

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

In the matter of:
Paxson Indianapolis License, Inc.
v.
Charter Communications d/b/a
Interlink Communications Partners
Request for Carriage
CSR-5910-M

MEMORANDUM OPINION AND ORDER

Adopted: September 25, 2002

Released: October 16, 2002

By the Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Paxson Indianapolis License, Inc., licensee of television broadcast station WIPX, Bloomington, Indiana ("WIPX"), filed the above-captioned complaint against Charter Communications d/b/a Interlink Communications Partners ("Charter") for its failure to carry WIPX on its cable system serving Mitchell, Marion Township, Orleans, Orleans Township, Paoli, Paoli Township, unincorporated areas of Lawrence County, and unincorporated areas of Orange County, Indiana. No opposition to this complaint has been received. For the reasons discussed, we grant the complaint.

II. BACKGROUND AND DISCUSSION

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. A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.

3. In support of its petition, WIPX states that it formally demanded carriage on Charter's cable system by letter dated February 27, 2002. Despite the fact that Charter was required by Section

18 FCC Rcd 2965, 2976-2977 (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)(2) of the Commission's rules requires that a commercial 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").

3Petition at Exhibit 1.

76.61(a)(2) of the Commission's rules to respond to this request within thirty days, WIPX states that it received no response.⁴ WIPX filed the instant complaint within sixty days of Charter's failure to respond, as required by Section 76.61(a)(5) of the Commission's rules.⁵ WIPX argues that it meets the definition of a "local commercial television station" because it is located within the same television market as Charter's cable system, delivers an adequate signal to the cable system's principal headend, and its carriage would not increase Charter's copyright liability.⁶ WIPX states that if it should be found that it does not deliver an adequate off-air signal to Charter's headend, it will purchase and install any additional equipment necessary to ensure the delivery of a good quality signal.

4. We grant WIPX's complaint. We find that the unopposed representations made by WIPX demonstrate that it is a local full-power commercial television station qualified for carriage on Charter's system. Under the Commission's must carry rules, cable operators have the burden of showing that a commercial station that is located in the same television market as a cable operator is not entitled to carriage.⁷ Charter and WIPX are both located in the Indianapolis, Indiana DMA. Charter not only did not respond to WIPX's must carry request, but also did not file an opposition to WIPX's must carry complaint. Consequently, we order Charter to carry WIPX's signal.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the complaint filed by Paxson Indianapolis License, Inc. **IS GRANTED** pursuant to Section 614(d)(3) of the Communications Act of 1934, as amended.⁸ Charter Communications d/b/a Interlink Communications Partners **IS ORDERED** to commence carriage of WIPX on its cable system serving the communities of Mitchell, Marion Township, Orleans, Orleans Township, Paoli, Paoli Township, and unincorporated areas of Lawrence and Orange Counties, Indiana, within sixty (60) days from the release date of this order.

6. **IT IS FURTHER ORDERED** that WIPX shall notify Charter in writing of its channel position election within thirty (30) days of the release date of this order, pursuant to Sections 76.57 and 76.64(f) of the Commission's rules.⁹

7. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.¹⁰

FEDERAL COMMUNICATION COMMISSION

Mary Beth Murphy
Chief, Policy Division
Media Bureau

⁴47 C.F.R. § 76.61(a)(2).

⁵47 C.F.R. § 76.61(a)(5).

⁶Petition at 3. *See also* 47 C.F.R. §§ 76.55(c) and 76.60.

⁷*See Must Carry Order*, 8 FCC Rcd at 2990.

⁸47 U.S.C. § 534.

⁹47 C.F.R. §§ 76.57 and 76.64(f).

¹⁰47 C.F.R. § 0.283.