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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)	
)	
Telecommunications Services)	CS Docket No. 95-184
Inside Wiring)	
)	
Customer Premises Equipment)	
)	
Implementation of the Cable Television)	
Consumer Protection and Competition)	MM Docket No. 92-260
Act of 1992)	
)	
Cable Home Wiring)	

OPPOSITION TO PETITIONS FOR RECONSIDERATION

THE WIRELESS CABLE ASSOCIATION
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List A B C D E

TABLE OF CONTENTS

	Page
I. INTRODUCTION	- 1 -
II. DISCUSSION	- 5 -
A. There is No Basis for the Commission To Reconsider Its Decision To Apply Its Home Run Wiring Rules in Mandatory Access and Non-Mandatory Access States, and in the Building-by-Building and Unit-by-Unit Contexts	- 5 -
1. <u>Mandatory Access vs. Non-Mandatory Access States</u>	- 5 -
2. <u>Building-By-Building vs. Unit-By-Unit</u>	- 10 -
B. The Commission Should Reject Time Warner’s Mandatory Arbitration Proposal, and Instead Eliminate the Arbitration Piece of the “Sell” Election As Proposed by WCA	- 11 -
C. The Commission Should Not Revisit Its Decision Not to Interfere with the Agency Relationship Between MDU Owners and Their Tenants	- 14 -
III. CONCLUSION	- 15 -

EXECUTIVE SUMMARY

The Wireless Cable Association International, Inc. (“WCA”) opposes the Petitions for Reconsideration filed in this proceeding by the National Cable Television Association (“NCTA”), Time Warner Cable (“Time Warner”) and the North Carolina Cable Telecommunications Association (“North Carolina CTA”). These Petitioners, either collectively or individually, ask the Commission (1) to declare that its new “home run” wiring rules are of no effect in “mandatory access” states; (2) to declare that its new “home run” wiring rules are of no effect where an MDU owner refuses to allow unit-by-unit competition in a single building; (3) to require that an MDU owner make an affirmative commitment to submit to binding arbitration even where the MDU owner does not want to purchase the incumbent’s home run wiring; and (4) to adopt “anti-slamming” procedures heretofore deemed unnecessary by the Commission.

As discussed herein, virtually all of the arguments raised in support of the above-described proposals have already been considered and rejected by the Commission, and NCTA *et al.* have offered absolutely nothing in the way of new evidence or arguments that would even remotely support the dramatic rule modifications suggested in their petitions. Moreover, Time Warner’s “mandatory arbitration” proposal is based on the flawed premise that MDU owners retain leverage over incumbents by refusing to go to arbitration over the price of home run wiring. As demonstrated in WCA’s own Petition for Reconsideration, the reverse is true: *by refusing arbitration, an MDU owner gives an incumbent a de facto right to mandatory access even if the incumbent has no right to remain under state law.*

Simply stated, NCTA *et al.* are once again attempting to convince the Commission that MDU owners, and not incumbent cable operators, are the primary source of anticompetitive conduct in the MDU environment, and that the Commission’s rules must therefore be directed toward divesting MDU owners of their legitimate property rights rather than attacking the monopoly position that incumbent cable operators enjoy in many MDUs throughout the United States. The Commission has already determined, based on its own extensive review of the record, that the public interest demands an opposite approach. To that end, WCA recommends that the Commission once again put aside the cable industry’s attempts to derail these proceedings and instead initiate a further pro-competitive “fine tuning” of its rules in accordance with the accommodations set forth in WCA’s own Petition for Reconsideration.

