

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

In the Matter of	)	
	)	
KVMD Licensee Company, LLC	)	MB Docket No. 20-213
	)	CSR 8991-A
For Modification of the Television Market of	)	
Station KVMD(TV), Twentynine Palms, CA	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: November 3, 2020**

**Released: November 3, 2020**

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

**I. INTRODUCTION**

1. KVMD Licensee Company, LLC (KVMD Licensee Co. or Petitioner), licensee of television station KVMD(TV), Twentynine Palms, California (Facility ID No. 16729) (KVMD or Station) filed the above-captioned Petition<sup>1</sup> requesting modification of the Station's television market to include all of the communities located in the Los Angeles Designated Market Area (DMA) and served by Spectrum cable systems<sup>2</sup> on which KVMD is currently not being carried on a mandatory basis (Communities).<sup>3</sup> The Petitioner states that all of the Communities are located within the DMA and, therefore, are presumptively part of KVMD's market.<sup>4</sup> The Petition is unopposed. For the reasons stated below, we grant the Petition.

**II. BACKGROUND**

**A. Market Modification Procedures**

2. Pursuant to section 614 of the Communications Act of 1934, as amended (the Act), and implementing rules adopted by the Commission in its *Must Carry Order*, commercial broadcast television

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<sup>1</sup> See *KVMD Licensee Co., LLC Petition for Modification of the Television Market for Station KVMD(TV), Twentynine Palms, California, Facility ID 16729*, Petition for Special Relief, MB Docket 20-213 (filed June 29, 2020) (*KVMD Petition*). The Media Bureau placed the Petition on public notice and sought comment. *Special Relief and Show Cause Petitions*, Public Notice, Report No. 0493 (MB July 8, 2020) (*Public Notice*).

<sup>2</sup> The Petitioner states that according to the Commission's Cable Operations and Licensing System (COALS) database, Charter Communications, Inc. does business in the communities at issue as Spectrum Pacific West, LLC. For ease of reference, the Petitioner states that it refers to the relevant cable systems as "Spectrum" throughout its pleading. Petition at n.1. We do the same herein.

<sup>3</sup> The Petitioner states that it "is seeking to add the communities identified on Exhibit A [herein] and any additional communities in the same counties or served by the same systems and not presently included in KVMD's television market." Petition at n.2. The Communities submitted by the Petitioner are listed in the attached Addendum.

<sup>4</sup> Petition at 1.

stations are entitled to assert mandatory carriage rights on cable systems located within the station's market.<sup>5</sup> A station's default market for this purpose is its DMA as defined by Nielsen Media Research.<sup>6</sup> A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Essentially, each county in the continental United States is allocated to a market based on which stations receive a preponderance of total viewing hours in the county.<sup>7</sup>

3. Under the Act, however, the Commission is also directed to consider changes in a station's local market. Section 614(h)(1)(C) provides that the Commission may:

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section.<sup>8</sup>

In considering such requests, the 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 modifying the market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence;<sup>9</sup>

(IV) 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; and

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<sup>5</sup> *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, 8 FCC Rcd 2965, 2976-77, paras. 42-47 (1993) (*Must Carry Order*).

<sup>6</sup> Section 614(h)(1)(C) of the 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) requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs. 47 CFR § 76.55(e). See *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366 (1999) (*Modification Final Report and Order*).

<sup>7</sup> For purposes of Nielsen's calculation, both over-the-air and cable television viewing are included. For a more complete description of how counties are allocated, see Nielsen Media Research's *Nielsen Station Index: Methodology Techniques and Data Interpretation*.

<sup>8</sup> 47 U.S.C. § 534(h)(1)(C).

<sup>9</sup> The STELA Reauthorization Act of 2014, Pub. L. No. 113-200, 128 Stat. 2059 (2014), enacted December 4, 2014, added a new statutory factor, denominated as factor III above. See also *Amendment to the Commission's Rules Concerning Mkt. Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Report and Order, 30 FCC Rcd 10406 (2015) (*STELAR Market Mod. Order*).

(V) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.<sup>10</sup>

4. In order to establish a station's relationship to the community at issue as required by the Act, section 76.59(b) of the Commission's rules requires requests for market modification to be supported by the following evidence:

- (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) Noise-limited service contour maps (for full-power digital stations) or protected contour maps (for Class A and low power television stations) delineating the station's technical service area and showing the location of the cable system headends or satellite carrier local receive facilities and communities in relation to the service areas;<sup>11</sup>
- (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; and

<sup>10</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(I)-(V). The legislative history of the provision states that:

where the presumption in favor of [DMA] carriage would result in cable subscribers losing access to local stations because they are outside the [DMA] in which a local cable system operates, the FCC may make an adjustment to include or exclude particular communities from a television station's market consistent with Congress' objective to ensure that television stations be carried in the area in which they serve and which form their economic market.

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[This subsection] establishes certain criteria which the Commission shall consider in acting on requests to modify the geographic area in which stations have signal carriage rights. These factors are not intended to be exclusive, but may be used to demonstrate that a community is part of a particular station's market.

H.R. Rep. 102-628, 102d Cong., 2d Sess. 97 (1992). In adopting rules to implement section 614(h)(1)(C), 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. *Must Carry Order*, 8 FCC Rcd at 2977 n.139.

<sup>11</sup> Section 76.59(b)(2) contains the following note: "Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit." 47 CFR § 76.59(b)(2).

(7) If applicable, a statement that the station is licensed to a community within the same state as the relevant community.<sup>12</sup>

## B. The Petition

5. KVMD Licensee Co. states that KVMD is an Hispanic-owned and controlled independent television station that has served the Los Angeles DMA for decades.<sup>13</sup> The Petitioner states that the Station is licensed to Twentynine Palms, California, a community located in San Bernardino County, and broadcasts “a substantial amount of locally produced and targeted programming, including religious, talk, sports, and entertainment programming.”<sup>14</sup> More specifically, the Petitioner notes that the “largest block of programming” on KVMD is from Latino Alternative Television (LATV) Networks, an American bilingual (Spanish and English) television network with studios in West Los Angeles.<sup>15</sup> The Petitioner asserts that the Station’s mix of foreign language, religious, and home shopping programming qualifies it as a “specialty station” for purposes of this proceeding.<sup>16</sup>

6. The Petitioner explains that, until recently, KVMD broadcast solely from a site known as Snow Peak using a directional antenna at 150 kW ERP that transmitted the Station’s signal east over Twentynine Palms, south toward San Diego, and west toward Anaheim and West Covina.<sup>17</sup> According to the Petitioner, KVMD’s signal did not cover Los Angeles or communities further to the south and west, such as Long Beach, Santa Monica, and Thousand Oaks.<sup>18</sup> Because of the geographical distance and signal coverage issues, the Petitioner notes that the Station has been subjected to a number of market modifications that continue to define its market for cable carriage today.<sup>19</sup>

7. Specifically, the Petitioner states that, in October 2003, the Media Bureau (Bureau) granted a petition filed by Time Warner to remove numerous communities from KVMD’s market, finding that “KVMD is geographically distant from the communities, that its digital coverage area falls short of the cable communities, and that the Station is separated by mountain ranges, desert plateaus, and political boundaries.”<sup>20</sup> The Petitioner argues that the decision “discounted the co-channel interference suffered

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<sup>12</sup> 47 CFR § 76.59(b). Petitions for special relief to modify television markets that do not include the above evidence may be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee. *STELAR Market Mod Order*, 30 FCC Rcd at 10424, para. 22. The Bureau may waive the requirement to submit certain evidence for good cause shown, particularly if it is in a position to resolve the petition without such evidence. 47 CFR § 1.3; *Tobacco Valley Communications*, 31 FCC Rcd 8972, 8976 n.22 (MB 2016). Parties may submit whatever additional evidence they deem appropriate and relevant. *Id.*

<sup>13</sup> Petition at 2. Petitioner states that KVMD signed on the air in 1997. *Id.* at n.3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 2-3 (citing *Mountain Broadcasting Corp.*, Memorandum Opinion and Order, 27 FCC Rcd 2231, 2234-35, para. 8 (2012)).

