

## List of Subjects in 47 CFR Part 76

## Cable television.

Federal Communications Commission.  
William H. Johnson,  
*Deputy Chief, Cable Services Bureau.*  
[FR Doc. 96-16819 Filed 7-1-96; 8:45 am]  
BILLING CODE 6712-01-P

## 47 CFR Part 76

[CS Docket No. 96-133, FCC 96-265]

### Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Commission is required to report annually to Congress on the status of competition in the market for the delivery of video programming pursuant to Section 628(g) of the Communications Act of 1934, as amended. On June 12, 1996, the Commission adopted a *Notice of Inquiry* to solicit information from the public for use in preparing the competition report that is to be submitted to Congress in December 1996. The *Notice of Inquiry* will provide parties with an opportunity to submit comments and information to be used in conjunction with publicly available information and filings submitted in relevant Commission proceedings to assess the extent of competition in the market for the delivery of video programming.

**DATES:** Comments are due by July 19, 1996, and reply comments are due by August 19, 1996.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Marcia Glauber, Cable Services Bureau, (202) 418-7200, or Jeffrey Lanning, Office of the General Counsel, (202) 418-1880.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Inquiry* in CS Docket No. 96-133, FCC 96-265, adopted June 12, 1996, and released June 13, 1996. The complete text of this *Notice of Inquiry* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 1900 M Street, N.W., Washington, D.C. 20054.

## Synopsis of the Notice of Inquiry

1. Section 628(g) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 548(g), requires the Commission to deliver an annual report to Congress on the status of competition in the market for the delivery of video programming. The Commission submitted its first two reports to Congress in September 1994 and December 1995, respectively.

2. The *Notice of Inquiry* ("NOI") is designed to solicit comments and information that the Commission can use to prepare its 1996 Competition Report. Specifically, the *NOI* requests information on the cable industry, existing and potential competitors to cable systems, barriers to entry by new competitors, technological advances and the effects of the 1996 Act on competition in the market for the delivery of video programming. The Commission expects to use the information that is submitted by commenters to supplement publicly available information and relevant comments that have been filed in other Commission proceedings. The *NOI* highlights a wide range of competitive issues, and offers parties an opportunity to submit comments on these issues, as well as any other information they believe is relevant to an evaluation of competition in the market for the delivery of video programming.

3. The *NOI* begins with an overview of the 1996 Act, including a summary of the provisions that may promote competition among multichannel video programming distributors ("MVPDs"). These provisions include: (1) repeal of the cable-telco cross-ownership ban; (2) creation of the open video system ("OVS") option for local exchange carrier ("LEC") entry into the market for the delivery of video programming; (3) deregulation of small cable systems; (4) expansion of the definition of effective competition; and (5) elimination under a number of circumstances of the uniform cable service rate structure requirement for similarly situated subscribers.

4. The *NOI* then seeks information and comment on the status of the different MVPDs that serve subscribers in the market for the delivery of video programming and the changes that have occurred in the past year. The MVPDs include cable television (including overbuilds), multipoint multichannel distribution service ("MMDS" or "wireless cable"), direct broadcast satellites ("DBS") and home satellite dishes ("HSDs"), and satellite master antenna television ("SMATV") systems.

The Commission also seeks information on potential rivals for incumbent cable systems, such as open video systems built by LECs.

5. The *NOI* asks a variety of questions concerning each of these video service providers and solicits information regarding barriers to entry and the nature of the services they provide. The *NOI* also indicates that the Commission intends to examine the effects on competition of broadcast television service, video cassette recorders ("VCRs") and interactive video and data services ("IVDS").

6. The Commission observes that there are technological advances that may affect the structure of the market for the delivery of video programming. In this regard, the *NOI* solicits information on digital compression, hybridization of different transmission media, and developments in set-top boxes and switched digital services.

7. In the *NOI*, the Commission requests comment on the structure of the market for the delivery of video programming and the effect of this structure on competition. The Commission expects to explore the status of horizontal concentration and vertical integration in the cable television industry and to analyze the market structure conditions that may affect competition in the market for the delivery of video programming. Information is requested also to help the Commission evaluate the effects on competition of the Commission's program access, program carriage, channel occupancy, and leased commercial access rules.

8. The *NOI* also requests comment on the current effects of actual or potential competition in local markets where consumers have, or soon will have, a choice between MVPDs. The Commission further requests information on any existing or potential impediments to entry into the market for the delivery of video programming. Finally, comment is sought on the outlook for competition in the future.

