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Open Video System Notice of Intent

Attention: Cable Services Bureau

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

In the Matter of) **File No.** _____
TESS Communications of Colorado, Inc.)
Notice of Intent to Establish an Open Video System)

**Notice Of Intent To Establish
An Open Video System**

TESS Communications of Colorado, Inc., ("TESS"), pursuant to Section 651 of the Telecommunications Act as amended in 1996 and Section 76.1503(b)(1) of Title 47 C.F.R., hereby submits its Notice of Intent ("NOI") to establish an Open Video System ("OVS") in the State of Colorado. As required by 47 CFR 76.1503(b)(1), TESS respectfully submits the following information:

1. The OVS Operator is TESS Communications of Colorado, Inc.. The contact person for the Operator is:

Klayton F. Fennell
Director of Regulatory Affairs
12050 North Pecos Avenue, Suite 300
Westminster, Colorado 80234
Phone: 303.254.9000 ext. 103
eFax: 509-277-9550
fennell@tesscom.com

2. Channel Capacity: TESS' Open Video System projected service area

includes the following Colorado communities:

Fort Collins	Commerce City	Thornton
Northglenn	Loveland	Aurora
Douglas County, including Castle Rock	Longmont	Arvada

TESS is currently communicating with each of these communities in an effort to secure an OVS franchise in each of their respective communities.

3. The Open Video System will initially have a maximum of 76 analog channels and 200MHz of digital capacity. Subject to demand from prospective Video Programming Providers ("VPPs"), TESS will evaluate and may implement an alternative technology including, but not limited to, a switched digital open video system.

4. Carriage Applications: VPPs interested in carriage on TESS' Open Video System may obtain additional information about the system by completing the OVS Information Request Form (Attachment 1) and submitting it to:

Paul Barth
Senior Network Engineer
TESS Communications, Inc.
12050 N. Pecos
Westminster, CO 80234
(303) 254-9000, ext. 124
(303) 254-9500, Fax

Pursuant to 47 C.F.R. 76.1503(b)(2), within five (5) business days after the receipt of a completed OVS Information Request Form, TESS will provide the prospective VPP with additional information regarding the Open Video System to enable

the prospective VPP to make an enrollment decision. With this information, the prospective VPP will also be provided with additional forms and instructions necessary for carriage on TESS' Open Video System. If a prospective VPP decides to seek carriage on TESS' Open Video System after receipt of the additional information, the prospective VPP must submit the required forms, a non-refundable application-processing fee, and a channel reservation deposit by the end of the enrollment period.

5. TESS has no affiliated video programming providers. Therefore, TESS' OVS is by default open to unaffiliated VPPs. The Commission should be aware that the Head End that will provide OVS services to the Colorado communities detailed in Para. 2 currently provides multichannel video programming services to Mead, Colorado¹ and will provide multichannel video programming services to Brighton, Colorado on December 1, 2000.² Since TESS has no affiliated interest in any of the VPPs currently providing programming services via this Head End, TESS asserts that the System is already open to unaffiliated VPPs. TESS' allocation process for additional VPPs requesting space is delineated in Attachment 2.

6. Enrollment Period: The enrollment period for additional VPPs seeking carriage on TESS' Open Video System will commence on November 8, 2000 and will conclude on February 15, 2001. In order to allow for contract finalization, ensure channel allocation and allow timely system allocation to occur, prospective VPPs must submit their preliminary enrollment requests no later than January 15, 2001. Allocation

¹ On August 31, 2000 TESS Communications, Inc. acquired Mead Entertainment and Information Cable, Inc.'s ("MEI's") assets used or held for use in its CATV business as conducted within the Mead, Colorado franchise area.

² The Brighton City Ordinance approving TESS Communications of Colorado, Inc.'s Multichannel Video Programming Distribution System Franchise Agreement will be presented for its second and final reading on Nov. 7, 2000. The Ordinance was approved unanimously on its first reading on October 3, 2000.

of capacity in the event demand exceeds system capacity will proceed as described in Attachment 2.

