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TRANSFER BULLETIN

April 17, 2014

On February 13, 2014, Comcast Corporation ("Comcast") announced that it will acquire all of the assets of Time Warner Cable Inc. ("Time Warner"), including several cable systems serving communities in Western Massachusetts. More specifically, control of the cable license holder in each Massachusetts community will transfer from Time Warner to Comcast. Time Warner (Transferor) and Comcast (Transferee) seek approval of this transfer at this time.

To that end, on or about April 10, 2014, the issuing authority in each of the 15 Massachusetts communities currently served by Time Warner should have received a Federal Communications Commission (FCC) Form 394, Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise ("FCC Form 394" or "Transfer Application") for the transaction. By this Bulletin, the Competition Division of the Massachusetts Department of Telecommunications and Cable (DTC) informs the affected communities of the transfer process and public hearing requirements.

The transfer process began when each community received the FCC Form 394s, in this case, on or about April 10, 2014. It is important to note the date of receipt of the FCC Form 394 by each community, as this Receipt Date triggers a 120-day review period during which the issuing authority must comply with certain deadlines. 47 C.F.R. § 76.502; 207 C.M.R. §§ 4.01-4.06. First, the issuing authority must notify the cable operators within thirty (30) days of the Receipt Date of any question regarding the accuracy of the FCC Form 394 and accompanying information. 47 C.F.R. § 76.502. Second, the issuing authority must hold a public hearing during the first sixty (60) days after the Receipt Date. 207 C.M.R. § 4.03. Finally, the issuing authority must decide whether to accept or reject the transfer within 120 days of the Receipt Date. 47 U.S.C. § 537; 207 C.M.R. § 4.02. Please note that if an issuing authority does not take action on the application within the time frames established by federal and state law, the application is deemed approved. 47 U.S.C. § 537.

To further clarify the time frames as set forth above, federal regulations require that an issuing authority notify the cable operators within thirty (30) days if it determines that the Transfer Application and accompanying information is inaccurate. 47 C.F.R. § 76.502. Absent notification to the cable operators within the thirty (30) day window, the information is deemed to be accurate and sufficient as filed to render a decision on the transfer proposal. *Id.*

The FCC Form 394 provides detailed information on the proposed transfer. Issuing authorities must make the filed FCC Form 394s available for review by interested parties at the

city or town clerk's office. 207 C.M.R. § 4.02(1). Within sixty (60) days of the Receipt Date, the issuing authority must hold a public hearing in order to insure that the Transferor and Transferee, residents, and other interested parties are afforded full and fair opportunity to comment on the proposed transfer. *Id.* § 4.03. State law requires that a decision on the transfer be made only after a public hearing. G. L. c. 166A, § 7; 207 C.M.R. § 4.03. Issuing authorities are responsible for conducting the hearing as well as providing the hearing location and notice of the hearing. 207 C.M.R. § 4.03.

To comply with state regulations, each issuing authority must arrange for notice of the hearing to be published in a newspaper of general circulation in the affected city or town in each of two successive weeks, the first publication being not less than 14 days before the day of any such hearing. 207 C.M.R. § 2.02. Where a community has a cablecasting facility within the control of the cable operator, the cable operator must also provide notice to the community by cablecast at least twice a week, on separate days, during each of the two weeks prior to the hearing. *Id.*

Following the hearing but within 120 days of the Receipt Date, each issuing authority must determine the appropriateness of the transfer and render a final decision to the cable operators. 47 U.S.C. § 537. As stated above, if an issuing authority fails to render a final decision on the transfer within 120 days, the application is deemed granted. *Id.* In determining the appropriateness of the transfer, Massachusetts law states that "[n]o license or control thereof shall be transferred or assigned without the prior written consent of the issuing authority, which consent shall not be arbitrarily or unreasonably withheld." G. L. c. 166A, § 7. In order to ensure that a determination is reasonable, issuing authorities may consider only the Transferee's (a) management experience, (b) technical expertise, (c) financial capability, and (d) legal ability to operate a cable system under the existing license. 207 C.M.R. § 4.04(1); *In the Matter of MediaOne of Mass., Inc. v. Bd. of Selectman of N. Andover*, CTV 99-2, 99-3, 99-4, 99-5, *Order of Motions for Summary Decision/Consolidation* (May 1, 2000). In addition, issuing authorities may not "propose amendments to or renegotiate the terms of the existing license or any license renewal proposal." 207 C.M.R. § 4.04(2).

My staff and I are available to assist communities throughout the transfer process. Please feel free to contact us with any questions you may have regarding the transfer process: Michael Mael at 617-368-1105, michael.mael@state.ma.us; Catrice Williams at 617-305-3580, catrice.williams@state.ma.us; or Sean Carroll at 617-368-1161, sean.m.carroll@state.ma.us.

Additional information regarding the transfer process can be found at our website at: http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/cable-tv-division/municipal-info/license-transfers/.

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