

Title: Section 76.309, Customer Service Obligations; Section 76.1600, Electronic Delivery of Notices; Section 76.1602, Customer Service – General Information, Section 76.1603, Customer Service – Rate and Service Changes and 76.1619, Information and Subscriber Bills

SUPPORTING STATEMENT

A. Justification:

1. On November 16, 2018, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking in MB Docket Nos. 17-317 and 17-105, FCC 18-166, *In the Matter of Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative*. The Report and Order modernized the Commission's rules regarding certain information that cable operators currently are required to provide to their subscribers on paper. The Report and Order permits these notices, including the information operators must provide pursuant to 47 CFR Section 76.1619, to instead be provided electronically via verified e-mail, so long as the cable operator complies with certain consumer safeguards. Specifically, the item permits certain written responses by the cable operator to be delivered by e-mail if the consumer used e-mail to make the request or complaint directly to the cable operator, or if the consumer specifies e-mail as the preferred delivery method in the request or complaint.

In addition, the Report and Order permits electronic delivery of all general subscriber notices required pursuant to Sections 76.1601, 76.1602, 76.1603, 76.1604, 76.1618, and 76.1620 of Subpart T of Part 76 of the Commission's rules (47 CFR Part 76, Subpart T), as well as subscriber privacy information that cable operators and other multichannel video programming distributors (MVPDs) are required to provide pursuant to Sections 631, 338(i), and 653 of the Communications Act of 1934, as amended, so long as the cable operator complies with certain consumer safeguards. The Report and Order adopts a new Section 76.1600 to implement these changes.

This supporting statement is being revised to reflect the changes for the information collection requirements contained in 47 CFR Section 76.1619 and to establish 47 CFR Section 76.1600.

The information collection requirements which are currently approved under this collection are as follows:

47 CFR 76.309(a) states that a cable franchise authority may enforce the customer service standards set forth in paragraph (c)¹ of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

¹ See 47 CFR 76.309(c) for the customer service standards.

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47 CFR 76.1602(a) states that a cable franchise authority may enforce the customer service standards set forth in paragraph (b)² of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

47 CFR 76.1602(b) Effective July 1, 1993, the cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: (1) Products and services offered; (2) Prices and options for programming services and conditions of subscription to programming and other services; (3) Installation and service maintenance policies; (4) Instructions on how to use the cable service; (5) Channel positions of programming carried on the system; and (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office. (7) Effective May 1, 2011, any assessed fees for rental of navigation devices and single and additional CableCARDS; and, (8) Effective May 1, 2011, if such provider includes equipment in the price of a bundled offer of one or more services, the fees reasonably allocable to (i) the rental of single and additional CableCARDS and (ii) the rental of operator-supplied navigation devices.

47 CFR 76.1602(c) states that subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

47 CFR 76.1603(a) states that a cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

47 CFR 76.1603(b) states that customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by Section 76.1602.

47 CFR 76.1603(c) states that advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

² See 47 CFR 76.1602(b) for the customer service standards. The information collection requirements contained in Section 76.1602 numbers 1- 6 were previously approved OMB and have not changed since last approved by OMB. The Commission is now seeking OMB approval for items 7 and 8 of Section 76.1602 (see revised information collection requirement on page one of this supporting statement).

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For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

47 CFR 76.1603(d) requires that a cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.

47 CFR 76.1603(e) states that to the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

47 CFR 76.1619(b) states in case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

47 CFR 76.1619(c) states a cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

The following new information collections require approval from the Office of Management and Budget (OMB). These collections represent non-substantive changes to the current information collections.

47 CFR 76.1619(b) is amended to permit cable operators to respond to a written complaint from a subscriber by e-mail, if the consumer used e-mail to make the request or complaint directly to the cable operator, or if the consumer specifies e-mail as the preferred delivery method in the request or complaint.

