

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

In the Matter of)
Comcast Cable Communications, LLC, on behalf)
of its subsidiaries and affiliates) CSR 8008-E
Petition for Determination of Effective)
Competition in Six Blaine, Minnesota Franchise)
Areas)

MEMORANDUM OPINION AND ORDER

Adopted: April 24, 2013

Released: April 24, 2013

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

I. INTRODUCTION AND BACKGROUND

1. Comcast Cable Communications, LLC, on behalf of its subsidiaries and affiliates ("Comcast"), has filed with the Commission a petition pursuant to Sections 76.7 and 76.907 of the Commission's rules for a determination that Comcast is subject to effective competition in six Blaine, Minnesota, franchise areas. The areas are north of Minneapolis-St. Paul and are hereinafter referred to as the "Communities."¹ Comcast alleges that its cable system serving the Communities is subject to effective competition pursuant to Section 623(l)(1)(B) of the Communications Act of 1934, as amended ("Communications Act"),² and the Commission's implementing rules,³ and is therefore exempt from cable rate regulation in the Communities because of the competing service provided by two direct broadcast satellite ("DBS") providers, DIRECTV, Inc. ("DIRECTV"), and DISH Network ("DISH"). The petition is opposed as to all six Communities by the North Metro Telecommunications Commission ("North Metro"), the regulator of cable rates in the Communities.⁴

¹ The Communities and their associated Community Unit Identification ("CUID") Numbers are Blaine (MN 0370), Centerville (MN 0371), Circle Pines (MN 0372), Ham Lake (MN 0374), Lino Lakes (MN 0376), and Spring Lake Park (MN 0377 and MN 0378). In its Response to Surreply ("Response," dated June 9, 2009), Comcast withdrew its request for a finding of effective competition in a seventh community, Lexington (MN 0375). See Response at 5.

² See 47 U.S.C. § 543(l)(1)(B).

³ 47 C.F.R. § 76.905(b)(2).

⁴ Opposition of the North Metro Telecommunications Commission to Comcast's Petition for Special Relief ("Opposition," dated Oct. 3, 2008) at 1 n.1. Comcast then filed its Reply to Opposition ("Reply," dated Nov. 17, 2008). Several additional pleadings were filed: North Metro's Surreply to Comcast's Reply to Opposition ("Surreply," dated April 27, 2009), Comcast's Response, North Metro's Reply to Comcast's Response to Surreply ("Reply II," dated Sept. 10, 2009), and Comcast's Response to Reply to Comcast's Response to Surreply ("Response II," dated Sept. 30, 2009). Comcast filed a Supplement ("Supplement," dated Oct. 9, 2012) with updated household data from the 2010 U.S. Census and updated DBS subscriber data and North Metro filed an Opposition to the Supplement ("Opposition to Supplement," dated Jan. 14, 2013). Comcast then filed a Response to the Opposition to Supplement ("Response III," dated Feb. 7, 2013). North Metro's Opposition and Comcast's Reply were accompanied by motions (each consented to by the non-filing party) asking for extensions of time in which to file them. The later pleadings noted in footnote 4 were accompanied by motions that they be accepted despite being in excess of those normally authorized by our rules. Such motions are not routinely granted. 47 C.F.R. §§ 1.46(a), 76.7(d). This proceeding, however, became unusually complex, with each party proposing alternative calculations

(continued...)

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,⁵ as that term is defined by Section 623(l) of the Communications Act and Section 76.905 of the Commission's rules.⁶ 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.⁷ For the reasons set forth below, we grant the petition based on our finding that Comcast is subject to effective competition in the Communities.

II. PROCEDURAL MATTERS

3. North Metro sought discovery against Comcast, specifically concerning MBC's allocation methodology, which is material to five-digit zip code based showings of DBS subscriber numbers.⁸ Comcast objected that effective competition proceedings do not include discovery,⁹ which is generally correct.¹⁰ In addition, in its Reply Comcast later submitted DBS subscriber numbers based on nine-digit zip code data, which technically rendered North Metro's discovery requests moot. Accordingly, we need not rule on North Metro's request that we sanction Comcast for refusing its discovery requests.¹¹

4. In addition, North Metro argues that because of the duration of this proceeding, and because North Metro has been forced to perform multiple studies to rebut Comcast's evidence, the burden of proof in effective competition cases has been effectively shifted from cable operators to franchise authorities, contrary to Commission rule.¹² We disagree. There is no indication that Comcast was operating outside of established effective competition precedent by first submitting five-digit data and later submitting nine-digit data. North Metro had proposed that nine-digit data be used but chose not to produce it. Thus, it was not improper for Comcast to produce that data in its Reply. North Metro took the opportunity to comment on that data in two further pleadings. Complex and detailed statistical disputes often are time-consuming and last several rounds without either party being at fault. Throughout this proceeding, the burden of proof has remained where sections 76.906 and 76.907(b) of our rules put it, on the cable operator.

