

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re)	
Minority Television Project, Inc.)	CSR-8946-M
License of Noncommercial Television Station)	MB Docket No. 17-313
KMTP, Channel *32)	
For Carriage of KMTP-TV, San Francisco,)	
California)	

To: Chief, Media Bureau

PETITION FOR RECONSIDERATION

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February 5, 2018

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PETITION FOR RECONSIDERATION

INTRODUCTION

Minority Television Project, Inc. (“MTP”), licensee of noncommercial television station KMTP-TV, Channel *32, San Francisco, California (“KMTP”), by its attorneys, hereby seeks reconsideration, pursuant to Section 1.106 of the Commission’s Rules, 47 C.F.R. § 1.106, of the January 23, 2018, Memorandum Opinion and Order of the Senior Deputy Chief, Policy Division, Media Bureau, which denied MTP’s Complaint for Carriage filed against DISH Network (the “Decision”). As MTP shall demonstrate below, the Decision: was premised upon a mistake of fact, a mistake of law, failed to consider the Commission’s recent NPRM, and failed to properly balance the public interest considerations in this case.

II. BACKGROUND

On November 9, 2017, MTP filed a Complaint for Carriage Against DISH Network, L.L.C. (the “Complaint”). On November 17, 2017, DISH Network, L.L.C. (“DISH”) filed its Response of DISH Network L.L.C. to Carriage Complaint of Minority Television Project, Inc.,

opposing MTP's Complaint and asserting that MTP was not entitled to relief ("DISH Opposition"). On December 11, , MTP filed its Reply to DISH's Opposition. On January 23, 2018, the Decision was released.

On December 14, 2017, after the date on which MTP filed its Reply, the Commission released a Notice of Proposed Rulemaking in MB Docket No. 17-317 and MB Docket No. 17-105 (FCC 17-168) (the "NPRM"). A summary of this NPRM was published in the Federal Register on January 16, 2018 (83 FR 2119).

MTP files the instant Petition for Reconsideration because the Decision was based on a material error of fact, a material error of law, and ignores the statements of the Commission in the NPRM, which was released after MTP and DISH had filed all of their submissions regarding the Complaint, but more than a month before the instant Decision was adopted and released. In addition, the Decision fails to properly balance the public interest considerations raised in this case.

III. QUESTIONS PRESENTED FOR RECONSIDERATION

1. Was the Decision based in part on a mistake of fact; i.e., whether there was conclusive evidence in the record that the notice at issue was sent via Priority Express Mail, return receipt requested?

2. Did the Decision err when it relied on the conclusion that "Section 76.66(d)(1)(ii) provides one specific mailing method for carriage elections: certified mail, return receipt requested. The provision does not indicate that this is a suggested method, or a preferred method, and we therefore need not decide whether priority express mail is an equivalent or better service, as KMTP suggests?"

3. Did the Decision err in not taking into consideration the Commission's NPRM, which was released 40 days before the Decision was adopted and released?

4. Should the Decision be reconsidered and should MTP be granted the requested order for carriage of KMTP?

IV. SUMMARY

The Decision was premised in part on the erroneous assumption that there was no evidence in the record that the carriage election notice sent by MTP to DISH was sent via Priority Express Mail, return receipt requested. In its November 17, 2017 Opposition to MTP's Complaint, DISH clearly admitted that the notice was sent via "Priority Express Mail, return receipt requested." DISH Opposition at 2. Given this fact, the Decision erred in finding that MTP had not proven that the notice was sent by Priority Express Mail, return receipt requested. Decision at 3, n.16.

The Decision erred when it relied on the conclusion that:

Section 76.66(d)(1)(ii) provides one specific mailing method for carriage elections: certified mail, return receipt requested. The provision does not indicate that this is a suggested method, or a preferred method, and we therefore need not decide whether priority express mail is an equivalent or better service, as KMTP suggests.

