

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

In the Matter of:)	
)	
Charter Communications Properties LP,)	CSR-6276-A
and)	
Falcon Telecable, a California LP)	
)	
For Modification of the Salt Lake City,)	
Utah DMA)	

MEMORANDUM OPINION AND ORDER

Adopted: May 10, 2004

Released: May 12, 2004

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Charter Communications Properties LP and Falcon Telecable, a California LP (collectively “Charter”), filed the above-captioned petition for special relief seeking to modify the Salt Lake City, Utah designated market area (“DMA”) with respect to television broadcast station KUTF (Ch. 3), Price, Utah (“KUTF”). Specifically, Charter requests that KUTF be excluded, for purposes of the cable television mandatory broadcast signal carriage rules, from the cable systems serving Green River, Harrisburg Junction, Hurricane, Ivins, La Verkin, Leeds, Rockville, Santa Clara, Springdale, St. George, Toquerville, Washington, and the unincorporated areas of Emery County, Utah. An opposition to this petition was filed on behalf of Price Broadcasting, Inc., licensee of KUTF, to which Charter replied. For the reasons stated below, we deny Charter’s request, in part, but otherwise grant its request.

II. BACKGROUND

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues (“Must Carry Order”)*, commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station’s market.¹ A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.² A DMA is a geographic market designation that defines each television market exclusive of

¹8 FCC Rcd 2965, 2976-2977 (1993).

²Section 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) requires that a commercial broadcast television station’s market be defined by Nielsen Media Research’s DMAs. 47 C.F.R. § 76.55(e); see *Definition of Markets for Purposes of the Cable* (continued...)

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.³

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.⁴

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

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

- (I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;
- (II) whether the television station provides coverage or other local service to such community;
- (III) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community;
- (IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.⁵

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.

(...continued from previous page)

Television Broadcast Signal Carriage Rules, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366 (1999) (“*Modification Final Report and Order*”).

³For a more complete description of how counties are allocated, see Nielsen Media Research's *Nielsen Station Index: Methodology Techniques and Data Interpretation*.

⁴47 U.S.C. §534(h)(1)(C).

⁵*Id.*

* * * *

[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.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.⁷

4. In the *Modification Final Report and Order*, the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modification petitions that requires the following evidence be submitted:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas.

Note to Paragraph (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.⁸

(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.

⁶H.R. Rep. 102-628, 102d Cong., 2d Sess. 97 (1992).

⁷*Must Carry Order*, 8 FCC Rcd 2965, 2977 n.139.

⁸The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B contour analysis. In situations involving mountainous terrain or other unusual geographical features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test.

(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.⁹

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

III. DISCUSSION

5. The issue before us is whether to grant Charter's request to exclude KUTF from mandatory carriage on the subject cable systems. All of the communities at issue are located in the Salt Lake City DMA, as is KUTF, which is licensed to Price, Utah. Considering all of the relevant factual circumstances in the record, we believe that the market modification petition is a legitimate request to redraw DMA boundaries to make them congruous with market realities.

6. 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."¹⁰ Charter states that KUTF has no history of carriage on the subject cable systems.¹¹ Charter argues that because KUTF has never been carried, there would be no disruption of established viewing patterns, nor would the requested action deprive the station of any existing cable audience.¹² KUTF argues that Charter has inappropriately applied the historic carriage factor to KUTF because, as a station that has been on-the-air for less than a year, it has not had time to establish historic carriage.¹³ In any event, KUTF notes that, as a specialty station, the historic carriage factor is not outcome determinative in a market modification proceeding.¹⁴ Charter argues that the Commission has consistently held that while the historical carriage factor might not be determinative in and of itself, it is significant in market modification requests when the broadcaster has failed to meet the other statutory factors.¹⁵

7. Second, we consider "whether the television station provides coverage or other local service to such community."¹⁶ Charter states that a Longley-Rice study demonstrates that all of the

⁹47 C.F.R. §76.59(b).

¹⁰47 U.S.C. §534(h)(1)(C).

¹¹Modification at Exhibit 4.

¹²*Id.* at 4.

¹³Opposition at 10-11.

¹⁴*Id.* at 11 n.25, citing *KTNC Licensee, LLC*, 18 FCC Rcd 16269 (2003).

¹⁵Reply at 4, citing *Time Warner Cable*, 12 FCC Rcd 23249, 23254 (1997); *KTNC Licensee, LLC*, 18 FCC Rcd 16269, 16278 (2003); *TCI of Illinois, Inc.*, 12 FCC Rcd 23231, 23241 (1997); *Dynamic Cablevision of Florida, Ltd.*, 11 FCC Rcd 9880, 9889-9890 (1996), *aff'd*, 14 FCC Rcd 137783 (1999).

