

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

In the Matter of)

Mauna Kea Broadcasting Company)

Must-Carry Complaint Regarding Television)
Station KLEI-TV, Kailua-Kona, Hawaii)

CSR-8953-M

MB Docket No. 18-38

ANSWER OF CHARTER COMMUNICATIONS, INC.

Pursuant to 47 C.F.R. § 76.7, Charter Communications, Inc. (“Charter”) hereby answers the “Renewal of Must Carry Complaint” (the “Complaint”) filed by Mauna Kea Broadcasting Company, Inc. (“Mauna Kea”), the licensee of Television Station KLEI-TV, Kailua Kona, Hawaii (“KLEI”), against Oceanic Time Warner Cable LLC (“Oceanic”), a Charter subsidiary.

Under the Media Bureau’s order in *Mauna Kea Broadcasting Co. v. Time Warner Entertainment Co., L.P.*,¹ KLEI is entitled to carriage by Oceanic on each cable system that serves communities in the Honolulu, Hawaii DMA within 60 days of the date on which KLEI delivers a good quality signal to Oceanic’s Oahu headend.² On September 28, 2017, Mauna Kea timely elected mandatory carriage for KLEI on channel 6 for the period beginning on January 1, 2018.³ Mauna Kea provided written notice alleging Charter’s failure to satisfy this election on February 2, 2018,⁴ affirming that it provided a good quality signal to Charter’s Honolulu

¹ 27 FCC Rcd 13,188 (MB 2012).

² *Id.* at 13,198 ¶ 17; *id.* at 13,199 Ordering Clause 2.

³ Petition, Attach. A; *see also* 47 C.F.R. § 76.64(f).

⁴ *See* Attachment B (Letter from Dr. Christopher A. Racine, President Mauna Kea Broadcasting Co., Inc. to Oceanic Time Warner Cable d/b/a Spectrum (Feb. 2, 2018)); *see also* 47 C.F.R. § 76.61(a)(1).

headend, and on the same day filed the instant Complaint requesting the Commission to order immediate carriage of KLEI.

On February 21, 2018, Charter responded to Mauna Kea's February 2 letter.⁵ Charter noted that it was already carrying KLEI in the Kona area, and that it had commenced carriage of KLEI on channel 6, as requested, on February 16, to all of Charter's subscribers on the islands of Hawaii and Maui. As Charter explained to Mauna Kea, in order to accommodate Mauna Kea's request for on-channel carriage of KLEI in Oahu and Kauai, Charter will need to relocate the stations currently occupying that channel on those islands, which requires Charter to first provide advance notice of the move to subscribers and the affected stations.⁶ Charter completed providing these notices on February 21, which will enable Charter to provide on-channel carriage of KLEI throughout all of its service areas in the State of Hawaii by the end of March.

⁵ See Attachment C (Letter from Keely Bostock, GVP, Programming Acquisition, Charter Communications, Inc., to Christopher A. Racine, President Mauna Kea Broadcasting Co., Inc. (Feb. 21, 2018)); *see also* 47 C.F.R. § 76.61(a)(2).

⁶ 47 C.F.R. §§ 76.1601, 76.1603(b).

Charter will submit a supplemental filing in this docket to confirm when it has effectuated such carriage.

Respectfully submitted,

/s/ Howard J. Symons

Maureen O'Connell
Vice President, Regulatory Affairs
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(202) 621-1922

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(202) 639-6000

February 22, 2018

Counsel for Charter Communications, Inc.

