BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Optical Telecommunications, Inc.	)	MB Docket No. 14-258
	)	CSR – 8895-C
Complaint Concerning Retransmission of WXCW(TV), Naples, FL	)	
	)	
	)	

To: The Secretary, FCC

Attn: Chief, Media Bureau

ANSWER

Optical Telecommunications, Inc. ("OpticalTel"), by its attorneys, hereby submits this Answer to the Complaint filed by Sun Broadcasting, Inc., licensee of full-power television station WXCW(TV), Naples, Florida ("WXCW"), dated December 4, 2014. As will be demonstrated below, WXCW's Complaint is utterly without merit and should be dismissed.

Background and Summary

OpticalTel is a service company that provides back office operational functions and assistance, such as billing and collection, technical support and maintenance, financial reporting, responses to telephone calls, and other administrative services to direct broadcast satellite ("DBS") resellers. OpticalTel owns no wires, cables, fibers or other physical video distribution facilities.

HControl Corporation ("HControl") is a DBS reseller that facilitates the receipt of Dish Network ("Dish") DBS service provided at Sail Harbour, a residential community in Lee

County, FL and at Glades Country Club, a residential community in Collier County, FL. HControl began reselling Dish service at Sail Harbour in February, 2006 and acquired the rights to resell Dish service at Glades Country Club in April, 2013. OpticalTel began to provide contract administration service in connection with the Dish service provided at Sail Harbour in December, 2012.

HControl owns no wires, cables, fibers or other physical video distribution facilities in either Sail Harbour or Glades Country Club. HControl and OpticalTel are small, minority owned businesses under common control and, for convenience, may be referred to interchangeably as OpticalTel herein.[1] At all relevant times, OpticalTel has been fully authorized to resell Dish video programming, including local broadcast signals retransmitted by Dish, at both Sail Harbour and Glades Country Club. Local broadcast signals are available to residents of Sail Harbour and Glades Country Club at no separate charge, but rather are provided as a standard amenity of residence.

By a letter from Mr. James Schwartzel dated September 29, 2014, WXCW purported to elect retransmission consent with respect to "every Cable System owned or operated by OpticalTel within the Fort Myers/Naples, FL DMA" for the election cycle commencing January 1, 2015. Neither OpticalTel nor HControl had ever previously received any must-carry/retransmission consent election or other carriage request from WXCW.[2] Moreover, to the

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1 Certain facilities used to relay the signals retransmitted by Dish and received on site at each community are owned by a separate, commonly controlled entity. As explained in detail *infra*, to the best of OpticalTel's knowledge, all such facilities are located entirely on private property.

2 On that same date, OpticalTel also received its first-ever retransmission consent election letter from WINK-TV, Fort Myers, FL, listing the same address as WXCW and signed by Mr. Joseph Schwartzel. OpticalTel expresses no opinion at this time whether any common attributable interests or other coordinated actions between WXCW and WINK are consistent with FCC multiple ownership rules.

best of OpticalTel's knowledge, the facilities at Sail Harbour and Glades Country Club do not meet the definition of "Cable Systems" for regulatory purposes.

Two days after its initial retransmission consent election, by letter dated October 1, 2014, WXCW alleged that its signal was being delivered to residents of Sail Harbour and Glades Country Club without appropriate retransmission consent. Then, on December 4, 2014, WXCW submitted a Complaint to the FCC claiming a violation of the retransmission consent requirements with respect to the delivery of WXCW as part of the Dish service provided to Sail Harbour and Glades Country Club.

As will be shown below, DBS resellers such as OpticalTel, whose activities are limited to the relay of signals retransmitted by satellite carriers such as Dish over private property for home viewing, are not classified as "multichannel video programming distributors" ("MVPDs"), and thus are not subject to retransmission consent requirements. Rather, the FCC has determined that the responsibility for retransmission consent/must-carry and copyright compulsory license compliance falls solely on the satellite carrier (Dish in this case). Moreover, to the extent that a satellite carrier can somehow avoid its end-to-end retransmission consent and copyright obligations by labeling the service it provides to a reseller as "transport," in the case of the resale of Dish service at Sail Harbour and Glades Country Club, OpticalTel has never elected "transport" and has no reason to believe that Dish has not fulfilled its retransmission consent and copyright obligations with respect to the broadcast signals retransmitted by Dish to the residents of those communities.

Alternatively, in the event the Commission reverses over twenty years of precedent and finds, for the first time, that DBS resellers such as OpticalTel should now be deemed to be MVPDs, OpticalTel is nevertheless exempt from retransmission consent pursuant to the

provisions of Section 76.64(e) of the Commission's rules. Finally, although OpticalTel has no reason to believe that the facilities located at Sail Harbour or Glades Country Club qualify as "cable television systems" under Section 76.5(a) of the Commission's rules, it has taken prophylactic steps to register these communities at the FCC (FL1410 and FL1411) and to submit appropriate compulsory license payments to the U.S. Copyright Office. Thus, to the extent these facilities might in fact meet the "cable system" definition, as WXCW has asserted in its first-ever retransmission consent election dated September 29, 2014, then the station's status was default must-carry for all periods prior to January 1, 2015.

Argument

I. DBS Resellers Are Not Subject To Retransmission Consent.

When the Commission adopted rules to implement the retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992, it determined that DBS resellers do not qualify as "MVPDs" and thus are exempt from retransmission consent obligations. Rather, the Commission concluded that it is the "satellite carrier," as defined in 17 U.S.C. § 119(d), that bears sole responsibility for satisfying end-to-end retransmission consent and copyright requirements for the receipt by ultimate viewers of the broadcast signals retransmitted by the satellite carrier:

> A satellite carrier, as defined in the Satellite Home Viewer Act of 1988, is an entity that uplinks a broadcast signal and retransmits it over satellite facilities that the carrier may own or lease. *See* 17 U.S.C. §119(d). Satellite carriers' customers are home satellite dish (HSD) households. The carriers themselves sell retransmitted broadcast signals directly to HSD households, but they also license a variety of agents (*e.g.,* program packagers, equipment distributors, and satellite equipment retailers) to sell the signals on their behalf. As noted above, the definition applies to a "television receive-only satellite program distributor." In order to resolve any potential ambiguity regarding responsibility for securing retransmission consent, and in view of the fact that the satellite carrier is the entity entitled to the compulsory license granted by 17 U.S.C. §119, we find that, with

respect to HSD sales, the satellite carrier is the multichannel distributor and must secure retransmission consent.[3]

Similarly, in implementing the "local-into-local" provisions of the Satellite Home Viewer Improvement Act of 1999 ("SHVIA"), the Commission noted that, beginning on May 29, 2000, satellite carriers must obtain retransmission consent for delivery of local broadcast signals to viewers;[4] that retransmission consent/must-carry elections for satellite carriers apply on a market-wide, rather than system-by-system basis;[5] and that broadcasters only deal with two satellite carriers, DirecTV and EchoStar (now Dish) with regard to local-into-local carriage matters, not with DBS resellers.[6] Significantly, the Commission noted that while SHVIA amended the Communications Act to add a definition of "Distributor" that encompasses the activities of DBS resellers, the term was not used elsewhere in the statute and thus has no substantive effect, thereby reaffirming the Commission's prior conclusion that DBS resellers are not MVPDs and have no bearing on the must-carry/retransmission consent obligations imposed on satellite carriers.[7]

Thus, under long-standing Commission policy, DBS resellers simply do not fall within the statutory "MVPD" definition. First, a DBS reseller is not a person "such as" the true MVPDs listed in the statutory examples. In particular, each of the listed MVPDs bears responsibility for obtaining rights for all the programming they offer to subscribers, including both broadcast signals and traditional cable networks. A DBS reseller, on the other hand, simply resells the programming packages distributed by Dish or DirecTV, the rights to which have already been

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3 *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, 8 FCC Rcd 2965 (1993) ("1993 Must-Carry Order"), ¶ 131.

4 *Implementation of the SHVIA of 1999, Broadcast Signal Carriage and Retransmission Consent Issues*, 16 FCC Rcd 1918 (2000), ¶ 14.

5 *Id.* at ¶ 24.

6 *Id.* at ¶ 28.

7 *Id.* at ¶ 135.

obtained by the satellite carrier. Hence, just as a DBS reseller is not required to enter into separate affiliation agreements with ESPN, USA, MTV, HBO or the other programming networks offered by the satellite carrier, so too is the DBS reseller not obligated to obtain separate retransmission consent for the broadcast signals retransmitted by the satellite carrier. Second, it is the satellite carrier, not the DBS reseller, that makes multiple channels of video programming available for purchase by subscribers or customers. Finally, each of the MVPDs listed as examples in the statutory language offers, as an integral part of its service, transmission paths that traverse public rights of way, either through physical facilities such as wires or cables or via electromagnetic spectrum. A DBS reseller, on the other hand, merely relays the MVPD service offered by Dish or DirecTV over facilities located entirely on private property.

The Commission's well-established conclusion that satellite carriers have sole responsibility for retransmission consent and copyright obligations relating to carriage of television broadcast signals is fully supported by both legal and practical considerations. As the Commission noted as far back as 1993, it is the satellite carrier, not the reseller, that is entitled to the copyright compulsory license under 17 U.S.C. § 119 for distant signals. That same approach is also incorporated in 17 U.S.C. § 122 with respect to retransmission of local broadcast signals by satellite carriers. Thus, as the sole party responsible for copyright matters, it is entirely logical for the satellite carrier to also be the sole party for retransmission consent obligations relating to broadcast signals retransmitted to home viewers by such satellite carriers.[8]

Moreover, if both the satellite carrier and reseller had been found to be subject to retransmission consent requirements, not only would broadcasters enjoy a windfall double payment, but practical complications would render such an approach unworkable. For example,

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[8] By contrast, the Commission noted that where a satellite carrier transports a broadcast signal for carriage by a cable system, the cable operator, who is eligible for its own compulsory copyright license, is responsible for obtaining any requisite retransmission consent. 1993 Must-Carry Order, n. 367.

assume hypothetically that a station had entered into a retransmission consent agreement with both the satellite carrier and its reseller, but that the satellite carrier's authorization subsequently expired or was terminated. That could result in a requirement for the reseller to continue to pay retransmission consent fees to the station, even though the signal had been removed from the satellite carrier's lineup and thus could no longer be relayed to home viewers. Indeed, because retransmission consent agreements typically embody both the right and the obligation to deliver the affected station, the reseller could be found in violation of such requirement simply because the station had forced the satellite carrier to discontinue retransmission.

Similarly, assume a situation where a station elects must-carry from the satellite carrier, and the DBS reseller, who is not subject to must-carry requirements, was then required to obtain retransmission consent, but could not reach an acceptable agreement with the station. In that case, the anomalous result would be that the satellite carrier could be found in violation of must-carry if the reseller does not relay the station, and the reseller could be found in violation of its contractual obligations to the satellite carrier, which typically require the reseller to relay the entire package of broadcast signals being retransmitted by the satellite carrier.

Technical considerations also support the Commission's determination that the satellite carrier bears sole responsibility for retransmission consent. It is OpticalTel's understanding that Dish transmits digital/HD signals in fixed packages that are then processed by a transcoder installed at the headend facility on the property. If satellite carriers and DBS resellers both were required to obtain retransmission consent, and the DBS reseller was unable to reach an agreement with one of the stations included in the digital transcoder package established by Dish, the reseller would be required to discontinue relay of <u>all</u> stations included in that group. As the foregoing examples vividly demonstrate, a duplicative retransmission consent obligation

imposed on both satellite carriers and resellers would be unfair and unworkable, and was wisely rejected by the Commission.

As noted above, satellite carriers are exempt from retransmission consent when they provide "transport" of broadcast signals, *e.g.*, to cable systems that (unlike DBS resellers) utilize their own transmission paths over public rights-of-way, qualify for their own copyright compulsory license, and clearly fall within the definition of MVPD. In such situations, and in keeping with the policy of avoiding duplicative retransmission consent requirements for receipt of the same signal by the same viewer, it is the cable system, and not the satellite carrier, which bears sole responsibility for retransmission consent.

In its Complaint, WXCW asserts that back in January, 2014, it had contacted Ms. Melisa Ordonez, General Manager, Programming Acquisitions for Dish, and claims that Ms. Ordonez informed WXCW that Dish provides only "transport" services to OpticalTel and "does not provide OpticalTel with any rights to retransmit the signal of WXCW."[9] Upon receipt of WXCW's Complaint, OpticalTel contacted Dish for clarification, and was advised that Dish now offers two options to resellers with respect to delivery of local broadcast signals retransmitted by Dish: "Local Networks" and "Local Networks Transport," rather than the single option that was offered in 2005 when the Dish resale contract for Sail Harbour was entered into.

OpticalTel has confirmed that in more recent resale agreements, such as the contract covering Cypress Trails RV Resort dated November 6, 2013, Dish does in fact offer both options: "Local Networks" and "Local Networks Transport." As is evident from the election of "Local Networks" (and not "Transport") on the Cypress Trails agreement (*see* Attachment 1),

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[9] We note that Ms. Ordonez is not the representative for OpticalTel's account with Dish and OpticalTel has no record of ever dealing with Ms. Ordonez. To the extent that Dish may owe additional payments for its retransmission of local broadcast signals to residents of Sail Harbour or Glades Country Club, that is a matter to be resolved between WXCW and Dish.

OpticalTel has never intended to elect the purely transport option for any of its properties in the Ft. Myers/Naples DMA. Indeed, to the best of its knowledge, OpticalTel was never offered the option to elect between "Transport" and "Non-Transport" with respect to Sail Harbour or Glades County Club. As can be seen on the Exhibit from the Sail Harbour Dish resale agreement entered into in December, 2005 (*see* Attachment 2), OpticalTel was only offered one option for the resale of local television stations retransmitted by Dish, contrasted with the two options set forth on the more recent Exhibit from the Cypress Trails agreement.[10]

In sum, it had always been OpticalTel's understanding that Dish assumes full responsibility for retransmission consent and copyright matters relating to the television stations retransmitted by Dish at Sail Harbour and Glades Country Club. Thus, when OpticalTel became aware that Dish now offers the option between transport and non-transport, OpticalTel contacted Dish to confirm that its records properly reflect the non-transport status of these properties, as intended. OpticalTel was advised that Dish imposes a higher monthly fee for resellers electing non-transport status. OpticalTel agreed to pay the applicable fee, and Dish responded by letter dated January 22, 2015 acknowledging that OpticalTel had been paying for non-transport service all along for Cypress Trails, where it had been given an election, and that OpticalTel would be authorized on a non-transport basis for Sail Harbour and Glades Country Club effective December 12, 2014, thereby covering all periods after WXCW's initial retransmission consent election, which took effect on January 1, 2015 (*see* Attachment 3).

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[10] As noted above, the rights to resell Dish service at Glades Country Club were acquired from the previous reseller in April, 2013. While an assignment of rights was obtained from Dish, OpticalTel has been unable to locate a copy of the original resale agreement, nor has Dish been able to provide one. However, because the Glades Country Club and Sail Harbour Dish resale agreements were entered into contemporaneously, OpticalTel assumes that Exhibit A to the Glades Country Club Dish resale agreement is substantially identical to Attachment 2. In any event, OpticalTel has no record of electing "Transport" service for Glades Country Club or of a request from Dish to elect between "Transport" and "Non-Transport."

