

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

In the Matter of)	
)	
George S. Flinn, Jr.)	CSR-8608-M
)	Docket No. 12-87
v.)	
)	CSR-8625-A
Comcast Cable Communications, LLC,)	Docket No. 12-114
On behalf of its subsidiaries and affiliates.)	

MEMORANDUM OPINION AND ORDER

Adopted: August 2, 2012

Released: August 3, 2012

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

I. INTRODUCTION

1. George S. Flinn, Jr., licensee of commercial broadcast television station WFBD-DT, Destin, Florida (“WFBD”) filed the above captioned must carry complaint pursuant to Sections 76.7, 76.56 and 76.61(a)(1) of the Commission's rules,¹ seeking carriage on cable systems operated by Comcast Cable Communications, LLC (“Comcast”) in the Mobile-Pensacola designated market area (“DMA”).² Comcast opposed this complaint³ and filed a petition to modify WFBD’s mandatory carriage market to exclude the station from the same communities in which it sought carriage.⁴ Given their interrelatedness, and for administrative convenience, the Bureau is consolidating these two matters into one proceeding, and herein grants Comcast’s petition and denies WFBD’s complaint.

II. BACKGROUND

1. Pursuant to Section 614 of the Communications Act of 1934, as amended (the “Act”), and implementing rules adopted by the Commission, commercial television broadcast stations, such as WFBD, are entitled to assert mandatory carriage rights on cable systems located within their market.⁵ A

¹ 47 C.F.R. §§ 76.7, 76.56 and 76.61(a)(1).

² Complaint of George S. Flinn, Jr. against Comcast Cable Communications, LLC (CSR-8608-M), filed Mar. 28, 2012 (“WFBD Complaint”).

³ Opposition to WFBD Complaint by Comcast (CSR-8608-M), filed April 24, 2012 (Comcast Opposition). WFBD subsequently filed a reply to this opposition. See Reply to Opposition by WFBD, filed May 4, 2012 (“WFBD Reply”).

⁴ Petition for Special Relief of Comcast Cable Communications For Modification of the Television Market of Station WFBD, Channel 48, Destin Florida (CSR-8625-A) (“Comcast Petition”). An opposition and reply to this petition were filed by WFBD and Comcast. See Opposition to Petition for Special Relief of WFBD, filed May 17, 2012 (“WFBD Opposition”). Reply to Opposition of Comcast, filed May 31, 2012 (“Comcast Reply”).

⁵ See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket No. 92-259, Report and Order, 8 FCC Rcd 2965, 2975-77 ¶¶ 41-46 (1993) (“*Must Carry Order*”). The Commission has subsequently extended mandatory carriage rights to digital television stations under Section 614(a) of the Act and has amended its rules accordingly. See *Carriage of Digital Television* (continued....)

station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen.⁶ The term DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial station located in the same DMA is not entitled to carriage.⁷ One method of doing so is for a cable operator to establish that a subject station's signal, which would otherwise be entitled to carriage, does not provide a good quality signal to a cable system's principal headend.⁸ Should a station fail to provide the requisite 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 station may provide a cable operator with specialized equipment, at the station's expense, which will improve the station's signal to an acceptable quality at a cable system's principal headend.⁹

2. Comcast operates cable television systems in Mobile, Alabama in the Mobile, AL-Pensacola (Ft. Walton Beach), Florida DMA – the same market in which WFBD is located. WFBD states it elected mandatory carriage on Comcast's cable system(s) by a letter on September 19, 2011. On February 9, 2012, after Comcast had not started carrying WFBD on January 1, WFBD sent Comcast a letter demanding that the cable operator carry the station.¹⁰ In a March 9, 2012 response, Comcast denied WFBD's carriage request citing signal measurements indicating that "WFBD does not deliver a good quality over-the-air signal to either of Comcast's principal headend facilities in the DMA."¹¹ WFBD asserts this rejection occurred even though it had unequivocally offered to be responsible for delivering a good quality signal by alternative means to Comcast's cable systems, and so it filed the instant complaint within 60 days of Comcast's carriage denial.¹²

3. Meanwhile, Comcast filed its own petition for special relief, seeking to modify the Mobile, AL-Pensacola DMA market to exclude WFBD from the communities of Chickasaw, Mobile, Prichard, Saraland, Dauphin Island, and the immediately surrounding areas of unincorporated Mobile County.¹³ Although WFBD and these communities are in the same DMA, Comcast argued WFBD had never been carried on cable systems serving these communities, that it was over 100 miles away, provided no news coverage of the communities, failed to cover them with a Grade B contour, and garnered no ratings.

