

**Title: Section 76.944, Commission Review of Franchising Authority Decisions on Rates for Basic Service and Associated Equipment**

**SUPPORTING STATEMENT**

**A. Justification:**

1. 47 CFR Section 76.944(b) provides that any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision as computed under §1.4(b) of this chapter. Appeals shall be served on the franchising authority or other authority that issued the rate decision. Where the state is the appropriate decision making authority, the state shall forward a copy of the appeal to the appropriate local official(s). Oppositions may be filed within 15 days after the appeal is filed, and must be served on the parties appealing the rate decision. Replies may be filed 7 days after the last day for oppositions and shall be served on the parties to the proceeding.

This information collection does not affect individuals; therefore, there are no Privacy Act impacts.

The Commission is requesting an extension of this information collection in order to receive the full three year OMB clearance/approval.

Statutory authority for the collection of information is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

2. The Commission reviews this information to ensure that franchising authority decisions regarding cable rates are consistent with the provisions of the Cable Television Consumer Protection and Competition Act of 1992 and the Commission's rules regarding cable rate regulation. Commission review of appeals is necessary to ensure uniformity of interpretation of federal guidelines.

3. We do not believe that the use of information technology is feasible in this situation.

4. This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. This collection of information does not have a significant impact on a substantial number of small entities/businesses.

6. If the Commission did not collect this information and allow for an appeals process, then there would be no mechanism for the Commission to examine varying and conflicting rate determinations issued at the local level. The absence of an appeals process would therefore

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jeopardize consistent interpretation of the rate regulations provisions set forth in the Cable Television Consumer Protection and Competition Act of 1992.

7. Oppositions to appeals may be filed within 15 days after appeals are filed. Replies may be filed seven days after the last day for oppositions to be filed.

8. The Commission published a Notice (74 FR 15478) in the *Federal Register* on April 6, 2009. No comments were generated as a result of the Notice.

9. No payment or gift was provided to the respondents.

10. There is no need for confidentiality with this collection of information.

11. These collections of information do not address any matters of a sensitive nature.

12. We estimate that approximately 16 cable operators will file annually. For all aspects of the filing process (including appeals, oppositions and replies), we estimate that all cable operators spend an average of 30 hours on each filing and that local franchising authorities spend an average of 20 hours on each filing. We also estimate that eight (8) cable operators will need additional assistance (consultation) from an outside legal consultant before filing appeals, oppositions and replies. When using outside legal assistance, operators are estimated to undergo an additional burden of two (2) hours per filing to discuss filings with the outside legal assistance.

**Total number of respondents:**

16 cable operators

16 LFAs

**32 (respondents)**

**Total number of responses:**

16 filings by cable operators

16 LFAs reviews

**32 (responses)**

**Total Annual Hour Burden:**

16 cable operators' filings x 30 hours/filings = 480 hours

16 LFAs' filing reviews x 20 hours for each filing = 320 hours

8 cable operators x 2 hours for legal consultation with consultant = 16 hours

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816 hours

Annual In-House Cost: We estimate an average hourly wage of \$48.08 per hour for cable operator staff tasked with the filing process or coordinating information with legal counsel, and for LFA staff tasked with reviewing these filings.

16 cable operators' filings x 30 hours/filings x \$48.08/hour	= \$23,078
16 LFAs' filing reviews x 20 hours for each filing x \$48.08hour	= \$15,385
8 cable operators x 2 hours for legal consultation with consultant x \$48.08/hour	= \$ 769
<b>Total Annual In-House Cost: \$39,232</b>	

These estimates are based on FCC staff's knowledge and familiarity with the data required.

13. Annual Cost Burden:

a. Total capital and start-up costs. None.

b. Total operation and maintenance costs. We estimate that cable operators contracting out legal assistance will pay \$200 per hour for the assistance.

\$200/hour x 2 hours/document/consultation x 8 cable operators = \$3,200

c. Total annual costs to respondents = \$3,200

14. Cost to the Federal Government. We estimate for each case:

<u>Staff</u>	<u>p/Case</u>	<u>p/Hour</u>	<u>p/Case</u>
Professional (GS-13/5)	40 hours	\$47.21	\$1,888.40
Managerial (GS-14/5)	4 hours	\$55.78	\$ 223.12
Clerical (GS-5, step 5)	<u>6 hours</u>	\$18.07	<u>\$ 108.42</u>
Totals	50.0 hours		\$ 2,219.94

Total cost to the Government: 16 filings x \$2219.94 = \$35,519.04

15. There are no program changes or adjustments to this information collection.

16. The data will not be published for statistical use.

17. We do not seek approval not to display the expiration date for OMB approval of the information collection.

**OMB Control Number: 3060-0565**

**June 2009**

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18. There are no other exceptions to the Certification Statement.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.