



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 08-1892
Released: August 13, 2008

COMMISSION ANNOUNCES NEW STANDARDS FOR SHOWINGS OF EFFECTIVE COMPETITION FOR CABLE SERVICE

The Federal Communications Commission clarifies the data that must be submitted to support a petition for a finding that a “competing provider” provides effective competition in the cable operator’s franchise area. Specifically, we will require the cable operator that submits “Zip Code” data to demonstrate that the number of households subscribing to video programming from providers other than the largest video programming distributor exceeds 15 percent of the households in a franchise area submit “Zip Code Plus Four” data.

Section 543 (a)(2) of the Communications Act permits the Commission to rescind the certification of a local franchise authority to regulate rates for cable service upon a showing by a cable operator that it is subject to “effective competition.” One way that a cable operator can demonstrate effective competition, specified in Section 543 (1)(1)(B)(2) of the Act, is to show that the number of households in a franchise area that subscribe to competing video services, usually those of direct broadcast satellite companies, is more than 15 percent of all the households in that franchise area. This is known as the “competing provider” test for effective competition.

When this test was first enacted, we permitted cable operators to report on competitive penetration levels based only on the Five-Digit Zip Code data, which was usually the best data available at that time. In more recent years, however, the more detailed and reliable Nine-Digit Zip Code Plus Four has become widely available and many, if not most, cable operators have been using Zip Code Plus Four data to demonstrate competitive penetration levels. The Commission has continued, however, to accept Five-Digit Zip Code data as well. Recently, a petition using the Five-Digit Zip Code data yielded penetration rates that exceeded 100% of the households in the franchise area, which was obviously inaccurate; this can occur when there is a very small community for which a finding of effective competition is sought, but the Five-Digit Zip Code covering that community covers a much larger area than just the community at issue. Such a result undermines the reliability of the Five-Digit Zip Code data. Accordingly, now that the Zip Code Plus Four data covering much smaller geographic areas is readily available and provides more detailed and reliable information, effective September 1, 2008, the Commission will require the submission of Zip Code Plus Four data to support all effective competition

showings that use Zip Code data to show the presence of a competing provider, and will no longer accept Five-Digit Zip Code data.

The Commission will continue processing effective competition competing provider petitions currently pending at the Commission that rely on Five-Digit Zip Code data, but if the Five-Digit Zip Code data leads to inaccurate or questionable reports of penetration, the request will be denied without prejudice to refile using the Nine-Digit Zip Code Plus Four data.

For further information, contact Senior Deputy Chief, Policy Division, Media Bureau, Steven Broeckaert, (202) 418-1075, Steven.Broeckaert@fcc.gov, TTY (202) 418-7171.

- FCC -