<sup>17</sup> See FCC File No. BLCDDT-20060615AAB.

<sup>18</sup> Petition at 3.

<sup>19</sup> *Id.*

<sup>20</sup> See *Time Warner Cable Petition for Special Relief*, Memorandum Opinion and Order, 18 FCC Rcd 21384, 21391, para. 17 (MB 2003). The removed communities included Barstow, Yermo, Daggett, Grandview, Lenwood, Hinkley, Canyon Country, Newhall, Santa Clarita, Saugus, Chatsworth, Cayoga Park, Encino, Granada Hills, North Hills, Northridge, Reseda, San Fernando, Sherman Oaks, Tarzana, Universal City, Van Nuys, West Hills, Woodland Hills, Stevenson Ranch, San Marino, South Pasadena, Costa Mesa, Cypress, Fountain Valley, Huntington Beach, Midway City, Rossmoor, Stanton, Westminster, Garden Grove, Los Alamitos, Orange, Santa Ana, Gardena, El

by KVMD as part of the digital transition, explaining that ‘under the current circumstances the Station cannot reach the cable communities at issue.’”<sup>21</sup>

8. Further, in November 2003, the Bureau addressed three petitions seeking to modify the market of KVMD. Specifically, the Bureau granted in part a petition filed by Mediacom California LLC to remove a number of communities from KVMD’s market<sup>22</sup> for the same reasons outlined in the Time Warner case noted above.<sup>23</sup> Likewise, the Bureau granted a petition filed by Avenue Cable TV Service, Inc. to remove the communities of Ventura and unincorporated Western Ventura County from KVMD’s market, in a decision focused on KVMD’s lack of historical carriage in the communities, the geographic distance from the communities, and its failure at the time to place a digital contour over them.<sup>24</sup> Finally, the Bureau granted a petition filed by Altrio Communications to remove additional communities from KVMD’s market on the same grounds.<sup>25</sup>

9. The Petitioner asserts that now more than fifteen years after these initial decisions were rendered, the factors that caused the deletion of the Communities from KVMD’s market no longer apply.<sup>26</sup> According to the Petitioner, KVMD now places a noise-limited service contour over almost all of the Communities and the Station is geographically proximate to those Communities.<sup>27</sup> KVMD’s change in circumstances is attributed to the construction of a distributed transmission system (DTS) that supplements the Station’s original transmitter at Snow Peak with a second transmitter at Mt. Harvard.<sup>28</sup> As a result of that arrangement, the Petitioner states that KVMD’s signal now covers Orange County in its entirety as well as most of Los Angeles County, and the Station’s transmitter is now considerably closer to the Communities.<sup>29</sup> Therefore, the Petitioner asserts that the Communities are now properly

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Segundo. Hawthorne, Inglewood, Lawndale, Lennox, Los Angeles, North Torrance, and Torrance. Petition at 3.

<sup>21</sup> *Id.*

<sup>22</sup> See *Petition of Mediacom California LLC for Modification of the Los Angeles, California DMA*, Memorandum Opinion and Order, 18 FCC Rcd 23991 (MB 2003) (*Mediacom California LLC*).

<sup>23</sup> Petition at 4 (citing *Mediacom California LLC*, 18 FCC Rcd at 23998, para. 15). The Petitioner notes, however, that “two communities that ‘[e]ll] within KVMD’s predicted digital service contour and receive[d] a digital signal according to Longley-Rice’” were not removed from KVMD’s market. Petition at 4 (citing *Mediacom California LLC*, 18 FCC Rcd at 23998, para. 16).

<sup>24</sup> See *Avenue Cable TV Service, Inc. Petition for Special Relief*, Memorandum Opinion and Order, 18 FCC Rcd 23823, 23830, paras. 17-18 (MB 2003) (*Avenue Cable TV Service, Inc.*). The Bureau also explained that any carriage by a neighboring cable operator “was clearly overwhelmed by the Station’s lack of a local connection with the cable communities at issue.” *Id.*

<sup>25</sup> See *Altrio Communications Petition for Special Relief*, Memorandum Opinion and Order, 18 FCC 23832, 23839, para. 17 (MB 2003) (*Altrio Communications*).

<sup>26</sup> Petition at 5.

<sup>27</sup> *Id.*

<sup>28</sup> LMS File No. 0000072547. The Petitioner states that the Station has constructed and is currently operating with the permitted transmitter at Mt. Harvard. See LMS File No. 0000076894. However, the Petitioner does note that although KVMD has not yet completed the minor changes to its original transmitter at Snow Peak, and has not filed a license to cover for its DTS, it is nonetheless operating from both sites and the modifications to Snow Peak do not affect KVMD’s coverage in the Communities. Petition at n.18.

<sup>29</sup> Petition at 6.

within the Station's market and it should be modified accordingly.<sup>30</sup>

10. With regard to relevant precedent, the Petitioner notes that the Bureau previously considered the effect of a DTS on a station's market in response to a petition filed by KAZN-TV Licensee, LLC (KAZN Licensee) to restore communities to the television market of station KILM.<sup>31</sup> Just as with KVMD, the Petitioner states that KILM was the subject of a prior market modification that resulted in the deletion of a number of communities from its market.<sup>32</sup> That prior decision was based on KILM's lack of historic carriage, geographic distance from the communities, and a failure to place a Grade B signal over the communities.<sup>33</sup> Following the issuance of that decision, KAZN Licensee constructed a DTS that added additional DTS sites on Mt. Harvard and Snow Peak, which Petitioner notes are the same sites as KVMD's transmitters.<sup>34</sup> As a consequence of the DTS, the Petitioner observes, KILM was able to deliver a good quality signal to the communities.<sup>35</sup> The Petitioner notes that, in granting the Petition, the Bureau relied almost exclusively on the improved signal coverage from KILM's transition to a DTS, but also recognized that a number of multichannel video programming distributors (MVPDs) carried the station in the communities themselves and surrounding communities even though viewership numbers were low.<sup>36</sup> The Petitioner asserts that a combination of these factors resulted in a grant of the petition because they demonstrated "a sincere desire to serve the [c]ommunities" at issue.<sup>37</sup>

11. The Petitioner also cites several cases that address the definition of a station's market where the station used channel sharing to improve its over-the-air coverage.<sup>38</sup> In the *Entravision Order*, the petitioner sought to add certain communities, many of which had previously been deleted, to the market of television station WJLA after the station was a successful bidder in the Incentive Auction and entered into a channel sharing arrangement that resulted in a transmitter site re-location and a change of community of license.<sup>39</sup> The Bureau provided similar relief to similarly situated television station WRNN.<sup>40</sup> In granting the above-noted petitions, the Bureau focused on improved signal coverage,

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<sup>30</sup> *Id.*

<sup>31</sup> *KAZN-TV Licensee, LLC for Modification of the Television Market for KILM, Barstow, California*, Memorandum Opinion and Order, 30 FCC Rcd 8126 (MB 2015) (*KAZN Order*).