In fact, at the time that Section 76.66(d)(1)(ii) was adopted, the Commission clearly stated that it believed that "... certified mail, return receipt requested is the preferred method to ensure that broadcast stations are able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier." *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues*, Order on Reconsideration, 16 FCC Rcd 16544, 16576, para 65 (2001).

The Decision erred when it failed to take into consideration the NPRM, which seeks “comment on how to revise Sections 76.64(h) and 76.66(d) of our rules to permit television broadcast stations to use alternative means of notifying MVPDs about their carriage elections.” In doing so, the Commission reiterated that, at the time 76.66(d) was adopted in 2001 “[t]he Commission “believe[d] that certified mail, return receipt requested [was] the preferred method to ensure that broadcast stations [were] able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier.” NPRM, FCC-168 at paragraph 28, 83 FR 2119 at paragraph 25 (emphasis added, footnotes omitted).

V. THE DECISION IS IN ERROR, SHOULD BE RESCINDED AND DISH SHOULD BE ORDERED TO IMMEDIATELY CARRY KMTP.

A. DISH ADMITS THAT THE NOTICE WAS SENT BY PRIORITY EXPRESS MAIL, RETURN RECEIPT REQUESTED, AND THAT DISH RECEIVED THE NOTICE

MTP has alleged that the notice was sent by Priority Express Mail, return receipt requested. See, e.g., MTP Reply at 2. In its Opposition, DISH admitted that the notice was sent by MTP to DISH by “Priority Express Mail, return receipt requested.” DISH Opposition at 2. Thus, there is no dispute as to the facts that: 1) the notice was sent Priority Express Mail, return receipt requested, and 2) DISH received the notice and indeed sent a letter to MTP acknowledging receipt of the notice. Indeed, all of these undisputed facts are contained in the submissions of MTP and DISH. Yet, the Decision assumes that there is a question as to whether the notice was sent Priority Express Mail, return receipt requested. The Decision states:

KMTP inexplicably misquotes in both its Complaint and Reply DISH’s October 9, 2017 response rejecting KMTP’s carriage Election as deficient under the Commission’s rules. KMTP states that DISH described KMTP’s election letter as arriving via “Priority Express Mail, return receipt requested,” whereas DISH’s letter clearly states that KMTP’s election letter arrived via “United States Postal

Service Priority Mail.” See Complaint at 1-2; Reply at 1-2. In any event, KMTP did not attach a copy of a return receipt with its complaint. Decision at 3, n.16.

This footnote fails to recognize that the DISH Opposition clearly states that the MTP notice was sent Priority Express Mail, return receipt requested. DISH Opposition at 2.

The Decision therefore is based upon a serious mistake of fact, which is that the notice was not sent Priority Express Mail, return receipt requested, as asserted by MTP.¹ Because MTP did not anticipate that the Bureau would err on this issue, MTP did not submit proof of this fact. MTP has now attached Exhibit 1, which consists of: (1) the mailing slip, showing that the notice was sent Priority Express Mail, (2) the electronically delivered return receipt,² showing that DISH received the notice the next day, and (3) the notice letter that was sent.³

In addition to conclusively demonstrating that the notice was delivered, Exhibit 1 also demonstrates that, as stated by MTP in its Complaint, Priority Express Mail, return receipt requested is a new service, superior to certified mail, return receipt requested, that did not exist when the Commission adopted certified mail as the preferred means of notice. As the attached Declaration of Booker Wade, General Manager of KMTP, explains, Mr. Wade drafted the notice letter with the intent of sending the notice certified mail. Exhibit 2. When he arrived at the post office, the clerk offered Priority Express Mail as a superior service to certified mail, because the notice would be guaranteed delivery the next day, unlike certified mail, and the return receipt is delivered immediately electronically via email, instead of through the regular mail as the return

¹ It should be noted that USPS calls the service used by MTP “Priority Mail Express,” not “Priority Express Mail.” For continuity of the record and to avoid confusion, MTP will continue to use the term “Priority Express Mail.”