¹⁶47 U.S.C. §534(h)(1)(C).

communities at issue except one are well beyond KUTF's Grade B contour.¹⁷ Charter states that this same Longley-Rice study shows that the community of Green River is, at best, on the fringe of KUTF's Grade B coverage.¹⁸ Charter maintains that KUTF's lack of signal coverage is hardly surprising considering that the average distance between Price, Utah and the communities is 205 miles.¹⁹ Charter points out that these distances exceed those found to justify other similar market modification requests.²⁰ Charter states the lack of nexus between KUTF and the communities is also demonstrated by the driving distance and time. For instance, Charter states that it takes an estimated 6 hours and 12 minutes to drive the approximately 229 miles from Price to Ivins, Utah due to the terrain separating the communities.²¹ Charter notes that even the drive between Price and Green River, the closest of the communities, takes almost one and a half hours.²² Finally, Charter argues that KUTF does not appear to provide any local programming tailored to the communities at issue.²³ Charter asserts that it was also unable to locate any program listings for KUTF in the local newspapers or the Salt Lake City edition of *TV Guide*.²⁴

8. KUTF argues that this is not a typical market modification proceeding and the Bureau should not base the outcome of the case primarily on Grade B coverage because other, more important factors, are at play in the Salt Lake City DMA. KUTF states that it is one of only two local Spanish-language full-power television stations licensed to the Salt Lake City DMA.²⁵ KUTF points out that it is a fact that the Hispanic/Latino population of the Salt Lake City DMA is rapidly growing.²⁶ Despite this, KUTF states that Charter provides no Spanish-language programming for residents in the subject communities, many who identified themselves as Hispanic on the last U.S. Census.²⁷ KUTF argues that, according to the online version of the *Cable & Television Factbook*, Charter has more than enough channel capacity on its Green River, Rockville and St. George cable systems to accommodate KUTF's carriage.²⁸ KUTF states that Charter has chosen instead to carry a hodgepodge of 13 stations, the majority

¹⁷Modification at Exhibit 3.

¹⁸*Id.* Charter states that signal strength tests indicate that KUTF does not provide an adequate off-air signal. See Exhibit 5.

¹⁹*Id.* at Exhibits 1-3. The closest community, Green River, is 57 miles distant and the farthest communities, Santa Clara and St. George, are 230 miles distant.

²⁰*Id.* at 5, citing *Greater Worcester Cablevision, Inc.*, 13 FCC Rcd 22220 (1998) (39-70 miles); *Greater Worcester Cablevision, Inc.*, 12 FCC Rcd 17347 (1997) (38-61 miles); *Time Warner Cable*, 12 FCC Rcd 23249 (1997) (42-58 miles); *Time Warner Cable*, 11 FCC Rcd 13149 (1996) (45 miles); *Cablevision of Cleveland, L.P. and V Cable, Inc., d/b/a Cablevision of Ohio*, 11 FCC Rcd 18034 (1996) (41 miles).

²¹*Id.* at Exhibit 6. Charter notes that KUTF is separated from the cable communities by, among other things, a national forest and mountainous terrain.

²²*Id.*

²³*Id.* at 6.

²⁴*Id.* at Exhibits 9 and 10.

²⁵Opposition at 2. KUTF states that it broadcasts local Spanish-language programming and Telefutara programming. The other station, KUTH, Logan, Utah, broadcasts local Spanish-language programming and Univision programming and its licensee is Logan 12, Inc. The parent company of both KUTF and KUTH is Equity Broadcasting Corporation. See Declaration of Lori Withrow

²⁶*Id.* at Exhibit I.

