

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

In the Matter of	)	
	)	
Mediacom Southeast, LLC	)	
	)	CSR-6865-E
Two Petitions for Determination of Effective	)	CSR-6874-E
Competition in Three Local Franchise Areas in	)	
Kentucky and Tennessee	)	
	)	
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	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: January 22, 2007**

**Released: January 24, 2007**

By the Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION**

1. This Order considers two petitions filed with the Commission by Mediacom Southeast LLC (Mediacom) pursuant to Sections 76.7, 76.905(b)(1) and 76.907 of the Commission's rules for a determination that Mediacom's cable systems serving certain communities in Kentucky (the "communities") are subject to effective competition pursuant to Section 623(a)(1) of the Communications Act of 1934, as amended ("Communications Act") and are therefore exempt from cable rate regulation.<sup>1</sup> The communities include Clinton, Gamaliel, and Henderson, Kentucky. No opposition to any petition was filed. We grant the petitions finding that the Mediacom systems are subject to effective competition in these communities.

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,<sup>2</sup> as the term is defined by Section 623(l) of the Communications Act of 1934, as amended, and Section 76.905 of the Commission's rules.<sup>3</sup> 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>4</sup>

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<sup>1</sup> 47 C.F.R. §§ 76.7, 76.905(b)(1), 76.907; 47 U.S.C. § 543(a)(1).

<sup>2</sup> 47 C.F.R. § 76.906.

<sup>3</sup> See 47 U.S.C. § 543 (l); 47 C.F.R. § 76.905.

<sup>4</sup> See 47 C.F.R. §§ 76.906 & 76.907.

## II. DISCUSSION

3. Section 623(l)(1)(A) of the Communications Act provides that the cable operator is subject to effective competition, and therefore exempt from cable rate regulation, if “fewer than 30 percent of the households in the franchise area subscribe to the cable service of the cable system.”<sup>5</sup> Mediacom has provided information showing that in Clinton, Kentucky it has 1,003 subscribers in an area with 4,086 occupied households giving it a 24.55 percent penetration rate.<sup>6</sup> In Gamaliel (Monroe County), Kentucky, Mediacom has 672 subscribers out of 4,741 households giving it a penetration rate of 14.17 percent.<sup>7</sup> In Henderson, Kentucky, Mediacom states that it has 71 subscribers in an area with 11,693 occupied households giving it a penetration rate of 0.61 percent.<sup>8</sup> Accordingly, we conclude that Mediacom has demonstrated the existence of low penetration effective competition under our rules in these three communities.

## III. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that the petitions filed by Mediacom for a determination of effective competition in the communities of Clinton, Gamaliel, and Henderson, Kentucky **ARE GRANTED**.

5. **IT IS FURTHER ORDERED** that the certifications to regulate basic cable service rates of the communities **ARE REVOKED**.

6. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission’s rules.<sup>9</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broecker  
Deputy Chief, Policy Division, Media Bureau

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<sup>5</sup> 47 U.S.C. § 543(l)(1)(A).

<sup>6</sup> Mediacom Petition, CSR-6865 at 2.

<sup>7</sup> *Id.*

<sup>8</sup> Mediacom Petition, CSR-6874 at 2.

<sup>9</sup> 47 C.F.R. § 0.283.