

Open Video System
Notice of Intent

Attention:
Cable Services Bureau

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054**

In the Matter of)	
)	
RCN Telecom Services of California, Inc.)	
d/b/a RCN of California)	
)	File No. _____
)	
Notice of Intent to Establish)	
an Open Video System)	

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

RCN Telecom Services of California, Inc. d/b/a RCN of California (“RCN of California”), 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), RCN of California respectfully submits the following information:

1. The OVS operator is RCN Telecom Services of California, Inc. The contact person for the operator, Scott Burnside, is located at 100 Lake Street, Dallas, Pennsylvania 18612. Mr. Burnside may be reached at (717) 675-6201.

2. RCN of California’s projected service area includes the San Francisco, California metropolitan area, including all or portions of the counties of San Francisco, San Mateo and Santa Clara.

I. San Francisco

RCN of California's open video system will provide service to San Francisco, California (CUID Nos. CA1326, CA1325, CA0245, CA0485, CA1202, and CA1259).

II. San Mateo County

RCN of California's open video system will encompass portions of San Mateo County, California (CUID Nos. CA0074, CA0573, CA0206, CA1374, CA0402, CA1523), including all or portions of the following incorporated communities and their

surrounding areas:

<u>Community</u>	<u>CUID Number</u>
Atherton	CA1435
Belmont	CA0007, CA1370
Brisbane	CA0440
Burlingame	CA0925
Colma	CA1471, CA1200
Daly City	CA0280, CA1337
East Palo Alto	CA1434
Foster City	CA0785, CA0770, CA0099
Hillsborough	CA1270
Menlo Park	CA1433, CA0547
Millbrae	CA0578
Pacifica	CA0197
Portola Valley	CA1464
Redwood City	CA0205
San Bruno	CA0497
San Carlos	CA1470, CA0207
San Mateo	CA0074, CA0573, CA0206, CA1374, CA0402, CA1523
South San Francisco	CA0282
Woodside	CA1463, CA1377

III. Santa Clara County

RCN of California's open video system will encompass portions of Santa Clara County, California (CUID Nos. CA1438, CA0103, CA0455, CA0379, CA0212, CA1333, CA1546), including all or portions of the following incorporated communities and their

surrounding areas:

<u>Community</u>	<u>CUID Number</u>
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Campbell	CA0386
Cupertino	CA0843, CA0492
Los Altos	CA1228
Los Altos Hills	CA1439
Los Gatos	CA0240
Milpitas	CA0169
Monte Sereno	CA0514
Morgan Hill	CA0184
Mountain View	CA0906
Palo Alto	CA1437
San Jose	CA0213, CA0793, CA1545, CA1468, CA0571
Santa Clara	CA1438, CA0103, CA0455, CA0379, CA0212, CA1333, CA1546
Saratoga	CA0771, CA0644, CA0664
Sunnyvale	CA0208

3. The open video system will have a maximum of 330 channels available, each consisting of 6-MHz analog capacity. Subject to demand from prospective Video Programming Providers (“VPPs”), RCN of California will evaluate and may implement an alternative technology including, but not limited to, a switched digital open video system. In any event, the selected solution will satisfy VPPs channel requests and meet all OVS channel capacity requirements.

4. VPPs interested in carriage on RCN of California’s open video system may obtain additional information about the system by completing the OVS

Information Request Form (Attachment 1) and submitting it to:

Scott Burnside
100 Lake Street
Dallas, PA 18612
(717) 675-6201

Pursuant to 47 C.F.R. § 76.1503(b)(2) of the FCC’s rules, within five business days of receipt of a request for information, RCN of California will provide the VPP with additional information regarding the open video system to enable the VPP to make an

enrollment decision. With this information, the VPP also will be provided with additional forms and instructions necessary for carriage on RCN of California's open video system. If a VPP decides to seek carriage on RCN of California's open video system after receipt of the additional information, the 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. One third of the system's maximum capacity will be set aside for RCN of California and/or its affiliates. In addition, RCN of California will utilize approximately six channels to carry public programs, educational programs, governmental programs, in addition to approximately twenty-two "must-carry" 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 RCN of California and its affiliates.

6. The enrollment period for VPPs seeking carriage on RCN of California's open video system will commence on September 9, 1998 and will conclude December 7, 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 9, 1998. Allocation of capacity in the event demand exceeds system capacity will occur as described in Attachment 2.