47 CFR 76.1600 (new rule section) is being added to permit written information provided by cable operators to subscribers or customers pursuant to Sections 76.1601, 76.1602, 76.1603, 76.1604, 76.1618, and 76.1620, as well as subscriber privacy notifications required by cable operators, satellite providers, and open video systems pursuant to Sections 631, 338(i), and 653 of the Communications Act, to be delivered by e-mail if certain consumer safeguards are met, as set forth in Section 76.1600(a) and Section 76.1600(b).

Section 76.1600(c) (new rule section) permits cable operators to provide certain portions of the Section 76.1602 annual notices electronically to subscribers who have not opted out of electronic delivery under Section 76.1600(a)(3) or 76.1600(c)(3) if they prominently display the following on

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the front or first page of the printed annual notice:

- (1) A weblink in a form that is short, simple, and easy to remember, leading to written information required to be provided pursuant to Section 76.1602(b)(2), (7), and (8);
- (2) A weblink in a form that is short, simple, and easy to remember, leading to written information required to be provided pursuant to Section 76.1602(b)(5); and
- (3) A telephone number that is readily identifiable as an opt-out mechanism that will allow subscribers to continue to receive paper copies of the entire annual notice.

47 CFR Section 76.1600(d) (new rule section) provides that, if the conditions for electronic delivery in subsections 76.1600(a) and 76.1600(b) are not met, or if a subscriber opts out of electronic delivery, the written material must be delivered by paper copy to the subscriber's physical address.

There are no new burdens or cost associated with this non-substantive change. Changes of the collection reflect changes in the number of cable operators since the collection was last approved by OMB.

History:

The Commission's rule, 47 CFR §76.1602(b), requires cable operators to provide their subscribers with notices that include certain "written information" about their products and services, including, but not limited to, the types of products and services offered, the prices for each service, and installation and service maintenance policies. Most cable operators have distributed the notices in hard copy. Representatives of the cable industry filed a Petition for Declaratory Ruling with the Commission requesting that the Commission clarify that the annual notices may be delivered to customers via e-mail. The Commission issued a Declaratory Ruling, FCC 17-73, on June 21, 2017 that clarifies that cable operators may provide the annual notices via e-mail to a verified e-mail address and must include a telephone number to opt out of e-mail notification at any time and choose to continue to receive paper copies of the annual notices.

The Commission released on October 14, 2010, a Third Report and Order and Order on Reconsideration, FCC 10-181, CS Docket 97-80 and PP Docket 00-67, modifying the Commission's rules to implement Section 629 of the Communications Act (Section 304 of the Telecommunications Act of 1996). Section 629 of the Communications Act directs the Commission to adopt rules to assure the commercial availability of "navigation devices," such as cable set-top boxes. One rule modification in the Third Report and Order and Order on Reconsideration is intended to prohibit price discrimination against retail

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devices. This modification requires cable operators to disclose annually the fees for rental of navigation devices and single and additional CableCARDS as well as the fees reasonably allocable to the rental of single and additional CableCARDS and the rental of operator-supplied navigation devices if those devices are included in the price of a bundled offer.

Pursuant to the Commission's reorganization and renumbering of 47 CFR Section 76, as part of the 1998 Biennial Review--Multichannel Video and Cable Television Service, 47 CFR Sections 76.309 in part and 76.964 have been renumbered among sections 76.1602, 76.1603 and 76.1619. Originally, the notification requirements were included in 47 CFR Section 76.964, but pursuant to the reorganization, this requirement was placed in 47 CFR Section 76.1603. *See* 65 FR 53610, September 2, 2000. The information collection previously included in this OMB control number is now renumbered as 47 CFR Section 76.1603.

On October 31, 2001, the Commission released a *Second Report and Order*, In the Matter of 1998 Biennial Regulatory Review – Streamlining of Cable Television Services, Part 76 Public File and Notice Requirements, CS Docket No. 98-132, FCC #01-314, making a minor correction to Section 76.309 concerning notification requirements. A footnote was added to the rule Section.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 1, 4(i), 4(j), 325, 338, 624A, 631, 632, and 653 of the Communications Act of 1934, as amended.

