

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

In the Matter of:	)	
	)	
Pacific and Southern Company, Inc.	)	CSR-5326-A
	)	
For Modification of the Portland-	)	
Poland Spring, Maine ADI Market	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 30, 1999**

**Released: April 2, 1999**

By the Deputy Chief, Cable Services Bureau:

**I. INTRODUCTION**

1. Pacific and Southern Company, Inc., licensee of Station WCSH-TV (NBC, Ch. 6), Portland, Maine, has filed the above-captioned petition which seeks to include 26 communities located in Strafford and Rockingham Counties, New Hampshire,<sup>1</sup> within the Area of Dominant Influence ("ADI") of WCSH-TV. Oppositions were filed to this request on behalf of MediaOne of New Hampshire, Inc., the cable operator serving the subject communities, and WMUR-TV, Inc., licensee of Station WMUR-TV (ABC, Ch. 9), Manchester, New Hampshire. WCSH-TV has filed replies to both oppositions.

**II. BACKGROUND**

2. Pursuant to §614 of the Communications Act and implementing rules adopted by the Commission in its *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues ("Must Carry Order")*,<sup>2</sup> a commercial television broadcast station is entitled to assert mandatory carriage rights on cable systems located within the station's market. A station's market for this purpose is its "area of dominant influence," or ADI, as defined by the Arbitron audience research organization.<sup>3</sup> An ADI is a geographic market designation that defines each television

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<sup>1</sup>Those communities are: 1) Strafford County -- Dover, Somersworth, Rollinsford, Durham, Madbury and Lee; 2) Rockingham County -- Portsmouth, New Castle, Rye, Hampton, Stratham, Greenland, Newfields, Exeter, Seabrook, Hampton Falls, Epping, Raymond, North Hampton, Newington, New Market, Brentwood, Fremont, East Kingston, Kensington and Nottingham.

<sup>2</sup>8 FCC Rcd 2965, 2976-2977 (1993).

<sup>3</sup>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) of the Commission's rules provides that the ADIs to be used for purposes of the initial implementation of the mandatory carriage rules are those published in Arbitron's 1991-1992 *Television Market Guide*. The Commission recently concluded that it was appropriate to switch market definitions from ADIs to Nielsen Media Research's designated market areas ("DMAs") for must-carry/retransmission consent elections. See Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carriage Rules, Report and

market exclusive of others, based on measured viewing patterns. Essentially, each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing hours in the County. For purposes of this calculation, both over-the-air and cable television viewing are included.<sup>4</sup>

3. Under the Act, however, the Commission is also directed to consider changes in market areas. 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.

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 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

(IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

4. The legislative history of this provision indicates that:

where the presumption in favor of ADI carriage would result in cable subscribers losing access to local stations because they are outside the ADI in which a local cable system operates, the FCC may make an adjustment to include or exclude particular communities

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Order and Further Notice of Proposed Rule Making, CS Docket No. 95-178, 11 FCC Rcd 6201 (1996) ("*Market Modification Report and Order*"). In its *Market Modification Report and Order*, the Commission decided to use Arbitron's 1991-1992 *Television ADI Market Guide* market designations for the 1996 election and postpone the switch to Nielsen's DMAs until the must-carry/retransmission consent election that is to take place on October 1, 1999. The Commission also issued a *Further Notice* in its *Market Modification Report and Order* to solicit additional information and provide parties an opportunity to further consider issues relating to the transition to market designations based on Nielsen's DMAs.

<sup>4</sup>Certain counties are divided into more than one sampling unit because of the topography involved. Also, in certain circumstances, a station may have its home county assigned to an ADI even though it receives less than a preponderance of the audience in that county. Refer to Arbitron's *Description of Methodology* handbook for a more complete description of how counties are allocated.

from a television station's market consistent with Congress' objective to ensure that television stations be carried in the areas 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.<sup>5</sup>

5. The Commission provided guidance in its *Must Carry Order, supra*, to aid decision making in these matters, as follows:

