

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

In the Matter of:	)	
	)	
Univision Partnership of New Jersey	)	
	)	CSR-5906-M
v.	)	
	)	
Comcast Cablevision of Danbury, Inc.	)	
	)	
Request for Mandatory Carriage of	)	
Television Station WFUT-TV,	)	
Newark, New Jersey	)	

**ORDER ON RECONSIDERATION**

**Adopted: September 25, 2002**

**Released: September 26, 2002**

By the Chief, Policy Division, Media Bureau:

1. We reconsider on our own motion<sup>1</sup> our decision in *Univision Partnership of New Jersey v. Comcast Cablevision of Danbury, Inc.*<sup>2</sup> concerning the above-captioned must carry complaint. As a result of our reconsideration, we grant the request of Univision Partnership of New Jersey (UNJ), licensee of television broadcast station WFUT-TV (WFUT), Newark, New Jersey, that WFUT be carried on channel 68 of the cable systems operated by Comcast Cablevision of Danbury, Inc. (Comcast) in Danbury, Bethel and Ridgefield, Connecticut.

2. In our Order, we reviewed a must carry complaint filed by UNJ against Comcast for failing to carry WFUT on Comcast's cable systems in five communities in Connecticut. UNJ also sought to be carried on channel 68 on Comcast's cable systems, which is the channel number on which WFUT is broadcast over the air. Our Order granted WFUT must carry status in the three above communities, but declined to mandate that WFUT be carried on channel 68 of the cable systems. The Order stated that "[b]ecause it appears that the television station did not formally elect must carry or retransmission consent status in 1999, the station, based on the Commission's rules, has must carry rights by default...." The Order further stated "[b]ecause it appears that the station did not... assert channel positioning rights [in 1999,]... WFUT has no legal right to claim channel 68...."<sup>3</sup>

3. As we observed in our Order,<sup>4</sup> Section 614(b)(6) of the Communications Act of 1934, as amended, and Section 76.57 of the Federal Communications Commission's rules provide that a station with

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<sup>1</sup> 47 C.F.R. § 1.108. Section 1.108 authorizes the Federal Communications Commission to reconsider its orders on its own motion within 30 days of public notice.

<sup>2</sup> DA 02-2239, released September 12, 2002.

<sup>3</sup> *Id.* at par. 7 and 9.

<sup>4</sup> *Id.* at par. 4.

must carry status may elect to be carried on: (1) the cable channel number on which the station is broadcast over the air; (2) the cable channel number on which the station was carried on July 19, 1985; or (3) the cable channel number on which the station was carried on January 1, 1992.<sup>5</sup> The purpose of our reconsideration of our Order is to clarify that these three options are also available to a station that has must carry rights by default.<sup>6</sup> UNJ requested channel 68, which is its over-the-air channel.<sup>7</sup> We rescind, therefore, that portion of our Order denying WFUT channel positioning rights on cable channel 68. WFUT is entitled as a default must carry station to be carried on Comcast's cable systems on the same channel as its over-the-air channel.

4. Accordingly, **IT IS ORDERED**, pursuant to Section 1.108 of the Commission's rules,<sup>8</sup> the Order, DA 02-2239, **IS VACATED** to the extent indicated herein and **AFFIRMED** in all other respects.

5. **IT IS FURTHERED ORDERED**, pursuant to Section 0.283 of the Commission's rules<sup>9</sup> that UNJ's request that WFUT be carried on channel 68, its over-the-air channel, on the three above Comcast cable systems **IS GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

Mary Beth Murphy  
Chief, Policy Division  
Media Bureau

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<sup>5</sup> 47 U.S.C. § 534(b)(6); 47 C.F.R. § 76.57.

<sup>6</sup> 47 C.F.R. § 76.57(f). *See also Memorandum Opinion and Order, Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, 9 FCC Rcd 6723, 6734-5 (1994). This decision clarified that a "default" must carry station may select a channel position on a cable system from the three statutory options.

<sup>7</sup> It appears that the other options are not available to the station because WFUT has not been historically carried on the cable systems.

<sup>8</sup> *See Supra* note 1.

<sup>9</sup> 47 C.F.R. § 0.283.