

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re Petition of) CSR-____-E
)
)
) **PSID No. 004570**
Time Warner Cable Inc.)
For Determination of) Cathedral City CA0994
Effective Competition) Indian Wells CA0057
) Indio CA0056
) La Quinta CA1166
) Palm Desert CA0058
) Rancho Mirage CA0740
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 above-captioned communities (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).

I. TIME WARNER CABLE SATISFIES THE “50/15” OR “COMPETING PROVIDER TEST” IN THE FRANCHISE AREAS.

Pursuant to Section 623(a)(2) of the Act,

[i]f the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section.⁴

The Act further provides that a cable system will be considered subject to effective competition (and therefore exempt from rate regulation) under the “50/15” or “Competing Provider” test if, *inter alia*, the franchise area is:

(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.⁵

As demonstrated below, effective competition exists in the Franchise Areas because (1) competing multichannel video programming distributors (“MVPDs”), namely the direct-to-home (“DTH”) satellite providers DirecTV⁶ and DISH Network⁷ (collectively the “DBS Providers”) provide multichannel video services that are available to more than 50 percent of the households in such areas, and (2) competing MVPDs, namely the aforementioned DBS Providers, as well as the local incumbent telephone company Verizon California, Inc. (“Verizon”), provide multichannel video services that are subscribed to by more than 15 percent, of the households in such areas.

⁴ 47 U.S.C. § 543(a)(2).

⁵ 47 U.S.C. § 543(l)(1)(B); *see also* 47 C.F.R. § 76.905(b)(2).

⁶ DirecTV is a registered trademark of DirecTV, Inc.

⁷ DISH Network is a registered trademark of EchoStar Communications Corporation.

A. The DBS Providers Offer Comparable Multichannel Video Programming to More Than 50 Percent of the Households in the Franchise Areas.

Under the first prong of the test, a franchise area must be served by “at least two unaffiliated multichannel video programming distributors. . .⁸ According to the Commission’s rules, an MVPD’s service is deemed to be “offered” for purposes of effective competition:

(1) When the multichannel video programming distributor is physically able to deliver service to potential subscribers, with the addition of no or only minimal additional investment by the distributor, in order for an individual subscriber to receive service; and (2) When no regulatory, technical or other impediments to households taking service exist, and potential subscribers in the franchise area are reasonably aware that they may purchase the services of the multichannel video programming distributor.⁹

As demonstrated below, the two DBS providers clearly “offer” service in the Franchise Areas under this definition.

1. The DBS Providers are “Physically Able” to Offer Service to Subscribers in the Franchise Areas.

The Commission has repeatedly determined that DBS service is technically available throughout the continental United States due to its nationwide satellite footprint.¹⁰ Therefore, the DBS Providers are “physically able” to offer service to subscribers in the Franchise Areas.

2. No Regulatory, Technical or Other Impediments to Households Taking the DBS Providers’ Services Exist.

The DBS providers’ services are deemed to be technically available in a franchise area if the footprints of their satellites cover the franchise area and there are no local regulations prohibiting reception by home satellite dishes.¹¹ As noted above, DBS services have been determined by the Commission to be available throughout the United States. Time Warner

⁸ 47 U.S.C. § 543(l)(1)(B)(i); 47 C.F.R. § 76.905(b)(2)(i).

⁹ 47 C.F.R. § 76.905(e).

¹⁰ See, e.g., *Bright House Networks, LLC, Petition for Determination of Effective Competition*, Memorandum Opinion and Order, 22 FCC Rcd 4390, ¶ 6 (Med. Bur. 2007) (“*Bright House Networks*”).

¹¹ *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, ¶ 32 (1993) (“*Rate Order*”).

Cable is aware of no zoning restrictions in the Franchise Areas that would prevent potential subscribers from placing a small dish on their houses or on their properties in order to receive DBS service. Indeed, it would appear that any such restriction would violate Section 207 of the Telecommunications Act of 1996 and Section 25.104 of the FCC's rules promulgated thereunder.¹² Further, the DBS Providers do not need franchises to offer service to residents in the Franchise Areas. As such, there are no regulatory, technical or other impediments to households in the Franchise Areas taking the DBS Providers' service.

