

**BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.**

In the Matter of	)	
	)	MB Docket No. 09-13
	)	
Petition for Declaratory Ruling Regarding Primary	)	
Jurisdiction Referral in <i>City of Dearborn et al. v.</i>	)	CSR-8128
<i>Comcast of Michigan III, Inc. et al.</i>	)	
	)	
Petition for Declaratory Ruling of the City of	)	CSR-8127
Lansing Michigan	)	
	)	
Petition for Declaratory Ruling of The Alliance	)	CSR-8126
For Community Media, <i>et al.</i>	)	

**MOTION TO WITHDRAW PETITION FOR DECLARATORY RULING**

The City of Dearborn, Michigan; the Charter Township of Meridian, Michigan; the Charter Township of Bloomfield, Michigan; and the City of Warren, Michigan (collectively, the “Petitioners”) and Comcast of Michigan III, Inc.; Comcast of the South, Inc.; Comcast of Warren, Inc.; and Comcast of Macomb, Inc. (collectively, “Comcast”) hereby jointly request that the Commission allow Petitioners to Withdraw their Petition for Declaratory Ruling in CSR 8128.

1. The Petitioners initiated litigation against Comcast in January 2008 as a result of Comcast’s plan to convert public, educational and governmental access (PEG) channels in Michigan from analog to digital and to move those channels from their current locations to channel assignments in the digital 900 range. *City of Dearborn v. Comcast of Michigan III, Inc.*, Case No. 08-10156 (E.D. Mich., filed January 11, 2008). The United States District Court for the Eastern District of Michigan enjoined Comcast’s plan and, under the doctrine of primary jurisdiction, directed Petitioners to file a petition for declaratory ruling with this agency seeking

answer to seven specific questions. On December 9, 2008, Petitioners filed their Petition in CSR-8128 seeking a declaratory ruling addressing those seven questions referred to the Commission by the court.

2. Petitioners and Comcast have settled the Michigan litigation. On February 12, 2010, the court entered a Consent Judgment and Order of Dismissal in the case. A copy of the order is attached hereto.

3. Because the Petitioners and Comcast have settled the Michigan litigation, and because the court has dismissed the case for which it sought the Commission's guidance, the parties therefore request that the Commission allow the Petitioners to withdraw their Petition and dismiss CSR-8128.

Respectfully submitted,

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February 24, 2010

# **Attachment A**

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CITY OF DEARBORN, et al,

PLAINTIFFS,

v.

COMCAST OF MICHIGAN III, INC.  
COMCAST OF THE SOUTH, INC.

DEFENDANTS.

Case Number: 08-10156  
Hon. Victoria A. Roberts

**CONSENT JUDGMENT AND ORDER OF DISMISSAL**

Before the Court is the parties' Joint Motion for Entry of Consent Judgment and Order of Dismissal. The Court has concluded that the entry of this Consent Judgment and Order is a proper exercise of the policy favoring settlement of controversies. Upon the Complaints in these consolidated cases, and the entire record in this matter, for good cause shown, the Motion is hereby **GRANTED**, and the Court hereby **ORDERS** that:

A. Defendants Comcast of Michigan III, Inc., et al. and all its agents, officers, employees, representatives, successors, assigns, attorneys, and affiliates (collectively "Comcast" ), and all other persons acting for, with, by, through, or under authority from Comcast, or in concert or participation with Comcast, and each of them, are enjoined permanently, as follows:

1. With respect to each Comcast cable system in Michigan, Comcast has agreed to continue to deliver existing public, educational and governmental ("PEG") channels in analog format on the Basic Service Tier

until such time as Comcast digitizes the entire Basic Service Tier including commercial broadcast stations on that cable system, unless otherwise agreed by the local franchise authority. Comcast further agrees that those PEG channels will be offered as part of the Basic Service Tier when the entire Basic Service Tier including commercial broadcast stations is digital.

2. Comcast agrees that it will comply with obligations related to PEG channel placement as they appeared in each of its Michigan local franchises as of December 31, 2006 until at least the expiration date for that franchise.

3. Plaintiffs and Defendants reserve without prejudice all rights and arguments regarding the relationship and enforceability of local franchise obligations, Michigan Public Act 480 and the Federal Cable Act.

B. The parties shall jointly file a copy of this Consent Judgment and Order with the Federal Communications Commission in the proceeding opened in response to this Court's Order Referring Seven Questions to the Federal Communications Commission Pursuant to the Primary Jurisdiction Doctrine.

C. Except for the relief granted herein, all claims for relief in the Complaints are dismissed without prejudice.

D. Each of the parties to this action shall bear its own costs and attorneys fees.

E. This Court shall retain jurisdiction as necessary to enforce the terms of this Order.

/s/ Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: 2/12/10

CERTIFICATE OF SERVICE

I, Nichele Rice, do hereby certify on this 24th day of February, 2010 that a true and correct copy of the foregoing Motion to Withdraw Petition for Declaratory Ruling has been sent via U.S. mail, postage prepaid to the following:

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