OpticalTel recognizes that WXCW has asserted retransmission consent liability for periods prior to the January 1, 2015 effective date of its initial retransmission consent election. Thus, to the extent that Dish may have inadvertently been treating Sail Harbour and Glades Country Club as "transport" properties prior to December 12, 2014, OpticalTel has requested Dish to rectify the status of these communities. Moreover, to the extent that OpticalTel may owe additional fees to Dish for non-transport status subsequent to the date (unknown to OpticalTel) that Dish began offering such an election and imposing higher fees, OpticalTel has offered any such additional amounts to Dish. Notably, however, these are matters to be resolved exclusively between OpticalTel and Dish. Regardless of whether Dish seeks to characterize its relationship with OpticalTel at Sail Harbour and Glades Country Club as "transport" or "non-transport," and even if OpticalTel may owe additional amounts to Dish, the fact remains that, as a non-MVPD agent reselling DBS service on behalf of Dish, OpticalTel is not subject to retransmission consent obligations. Under long-standing Commission precedent, Dish alone bears full responsibility for retransmission consent with respect to the broadcast signals it retransmits to residents of Sail Harbour and Glades Country Club.

II. OpticalTel Is Exempt From Retransmission Consent Pursuant To Section 76.64(e).

As explained in detail above, in accordance with FCC policies in effect for over twenty years, DBS resellers, whose activities are limited to the relay of signals retransmitted by satellite carriers over private property for home viewing, are not deemed to be MVPDs, and the responsibility for obtaining any necessary end-to-end retransmission consent rights falls solely on the satellite carrier. Nevertheless, any effort by WXCW to establish a new, redundant retransmission consent requirement for both DBS resellers and satellite carriers with respect to

the same signal would be unavailing because OpticalTel is exempt from retransmission consent pursuant to Section 76.64(e) of the Commission's rules.[11]

The so-called "MATV exception" is set forth in Section 76.64(e) of the Commission's rules:

> The retransmission consent requirements of this section are not applicable to broadcast signals received by master antenna television facilities or by direct over-the-air reception in conjunction with the provision of service by a multichannel video program distributor provided that the multichannel video program distributor makes reception of such signals available without charge and at the subscribers option and provided further that the antenna facility used for the reception of such signals is either owned by the subscriber or the building owner; or under the control and available for purchase by the subscriber or the building owner upon termination of service.[12]

In adopting this rule, the Commission analogized to the right, also recognized under copyright law, of the owner of a hotel, apartment building or similar private property owner to install an on-site antenna to receive local broadcast signals without needing retransmission consent or incurring copyright liability.[13]

Upon termination of the right to resell the Dish service at Sail Harbour or Glades Country Club, it is OpticalTel's policy to transfer ownership of the on-site antenna used to receive all signals, including all television stations retransmitted by Dish, to the relevant homeowners association ("HOA"), without charge. In the alternative, in the event the HOA may not wish to continue to receive the Dish service, OpticalTel offers to construct an on-site off-air reception facility at cost, to facilitate continued viewership of free local television signals by residents.

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[11] Because the current policy finding DBS resellers and other agents of satellite carriers to be exempt from retransmission consent was established in an order adopted by the full Commission, any change in policy would similarly require full Commission action, and could not be accomplished through delegated authority. *See, e.g.*, 47 C.F.R. § 0.283(c).

[12] 47 C.F.R. § 76.64(e)

[13] 1993 Must-Carry Order, ¶ 135 (citing 17 U.S.C. § 111(a)).

Because the MATV exception applies broadly regardless of whether the service received at such private residential properties is MATV, MMDS, MATV-SMATV or MMDS-SMATV, it is clear that it should make no difference whether the on-site antenna receives signals off-air or via satellite, so long as such antenna is available for purchase upon termination of service, thereby ensuring that the right of individual residents to continue to receive local broadcast signals cannot be terminated or otherwise limited. Here, OpticalTel has gone a step further to protect the rights of individual residents by not only agreeing to turn over ownership of the on-site DBS antenna, but to build an off-air reception facility on-site, at the election of the affected private community.[14]

In sum, under the clear provisions of the MATV exception, even if OpticalTel is deemed to be an MVPD on a prospective basis, it is nevertheless exempt from the requirement to obtain retransmission consent from WXCW or any other local television station.

III. If The Facilities At Sail Harbour And/Or Glades Country Club Are Cable Systems, Carriage Of WXCW Has Been Authorized.

As noted above, OpticalTel owns no wires, cables, fibers or other physical video distribution facilities at Sail Harbour or Glades Country Club. Moreover, OpticalTel did not participate in the construction and installation of such facilities. It is OpticalTel's understanding that such facilities are located entirely on private property, do not use any public rights-of-way, and thus do not meet the definition of a "cable system" for regulatory purposes.

Nevertheless, despite its good faith understandings, OpticalTel cannot state definitively that these facilities are not cable systems. Indeed, WXCW must believe that the facilities at Sail

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[14] As noted above, the local broadcast signals retransmitted by Dish are available to residents of Sail Harbour and Glades Country Club at no additional charge. Nevertheless, the Commission has clarified that the determining factor under the MATV exception relates to the ability to obtain ownership of the antenna, "not the provision of the service free-of-charge." *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, 9 FCC Rcd 6723 (1994), ¶ 79.

Harbour and Glades Country Club are cable systems because, by letter dated September 29, 2014, it elected retransmission consent for the period beginning January 1, 2015. By WXCW's own admission, no such election would have been necessary if these properties were not cable systems – there would be no need for a station to choose between retransmission consent and must-carry. Thus, when faced with WXCW's vexatious threats of potentially crippling liability, and out of an abundance of caution, OpticalTel has taken prophylactic steps to register these communities as separate cable systems (FL1410 and FL1411), and to submit appropriate compulsory license payments to the U.S. Copyright Office (*see* Attachment 4).

As detailed above, OpticalTel believes that Dish bears sole responsibility for retransmission consent and copyright compliance for all periods with respect to the broadcast stations retransmitted by Dish to viewers at Sail Harbour and Glades Country Club. Dish has acknowledged this arrangement for all times subsequent to December 12, 2014, and OpticalTel has requested that Dish rectify its records to properly reflect the intended status of these properties for all prior periods as well. Nevertheless, even absent any further communications from Dish, and assuming that WXCW's claim that these properties are cable systems is correct, WXCW would have been default must-carry for all periods prior to January 1, 2015, the effective date of its initial retransmission consent election.

Conclusion

DBS resellers such as OpticalTel have been found by the Commission not to be MVPDs and thus not subject to retransmission consent. Rather, the satellite carrier has sole responsibility to obtain end-to-end authorization for the broadcast signals retransmitted by such satellite carrier, regardless of how it labels the feed it provides to a DBS reseller. In any event, the facts here show that OpticalTel was never initially offered a choice between "transport" and "non-

transport," and never elected any arrangement other than the typical situation where the satellite carrier is solely responsible for any applicable retransmission consent and copyright payments.

Alternatively, in the event of a change in policy whereby DBS resellers such as OpticalTel are hereafter deemed to be MVPDs, OpticalTel is nevertheless exempt from retransmission consent pursuant to the provisions of Section 76.64(e) of the Commission's rules. Finally, although OpticalTel has no reason to believe that the facilities located at Sail Harbour or Glades Country Club qualify as "cable television systems," it has taken prophylactic steps to register these communities at the FCC (FL1410 and FL1411) and to submit appropriate compulsory license payments to the U.S. Copyright Office. Thus, to the extent these facilities might in fact meet the "cable system" definition, as WXCW has asserted in its first-ever retransmission consent election dated September 29, 2014, then the station's status was default must-carry for all periods prior to January 1, 2015.

Reliance by WXCW on *TV MAX, Inc. and Broadband Ventures Six, LLC d/b/a Wavevision, et al.*, 29 FCC Rcd 8648 (2014) is misplaced. That case involved a "cable operator" as defined by 47 C.F.R. § 76.5(cc) and franchised by the City of Houston that had entered into retransmission consent agreements and continued to carry the affected stations after those agreements had expired.[15] And while TV MAX asserted the "MATV" exception as a defense, it nevertheless had retransmitted the affected signals from its off-site headend over its cable system and/or fiber ring traversing public rights-of-way, rather than relying on signals received at an on-site reception facility on private property. Here, OpticalTel is a DBS reseller that is not deemed

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[15] To the best of OpticalTel's knowledge, the only cases where the FCC has imposed a forfeiture for carriage of a station without retransmission consent have involved situations, like TV MAX, where carriage continued after the expiration of a valid retransmission consent agreement. *See Bailey Cable TV, Inc.*, 27 FCC Rcd 2625 (MB 2012). Here, of course, WXCW has not been carried in violation of an existing retransmission consent agreement. Indeed, prior to its letter of September 29, 2014, WXCW never elected retransmission consent or claimed must-carry rights in the affected communities.

to be a MVPD, received its first (albeit invalid) retransmission consent election from WXCW for the period commencing January 1, 2015, and has never carried WXCW after the expiration of a valid retransmission consent agreement. Moreover, local broadcast signals retransmitted by Dish have at all times been received by an on-site antenna facility located on private property at each community and available for use even after expiration of OpticalTel's relationship with the affected community, and thus the retransmission consent exception under Section 76.64(e) clearly applies.

In sum, based on any of the numerous reasons set forth above, it is clear that WXCW's Complaint is entirely meritless and should be dismissed, and WXCW's effort to obtain double retransmission consent payments for providing the same signal to the same viewers should be rejected.

Respectfully submitted,

Optical Telecommunications, Inc.

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Its Attorneys

Date: April 14, 2015

AM 47524822.3

Attachment 1

Reset Form

SCHEDULE 4(B) - BULK HEADEND SERVICES FORM

Email to dishnetworkcommercialoperations@dish.com a minimum of (two) 2 weeks prior to launch.

Requested Pre-Activation Date 11/6/13 **Request Type** New Activation **Bulk Property Type** Single Family

(Pre-Activation may not exceed 10 days, Headends only)

Requested Full Activation Date

Luis Rodriguez - President

Printed Name & Title (Authorized Operator Officer)

Billing Type: ☒ Monthly ☐ Annual

Operator/PCO Information:

Name: HControl Corp

Address: 1360 E Dixie Hwy #200

City: Ft. Myers State: FL Zip Code: 33905

Password: hcØntrØl

Main Contact Person: Luis Rodriguez

Alternate Contact: Eric Riveron

Exclusive/Co-Exist: Exclusive

PCO Call Center Phone #: 1-855-303-4237

Total Drops/Units 472 Total *Bulk Phase Construction

100% Penetration Required

Phone: 305-779-7777 Fax: 305-779-4329

Operator Number: 13704419

Phone: 305-779-7777 Email: luis@opticaltel.com

Phone: 305-779-5740 Email: eriveron@opticaltel.com

Co-Exist with: N/A

Property Information

Property Name: Cypress Trails RV Resort

Address: 5340 Cypress Trail Resort Cir.

City: Ft. Myers State: FL Zip Code: 33905

Phone: Fax:

Account Number: 8255-22-001-0027257

Hierarchy Account Number:

Hierarchy ID: HControl Group ID:

System Type: ☒ Headend ☐ L-Band

Building Type:

☐ High rise ☐ Multi Story ☒ Single Story ☐ Garden Style

System Location Information

Address: 5340 Cypress Trails Resort Cir.

City: Ft. Myers State: FL Zip Code: 33905

New Construction? ☒ Yes ☐ No

Digital Bulk NVP Property? ☐ Yes ☒ No

Neighborhood Value Program (More DISH) ☐ Yes ☒ No

Single Family Homes: ☒ Yes ☐ No

Programming Available Single Family Homes- America's Top 120, America's Top 200, America's Top 250, HBO, Cinemax, Showtime, Starz, and Locals.

Shared Headend System: ☐ Yes ☒ No

If yes, please list additional property name(s):

Promotions

☐ Yes

AMENITY INCENTIVE 36: To be considered for participation in the Amenity Incentive 36 Promotional Program, the Bulk Property MUST: (i) be a Qualifying Bulk Subscriber with a minimum of thirty (30) total Drops/Units, (ii) subscribe to Bulk Programming services totaling a minimum of Five and 00/100 Dollars ($4.25) per Unit per month (exclusive of any applicable taxes or fees) and (iii) enter into a three (3) year agreement. Only new or reconditioned model 311 receivers are eligible for this Promotional Program and participation is subject to DISH's approval which may be withheld by DISH in its sole and absolute discretion for any reason or no reason. Incentives are subject to Chargeback pursuant to the terms and conditions set forth in the Business Rules

	Amenity Incentive 36		
	Drop/Units	Maximum Number of Receivers Eligible for Equipment Discount	Activation Incentive
☐	30-49	24	[redacted]
☐	50-99	48	
☐	100-149	48	
☐	150-199	48	
☐	200-399	48	
☐	400+	48	

☐ Yes

AMENITY INCENTIVE 60: To be considered for participation in the Amenity Incentive 60 Promotional Program, the Bulk Property MUST: (i) be a Qualifying Bulk Subscriber with a minimum of fifty (50) total Drops/Units, (ii) subscribe to Bulk Programming services totaling a minimum of Nine and 00/100 Dollars ($7.45) per Unit per month (exclusive of any applicable taxes or fees) and (iii) enter into a five (5) year agreement. Only new or reconditioned VIP 211(k), or VIP 222(k) receivers are eligible for this Promotional Program and participation is subject to DISH's approval which may be withheld by DISH in its sole and absolute discretion for any reason or no reason. Incentives are subject to Chargeback pursuant to the terms and conditions set forth in the Business Rules.

	Amenity Incentive 60			
	Drops/Units	Maximum Number of 211 or 211(k) Receivers Eligible for Equipment Discount	Maximum Number of 222 or 222(k) Receivers Eligible for Equipment Discount	Activation Incentive
☐	50-99	18	12	[redacted]
☐	100-149	18	12	
☐	150-199	18	12	
☐	200-399	18	12	
☐	400+	18	12	

Additional Bulk Services	Add	Remove	Price Per Drop
Electronic Programming Guide (EPG) Data Access Service (FTG Headend Locations Only) *DISH reserves the right to audit per the applicable agreement(s).*	☐ Add	☐ Remove	[redacted]
HD Over Coax (please type in approved manufacturer) *DISH reserves the right to audit per the applicable agreement(s).*	☐ Add	☐ Remove	[redacted]

Core Bulk Programming Packages (please check services ordered)	Add	Remove	Price Per Drop
Essentials	☒ Add	☐ Remove	[redacted]
America's Top 120	☐ Add	☐ Remove	[redacted]
America's Top 200	☐ Add	☐ Remove	[redacted]
America's Top 250	☐ Add	☐ Remove	[redacted]
Add HD (requires minimum subscription of America's Top 120)	☐ Add	☐ Remove	[redacted]
Premier (Hospitality Only) *Premier cannot be used for L-Band Installations.	☐ Add	☐ Remove	[redacted]
DishLATINO Clasico	☐ Add	☐ Remove	[redacted]
University Pack (Available to Universities and Student Housing Properties Only)	☐ Add	☐ Remove	[redacted]

Add-On Packages (requires subscription to one core package)	Add	Remove	Price Per Drop
Blockbuster@Home	☐ Add	☐ Remove	[redacted]
Variety	☒ Add	☐ Remove	[redacted]
Classic & Country	☒ Add	☐ Remove	[redacted]
Education & Arts	☒ Add	☐ Remove	[redacted]
Beyond Entertainment	☐ Add	☐ Remove	[redacted]
History & More	☒ Add	☐ Remove	[redacted]
News & Lifestyle	☒ Add	☐ Remove	[redacted]
The Edge	☐ Add	☐ Remove	[redacted]
The Escape	☐ Add	☐ Remove	[redacted]
Golf	☐ Add	☐ Remove	[redacted]
Comedy & Music	☒ Add	☐ Remove	[redacted]
Action Pack	☐ Add	☐ Remove	[redacted]
Discovery Pack	☐ Add	☐ Remove	[redacted]
BET	☐ Add	☐ Remove	[redacted]
CNBC	☐ Add	☐ Remove	[redacted]
Expanded HD Package	☐ Add	☐ Remove	[redacted]
Sirius Music	☐ Add	☐ Remove	[redacted]
Pequeño Latino (Spanish)	☐ Add	☐ Remove	[redacted]
CNN en Español	☐ Add	☐ Remove	[redacted]
Local Networks Transport	☐ Add	☐ Remove	[redacted]
Local Networks	☒ Add	☐ Remove	[redacted]

