

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

In the Matter of)	
)	
Basic Service Tier Encryption)	MB Docket No. 11-169
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	PP Docket No. 00-67
)	
)	
)	

COMMENTS OF TIME WARNER CABLE INC.

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COMMENTS OF TIME WARNER CABLE INC.

Time Warner Cable Inc. (“TWC”) hereby submits these comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) proposing to modify Section 76.630(a) of its rules to permit cable operators to encrypt the basic service tier in all-digital cable systems.¹ As discussed more fully below, TWC believes that the revised rules proposed by the Commission will assist cable operators in making the transition to all-digital systems and prove beneficial for consumers and the environment. Any potential negative effects resulting from the NPRM’s proposals will be far outweighed by their positive impact and are likely to be minimal given the equipment compatibility measures the NPRM suggests.

I. INTRODUCTION AND BACKGROUND

TWC is the nation’s fourth-largest multichannel video programming distributor (“MVPD”), serving approximately 14.7 million customers, including more than 13 million video subscribers, in 28 states. Today, TWC’s cable systems typically offer video services over a hybrid platform capable of delivering both analog and digital signals. Most of the video

¹ *Basic Service Tier Encryption*, Notice of Proposed Rulemaking, MB Docket No. 11-169, PP Docket No. 00-67, FCC 11-153 (Rel. Oct. 14, 2011) (“NPRM”).

programming carried on these systems is provided via encrypted, digital signals, which the vast majority of TWC subscribers already have the equipment to receive on one or more sets.² The basic tier offered by TWC systems generally contains a mixture of analog and digital channels (including many simulcasts of the same channels in both formats). Consistent with the Commission's rules, all services included on the basic tier are available to subscribers on an unencrypted basis.

Like virtually all cable operators, TWC plans to ultimately transition all of its cable systems to provide all-digital service, and thereby reclaim substantial bandwidth currently devoted to analog channels. The Commission consistently has recognized the consumer-related benefits of all-digital systems.³ In addition, TWC's primary MVPD competitors – DBS and telco-video – provide content exclusively in digital, as do all “over-the-top” video providers. TWC hopes to complete its transition to all-digital service within the next several years.

Currently, TWC has a “Digital Conversion Initiative” (“DCI”) pilot project underway in its Augusta, Maine system, which serves nearly 86,000 subscribers spread over more than 100 communities. This past summer, TWC began offering digital adapters (“DAs”) to subscribers in the DCI pilot project target area. In October, following an aggressive advertising and promotional campaign (and after giving the required notice), TWC began the first stage of a multiple-stage “channel cut” that involves dropping the analog versions of channels that previously had been available in both analog and digital. After the DCI pilot project is fully

² Thus, the vast majority of TWC subscribers already have the equipment necessary to receive encrypted digital programming on one or more sets, and those sets will not be affected by the transition to digital and encryption of basic service.

³ See, e.g., *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Third Report and Order and Third Further Notice of Proposed Rule Making, 22 FCC Rcd 21064, ¶ 26 (2007); *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 11780 (MB 2007).

implemented, all of the Augusta system's video channels (including all 24 basic service tier channels and all 44 CPST channels) will be available only in digital.

Thus far, the implementation of the Augusta pilot project has gone very smoothly. Over 124,000 DAs (which are being made available to Augusta subscribers for free for two years with an announced monthly charge of 99 cents thereafter) have been distributed throughout the system and some 60,000 subscribers (out of nearly 86,000 served) have experienced the first channel cut. Even though the Augusta system has a higher basic tier penetration (and a lower digital service penetration) than both the average TWC system and Cablevision's New York City system, questions or communications from customers regarding the transition have been virtually non-existent.

II. THE BENEFITS OF ALLOWING ENCRYPTION OF DIGITAL BASIC SERVICE OUTWEIGH ANY POTENTIAL NEGATIVE EFFECTS.

A. Encryption of digital basic service can lead to substantial benefits for consumers, the environment and the industry.

As the NPRM recognizes,⁴ and as various waiver applicants have detailed,⁵ a number of public interest benefits flow from allowing cable operators to encrypt the basic tier of an all-digital system. Encryption of the basic tier allows cable operators to permanently remove traps and thereby enables self-installation by new or returning customers and the remote activation, deactivation or modification of a subscriber's service. The public stands to benefit greatly from the dramatic reduction in service calls and associated costs that will flow from the flexibility that encrypted digital basic service will provide to cable operators.

⁴ See NPRM at ¶ 8.