² An additional feature of Priority Express Mail is that a party can printout an additional copy of the return receipt at any time after delivery. Therefore, Mr. Wade was able to printout a copy on January 30, 2018.

³ Priority Express Mail also provided an electronic proof of delivery page on its website: <https://tools.usps.com/go/TrackConfirmAction?tLabels=el%20576179078%20us>.

receipt for certified mail is sent. Recognizing the importance of timely notice and timely proof of delivery, Mr. Wade paid the extra charges, totaling \$23.75, for Priority Express Mail, return receipt requested.

At paragraph 6, the Decision asserts that the Bureau need not decide whether Priority Express Mail is an equivalent or better service, because only certified mail notice is permitted by the Commission's rule. As MTP shall demonstrate below, at the time the Commission adopted Section 76.66(d)(1)(ii), it made clear that certified mail was the "preferred" method, not the "mandatory" method of delivery. The mailing documents shown in Exhibit 1, and the Declaration of Mr. Wade, explaining why he sent the notice via Priority Express Mail, return receipt requested, demonstrate that Priority Express Mail is a superior service to certified mail, achieving all of the objectives of Section 76.66(d)(1)(ii), more efficiently and effectively than certified mail.

In addition, attached as Exhibit 3 is a printout from the USPS website, comparing the various mailing services offered by USPS.⁴ Two things stand out from this printout. First, the highest form of mail service offered by USPS is Priority Express Mail, which supports MTP's claim that the service is superior to certified mail. Second, certified mail is not listed as a separate service offered. It is mentioned only in footnote 8 as an additional service with first class mail. Therefore, MTP submits that the Bureau should have taken notice of the fact that Priority Express Mail is a superior service to certified mail, and that it provides all of the safeguards about which the Commission was concerned when it adopted certified mail as the "preferred" method of service.

⁴ The full table could not be printed, but can be reviewed at: <https://www.usps.com/ship/mail-shipping-services.htm>.

Collectively, the above facts demonstrate that Priority Express Mail delivered the notice the next day, which is faster than certified mail, provided a return receipt immediately in electronic form, which is faster than certified mail, and it was used by Mr. Wade to ensure more timely delivery of the notice, and proof thereof, than through use of certified mail. Rather than condemn MTP for Mr. Wade's diligence, the Bureau should commend MTP for taking the election notice process so seriously. Given these facts, a determination, that the notice provided by MTP to DISH was inadequate, places form over substance in a manner that cannot be deemed reasoned decision making. Since the Decision operated under the false premise that it had not been conclusively established in the record that the notice was sent by Priority Express Mail, return receipt requested, this alone requires that the Decision be reconsidered.

B. THE DECISION ERRED AS A MATTER OF LAW WHEN IT STATED THAT CERTIFIED MAIL, RETURN RECEIPT REQUESTED WAS THE "MANDATORY" AND NOT THE "PREFERRED" METHOD TO GIVE NOTICE

The Decision erred when it concluded:

"Section 76.66(d)(1)(ii) provides one specific mailing method for carriage elections: certified mail, return receipt requested. **The provision does not indicate that this is a suggested method, or a preferred method**, and we therefore need not decide whether priority express mail is an equivalent or better service, as KMTP suggests." Decision at paragraph 6 (emphasis added).

In fact, at the time that Section 76.66(d)(1)(ii) was adopted, the Commission clearly stated that it believed that ". . . **certified mail, return receipt requested is the preferred method** to ensure that broadcast stations are able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier." *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues*, Order on Reconsideration, 16 FCC Rcd 16544, 16576, para 65 (2001) (emphasis added).

In its December 14, 2017 NPRM, the Commission reemphasized the point that the certified mail, return receipt requested is the “preferred method” to give notice: In fact, the Commission noted that, at the time that the Section 76.66(d)(1)(ii) was adopted, the Commission clearly stated:

Currently, the rules direct each television broadcast station to provide notice every three years, via certified mail, to each cable system or DBS carrier serving its market regarding whether it is electing to demand carriage ("must carry or "mandatory carriage"), or to withhold carriage pending negotiation ("retransmission consent"). The DBS rule also states that the certified mail letter be "return receipt requested." The Commission **"believe[d] that certified mail, return receipt requested [was] the preferred method"** to ensure that broadcast stations were able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier.

