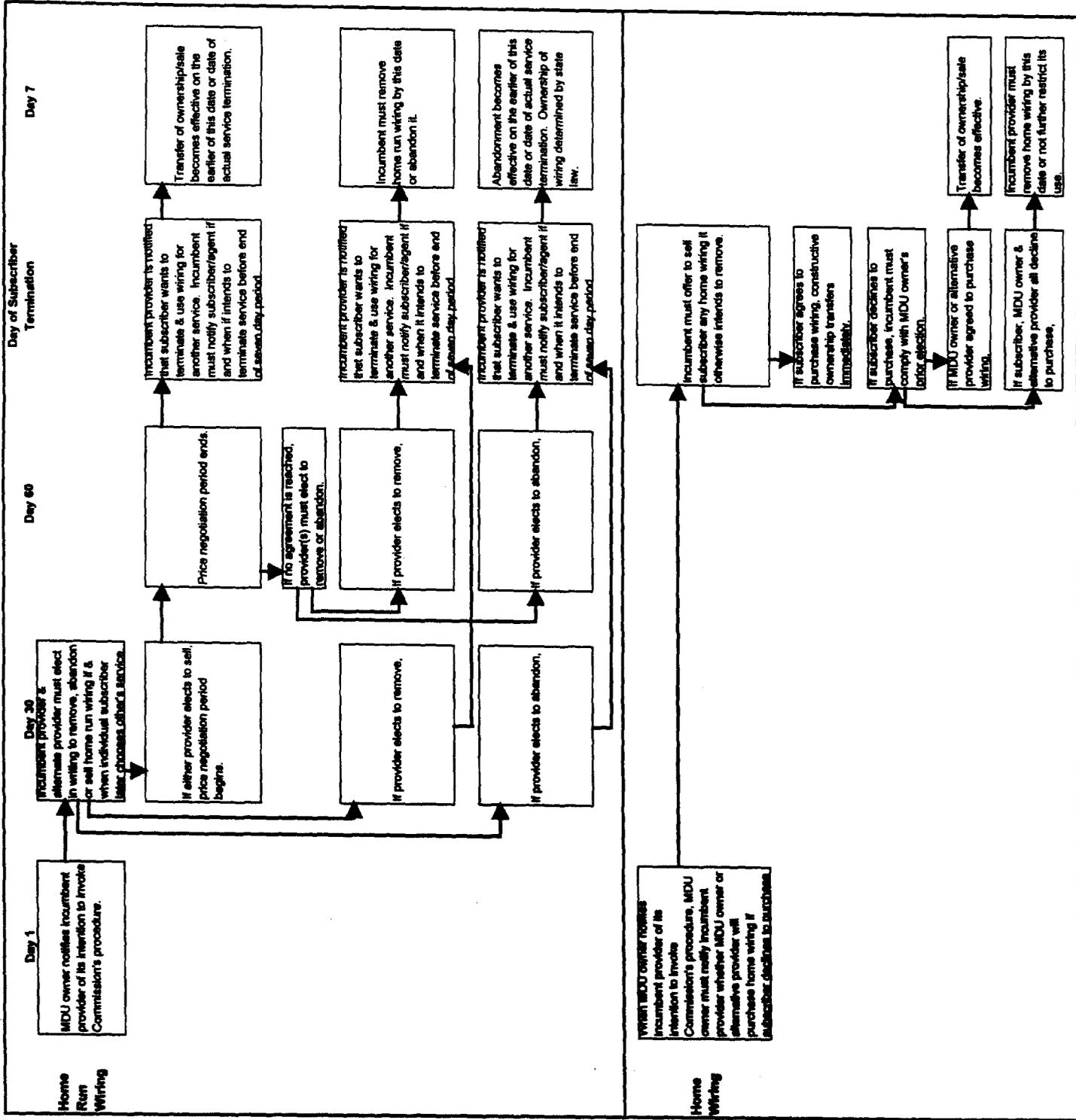


**APPENDIX C
UNIT-BY-UNIT DISPOSITION OF CABLE WIRING**



APPENDIX D**Proposed Rules**

Part 76 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 76 – CABLE TELEVISION SERVICE

1. The authority citation for Part 76 would continue to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.5 is proposed to be amended by revising paragraph (mm)(2) to read as follows:

§ 76.5 Demarcation Point.