⁵ See Cablevision Systems Corporation's Request for Waiver of Section 76.630(a) of the Commission's Rules, MB Docket No. 09-168 (filed Aug. 19, 2009); Inter Mountain Cable Inc.'s Request for Waiver of Section 76.630(a) of the Commission's Rules, CSR 8483-Z (filed April 13, 2011) ("Inter Mountain Request"); Mikrotec CATV LLC's Request for Waiver of Section 76.630(a) of the Commission's Rules, CSR-8528-Z (filed Sept. 7, 2011) ("Mikrotec Request"); RCN Telecom Services, Inc.'s Request for Waiver of Section 76.630(a) of the Commission's Rules, CSR-8525-Z (filed Aug. 12, 2011).

In particular, reducing the need for service calls will mean that many customers will be spared the often inconvenient task of scheduling and being present for an on-site appointment with a technician. Fewer service calls also means fewer truck rolls, which has a direct positive impact on the environment by reducing fuel and energy usage. In granting the Cablevision encryption waiver, the Commission recognized that reducing service calls would be especially beneficial in urban areas where traffic congestion and pollution would be reduced.⁶ TWC submits there will be equal, if not greater, benefits in less densely populated areas where systems and service dispatch centers are more dispersed, thereby necessitating longer technician response times, additional driving and more fuel consumption.⁷

For instance, TWC's Augusta DCI pilot project covers a geographic area that encompasses all or most of Kennebec and Androscoggin counties as well as portions of Oxford, Knox and Somerset counties.⁸ Kennebec, Androscoggin, and Oxford have population densities of 141, 229, and 104 homes per square mile respectively, while Knox and Somerset have densities of 25.6 and 13 homes per square mile. In contrast, the population density of the New York metropolitan area is over 2,800 homes per square mile. Customer service calls for the Augusta system often require technicians to drive substantial distances from the TWC facility to the customer or from service call to service call. If TWC is allowed to encrypt the system's basic tier, many customers would see service call wait times go from hours to no time at all, and TWC's technicians could more efficiently serve a smaller subset of customers who need their on-site expertise.

⁶ *Cablevision Systems Corporation's Request for Waiver of Section 76.630(a) of the Commission's Rules*, 25 FCC Rcd 134, ¶ 14 (MB 2010).

⁷ *Accord Inter Mountain Request* at 13-15; *Mikrotec Request* at 13-15.

⁸ A map showing the footprint of the Augusta pilot project is attached as an appendix to these comments.

Encrypted basic service will produce additional efficiencies by reducing service theft and freeing up resources that are now expended by cable operators to combat illegal connections. Detecting and preventing service theft can often result in a substantial investment of time, money and energy focused on individuals who are not even customers and, in some cases, would not subscribe to cable service if required to pay for it. Digital basic encryption will enable cable operators to reinvest these resources to better serve their actual subscribers.

All of the foregoing efficiencies, cost savings and public interest benefits will facilitate a quicker, smoother transition to all-digital cable service, which as the Commission has recognized, is itself in the public interest as all-digital service is a “more effective use of system capacity.”⁹ All-digital service yields a range of recognized important benefits, including improvement in a system’s broadband capabilities and an increase in capacity for enhanced programming options, such as high definition programming and video-on-demand.¹⁰ Additionally, all-digital cable service eliminates the cumbersome technical issues inherent in analog service, particularly the expensive, inefficient and inexact practice of using traps to determine what services an analog cable subscriber can receive.¹¹

Finally, digital basic encryption also enhances public safety. Because digital basic encryption largely eliminates the need for manual disconnection of service, the unintended signal leakage that occasionally results from manual shut-offs will also largely be eliminated. As the

⁹ *Implementation of Section 304 of the Telecommunications Act of 1996*, 25 FCC Rcd 4303, ¶ 22 (2010).

¹⁰ *Id.*

¹¹ In addition to being highly labor intensive and cost-intensive, traps “can have a degrading effect on signal quality.” *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992*, 8 FCC Rcd 2274, 2276 n. 13 (1993). Eliminating the need for traps will also result in fewer disputes over channel positioning, which often are rooted in the costs that are incurred to move a station’s channel due to the need to adjust traps. *See, e.g., WXTV License Partnership, G.P.*, 14 FCC Rcd 6482 (CSB 1999) (granting a waiver of the channel positioning requirement to Cablevision due to the costs that would be incurred by complying with station’s channel positioning request). *See also, e.g., ION Media Networks, Inc.* 24 FCC Rcd 2461 (MB 2009) (granting channel positioning complaint of station over objection of the cable operator due to the high expense of employing traps to comply with the channel positioning requirements); *Complaint of Son Broadcasting Company, Inc. Against Jones Intercable, Inc.*, 11 FCC Rcd 7634 (CSB 1996) (same).

Commission has made clear in the past, it has concerns that such signal leakage might pose a problem on aeronautical frequencies, thereby creating a potential safety issue.¹²

B. Negative effects resulting from allowing all-digital basic encryption will be minimal and largely ameliorated by the sensible measures the NPRM proposes.

