



PUBLIC NOTICE

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September 17, 2015

Notice of Effective Date of Revised Effective Competition Rules

December 8, 2015 Filing Deadline for Existing Franchise Authority Recertification MB Docket No. 15-53

On June 3, 2015, the Commission released *In the Matter of Amendment to the Commission's Rules Concerning Effective Competition and Implementation of Section 111 of the STELA Reauthorization Act*,¹ which revised the Commission's rules related to Effective Competition, including the adoption of a rebuttable presumption that cable operators are subject to Competing Provider Effective Competition.² The Commission adopted the rule based on its conclusion that the video competition market has dramatically changed since the Commission adopted a presumption of no Effective Competition over two decades ago.³ As a result of the updated rules, a franchising authority⁴ will be prohibited from regulating basic cable rates unless it successfully demonstrates that the cable system serving the franchising authority's community is not subject to Competing Provider Effective Competition.⁵ The Federal Register published a summary of the *Effective Competition Order* on July 2, 2015.⁶ On September 9, 2015, the rules adopted in the *Effective Competition Order* became effective.⁷

¹ *In the Matter of Amendment to the Commission's Rules Concerning Effective Competition, Implementation of Section 111 of STELA Reauthorization Act*, Report and Order, 30 FCC Rcd 6574 (2015) ("*Effective Competition Order*"). Effective Competition is a term of art that the statute defines by application of specific tests. See 47 U.S.C. §§ 543 (l)(1)(A)-(D); 47 C.F.R. §§ 76.905(b)(1)-(4).

² See 47 U.S.C. §§ 543(a)(2), (l)(1)(B); 47 C.F.R. §§ 76.905(b)(2) & 76.906.

³ *Effective Competition Order*, 30 FCC Rcd at 6577-6584, ¶¶ 6-12.

⁴ A "franchising authority" is "any governmental entity empowered by Federal, State, or local law to grant a franchise." See 47 U.S.C. § 522(10).

⁵ *Effective Competition Order*, 30 FCC Rcd at 6583, ¶ 11.

⁶ *Effective Competition Order*, 80 Fed. Reg. 38001 (July 2, 2015).

⁷ The Commission published a notice in the Federal Register on September 9, 2015 to announce that the Office of Management and Budget approved the paperwork burdens associated with these rules and announcing their effective date (September 9, 2015). 80 Fed. Reg. 54252 (September 9, 2015).

Under the modified rules, franchising authorities remain free to rebut the presumption of Competing Provider Effective Competition.⁸ Franchising authorities may do this by filing Form 328 and attaching evidence adequate to satisfy the burden of rebutting the presumption of Competing Provider Effective Competition with evidence specific to their community.⁹ Cable operators may oppose a franchising authority's certification by filing a petition for reconsideration pursuant to Section 76.911 of our rules demonstrating that it satisfies any of the four tests for Effective Competition.¹⁰

All franchising authorities with existing certifications that wish to remain certified must file Form 328, including the attachment rebutting the presumption of Competing Provider Effective Competition, by **90 days from September 9, 2015 (December 8, 2015)**. Failure to do so will result in the expiration of a franchise authority's existing certification. Filers may file electronically by clicking the "Submit a Filing in INBOX-76.910" link on the upper left side of the Electronic Comment Filing System website at <http://apps.fcc.gov/ecfs/proceeding/view?name=INBOX-76.910> and completing the non-docketed filing form. The Media Bureau will issue a public notice following the conclusion of the 90-day period identifying all franchising authorities that filed a revised Form 328 as well as those franchising authorities that are parties to a pending Effective Competition proceeding (and in the interim, the Commission will continue to process pending petitions for a determination of Effective Competition, petitions for reconsideration of certification, and petitions for reconsideration of an Effective Competition decision in the normal course of business pursuant to existing rules).¹¹ In addition, the Commission will issue a public notice following the conclusion of the 90-day period granting all pending unopposed cable operator Effective Competition petitions where the franchising authority has not filed a revised Form 328.¹²

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For additional information, contact Steve Broecker, Steven.Broeckaert@fcc.gov or Nancy Murphy, Nancy.Murphy@fcc.gov, of the Media Bureau, at (202) 418-2120 or (888) 835-5322. Press inquiries: Janice Wise, Janice.Wise@fcc.gov or (202) 418-8165.

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⁸ *Effective Competition Order*, 30 FCC Rcd at 6587-6592, ¶¶ 17-26.

⁹ *Id.* at 6587, ¶ 17.

¹⁰ 47 C.F.R. § 76.911.

¹¹ *Effective Competition Order*, 30 FCC Rcd at 6592, 6593 ¶ 27, n.134.

¹² *Id.* at 6594, ¶ 30. The Local Franchising Authority's existing certification will not expire in cases where there is a pending opposition to an Effective Competition petition, a pending petition for reconsideration of an Effective Competition decision, or a pending application for review of an Effective Competition decision. *Id.* at 6592, ¶ 27, ("If a franchising authority with an existing certification does not file a new certification (Form 328) during the 90-day timeframe, its existing certification will expire at the end of that timeframe as long as there is not pending for the franchise area an opposed Effective Competition petition or an opposed or unopposed petition for reconsideration of certification, petition for reconsideration of an Effective Competition decision, or application for review of an Effective Competition decision.").