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OPPOSITION TO PETITIONS FOR RECONSIDERATION

The Wireless Cable Association International, Inc. (“WCA”), by its attorneys and pursuant to Section 1.429 of the Commission’s Rules, hereby submits its Opposition to the Petitions for Reconsideration filed by the National Cable Television Association (“NCTA”), Time Warner Cable (“Time Warner”) and the North Carolina Cable Telecommunications Association (the “North Carolina CTA”) with respect to the *Report and Order and Second Further Notice of Proposed Rulemaking* (the “R&O”) released by the Commission on October 17, 1997 in this proceeding.^{1/}

I. INTRODUCTION.

The eight pending petitions for reconsideration of the R&O reveal two overriding themes. On the one hand, alternative MVPDs have urged the Commission to remain true to its pro-

^{1/} FCC 97-376 (rel. Oct. 17, 1997).

competitive objectives and reconsider those portions of its new “home run” wiring rules which either (1) fail to give MDU owners sufficient certainty as to their rights upon terminating an incumbent cable operator’s service, or (2) preclude a smooth transition to a new service provider once the incumbent actually terminates service. For instance, WCA and DIRECTV have each emphasized that because MDU owners are unwilling to endure the possible damage of property and substantial inconvenience to tenants caused by “postwiring,” MDU owners are extremely reluctant to even consider taking service from a competing provider if there is any possibility that the incumbent cable operator will remove its home run wiring and thereby force the competitor to “postwire.”^{2/} Thus WCA and DIRECTV have urged the Commission to take the “removal” weapon out of the cable industry’s hands and require incumbent cable operators to make their wiring available to a new service provider either by abandoning it or selling it at a predetermined price.^{3/} In a similar vein, cable’s competitors have asked the Commission to facilitate a smooth transition to a new provider by prohibiting the incumbent from disconnecting its wiring before the new provider can provide service, and/or by shortening the notice periods applicable where the MDU owner elects to allow unit-by-unit competition within the same

^{2/} See Petition for Reconsideration filed by The Wireless Cable Association International, Inc., CS Docket No. 95-184 and MM Docket No. 92-260, at 5-7 (filed Dec. 15, 1997) [the “WCA Petition”]; Petition for Reconsideration filed by DIRECTV, Inc., CS Docket No. 95-184 and MM Docket No. 92-260, at 2-3 (filed Dec. 15, 1997) [the “DIRECTV Petition”]. See also Petition for Reconsideration filed by Media Access Project and Consumer Federation of America, CS Docket No. 95-184 and MM Docket No. 92-260, at 16 (filed Dec. 15, 1997)

^{3/} See WCA Petition at 7-8; DIRECTV Petition at 2-5.

building.^{4/} Further, both WCA and the Consumer Electronics Manufacturers Association (“CEMA”) have urged the Commission to reconsider its decision not to preempt state mandatory access statutes which, as demonstrated throughout these proceedings, discriminate against alternative providers and effectively preclude competition in the MDU environment.^{5/}

Not surprisingly, the petitions filed by NCTA, Time Warner and North Carolina CTA sound a countervailing theme, *i.e.*, the Commission must preserve an incumbent’s monopoly position in an MDU building at any cost. More specifically, NCTA and Time Warner argue that the Commission should reverse field and declare that its rules do not apply in any state having a mandatory access statute, on the theory that state mandatory access statutes must be presumed to give an incumbent cable operator a right to remain on MDU property against the MDU owner’s wishes *even if the statute does not explicitly confer such a right.*^{6/} In addition, Time Warner Cable suggests that the Commission’s rules should only apply where the MDU owner allows for unit-by-unit competition.^{7/} Time Warner also contends that where an incumbent cable operator elects to sell its home run wiring, the Commission should force the MDU owner to

^{4/} See WCA Petition at 14-18; DIRECTV Petition at 5-6; Petition for Partial Reconsideration filed by Ameritech, CS Docket No. 95-184 and MM Docket No. 92-260, at 3-9 (filed Dec. 15, 1997).

^{5/} See WCA Petition at 10-14; Petition for Reconsideration filed by CEMA, CS Docket No. 95-184 and MM Docket No. 92-260, at 2-7 (filed Dec. 15, 1997).