5. Finally, North Metro objects to Comcast's submission of a Supplement in this proceeding, which includes updated household figures from the 2010 Census and updated DBS figures, arguing that the submission of such a Supplement is procedurally improper and that if Comcast wishes to submit new data it should withdraw its original Petition and re-file a new petition for special relief.¹³

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of DBS subscribers and households for several Communities. The extra time and pleadings made possible the revelation of new facts and claims that were material and could not have been discovered in the usual time periods and rounds of pleadings. Accordingly, we grant the motions for extensions of time and the allowance of pleadings in excess of those normally authorized by our rules.

⁵ 47 C.F.R. § 76.906.

⁶ See 47 U.S.C. § 543(l)(1); 47 C.F.R. § 76.905(b).

⁷ See 47 C.F.R. §§ 76.906-907(b).

⁸ Opposition at 3-4.

⁹ *Id.* at Exh. 7.

¹⁰ *Cablevision of Rockland/Ramapo Inc.*, 22 FCC Rcd 11487, 11496-97, ¶ 24 (2007); *Adelphia Cable Commun.*, 22 FCC Rcd 4412, 4413-14, ¶ 4 (2007).

¹¹ Opposition at 10.

¹² Reply II at iii.

¹³ See Opposition to Supplement at 5-8. North Metro also makes substantive objections to the data contained in the Supplement that parallel its objections discussed *infra* regarding the pre-Supplement data. See *id.* at 8-10.

Comcast responds that the Supplement represents only a “factual update” of the record and NMTC would not be prejudiced by the Commission’s consideration of updated data, and that forcing Comcast to withdraw the Petition and re-file with the new data would unfairly “penalize Comcast for voluntarily updating a Petition.”¹⁴ In any event, Comcast states that it has no issue with the Commission deciding this case based on either the Supplement data or pre-Supplement data.¹⁵ Because we find, for the reasons stated below, that the pre-Supplement data is sufficient for us to resolve this proceeding, we do not rely on the Supplement’s data as a basis for our decision and it is not necessary for us to determine whether it is procedurally proper for us to consider the data provided in the Supplement.

III. DISCUSSION

6. Section 623(l)(1)(B) of the Communications Act provides that a cable operator is subject to effective competition if the franchise area is (a) served by at least two unaffiliated multi-channel video programming distributors (“MVPDs”), each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (b) the number of households subscribing to programming services offered by MVPDs other than the largest MVPD exceeds 15 percent of the households in the franchise area.¹⁶ This test is referred to as the “competing provider” test.

7. The first part of this test has three elements: the franchise area must be “served by” at least two unaffiliated MVPDs who offer “comparable programming” to at least “50 percent” of the households in the franchise area.¹⁷ It is undisputed that the Communities are “served by” both DBS providers, DIRECTV and DISH, and that these two MVPD providers are unaffiliated with Comcast or with each other. A franchise area is considered “served by” an MVPD if that MVPD’s service is both technically and actually available in the franchise area. DBS service is presumed to be technically available due to its nationwide satellite footprint, and presumed to be actually available if households in the franchise area are made reasonably aware of the service’s availability.¹⁸ The Commission has held that a party may use evidence of penetration rates in the franchise area (the second part of the competing provider test discussed below) coupled with the ubiquity of DBS services to show that consumers are reasonably aware of the availability of DBS service.¹⁹ 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 programming²⁰ and is supported in this petition with copies of channel lineups for both DIRECTV and DISH.²¹ Also undisputed is Comcast’s assertion that both DIRECTV and DISH offer service to at least “50 percent” of the households in the Communities because of their national satellite footprint.²² Accordingly, we find that the first part of the competing provider test is satisfied.

8. The second part of the competing provider test, Section 623(l)(1)(B)(ii) of the Communications Act, requires that the number of households subscribing to MVPDs, other than the largest MVPD, exceeds 15 percent of the households in a franchise area. Comcast asserts that it is the

¹⁴ Response III at 1-2.

¹⁵ *Id.* at 2.

