

APPENDIX D

1. Part 73 of the Commission Rules and Regulations is amended by adding the following new sections thereto:

OVER-THE-AIR SUBSCRIPTION TELEVISION OPERATIONS

§73.641 Definitions.

(a) Subscription television. A system whereby subscription television broadcast programs are transmitted and received.

(b) Subscription television broadcast program. A television broadcast program intended to be received in intelligible form by members of the public only for a fee or charge.

§73.642 Licensing policies.

(a) Subscription television service may be provided only upon specific authorization therefore by the Commission. Such authorization will be issued only to:

- (1) The licensee of a commercial television broadcast station;
- (2) The holder of a construction permit for a new commercial television broadcast station; or
- (3) An applicant for a construction permit for a new commercial television broadcast station: Provided, however, That such authorization will not be issued prior to issuance of the construction permit for the new station.

Moreover, such an authorization will be issued only for a station the principal community of which is located entirely within the Grade A contours of five or more commercial television broadcast stations (including the station of the applicant), whether the principal community each station is authorized to serve is the same as that of the applicant, or is a nearby community. Only one such authorization will be granted in any community. No such authorization will be granted unless, not counting the station of the applicant, at least four of the stations which include the community of the applicant within their Grade A contours are operating stations.

(b) Application for such authorizations shall be made in the manner and form prescribed by the Commission. If the Commission, upon consideration of such application finds that the public interest, convenience and necessity would be served by the granting thereof, it will grant such application. In the event it is unable to make such a finding, the Commission will then formally designate the application for subscription television authorization for hearing and proceed pursuant to the provisions of Section 309(e) of the Communications Act and the Commission's Rules and Regulations applicable thereto. The Commission may impose such conditions upon the grant as may be appropriate.