3. Potential Subscribers in the Franchise Areas are “Reasonably Aware” That They May Purchase the DBS Providers’ Services.

In light of the Commission's prior findings regarding the ubiquitous availability of DBS service, and in recognition of the DBS Providers' extensive national, regional and local advertising and marketing efforts through television and radio, Internet, print media and direct marketing, potential subscribers throughout the Franchise Areas are undoubtedly “reasonably aware” of the availability of the DBS Providers' services.¹³ In addition, the Commission has held that the DBS Providers' extensive nationwide subscribership and growth in recent years, combined with a substantial local DTH penetration in such areas, is an accurate sign that potential subscribers within that franchise area are “reasonably aware” of the availability of the DBS Providers' services.¹⁴

¹²Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); see 47 C.F.R. § 25.104.

¹³ The DBS Providers maintain comprehensive websites, www.dishnetwork.com and www.directv.com, where consumers can learn more about local retail outlets and how to buy the necessary equipment online or through a toll-free number. See *Rate Order* at n. 104 (“[W]e believe that regional or local marketing, such as by a national or regional 800 telephone number, would suffice.”). See also *id.* at ¶ 29; *Adelphia Cable Communications*, 20 FCC Rcd 20487, ¶ 6 (Med. Bur. 2005) (“*Adelphia Effective Competition Order*”) (There is “no reason to require needlessly fractionalized marketing in order to ensure that a national or regional programming service is available in a particular community... [P]otential subscribers may be made reasonably aware of the availability of a competing service... through advertising in regional or local media, direct mail, or *any other* marketing outlet” (citing *Rate Order* at ¶ 29) (emphasis in original)).

¹⁴ Indeed, the Commission has “found households in a franchise area to be reasonably aware that they may purchase DBS service solely based on evidence of DBS's nationwide growth and local subscriptions, without reference to advertising or other promotion.” *Bright House Networks* at ¶ 6 (referencing *Adelphia Communications, et al., Nineteen Unopposed Petitions for Determination of Effective Competition in Forty-Seven Local Franchise Areas*,

Here, the presence of numerous subscribers of the DBS Providers' services in the Franchise Areas, as shown below, demonstrates that such individuals are all obviously aware of their ability to obtain service from a DBS Provider. Moreover, it is reasonable to assume the awareness of the availability of the DBS Providers' services only continues to increase as additional DBS dishes are prominently installed throughout the Franchise Areas.

Because the three factors described above have been satisfied, the DBS Providers "offer" competing MVPD services in the Franchise Areas.

4. The DBS Providers Offer "Comparable Multichannel Video Programming" In the Franchise Areas.

Effective competition exists where programming offered by an MVPD competitor is deemed "comparable" to the programming offered by the unaffiliated cable operator.¹⁵ The programming offered by a competing MVPD is deemed "comparable" if it includes "at least 12 channels of video programming, including at least one channel of nonbroadcast service programming."¹⁶ The Commission's decisions have repeatedly concluded that the DBS Providers satisfy § 76.905(g)'s comparable programming criterion.¹⁷

The programming offered by DirecTV and Dish Network, listings of which are available at www.directv.com and www.dishnetwork.com,¹⁸ includes many of the same popular

Memorandum Opinion and Order, 20 FCC Rcd 7503, ¶ 3 (Med. Bur. 2005).

¹⁵ 47 U.S.C. § 543(l)(1)(B)(i).

¹⁶ 47 C.F.R. § 76.905(g).

¹⁷ See *ACC Cable Communications, FLA-VA, LLC*, 18 FCC Rcd 7110, ¶ 6 (Med. Bur. 2003) (Town of Lake Waccamaw and Town of Tabor City, North Carolina) ("...the Commission has repeatedly concluded that the programming of DBS providers, such as DIRECTV and Dish, satisfy the Commission's [comparable] programming criterion"); *Adelphia Effective Competition Order* at ¶ 7 ("Because different sets of rules govern which stations cable operators and DBS service providers can or must carry, we have never insisted on absolute parity in station offerings. Instead, an MVPD offers 'comparable programming' if it offers 'at least 12 channels of video programming, including at least one channel of nonbroadcast service programming'"); *Time Warner Entertainment-Advance/Newhouse Partnership*, 20 FCC Rcd 15709, n. 15 (Med. Bur. 2005) (Nineteen California Franchise Areas) ("the DBS providers offer well over 100 channels, most of which are non-broadcast channels," which satisfies the comparable programming criterion).