¹⁶ 47 U.S.C. § 543(l)(1)(B); *see also* 47 C.F.R. § 76.905(b)(2).

¹⁷ 47 C.F.R. § 76.905(b)(2)(i).

¹⁸ *See* Petition at 3.

¹⁹ *Mediacom Illinois LLC*, 21 FCC Rcd 1175, 1176, ¶ 3 (2006).

²⁰ *See* 47 C.F.R. § 76.905(g). *See also* Petition at 4.

²¹ *See* Petition at Exh. 2.

²² *See id.* at 2-3.

largest MVPD in the Communities,²³ an assertion that North Metro does not dispute. We see no reason to doubt Comcast's assertion, and so we accept it. The second part of the competing provider test thus requires Comcast to calculate DBS subscribership. The numerator of this statutory ratio is the number of DBS subscribers in each Community and the denominator is the number of households there.

9. Comcast began calculating numerators by purchasing a subscriber tracking report from the Satellite Broadcasting and Communications Association ("SBCA") that stated the number of DBS subscribers in each five-digit zip code that lay wholly or partly within a Community.²⁴ To account for five-digit zip codes that were partly inside and partly outside a Community ("partial zip codes"), Comcast retained Media Business Corporation ("MBC"). MBC has an allocation methodology to calculate the percent of DBS subscribers in a partial zip code who reside within a community.²⁵ The Commission has relied upon MBC's allocation factors as sufficiently accurate to calculate effective competition percentages in numerous previous decisions.²⁶ By multiplying SBCA's number by MBC's allocation factor, Comcast estimated the number of DBS subscribers in each partial zip code in a Community. By adding those estimates to all the DBS subscribers in zip codes entirely within the same Community, Comcast estimated the number of DBS subscribers in the Community, which is the numerator of the statutory ratio.²⁷ To determine the denominator of the statutory ratio for each Community, which is the number of households there, Comcast took household numbers from the 2000 U.S. Census.²⁸ All these numbers, if accepted, establish that the statutory ratio in each of the six Communities exceeds 15 percent.

10. North Metro argues that section 76.7(a)(4) of our rules requires that Comcast show that rate deregulation in the Communities "would serve the public interest,"²⁹ and North Metro argues further that Comcast has failed to make such a showing other than by the mostly numerical evidence described in the preceding paragraphs.³⁰ According to North Metro, deregulation of Comcast's rates for basic service is contrary to the public interest because DBS service does not restrain cable prices and, until "robust"³¹ and "real"³² competition for Comcast appears in the Communities, it should not be freed from local regulation of rates and other matters such as uniform pricing.³³

11. We reject these objections for the same reasons we have rejected them in several past decisions.³⁴ In brief, the words "public interest" are contained in section 76.7(a)(4), which sets forth the

²³ See *id.* at 5.

²⁴ *Id.* at 4-5 & Exh. 5.

²⁵ *Id.* at 4-6.

²⁶ See, e.g., *Subsidiaries of Cablevision Systems Corp.*, 23 FCC Rcd 14141, 14146-47, ¶ 20 (2008) ("*Cablevision*"); *Comcast Cable Commun., LLC*, 22 FCC Rcd 18424, 18425-26, ¶ 5 (2007); *Comcast Cable Commun., LLC*, 20 FCC Rcd 20438, 20440, ¶ 8 (2005).

²⁷ Petition at Exh. 6 (cols. H & I).

²⁸ *Id.* at 6-7 & Exh. 7.

²⁹ 47 C.F.R. § 76.7(a)(4).

³⁰ Opposition at 2, 10-13.

³¹ *Id.* at 4.

³² *Id.* at 13.

³³ *Id.* at 10-13.

³⁴ See, e.g., *Comcast Cable Commun., Inc.*, Memorandum Opinion & Order DA 11-429 at ¶ 14 (rel. March 4, 2011), available at 2011 WL 765080; *Comcast Cable Commun., LLC*, Memorandum Opinion & Order DA 10-1787 at ¶¶ 12-14 (rel. Sept. 21, 2010), *Erratum on other grounds* (rel. Sept. 27, 2010) ("*Comcast*"); *Comcast Cable*

general pleading requirements applicable to numerous Commission proceedings, including effective competition determinations. We note that Congress provided the Commission with expressly crafted tests for determining effective competition that do not instruct the Commission to take into account the public interest in determining the existence or non-existence of effective competition. None of North Metro's suggested public interest issues are mentioned in the pertinent statutory provisions or the rules as implemented by the Commission. There is no statutory basis to delay basic rate deregulation in a franchise area until the arrival of perfect competition there and the resolution of all issues between a cable operator and a franchise authority to the latter's satisfaction. Accordingly, we reject North Metro's policy-based objections to Comcast's evidence concerning the second part of the competing provider test.