7. Attached is a certification that TESS has complied with all the relevant notification requirements under 47 CFR 76.1506, the Commission's OVS regulations concerning Carriage of television Broadcast signals. Moreover, TESS certifies that its OVS also is compliant with 47 CFR 76.1506 (2)(e), the rules regarding must-carry and retransmission consent. A list of all the local commercial and non-commercial television stations served with a letter of notification from TESS is appended hereto in Attachment 3. A representative copy of the letter of notification sent to each of the local commercial and non-commercial television stations served is also attached in Attachment 4.

Respectfully Submitted,

TESS Communications of Colorado, Inc.

By:  _____

Klayton F. Fennell
Director of Regulatory Affairs
TESS Communications, Inc.

Attachment 1

**TESS COMMUNICATIONS OF COLORADO, INC.
OPEN VIDEO SYSTEM
INFORMATION REQUEST FORM**

Section 1: Video Programming Provider Information

Name of Company: _____
Name of Contact: _____
Address: _____

Telephone: _____
Facsimile: _____

Section 2: Carriage Information

Total amount of capacity requested: _____ MHz

Section 3: 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 TESS Open Video System, and that it has no formal or informal affiliation (as defined by C.F.R. 76.1500(g) of the Commission's Rules) or agreement with any VPP requesting capacity or with any cable operator providing cable television services within TESS' Open Video System service area, and that the capacity requested will only be used for the commercial operation of an information service. The VPP and its affiliates agree not to disclose to any other party the information provided by TESS 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 Commission'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 the TESS Open Video System and the subsequent activation of such enrollment, if any.

Signature _____ Name _____ Title _____ Date _____

Attachment 2

TESS COMMUNICATIONS OF COLORADO, INC. OPEN VIDEO SYSTEM CHANNEL ALLOCATION PROCESS

Analog

Following is the analog channel line-up that TESS Communications of Colorado, Inc., will offer its consumers. The total number of allocated analog channels is 76 of which four channels are classified as retransmission (#2,4,7,& 9). The remaining 72 channels include unaffiliated VPPs, Must Carry channels, PEG channels or blank channels for technical filtering requirements. As TESS has no affiliated interest in any video-programming provider, all channels of the System are already open.

Channel #	Program	Channel #	Program
2	KWGN (WB Local - Chan 2)	40	Fox News Channel
3	KTVD (Independent - Local 20)	41	CNBC
4	KCNC (CBS local - Chan 4)	42	MSNBC
5	KRMT (Independent -Local 41)	43	C-Span
6	KRMA (PBS - Local 6)	44	The Weather Channel
7	KMGH (ABC local - Chan 7)	45	Comedy Central
8	Community Programming (PEG)	46	FX!
9	KUSA (NBC local - Chan 9)	47	E!
10	KCEC (Independent - Local 50)	48	Lifetime
11	KWHD (Independent - Local 53)	49	A&E
12	KBDI (PBS Local - Chan 12)	50	American Movie Classics
13	KDVR (Fox Local - Chan 31)	51	USA
14	KTVJ (Independent - Local 14)	52	TNT (Turner Network Television)
15	KDEN (Independent - Local 25)	53	CourtTV
16	Spot for Program Guide	54	MTV
17	KPXC (pAX Local 17)	55	VH-1
18	KMAS (IND TELEMUNDO 63/67)	56	GAC (Great American Country)
19	WGN	57	TNN (The Nashville Network)
20	TBS Superstation	58	Discovery Channel
21	Spot for PEG	59	Discovery Health
22	Spot for PEG	60	The History Channel
23	ESPN	61	TLC (The Learning Channel)
24	ESPN-2	62	Animal Planet
25	Fox Sports Rocky Mountains	63	National Geographic
26	- pad for premium	64	Travel Channel
27	Showtime 1	65	Do It Yourself
28	The Movie Channel	66	Fox Family Channel
29	Flix	67	Disney Channel
30	Sundance	68	Toon Disney
31	- pad for premium	69	Nickelodeon
32	HBO	70	Cartoon Network
33	Cinemax	71	TV Land
34	- pad for premium	72	Odyssey
35	Starz!	73	Home & Garden TV
36	Encore	74	Food Network
37	- pad for premium	75	Home Shopping
38	CNN	98	Spot for PEG
39	CNN HN (Headlines News)	99	Spot for PEG

Digital

Following is the digital program line-up that TESS Communications of Colorado, Inc. will offer its consumers. The total capacity utilized to carry these unaffiliated VPPs is 36Mhz. Since the Open Video System requirement of 2/3 capacity would equal 134MHz (200MHz total digital capacity * 2/3), the remaining capacity left for allocation to other unaffiliated VPPs would be 98MHz (134MHz - 36MHz). The allocation process for the remaining 98MHz is described below.