CERTIFICATE OF SERVICE

I, Elliot S. Tarloff, hereby certify that on this 22nd day of February, 2018, a copy of the foregoing ANSWER OF CHARTER COMMUNICATIONS, INC. was filed electronically with the Commission by using the ECFS system and that a copy of the foregoing was served by first-class mail, postage prepaid to the following:

Mauna Kea Broadcasting Company, Inc.
Post Office Box 8969
Honolulu, HI 96830
Attention: Dr. Christopher J. Racine

Harry F. Cole
Fletcher, Heald & Hildreth, PLC
1300 North 17th St., Suite 1100
Arlington, VA 22209



Elliot S. Tarloff

ATTACHMENT A

**BEFORE THE
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WASHINGTON, D.C. 20554**

In the Matter of

Mauna Kea Broadcasting Company

Must-Carry Complaint Regarding
Television Station KLEI-TV, Kailua-Kona,
Hawaii

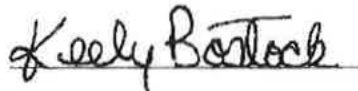
CSR-8658-M

Docket No. 12-167

DECLARATION OF KEELY BOSTOCK

1. My name is Keely Bostock. I am Group Vice President of Programming – Content Acquisition at Charter Communications, Inc.

2. I have reviewed the foregoing Answer and I declare, under penalty of perjury, that all factual matters set forth herein are true to the best of my knowledge and belief. To the best of my knowledge, information, and belief formed after reasonable inquiry, the Answer is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and it is not interposed for any improper purpose.



Keely Bostock
GVP, Programming – Content Acquisition
Charter Communications, Inc.

Date: 22 February 2018

ATTACHMENT B

Mauna Kea Broadcasting Company, Inc.

Post Office Box 8969, Honolulu, HI 96830

(808) 591-1682 manager@klei.tv

February 2, 2018

Via Certified Mail, Return Receipt Requested

Oceanic Time Warner Cable LLC d/b/a Spectrum
12405 Powerscourt Drive
St. Louis, MO 63131

Re: Carriage of KLEI-TV, Kailua Kona, Hawaii

Dear Sir or Madam:

Mauna Kea Broadcasting Company, Inc. ("Mauna Kea"), licensee of television station KLEI-TV, Kailua-Kona, Hawaii (FCC Facility ID No. 664), hereby demands immediate carriage of KLEI-TV on each and every one of the cable systems ("Systems") which: (a) are operated by Oceanic Time Warner Cable LLC and/or its subsidiaries and affiliates ("Spectrum") and (b) serve communities located within the Honolulu, Hawaii Designated Market Area (the "DMA"), including without limitation systems serving Oahu, Maui, Molokai, Lanai, Hilo and Kauai. Such carriage is mandated by Section 76.61 of the FCC's rules and Section 534 of the Communications Act of 1934, as amended. KLEI-TV's entitlement to carriage on the Systems has already been established by the FCC in a Memorandum Opinion and Order, DA 12-1683 (the "Carriage Order"). There the FCC expressly confirmed that KLEI-TV is entitled to mandatory carriage on all of Spectrum's Systems in the State of Hawaii. A copy of the Carriage Order is attached for your convenient reference.

At the time that the Carriage Order was released, KLEI-TV did not deliver a good quality signal to Spectrum's Honolulu headend. (Mauna Kea understands that that headend serves all of Spectrum's systems outside the Island of Hawaii.) However, the Carriage Order expressly required Spectrum to commence carriage of KLEI-TV on its Systems within 60 (sixty) days of the date on which the station delivers a good quality signal to Spectrum.

Pursuant to Section 76.64(f) of the FCC's rules, by letter dated September 28, 2017, Mauna Kea elected mandatory carriage on its major virtual channel (Channel 6) on the Systems for the election cycle beginning on January 1, 2018 and ending December 31, 2020.¹ In its election letter, Mauna Kea explicitly notified Spectrum that KLEI-TV currently delivers a good quality over-the-air signal to Spectrum's Honolulu headend through carriage on a multicast channel broadcast by Station KKAU. That being the case, KLEI-TV was entitled to carriage commencing no later than November 27, 2017. Mauna Kea has observed that Spectrum has not carried KLEI-TV since that date on any of its Systems serving Oahu, Maui, Molokai, Lanai, Hilo,

¹ Postal Service records show that this letter was received by Spectrum on September 29, 2017. Mauna Kea notes that even if it had not delivered a timely election letter, the station would have defaulted to must-carry status under Section 76.64(f)(3) of the FCC's rules.

and Kauai, in clear violation of the FCC's mandatory carriage rules and the explicit command of the FCC as set forth in the Carriage Order. Spectrum is plainly in violation of the Commission's 2012 order.