¹⁸ See *The Helicon Group, L.P.*, 17 FCC Rcd 16636, n. 8 (Med. Bur. 2002) (Barnet, Vermont) ("While Charter did not provide in its Petition a copy of EchoStar's nationwide channel lineup, which is otherwise available at

nonbroadcast and broadcast programming services available on Time Warner Cable's system serving the Franchise Areas. The DBS Providers' programming lineups amply demonstrate that at least twelve channels of video programming are offered, including at least one channel of nonbroadcast programming service.¹⁹ Thus, the DBS Providers offer "comparable" multichannel video programming, as defined by the Commission, to actual and potential subscribers in the Franchise Areas.

5. The DBS Providers Offer Comparable Multichannel Video Programming to More Than 50 Percent of the Households in the Franchise Areas.

As noted above, at least one MVPD unaffiliated with the incumbent cable operator must offer comparable video programming to at least 50 percent of the households in a franchise area for the first prong of the 50/15 effective competition test to be met.²⁰ In numerous effective competition decisions, the Commission has concluded that the two DBS Providers are deemed to satisfy this 50 percent threshold due to their nationwide satellite footprints.²¹ Accordingly, since the DBS Providers offer comparable programming to greater than 50 percent of the households in the Franchise Areas, the first prong of the 50/15 effective competition test is satisfied.

B. The Number of Households Subscribing to the Programming Services of Competing MVPDs Exceeds 15 Percent of the Households in the Franchise Areas.

Under the second prong of the 50/15 test, the subscriber base of any MVPD or MVPDs, other than the largest MVPD,²² must exceed 15 percent of the households in a franchise area. As

www.dishnetwork.com, we have consistently found that the programming of both DBS providers satisfies the programming compatibility component of the competing provider effective competition test.”).

¹⁹ The DBS Providers satisfy the program comparability standard regardless of whether they provide local-into-local service to the Franchise Area. *See Falcon Telecable*, 17 FCC Rcd 22842, ¶ 4 (Med. Bur. 2002) (Four Texas Communities) (“[T]he Commission’s effective competition program comparability standard does not include a local television programming component.”).

²⁰ *See* 47 C.F.R. § 76.905(b)(2)(i).

²¹ *See* note 9.

²² Time Warner Cable is the largest MVPD in each of these Franchise Areas because it has the most video subscribers in each community. *See attached* Declaration of Deane Leavenworth, Vice President - External Affairs,

demonstrated below, Time Warner Cable's cable system meets this threshold with respect to the Franchise Areas because competing MVPDs, including the DBS Providers and the local incumbent telephone company Verizon, provide multichannel video services that are collectively subscribed to by more than 15 percent of the households in each of those Franchise Areas.²³

Turning first to the DBS providers' subscribership in each Franchise Area, Time Warner Cable has used the ZIP+4 methodology previously approved by the Commission in numerous decisions to calculate the DBS Providers' subscribership in each.²⁴ Attached as Exhibit A is a report from Media Business Corp. ("MBC") which has identified all of the ZIP+4 zip codes that are encompassed, in whole or in part, by each of these Franchise Areas by using mapping software based on data derived from the U.S. Census Bureau and the U.S. Postal Service. Attached as Exhibit B are reports from the Satellite Broadcasting Communications Association ("SBCA"), which has been charged with the task of providing the required DBS Provider combined subscriber data for effective competition purposes, providing DBS Provider subscriber counts for each Franchise Area and each of the identified ZIP+4 zip codes.²⁵

Verizon also provides multichannel video service in four of the Franchise Areas (Indian Wells, Indio, La Quinta and Palm Desert) under its FiOS brand.²⁶ Pursuant to Section 76.907(c) of the Commission's Rule, Time Warner Cable has requested and Verizon has provided its

LA Metro Division for Time Warner Cable.