<sup>32</sup> *See Time Warner Cable Petition for Modification of the Television Market of Television Station KHIZ(TV), Barstow, California*, 18 FCC Rcd 20536 (MB 2003) (*KILM Order*). The Petitioner notes that at the time of the initial market modification order, the station's call sign was KHIZ. For clarity, the Petitioner refers to the station in this petition as KILM. Petition at n.23.

<sup>33</sup> *KILM Order*, 18 FCC Rcd at 20541-43, paras. 10-15.

<sup>34</sup> *KAZN Order*, 30 FCC Rcd at 8131, para. 9, n.32; Petition at 8. The Petitioner notes for the record that KILM was a winning bidder in the Broadcast Television Incentive Auction and no longer operates from its pre-auction facilities. Petition at n.25.

<sup>35</sup> *Id.*

<sup>36</sup> Petition at 8.

<sup>37</sup> *KAZN Order*, 30 FCC Rcd at 8137, para. 25.

<sup>38</sup> Petition at 9.

<sup>39</sup> *See Entravision Holdings, LLC for Modification of the Television Market for Station WJAL(TV), Silver Spring, Maryland*, Memorandum Opinion and Order, 33 FCC Rcd 2215 (MB 2018) (*Entravision Order*).

<sup>40</sup> *See Petition of WRNN License Company, LLC for Modification of the Television Market of Station WRNN-TV, New Rochelle, New York*, Memorandum Opinion and Order, 34 FCC Rcd 6446 (MB 2019) (*WRNN-Spectrum Order*); *Petition of WRNN License Company, LLC for Modification of the Television Market of Station WRNN-TV, New Rochelle, New York*, Memorandum Opinion and Order, 35 FCC Rcd 1838 (MB 2020) (*WRNN-Altice Order*).

carriage of the channel sharing partner and other co-located and nearby stations by the relevant cable systems, geographic proximity, and shopping and labor patterns in relation to the communities.<sup>41</sup>

### III. DISCUSSION

12. After evaluation of the five market modification factors enumerated below, we find support for the addition of the Communities to KVMD's market and grant the petition in full.

#### A. Statutory Factors

##### 1. Historical Carriage

13. The first statutory factor we must consider is “whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community.”<sup>42</sup> When analyzing a station's historic carriage, consideration is given not only to carriage by the operator that is the subject of the request, but also to whether the station is carried by competitors in the relevant communities.<sup>43</sup> The Bureau has explained that “such carriage is evidence of a petitioner station's nexus with a community” and that “[e]ven when a station has no history of carriage in a community, the Commission [gives] weight to this factor when another station based in the same area has been carried in the community.”<sup>44</sup> The Bureau has previously explained that for a specialty station such as KVMD, a failure to establish historic carriage or significant viewership is given even less weight, and the Commission will then rely on a station's noise-limited service contour in order to delineate its market.<sup>45</sup>

14. The Petitioner argues that KVMD's historic carriage clearly weighs in favor of the Station's requested market modification. According to the Petitioner, “KVMD has extensive carriage both within and immediately adjacent to the Communities” by AT&T U-verse, DIRECTV, Dish Network, Frontier Fios, GRF Broadband, Mediacom, and Spectrum.<sup>46</sup> Regarding KVMD's cable carriage by systems within the Los Angeles DMA, the Petitioner asserts that the Communities at issue “are not isolated communities far removed from KVMD's audience, but rather ‘donut holes’ within KVMD's distribution footprint.”<sup>47</sup> The Petitioner states that “[i]ndeed, for each of the Communities, Spectrum carries KVMD on one or more adjacent systems.”<sup>48</sup>

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<sup>41</sup> Petition at 9-10.

<sup>42</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(I).

<sup>43</sup> *Petition for Modification of Philadelphia, PA Designated Market Area with Regard to Station WACP, Atlantic City, NJ*, Memorandum Opinion and Order, 29 FCC Rcd 1835, 1845, para. 19, n.77 (MB 2014).

<sup>44</sup> *Entravision Order*, 33 FCC Rcd at 2225, para. 15 (quoting *Woods Communications Corporation*, Memorandum Opinion and Order, 32 FCC Rcd 6597, 6600, para. 6 (MB 2017)) (citing *Tennessee Broadcasting Partners*, Memorandum Opinion and Order, 23 FCC Rcd 3928, 3934, para. 10 (MB 2008) (finding that carriage of a competing station in the same community provides evidence to support market modification)).

<sup>45</sup> See *KAZN Order*, 30 FCC Rcd at 8135, para. 19 (citing *Market Modifications and the New York Area of Dominant Influence Petitions for Reconsideration and Applications for Review*, 12 FCC Rcd 12262, 12271, para. 17 (1997)).

<sup>46</sup> Petition at 12, Exhibit B (Channel Lineup Cards).

<sup>47</sup> *Id.* at 12, Exhibit C (KVMD Cable Carriage Map). By referring to “donut holes,” it appears that the Petitioner is asserting that KVMD has historic carriage by other cable systems within the Los Angeles DMA, and even Spectrum on some adjacent systems, but the instant Communities have been bypassed by these systems for KVMD carriage even though they are generally situated as part of the KVMD audience.

<sup>48</sup> *Id.*

15. The Petitioner also asserts that further consideration is given under this factor when there is carriage of stations that are co-located or based in the same area as the petitioner's station and lack of carriage may put the petitioner station at a disadvantage in a market where other stations are carried.<sup>49</sup> The Petitioner notes that Mt. Harvard, which is the site of KVMD's "new DTS #2 transmitter," is one of the two major "antenna farms" in Los Angeles and located on a peak adjacent to the other major antenna farm, Mt. Wilson.<sup>50</sup> The other full power stations broadcasting from Mt. Harvard include KBEH, KOCE-TV, KSCI, and KWHY-TV.<sup>51</sup> The Petitioner states that Spectrum carries all of these stations on its Downey/Paramount Santa Fe Springs, San Marino and South Pasadena, Costa Mesa, El Segundo, Fullerton, Claremont, and Santa Clarita systems, all but KBEH on its Barstow system, and all but KOCE-TV on its Ventura system.<sup>52</sup> Accordingly, the Petitioner argues that for Spectrum to refuse to carry KVMD in the Communities would make the Station an outlier among its peers and place it at a severe competitive disadvantage.<sup>53</sup>

16. We find that this first statutory factor weighs in favor of the requested modification. With regard to this statutory factor, the Petitioner has demonstrated that KVMD has carriage by other MVPDs within and immediately adjacent to the Communities and that Spectrum itself carries the Station on one or more adjacent systems.<sup>54</sup> Moreover, our precedent recognizes the relevance of carriage of co-located stations in a particular community.<sup>55</sup> Because Spectrum is carrying other full power stations broadcasting from Mt. Harvard on a number of its systems, we believe that KVMD would be at a competitive disadvantage if Spectrum were to refuse to carry the Station in the Communities.<sup>56</sup>

## 2. Local Service

17. Second, we consider "whether the television station provides coverage or other local service to such community."<sup>57</sup> This statutory factor can be satisfied by demonstrating the Station's signal coverage, its geographic proximity to the Communities, its shopping and labor patterns between the Station and the Communities, as well as locally-focused programming broadcast by the Station. Less significance, however, may be accorded to locally-focused programming when these other factors

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<sup>49</sup> *Id.* (citing *Tennessee Broadcasting Partners*, Memorandum Opinion and Order, 23 FCC Rcd 3928, 3934, para. 10; *WSBS Licensing, Inc.*, Memorandum Opinion and Order, 32 FCC Rcd 4159, 4163, para. 7 (2017)).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 12-13 and Exhibit B.