^{6/} See Petition for Reconsideration filed by NCTA, CS Docket No. 95-184 and MM Docket No. 92-260, at 2-5 (filed Dec. 15, 1997) [the “NCTA Petition”]; Petition for Reconsideration filed by Time Warner Cable, CS Docket No. 95-184 and MM Docket No. 92-260, at 2-5 (filed Dec. 15, 1997) [the “Time Warner Petition”].

^{7/} See Time Warner Petition at 12-13.

commit to arbitration *regardless* of whether the MDU owner has any desire whatsoever to acquire the wiring and before negotiations even begin.^{8/}

The Commission has already addressed many of the arguments raised in the petitions cited above, and neither NCTA, Time Warner nor North Carolina CTA have offered any new arguments or data which would even remotely justify reconsideration of the Commission's decision to apply its new rules both in mandatory access and non-mandatory access states and in the building-by-building and unit-by-unit contexts.^{9/} Indeed, the extreme positions taken by NCTA *et al.* on the mandatory access issue only lend further support to WCA's argument that it will be virtually impossible for the Commission to promote a competitive marketplace for multichannel video services in the MDU environment unless the Commission preempts all state mandatory access laws which discriminate in favor of franchised cable operators. In addition, Time Warner's "mandatory arbitration" proposal is based on the flawed premise that without the

^{8/} Time Warner Petition at 18-19.

^{9/} In an argument that is novel to say the least, North Carolina CTA contends that the Commission's new rules defeat the public interest because, to the extent that they result in displacement of incumbent cable operators, they will deny tenants access to public access channels and emergency alert services ("EAS"). Petition for Reconsideration filed by North Carolina CTA, CS Docket No. 95-184 and MM Docket No. 92-260, at 6-7 (filed Nov. 17, 1997). Incumbent cable operators are not entitled to permanent insulation from competition in the MDU environment simply because they provide public access and EAS services that are *required* by local franchise or federal law. Moreover, North Carolina CTA fails to point out that many of cable's most substantial competitors (*e.g.*, cable overbuilders, OVS operators, wireless cable operators) are or will soon be subject to EAS and public interest programming obligations. For example, wireless cable operators that lease ITFS channels are required to transmit substantial quantities of educational programming. *See* 47 C.F.R. § 74.931. Finally, if public access programming is as essential to tenants as North Carolina CTA suggests, then the marketplace will drive MDU owners to consider only those alternative providers who offer that service. *See, e.g., R&O* at ¶ 42.

threat of arbitration the MDU owner has insuperable negotiating leverage where an incumbent elects “sell.” To the contrary, and as explained in WCA’s Petition, under the Commission’s new rules an incumbent apparently can create *a new legal right to remain on MDU property* by electing “sell,” refusing to negotiate in good faith and forcing arbitration where the MDU owner does not wish to acquire the wiring.^{10/} WCA thus once again submits that the only way to eliminate this unintended result of the *R&O* is to simply require the MDU owner to purchase the wiring within 30 days of the incumbent’s election at a price which provides just compensation as required under the Fifth Amendment.^{11/}

II. DISCUSSION.

A. *There is No Basis for the Commission To Reconsider Its Decision To Apply Its Home Run Wiring Rules in Mandatory Access and Non-Mandatory Access States, and in the Building-by-Building and Unit-by-Unit Contexts.*

1. Mandatory Access vs. Non-Mandatory Access States.

In the *R&O*, the Commission handed the cable industry a substantial victory by refusing to preempt state mandatory access statutes which benefit incumbent cable operators only - - statutes that effectively preclude competition in MDU buildings where the MDU owner is unwilling to allow the postwiring necessary for multiple wires to be installed in common areas.^{12/}

^{10/} WCA Petition at 8-10.

^{11/} *Id.* at 10. WCA believes that a price based on depreciated value best reflects just compensation under these circumstances, given that the wiring amounts to little more than scrap once it is removed from the building. *Id.*

^{12/} *R&O* at ¶ 189.