12. North Metro's Opposition alleged many numerical flaws in Comcast's initial calculation of DBS subscribers in the Communities, and especially in MBC's allocation methodology for partial zip codes.³⁵ Comcast responded by calculating new numbers of DBS subscribers, based on "Zip+4" or nine-digit zip codes.³⁶ Nine-digit zip codes are very small and the ones on the edge of a franchise area closely match its boundaries. If the correct nine-digit zip codes are chosen, there is no obvious need for an allocation methodology or factor. We will address Comcast's calculations of DBS subscribers that were based on nine-digit zip code data rather than its initial five-digit calculations because the nine-digit-based data is more precise.³⁷

13. North Metro alleges several flaws in Comcast's nine-digit-based DBS subscriber numbers. First, North Metro objects that Comcast has not shown that the nine-digit zip codes that it attributes to a Community and that lie on the edge of a Community do not contain DBS subscribers outside the Community.³⁸ We cannot give significance to this objection. Nine-digit zip codes are so small that a typical one has no DBS subscribers or only one or two (compared to 2,000 to 4,000 DBS subscribers in the five-digit zip codes involved in this case).³⁹ The areas in a nine-digit zip code that fall outside a Community are statistically insignificant. It is improbable in the extreme that areas in a nine-digit zip code that fall outside a Community would alter the applicable percentages below the statutory requirement of 15 percent or more, especially given the subscribership percentages shown in Attachment A, all of which are substantially above 15 percent.

14. Second, North Metro disputes Comcast's calculation that there are 312 DBS subscribers in Circle Pines.⁴⁰ North Metro, based on its own list of nine-digit zip codes for Circle Pines, estimates that there are only 293.⁴¹ The disagreement is about whether eleven nine-digit zip codes are within Circle

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Commun. LLC, Memorandum Opinion & Order DA 10-1723 at ¶ 11 (rel. Sept. 10, 2010); *see also CoxCom, Inc.*, 22 FCC Rcd 4522, 4524, ¶¶ 4-5 (2007).

³⁵ Opposition at 3 & Exh. 2 (Declaration of Richard D. Treich, consultant to North Metro, dated Oct. 2, 2008 ("Treich I") at ¶¶ 6-18).

³⁶ Reply at 5 & Exh. D.

³⁷ *Time Warner Entertainment-Advance/Newhouse Partnership*, Memorandum Opinion & Order DA 11-494 at ¶ 17 & n.39 (rel. March 16, 2011), available at 2011 WL 901296; *Time Warner Entertainment-Advance/Newhouse Partnership*, 22 FCC Rcd 4417, 4221, ¶ 11 (2007) ("in the absence of error, ZIP+4 data will rebut an estimate premised on five digit ZIP code data").

³⁸ Surreply at 12-13.

³⁹ *Compare* Reply at Exh. D with Petition at Exh. 6.

⁴⁰ Reply at Exh. D.

⁴¹ Reply II at 6. This number was apparently developed from information gleaned from the government of Anoka County, Minnesota, the U.S. Postal Service, SBCA, and a company named GeoLytics. Reply II at Exh. A (Declaration of Richard D. Treich, dated July 27, 2009) ("Treich III") at ¶ 7.

Pines. Comcast has produced convincing evidence from several sources that the zip codes in question are within Circle Pines,⁴² and North Metro does not dispute this evidence. Accordingly, we find that there are 312 DBS subscribers in Circle Pines for purposes of this proceeding. Even if we applied North Metro's figure of 293 DBS subscribers, it does not matter which of the DBS subscriber numbers is more accurate. Both produce a statutory ratio in excess of 15 percent.⁴³

15. North Metro objects that Comcast took the denominator of its statutory ratio (the number of households in each Community) from the 2000 Census. North Metro argues that we should use the more recent household numbers prepared by the Metropolitan Council, which is the planning agency for the region in which the Communities lie.⁴⁴ Because of the "rapid residential development" in some Communities, North Metro argues, household numbers from 2000, when placed in a ratio under DBS subscriber numbers from 2008, overstate DBS subscribership.⁴⁵ North Metro did not provide the Metropolitan Council's household numbers. Comcast did provide them, however.⁴⁶

