

## Federal Communications Commission

## § 76.961

(2) That the Commission determined is defective *and* has so notified the cable operator.

[58 FR 29753, May 21, 1993, as amended at 59 FR 17975, Apr. 15, 1994; 61 FR 18979, Apr. 30, 1996; 64 FR 35950, July 2, 1999]

### § 76.957 Commission adjudication of the complaint.

The Commission will consider the complaint and the cable operator's response and then determine by written decision whether the rate for the cable programming service or associated equipment is unreasonable or not. In making its determination, the Commission will only review the amount of the rate increase subject to the complaint. If the Commission determines that the rate change in question is unreasonable, it will grant the complaint and may order appropriate relief, including, but not limited to, prospective rate reductions and refunds. If it determines that the rate in question is reasonable, the Commission will deny the complaint.

[60 FR 52121, Oct. 5, 1995]

EFFECTIVE DATE NOTE: At 60 FR 52121, Oct. 5, 1995, § 76.957 was revised. This section contains information collection and record-keeping requirements and will not become effective until 30 days after approval has been given by the Office of Management and Budget.

### § 76.960 Prospective rate reductions.

Upon a finding that a rate for cable programming service or associated equipment is unreasonable, the Commission may order the cable operator to implement a prospective rate reduction to the class of customers subscribing to the cable programming service at issue.

(a) For an operator that adjusts its rates using the quarterly rate adjustment system pursuant to Section 76.922(d), the Commission's decision regarding a prospective rate reduction shall remain binding on the cable operator for one year unless the Commission specifies otherwise.

(b) For an operator that adjusts its rates using the annual rate adjustment system pursuant to Section 76.922(e), for one year following the Commission's decision, the operator shall pro-

vide the Commission at least 30 days' notice of any proposed change.

[60 FR 52121, Oct. 5, 1995]

EFFECTIVE DATE NOTE: At 60 FR 52121, Oct. 5, 1995, § 76.960 was revised. This section contains information collection and record-keeping requirements and will not become effective until 30 days after approval has been given by the Office of Management and Budget.

### § 76.961 Refunds.

(a) Upon a finding that a rate for cable programming service or associated equipment is unreasonable, the Commission may order the cable operator to refund to subscribers that portion of previously paid rates which is deemed unreasonable.

(b) The cumulative refund due subscribers shall be calculated from the date of the first complaint filed with the franchising authority until the date a cable operator implements a prospective rate reduction as ordered by the Commission pursuant to § 76.960. The Commission shall calculate refund liability according to the rules in effect for determining the reasonableness of the rates for the period of time covered by the complaint.

(c) The cable operator, in its discretion, may implement a refund in the following manner:

(1) By returning overcharges to those subscribers who actually paid the overcharges, either through direct payment or as a specifically identified, one-time credit to those subscribers' bills; or

(2) By means of a prospective percentage reduction in the unreasonable cable programming service rate or equipment charge to cover the cumulative overcharge. This shall be reflected as a specifically identified, one-time credit on prospective bills to the class of subscribers that currently subscribe to the cable programming service or associated equipment at issue.

(d) Refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments. Interest shall accrue from the date a valid complaint is filed until the refund issues.

(e) At the time the Commission orders a cable operator to pay refunds to subscribers, the franchising authority