

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

In the Matter of )
Comcast Cable Communications, LLC, on behalf ) CSR Nos. 7626-E, 7627-E, 7628-E, 7629-E,
of its subsidiaries and affiliates ) 7630-E, 7631-E, 7632-E, 7633-E, 7634-E
Petitions for Determination of Effective )
Competition in 42 Southeastern Pennsylvania )
Franchise Areas )

MEMORANDUM OPINION AND ORDER

Adopted: June 12, 2008

Released: June 13, 2008

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

I. INTRODUCTION AND BACKGROUND

1. Comcast Cable Communications, LLC, hereinafter referred to as "Petitioner," has filed with the Commission nine petitions pursuant to Sections 76.7 and 76.905(b)(4) and 76.907 of the Commission's rules for a determination that Petitioner is subject to effective competition in those communities listed on Attachment A and hereinafter referred to as "Communities." Petitioner alleges that its cable systems serving the Communities are subject to effective competition pursuant to Section 623(1)(1)(D) of the Communications Act of 1934, as amended ("Communications Act")1 and the Commission's implementing rules,2 and are therefore exempt from cable rate regulation in the Communities because of the competing service provided by Verizon Pennsylvania, Inc., hereinafter referred to as "Competitor." The petitions are unopposed.

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 grant the Petitions based on our finding that Petitioner is subject to effective competition in the Communities listed on Attachment A.

II. DISCUSSION

3. Section 623(1)(1)(D) of the Communications Act provides that a cable operator is subject to effective competition 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, but only if the video programming services offered in that area are comparable to the video programming services

1See 47 U.S.C. § 543(1)(1)(D).

247 C.F.R. § 76.905(b)(4).

347 C.F.R. § 76.906.

4See 47 U.S.C. § 543(l) and 47 C.F.R. § 76.905.

5See 47 C.F.R. §§ 76.906 & 907.

provided by the competing unaffiliated cable operator.<sup>6</sup> This test is otherwise referred to as the “LEC” test.

4. The Commission has stated that the incumbent cable operator must show that the LEC intends to build-out its cable system within a reasonable period of time if it has not completed its build-out; 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>7</sup> It is undisputed that these Communities are served by both Petitioner and Competitor, a local exchange carrier, and that these two MVPD providers are unaffiliated. The “comparable programming” element is met if a competing MVPD provider offers at least 12 channels of video programming, including at least one channel of nonbroadcast service programming<sup>8</sup> and is supported in these petitions with copies of channel lineups for Competitor.<sup>9</sup> Finally, Petitioner has demonstrated that the Competitor has commenced providing video programming service within the Communities, has marketed its services in a manner that makes potential subscribers reasonably aware of its services, and otherwise satisfied the LEC effective competition test consistent with the evidentiary requirements set forth in the *Cable Reform Order*.<sup>10</sup>

5. Based on the foregoing, we conclude that Petitioner has submitted sufficient evidence demonstrating that its cable systems serving the Communities have met the LEC test and are subject to effective competition.

### III. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that the petitions for a determination of effective competition filed in the captioned proceeding by Comcast Cable Communications, LLC, **ARE GRANTED**.

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

8. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission’s rules.<sup>11</sup>

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>6</sup>See 47 U.S.C. § 543(l)(D).

<sup>7</sup>See *Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 5296, 5305-06, ¶¶ 13-15 (1999) (“*Cable Reform Order*”).

<sup>8</sup>See 47 C.F.R. § 76.905(g). See also Petitions CSR 7626-E through CSR 7634-E at pages 12-13 and Exhibit 17.

<sup>9</sup>See Petitions CSR 7626-E through CSR 7634-E at Exhibit 17.

<sup>10</sup>See *Cable Reform Order*, 14 FCC Rcd at 5305-06, ¶¶ 13-15. See also Petitions CSR 7626-E through CSR 7634-E at pages 5-12.

<sup>11</sup>47 C.F.R. § 0.283.

## ATTACHMENT A

COMMUNITIES SERVED BY COMCAST CABLE COMMUNICATIONS, LLC, ON BEHALF  
OF ITS SUBSIDIARIES AND AFFILIATES

<b>CSR 7626-E Communities</b>	<b>CUID(S)</b>
Bensalem	PA1096
Hulmeville	PA1915
Langhorne Manor	PA1916
Lower Southampton	PA1111
New Britain	PA1946
Plumstead	PA2593
Upper Makefield	PA2684
Wrightstown	PA2435

<b>CSR 7627-E Communities</b>	<b>CUID(S)</b>
Hatfield Borough	PA2129
Hatfield Township	PA1623

<b>CSR 7628-E Communities</b>	<b>CUID(S)</b>
Ambler	PA1728
Charlestown	PA2122
Horsham	PA1791
East Pikeland	PA2121
Lansdale	PA1701
Lower Gwynedd	PA2479
Montgomery	PA1833
Schuykill	PA1194
Springfield	PA1143
Towamencin	PA1748
Upper Dublin	PA2004
Upper Gwynedd	PA2005
Upper Merion	PA1927
Upper Providence	PA1572
Whitpain	PA1991

<b>CSR 7629-E Communities</b>	<b>CUID(S)</b>
Birmingham	PA2490
Charlestown	PA3146
East Bradford	PA2491
East Goshen	PA1788
East Whiteland	PA1849
Easttown	PA1848
Pocopson	PA2492
Thornbury (Chester)	PA2390
Thornbury (Delaware)	PA2683
Tredyffrin	PA1850
West Bradford	PA2159
West Chester	PA1462

West Goshen	PA1461
West Pikeland	PA2495
Westtown	PA1789

**CSR 7630-E  
Communities CUID(S)**

Charlestown	PA2519
East Goshen	PA1847
Pocopson	PA2784
Westtown	PA2516

**CSR 7631-E  
Communities CUID(S)**

Lower Moreland	PA2014
Upper Moreland	PA1655

**CSR 7632-E  
Communities CUID(S)**

Lower Gwynedd	PA2634
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**CSR 7633-E  
Communities CUID(S)**

Radnor	PA2034
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**CSR 7634-E  
Communities CUID(S)**

Whitpain	PA2363
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