§ 76.1506 Carriage of television broadcast signals.

(a) The provisions of Subpart D shall apply to open video systems in accordance with the provisions contained in this subpart.

(b) For the purposes of this Subpart S, television stations are significantly viewed when they are viewed by households that do not receive television signals from multichannel video programming distributors as follows:

1. For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and

2. For an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent. See § 76.1506(c).

NOTE TO PARAGRAPH (b): As used in this paragraph, “share of viewing hours” means the total hours that households that do not receive television signals from multichannel video programming distributors viewed the subject station during the week, expressed as a percentage of the total hours these households viewed all stations during the period, and “net weekly circulation” means the number of households that do not receive television signals from multichannel video programming distributors who viewed the station for 5 minutes or more during the entire week, expressed as a percentage of the total households that do not receive television signals from multichannel video programming distributors in the survey area.

(c) Significantly viewed signals; method to be followed for special showings. Any provision of § 76.54 that refers to a “cable television community” or “cable community or communities” shall apply to an open video system community or communities. Any provision of § 76.54 that refers to “non-cable television homes” shall apply to households that do not receive television signals from multichannel video programming distributors. Any provision of § 76.54 that refers to a “cable
television system’ shall apply to an open video system.

(d) Definitions applicable to the must-carry rules. Section 76.55 shall apply to all open video systems in accordance with the provisions contained in this section. Any provision of §76.55 that refers to a “cable system” shall apply to an open video system. Any provision of §76.55 that refers to a “cable operator” shall apply to an open video system operator. Any provision of §76.55 that refers to the “principal headend” of a cable system as defined in §76.5(pp) shall apply to the equivalent of the principal headend of an open video system. Any provision of §76.55 that refers to a “franchise area” shall apply to the service area of an open video system. The provisions of §76.55 that permit cable operators to refuse carriage of signals considered distant signals for copyright purposes shall not apply to open video system operators. If an open video system operator cannot limit its distribution of must-carry signals to the local service area of broadcast stations as used in 17 U.S.C. 111(d), it will be liable for any increase in copyright fees assessed for distant signal carriage under 17 U.S.C. 111.

(e) Signal carriage obligations. Any provision of §76.56 that refers to a “cable television system” or “cable system” shall apply to an open video system. Any provision of §76.56 that refers to a “cable operator” shall apply to an open video system operator. Section 76.56(d)(2) shall apply to open video systems as follows: An open video system operator shall make available to every subscriber of the open video system all qualified local commercial television stations and all qualified non-commercial educational television stations carried in fulfillment of its carriage obligations under this section.

(f) Channel positioning. Open video system operators shall comply with the provisions of §76.57 to the closest extent possible. Any provision of §76.57 that refers to a “cable operator” shall apply to an open video system operator. Any provision of §76.57 that refers to a “cable system” shall apply to an open video system, except the references to “cable system” in §76.57(d) which shall apply to an open video system operator.

(g) Notification. Any provision of §76.58 that refers to a “cable operator” shall apply to an open video system operator. Any provision of §76.58 that refers to a “cable system” shall apply to an open video system. Any provision of §76.58 that refers to a “principal headend” shall apply to the equivalent of the principal headend for an open video system.

(h) Modification of television markets. Any provision of §76.59 that refers to a “cable system” shall apply to an open video system. Any provision of §76.59 that refers to a “cable operator” shall apply to an open video system operator.

(i) Compensations for carriage. Any provision of §76.60 that refers to a “cable operator” shall apply to an open video system operator. Any provision of §76.60 that refers to a “cable system” shall apply to an open video system. Any provision of §76.60 that refers to a “principal headend” shall apply to the equivalent of the principal headend for an open video system.

(j) Disputes concerning carriage. Any provision of §76.61 that refers to a “cable operator” shall apply to an open video system operator. Any provision of §76.61 that refers to a “cable system” shall apply to an open video system. Any provision of §76.61 that refers to a “principal headend” shall apply to the equivalent of the principal headend for an open video system.

(k) Manner of carriage. Any provision of §76.62 that refers to a “cable operator” shall apply to an open video system operator.

(l) Retransmission consent. Section 76.64 shall apply to open video systems in accordance with the provisions contained in this paragraph.

(1) Any provision of §76.64 that refers to a “cable system” shall apply to an open video system. Any provision of §76.64 that refers to a “cable operator” shall apply to an open video system operator.

(2) Must-carry/retransmission consent election notifications shall be sent to the open video system operator. An open video system operator shall make all must-carry/retransmission consent election notifications received available to the appropriate programming providers on its system.
§ 76.1507 Competitive access to satellite cable programming.

(a) Any provision that applies to a cable operator under §§ 76.1000 through 76.1003 shall also apply to an operator of an open video system and its affiliate which provides video programming on its open video system, except as limited by paragraph (a) (1)–(3) of this section. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall also apply to any satellite cable programming vendor in which an open video system operator has an attributable interest, except as limited by paragraph (a) (1)–(3) of this section.

(1) Section 76.1002(c)(1) shall only restrict the conduct of an open video system operator, its affiliate that provides video programming on its open video system and a satellite cable programming vendor in which an open video system operator has an attributable interest, as follows: No open video system operator or its affiliate that provides video programming on its open video system shall be subject to any violation of this subpart. An open video system operator shall not delete signals for which the rights claimed are invalid. The open video system operator shall not delete signals for which the rights claimed are invalid.