Moreover, the Commission ruled that in mandatory access states, an MDU owner cannot invoke the Commission's home run wiring procedures if the incumbent "has an enforceable legal right to maintain its home run wiring on the premises against the will of the MDU owner."^{13/} However, as a compensatory measure, the Commission adopted a presumption that an incumbent cable operator does not have a legal right to remain on MDU property in any state (mandatory access or otherwise) unless it obtains a court ruling or an injunction enjoining its displacement during the 45-day period following initial notice of termination from the MDU owner.^{14/} Apparently not content with their victory on the preemption issue, NCTA and Time Warner now argue that the Commission must go one step further and declare that its new rules are of no effect whatsoever in any state having a mandatory access statute, on the theory that state mandatory access statutes, by their very existence alone, must be presumed to give an incumbent cable operator an infeasible right to remain on MDU property under any and all circumstances.^{15/}

If state mandatory access statutes were as clear on the "right to remain" problem as NCTA and Time Warner suggest, it would have been entirely unnecessary for the Commission to require an incumbent cable operator to obtain a court order as a prerequisite for asserting a legal right to remain in a mandatory access state. Indeed, neither NCTA nor Time Warner cite a single state mandatory access statute or state or federal court decision which clearly establishes

^{13/} *Id.* at ¶ 69.

^{14/} *Id.* at ¶¶ 77, 189. The presumption does not apply where a state's highest court has found that, under its state mandatory access statute, the incumbent always has an enforceable right to maintain its home run wiring on the premises. *Id.* at ¶ 78.

^{15/} *See, e.g.,* NCTA Comments at 2-4.

that an incumbent's "mandatory access" rights include a right to remain on MDU property where the MDU owner wishes to terminate the incumbent's service in favor of that from a competing provider.^{16/} This is no surprise, given that many state mandatory access statutes were enacted at a time when little or no competition to cable existed in most markets. The fact remains that in the absence of complete federal preemption of mandatory access, a state court is the best arbiter of whether a mandatory access statute confers a "legal right to remain" under these circumstances. There is absolutely no evidence that a state court cannot address the "right to remain" problem (or at least issue a temporary restraining order or an injunction preventing displacement of the incumbent) within the 45-day period established by the Commission.^{17/}

Moreover, NCTA and Time Warner distort the real issue here. Neither WCA nor the Commission has ever suggested that incumbent cable operators should lose whatever rights they have under state mandatory access statutes if they already have an established right to remain on the property, or if they otherwise do not obtain relief in local court within the 45-day period. Indeed, the Commission has made it clear that even where an incumbent's state court action remains pending during the 45-day period, the MDU owner's decision to invoke the Commission's home run wiring procedures is always subject to any final court decision as to the

^{16/} NCTA only states that "[m]andatory access statutes generally do confer [a legal right to remain]," without citing any specific examples of where this is actually the case. NCTA Petition at 4. Similarly, though Time Warner attempts to infer a legal right to remain from the New York and Pennsylvania state mandatory access statutes, it too fails to cite any authority which unequivocally establishes that an incumbent has a legal right to remain where the MDU owner terminates the incumbent's service in favor of the incumbent's competitor. Time Warner Petition at 3-5.

^{17/} See *R&O* at ¶ 77.

incumbent's right to remain.^{18/} The pertinent question is how an incumbent's enforcement of its legal right to remain should be accommodated in view of the Commission's desire to "provide all parties sufficient notice *and certainty* of whether and how the existing home run wiring will be made available to the alternative video service provider *so that a change in service can occur efficiently.*"^{19/} The simple fact is that certainty and efficiency are lost where a new service provider cannot provide service unless and until an incumbent cable operator obtains a determination of its legal rights in local court. Under such circumstances, the only way for a new service provider to begin service during the pendency of litigation is to postwire the premises, which is precisely what the MDU owner wishes to avoid. Accordingly, WCA once again submits that the cable industry's illusory claims of prejudice do not outweigh the Commission's very legitimate concern that incumbents will use state mandatory access statutes

^{18/} *Id.* Thus there is no merit to Time Warner's suggestion that the 45-day rule is "tantamount to a full preemption of various state mandatory access statutes." Time Warner Petition at 7. In mandatory access states, cable operators will retain their right to provide service to *enter* MDU property and provide service where tenants demand it. The "right to remain" problem, however, turns on a different, unadjudicated legal issue, *i.e.*, whether a mandatory access statute allows a cable operator to block a competitor's entry by *remaining* on the property when tenants wish to subscribe to the competitor's service.