²³ The Commission's rules provide that the subscribers of all MVPDs (other than the largest) serving the franchise area count toward the 15 percent penetration threshold under the second prong of the test, irrespective of whether they are each available to more than 50 percent of households in such franchise area. *See Time Warner Entertainment Co., L.P., et al. v. FCC*, 56 F.3d 151 (D.C. Cir. 1995) (holding that the subscribership of all MVPDs, other than the largest MVPD, may be aggregated to satisfy the 15 percent threshold). *See also* 47 C.F.R. § 76.905(f).

²⁴ *See, e.g., Marcus Cable Associates, LLC d/b/a Charter Communications, Inc.*, DA 02-2174, 17 FCC Rcd 16652 (Media Bureau 2002) (Denton, Texas), *aff'd* 18 FCC Rcd 9762 (Media Bureau 2003); *see also Vicksburg Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2176, 17 FCC Rcd 16659 (Media Bureau 2002) (Vicksburg, Mississippi); *Kilgore Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2177, 17 FCC Rcd 16662 (Media Bureau 2002) (Kilgore, Texas); *Twelve Oregon Cities Order*.

²⁵ Note that where, as demonstrated below, Verizon subscribership alone in a given Franchise Area exceeds the 15 percent threshold, the DBS data has been excluded.

²⁶ Verizon's channel lineup, which is also "comparable" Time Warner Cable's lineup, is attached as Exhibit C.

subscriber counts for these Franchise Areas.²⁷ Verizon's counts have been combined with the DBS Providers' counts to calculate total competing MVPD subscriber counts in each of the Franchise Areas.

In order to complete the penetration calculations, Time Warner Cable next obtained the Census 2010 occupied household figures for each of the Franchise Areas.²⁸ As demonstrated in the following table, Verizon's subscriber counts, combined with the DBS Providers' subscriber counts, indicate that competing MVPD subscriber penetration levels clearly exceed 15 percent of the occupied households in each of the Franchise Areas.

Community	DBS Provider Subscribership ²⁵	Verizon FiOS Subscribership	Combined MVPD Subscribership	2010 Census Occupied Households	Competing MVPD Penetration
Cathedral City	4,920	-	4,920	17,047	28.86%
Indian Wells	622	█	█	2,745	█
Indio	NA	█	█	23,378	█
La Quinta	NA	█	█	14,820	█
Palm Desert	3,528	█	█	23,117	█
Rancho Mirage	1,451	-	1451	8,829	16.43%

Consequently, Time Warner Cable has demonstrated that the second prong of the 50/15 effective competition test has been met for each of these Franchise Areas.

Because Time Warner Cable meets both prongs of the 50/15 test in the Franchise Areas, its system serving such areas clearly faces effective competition.

²⁷ See Responses from Verizon at Exhibit D. Verizon provided its subscribership data for the Franchise Areas on the condition that Time Warner Cable seeks confidential treatment with respect to such information. Thus, Time Warner Cable submits this Petition with Verizon's unredacted subscriber figures, and the resultant overall penetration calculations, on a confidential basis. An additional version of this Petition with the sensitive information redacted is supplied for submission into the publicly available docket.

²⁸ 2010 Household Census Report attached as Exhibit E.

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.

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: 

Craig A. Gilley

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Eighth Floor
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(202) 478-7370

Its Attorneys

Dated: December 12, 2013

DECLARATION

I, SAK, hereby declare under penalty of perjury that:

1. I am the Regional Vice President of Government Relations – _____ for Time Warner Cable, the operator of the cable system that serves the specific Franchise Areas involved in the foregoing Petition for Special Relief (“Petition”).
2. I have read the foregoing Petition and am familiar with the contents thereof and the matters referred to therein.
3. I have reviewed Time Warner Cable’s respective cable subscriber numbers for each of the communities involved in the Petition, as well as the DBS subscriber numbers provided by SBCA and allocated to each as described in the Petition, and also the subscriber counts provided by Verizon California, Inc. Time Warner Cable is the largest multichannel video program provider serving each of the Franchise Areas.
4. The facts contained within the Petition are true and correct to the best of my knowledge, information and belief.



