



Federal Communications Commission
Washington, D.C. 20554

December 9, 2015

DA 15-1399

Jennifer Teipel
Executive Director
Campbell County Cable Board
10 Hilltop Drive
Highland Heights, KY 41076

In re: FCC Form 328, Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competition

Dear Ms. Teipel:

On November 17, 2015, the Campbell County Cable Board (the “Board”) filed an FCC Form 328 seeking certification to regulate basic cable service rates. The Commission revised Form 328 in 2015, and the form now requires a franchising authority seeking such certification to provide an attachment containing evidence adequate to satisfy its burden of rebutting the presumption of Competing Provider Effective Competition with specific evidence.¹ The Commission stated that “if a franchising authority files a revised Form 328 that fails to meet the required standards to regulate rates, we will promptly deny the filing and it thus will not become effective 30 days after filing.”² By this letter, we find that the Board has failed to satisfy its burden of rebutting the presumption of Competing Provider Effective Competition because it has not provided *any* evidence rebutting the presumption. Instead, it has attached a 2014 letter from Time Warner Cable (“TWC”) to the Board, in which TWC stated that it “thought it would be prudent to reach out to the Board to determine whether it wishes to continue” regulating the rates of the two communities at issue, even though an FCC order determined that four other communities were subject to Effective Competition and thus could not be regulated.³ TWC’s inquiry to the Board does not constitute a concession that Effective Competition does not exist in these two communities. Further, even if it did constitute such a concession, the Board’s statement that the situation “has not changed” does not constitute specific evidence rebutting the presumption of Competing Provider Effective Competition.

Accordingly, IT IS ORDERED that the FCC Form 328 filed by the Campbell County Cable Board on November 17, 2015 IS DENIED WITHOUT PREJUDICE.⁴

¹ See FCC Form 328, available at <http://www.fcc.gov/Forms/Form328/328.pdf>. See also *Amendment to the Commission’s Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act*, Report and Order, 30 FCC Rcd 6574 (2015) (“*Effective Competition Order*”).

² *Effective Competition Order*, 30 FCC Rcd at 6588, ¶ 19.

³ Letter from Pamela McDonald, Vice President Government Relations, Time Warner Cable, to Jennifer Teipel, Executive Director, Campbell County Media Central (Apr. 30, 2014).

⁴ See *Effective Competition Order*, 30 FCC Rcd at 6588, ¶ 19 (“franchising authorities should remain able to file a new Form 328 at any time if circumstances change such that they can submit new data rebutting the presumption of Competing Provider Effective Competition”).

This action is taken under delegated authority pursuant to Section 0.283 of the Commission's rules.⁵

Sincerely,

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

cc: Pamela McDonald, Vice President Government Relations, Time Warner Cable

⁵ 47 C.F.R. § 0.283.