4. Under the Act, the Commission may consider requests to modify market areas. Section 614(h)(1)(C) provides that the Commission may:

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Broadcast Signals First Report and Order, See 16 FCC Rcd 2598, 2606 ¶¶ 15-16, 2610 ¶ 28 (2001) ("*DTV Must Carry Order*"); see also 47 C.F.R. § 76.64(f)(4).

⁶ 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)(2) of the Commission's rules specifies that a commercial broadcast television station's market is its Designated Market Area as determined by The Nielsen Company. 47 C.F.R. § 76.55(e)(2).

⁷ See *Must Carry Order*, 8 FCC Rcd at 2990 ¶ 102.

⁸ 47 C.F.R. § 76.55(e)(3).

⁹ *Must Carry Order*, 8 FCC Rcd at 2991 ¶ 104.

¹⁰ WFBD Carriage Complaint, Attachment A, Letter from Fred R. Flinn, WFBD to Jerome Butler, General Manager, Comcast (Feb. 9, 2009).

¹¹ *Id.*, Attachment B, Letter from Michael Nissenblatt, Comcast to Fred R. Flinn, WFBD (March 9, 2012).

¹² WFBD Carriage Complaint at 4.

¹³ See Comcast Petition at 1 n.1.

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's market to better effectuate the purposes of this section.¹⁴

In considering such requests, the 1992 Cable Act provides that:

the Commission shall afford particular attention to the value of localism by taking into account such factors as -

- (I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;
- (II) whether the television station provides coverage or other local service to such community;
- (III) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community;
- (IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.¹⁵

5. In adopting rules to implement this provision, the Commission indicated that requested changes should be considered on a community-by-community basis rather than on a county-by-county basis, and that they should be treated as specific to particular stations rather than applicable in common to all stations in the market.¹⁶ In the *Modification Final Report and Order*, the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modifications that requires the following evidence be submitted:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.
- (2) Grade B contour maps¹⁷ delineating the station's technical service area¹⁸ and showing the location of the cable system headends and communities

¹⁴ 47 U.S.C. § 534(h)(1)(C).

¹⁵ *Id.*

¹⁶ *Must Carry Order*, 8 FCC Rcd 2965, 2977 n.139.

¹⁷ Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit. The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B contour analysis. In situations involving mountainous terrain or other unusual geographic features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test.

¹⁸ While the Grade B contour defined an analog television station's service area, *see* 47 C.F.R. § 73.683(a), with the completion of the full power digital television transition on June 12, 2009, there are no longer any full power analog
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in relation to the service areas.

- (3) Available data on shopping and labor patterns in the local market.
- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.¹⁹

6. Petitions for special relief to modify television markets that do not include the above evidence shall be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee. The *Modification Final Report and Order* provides that parties may continue to submit whatever additional evidence they deem appropriate and relevant.

7. In the *Carriage of Digital Television Broadcast Signals First Report and Order* (“*DTV Must Carry Report and Order*”), the Commission concluded that under Section 614(a) of the Act, digital-only television stations had mandatory carriage rights, and amended its rules to reflect this.²⁰ The Commission also clarified its framework for analyzing market modifications for digital television stations.²¹ It found that the statutory factors in Section 614(h), the current process for requesting market modifications, and the evidence needed to support such petitions, would be applicable to digital television modification petitions.²² While the Commission presumed the market of a station’s digital signal would be coterminous with that station’s market area for its prior analog signal, it recognized that the technical coverage area of a digital television signal may not exactly replicate the technical coverage area of its