Date: 11-27-13

EXHIBIT A

Media Business Corp. Zip Code Identification Report

Franchise & ZIP+4 Identification

Data Documentation

Franchise: Cable operator's franchised service area

Franchise boundary file vintage : County Sep 2012 (source : Dynamap), MCD Sep 2012 (source : Dynamap), Place Sep 2012 (source : Dynamap)

Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

FIPS: One of a series of codes, issued by the National Institute of Standards and Technology (NIST), assigned for the purpose of ensuring uniform identification of geographic entities throughout all Federal Government programs and agencies.

Each officially recognized Census place has its own unique 5-10 digit identifier. For more information, please see

<http://www.census.gov/geo/www/fips/fips.html>.

County: Census county in which the franchise resides

State: State in which the franchise resides

ZIP: United States Postal Service 5-digit ZIP code that covers, either in whole or in part, the cable operator's franchise area.

ZIP Code boundary file vintage : Dec 2012 (source : Dynamap)

Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

PLUS4: USPS +4 extension to the 5-digit ZIP code. Using geocoding technology, and using only +4s that could be determined to be entirely within the cable operator's franchise area, MBC determined that each of the ZIP+4s on the tab(s) included in this repo

ZIP4: 5-Digit USPS ZIP code and 4-digit extension.

ZIP+4 boundary file vintage : Dec 2012 (source : Dynamap)

Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

USPS Record Type: H - high-rise; F - firm; S - street; R - rural route/highway contract; P - post office box; G - general delivery.

* **Type H Records (High Rises, Buildings, Apartments)** are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit ZIP centroid is assigned.

* **Type F Records (Firms)** are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

* **Type S Records (Streets)** are assigned a ZIP+4 centroid that falls on an address range. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

* **Type R Records (Rural Routes)** are assigned ZIP+2 centroids if possible. In cases where this is not possible, a 5-digit centroid is assigned.

* **Type P (P.O. Box) and Type G (General Delivery Records)** are assigned a 5-digit centroid.

Centroid Type: Each record includes a centroid type code that indicates whether the ZIP+4 has been assigned a ZIP+4, ZIP+2 or 5-digit ZIP centroid.

* ZIP+4 = 1

* ZIP+2 = 2

* 5-digit ZIP = 3

* None = 0

Census 2010 HHS: Count of Census 2010 households by community. For Counties and Minor Civil Divisions (MCDs), HHS reflect count of community minus any incorporated areas within the larger franchise.

Personnel list for the first section, including names, titles, and identification numbers.

Personnel list for the second section, including names, titles, and identification numbers.

Personnel list for the third section, including names, titles, and identification numbers.

Personnel list for the fourth section, including names, titles, and identification numbers.

Personnel list for the fifth section, including names, titles, and identification numbers.

Personnel list for the sixth section, including names, titles, and identification numbers.

Personnel list for the first section, including names, titles, and identification numbers.

Personnel list for the second section, including names, titles, and identification numbers.

Personnel list for the third section, including names, titles, and identification numbers.

Personnel list for the fourth section, including names, titles, and identification numbers.

Personnel list for the fifth section, including names, titles, and identification numbers.

Personnel list for the sixth section, including names, titles, and identification numbers.

Personnel list for the seventh section, including names, titles, and identification numbers.

Personnel list for the eighth section, including names, titles, and identification numbers.

