

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

In the Matter of)	
)	
Copeland Channel 21, LLC)	
v.)	CSR-8250-M
Charter Communications, Inc.)	
)	
Request for Carriage)	

ORDER ON RECONSIDERATION

Adopted: July 13, 2010

Released: July 13, 2010

By the Associate Chief, Media Bureau:

I. INTRODUCTION

1. Charter Communications (“Charter”), operator of cable systems serving the communities of Chincoteague, Franklin, Suffolk, Tangier Island and Cape Charles, Virginia, and Gates, Waves, and Manteo, North Carolina, filed a petition for partial reconsideration of the Media Bureau’s decision which granted the must carry complaint filed by Copeland Channel 21, LLC, licensee of television broadcast station WHRE-DT, Virginia Beach, Virginia (“WHRE-DT”).¹ WHRE-DT filed an opposition to this petition to which Charter did not reply. For the reasons discussed below, we deny Charter’s petition for partial reconsideration.

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 The Nielsen Company.³

¹See *Copeland Channel 21, LLC v. Charter Communications, Inc.*, DA 10-451 (rel. March 18, 2010) (“Bureau Order”).

²8 FCC Rcd 2965, 2976-2977 (1993).

³Section 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. §

(continued....)

3. In the *Bureau Order*, the Commission granted WHRE-DT's must carry complaint finding that WHRE-DT, having met all other requirements to be carried, was entitled to carriage in the subject communities because it provided an adequate signal to Charter's cable systems.

III. DISCUSSION

4. In its petition for partial reconsideration, Charter states that the *Bureau Order* offered it an opportunity to contest WHRE-DT's provision of a "good quality signal" to any of the communities at issue.⁴ Charter argues that signal strength tests have determined that WHRE-DT does indeed deliver a "good quality signal" to its Suffolk and Accomac, Virginia principal headends and, as a result, WHRE-DT was notified that carriage in the communities served by these headends would commence within the 60 days specified in the *Bureau Order*.⁵ For the remaining principal headends of Chincoteague and Tangier Island, Virginia, and Manteo and Waves, North Carolina, however, Charter maintains its signal strength tests demonstrate that WHRE-DT fails to deliver a "good quality signal" as required by Section 76.55(c)(3) of the Commission's rules.⁶ As a result, Charter requests that the Bureau revise its order and find that Charter is not required to carry WHRE-TV in the communities of Chincoteague, and Tangier Island, Virginia, and Manteo and Waves, North Carolina.

5. In opposition, WHRE-DT argues that Charter's petition is superfluous and unnecessary. Despite Charter's contention that WHRE-DT does not provide an adequate signal to some of its principal headends, WHRE-DT states that it has the option to improve the delivery of its signal by alternative means and will do so, if necessary.⁷ Moreover, WHRE-DT argues that it is unclear whether the signal strength measurements performed by Charter and appended to its petition were taken in accordance with the Commission's requirements, particularly as WHRE-DT has not had to opportunity to verify the measurements.⁸

6. Commission review of the signal strength measurements of WHRE-DT's signal taken by Charter at the relevant principal headends serving Chincoteague, Manteo, Tangier Island and Waves supports Charter's showing that WHRE-DT fails to provide a signal of sufficient strength to qualify for must carry status in these communities. However, in its opposition to Charter's petition, WHRE-DT declared that it would make whatever improvements necessary to ensure the delivery of a "good quality signal" to the contested headends. In view of WHRE-DT's commitment to provide a "good quality signal" to the communities of Chincoteague, Manteo, Tangier Island and Waves, we will deny Charter's

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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 The Nielsen Company's DMAs. *See* 47 C.F.R. § 76.55(e). The Nielsen Company was previously known as Nielsen Media Research.

⁴Partial Reconsideration at 1, citing *Bureau Order* at 4 n.31.

⁵*Id.* at Exhibit 1. The communities served by Charter's Suffolk headend are Franklin and Suffolk, Virginia, and Gates, North Carolina. Charter's Accomac headend serves the community of Cape Charles, Virginia. Charter notes that all of the headends discussed herein serve additional communities which were not identified in the underlying complaint and therefore not at issue here.

⁶*Id.* at Exhibit 2; *see also* § 76.55(c)(3). For each of the listed headends where WHRE-DT failed the signal strength test, the only community at issue is the community identified as the principal headend.

⁷Opposition at 1.

⁸*Id.* at 2-3.

petition for partial reconsideration, but condition Charter's requirement to carry WHRE-DT in the subject communities only after WHRE-DT delivers a signal of good quality, at its own expense, to each of the cable systems' principal headends serving Chincoteague and Tangier Island, Virginia, and Manteo and Waves, North Carolina.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, that the petition for partial reconsideration, filed on behalf of Charter Communications, Inc., **IS HEREBY DENIED**.

8. **IT IS FURTHER ORDERED**, that Charter shall commence carriage of WHRE-DT's signal in the communities of Chincoteague and Tangier Island, Virginia, and Manteo and Waves, North Carolina, within sixty (60) days from the date that WHRE-DT delivers a good quality signal to the principal headends serving said communities.

9. This action is taken pursuant to Sections 0.283 and 1.106 of the Commission's rules.⁹

FEDERAL COMMUNICATIONS COMMISSION

Nancy Murphy, Associate Chief
Media Bureau

⁹47 C.F.R. §§ 0.283 and 1.106.