

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

CABLE TELEVISION DIVISION

Petition of Verizon New England Inc. for)
Adoption of Competitive License Regulation)
_____)

Docket No. CTV-06-_____

**PETITION OF VERIZON NEW ENGLAND INC.
FOR ADOPTION OF COMPETITIVE LICENSE REGULATION**

I. Introduction

Pursuant to M.G.L. c. 30A, §4, c. 166A, § 16 and 207 CMR 2.01, Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon”) petitions the Cable Television Division (“Division”) of the Department of Telecommunications and Energy (“Department”) to adopt a regulation, in the form attached hereto, to govern the licensing process for a CATV system as required by M.G.L. c. 166A, § 3, in a city or town in which the issuing authority has previously granted at least one such license and the applicant seeks to offer CATV service in competition with the incumbent CATV provider. Verizon further petitions the Division to amend its regulation at 207 CMR 3.09, governing appeals, in keeping with the proposed regulation governing competitive licenses.

The Division’s authority to adopt the proposed regulation and thereby define time limits for the CATV licensing process arises directly from M.G.L. c. 166A, § 16, which provides that, “The division may after hearing issue such standards and regulations as it deems appropriate to carry out the purpose of this chapter for which purpose it may employ such expert assistants as it deems necessary.” The Division’s current licensing regulations at 207 CMR 3.00 impose time

limits on various steps in the licensing process. As the Division has held, “the Legislature has granted the Cable Division ultimate authority over licensing matters in the Commonwealth”¹

II. Background

In 1994, the Federal Communications Commission recognized that “(t)he local franchise process is, perhaps, the most important policy-relevant barrier to competitive entry in local cable markets.”² This is no less true today than it was in 1994. In fact, the convergence taking place in the telecommunications industry has made that barrier even more critical and in dire need of reform. The FCC recently noted that, “As potential new entrants seek to enter the MVPD [Multichannel Video Programming Distributor] marketplace, there have been indications that in many areas the current operation of the local franchising process is serving as an unreasonable barrier to entry.”³ A comparison of Massachusetts’ requirements for entry into the highly competitive telecommunications business to the entry requirements for the potentially competitive video market brings into sharp focus the unreasonable entry barriers that weaken video competition and hurt consumers. The Department has established a simple, straightforward process for a company wishing to enter the Massachusetts telecommunications marketplace. The filing of a “Statement of Business Operations”⁴ and the filing and approval of tariffs are all that are required for a carrier to provide services to customers statewide. Yet for a

¹ *In the matter of Media One of Massachusetts, Inc., et al v. Board of Selectmen of the Town of North Andover*, Docket CTV 99-2, 99-3, 99-4, 99-5, Order on Motions for Summary Decision/Consolidation, issued May 1, 2000, at 12 (citations omitted).

² *Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992, Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, 9 FCC Rcd 7442, Appendix H at ¶ 43 (1994) (“*First Video Competition Report*”).

³ *In the Matter of 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*, Notice of Proposed Rulemaking, MB Docket No. 05-311 (“FCC Franchising NPRM”), rel. November 18, 2005, ¶ 5 (footnote omitted).

⁴ The “Statement of Business Operations” must list only the carrier’s address, telephone number, a brief description of the type of services to be offered, an “800” number or other number for customer service, a regulatory contact person, and a signed tax attestation form.

wireline carrier to enter the video marketplace it must undertake a process that can take 17 months or even longer in each and every municipality it seeks to serve. Such a discrepancy is not good public policy and hurts consumers by delaying the benefits of competition between service providers.

When the Division adopted its current local franchising process the cable industry was a nascent industry that did not have the mass deployment capabilities that exist today for other video providers. In its 2004 report, the Department has summarized the evolution of the cable industry and regulation in the Commonwealth: “In 1971, the Legislature established the Massachusetts Community Antenna Television Commission ‘to authorize . . . the installation of community antenna television systems in cities and towns of the [C]ommonwealth and to provide for the regulation thereof by such cities and towns and the [C]ommonwealth. . . .’ In the 30 years since the Legislature issued this grant of authority, what began as a service designed mainly to deliver off-the-air broadcast signals to rural and mountainous areas has become a \$1.36 billion industry in Massachusetts.”⁵ However, franchise regulations have not been changed to match this industry evolution. The regulations for the franchising process were originally developed to provide municipalities with the ability first to decide if cable television service was in the best interests of its citizens and then to determine the viability of the cable operator.

