

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
MICROWAVE SATELLITE) FILE NO.
TECHNOLOGIES, INC.)
)
Notice of Intent to Establish)
an Open Video System)

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

Microwave Satellite Technologies, Inc. ("MST"), by its undersigned counsel, and 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), MST respectfully submits the following information:

1. The OVS operator is Microwave Satellite Technologies, Inc. The contact person for the operator, is Frank T. Matarazzo, 200 Lawlins Park, Wyckoff, New Jersey, 07481. Mr. Matarazzo may be reached at 201/848-1166 (ext. 123).

2. MST's projected service area includes the following communities:

MANHATTAN

10001 10002 10003 10004 10005 10006 10007 10009 10010
10011 10012 10013 10014 10016 10017 10018 10019 10020
10021 10022 10023 10024 10025 10026 10027 10028 10029
10030 10031 10032 10033 10034 10035 10036 10037 10038
10039 10040 10041 10044 10047 10048 10128 10280 10281
10282

BROOKLYN

11201 11203 11204 11205 11206 11207 11208 11209 11210
11211 11212 11213 11214 11215 11216 11217 11218 11219
11220 11221 1222 1223 11224 11225 11226 1228 11229
11230 11231 11232 11233 11234 11235 11236 11237 11238
11239

THE BRONX

10451 10452 10453 10454 10455 10456 10457 10458 10459
10460 10461 10462 10463 10464 10465 10466 10467 10468
10469 10470 10471 10472 10473 10474 10475

QUEENS

11101 11102 11103 11104 11105 11106 11354 11355 11356
11357 11358 11359 11360 11361 11362 11363 11364 11365
11366 11367 11378 11369 11370 11371 11372 11373 11374
11375 11377 11378 11379 11385 11411 11412 11413 11414
11415 11416 11417 11418 11419 11420 11421 11422 11423
11424 11426 11427 11428 11429 11430 11431 11432 11433
11434 11435 11436 11691 11692 11693 11694 11695 11696
11697

STATEN ISLAND

10301 10302 10304 10305 10306 10307 10308 10309 10310
10311 10312 10314

3. Video Programming Providers ("VPPs") interested in carriage on MST's open video system may obtain additional information about the system by completing the OVS Information Request Form (Attachment 1) and submitting it to:

Frank T. Matarazzo
200 Lawlins Park
Wyckoff, NJ 07481

Pursuant to 47 C.F.R. § 76.1503(b)(2) of the FCC's rules, MST will provide the VPP with additional information regarding the open video system within five business days of receipt of a request for information. The VPP will also be provided with additional forms and instructions necessary for carriage on MST's open video system. Thereafter, a VPP seeking carriage must submit the required forms, a non-refundable application processing fee, and a channel reservation deposit by the end of the enrollment period.

4. The enrollment period for VPPs seeking carriage on MST's open video system will open on November 17, 1997, and will close February 28, 1998. In order to allow for contract finalization, ensure orderly channel allocation and allow timely systems allocation to occur, VPPs must submit their preliminary enrollment requests no later than November 31, 1997. Allocation of capacity in the event demand exceeds system capacity will occur as described in Attachment 2.

5. One third of the system's maximum capacity will be set aside for MST and/or its affiliates. In addition, MST will utilize approximately twenty-six (26) channels to carry public programs, educational programs, governmental programs, and those 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 MST and its affiliates.

6. Attached is MST's certification that it has complied with all relevant notification requirements concerning must-carry and retransmission consent (47 C.F.R. § 76.1506), including a list of all the local commercial and non-commercial television stations served (Attachment 3) and an example of the notification letter sent to television stations entitled to notice (Attachment 4). Also attached is a certificate of service showing that MST's Notice of Intent has been served on all local franchising authorities which are located within MST's anticipated OVS service area (Attachment 5).

Respectfully submitted,

**MICROWAVE SATELLITE
TECHNOLOGIES, INC.**

/s/

Howard J. Barr
Counsel

PEPPER & CORAZZINI, L.L.P.

