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File No. 51059.00048

June 6, 2013

**EX PARTE**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: In the Matter of Cable Television Technical and Operational  
Requirements, MB Docket No. 12-217

Dear Ms Dortch:

On June 5, 2013, Steve Traylor, Executive Director, NATOA, Mitsuko Herrera, Cable & Broadband Communications Administrator, Office of Cable and Broadband Services, Montgomery County, Lee Afflerbach, Columbia Telecommunications Corporation (a technical advisor to NATOA and Montgomery County), and the undersigned, participated in a conference call with the following persons from the Media Bureau:

- Michelle Carey, Deputy Bureau Chief
- Alison Neplokh, Chief Engineer
- Nancy Murphy, Associate Bureau Chief
- Steven Broecker, Senior Deputy Division Chief, Policy Division
- John Wong, Division Chief, Engineering Division
- Walid Kassem, Engineer, Engineering Division
- Sean Mirzadegan, Engineer, Engineering Division
- Sean Yun, Engineer, Engineering Division
- Jeffrey Neumann, Senior Engineer, Engineering Division

During the call, the participants discussed how local franchising authorities (LFAs) typically use technical standards, and how LFAs interact with cable television franchisees concerning technical issues.



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Ms. Herrera stated that Comcast, RCN and Verizon have all converted to digital systems in Montgomery County, and that the County routinely receives complaints about digital cable service quality. She said the complaints are addressed by having an inspector go out and perform some testing, usually in the presence of the cable operator. The inspectors also do some random spot checking that does not typically include the cable operator. The County had not developed its own set of digital testing standards and the lack of digital standards issued by the Commission made it more difficult to resolve technical issues with the cable operators. Voluntary standards only work when the cable operators are willing to be cooperative.

By way of background, Ms. Herrera explained that when operators would provide semi-annual reports on analog system tests, technical staff at the County would review them. In her experience, most problems in the field were found through regular inspections and testing, and problems would get addressed proactively. Mr. Afflerbach added that most problems, even with digital cable systems, continue to be with “nuts and bolts” issues, that is physical plant problems.

Ms. Herrera and Mr. Afflerbach emphasized the role of periodic testing in supporting the technical compliance aspects of the franchise renewal process. Ms. Herrera pointed out a key problem with the certification approach advocated by industry is that cable systems may be in service without major rebuilds or upgrades for 10, 15, or even 20 years, and so a certification of compliance at time of construction does not ensure that the system will maintain the same level of performance over time.

Ms. Herrera and Mr. Afflerbach also discussed industry suggestions that nodes have become so small that periodic testing results would not be fairly representative of the system. Ms. Herrera observed that test points could be moved around to ensure that the same locations were not tested every time. She also pointed out that the costs of testing are relatively minor given the revenues being derived from the cable systems. Mr. Afflerbach added that nodes in cable systems still are relatively large, representing 400 to 500 subscribers. He also stated that remote testing of the systems only tested a very small part of the spectrum being used by the cable operator, and did not measure video signals. Other portions of the spectrum can be tested with proper metering equipment, and it is important to look at different source signals such as PEG channels, and off-air broadcasting signals.

Mr. Afflerbach discussed the importance of testing for high frequency leakage as there can be more problems with leakage as cable systems increasingly use higher frequencies for video signals. Cable operators' existing testing equipment is limited to the aviation band, so they would need to bring in a contractor or better equipment to perform the higher frequency testing.

Ms. Herrera emphasized the importance of test points being geographically dispersed in the cable system. As an example, she described the situation in the Washington, DC metro region where subscribers in the District of Columbia, Montgomery, Arlington, Fairfax, and Prince George's Counties are served by the same regional headend, which the cable operator views as a single cable system. Numerous smaller franchise areas within these counties are also served by this single regional headend. At least one of these counties has had disputes with the cable operator concerning the proper application of the requirement in Section 76.601(b)(1) of

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the Commission's rules for geographically dispersed test points (test points to be widely separated, balanced to represent all geographic areas served by the cable system, and at least one third of test points to represent subscriber terminals most distant from the cable system). The cable operator initially claimed that no test point was required to be located within the entire 400 square mile area of the county. This issue was only resolved in favor of the county after lengthy negotiations. Ms. Herrera urged the Commission to provide certainty that the rules requiring geographically dispersed test points require testing in each large franchise area. She noted that the County and NATOA were not advocating a test point in every franchise area but only those above a certain threshold in size. Some jurisdictions, such as the County, administer franchises for multiple smaller jurisdictions, and so long as the test points are geographically dispersed, a test point in each smaller franchise area would not be necessary.

Ms. Herrera also urged the Commission to address the right of local jurisdictions to use contractors to perform testing. She described how some cable operators have made it very difficult to gain agreement to allow contractors hired by the jurisdiction to perform tests even though in some instances it would be more cost-effective for the jurisdiction to hire a contractor.

The parties urged the Commission to act expeditiously to adopt updated technical and operational requirements applicable to digital cable systems.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gail A. Karish'.

Gail A. Karish  
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