonable amortization expense for prematurely abandoned tangible assets formerly includable in the ratebase that are amortized over the remainder of the original expected life

of the asset.

(iv) Reasonable amortization expense for start-up losses and capitalized intangible assets that are includable in ratebase.

(v) Taxes other than income taxes attributable to the provision of regulated cable services.

(vi) An income tax allowance.

(j) Network upgrade rate increase.

(1) Cable operators that undertake significant network upgrades requiring added capital investment may justify an increase in rates for regulated services by demonstrating that the capital investment will benefit subscribers.

(2) A rate increase on account of upgrades shall not be assessed on customers until the upgrade is complete and providing benefits to customers of regulated services.

(3) Cable operators seeking an upgrade rate increase have the burden of demonstrating the amount of the net increase in costs, taking into account current depreciation expense, likely changes in maintenance and other costs, changes in regulated revenues and expected economies of scale.

(4) Cable operators seeking a rate increase for network upgrades shall allocate net cost increases in conformance with the cost allocation rules as set forth in § 76.924.

(5) Cable operators that undertake significant upgrades shall be permitted to increase rates by adding the benchmark/price cap rate to the rate increment necessary to recover the net increase in cost attributable to the upgrade.

(k) Hardship rate relief.

A cable operator may adjust charges by an amount specified by the Commission for the cable programming service tier or the franchising authority for the basic service tier if it is determined that:

(1) Total revenues from cable operations, measured at the highest level of the cable operator's cable service organization, will not be sufficient to enable the operator to attract capital or maintain credit necessary to enable the operator to continue to provide cable service;

(2) The cable operator has prudent and efficient management; and

(3) Adjusted charges on account of hardship will not result in total charges for regulated cable services that are excessive in comparison to charges of similarly situated systems.

(l) Cost of service showing.

A cable operator that elects to establish a charge, or to justify an existing or changed charge for regulated cable service, based on a cost-of-service showing must submit data to the Commission or the franchising authority in accordance with forms established by the Commission. The cable operator must also submit any additional information requested by franchising authorities or the Commission to resolve questions in cost-of-service proceedings.

(m) Subsequent Cost of Service Charges.

No cable operator may use a cost-of-service showing to justify an increase in any charge established on a cost-of-service basis for a period of 2 years after that rate takes effect,

except that the Commission or the franchising authority may waive this prohibition upon a showing of unusual circumstances that would create undue hardship for a cable operator.

3. Section 76.923 is amended by adding paragraphs (n) and (o), to read as follows:

§ 76.923 Rates for equipment and installation used to receive the basic service tier.

(n) Timing of Filings. An operator shall file FCC Form 1205 in order to establish its maximum permitted rates at the following times:

(1) When the operator sets its initial rates under either the benchmark system or through a cost-of-service showing;

(2) Within 60 days of the end its fiscal year, for an operator that adjusts its rates under the system described in Section 76.922(d) that allows it to file up to quarterly;

(3) On the same date it files its FCC Form 1240, for an operator that adjusts its rates under the annual rate adjustment system described in Section 76.922(e). If an operator elects not to file an FCC Form 1240 for a particular year, the operator must file a Form 1205 on the anniversary date of its last Form 1205 filing; and

(4) When seeking to adjust its rates to reflect the offering of new types of customer equipment other than in conjunction with an annual filing of Form 1205, 60 days before it seeks to adjust its rates to reflect the offering of new types of customer equipment.

(o) Introduction of new equipment. In setting the permitted charge for a new type of equipment at a time other than at its annual filing, an operator shall only complete Schedule C and the relevant step of the Worksheet for Calculating Permitted Equipment and Installation Charges of a Form 1205. The operator shall rely on entries from its most recently filed FCC Form 1205 for information not specifically related to the new equipment, including but not limited to the Hourly Service Charge. In calculating the annual maintenance and service hours for the new equipment, the operator should base its entry on the average annual expected time required to maintain the unit, i.e., expected service hours required over the life of the equipment unit being introduced divided by the equipment unit's expected life.

4. Section 76.925 is amended by designating paragraphs (a) and (b) as (b) and (c), respectively, and adding new paragraph (a), and revising newly redesignated paragraph (c), to read as follows:

§ 76.925 Costs of franchise requirements.

(a) Franchise requirement costs may include cost increases required by the franchising authority in the following categories:

- (1) Costs of providing PEG access channels;
- (2) Costs of PEG access programming;
- (3) Costs of technical and customer service standards to the extent that they exceed federal

standards;

(4) 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; and

(5) When the operator is not already in the process of upgrading the system, costs of removing cable from utility poles and placing the same cable underground.

(b) The costs of satisfying franchise requirements to support public, educational, and governmental channels shall consist of the sum of:

(1) All per channel costs for the number of channels used to meet franchise requirements for public, educational, and governmental channels;

(2) Any direct costs of meeting such franchise requirements; and

(3) A reasonable allocation of general and administrative overhead.

(c) The costs of satisfying any requirements under the franchise other than PEG access costs shall consist of the direct and indirect costs including a reasonable allocation of general and administrative overhead.

5. Section 76.933 is amended by revising paragraphs (a), (b), (e), and (f), and adding paragraphs (g) and (h), to read as follows:

§ 76.933 Franchising authority review of basic cable rates and equipment costs.

(a) After a cable operator has submitted for review its existing rates for the basic service tier and associated equipment costs, or a proposed increase in these rates (including increases in the baseline channel change that results from reductions in the number of channels in a tier) under the quarterly rate adjustment system pursuant to Section 76.922(d), the existing rates will remain in effect or the proposed rates will become effective after 30 days from the date of submission; provided, however, that the franchising authority may toll this 30-day deadline for an additional time by issuing a brief written order as described in paragraph (b) within 30 days of the rate submission explaining that it needs additional time to review the rates.