## Administrative Matters

*Ex Parte*

9. There are no ex parte or disclosure requirements applicable to this proceeding pursuant to 47 CFR § 1.1204(a)(4).

*Comment Dates*

10. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before July 19, 1996, and reply comments on or before

August 19, 1996. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus ten copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

#### *Ordering Clauses*

11. This Notice of Inquiry is issued pursuant to authority contained in Sections 4(i), 4(j), 403 and 628(g) of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96-16817 Filed 7-1-96; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket No. PS-94; Notice 5]

RIN 2137-AB38

#### Qualification of Pipeline Personnel

**AGENCY:** Research and Special Programs Administration (RSPA); Department of Transportation (DOT).

**ACTION:** Notice of Intent (NOI) to Form a Negotiated Rulemaking Committee.

**SUMMARY:** RSPA proposes to establish a Negotiated Rulemaking Committee under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act of 1992 to develop a recommended rule on the qualification of personnel performing certain safety-related functions for pipelines subject to 49 CFR Parts 192 and 195. The Committee will adopt its recommendations through a negotiation process. The Committee will be composed of persons who represent the interests affected by the rule, such as gas pipeline operators, hazardous liquid and carbon dioxide pipeline operators,

members of state and federal governments, and persons from the public sector. The purpose of this NOI is to invite interested parties to submit comments on the issues to be discussed and the interests and organizations to be considered for representation on the Committee.

**DATES:** RSPA must receive written comments and requests for representation or membership by August 1, 1996.

**ADDRESSES:** Written comments should be submitted in duplicate to the RSPA Dockets Office, attention Verdell Simpkins, Room 8421, Nassif building, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590.

#### **FOR FURTHER INFORMATION CONTACT:**

Albert C. Garnett, (202) 366-2036, or Eben M. Wyman, (202) 366-0918, regarding the subject matter of this NOI; or the Dockets Unit, (202) 366-4453, for copies of this NOI or other material in the docket.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

##### *Notice of Proposed Rulemaking (NPRM)*

An NPRM titled "Qualification of Pipeline Personnel" was published on August 3, 1994 (Docket No. PS-94; 59 FR 39506). The NPRM proposed qualification standards for personnel who perform, or supervise persons performing, regulated operation, maintenance, and emergency-response functions. The purpose of the NPRM was to improve pipeline safety by requiring operators to assure the competency of affected personnel through training, testing, and periodic refresher training.

##### *Written comments to the NPRM.*

RSPA received 131 comments to the docket that expressed a wide variety of interests and concerns. Commenters stated that the NPRM was too prescriptive and that the many references to training requirements should be modified to place the focus of the NPRM on actual qualification, not the methods of achieving it. Most commenters asserted that the NPRM should have proposed a more general approach of broad requirements for persons performing "safety related" functions. Following review of the extensive comments to the NPRM, RSPA decided that a regulatory process other than traditional rulemaking would better address the issues surrounding operator qualifications.

##### *Advisory Committees*

The Technical Pipeline Safety Standards Committee (TPSSC) and the

Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) were established by statute to evaluate proposed pipeline safety regulations. The committees are required to report on the technical feasibility, reasonableness, and practicability of the proposals.

Following consideration of the issues of this proposed rulemaking, both the TPSSC and THLPSSC expressed their disapproval of the NPRM. Instead the Committees presented several motions calling for amendments to the proposal. Those motions generally reflected written comments submitted to the Qualification of Pipeline Personnel proposed rulemaking.

##### *Petition for Withdrawal*

On December 1, 1995, the American Gas Association (AGA), the American Public Gas Association (APGA), and the Southern Gas Association (SGA) filed a petition for withdrawal of the August 3, 1994, NPRM and offered an alternative proposal.

##### *Notice of withdrawal of NPRM*

Along with this NOI, RSPA is publishing elsewhere in this issue of the Federal Register a document withdrawing the NPRM in Docket No. PS-94. RSPA briefly indicated the negotiated rulemaking process was an alternative method of rulemaking for use in this regulatory action. RSPA contends that a negotiated rulemaking process will provide the appropriate level of communication among interested parties that is needed to resolve the controversies surrounding the qualification issues.

##### **II. Regulatory Negotiation**

It can be difficult for an agency to craft effective regulatory solutions to certain problems. In the typical rulemaking process, the participants often develop adversarial relationships that prevent effective communication and creative solutions. The exchange of ideas that may lead to solutions acceptable to all interested groups often does not occur in the traditional notice and comment system. As the Administrative Conference of the United States (ACUS) noted in its Recommendation 82-4:

Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute.