

**Before the
Federal Communications Commission
Washington, D.C. 20544**

In Re Petitions of)	
)	
Stephens County, Georgia)	
)	
For Modification of the Television Market)	MB Docket 18-358
of Station WSB-TV (ABC), Atlanta, GA)	CSR-8967-A
)	
For Modification of the Television Market)	MB Docket 18-359
of Station WGCL (CBS), Atlanta, GA)	CSR-8968-A
)	
For Modification of the Television Market)	MB Docket 18-360
of Station WAGA (FOX), Atlanta, GA)	CSR-8969-A
)	
For Modification of the Television Market)	MB Docket 18-361
of Station WXIA-TV (NBC), Atlanta, GA)	CSR-8970-A

JOINT OPPOSITION TO PETITIONS FOR SPECIAL RELIEF

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Summary

The four Petitions filed by Stephens County, Georgia (through its Board of County Commissioners) to add Stephens County to the local television markets of four Atlanta Stations for purposes of satellite carriage is based almost exclusively on claims that Stephens County residents do not have access to “in-state” television stations from Atlanta that provide programming relevant to Georgians generally.

The Petitions lack required evidence, and four of the five statutory factors do not support market modification: (i) the Atlanta Stations are not historically carried in Stephens County, (ii) the Atlanta Stations lack over-the-air coverage of, geographic proximity to, and a programming nexus to Stephens County, (iii) there is ample and, indeed, superior technical coverage and local programming of specific interest to Stephens County residents from the In-Market Stations, and (iv) the Atlanta Stations lack any meaningful audience in Stephens County. There is, therefore, no accounting or assessment of the evidence that would weigh the totality of the statutory factors in favor of modification.

The fifth factor, “access to in-state programming” was added by Congress in 2014 to be considered along with four other historical factors. But that “new” factor is neither exclusive nor dispositive. Neither Congress nor the Commission ever declared or suggested that the other four, original statutory factors should be ignored, or that the Commission’s standardized evidentiary requirements should be waived, simply because modification would allow access to in-state television stations. To the contrary, in its 2015 STELAR Order, the Commission specifically held that “the in-state factor does not serve as a trump card negating the other four statutory factors.” This should be especially true in petitions like those here where there is no evidence that the Atlanta Stations that would be imported into Stephens County have expressed

a specific desire to be carried in that county or an intention to provide localized programming that is specifically targeted to the county.

For all of these reasons, the Petitions must be denied.

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JOINT OPPOSITION TO PETITIONS FOR SPECIAL RELIEF

WYFF Hearst Television Inc., licensee of NBC affiliate WYFF(TV), Greenville, South Carolina (“WYFF”); Meredith Corporation, licensee of FOX affiliate WHNS(TV), Greenville, South Carolina (“WHNS”); Nexstar Broadcasting, Inc., licensee of CBS affiliate WSPA-TV, Spartanburg, South Carolina (“WSPA”); and WLOS Licensee LLC, licensee of WLOS(TV), Asheville, North Carolina (“WLOS”) (collectively, the “Opposition Parties”), through counsel and pursuant to Rule 76.7 of the Commission’s rules, respectfully file and serve this joint, consolidated Opposition to the Petitions for Special Relief filed by the Board of Commissioners of Stephens County, Georgia (the “Board” or the “County”) seeking to modify the local television markets of NBC affiliate WXIA-TV, Atlanta, Georgia; FOX affiliate WAGA-TV, Atlanta, Georgia; CBS affiliate WGCL-TV, Atlanta, Georgia; and ABC affiliate WSB-TV, Atlanta, Georgia (the “Petitions”) to include Stephens County with respect to DISH Network (“DISH”) and DIRECTV.

WXIA, WAGA, WGCL and WSB are collectively referred to herein as the “Atlanta Stations.”

WYFF, WHNS, WSPA, and WLOS are collectively referred to herein as the “In-Market Stations.”

For the reasons discussed below, the Petitions should be denied.

I. Background

A. Localism is the Foundation of Market Modification Proceedings

The market modification process exists to allow the Commission to alter a television station’s local television market when doing so would allow broadcasters and MVPDs to “better serve the interests of local communities.”¹ The touchstone for evaluating a market modification request is whether there is a sufficient nexus—i.e., a “local relationship”—between the television station and the relevant community.² To that end, the Commission “must afford particular attention to the value of localism”³—long defined as programming that “is responsive to the needs and interests of their communities of license”⁴—when judging the merits of a market modification petition.⁵

¹ *Amendment to the Commission’s Rules Concerning Market Modification; Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Report and Order, 30 FCC Rcd 10406, FCC 15-111 (2015) (“STELAR Order”), at ¶ 7.

² *La Plata County, Colorado, Petitions for Modification of the Satellite Television Markets of KDVR-TV, KCNC-TV, KMGH-TV, and KUSA-TV, Denver, Colorado*, Memorandum Opinion and Order, 32 FCC Rcd 1474, DA 17-204 (MB 2017) (“La Plata Order”), at ¶ 5 (“The rules enable a broadcast television station to be carried by a satellite carrier in such a new community if the station is shown to have a local relationship to that community.”).

