

rulemaking suggesting the same deregulatory treatment for systems with up to 999 subscribers.

The commission, which acted on these matters four weeks ago (BROADCASTING, March 14), has not yet published the texts. However, copies became available last week.

In defining cable systems in terms of the headend, the commission made clear it was not automatically amending rules pegged to the community. A number of existing rules will continue to be implemented on the basis of a "system community unit," that part of a system located with a single community.

The signal carriage rules—which the commission considers the core of its cable regulation—will be applied on a community-by-community basis. "The limitations contained in our signal carriage rules are designed to assure the local broadcasters' continued viability by providing for carriage of the local station on the system while limiting the number of distant signals imported to that whose competition the local station presumably can withstand," the commission said.

However, because of what it sees as the "burden" systems will bear in carrying different complements of signals on different units of an integrated system, the commission has prescribed the criteria it will consider in reviewing petitions for waiver of the signal carriage rules.

These include such questions as

whether the affected community could obtain cable-television service or whether the rest of the system would be built without grant of the requested waiver; the number and type of inconsistent signals being proposed; whether the carriage of any of those signals is mandatory in any segment of the system; the percentage of the local broadcaster's total service area affected; the local broadcaster's financial condition, if put in issue in the proceeding; the extent to which the market has already been penetrated with cable carriage of the signals in question, and the extent to which the system may contemplate future expansion through similar waivers.

The commission's action also permits systems to take one prescribed audience survey per system, rather than per community, to show that a signal is significantly viewed and therefore available for carriage. And, "to facilitate the natural extension of existing systems," the commission will apply the rule barring crossownership of co-located cable television systems and television stations on a system-by-system basis. But the franchise standards and certification rules will continue to be implemented community by community.

The decision to reduce the amount of regulation carried by systems with fewer than 500 subscribers, the commission said, grows out of the conviction that "they are substantially different from larger systems and can be accorded lesser regulation without disruption of our overall regulatory program." A principal purpose of the deregulation, the commission said, is "to alleviate the disproportionate burdens of regulation" such small systems carry.

The commission said those systems typically only furnish subscribers with off-air signals and are not likely to have the resources to install the equipment needed to bring in many additional signals. According to the commission, such systems, which make up 24% of all those now operating but serve only 2% of all cable subscribers, gross annually some \$36,000, an estimate that is based on a \$6 monthly subscriber rate.

As members of a new class of cable television, the smaller systems will still be subject to the mandatory signal-carriage rules and to the commission's technical standards. But reporting requirements will be reduced. And small systems will be exempt from the distant-signal importation limits, from the sports blackout rule, from the requirement to perform technical standard performance tests, from meeting commission franchising standards and from the requirement to obtain certificates of compliance from the commission (a notification of the systems' name and location, and of the signals to be carried will suffice), and from the requirement that a public file of official documents be maintained.

The commission had been asked to deregulate systems with far more than 500 subscribers. But the commission, saying it was moving cautiously, decided to issue a further notice of rulemaking aimed at ex-

tending the regulatory relief to systems with up to 1,000 subscribers. (Those account for a total of 42% of all systems, but they serve only 6% of all subscribers.) Comments on the new rulemaking are due June 6; replies are due by July 6.

The commission's belief that deregulating the smaller systems and even those with up to 1,000 subscribers would have little effect on local television stations is based, in part at least, on studies by the commission's Cable Television Bureau of the fractionalization that local stations might suffer if cable television systems were exempted from the distant-signal carriage limitations. One study, based on "gross estimates," indicates that a handful of stations in small markets would lose more than 2% of their audience if local systems added distant signals. But a "detailed analysis" of 15 "worst cases" indicated the greatest audience loss actually would be 1.7% in Ardmore-Ada, Okla., if the deregulation were applied to 1,000-subscriber systems (see table).

The definitional exclusion of MATV's—which serve subscribers in one or more multiple-unit dwellings, such as apartment houses, under common ownership or management—is a carryover, though with some revisions, from the original definition. In retaining it, the commission said it was impressed by the statement of a large multiple-system cable operator, Cablecom-General, supported by the comments of a large corporation with broadcast interests, RCA, "that regulation of MATV systems had not been justified on the grounds of their actual or potential harm to over-the-air television."

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Cable Briefs

Pole appeal. National Cable Television Association has appealed FCC's refusal to assert jurisdiction over agreements cable systems reach with telephone and utility companies over use of their poles. NCTA, claiming cable systems are at disadvantage in attempting to negotiate rights to attach cables to poles, had requested commission to assert jurisdiction. Commission, however, said it lacked jurisdiction to regulate utility poles or conduit space provided by electric utilities to cable television operators. Appeal was filed with U.S. Court of Appeals in Washington.

Gearing for rewrite. National Cable Television Association's Communications Act rewrite committee chairman, Ralph Baruch of Viacom, announced heads of legal and technical subcommittees. Legal group will be led by Charles S. Walsh of Washington law firm Fleischman & Walsh.

Pay for play. April 17 has been set as premiere date for first in new series of Home Box Office pay-cable stage-show offerings. Series, *Standing Room Only*, will present different stage "spectacular" every month. Performances are taped live and are exclusive to HBO. First three shows are "Ann Corio's 'This Was Burlesque'" taped at the Academy of Music in North-