

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

|   |   |            |
|---|---|------------|
| In the Matter of:                             | ) |            |
|   | ) |            |
| MEDIACOM MINNESOTA LLC                        | ) | CSR 6352-E |
|   | ) |            |
| MCC ILLINOIS LLC                              | ) | CSR 6354-E |
|   | ) |            |
|   | ) |            |
| Petitions for Determination of Effective      | ) |            |
| Competition in Louisville, Illinois (IL0284), | ) |            |
| Morris, Minnesota (MN0012) and Chokio,        | ) |            |
| Minnesota (MN0179)                            | ) |            |

**MEMORANDUM OPINION AND ORDER**

**Adopted: January 12, 2006**

**Released: January 13, 2006**

By the Deputy Chief, Media Bureau:

**I. INTRODUCTION**

1. Mediacom Minnesota LLC (“Mediacom”) and MCC Illinois LLC (collectively “Mediacom”) have filed with the Commission petitions pursuant to Section 76.7, 76.905(b)(4) and 76.907 of the Commission’s rules for a determination of effective competition in the Village of Louisville, Illinois and the Cities of Morris and Chokio, Minnesota (collectively “the Franchise Areas”). Mediacom alleges that its cable systems serving the Franchise Areas are subject to effective competition pursuant to Sections 623(a)(2) and 623(1)(1)(4) of the Communications Act<sup>1</sup> and the Commission’s implementing rules,<sup>2</sup> and therefore are exempt from cable rate regulation. Mediacom claims the presence of effective competition in the Franchise Areas stems from the competing cable services provided by Wabash Telephone Cooperative, Inc. (“Wabash”) in Louisville, and HomeTown Solutions, LLC (“HomeTown Solutions”) in Morris and Chokio. Mediacom further asserts that Wabash and HomeTown Solutions are local exchange carriers that provide local exchange access services in the respective Franchise Areas. No opposition to the petitions 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,<sup>3</sup> as that term is defined by Section 76.905 of the Commission’s rules.<sup>4</sup>

<sup>1</sup> 47 U.S.C. § 543(a)(4) & 543(1)(1)(4).

<sup>2</sup> 47 C.F.R. § 76.905(b)(4).

<sup>3</sup> 47 C.F.R. § 76.906.

<sup>4</sup> 47 C.F.R. § 76.905.

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.<sup>5</sup> Section 623(1)(1)(D) of the Communications Act provides that a cable operator is subject to effective competition, and therefore exempt from cable rate regulation, if a local exchange carrier (“LEC”) or its affiliate offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, provided the video programming services thus offered are comparable to the video programming services provided by the unaffiliated cable operator in that area.<sup>6</sup>

3. The Commission has stated that an incumbent cable operator could satisfy the LEC effective competition test by showing that the LEC is technically and actually able to provide services that substantially overlap the incumbent operator’s service in the franchise area.<sup>7</sup> The incumbent also must show that the LEC intends to build-out its cable system within a reasonable period of time if it has not already done so, that no regulatory, technical or other impediments to household service exist, that the LEC is marketing its services so that potential customers are aware that the LEC’s services may be purchased, that the LEC has actually begun to provide services, the extent of such services, the ease with which service may be expanded and the expected date for completion of construction in the franchise area.<sup>8</sup>

### III. DISCUSSION

4. Mediacom operates cable television systems in Louisville, Illinois and Morris and Chokio, Minnesota (the Franchise Areas”) for which it seeks a determination of effective competition and, having been assigned the Community Unit Identification (CUID) numbers shown in the caption, qualifies as the incumbent cable operator within those Franchise Areas for purposes of the “LEC” effective competition test at issue in this proceeding. Mediacom provided information showing that the State of Illinois and State of Minnesota have granted certificates for the provision of telephone exchange and local exchange access services by Wabash in Louisville, Illinois and HomeTown Solutions in Morris and Chokio, Minnesota.<sup>9</sup> Therefore, Wabash and HomeTown Solutions qualify as a LEC for purposes of the LEC effective competition test.<sup>10</sup>

5. Wabash received a local cable franchise from Louisville in 2003 authorizing it to provide cable programming services throughout the Franchise Area.<sup>11</sup> HomeTown Solutions received a local cable franchise from Morris and Chokio in 2000 authorizing it to provide cable programming services throughout the respective Franchise Areas.<sup>12</sup> Mediacom demonstrated that the Franchise Areas are essentially the same as that of its own, the Wabash and HomeTown Solutions cable plants cover most of

---

<sup>5</sup> See 47 C.F.R. §§ 76.906 & 907.

<sup>6</sup> 47 U.S.C. § 543(1)(1)(D); see also 47 C.F.R. § 76.905(b)(4). This statutory effective competition test may be referred to as the “LEC” effective competition test.

<sup>7</sup> See *Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 5296, 5305 (1999) (“*Cable Reform Order*”).

<sup>8</sup> *Id.*

<sup>9</sup> Petitions at 2 & Exhibits A.

<sup>10</sup> See 47 U.S.C. § 543(1)(1)(D); 47 U.S.C § 153(a)(1).

<sup>11</sup> Petitions at 4 & Exhibits F.

<sup>12</sup> Petitions at 4 & Exhibits F.

the respective Franchise Areas, and that the cable plants substantially overlap Mediacom's service areas.<sup>13</sup> In addition to holding franchises for the provision of cable service within the Franchise Areas, Wabash and HomeTown Solutions have distributed press releases, local advertising, and marketing materials within the Franchise Areas so that potential cable subscribers in the Franchise Areas are broadly aware of the availability of their cable services and need only to contact Wabash or HomeTown Solutions to obtain service.<sup>14</sup>

6. The Wabash and HomeTown Solutions marketing materials show that their cable systems offer over 60 channels of video programming that includes non-broadcast programming services such as MSNBC, CNN, and ESPN, as well as a complement of several local television broadcast stations.<sup>15</sup> Based on this record, we find that the Wabash and HomeTown Solutions complement of programming services compares with the programming available on Mediacom's systems<sup>16</sup> and is sufficient to satisfy this aspect of the LEC effective competition test.<sup>17</sup> Mediacom also provided evidence that there are no regulatory, technical or other impediments to Wabash or HomeTown Solutions' provision of service within the Franchise Areas, and that Wabash and HomeTown Solutions are able to provide cable service that substantially overlaps Mediacom's service.<sup>18</sup> Based on the foregoing, we conclude that Mediacom has submitted sufficient evidence to demonstrate that its cable systems serving the Franchise Areas are subject to effective competition.

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that the petitions filed by Mediacom for determinations of effective competition in the Village of Louisville, Illinois and the Cities of Morris and Chokio, Minnesota **ARE HEREBY GRANTED**.

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.<sup>19</sup>

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief, Media Bureau

---

<sup>13</sup> Petitions at 3 & Exhibits C & D.

<sup>14</sup> *Id.* at 3-4 & Exhibits E.

<sup>15</sup> *Id.* at 6 & Exhibits G.

<sup>16</sup> *Id.* at 6 & Exhibits H.

<sup>17</sup> *See* 47 C.F.R. § 76.905(g).

<sup>18</sup> Petitions at 3 & Exhibits C & D.

<sup>19</sup> 47 C.F.R. § 0.283.