Although cable franchises in Massachusetts could never be exclusive by law in Massachusetts, they were effectively exclusive well into the 1990s, when RCN entered the market.⁶ Now, with the convergence taking place in the telecommunications industry, other

⁵ DTE 2004 Annual Report, at 30.

⁶ RCN now provides cable services in 16 Greater Boston communities. In addition, two communities have competitive cable services offered by the municipal electric light service provider – Braintree and

players are entering the marketplace to provide much needed competition with the incumbent cable companies. Yet, the Division's franchise regulations today do not recognize the changes that have taken place because they do not distinguish between initial licenses provided to a monopoly cable provider and licenses for new competitors seeking to bring choice to the consumer. Thus, the lengthy and cumbersome process that may have been appropriate for an issuing authority that had not yet determined whether to license any cable provider creates an unreasonable barrier to competition for new entrants who wish to provide services within a community that has already made a determination that video services benefit its citizens. This is particularly true where the new entrant is providing services over a network that does not require new rights-of-way. As the Division has noted, "there has been an evolution of the cable television industry marked by rapid technological advances, system consolidation, and the emergence of competition from overbuilders and municipal operators."⁷

The current framework makes little sense today when competitive providers who already have access to the rights-of-way seek to offer competitive video services over their broadband networks. Today's burdensome process serves no legitimate purpose, and deprives consumers of a competitive alternative for video service while also undercutting the incentives to invest in and deploy the broadband networks over which competitive video services will be delivered.

In order to better match franchise regulations with current market realities in Massachusetts, the Division should adopt the proposed regulation for "competitive licenses" in the form attached hereto and should revise 207 CMR 3.09, entitled "Rights of Appeal," also as attached hereto. The proposed regulation for a competitive license improves and streamlines the

⁷ Norwood. Two other communities, Shrewsbury and Russell, have a municipal service provider as the only service provider. See <http://www.mass.gov/dte/catv/index.htm> (accessed February 27, 2006)
CTV 03-3, *Investigation by the Cable Television Division of the Department of Telecommunications and Energy on its Own Motion to Review the Form 100, Order Opening A Notice of Inquiry* (August 2003).

process and encourages video competition and broadband deployment, while preserving local control of the outcome. Given all the benefits that additional competition offers for consumers, the Division should approve the proposed new regulations, thereby eliminating unreasonable barriers to entry and bringing video choice to more consumers.

III. Proposed Rule

Current regulations for an initial cable license include a number of intermediate steps between an expression of interest by a potential franchisee and final licensing. However, the intermediate steps are neither necessary nor appropriate in the evaluation of a competitive license. These unnecessary steps include:

- a threshold decision by the issuing authority to begin the licensing process;
- an application solicitation process that includes a publication requirement for newspapers and trade journals imposed on the issuing authority;
- a “specifications report” requirement imposed on the issuing authority; and
- issuance of a provisional license followed by a final license.

Consequently, the timeline for obtaining an initial license is lengthy and open-ended. 207 CMR 3.02(4) allows an issuing authority 12 months to approve or deny an application, and 207 CMR 3.03(6) allows three more months to issue a provisional license. Worse still, the Division’s current regulations impose no deadline at all on the issuing authority to grant a final license. *See* 207 CMR 3.04.

Where the issuing authority already has made a determination that cable services should be allowed in the community and where an incumbent CATV provider already offers services, the intermediate steps between application and either denial or licensing serve no valid purpose for competitive licenses. Without these intermediate steps, the schedule between application and approval or denial can and should be streamlined. The proposed regulation (207 CMR 3.04.5)

shortens the process from a potential 17 months or more to three months from beginning to end, including 30 days after the hearing for the issuing authority to approve or deny the application, issue its written decision and, if the application is approved, issue a license.

Adopting the time limits proposed here would promote competition and conform to the requirements of federal law. The proposed hard and fast end-date for addressing applications for competitive licenses ensures against undue delay in the permitting process, consistent with Section 541(a) of the federal Cable Act and First Amendment concerns. The directive in 47 U.S.C. § 541(a)(1) that an issuing authority “may not unreasonably refuse to award an additional competitive franchise” applies not only when an issuing authority denies a license but also when an issuing authority unreasonably fails to grant a competitive license, as it might do through simple inaction or delay. Long delays would frustrate both the terms and the purpose of Section 541(a)(1).

