as used in Title 47 of the United States Code, as amended, and, if not defined therein, their meaning as used in Part 47 of the Code of Federal Regulations.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43175, Aug. 21, 1996; 64 FR 67197, Dec. 1, 1999]

§ 76.1501 Qualifications to be an open video system operator.

Any person may obtain a certification to operate an open video system pursuant to Section 653(a)(1) of the Communications Act, 47 U.S.C. 573(a)(1), except that an operator of a cable system may not obtain such certification within its cable service area unless it is subject to ''effective competition'' as defined in Section 623(l)(1) of the Communications Act, 47 U.S.C. 543(l)(1). The effective competition requirement of the preceding sentence does not apply to a local exchange carrier that is also a cable operator that seeks open video system certification within its cable service area. A cable operator that is not subject to effective competition within its cable service area may file a petition with the Commission, seeking a finding that particular circumstances exist that make it consistent with the public interest, convenience, and necessity to allow the operator to convert its cable system to an open video system. Nothing herein shall be construed to affect the terms of any franchising agreement or other contractual agreement.

[65 FR 376, Jan. 5, 2000]

§ 76.1502 Certification.

(a) An operator of an open video system must certify to the Commission that it will comply with the Commission's regulations in 47 CFR 76.1503, 76.1504, 76.1506(m), 76.1508, 76.1509, and 76.1513. The Commission must approve such certification prior to the commencement of service at such a point in time that would allow the applicant sufficient time to comply with the Commission's notification requirements.

(b) Certifications must be verified by an officer or director of the applicant, stating that, to the best of his or her information and belief, the representations made therein are accurate.

(c) Certifications must be filed on FCC Form 1275 and must include:

(1) The applicant's name, address and telephone number;

(2) A statement of ownership, including all affiliated entities;

(3) If the applicant is a cable operator applying for certification in its cable franchise area, a statement that the applicant is qualified to operate an open video system under Section 76.1501.

(4) A statement that the applicant agrees to comply and to remain in compliance with each of the Commission's regulations in §§ 76.1503, 76.1504, 76.1506(m), 76.1508, 76.1509, and 76.1513;

(5) If the applicant is required under 47 CFR 64.903(a) of this chapter to file a cost allocation manual, a statement that the applicant will file changes to its manual at least 60 days before the commencement of service;

(6) A list of the names of the anticipated local communities to be served upon completion of the system;

(7) The anticipated amount and type (*i.e.*, analog or digital) of capacity (for switched digital systems, the anticipated number of available channel input ports); and

(8) A statement that the applicant will comply with the Commission's notice and enrollment requirements for unaffiliated video programming providers.

(d)(1) On or before the date an FCC Form 1275 is filed with the Commission, the applicant must serve a copy of its filing on all local communities identified pursuant to paragraph (c)(6) of this section and must include a statement informing the local communities of the Commission's requirements in paragraph (e) of this section for filing oppositions and comments. Service by mail is complete upon mailing, but if mailed, the served documents must be postmarked at least 3 days prior to the filing of the FCC Form 1275 with the Commission.

(2) Parties are required to attach a cover sheet to the filing indicating that the submission is an open video system certification application. The only wording on this cover sheet shall be ''Open Video System Certification Application'' and ''Attention: Media Bureau.'' This wording shall be located