^{19/} *Telecommunications Services: Inside Wiring; Customer Services Equipment*, CS Docket No. 95-184 and MM Docket No. 92-260, at ¶ 33 (rel. Aug. 28, 1997) [emphasis added]. Thus, it is not sufficient for the incumbent to merely request relief within the 45-day period, since the filing of such a request does not by itself establish whether the incumbent has any right to remain on the property. *See* Time Warner Petition at 15..

as a pretext for preventing timely, efficient entry by alternative MVPDs onto MDU properties, and thus do not provide a basis for the Commission to reconsider the 45-day rule.^{20/}

WCA does, however, believe that the arguments raised by NCTA and Time Warner on the mandatory access issue provide additional reason for the Commission to reconsider its decision not to preempt mandatory access statutes. As noted by CEMA:

Incumbent [cable] operators will, inevitably, seek a preliminary injunction from state courts *every time* an MDU owner gives them an initial termination notice and will, invariably, argue forcefully to the court that the mandatory access statute gives them the legal right to remain in the MDU. . .

Based on the language of these statutes, state courts may well determine that incumbent operators *do* have a legally enforceable right to stay on the premises. . . [L]eaving the fate of the rules to [a] multitude of state courts creates significant uncertainty as to whether and when the rules will ever bring competition and consumer choice to video programming^{21/}

WCA agrees. For the reasons set forth above and in WCA's Petition for Reconsideration, WCA again urges the Commission to level the competitive playing field on MDU properties once and for all by preempting state mandatory access laws which discriminate in favor of franchised cable operators.^{22/}

^{20/} See Reply Comments of The Wireless Cable Association International, Inc., CS Docket No. 95-184 and MM Docket No. 92-260, at 8-9 (filed Oct. 6, 1997). For similar reasons, the Commission should also reject Time Warner's alternative proposal that only the Commission's unit-by-unit rules be enforced in mandating access status. Time Warner Petition at 8-9.

^{21/} CEMA Petition at 3-4 (footnotes omitted) (emphasis in original).

^{22/} See WCA Petition at 10-14.

2. Building-By-Building vs. Unit-By-Unit.

In an attempt to resuscitate its now-rejected contention that MDU owners, as opposed to incumbent cable operators, are the true source of anticompetitive conduct in the MDU environment, Time Warner argues that the Commission's home run wiring procedures should apply only where the MDU owner allows unit-by-unit competition within the same building.^{23/} Without citing any specific record evidence, Time Warner alleges that this dramatic modification of the Commission's rules is necessary because "in the vast majority of cases, the primary factor considered in selecting an MVPD is the MDU owner's own pecuniary interest."^{24/}

The Commission, however, has already reviewed the record on this issue and made the following findings:

We disagree that the building-by-building procedural mechanism does not benefit consumer choice because it merely substitutes one MVPD for another. This argument assumes that any MVPD that serves the entire building has the ability to act like an entrenched monopolist, without regard to the quality and quantity of the video service provided. *We do not believe this assumption is valid.* Generally, MVPDs encounter an environment in which the MDU owner must compete with similarly-situated MDU owners to attract and retain tenants. *Commenters have not demonstrated that the type of video services offered is irrelevant to such competition among MDUs.* MVPDs competing for the right to serve the building generally will have to offer the mix of video service quality, quantity and price that will best help the MDU owner compete in the marketplace.^{25/}

^{23/} Time Warner Petition at 11-12.

^{24/} *Id.* at 11.

^{25/} *R&O* at ¶ 42 (emphasis added).