REDACTED VERSION – DOES NOT CONTAIN PROPRIETARY INFORMATION – FOR PUBLIC INSPECTION
SUBJECT TO PROTECTIVE ORDER REQUEST FILED BY VERIZON CALIFORNIA INC. IN DOCKET 12-1

EXHIBIT B

SBCA Effective Competition Tracking Reports

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated July 11, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: July 15, 2013

ZIP Codes	DTH Count
Requested total for Cathedral City, CA	4920

Data is current through 6/30/2013

Report Prepared by:
Martin Esteves
Program Manager
202-349-3630
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated July 11, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: July 15, 2013

ZIP Codes	DTH Count
Requested total for Indian Wells, CA	622

Data is current through 6/30/2013

Report Prepared by:
Martin Esteves
Program Manager
202-349-3630
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated July 11, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: July 15, 2013

ZIP Codes	DTH Count
Requested total for Palm Desert, CA	3528

Data is current through 6/30/2013

Report Prepared by:
Martin Esteves
Program Manager
202-349-3630
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated July 11, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: July 15, 2013

ZIP Codes	DTH Count
Requested total for Rancho Mirage, CA	1451

Data is current through 6/30/2013

Report Prepared by:
Martin Esteves
Program Manager
202-349-3630
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

REDACTED VERSION – DOES NOT CONTAIN PROPRIETARY INFORMATION – FOR PUBLIC INSPECTION
SUBJECT TO PROTECTIVE ORDER REQUEST FILED BY VERIZON CALIFORNIA INC. IN DOCKET 12-1

EXHIBIT C

Section 76.907(c) Response From Verizon

REDACTED

REDACTED VERSION – DOES NOT CONTAIN PROPRIETARY INFORMATION – FOR PUBLIC INSPECTION
SUBJECT TO PROTECTIVE ORDER REQUEST FILED BY VERIZON CALIFORNIA INC. IN DOCKET 12-1

EXHIBIT D

Verizon Channel Lineup

Verizon FiOS TV Channel Lineup



Effective June 2013



MAKE THE MOST OF FiOS TV.

Get answers your way:



CLICK

verizon.com/usingfios for features, tips and more.



TUNE

to channel 131 on your FiOS TV for instructive Help videos.



PRESS

"Menu" on your FiOS remote to access FiOS TV Guide features, review messages, get updates and search for programs.

Prime HD

FiOS® TV Local package included. Additional subscriptions are available.¹

A&E	181/681 HD
ABC Family.....	199/699 HD
AMC	231/731 HD
Animal Planet.....	130/630 HD
BET.....	270/770 HD
Big Ten 1	330
Big Ten 2	331
Big Ten Network.....	85/585 HD
Bloomberg TV	104
Bravo.....	185/685 HD
Cartoon Network.....	257/757 HD
Centric	220
Church Channel	288
CMT	221/721 HD
CNBC+.....	102/602 HD
CNBC World.....	106
CNN	100/600 HD
Comedy Central	190/690 HD
C-SPAN	109
C-SPAN 2	110

Continued on page 2

FiOS

Verizon FiOS TV Channel Lineup



Effective June 2013

Prime HD | FiOS TV Local package included. Additional subscriptions are available.¹

Continued from page 1

C-SPAN 3	111	Hallmark Channel	240
Daystar	293	Hallmark Movie Channel	239/739 HD
Discovery Channel	120/620 HD	HGTV	165/665 HD
Disney Channel	250/780 HD	History Channel	128/628 HD
Disney Junior	260	HLN Headline News Network	101
Disney XD	251/781 HD	HSN	151/651 HD
E! Entertainment Television	196/696 HD	INSP	286
ESPN	70/570 HD	Investigation Discovery	123/623 HD
ESPN U	73/573 HD	JCTV	289
ESPN2	74/574 HD	Jewelry Television	155
EWTN	285	Lifetime	140/640 HD
FiOS TV Information	131	Liquidation Channel	152
Food Network	164/664 HD	LMN	141/641 HD
Fox News	118/618 HD	Logo	187
fuse	216/716 HD	Military Channel	125
FX	53/553 HD	Mnet	229
gmc	224		
H2	127		

Continued on page 3

FiOS

To order this package or other subscription packages, go to myverizon.com.

