Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Leased Commercial Access	)	MB Docket no 07-42
	)	
Development of Competition and Diversity	)	
In Video Programming Distribution	)	
and Carriage	)	
	)	

To: The Commission

Reply Comments of CaribeVision Holdings, LLC

CaribeVision Holdings, LLC ("CaribeVision"), by and through its undersigned counsel, hereby submits these reply comments in the above captioned Notice of Proposed Rulemaking.

1. CaribeVision agrees with the general view of Time Warner Cable to the extent that the leased access rules, should be modified to avoid further litigation and encourage negotiation. However, CaribeVision respectfully disagrees that "most of the areas of substantive contention... can readily be resolved... by simple reference to the Commission's prior discussions." [1] CaribeVision strongly believes that only further clarification with respect to contractual terms and conditions which the Commission deems reasonable under the rules will obviate litigation.[2] Accordingly, the Commission

[1] *See* Comments of Time Warner Cable Inc. in MB Docket 07-42 at 23.
[2] *See* Comments of Time Warner Cable Inc. in MB Docket 07-42 at 22.

should take this opportunity to further clarify substantive issues as set forth in CaribeVision's comments.[3]

2. Additionally, CaribeVision supports the comments filed by iNFO Channel Group of Park City ("iNFO"). Specifically, iNFO states that it was allotted channel 95 on an analog Comcast system in Park City, Utah. In light of ingress interference from nearby FM aural signals, the picture quality being delivered to subscribers is of a substantially lower quality.[4] Ingress interference is a phenomenon that CaribeVision is currently experiencing itself. Ingress interference on systems on channels 95-97 is well documented and well known by cable providers. [5]

3. Specifically cable channels 95 through 97 correspond to the FM broadcast band and are subject to ingress interference from local FM stations. Ingress interference to analog cable channels creates a herringbone pattern within the picture. Ingress interference to digital cable channels causes picture artifacts, picture freeze, loss of audio and, in severe cases, total loss of picture.

4. Parties leasing access channels subject to ingress interference from FM broadcast stations are at a severe competitive disadvantage. Cable subscribers with a choice of multiple unimpaired viewing options will not view distorted pictures for any length of time. Persons leasing cable channels subject to ingress interference cannot attract viewers to the leased channel, regardless of the quality of their programming. For this reason, CaribeVision urges the Commission to prohibit cable operators from placing

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[3] In CaribeVision's experience, our negotiations with Time Warner Cable were extremely successful and CaribeVision commends Time Warner Cable's dedication to ensuring the delivery of diverse sources of video programming to its subscribers.

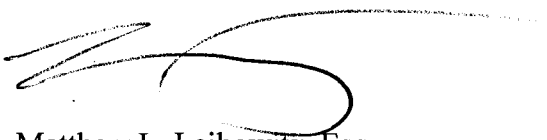
[4] *See* Comments of iNFO Channel Group of Park City, in MB Docket 07-42, at 2.

[5] *See* Declaration of Jonathan L. Kramer, attached hereto as Exhibit A.

leased access programmers on channels 95 through 97 unless they can demonstrate the absence of ingress interference.

5. In conclusion, CaribeVision appreciates this opportunity to address these issues before the Commission. CaribeVision requests that the Commission take this opportunity to address the shortcomings of the current leased access regulatory framework and to provide both cable operators and leased access programmers with the additional clarity requested.

Respectfully submitted,



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October 12, 2007

Before the
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DECLARATION OF JONATHAN L. KRAMER

I, Jonathan L. Kramer, make this declaration based upon personal knowledge and a review of records, and could testify as to the truth of the matters asserted herein:

1. I am over the age of 18 years.

2. I am the principal of Kramer.Firm, Inc., a firm that conducts cable television system inspections primarily for government agencies. Since 1984 I have conducted and overseen FCC proof of performance tests on hundreds of thousands of channels on cable systems in over 30 states, and on behalf of nearly 600 local, state, and federal government cable franchisors.

3. I have been directly and continuously involved in cable television system transmission and outside engineering and inspections since approximately 1978. I served in various technical operations roles in the cable industry, including as a system engineer, technical manager, and regional technical manager.

4. I am an elected Senior Member of the Society of Cable Telecommunications Engineers (U.S. society), and a Fellow Member of the Society of Cable Telecommunication Engineers (U.K. society).

5. I co-chaired the Joint Task Force on Technical Standards, the government-industry engineering group that provide key guidance to the Commission during the establishment of the current FCC cable system technical standards in the early 1990s.

6. I have testified as an expert witness in state and federal court cases regarding cable system technology, transmission, and construction matters.

7. I am an Attorney and Counselor at Law admitted to practice in California, and a member of the Federal Communications Bar Association.

8. Cable television systems offer a variety of channel offers to subscribers. The number of channels that may be offered is a function of several factors, including whether the cable system uses analog (NTSC) transmission technology, digital transmission technology (including digital compression of television channels), or a combination thereof.

9. Another factor of the number of channels that may be carried on a cable system is the amount of bandwidth utilized by the cable operator on its system.

10. For example, most cable operators use frequencies within the cable plant that are also used by spectrum users outside of the cable plant. Those 'outside world' spectrum users include without limitation over-the-air VHF TV broadcasters; FM radio broadcasters; air-traffic-control two-way radio; two-

way mobile services; pagers; and amateur radio. Many of the over-the-air spectrum users are licensed by the Commission, and have priority use of the frequencies assigned by the Commission. The Commission permits those same frequencies to be used by cable systems on a secondary basis so long as the cable system does not create harmful interference to the licensee granted primary use of the same spectrum.