<sup>53</sup> *Id.* at 13.

<sup>54</sup> There is not enough information in the record to determine how long KVMD has been carried by these MVPDs.

<sup>55</sup> *WRNN-Spectrum Order*, 34 FCC Rcd at 6451, para. 10; *WRNN-Altice Order*, 35 FCC Rcd at 7, para. 12. See also *Entravision Order*, 33 FCC Rcd at 2225, para. 15; *Woods Communications Corporation*, Memorandum Opinion and Order, 32 FCC Rcd 6597, 6600, para. 6 (MB 2017) (citing *Tennessee Broadcasting Partners*, Memorandum Opinion and Order, 23 FCC Rcd 3928, 3934, para. 10 (MB 2008) (finding that carriage of a competing station in the same community provides evidence to support market modification)).

<sup>56</sup> See *Entravision Order*, 33 FCC Rcd at 2225, para. 15 ("Because Comcast and Cox carry WUSA, along with every other full-power television station in the area, we believe that WJAL would be at a competitive disadvantage if these cable operators did not also carry WJAL in the Communities."); *WRNN-Spectrum Order*, 34 FCC Rcd at 6452, para. 12 ("Because Spectrum is carrying WRNN's channel sharing partner on its Bergen County system . . . [and] since Spectrum also carries other co-located and nearby stations, we believe that WRNN would be at a competitive disadvantage if Spectrum did not carry WRNN in the Communities."). See also *WRNN-Altice Order*, 35 FCC Rcd at 8, para. 14.

<sup>57</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(II).

evidence a sufficient nexus to the Communities.<sup>58</sup>

18. The Petitioner asserts that KVMD's signal contour supports the inclusion of the Communities in the Station's market. Regarding contour and signal strength, the Petitioner asserts that KVMD's 41 dBu noise-limited service contour "clearly encompasses almost all of the Communities" since the Station began broadcasting using a DTS from both its original transmitter site at Snow Peak and a second transmitter site on Mt. Harvard.<sup>59</sup> The Petitioner submits maps showing KVMD's current signal contour in relation to the Communities and the relevant headends for the systems serving the Communities.<sup>60</sup> The Petitioner further asserts that KVMD's use of DTS facilities allows the Station to overcome the signal delivery challenges posed by the mountainous terrain in the Los Angeles DMA.<sup>61</sup>

19. The Petitioner also contends that KVMD is geographically proximate to the Communities and is currently carried in other communities that are the same or similar distances from both the community of license and the new DTS transmitter.<sup>62</sup> The Petitioner asserts that "[to] the extent that some Communities are located farther from the transmitter site and/or community of license, such distance is overridden by the fact that the cable operators carry similarly situated stations."<sup>63</sup> The Petitioner provides information regarding the direct distances from KVMD's transmitters and community of license to the closest and farthest targeted Communities in each of the nine systems of Spectrum.<sup>64</sup>

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<sup>58</sup> See *WRNN-Spectrum Order*, 34 FCC Rcd at 6454-55, para. 18.

<sup>59</sup> Petition at 14.

<sup>60</sup> *Id.* at Exhibit D (Contour Maps – KVMD). We note that some of the maps submitted refer to the Station as "KMVD." See *id.* We attribute that to typographical error that has no impact on the actual maps submitted. The Petitioner states that the location of Spectrum's master headend is plotted on Map #4 (labeled "East LA and Barstow Cable Headend Locations") in Exhibit D. According to the Petitioner, Spectrum indicated in response to a request by the Petitioner that its headend serving the Communities is located at 7337 Central Avenue, Riverside, CA 92504. *Id.* at n.54. We note that the Map #4 submitted by the Petitioner lists that address for Spectrum's headend, as well as the address of the location of Mediacom's headend in Sun City, CA. The Petitioner further states that "[g]iven the number of Communities at issue, including all of the Communities on a single map would have rendered the map illegible." *Id.* In that regard, the Petitioner provides "an overview map identifying several of Communities and more detailed maps reflecting the location of each of the Communities." *Id.* and Exhibit D. The Petitioner further states that "[t]he Community 'North Torrance' is not legally distinct from 'Torrance,' and therefore is not separately labelled." *Id.* at n.54. We note that on Map #2 (labeled "West Central LA"), there appears on that map a Community labeled Torrance and there is column next to the map labeled "City List" where Torrance appears, but North Torrance does not appear. However, on Exhibit A (Community List) where KVMD lists the Communities it seeks to add in this market modification, both the Communities of North Torrance and Torrance are listed. We take that to be the distinction that the Petitioner intended to make and will include both Communities in the instant market modification. Finally, the Petitioner states that "[a]dditionally, Eastvale appears on Community Map #4, despite not appearing in its City List." *Id.* We note that Eastvale does appear on Map #4, and yet does not appear on the "City List" on that map. We take that to be an inadvertent error and note that Eastvale does appear in Exhibit A and it therefore will be included in this market modification.

<sup>61</sup> *Id.* at 15 and Exhibit E (Longley-Rice Map).

<sup>62</sup> *Id.* and Exhibit F (Crow Flies and Driving Distances – KVMD List of Communities for Market Mod.)

<sup>63</sup> *Id.* at 15-16.

<sup>64</sup> *Id.* at 16. The Petitioner's information indicates that the closest Community in distance to the closest transmitter (Snow Peak or Mt. Harvard) is located in the Fullerton, Newport Beach, Santa Ana system at 3.59 miles. The farthest Community to the closest transmitter is located in the Ventura system at 70.64 miles. The closest Community in distance to the community of license, Twentynine Palms, CA, is located in the Claremont system at 71.45 miles. The farthest Community to the community of license is located in the Ventura system at 185.04 miles. In seven of the nine systems, the average Community in distance to the transmitter ranges from 16.29 miles to 32.32

20. The Petitioner asserts that the majority of the Communities are well within the range of accepted distances to transmitters in relation to relevant precedent.<sup>65</sup> To the extent that some communities are farther away, the Petitioner argues that other factors may serve to show that the communities in question are still part of the same economic market.<sup>66</sup> In the case of KVMD, the Petitioner asserts that the cable carriers involved have acted as if KVMD is part of the same economic market as the Communities by carrying the Station in or near the Communities, or at similar distances.<sup>67</sup> The Petitioner notes that the Spectrum Community that is farthest from both KVMD's transmitters and community of license is Ventura; yet Spectrum carries the Station on two Ventura systems and AT&T U-Verse also carries KVMD in Ventura.<sup>68</sup> Additionally, the Petitioner states that Spectrum also carries KVMD at the Edwards Air Force Base in its Antelope Valley, Edward AFB system.<sup>69</sup> Edwards Air Force Base is 50.08 miles from the closest KVMD transmitter, which the Petitioner notes is farther than the farthest Community in all but two of the relevant systems.<sup>70</sup>

21. The Petitioner further asserts that in analyzing whether a station's geographic proximity to the communities weighs in favor of market modification, we should examine whether cable operators in those communities carry similarly situated stations. The Petitioner notes the case of *KJLA, LLC*, where the Bureau found that "deficits in historical carriage and viewership were offset by its much improved signal coverage and the fact that cable operators carried every other station co-located with KJLA at the Mount Wilson antenna farm."<sup>71</sup> The Petitioner states that, as previously noted, KVMD's transmitter location at the Mt. Harvard antenna farm is the site of where other full power stations broadcast, including KBEH, KOCE-TV, KSCI, and KWHY-TV, and that the Spectrum systems carry these channels, with one exception on each of two systems.<sup>72</sup> The Petitioner notes that while KVMD's Mt. Harvard service