(b) If the franchising authority is unable to determine, based upon the material submitted by the cable operator, that the existing, or proposed rates under the quarterly adjustment system pursuant to Section 76.922(d), are within the Commission's permitted basic service tier charge or actual cost of equipment as defined in §§ 76.922 and 76.923, or if a cable operator has submitted a cost-of-service showing pursuant to §§ 76.937(c) and 76.924, seeking to justify a rate above the Commission's basic service tier charge as defined in §§ 76.922 and 76.923, the franchising authority may toll the 30-day deadline in paragraph (a) of this section to request and/or consider additional information or to consider the comments from interested parties as follows:

(1) For an additional 90 days in cases not involving cost-of-service showings; or

(2) For an additional 150 days in cases involving cost-of-service showings.

(e) Notwithstanding the foregoing, when the franchising authority is regulating basic service tier rates, a cable operator that sets its rates pursuant to the quarterly rate adjustment system pursuant to Section 76.922(d) may increase its rates for basic service to reflect the imposition of, or increase in, franchise fees or Commission cable television system regulatory fees imposed pursuant to 47 U.S.C. § 159, upon 30 days' notice to subscribers and the franchising authority and, where required by Section 76.958, to the Commission. For the purposes of paragraphs (a) through (c) of this section, the increased rate attributable to Commission regulatory fees or franchise fees shall be treated as an "existing rate, subject to subsequent review and refund if the franchising authority determines that the increase in basic tier rates exceeds the increase in regulatory fees or in franchise fees allocable to the basic tier. This determination shall be appealable to the Commission pursuant to Section 76.944. When the Commission is regulating basic service tier rates pursuant to Section 76.945 or cable programming service rates pursuant to Section 76.960, an increase in those rates resulting from franchise fees or Commission regulatory fees shall be reviewed by the Commission pursuant to the mechanisms set forth in Section 76.945. A cable operator must adjust its rates to reflect decreases in franchise fees or Commission regulatory fees within the periods set forth in Section 76.922(d)(3)(i) and (iii).

(f) For an operator that sets its rates pursuant to the quarterly rate adjustment system pursuant to Section 76.922(d), cable television system regulatory fees assessed by the Commission pursuant to 47 U.S.C. § 159 shall be recovered in monthly installments during the fiscal year following the year for which the payment was imposed. Payments shall be collected in equal monthly installments, except that for so many months as may be necessary to avoid fractional payments, an additional \$0.01 payment per month may be collected. All such additional payments shall be collected in the last month or months of the fiscal year, so that once collections of such payments begin there shall be no month remaining in the year in which the operator is not entitled to such an additional payment. Operators may not assess interest. Operators may provide notice of the entire fiscal year's regulatory fee pass-through in a single notice.

(g) A cable operator that submits for review a proposed change in its existing rates for the basic service tier and associated equipment costs using the annual filing system pursuant to Section 76.922(e) shall do so no later than 90 days from the effective date of the proposed rates. The franchising authority will have 90 days from the date of the filing to review it. However, if the franchising authority or its designee concludes that the operator has submitted a facially incomplete filing, the franchising authority's deadline for issuing a decision, the date on which rates may go into effect if no decision is issued, and the period for which refunds are payable will be tolled while the franchising authority is waiting for this information, provided that, in order to toll these effective dates, the franchising authority or its designee must notify the operator of the incomplete filing within 45 days of the date the

filing is made.

(1) If there is a material change in an operator's circumstances during the 90-day review period and the change affects the operator's rate change filing, the operator may file an amendment to its Form 1240 prior to the end of the 90-day review period. If the operator files such an amendment, 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 its proposed rate adjustment, as modified by the amendment, 90 days after its initial filing.

(2) If a franchising authority has taken no action within the 90-day review period, then the proposed rates may go into effect at the end of the review period, subject to a prospective rate reduction and refund if the franchising authority subsequently issues a written decision disapproving any portion of such rates, provided, however, that in order to order a prospective rate reduction and refund, if an operator inquires as to whether the franchising authority intends to issue a rate order after the initial review period, the franchising authority or its designee must notify the operator of its intent in this regard within 15 days of the operator's inquiry. 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 this 12-month period, it may not at a later date order a refund or a prospective rate reduction with respect to the rate filing.

(3) At the time an operator files its rates with the franchising authority, the operator may give customers notice of the proposed rate changes. Such notice should state that the proposed rate change is subject to approval by the franchising authority. If the operator is only permitted a smaller increase than was provided for in the notice, the operator must provide an explanation to subscribers on the bill in which the rate adjustment is implemented. If the operator is not permitted to implement any of the rate increase that was provided for in the notice, the operator must provide an explanation to subscribers within 60 days of the date of the franchising authority's decision. Additional advance notice is only required in the unlikely event that the rate exceeds the previously noticed rate.

(4) If an operator files for a rate adjustment under Section 76.922(e)(2)(iii)(B) for the addition of required channels to the basic service tier that the operator is required by federal or local law to carry, or, if a single-tier operator files for a rate adjustment based on a mid-year channel addition allowed under Section 76.922(e)(2)(iii)(C), the franchising authority has 60 days to review the requested rate. The proposed rate shall take effect at the end of this 60-day period unless the franchising authority rejects the proposed rate as unreasonable. In order to order refunds and prospective rate reductions, the franchising authority shall be subject to the requirements described in paragraph (g)(1) of this section.

(5) Notwithstanding the foregoing, when the franchising authority is regulating basic service tier rates, a cable operator may increase its rates for basic service to reflect the imposition of, or increase in, franchise fees upon 30 days' notice to subscribers and the franchising authority and, where required by Section 76.958, to the Commission. The increased rate attributable to Commission regulatory fees or franchise fees shall be subject to