Sports Packages	Add	Remove	Price Per Drop
ESPN A La Carte	☐ Add	☐ Remove	[redacted]
ESPN Pak 1 (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
ESPN Pak 2 (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
ESPN Pak 3 (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
ESPN Pak 4 (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
ESPN Pak 5 (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
Puerto Rico / Virgin Islands ESPN Package (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
ESPN Deportes (All channels in the package must be displayed)	☐ Add	☐ Remove	[redacted]
Multi-Sport Package (available only with America's Top 200 or 250)	☐ Add	☐ Remove	[redacted]
Regional Sports a la carte (Hotels/Motels only) Quantity	☐ Add	☐ Remove	[redacted]
Regional Sports a la carte (all other bulk properties) Quantity	☐ Add	☐ Remove	[redacted]
Please Specify			
Big Ten Network	☐ Add	☐ Remove	[redacted]
PAC 12	☐ Add	☐ Remove	[redacted]
Sports Time Ohio	☐ Add	☐ Remove	[redacted]
CBS Sports Network	☐ Add	☐ Remove	[redacted]
MLB Network	☐ Add	☐ Remove	[redacted]
NFL Network	☐ Add	☐ Remove	[redacted]
The Tennis Channel	☐ Add	☐ Remove	[redacted]

Attachment 2

EXHIBIT A

BULK PROGRAMMING SERVICES AGREEMENT

SCHEDULE 1

Base Bulk Programming Packages

Operator shall select one of the following Base Bulk Programming Packages:

☐ America's Top 60* - [redacted] per Drop per month

☐ America's Top 120* - [redacted] per Drop per month

☐ America's Top 180* - [redacted] per Drop per month

In the event that Operator qualifies for such programming as determined by EchoStar in its sole discretion, Operator shall select the following Bulk Programming package:

☐ Local networks programming* ** - [redacted] per Property per month

In addition to the above Bulk Programming packages, Operator may select the following Bulk Programming premium channel package

☐ HBO "the Works", Showtime "Unlimited", Cinemax, and Starz!/Encore - [redacted] per Drop per month

**Visit http://www.dishnetwork.com/content/programming prices, packages and programming information.*

***Visit http://customersupport.dishnetwork.com/customernetqual/nqCustomerLocalsCheck.jsp to see whether the Property may qualify for local networks programming.*

ECHOSTAR RESERVES THE RIGHT TO CHANGE PRICES, PACKAGES, AND PROGRAMMING AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE DISCRETION.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bulk Programming Services Agreement to which this Schedule 1 is attached.

Initial: EchoStar _____ Operator _____

Attachment 3

dish BUSINESS

January 22, 2015

RE: DISH Service Subscription – OpticalTel Telecommunications, Inc. (D/B/A HControl Corporation)

Hello,

This letter is written to indicate that DISH Network L.L.C. ("DISH") has authorized local network services (non-transport) to the private cable operator OpticalTel Telecommunications, Inc. located at 1360 S. Dixie Hwy Suite 200, Coral Gables, Florida 33146 (the "PCO"), as requested by the PCO to DISH for the properties and service dates described below:

Property Name	Address	Services	Subscription Effective Date
THE GLADES COUNTRY CLUB	174 TERYL RD, NAPLES, FL 34112	Qualifying local networks	12/12/2014
SAIL HARBOUR	16244 VIA SOLERA CIR, FORT MYERS, FL 33908	Qualifying local networks	12/12/2014
CYPRESS TRAILS RV RESORT	5340 CYPRESS TRL RESORT, FORT MYERS, FL 33905	Qualifying local networks	11/11/2013

The costs and details of these services can also be located in the monthly billing statements received by the PCO from DISH.

Sincerely,

DISH Business Team

Attachment 4

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400

Official Business

Penalty for Private Use $300
Forwarding Service Requested

OFFICIAL BUSINESS
UNITED STATES COPYRIGHT OFFICE
STATEMENT OF ACCOUNT
SA1-2 (SHORT FORM)

SPECIAL NOTICE ABOUT THIS STATEMENT OF ACCOUNT

IMPORTANT

Filing Fees
Effective January 1, 2014, pursuant to the Satellite Television Extension and Localism Act of 2010 (STELA), which granted authority to the Copyright Office to establish fees for the filing of statements of account (SOAs) under the section 111, 119, and 122 statutory licenses, the Office now assesses filing fees for *all* SOAs for current, past, and future accounting periods. For details, see the *Federal Register*, November 29, 2013 (78 FR 71498 *http://www.copyright.gov/fedreg/2013/78fr71498.pdf*). Please be advised that the filing fee is deducted *before* the royalty payment is credited; thus the omission of the appropriate filing fee will result in an underpayment of royalty fees. Please remit the royalty fee and filing fee in one EFT payment. (SOA1 filing fee: $15; SOA2 filing fee: $20).

Multicast versus Simulcast
Multicast is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream. *Simulcast* is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

Photocopy Required
A legible copy of the semiannual statement of account must be submitted together with the original statement of account to the Copyright Office.

Fillable SOAs Available Online
Access the fill-in statement of account form at *www.copyright.gov/forms/SA1-2c-2011.pdf.* Complete it on a personal computer and print it out. Or print out the form and complete it by hand in dark ink. Give all the required information.

Electronic Payment of Royalty and Filing Fees Required
Detailed instructions for making royalty payments via electronic funds transfer (EFT) are contained in circulars 74A, 74B, and 74C, which are available at *www.copyright.gov/circs/circ74* or by contacting the Licensing Division (8:30 AM and 5:00 PM eastern time) by phone at (202) 707-8150, fax at (202) 707-0905, or email at *licfiscal@loc.gov.* The remittance, which must include the appropriate filing fee, must be made payable to *Register of Copyrights.*

Remittance Advice Required
Federal regulations [37 C.F.R. sec. 201.17 (k)] require that a remittance advice be attached to statement(s) of account. A copy of the remittance advice must be sent by email or fax to the Licensing Division. The Office uses this remittance information to ensure the funds received by EFT are correctly allocated to each statement of account. Access a remittance advice form at *www.copyright.gov/licensing/remittance-advice.pdf.*

Ceased Operations Procedures
If your cable system completely shut down operations during the accounting period, report the facts as they existed on the last day of operations and submit the SOA with the associated royalty and filing fee payments and a cover letter informing the Licensing Division of ceased operations. If your cable system had no subscribers or gross receipts during the entire accounting period, do not submit the SOA or any fees. You do not need to notify us in this case.

Important: Review Filings
Please review all elements of your filing(s) before submitting them. Filing properly, including an accurate advice, facilitates processing of your statement(s) of account and payments, minimizes the need for us to contact you with questions, and reduces administrative and other costs.

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400
Tel: (202) 707-8150 (8:30 AM–5:00 PM, eastern time) Fax: (202) 707-0905
Email: *licensing@loc.gov* or Web: *www.copyright.gov/licensing*

THIS FORM IS EFFECTIVE FOR ACCOUNTING PERIODS BEGINNING JANUARY 1, 2011
If you are filing for a prior accounting period, contact the Licensing Division for the correct form.

SA1-2
Short Form

STATEMENT OF ACCOUNT
for Secondary Transmissions by Cable Systems (Short Form)

General instructions are at the end of this form [pages (i)–(vii)].

FOR COPYRIGHT OFFICE USE ONLY	
DATE RECEIVED	AMOUNT
	$
	ALLOCATION NUMBER

Return to:
Library of Congress
Copyright Office
Licensing Division
101 Independence Ave. SE
Washington, DC 20557-6400
(202)707-8150

For courier deliveries, see page ii of the general instructions.

A Accounting Period

ACCOUNTING PERIOD COVERED BY THIS STATEMENT: (Check one of the boxes and fill in the year date.)

☐ January 1–June 30 ..... (Year) ☒ July 1–December 31 2014 ..... (Year)

B Owner

INSTRUCTIONS:
Give the full legal name of the owner of the cable system in line 1. If the owner is a subsidiary of another corporation, give the full corporate title of the subsidiary, not that of the parent corporation.
In line 2, list any other names under which the owner conducts the business of the cable system.
If there were different owners during the accounting period, only the owner on the last day of the accounting period should submit a single statement of account and royalty fee payment covering the entire accounting period.

☒ Check here if this is the system's first filing. If not, enter the system's ID number assigned by the Licensing Division. _____

1 **LEGAL NAME OF OWNER OF CABLE SYSTEM:**
SH Services LLC

2 **BUSINESS NAME(S) OF OWNER OF CABLE SYSTEM (IF DIFFERENT):**

3 **MAILING ADDRESS OF OWNER OF CABLE SYSTEM:**
1360 South Dixie Highway Suite 200
(Number, street, rural route, apartment, or suite number)
Coral Gables, Florida 33146
(City, town, state, zip)

C System

Instructions: In line 1, give any business or trade names used to identify the business and operation of the system unless these names already appear in space B. In line 2, give the mailing address of the system, if different from the address given in space B.

1 **IDENTIFICATION OF CABLE SYSTEM:**
Optical Telecommunications Inc.

2 **MAILING ADDRESS OF CABLE SYSTEM:**
1360 South Dixie Highway Suite 200
(Number, street, rural route, apartment, or suite number)
Coral Gables, Florida 33146
(City, town, state, zip)

D Area Served

Instructions: List each separate community served by the cable system. A "community" is the same as a "community unit" as defined in FCC rules: "a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas)." 47 C.F.R. §76.5(dd). The first community that you list will serve as a form of system identification hereafter known as the "first community." Please use it as the *first community* on *all future filings*.

Note: Entities and properties such as hotels, apartments, condominiums, or mobile home parks should be reported in parentheses below the identified city.

	CITY OR TOWN	STATE	CITY OR TOWN	STATE
First ▶ Community	Fort Myers (Sail Harbour)	Florida		

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

PAGE 1b continued.

LEGAL NAME OF OWNER OF CABLE SYSTEM: SH Services LLC		Name
CITY OR TOWN	STATE	**D** Area Served ◀ First Community

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: SH Services LLC

E

Secondary Transmission Service: Subscribers and Rates

SECONDARY TRANSMISSION SERVICE: SUBSCRIBERS AND RATES

In General: The information in space E should cover all categories of secondary transmission service of the cable system, that is, the retransmission of television and radio broadcasts by your system to subscribers. Give information about other services (including pay cable) in space F, not here. All the facts you state must be those existing on the last day of the accounting period (June 30 or December 31, as the case may be).

Number of Subscribers: Both blocks in space E call for the number of subscribers to the cable system, broken down by categories of secondary transmission service. In general, you can compute the number of subscribers in each category by counting the number of billings in that category (the number of persons or organizations charged separately for the particular service at the rate indicated—not the number of sets receiving service).

Rate: Give the standard rate charged for each category of service. Include both the amount of the charge and the unit in which it is generally billed. (Example: "$20/mth"). Summarize any standard rate variations within a particular rate category, but do not include discounts allowed for advance payment.

Block 1: In the left-hand block in space E, the form lists the categories of secondary transmission service that cable systems most commonly provide to their subscribers. Give the number of subscribers and rate for each listed category that applies to your system. **Note:** Where an individual or organization is receiving service that falls under different categories, that person or entity should be counted as a subscriber in each applicable category. Example: a residential subscriber who pays extra for cable service to additional sets would be included in the count under "Service to the first set," and would be counted once again under "Service to additional set(s)."

Block 2: If your cable system has rate categories for secondary transmission service that are different from those printed in block 1, (for example, tiers of services that include one or more secondary transmissions), list them, together with the number of subscribers and rates, in the right-hand block. A two- or three-word description of the service is sufficient.

BLOCK 1			BLOCK 2		
CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE	CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE
Residential:					
• Service to first set	473	$29.30			
• Service to additional set(s)	0				
• FM radio (if separate rate)	0				
Motel, hotel	0				
Commercial	0				
Converter	0				
• Residential	0				
• Nonresidential	0				

F

Services Other Than Secondary Transmissions: Rates

SERVICES OTHER THAN SECONDARY TRANSMISSIONS: RATES

In General: Space F calls for rate (not subscriber) information with respect to all your cable system's services that were not covered in space E, that is, those services that are not offered in combination with any secondary transmission service for a single fee. There are two exceptions: you do not need to give rate information concerning (1) services furnished at cost or (2) services or facilities furnished to nonsubscribers. Rate information should include both the amount of the charge and the unit in which it is usually billed. If any rates are charged on a variable per-program basis, enter only the letters "PP" in the rate column.

Block 1: Give the standard rate charged by the cable system for each of the applicable services listed.

Block 2: List any services that your cable system furnished or offered during the accounting period that were not listed in block 1 and for which a separate charge was made or established. List these other services in the form of a brief (two- or three-word) description and include the rate for each.

BLOCK 1				BLOCK 2	
CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE
Continuing Services:		**Installation: Non-residential**			
• Pay cable		• Motel, hotel			
• Pay cable–add'l channel		• Commercial			
• Fire protection		• Pay cable			
• Burglar protection	$22.45	• Pay cable–add'l channel			
Installation: Residential		• Fire protection			
• First set		• Burglar protection			
• Additional set(s)		**Other Services:**			
• FM radio (if separate rate)		• Reconnect	$30.00		
• Converter		• Disconnect			
		• Outlet relocation	$35.00		
		• Move to new address			

LEGAL NAME OF OWNER OF CABLE SYSTEM:
SH Services LLC

Name

PRIMARY TRANSMITTERS: TELEVISION

G

Primary Transmitters: Television

In General: In space G, identify every television station (including translator stations and low power television stations) carried by your cable system during the accounting period, *except* (1) stations carried only on a part-time basis under FCC rules and regulations in effect on June 24, 1981, permitting the carriage of certain network programs [sections 76.59(d)(2) and (4), 76.61(e)(2) and (4), or 76.63 (referring to 76.61(e)(2) and (4))]; and (2) certain stations carried on a substitute program basis, as explained in the next paragraph.

Substitute Basis Stations: With respect to any distant stations carried by your cable system on a substitute program basis under specific FCC rules, regulations, or authorizations:

- Do *not* list the station here in space G—but do list it in space I (the Special Statement Program Log)—if the station was carried *only* on a substitute basis.
- List the station here, and also in space I, if the station was carried both on a substitute basis and also on some other basis. For further information concerning substitute basis stations, see page (v) of the general instructions.

Column 1: List each station's call sign. *Do not* report origination program services such as HBO, ESPN, etc. Identify each multicast stream associated with a station according to its over-the-air designation. For example, report multicast stream "WETA-2" as the same on the form. Simulcast stations must be reported in column 1 (list each station separately; for example, WETA-2-simulcast).

Column 2: Give the channel number the FCC assigned to the television station for broadcasting over the air in its community of license. For example, WRC is channel 4 in Washington, D.C.

Column 3: Indicate in each case whether the station is a network station, an independent station, or a noncommercial educational station, by entering the letter "N" (for network), "N-M" (for network multicast), "I" (for independent), "I-M" (for independent multicast), "E" (for noncommercial educational), or "E-M" (for noncommercial educational multicast). For the meaning of these terms, see page (iv) of the general instructions.

