

Open Video System Notice of Intent

Attention:
Media Bureau

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054**

In the Matter of)
)
RCN-BecoCom, LLC) **File No.** _____
)
Notice of Intent to Establish)
an Open Video System)

**NOTICE OF INTENT
TO ESTABLISH AN OPEN VIDEO SYSTEM**

RCN-BecoCom, LLC (“RCN-BecoCom”), pursuant to Section 651 of the Telecommunications Act of 1996 and Section 76.1503(b)(1) of the Commission’s Rules, hereby submits its “Notice of Intent,” (“Notice”) to establish an open video system (“OVS”). As required by Section 76.1503(b)(1), RCN-BecoCom respectfully submits the following information:

1. The OVS operator is RCN-BecoCom, LLC, with its principal offices located at 201 University Avenue, Westwood, Massachusetts 02090. The contact person for the operator, Thomas K. Steel, Jr., is located at this same address. Mr. Steel may be reached at (781) 381-2723.
2. RCN-BecoCom’s service area is located in the City of Boston (CUID No. MA0358). The boundaries of RCN-BecoCom’s service area are located within the neighborhoods of Allston-Brighton, Hyde Park, West Roxbury, and Boston Proper. RCN-BecoCom has a principal headend and hub site located at 105 West First Street, South Boston, Massachusetts. RCN-BecoCom utilizes ancillary hub sites at the following locations:

155 N. Beacon Street, Allston-Brighton, MA 02135
425 Boylston Street, Boston, MA 02116
1224 Hyde Park Avenue, Hyde Park, MA 02136
41 Averton Street, Roslindale, MA 02131

These hub sites are served by and technically integrated with the principal headend. RCN serves the general population within this OVS service area.

3. The open video system will have an anticipated maximum capacity of 330 analog channels available, each consisting of 6-MHz analog capacity. The open video system will also be capable of delivering an anticipated maximum capacity of 678 digital channels.

4. Video Programming Providers (“VPPs”) interested in carriage on RCN-BecoCom’s open video system may obtain additional information about the system by completing the OVS Information Request Form (Attachment 1) and submitting it to:

Thomas K. Steel, Jr.
201 University Avenue
Westwood, MA 02090
(781) 381-2723

Pursuant to 47 C.F.R. § 76.1503(b)(2) of the FCC’s rules, within five business days of RCN-BecoCom’s receipt of a request for information, RCN-BecoCom will provide the VPP with additional information regarding the open video system to enable the VPP to make an enrollment decision. With this information, the VPP also will be provided with additional forms and instructions necessary for carriage on RCN-BecoCom’s open video system. If a VPP decides to seek carriage on RCN-BecoCom’s open video system after receipt of the additional information, the VPP must submit the required forms, a non-refundable application processing fee, and a channel reservation deposit by the end of the enrollment period, or within 10 business days of the receipt of the information, whichever is later.

5. One third of the system's maximum capacity will be set aside for RCN-BecoCom and/or its affiliates. In addition, RCN-BecoCom will utilize approximately eleven (11) channels to carry public programs, educational programs, governmental programs and those "must-carry" stations entitled to demand carriage pursuant to 47 C.F.R. § 76.56 and §76.1506 of the FCC's rules. The remaining channels will be available for interested VPPs. No VPP will be assigned more than the capacity set aside for RCN-BecoCom and its affiliates.

6. The enrollment period for VPPs seeking carriage on RCN-BecoCom's open video system will commence on the date the Commission releases its Public Notice of this Notice of Intent and will expire ninety days after the Public Notice release date. In order to allow for contract finalization, ensure orderly channel allocation and allow timely systems allocation to occur, RCN-BecoCom encourages VPPs to submit their preliminary enrollment requests as soon as possible within this ninety-day period. Allocation of capacity in the event demand exceeds system capacity will occur as described in Attachment 2.

7. Attached is a certification that RCN-BecoCom has complied with all relevant requirements under the FCC's open video system regulations concerning must-carry and retransmission consent (47 C.F.R. §§76.64, 76.1506) (Attachment 3). Also attached is a certificate of service showing that RCN-BecoCom's Notice of Intent has been served on all local

franchising authorities located within RCN-BecoCom's anticipated OVS service area
(Attachment 4).

Respectfully submitted,

RCN-BecoCom, LLC

Kathy L. Cooper
L. Elise Dieterich
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

Dated: May 2, 2003

RCN-BECOCOM, LLC
OPEN VIDEO SYSTEM
INFORMATION REQUEST FORM

Section I: Video Programming Provider Information

Name of Company:
Name of Contact:
Address:
Telephone:
Facsimile:
E-mail address:

Section II: Carriage Information

Total amount of capacity requested : (1) analog channels
(2) digital channels

Section III: Certification and Non-Disclosure Statement

The undersigned video programming provider ("VPP") represents that it has the right under the copyright laws to select and contract for carriage of specific video programming on the RCN-BecoCom ("RCN-BecoCom") open video system, and that it is not a competing, in-region, cable operator and has no affiliation (as defined by 47 C.F.R. § 76.1500(g) of the FCC's rules) or agreement with any other VPP requesting capacity or with any cable operator providing cable television services to subscribers located within RCN-BecoCom's open video system service area, and that the capacity requested will only be used for the commercial operation of a cable service. The VPP and its affiliates agree not to disclose to any other party the information provided by RCN-BecoCom in response to this request, except for information that is in the public domain and except as provided in 47 C.F.R. § 76.1513(j) of the FCC's rules, and that they will not use the information for any purpose whatsoever other than making an informed decision as to whether to enroll in RCN-BecoCom's open video system and the subsequent activation of such enrollment, if any.