NPRM at paragraph 25, 17-168, 83 FR 2119.

Rather than accept the Commission’s own precedent that the certified mail, return receipt requested provision specified the “preferred method” of giving notice, the Decision adopted the interpretation of 76.66(d)(1)(ii) set forth in an earlier decision of the Cable Services Bureau (Bureau) in *Family Stations, Inc. v. DirecTV* (“*Family Stations*”), 17 FCC Rcd 2365, 2370, para. 11 (2002), *aff’d* 19 FCC Rcd 14777 (2004) (footnotes omitted):

In *Family Stations*, the Cable Services Bureau (Bureau) indicated that when the Commission adopted the *DBS Must Carry Report and Order*, the Commission “stated that contacting a carrier by certified mail is the notification method required to ensure that the broadcast stations are able to demonstrate that they submitted their elections by the required deadline, and that the satellite carrier received them.” The Bureau also stated that the requirement that carriage elections be made by certified mail “provides assurances that satellite carriers are aware of their carriage obligations” and that, because satellite carriers are required to “contend with hundreds of elections and must carry requests from local stations,” a “bright line approach” was required to establish that an “election was mailed or received.”

In *Family Stations*, the complaining station alleged that it had mailed the notice via certified mail, return receipt requested, but could not provide any documentary evidence that it

had sent the notice or that the notice had been received by DirecTV. DirecTV also denied receiving the notice. Thus, the case was decided at both the Bureau and Commission level on the basis that the station could not prove that the notice had been sent, while DirecTV alleged that it had never received the notice; in other words, on a failure of proof. Anything stated in the *Family Stations* decision with respect to whether the sending of notice via certified mail, return receipt requested was mandatory and whether the failure to do so was fatal, regardless of whether notice was sent and received, was not necessary to decide the *Family Stations* case, and is therefore dicta and of no precedential value. *NTECH v. FCC*, 841 F.3d 497, 504 (D.C. Cir. 2016) (“The foregoing statement is dicta, however, entirely unnecessary to the Commission’s resolution of the issues that were before it and resolved by the Memorandum Order.”) The Bureau is bound by Commission precedent, not dicta.

C. THE DECISION ERRED IN IGNORING THE COMMISSION’S NPRM

The Decision also is in error because it did not take into account the NPRM’s statements regarding notice and that Section 76.66(d)(1)(ii) is in need of updating to reflect today’s reality. The NPRM has made it clear that notice via certified mail, return receipt requested is the “preferred” means of notice. The NPRM also makes it clear that the Commission has concluded that the means of communication at present are vastly different than they were in 2001.⁵

⁵ The Commission did not indicate what action it might take with respect to modification of the notice requirement. However, in a joint filing, the four most prominent noncommercial television organizations proposed that: “The DBS rules should be aligned with the cable rules to permit a one-time election that continues for as long as the station remains qualified for carriage. In addition, the FCC should modernize the election process to permit digital communications between stations and carriers (rather than the existing outdated certified mail requirements that are unnecessarily cumbersome).” Comments of America’s Public Television Stations, Corporation for Public Broadcasting, National Public Radio, Inc., and Public Broadcasting Service, filed July 5, 2017, at 15.

Most importantly, the Decision loses sight of the purpose of the rule. As the Commission states in the NPRM:

More generally, can we modernize our rules in a way that would minimize the burden on broadcasters, ensure that MVPDs receive the elections in a timely way, and **still provide a mechanism by which broadcasters can demonstrate that they met the election deadline with respect to specific cable operators and DBS carriers?** (emphasis added) NPRM at paragraph 26.

The above quote demonstrates that the purpose of requiring a return receipt mailing is so that the broadcaster can prove that the notice was timely delivered. Here, there is no argument over whether the notice was timely delivered; DISH concedes this point. Thus, the “bright line approach” applied by the Bureau is unnecessary in this instance and subverts the purpose of the rule.