For example, the historical carriage of the station could be illustrated by the submission of documents listing the cable system's channel line-up (*e.g.*, rate cards) for a period of years. To show that the station provides coverage or other local service to the cable community (factor 2), parties may demonstrate that the station places at least a Grade B coverage contour over the cable community or is located close to the community in terms of mileage. Coverage of news or other programming of interest to the community could be demonstrated by program logs or other descriptions of local program offerings. The final factor concerns viewing patterns in the cable community in cable *and* noncable homes. Audience data clearly provide appropriate evidence about this factor. In this regard, we note that surveys such as those used to demonstrate significantly viewed status could be useful. However, since this factor requires us to evaluate viewing on a community basis for cable and noncable homes, and significantly viewed surveys typically measure viewing only in noncable households, such surveys may need to be supplemented with additional data concerning viewing in cable homes.<sup>6</sup>

6. 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.<sup>7</sup> The rules further provide, in accordance with the requirements of the Act, that a station not be deleted from carriage during the pendency of an ADI change request.<sup>8</sup>

### III. THE PLEADINGS

7. WCSH-TV is located within the Portland-Poland Spring, Maine ADI. The counties of Strafford and Rockingham, New Hampshire are located within the Boston, Massachusetts ADI.

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<sup>5</sup>H.R. Rep. No. 102-628, 102d Cong., 2d Sess. 97 (1992).

<sup>6</sup>8 FCC Rcd at 2977 (emphasis in original).

<sup>7</sup>8 FCC Rcd at 2977 n.139. Viewership information cited herein is county data, rather than community-specific data. However, absent evidence that such data is not fairly reflective of viewing in the actual communities in question, we accept such data as probative in cases of this type. *See, e.g., RKZ Television, Inc.*, 8 FCC Rcd 8008, 8010 (1993).

<sup>8</sup>47 C.F.R. §76.59.

8. In support of its request, WCSH-TV states that it satisfies the relevant modification criteria set forth in the Communications Act. First, WCSH-TV states that it has established a history of carriage in the requested communities. It indicates that it has been carried in all of the requested communities for anywhere from 8 to 10 years. Second, WCSH-TV indicates that all of the instant communities are located within its Grade B contour.<sup>9</sup> WCSH-TV points out that the Bureau has repeatedly found that broadcast stations with Grade B or better over-the-air signal coverage provide local service to communities for purposes of mandatory carriage.<sup>10</sup> WCSH-TV states that the Bureau has also recognized geographic proximity as another means for establishing coverage or other local service to the cable communities.<sup>11</sup> In this instance, WCSH-TV points out that its city of license is located only 45 miles from the cable system's principal headend in Dover, New Hampshire.

9. Third, WCSH-TV states that it provides valuable local programming which is specifically targeted to the communities. For instance, WCSH-TV indicates that from April 21 through October 20, 1998, its News Center presented over 184 stories focusing on events in neighboring areas of New Hampshire, including at least 49 stories specifically relating to or involving the instant cable communities.<sup>12</sup> WCSH-TV argues that, to the extent that other stations do provide local coverage to the communities, the Bureau has made clear that such coverage "does not act as a bar to a station's ADI claim."<sup>13</sup>

10. Finally, WCSH-TV states that it has substantial viewership in the system's service area. It points out that recent viewing surveys reflect that during the course of an average week, 45% of the total TV households and 22% of the noncable households in Strafford and Rockingham Counties watch WCSH-TV.<sup>14</sup> Moreover, when compared to the 11 Boston ADI stations' viewership in Strafford County, WCSH-TV states that it ranks fourth in Sunday through Saturday 7:00 a.m.-1:00 p.m. average quarter-hour cume for total households.<sup>15</sup> Of the Portland ADI stations, WCSH-TV indicates that it has the largest viewership in Rockingham and Strafford Counties.

11. In its opposition, MediaOne argues that WCSH-TV's request should be denied because the station has failed to demonstrate that it adequately meets the criteria necessary for market modification. Although WCSH-TV is carried in the cable communities, MediaOne argues that such voluntary carriage

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<sup>9</sup>Petition at Exhibit 2.

