

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

In the Matter of:)	
)	
KVMD Licensee Co., LLC)	CSR-6995-M
v.)	
Mountain Shadows CATV System)	
)	
Request for Carriage)	

MEMORANDUM OPINION AND ORDER

Adopted: June 29, 2006

Released: July 3, 2006

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. KVMD Licensee Co., LLC, permittee of station KVMD-DT (Ch. 23), Twentynine Palms, California (“KVMD”), filed the above-captioned complaint against Mountain Shadows CATV System (“Mountain Shadows”), for its failure to carry KVMD on its cable system serving the communities of Highland, Mountain Shadows, and Rialto, California. No opposition to this petition has been received. For the reasons discussed below, we grant KVMD’s request.

II. 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.¹ A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.²

3. In support of its complaint, KVMD states that, by certified letter dated November 22, 2005, it demanded must carry status on Mountain Shadows’ cable system for the 2006-2008 election period,

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) of the Commission’s rules requires that a commercial broadcast television station’s market be defined by Nielsen Media Research’s DMAs. *See* 47 C.F.R. § 76.55(e).

pursuant to Section 76.61(a)(1) of the Commission's rules.³ Mountain Shadows failed to respond to this demand, as required by Section 76.61(a)(2) of the rules.⁴ KVMD asserts that it filed the instant complaint within 60 days of Mountain Shadows failure to respond, pursuant to Section 76.61(a)(5) of the rules.⁵ KVMD states that it is a full-service digital-only television station whose community of license is located within the Los Angeles DMA as are the communities served by Mountain Shadows. KVMD states that it is capable of, and committed to, delivering a good quality signal to Mountain Shadows' principal headend.⁶ As a result, KVMD argues that Mountain Shadows has no legitimate basis upon which to refuse carriage and KVMD requests that the Commission grant its request.

4. We agree with KVMD and will grant its complaint. We find that the unopposed representations made by KVMD demonstrate that it is a local commercial television station qualified for carriage on Mountain Shadows' cable 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 Mountain Shadows has not done so. In any event, KVMD has agreed to bear the costs of any equipment necessary to ensure the delivery of a good quality signal. Section 76.55(c)(3) of the Commission's rules allows local commercial television stations which fail to meet signal strength criteria to provide, at their own expense, whatever equipment is necessary to ensure the delivery of a good quality signal to a cable system's principal headend.⁸ KVMD has made this commitment and by doing so is eligible for mandatory carriage by Mountain Shadows on the subject cable system when it provides a signal which meets the Commission's signal strength criteria.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petition filed by KVMD Licensee Co., LLC **IS GRANTED** pursuant to Section 614(d)(3) of the Communications Act of 1934, as amended, 47 U.S.C. § 534. Mountain Shadows CATV System **IS ORDERED** to commence carriage of KVMD-DT on its cable system serving the communities of Highland, Mountain Shadows, and Rialto, California, sixty (60) days from the date on which KVMD delivers a good quality signal to the cable system's principal headend.

³Complaint at Exhibit A; *see also* 47 C.F.R. § 76.61(a)(1).

⁴*Id.* at 2, citing 47 C.F.R. § 76.61(a)(2).

⁵*Id.*, citing 47 C.F.R. § 76.61(a)(5).

⁶KVMD is an authorized full-service digital UHF station. Its DTV facility is authorized to broadcast on Channel 23 and commenced operations, pursuant to special temporary authority, on July 29, 2002. On June 1, 2003, it discontinued analog operations and commenced digital-only operations, pursuant to Commission authorization. In *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules, etc.*, 16 FCC Rcd 2598, 2617 (2001), the Commission concluded that "the signal level necessary to provide a good quality digital television signal at a cable system's principal headend is -61 dBm."

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

⁸47 C.F.R. § 76.55(c)(3).

6. **IT IS FURTHER ORDERED** that KVMD shall notify Mountain Shadows of its channel position elections thirty (30) days from the date it delivers a good quality signal, 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 COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

⁹47 C.F.R. §§ 76.57 and 76.64(f).

¹⁰47 C.F.R. § 0.283.