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(mm) * * *

(2) For new and existing multiple dwelling unit installations with non-loop-through wiring configurations, the demarcation point shall be a point at or about twelve inches outside of where the cable wire enters the subscriber's dwelling unit, or, where the wire is physically inaccessible at such point, as close as practicable thereto so as to permit access to the cable home wiring.

3. Section 76.802 is proposed to be amended by revising paragraphs (a) and (g) and by adding new paragraphs (l), (m) and (n) to read as follows:

§ 76.802 Disposition of cable home wiring.

(a) (1) Upon voluntary termination of cable service by a subscriber in a single unit dwelling, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, and the subscriber declines. If the subscriber declines to purchase the cable home wiring, the cable system operator must then remove the cable home wiring within seven days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(2) Upon voluntary termination of cable service by an individual subscriber in a multiple dwelling unit building, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, the subscriber declines, and the owner of the multiple dwelling unit building's common areas (referred to herein as the "MDU owner") has not previously elected to purchase or have the alternative MVPD purchase the cable home wiring when a subscriber declines, as provided in paragraph (l) hereof. If the subscriber declines to purchase the cable home wiring, and, the MDU owner has not elected to purchase or have the alternative MVPD purchase the cable home wiring, the cable system operator must then remove the cable home wiring within seven

days of the subscriber's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(3) Upon voluntary termination of cable service for an entire multiple dwelling unit building by the MDU owner, a cable operator shall not remove the cable home wiring unless it gives the MDU owner the opportunity to purchase the wiring at the replacement cost, and the MDU owner declines either to purchase the wiring or to allow the alternative MVPD to purchase the wiring. If the MDU owner declines to purchase or have the alternative MVPD purchase the cable home wiring, the cable system operator must then remove the cable home wiring no later than 30 days, under normal operating conditions, after it is notified of the MDU owner's decision, or make no subsequent attempt to remove it or to restrict its use.

(4) The cost of the cable home wiring is to be based on the replacement cost per foot of the wiring on the subscriber's side of the demarcation point multiplied by the length in feet of such wiring, and the replacement cost of any passive splitters located on the subscriber's side of the demarcation point.

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(g) delete the word "business" where provision refers to "seven business days."

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(l) If a subscriber who is not the owner of the premises terminates service and declines to purchase the cable home wiring under this section, the owner of the multiple dwelling unit building's common areas (referred to herein as the "MDU owner") may purchase it under the same terms and conditions provided in subsection (a) hereof, provided that the MDU owner notified the cable system operator of its desire to purchase the cable home wiring in the event the subscriber declines. Such notification must occur no later than the time at which the MDU owner provides the incumbent MVPD 60 days' notice of the MDU owner's intention to invoke the procedure set forth in Section 76.804(b).

(m) Where an entire multiple dwelling unit building is switching service providers, the MDU owner shall be permitted to exercise the rights of individual subscribers for purposes of the disposition of the cable home wiring under this section. If the MDU owner declines to purchase the cable home wiring, the MDU owner may allow the alternative provider to purchase it upon service termination under this section.

(n) This section shall apply to all multichannel video programming distributors, as that term is defined in Section 602(13) of the Communications Act, 47 U.S.C. § 522(13), in the same manner as it applies to cable operators.

4. Section 76.804 is proposed to be added to read as follows:

§ 76.804 Disposition of Home Run Wiring

(a) *Building-by-building disposition of home run wiring.* (1) Where an MVPD owns the home run wiring in a multiple dwelling unit building ("MDU") and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the

entity that owns the common areas of the MDU ("the MDU owner"), the MDU owner may give the MVPD a minimum of 90 days' notice that its access to the entire building will be terminated. The MVPD will then have 30 days to elect, for all the home run wiring inside the MDU building: (i) to remove the wiring and restore the MDU building to its prior condition by the end of the 90-day notice period; (ii) to abandon and not disable the wiring at the end of the 90-day notice period; or (iii) to sell the wiring to the MDU building owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90-day notice period, the incumbent provider shall notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the MDU owner refuses to purchase the home run wiring, an alternative provider that has been authorized to provide service to the MDU by the MDU owner may negotiate to purchase the wiring. For purposes of this section, "home run wiring" shall refer to the wiring from the point at which the MVPD's wiring becomes devoted to an individual subscriber to the demarcation point.

