

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
Comcast Cable Communications, LLC, )  
on behalf of its subsidiaries and affiliates )  
 )  
For Determination of Effective Competition in: )  
McKinley County, NM (NM0196) )

CSR No. \_\_\_\_\_

To: Office of the Secretary  
Attn: Chief, Media Bureau

**PETITION FOR SPECIAL RELIEF**

Comcast Cable Communications, LLC, on behalf of its subsidiaries and affiliates (“Comcast”), pursuant to Sections 76.7 and 76.907 of the Commission’s rules,<sup>1</sup> requests that the Commission find that Comcast faces “effective competition” in the above-referenced New Mexico franchise areas (the “Franchise Area”).

The Communications Act of 1934, as amended (the “Act”), and the Commission’s rules provide that cable television rates may be regulated only in the absence of effective competition.<sup>2</sup> Cable operators are entitled to demonstrate that effective competition exists on a franchise-by-franchise basis.<sup>3</sup> When a cable operator demonstrates that effective competition exists within a franchise area, cable rates in the affected area are no longer subject to regulation.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. §§ 76.7 and 76.907.

<sup>2</sup> 47 U.S.C. § 543(a)(2); 47 C.F.R. § 76.905(a).

<sup>3</sup> 47 C.F.R. § 76.907.

<sup>4</sup> See *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation*, 8 FCC Rcd. 5631, 5664-5665 (1993) (“Rate Order”).

Under the “low penetration” test set forth in Section 623(l)(1)(A) of the Act and Section 76.905(b)(1) of the Commission’s rules (the “Low Penetration Test”), a cable system serving less than 30 percent of the subscribers in a particular franchise area shall be deemed subject to effective competition and exempt from rate regulation in that community.<sup>5</sup> Comcast is entitled to an effective competition determination in the McKinley County Franchise Area, because the Company serves less than 30 percent of the local households in this particular Franchise Area.

Section 623(l)(1)(A) of the Act provides that a cable system will be deemed subject to effective competition if “fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system.”<sup>6</sup> The measurement of subscribership under this test “will be based on the subscribership of the particular cable system in question, and not an aggregation of the subscriberships of all cable systems and competitors in the franchise area.”<sup>7</sup>

To determine whether Comcast subscribership is less than 30 percent in the McKinley County Franchise Area, Comcast compared the Company’s subscribership to the U.S. Census household figures for the community.<sup>8</sup> This comparison yields a Comcast penetration rate of 3.02 percent in the McKinley County Franchise Area.<sup>9</sup>

Comcast has demonstrated that fewer than 30 percent of the households in the McKinley County Franchise Area subscribe to the Company’s cable service. Accordingly, Comcast has satisfied the criteria for establishing effective competition under 47 C.F.R. § 76.905(b)(1) for this Franchise Area.

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<sup>5</sup> See 47 U.S.C. § 543(l)(1)(A) and 47 C.F.R. § 76.905(b)(1).

<sup>6</sup> 47 U.S.C. § 543(l)(1)(A); 47 C.F.R. § 76.905(b)(1). See also *CC Michigan L.L.C. d/b/a Comcast Communications*, 17 FCC Rcd. 1513, ¶ 2 (2002).

<sup>7</sup> *Rate Order* ¶ 18.

<sup>8</sup> See Exhibit 1.

<sup>9</sup> See Exhibit 2.

**CONCLUSION**

Comcast's cable system is subject to effective competition in the McKinley County Franchise Area under the Low Penetration Test. Based on the evidence presented herein, Comcast respectfully requests that the Media Bureau issue an order acknowledging the presence of effective competition in McKinley County, New Mexico Franchise Area as of the filing date of this Petition.

Respectfully submitted,

**Comcast Cable Communications, LLC  
on behalf of its subsidiaries and affiliates**

By:

  
Frederick W. Giroux

**Davis Wright Tremaine, LLP**  
1919 Pennsylvania Avenue, N.W., Suite 800  
Washington, D.C. 20006  
(202) 973-4200

August 13, 2012

Its Attorneys

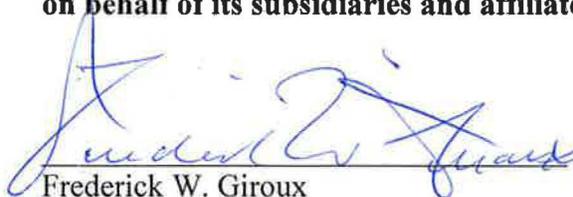
**CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)**

The below-signed signatory has read the foregoing Petition for Special Relief, and to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.

