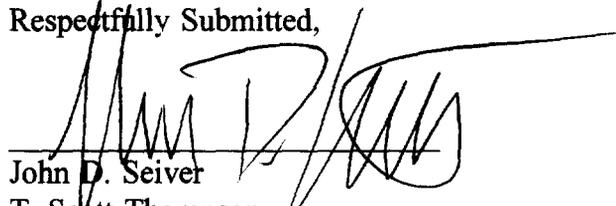


The LECs' assertions regarding the problems raised by carriage of cable operators on OVSs are without support, and indeed, raise greater issues regarding the improper and discriminatory conduct that can easily be applied on purportedly "open" video delivery systems. The Commission, therefore, cannot allow OVS operators to deny carriage to cable operators because such conduct would violate the anti-discrimination provision of Section 653(b)(1)(A). Moreover, in light of the potential for and likelihood of abusive and discriminatory conduct, the Commission should adopt a rule explicitly prohibiting OVS operators from discriminating against cable operators with respect to carriage on open video systems.

## **CONCLUSION**

Based on the foregoing and the Commenters' initial comments, the Commission must adopt specific rules regarding the nondiscriminatory allocation of channels on open video systems. The Commission must adopt rules, including cost allocation and separate subsidiary rules, ensuring that the rates, terms, and conditions for carriage on open video systems are just and reasonable and not unjustly or unreasonably discriminatory. The Commission must clarify that cable operators are free to either convert their present systems into open video systems or to provide programming over an OVS owned by a LEC. The Commission must also adopt rules imposing the provisions enumerated by Congress on open video systems on the same terms as those provisions are imposed on cable operators. The Commission is without statutory authority to forbear from adopting or enforcing any of these provisions, and such forbearance would not serve the public interest.

Respectfully Submitted,



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