Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)
	)
Six Unopposed Petitions for Determination of	)
Effective Competition	)

MEMORANDUM OPINION AND ORDER

Adopted: January 26, 2015 **Released: January 28, 2015**

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION AND BACKGROUND

1. By this Order, we grant six unopposed petitions for a finding of effective competition. The unopposed petitions set forth on Attachment A were filed by various cable companies (the "Petitioners") seeking determinations of effective competition in their local franchise areas pursuant to Sections 76.7, 76.905(b)(2), and 76.907 of the Commission's rules.[1] The Petitioners allege that their cable systems are subject to effective competition in their local franchise areas (the "Attachment A Communities") pursuant to Section 623(l)(1)(B) of the Communications Act of 1934, as amended ("Communications Act") and Section 76.905(b)(2) of the Commission's rules,[2] and are therefore exempt from cable rate regulation, principally because of the competing service provided by two direct broadcast satellite ("DBS") providers, DIRECTV, Inc., and DISH Network.

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition[3] as that term is defined by Section 623(l) of the Communications Act and Section 76.905 of the Commission's rules.[4] The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area.[5] For the reasons set forth below, we conclude that Petitioners have carried that burden. We grant these unopposed petitions based on our finding that Petitioners are subject to effective competition in the Communities listed on Attachments A .

II. DISCUSSION

A. The Competing Provider Test

3. Section 623(l)(1)(B) of the Communications Act provides that a cable operator is subject to effective competition if its franchise area is (a) "served by at least two unaffiliated multichannel video programming distributors [("MVPDs")] each of which offers comparable video programming to at least 50 percent of the households in the franchise area," and (b) "the number of households subscribing to programming services offered by [MVPDs] other than the largest [MVPD] exceeds 15 percent of the

[1] 47 C.F.R. §§ 76.7, 76.905(b)(2), 76.907.

[2] 47 U.S.C. § 543(l)(1)(B); 47 C.F.R. § 76.905(b)(2).

[3] 47 C.F.R. § 76.906.

[4] 47 U.S.C. § 543(l); 47 C.F.R. § 76.905.

[5] 47 C.F.R. §§ 76.906, 76.907(b).

households in the franchise area."[6] This test is referred to as the "competing provider" test.

4. We have reviewed each of the Attachment A petitions in full. We find that each petition provides sufficient and reliable evidence to establish that both elements of the competing provider test for effective competition are satisfied consistent with the Communications Act, our implementing rules, and over 20 years of effective competition adjudicatory precedent. Specifically, we find that each of the Attachment A Communities is served by at least two unaffiliated MVPDs each of which offers comparable video programming to at least 50 percent of the households in the franchise area. We further find that the number of households subscribing to programming services offered by MVPDs other than the largest MVPD exceeds 15 percent of the households in each of the Attachment A Communities. Each of the Petitioners has demonstrated the presence of effective competition in their respective franchise areas. In so doing, Petitioners have satisfied their burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise areas.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petitions for a determination of effective competition set forth in Attachment A **ARE GRANTED**.

6. **IT IS FURTHER ORDERED** that any certification to regulate basic cable service rates granted to any of the Attachment A Communities **IS REVOKED**.

7. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.[7]

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Senior Deputy Chief, Policy Division, Media Bureau

[6] 47 U.S.C. § 543(l)(1)(B); 47 C.F.R. § 76.905(b)(2).

[7] 47 C.F.R. § 0.283.

Attachment A
Subject to Competing Provider Test

Comcast Cable Communications, LLC Proceedings and Communities	**CUIDS**
MB Docket 12-123, CSR 8626-E	
Media	PA1890
MB Docket 14-86, CSR 8880-E	
Philadelphia – Area I	PA0828
Philadelphia – Area II	PA2894
Philadelphia – Area III	PA2583
Philadelphia – Area IV	PA2539
CoxCom, LLC d/b/a Cox Communications Gainesville/Ocala Proceedings and Communities	**CUIDS**
MB Docket 14-118, CSR 8884-E	
Gainesville	FL0150
Cox Communications Gulf Coast, LLC Proceedings and Communities	**CUIDS**
MB Docket 14-119, CSR 8885-E	
Fort Walton Beach	FL0141
Niceville	FL0236
Cinco Bayou	FL0139
Time Warner Cable Inc. Proceedings and Communities	**CUIDS**
MB Docket 14-120, CSR 8886-E	
Cornwall	NY0244
Cornwall-on-Hudson	NY0243
Delaware	NY0488
Highland	NY0597
Highland Falls	NY0773
Jeffersonville	NY0161
Pleasant Valley	NY0221
Poughkeepsie, City	NY0223
Poughkeepsie, Town	NY0222
Rockland	NY0225
Shandaken	NY0556
MB Docket 14-121, CSR 8887-E	
Bethlehem	NY0660

Colonie, Town	NY0336
Colonie, Village	NY0335
Delanson	NY1304
Guilderland	NY0337
New Scotland	NY0980
Schenectady	NY0407
Scotia	NY0412