Respectfully submitted,

**Comcast Cable Communications, LLC  
on behalf of its subsidiaries and affiliates**

By:

  
Frederick W. Giroux

**Davis Wright Tremaine LLP**  
1919 Pennsylvania Avenue, N.W.  
Suite 800  
Washington, DC 20006  
(202) 973-4200

August 13, 2012

Its Attorney

**DECLARATION OF WARREN FITTING**

I, Warren Fitting, declare, under penalty of perjury that:

1. I am the Senior Director of Regulatory Accounting for Comcast Cable Communications, LLC ("Comcast").
2. I have read the foregoing Petition for Special Relief ("Petition") and am familiar with the contents thereof and the matters referred to therein.
3. The facts contained within the Petition are true and correct to the best of my knowledge, information and belief.

July 26, 2012  
Date

Warren C. Fitting  
Warren Fitting

**EXHIBIT 1**



GCT-H2

General Housing Characteristics: 2010 - County -- County Subdivision and Place

2010 Census Summary File 1

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/sf1.pdf>.

Geography: McKinley County, New Mexico

Geographic area	Total housing units	Occupied housing units	Vacant housing units		
			Total	Percent	
				For sale only	For rent
① McKinley County	25,813	21,968	3,845	2.2	12.5
COUNTY SUBDIVISION AND PLACE					
Crownpoint CCD	2,259	1,645	614	0.5	14.5
Crownpoint CDP	837	642	195	1.0	36.4
Pueblo Pintado CDP	84	60	24	4.2	12.5
Remainder of Crownpoint CCD	1,338	943	395	0.0	3.8
Gallup CCD	8,875	8,220	655	7.9	30.2
Church Rock CDP (part)	0	0	0	(X)	(X)
② Gallup city (part)	8,007	7,502	505	9.5	36.4
Remainder of Gallup CCD	868	718	150	2.7	9.3
Navajo Nation CCD	3,589	2,905	684	0.3	9.8
Brimhall Nizhoni CDP	84	59	25	0.0	0.0
Crystal CDP (part)	44	44	0	(X)	(X)
Nakaibito CDP	126	123	3	0.0	0.0
Navajo CDP	467	396	71	0.0	77.5
Tohatchi CDP	361	268	93	1.1	2.2
Tse Bonito CDP (part)	0	0	0	(X)	(X)
Twin Lakes CDP	330	286	44	2.3	6.8
Remainder of Navajo Nation CCD	2,177	1,729	448	0.0	1.6
Red Rock CCD	8,931	7,231	1,700	1.6	6.2
Church Rock CDP (part)	321	290	31	0.0	35.5
② Gallup city (part)	90	88	2	0.0	50.0
Ramah CDP	169	134	35	8.6	5.7
Rock Springs CDP	156	148	8	0.0	0.0
Thoreau CDP	656	540	116	4.3	13.8
Tse Bonito CDP (part)	134	100	34	0.0	29.4
Yah-ta-hey CDP	196	180	16	6.3	25.0
Remainder of Red Rock CCD	7,209	5,751	1,458	1.2	4.3
Zuni CCD	2,159	1,967	192	0.0	10.9
Black Rock CDP	389	359	30	0.0	46.7
Zuni Pueblo CDP	1,672	1,547	125	0.0	5.6
Remainder of Zuni CCD	98	61	37	0.0	0.0

① - ② = 14,378

**EXHIBIT 2**

<b>Community</b>	<b>Comcast Subscribers</b>	<b>2010 Census Data Occupied Housing Units</b>	<b>% of Comcast Penetration</b>
McKinley County	434	14,378	3.02%

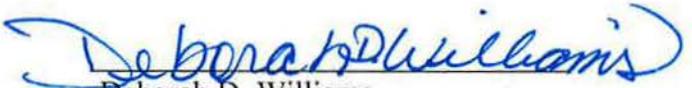
## CERTIFICATE OF SERVICE

I, Deborah D. Williams, do hereby certify on this 13<sup>th</sup> day of August, 2012 that a true and correct copy of the foregoing "Petition for Special Relief" has been sent via U.S. mail, postage prepaid to the following:

Richard F. Kontz  
207 West Hill St.  
Gallup, NM 87301

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

William Lake, Chief, Media Bureau  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

  
Deborah D. Williams