²⁷*Id.*

²⁸*Id.* at Exhibit II.

of which are more distant, cannot provide over-the-air coverage to the majority of the cable communities and offer less local programming than KUTF.²⁹ KUTF maintains that Charter's efforts to avoid carrying its station in favor of more distant English-language stations is blatant discrimination.³⁰ KUTF states that, in terms of square mileage, the Salt Lake City DMA is the largest market in the United States and much of the terrain is rural, isolated and mountainous.³¹ KUTF maintains that given the vastness of the market and the terrain it is impossible for any of the 15 local television stations licensed to communities in the market to provide actual Grade B coverage to more than just a small portion of the market.³² As a result, KUTF argues that carriage of local stations on cable and direct broadcast systems serving the DMA is critical, not only so that residents can be provided with good quality signals, but so that stations in the market can survive. KUTF asserts that this survival is even harder when a station such as KUTF is classified as a "specialty station" because they typically attract limited audiences.³³

9. KUTF argues that Charter's claim that all of the communities, except Green River, are well beyond KUTF's Grade B service area according to Longley-Rice and that Green River itself receives only fringe Grade B service is clearly wrong.³⁴ KUTF points to a Longley-Rice study it submitted that demonstrates that Green River is well within KUTF's Grade B coverage area.³⁵ In addition, KUTF notes that this same study shows that it provides significant portions of Emery County, Utah with predicted City Grade, Grade A and Grade B coverage.³⁶ Although KUTF concedes that it can demonstrate that it only provides predicted Grade B coverage and Grade B coverage according to Longley-Rice to two of the communities at issue, it argues that Grade B coverage is only one of four factors the Commission must consider in making its determination and that no one factor carries more weight than another. KUTF argues that in *Brenmor Cable Partners, L.P.*, the Commission refused to allow a cable operator to delete cable communities from a station's market for its failure to provide Grade B coverage when the cable operator chose to carry other stations, licensed to the same city, which also failed to provide the communities with Grade B coverage.³⁷ In this case, KUTF states that no station that Charter currently carries provides any type of Grade B coverage to Green River or Emery County.³⁸ Moreover, KUTF states that it is geographically closer to Charter's cable systems than all but two of the stations the systems

²⁹*Id.* at 5.

³⁰*Id.* at 6. KUTF states that this is also evidenced by the fact that another cable system, Comcast, filed a similar request on the same day, using the same attorneys and engineers.

³¹*Id.* KUTF points out that the Salt Lake City DMA encompasses the entire state of Utah; Dolores County, Colorado; Bear Lake, Franklin and Oneida Counties, Idaho; Elko, Eureka and White Pine Counties, Nevada; and Lincoln, Sublette, Sweetwater and Uinta Counties, Wyoming.

³²*Id.* at 6-7 and n.20.

³³*Id.* at 9, citing *Cable Television Report and Order*, 36 FCC 2d 143 (1972); *Amendment of Part 76, Subparts A and D of the Commission's Rules and Regulations Relative to Adding a New Definition for "Specialty Stations" and "Specialty Format Programming" and Amending the Appropriate Signal Carriage Rules*, 60 FCC 2d 661 (1976).

³⁴Opposition at 13-14, citing Modification at 4.

³⁵*Id.* at Exhibit V.

³⁶*Id.* KUTF states that Charter failed to even depict Emery County on its Longley-Rice map.

³⁷*Id.* at 15, citing 14 FCC Rcd 11742, 11746 (1999).

³⁸*Id.* at 16. Indeed, KUTF states that of the 13 stations carried on Charter's system only two, KSCG and KVBC, provide actual signal coverage to more of the cable communities than does KUTF. See Exhibit VI.

carry.³⁹ Finally, KUTF asserts that in the short time it has been on-the-air, it has developed a top-quality local programming schedule which provides its viewers with local news, weather and other local information every day that totals more than 20 hours each week.⁴⁰

10. Charter argues that KUTF's attempt to use the vast distances and geographic barriers of the Salt Lake City DMA as an excuse to provide a signal beyond a limited area only underscores the limits of the station's actual television market and affirm its lack of local nexus with the subject communities. As Congress explained, the market modification provisions "reflect a recognition that . . . a community within a station's [DMA] may be so far removed from the station that it cannot be deemed part of the station's market."⁴¹ Charter maintains that is the case here where the distances range from 57 miles to 205 miles.⁴² Charter notes that, instead of providing any relevant evidence that would have established a nexus with the subject communities, KUTF chose to accuse Charter of discrimination because it carries stations that are more distant. Charter asserts that these accusations are entirely without merit. While it concedes that the majority of stations it carries are licensed to Salt Lake City, Ogden and Provo, Utah, Charter argues that this carriage is consistent with the "hub and spoke" model described in *WLNY-TV, Inc. v. FCC*.⁴³ In that decision, Charter states, the Second Circuit observed that viewers tune in to stations located in a central metropolitan region (the "hub") with programming of widespread interest throughout the DMA, whereas outlying communities (the "spokes") generally feature programming of interest to those communities in closer proximity to the station.⁴⁴ Charter states that in this case the residents of the cable communities clearly look to the Salt Lake City metropolitan "hub" area, including nearby Ogden and Provo, for news and information and that residents of the "hub" communities would not look to the cable communities for their programming.⁴⁵ Charter asserts, therefore, that it is irrelevant that Charter carries the DMA's "hub" stations or that those stations happen to be further away from the cable communities than KUTF and their carriage on Charter's systems say nothing about a nexus between KUTF and the communities at issue.⁴⁶ Moreover, KUTF's reliance on *Brenmor Cable* is misplaced.⁴⁷ In that case, Charter notes, the Commission refused a modification request to exclude a station licensed to the same community as seven other television stations carried by the cable operator. Charter states that in this instance, however, it does not carry any other stations licensed to the same community as KUTF.⁴⁸

