§ 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 local commercial 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 when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.
(f) Pursuant to §76.64(f)(3), a local commercial broadcast television station that fails to make an election is deemed a must-carry station. A cable operator shall carry such a television station 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. In the event that none of these specified channel positions is available due to a channel positioning request from a commercial television station affirmatively asserting its must-carry rights or such a request from a qualified local noncommercial educational station, the cable operator shall place the signal of such a television station on a channel of the cable system’s choice, so long as that channel is included on the basic service tier.

NOTE TO §76.57: Any existing agreement for channel position between a local commercial station entitled to must-carry status and a cable operator entered into prior to June 26, 1990, may continue through the expiration of such agreement.

§76.59 Modification of television markets.

(a) The Commission, following a written request from a broadcast station or a cable system, may deem that the television market of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station’s television market. In this respect, communities may be considered part of more than one television market.

(b) Such requests for modification of a television market shall be submitted in accordance with §76.7, petitions for special relief, and shall include the following evidence:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Grade B contour maps delineating the station’s technical service area and showing the location of the cable system headends and communities in relation to the service areas.

NOTE TO PARAGRAPH (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.

(3) Available data on shopping and labor patterns in the local market.

(4) Television station programming information derived from station logs or the local edition of the television guide.

(5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.

(6) Published audience data for the relevant station showing its average all day audience (i.e., the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.

(c) Petitions for Special Relief to modify television markets that do not include such evidence shall be dismissed without prejudice and may be refiled at a later date with the appropriate filing fee.

(d) A cable operator shall not delete from carriage the signal of a commercial television station during the pendancy of any proceeding pursuant to this section.

§76.60 Compensation for carriage.

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a