The failure of the Decision to recognize the clear import of the NPRM is hard to fathom, as the NPRM was released more than a month before the Decision was released, was cited in the Decision, and is clearly germane to the issue at hand: whether notice actually given and received is adequate even if it was not provided by certified mail, return receipt requested.

D. DISH ADMITS THAT IT RECEIVED MTP’S CARRIAGE ELECTION NOTICE AND CLEARLY WAS NOT PREJUDICED BY RECEIVING THE NOTICE VIA PRIORITY EXPRESS MAIL, RETURN RECEIPT REQUESTED, RATHER THAN CERTIFIED MAIL, RETURN RECEIPT REQUESTED

DISH does not contend that it was prejudiced in any way by receiving MTP’s notice via Priority Express Mail, return receipt requested, rather than Certified Mail, return receipt requested. It does not so contend for the simple reason that it has not been prejudiced. Given that DISH had actual notice and is not prejudiced, there is no public interest purpose served by ignoring the Commission’s repeated statements that it believed in 2001 that certified mail, return receipt requested was “. . .the preferred method to ensure that broadcast stations were able to

demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier.”

E. THE PUBLIC INTEREST WILL BE SERVED BY GRANT OF THE RELIEF REQUESTED

The Decision appears to rest upon the view that application of a “bright line approach” will best serve the public interest in this case. However, the facts of this case demonstrate quite clearly the proposed “bright line approach” will not best serve the public interest. In this case, DISH network was not prejudiced in any way by the method of notice provided to it. But application of the “bright line approach” prejudices MTP with the loss of mandatory carriage for the next three years. This would deprive the DISH subscribers in the San Francisco area of KMTP’s unique programming, serving primarily Asian language residents in its service area, for the next three years. Any reasonable balancing of the public interest considerations here must support grant of MTP’s Complaint. Indeed, given the clear indication in the NPRM that the Commission will soon amend or relax the notice requirements, depriving MTP of its carriage rights for three years is a result which cannot be supported as being in the public interest.⁶

VI. RELIEF SOUGHT

For all of the reasons detailed above, MTP respectfully requests that the Bureau reconsider its decision denying MTP’s Complaint, and upon such reconsideration determine that DISH had actual notice of the KMTP carriage election notice, that said actual notice was

⁶ The Decision at 3, n.18 mentions that DISH argues that KMTP can still be carried if it chooses to negotiate for retransmission consent. The Bureau notes that MTP stated that the Commission’s rules do not contemplate that a noncommercial station can enter into a retransmission consent agreement. The Bureau concludes that, because it dismissed the complaint on other grounds, it need not address these arguments. It is important to point out that MTP tried, but was unsuccessful in attempting to negotiate such an agreement with DISH.

adequate compliance with Section 76.66(d)(1)(ii), where the Commission has repeatedly made it clear that the means of notice specified in Section 76.66(d)(1)(ii) is the preferred method “to ensure that broadcast stations were able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier,” and that, because DISH had actual notice of the carriage election notice, it must immediately begin carriage of KMTP. Alternatively, to the extent the Bureau may deem it necessary, pursuant to Section 1.3 of the Commission’s rules, 47 C.F.R. § 1.3, MTP requests that it be granted a waiver of Section 76.66(d)(1)(ii).

VII. CONCLUSION

For all the foregoing reasons, Minority Television Project respectfully requests reconsideration of the Decision denying its complaint for carriage and for an order requiring DISH to begin carriage of KMTP.

MINORITY TELEVISION PROJECT, INC.

By its Attorneys,



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February 5, 1018

EXHIBIT 1

**PROOF OF PRIORITY EXPRESS MAIL,
RETURN RECEIPT REQUESTED**

CUSTOMER USE ONLY

FROM: (PLEASE PRINT)

PHONE

KMTP TV
719 Woodside Way
San Mateo CA 94401

PAYMENT BY ACCOUNT (if applicable)

USPS® Corporate Acct. No.