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(...continued from previous page)

miles. However, in the Barstow system the average Community is 60.01 miles in distance to the transmitter, and in the Ventura system the average distance to the transmitter is 70.64 miles. The average Community distance to Twentynine Palms in the nine systems ranges from 74.8 miles to 185.04 miles. *Id.*

<sup>65</sup> *Id.* at 17 (citing *Entravision Order*, 33 FCC Rcd at 2225-26, paras. 19, 21 (finding geographic proximity where the average and median distances between the transmitter and the communities at issue ranged between 29.4 and 31 miles respectively); *Brenmor Cable Partners, L.P. D/B/A Intermedia Partners for Modification of the Atlanta, Georgia ADI*, Memorandum Opinion and Order, 14 FCC Rcd 11742, 11754, paras. 32, 34 (1999) (*Brenmor Order*) (denying a petition to delete communities from a market even where the average distance between the transmitter and the communities was 62.1 miles)).

<sup>66</sup> *Id.* (citing *Brenmor Order*, 14 FCC Rcd at 11754, para. 32 ("Ordinarily, we might have concluded . . . that the communities were too distant to be considered part of WATC's television market . . . . We find that [cable carrier's] carriage of these 7 [similarly situated] television stations, in general, undermines its claim that the communities are not part of the same economic market for broadcast television purposes.")).

<sup>67</sup> *Id.* at 17.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* The farthest community in the Barstow system from the KVMD transmitter is 60.7 miles, and the farthest community in the Ventura systems is 70.64 miles. In the seven remaining systems, the farthest communities from the transmitter are less than 33 miles. *See id.* at 16 (Tables submitted). *See also id.* n.70.

<sup>71</sup> *Id.* at 17-18 (citing *Entravision Order*, 33 FCC Rcd at 2226, para. 18) (citing *KJLA, LLC for Modification of the Television Market for Station KJLA-DT, Ventura, California*, Memorandum Opinion and Order, 26 FCC Rcd 12652, 12656, para. 8 (MB 2011)) (*KJLA, LLC*)).

<sup>72</sup> *See supra* para. 15.

contour is “slightly smaller” than those of the collocated Mt. Harvard stations,<sup>73</sup> those stations generally also are carried in Communities that fall outside their respective contours; the Petitioner cites as an example KAZA, which is carried by Spectrum on two systems in Ventura even though this community is outside the station’s contour.<sup>74</sup>

22. Additionally, the Petitioner addresses shopping and labor patterns and maintains that KVMD’s community of license shares strong economic connections with the Communities.<sup>75</sup> The Petitioner states that Twentynine Palms is the home to both the Park Headquarters and Main Park Entrance of Joshua Tree National Park, which attracted approximately 2.9 million visitors in 2018,<sup>76</sup> in addition to the Marine Corps Air Ground Combat Center, the world’s largest Marine Corps training base.<sup>77</sup> The Petitioner also states that Twentynine Palms has many businesses, entertainment centers, and shopping outlets that attract residents from throughout the Los Angeles metropolitan area, including the Communities.<sup>78</sup> Some of the annual events held in Twentynine Palms include “the Parade of Homes in February; the Car Show & Street Fair in March; the 29 Palms Grand Prix in April; Bhakti Fest, the Joshua Tree National Park Exposition, and the Night Sky Festival in September; Pioneer Days in October; and, the Weed Show and Chalkfest 29 in November.”<sup>79</sup> Further, the Petitioner notes that Twentynine Palms is located “directly on California state highway 62, which connects to I-10, a major east-west interstate running through the Los Angeles area and other Communities.”<sup>80</sup> As such, according to Desert Magazine, part of the USA Today network, the Petitioner points out that Twentynine Palms has recently been called “the high desert’s new hotspot.”<sup>81</sup>

23. Moreover, the Petitioner states that in addition to travel and tourism, labor patterns also closely connect Twentynine Palms to the Communities.<sup>82</sup> Pointing to U.S. Census data, the Petitioner notes that Los Angeles is the second most common commuting destination for Twentynine Palms residents, after Twentynine Palms itself.<sup>83</sup> Also of note, at least 12.6 percent of Twentynine Palms residents commute to Communities included in this Petition.<sup>84</sup>

24. With regard to local programming, the Petitioner initially notes that the absence of such programming will not “tip the scale” against a petitioner where other factors weigh in support of the

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<sup>73</sup> Petition at 18 and Exhibit D.

<sup>74</sup> *Id.* at 18 and Exhibit B.

<sup>75</sup> *Id.* at 18.

<sup>76</sup> *Id.* See George Land, *Tourism Creates \$195, 883,000 in Economic Benefit*, National Park Service (May 23, 2019), <https://www.nps.gov/jotr/learn/news/tourism-creates-195-883-000-in-economic-benefit.htm>.

<sup>77</sup> Petition at 18. See Official Website of the City of Twentynine Palms, California, <https://www.ci.twentynine-palms.ca.us/>.

<sup>78</sup> Petition at 19 and Exhibit G (Twentynine Palms Chamber of Commerce Business Directory).

<sup>79</sup> *Id.* at 19 and Exhibit H (City of Twentynine Palms Event List).

<sup>80</sup> *Id.* at 19.

<sup>81</sup> *Id.* See Benjamin Goulet, *Twentynine Palms is the high desert’s new hot spot. Here are six places to visit*, Desert Sun (Feb. 21, 2019, 2:29 PM), <https://www.desertsun.com/story/desert-magazine/2019/02/21/twentynine-palms-new-high-desert-hot-spot-visit-these-six-places/2916631002/>.

<sup>82</sup> Petition at 19.

<sup>83</sup> *Id.* and Exhibit I (Census Data, Commuting Destinations).

<sup>84</sup> *Id.* at 19. The Petitioner states that these Communities include Anaheim, Santa Ana, Corona, Orange, Garden Grove, Pomona, Fullerton, Santa Clarita, and Menifee, as well as Los Angeles. *Id.* at n.70.

second statutory factor.<sup>85</sup> The Petitioner describes KVMD’s programming as “bilingual and multicultural programming, regional and international news, religious and music-focused programming, and paid programming.”<sup>86</sup> The Petitioner states that this programming is of “general interest” to viewers in the Communities.<sup>87</sup> The Petitioner asserts however that, of particular relevance, the Station is the local broadcast partner of LATV, a media company headquartered in Los Angeles that describes itself as “a direct link to the growing voice of the Latino experience . . . and only remaining Latino-owned TV network in the Hispanic television space.”<sup>88</sup> Citing the 2018 U.S. Census, the Petitioner additionally notes that approximately 48.6 percent of Los Angeles County is Hispanic or Latino, as well as 34.2 percent in Orange County, 49.6 percent in Riverside County, 54.0 percent in San Bernardino County, 43.0 percent in Ventura County, and 54.0 percent in Kern County.<sup>89</sup> The Petitioner also adds that in 2019, KVMD hosted sixteen Spanish-language broadcasts of the Los Angeles Football Club, a professional soccer team housed in the Banc of California Stadium.<sup>90</sup> The Stadium is located in downtown Los Angeles and is currently excluded from KVMD’s market. The Petitioner asserts that Los Angeles Football Club is of general interest to all of the Communities, but it is of specific local interest within the Communities adjacent to the stadium and the Los Angeles area.<sup>91</sup>

25. We find that the second statutory factor weighs in favor of KVMD’s Petition. The Petitioner has presented substantial evidence regarding KVMD’s signal coverage,<sup>92</sup> geographic proximity, and shopping and labor patterns in relation to the Communities that conclusively demonstrate KVMD’s coverage and local service to the Communities. Despite the Petitioner’s claims that LATV and some of its other programming would appeal to the Latino and Hispanic population in the area, however, we cannot conclude that KVMD provides local programming about and targeted to the Communities, with the exception of the local soccer games it carries. As the Petitioner concedes, KVMD provides general

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<sup>85</sup> *Id.* at 20 (citing *Entravision Order*, 33 FCC Rcd at 2229, para. 23).