7. Attached is a certification that RCN of California has complied with all relevant notification requirements under the FCC's open video system regulations 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). An example of the notification letter sent to television stations pursuant to this Section is also appended hereto. (Attachment 4). Also attached is a

certificate of service showing that RCN of California's Notice of Intent has been served on all local franchising authorities which are located within RCN of California's anticipated OVS service area (Attachment 5).

Respectfully submitted,

RCN Telecom Services of California, Inc.

Jean L. Kiddoo
Kathy L. Cooper
Lawrence A. Walke
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

Dated: September 4, 1998

**RCN TELECOM SERVICES OF CALIFORNIA, INC.
OPEN VIDEO SYSTEM
INFORMATION REQUEST FORM**

Section I: Video Programming Provider Information

Name of Company: _____

Name of Contact: _____

Address: _____

Telephone: _____

Facsimile: _____

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 it has the right under the copyright laws to select and contract for carriage of specific video programming on the RCN Telecom Services of California, Inc. d/b/a/ RCN of California (“RCN of California”) 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 RCN of California’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 RCN of California 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 they will not use the information for any purpose

whatsoever other than making an informed decision as to whether to enroll in RCN of California's open video system and the subsequent activation of such enrollment, if any.

Signature

NameTitle

Date

**RCN TELECOM SERVICES OF CALIFORNIA, INC.
OPEN VIDEO SYSTEM
CHANNEL ALLOCATION PROCESS**

RCN Telecom Services of California, Inc.'s ("RCN of California") anticipated total system capacity on its open video system is 330, 6 MHz analog channels. The following channel allocations already have been made:

RCN of California: 110 channels for video programming + approximately 28 channels for the PEG/Must-Carry requirements. The remaining number of channels to be allocated is 192.

Initial capacity requests must be submitted by November 9, 1998. 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 192 channels and a request for 398 channels from multiple VPPs.

	F	110	6
	Total	<u>Channels Requested</u>	<u>Minimum Allocation</u>
A		2	2
B		6	6
C		20	6
D		110	6
E		150	6
		398	32

<u>Remaining Channels Requested</u>	<u>Ratio of Rmng Chnl Avlble to Rmng Chnl Requested</u>	<u>No. of Channels Allocated</u>
0	-	2
0	-	6
14	.437	13
104	.437	51
144	.437	69
104	.437	51
<hr/>		<hr/>
366		192

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 160 (192 channels minus 32 channels).

The number of available channels to be allocated on a pro rata basis (160) is divided by the remaining number of channels requested (366), which equals .437. This factor is used to calculate the distribution of the remaining 160 channels to VPPs C through F.

The remaining channels requested by VPPs C through F are multiplied by the pro rata factor (.437) 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, provided that the sum of all allocations not exceed the total number of available channels.

RCN of California will mail a notification to each VPP to confirm the channel capacity allocation by November 24, 1998. Any VPP that is allocated fewer channels than it initially requested may withdraw its channel capacity request by notifying RCN of California by mail. Cancellations must be received by 5:00 p.m. on November 30, 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 December 4, 1998, RCN of California will mail a notification to each remaining VPP to confirm the final channel capacity allocation.

CERTIFICATION

I, Michael Steinkirchner, hereby certify that on this ___ day of September, 1998, I caused must-carry/retransmission consent election notifications to be sent by overnight mail to all commercial and noncommercial television stations operating within RCN Telecom Services of California, Inc.'s open video system television market, as indicated by the attached service list.

Michael Steinkirchner
Director, Video Services

Attachment 4

**Example of Notification Letter
(Attached)**

CERTIFICATE OF SERVICE

I, Valerie Steen, hereby certify that on this 4th day of September, 1998, copies of the foregoing RCN Telecom Services of California, Inc. Notice of Intent to Operate an Open Video System in San Francisco, California were served via hand delivery or first class mail on the parties listed below:

VIA HAND DELIVERY:

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, DC 20554

Commissioner Michael K. Powell
Federal Communications Commission
1919 M. Street, N.W.
Room 844
Washington, DC 20554

Commissioner Furchtgott-Roth
Federal Communications Commission
1919 M. Street, N.W.
Room 802
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M. Street, N.W.
Room 832
Washington, DC 20554

Commissioner Tristani
Federal Communications Commission
1919 M. Street, N.W.
Room 826
Washington, DC 20554