11. Because a well designed and maintained coaxial cable system (as well as a fiber optic cable system that converts to coaxial cable for subscriber connection) is a closed set of connections, the spectrum in use within the cable system stays within the cable system, and the spectrum in use outside of the cable system does not enter the cable system.

12. Modern cable television systems often use some or all of what is called the "FM band channels" and the "Mid-band channels."

13. The cable TV system FM band channels spectrum begins at 90.0 MHz and extend to 108 MHz. This frequency spectrum is designated as EIA/NCTA cable channels 95 through 97, inclusive. The cable TV FM band channels overlap the over-the-air FM channel band defined by the Commission (87.9 MHz through 107.9 MHz).

14. The cable TV system Mid-band channels occupy the spectrum beginning at 108 MHz and extending to 174 MHz. Outside the cable system, this spectrum is occupied by aviation communications; land mobile users; paging services; the amateur radio 2-meter band; public safety communications; and railroad

communications, just to name a few of the Commission-licensed over-the-air spectrum users.

15. In ascending order of frequency, the Mid-band channels are designated as EIA/NCTA cable channels 98 and 99, and then continuing upward in frequency from EIA/NCTA channels 14 through 22, inclusive.

16. Unfortunately, cable television systems are not always constructed or maintained to ensure that the secondary-use of spectrum within the cable system does not leak out and interfere with over-the-air primary users, and that over-the-air licensees don't ingress into the cable system. The Commission requires that cable operators using frequencies shared with certain over-the-air services (such as aeronautical frequencies) patrol their cable systems on a regular basis to detect and correct signal leakage. Today, cable companies' efforts in this area are complicated by the fact that many subscribers own their home wiring and this home wiring can contribute to signal leakage problems.

17. Where signal leakage from the cable system occurs, the inverse transmission function called "ingress" can create interference to cable channels. Ingress occurs where faults in the cable system admit outside world over-the-air transmission into the cable system. The amount of ingress, and its detrimental impacts on picture quality and, or sound distortions of the affected cable channels varies depending on factors including without limitation the distance to the over-the-air transmitters entering into the cable system via ingress; the number and location(s) of the ingress point(s), etc. In many uses, these

channels become unavailable or extremely marginal compared to other channels not subject to this interference.

18. Cable system leakage is well known to the Commission; the Federal Aviation Administration; the amateur radio community; and other over-the-air users. The amateur radio community is also aware of the ingress issue primarily in the two-meter amateur band.

19. For example, if a cable system utilizes EIA/NCTA channel 96 (96 MHz through 102 MHz), that cable system will be subject to ingress interference from all Commission-licensed local FM broadcasters on Commission FM Channels 241 through 271. If the cable television system or internal home wiring is not adequately constructed and maintained and ingress from one or more of the local licensed FM broadcasters on channels 241 through 271 occurs, analog subscribers will usually see wavy-lines (herringbone) patterns and/or hear sound interference while watching cable channel 96. Under this same ingress interference scenario, digital subscribers watching programming on frequencies subject to ingress will experience artifacts, tiling, loss of audio, picture freeze and, in more severe cases, complete loss of picture and sound.

20. Similarly, a cable system utilizing EIA/NCTA channel 95 subject to ingress may experience picture distortions due to the frequency proximity of that channel to the aural transmission portion of over-the-air VHF channel 6.

21. Because the cable FM-band channels are subject to potential ingress interference from over-the-air TV channel 6 and FM over-the-air channels 200 through 300, many cable operators elect not to transmit programming to

subscribers in this bands. Fewer cable systems also avoid using some or all of the cable Mid-band channels for the same reason.

22. Yet, some cable operators have elected to place programming on the cable FM-band channels and cable Mid-band channels when they know that the programming will be subject to ingress interference. These troubled channels sometimes become the home—if not the dumping ground—of Public, Education, and Governmental (PEG) channels, leased access programming, and public affairs programming (such as CSPAN).

23. The detrimental effects of ingress can be exacerbated where the cable television system operator cannot or will not fund an adequate level of maintenance activities.

24. Various outside weather and climate conditions can also cause increased signal deterioration within cable systems. For example, having been responsible for cable systems operating in coastal California communities, and having inspected cable system in along the U.S. west and east coasts, I am well aware of the corrosive effects of a salt-air environment degrading the signal integrity of cable systems. It is my opinion that without an above-average level of constant plant and subscriber drop maintenance, cable systems become increasingly susceptible to interference from outside over-the-air services that share spectrum used within the cable system.

25. It is safe to say that cable channels experiencing ingress interference are technically inferior to cable channels that are not subject to this interference. This significantly degrades the viewability of affected channels. Ingress

interference from FM radio is a well known problem affecting cable channels 95 through 97. Unless cable operators can show that these FM band channels are not subject to, and therefore not degraded by ingress interference, cable operators should be prohibited from using these channels for leased access (as well as PEG access) given their substantial technical inferiority, and ongoing susceptibility to future degradations.

* * *

I declare under penalty of perjury that the facts stated above are true.

Jonathan L. Kramer

Jonathan L. Kramer

October 12, 2007
Date