Federal Agency Acct. No. or Postal Service™ Acct. No.

DELIVERY OPTIONS (Customer Use Only)

☐ SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

- ☐ No Saturday Delivery (delivered next business day)
☐ Sunday/Holiday Delivery Required (additional fee, where available)
☐ 10:30 AM Delivery Required (additional fee, where available)
 *Refer to USPS.com or local Post Office™ for availability.

TO: (PLEASE PRINT)

PHONE

Melisa Ordóñez
Dish Network
9601 S Meridian Blvd
Englewood, CO 80112
Englewood, CO

ZIP + 4® (U.S. ADDRESSES ONLY)

- For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.
 ■ \$100.00 insurance included.



EL 576179078 US



PRIORITY
★ MAIL ★
EXPRESS™

ORIGIN (POSTAL SERVICE USE ONLY)

<input type="checkbox"/> 1-Day	<input type="checkbox"/> 2-Day	<input type="checkbox"/> Military	<input type="checkbox"/> DPD
PO ZIP Code 94062	Scheduled Delivery Date (MM/DD/YY) 9-28-17	Postage \$ 23.75	
Date Accepted (MM/DD/YY) 9-27-17	Scheduled Delivery Time <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input checked="" type="checkbox"/> 12 NOON	Insurance Fee \$	COD Fee \$
Time Accepted 1405	10:30 AM Delivery Fee \$	Return Receipt Fee \$	Live Animal Transportation Fee \$
Weight 2 lbs.	<input type="checkbox"/> Flat Rate \$	Sunday/Holiday Premium Fee \$	Total Postage & Fees \$ 23.75
Employee Initials			

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (MM/DD/YY)	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Attempt (MM/DD/YY)	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature

LABEL 11-B, SEPTEMBER 2015

PSN 7690-02-000-9996

2-CUSTOMER COPY



719 Woodside Way, San Mateo, CA 94401
Tel: 415-777-3232 Fax: 650-458-8835

September 27, 2017

VIA CERTIFIED MAIL
Return Receipt Requested

Melisa Ordonez
Dish Network
9601 S Meridian Blvd.
Englewood, CO 80112

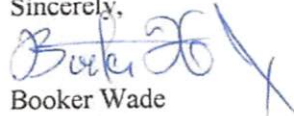
Re: Notice of Election to Exercise Must Carry Rights

Dear System Manager:

Minority Television Project Inc., license of noncommercial television station KMTP, San Francisco, California, and operating on assigned channel 33, with virtual channel 32, in the San Francisco Nielsen DMA, with offices and studios at 719 Woodside Way, San Mateo, California, hereby gives you notice that it has elected and elects to assert its MUST CARRY rights, pursuant to Section 76.66 of the Rules and Regulations of the Federal Communications Commission, 47 Code of Federal Regulations, Section 76.66. KMTP elects to be carried on channel 32, unless we agree with your system to be carried on another channel, in which case KSQA elects to be carried on that channel.

Should you require any additional information in connection with this election, please contact me at the number shown above.

Sincerely,


Booker Wade
General Manager



Date: January 30, 2018

Booker Wade:

The following is in response to your January 30, 2018 request for delivery information on your Priority Mail Express® item number EL576179078US. The delivery record shows that this item was delivered on September 29, 2017 at 10:45 am in ENGLEWOOD, CO 80112 to C CATE. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "C Cate", written over a horizontal line.

Address of Recipient :

9601 MERIDIAN BLVD

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

EXHIBIT 2

DECLARATION OF BOOKER T. WADE

DECLARATION

BOOKER T. WADE JR,

I, Booker T. Wade, Jr., am General Manager of KMTP-TV, noncommercial television station, San Francisco, California.