2. The Commission requires the various disclosure and notifications contained in this collection as a means of consumer protection to ensure that subscribers and franchising authorities are aware of cable operators' business practices, current rates, rate changes for programming, service and equipment, and channel line-up changes. Permitting the use of e-mail modernizes the Commission's rules regarding notices required to be provided by MVPDs.
3. Use of information technology includes the ability of cable operators to e-mail notices and other information and/or deliver them as part of pre-printed text on regular monthly subscriber billing statements.
4. The Commission does not impose similar disclosure and notification requirements on the respondents.
5. These disclosure and notification requirements do not have a significant impact on a substantial number of small businesses. New Section 76.1600 will reduce burdens for MVPDs by permitting them to provide notifications and responses via e-mail rather than on paper.
6. If the disclosure and notification requirements contained in this collection were not sponsored by the

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Commission, the Commission's consumer protection provisions for cable subscribers would be jeopardized. In addition, the Commission would not be in compliance with Section 632 of the Communications Act of 1934.

7. There are no special circumstances associated with this collection of information.
8. The Commission published a Notice (82 FR 11915) in the Federal Register on February 27, 2017 seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public.
9. Respondents will not receive any gifts or payments.
10. There is no need for confidentiality with this collection of information.
11. This information collection does not address any private matters of a sensitive nature.
12. The public information requirements are:

47 CFR 76.309, Notification Requirements: This rule requires franchise authorities to provide 90 days written notice of their intent to enforce customer service standards. The majority of franchise authorities that enforce customer service standards are already assumed to have made their decisions to do so upon initial promulgation of the Commission's customer service standards. Currently, we estimate that no more than 10 additional franchise authorities make this decision annually and hence issue the associated notice of intent. The paperwork burden to make notice is estimated to be one hour per notice.

10 notices of intent issued from franchise authorities x 1 hour/notice/annum = 10 hours

47 CFR Section 76.1602, Annual Notices to Subscribers: This written information is assumed to be disclosed as pre-printed text on a notice to subscribers at the time of subscription, as requested, and on a yearly basis. According to Commission records, currently there are approximately 4,103 cable systems. The Commission estimates that cable operators update this information an average of once per year and undergo a paperwork burden of one hour for the update. This information must also be disclosed upon request from subscribers. The paperwork burden to make notice is estimated to be one hour per notice.

4,103 cable systems x 1 hour/system/annum = 4,103 hours

This information must also be disclosed upon request from subscribers and to all new subscribers. The

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paperwork burden is estimated to be 1 minute per notice.

$1,000,000$ requests and new subscribers \times $.0167$ hours = $16,700$ hours

47 CFR Section 76.1602, Notices of Intent: This rule requires franchise authorities to provide 90 days written notice of their intent to enforce customer service standards. The majority of franchise authorities that enforce customer service standards are already assumed to have made their decisions to do so upon initial promulgation of the Commission's customer service standards. Currently, we estimate that no more than 10 additional franchise authorities make this decision annually and hence issue the associated notice of intent. The paperwork burden to make notice is estimated to be one hour per notice.

10 notices of intent issued from franchise authorities \times 1 hour/notice/annum = 10 hours

47 CFR Section 76.1603, Notification Requirements: This written information is assumed to be disclosed either as pre-printed text in regular monthly subscriber billing statements or via e-mail. According to Commission records, currently there are approximately $4,103$ cable systems. The Commission estimates that cable operators update this information an average of once per year and undergo a paperwork burden of one hour for the update. This information must also be disclosed upon request from subscribers.

$4,103$ cable systems \times 1 hour/system/annum = $4,103$ hours

We estimate that operators annually receive $100,000$ requests for additional information from subscribers and that the paperwork burden to make each disclosure is 10 minutes.