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stations. Instead, as set forth in Section 73.622(e), a station's DTV service area is defined as the area within its noise-limited contour where its signal strength is predicted to exceed the noise-limited service level – which for UHF stations is 41 dBu. See 47 C.F.R. § 73.622(e). Accordingly, the Commission has treated a digital station’s noise limited service contour as the functional equivalent of an analog station’s Grade B contour. See *Report To Congress: The Satellite Home Viewer Extension and Reauthorization Act of 2004; Study of Digital Television Field Strength Standards and Testing Procedures*, 20 FCC Rcd 19504, 19507 ¶ 3, 19554 ¶ 111 (2005); *Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004, Implementation of Section 340 of the Communications Act*, Report and Order, 20 FCC Rcd 17278, 17292 ¶ 31 (2005). See also *Lenfest Broadcasting, LLC*, 19 FCC Rcd 8970, 8974 ¶ 7 n.27 (2004) (“For digital stations operating on channels 14-69 [UHF stations], for market modification purposes the 41 dBu DTV service area contour is the digital equivalent of an analog station's Grade B contour.”).

¹⁹ 47 C.F. R. § 76.59(b).

²⁰ See 16 FCC Rcd 2598, 2606, 2610 (2001); 47 C.F.R. § 76.64(f)(4).

²¹ See 16 FCC Rcd at 2635-36. The Commission affirmed that for digital signal carriage issues, it would continue to rely on the Nielsen market designations, publications, and assignments it used for analog signal carriage issues. See *id.* at 2636.

²² See *DTV Must Carry Report and Order*, 16 FCC Rcd at 2636.

former analog television signal.²³ Therefore, in deciding DTV market modifications, the Commission would take changes in signal strength and technical coverage into consideration, on a case-by-case basis.

III. DISCUSSION

8. The first issue before us is whether to grant Comcast's request to exclude the subject communities from WFBD's market. The second issue, whether WFBD has a right to demand carriage on Comcast's cable systems serving these communities, hinges on whether WFBD should be considered local to the communities served by those cable systems. Considering all of the relevant factual circumstances in the record, we believe Comcast's market modification petition is a legitimate request to redraw DMA boundaries to make them congruous with market realities, and hence Comcast's petition will be granted and WFBD's carriage complaint will be denied.

9. The first statutory factor we consider in determining the scope of WFBD's market concerns whether WFBD, or other stations located in the same area, have been historically carried on Comcast's cable systems.²⁴ Comcast argues that despite being on the air for seven years, WFBD has never been carried in the cable communities,²⁵ and WFBD does not deny this.²⁶ WFBD asserts, however, that Comcast should be estopped from relying on WFBD's lack of carriage when it has repeatedly refused to carry the station.²⁷ Furthermore, WFBD states it is essentially a "new" station since it has been on the air less than 7 years and its lack of carriage should therefore not factor against it.²⁸

10. With new or specialty stations, failure to establish either historic carriage or significant viewership is given lesser weight, and we typically rely more on a station's Grade B contour to delineate its market.²⁹ However, the historic carriage and significant viewership factors are not entirely discounted for new or specialty stations,³⁰ nor are they exempt from the market modification process.³¹ In this

²³ See *id.* In adopting technical rules for the digital transmission of broadcast signals, the Commission attempted to ensure that a station's digital over-the-air coverage area would replicate as closely as possible its former analog coverage area. See *id.* at 2636 n.254 (citing *Sixth DTV Report and Order*, 12 FCC Rcd 14588, 14605 (1997)).

²⁴ This statutory factor is typically evidenced by "cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings." 47 C.F.R. § 76.59(b)(6).

²⁵ Comcast Petition at 4.

²⁶ See Comcast Reply at 2.

²⁷ WFBD Opposition at 4.

²⁸ *Id.*

²⁹ Without accommodating 'specialty stations' in our analysis of historic carriage, "weaker or newer stations that cable systems had previously declined to carry, [would be prevented] from ever being carried." *Time Warner*, 22 FCC Rcd at 13649, ¶ 14 & n.63, citing *Paragon*, 10 FCC Rcd at 9466, ¶ 12. See also *NY ADI Order*, 12 FCC Rcd 12262, 12267, ¶ 10 & 12271, ¶ 17 (1997) ("[G]rade B contour coverage, in the absence of other determinative market facts... is an efficient tool to adjust market boundaries because it is a sound indicator of the economic reach of a particular television station's signal."); see also *WRNN II*, 21 FCC Rcd at 5959, ¶ 14 & n.49 (2006).