(2) If the parties negotiate a price for the home run wiring, they shall have 30 days from the date of election to negotiate a price. If the parties are unable to agree on a price, the incumbent must elect one of the other two options (i.e., abandonment or removal) and notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90-day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment shall become effective at the end of the 90-day notice period or upon service termination, whichever occurs first. If the incumbent elects to remove its wiring and restore the building to its prior condition, it must do so by the end of the 90-day notice period. If the incumbent fails to comply with any of the deadlines established herein, it shall be deemed to have elected to abandon its home run wiring at the end of the 90-day notice period.

(b) *Unit-by-unit disposition of home run wiring:* (1) Where an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes, an MDU owner may permit multiple MVPDs to compete for the right to use the individual home run wires dedicated to each unit. The MDU owner must provide 60 days' notice to the incumbent MVPD of the MDU owner's intention to invoke this procedure. The incumbent MVPD will then have 30 days to provide a single written election to the MDU owner and the competing MVPD(s) whether, for each and every one of its home run wires dedicated to a subscriber who chooses an alternative provider's service, the incumbent MVPD will: (i) remove the wiring and restore the MDU building to its prior condition; (ii) abandon the wiring without disabling it; or (iii) sell the wiring to the MDU owner. If the MDU owner refuses to purchase the home run wiring, the alternative provider may purchase it. The alternative provider(s) will be required to make a similar election within this 30-day period for each home run wire solely dedicated to a subscriber who switches back from the alternative provider to the incumbent MVPD.

(2) When an existing MVPD is notified either orally or in writing that a subscriber wishes to terminate service and that another service provider intends to use the existing home run wire to provide service to that particular subscriber, an existing provider that has elected to remove its home run wiring will have seven days to remove its home run wiring and restore the building to its prior condition. If the existing provider has elected to abandon or sell the wiring, the abandonment or sale will become effective seven days from the date it received the request for service termination or upon actual service termination, whichever occurs first. If the incumbent provider intends to terminate service prior to the end of the seven-day period, the incumbent shall inform the party requesting service termination, at the time of such

request, of the date on which service will be terminated. The incumbent provider shall make the home run wiring accessible to the alternative provider by the end of the seven-day period or within 24 hours of actual service termination, whichever occurs first.

(3) If the incumbent provider fails to comply with any of the deadlines established herein, the home run wiring shall be considered abandoned and the alternative provider shall be permitted to use the home run wiring immediately to provide service. The alternative provider or the MDU owner may act as the subscriber's agent in providing notice of a subscriber's desire to change services. If a subscriber's service is terminated without notifying the incumbent provider that the subscriber wishes to use the home run wiring to receive an alternative service, the incumbent provider will not be required to carry out its election to sell, remove or abandon the home run wiring; the incumbent provider will be required to carry out its election, however, if and when it receives notice that a subscriber wishes to use the home run wiring to receive an alternative service. Section 76.802 of our rules regarding the disposition of cable home wiring will apply where a subscriber's service is terminated without notifying the incumbent provider that the subscriber wishes to use the home run wiring to receive an alternative service.

(4) The parties shall cooperate to ensure as seamless a transition as possible for the subscriber.

(5) Section 76.802 of our rules regarding the disposition of cable home wiring will continue to apply to the wiring on the subscriber's side of the cable demarcation point.

5. Section 76.805 is proposed to be added to read as follows:

§ 76.805 Access to Molding and Conduits

A multichannel video service provider ("MVPD") shall be permitted to install one or more home run wires in an existing molding or conduit where: (a) sufficient space is present to permit the installation; (b) the installation will not interfere with the ability of an existing MVPD to provide service; and (c) the owner of the multiple dwelling unit building does not object to such installation.