11. Charter argues further that, despite KUTF's protestations, it accurately demonstrated through a Longley-Rice study that KUTF's Grade B coverage of the Green River area is fringe at best.⁴⁹

³⁹*Id.* at 16, 18-19 and Exhibit VII. These two stations are KCSG, Cedar City, Utah and KVBC, Las Vegas, Nevada.

⁴⁰*Id.* at 23-24.

⁴¹Reply at 5-6, citing H.R. Rep. 102-628, 102d Cong., 2d Sess. 97-98 (1992).

⁴²*See* Modification at Exhibits 1-3.

⁴³Reply at 6, citing 163 F.3d 137 (2d Cir. 1998).

⁴⁴*Id.*, citing 163 F.3d at 144-45.

⁴⁵Reply at 6-7.

⁴⁶*Id.* at 7.

⁴⁷*Id.*

⁴⁸*Id.*

⁴⁹*Id.* at 8, citing Modification at Exhibit 3.

Regardless of any theoretical Grade B coverage by KUTF of Green River and the immediately surrounding portion of Emery County, however, Charter maintains that it remains highly unlikely, as demonstrated by signal strength studies, that KUTF provides an adequate over-the-air signal to individual households in these communities.⁵⁰ Charter argues that, contrary to KUTF's assertions, the Commission has previously considered signal strength tests relevant in the market modification context.⁵¹ Further, while KUTF relies almost entirely on its Spanish-language programming format to establish a nexus with the cable communities, it offers virtually no description of any truly local programming.⁵² Charter states that the Commission has consistently held that programming is not "local" simply by virtue of its foreign language format.⁵³ The Commission has also found on numerous occasions that it is "not convinced that such [Spanish language] programming, while of potential general interest, is the kind that suggests that the subject communities, in total, are a particular focus of the station or are in any sense served in a manner that establishes a specific market connection."⁵⁴ Charter points out that the majority of KUTF's programming is identical to TeleFutura's nationwide program network.⁵⁵ Charter states that while this DMA-wide programming may appeal to general audiences, it does not indicate a focus on news or events specific to the communities at issue. Finally, Charter states that KUTF is in error in its assumption that its cable systems carry no Spanish-language programming. Charter states that it has shown that it carries Spanish-language programmers Univision and/or Galavision in the vast majority of the cable communities.⁵⁶

12. The third statutory factor we must consider is "whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community."⁵⁷ Charter states that it currently carries several stations that more than adequately cover news and weather pertinent to the cable communities.⁵⁸ KUTF argues that, despite its claims, Charter, with one exception, failed to note newscasts or weather forecasts broadcast on these stations that mentioned the subject cable communities.⁵⁹ Charter states that as shown

⁵⁰*Id.* at 8.

⁵¹*Id.* at 9, citing *Costa de Oro Television, Inc.*, 13 FCC Rcd 4360, 4374 (1998) (signal strength test data "taken at cable system headends strongly suggests that reception may be difficult for individual viewers in the community.").

⁵²*Id.* at 9-10.

⁵³*Id.* at 9, citing *Dynamic Cablevision of Florida, Ltd.*, 12 FCC Rcd 9952, 9955 and 9957 (1997).

⁵⁴*Id.* at 10, citing *TCI Cablevision of New Mexico*, 16 FCC Rcd 13959, 13967 (2001); *Service Electric Cable TV, Inc.*, DA 04-349 (CSR-6246-A) at para. 12 (rel. Feb. 13, 2004); *MediaOne of Los Angeles, Inc. v. Costa de Oro Television, Inc.*, 15 FCC Rcd 19386, 19398 (2000); *Comcast Cablevision of Gloucester County, Inc.*, 14 FCC Rcd 12136, 12144 (1999); *Blue Ridge Cable Technologies, Inc.*, 14 FCC Rcd 2320, 2327 (1999).

