

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

In the Matter of:
Ettie Clark
v.
West Alabama TV Cable
Request for Carriage
CSR8023-M

MEMORANDUM OPINION AND ORDER

Adopted: December 3, 2008

Released: December 3, 2008

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Ettie Clark, licensee of low power television stations WSSF-LP, Fayette, Alabama ("WSSF-LP"), and WSFG-LP, Berry, Alabama ("WSFG-LP") (collectively, the "Stations"), filed the above-captioned complaint against West Alabama TV Cable ("WATC"), for its failure to carry the Stations on its cable system serving the communities of Hamilton, Winfield and Fayette, Alabama. No opposition to this petition has been received. For the reasons discussed below, we grant the request of WSSF-LP and WSFG-LP.

II. BACKGROUND

2. Both the Communications Act of 1934, as amended, and the Commission's rules require the carriage of "qualified" low power television ("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) it 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 ("MSAs") 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 within the county or other political subdivision (of a State) served by the cable system.

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

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

### III. DISCUSSION

3. We agree with the Stations that they are qualified for carriage on WATC's cable system serving the communities of Hamilton, Winfield and Fayette, Alabama. We find that the unopposed representations made by WSSF-LP and WSFG-LP demonstrate that they have satisfied the criteria required of "qualified" LPTV stations as set forth in the Communications Act of 1934, as amended, and the Commission's rules.<sup>3</sup>

4. In support of their complaint, WSSF-LP and WSFG-LP state that by certified letter dated May 22, 2008, they requested must carry status on WATC's cable system, pursuant to Section 76.61(a)(1) of the Commission's rules.<sup>4</sup> WATC failed to respond to this demand, as required by Section 76.61(a)(2) of the rules.<sup>5</sup> The Stations filed the instant complaint within 60 days of WATC's failure to respond, pursuant to Section 76.61(a)(5) of the rules.<sup>6</sup>

5. WSSF-LP and WSFG-LP argue that they met all of the requirements set forth in Section 614(h)(2) of the Communications Act of 1934, as amended, and Section 76.55(d) of the Commission's rules and are therefore entitled to carriage on WATC's cable system.<sup>7</sup> The Stations state that they broadcast for more than the required minimum number of hours, meet all the relevant requirements imposed on full-power television stations, comply with the Commission's interference rules, transmit from a location within the required 35-miles from the cable system headend, and provide a good quality over-the-air signal to that headend, pursuant to Section 76.55(d) of the Commission's rules.<sup>8</sup> The Stations are the only television stations in the Birmingham-Anniston-Tuscaloosa DMA that broadcast local programming aimed at the news and informational needs of Fayette County residents.<sup>9</sup> There are no full-power television stations licensed to Fayette County, Alabama.<sup>10</sup> The cable communities at issue and the communities of license of WSSF-LP and WSFG-LP are all outside of the top 160 MSAs, as determined by OMB on June 30, 1990.<sup>11</sup> WSSF-LP and WSFG-LP maintain that because WATC's system has 60 activated channels, carriage of both Stations is required pursuant to Section 76.56(b)(3) of the Commission's rules.<sup>12</sup> As a result, the Stations argue that they have satisfied the statutory requirements for mandatory carriage.<sup>13</sup>

6. Accordingly, we grant the complaint of WSSF-LP and WSFG-LP and find that the Stations are qualified for carriage on WATC's cable system herein.

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<sup>3</sup> *Id.*

<sup>4</sup> Complaint at 1 and Exhibit A; *see also* 47 C.F.R. § 76.61(a)(1).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> 47 C.F.R. § 76.61(a)(5).

<sup>7</sup> Complaint at 3; *see also* 47 U.S.C. § 534(h)(2) and 47 C.F.R. § 76.55(d).

<sup>8</sup> *Id.* at 3-5.

<sup>9</sup> *Id.* at 4-5.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 5-6.

<sup>12</sup> *Id.* at Exhibit A; *see also* 47 C.F.R. § 76.56(b)(3).

<sup>13</sup> *Id.* at 3.

**IV. ORDERING CLAUSES**

7. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, and Sections 76.55(d) and 76.56(b)(3) of the Commission's rules, 47 C.F.R. §§ 76.55(d) and 76.56(b)(3), that the complaint filed by Ettie Clark **IS GRANTED** with respect to the communities of Hamilton, Winfield, and Fayette, Alabama. West Alabama TV Cable **IS ORDERED** to commence carriage of WSSF-LP and WSFG-LP within sixty (60) days of the release date of this order.

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.<sup>14</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Senior Deputy Chief, Policy Division  
Media Bureau

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<sup>14</sup> 47 C.F.R. § 0.283.