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October 18, 2013

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*VIA ECFS*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**RE: WC Docket No. 13-241**

Dear Ms. Dortch:

On behalf of 3 Rivers Telephone Cooperative, Inc. ("3 Rivers"), this is to confirm and clarify that 3 Rivers is not acquiring any franchised cable television ("CATV") system, Internet Protocol television ("IPTV") operation, or Open Video System ("OVS") from Montana Opticom, LLC ("Opticom") as part of the proposed acquisition of assets requested in the pending Domestic Section 214 Application in this docket. For the reasons stated herein, 3 Rivers does not believe that its proposed acquisition of Opticom's "video" assets is subject to the buy-out prohibition in Section 652(a) of the Communications Act.

Opticom does not negotiate with individual video content providers for retransmission rights, select the menu of video programming channels to be offered, or otherwise engage in the types of programming decisions normally made by cable systems and similar multichannel video program distributors. Rather, because the management of the private development which Opticom serves did not want to have numerous unsightly satellite dishes on rooftops and in backyards, Opticom picks up the satellite programming of the Direct TV and Dish networks at a single, centrally-located receiver, and then distributes the programming to individual homes via its fiber lines. It functions like a Multiple Dwelling Unit system that receives video signals via a rooftop dish, and distributes the programming by wire to the individual apartments or condominiums within the building.

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Given that the Opticom "video" service does not constitute a "cable system" (including, the fact that it serves a private development and does not use public rights-of-way), the proposed transaction does not fall within the scope of the buy-out prohibition in Section 652(a) of the Communications Act. Moreover, even if the Opticom "video" operation were deemed for any reason to constitute a cable system, the proposed acquisition would qualify for the "Rural Systems" exception in Section 652(d)(1) of the Act because: (A) the Opticom facilities serve a portion of the unincorporated community of Big Sky, Montana (2010 population: 2,308) having fewer than 35,000 inhabitants, and that is located outside of an urbanized area; and (B) the Opticom "system" (approximately 65 potential customers) serves far less than 10 percent of the households in the 3 Rivers telephone service area (approximately 16,600 access lines). In addition, the proposed transaction would also qualify for the "Exempt Cable System" exception in Section 652(d)(4) of the Act because the Opticom "system": (A) serves no more than 17,000 cable subscribers; (B) is not owned or controlled by any of the 50 largest cable operators in existence as of June 1, 1995; and (C) operates in a television market that was not in the top 100 television markets as of June 1, 1995.

If you have any questions regarding this matter, please contact undersigned counsel.

Respectfully submitted,

  
Gerard J. Duffy

cc: Jodie May, Esquire  
Dennis Johnson, Esquire