

comply with the rates, terms and conditions prescribed by the cable operator, subject to refund or other appropriate remedy.

[58 FR 29753, May 21, 1993, as amended at 62 FR 11382, Mar. 12, 1997; 73 FR 10692, Feb. 28, 2008]

EFFECTIVE DATE NOTE: At 73 FR 10692, Feb. 28, 2008, in § 76.975, paragraphs (b) through (g) were revised, paragraph (h) was redesignated as paragraph (i) and a new paragraph (h) was added. Paragraphs (d), (e), (g), and (h)(4) of this section, which contain information collection and recordkeeping requirements, and paragraphs (b), (c), and (f), which contains requirements related to those information collection requirements, will not become effective until approval has been given by the Office of Management and Budget.

§ 76.977 Minority and educational programming used in lieu of designated commercial leased access capacity.

(a) A cable operator required by this section to designate channel capacity for commercial use pursuant to 47 U.S.C. 532, may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming sources, whether or not such source is affiliated with cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this section may not exceed 33 percent of the channel capacity designated pursuant to 47 U.S.C. 532 and must be located on a tier with more than 50 percent subscriber penetration.

(b) For purposes of this section, a qualified minority programming source is a programming source that devotes substantially all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned.

(c) For purposes of this section, a qualified educational programming source is a programming source that devotes substantially all of its programming to educational or instructional programming that promotes public understanding of mathematics, the sciences, the humanities, or the arts and has a documented annual ex-

penditure on programming exceeding \$15 million. The annual expenditure on programming means all annual costs incurred by the programming source to produce or acquire programs which are scheduled to be televised, and specifically excludes marketing, promotion, satellite transmission and operational costs, and general administrative costs.

(d) For purposes of paragraphs (b) and (c) of this section, *substantially all* means that 90% or more of the programming offered must be devoted to minority or educational purposes, as defined in paragraphs (b) and (c) of this section, respectively.

(e) For purposes of paragraph (b) of this section, "minority" is defined as in 47 U.S.C. 309(i)(3)(c)(ii) to include Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders.

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§ 76.978 Leased access annual reporting requirement.

(a) Each cable system shall submit a Leased Access Annual Report with the Commission on a calendar year basis, no later than April 30th following the close of each calendar year, which provides the following information for the calendar year:

(1) The number of commercial leased access channels provided by the cable system.

(2) The channel number and tier applicable to each commercial leased access channel.

(3) The rates the cable system charges for full-time and part-time leased access on each leased access channel.

(4) The cable system's calculated maximum commercial leased access rate and actual rates.

(5) The programmers using each commercial leased access channel and whether each programmer is using the channel on a full-time or part-time basis.

(6) The number of requests received for information pertaining to commercial leased access and the number of bona fide proposals received for commercial leased access.