³⁰ Lack of historical carriage and dearth of audience shares is of evidential significance when linked with other information regarding the market, including lack of Grade B coverage, geographic distance, and the absence of noncable audience share in relevant communities. *In re Cablevision*, 11 FCC Rcd 9314, 9322-23 (1996) (emphasis added); see also *Cablevision Hudson Valley Decision*, 12 FCC Rcd at 21152 (another factor to consider could be the availability of other more local television stations in the relevant communities).

³¹ The fact that a station is new or of specialized appeal does not mean that its logical market area is without limits or that it should be exempt from the Section 614(h) market modification process; signal coverage does not in and of itself necessarily entitle a specialty station to carriage. *KTNC Licensee, LLC*, 18 FCC Rcd 16269, 16278 ¶ 17 (2003).

instance, we disagree that a station that has been in operation for approximately seven years is a “new” station.³² However, even if WFBD were treated as a new or specialty station, we would nevertheless modify its market because of its failure to cover any of the communities with a Grade B signal and its failure to substantiate any claim that it provides locally-oriented programming to the communities.

11. The second statutory factor asks “whether the television station provides coverage or other local service to such community.”³³ Comcast argues WFBD does not serve the cable communities.³⁴ It argues the communities are on average 100 miles from WFBD’s city of license, Destin, Florida - approximately 87 miles from WFBD’s transmitter site.³⁵ It also attaches a Longley-Rice coverage map showing that none of the communities are within the WFBD’s signal coverage.³⁶ Furthermore, Comcast’s signal strength studies show that WFBD fails to provide a signal of adequate strength to at each of Comcast’s headends.³⁷ Comcast also states it was unable to find evidence programming directed to the communities at issue.³⁸

12. WFBD argues that its failure to cover the communities with a signal of adequate strength is the direct result of its failure to file for a new channel allotment prior to the Commission’s application processing freeze that began on May 31, 2011. After the freeze is lifted, WFBD speculates that it will then obtain a new channel allotment that allows it to reach these communities.³⁹ Furthermore, WFBD states it has an agreement with Blab TV to air the latter’s programming. Comcast argues Blab TV programming has no particular nexus to the communities.⁴⁰

³² As the Bureau recently found, seven years of operation do not entitle a station to “new station” status. *See Cox Comm. Las Vegas, Inc.*, 24 F.C.C.R. 7846, 7856 ¶ 18 (2009). In fact, it has been argued that three years is the demarcation point between new and experienced stations. *See id.* at n.60 (citations omitted); *see also Avenue Cable TV Service, Inc.*, 16 F.C.C.R. 16436, 16445 ¶ 22 (2001) (Stations normally take up to 3 years to build viewership within their licensed areas.).

³³ 47 U.S.C. § 534(h)(1)(C)(ii)(II).

³⁴ Comcast Petition at 2-3.

³⁵ *Id.* at 3 & n.5 (citing Ex. 4, Distances in miles between Destin, FL and the communities given as Chickasaw (99), Mobile (98), Prichard (102), Saraland (101), and Dauphin Island (102), calculated using web tool at <http://www.indo.com/distance>). Using the same distance calculator to obtain the distances between the location of WFBD’s transmitter given in Comcast Petition Exhibit 7 and each community yields the following distances: Chickasaw (83), Mobile (84), Prichard (85), Saraland (83), and Dauphin Island (101). Driving distances from the northernmost community (Saraland) or the southernmost (Dauphin Island) to Destin can be 115 to 145 miles. Comcast Petition at 6-7.

³⁶ Comcast Petition at 5 & Ex. 3, Longley-Rice Coverage Map of WFBD.

³⁷ *Id.* at 5 & Ex. 5, Must-Carry Signal Strength and Quality Tests.

