

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

In the Matter of:)	
)	
Rancho Palos Verdes Broadcasters, Inc.)	
v.)	CSR-5691-M
Verizon Media Ventures, Inc.)	
)	
Request for Carriage)	

MEMORANDUM OPINION AND ORDER

Adopted: August 23, 2001

Released: August 27, 2001

By the Chief, Consumer Protection and Competition Division, Cable Services Bureau:

I. INTRODUCTION

1. Rancho Palos Verdes Broadcasters, Inc., permittee of television broadcast station KRPA, (Ch. 44), Rancho Palos Verdes, California (“KRPA”) filed the above-captioned complaint against Verizon Media Ventures, Inc. (“Verizon”), for its failure to carry KRPA on its cable systems serving Cerritos and Thousand Oaks, California. No opposition to this complaint has been received.

II. BACKGROUND

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Broadcast Signal Carriage Issues (“*Must Carry Order*”), commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station’s market.¹ A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.² A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

¹8 FCC Rcd 2965, 1976-2977 (1993).

²Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station’s market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. *See* 47 U.S.C. §534(h)(1)(C). Section 76.55(e) of the Commission’s rules, 47 C.F.R. §76.55(e), requires that a commercial broadcast television station’s market be defined by Nielsen Media Research’s DMAs. *See Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366 (1999) (“*Modification Final Report and Order*”).

III. DISCUSSION

3. In support of its complaint, KRPA states that it is an authorized full-power UHF television station licensed to a community located within the Los Angeles DMA as are the communities served by Verizon. KRPA indicates that by a letter dated January 17, 2001, shortly after commencing broadcasting under Program Test Authority, it requested carriage on Verizon's systems.³ KRPA states that AT&T failed to respond to its requests for carriage, as required by Section 76.61(a)(2) of the Commission's rules nor did it cooperate with KRPA or commence carriage of its signal.⁴ KRPA states that it sent a second letter on March 29, 2001, informing Verizon that it would seek to enforce its must carry rights.⁵ Mediacom's responded by refusing to carry KRPA due to the station's status as a permittee rather than a licensee.⁶

4. Additionally, KRPA states that Verizon advised KRPA that it would only consider the station's carriage request upon presentation of "a listing of [the station's] broadcast schedule (programming), a map showing your Grade 'B' contour in the Los Angeles area, and a mutually verified FCC-quality signal. . .".⁷ KRPA argues that Verizon's reasons for denial are without merit. First, it points out that Verizon did not comply with Section 76.61(a)(2) of the Commission's rules in responding to KRPA's election and demand letter within the 30 days required. Second, KRPA notes that in *Johnson Broadcasting, Inc.*, the Commission held that "since operators of these broadcast stations hold a permit to construct a station, are authorized to operate under program authority in accordance with the Commission's rules, and are awaiting an application for license, we see no reason why they should be denied must carry rights."⁸ KRPA states that it is operating under a valid authorization and has been broadcasting under automatic program test authority since December 19, 2000. KRPA maintains that, contrary to its must carry obligations, Verizon appears unwilling to carry KRPA in lieu of a non-broadcast service. KRPA argues that neither the 1992 Cable Act nor the Commission's rules afford Verizon such discretion. KRPA requests that the Commission require Verizon to commence carriage of its signal on the subject cable systems.

5. We grant KRPA's complaint. No information has been provided by Verizon to indicate that KRPA does not provide a good quality signal to the subject cable systems' principal headend. Moreover, we agree with KRPA that, as a licensed permittee, it is entitled to must carry status on Verizon's systems. In addition, Section 76.61 of the Commission's rules does not require that a station provide its programming schedule or a copy of its Grade B contour prior to a cable operator agreeing to carry its signal, as Verizon apparently claimed. In view of the foregoing, we find the grant of KRPA's complaint to be in the public interest.

³Petition at Exhibit A.

⁴47 C.F.R. §76.61(a)(2).

⁵Petition at Exhibit C.

⁶*Id.* at Exhibit D.

⁷*Id.*

⁸75 RR 2d 1333 (1994).

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that the petition filed by Rancho Palos Verdes Broadcasters, Inc. **IS GRANTED** pursuant to Section 614(d)(3) of the Communications Act of 1934, as amended (47 U.S.C. §534). Verizon Media Ventures, Inc. **IS ORDERED** to commence carriage of KRPA on its cable systems serving Cerritos and Thousand Oaks, California, sixty (60) days from the release date of this Order.

7. **IT IS FURTHER ORDERED** that KRPA shall notify Verizon in writing of its carriage and channel position elections (§§76.56, 76.57, and 76.64(f) of the Commission's rules) within thirty (30) days of the release date of this Order.

8. This action is taken pursuant to authority delegated by Section 0.321 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION

Deborah Klein, Chief
Consumer Protection and Competition Division
Cable Services Bureau