Time Warner has added nothing to the record which even remotely suggests that the Commission should now reconsider the findings quoted above. Accordingly, Time Warner's contention that the Commission's rules should only apply in the unit-by-unit context should be rejected.^{26/}

B. The Commission Should Reject Time Warner's Mandatory Arbitration Proposal, and Instead Eliminate the Arbitration Piece of the "Sell" Election As Proposed by WCA.

Time Warner contends that the arbitration piece of the "sell" election "unfairly tilts the process in the favor of the MDU owner."^{27/} Specifically, Time Warner observes that under the Commission's new rules, if the incumbent elects to sell the wiring to the MDU owner, it has 30

^{26/} Citing insufficient record evidence, the Commission has also previously rejected Time Warner's suggestion that the Commission's rules should not apply where the MDU owner receives consideration from the MVPD in exchange for access to MDU property. *R&O* at ¶ 48; Time Warner Petition at 13-14. Time Warner again adds nothing to the record on this issue other than mere rhetoric, and indeed the MDU owners themselves recently addressed this issue in their comments on the portion of the *Second Further Notice* dealing with exclusive contracts:

Some will argue that building owners "demand" fees from providers and thus are a driving force behind exclusive contracts. This is not true. Apartment owners and managers are overwhelmingly concerned with providing their residents with high quality, up-to-date, reasonably priced service. In most buildings, even a small drop in occupancy rates resulting from failure to provide residents with adequate video programming service would far exceed the revenues a building owner might receive from a service provider in return for an exclusive contract.

Further Joint Comments of Building Owners and Managers Association International *et al.*, CS Docket No. 95-184 and MM Docket No. 92-260, at 4 n.3 (filed Dec. 23, 1997); *see also R&O* at ¶ 61 ("We continue to believe that, in rental MDUs, market forces will compel MDU owners in competitive real estate markets to take their tenants' desires into account.").

^{27/} Time Warner Petition at 18.

days in which to negotiate a sale price for the wiring with the MDU owner.^{28/} Time Warner alleges that where the parties are unable to agree on a price, the MDU owner “can also unilaterally reject arbitration . . . , in which case the incumbent provider has no further obligations under the FCC home run wiring disposition procedures.”^{29/} Time Warner concludes that in this situation “the MDU owner has no incentive to bargain in good faith during the 30-day negotiation period,” and thus recommends that where an incumbent elects “sell,” the Commission should require the MDU owner to immediately make an affirmative commitment to purchase the wiring at a price determined through negotiation or arbitration.^{30/}

Time Warner and WCA appear to disagree as to how the arbitration piece of the “sell” election appears to work: if the MDU owner rejects arbitration after the 30-day negotiation period, the incumbent apparently has no further obligation to do *anything* under the Commission’s home run wiring rules.^{31/} As a result, and as already pointed out in WCA’s Petition, it appears that an incumbent cable operator can secure a *de facto* right to remain on the premises against the MDU owner’s wishes by choosing binding arbitration in situations where the MDU owner has no interest in acquiring the inside wiring, either because it is damaged or

^{28/} *Id.*

^{29/} *Id.*

^{30/} *Id.* at 19.

^{31/} *R&O* at ¶ 46.

otherwise of inferior quality.^{32/} Moreover, because the Commission has provided arbitrators no guidance whatsoever as to how to price inside wiring, the Commission has already created a significant disincentive for MDU owners or alternative service providers to agree to the binding arbitration process.^{33/} Thus, notwithstanding Time Warner's suggestion that the arbitration piece of the "sell" election gives the MDU owner an insuperable bargaining chip, in fact the reverse is true: by refusing to arbitrate for legitimate business reasons, an MDU owner in effect gives the incumbent the very sort of federal right to mandatory access that the Commission explicitly rejected elsewhere in the *R&O*.^{34/}

WCA thus once again submits that the Commission could not have intended to do what it appears to have done here, *i.e.*, give incumbents an additional "legal right to remain" even though they may have no such right under state law. Accordingly, WCA reiterates its earlier recommendation that where the MDU owner chooses to invoke the Commission's procedures for disposition for home run wiring and the incumbent elects "sell," the most effective way to remedy the anomalous result described above is to simply require the MDU owner to purchase the wiring within 30 days of the incumbent's election, at a price which reflects depreciated value.^{35/} This proposal serves the interests of all parties, since (1) it eliminates any "gaming"

^{32/} WCA Petition at 8-9.

