

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

	)	CSR 7413-E
	)	CSR 7414-E
	)	CSR 7415-E
	)	CSR 7416-E
	)	CSR 7538-E
	)	CSR 7539-E
	)	CSR 7548-E
In the Matter of	)	CSR 7610-E
	)	CSR 7611-E
Subsidiaries of Cablevision Systems Corporation	)	CSR 7612-E
	)	CSR 7613-E
Petitions for Determination of Effective	)	CSR 7620-E
Competition in Communities in New York State	)	CSR 7621-E
	)	CSR 7622-E
	)	CSR 7623-E
	)	CSR 7624-E
	)	CSR 7686-E
	)	CSR 7687-E
	)	CSR 7691-E
	)	CSR 7694-E
	)	CSR 7695-E

**MEMORANDUM OPINION AND ORDER**

**Adopted: April 7, 2008**

**Released: April 8, 2008**

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

**I. INTRODUCTION AND BACKGROUND**

1. Cablevision Systems Corporation, through several subsidiaries, hereinafter referred to as “Petitioner,” has filed with the Commission petitions pursuant to Sections 76.7 and 76.905(b)(4) and 76.907 of the Commission’s rules for determinations 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”)<sup>1</sup> and the Commission’s implementing rules,<sup>2</sup> and are therefore exempt from cable rate regulation in the Communities because of the competing service provided by Verizon, hereinafter referred to as “Competitor.”<sup>3</sup> The petitions are unopposed.

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

<sup>2</sup>47 C.F.R. § 76.905(b)(4).

<sup>3</sup>Cablevision states that, in several Communities, its cable rates have never been regulated, but that it is petitioning to be free of rate regulation because “Verizon’s provision of cable service [in those Communities] . . . removes any doubt regarding the absence of authority to regulate Cablevision’s rates” in those Communities. Petition in CSR 7610-E at 4 n.5; Petition in CSR 7612-E at 5 n.5; Petition in CSR 7624-E at 4 n.5; Petition in CSR 7695-E at 4 n.5.

(continued...)

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,<sup>4</sup> as that term is defined by Section 623(l) of the Communications Act and Section 76.905 of the Commission's rules.<sup>5</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>6</sup> 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(l)(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 provided by the competing unaffiliated cable operator.<sup>7</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>8</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>9</sup> and is supported in these petitions with copies of channel lineups for Competitor.<sup>10</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*

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We find no flaw in Cablevision's reasoning and filing petitions concerning Communities where there is no present regulation. Accordingly, we will rule on its Petitions for those Communities.

Cablevision also states that in some of the Communities, its cable rates are regulated by the New York Public Service Commission rather than by local government bodies. *See, e.g.*, Petition in CSR 7613-E at 4; Petition in CSR 7638-E at 3; Petition in CSR 7548-E at 4; Petition in CSR 7639-E at 3. Accordingly, in paragraph 7, *infra*, we revoke authority to regulate basic cable rates of both those Communities and, on their behalf, the New York Commission.

<sup>4</sup>47 C.F.R. § 76.906.

<sup>5</sup>*See* 47 U.S.C. § 543(l) and 47 C.F.R. § 76.905.

<sup>6</sup>*See* 47 C.F.R. §§ 76.906 & 907.

<sup>7</sup>*See* 47 U.S.C. § 543(l)(D).

<sup>8</sup>*See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 5296, 5305-06, ¶¶ 13-16 (1999) ("*Cable Reform Order*").

<sup>9</sup>*See* 47 C.F.R. § 76.905(g). *See also* Petition in CSR 7691-E at 11; Petition in CSR 7695-E at 11-12.

<sup>10</sup>*See* Petition in CSR 7539-E at Exh. 8; Petition in CSR 7687-E at Exh. 7.

*Order.*<sup>11</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 the subsidiaries of Cablevision Systems Corporation **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 or, on their behalf, to the New York State Public Service Commission, **IS REVOKED**.

8. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.<sup>12</sup>

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>11</sup>See *Cable Reform Order*, 14 FCC Rcd at 5305-06, ¶¶ 13-16. See also Petition in CSR 7621-E at 10-12; Petition in CSR 7694-E at 8-11.

<sup>12</sup>47 C.F.R. § 0.283.

## ATTACHMENT A

CSR 7413-E, CSR 7414-E, CSR 7415-E, CSR 7416-E, CSR 7538-E, CSR 7539-E, CSR 7548-E, CSR 7610-E, CSR 7611-E, CSR 7612-E, CSR 7613-E, CSR 7620-E, CSR 7621-E, CSR 7622-E, CSR 7623-E, CSR 7624-E, CSR 7686-E, CSR 7687-E, CSR 7691-E, CSR 7694-E, CSR 7695-E

## COMMUNITIES SERVED BY SUBSIDIARIES OF CABLEVISION SYSTEMS CORPORATION

<b>Communities</b>	<b>CUID(S)</b>
<b>CSR 7413-E</b>	
Ardsley	NY 0793
Dobbs Ferry	NY0792
Eastchester	NY0739
Elmsford	NY0468
Tuckahoe	NY0743
<b>CSR 7414-E</b>	
Tarrytown	NY 0738
<b>CSR 7415-E</b>	
Mt. Kisco	NY 0427
<b>CSR 7416-E</b>	
Port Chester	NY 1092
<b>CSR 7538-E</b>	
Smithtown	NY 0242
<b>CSR 7539-E</b>	
Huntington	NY 0392
<b>CSR 7548-E</b>	
North Hempstead	NY 0453
Sands Point	NY1215
Bayville	NY 0665
New Hyde Park	NY 0790
Freeport	NY 0749
Williston Park	NY0714
<b>CSR 7610-E</b>	
South Floral Park	NY 1009
Floral Park	NY0774
Garden City	NY 0925
<b>CSR 7611-E</b>	
Scarsdale	NY0707
Rye Brook	NY0982
Bronxville	NY0750
New Rochelle	NY0700
White Plains	NY 0805

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<b>CSR 7612-E</b>	
Mount Pleasant	NY 0713
Cortlandt	NY 0771
<b>CSR 7613-E</b>	
North Castle	NY 1056, NY 1277
Yonkers	NY 0638
<b>CSR 7620-E</b>	
Islip	NY 0239
Nissequogue	NY 1429
Old Field	NY 1576
<b>CSR 7621-E</b>	
Islip	NY 0379
<b>CSR 7622-E</b>	
Poquott	NY0929
<b>CSR 7623-E</b>	
Orangetown	NY 0794
Piermont	NY 0871
Airmont	NY 1634
Chestnut Ridge	NY 1448
Spring Valley	NY 0447
Suffern	NY 0842
<b>CSR 7624-E</b>	
Town of Haverstraw	NY 0286
West Haverstraw	NY 0291
Village of Haverstraw	NY 0287
<b>CSR 7686-E</b>	
Peekskill	NY 0284
<b>CSR 7687-E</b>	
Hillburn	NY 0938
<b>CSR 7691-E</b>	
Head of the Harbor	NY 1506
<b>CSR 7694-E</b>	
Mill Neck	NY 1185
<b>CSR 7695-E</b>	
Buchanan	NY 0281