On September 27, 2017, I prepared the notice to send to DISH Network, to advise it of KMTP's must-carry election. The notice stated that it would be sent certified mail, return receipt requested. On September 28, 2017, I took the notice to the post office to send to DISH. At the post office, a clerk offered that, if the document was important, I might want to send it Priority Express Mail, return receipt requested, instead of certified mail, return receipt requested. The clerk explained the advantages of Priority Express Mail, return receipt requested are that the delivery is guaranteed overnight, and the return receipt can be sent immediately following delivery to your email. The clerk explained that certified mail, return receipt requested does not provide these benefits. As the satellite must-carry election is very important to KMTP, I opted for the guaranteed delivery and return receipt process offered by Priority Express Mail, return receipt requested. Upon my request, I received an electronic message providing the return receipt. The documents provided as Exhibit 1 were produced as a result of the actions described herein.

I declare that the foregoing is accurate and true to the best of my knowledge, information and belief.

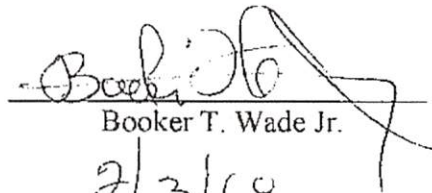

Booker T. Wade Jr.
2/3/18

EXHIBIT 3

USPS MAILING SERVICES

[Print & Ship](#)[Order Stamps & Supplies](#)[Calculate a Price](#)[Schedule a Pickup](#)[Look Up a ZIP Code](#)[Find USPS Locations](#)[Claims & Refunds](#)[Learn about...](#)[Online Shipping](#)[Mail & Shipping Services](#)[Priority Mail Express](#)[Priority Mail](#)[First-Class Mail](#)[Insurance & Extra Services](#)[Military & Diplomatic Mail](#)[Create Mail & Stamps](#)[Preparing Shipments](#)[Money Orders](#)

Mail & Shipping Services

Service Details

[Quick Compare](#)

	Starting Price	Ship Time	Pricing Options
Priority Mail	\$24.70 (retail & online)	Overnight Guaranteed ²	Flat Rate Variable Price
Express®	\$21.98 (commercial) ¹		
Priority Mail®	\$6.70 (retail & online) \$6.55 (commercial) ¹	1-3 days ⁶	Flat Rate Variable Rate Regional Rate Prepaid
First-Class Mail®	\$0.50 (at retail) \$0.378 (commercial) ¹	2-3 days	Variable Price
USPS Retail Ground®	\$6.70 (at retail)	2-8 days	Variable Price
Media Mail®	\$2.66 (at retail) \$1.74 (commercial) ¹	2-8 days	Variable Price

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Restrictions and exclusions apply. Insurance does not cover certain items. For details, visit 609.4.3 (Non-payable Claims), 609 (Filing Indemnity Claims for Loss or Damage), and 503.4 (Insured Mail) of the Domestic Mail Manual available at http://pe.usps.com/text/dmm300/dmm300_landing.htm. Priority Mail Express shipments must have an applicable USPS barcode to qualify for the included insurance. For shipments valued at more than \$100, additional insurance may be available for purchase. [Back](#)

4. Priority Mail Express service comes with a signature option. [Back](#)
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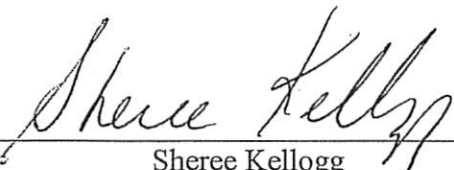


CERTIFICATE OF SERVICE

I, Sheree Kellogg, do hereby certify that on February 5, 2018, a true copy of the foregoing "Petition for Reconsideration" was mailed, first class U.S. mail, postage pre-paid to the following:

Dish Network LLC
9601 S. Meridian Blvd.
Englewood, CO 80112
Attention: Teresa Cain
Dish Programming, Local Operations

Alison A. Minea
Director and Senior Counsel, Regulatory
Affairs
Dish Network, L.L.C.
1 110 Vermont Ave., NW, Suite 750
Washington, DC 20005



Sheree Kellogg

February 5, 2018