^{33/} *Id.* at 9.

^{34/} *R&O* at ¶¶ 167-180.

^{35/} WCA Petition at 9-10. WCA wishes to clarify that it does not oppose arbitration where the only issue before the arbitrator is the correct depreciated value of the wiring. In that case, the
(continued...)

of the arbitration process and thereby gives MDU owners and competitive providers a date certain as to when the sale of the wiring will be completed; (2) it provides the incumbent the compensation it is entitled to under the Fifth Amendment; and (3) it facilitates quicker competitive entry, and thus expanded consumer choice.

C. The Commission Should Not Revisit Its Decision Not to Interfere with the Agency Relationship Between MDU Owners and Their Tenants.

Purportedly to address the supposed problem of “slamming,” Time Warner also requests that the Commission amend its rules to require an MDU owner to obtain affirmative written consent from a tenant before acting as the tenant’s agent for the purpose of providing notice of the tenant’s desire to terminate an incumbent’s service.^{36/} Absent any evidence that “slamming” in the MVPD context has become a serious problem, there is no reason for the Commission to revisit its decision to leave such agency issues to state law.^{37/} As recognized in the *R&O*, it is appropriate for the Commission not to restrict any agency rights MDU owners may already have unless and until there is compelling marketplace data indicating that incumbents are in fact losing subscribers via “slamming.”

^{35/} (...continued)

arbitrator has sufficient guidance as to parameters of the appropriate price, and thus the MDU owner is afforded much more certainty as to his or her potential liability if the incumbent elects “sell.” As currently structured, the arbitration requirement adopted by the Commission and now proposed by Time Warner provides the MDU owner with no such protection.

^{36/} Time Warner Petition 22-23.

^{37/} *R&O* at ¶ 50.

III. CONCLUSION.

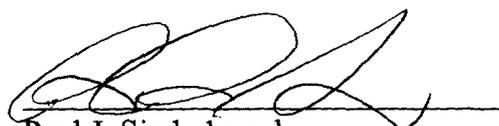
As demonstrated above, the petitions filed by NCTA *et al.* amount to little more than a rehash of arguments already rejected by the Commission, or which otherwise are plainly in conflict with the pro-competitive objectives of the *R&O*. WCA still maintains, however, that the Commission's inside wiring rules still require additional "fine tuning" as described in WCA's Petition if they are to achieve the Commission's fundamental objective of maximizing MVPD competition in the MDU environment. WCA thus urges the Commission to adopt the rule modifications suggested by WCA and thereby create more opportunities for subscribers to enjoy the benefits of that competition.

WHEREFORE, for the reasons set forth herein, the Wireless Cable Association International, Inc. requests that the Commission deny the Petitions for Reconsideration filed by NCTA, Time Warner and North Carolina CTA, and adopt the rule modifications proposed in WCA's Petition.

Respectfully submitted,

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January 15, 1998

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I, Martha L. Powell, hereby certify that the Opposition to Petition for Reconsideration was served this 15th day of January, 1998, by depositing a true copy thereof with the United States Postal Service, first-class postage prepaid, addressed to the following:

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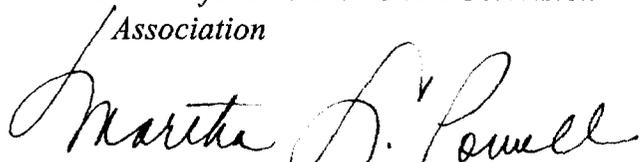
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