The three-month time limit in the proposed regulation is more than sufficient given the few, narrowly circumscribed issues an issuing authority may consider in reviewing an application for a competitive franchise. Federal law restricts the discretion of issuing authorities by providing a limited set of factors they are permitted to consider in reviewing franchise applications. 47 U.S.C. § 541(a)(4) expressly delimits the grounds on which an issuing authority may refuse to grant a competitive franchise. An issuing authority may “require adequate assurance” that the new entrant will “provide adequate public, educational, and governmental [“PEG”] access channel capacity, facilities, or financial support,” *id.* § 541(a)(4)(B), and that the new entrant “has the financial, technical, or legal qualifications to provide cable service.” *Id.* § 541(a)(4)(C). The franchise authority may also impose a franchise fee, subject to the express limitations in 47 U.S.C. § 542 and the provisions of M.G.L. c. 166A. This limited set of issues

can readily be addressed in three months or less, particularly where, as here, Verizon has made clear that it is willing to provide reasonable PEG capacity and pay franchise fees consistent with the federal Act.

The objective, limited timeframes proposed here also are necessary for constitutional reasons. The franchise process is a classic prior restraint on constitutionally protected speech. *See Turner Broadcasting Systems v. FCC*, 512 U.S. 622, 636 (1994) (First Amendment protects cable companies' right to offer video programming services); *City of Los Angeles v. Preferred Communications, Inc.*, 476 U.S. 488, 494 (1986). And where, as here, the exercise of free speech rights depends on the issuance of a permit, any "undue delay" in the permitting process unconstitutionally suppresses protected speech. *City of Littleton v. Z-J Gifts D-4, L.L.C.*, 541 U.S. 774 (2004) (*quoting FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 228 (1990)). The First Amendment requires licensing authorities to issue permits in any individual case within a reasonable period of time. *Id.* at 780-781; *Church of the American Knights of the Ku Klux Klan v. City of Gary*, 334 F.3rd 676, 682 (7th Cir. 2003).

The proposed revisions to 207 CMR 3.09 amend the procedure for appeals to the Division of a franchising decision by the issuing authority or a failure of the issuing authority to act on an application. In particular, the review of an appeal by the Division would be conducted *de novo* under the new regulation. This type of review is appropriate for the agency that "retain[s] ultimate authority in licensing matters" in the Commonwealth.⁸ Moreover, where an issuing authority has already decided, by issuing a license to the incumbent provider, that CATV service is in the best interests of the community, the Division is in as good a position as the issuing authority to determine whether the applicant for a competitive license is qualified to operate a CATV system and whether the applicant has met the substantive standard for issuance

⁸ DTE 2004 Annual Report, at 31.

of a final license contained in 207 CMR 3.04(1), *i.e.* whether the applicant is in substantial compliance with the requirements of M.G.L. c. 166A, §§ 3, 4 and 5. Furthermore, *de novo* review will help ensure the effectiveness of the streamlined competitive licensing process by precluding an issuing authority from reverting *de facto* to the current drawn-out licensing process by failing to take action on an application or by repeatedly denying an application on grounds inconsistent with the Division's regulations.

IV. The Proposed Regulation Would Promote Video Competition and Investment in Advanced Services

Consumers benefit from increased competition and investment associated with competitive video licenses, yet current franchise regulations in Massachusetts create a barrier to investment in advanced services through unwarranted delay and uncertainty.⁹ The timeline and process steps that were developed for initial licenses are inappropriate and unnecessary for competitive licenses and are no longer relevant to conditions in the marketplace today. There is no legitimate reason to continue to apply those regulations to competitive licenses, and the resulting delay and uncertainty prevents consumers from enjoying the benefits of competition. The proposed new regulation reasonably balances the interests of municipalities in maintaining local control with the interests of customers in promoting cable choice and investment.

A. Video Choice

The Massachusetts Special Commission on cable regulation made the following observations in its 2003 Report:

⁹ Within a nationwide company such as Verizon, investment dollars for video services will tend to gravitate toward states in which regulatory approvals are efficient and certain, all else being equal.