TWC agrees with the NPRM's prediction that the number of customers that will be impacted by allowing encryption of digital basic service will be "small."¹³ TWC thus far has received no significant customer complaints arising from its transition to digital service in Augusta and expects this smooth transition will continue if and when it is permitted to encrypt the system's basic tier. TWC also supports the NPRM's proposal to assist low income subscribers by allowing basic-only customers receiving Medicaid to obtain free converters for two television sets for up to five years. This approach provides for a clearly demarcated and easily verifiable method to determine eligibility and thus would ease administrative burdens on subscribers and cable operators alike.

While acknowledging the environmental benefits discussed above that will most assuredly flow from allowing digital basic encryption, the NPRM asks whether those benefits might be outweighed by increased energy consumption due to the deployment of additional converter boxes that would be required to decrypt basic channels.¹⁴ DAs, such as those being deployed by TWC in its Augusta pilot project, have a small energy footprint compared even to standard definition converter boxes.¹⁵ Furthermore, because the Commission is proposing to

¹² See, e.g., *SCI Cable Inc.*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 12927, ¶ 8 (EB 2011) ("Protecting the aeronautical frequencies from harmful interference is of paramount importance.").

¹³ NPRM at ¶ 4. In the case of TWC, the number of basic-only subscribers is minimal, accounting for only around 10 percent of the company's subscriber base.

¹⁴ *Id.*

¹⁵ According to NCTA, a DA unit consumes less than four watts. The National Cable and Telecommunications Association, Press Release, "US Cable Industry Launches New Energy Efficiency Initiative" (Nov. 18, 2011), available at <http://www.ncta.com/ReleaseType/MediaRelease/US-Cable-Industry-Launches-New-Energy-Efficiency-Initiative.aspx>.

allow digital basic encryption only on all-digital systems, the subset of subscribers that will require additional equipment due to the encryption of the digital basic tier more often than not will consist only of subscribers that are using clear-QAM television sets with no other additional equipment.¹⁶ Subscribers with analog sets would experience no change whatsoever in their service or equipment requirements due to basic encryption as they would have already acquired a converter or DA upon the system's switchover to all-digital. Finally, as noted, the deployment of encrypted basic service will result in fewer truck rolls, with a concomitant savings in gasoline and other energy costs.

C. The Commission should make clear that the proposed exemption from the basic service encryption ban applies all-digital systems on a technology neutral basis.

The approach followed by TWC in converting its Augusta system to all-digital represents only one of the ways in which a cable operator might deploy an all-digital platform for delivering video programming. Other approaches might instead utilize Switched Digital Video ("SDV") technology or Internet Protocol ("IP") transmissions. It is important to keep in mind that the benefits of the Commission's proposal to allow encryption of digital basic will accrue to cable operators and the public regardless of the specific all-digital enabling technology (or combination of enabling technologies) pursued. In order to afford cable operators the maximum flexibility to tailor their transition to digital in a manner consistent with local needs and technological developments, the Commission should make clear that the proposed exemption

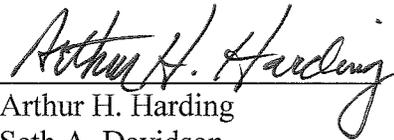
¹⁶ As previously noted, the vast majority of TWC's subscribers already have the equipment necessary to receive encrypted digital programming on one or more sets, and those sets will not be affected by the transition to digital and encryption of basic service. Moreover, even if the technology employed by an all-digital system to deliver encrypted basic service requires the use of additional equipment by a subscriber with a CableCARD enabled clear-QAM set (as would be the case in a system using switched digital to deliver basic channels), such situations would be addressed by compliance with the NPRM's proposed equipment compatibility condition.

from the basic service tier encryption ban will apply to all-digital platforms on a technology neutral basis.¹⁷

III. CONCLUSION

For the foregoing reasons, TWC supports the NPRM's proposed rules as the benefits of such rules will far outweigh any potential negative effects.

