

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

In the Matter of	)	
	)	
Comcast Cablevision of Nashville II LLC	)	File Number EB-02-AT-152
1500 Market St. – 35 <sup>th</sup> FL	)	NAL/Acct. No. 200232480003
Philadelphia, PA 19102	)	FRN 0004-5159-61
	)	
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: May 30, 2002**

By the Enforcement Bureau, Atlanta Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture, we find that Comcast Cablevision of Nashville II LLC (“Comcast”) willfully and repeatedly violated Section 76.605(a)(12) of the Commission’s Rules (“Rules”)<sup>1</sup> and willfully violated Section 76.611(a)(1) of the Rules<sup>2</sup> relating to cable television signal leakage. We find Comcast Cablevision of Nashville II LLC apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

**II. BACKGROUND**

2. On April 17, 2002, an agent from the FCC Enforcement Bureau's Atlanta Field Office conducted a cable television signal leakage inspection of Comcast’s cable system located in Woodbury, Tennessee. The agent found that, at twelve locations, cable signal leakage on the frequency 121.2625 MHz significantly exceeded 20 microvolts per meter ( $\mu\text{V}/\text{m}$ ) at a distance of at least three meters from each leakage, in violation of Section 76.605(a)(12) of the Rules. The measured leaks ranged from 484  $\mu\text{V}/\text{m}$  to 1125  $\mu\text{V}/\text{m}$ . Based on these measurements, the agent calculated the system’s cumulative leakage index (“CLI”) at a value of 69.3, exceeding the allowed cumulative signal leakage performance criteria of 64, in violation of Section 76.611(a)(1) of the Rules.<sup>3</sup> (See Attachment A.)

**III. DISCUSSION**

3. Section 76.605(a)(12) of the Rules requires cable operators to limit signal leakage in the frequency band from 54 MHz up to and including 216 MHz to 20  $\mu\text{V}/\text{m}$  at a distance of 3 meters. On April 17, 2002, Comcast exceeded this limit at twelve locations on its system in Woodbury, Tennessee.

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<sup>1</sup> 47 C.F.R. § 76.605(a)(12)

<sup>2</sup> 47 C.F.R. § 76.611(a)(1)

<sup>3</sup> The calculated CLI included only leaks greater than 50  $\mu\text{V}/\text{m}$ , included leaks found in only 16 miles or 23% of the system inspected, and assumed no leaks in the 77% of the system not checked.

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Section 76.611(a)(1) of the Rules requires cable operators to limit the CLI to a value at or below 64. On April 17, 2002, Comcast's cable system in Woodbury, Tennessee operated with a CLI value of 69.3.

4. Based on the evidence before us, we find that on April 17, 2002, Comcast Cablevision of Nashville II LLC willfully<sup>4</sup> and repeatedly<sup>5</sup> violated Section 76.605(a)(12) of the Rules, and willfully violated Section 76.611(a)(1) of the Rules.

5. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for the violations cited in this notice is \$8,000 (violation of rules relating to distress and safety frequencies).<sup>6</sup> Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."<sup>7</sup> Considering the entire record and the factors listed above, this case warrants an \$8,000 forfeiture.

#### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act<sup>8</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>9</sup> Comcast Cablevision of Nashville II LLC is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willful and repeated violation of Section 76.605(a)(12) of the Rules and willful violation of Section 76.611(a)(1) of the Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Comcast Cablevision of Nashville II LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the

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<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>5</sup> The term "repeated" means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

<sup>6</sup> 47 C.F.R. § 1.80(b)(4)

<sup>7</sup> 47 U.S.C. § 503 (b)(2)(D)

<sup>8</sup> 47 U.S.C. § 503(b).

<sup>9</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

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Secretary, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>10</sup>

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Comcast Cablevision of Nashville II LLC at 1500 Market St. – 35<sup>th</sup> FL, Philadelphia, PA 19102. An additional copy of this Notice shall be sent to Comcast Cablevision of Nashville II LLC at 340 New Salem Road, Murfreesboro, TN 37129.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce  
District Director  
Atlanta Office, Enforcement Bureau

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<sup>10</sup> See 47 C.F.R. § 1.1914.

## ATTACHMENT A

## FIELD STRENGTH MEASUREMENTS OF COMCAST CABLEVISION, WOODBURY, TN

MEASUREMENT DATE: APRIL 17, 2002

FREQUENCY: 121.2625 MHZ

	<b>Measurement Location</b>	<b>Leakage Field Strength, <math>\mu\text{V/m}</math></b>
1	West Main St., pole in front of Yellow Jacket Family Clothing	1125
2	North Tatum St. at West Water St.	646
3	East Colonial St. at South McCrary St.	806
4	South Water St. at Union Planters Bank	484
5	805 Doolittle Rd.	1125
6	West Laurel St. at South Lynn St.	484
7	316 Greenbrier St.	965
8	South McCrary St. at West Greenbrier St.	646
9	123 South Mason St.	965
10	Hills Creek Rd. at Old McMinnville	1125
11	2 <sup>nd</sup> pole going up Hill Top Ln.	646
12	521-525 McFerrin St.	806