Consumers express on-going dissatisfaction with the continuing escalation of cable television rates. For municipal officials, spiraling cable rates are an ongoing source of frustration and constituent complaints ...¹⁰

Ever since the federal Telecommunications Act of 1996 opened up the cable and telecommunications industries to competition, consumers and members of Congress have been waiting with bated breath to see former monopoly industries go toe to toe to provide consumers and businesses new services and choices at competitive prices. Unfortunately, such competition and consumer choice has been slow in developing ...¹¹

Competition for video services is the answer to “dissatisfaction,” “frustration,” and complaints about cable rates and service in Massachusetts, and Verizon would like to make a significant investment in Massachusetts by deploying a next generation network that would bring video choice to consumers. Verizon’s new network would provide better video and high-speed Internet services at competitive prices using a state-of-the-art, end-to-end fiber optic network. However, the benefits of competition for Massachusetts consumers are delayed and limited by imposing the franchise process designed for initial licenses on carriers who wish to compete with the incumbent monopoly provider.

The national evidence is overwhelmingly clear that consumers benefit from competition for video services by more than one wireline service provider. Most Massachusetts households currently have no choice in wireline video services other than the incumbent cable company in their area. The results are high (and ever-increasing) prices and poor service. The Government Accountability Office (“GAO”) has found that wireline cable competition exists in less than 2 percent of all communities nationwide. The GAO study further found that cable prices in areas with wireline cable competition average approximately 15 percent lower while customer service

¹⁰ Special Commission Report at 18.

¹¹ *Id.* at 30.

improves.¹² The FCC reported similar findings in its most recent report on cable pricing, noting that “[f]or communities [with wireline overbuild competition], the monthly cable rate and price per channel were, respectively, 15.7 percent lower and 27.2 percent lower than those averages for the noncompetitive group.”¹³ Meanwhile, in the more than 98 percent of communities lacking wireline competition, prices have continued to soar, rising between 40 and 50 percent over the last five years – more than four times as fast as the Consumer Price Index. *2005 Cable Pricing Report*. Thus, the costs to Massachusetts consumers from delaying wireline video competition are significant.

The evidence of consumer benefits specifically derived from Verizon’s provision of video services is even more pronounced. A recent Bank of America analysis demonstrates that the incumbent cable provider has responded to Verizon’s offering of video services over its fiber-optic network with significant rate cuts. Bank of America analysts surveyed three communities where Verizon already is offering its FiOS video services: Keller, Texas; Herndon, VA, and Temple Terrace, FL. In each of these communities, Bank of America compared the regional and web-advertised price for video services to the prices that customers receive when they mention Verizon’s competitive FiOS offerings. The results were as follows:

Community	Incumbent Cable Provider	Regional or Web-advertised Price	Competitive Price in FiOS Market
Keller, TX	Charter	\$55.99	\$39.99
Herndon, VA	Cox	\$52.44	\$30.00
Temple Terrace, FL	BrightHouse	\$58.45	\$36.33

¹² U.S. Government Accountability Office, *Telecommunications: Subscriber Rates and Competition in the Cable Television Industry*, Testimony of Mark L. Goldstein, Director of Physical Infrastructure Issues, Before the Senate Committee on Commerce, Science and Transportation, GAO-04-262T, at 6 (Mar. 25, 2004) (“*GAO Mar. 2004 Cable Competition Report*”); U.S. Government Accountability Office, *Telecommunications: Issues Related to Competition and Subscriber Rates in the Cable Television Industry*, Report to the Chairman, Senate Committee on Commerce, Science and Transportation, GAO-04-8, at 3-4 (Oct. 24, 2003) (“*GAO Oct. 2003 Cable Competition Report*”).

¹³ Report on Cable Industry Prices, *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992*, 20 FCC Rcd 2718, ¶ 12 (2005) (“*2005 Cable Pricing Report*”).

The Bank of America report also demonstrates that the incumbent cable providers responded to competition from Verizon with reduced prices for high-speed Internet access and telephone services, in addition to the savings listed above for video services.

The proposed regulation would accelerate the delivery of benefits to Massachusetts customers by streamlining the process for competitive entry in the video business. The evidence is clear that each day that goes by without wireline competition for video services is a lost opportunity for Massachusetts cable customers to enjoy the benefits of competition in terms of services and prices. Adoption of the proposed regulation by the Division will go a long way toward ensuring that Massachusetts customers benefit from competition while preserving the legitimate interests of the issuing authority in assessing the competitive license applicant's qualifications and substantial compliance with the requirements of §§ 3, 4 and 5 of the CATV statute. It is hard to contemplate any other step that the Division could take that would so clearly benefit consumers.