<sup>10</sup>See, e.g., *Bradenton Broadcast Television Co., Ltd.*, 11 FCC Rcd 21044 (1996); *DP Media License of Battle Creek, Inc.*, 13 FCC Rcd 7122, 7127 (1998); *Paxson San Jose License, Inc.*, 12 FCC Rcd 17520 (1997).

<sup>11</sup>*Implementation of the Cable Television Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, 8 FCC Rcd 2976, 2977 (1993).

<sup>12</sup>Petition at Exhibit 3.

<sup>13</sup>See *Panhandle Telecasting Co.*, 12 FCC Rcd 884, 888 (1997); *Bradenton Broadcast Television Co., Ltd.*, 11 FCC Rcd 21044, 21049 (1996); *Channel 56 of Orlando, Inc.*, 12 FCC Rcd 4071, 4081 (1996); and *Wabash Valley Broadcasting Corp.*, 11 FCC Rcd 19773, 19778 (1996).

<sup>14</sup>Petition at 9.

<sup>15</sup>Petition at Exhibit 4.

cannot overcome WCSH-TV's failure to meet the remaining market modification factors nor does it justify jeopardizing the must carry rights of the Boston ADI NBC affiliate, WHDH-TV.

12. MediaOne states that WCSH-TV also fares poorly in its reliance on its Grade B coverage. MediaOne asserts that while the Commission has previously relied on a station's Grade B contour as a last resort to prevent the contraction of a station's market, it does not typically rely solely on the Grade B to expand a market. In addition, MediaOne states that the station's geographic distance of more than 56 miles from the cable communities equals or exceeds those found to justify exclusion of cable communities from a station's market for must carry purposes.<sup>16</sup>

13. MediaOne points out that WCSH-TV also does not provide evidence of programming specifically tailored to the instant communities. MediaOne states that WCSH-TV is a NBC network affiliate and thus broadcasts NBC programming which has no specific nexus or relevance to the communities herein. In any event, even if such programming did target the communities, MediaOne states that it is already available from the Boston ADI's own NBC affiliate, WHDH-TV. While WCSH-TV asserts that it provides "locally-oriented" programming,<sup>17</sup> MediaOne argues that many of the news stories and program information listed in WCSH-TV's petition appear to focus on issues of potential general appeal to New Hampshire and Maine residents and do not address news or events specific to any of the instant communities.<sup>18</sup>

14. MediaOne states further that WCSH-TV fails to provide any evidence to support its claim that the instant communities are inadequately provided local coverage by their own market stations. For instance, MediaOne points out that WCSH-TV completely ignores the fact that the cable communities all receive WMUR-TV, a Grade A station licensed to Manchester, New Hampshire, and WNDS, licensed to Derry, New Hampshire. MediaOne states that WMUR-TV provides extensive news and sports coverage from the cable communities as well as extensive public affairs and local entertainment programming and that WNDS reached an agreement on a formal "news alliance" with the Boston ADI CBS affiliate, WBZ-TV, to air a nightly local newscast at 10:00 p.m.

15. With regard to the fourth factor, MediaOne maintains that although WCSH-TV argues that "[of] the Portland ADI stations, WCSH has by far the greatest viewership in Rockingham and Strafford counties,"<sup>19</sup> the relevant question is not how WCSH-TV fares with respect to other Portland stations, but how its viewership compares with the in-market NBC affiliate, WHDH-TV. In a study conducted by Media Strategies, MediaOne states that the ratings found for WCSH-TV in both Strafford and Rockingham Counties were easily eclipsed by that of WHDH-TV in all or virtually all dayparts.<sup>20</sup> Moreover, MediaOne

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<sup>16</sup>See, e.g., *A-R Services, Inc.*, 11 FCC Rcd 21080 (1996) -- 48 miles; *Time Warner Cable*, 11 FCC Rcd 13149 (1996)--45 miles; and *Cablevision of Cleveland and V Cable, d/b/a Cablevision of Ohio*, 11 FCC Rcd 18034 (1996)--41 miles.

<sup>17</sup>Petition at 7.

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

<sup>19</sup>Petition at 9.

