

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

In the Matter of:	)	
	)	
Arkansas 49, Inc.	)	CSR-6207-A
	)	
Petition For Modification of the Television Market	)	
of Television Station KYPX (TV), Camden,	)	
Arkansas	)	

**ORDER ON RECONSIDERATION**

**Adopted: October 6, 2004**

**Released: October 8, 2004**

By the Deputy Chief, Media Bureau:

**I. INTRODUCTION**

1. Arkansas 49, Inc., licensee of television broadcast station KYPX (Ch. 49), Camden, Arkansas (“KYPX”), filed the above-captioned petition for special relief seeking to modify the Little Rock-Pine Bluff, Arkansas designated market area (“DMA”) to include nineteen communities (“cable communities”) in the television market of KYPX for the purposes of the Commission’s cable television mandatory broadcast signal carriage rules. Classic Cable, Inc. (“Classic”) operates cable television systems in the cable communities. In the *Bureau Order*<sup>1</sup> addressing KYPX’s petition for special relief, we granted, in part, KYPX’s petition by modifying its television market to include eleven of the nineteen cable communities. However, we denied the remainder of the petition in that we declined to include eight cable communities in its television market.

2. KYPX subsequently filed a petition for partial reconsideration, which is now before us. KYPX requests that two communities, Buckner and Stamps, Arkansas, be included in its television market. These are two of the eight cable communities that the *Bureau Order* did not include in KYPX’s modified television market. No opposition was filed to KYPX’s petition for partial reconsideration. For the reasons stated below, we deny this petition, and, thus, affirm the *Bureau Order*.

**II. BACKGROUND**

3. Pursuant to Section 614 of the Communications Act<sup>2</sup> 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”)*,<sup>3</sup> commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station’s market. A

<sup>1</sup>Arkansas 49, Inc., 18 FCC Rcd 24000 (2003)(“*Bureau Order*”).

<sup>2</sup>47 U.S.C. §534.

<sup>3</sup>8 FCC Rcd 2965, 2976-2977 (1993); 47 C.F.R. Subpart D.

station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.<sup>4</sup> A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Essentially, each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing hours in the county. For purposes of this calculation, both over-the-air and cable television viewing are included.<sup>5</sup>

4. Section 614 of the Act also directs the Commission to consider changes in market areas, and provides guidance regarding factors to take into consideration in reviewing requests to alter DMAs. These factors were discussed in the *Bureau Order*.<sup>6</sup> The *Bureau Order* also discussed how these factors applied to KYPX's request to modify the Little Rock-Pine Bluff DMA to include Classic's cable systems.<sup>7</sup>

### III. DISCUSSION

5. KYPX in its petition for partial reconsideration requests that the Commission's Media Bureau reverse its decision to not include Buckner and Stamps, Arkansas, in its television market. In support of this request, KYPX states that it provides grade B signal coverage to these two communities in that its signal completely covers Buckner and significantly covers Stamps. KYPX explains that the Longley-Rice contour coverage map that it provided with its original petition for special relief did not adequately reflect this coverage because of limitations in the detail of the copy of the map it provided. According to KYPX, this map was produced by its attorney's copying machine. To correct this and to provide a clearer map, KYPX provides a Longley-Rice contour map produced by a professional copier service. KYPX also provides an "enhanced close-up Longley-Rice contour coverage map of the cable communities subject to the instant petition."<sup>8</sup>

6. The Longley-Rice model provides a more accurate representation of a station's technical coverage area than traditional Grade B contour analysis because it takes into account such factors as mountains and valleys. Longley-Rice propagation studies, therefore, aid in determining whether a television station actually provided local service to a community under factor two of the market modification test. However, KYPX's new Longley-Rice maps, although clearer in detail, do not provide information that was not considered in the *Bureau Order*. Our records reflect that the communities of Buckner, Stamps and Lewisville are served by the same cable system with the system's headend located in Lewisville.<sup>9</sup> The Longley-Rice maps that KYPX submitted with its petition for special relief and its

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<sup>4</sup>Section 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) requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs. 47 C.F.R. §76.55(e); see *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, 14 FCC Rcd 8366 (1999) ("Modification Final Report and Order").

<sup>5</sup>For a more complete description of how counties are allocated, see Nielsen Media Research's *Nielsen Station Index: Methodology Techniques and Data Interpretation*.

<sup>6</sup>*Bureau Order*, 18 FCC Rcd at 24001-3.

<sup>7</sup>*Id.* at 24004-6.

<sup>8</sup>Petition for Partial Reconsideration at 1-3, and Exhibits I and II.

<sup>9</sup>The COALS system. The COALS system is a Commission data base of cable systems registered with the Commission. See also *Warren Communications News, Television & Cable Factbook 2004*, p. D-103.

petition for partial reconsideration confirm that Buckner and Stamps are on the fringe of KYPX's grade B signal coverage and appear to receive, especially Stamps, only partial, limited or sporadic coverage. The *Bureau Order* expressly found that "KYPX fails to provide a consistent Grade B signal over these communities."<sup>10</sup> Therefore, KYPX's petition for partial reconsideration presents no evidence or argument that would justify reconsideration of the *Bureau Order* as to these two communities.

#### IV. ORDERING CLAUSE

7. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934, as amended,<sup>11</sup> that the petition for partial reconsideration filed by Arkansas 49, Inc. to modify its television market to include Buckner and Stamps, Arkansas, **IS DENIED**.

8. This action is taken under authority delegated by Sections 0.283 and 1.106 of the Commission's rules.<sup>12</sup>

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief  
Media Bureau

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<sup>10</sup>*Bureau Order*, 18 FCC Rcd at 24006

<sup>11</sup>47 U.S.C §534(h).

<sup>12</sup>47 C.F.R. §§0.283 and 1.106.