Column 4: Give the location of each station. For U.S. stations, list the community to which the station is licensed by the FCC. For Mexican or Canadian stations, if any, give the name of the community with which the station is identified.

1. CALL SIGN	2. B'CAST CHANNEL NUMBER	3. TYPE OF STATION	4. LOCATION OF STATION
WZVN	26	N	Fort Myers/Naples Florida
WANA-LP	14	I	Fort Myers/Naples Florida
WINK	11	N	Fort Myers/Naples Florida
WXCW	46	I	Fort Myers/Naples Florida
WFTX	36	I	Fort Myers/Naples Florida
WRXY	49	I	Fort Myers/Naples Florida
WBBH	20	N	Fort Myers/Naples Florida
WGCU	30	E	Fort Myers/Naples Florida
WWDT-CD	43	I	Fort Myers/Naples Florida
WLZE-LD	51	I	Fort Myers/Naples Florida

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: SH Services LLC

H

Primary Transmitters: Radio

PRIMARY TRANSMITTERS: RADIO

In General: List every radio station carried on a separate and discrete basis and list those FM stations carried on an all-band basis whose signals were generally receivable by your cable system during the accounting period.

Special Instructions Concerning All-Band FM Carriage: Under Copyright Office regulations, an FM signal is generally receivable if (1) it is carried by the system whenever it is received at the system's headend; and (2) it can be *expected*, on the basis of monitoring, to be received at the headend, with the system's FM antenna, during certain stated intervals. For detailed information about the the Copyright Office regulations on this point, see page (iv) of the general instructions.

Column 1: Identify the call sign of each station carried.

Column 2: State whether the station is AM or FM.

Column 3: If the radio station's signal was electronically processed by the cable system as a separate and discrete signal, indicate this by placing a check mark in the "S/D" column.

Column 4: Give the station's location (the community to which the station is licensed by the FCC or, in the case of Mexican or Canadian stations, if any, the community with which the station is identified).

CALL SIGN	AM or FM	S/D	LOCATION OF STATION	CALL SIGN	AM or FM	S/D	LOCATION OF STATION

LEGAL NAME OF OWNER OF CABLE SYSTEM:
SH Services LLC

Name

I

Substitute Carriage: Special Statement and Program Log

SUBSTITUTE CARRIAGE: SPECIAL STATEMENT AND PROGRAM LOG

In General: In space I, identify *every nonnetwork television program*, broadcast by a *distant* station, that your cable system carried on a *substitute basis* during the accounting period, under specific present and former FCC rules, regulations, or authorizations. For a further explanation of the programming that must be included in this log, see page (v) of the general instructions.

1. SPECIAL STATEMENT CONCERNING SUBSTITUTE CARRIAGE

- During the accounting period, did your cable system carry, on a substitute basis, any nonnetwork television program broadcast by a distant station? ☐ Yes ☒ No

Note: If your answer is "No," leave the rest of this page blank. If your answer is "Yes," you must complete the program log in block 2.

2. LOG OF SUBSTITUTE PROGRAMS

In General: List each substitute program on a separate line. Use abbreviations wherever possible, if their meaning is clear. If you need more space, please attach additional pages.

Column 1: Give the title of every nonnetwork television program ("substitute program") that, during the accounting period, was broadcast by a distant station and that your cable system substituted for the programming of another station under certain FCC rules, regulations, or authorizations. See page (v) of the general instructions for further information. Do not use general categories like "movies" or "basketball." List specific program titles, for example, "I Love Lucy" or "NBA Basketball: 76ers vs. Bulls."

Column 2: If the program was broadcast live, enter "Yes". Otherwise, enter "No."

Column 3: Give the call sign of the station broadcasting the substitute program.

Column 4: Give the broadcast station's location (the community to which the station is licensed by the FCC or, in the case of Mexican or Canadian stations, if any, the community with which the station is identified).

Column 5: Give the month and day when your system carried the substitute program. Use numerals, with the month first. Example: for May 7, give "5/7."

Column 6: State the times when the substitute program was carried by your cable system. List the times accurately to the nearest five minutes. Example: a program carried by a system from 6:01:15 p.m. to 6:28:30 p.m. should be stated as "6:00–6:30 p.m."

Column 7: Enter the letter "R" if the listed program was substituted for programming that your system was *required* to delete under FCC rules and regulations in effect during the accounting period; enter the letter "P" if the listed program was substituted for programming that your system was permitted to delete under FCC rules and regulations in effect on October 19, 1976.

SUBSTITUTE PROGRAM				WHEN SUBSTITUTE CARRIAGE OCCURRED		7. REASON FOR DELETION
1. TITLE OF PROGRAM	2. LIVE? Yes or No	3. STATION'S CALL SIGN	4. STATION'S LOCATION	5. MONTH AND DAY	6. TIMES FROM — TO	
					—	
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					—	

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: SH Services LLC

K

Gross Receipts

GROSS RECEIPTS

Instructions: The figure you give in this space determines the form you file and the amount you pay. Enter the total of all amounts (gross receipts) paid to your cable system by subscribers for the system's secondary transmission service (as identified in space E) during the accounting period. For a further explanation of how to compute this amount, see page (vi) of the general instructions.

- Gross receipts from subscribers for secondary transmission service(s) during the accounting period. ▶ $ 83,153.40 (Amount of gross receipts)

IMPORTANT: You must complete a statement in space P concerning gross receipts.

L

Copyright Royalty Fee

COPYRIGHT ROYALTY AND FILING FEES

Instructions: To compute the royalty fee you owe:

- Complete block 1, block 2, *or* block 3
- Use block 1 if the amount of gross receipts in space K is $137,100 or less
- Use block 2 if the amount of gross receipts in space K is more than $137,100 but less than or equal to $263,800
- Use block 3 if the amount of gross receipts in space K is more than $263,800 but less than $527,600

See page (vi) of the general instructions for more information.

BLOCK 1: GROSS RECEIPTS OF $137,100 OR LESS

Instructions: As a cable system with gross receipts of $137,100 or less, the royalty fee that you must pay for this six-month accounting period is $52.00

Line 1. Royalty fee for accounting period ..... $ 52.00

Line 2. Interest charge. Enter the amount from line 4, space Q, page 8 ..... $ 0.10

Line 3. Filing Fee ..... $ 15.00

Line 4. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.** Add lines 1, 2 and 3 ..... $ 67.10

BLOCK 2: GROSS RECEIPTS OF $263,800 OR LESS (but more than $137,100)

1. Base amount under statutory formula ..... ▶ $263,800
2. Enter amount of gross receipts from space K ..... ▶ $
3. Subtract line 2 from line 1 ..... ▶ $
4. Enter the amount of gross receipts from space K ..... ▶ $
5. Enter the amount from line 3 ..... ▶ $
6. Subtract line 5 from line 4 ..... ▶ $
7. Multiply line 6 by .005 (enter figure here) ..... ▶ $
8. Interest charge. Enter the amount from line 4, space Q, page 8 ..... ▶ $
9. Filing Fee ..... ▶ $ 20.00
10. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.** Add lines 7, 8 and 9 ..... ▶ $

BLOCK 3: GROSS RECEIPTS OF MORE THAN $263,800 (but less than $527,600)

1. Enter the amount of gross receipts from space K ..... ▶ $
2. Base amount under statutory formula ..... ▶ $ 263,800
3. Subtract line 2 from line 1 ..... ▶ $
4. Multiply line 3 by .01 ..... ▶ $
5. Royalty due on the first $263,800 of gross receipts (under statutory formula) ..... ▶ $ $ 1,319
6. Interest Charge. Enter the amount from line 4, space Q, page 8 ..... ▶ $
7. Filing Fee ..... ▶ $ 20.00
8. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.** Add lines 4, 5, 6 and 7 ..... ▶ $

IMPORTANT: Your remittance must be in the form of an *electronic payment* payable to *Register of Copyrights*. See page I of the general instructions for more information.

LEGAL NAME OF OWNER OF CABLE SYSTEM:
SH Services LLC

Name

CHANNELS

Instructions: You must give (1) the number of channels on which the cable system carried television broadcast stations to its subscribers, and (2) the cable system's total number of activated channels during the accounting period.

M

Channels

1. Enter the total number of channels on which the cable system carried television broadcast stations. 10
2. Enter the total number of activated channels on which the cable system carried television broadcast stations and nonbroadcast services. 80

INDIVIDUAL TO BE CONTACTED IF FURTHER INFORMATION IS NEEDED

(Identify an individual we can contact about this statement of account.)

N

Individual to Be Contacted for Further Information

Name Mario M. Bustamante ..... Telephone 786-787-7777 (Area code)

Address 1360 South Dixie Highway Suite 200 (Number, street, rural route, apartment, or suite number)

Coral Gables, FL 33146 (City, town, state, zip)

Email (optional) Mario@OpticalTel.com ..... Fax (optional) 786-888-7778

CERTIFICATION

(This statement of account must be certified and signed in accordance with Copyright Office regulations, as explained in the general instructions.)

O

Certification

- I, the undersigned, hereby certify that (Check one, *but only one*, of the boxes.)

☐ **(Owner other than corporation or partnership)** I am the owner of the cable system as identified in line 1 of space B; or

☐ **(Agent of owner other than corporation or partnership)** I am the duly authorized agent of the owner of the cable system as identified in line 1 of space B, and that the owner is not a corporation or partnership; or

☒ **(Officer or partner)** I am an officer (if a corporation) or a partner (if a partnership) of the legal entity identified as owner of the cable system in line 1 of space B.

- I have examined the statement of account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith. [See 18 U.S.C. sec.1001]

Handwritten signature: .....

Typed or printed name: Mario M. Bustamante

Title: CEO (Title of official position held in corporation or partnership)

Date: 3/6/2015

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: SH Services LLC

P

Special Statement Concerning Gross Receipts Exclusions

SPECIAL STATEMENT CONCERNING GROSS RECEIPTS EXCLUSIONS

The Satellite Home Viewer Act of 1988 amended Title 17, section 111(d)(1)(A) of the Copyright Act by adding the following sentence:

"In determining the total number of subscribers and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, the system shall not include subscribers and amounts collected from subscribers receiving secondary transmissions pursuant to section 119."

For more information on when to exclude these amounts, see the note on page (vi) of the general instructions.

During the accounting period, did the cable system exclude any amounts of gross receipts for secondary transmissions made by satellite carriers to satellite dish owners?

☒ NO

☐ YES. Enter the total here and list the satellite carrier(s) below. ..... $ _____

Name	Name .....
Mailing address	Mailing address .....
.....	.....
.....	.....

Q

Interest Assessment

INTEREST ASSESSMENT

You must complete this worksheet for those royalty payments submitted as a result of a late payment or underpayment. For an explanation of interest assessment, see page (vii) of the general instructions.

Line 1. Enter the amount of late payment or underpayment ..... $ 52.00

x 1 %

Line 2. Multiply line 1 by the interest rate* and enter the sum here $0.52

x 73.00 days

Line 3. Multiply line 2 by the number of days late and enter the sum here $37.96

x .00274

Line 4, Multiply line 3 by .00274** and enter here and in space L (page 6) block 1, line 2, or block 2, line 8, or block 3, line 6 ..... $ 0.10

(interest charge)

* To view the interest rate chart click on *www.copyright.gov/licensing/interest-rate.pdf*. For further assistance please contact the Licensing Division at (202) 707-8150 or *licensing@loc.gov*.

**This is the decimal equivalent of 1/365, which is the interest assessment for one day late.

Note: If you are filing this worksheet covering a statement of account already submitted to the Copyright Office, please list below the owner, address, first community served, ID number, and accounting period as given in the original filing.

Owner .....

Address .....

.....

ID number .....

First community served .....

Accounting period .....

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

IF YOU ARE FILING FOR A PRIOR ACCOUNTING PERIOD, CONTACT THE LICENSING DIVISION FOR THE CORRECT FORM.

USE THIS FORM WHEN:

- You are the owner (or represent the owner) of a cable system; and
- You are filing the semiannual statement of account required by the copyright law; and
- Your system's semiannual gross receipts for secondary transmissions (the figure you give in space K of the form) is *less than $527,600*; and
- You are also depositing the required semiannual royalty fee with the Licensing Division of the Copyright Office.

IF YOUR FIGURE FOR SEMIANNUAL GROSS RECEIPTS IN SPACE K IS $527,600 OR MORE, USE SA3 (LONG FORM)

GENERAL INSTRUCTIONS FOR SA1-2 (SHORT FORM)

CABLE SYSTEMS AND THE COPYRIGHT LAW (P.L. 94-553)

Cable systems are subject to copyright liability for their use of copyrighted material in secondary transmissions (the retransmission of television and radio broadcasts to subscribers). Cable retransmissions of copyrighted programming are subject to a system of statutory licensing. Among other things, this means that twice a year the owner of a cable system must send a statement of account, together with a royalty fee, to the Licensing Division of the Copyright Office.

TERMS

Primary stream. A primary stream is the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal. If there is no stream, then the primary stream is the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

Primary transmitter. A primary transmitter is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

Subscriber. The term subscriber means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

Subscribe. The term subscribe means to elect to become a subscriber.

In providing copyright liability for cable systems, the law draws a distinction between "primary transmissions" and "secondary transmissions":

- **Primary transmissions.** A primary transmission is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.
- **Secondary transmissions.** A secondary transmission is the basic service of retransmitting television and radio broadcasts to subscribers. The statute requires all U.S. cable systems, regardless of how many subscribers they have or whether they are carrying any distant signals, to pay some copyright royalties. However, instead of obliging cable systems to bargain individually for each copyrighted program they retransmit, the law offers them the opportunity of obtaining a statutory license for secondary transmissions.

Note: Secondary transmissions do not include transmissions originated by a cable system (including local origination cablecasting, pay cable, program services, background music services, and originations on leased or access channels). Cable systems must negotiate for the use of any copyrighted material in the programming they originate, and their originations are not subject to statutory licensing.

HOW TO FILE THE STATEMENT OF ACCOUNT ROYALTY AND FILING FEES

1 Study the general information on these pages and read through the detailed instructions in the statement of account form itself. Before you start completing the form, make sure that you have collected all the necessary information and that you are using the right form.

2 Fill out the statement of account form, giving all the required information about your cable system and about the television and radio stations carried by it. Print the information in black ink.

3 Certify the statement of account by signing at space O. The statement of account is not acceptable unless it bears the original handwritten signature of one of the persons indicated in space O as authorized to certify it under Copyright Office regulations.

4 Make an *electronic payment* (see note below) in the amount you have calculated in space L to cover the copyright

royalty and filing fees. See the *Federal Register*, August 10, 2006 (71 FR 45739) available at *www.copyright.gov/fedreg/2006/71fr45739.html*. The remittance should be payable to Register of Copyrights.

5 Send the completed statement of account and one legible copy of the statement of account to:

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400

For courier deliveries, see *www.copyright.gov/mail.html* for updated information.

Note: Please **DO NOT** send pages consisting solely of instructions.

6 The Copyright Office will retain your statement of account and make it a part of our public records. You should, therefore, keep a copy of the entire statement, as filed, in case you need it for future reference.

Note: For detailed instructions concerning electronic payments, contact the Licensing Division for Circular 74, which is also available at *www.copyright.gov/circs/circ74*.

HOW THE STATUTORY LICENSE WORKS

In general, having a statutory license means that a cable system can retransmit broadcast programming without violating the copyright law, as long as it complies with certain paperwork requirements and, twice a year, deposits a royalty fee with the Copyright Office.

