§ 76.56 Signal carriage obligations.

(a) Carriage of qualified noncommercial educational stations. A cable television system shall carry qualified NCE television stations in accordance with the following provisions:

(i) Each cable operator shall carry on its cable television system any qualified local NCE television station requesting carriage, except that:

(ii) Systems with 12 or fewer usable activated channels, as defined in § 76.6(oo), shall be required to carry the signal of one such station;

(iii) Systems with 13 to 36 usable activated channels, as defined in § 76.5(oo), shall be required to carry at least one qualified local NCE station, but not more than three such stations; and

(iv) Systems with more than 36 usable activated channels shall be required to carry the signals of all qualified local NCE television stations requesting carriage, but in any event at least three such signals; however a cable system with more than 36 channels shall not be required to carry an additional qualified local NCE station whose programming substantially duplicates the programming of another qualified local NCE station being carried on the system.

NOTE: For purposes of this paragraph, a station will be deemed to “substantially duplicate” the programming of another station if it broadcasts the same programming, simultaneous or non-simultaneous, for more than 50 percent of prime time, as defined in § 76.5(n), and more than 50 percent outside of prime time over a three-month period.

(b) Carriage of local commercial television stations. Effective June 2, 1993, a cable television system shall carry local commercial broadcast television stations in accordance with the following provisions:

(1) A cable system with 12 or fewer usable activated channels, as defined in § 76.5(oo), shall carry the signals of at least three qualified local commercial

Research, 299 Park Avenue, New York, NY, shall be used. The applicable DMA list for the 2002 election will be the 2000-2001 list, etc.

(f) Network. For purposes of the must-carry rules, a commercial television network is an entity that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states.

television stations, except that if such system serves 300 or fewer subscribers it shall not be subject to these requirements as long as it does not delete from carriage the signal of a broadcast television station which was carried on that system on October 5, 1992.

(2) A cable system with more than 12 usable activated channels, as defined in §76.5(oo), shall carry local commercial television stations up to one-third of the aggregate number of usable activated channels of such system.

(3) If there are not enough local commercial television stations to fill the channels set aside under paragraphs (b)(1) and (b)(2) of this section, a cable operator of a system with 35 or fewer usable activated channels, as defined in §76.5(oo), shall, if such stations exist, carry one qualified low power television station and a cable system with more than 35 usable activated channels shall carry two qualified low power stations.

(4) Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (b)(1) or (b)(2) of this section, the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that

(i) Under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

(ii) If the cable operator elects to carry an affiliate of a broadcast network, as defined in §76.55(f), such cable operator shall carry the affiliate of such broadcast network whose community of license reference point, as defined in §76.53, is closest to the principal headend of the cable system.

(5) A cable operator is not required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station that is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network, as defined in §76.55(f). However, if a cable operator declines to carry duplicating signals, such cable operator shall carry the station whose community of license reference point, as defined in §76.53, is closest to the principal headend of the cable system. For purposes of this paragraph, substantially duplicates means that a station regularly simultaneously broadcasts the identical programming as another station for more than 50 percent of the broadcast week. For purposes of this definition, only identical episodes of a television series are considered duplicative and commercial inserts are excluded from the comparison. When the stations being compared are licensed to communities in different time zones, programming aired by a station within one hour of the identical program being broadcast by another station will be considered duplicative.

(6) [Reserved]

(7) A local commercial television station carried to fulfill the requirements of this paragraph, which subsequently elects retransmission consent pursuant to §76.64, shall continue to be carried by the cable system until the effective date of such retransmission consent election.

(c) Use of public, educational, or governmental (PEG) channels. A cable operator required to carry more than one signal of a qualified low power station or to add qualified local NCE stations in fulfillment of these must-carry obligations may do so, subject to approval by the franchising authority pursuant to Section 611 of the Communications Act of 1934, as amended, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

(d) Availability of signals. (1) Local commercial television stations carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection.

(2) Qualified local NCE television stations carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local
§ 76.57 Channel positioning.

(a) At the election of the licensee of a local commercial broadcast television station, and for the purpose of this section, a qualified low power television station, carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992.

(b) At the election of the licensee of a qualified local NCE broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the qualified NCE television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985.

(c) With respect to digital signals of a television station carried in fulfillment of the must-carry obligations, a cable operator shall carry the information necessary to identify and tune to the broadcast television signal.

(d) Any signal carried in fulfillment of the must-carry obligations may be carried on such other channel number as is mutually agreed upon by the station and the cable operator.

(e) At the time a local commercial station elects must-carry status pursuant to §76.64, such station shall notify the cable system of its choice of channel position as specified in paragraphs (a), (b), and (d) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position.