

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

In re Petition of)	CSR-____-E	
)	PSID No. 001634	
Time Warner Cable Inc.)		
For Determination of)	Breathitt County (uninc.)	KY0046
Effective Competition)	Knott County (uninc.)	KY0755
)	Perry County (uninc.)	KY0033

To: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

Time Warner Cable Inc. (“Time Warner Cable”), by its attorneys, and pursuant to Sections 76.7, 76.905(b) and 76.907 of the Commission’s rules,¹ hereby petitions the Commission for a finding that Time Warner Cable’s cable television system serving the unincorporated portions of the above-captioned Kentucky counties (unless otherwise noted, individually “Franchise Area” and collectively “Franchise Areas”) is subject to effective competition² and therefore exempt from any rate regulation imposed pursuant to Section 623 of the Communications Act of 1934 (the “Act”).³

¹ 47 C.F.R. §§ 76.7, 76.905(b), 76.907.

² Pursuant to Section 76.910 of the Commission’s rules, rate regulatory authority may be exercised only by a local franchising authority (“LFA”) that has been properly certified. 47 C.F.R. § 76.910. To the extent that any political subdivision covered by this petition is an LFA and has been certified to regulate rates in accordance with the Commission’s rules, Time Warner Cable respectfully requests that the Commission revoke such certification pursuant to Section 76.914(c). 47 C.F.R. § 76.914(c). To the extent that franchising responsibilities of any political subdivision covered by this petition have been reassigned to another governmental body, e.g., pursuant to legislation providing for state-issued franchises, then that political subdivision is no longer an LFA and obviously would no longer have rate regulatory authority. In such event, Time Warner Cable is nevertheless seeking an effective competition determination to achieve the full competitive flexibility associated therewith.

³ 47 U.S.C. § 543. Time Warner Cable requests that, consistent with Commission precedent, any FCC grant of effective competition in the Franchise Areas be effective as of the date of filing of this petition. *See, e.g., Altrio Communications, Inc. v. Adelphia Communications Corporation*, 17 FCC Rcd 22955, ¶ 5 (Med. Bur. 2002) (Commission order released September 26, 2002 found that Adelphia was subject to effective competition in the Arcadia, California franchise area as of October 1, 2001); *see also American Cable Company and Jay Copeland v. Telecable of Columbus, Inc.*, 11 FCC Rcd 10090 (Cable Serv. Bur. 1996); *Cross Country Cable, Inc. v. C-TEC Cable Systems of Michigan, Inc.*, 12 FCC Rcd 2538 (Cable Serv. Bur. 1997).

Time Warner Cable requests that the Commission deem Time Warner Cable subject to effective competition under the “low penetration” effective competition test in each of the Franchise Areas. Pursuant to Section 623(l)(1)(A) of the Act, effective competition exists under the low penetration test where “fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system.”⁴ As demonstrated below, Time Warner Cable serves fewer than 30 percent of the households in the unincorporated portions of each of the listed counties.

Community	2010 Census Occupied Households⁵	Time Warner Cable Subscribership	Time Warner Cable Penetration
Breathitt County (Uninc.)	4,528	4	0.09%
Knott County (Uninc.)	5,929	188	3.17%
Perry County (Uninc.)	9,222	1,050	11.39%

Thus, Time Warner Cable has demonstrated that it is subject to effective competition in these Franchise Areas under the low penetration test for effective competition.

CONCLUSION

Because Time Warner Cable has demonstrated that it is subject to effective competition pursuant to Section 623(l)(1) of the Act and Section 76.905(b) of the Commission’s rules for the above captioned Franchise Areas, Time Warner Cable respectfully requests that the Commission expeditiously find that Time Warner Cable’s cable system serving the Franchise Areas is not subject to rate regulation as to basic cable service or other forms of rate regulation specified in 47 U.S.C. § 543 and revoke the LFAs’ certification to regulate basic rates as appropriate.

⁴ 47 U.S.C. § 543(l)(1)(A); *see also* 47 C.F.R. § 76.905(b)(1).

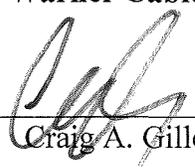
⁵ *See* Exhibit A, 2010 Census Occupied Household Report.

Undersigned counsel has read the foregoing Petition, and to the best of such counsel's 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,

Time Warner Cable Inc.

By: _____


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Dated: September 11, 2012

EXHIBIT A

2010 Census Household Population for Affected Communities

H3: OCCUPANCY STATUS - Universe: Housing units
2010 Census Summary File 1

Note: This is a modified view of the original table.

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

Geography	Total:
	Occupied Households
Uninc. Breathitt County, Kentucky	4528
Uninc. Knott County, Kentucky	5929
Uninc. Perry County, Kentucky	9222

CERTIFICATE OF SERVICE

I, Glenda Thompson, a secretary at the law firm of Edwards Wildman Palmer LLP, hereby certify that, on this 11th day of September, 2012, copies of the foregoing "Petition for Special Relief" were sent via first-class mail, postage prepaid, to the following:

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