petitioners for CATV grants, were bullish about New York's potential as a community antenna market.

Unlike conventional CATV systems, which have brought in outside signals, the New York operators will be selling themselves on their ability to deliver clear television pictures in a market that is known for its marked variation in quality of reception from area to area, and even from one block to the next.

Some observers considered the defeat of the telephone company in the New York proceeding as having far-reaching significance in other cities around the country although the New York situation differs from most others. The duct space to be used by the CATV's is owned by a New York Telephone Co. subsidiary—Empire City Subway Co.

Empire operates under a 19th-century authorization from the city which requires it to lease its space to any duly franchised concern.

Phone Company Protests ▪ The New York Telephone Co. has protested the granting of franchises which would allow CATV companies to install their own cable in phone-company duct space, arguing that only its own personnel are qualified for this work. It contends that letting others into its conduits could result in disruption of its own communications services.

On these grounds it has proposed itself as the logical installer of community antenna systems and suggested that operators lease lines that would be owned by the phone company. AT&T's Bell Systems throughout the country have favored similar operating procedures.

A last-minute brief filed by the phone company with the board of estimate on Thursday pointed to hazards which might result from the CATV grants.

The phone company brief, after charging that the antenna companies "do not have the manpower, the equipment, the experience or the incentive to do a satisfactory job," went on to allege that Sterling Information Services has "installed metering control circuits, which are appropriate to pay TV but not to Teleguide (the Sterling closed circuit service) or CATV." It said Sterling's recent installations have a 25-channel capacity.

In answering this charge, Sterling President Charles Dolan said the phone company was merely guessing as to the future use of the lines, that there was absolutely no metering equipment installed, and he denied any pay-TV plans were indicated by the company's installations.

The Pie ▪ Manhattan was carved into two pieces for Sterling and Teleprompter along lines designed to give each approximately equivalent subscriber potential. Sterling was awarded all of the borough south of 86th Street on the East Side and 79th Street on the West Side. Teleprompter got the north end of the borough with the exception of a small piece that extends north of the Harlem River. This bit went to CATV Enterprises along with the Riverdale section of the Bronx.

The city estimates that the division gives Sterling an area of 338,000 residences and Teleprompter 421,500 residences, but explains that the imbalance is corrected since Sterling has a preferred area of operation in terms of density of subscription potential.

Sterling expects to invest between $2 million and $3 million in the first year of its CATV effort. Its present plant investment for its Teleguide service, much of which will be compatible with its CATV operation, is valued at $1 million.

Sterling's Teleguide is essentially a hotel information service, but it is connected to 10 apartment buildings, which have a potential of between 2,500 and 3,000 subscribers to the new community antenna service. The company estimates that 800,000 people live in the area granted it by the city.

It has 25 miles of coaxial cable already installed and this wire passes roughly 125,000 possible subscribers.

Major stockholders in Sterling are Time-Life Broadcast (which, at 20%, has the largest single piece of the company), William Lear of Lear Jet Corp., station owner J. Elroy McCaw, former Secretary of the Treasury Robert Anderson and Sterling Movies U. S. A.

Ready to Promote ▪ Teleprompter Corp. was reportedly ready to begin promotion of its service immediately with newspaper advertising announcing the future availability of its service.

Company President and Board Chairman Irving Kahn would not disclose how much Teleprompter intends to invest in the New York operation initially or when it might begin service except to say as soon as possible. The publicly owned company, traded on the American Stock Exchange, gained a point last Thursday, before the franchise news was definite—but after it had been predicted—closing at 12. The company lists 90,000 subscribers to its CATV systems across the country, 30,000 of these paying monthly fees for master antenna service in the New York area.

Teleprompter's Mr. Kahn has been

Court hears CATV-common carrier arguments

A move to force the FCC to declare that community antenna television systems are common carriers was argued in court last week. Pushing for the common-carrier declaration is the Television Accessories Manufacturers Institute (TAME); JFD Electronics Inc., an antenna manufacturer, and WPHL-TV Philadelphia. The object of their attack is the 12-channel CATV system being built by Rollins Broadcasting Co. in Wilmington, Del.

The trio had petitioned the FCC to treat the Rollins CATV system as a common carrier. The commission turned this down on the ground that it had already ruled that CATV's do not fall under the common-carrier portion of the Communications Act. This decision was appealed.

Arguing for the appellants in the U. S. Court of Appeals in Washington was Joseph A. Fanelli, who contended that CATV's meet all the criteria for common carriers (they hold out service to the public without discrimination).

This position originally was taken by the FCC staff, Mr. Fanelli said, but was overruled by the commission itself.

"If the CATV had contracts with the TV stations to carry their programs, this would, even under the FCC's present definition, make them common carriers," he declared.

And, he added, the commission has said that it doesn't intend to regulate rates or service; it would leave that to the states. This implies that the FCC considers CATV's common carriers under state law, but not under federal law, he said, which should not be permitted.

Daniel P. Ohlbaum, deputy general counsel of the FCC, emphasized that CATV's do not, as regular common carriers do, carry the "goods" of others. Common carriers, he said, not only hold themselves out to serve the public, but actually carry material given to them by customers. CATV's, however, he said, do the choosing themselves of what TV stations and what programs will be fed to subscribers. This takes them out of the common carrier classification, and puts them into the broadcasting category.

Stanley S. Neustadt, representing Rollins Broadcasting, noted that Rollins will make the decision as to what programs will be sent to subscribers.

The argument was heard by Circuit Judges John A. Danaher, Wilber K. Miller and Harold Leventhal.