<sup>86</sup> *Id.* at 20.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* See *About LATV*, <https://latv.com/about-us/>. The Petitioner asserts that LATV’s programming is of great value to the Communities and points to two programs including “Political Ya,” a show described as explaining political news from a Latino perspective and “CHIRLA TV,” a program described as discussing immigration topics and experiences with the Coalition for Humane Immigrant Rights of Los Angeles. *Id.* See *Schedule*, LATV, <https://latv.com/schedule>.

<sup>89</sup> Petition at 20 and Exhibit J (Census Data, Hispanic/Latino origin). The Petitioner also submits a letter of support from LATV confirming the importance of the programming to the Communities and urging carriage of the Station by Spectrum. *Id.* at 20-21 and Exhibit K (LATV Request Letter to KVMD). In addition, another letter by Almavision, which provides Spanish-language religious programming on KVMD is submitted, and urges support for cable carriage in Latino neighborhoods in LA. *Id.* at 21 and Exhibit L (Letter from Almavision to KVMD). The Petitioner further adds that KVMD is the home of several programs coming from the Communities, including Almavision, which is broadcast from Santa Ana. *Id.* at 21. In addition, the Petitioner points to California Life, which it states carries programming that focuses on positive news and coverage of California, is based in Los Angeles. *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> We note that pursuant to the Petitioner’s submission of maps in Exhibit D and due to the Station now operating pursuant to a DTS, KVMD’s 41 dBu noise-limited service contour encompasses almost all of the Communities. Additionally, as KVMD’s transmitter location at the Mt. Harvard antenna farm is also the home of KBEH, KOCE-TV, KSCI, and KWHY-TV, and the Spectrum systems carry those channels, with one exception on each of two systems, we find that KVMD would be an outlier if we did not treat all of these stations similarly. See *supra* paras. 15, 21.

interest programming to the Communities. Nevertheless, we find that the absence of local programming targeted to the Communities does not tip the scale against the Petitioner given that the other factors weigh strongly in support of the second statutory factor.

### 3. Promoting Consumer Access to Local Stations

26. The third statutory factor we consider is “whether modifying the market of the television station would promote consumers’ access to television broadcast station signals that originate in their State of residence.”<sup>93</sup> This factor is intended to ensure that MVPD subscribers are “receiving news, politics, sports, emergency information, and other television programming relevant to their home state” and “relevant to their everyday lives.”<sup>94</sup> A petitioner is considered to satisfy this factor if the involved station is licensed to a community within the same state as the new community.<sup>95</sup> This factor may be given increased weight if the station provides programming specifically related to subscribers’ state of residence, and may be given even more weight if subscribers in the existing market have little or no access to such in-state programming.<sup>96</sup> However, this new in-state factor was not intended to bar a market modification because it did not result in increased consumer access to an in-state station’s programming.<sup>97</sup> In such cases, the Commission determined that the “in-state factor would be inapplicable and the modification request would be evaluated based on the other statutory factors.”<sup>98</sup>

27. KVMD is licensed to Twentynine Palms, California and broadcasts from two transmitters located in California, which is also the state in which each of the Communities is located.<sup>99</sup> The record also demonstrates that KVMD broadcasts programming specifically related to California, including Los Angeles-based professional sporting events, *California Life*, and *CHIRLA TV*.<sup>100</sup> Accordingly, this factor is given increased weight in favor of KVMD Licensee Co.’s requested market modification.

### 4. Carriage of Other Eligible Stations

28. Fourth, we consider “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.”<sup>101</sup> In general, this factor is interpreted as enhancing a station’s market modification petition if other stations do not sufficiently serve the communities at issue; however, other stations’ service to the communities rarely has counted against a petition.<sup>102</sup> The Petitioner states that “[u]pon information and belief, the Spectrum systems serving the Communities carry other television

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<sup>93</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(III).

<sup>94</sup> *STELAR Market Mod. Order*, 30 FCC Rcd at 10407, para. 1, 10420, para. 18 (citing Report from the Senate Committee on Commerce, Science, and Transportation accompanying S. 2799, 113th Cong., S. Rep. No. 113-322, at 11 (2014)).

<sup>95</sup> *Id.* at 10420, para. 18.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at 10421, para. 19.

<sup>98</sup> *Id.*

<sup>99</sup> Petition at 22.

<sup>100</sup> *Id.* at 20-21.

<sup>101</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(IV).

<sup>102</sup> See *Petition for Modification of Dayton, OH Designated Mkt. Area with Regard to Television Station WHIO-TV, Dayton, OH*, Memorandum Opinion and Order, 28 FCC Rcd 16011, 16019, para. 22 (MB 2013). See also *Tennessee Broadcasting Partners*, 23 FCC Rcd at 3947, para. 49.

stations that provide coverage of news, sports, and other issues of interest to the Communities.”<sup>103</sup> Accordingly, consistent with our precedent, we assign no weight to this factor.

## 5. Viewing Patterns

29. The fifth statutory factor focuses on “evidence of viewing patterns” in cable and noncable households “within the areas served by” the cable system or systems in such community.<sup>104</sup> The Bureau has explained that, with respect to a specialty station like KVMD, this factor is generally given less weight.<sup>105</sup> The Petitioner states that KVMD “does not subscribe to Nielsen or any other ratings service . . . [yet] requested permission from Nielsen to obtain the audience data specified in Section 76.59(b), but the data Nielsen offered would not have complied with the FCC’s requirements, and the cost to obtain this data would have been financially unjustifiable for a specialty station like KVMD.”<sup>106</sup> The Petitioner further adds that if viewership were to be considered lower or non-existent in the Communities compared to other stations with more complete cable carriage, it would not be surprising because of the Station’s past market modifications.<sup>107</sup>

30. However, the Petitioner asserts that this does not indicate that the Station lacks programming of interest in the Communities.<sup>108</sup> In that regard, the Petitioner states that KVMD maintains a log of inquiries it receives, which includes requests from viewers within the Communities inquiring about KVMD’s cable carriage.<sup>109</sup> The Petitioner asserts that these inquiries, coupled with the above-referenced letters from local programmers LATV and Almavision,<sup>110</sup> provide “specific audience indicia” demonstrating a strong desire for KVMD’s programming within the Communities.<sup>111</sup> Finally, the Petitioner notes the investment made by KVMD Licensee Co. to improve its over-the-air signal coverage through implementation of a DTS transmission facility and how this “demonstrates a sincere desire to serve the Communities.”<sup>112</sup> The Petitioner asserts that this factor should either weigh in favor of KVMD or be afforded limited weight.<sup>113</sup>

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<sup>103</sup> Petition at 22-23.

<sup>104</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(V).

<sup>105</sup> *KAZN Order*, 30 FCC Rcd at 8137, para. 24.