³⁸ Comcast Petition at 7 & n.24 (citing Ex. 12, *The Mobile Register* (showing no listing for WFBD)). *See also id.* at 8 & n.25 (citing Ex. 13, *Pensacola News Journal* (excerpt from television guide showing programming WFBD listed with “BLAB” showing that it airs “blabtv” programs)).

³⁹ *See* WFBD Opposition at 5 & Attached Technical Exhibit, “Allocation and Coverage Study Television Station WFBD(TV) Destin, Florida.” The FCC is presently not accepting Petitions to change the DTV Table of Allotments so as “[t]o permit the Commission to evaluate its reallocation and repacking proposals and their impact on the Post-Transition table of DTV Allotments.” *Id.*, Attached Technical Exhibit at n.1 (citing *FCC Public Notice*, Freeze on the Filing of Petitions for Digital Channel Substitutions Effective Immediately, DA 11-959 (MB rel. May 31, 2011)). WFBD’s attached technical exhibit states that “[f]rom a technical perspective, WFBD(TV) could be allocated on channel 5 from an existing tower located in Escambia County, Florida and whose FCC predicted noise-limited contour would encompass the community of Mobile, Alabama.” *Id.*, Attached Technical Exhibit at 1.

⁴⁰ WFBD Opposition at 6-7; Comcast Petition at 8 & n.26 (citing Ex. 14, Program Schedule, www.blabtv.com (last visited June 14, 2012)).

13. The communities at issue do fall outside WFBD's Grade B contour⁴¹ and WFBD concedes it fails to cover them with a Grade B equivalent signal according to Longley-Rice analysis.⁴² While WFBD's future channel location may impact its coverage of the Mobile communities, we cannot take potential future or hypothetical events into consideration as factors on which to base the current scope of a station's market – we only look to historic facts and the circumstances presently before us.⁴³

14. With respect to distance, in another market modification matter from the same Mobile-Pensacola DMA, the Bureau found a station licensed to Fort Walton Beach, in Okaloosa County, Florida, – the same county where Destin is located – to be “geographically distant” from virtually the same Comcast communities in Mobile County, Alabama, given that they were separated by approximately 92 miles.⁴⁴ Finally, WFBD states that Blab TV programming is local, and that it “should be allowed to develop and market [such local programming] over a reasonable time period before being deemed a local programming failure.”⁴⁵ WFBD has not rebutted Comcast's claims that it presently fails to air locally-oriented programming with actual examples of its programs. With respect to its future programming, again we look to the programming a station presently provides, not what it might provide in the future.⁴⁶

15. The third statutory factor is “whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community.”⁴⁷ Comcast argues the Commission gives greater weight to the carriage of other stations where a cable operator is seeking to delete a station's mandatory carriage rights, and it is clear that the station is not providing a local service to those communities.⁴⁸ Comcast argues the cable systems serving the communities currently carry several truly local stations providing coverage of local news and sporting events.⁴⁹ WFBD does not dispute Comcast's assertion.⁵⁰

16. The fourth statutory factor concerns “evidence of viewing patterns in cable and noncable

⁴¹ Comcast Petition at 6 & n.17 (citing Ex. 8, WFBD 41 dBu service contour, <http://transition.fcc.gov/fcc-bin/tvq?list=0&facid=81669> (click on Service Contour on Google map (41 dBu) at bottom of page) (last visited Jun. 15, 2012)).

⁴² See also Comcast Reply at 2.

⁴³ In prior precedent, a station's pending application to move to a new location from which it could better serve communities was insufficient to establish that it presently served the communities. See *Avenue Cable TV Service, Inc.*, 16 F.C.C.R. 16436, 16445 ¶ 20 (2001), *aff'd* 19 FCC Rcd 16116, 16119 ¶ 6 (“Market modification decisions are based on the facts as presented and current at the time, and cannot be based on as yet unrealized future events.”) see also *Garden State Cable TV*, 15 F.C.C.R. 19645, 19646 ¶ 4 (1997) (Bureau could not make decision based on promised change in location and enlargement of signal).

⁴⁴ *Comcast Cable Communications, LLC*, 20 FCC Rcd 10093, 10099 ¶ 14 (2005).

⁴⁵ WFBD Opposition at 2.