$100,000$ requests from subscribers \times $.166$ hours/request/annum (10 minutes) = $16,600$ hrs

Also, this rule requires franchise authorities to provide 90 days written notice of their intent to enforce customer service standards. The majority of franchise authorities that enforce customer service standards are already assumed to have made their decisions to do so upon initial promulgation of the Commission's customer service standards. Currently, we estimate that no more than 10 additional franchise authorities make this decision annually and hence issue the associated notice of intent. The paperwork burden to make notice is estimated to be one hour per notice.

10 notices of intent issued from franchise authorities \times 1 hour/notice/annum = 10 hours

47 CFR Section 76.1619, Billing Dispute Requirements: In case of billing disputes, cable operators

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must respond to a written complaint from a subscriber within 30 days. The Commission estimates that 1,000 written billing dispute complaints are received by operators annually. (The vast majority of billing disputes are assumed to be telephoned.) The average burden to respond to each written billing dispute is estimated to be 0.25 hours.

$$1,000 \text{ written billing disputes} \times 0.25 \text{ hours/billing dispute/annum} = 250 \text{ hours}$$

Also, this rule requires franchise authorities to provide 90 days written notice of their intent to enforce customer service standards. The majority of franchise authorities that enforce customer service standards are already assumed to have made their decisions to do so upon initial promulgation of the Commission's customer service standards. Currently, we estimate that no more than 10 additional franchise authorities make this decision annually and hence issue the associated notice of intent. The paperwork burden to make notice is estimated to be one hour per notice.

$$10 \text{ notices of intent issued from franchise authorities} \times 1 \text{ hour/notice/annum} = 10 \text{ hours}$$

Total Number of Respondents:

$$4,103 \text{ cable systems} + 10 \text{ local franchise authorities} = \mathbf{4,113 \text{ (respondents)}}$$

Total Number of Responses:

$$\begin{aligned}
 &10 - \text{ notices of intent issued from franchise authorities (under Section 76.309)} \\
 &4,103 - \text{ pre-printed notices from cable operators (under Section 76.1602)} \\
 &1,000,000 - \text{ requests from subscribers and new subscribers for additional information (Section 76.1602)} \\
 &10 - \text{ notices of intent issued from franchise authorities (under Section 76.1602)} \\
 &4,103 - \text{ pre-printed notices from cable operators (under Section 76.1603)} \\
 &100,000 - \text{ request from subscribers for additional information (under Section 76.1603)} \\
 &10 - \text{ notices of intent issued from franchise authorities (under Section 76.1603)} \\
 &1,000 - \text{ written billing dispute complaints (under Section 76.1619)} \\
 &+ \underline{10} - \text{ notices of intent issued from franchise authorities (under Section 76.1619)} \\
 &\mathbf{1,109,246 \text{ (responses)}}
 \end{aligned}$$

Total Annual Burden:

$$\begin{aligned}
 &10 \text{ hours (under Section 76.309)} \\
 &4,103 \text{ hours (under Section 76.1602)} \\
 &16,700 \text{ hours (under Section 76.1602)} \\
 &10 \text{ hours (under Section 76.1602)} \\
 &4,103 \text{ hours (under Section 76.1603)} \\
 &16,600 \text{ hours (under Section 76.1603)}
 \end{aligned}$$

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10 hours (under Section 76.1603)
10 hours (under Section 76.1619)
+ 250 hours (under Section 76.1619)
41,796 hours

Total Annual "In-House Costs": We estimate an average hourly wage of \$18.00 per hour for individuals tasked with the various disclosure requirements contained in this collection. Therefore, the in-house cost is 41,796 hours x \$18.00 per hour = **\$752,328.**

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

13. Annual Cost Burden:

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: None

14. There is no cost to the Federal Government.

15. There are no program changes to this collection. The Commission has the following adjustments to this collection as a result of updating the number of cable systems that are currently respondents to this collection: -4,147 to the number of respondents, -8,294 to the annual number of responses and -8,294 to the annual burden hours.

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

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

18. There are no exceptions to Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.