Channel #	Program	Channel #	Program
100	fXM: Fox Movie Channel	401	Showtime 2
101	Independent Film Channel	402	Showtime 3
102	Lifetime Movie Network	403	Showtime - Extreme
103	Turner Classic Movies	404	The Movie Channel 2
104	Romance Classics	405	HBO 2 Plus
105	SCI-FI Channel	406	HBO 3 Signature
106	Style	407	HBO Family
107	Trio	408	More Max
108	Bravo	409	Starz Theater
109	BBC America	410	Encore Love Stories
110	Game Show Network	411	Encore Mystery
150	MuchMusic	412	Encore Western
151	MTV2	413	Encore Action
200	Discovery Science	414	Encore True Stories
201	Biography	501	In Demand 1
202	The History Channel Intl'	502	In Demand 2
203	WebMD TV	503	In Demand 3
204	ZDTV	504	In Demand 4
250	Discovery Kids	505	In Demand 5
251	Noggin	506	In Demand 6
252	Nickelodeon Games and Sports	507	Spice
253	GoodLife TV	508	Playboy
254	Inspirational Life	900	Classical Chamber Music (2)
255	Trinity Broadcasting	901	Classical Symphonic (1)
290	Bloomberg	902	Jazz (5)
291	TWC - Weatherscan	903	Jazz Smooth Jazz (4)
301	Fox Sports World	904	Oldies Big Band/Swing (6)
302	ESPN News	905	Oldies Golden Oldies (8)
303	ESPN Classics	906	Rock Classic Rock (7)
304	CNNsi	907	Rock Folk Rock (10)
305	Outdoor Life Network	908	Adult Contemporary (9)
306	Outdoor Channel	909	Religious Gospel (3)
307	The Golf Channel		

Initial capacity requests must be submitted by January 15, 2001. At that time, the total number of MHz requested from all additional unaffiliated VPPs will be calculated. If sufficient capacity exists to fill all requests, each VPP will be allocated capacity equal to its request. If the sum of all capacity requested exceeds available capacity, each VPP requesting fewer than 1 MHz will receive its requested capacity; VPPs requesting more than 1MHz will receive at least 1MHz, total capacity permitting. The remaining MHz will be allocated to each VPP requesting more than 1MHz on a pro rata basis, based on the ratio of the remaining number of MHz requested by all VPPs.

The following is an illustration of the allocation process based on the availability of 98MHz and a request of 150MHz from multiple VPPs.

VPP	MHz Requested	Minimum Allocation	Remaining MHz Requested	Ratio of Remaining MHz Available to Remaining MHz Requested	Number of MHz Allocated
A	1	1	0		1
B	5	1	4	0.6388	4
C	12	1	11	0.6388	8
D	36	1	35	0.6388	23
E	42	1	41	0.6388	27
F	54	1	53	0.6388	35
Total	150	6	144		98

Because VPPs B through F all requested more than 1 MHz, each VPP is allotted 1MHz as the minimum allocation. The remaining number of MHz available to be divided among the VPs is 92 (98 MHz minus 6 MHz).

The number of available MHz to be allocated on a pro rata basis (92) is divided by the remaining number of MHz requested (144), which equals 0.6388. This factor is used to calculate the distribution of the remaining 92 MHz to VPPs B through F.

The remaining MHz requested by VPPs B through F are multiplied by the pro rata factor (0.6388) to determine the number of MHz the VPs will be allocated in addition to the 1 MHz minimum.

TESS will mail notification to each VPP to confirm the capacity allocation by January 29, 2001. Any VPP that is allocated less capacity than it initially requested may withdraw its capacity request by notifying TESS by mail. Cancellations must be received by 5:00pm Mountain Standard Time on February 9, 2001. Capacity made available through the withdrawal of one or more VPPs will be reallocated on a pro rata basis to the remaining VPs who did not receive their full request. On February 15, 2001, TESS will mail a notification to each remaining VPP to confirm the final capacity allocation.