⁴⁶ See Comcast Reply at n.2. See also *Comcast Cable Communications, LLC*, 26 F.C.C.R. 14453, 14460-61, 14462 ¶¶ 13 & 15 (2011) (promises of future local programming were not sufficient to bar a market modification request); *TCI of Illinois, Inc.*, 12 F.C.C.R. 23231, 23238 ¶ 17 & 23241 ¶ 24 (1997) (same).

⁴⁷ U.S.C. § 534(h)(1)(C)(ii)(III).

⁴⁸ Comcast Petition at 8 & n.27 (citing *Gold Coast Cablevision*, 11 FCC Rcd 2109 ¶ 27 (1996)).

⁴⁹ *Id.* (citing Ex's 6 & 15) (stating that these include stations licensed to Mobile, AL including WKRG (CBS), WPMI (NBC), and WALA (FOX), all of which airs local newscasts Monday through Friday).

⁵⁰ Comcast Reply at 2. However, WFBD argues the third factor only allows consideration of alternate programming sources in deletion cases where channel scarcity exists, not in cases such as this one. WFBD Opposition at 7. Nevertheless, WFBD provides no precedent to support this assertion.

households within the areas served by the cable system or systems in such community.”⁵¹ Comcast argues WFBD has no reported viewership in any of the communities located in Mobile County, Alabama.⁵² WFBD responds that four out of eight over-the-air stations carried by Comcast also garner low shares.⁵³ Further, WFBD argues that Comcast should be estopped from relying on WFBD’s poor market position given that Comcast has erected viewership hurdles for WFBD which prevents the compilation of realistic, empirical data supporting WFBD’s historical market acceptance and reach.⁵⁴ Finally, with respect to economic factors, Comcast argues U.S. Census workforce data shows a *de minimis* number of residents commuting to Destin from the communities at issue.⁵⁵

IV. CONCLUSION

17. In this matter, WFBD has no history of carriage despite being on air for seven years, and no discernible viewership in the communities at issue. In addition, WFBD has failed to demonstrate that it provides any local programming to the communities at issue. It is also clear that WFBD is geographically distant from the communities and that it fails to provide them with a Grade B signal according to Longley-Rice analysis. These factors weigh in favor of granting Comcast’s request to modify WFBD’s market so as to remove the communities of Chickasaw, Mobile, Prichard, Saraland, Dauphin Island, and the immediately surrounding areas of unincorporated Mobile County from WFBD’s market. Accordingly, WFBD’s carriage complaint as to these aforementioned communities must be denied.

V. ORDERING CLAUSES

1. Accordingly, **IT IS ORDERED**, that pursuant to Section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. § 534, and Section 76.59 of the Commission’s rules, 47 C.F.R. § 76.59, that the captioned petition for special relief (CSR-8625-A), filed by Comcast Cable Communications, LLC, **IS GRANTED** and the Mandatory Carriage Complaint (CSR-8608-M) of George S. Flinn, Jr., licensee of commercial broadcast television station WFBD-DT, Destin, Florida **IS DENIED**.

18. This action is taken under authority delegated by Section 0.283 of the Commission’s rules.⁵⁶

FEDERAL COMMUNICATIONS COMMISSION

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

⁵¹ 47 U.S.C. § 534(h)(1)(C)(ii)(IV).

⁵² Comcast Petition at 9 & Ex. 16, *Nielsen 2011 County Coverage Study* (showing no ratings for WFBD in Mobile County, AL).

⁵³ WFBD Opposition at 8.

⁵⁴ WFBD Opposition at 8.

⁵⁵ U.S. Census workforce data shows that of the approximately 10,600 workers with their primary job in Destin Florida, only 1,500 originate from Destin, 9 from Mobile and 2 from Saraland. Comcast Complaint at 7 & n.22 (citing Ex. 10, <http://onthemap.ces.census.gov> (last visited June 14, 2012) (Select “Text Only” and enter Destin, FL for analysis, then select “Work” from Home/Work Area, “Destination” from Analysis Type, “2010” from Year and “Primary Jobs” from Job Type – then choose to see all results).

⁵⁶ 47 C.F.R. § 0.283.