- The cable system can, without negotiated licenses or advance permission from copyright owners, retransmit the signals of any U.S. television or radio station that it is authorized to carry under FCC rules, regulations, or authorizations (plus Mexican or Canadian stations in certain cases); and
- The cable system must file statements of account with the Copyright Office and must also deposit a semiannual royalty. The amount of the royalty, which is established under a statutory formula, depends on the total of the system's gross receipts for secondary transmission service.
- Every six months, the cable system must send the Copyright Office a statement of account on this form, SA1-2 (Short Form), or on SA3 (Long Form) (if the gross receipts are $527,600 or more).
- Each semiannual statement of account must be accompanied by the deposit of a royalty fee covering retransmissions during the preceding six months in the form of an electronic payment payable to *Register of Copyrights*.

Why Having a Statutory License Is Important

Most television and radio broadcasts contain copyrighted material. Without a statutory license, a cable system would either have to negotiate licenses for all copyrighted programming it transmits or run the risk of substantial civil (or, in some cases, criminal) liability for multiple acts of copyright infringement.

Who Can Utilize the Statutory License

Under the statute and Copyright Office regulations, retransmissions are subject to statutory licensing only if they are made by cable systems.

Cable system. A "cable system" is defined as "a facility, located in any State, territory, trust territory, or possession of the United States, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, microwave, or other communications channels to subscribing members of the public who pay for such service." A system that meets this definition is considered a cable system for copyright purposes, even if the FCC excludes it from being considered a cable system because of the number or nature of its subscribers or the nature of its secondary transmissions.

Individual cable system. An individual cable system is defined generally as "each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission." In addition, two or more cable facilities are considered as one individual cable system if either: (A) the facilities are in contiguous communities and are under common ownership or control; or (B) the facilities operate from one headend. Thus, even if they are owned by different entities, two cable facilities will be considered as one individual cable system if they share a common headend.

WHAT A STATUTORY LICENSE DOES NOT PERMIT YOU TO DO

The statutory authority given to cable systems to retransmit television and radio broadcasts under a statutory license is limited in several ways:

- **Originations.** To repeat: a cable system's statutory license extends only to secondary transmissions (retransmissions). It does not permit the system to make any originations of copyrighted material without a negotiated license covering that material.
- **Nonsimultaneous Retransmissions.** In general, to be subject to statutory licensing under the copyright law, a cable retransmission must be simultaneous with the broadcast being carried. As a rule, taping or other recording of the program is not permitted. Taping for delayed transmission is permissible only for some (not all) cable systems located outside the 48 contiguous states; and, even in these exceptional cases, there are further limitations and conditions that the cable system must meet.
- **FCC Violations.** The broadcast signals that a cable system can carry under a statutory license are limited to those that it is permitted to carry under FCC rules, regulations,

and authorizations. If signal carriage is in violation of FCC requirements, the cable system may be subject under the Copyright Act to a separate action for copyright infringement for each unauthorized retransmission.

- **Foreign Signals.** In general, the copyright law does not permit a cable system to retransmit signals of foreign television and radio stations under a statutory license. The only exceptions have to do with the signals of certain Mexican and Canadian stations. Unless foreign signals fall within these exceptions, their carriage would not be authorized under a statutory license, even if permissible under FCC rules.
- **Program Alteration or Commercial Substitution.** Cable systems are not permitted to alter the content of retransmitted programs, or to change, delete, or substitute commercials or station announcements in or adjacent to programs being carried. There is only one exception: under certain circumstances, substitutions involving commercial advertising market research may be permitted.

Accounting Periods

The statute establishes two six-month accounting periods for purposes of computing the royalty fee and reporting the information called for in the statement of account. The first semiannual period runs from January through June, and the second from July through December, of each calendar year. You must use these accounting periods whether or not they coincide with the beginning or ending of your cable system's fiscal year.

Filing Dates

Cable systems are given 60 days after the close of each accounting period in which to file their statements of account, filing and royalty fees. The following are the two filing dates you must observe each year:

- For the January–June accounting period: *File between July 1 and August 29, inclusive;*
- For the July–December accounting period: *File between January 1 and March 1, inclusive.*

Note: If August 29 or March 1 falls on a weekend or federal holiday, statements of account and royalty fees may be made on the next succeeding business day.

Statements of account, royalty and filing fees received before the end of the accounting period will not be accepted. Statements and fees received after the August 29 or March 1 deadlines will be accepted for whatever legal effect they may have, if any. The Copyright Office takes no position as to what this effect will be, and a cable system that files late runs a substantial risk.

Refunds

Refund requests must be received within 60 days after the close of the filing period (by April 30 or October 28). Also, refund requests for late and amended payments must be received before the expiration of 60 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request. The Debt Collection Improvement Act of 1996 requires that refunds be made through electronic funds transfer (EFT). **Note:** Late payments are subject to interest assessment. See page (vii) of the general instructions. Contact the Licensing Division for additional information.

How Royalty Fees Are Handled

For purposes of computing the semiannual royalty fee a cable system must pay, the statute creates three brackets, depending upon the system's gross receipts from subscribers for secondary transmissions during the accounting period:

1. **Gross receipts of $137,100 or less:** royalty fee of $52;
2. **Gross receipts of more than $137,100 and less than $527,600:** royalty fee determined by a formula based on percentage of gross receipts;
3. **Gross receipts of $527,600 or more:** royalty fee determined by a formula based on percentage of gross receipts and on the number of distant stations carried by the system.

A cable system is required to deposit its semiannual royalty fee with the Copyright Office at the time it files each statement of account. The royalty must be made by electronic payment, and the related statement of account must be filed by the appropriate deadline accompanied with a cover letter (see circulars 74a, 74b, and 74c).The Copyright Office transfers these fees into a special fund, which is later distributed to copyright owners as payment for the use of their works by cable systems.

PURPOSES OF THE STATEMENT OF ACCOUNT

The law requires a cable system to file statements of account for two purposes:

- To show the basis for the semiannual royalty fee the cable system owes under its statutory license; and
- To give the information needed to allocate royalty fees among copyright owners.

Thus, some of the information you give on your statement of account has nothing to do with computing your gross receipts or deciding the amount of your royalty fee. Nevertheless, you are required to give the additional information in order to provide the basis for the second phase of the statutory license: the distribution of fees to copyright owners.

SOME POINTS TO REMEMBER ABOUT STATUTORY LICENSES:

- As long as a cable system keeps its statutory license in force by complying with the requirements of the new copyright law, it is not obliged to negotiate individual copyright licenses for retransmission of television and radio broadcasts.
- The following are among the various ways a cable system can lose its statutory license: by failing to file the statements of account or royalty fees; by taping for delayed retransmission; by carrying signals in violation of FCC requirements; by carriage of certain foreign stations; and by altering programs or substituting commercials.
- Without a statutory license, a cable system can be sued by a copyright owner for the full range of civil remedies for copyright infringement, including injunctions, actual damages and profits, or statutory damages (of up to $150,000 in cases of willful infringement). The statute also provides for criminal penalties in cases of willful infringements for commercial purposes.

WHAT FACTS THE STATEMENT OF ACCOUNT SHOULD COVER

All of the information you give in a statement of account must be an accurate presentation of the facts existing during the accounting period covered by that statement (or, in certain cases, on the last day of that period).

- **Spaces D, G, H, and I.** List all areas served, stations carried, and certain substitute programs carried at any time during the accounting period.
- **Spaces K and M.** You should report the total of gross receipts attributable to the particular accounting period in space K. The figures requested in space M should be the appropriate totals of channels for the entire period.
- **Space J.** This space (part-time carriage log) has been deleted.
- **Spaces B, C, E, and F.** Even if items of information concerning the owner, system, subscribers, or rates have changed during the accounting period, your statement of account does not need to reflect the change. Give only the facts existing on the last day of the accounting period. If there were different owners during the accounting period, only the owner on the last day of the accounting period should submit a single statement of account and royalty fee payment covering the entire accounting period.

SPACE G (Primary Transmitters: Television)

Stations Actually Carried. Make sure that space G lists all the television stations your system actually carried at any time during the accounting period (except as explained in space G of the form). Do not list stations that were not in fact carried during that period, even if the FCC has authorized their carriage, and even if they were carried during earlier accounting periods.

Low Power Television Stations. The Copyright Act in section 111(f) delineates the local status of a low power television station as follows: "In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the 'local service area of a primary transmitter' comprises the area within 35 miles of the transmitter site, except that in the case of such a station located in a standard metropolitan statistical area which has one of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20 miles." This means that a low power television station carried by a cable system within an area as defined above will be considered "local."

Translator Stations. Translator stations must be listed. For copyright purposes, a translator station is a primary transmitter not only of any programs it originally transmits but also of all the programming it receives from its parent station and retransmits. Thus, if your cable system carried signals emanating from a translator station, you must list the translator station in space G. And, if your system separately carried signals from both a translator station and its parent station, both the translator and the parent station should be identified.

- **Type of Translator Station.** Note that for any translator station listed in space G, the type of station indicated in column 3 should be that of the parent station.

Multicast stream. A multicast stream is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

Simulcast. A simulcast is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

Definitions of Types of Stations. Under the Copyright Act, the terms used in connection with column 3 of space G mean the following:

- **Network station.** A *primary stream* of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

  The term network station also applies to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that is owned or operated by, or affiliated with, one or more of the television networks described above and offers programming on a regular

basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more states.

- **Independent station.** A primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station. For purposes of determining a station's type-value this category includes all specialty, Canadian and Mexican stations.
- **Noncommercial educational station.** A primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station; which is owned and operated by a public agency or nonprofit private foundation, corporation or association; or owned an operated by a municipality and which transmits only noncommercial programs for education purposes.

SPACE H (Primary Transmitters: Radio)

All-Band Carriage. If your system carried FM radio stations on an all-band basis, you are not required to list every station that subscribers might possibly have received during the accounting period. Instead, Copyright Office regulations require you to monitor your FM transmission service at your system's headend from time to time during the accounting period and to report the generally receivable FM stations identified as a result of your monitoring.

Stations Generally Receivable. There are two standards for determining whether an FM station is generally receivable:

1 Is the station usually carried whenever it is received at your system's headend; and

2 Can the station be expected to be received at the headend, with your system's FM antenna, at least three consecutive hours each day at the same time each day, five or more days a week, for four or more weeks during any calendar quarter, with a strength of not less than 50 microvolts per meter measured at the foot of the tower or pole to which the antenna is attached?

The monitoring arrangements you set up should be aimed at determining what stations can reasonably be expected to meet these standards.

Monitoring Activities. It is not necessary to monitor continuously throughout the accounting period, and you are not required to make precise measurements to determine which stations in fact meet the technical standards and which do not. Your monitoring activities should take place periodically at your headend during the accounting period and you should use a good FM receiver.

SPACE I (Substitute Carriage: Special Statement and Program Log)

Substitute Programs Must Be Logged and Reported. The Copyright Act requires all cable systems to submit, with their statement of account, logs showing the times, dates, stations, and programs involved in any nonnetwork television programming that was carried in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the FCC permitting the substitution or addition of signals under certain circumstances. The applicable present and former rules and regulations are identified in item 3, which follows.

What Programs Must Be Listed. You must list a program in space I if all three of the following conditions apply:

1 **The program is a nonnetwork television program.** A "nonnetwork television program" is a program that was not being broadcast by a station as part of a network television broadcast at the time the cable system carried it.

2 **The program is picked up from a distant station.** A "distant station" is a television station carried by a cable system in whole or in part beyond that station's local service area. A television station's local service area is the area within which the station is entitled to insist upon its signal being retransmitted by a cable system pursuant to rules, regulations, and authorizations of the FCC in effect on April 15, 1976. Effective on July 1, 1994, a station's local service area also includes the station's television market as defined in section 76.55(e) of title 47, *Code of Federal Regulations* (as in effect on September 18, 1993), or any modifications to such television market made on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the *Code of Federal Regulations*.

3 **The program was carried by the cable system in substitution for another program under FCC rules, regulations, or authorizations.**

- Where FCC rules and regulations in effect on the date of carriage require the deletion of certain programming of one station and permit substitution of programming from another distant station. That is, if a cable system is required to delete a station because of the FCC sports exclusivity rules.
- Where the FCC rules, regulations and authorizations in effect on October 19, 1976, permit a cable system at its option, to delete programming, and authorize the system to substitute programming from another distant station. That is, if the cable system elects to delete a distant station while that station is broadcasting a program primarily of local interest to the distant community, for copyright purposes former FCC rules sections 76.61(b)(2) and 76.63 (incorporating 76.61(b)(2)) continue to authorize the station to substitute the programming of any other distant station.

NOTES

1 The provisions of the Copyright Act dealing with voluntary deletion and substitution of programs are limited to programs substituted under FCC rules, regulations, and authorizations *in effect on October 19, 1976*.

2 Effective January 1, 1990, the FCC amended Parts 73 and 76 of its rules relating to program exclusivity in the cable and broadcast industries.

SPACE K (Gross Receipts)

What Are Gross Receipts? The gross receipts you enter in space K are the receipts for the basic service of providing secondary transmissions of primary broadcast transmitters. *They include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services that include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees.* All such gross receipts shall be aggregated and the royalty fee calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection or reconnection) fees; separate charges for security, alarm, or facsimile services; charges for late payments; or charges for pay cable or other program origination services provided that the origination services are not offered in combination with secondary transmission service for a single fee.

SATELLITE CARRIER GROSS RECEIPTS EXCLUSION

- The Satellite Home Viewer Act of 1988, Public Law 100-667, as amended by Public Law 103-369, Public Law 106-113, Public Law 108-447, and Public Law 111-175, establishes a statutory license for certain secondary transmissions made by satellite carriers to satellite dish owners. Satellite carriers are subject to copyright liability for their use of copyrighted material when they make secondary "transmissions" (retransmissions of television broadcasts) to satellite dish owners and they make a direct or indirect charge for that service. Satellite carrier retransmissions of the copyrighted programming embodied in the signals of non-network or network stations are eligible under an operational system of statutory licensing that is established in section 119 of the Copyright Act.
- *A satellite carrier* is defined in the Satellite Home Viewer Extension and Reauthorization Act of 2004 as "an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the *Code of Federal Regulations* or the Direct Broadcast Satellite Service under part 100 of title 47 of the *Code of Federal Regulations*, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing pursuant to Section 119."
- As provided in the Satellite Home Viewer Act [amendment of section 111(d)(1)(A)], any amounts collected by a cable system/distributor from subscribers should be excluded from the cable system's determination of gross receipts received for the basic service of providing secondary transmissions of primary broadcast transmitters pursuant to the cable statutory license, section 111 (c) to (f). This provision contemplates the situation where the same entity may be offering both satellite and cable distribution of secondary transmissions of primary broadcast transmitters.
- If a cable system offers both satellite and cable services to satellite dish owners, then it may exclude those amounts attributed to the satellite service under section 119 of the act. Such a system should declare on page 8 the amount of gross receipts that are excluded for this service and list the name and address of each satellite carrier in which the system has contracted as a distributor or agent to market the carrier's retransmissions service. The system should also maintain separate records of the subscriber fees received for satellite carrier retransmissions.

Accrual Basis. If your revenue accounts are kept on an accrual basis, the figure you give in space K should be the total of all gross receipts for secondary transmission service accrued for the accounting period. Subtract bad debts actually written off during the period and add previously written-off debts that were actually recovered during the period. (However, do not make adjustments for bad debts for secondary transmission service furnished before January 1, 1978.)

Cash Basis. If your revenue accounts are kept on a cash basis, your gross receipts are all amounts actually received during the accounting period for secondary transmission service.

SPACE L (COPYRIGHT ROYALTY AND FILING FEES)

Statutory Formulas for Computing the Royalty and Filing Fees

For cable systems whose semiannual gross receipts are under $527,600, the method of calculating the royalty fee depends on the amount of gross receipts reported in space K.