Deborah Lathen
Chief of the Cable Services Bureau
Federal Communications Commission
2033 M Street, N. W., Room 918
Washington, DC 20554

Office of the Bureau Chief
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W.
Washington, DC 20554

John E. Logan
Deputy Chief
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W., Room 9189
Washington, DC 20554

Steve Broeckaert
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W., Room 705-B
Washington, DC 20554

Deborah Klein
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W., Room 918
Washington, DC 20554

Carol Fleming
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W., Room 700-C
Washington, DC 20554

VIA FIRST CLASS MAIL:

Sue Janowski
City Clerk
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Sherri Schroeder
City Clerk
City of Brisbane
50 Parklane
Brisbane, CA 94005

Monica Hudson
City Manager
Town of Colma
1198 Elcamino Road
Colma, CA 94014

Kathy Leroux
City Clerk
Town of Hillsborough
1600 Floribunda Avenue
Hillsborough, CA 94010

Cheryl Mitchell Wade
City Clerk
City of Millbrae
621 Magnolia Avenue
Millbrae, CA 94030

Alex McIntyre
Town Administrator
Town of Portola Valley
765 Portola Road
Portola Valley, CA 94028

Terri Rasmussen
City Clerk
City of San Bruno
567 El Camino Road

Kathy Kern
City Clerk
City of Belmont
1070 Sixth Avenue, Suite 311
Belmont, CA 94002

Dennis Argyres
City Manager
City of Burlingame
Burlingame City Hall
501 Primrose Road
Burlingame, CA 94010

John Martin
City Manager
City of Daly City
333 90th Street
Daly City, CA 94015

Jaye Carr
City Clerk
City of Menlo Park and
City of West Menlo Park
701 Laurel Street
Menlo Park, CA 94025

David Carmany
City Manager
City of Pacifica
170 Santa Maria Avenue
Pacifica, CA 94044

City Clerk Department
Town of Redwood City
City Hall
1017 Middlefield Road
Redwood City, CA 94063

Michael Garvey
City Manager
City of San Carlos
600 Elm Street

San Bruno, CA 94066

Norma Gomez
City Clerk
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

The Honorable Michael Chang
Mayor
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014-3202

The Honorable Toni Casey
Mayor
Town of Los Altos Hills
Town Hall
26379 Fremont Road
Los Altos Hills, CA 94022

The Honorable Henry Manayan
Mayor
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

The Honorable Dennis M. Kennedy
Mayor
City of Morgan Hill
Civic Center
17555 Peak Avenue
Morgan Hill, CA 95037

The Honorable Dick Rosenbaum
Mayor
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

The Honorable Judy Nadler

San Carlos, CA 94070

The Honorable Jeanette Watson
Mayor
City of Campbell
70 N. First Street
Campbell, CA 95008

The Honorable Kris Casto
Mayor
City of Los Altos
One North San Antonio Road
Los Altos, Ca 94022-1491

The Honorable Linda Lubeck
Mayor
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

The Honorable Suzanne E. Jackson
Mayor
City of Monte Sereno
City Hall
1804 Saratoga-Los Gatos Road
Monte Sereno, CA 95030

The Honorable Ralph Faravelli
Mayor
City of Mountain View
500 Castro Street
Mountain View, CA 94039

The Honorable Susan Hammer
Mayor
City of San Jose
801 N. First Street
Room 436
San Jose, CA 95110

The Honorable Gillian Maran

Mayor
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

The Honorable Jim Roberts
Mayor
City of Sunnyvale
City Hall
456 West Olive Avenue
Sunnyvale, CA 94088

The Honorable Willie L. Brown, Jr.
Mayor
City of San Francisco
401 Van Ness Avenue, Room 336
San Francisco, CA 94102

The Honorable Eugene Mullin
Mayor
City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080

Mayor
City of Saratoga
City Hall
13777 Fruitvale Avenue
Saratoga, CA 95070

The Honorable Russ Harter
Mayor
City of Foster City
61D
Foster City, CA 94404

The Honorable Janet Koeisch
Town Clerk
Town of Woodside
2955 Woodside Road
Woodside, CA 94062

The Honorable R. B. Jones
Mayor
City of East Palo Alto
Municipal Center
2415 University Avenue
East Palo Alto, CA 94303

Valerie Steen