Attachment 3

**Service List
Commercial and Non-Commercial Television Stations**

USA
500 Speer Blvd.
Denver, CO 80203

KRMT
12014 W. 64th Ave.
Arvada, CO 80004

KDVR
100E. Speer Blvd.
Denver, CO 80203

KDEN
1601 S. Pearl St
Denver, CO 80210

KCEC
777 Grant St. 5th Floor
Denver, CO 80203

KBDI
2900 Welton St. 1st Floor
Denver, CO 80205

KTVD
11203 E. Peakview Ave
Englewood, CO 80111

KWGN
61060 S. Wabash Way
Englewood, CO 80111

TV Guide WGN
4100 E. Dry Creek Rd
Littleton, CO 80122

KTVJ
2100 Downing
Denver, CO 80202

KWHD
12999 E. Jamison Cr
Englewood, CO 80111

KREG
345 Hillcrest Manor
Grand Junction, CO 80501

KCNC
1044 Lincoln St.
Denver, CO 80203

KMGH
123 Speer Blvd.
Denver, CO 80203

KMAS
2701 Alcott, Suite 391
Denver, CO 80211

KSZG
303 AABC, Suite H
Aspen, CO 81611

KPXC
3001 S. Jamaica Ct suite 200
Denver, CO 80014

KRMA
1089 Bannock St
Denver, CO 80204

CERTIFICATE OF SERVICE

I, Kristi Ashton, hereby certify that a completed and signed Notice of Intent for Open Video System of TESS Communications of Colorado, Inc. was sent on December 4, 2000 via overnight delivery, via Federal Express, prepaid, to the parties listed below:

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TWB204
Washington D.C. 20554

Office of the Bureau Chief
Cable Services Bureau
445 12th Street, S.W., Room 3-C830
Washington D.C. 20554

I further certify that copies of the foregoing Notice of Intent for Open Video System of TESS Communications of Colorado, Inc. was sent on December 5, 2000 via overnight delivery, via Federal Express, prepaid, to the parties listed below:

Darin A. Atterberry
Asst. Manager-City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522

Greg Caton
Mgmt. Assistant-Commerce City
5291 E 60th Ave.
Commerce City, CO 80037

John Duval
Attorney-City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522

Robert Gehler
Attorney- Commerce City
P.O. Box 40
Commerce City, CO 80037

Gary Gordier
Information Technology
P.O. Box 580
Fort Collins, CO 80522

Adele L. Reester
Asst. City Attorney
500 East Third Street
Loveland, CO 80537

Charles Long
Administrative Services Director
9500 Civic Center Drive
Thornton, CO 80229

Gary G. Jacobson
Asst. City Attorney
9500 Civic Center Drive
Thornton, CO 80229

Kendra Carberry
Hayes, Phillips, & Maloney, P.C.
1350 17th Street, Ste. 450
Denver, CO. 80202-1576

Claybourne Douglas
Attorney- City of Longmont
350 Kimball Street
Longmont, CO 80501

Christopher Daley
Attorney- City of Arvada
8101 Ralston road
Arvada 80001

Gary Copp
Office of the County Administrator
Douglas County
100 Third Street
Castle Rock, CO 80104

Kenneth S. Fellman
Kissinger & Fellman, P.C.
Ptarmigan Place, Suite 900
3773 Cherry Creek North Drive
Denver, CO 80209

KUSA
500 Speer Blvd.
Denver, CO 80203

KRMT
12014 W. 64th Ave.
Arvada, CO 80004

KDVR
100 E. Speer Blvd.
Denver, CO 80203

KDEN
1601 S. Pearl St
Denver, CO 80210

KCEC
777 Grant St. 5th Floor
Denver, CO 80203

KBDI
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Denver, CO 80203


KMGH
123 Speer Blvd.
Denver, CO 80203

KMAS
2701 Alcott, Suite 391
Denver, CO 80211

KSZG
303 AABC, Suite H
Aspen, CO 81611

KPXC
3001 S. Jamaica Ct. Suite 200
Denver, CO 80014

KRMA
1089 Bannock St
Denver, CO 80204



Kristi Ashton