

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

In the Matter of:)	
)	
MCC Iowa, LLC)	
)	CSR 6745-E
Petition for Determination of Effective)	
Competition in Algona, Iowa (IA0014))	
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: December 27, 2005

Released: December 28, 2005

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. MCC Iowa LLC (“Mediacom”) filed with the Commission a petition pursuant to Sections 76.7 and 76.907 of the Commission’s rules for a determination of effective competition in the City of Algona, Iowa (“Algona” or the “City”).¹ Mediacom alleges that its cable system serving Algona is subject to effective competition pursuant to Section 623(l)(1) of the Communications Act of 1934, as amended (“Communications Act”), and Section 76.905(b)(3) of the Commission’s rules and seeks revocation of the certification of the local franchising authority in Algona to regulate basic cable service rates.² Mediacom claims the presence of effective competition in Algona stems from the competing service provided by Algona Municipal Utilities (“AMU”), a cable system operated by a municipality serving the residents of the franchise area. No opposition to the petition was filed.

II. DISCUSSION

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 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 Section 623(l)(1)(C) of the Communications Act provides that a cable operator is subject to effective competition under the “municipal provider” test if a multichannel video programming distributor (“MVPD”) operated

¹ 47 C.F.R. § 76.7.

² 47 U.S.C. § 543(a); 47 C.F.R. § 76.905(b)(3).

³ 47 C.F.R. § 76.906.

⁴ 47 C.F.R. § 76.905.

⁵ 47 C.F.R. §§ 76.906 & 907.

by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.⁶ A MVPD's service is deemed to be "offered" for purposes of effective competition tests (1) when the MVPD is physically able to deliver service to potential subscribers, with the addition of no or only minimal additional investment by the distributor, in order for an individual subscriber to receive service; and (2) when no regulatory, technical or other impediments to households taking service exist, and potential subscribers in the franchise are reasonably aware that they may purchase the services of the multichannel video programming distributor.⁷

3. Mediacom provided evidence demonstrating that its cable system serving the franchise area is subject to effective competition from AMU, a municipally-operated MVPD.⁸ More particularly, AMU obtained authority to provide MVPD services in Algona, Iowa in 1997.⁹ Mediacom also demonstrated that AMU is technically and actually able to deliver service to subscribers by showing that AMU operates a MVPD system that substantially physically overlaps Mediacom's service in the franchise area.¹⁰ Mediacom further demonstrated that potential subscribers in the franchise area may be deemed to be reasonably aware that they may purchase the MVPD service of the municipal MVPD, by providing copies of advertising materials distributed within the franchise area that describe competitive pricing material for a broad range of channels offered.¹¹ According to those advertising materials, potential subscribers need only to contact AMU to obtain services.¹²

4. With regard to the requirement that the municipally-owned cable system offer service to at least 50 percent of the households in the franchise area, we find that this requirement has been met. As noted above, Mediacom has demonstrated that the municipal MVPD's system extends throughout the franchise area and substantially overlaps Mediacom's service in the franchise area. This evidence demonstrates that the municipal MVPD's cable plant passes significantly more than 50 percent of the households in the franchise area. The extent of the municipal MVPD system plant in the community, together with the evidence discussed above, establishes that this municipal MVPD, AMU, offers service to at least 50 percent of the households in the franchise area.

⁶ 47 U.S.C. § 543(1)(1)(C); *see also* 47 C.F.R. § 76.905(b)(3).

⁷ 47 C.F.R. § 76.905(e).

⁸ Petition at 2.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 5 and Exhibit C.

¹² *Id.*

5. Based on the foregoing, we conclude that Mediacom submitted sufficient evidence demonstrating its cable system serving Algona, Iowa is subject to municipal provider effective competition.

III. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that the petition for a determination of effective competition filed by MCC Iowa LLC (“Mediacom”) **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that the certification to regulate basic cable service in Algona, Iowa **IS REVOKED**.

8. This action is taken pursuant to authority delegated under Section 0.283 of the Commission’s rules.¹³

FEDERAL COMMUNICATIONS COMMISSION

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¹³ 47 C.F.R. § 0.283.