Verizon FiOS TV Channel Lineup



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Continued from page 2

MSNBC.....	103/603 HD	Speed	83/583 HD
MTV	210/710 HD	Spike TV	54/554 HD
MTV2.....	211	Syfy	180/680 HD
National Geographic Channel.....	121/621 HD	TBN - TRINITY	295
NBC Sports Network ...	90/590 HD	TBS.....	52/552 HD
Nick Jr.	256	TeenNick.....	255
Nick Toons	254	The Hub	259/789 HD
Nickelodeon	252/752 HD	The SonLife Broadcasting Network	297
Oxygen	144	The Weather Channel..	119/619 HD
PBS Kids Sprout	263	The Word.....	292
QVC	150/650 HD	TLC.....	139/639 HD
ReelzChannel	233	TNT.....	51/551 HD
RFD TV	247	Tr3s:MTV.....	273
RLTV	245	Travel Channel.....	170/670 HD
Science.....	122/622 HD	truTV.....	183/683 HD
ShopNBC.....	157	Turner Classic Movies.....	230
Sino TV Network.....	281	TV Land	244
Soapnet.....	143		

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FiOS

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Verizon FiOS TV Channel Lineup



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Continued from page 3

TVGN.....	194/694 HD
TVN Event TV.....	1000
USA Network	50/550 HD
Velocity	631
VH1.....	217/717 HD
VH1 Classic	218
VOD Weekly Highlights.....	339
WE tv.....	149/649 HD
WOW.....	158

Digital Music

Go to verizon.com/fiostvchannels or your On-screen Guide for a detailed listing of Digital Music channels.

Music Choice.....1800-1845

Verizon FiOS TV occasionally changes its channel offerings. For a complete listing of all the Verizon FiOS TV channels available in your area, visit verizon.com/fiostvchannels. ©2013 Verizon.

¹A Verizon-supplied HD receiver and an HD-ready TV set required to receive HD programming.

Programming services offered within each package are subject to change, and not all programming services will be available at all times. Blackout restrictions also apply.

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To order this package or other subscription packages, go to myverizon.com.

LOCAL BROADCAST CHANNELS

VERIZON FIOS PALM DESERT AREA

[2] CBS - KPSP-LP 38 **CBS - KPSP-LP 38**

[3] ABC - KESQ-TV 3 **ABC - KESQ-TV 3**

KESQ-TV 3 [ABC] via K21GI retrans

[4] KVER Univision **KVER Univision**

[5] UniMás KEVC **UniMás KEVC**

[6] CW - KCWQ-LP 44 **CW - KCWQ-LP 44**

[7] NBC - KMIR-TV 34 **NBC - KMIR-TV 34**

[8] Fox - KDFX-CA **Fox - KDFX-CA**

[9] MY - KPSE-LP **MY - KPSE-LP**

[10] Telemundo - KUNA-LP **Telemundo - KUNA-LP 15**

EXHIBIT E

2010 Census Household Population

GCT-PL2 - California: Population and
2010 Census Redistricting Data (Public

NOTE: For information on confidentiality
protection, nonsampling error, and
definitions, see

<http://www.census.gov/prod/cen2010/pl94-171.pdf>

NOTE: Change to the
California, Connecticut, Mississippi, New
Hampshire, Virginia, and Washington P. L.
94-171 Summary Files as delivered.

Geographic area	Total	Housing units		
		Total	Occupied	Vacant
Cathedral City city	51,200	20,995	17,047	3,948
Indian Wells city	4,958	5,137	2,745	2,392
Indio city	76,036	28,971	23,378	5,593
La Quinta city	37,467	23,489	14,820	8,669
Palm Desert city	48,445	37,073	23,117	13,956
Rancho Mirage city	17,218	14,243	8,829	5,414

CERTIFICATE OF SERVICE

I, Glenda Thompson, a secretary at the law firm of Edwards Wildman Palmer LLP, hereby certify that, on this 12th day of December, 2013, copies of the foregoing “Petition for Special Relief” were sent via first-class mail, postage prepaid, to the following:

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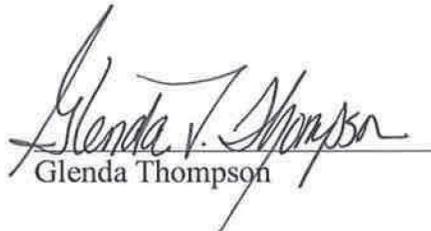
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