COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

C.T.V./D.T.C. 06-1 July 6, 2011

Petition by Verizon New England Inc. to commence a rulemaking pursuant to 207 C.M.R. § 2.01(1) to amend 207 C.M.R. § 3.00 *et seq.*: Licensing.

ORDER CLOSING DOCKET

I. INTRODUCTION AND PROCEDURAL HISTORY

On March 16, 2006, Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon"), filed, pursuant to G. L. c. 30A, § 4, c. 166A, § 16, and 207 C.M.R. § 2.01(1), a petition with the Department of Telecommunications and Energy ("Department"),[1] through the Cable Television Division ("Cable Division"), to request that the Cable Division adopt a regulation governing the licensing process for a cable system in a city or town where the issuing authority has previously granted at least one cable license, and the applicant seeks to offer cable television service in competition with the incumbent provider. Petition, at 1, *Petition by Verizon New England Inc. to commence a rulemaking pursuant to 207 C.M.R. § 2.01(1) to amend 207 C.M.R. § 3.00 et seq.: Licensing*, C.T.V./D.T.C. 06-1 (Mar. 16, 2006) ("Petition"). Verizon

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1 The Department of Telecommunications and Energy was dissolved on April 11, 2007. *See* Chapter 19 of the Acts of 2007. Jurisdiction over telecommunications and cable matters was placed in the newly-established Department of Telecommunications and Cable. *See id.* For administrative ease, "Department" as used herein refers to both Departments.

further requested that the Cable Division amend the regulation at 207 C.M.R. § 3.09, governing appeals, in keeping with Verizon's proposed regulation on competitive licenses. *Id.*

On May 5, 2006, the Cable Division, pursuant to G. L. c. 166A, § 16, and 207 C.M.R. § 2.01(1), initiated a rulemaking proceeding to solicit comments from interested persons on whether to adopt the proposed regulations or otherwise amend the current regulations.[2] *Petition by Verizon New England Inc. to commence a rulemaking pursuant to 207 C.M.R. § 2.01(1) to amend 207 C.M.R. § 3.00 et seq.: Licensing*, C.T.V./D.T.C. 06-1, *Order Instituting Rulemaking* at 5-6 (May 5, 2006) ("*Initiating Order*"). On August 16, 2006, the Cable Divison held a public hearing at its offices to provide further opportunity to comment on the proposed regulations. *See Petition by Verizon New England Inc. to commence a rulemaking pursuant to 207 C.M.R. § 2.01(1) to amend 207 C.M.R. § 3.00 et seq.: Licensing*, C.T.V./D.T.C. 06-1, Notice of Public Hearing and Request for Comment by the Dep't of Telecomm[s]. and Energy – Cable Television Div. on Proposed Amendments to Rules and Regulations Governing the Cable Television Licensing Process, at 2 (May 5, 2006).

On December 14, 2006, Verizon filed a letter with the Department to call to its attention the Federal Communications Commission's ("FCC's") upcoming open meeting during which it was scheduled to address a comprehensive video franchising reform order. *See* Letter from Alexander W. Moore, Associate General Counsel, Verizon, to Alicia Matthews, Hearing Officer, Cable Div., Dep't of Telecomms. and Energy, C.T.V./D.T.C. 06-1 (Dec. 14, 2006). Verizon recommended that the Department await action by the FCC before proposing new rules in the proceeding. *Id.* On December 20, 2006, the FCC issued an order in MB Docket No. 05-311

2 In addition to Verizon's proposed substantive changes to 207 C.M.R. § 3.00 *et seq.*, the Cable Division, on its own motion, included in the rulemaking proceeding a proposal to make a technical correction throughout 207 C.M.R., which had not been amended to reflect the changes in G. L. c. 166A. *Initiating Order* at 6. Specifically, the Cable Division proposed to change "Community Antenna Television Commission" to "Community Antenna Television Division" in the title, and the reference "Commission" to "Division" in each instance it appears in the section. *Id.*

addressing video franchise reform. *See In re Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 06-180 (rel. Mar. 5, 2007) ("*FCC Order*").

On July 2, 2010, Verizon filed a letter with the Department to withdraw its Petition as a result of the FCC's order addressing video franchising reform. *See* Letter from John L. Conroy, Vice President-Regulatory, Verizon, to Catrice Williams, Secretary, Dep't of Telecomms. and Cable, C.T.V./D.T.C. 06-1 (July 2, 2010).

II. DISCUSSION

The FCC's order addresses Verizon's proposed regulations by establishing reasonable time limits for local franchising authorities to render decisions on competitive applicants' franchise applications. *See FCC Order* at ¶ 67. Where Verizon requests that the Department adopt a three-month time limit on the competitive licensing process in Massachusetts, the FCC's order establishes a maximum time frame of 90 days for entities with existing authority to access public rights-of-way, and six months for entities that do not have authority to access public rights-of-way. *See* Petition at 5-7; *FCC Order* at ¶ 67. The Department finds, in light of the FCC's order and Verizon's withdrawal of its Petition, that any further action in the instant proceeding is unnecessary. Accordingly, the Department determines to close the docket.

III. ORDER

Consistent with the above, it is hereby ORDERED that docket C.T.V./D.T.C. 06-1 is CLOSED.

By Order of the Department,

Geoffrey G. Why,
Commissioner

RIGHT TO APPEAL

Appeals of any final decision, order or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable state and federal laws.