Carriage of KLEI-TV will not cause the Systems to exceed the maximum number of signals a cable system is required to carry under the FCC's must carry rules. KLEI-TV does not and will not share a broadcast network affiliation with, or substantially duplicate the programming of, any other local commercial broadcast television station in the Honolulu DMA. As noted above, and in Mauna Kea's September 28, 2017 letter, KLEI-TV delivers a good quality signal through alternative means to the Systems' headend. There therefore is no lawful reason for Spectrum to refuse to carry KLEI-TV on Channel 6 on any part of the Systems or to any subscribers to those Systems.

Accordingly, pursuant to Section 76.61(a)(1) of the rules of the FCC, Mauna Kea hereby notifies you that Spectrum has failed to meet its carriage obligations and we formally demand mandatory carriage, commencing immediately, of KLEI-TV on Channel 6 in all communities, and to all subscribers, served by the Systems in the Honolulu DMA, in a manner consistent with Spectrum's carriage of all other must-carry stations carried by those systems. Immediate commencement of carriage is warranted in view of the explicit command of the FCC's 2012 Carriage Order.

This notice letter serves to perfect Mauna Kea's rights to carriage under the FCC's rules with respect to Spectrum's failure to carry KLEI-TV as of January 1, 2018, to the extent that such perfection may be deemed necessary. However, because that failure merely extends Spectrum's unexplained failure to comply with the Carriage Order, Mauna Kea is simultaneously herewith notifying the Commission of that earlier (and ongoing) failure, so that the Commission may take appropriate action immediately. Of course, Mauna Kea hopes that Spectrum's carriage of KLEI-TV on the Systems will commence without further resort to the FCC's complaint procedures. If such carriage does not commence without further undue delay, Mauna Kea fully intends to take all available action at the FCC and otherwise to protect its rights.

Thank you for your attention to this matter.

Sincerely,



Christopher J. Racine, D.D., D.Litt.
President

Cc (w/att.): Oceanic Time Warner Cable LLC d/b/a Spectrum
200 Akamainui Street
Mililani, HI 96789

ATTACHMENT C



Keely Bostock

Keely Bostock, GVP, Programming Acquisition

February 21, 2018

Mauna Kea Broadcasting Company, Inc.
Post Office Box 8969
Honolulu, HI 96830
Attention: Dr. Christopher J. Racine, President

Re: Carriage of KLEI-TV, Kailua-Kona, Hawaii
Carriage of KKAI(DT), Kailua, Hawaii

Dear Dr. Racine:

Thank you for your letters of February 1 and 2, 2018, regarding your request for carriage of KLEI on channel 6 and of KKAI on channel 50 throughout Hawaii where Charter Communications, Inc. provides service.

We are pleased to let you know that on February 16 we commenced carriage of KLEI on channel 6 to all of our subscribers on the islands of Hawaii and Maui. As you know, KLEI was already being carried in the Kona area. In order to accommodate your request for on-channel carriage of KLEI in Oahu and Kauai, we will need to move the stations currently occupying that channel on those islands, which requires us to provide advance notice of the move to subscribers and the affected stations. We completed providing these notices today, which will enable us to provide on-channel carriage of KLEI throughout all of our service areas in the State of Hawaii by the end of March.

For on-channel carriage of KKAI, we will need to relocate the programming currently on channel 50. We have also provided the required advance notice of this move, which will enable us to commence carriage of KKAI on channel 50 by the end of March.

We appreciate your continued patience as we satisfy these final requirements, and we look forward to a mutually beneficial relationship going forward.

Sincerely,

Keely Bostock
GVP, Programming Acquisition