⁵⁵*Id.* at Exhibit 1.

⁵⁶*Id.* at 12 n.38, citing Modification at Exhibit 4. Charter states that the only cable communities that do not already carry Spanish-language programming are Rockville and Springdale which have approximately 40 cable subscribers. See Declaration of Gary Massaglia.

⁵⁷47 U.S.C. §534(h)(1)(C).

⁵⁸Modification at 7 and Exhibits 4, 9 and 10.

⁵⁹Opposition at 21-22. KUTF states that Charter pointed to local newscasts airing on KCSG, St. George, Utah, Monday through Friday at 6:30 and 10:30 p.m. which covered news and events in St. George. See Modification at 7.

in the examples it provides, the stations it currently carries do provide programming that addresses news, weather, sports and issues of interest and events occurring in the cable communities.⁶⁰

13. The fourth statutory factor concerns “evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.”⁶¹ Charter states that a viewership study it commissioned was unable to find any ratings for KUTF in either cable or noncable households in Emery or Washington Counties, Utah, where the communities at issue are located.⁶² KUTF states that, as a new station, it has not had the opportunity to develop a large audience or establish viewing patterns in cable and noncable households.⁶³ KUTF points out that the Commission has held that it takes years for a television station to establish viewing patterns and ratings.⁶⁴ As with historic carriage, Charter argues that this is a factor that, while not outcome determinative itself, is not overlooked when other market modification factors are not met.⁶⁵

14. Section 614(h)(1)(C) of the Communications Act authorizes the Commission to include or exclude particular communities from a television station’s market for the purpose of ensuring that a television station is carried in the areas which it serves and which form its economic market.⁶⁶ Section 614(h)(1)(C)(i) specifically and unambiguously directs the Commission, in considering requests for market modification, to afford particular attention to the value of localism by taking such matters into account.⁶⁷ In this matter, KUTF has no history of carriage and no discernable viewership in the communities at issue. As a relatively new specialty station, we do not afford considerable weight to these deficiencies. In addition, although KUTF has alleged that it provides local programming to the communities at issue, it provided no programming examples pointing to individual communities. It is also clear that KUTF is geographically distant from the majority of communities, up to 230 miles distant; that it fails to provide a Grade B signal according to Longley-Rice and is separated by geographic barriers such as a national forest and mountainous terrain. For these communities, the factors recited by Charter do weigh in favor of its request and we grant its request. For the community of Green River and the surrounding unincorporated areas of Emery County, however, we find that other factors deserve more weight and we deny Charter’s request to exclude these two communities. Our review indicates that Green River is not only geographically closer to KUTF at only 57 miles, but both the station’s predicted Grade B contour encompasses the community and it provides Grade B coverage according to the Longley-Rice study provided by Charter.⁶⁸

⁶⁰Reply at Exhibit 3.

⁶¹47 U.S.C. §534(h)(1)(C).

⁶²Modification at Exhibit 11.

⁶³Opposition at 12-13.

⁶⁴*Id.* at 13, citing *Time Warner Cable*, 10 FCC Rcd 6663, 6667 (1995).

⁶⁵Reply at 4.

⁶⁶47 U.S.C. § 534(h)(1)(c).

⁶⁷47 U.S.C. § 534(h)(1)(C)(i).

⁶⁸We note that the Longley-Rice study submitted by KUTF, which was based on coverage from KUTF’s translator K68FY, was not an acceptable submission and could not be relied upon as an indication of KUTF’s coverage area. While we recognize that translators which retransmit stations’ signals may encompass particular cable communities in instances such as these, translators do not have carriage rights under Section 614 and given all the circumstances they do not provide evidence that the cable communities are within a station’s natural market.

(continued...)

IV. ORDERING CLAUSES

15. 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 C.F.R. §76.59, that the captioned petition for special relief (CSR-6276-A), filed by Charter Communications Properties LP and Falcon Telecable, A California LP **IS GRANTED** for the communities of Harrisburg Junction, Hurricane, Ivins, La Verkin, Leeds, Rockville, Santa Clara, Springdale, St. George, Toquerville, and Washington, Utah and **IS DENIED** for the communities of Green River and the unincorporated areas of Emery County, Utah.

16. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.⁶⁹

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

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See, Rifkin/Narragansett South Florida, CATV Limited Partnership, d/b/a Gold Coast Cablevision, 11 FCC Rcd 21090 (1996).

⁶⁹47 C.F.R. §0.283.