

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

In the Matter of)	
)	
Time Warner Cable Inc.)	CSR 8391-E, CSR 8392-E , CSR 8393-E,
)	CSR 8394-E, CSR 8395-E, CSR 8396-E &
Petitions for Determination of Effective)	CSR 8397-E
Competition in Various Ohio and Michigan)	
Communities)	

MEMORANDUM OPINION AND ORDER

Adopted: April 8, 2011

Released: April 8, 2011

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

I. INTRODUCTION AND BACKGROUND

1. Time Warner Cable Inc., hereinafter referred to as “Petitioner,” has filed with the Commission petitions pursuant to Sections 76.7, 76.905(b)(1) 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 system serving the Communities is subject to effective competition pursuant to Section 623(l)(1)(A) of the Communications Act of 1934, as amended (“Communications Act”)¹ and the Commission’s implementing rules,² and is therefore exempt from cable rate regulation in the Communities because Petitioner serves fewer than 30 percent of the households in the franchise areas. 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(l)(1)(A) of the Communications Act provides that a cable operator is subject to effective competition if the Petitioner serves fewer than 30 percent of the households in the franchise area. This test is referred to as the “low penetration” test.⁶ Petitioner alleges that it is subject to effective competition under the low penetration effective competition test because it serves less than 30 percent of the households in the franchise areas.

¹ See 47 U.S.C. § 543(l)(1)(A).

² 47 C.F.R. § 76.905(b)(1).

³ 47 C.F.R. § 76.906.

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

⁵ See 47 C.F.R. §§ 76.906, -907(b).

⁶ 47 U.S.C. § 543(l)(1)(A).

4. Based upon the subscriber penetration level calculated by Petitioner, as reflected in Attachment A, we find that Petitioner has demonstrated the percentage of households subscribing to its cable service is less than 30 percent of the households in the Communities. Therefore, the low penetration test is satisfied as to the Communities.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petitions for a determination of effective competition filed in the captioned proceeding by Time Warner Cable Inc., **ARE GRANTED**.

6. **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**.

7. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.⁷

FEDERAL COMMUNICATIONS COMMISSION

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

⁷ 47 C.F.R. § 0.283.

ATTACHMENT A

CSR 8391-E, CSR 8392-E, CSR 8393-E, CSR 8394-E, CSR 8395-E, CSR 8396-E & CSR 8397-E

COMMUNITIES SERVED BY TIME WARNER CABLE INC.

Communities	CUIDs	Franchise Area Households	Cable Subscribers	Penetration Percentage
South Webster, Village of	OH1267	312	34	10.90
Benton Township	OH1917	543	103	18.97
Mifflin Township	OH1916	430	14	3.26
Newton Township	OH1154	727	116	15.96
Pebble Township	OH1918	812	70	8.62
Sunfish Township	OH1915	485	28	5.77
Morenci, City of	MI0923	877	167	19.04
Northwood, City of	OH0182	2024	480	23.72
Perrysburg Township	OH1134	5161	278	5.39
Washington Township	OH1933	630	5	0.79
Commercial Point, Village of	OH1866	277	39	14.08
Darbyville, Village of	OH1865	94	13	13.83
Jackson Township	OH2150	323	1	0.31
Muhlenburg Township	OH2149	300	6	2.00
Scioto Township	OH1970	1243	144	11.58
Clarksburg, Village of	OH0602	178	7	3.93
Deercreek Township	OH2000	586	2	0.34
New Holland, Village of	OH1534 OH1868	313	72	23.00
Perry Township	OH1999	510	5	0.98
Williamsport, Village of	OH1532	355	63	17.75
Bedford Township	OH1942	491	1	0.20
Lodi Township	OH1940	550	1	0.18
Rutland Township	OH2465	894	6	0.67
Salisbury Township	OH1941	2728	20	0.73
Scipio Township	OH1943	400	25	6.25