

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

In the Matter of)
)
Carriage Election Notice) MB Docket 17-317
Modernization)
)

**COMMENTS OF AMERICA’S PUBLIC TELEVISION STATIONS,
CORPORATION FOR PUBLIC BROADCASTING, AND
PUBLIC BROADCASTING SERVICE**

America’s Public Television Stations,¹ the Corporation for Public Broadcasting,² and Public Broadcasting Service³ (collectively, “Public Broadcasting”) file this response to the Commission request for comments on modifications to modernize the carriage election rules.⁴

Public Broadcasting recommends the FCC modernize the satellite carriage election process for noncommercial educational television (NCE-TV) stations. Every three years, NCE-TV stations are required by FCC rules to re-notify satellite carriers and renew their requests to continue to be carried by the satellite carrier, under notice requirements no longer relevant

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American people.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with its 350 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature and public affairs; to hear diverse viewpoints; and to take front row seats to world- class drama and performances.

⁴ On October 22, 2018, Public Broadcasting filed an ex parte letter with the Commission regarding the September 17, 2018, Ex Parte letter of NCTA – The Internet & Television Association, the American Cable Association, and the National Association of Broadcasters, in the above-captioned proceeding. See [PTV Ex Parte Filing Modernizing Satellite Carriage Req Rules 10 22 18](#). Public Broadcasting also filed Comments addressing necessary changes to modernize the public television satellite carriage election rules. See [Public Broadcasting Comments on Media Modernization FINAL 07.05.17](#) and [Public Broadcasting Comments on MVPD Notices FINAL 02.15.18](#).

today.⁵ Section 76.66(b) of the FCC rules requires that NCE-TV stations renew their carriage requests by the antiquated method of certified mail, and failure to use the specified certified mail delivery method can result in loss of satellite carriage.

This outdated requirement of certified mail has resulted in NCE-TV stations being denied carriage by a satellite operator in the situation where the station used a superior delivery method, such as USPS Priority Mail or overnight delivery services, such as Federal Express. The most recent case of this is denial by DISH to carry NCE-TV station KMTP, licensed to Minority Television Project in San Francisco. See KMPT's [Petition for Reconsideration](#), filed at the FCC on February 5, 2018, and the [APTS Comments in Support of the Petition](#). Hundreds of thousands of members of the public that are DISH subscribers in the San Francisco DMA currently are being denied noncommercial educational public television service as a result of an outdated rule and a clerical error.

Furthermore, this proceeding presents an opportunity for the FCC to correct a long-standing rule misalignment between the satellite carrier election process and the cable operator election process as applied to NCE-TV stations. By statute, NCE-TV stations do not have retransmission consent rights – only mandatory carriage rights. The FCC's cable carriage rules, recognizing that NCE-TV stations cannot make periodic “election” choices between retransmission consent and mandatory carriage, do not require periodic elections to cable operators by NCE-TV stations.⁶

In contrast, for satellite broadcast signal carriage, Section 76.66(c)(5) of the FCC rules requires that NCE-TV stations must periodically renew their carriage requests on three-year

⁵ See 47 CFR § 76.66.

⁶ See 47 CFR § 76.64(h) (adopted in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Broadcast Signal Carriage Issues*, Report and Order, 8 FCC Rcd 2965, 3003 (1993)).

cycles. NCE-TV stations, therefore, must engage in a rote process, every three years, of “electing” mandatory carriage for satellite carriage, despite NCE-TV stations having no other option to select. There is no apparent regulatory benefit to requiring an NCE-TV station to re-request satellite carriage (its only statutorily available carriage option) every three years. Therefore, its prior election of mandatory carriage to a satellite operator should continue absent a change in satellite carriage circumstances, and the obligation to re-file satellite carriage requests every three years for NCE-TVs should be eliminated.

Respectfully submitted,

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