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August 19, 1992

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FILE

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Gen. Docket 90-314  
PP-10 Cablevision Systems Corporation  
PP-52 Cox Enterprises, Inc.

Dear Ms. Searcy:

Cablevision Systems Corporation ("Cablevision"), by its attorneys, hereby responds to certain statements made in a letter from Cox Enterprises, Inc. ("Cox") filed in Gen. Docket 90-314 on July 8, 1992, after the closing of the pleading schedule established for the pioneer preference applications listed on the Commission's public notice dated May 11, 1992. Cox's letter was filed immediately before the release of the Commission's Sunshine Agenda public notice covering this proceeding, and was not received by Cablevision until after release of the Agenda. Cablevision has, consistent with the ex parte rules, deferred filing this response until the release of the text in Gen. Docket 90-314. Since Cox has incorrectly characterized statements by Cablevision in its reply comments in this proceeding, Cablevision requests leave to file this letter to clarify and correct the record in this proceeding.

In its July 8, 1992 letter, Cox suggests that Cablevision asserted for the first time in its reply comments that Cablevision was "the first company to outline for the Commission the efficiencies and capabilities of a cable-based PCS network platform" and that Cablevision was the first to point out "cable's capability of extensive reuse of significant cable network bandwidth and cable's ability to achieve economies through centralization of electronics." To "clarify" the record, Cox points out that Cox filed its experimental applications prior to those of Cablevision.

Cablevision has never denied that Cox was the first company to file experimental license applications which mentioned the possibility of using cable facilities in connection with PCS. Cox's applications were filed on September 20, 1990, while Cablevision's were filed on September 28, 1990. Rather, what Cablevision has asserted is that Cablevision was the first to

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go beyond this simple juxtaposition of two technologies and elaborate the key concepts of a cable based network architecture, and identify its unique capabilities. This assertion was made as early as the filing of its pioneer preference request on July 31, 1991, where Cablevision argued that it had "provided the first comprehensive analysis of how existing and planned cable television delivery infrastructures could be utilized in an innovative fashion to provide the full range of PCS services." Request for Pioneer's Preference of Cablevision Systems Corporation at 4, File No. PP-10 (filed July 30, 1991) (emphasis added). Similarly, in its initial comments on the latest round of Pioneer Preference requests, filed June 10, 1992, Cablevision again asserted that the "extensive technical analysis contained in [Cablevision's experimental] applications provided the first comprehensive outline of how cable networks could provide a cost effective networking solution for PCS." Comments of Cablevision Systems Corporation, Gen. Docket No. 90-314 at 13 (filed June 10, 1992) (emphasis added).

Cablevision's initial comments also noted how Cablevision's experimental applications first identified "the compatibility between evolving cable television architectures and a viable, cost effective network for PCS." Id. Cablevision further pointed to specific portions of its experimental license applications which:

- o identified the possibilities for the reuse of the extensive bandwidth of cable television systems, id. at 14-15;

- o showed how cable television architectures provided natural locations for centralization of electronics and intelligence, id.; and

- o identified unique applications of wireless PCS techniques which could improve the ability of cable networks to provide innovative interactive applications. Id. at 16.<sup>1/</sup>

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<sup>1/</sup> This discussion also makes clear that Cox's suggestion that Cablevision's claim to be the first to outline critical features of a the cable-based PCS network was made for the first time in its reply comments is inaccurate. Cox thus had ample opportunity to dispute Cablevision's claims in comments on Cablevision's original pioneer preference request, and in its reply comments to Cablevision's initial comments filed on June 10. Cablevision would also note that this chronology, and Cablevision's initial applications and subsequent quarterly progress reports, belie claims by Time Warner Telecommunications, Inc. in its reply comments in Gen. Docket 90-314 that Cablevision did not comprehensively outline its view of a cable-based PCS network platform prior to its comments on June 10, 1992 or that Cablevision somehow is following in Time Warner's footsteps. Time Warner's other self serving criticisms of Cablevision's efforts cannot withstand a review of the record before the Commission, and warrant no rebuttal here.

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In contrast, Cox can only accurately claim to have been the first to state in the most basic terms that cable television facilities could be used to provide PCS. Cox's applications did nothing more, nor does Cox provide any specific references to its applications which demonstrate otherwise.

The Commission should not, however, simply take Cablevision's claims at face value. Cablevision invites the Commission to review Cablevision's initial applications, and compare them with Cox's initial applications. This comparison will speak for itself. In this regard, Cablevision attached a copy of the technical exhibit associated with its original experimental license applications to its initial comments filed June 10, 1992.

The timing of Cablevision's initial proposal is simply one important variable the Commission should consider in evaluating Cablevision's Pioneer Preference Request, in light of Cablevision's substantial subsequent efforts to validate its initial proposals. As Cablevision argued in that Request, as well as its comments throughout the Pioneer Preference proceedings, and as the Commission has recognized, however, priority in time, albeit with a detailed and innovative proposal, should be accorded substantial weight in determining whether a party is a true innovator.

Cablevision hopes that the foregoing is helpful and clarifies the record before the Commission.

Sincerely,



Charles D. Ferris  
Howard J. Symons  
James A. Kirkland

cc: Werner K. Hartenberger, Esq.  
Dennis R. Patrick, Esq.  
Tom W. Davidson, Esq.