16. After careful consideration, we reject the Metropolitan Council's household numbers for several reasons. Section 632(l)(1)(B)(ii) of the Communications Act⁴⁷ requires that we measure "households," a term for which the Census Bureau has adopted a detailed definition.⁴⁸ We presume that Congress intended that we use the Census Bureau's definition of household.⁴⁹ There is no evidence in the record, however, that the Metropolitan Council uses that definition of household. Therefore, it is possible that the Metropolitan Council counts as a household something that we consider not to be a household. Second, it is unclear how the Metropolitan Council arrives at its count of households (however defined). We do not know whether the Metropolitan Council starts with the 2000 Census number and then modifies it on some basis, or whether it conducts its own actual count at some time after 2000, or whether it uses some other method to arrive at its number.

17. We have long accepted the most recent Census count of households, even if it is several years old, as the measure of households in a community.⁵⁰ Comcast has submitted such numbers. We are ready to accept more recent household numbers that are shown to be at least as reliable as Census data,⁵¹

⁴² Response II at 2 & Atts. B, C & E.

⁴³ $312 \div 1697 = 18.39\%$; $293 \div 1697 = 17.27\%$.

⁴⁴ Opposition at 6; Treich I at ¶ 18.

⁴⁵ Opposition at 5. Comcast notes that North Metro's preferred household numbers actually show a decrease in the number of households in Lexington (which has been withdrawn) and in the Community of Spring Lake Park. Reply at 2 n.6.

⁴⁶ Reply at Exh. B.

⁴⁷ 47 U.S.C. § 543(l)(1)(B)(ii).

⁴⁸ U.S. Census Bureau, State & County QuickFacts ("A household includes all the persons who occupy a housing unit") http://quickfacts.census.gov/qfd/meta/long_HSD010200.htm (visited Sept. 27, 2010).

⁴⁹ *Implementation of Sections of the Cable Television Consumer Protection & Competition Act of 1992: Rate Regulation: Buy-Through Prohibition*, 9 FCC Rcd 4316, 4324, ¶ 17 (1994) ("As used in the Cable Act, we presume that Congress did not intend 'households' to have a different meaning than in the 1990 Census"), *reversed in part on other grounds, Time Warner Entertainment Co., L.P. v. FCC*, 56 F.3d 151 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1112 (1996).

⁵⁰ *See, e.g., Cablevision*, 23 FCC Rcd at 14143-44, ¶ 10; *Comcast Cable Commun., LLC*, 23 FCC Rcd 10939, 10942 n.30, ¶ 13 (2008) & authorities cited therein.

⁵¹ *See, e.g., Comcast, supra* note 28, at ¶ 11; *Time Warner Cable, Inc.*, 25 FCC Rcd 5457, 5463, ¶ 21 & n. 55 (2010).

but North Metro has not submitted such numbers.⁵² Given the above-stated uncertainties about the Metropolitan Council's household numbers, they are not as reliable as household numbers from the Census. Accordingly, we accept the household numbers for the Communities that Comcast took from the 2000 Census.

18. North Metro alleges that the collective effect of its many specific criticisms of Comcast's evidence is that Comcast significantly overstates DBS subscribership in the Communities (and that the overstatement in one originally filed community, Lexington, prompted Comcast to withdraw it).⁵³ All these flaws, North Metro claims, make it impossible for the Commission to trust showings of effective competition based on five-digit zip code data and MBC's methodology.⁵⁴ Comcast disputes North Metro's allegations and stands by MBC's allocation methodology.⁵⁵

19. North Metro's detailed criticisms are noteworthy, and we have denied hundreds of cable operators' purported showings of competing provider effective competition that are based on obviously incorrect evidence involving five-digit zip codes.⁵⁶ North Metro's criticisms are not decisive in this case, however, for several reasons. First, we use DBS subscriber numbers based on nine-digit zip codes, so any flaws in MBC's methodology for five-digit zip codes are irrelevant to this decision. Second, if two possible criticisms of Comcast's evidence are correct – that MBC erred in omitting some zip codes from franchise areas⁵⁷ and that some communities' household numbers have decreased since the 2000 Census⁵⁸ – any such errors would understate DBS subscribership, thus hurting Comcast's case. No unfairness to North Metro or any franchise authority results from such errors.