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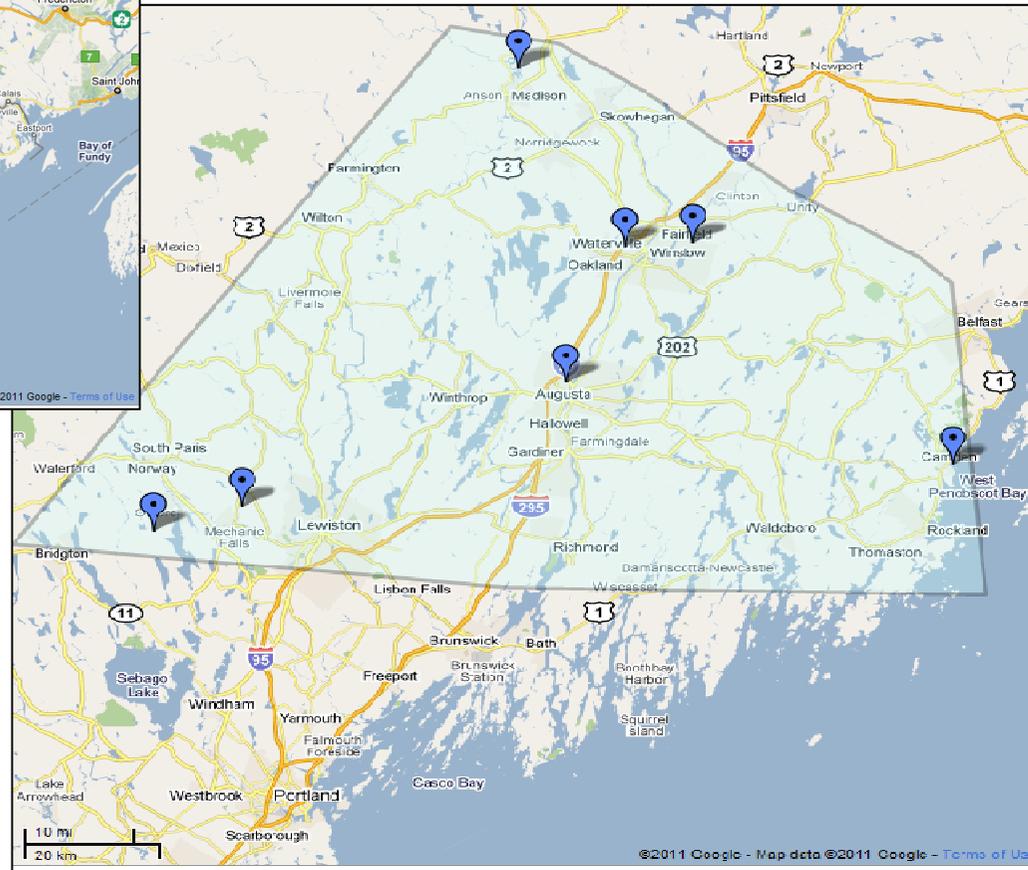
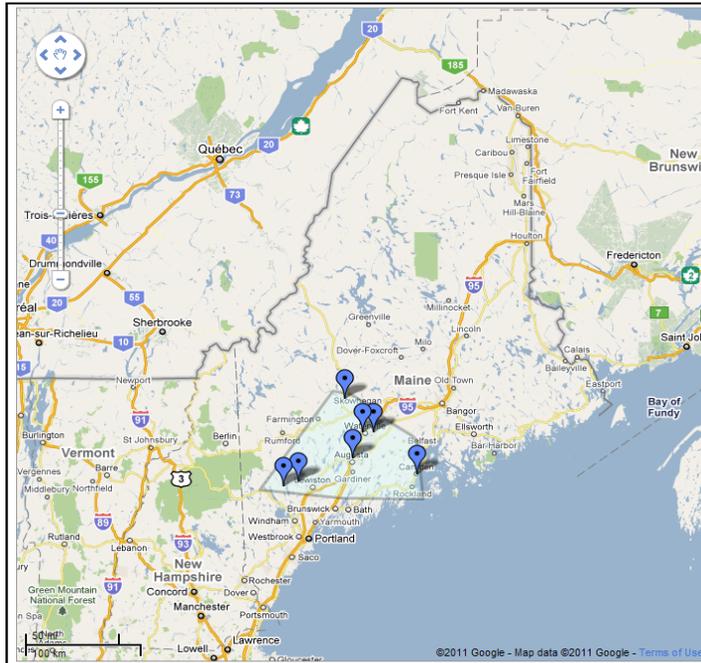
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¹⁷ For example, TWC has deployed SDV technology to some degree in virtually all of its systems. However, due to the ban on encrypting the basic tier, TWC has refrained from providing basic tier channels using SDV because customers wishing to view switched channels would need a converter box to do so, even on a clear-QAM capable television. If the FCC adopts the proposed rules to allow digital basic encryption, all subscribers on a digital system with an encrypted basic tier, even those with clear-QAM sets, will require some type of converter to view all channels on the system. Thus, the Commission should confirm that cable operators are permitted to switch basic channels on systems with encrypted digital basic tiers provided that the system complies with the equipment compatibility requirements described in the NPRM. The Commission also should consider permitting cable operators to incorporate SDV clients or interfaces to standalone devices that enable access to channels delivered using SDV (e.g., the Tuning Adapter) in one-way boxes that are exempt from the integration ban.

APPENDIX

Maine DCI Pilot Footprint



Greater Augusta Area

- ❖ North Anson
- ❖ Waterville
- ❖ Fairfield
- ❖ Augusta
- ❖ Camden
- ❖ Lewiston/Norway
- ❖ Oxford