B. Investment

In addition to direct benefits derived from better service and lower prices for video services, Massachusetts customers also would benefit from the way in which the proposed regulation would promote investment in advanced services, because the ability to offer video services over advanced broadband networks is a critical component to making such capital expenditures profitable. This important fact has been recognized by the FCC and by independent analysts. The FCC noted in opening a recent docket on video franchising that “for all competitors in the marketplace, the abilities to offer video to consumers and to deploy broadband

networks rapidly are linked intrinsically”.¹⁴ The FCC noted further that, “[t]he construction of modern telecommunications facilities requires substantial capital investment, and such networks, once completed, are capable of providing not only voice and data, but video as well. As a consequence, the ability to offer video offers the promise of an additional revenue stream from which deployment costs can be recovered.”¹⁵ In fact, the additional revenues from the sale of video services over broadband networks is an important component of the business case justifying the significant investment required for the deployment of advanced broadband networks like Verizon’s fiber-to-the-premises (“FTTP”) network.

The importance of investment in advanced communications networks to the Commonwealth has long been appreciated by the Department and other policymakers. More than twenty years ago, the Department adopted policy goals and made Massachusetts one of the first states to endorse competition in the local telecom markets. The Department concluded that its telecommunications policy goals “must provide for the continued development of the most efficient and modern telecommunications network possible.”¹⁶ In this spirit, the Department has consistently acted to promote investment in advanced infrastructure.¹⁷ The critical importance of having “the most efficient and modern telecommunications network possible” in Massachusetts also has been noted by other policymakers and industry participants.

More than ten years ago, Governor Weld wrote that “It would be difficult to overstate the importance of the telecommunications industry to the economic well-being of Massachusetts ... Telecommunications networks will be the transport media for the industries that provide

¹⁴ FCC Franchising NPRM, ¶ 1.

¹⁵ *Id.*, ¶ 1, n.4.

¹⁶ IntraLATA Competition, DPU 1731, at 19.

¹⁷ *See, e.g.*, D.P.U. 94-50, at 137.

Massachusetts with a competitive advantage.”¹⁸ This theme has been repeated many times over the past ten years. For example, in 2000, the Massachusetts Software & Internet Council and the Massachusetts Technology Collaborative jointly initiated the “MassBroadband Initiative” in order “to promote the continued deployment of broadband services throughout the Commonwealth of Massachusetts.” MassBroadband issued a report in June 2002 in which it found that “Broadband connectivity is part of a competitive quality of life for Massachusetts residents, and part of a competitive business climate for Massachusetts companies. ... Aggressive and continued deployment of broadband services is extremely important for both residents and business owners in the Commonwealth.” In order to promote broadband infrastructure, the MassBroadband report identified three “key principles, including the principle that:

Broadband policy and strategies in Massachusetts must continue to promote competition. Competition has proven to be the most effective force for sparking innovation, reducing costs and catalyzing deployment in broadband services.”

Of direct relevance to this Petition, the MassBroadband report identified CATV franchise reform as an important component to promote investment in infrastructure. The report recommended that “local cable TV committees should explore regional or multi-town franchising agreements that will give providers a single, large investment target with predictable terms and conditions for capital investment, operations and maintenance in return for deployment of cable modem Internet service.” While the new regulation proposed by Verizon does not go so far as to create statewide or regional franchising – as practical and desirable as that may be – it certainly goes a long way toward promoting more “predictable terms and conditions for capital investment.”

The Massachusetts Department of Economic Development (“DED”) also has noted the critical importance of advanced communications infrastructure. A report sponsored by DED in

¹⁸ Federal Comm. Law Journal, December 1994, pages 396, 398.

2002 titled, “Massachusetts: Toward A New Prosperity,” concluded that it is a “competitive imperative” to “[b]uild the information infrastructure of the 21st century,” explaining that “The rise of the information economy requires a renewed focus on our information infrastructure. The Commonwealth must facilitate improved access to affordable broadband options throughout the Commonwealth.”

The Massachusetts Special Commission on cable regulation stated in its 2003 Report: “this Commission urges a more proactive role by state government to encourage and facilitate the rapid deployment of broadband and cable services statewide.”¹⁹

The facts are clear: deployment of advanced communications infrastructure is critical to the economic well-being of the Commonwealth. Next-generation communications networks, such as that currently being built by Verizon in Massachusetts, require the ability to offer video services without unnecessary regulation and delay; and the proposed regulation would go a long way toward creating the right investment climate for competitive video providers to fulfill the goals of investment and communications policy in the state.