<sup>20</sup>Opposition at 6. The study indicated for Rockingham County that "WHDH-TV clearly outperforms WCSH-TV in every daypart. WHDH-TV's audience delivery is 10 to 20 times that of WCSH-TV." For Strafford County, it stated that "WHDH-TV outperforms WCSH-TV in virtually every daypart."

indicates that WHDH-TV is considered to be significantly viewed in both Rockingham and Strafford Counties. MediaOne points out that in its recent action in *Guy Gannett Communications, Inc.*,<sup>21</sup> the Bureau noted that a similar comparison of viewership levels of Portland station WGME-TV and Boston station WBZ-TV show "a preference for WBZ-TV, in the subject communities, especially in Rockingham County."<sup>22</sup>

16. Finally, MediaOne points out that due to the fact that Portland, WCSH-TV's city of license, is slightly closer to the cable system's principal headend than is Boston, carriage of WHDH-TV could be at risk should WCSH-TV's request be granted since Commission rules require a cable operator to carry only the closest of two identical network affiliates.<sup>23</sup> MediaOne argues that such displacement of an in-market station is not what Congress had in mind when it enacted the modification rules.

17. In its opposition, WMUR-TV states that WCSH-TV makes an insufficient showing under the four modification criteria to justify grant of its request. WMUR-TV states that in instances where affiliates of the same network in adjacent ADIs have both been historically carried, the factor relating to historic carriage is not significant to the ultimate decision as to modification as Section 76.56(b)(4)(ii)<sup>24</sup> of the rules requires a cable system to carry only the local network affiliate closest to its principal headend.<sup>25</sup> WMUR-TV argues, therefore, that the fact that WCSH-TV, or indeed any of the other Portland ADI stations, may have been historically carried in the communities does not support its requested relief.

18. Further, WMUR-TV points out that WCSH-TV's showing under the second factor is not persuasive as WHDH-TV and WCSH-TV place approximately the same predicted strength over the communities herein while WMUR-TV places an even stronger signal.<sup>26</sup> WMUR-TV indicates that its Grade A contour covers all of the communities, while WHDH-TV's predicted Grade B contour encompasses all but 4 of the 26 communities. WMUR-TV states that although WCSH-TV's predicted Grade B contour does encompass all of the communities, its ratings, as described below, suggest that viewers in the communities turn to WHDH-TV and WMUR-TV for local news programming and information. WMUR-TV also indicates that the communities herein are, on average, 49.7 miles from Boston, WHDH-TV's city of license, and 54.5 miles from Portland, WCSH-TV's city of license.

19. While WCSH-TV does attempt to demonstrate that it covers local news stories of interest in the New Hampshire communities, WMUR-TV argues that such showing falls far short of the programming that WMUR-TV itself provides.<sup>27</sup> WMUR-TV points out that it has a unique tie and responsibility to the state of New Hampshire and its citizens. It states that it is the only commercial VHF station licensed to New Hampshire, the only affiliate of a major network and the first station to bring

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<sup>21</sup>CSR-5289-A (released December 4, 1998).

<sup>22</sup>*Id.* at paragraph 23.

<sup>23</sup>47 C.F.R. §76.56(b)(4)(ii).

<sup>24</sup>47 C.F.R. §76.56(b)(4)(ii).

<sup>25</sup>See *Group W Television, Inc.*, 10 FCC Rcd 2737, 2741 (1995) (cable carriage factor of "marginal assistance").

<sup>26</sup>See Opposition at Appendix A.

<sup>27</sup>Opposition at Appendix C.

digital television to the state. It maintains that it is aggressively committed to its coverage of New Hampshire news and has a news staff of 63 full-time people. Because its signal, in combination with translator stations, broadcasts over-the-air to the entire state, WMUR-TV states that it provides 71 hours of news per week with a third of each half hour dedicated to New Hampshire news.<sup>28</sup>