1776 K Street, N.W., Suite 200
Washington, D.C. 20006
202/296-0600

November 13, 1997

MICROWAVE SATELLITE TECHNOLOGIES, INC.
OPEN VIDEO SYSTEM
INFORMATION REQUEST FORM

SECTION I: Video Programming Provider Information

Name of Company: _____

Name of Contact: _____

Address: _____

Telephone No.: _____

Facsimile No.: _____

SECTION II: Carriage Information

Total amount of capacity requested: _____ channels

SECTION III: Certification and Non-Disclosure Statement

The undersigned video programming provider ("VPP") represents that is has the right under the copyright laws to select and contract for carriage of specific video programming on the MST open video system, and that it has no formal or informal 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 within MST's 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 MST 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 the information will not be used for any purpose whatsoever other than making an informed decision as to whether to enroll in the MST open video system and the subsequent activation of such enrollment, if any.

Signature

Name and Title

Date _____

Please mail or telecopy this form to:
Mr. Frank Matarazzo

200 Lawins Park
Wyckoff, NJ 07481

201/848-1313 (Fax No.)

**MICROWAVE SATELLITE TECHNOLOGIES, INC.
OPEN VIDEO SYSTEM
CHANNEL ALLOCATION PROCESS**

MST's anticipated total system capacity on its open video system is 330, 6 MHz analog channels. The following channel allocations already have been made:

MST: 110 channels for video programming + approximately 26 channels for the PEG/Must-Carry/Retransmission consent requirements. The remaining number of channels to be allocated is 194.

Initial capacity requests must be submitted by November 31, 1997. 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 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.

The following is an illustration of the allocation process based on the availability of 194 channels and a request for 398 channels from multiple VPPs.

<u>VPP</u>	<u>Chnls Requested</u>	<u>Minimum Allocation</u>	<u>Rmng Chnls Requested</u>	<u>Ratio of Rmng Chnl Avlble to Rmng Chnl Requested</u>	<u>No. of Chnls Allocated</u>
A	2	2	0	--	2
B	6	6	0	--	6
C	20	6	14	.443	12
D	110	6	104	.443	52
E	150	6	144	.443	70
<u>F</u>	<u>110</u>	<u>6</u>	<u>104</u>	<u>.443</u>	<u>52</u>
Total	398	32	366		194

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 162 (194 channels minus 32 channels).

The number of available channels to be allocated on a pro rata basis (162) is divided by the remaining number of channels requested (366), which equals .443. This factor is used to calculate the distribution of the remaining 162 channels to VPPs C through F.

The remaining channels requested by VPPs C through F are multiplied by the pro rata factor (.443) to determine the number of channels the VPPs will be allocated in addition to the six channel minimum. Fractions of channels have been rounded to the nearest whole number.

MST will mail notification to each VPP to confirm the channel capacity allocation by January 15, 1998. Any VPP that is allocated fewer channels than it initially requested may withdraw its channel capacity request by notifying MST by mail. Cancellations must be received by 5:00 p.m. on January 20, 1998. 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. On January 25, 1998, MST will mail a notification to each remaining VPP to confirm the final channel capacity allocation.

CERTIFICATE OF SERVICE

I, Frank T. Matarazzo, hereby certify that on 11/7/97, I caused written notice to be sent via overnight mail to all commercial and non-commercial television stations operating within MST's proposed open video system television market, as indicated by the attached service list.

/s/

Frank T. Matarazzo

Service List
Commercial and Non-Commercial Television Stations

Walter C. Liss
President & General Manager
WABC-TV
7 Lincoln Square
New York, NY 10023

205 East 67th Street
New York, NY 10021

Bud Carey
Vice President &
General Manager
CBS Television Stations
524 West 57 Street
New York, NY 10019

Manuel Martinez Llorian
Senior Vice President &
General Manager
WNJU Channel 47
47 Industrial Avenue
Teterboro, NJ 07608

Robert Qudeen
Vice President &
General Manager
WWOR-TV, Inc.
9 Broadcast Plaza
Seacaucus, NJ 07096

Carolyn Wall
President
WBIS TV 31
200 Liberty Street
New York, NY 10281

Paul Bissonette
Vice President &
Station Manager
WPIX Inc.
220 East 42nd Street
New York, NY 10017

Marvin Chauvin
Chief Executive Officer
WLG TV 55
314 Wading River Hollow Road
Ridge, NY 11961