Gross receipts of $137,100 or less. If the figure you give in space K is $137,100 or less, your royalty fee has been calculated for you in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act as adjusted. The amount is $52 and the filing fee is $15. Do not use blocks 2 and 3.

Gross receipts of more than $137,100 but less than or equal to $263,800. If the figure you give in space K is more than $137,100 but less than or equal to $263,800, your royalty fee must be calculated in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act, as adjusted. Follow the step-by-step calculations in block 2 of space L and add the $20 filing fee. Do not use blocks

1 and 3.

Gross receipts of more than $263,800 but less than $527,600. If your gross receipts figure in space K is more than $263,800 but less than $527,600, you must use the formula set out in section 111(d)(2)(D) of the Copyright Act, as adjusted. Follow the step-by-step calculations in block 3 of space L and add the $20 filing fee. Do not use blocks 1 and 2.

Interest Charges for Underpayments and Late Payments

Underpayments or late payments received after the filing deadline shall be subject to an interest assessment. Cable systems must calculate their own interest charge. (A worksheet is provided at space Q, page 8.) The interest rate set for a specific accounting period is the U.S. Treasury Current Value of Funds Rate in effect on the first business day after the close of the filing deadline for that accounting period. Cable systems can obtain the interest rate for the applicable accounting period(s) by calling the Licensing Division at (202) 707-8150, or by clicking on to *www.copyright.gov/licensing/interest-rate.pdf.*

For underpayments and late payments, the interest shall begin to accrue on the first day after the close of the filing date for that accounting period. The accrual period ends on the date that the remittance is received in the Copyright Office. Note: The Office shall not require, nor notify a cable system of, an interest charge of $5.00 or less.

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400

Official Business

Penalty for Private Use $300
Forwarding Service Requested

OFFICIAL BUSINESS
UNITED STATES COPYRIGHT OFFICE
STATEMENT OF ACCOUNT
SA1-2 (SHORT FORM)

SPECIAL NOTICE ABOUT THIS STATEMENT OF ACCOUNT

IMPORTANT

Filing Fees
Effective January 1, 2014, pursuant to the Satellite Television Extension and Localism Act of 2010 (STELA), which granted authority to the Copyright Office to establish fees for the filing of statements of account (SOAs) under the section 111, 119, and 122 statutory licenses, the Office now assesses filing fees for *all* SOAs for current, past, and future accounting periods. For details, see the *Federal Register*, November 29, 2013 (78 FR 71498 *http://www.copyright.gov/fedreg/2013/78fr71498.pdf*). Please be advised that the filing fee is deducted *before* the royalty payment is credited; thus the omission of the appropriate filing fee will result in an underpayment of royalty fees. Please remit the royalty fee and filing fee in one EFT payment. (SOA1 filing fee: $15; SOA2 filing fee: $20).

Multicast versus Simulcast
Multicast is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream. *Simulcast* is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

Photocopy Required
A legible copy of the semiannual statement of account must be submitted together with the original statement of account to the Copyright Office.

Fillable SOAs Available Online
Access the fill-in statement of account form at *www.copyright.gov/forms/SA1-2c-2011.pdf.* Complete it on a personal computer and print it out. Or print out the form and complete it by hand in dark ink. Give all the required information.

Electronic Payment of Royalty and Filing Fees Required
Detailed instructions for making royalty payments via electronic funds transfer (EFT) are contained in circulars 74A, 74B, and 74C, which are available at *www.copyright.gov/circs/circ74* or by contacting the Licensing Division (8:30 AM and 5:00 PM eastern time) by phone at (202) 707-8150, fax at (202) 707-0905, or email at *licfiscal@loc.gov*. The remittance, which must include the appropriate filing fee, must be made payable to *Register of Copyrights*.

Remittance Advice Required
Federal regulations [37 C.F.R. sec. 201.17 (k)] require that a remittance advice be attached to statement(s) of account. A copy of the remittance advice must be sent by email or fax to the Licensing Division. The Office uses this remittance information to ensure the funds received by EFT are correctly allocated to each statement of account. Access a remittance advice form at *www.copyright.gov/licensing/remittance-advice.pdf*.

Ceased Operations Procedures
If your cable system completely shut down operations during the accounting period, report the facts as they existed on the last day of operations and submit the SOA with the associated royalty and filing fee payments and a cover letter informing the Licensing Division of ceased operations. If your cable system had no subscribers or gross receipts during the entire accounting period, do not submit the SOA or any fees. You do not need to notify us in this case.

Important: Review Filings
Please review all elements of your filing(s) before submitting them. Filing properly, including an accurate advice, facilitates processing of your statement(s) of account and payments, minimizes the need for us to contact you with questions, and reduces administrative and other costs.

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400
Tel: (202) 707-8150 (8:30 AM–5:00 PM, eastern time) Fax: (202) 707-0905
Email: *licensing@loc.gov* or Web: *www.copyright.gov/licensing*

THIS FORM IS EFFECTIVE FOR ACCOUNTING PERIODS BEGINNING JANUARY 1, 2011
If you are filing for a prior accounting period, contact the Licensing Division for the correct form.

SA1-2
Short Form

STATEMENT OF ACCOUNT

for Secondary Transmissions by Cable Systems (Short Form)

General instructions are at the end of this form [pages (i)–(vii)].

FOR COPYRIGHT OFFICE USE ONLY	
DATE RECEIVED	AMOUNT
	$
	ALLOCATION NUMBER

Return to:
Library of Congress
Copyright Office
Licensing Division
101 Independence Ave. SE
Washington, DC 20557-6400
(202)707-8150

For courier deliveries, see page ii of the general instructions.

A Accounting Period

ACCOUNTING PERIOD COVERED BY THIS STATEMENT: (Check one of the boxes and fill in the year date.)

☐ January 1–June 30 ..... (Year)

☒ July 1–December 31 .2014..... (Year)

B Owner

INSTRUCTIONS:
Give the full legal name of the owner of the cable system in line 1. If the owner is a subsidiary of another corporation, give the full corporate title of the subsidiary, not that of the parent corporation.
In line 2, list any other names under which the owner conducts the business of the cable system.
If there were different owners during the accounting period, only the owner on the last day of the accounting period should submit a single statement of account and royalty fee payment covering the entire accounting period.

☒ Check here if this is the system's first filing. If not, enter the system's ID number assigned by the Licensing Division. _____

1 **LEGAL NAME OF OWNER OF CABLE SYSTEM:**
HControl Holdings LLC

2 **BUSINESS NAME(S) OF OWNER OF CABLE SYSTEM (IF DIFFERENT):**

3 **MAILING ADDRESS OF OWNER OF CABLE SYSTEM:**
1360 South Dixie Highway Suite 200
(Number, street, rural route, apartment, or suite number)
Coral Gables, Florida 33146
(City, town, state, zip)

C System

Instructions: In line 1, give any business or trade names used to identify the business and operation of the system unless these names already appear in space B. In line 2, give the mailing address of the system, if different from the address given in space B.

1 **IDENTIFICATION OF CABLE SYSTEM:**
Optical Telecommunications Inc.

2 **MAILING ADDRESS OF CABLE SYSTEM:**
1360 South Dixie Highway Suite 200
(Number, street, rural route, apartment, or suite number)
Coral Gables, Florida 33146
(City, town, state, zip)

D Area Served

Instructions: List each separate community served by the cable system. A "community" is the same as a "community unit" as defined in FCC rules: "a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas)." 47 C.F.R. §76.5(dd). The first community that you list will serve as a form of system identification hereafter known as the "first community." Please use it as the *first community* on *all future filings*.

Note: Entities and properties such as hotels, apartments, condominiums, or mobile home parks should be reported in parentheses below the identified city.

	CITY OR TOWN	STATE	CITY OR TOWN	STATE
First ▶ Community	Naples (Glades Country Club)	Florida		

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

PAGE 1b continued.

LEGAL NAME OF OWNER OF CABLE SYSTEM: HControl Holdings LLC		Name
CITY OR TOWN	STATE	**D** Area Served ◀ First Community

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: HControl Holdings LLC

E

Secondary Transmission Service: Subscribers and Rates

SECONDARY TRANSMISSION SERVICE: SUBSCRIBERS AND RATES

In General: The information in space E should cover all categories of secondary transmission service of the cable system, that is, the retransmission of television and radio broadcasts by your system to subscribers. Give information about other services (including pay cable) in space F, not here. All the facts you state must be those existing on the last day of the accounting period (June 30 or December 31, as the case may be).

Number of Subscribers: Both blocks in space E call for the number of subscribers to the cable system, broken down by categories of secondary transmission service. In general, you can compute the number of subscribers in each category by counting the number of billings in that category (the number of persons or organizations charged separately for the particular service at the rate indicated—not the number of sets receiving service).

Rate: Give the standard rate charged for each category of service. Include both the amount of the charge and the unit in which it is generally billed. (Example: "$20/mth"). Summarize any standard rate variations within a particular rate category, but do not include discounts allowed for advance payment.

Block 1: In the left-hand block in space E, the form lists the categories of secondary transmission service that cable systems most commonly provide to their subscribers. Give the number of subscribers and rate for each listed category that applies to your system. **Note:** Where an individual or organization is receiving service that falls under different categories, that person or entity should be counted as a subscriber in each applicable category. Example: a residential subscriber who pays extra for cable service to additional sets would be included in the count under "Service to the first set," and would be counted once again under "Service to additional set(s)."

Block 2: If your cable system has rate categories for secondary transmission service that are different from those printed in block 1, (for example, tiers of services that include one or more secondary transmissions), list them, together with the number of subscribers and rates, in the right-hand block. A two- or three-word description of the service is sufficient.

BLOCK 1			BLOCK 2		
CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE	CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE
Residential:					
• Service to first set	1,300	$29.52			
• Service to additional set(s)	0				
• FM radio (if separate rate)	0				
Motel, hotel	0				
Commercial	0				
Converter	0				
• Residential	0				
• Nonresidential	0				

F

Services Other Than Secondary Transmissions: Rates

SERVICES OTHER THAN SECONDARY TRANSMISSIONS: RATES

In General: Space F calls for rate (not subscriber) information with respect to all your cable system's services that were not covered in space E, that is, those services that are not offered in combination with any secondary transmission service for a single fee. There are two exceptions: you do not need to give rate information concerning (1) services furnished at cost or (2) services or facilities furnished to nonsubscribers. Rate information should include both the amount of the charge and the unit in which it is usually billed. If any rates are charged on a variable per-program basis, enter only the letters "PP" in the rate column.

Block 1: Give the standard rate charged by the cable system for each of the applicable services listed.

Block 2: List any services that your cable system furnished or offered during the accounting period that were not listed in block 1 and for which a separate charge was made or established. List these other services in the form of a brief (two- or three-word) description and include the rate for each.

BLOCK 1				BLOCK 2	
CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE
Continuing Services:		**Installation: Non-residential**			
• Pay cable		• Motel, hotel			
• Pay cable–add'l channel		• Commercial			
• Fire protection		• Pay cable			
• Burglar protection		• Pay cable–add'l channel			
Installation: Residential		• Fire protection			
• First set		• Burglar protection			
• Additional set(s)		**Other Services:**			
• FM radio (if separate rate)		• Reconnect	$30.00		
• Converter		• Disconnect			
		• Outlet relocation	$35.00		
		• Move to new address			

LEGAL NAME OF OWNER OF CABLE SYSTEM:
HControl Holdings LLC

Name

PRIMARY TRANSMITTERS: TELEVISION

In General: In space G, identify every television station (including translator stations and low power television stations) carried by your cable system during the accounting period, *except* (1) stations carried only on a part-time basis under FCC rules and regulations in effect on June 24, 1981, permitting the carriage of certain network programs [sections 76.59(d)(2) and (4), 76.61(e)(2) and (4), or 76.63 (referring to 76.61(e)(2) and (4))]; and (2) certain stations carried on a substitute program basis, as explained in the next paragraph.

Substitute Basis Stations: With respect to any distant stations carried by your cable system on a substitute program basis under specific FCC rules, regulations, or authorizations:

- Do *not* list the station here in space G—but do list it in space I (the Special Statement Program Log)—if the station was carried *only* on a substitute basis.
- List the station here, and also in space I, if the station was carried both on a substitute basis and also on some other basis. For further information concerning substitute basis stations, see page (v) of the general instructions.

Column 1: List each station's call sign. *Do not* report origination program services such as HBO, ESPN, etc. Identify each multicast stream associated with a station according to its over-the-air designation. For example, report multicast stream "WETA-2" as the same on the form. Simulcast stations must be reported in column 1 (list each station separately; for example, WETA-2-simulcast).

Column 2: Give the channel number the FCC assigned to the television station for broadcasting over the air in its community of license. For example, WRC is channel 4 in Washington, D.C.

Column 3: Indicate in each case whether the station is a network station, an independent station, or a noncommercial educational station, by entering the letter "N" (for network), "N-M" (for network multicast), "I" (for independent), "I-M" (for independent multicast), "E" (for noncommercial educational), or "E-M" (for noncommercial educational multicast). For the meaning of these terms, see page (iv) of the general instructions.

Column 4: Give the location of each station. For U.S. stations, list the community to which the station is licensed by the FCC. For Mexican or Canadian stations, if any, give the name of the community with which the station is identified.

G

Primary Transmitters: Television

1. CALL SIGN	2. B'CAST CHANNEL NUMBER	3. TYPE OF STATION	4. LOCATION OF STATION
WZVN	26	N	Naples Florida
WANA-LP	14	I	Naples Florida
WINK	11	N	Naples Florida
WXCW	46	I	Naples Florida
WFTX	36	I	Naples Florida
WRXY	49	I	Naples Florida
WBBH	20	N	Naples Florida
WGCU	30	E	Naples Florida
WWDT-CD	43	I	Naples Florida
WLZE-LD	51	I	Naples Florida

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: HControl Holdings LLC

H

Primary Transmitters: Radio

PRIMARY TRANSMITTERS: RADIO

In General: List every radio station carried on a separate and discrete basis and list those FM stations carried on an all-band basis whose signals were generally receivable by your cable system during the accounting period.

Special Instructions Concerning All-Band FM Carriage: Under Copyright Office regulations, an FM signal is generally receivable if (1) it is carried by the system whenever it is received at the system's headend; and (2) it can be *expected*, on the basis of monitoring, to be received at the headend, with the system's FM antenna, during certain stated intervals. For detailed information about the the Copyright Office regulations on this point, see page (iv) of the general instructions.

Column 1: Identify the call sign of each station carried.

Column 2: State whether the station is AM or FM.

Column 3: If the radio station's signal was electronically processed by the cable system as a separate and discrete signal, indicate this by placing a check mark in the "S/D" column.

Column 4: Give the station's location (the community to which the station is licensed by the FCC or, in the case of Mexican or Canadian stations, if any, the community with which the station is identified).

CALL SIGN	AM or FM	S/D	LOCATION OF STATION	CALL SIGN	AM or FM	S/D	LOCATION OF STATION

LEGAL NAME OF OWNER OF CABLE SYSTEM:
HControl Holdings LLC

Name

I

Substitute Carriage: Special Statement and Program Log

SUBSTITUTE CARRIAGE: SPECIAL STATEMENT AND PROGRAM LOG

In General: In space I, identify *every nonnetwork television program*, broadcast by a *distant* station, that your cable system carried on a *substitute basis* during the accounting period, under specific present and former FCC rules, regulations, or authorizations. For a further explanation of the programming that must be included in this log, see page (v) of the general instructions.