20. WMUR-TV argues that WCSH-TV's viewership claims<sup>29</sup> deflect the true state of WCSH-TV's ratings in Strafford and Rockingham Counties. For instance, WMUR-TV states that a review of the Nielsen ratings provided by WCSH-TV<sup>30</sup> indicate that where WCSH-TV garners a mere 1 share each of cable and noncable households, WHDH-TV garners a 14 share of cable households and a 15 share of noncable households, while WMUR-TV garners a 9 and 11 share, respectively. WMUR-TV states that the dayparts dedicated to local news rather than entertainment programming reflect even lower ratings for WCSH-TV.<sup>31</sup>

21. Finally, WMUR-TV argues that grant of WCSH-TV's petition would alter the basic structure of the Boston ADI, something that Congress did not envision.<sup>32</sup> WMUR-TV states that the Bureau has also refused to "unduly upset the economic marketplace expectations underlying the affiliation concept."<sup>33</sup> WMUR-TV states that the same concerns apply here as grant of WCSH-TV's petition would jeopardize WHDH-TV's right to cable carriage in its own ADI, all to the benefit of an adjacent market NBC affiliate.

22. In its reply to MediaOne, WCSH-TV argues that MediaOne fails to provide sufficient grounds for denying the instant request. WCSH-TV states that MediaOne overlooks the system's geographic location relative to the actual local service areas of the two television markets, but instead unproductively compares WCSH-TV to WHDH-TV. WCSH-TV points out that MediaOne does not challenge WCSH-TV's longterm historic carriage, ignores the Commission's consistent reliance upon Grade B coverage to demonstrate service to cable communities, and does not directly challenge the WCSH-TV's viewership evidence. Moreover, contrary to MediaOne's implications, WCSH-TV states that Commission rules do not require cable systems to delete multiple local affiliates of a common network. Therefore, WCSH-TV maintains, WHDH-TV's future carriage would not be in jeopardy should the requested modification be granted.

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<sup>28</sup>WMUR-TV states that its main studio is in Manchester, New Hampshire with a local news bureau in Portsmouth. It states that its news assets are never farther than 25 miles from the New Hampshire communities and provide WMUR-TV with immediate and ongoing access to key news events in the communities. By contrast, WCSH-TV's studio location in Auburn, Maine is anywhere from 65 to 106 miles from the communities.

<sup>29</sup>Petition at 9.

<sup>30</sup>Petition at Exhibit 4.

<sup>31</sup>Opposition at 11.

<sup>32</sup>See, *Channel 33, Inc.*, 11 FCC Rcd 2579, 3582 (1996) which declined to allow WBFS, a Miami station, to extend its Miami ADI into West Palm Beach and other nearby communities that constituted a "core community" of the West Palm Beach ADI because of the disruptive effect that modification could have on the marketplace.

<sup>33</sup>*Guy Gannett Communications, Inc.*, DA 98-2464 (released December 4, 1998) at paragraph 22 (citing *Mohawk Valley Broadcasting, Inc.*, 11 FCC Rcd 12090 (1996)).

23. In reply to WMUR-TV's opposition, WCSH-TV states that WMUR-TV does not dispute that WCSH-TV addresses each of the modification criteria, but instead attempts to compare its service to that of WCSH-TV and also to advance arguments on behalf of WHDH-TV, a station that did not even participate in this proceeding. WCSH-TV argues that WHDH-TV's failure to participate in this proceeding suggests that a grant of the request would be unlikely to impact the market adversely and that the status quo would be maintained. WCSH-TV argues that it is not involved in a comparative hearing with respect to WMUR-TV and WHDH-TV and that it fully satisfied all of the criteria for modification. Moreover, WCSH-TV states that the suggestion that the Bureau should follow its recently released decision in *Guy Gannett* is misplaced as the facts in that case are dissimilar to those presented herein and the Commission must consider the merits of WCSH-TV's petition separately. In any event, WCSH-TV points out, the *Guy Gannett* case is not final as there is a pending reconsideration.