Tomas Johansen
Vice President &
General Manager
WXTV Channel 41
24 Meadowlands Parkway
Seacaucus, NJ 07094

Dr. William Baker
President & Chief
Executive Officer
WNET
356 West 58th Street
New York, NY 10019

William Bolster
Vice President &
General Manager
WNBC
30 Rockefeller Plaza
New York, NY 10112

Frank Sobrino
General Manager
WNYE
112 Tillary Street
Brookly, NY 11201

Hilary Hendler
Vice President &
General Manager
FOX Television Stations

Terrel Cass
President & General Manager
WLIW
Channel 21 Drive
Plainview, NY 11803-5015

Bill Roller
Vice President &
Station Manager
WHSE
390 West Market Street
Newark, NJ 07107

Sun Young Joo
President & General Manager
WMBC TV 63
263 W. 37th Street 23rd Floor
New York, NY 10018

Greg Floyd
General Manager
WTZA
721 Broadway
Kingston, NY 12401

Elizabeth G. Christopherson
Executive Director & CEO
WNJN c/o WNJT
Front 7 Stockton Streets
CN 777
Trenton, NJ 08625-0777

Via Certified Mail -- Return Receipt Requested

Mr. Manuel Martinez Llorian
Senior Vice President & General Manager
WNJU Channel 47
47 Industrial Avenue
Teterboro, NJ 07608

Dear Mr. Llorian:

This letter serves to inform you that Microwave Satellite Technologies, Inc. ("MST"), intends to begin operating an Open Video System ("OVS") in the City of New York, including the Bronx, Brooklyn, Manhattan, Queens and Staten Island.

Service activation is expected to occur in February of 1998. The open video system will have 330 channels of analog capacity.

Due to OVS's planned geographic deployment, your station is entitled to carriage, should you so elect, provided it is subsequently determined that the station delivers a good quality signal to the principle headend located at One Central Park West, New York, NY, and provided further that carriage of the station will not subject MST to copyright liability. Under the Federal Communications Commission's OVS Rules, 47 C.F.R. 76.1500, et seq., you may select mandatory carriage, or you may negotiate consent for retransmission of your signal. All video programming providers (VPPs) and MST's Open Video System will be notified of your decision. If you elect "must carry", MST, as the operator of the system, will deliver your signal to all subscribers of any VPP on the system. If you elect "retransmission consent," you may negotiate with one or more VPPs delivering programming over the MST OVS for inclusion in their programming package. Please notify us by Certified Mail within five business days of your election.

MST will initially provide service in the same geographic areas as Cablevision of New York City, Time Warner of New York City and Staten Island Cable. Therefore, pursuant to FCC Rules, your election for OVS must be the same as any elections you make with respect to the above mentioned cable system operators in the towns listed on the attachment.

The FCC's OVS Rules also specify that MST, as the system operator, must receive notification with respect to black-out requirements related to sports broadcasts, network non-duplication, and syndicated exclusivity. MST will make all notifications available to appropriate VPP's on the system, and will delete signals from the system in accordance with the FCC's Rules.

Very truly yours,

/s/

Frank T. Matarazzo

CERTIFICATE OF SERVICE

I, Dina Etemadi, hereby certify that on November 13, 1997, copies of the foregoing Notice of Intent to Establish Open Video System was served via first class mail on the parties listed below:

William F. Caton *
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Office of the Bureau Chief *
Cable Services Bureau
2033 M Street, N.W., Room 918
Washington, DC 20554

John Logan
Acting Deputy Chief *
Cable Services Bureau
2033 M Street, N.W., Room 918
Washington, DC 20554

Alyssa Roberts *
Cable Services Bureau
2033 M Street, N.W., Room 700Q
Washington, DC 20554

James Olson, Chief *
Cable Services Bureau
2033 M Street, N.W., Room 700Q
Washington, DC 20554

Elaine Reiss, Esq.
Department of Information
Technology & Telecommunications
11 Metrotech Center, 3rd Floor
Brooklyn, NY 11201

Norman M. Sinel, Esq.
Stephanie M. Phillips, Esq.
William E. Cook, Jr., Esq.
Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20009

John C. Crary
New York Public Service Commission
Three Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

/s/ _____

Dina Etemadi

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* Hand Delivery