

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

In the Matter of:
TV-24 Hometown Television
v.
Mediacom Communications Corporation
Request for Mandatory Carriage
of Television Station W24AM(TV)
DeFunak, Florida
CSR-6151-M

MEMORANDUM OPINION AND ORDER

Adopted: August 14, 2003

Released: August 18, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. TV-24 Hometown Television, licensee of low power television station ("LPTV") W24AM(TV) ("TV24" or the "Station"), DeFunak, Florida, filed a complaint asserting mandatory carriage rights for TV24 on Mediacom Communication Corporation's ("Mediacom") cable system serving Bonifay, Vernon and Sandestin, Florida (the "cable communities").

II. BACKGROUND

2. Both the Communications Act of 1934, as amended, and the Commission's rules require the carriage of "qualified" LPTV stations in certain limited circumstances. An LPTV station that conforms to the rules established for LPTV stations in Part 74 of the Commission's rules will be considered "qualified" if: (1) it broadcasts at least the minimum number of hours required pursuant to 47 C.F.R. Part 73; (2) it adheres to Commission requirements regarding non-entertainment programming and employment practices, and the Commission determines that the programming of the LPTV station addresses local news and informational needs that are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license; (3) complies with interference regulations consistent with its secondary status; (4) it is located no more than 35 miles from the cable system's headend and delivers to the principal headend an over-the-air signal of good quality; (5) the community of license of the station and the franchise area of the cable system were both located outside the largest 160 Metropolitan Statistical Areas on June 30, 1990, and the population of such community of license on that date did not exceed 35,000; and (6) there is no full power television broadcast station licensed to any community

1 Complaint at 1.

2 47 U.S.C. § 534(c)(1); 47 C.F.R. § 76.56(b)(3).

within the county or other political subdivision (of a State) served by the cable system.³

III. DISCUSSION

3. We deny TV24's complaint. As noted above, Section 614(h)(2) of the Communications Act, as amended, and Section 76.55(d) of the Commission's rules, establish the requirements that LPTV stations must comply with to qualify for mandatory carriage on a cable system.⁴ To be considered qualified for must carry purposes, an LPTV station must be located no more than 35 miles from the cable system's principal headend and deliver a good quality over-the-air signal to a cable operator's principal headend. In the instant case, we find that TV24 does not meet that requirement. The distance between TV24's city of license and Mediacom's principal headend in Wewahitchka, Florida exceeds the 35-mile statutory limit established in Section 614(h)(2)(D) of the Communications Act.⁵ In addition, Staff review of the signal strength test results submitted by Mediacom establish that TV24 does not deliver a good quality over-the-air signal to Mediacom's Wewahitchka principal headend, as required by Section 614(h)(2)(D) of the Communications Act and Section 76.55(d)(4) of the Commission's rules.

4. TV24 also argues that it should be allowed to deliver its signal to a location other than Mediacom's principal headend. We disagree. The Commission has held that the concept of delivery of a good quality signal to a cable operator's principal headend is statutorily-mandated and is, therefore, not something which can be arbitrarily changed at either the discretion of the cable operator or the Commission.⁶ In addition, in its *Must Carry Clarification Order* the Commission stated: "[a]s the statute specifies that a broadcast station must deliver a good quality signal to the principal headend of the cable system to be entitled to must-carry rights, we clarify that the designated principal headend is the appropriate location for such measurement."⁷ Based on the foregoing, we find that TV24 is not a qualified LPTV station for mandatory carriage purposes and deny its complaint. Because of our finding, we need not address other issues raised in this proceeding.

³ 47 U.S.C. § 534(h)(2); 47 C.F.R. § 76.55(d).

⁴ 47 U.S.C. § 534(h)(2); 47 C.F.R. § 76.55(d).

⁵ See 47 U.S.C. § 534(h)(2)(D); see 47 C.F.R. § 76.55(d)(4).

⁶ *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Issues Clarification Order*, 8 FCC Rcd at 4142, 4143 (1993) ("Must Carry Clarification Order"); see *Family Stations, Inc. v. Sonic Cable Television* ("Family Stations"), 10 FCC Rcd 8233, 8234 (1995).

⁷ Citing Section 614(h)(1)(B)(iii) of the Telecommunications Act, amended, (47 U.S.C. § 534(h)(1)(B)(iii)), and Section 76.55(c)(3) of the Commission's rules (47 C.F.R. § 76.55(C)(3)).

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, that the complaint filed by TV-24 Hometown Television **IS DENIED** pursuant to Section 614(h) of the Communications Act, as amended, 47 U.S.C. § 534(h).

6. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.⁸

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

⁸ 47 C.F.R. § 0.283.