1. SPECIAL STATEMENT CONCERNING SUBSTITUTE CARRIAGE

- During the accounting period, did your cable system carry, on a substitute basis, any nonnetwork television program broadcast by a distant station? ☐ Yes ☒ No

Note: If your answer is "No," leave the rest of this page blank. If your answer is "Yes," you must complete the program log in block 2.

2. LOG OF SUBSTITUTE PROGRAMS

In General: List each substitute program on a separate line. Use abbreviations wherever possible, if their meaning is clear. If you need more space, please attach additional pages.

Column 1: Give the title of every nonnetwork television program ("substitute program") that, during the accounting period, was broadcast by a distant station and that your cable system substituted for the programming of another station under certain FCC rules, regulations, or authorizations. See page (v) of the general instructions for further information. Do not use general categories like "movies" or "basketball." List specific program titles, for example, "I Love Lucy" or "NBA Basketball: 76ers vs. Bulls."

Column 2: If the program was broadcast live, enter "Yes". Otherwise, enter "No."

Column 3: Give the call sign of the station broadcasting the substitute program.

Column 4: Give the broadcast station's location (the community to which the station is licensed by the FCC or, in the case of Mexican or Canadian stations, if any, the community with which the station is identified).

Column 5: Give the month and day when your system carried the substitute program. Use numerals, with the month first. Example: for May 7, give "5/7."

Column 6: State the times when the substitute program was carried by your cable system. List the times accurately to the nearest five minutes. Example: a program carried by a system from 6:01:15 p.m. to 6:28:30 p.m. should be stated as "6:00–6:30 p.m."

Column 7: Enter the letter "R" if the listed program was substituted for programming that your system was *required* to delete under FCC rules and regulations in effect during the accounting period; enter the letter "P" if the listed program was substituted for programming that your system was permitted to delete under FCC rules and regulations in effect on October 19, 1976.

SUBSTITUTE PROGRAM				WHEN SUBSTITUTE CARRIAGE OCCURRED		7. REASON FOR DELETION
1. TITLE OF PROGRAM	2. LIVE? Yes or No	3. STATION'S CALL SIGN	4. STATION'S LOCATION	5. MONTH AND DAY	6. TIMES FROM — TO	
					—	
					—	
					—	
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Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: HControl Holdings LLC

K

Gross Receipts

GROSS RECEIPTS

Instructions: The figure you give in this space determines the form you file and the amount you pay. Enter the total of all amounts (gross receipts) paid to your cable system by subscribers for the system's secondary transmission service (as identified in space E) during the accounting period. For a further explanation of how to compute this amount, see page (vi) of the general instructions.

- Gross receipts from subscribers for secondary transmission service(s) during the accounting period. ▶ $ 230,256.00 (Amount of gross receipts)

IMPORTANT: You must complete a statement in space P concerning gross receipts.

L

Copyright Royalty Fee

COPYRIGHT ROYALTY AND FILING FEES

Instructions: To compute the royalty fee you owe:

- Complete block 1, block 2, *or* block 3
- Use block 1 if the amount of gross receipts in space K is $137,100 or less
- Use block 2 if the amount of gross receipts in space K is more than $137,100 but less than or equal to $263,800
- Use block 3 if the amount of gross receipts in space K is more than $263,800 but less than $527,600

See page (vi) of the general instructions for more information.

BLOCK 1: GROSS RECEIPTS OF $137,100 OR LESS

Instructions: As a cable system with gross receipts of $137,100 or less, the royalty fee that you must pay for this six-month accounting period is $52.00

Line 1. Royalty fee for accounting period ..... $ 52.00

Line 2. Interest charge. Enter the amount from line 4, space Q, page 8 ..... $

Line 3. Filing Fee ..... $ 15.00

Line 4. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.**
Add lines 1, 2 and 3 ..... $

BLOCK 2: GROSS RECEIPTS OF $263,800 OR LESS (but more than $137,100)

1. Base amount under statutory formula ..... ▶ $263,800
2. Enter amount of gross receipts from space K ..... ▶ $ $230,256.00
3. Subtract line 2 from line 1 ..... ▶ $ $33,544.00
4. Enter the amount of gross receipts from space K ..... ▶ $ $230,256.00
5. Enter the amount from line 3 ..... ▶ $ $33,544.00
6. Subtract line 5 from line 4 ..... ▶ $ $196,712.00
7. Multiply line 6 by .005 (enter figure here) ..... ▶ $ 983.56
8. Interest charge. Enter the amount from line 4, space Q, page 8 ..... ▶ $ 1.97
9. Filing Fee ..... ▶ $ 20.00
10. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.**
Add lines 7, 8 and 9 ..... ▶ $ 1,005.53

BLOCK 3: GROSS RECEIPTS OF MORE THAN $263,800 (but less than $527,600)

1. Enter the amount of gross receipts from space K ..... ▶ $
2. Base amount under statutory formula ..... ▶ $ 263,800
3. Subtract line 2 from line 1 ..... ▶ $
4. Multiply line 3 by .01 ..... ▶ $
5. Royalty due on the first $263,800 of gross receipts (under statutory formula) ..... ▶ $ $ 1,319
6. Interest Charge. Enter the amount from line 4, space Q, page 8 ..... ▶ $
7. Filing Fee ..... ▶ $ 20.00
8. **TOTAL ROYALTY AND FILING FEES PAYABLE FOR ACCOUNTING PERIOD.**
Add lines 4, 5, 6 and 7 ..... ▶ $

IMPORTANT: Your remittance must be in the form of an *electronic payment* payable to *Register of Copyrights*. See page I of the general instructions for more information.

LEGAL NAME OF OWNER OF CABLE SYSTEM:
HControl Holdings LLC

Name

CHANNELS

Instructions: You must give (1) the number of channels on which the cable system carried television broadcast stations to its subscribers, and (2) the cable system's total number of activated channels during the accounting period.

M

Channels

1. Enter the total number of channels on which the cable system carried television broadcast stations. 10
2. Enter the total number of activated channels on which the cable system carried television broadcast stations and nonbroadcast services. 80

INDIVIDUAL TO BE CONTACTED IF FURTHER INFORMATION IS NEEDED

(Identify an individual we can contact about this statement of account.)

N

Individual to Be Contacted for Further Information

Name Mario M. Bustamante ..... Telephone 786-787-7777 (Area code)

Address 1360 South Dixie Highway Suite 200 (Number, street, rural route, apartment, or suite number)

Coral Gables, FL 33146 (City, town, state, zip)

Email (optional) Mario@OpticalTel.com ..... Fax (optional) 786-888-7778

CERTIFICATION

(This statement of account must be certified and signed in accordance with Copyright Office regulations, as explained in the general instructions.)

O

Certification

- I, the undersigned, hereby certify that (Check one, *but only one*, of the boxes.)

☐ **(Owner other than corporation or partnership)** I am the owner of the cable system as identified in line 1 of space B; or

☐ **(Agent of owner other than corporation or partnership)** I am the duly authorized agent of the owner of the cable system as identified in line 1 of space B, and that the owner is not a corporation or partnership; or

☒ **(Officer or partner)** I am an officer (if a corporation) or a partner (if a partnership) of the legal entity identified as owner of the cable system in line 1 of space B.

- I have examined the statement of account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith. [See 18 U.S.C. sec.1001]

Handwritten signature: .....

Typed or printed name: Mario M. Bustamante

Title: CEO (Title of official position held in corporation or partnership)

Date: .....

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM: HControl Holdings LLC

P

Special Statement Concerning Gross Receipts Exclusions

SPECIAL STATEMENT CONCERNING GROSS RECEIPTS EXCLUSIONS

The Satellite Home Viewer Act of 1988 amended Title 17, section 111(d)(1)(A) of the Copyright Act by adding the following sentence:

"In determining the total number of subscribers and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, the system shall not include subscribers and amounts collected from subscribers receiving secondary transmissions pursuant to section 119."

For more information on when to exclude these amounts, see the note on page (vi) of the general instructions.

During the accounting period, did the cable system exclude any amounts of gross receipts for secondary transmissions made by satellite carriers to satellite dish owners?

☒ NO

☐ YES. Enter the total here and list the satellite carrier(s) below. ..... $ _____

Name	Name .....
Mailing address	Mailing address .....
.....	.....
.....	.....

Q

Interest Assessment

INTEREST ASSESSMENT

You must complete this worksheet for those royalty payments submitted as a result of a late payment or underpayment. For an explanation of interest assessment, see page (vii) of the general instructions.

Line 1. Enter the amount of late payment or underpayment ..... $ 983.56

x 1 %

Line 2. Multiply line 1 by the interest rate* and enter the sum here $9.84

x 73.00 days

Line 3. Multiply line 2 by the number of days late and enter the sum here $718.00

x .00274

Line 4, Multiply line 3 by .00274** and enter here and in space L (page 6) block 1, line 2, or block 2, line 8, or block 3, line 6 ..... $ 1.97

(interest charge)

* To view the interest rate chart click on *www.copyright.gov/licensing/interest-rate.pdf*. For further assistance please contact the Licensing Division at (202) 707-8150 or *licensing@loc.gov*.

**This is the decimal equivalent of 1/365, which is the interest assessment for one day late.

Note: If you are filing this worksheet covering a statement of account already submitted to the Copyright Office, please list below the owner, address, first community served, ID number, and accounting period as given in the original filing.

Owner .....

Address .....

.....

ID number .....

First community served .....

Accounting period .....

Privacy Act Notice: Section 111 of title 17 of the *United States Code* authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address, and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effect of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

IF YOU ARE FILING FOR A PRIOR ACCOUNTING PERIOD, CONTACT THE LICENSING DIVISION FOR THE CORRECT FORM.

USE THIS FORM WHEN:

- You are the owner (or represent the owner) of a cable system; and
- You are filing the semiannual statement of account required by the copyright law; and
- Your system's semiannual gross receipts for secondary transmissions (the figure you give in space K of the form) is *less than $527,600*; and
- You are also depositing the required semiannual royalty fee with the Licensing Division of the Copyright Office.

IF YOUR FIGURE FOR SEMIANNUAL GROSS RECEIPTS IN SPACE K IS $527,600 OR MORE, USE SA3 (LONG FORM)

GENERAL INSTRUCTIONS FOR SA1-2 (SHORT FORM)

CABLE SYSTEMS AND THE COPYRIGHT LAW (P.L. 94-553)

Cable systems are subject to copyright liability for their use of copyrighted material in secondary transmissions (the retransmission of television and radio broadcasts to subscribers). Cable retransmissions of copyrighted programming are subject to a system of statutory licensing. Among other things, this means that twice a year the owner of a cable system must send a statement of account, together with a royalty fee, to the Licensing Division of the Copyright Office.

TERMS

Primary stream. A primary stream is the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal. If there is no stream, then the primary stream is the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

Primary transmitter. A primary transmitter is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

Subscriber. The term subscriber means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

Subscribe. The term subscribe means to elect to become a subscriber.

In providing copyright liability for cable systems, the law draws a distinction between "primary transmissions" and "secondary transmissions":

- **Primary transmissions.** A primary transmission is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.
- **Secondary transmissions.** A secondary transmission is the basic service of retransmitting television and radio broadcasts to subscribers. The statute requires all U.S. cable systems, regardless of how many subscribers they have or whether they are carrying any distant signals, to pay some copyright royalties. However, instead of obliging cable systems to bargain individually for each copyrighted program they retransmit, the law offers them the opportunity of obtaining a statutory license for secondary transmissions.

Note: Secondary transmissions do not include transmissions originated by a cable system (including local origination cablecasting, pay cable, program services, background music services, and originations on leased or access channels). Cable systems must negotiate for the use of any copyrighted material in the programming they originate, and their originations are not subject to statutory licensing.

HOW TO FILE THE STATEMENT OF ACCOUNT ROYALTY AND FILING FEES

1 Study the general information on these pages and read through the detailed instructions in the statement of account form itself. Before you start completing the form, make sure that you have collected all the necessary information and that you are using the right form.

2 Fill out the statement of account form, giving all the required information about your cable system and about the television and radio stations carried by it. Print the information in black ink.

3 Certify the statement of account by signing at space O. The statement of account is not acceptable unless it bears the original handwritten signature of one of the persons indicated in space O as authorized to certify it under Copyright Office regulations.

4 Make an *electronic payment* (see note below) in the amount you have calculated in space L to cover the copyright

royalty and filing fees. See the *Federal Register*, August 10, 2006 (71 FR 45739) available at *www.copyright.gov/fedreg/2006/71fr45739.html*. The remittance should be payable to Register of Copyrights.

5 Send the completed statement of account and one legible copy of the statement of account to:

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400

For courier deliveries, see *www.copyright.gov/mail.html* for updated information.

Note: Please **DO NOT** send pages consisting solely of instructions.

6 The Copyright Office will retain your statement of account and make it a part of our public records. You should, therefore, keep a copy of the entire statement, as filed, in case you need it for future reference.

Note: For detailed instructions concerning electronic payments, contact the Licensing Division for Circular 74, which is also available at *www.copyright.gov/circs/circ74*.

HOW THE STATUTORY LICENSE WORKS

In general, having a statutory license means that a cable system can retransmit broadcast programming without violating the copyright law, as long as it complies with certain paperwork requirements and, twice a year, deposits a royalty fee with the Copyright Office.

- The cable system can, without negotiated licenses or advance permission from copyright owners, retransmit the signals of any U.S. television or radio station that it is authorized to carry under FCC rules, regulations, or authorizations (plus Mexican or Canadian stations in certain cases); and
- The cable system must file statements of account with the Copyright Office and must also deposit a semiannual royalty. The amount of the royalty, which is established under a statutory formula, depends on the total of the system's gross receipts for secondary transmission service.
- Every six months, the cable system must send the Copyright Office a statement of account on this form, SA1-2 (Short Form), or on SA3 (Long Form) (if the gross receipts are $527,600 or more).
- Each semiannual statement of account must be accompanied by the deposit of a royalty fee covering retransmissions during the preceding six months in the form of an electronic payment payable to *Register of Copyrights*.

Why Having a Statutory License Is Important

Most television and radio broadcasts contain copyrighted material. Without a statutory license, a cable system would either have to negotiate licenses for all copyrighted programming it transmits or run the risk of substantial civil (or, in some cases, criminal) liability for multiple acts of copyright infringement.

Who Can Utilize the Statutory License

Under the statute and Copyright Office regulations, retransmissions are subject to statutory licensing only if they are made by cable systems.

Cable system. A "cable system" is defined as "a facility, located in any State, territory, trust territory, or possession of the United States, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, microwave, or other communications channels to subscribing members of the public who pay for such service." A system that meets this definition is considered a cable system for copyright purposes, even if the FCC excludes it from being considered a cable system because of the number or nature of its subscribers or the nature of its secondary transmissions.

Individual cable system. An individual cable system is defined generally as "each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission." In addition, two or more cable facilities are considered as one individual cable system if either: (A) the facilities are in contiguous communities and are under common ownership or control; or (B) the facilities operate from one headend. Thus, even if they are owned by different entities, two cable facilities will be considered as one individual cable system if they share a common headend.

WHAT A STATUTORY LICENSE DOES NOT PERMIT YOU TO DO

The statutory authority given to cable systems to retransmit television and radio broadcasts under a statutory license is limited in several ways:

- **Originations.** To repeat: a cable system's statutory license extends only to secondary transmissions (retransmissions). It does not permit the system to make any originations of copyrighted material without a negotiated license covering that material.
- **Nonsimultaneous Retransmissions.** In general, to be subject to statutory licensing under the copyright law, a cable retransmission must be simultaneous with the broadcast being carried. As a rule, taping or other recording of the program is not permitted. Taping for delayed transmission is permissible only for some (not all) cable systems located outside the 48 contiguous states; and, even in these exceptional cases, there are further limitations and conditions that the cable system must meet.
- **FCC Violations.** The broadcast signals that a cable system can carry under a statutory license are limited to those that it is permitted to carry under FCC rules, regulations,

and authorizations. If signal carriage is in violation of FCC requirements, the cable system may be subject under the Copyright Act to a separate action for copyright infringement for each unauthorized retransmission.

