

## § 76.938

the reasonableness of its rates in default and, using the best information available, enter an order finding the cable operator's rates unreasonable and mandating appropriate relief, as specified in §§ 76.940, 76.941, and 76.942.

(e) A franchising authority or the Commission may order a cable operator that has filed a facially incomplete form to file supplemental information, and the franchising authority's deadline to rule on the reasonableness of the proposed rates will be tolled pending the receipt of such information. A franchising authority may set reasonable deadlines for the filing of such information, and may find the cable operator in default and mandate appropriate relief, pursuant to paragraph (d) of this section, for the cable operator's failure to comply with the deadline or otherwise provide complete information in good faith.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17973, Apr. 15, 1994]

## § 76.938 Proprietary information.

A franchising authority may require the production of proprietary information to make a rate determination in those cases where cable operators have submitted initial rates, or have proposed rate increases, pursuant to an FCC Form 393 (and/or FCC Forms 1200/1205) filing or a cost-of-service showing. The franchising authority shall state a justification for each item of information requested and, where related to an FCC Form 393 (and/or FCC Forms 1200/1205) filing, indicate the question or section of the form to which the request specifically relates. Upon request to the franchising authority, the parties to a rate proceeding shall have access to such information, subject to the franchising authority's procedures governing non-disclosure by the parties. Public access to such proprietary information shall be governed by applicable state or local law.

[59 FR 17973, Apr. 15, 1994]

## § 76.939 Truthful written statements and responses to requests of franchising authority.

Cable operators shall comply with franchising authorities' and the Commission's requests for information, or-

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ders, and decisions. Any information submitted to a franchising authority or the Commission in making a rate determination pursuant to an FCC Form 393 (and/or FCC Forms 1200/1205) filing or a cost-of-service showing is subject to the provisions of § 1.17 of this chapter.

[68 FR 15098, Mar. 28, 2003]

## § 76.940 Prospective rate reduction.

A franchising authority may order a cable operator to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in §§ 76.922 and 76.923

## § 76.941 Rate prescription.

A franchising authority may prescribe a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable.

## § 76.942 Refunds.

(a) A franchising authority (or the Commission, pursuant to § 76.945) may order a cable operator to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment, unless the operator has submitted a cost-of-service showing which justifies the rate charged as reasonable. An operator's liability for refunds shall be based on the difference between the old bundled rates and the sum of the new unbundled program service charge(s) and the new unbundled equipment charge(s). Where an operator was charging separately for program services and equipment but the rates were not in compliance with the Commission's rules, the operator's refund liability shall be based on the difference between the sum of the old charges and the sum of the new, unbundled program service and equipment charges. Before ordering a cable operator to refund previously paid rates to subscribers, a franchising authority (or the Commission) must give the operator notice and opportunity to comment.

(b) An operator's liability for refunds in limited to a one-year period, *except*