V. Department and Division Precedent

As noted earlier, franchise regulations have not been modified to match the evolution of the cable industry in Massachusetts, and the proposed regulation would be a critical step toward aligning the franchise process with market realities, to the benefit of consumers. The Department and Division have recognized the need to adapt regulatory requirements to market conditions. The Division has done this most recently when it updated the content of Form 100, the franchising application form, in response to industry evolution.²⁰ The Department also has

¹⁹ Special Commission Report at 29.

²⁰ CTV 03-3, Order, (November 2004) at 1.

noted the importance of modifying regulatory requirements to match market conditions, saying, in 2002, “The Department’s goal in the past seventeen years has been to evolve regulatory requirements and oversight to match the evolution of market forces ...”²¹

Of direct relevance to the regulation proposed here, the Department modified its market entry requirements for new entrants in the common carrier telephone business in 1994.²² Prior to that time, new common carriers were required to undergo a lengthy evaluation of their financial, managerial, and technical expertise, in order for the Department to determine whether to grant a “certificate of public convenience and necessity.” In 1994, the Department streamlined the process of competitive entry for new common carriers, including cable companies, so that they were required only to file a “statement of business operations,” which did not require commission approval or even a docketed investigation.

The proposed regulation would ensure predictable and timely decision-making for a critical factor in the development of video competition and broadband deployment. There also is ample precedent for the notion that timelines for market entry and issuance of important decisions, such as approval or denial of a franchise application, are important components of public policy in a competitive industry. In fact, when the Department authorized the start of local telecommunications competition twenty years ago, it created a start date in order to “put any potential ... competitor on notice as to the actual time at which competition will commence in Massachusetts, so that this factor may be taken into consideration in any market entry, investment, or pricing decision.”²³ The Department also noted that “our schedule for the introduction of intra-LATA competition must take into account the potential negative effects on our goals if competition is unnecessarily delayed.” The proposed regulation is entirely within

²¹ DTE 01-31-Phase I (2002), at iv.

²² See DPU 93-98 (1994).

²³ DPU 1731, at 44.

that spirit, designed to minimize the potential negative effects on customers derived from unnecessary delays.

Timeframes and schedules also are an integral part of the market opening requirements of the federal Telecommunications Act of 1996, which establishes strict timetables for negotiation and arbitration of interconnection agreements, evaluation of applications pursuant to Section 271, FCC rulemakings, and many other requirements in the Act. The Department even augmented the timeframes found in the Act by approving Accelerated Docket (a/k/a “Rocket Docket”) rules for dispute resolution between competing carriers, noting that “the formal complaint procedures currently in place were too cumbersome and slow to adequately address many local competition disputes, and that the delays inherent in the process unfairly advantaged the incumbent provider.”²⁴ The New England Cable and Telecommunications Association supported the creation of the Rocket Docket rules, saying “We applaud the Department for seeking to develop an option, through this rulemaking, that would facilitate prompt resolution of appropriate disputes.”²⁵ MediaOne (now Comcast) also supported the new rules:

MediaOne joins the Department in recognizing the importance of providing an avenue of resolution for inter-carrier disputes that is both expeditious and comprehensive. Carrier to carrier disputes that are not resolved in a timely manner may have a lasting and damaging effect on a competitor’s ability to conduct its business and as the Department acknowledged in its Order, will often advantage the incumbent. The proposed expedited resolution process provides the complainant a measure of certainty that its issues will be heard and adjudicated in a forum designed for swift decision making.²⁶

Verizon is seeking a similar measure of certainty in a forum designed for swift yet prudent decision-making for competitive franchise applications with the proposed regulation.

²⁴ DTE 00-39, at 1.

²⁵ DTE 00-39, NECTA Letter Comments, Filed June 28, 2000 (http://www.mass.gov/dte/telecom/00-39/necta_com.htm).

²⁶ DTE 00-39, MediaOne Comments, Filed June 28, 2000 (http://www.mass.gov/dte/telecom/00-39/media_one.htm).

VI. Conclusion

Efficient regulatory structures and processes that facilitate investment and market choice inure to the benefit of consumers. The Division's existing regulations are no longer efficient and are significant impediments to the additional investment in Massachusetts needed to enhance competition and benefit consumers of video services. Adoption of the proposed regulations would go far to remove those impediments and encourage such beneficial investment. The choice for the Division is clear.

Accordingly, and for the reasons stated above, the Division should adopt the proposed Competitive License regulation (207 CMR 3.04.5) attached hereto and should amend its regulation at 207 CMR 3.09 by substituting for it the replacement regulation also attached hereto.

Respectfully submitted,

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