20. Third, most of North Metro's detailed criticisms of Comcast's data concern Lexington, the community that Comcast withdrew.⁵⁹ North Metro provides few details about the remaining Communities, however.⁶⁰ Finally, whether we use Comcast's DBS subscribers based on five-digit data and MBC's allegedly erroneous allocation factor, or just nine-digit zip code data, DBS subscribership still exceeds the statutory minimum in the six Communities. We want petitioning cable operators' evidence to be as accurate as is reasonably practical, but we recognize that Section 623(l)(1)(B)(ii) of the Communications Act does not require that cable operators establish DBS subscribership with perfect

⁵² North Metro, in its Opposition at 10 n.35, cites *TCI Cablevision, Inc.*, 10 FCC Rcd 2925, 2927, ¶ 9 (1995), for the proposition that where a cable operator and a franchise authority submit different numbers, the burden is on the operator to show its numbers are more accurate. That case is distinguishable from the present one, however. In that case, each party submitted a household number not from the Census. Here, Comcast takes its household numbers from the Census, which we have long held are presumptively reliable. *See id.* (“where both the cable operator and the franchising authority submit household numbers *more current than the most recent available census data*, it is the cable operator's burden to demonstrate that its more current household numbers are more accurate”) (italics added).

⁵³ Opposition at 8 & Treich I at ¶¶ 7-16; Surreply at 7-9 & Exh. A (Declaration of Richard A. Treich, dated Feb. 18 2009) (“Treich II”), at ¶ 6; Treich III at ¶ 8.

⁵⁴ Opposition at 3, 8-10; Surreply at 10-15.

⁵⁵ Reply at 4-5 & Exh. C (Declaration of K. Pinna Gallant, MBC Senior Vice President, dated Nov. 14, 2007).

⁵⁶ *See, e.g., Time Warner Entertainment-Advance/Newhouse Partnership*, 23 FCC Rcd 18355, 18357, ¶ 10 (2008); *Time Warner Cable Inc.*, 23 FCC Rcd 12069, 12072, ¶ 10, *reconsideration denied*, 23 FCC Rcd 16483 (2008); *Time Warner Cable Inc.*, 23 FCC Rcd 12201, 12203, ¶ 8 (2008).

⁵⁷ Treich I at ¶ 16.

⁵⁸ Reply at 2 n.6.

⁵⁹ Treich II at ¶¶ 8-12. Comcast disputes these criticisms. Response I at 2-5.

⁶⁰ North Metro did provide more specific objections to the community of Circle Pines, but as discussed above, we find that Comcast produced sufficient evidence to refute those objections. *See discussion supra* ¶ 17.

precision. The statute requires only that the petitioner establish that DBS subscribership exceeds 15 percent. Comcast has established that.⁶¹

21. For each of the Communities, we accept Comcast's estimates of DBS subscribers that are based on nine-digit zip code data, and we accept 2000 Census numbers of households. This data is displayed in Attachment A hereto and shows that subscribership of MVPDs other than the largest MVPD exceeds 15 percent in each Community. Therefore, the second part of the competing provider test is satisfied for each of the Communities.

IV. CONCLUSION

22. Based on the foregoing, we conclude that Comcast has submitted sufficient evidence demonstrating that both parts of the competing provider test are satisfied and Comcast is subject to effective competition in the Communities listed on Attachment A.

V. ORDERING CLAUSES

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

24. **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**.

25. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.⁶²

FEDERAL COMMUNICATIONS COMMISSION

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

⁶¹ See *Implementation of Section of the Cable Television Consumer Protection & Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, 5670, ¶ 42 (1993) (Commission procedure "will ensure . . . that there is sufficient data upon which to base a meaningful decision"), *on reconsideration*, 9 FCC Rcd 4316 (1994), *reversed in part on other grounds*, *Time Warner Entertainment Co., L.P. v. FCC*, 56 F.3d 151 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1112 (1996).

⁶² 47 C.F.R. § 0.283.

ATTACHMENT A

CSR 8008-E

COMMUNITIES SERVED BY COMCAST CABLE COMMUNICATIONS, LLC,
SUBSIDIARIES AND AFFILIATES

Communities	CUID	CPR*	2000 Census Households	Estimated DBS Subscribers
Blaine	MN 0370	27.80%	15898	4420
Centerville	MN 0371	31.01%	1077	334
Circle Pines	MN 0372	18.39%	1697	312
Ham Lake	MN 0374	32.81%	4139	1358
Lino Lakes	MN 0376	31.40%	4857	1525
Spring Lake Park	MN 0377 MN 0378	18.58%	2724	506

*CPR = Percent of competitive DBS penetration rate.