

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

In the Matter of:
Rancho Palos Verdes Broadcasters, Inc.
v.
Sierra Dawn Cable System
Request for Mandatory Carriage of
Television Station KXLA(TV),
Ranchos Palos Verdes, California
CSR-6999-M

MEMORANDUM OPINION AND ORDER

Adopted: June 27, 2006

Released: June 30, 2006

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Rancho Palos Verdes Broadcasters, Inc. ("RPVB"), licensee of television broadcast station KXLA(TV), Ranchos Palos Verdes, California ("KXLA" or the "Station") filed the above-captioned must carry complaint against Sierra Dawn Cable System ("Sierra"), for failing to carry KXLA on its cable systems serving Hemet, California.1 No opposition to the complaint was received.

II. BACKGROUND

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.2 A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.3 A DMA is a geographic market designation that defines each television market exclusive of

1 Complaint at 1.

2 8 FCC Rcd 2965, 2976-2977 (1993).

3 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 base 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).

others, based on measured viewing patterns.

3. Pursuant to 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 is not entitled to carriage.⁴ One method of doing so is for a cable operator to establish that a subject television signal, which would otherwise be entitled to carriage, does not provide a good quality signal to a cable system's principal headend.⁵ Should a station fail to provide the required over-the-air signal quality to a cable system's principal headend, it still may obtain carriage rights because under the Commission's rules a television station may provide a cable operator, at the station's expense, with specialized equipment to improve the station's signal to an acceptable quality at a cable system's principal headend.⁶

III. DISCUSSION

4. In support of its complaint, KXLA states that it is a full-service UHF television station licensed to Rancho Palos Verdes, California, which is in the Los Angeles, California DMA.⁷ It states further that Sierra operates a cable television system that is also in the Los Angeles DMA.⁸ KXLA asserts that on November 23, 2005 it demanded that Sierra commence carriage of its signal on the system at issue, and that Sierra failed to respond to KXLA within 30 days as required by Section 76.61(a)(2) of the Commission's rules.⁹ According to KXLA, it is capable of, and committed to, providing Sierra's Rancho Palos Verdes cable system with a good quality signal.¹⁰ KXLA requests that the Commission order Sierra to commence carriage of its signal on the cable system in question.¹¹

5. Section 76.55(e) of the Commission's rules provides that commercial television broadcast stations, such as KXLA, are entitled to carriage on cable systems located in the same DMA.¹² As noted above, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.¹³ We find that Sierra has failed to meet its burden. It did not file an opposition to KXLA's must carry complaint nor did it respond within 30 days to KXLA's demand letter as required by the Commission's rules. KXLA is committed to acquire and install, at its own expense, any and all necessary improvements and equipment needed to provide Sierra's principal headend with a good quality signal. KXLA by committing to provide any necessary equipment has satisfied its obligation to bear the costs associated with delivering a good quality signal.¹⁴ Thus, we

⁴ See *Must Carry Order*, 8 FCC Rcd at 2990.

⁵ 47 C.F.R. § 76.55(c)(3).

⁶ *Must Carry Order*, 8 FCC Rcd at 2991.

⁷ Complaint at 1.

⁸ *Id.*

⁹ *Id.* at 1-2.

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² 47 C.F.R. § 76.55(e).

¹³ See *Must Carry Order*, 8 FCC Rcd at 2990.

¹⁴ See *Must Carry Order*, 8 FCC Rcd at 2991; see also 47 U.S.C. § 534(h)(1)(B)(iii).

find that KXLA is entitled to mandatory carriage on the Sierra cable system at issue. Based on the foregoing, we grant KXLA's complaint.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, that the must carry complaint filed by Rancho Palos Verdes Broadcasters, Inc., licensee of television broadcast station KXLA(TV), Rancho Palos Verdes, California, against Sierra Dawn Cable System **IS GRANTED**.

7. **IT IS FURTHER ORDERED** that Sierra **SHALL COMMENCE CARRIAGE** of the KXLA(TV) signal on its cable system serving Hemet, California, within sixty (60) days after KXLA delivers a good quality signal to Sierra's principal headend.

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.¹⁵

FEDERAL COMMUNICATIONS COMMISSION

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¹⁵ 47 C.F.R. § 0.283.