<sup>106</sup> Petition at 23-24. The Petitioner has requested a waiver of the requirement of 47 CFR § 76.59(b)(6) to provide published audience data for the Station. We waive this rule to the extent necessary because the Petitioner, although unsuccessful in securing the published audience data, made the effort to secure alternative “audience indicia.” We note that we are directed to dismiss without prejudice at the outset of the proceeding petitions that fail to either include all required supporting evidence, or reflect at least an effort to obtain the evidence. *See La Plata County, Colorado Petitions for Modification of the Statellite Television Markets of KDVR-TV, KCNC-TV, KMGH-TV, and KUSA-TV, Denver, Colorado*, Memorandum Opinion and Order, 34 FCC Rcd 5030, 5038, para. 16 (2019).

<sup>107</sup> Petition at 23-24 (citing *Entravision Order*, 33 FCC Rcd at 2231, para. 27; *WRNN-Spectrum Order*, 34 FCC Rcd at 6456, para. 23).

<sup>108</sup> *Id.* at 24.

<sup>109</sup> *Id.* at 24 and Exhibit M (Viewer Emails).

<sup>110</sup> *Supra* n.89 (discussing the letters of support from LATV and Almavision).

<sup>111</sup> Petition at 24 (citing *WRNN-Alice Order*, 35 FCC Rcd at 1850, para. 25 (recognizing “Petitioners’ evidence of direct sales to viewers in the Communities and the demonstrated effort to provide additional evidence of viewership within the Communities.”)).

<sup>112</sup> *Id.* at 24-25 (citing *KAZN Order*, 30 FCC Rcd at 8137, para. 25).

<sup>113</sup> *Id.* at 25.

31. The “specific audience indicia” submitted by the Petitioner includes seven emails inquiring about KVMD’s cable carriage<sup>114</sup> and the two letters from local programmers LATV and Almaxvision as noted above. With regard to our evidentiary requirements, section 76.59(b)(6) of our rules requires published audience data for the relevant station “or other specific audience indicia, such as station advertising and sales data or viewership contribution records.”<sup>115</sup> While we recognize the Petitioner’s efforts to demonstrate the desire for KVMD’s programming through the emails and letters submitted, this evidentiary submission is not strongly indicative of viewership. However, as noted above, this factor is generally given less weight with respect to a specialty station like KVMD, and we do take into account the station’s investment in a DTS transmission facility to better serve the Communities. In light of these overall circumstances, we assign this statutory factor limited weight regarding KVMD Licensee Co.’s modification request.

## 6. Conclusion

32. We conclude that the facts support the grant of the Petitioner’s request to modify the market of Station KVMD(TV), Twentynine Palms, California, to include all of the Communities located in the Los Angeles DMA and served by Spectrum cable systems.<sup>116</sup> We find that the first and second statutory factors weigh in favor of the market modification request, and that the third statutory factor weighs more heavily in favor. We assign no weight to the fourth factor and assign limited weight to the fifth factor. For the reasons discussed herein, we grant the Petition.

## IV. ORDERING CLAUSES

33. Accordingly, **IT IS ORDERED**, 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 CFR § 76.59, that the captioned Petition for Special Relief (MB Docket No. 20-213, CSR 8991-A) filed by KVMD Licensee Company, LLC **IS GRANTED**.

34. This action is taken pursuant to authority delegated by section 0.283 of the Commission’s rules.<sup>117</sup>

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<sup>114</sup> *Id.* at Exhibit M.

<sup>115</sup> 47 CFR § 76.59(b)(6). For example, in the *WRNN-Altice Order*, evidence of direct sales to viewers was submitted, and in the more recent *WRNN-Comcast Order*, evidence of direct sales to viewers, as well as evidence of the sale of some advertising time to advertisers in the area, were submitted. See *WRNN Altice Order*, 35 FCC Rcd at 1850, para. 24, n.95 (referencing WRNN’s “Direct Response Order Logs” at Exhibit O and WRNN asserting “WRNN’s direct response media provider does maintain logs of orders received in response to programming broadcast on WRNN, which, so far in 2019, have included numerous orders from the Communities – evidencing WRNN’s viewership in those communities.”); *Petition of WRNN License Company, LLC for Modification of the Television Market of Station WRNN-TV, New Rochelle, New York*, Memorandum Opinion and Order, MB Dkt. No. 20-153, DA 20-1012, at 12, para. 23 (rel. Sept. 1, 2020) (*WRNN-Comcast Order*) (“We also recognize Petitioner’s evidence of direct sales to viewers in the Communities, as well as the sale of some advertising time to advertisers in the area, and the demonstrated effort to provide additional evidence of viewership within the Communities.”).

<sup>116</sup> *Infra*, Addendum (listing all affected Communities).

<sup>117</sup> 47 CFR § 0.283.

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

## ADDENDUM

## KVMD List of Communities for Market Modification

Those with **bolded** County/Community name = in ORIGINAL market modification, those in normal typeface NOT in original market modification.

## Spectrum Pacific West, LCC

## PSID 004527 – Downey/Paramount/Santa Fe Springs System

CUID	COUNTY	COMMUNITY NAME	LEGAL NAME
CA0439	<b>Los Angeles</b>	<b>Carson</b>	Spectrum Pacific West, LLC
CA0531	<b>Los Angeles</b>	<b>Inglewood</b>	Spectrum Pacific West, LLC
CA0807	<b>Los Angeles</b>	<b>Culver City</b>	Spectrum Pacific West, LLC
CA0808	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA0809	<b>Los Angeles</b>	<b>Maywood</b>	Spectrum Pacific West, LLC
CA0853	<b>Los Angeles</b>	<b>La Mirada</b>	Spectrum Pacific West, LLC
CA0917	<b>Los Angeles</b>	<b>Downey</b>	Spectrum Pacific West, LLC
CA0918	<b>Los Angeles</b>	<b>Paramount</b>	Spectrum Pacific West, LLC
CA0919	<b>Los Angeles</b>	<b>Lynwood</b>	Spectrum Pacific West, LLC
CA0920	<b>Los Angeles</b>	<b>Bell Gardens</b>	Spectrum Pacific West, LLC
CA0922	<b>Los Angeles</b>	<b>Santa Fe Springs</b>	Spectrum Pacific West, LLC
CA1011	Los Angeles	Lakewood	Spectrum Pacific West, LLC
CA1120	<b>Los Angeles</b>	<b>South El Monte</b>	Spectrum Pacific West, LLC
CA1126	<b>Los Angeles</b>	<b>Compton</b>	Spectrum Pacific West, LLC
CA1127	<b>Los Angeles</b>	<b>Hawaiian Gardens</b>	Spectrum Pacific West, LLC
CA1137	<b>Los Angeles</b>	<b>Lomita</b>	Spectrum Pacific West, LLC
CA1175	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA1203	<b>Orange</b>	<b>Cypress</b>	Spectrum Pacific West, LLC
CA1222	<b>Los Angeles</b>	<b>Bell</b>	Spectrum Pacific West, LLC
CA1223	<b>Los Angeles</b>	<b>Cudahy</b>	Spectrum Pacific West, LLC
CA1294	<b>Los Angeles</b>	<b>Artesia</b>	Spectrum Pacific West, LLC
CA1320	<b>Orange</b>	<b>Lapalma</b>	Spectrum Pacific West, LLC
CA1451	<b>Los Angeles</b>	<b>Bellflower</b>	Spectrum Pacific West, LLC
CA1600	Los Angeles	Los Angeles (Area 1)	Spectrum Pacific West, LLC
CA1603	Los Angeles	Los Angeles (Area K)	Spectrum Pacific West, LLC
CA1606	Los Angeles	Los Angeles (Area J)	Spectrum Pacific West, LLC
CA1789	Los Angeles	Los Angeles (Area M)	Spectrum Pacific West, LLC

