

run wiring will encourage “slamming” and that the Commission therefore should not interject itself into the agency relationship as suggested by certain cable operators.

***F. The Commission’s Procedural Deadlines Should Apply To Existing MDU Service Contracts if the Incumbent’s Contractual Right To Provide Service Is Not Affected.***

A number of cable operators have suggested that the Commission’s proposed procedural deadlines for disposition of home run wiring should not apply as long as an incumbent cable operator’s existing contract with an MDU owner remains in effect.<sup>51</sup> Again, these operators miss the critical point: the Commission is *not* proposing to prematurely terminate existing MDU service contracts for the benefit of new service providers.<sup>52</sup> Rather, the proposed rules simply allow an MDU owner to invoke the Commission’s procedures rules to ensure a seamless transition of service to a new service provider once the incumbent’s existing contract expires. For example, where an incumbent cable operator’s existing MDU service contract expires on December 31, 1998, the Commission’s proposed rules would allow an MDU owner to commence service on January 1, 1999 (assuming all relevant notice procedures are completed). Under this model, the tenants in the building do not lose a single day of service, and thus the transition to the new service provider is totally seamless. By contrast, under the proposal offered by certain cable operators described above, the new service provider could not commence service until well after January 1. In the interim tenants would have no multichannel service

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<sup>51/</sup> Time Warner Comments at 27; Adelphia Comments at 9.

<sup>52/</sup> See, *FNPRM* at ¶ 34 (“We are not proposing to preempt an incumbent’s ability to rely upon any rights it may have under state law.”).

whatsoever (since the incumbent will have terminated service on December 31), thus precluding the seamless transition which the Commission is trying to achieve in this proceeding.

### **III. CONCLUSION.**

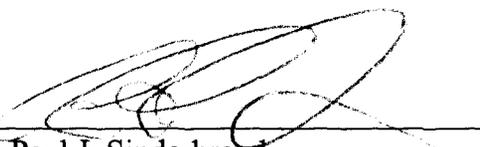
For the reasons set forth above, there is nothing in the cable industry's comments that gives the Commission any reason to delay the issuance of final rules along the lines proposed in the *FNPRM*. Although WCA still believes that the Commission's inside wiring rules require additional "fine tuning" to incorporate preemption of state mandatory access statutes and a "fresh look" policy for existing long-term service contracts, the Commission will aid the cause of competition substantially by adopting a basic regulatory framework for disposition of inside wiring in the MDU environment as quickly as possible. WCA thus urges the Commission to adopt the rules proposed in the *FNPRM* on an expedited basis, subject to the modifications suggested in WCA's initial comments.

WHEREFORE, for the reasons set forth herein, The Wireless Cable Association International, Inc. requests that the Commission adopt the rules proposed in the *FNPRM* with the modifications recommended in WCA's initial comments.

Respectfully submitted,

THE WIRELESS CABLE ASSOCIATION  
INTERNATIONAL, INC.

By:

A handwritten signature in black ink, appearing to be "Paul J. Sinderbrand", written over a horizontal line.

Paul J. Sinderbrand  
Robert D. Primosch

Wilkinson, Barker, Knauer & Quinn, LLP  
2300 N Street, N.W.  
Washington, D.C. 200037-1128  
(202) 783-4141

Its Attorneys

October 6, 1997

## CERTIFICATE OF SERVICE

I, Martha L. Powell, hereby certify that the Reply Comments in Response to Further Notice of Proposed Rulemaking was served this 6<sup>th</sup> day of October, 1997, by depositing a true copy thereof with the United States Postal Service, first-class postage prepaid, addressed to the following:

Rodney D. Clark  
Lara E. Howley, Esq., Manager  
Community Associations Institute  
1630 Duke Street  
Alexandria, VA 22314

Lawrence E. Tanenbaum, President  
SDkyzone Media Access  
3000 Atrium Way, Suite 202  
Mount Laurel, NJ 08054

James A Hirshfield, Jr.  
President  
Summit Communications, Inc.  
3633 - 136th Place, S.E., Suite 107  
Bellevue, WA 98006-1451

J. Curtis Henderson  
Vice President and General Counsel  
Heartland Wireless Communications, Inc.  
200 Chisholm Place, Suite 200  
Plano, TX 75075

Alan N. Baker, Esq.  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196  
Counsel for Ameritech

James F. Rogers, Esq.  
Latham & Watkins  
1001 Pennsylvania Avenue, N.W.  
Suite 1300  
Washington, D.C. 20004-2505  
Counsel for DIRECTV, Inc.

Nicholas P. Miller  
William Malone  
Matthew C. Ames  
Miller & Van Eaton, P.L.L.C.  
1150 Connecticut Avenue, N.W.  
Suite 1100  
Washington, D.C. 20036-4306  
Counsel for Building Owners and Mangers  
Association International, et al.

Caressa D. Bennet  
Michael R. Bennet  
Bennet & Bennet, PLC  
1019 - 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
Counsel for  
Leaco Rural Telephone Cooperative, Inc.

Deborah C. Costlow  
Arent Fox Kintner Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5339  
Counsel for Independent Cable &  
Telecommunications Association

Robert M. Lynch  
Durward D. Dupre  
Marjorie M. Weisman  
One Bell Center, Room 3522  
St. Louis, MO 63101  
Counsel for SBC Communications, Inc., et al.