Signature Name Title Date

RCN BECO-COM, LLC
OPEN VIDEO SYSTEM
CHANNEL ALLOCATION PROCESS

RCN-BecoCom, LLC’s (“RCN-BecoCom”) anticipated total system capacity on its open video system for analog channels is 330, 6 MHz channels and for digital, 678 channels.

VPP requesting more than 6 channels on a pro rata basis; that is based on the ratio of the remaining number of channels requested by all VPPs.

Initial capacity requests should be submitted by the end of the 90-day open enrollment period. At that time, the total number of channels requested from all VPPs will be calculated. If sufficient capacity exists to fill all requests, each VPP will be allocated channel capacity equal to its request. If the sum of all channels requested exceeds available channel capacity, each VPP requesting fewer than 6 channels will receive its requested channels; VPPs requesting more than 6 channels will receive at least 6, total capacity permitting. The remaining channels will be allocated to each

The following is an illustration of the allocation process for the analog channels where demand for carriage exceeds system capacity:

The following allocations already have been made. RCN-BecoCom will have 110 analog channels for video programming + approximately 11 channels for the PEG/Must Carry requirements. The remaining number of channels to be allocated is 209. Assuming that there is a request for 400 channels from multiple VPPs, the allocation process is as follows:

	<u>Channels Requested</u>	<u>Minimum Allocation</u>	<u>Remaining Chnls Requested</u>	<u>Ratio of Rmng Chnl Avlble to Rmng Chnl Requested</u>	<u>No. of Channels Allocated</u>
A	2	2	0		2
B	6	6	0	–	6
C	22	6	16	.48	13
D	110	6	104	.48	56
E	150	6	144	.48	76
F	110	6	104	.48	56
Total	400	32	368		209

Because VPPs C through F all requested more than 6 channels, each VPP is allotted up to 6 channels as the minimum allocation. The remaining number of channels available to be divided among the VPPs is 177 (209 channels minus 32 channels).

The number of available channels to be allocated on a pro rata basis (177) is divided by the remaining number of channels requested (368), which equals .48. This factor is used to calculate the distribution of the remaining 177 channels to VPPs C through F.

The remaining channels requested by VPPs C through F are multiplied by the pro rata factor (.48) to determine the number of channels the VPPs will be allocated in addition to the six channel minimum. For example, VPP C has been allocated the six channel minimum and has 16 remaining channels requested. The pro rata factor (.48) is multiplied by 16 to obtain the seven additional channels to be allocated to VPP C. The seven channels plus the six channel minimum give VPP C a total of 13 channels allocated. Fractions of channels have been

rounded to the nearest whole number, provided that the sum of all allocations does not exceed the total number of available channels.

This same process will be applied to requests for digital capacity.

RCN-BecoCom will mail a notification to each VPP to confirm the channel capacity allocation no later than 45 days after the expiration of the 90-day open enrollment period. Any VPP that is allocated fewer channels than it initially requested may withdraw its channel capacity request by notifying RCN-BecoCom by mail. Cancellations must be received no later than five business days from receipt of the notification. Channel capacity made available through the withdrawal of one or more VPPs will be reallocated on a pro rata basis to the remaining VPPs who did not receive their full request. RCN-BecoCom will mail a notification to each remaining VPP to confirm the final channel capacity allocation no later than 90 days after the expiration of the open enrollment period.

CERTIFICATION

I, John Murawski, hereby certify that RCN-BecoCom, LLC, is in compliance with sections 76.1506(l) and 76.64 of the Commission's rules, 47 C.F.R. §§ 76.64, 76.1506(l), governing retransmission consent and must-carry elections.

Name: John Murawski

Title: Director of Programming

Date: _____

CERTIFICATE OF SERVICE

I, Kathy L. Cooper, hereby certify that copies of the foregoing Notice of Intent of RCN-BecoCom, LLC, were served on the parties listed below, on the 2nd day of May 2003:

VIA HAND DELIVERY:

W. Kenneth Ferree, Chief
Media Bureau
Office of the Bureau Chief
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Steve Garner
Media Bureau
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Sonia Greenaway-Mickle
Media Bureau
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Marlene H. Dortch, Secretary
Federal Communications Comm.
Portals II, 445 Twelfth Street
Lobby, S.W., Room TW-A325
Washington, D.C. 20554

VIA FEDERAL EXPRESS:

Rosaria Salerno, City Clerk
City of Boston
City Clerk Room 601
Boston, MA 02201

Mike Lynch, Director
Office of Telecommunications
43 Hawkins Street
Boston, MA 02114

Charles J. Beard, Esq.
Foley, Hoag & Eliot LLP
One Post Office Square
Boston, MA 02109

Kathy L. Cooper