#### IV. DISCUSSION

24. The counties of Strafford and Rockingham, in which the communities requested for inclusion are located, are situated in the northeastern portion of the Boston ADI and are geographically proximate to the Portland ADI, to which WCSH-TV is licensed. In our review of the case herein, the factors presented by WCSH-TV argue for grant of its request. WCSH-TV has a long history of carriage in the communities at issue (factor I); provides Grade B coverage and specifically-directed programming to the communities (factor II); and has reasonable viewership in both counties (factor IV). Other factors inherent in this situation, however, support a denial of the requested modification and are ultimately more persuasive

25. WCSH-TV, an NBC network affiliate, is seeking to modify its market to include 26 communities located in the Boston ADI. These communities are served by the Boston market NBC affiliate, WHDH-TV. In such circumstances, we are especially concerned that our decision not unduly upset the economic marketplace expectations underlying the affiliation concept.<sup>34</sup> Therefore, we must take into account the effect that a grant of must carry status to WCSH-TV will have on WHDH-TV and the structure of the Boston market.

26. Our review of the case reveals several important factors. Both WCSH-TV and WHDH-TV provide approximately equal Grade B coverage of the communities at issue. Geographically, however, there is some disparity. According to the most recently available Commission records, the subject communities are served by three separate physical systems operated by MediaOne -- one system located totally in Strafford County, one located totally within Rockingham County, and the other serving communities in both counties.<sup>35</sup> An analysis of the distances between the two stations' cities of license and the individual communities in the three systems reveals that all of the Strafford County communities are closer to Portland than to Boston, while at least one-quarter of the Rockingham communities are either closer to Portland or equi-distant between Portland and Boston. A grant of must carry status to WCSH-TV therefore, particularly for the Strafford County system, but in part for all three separate physical systems, would jeopardize WHDH-TV's must carry status within its own ADI market, which is a situation not intended or envisioned by the Communications Act.<sup>36</sup>

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<sup>34</sup>*Mohawk Valley Broadcasting, Inc.*, 11 FCC Rcd 12090 (1996).

<sup>35</sup>FCC Form 325.

<sup>36</sup>See 47 C.F.R. §76.56(b)(5) which requires a cable operator obligated to carry duplicating network affiliate stations, to carry the station whose community of license is closest to the principal headend of the cable system.

27. Viewership levels are also important in reaching our determination. WHDH-TV, the current NBC affiliate serving the communities, achieves substantial viewership levels of 15/70 and 20/80 in Strafford and Rockingham Counties, respectively, and is also considered to be significantly viewed in the two counties. On the other hand, WCSH-TV achieves viewership levels of 10/57 in Strafford County, and 1/11 in Rockingham County, and is considered to be significantly viewed in Strafford County as a whole and, individually, in each of the Rockingham County communities. A comparison of these viewership levels shows a more marked preference for WHDH-TV in the subject communities. Further, while WCSH-TV has shown that it provides locally-focused programming to the communities, it has not provided any information to show that WHDH-TV, or indeed any other Boston ADI station eligible to be carried, fails to provide adequate news coverage or other local programming.

28. Finally, we cannot overlook the importance of the local programming the communities receive from their own market stations. We note MediaOne's carriage of two other Portland market stations, WGME-TV and WMTW-TV, which are apparently being carried voluntarily, as is WCSH-TV. As such, our action herein does not place WCSH-TV at an unfair disadvantage to the stations with which it competes.

29. In light of WHDH-TV's current viewership in all of the communities, and the potential danger to WHDH-TV's must carry status in more than a third of requested communities, we see no reason to interfere with the present affiliate relationship of the relevant ADIs or change the *status quo* of the stations involved, despite the otherwise strong showing provided by WCSH-TV. WCSH-TV has long been carried in the subject communities pursuant to retransmission consent agreements and there has been no indication by MediaOne that it intends to alter this arrangement.

## V. ORDERING CLAUSES

30. Accordingly, **IT IS ORDERED**, pursuant to §614(h) of the Communications Act of 1934, as amended (47 U.S.C. §534(h) and §76.59 of the Commission's rules, 47 C.F.R. §76.59), that the petition for special relief (CSR-5326-A), filed on behalf of Pacific and Southern Company, **IS DENIED**.

31. This action is taken pursuant to authority delegated by §0.321 of the Commission's Rules.<sup>37</sup>

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau

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<sup>37</sup>47 C.F.R. §0.321.