Nancy C. Woolf  
Lucille M. Mates  
140 New Montgomery Street, Room 1526  
San Francisco, CA 94105  
Counsel for SBC Communications, Inc., et al.

Karen E. Watson  
EchoStar Communications  
1850 M Street, N.W.  
Suite 1070  
Washington, D.C. 20036

John F. Raposa, HQE03J27  
GTE Service Corporation  
P.O. Box 152092  
Irving, TX 75015-2092  
Counsel for GTE Service Corporation,  
on behalf of its affiliated domestic  
telecommunications and video service  
companies

Gail L. Polivy  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036  
Counsel for GTE Service Corporation,  
on behalf of its affiliated domestic  
telecommunications and video service  
companies

Henry Goldberg  
W. Kenneth Ferree  
Goldberg, Godles, Wiener & Wright  
1229 - 19th Street, N.W.  
Washington, D.C. 20036  
Counsel for Optel, Inc.

Jean L. Kiddoo  
Rachel D. Flam  
Swidler & Berlin, Chartered  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
Counsel for RCN Telecom Services, Inc.

Paul Glist  
John D. Seiver  
Robert G. Scott, Jr.  
Maria T. Browne  
Cole, Raywid & Braverman, L.L.P.  
1919 M Street, N.W.  
Washington, D.C. 20006  
Counsel for Jones Intercable, et al.

Randall D. Fisher, Esq.  
John B. Glicksman, Esq.  
Aldelphia Cable Communications  
Main at Water Street  
Coudersport, PA 16915

Aaron I. Fleischman  
Arthur H. Harding  
Jill Kleppe McClelland  
Craig A. Gilley  
Fleischman and Walsh, L.L.P.  
1400 - 16th Street, N.W., Suite 600  
Washington, D.C. 20036  
Counsel for Time Warner Cable

Arthur H. Harding  
Matthew D. Emmer  
Stephen E. Holsten  
Fleischman and Walsh, L.L.P.  
1400 - 16th Street, N.W., Suite 600  
Washington, D.C. 20036  
Counsel for  
Aldelphia Cable Communications, et al.

Alexandra M. Wilson, Esq.  
Cox Enterprises, Inc.  
1320 - 19<sup>th</sup> Street, N.W., Suite 200  
Washington, D.C. 20036  
Counsel for Cox Communications, Inc.

Terry S. Bienstock, P.A.  
Philip J. Kantor, Esq.  
Bienstock & Clark  
First Union Financial Center  
200 S. Biscayne Boulevard, Suite 3160  
Miami, FL 33131  
Counsel for  
CableVision Communications, Inc., et al.

Michael H. Hammer  
Francis M. Buono  
Pamela S. Strauss  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 - 21<sup>st</sup> Street, N.W., Suite 600  
Washington, D.C. 20036-3384

Joseph S. Paykel  
Gigi B. Sohn  
Andrew Jacy Schwartzman  
Media Access Project  
1707 L Street, N.W., Suite 400  
Washington, D.C. 20036  
Counsel for MAP/CFA

Gary Klein, Vice President  
Michael Petricone, Deputy General Counsel  
Consumer Electronics  
Manufacturers Association  
2500 Wilson Boulevard  
Arlington, VA 22201

Henry L. Baumann  
Executive Vice President  
and General Counsel  
Barry D. Umansky, Deputy General Counsel  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036

Lawrence R. Sidman  
Jessica A. Wallace  
Verner, Liipfert, Bernhard,  
McPherson & Hand, Chtd.  
901 - 15<sup>th</sup> Street, N.W., Suite 700  
Washington, D.C. 20005  
Counsel for Philips Electronics North  
America Corporation and Thomson  
Consumer Electronics, Inc.

Thomas B. Patton  
Vice President, Government Relations  
Philips Electronics  
North America Corporation  
Franklin Square  
1300 "I" Street, N.W., Suite 1070 East  
Washington, D.C. 20005

Dave Arlnad  
Manager, Government and Public Affairs  
Thomson Consumer Electronics, Inc.  
INH-110  
P.O. Box 1976  
Indianapolis, IN 46206

Lawrence G. Malone  
General Counsel  
New York State Department of Public Service  
Three Empire State Plaza  
Albany, NY 12223-1350

Frank W. Lloyd  
Gregory R. Firehock  
Mintz, Levin, Cohn, Ferris,  
Glovsky and Popeo, P.C.  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Counsel for Cablevision  
Systems Corporation

Stephen R. Effros  
James H. Ewalt  
Cable Telecommunications Association  
3950 Chain Bridge Road  
P.O. Box 1005  
Fairfax, VA 22030-1005

Daniel L. Brenner  
Michael S. Schooler  
David L. Nicoll  
1724 Massachusetts Avenue, N.W.  
Washington, D.C. 20036  
Counsel for  
National Cable Television Association

Robert J. Sachs  
Margaret A. Sofio  
The Pilot House  
Lewis Wharf  
Boston, MA 02110  
Counsel for U.S. West, Inc.

Brenda L. Fox  
Gregory L. Cannon  
Matthew P. Zinn  
1020 - 19<sup>th</sup> Street, N.W.  
Washington, D.C. 20036  
Counsel for U.S. West, Inc.

  
Martha L. Powell