

3. StogMedia sent Eastern a request for leased access information by facsimile in November of 2004 to which Eastern never replied.⁶ In its complaint, StogMedia states that prior to sending its November 2004 request it sent an earlier facsimile request to Eastern seeking leased access information. StogMedia states that Eastern failed to respond to either of its facsimile requests for leased access information. Finally, it is undisputed that on December 6, 2004, StogMedia sent Eastern a letter asking for leased access information, to which no response was received. Thereafter, StogMedia filed a complaint with the Commission which was received on February 22, 2005. In its complaint, StogMedia asks for relief in the form of an order by the Commission instructing Eastern to provide the requested information and to meet with StogMedia representatives, including Anthony Chabot, to expedite the process of getting its programs on Eastern's system.⁷ In addition, StogMedia requests that Eastern be ordered to compensate StogMedia for financial losses and/or that the Commission impose a forfeiture on Eastern.⁸

4. Contrary to Eastern's contention, we find the StogMedia filed a timely complaint. It is undisputed that on December 6, 2004, StogMedia's sent Eastern a request for leased access information. Pursuant to Section 76.970(i)(1), Eastern would have had to respond to StogMedia's request for leased access information within 15 days, which would have been on or before December 21, 2004. Eastern failed to do so. Consequently, pursuant to Section 76.975(d), StogMedia would have had to have filed its complaint by February 19, 2005, which is sixty days from Eastern's December 21, 2004 violation. However, because the filing date fell on a holiday, Saturday, and an officially recognized federal holiday followed on that Monday, the next business day was February 22, 2005. In this instance, StogMedia filed its complaint against Eastern in a timely manner on February 22, 2005, within the required 60 day period.

5. We note that in Eastern's response it expresses a willingness to provide the specific channel time on its system that StogMedia desires. To the extent that Eastern has not provided the requested information to StogMedia, the Commission orders Eastern to provide the leased access information. We also remind Eastern that in the future it is obligated to respond to leased access requests for information within 15 days of any request. The Commission strongly encourages Eastern and StogMedia to arrive at a mutually agreed upon leased access agreement. StogMedia also requested that it be compensated by Eastern for loss of income as a result of Eastern's actions. However, nothing in the Communications Act authorizes the Commission to impose damages in connection with the provision of commercial leased access services.⁹ Accordingly, StogMedia's request to be compensated for its loss of income is denied. In view of Eastern's repeated failure to comply with Section 76.970(i)(1), we are considering separately issuing to Eastern a notice of apparent liability for forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 1.80 and 76.975(f) of the Commission's rules.¹⁰

⁶ See Letter to Hugh O'Brien, Eastern Connecticut Cable Television, Inc, from Charlie Stogner, General Partner/CEO StogMedia, dated "November 39, 2004" The date indicated on this correspondence, November 39, 2004 is obviously a typographical error.

⁷ Petition at 2.

⁸ *Id.* See Exhibit A.

⁹ See *BookBusters, Inc. d/b/s The Community Guide Show v. Cablevision and Cablevision of Long Island*, 15 FCC Rcd 1917 (CSB 2000); *Aamen TV Ministry v. Mediaone*, 13 FCC Rcd 22244 (CSB 1998).

¹⁰ 47 U.S.C. § 503(b); 47 C.F.R. §§ 1.80 & 76.975(f).

6. Accordingly, **IT IS HEREBY ORDERED**, pursuant to authority delegated by Section 0.283 of the Commission's rules that the petition for relief filed by StogMedia in File No. CSR 6585-L **IS GRANTED IN PART.**¹¹

7. **IT IS FURTHERED ORDERED** that Eastern shall within fifteen days from the release date of this order provide StogMedia the requested leased access information, to the extent it has not already done so.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief
Media Bureau

¹¹47 C.F.R. § 0.283.