- **Foreign Signals.** In general, the copyright law does not permit a cable system to retransmit signals of foreign television and radio stations under a statutory license. The only exceptions have to do with the signals of certain Mexican and Canadian stations. Unless foreign signals fall within these exceptions, their carriage would not be authorized under a statutory license, even if permissible under FCC rules.
- **Program Alteration or Commercial Substitution.** Cable systems are not permitted to alter the content of retransmitted programs, or to change, delete, or substitute commercials or station announcements in or adjacent to programs being carried. There is only one exception: under certain circumstances, substitutions involving commercial advertising market research may be permitted.

Accounting Periods

The statute establishes two six-month accounting periods for purposes of computing the royalty fee and reporting the information called for in the statement of account. The first semiannual period runs from January through June, and the second from July through December, of each calendar year. You must use these accounting periods whether or not they coincide with the beginning or ending of your cable system's fiscal year.

Filing Dates

Cable systems are given 60 days after the close of each accounting period in which to file their statements of account, filing and royalty fees. The following are the two filing dates you must observe each year:

- For the January–June accounting period: *File between July 1 and August 29, inclusive;*
- For the July–December accounting period: *File between January 1 and March 1, inclusive.*

Note: If August 29 or March 1 falls on a weekend or federal holiday, statements of account and royalty fees may be made on the next succeeding business day.

Statements of account, royalty and filing fees received before the end of the accounting period will not be accepted. Statements and fees received after the August 29 or March 1 deadlines will be accepted for whatever legal effect they may have, if any. The Copyright Office takes no position as to what this effect will be, and a cable system that files late runs a substantial risk.

Refunds

Refund requests must be received within 60 days after the close of the filing period (by April 30 or October 28). Also, refund requests for late and amended payments must be received before the expiration of 60 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request. The Debt Collection Improvement Act of 1996 requires that refunds be made through electronic funds transfer (EFT). **Note:** Late payments are subject to interest assessment. See page (vii) of the general instructions. Contact the Licensing Division for additional information.

How Royalty Fees Are Handled

For purposes of computing the semiannual royalty fee a cable system must pay, the statute creates three brackets, depending upon the system's gross receipts from subscribers for secondary transmissions during the accounting period:

1. **Gross receipts of $137,100 or less:** royalty fee of $52;
2. **Gross receipts of more than $137,100 and less than $527,600:** royalty fee determined by a formula based on percentage of gross receipts;
3. **Gross receipts of $527,600 or more:** royalty fee determined by a formula based on percentage of gross receipts and on the number of distant stations carried by the system.

A cable system is required to deposit its semiannual royalty fee with the Copyright Office at the time it files each statement of account. The royalty must be made by electronic payment, and the related statement of account must be filed by the appropriate deadline accompanied with a cover letter (see circulars 74a, 74b, and 74c). The Copyright Office transfers these fees into a special fund, which is later distributed to copyright owners as payment for the use of their works by cable systems.

PURPOSES OF THE STATEMENT OF ACCOUNT

The law requires a cable system to file statements of account for two purposes:

- To show the basis for the semiannual royalty fee the cable system owes under its statutory license; and
- To give the information needed to allocate royalty fees among copyright owners.

Thus, some of the information you give on your statement of account has nothing to do with computing your gross receipts or deciding the amount of your royalty fee. Nevertheless, you are required to give the additional information in order to provide the basis for the second phase of the statutory license: the distribution of fees to copyright owners.

SOME POINTS TO REMEMBER ABOUT STATUTORY LICENSES:

- As long as a cable system keeps its statutory license in force by complying with the requirements of the new copyright law, it is not obliged to negotiate individual copyright licenses for retransmission of television and radio broadcasts.
- The following are among the various ways a cable system can lose its statutory license: by failing to file the statements of account or royalty fees; by taping for delayed retransmission; by carrying signals in violation of FCC requirements; by carriage of certain foreign stations; and by altering programs or substituting commercials.
- Without a statutory license, a cable system can be sued by a copyright owner for the full range of civil remedies for copyright infringement, including injunctions, actual damages and profits, or statutory damages (of up to $150,000 in cases of willful infringement). The statute also provides for criminal penalties in cases of willful infringements for commercial purposes.

WHAT FACTS THE STATEMENT OF ACCOUNT SHOULD COVER

All of the information you give in a statement of account must be an accurate presentation of the facts existing during the accounting period covered by that statement (or, in certain cases, on the last day of that period).

- **Spaces D, G, H, and I.** List all areas served, stations carried, and certain substitute programs carried at any time during the accounting period.
- **Spaces K and M.** You should report the total of gross receipts attributable to the particular accounting period in space K. The figures requested in space M should be the appropriate totals of channels for the entire period.
- **Space J.** This space (part-time carriage log) has been deleted.
- **Spaces B, C, E, and F.** Even if items of information concerning the owner, system, subscribers, or rates have changed during the accounting period, your statement of account does not need to reflect the change. Give only the facts existing on the last day of the accounting period. If there were different owners during the accounting period, only the owner on the last day of the accounting period should submit a single statement of account and royalty fee payment covering the entire accounting period.

SPACE G (Primary Transmitters: Television)

Stations Actually Carried. Make sure that space G lists all the television stations your system actually carried at any time during the accounting period (except as explained in space G of the form). Do not list stations that were not in fact carried during that period, even if the FCC has authorized their carriage, and even if they were carried during earlier accounting periods.

Low Power Television Stations. The Copyright Act in section 111(f) delineates the local status of a low power television station as follows: "In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the 'local service area of a primary transmitter' comprises the area within 35 miles of the transmitter site, except that in the case of such a station located in a standard metropolitan statistical area which has one of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20 miles." This means that a low power television station carried by a cable system within an area as defined above will be considered "local."

Translator Stations. Translator stations must be listed. For copyright purposes, a translator station is a primary transmitter not only of any programs it originally transmits but also of all the programming it receives from its parent station and retransmits. Thus, if your cable system carried signals emanating from a translator station, you must list the translator station in space G. And, if your system separately carried signals from both a translator station and its parent station, both the translator and the parent station should be identified.

- **Type of Translator Station.** Note that for any translator station listed in space G, the type of station indicated in column 3 should be that of the parent station.

Multicast stream. A multicast stream is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

Simulcast. A simulcast is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

Definitions of Types of Stations. Under the Copyright Act, the terms used in connection with column 3 of space G mean the following:

- **Network station.** A *primary stream* of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

  The term network station also applies to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that is owned or operated by, or affiliated with, one or more of the television networks described above and offers programming on a regular

basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more states.

- **Independent station.** A primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station. For purposes of determining a station's type-value this category includes all specialty, Canadian and Mexican stations.
- **Noncommercial educational station.** A primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station; which is owned and operated by a public agency or nonprofit private foundation, corporation or association; or owned an operated by a municipality and which transmits only noncommercial programs for education purposes.

SPACE H (Primary Transmitters: Radio)

All-Band Carriage. If your system carried FM radio stations on an all-band basis, you are not required to list every station that subscribers might possibly have received during the accounting period. Instead, Copyright Office regulations require you to monitor your FM transmission service at your system's headend from time to time during the accounting period and to report the generally receivable FM stations identified as a result of your monitoring.

Stations Generally Receivable. There are two standards for determining whether an FM station is generally receivable:

1 Is the station usually carried whenever it is received at your system's headend; and

2 Can the station be expected to be received at the headend, with your system's FM antenna, at least three consecutive hours each day at the same time each day, five or more days a week, for four or more weeks during any calendar quarter, with a strength of not less than 50 microvolts per meter measured at the foot of the tower or pole to which the antenna is attached?

The monitoring arrangements you set up should be aimed at determining what stations can reasonably be expected to meet these standards.

Monitoring Activities. It is not necessary to monitor continuously throughout the accounting period, and you are not required to make precise measurements to determine which stations in fact meet the technical standards and which do not. Your monitoring activities should take place periodically at your headend during the accounting period and you should use a good FM receiver.

SPACE I (Substitute Carriage: Special Statement and Program Log)

Substitute Programs Must Be Logged and Reported. The Copyright Act requires all cable systems to submit, with their statement of account, logs showing the times, dates, stations, and programs involved in any nonnetwork television programming that was carried in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the FCC permitting the substitution or addition of signals under certain circumstances. The applicable present and former rules and regulations are identified in item 3, which follows.

What Programs Must Be Listed. You must list a program in space I if all three of the following conditions apply:

1 **The program is a nonnetwork television program.** A "nonnetwork television program" is a program that was not being broadcast by a station as part of a network television broadcast at the time the cable system carried it.

2 **The program is picked up from a distant station.** A "distant station" is a television station carried by a cable system in whole or in part beyond that station's local service area. A television station's local service area is the area within which the station is entitled to insist upon its signal being retransmitted by a cable system pursuant to rules, regulations, and authorizations of the FCC in effect on April 15, 1976. Effective on July 1, 1994, a station's local service area also includes the station's television market as defined in section 76.55(e) of title 47, *Code of Federal Regulations* (as in effect on September 18, 1993), or any modifications to such television market made on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the *Code of Federal Regulations*.

3 **The program was carried by the cable system in substitution for another program under FCC rules, regulations, or authorizations.**

- Where FCC rules and regulations in effect on the date of carriage require the deletion of certain programming of one station and permit substitution of programming from another distant station. That is, if a cable system is required to delete a station because of the FCC sports exclusivity rules.
- Where the FCC rules, regulations and authorizations in effect on October 19, 1976, permit a cable system at its option, to delete programming, and authorize the system to substitute programming from another distant station. That is, if the cable system elects to delete a distant station while that station is broadcasting a program primarily of local interest to the distant community, for copyright purposes former FCC rules sections 76.61(b) (2) and 76.63 (incorporating 76.61(b) (2)) continue to authorize the station to substitute the programming of any other distant station.

NOTES

1 The provisions of the Copyright Act dealing with voluntary deletion and substitution of programs are limited to programs substituted under FCC rules, regulations, and authorizations *in effect on October 19, 1976.*

2 Effective January 1, 1990, the FCC amended Parts 73 and 76 of its rules relating to program exclusivity in the cable and broadcast industries.

SPACE K (Gross Receipts)

What Are Gross Receipts? The gross receipts you enter in space K are the receipts for the basic service of providing secondary transmissions of primary broadcast transmitters. *They include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services that include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees.* All such gross receipts shall be aggregated and the royalty fee calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection or reconnection) fees; separate charges for security, alarm, or facsimile services; charges for late payments; or charges for pay cable or other program origination services provided that the origination services are not offered in combination with secondary transmission service for a single fee.

SATELLITE CARRIER GROSS RECEIPTS EXCLUSION

- The Satellite Home Viewer Act of 1988, Public Law 100-667, as amended by Public Law 103-369, Public Law 106-113, Public Law 108-447, and Public Law 111-175, establishes a statutory license for certain secondary transmissions made by satellite carriers to satellite dish owners. Satellite carriers are subject to copyright liability for their use of copyrighted material when they make secondary "transmissions" (retransmissions of television broadcasts) to satellite dish owners and they make a direct or indirect charge for that service. Satellite carrier retransmissions of the copyrighted programming embodied in the signals of non-network or network stations are eligible under an operational system of statutory licensing that is established in section 119 of the Copyright Act.
- *A satellite carrier* is defined in the Satellite Home Viewer Extension and Reauthorization Act of 2004 as "an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the *Code of Federal Regulations* or the Direct Broadcast Satellite Service under part 100 of title 47 of the *Code of Federal Regulations*, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing pursuant to Section 119."
- As provided in the Satellite Home Viewer Act [amendment of section 111(d)(1)(A)], any amounts collected by a cable system/distributor from subscribers should be excluded from the cable system's determination of gross receipts received for the basic service of providing secondary transmissions of primary broadcast transmitters pursuant to the cable statutory license, section 111 (c) to (f). This provision contemplates the situation where the same entity may be offering both satellite and cable distribution of secondary transmissions of primary broadcast transmitters.
- If a cable system offers both satellite and cable services to satellite dish owners, then it may exclude those amounts attributed to the satellite service under section 119 of the act. Such a system should declare on page 8 the amount of gross receipts that are excluded for this service and list the name and address of each satellite carrier in which the system has contracted as a distributor or agent to market the carrier's retransmissions service. The system should also maintain separate records of the subscriber fees received for satellite carrier retransmissions.

Accrual Basis. If your revenue accounts are kept on an accrual basis, the figure you give in space K should be the total of all gross receipts for secondary transmission service accrued for the accounting period. Subtract bad debts actually written off during the period and add previously written-off debts that were actually recovered during the period. (However, do not make adjustments for bad debts for secondary transmission service furnished before January 1, 1978.)

Cash Basis. If your revenue accounts are kept on a cash basis, your gross receipts are all amounts actually received during the accounting period for secondary transmission service.

SPACE L (COPYRIGHT ROYALTY AND FILING FEES)

Statutory Formulas for Computing the Royalty and Filing Fees

For cable systems whose semiannual gross receipts are under $527,600, the method of calculating the royalty fee depends on the amount of gross receipts reported in space K.

Gross receipts of $137,100 or less. If the figure you give in space K is $137,100 or less, your royalty fee has been calculated for you in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act as adjusted. The amount is $52 and the filing fee is $15. Do not use blocks 2 and 3.

Gross receipts of more than $137,100 but less than or equal to $263,800. If the figure you give in space K is more than $137,100 but less than or equal to $263,800, your royalty fee must be calculated in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act, as adjusted. Follow the step-by-step calculations in block 2 of space L and add the $20 filing fee. Do not use blocks

1 and 3.

Gross receipts of more than $263,800 but less than $527,600. If your gross receipts figure in space K is more than $263,800 but less than $527,600, you must use the formula set out in section 111(d)(2)(D) of the Copyright Act, as adjusted. Follow the step-by-step calculations in block 3 of space L and add the $20 filing fee. Do not use blocks 1 and 2.

Interest Charges for Underpayments and Late Payments

Underpayments or late payments received after the filing deadline shall be subject to an interest assessment. Cable systems must calculate their own interest charge. (A worksheet is provided at space Q, page 8.) The interest rate set for a specific accounting period is the U.S. Treasury Current Value of Funds Rate in effect on the first business day after the close of the filing deadline for that accounting period. Cable systems can obtain the interest rate for the applicable accounting period(s) by calling the Licensing Division at (202) 707-8150, or by clicking on to *www.copyright.gov/licensing/interest-rate.pdf*.

For underpayments and late payments, the interest shall begin to accrue on the first day after the close of the filing date for that accounting period. The accrual period ends on the date that the remittance is received in the Copyright Office. Note: The Office shall not require, nor notify a cable system of, an interest charge of $5.00 or less.

DECLARATION

I, Mario M. Bustamante, hereby declare under penalty of perjury as follows:

1. I am Chief Executive Officer of Optical Telecommunications, Inc.
2. I have read the foregoing Answer. The facts contained therein are true and correct to the best of my knowledge, information, and belief.
3. This Answer is grounded in fact, and is not interposed for any improper purpose.

Mario M. Bustamante

April 14, 2015

CERTIFICATE OF SERVICE

I, Penny Evetts, hereby certify that on this 14th day of April, 2015, a copy of the foregoing Answer has been served by first-class mail on the following:

Todd M. Stansbury, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20554

Penny Evetts

Penny Evetts

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