## PSID 005668 – San Marino and South Pasadena

CUID	COUNTY	COMMUNITY NAME	LEGAL NAME
CA0833	Los Angeles	Los Angeles	Spectrum Pacific West, LLC
CA0893	<b>Los Angeles</b>	<b>South Pasadena</b>	Spectrum Pacific West, LLC
CA0986	<b>Los Angeles</b>	<b>San Fernando</b>	Spectrum Pacific West, LLC
CA0992	<b>Los Angeles</b>	<b>San Marino</b>	Spectrum Pacific West, LLC
CA1354	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA1355	<b>Los Angeles</b>	<b>Santa Clarita</b>	Spectrum Pacific West, LLC

**PSID 010945 – Costa Mesa/Garden Grove/Westminster**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0750	<b>Orange</b>	<b>Westminster</b>	Spectrum Pacific West, LLC
CA0751	<b>Orange</b>	<b>Huntington Beach</b>	Spectrum Pacific West, LLC
CA0752	<b>Orange</b>	<b>Fountain Valley</b>	Spectrum Pacific West, LLC
CA0814	<b>Orange</b>	<b>Orange</b>	Spectrum Pacific West, LLC
CA0932	<b>Orange</b>	<b>Stanton</b>	Spectrum Pacific West, LLC
CA0940	<b>Orange</b>	<b>Orange</b>	Spectrum Pacific West, LLC
CA0943	<b>Orange</b>	<b>Garden Grove</b>	Spectrum Pacific West, LLC
CA0944	<b>Orange</b>	<b>Los Alamitos</b>	Spectrum Pacific West, LLC
CA1540	Orange	Cypress	Spectrum Pacific West, LLC
CA1646	<b>Orange</b>	<b>Costa Mesa</b>	Spectrum Pacific West, LLC

**PSID 000711 – El Segundo, Hawthorne, North Torrance**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0467	<b>Los Angeles</b>	<b>El Segundo</b>	Spectrum Pacific West, LLC
CA0934	<b>Los Angeles</b>	<b>Gardena</b>	Spectrum Pacific West, LLC
CA0941	<b>Los Angeles</b>	<b>Torrance</b>	Spectrum Pacific West, LLC
CA1022	<b>Los Angeles</b>	<b>Hawthorne</b>	Spectrum Pacific West, LLC
CA1099	<b>Los Angeles</b>	<b>Lawndale</b>	Spectrum Pacific West, LLC
CA1557	<b>Los Angeles</b>	<b>North Torrance</b>	Spectrum Pacific West, LLC

**PSID 010101 – Fullerton, Newport Beach, Santa Ana**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0016	Orange	Brea	Spectrum Pacific West, LLC
CA0018	Orange	La Habra	Spectrum Pacific West, LLC
CA0098	Los Angeles	Sierra Madre	Spectrum Pacific West, LLC
CA0130	Los Angeles	Glendora	Spectrum Pacific West, LLC
CA0135	Los Angeles	Monrovia	Spectrum Pacific West, LLC
CA0141	Los Angeles	San Dimas	Spectrum Pacific West, LLC
CA0401	Los Angeles	Bradbury	Spectrum Pacific West, LLC
CA0499	Orange	Seal Beach	Spectrum Pacific West, LLC
CA0753	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA0772	Orange	Yorba Linda	Spectrum Pacific West, LLC
CA0802	Los Angeles	La Habra Heights	Spectrum Pacific West, LLC
CA0813	Orange	Anaheim	Spectrum Pacific West, LLC
CA0818	Orange	Fullerton	Spectrum Pacific West, LLC
CA0895	Orange	Buena Park	Spectrum Pacific West, LLC
CA0914	Orange	Villa Park	Spectrum Pacific West, LLC
CA0954	Los Angeles	Laverne	Spectrum Pacific West, LLC
CA0957	<b>Orange</b>	<b>Santa Ana</b>	Spectrum Pacific West, LLC
CA1018	Los Angeles	South Gate	Spectrum Pacific West, LLC
CA1021	Los Angeles	El Monte	Spectrum Pacific West, LLC
CA1140	<b>Orange</b>	<b>Huntington Beach</b>	Spectrum Pacific West, LLC
CA1172	Los Angeles	La Puente	Spectrum Pacific West, LLC
CA1176	Los Angeles	Pico Rivera	Spectrum Pacific West, LLC
CA1179	Orange	Placentia	Spectrum Pacific West, LLC
CA1219	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC

CA1313	Los Angeles	Baldwin Park	Spectrum Pacific West, LLC
CA1394	Los Angeles	Diamond Bar	Spectrum Pacific West, LLC
CA1460	<b>Orange</b>	<b>Orange</b>	Spectrum Pacific West, LLC
CA1644	Orange	City of Cost Mesa	Spectrum Pacific West, LLC
CA1788	Orange	Naval Weapons Station Seal Beach	Spectrum Pacific West, LLC

**PSID 01388 – Claremont**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0495	Riverside	Lake Elsinore	Spectrum Pacific West, LLC
CA0699	Riverside	Riverside	Spectrum Pacific West, LLC
CA0805	Riverside	Corona	Spectrum Pacific West, LLC
CA0806	<b>Los Angeles</b>	<b>Covina</b>	Spectrum Pacific West, LLC
CA0810	<b>Los Angeles</b>	<b>Pomona</b>	Spectrum Pacific West, LLC
CA1224	<b>Los Angeles</b>	<b>Claremont</b>	Spectrum Pacific West, LLC
CA1346	<b>Los Angeles</b>	<b>Claremont</b>	Spectrum Pacific West, LLC
CA1601	Los Angeles	Los Angles (UO Covina)	Spectrum Pacific West, LLC
CA1605	Riverside	Murrieta	Spectrum Pacific West, LLC
CA1626	Riverside	Canyon Lake	Spectrum Pacific West, LLC
CA1753	Riverside	Wildomar	Spectrum Pacific West, LLC
CA1760	Riverside	Menifee	Spectrum Pacific West, LLC
CA1778	Riverside	Eastvale	Spectrum Pacific West, LLC

**PSID 020313 – Santa Clarita, Sylmar, Valencia**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0131	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA0188	<b>Los Angeles</b>	<b>Sylmar -Area B</b>	Spectrum Pacific West, LLC
CA0219	<b>Los Angeles</b>	<b>Los Angeles</b>	Spectrum Pacific West, LLC
CA1630	<b>Los Angeles</b>	<b>Santa Clarita</b>	Spectrum Pacific West, LLC

**PSID 005114 -- Barstow**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0064	<b>San Bernardino</b>	<b>Barstow</b>	Spectrum Pacific West, LLC
CA0068	<b>San Bernardino</b>	<b>Barstow</b>	Spectrum Pacific West, LLC
CA0970	San Bernardino	Marine Corp Logistic	Spectrum Pacific West, LLC

**PSID 001779 – Ventura**

<b>CUID</b>	<b>COUNTY</b>	<b>COMMUNITY NAME</b>	<b>LEGAL NAME</b>
CA0005	<b>Ventura</b>	<b>Ventura</b>	Spectrum Pacific West, LLC
CA0731	<b>Ventura</b>	<b>Ventura</b>	Spectrum Pacific West, LLC