

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
A1A TV, Inc	)	
	)	CSR 5368-L
v.	)	
	)	
TCI TKR of South Florida, Inc.	)	
	)	
For Commercial Leased Access	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: October 19, 2001**

**Released: October 25, 2001**

By the Deputy Chief, Cable Services Bureau:

**I. INTRODUCTION**

1. A1A TV, Inc. ("A1A") filed a petition for relief pursuant to Section 76.975 of the Commission's rules<sup>1</sup> alleging that TCI TKR of South Florida, Inc. ("TCI") has failed to respond on a timely basis to a request for information concerning commercial leased access services in violation of Section 612 of the Communications Act of 1934, as amended ("Communications Act").<sup>2</sup> TCI filed a response to the petition.

**II. BACKGROUND**

2. The Cable Communications Policy Act of 1984 imposed on cable operators a commercial leased access requirement designed to assure access to cable systems by unaffiliated third parties who have a desire to distribute video programming free of editorial control of cable operators.<sup>3</sup> Channel set-aside requirements were established proportionate to a system's total activated channel capacity. The Cable Television Consumer Protection and Competition Act of 1992 revised the leased access requirements and directed the Commission to implement rules to govern this system of channel leasing.<sup>4</sup> *In Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order and Further Notice of Proposed Rulemaking ("*Rate Order*"),<sup>5</sup> the Commission initially adopted rules for leased access addressing maximum reasonable rates, reasonable terms and conditions of use, minority and educational

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<sup>1</sup>47 C.F.R. § 76.975.

<sup>2</sup>47 U.S.C. § 532.

<sup>3</sup>Pub. L. No. 98-549, 98 Stat. 2779 (1984).

<sup>4</sup>Pub. L. No. 102-385, 106 Stat. 1460 (1992). See Section 612(b) of the Communications Act of 1934, as amended, 47 U.S.C. §532(b).

<sup>5</sup>8 FCC Rcd 5631 (1993).

programming, and procedures for resolution of disputes.<sup>6</sup> The Commission modified some of its leased access rules in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Second Report and Order and Second Order on Reconsideration of the First Report and Order ("*Second Order*").<sup>7</sup>

### III. DISCUSSION AND ANALYSIS

3. A1A TV alleged that TCI failed to respond on a timely basis to a request for information concerning commercial leased access services in violation of the Commission's leased access regulations. TCI, in its response, stated that information concerning commercial leased access services required by Section 76.970(h)(1) of the Commission's rules was provided to A1A on November 10, 1999. Although the information was not provided within the required 15 calendar days of A1A's written request, we find that the complaint has been satisfied.<sup>8</sup> The record shows that the information was provided five days late but well before A1A's complaint was filed with the Commission. Taking this into account, A1A TV's petition will be dismissed.

### IV. ORDERING CLAUSES

4. For the foregoing reasons, **IT IS HEREBY ORDERED** that the petition for relief filed by A1A TV, Inc. in the captioned matter **IS HEREBY DISMISSED**.

5. This action is taken pursuant to authority delegated under Section 0.321 of the Commission rules.<sup>9</sup>

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau

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<sup>6</sup>See 47 C.F.R. §76.970, 76.971, 76.975 and 76.977 (1995).

<sup>7</sup>12 FCC Rcd 5267 (1997). See also *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Order on Reconsideration of the First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 16933 (1996).

<sup>8</sup>Response at 1-2 and Exhibit 3.

<sup>9</sup>47 C.F.R. § 0.321.