

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

In the Matters of:
Price Broadcasting, Inc.
v.
Precis Communications, LLC
Request for Mandatory Carriage
of Television Station KUTF(TV), Price, Utah
Price Broadcasting, Inc.
v.
Myvocom, Inc.
Request for Mandatory Carriage
of Television Station KUTF(TV), Price, Utah
CSR 6177-M
CSR 6178-M

MEMORANDUM OPINION AND ORDER

Adopted: November 6, 2003

Released: November 7, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Price Broadcasting, Inc. ("Price"), permittee of television broadcast station KUFT(TV) Price, Utah ("KUTF"), filed the captioned must carry complaints with the Commission pursuant to Sections 76.7 and 76.61(a)(3) of the Commission's rules, claiming that Precis Communications, LLC and Myvocom, Inc. ("Cable Operators") have failed to commence carriage of KUFT on their cable systems serving certain communities in the Salt Lake City, Utah Designated Market Area (the "Communities"). The complaints are unopposed and will be granted.

II. BACKGROUND

2. Under Section 614 of the Communications Act of 1934, as amended, 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

1 47 C.F.R. §§ 76.7 and 76(a)(3).

2 The 43 Communities served by Precis Communications, LLC are listed on Attachment A hereof.; Myvocom, Inc. provides cable service in Manila, Utah.

television broadcast stations, such as KUTF, are entitled to assert mandatory carriage rights on cable systems located within the station's market.³ A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.⁴ The term DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

3. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.⁵ One method of doing so is for the cable operator to establish that a subject television station's signal, which would otherwise be entitled to carriage, does not provide a good quality signal to the cable system's principal headend.⁶ Under the Commission's rules, a television station, at its own expense, may provide a cable operator with specialized equipment, if needed, to improve the station's signal to an acceptable quality at a cable system's principal headend.⁷

III. DISCUSSION

4. Price provided information with its complaints showing that KUTF is a new full power commercial television station which began operating March 3, 2003, on Channel 3 under program test authority in Price, Utah, located in the Salt Lake City DMA.⁸ The Cable Operators operate cable television systems serving the Communities, which are also in the Salt Lake City DMA.⁹ Therefore, KUTF qualifies as a local station entitled to mandatory carriage on the Cable Operators' cable systems, providing the station delivers a good quality signal to the cable systems' principal headends.¹⁰ Price formally notified the Cable Operators of its election of must carry status and requested carriage of KUTF on the Cable Operators' cable systems by letters dated March 17, 2003.¹¹ Neither of the Cable Operators responded to Price's carriage requests. Price timely filed the complaints on June 16, 2003.¹²

5. As mentioned above, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.¹³ The Cable Operators filed no response to the complaints nor made any showing concerning the quality of the KUTF signal at the principal headends of their cable systems serving the Communities. Not having filed an

³ 8 FCC Rcd 2965, 2976-77 (1993).

⁴ Section 614(h)(1)(C) of the Communications Act, 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 requires that a commercial broadcast station's market be defined by Nielsen Media Research's DMAs. See 47 C.F.R. § 76.55(e).

⁵ See *Must Carry Order*, 8 FCC Rcd at 2991.

⁶ 47 C.F.R. § 76.55(c)(3).

⁷ *Must Carry Order*, 8 FCC Rcd at 2991.

⁸ Complaints at 1-2.

⁹ *Id.*

¹⁰ See *Must Carry Order*, 8 FCC Rcd at 2976-77 (1993); 47 C.F.R. § 76.55(c)(2)-(3).

¹¹ See Complaints at 2 and Exhibit III. New stations such as KUFT must make their initial must carry/retransmission consent election between 60 days before and 30 days after commencing to broadcast. 47 C.F.R. § 76.64(f)(4).

¹² The Commission will accept must-carry complaints filed pursuant to Section 76.61(a), if they are filed within 60 days after the denial by a cable television system operator of a request for carriage, or the failure of a cable operator to respond to such request within 30 days. See 47 C.F.R. § 76.7(c) & 76.61(a)(5)(ii).

¹³ See *Must Carry Order*, 8 FCC Rcd at 2991.

opposition to the complaints, the Cable Operators have failed to meet their burden. Price none-the-less represented that it would pay for any necessary equipment to ensure a good quality KUTF signal at those headends.¹⁴ Accordingly, we grant KUTF's must carry complaint with respect to the Cable Operators' cable systems, conditioned upon KUTF delivering a good quality signal to the those cable systems' principal headends.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, that the captioned complaints filed by Price Broadcasting, Inc. **ARE GRANTED**.

7. **IT IS FURTHER ORDERED** that Precis Communications, LLC and Myvocom, Inc. **SHALL COMMENCE CARRIAGE** of television station KUTF (TV) on their respective cable systems identified in the complaints within 60 days from the date that station KUTF(TV) delivers a good quality signal to the principal headends of those cable systems.

8. This action is taken pursuant to authority delegated pursuant to Section 0.283 of the Commission's rules.¹⁵

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broecker
Deputy Chief, Policy Division
Media Bureau

¹⁴ Complaints at 3-4.

¹⁵ 47 C.F.R. § 0.283.

ATTACHMENT A

Utah Communities Served by Precis Communications, LLC

Aurora
Blanding
Castle Dale
Cedar City
Centerfield
Columbia
Delta
Duchesne
East Carbon
Ephraim
Fairview
Ferron
Fillmore
Fountain Green
Gunnison
Helper
Huntington
Kanab
Kenilworth
Manti
Milford
Minersville

Moab
Monticello
Moroni
Mount Pleasant
Naples
Price
Orangeville
Redmond
Richfield
Roosevelt
Salina
Spring City
Sunny Side
Carbon County*
Emery County*
Sevier County*
Vernal
Wellington
Wendover
West Wendover
Grand County*
* Unincorporated Areas