³ Report from the Senate Committee on Commerce, Science, and Transportation accompanying S. 2799, 113th Cong., S. Rep. No. 113-322 (2014) (“Senate Commerce Committee Report”), at 10-11; 47 U.S.C. § 338(1)(2)(B); STELAR Order, at ¶ 8.

⁴ *Designated Market Areas: Report to Congress Pursuant to Section 109 of the STELA Reauthorization Act of 2014*, 31 FCC Rcd 5463, DA 16-613 (MB 2016) (“2016 In-State Programming Report”), at ¶ 11.

⁵ See Senate Commerce Committee Report, at 10-11.

Until 2014, in the context of market modification for carriage on cable systems, Congress set four statutory factors for the Commission to consider and weigh in evaluating the local nexus between a television station and the relevant community:

- **Historical carriage.** Whether the station, or the other stations located in the same area—(a) have been historically carried on the cable system or systems within such community; and (b) have been historically carried on the satellite carrier or carriers serving such community;
- **Local Service by Out-of-Market Station.** Whether the television station provides coverage or other local service to such community;
- **Local Service by In-Market Stations.** Whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the statutory requirements provides news coverage of issues of concern to such community or provides carriage of sporting and other events of interest to the community; and
- **Viewing patterns.** Evidence of viewing patterns in households that subscribe and do not subscribe to the services offered by multichannel video programming distributors within the areas served by such multichannel video programming distributors in such community.⁶

To evaluate each of these factors, the Commission imposed the following standardized evidentiary requirements relevant to establishing a local nexus between the station and the community:

- Maps illustrating the relevant community locations, mileage between the station and the community, geographic features, transportation routes, and station and MVPD facilities;
- Noise-limited service contour maps delineating the station's technical service area and showing the location of the cable system headends or satellite carrier local receive facilities and communities in relation to the service areas;
- Available data on shopping and labor patterns in the local market;
- Television station programming information derived from station logs or local television guides;

⁶ 47 U.S.C. § 338(l)(2)(B).

- MVPD line-up cards or television guides demonstrating historical carriage; and
- Audience data for MVPD and non-MVPD households, advertising or sales data.⁷

B. STELAR and the Addition of the “In-State” Programming Factor

Congress’ enactment of STELAR in 2014 extended the market modification regime to satellite carriage.⁸ It also added a fifth statutory factor—access to “in-state” television signals—to the existing four factors that the Commission must consider in conducting its overall localism analysis.⁹ Congress added the new “in-state” programming factor so that the Commission could “consider the plight” of viewers in so-called “orphan” counties, who lack access to signals from “in-state” stations.¹⁰

Congress made clear, however, that it preserved the original four factors and that the Commission must consider this new “access to in-state signals” factor *along with* the other four factors. The new “in-state” factor does not replace, supersede, subsume, or in any way change the existing four factors, or the framework for how they are to be analyzed.¹¹ Indeed, while Congress added a new in-state programming factor to the multi-factor analysis, it did not provide any new

⁷ 47 C.F.R. § 76.59(b)(1)-(6); *see also Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366, FCC 99-116 (1999).

⁸ *See* STELA Reauthorization Act of 2014, Pub. L. 113-200, 128 Stat. 2059 (2014) (“STELAR”).

⁹ Specifically, the “new” factor addressed “whether modifying the local market of the television station would promote consumers’ access to television broadcast station signals that originate in their State of residence[.]” STELAR § 102, 128 Stat. at 2060; 47 U.S.C. § 338(l)(2)(B).

¹⁰ Senate Commerce Committee Report, at 11; STELAR Order, at ¶ 18.

¹¹ *See, e.g.,* Senate Commerce Committee Report, at 10-11 (explaining that all five factors must be taken into account).

or separate framework for evaluating orphan county petitions generally or for modifying or waiving the application of the original four factors in an orphan county context.

Most critically, Congress did not state—either explicitly or implicitly—that access to in-state programming could be dispositive in any market modification proceeding. Nor did Congress suggest that “in-state” programming of statewide interest should be treated as a wholesale proxy for “local” programming with respect to counties purportedly underserved by “in-state” stations—especially with respect to the second statutory factor, the “local service” factor.¹²

C. The Commission’s Order Implementing STELAR

Consistent with Congress’s directive, the Commission launched and completed a proceeding to implement Section 102 of STELAR.¹³ In its resulting STELAR Order, the Commission heeded Congress’s direction to “consider the plight” of viewers living in orphan counties.¹⁴ It determined how the new, third, “access to in-state signals” statutory factor should be construed, set forth the appropriate weight the new factor should be given, and explained that a petitioner will be “afforded credit for satisfying this factor simply by showing that the involved station is licensed to a community within the same state as the new community.”¹⁵

But the Commission did not alter or adjust the underlying test for evaluating market modification petitions. Rather, it specifically reaffirmed the totality of the five-factor test in the context of considering access to “in-state” signals:

First, the Commission emphasized the importance of considering *all five factors* in evaluating a market modification request, noting that the new “access to in-state signals” factor “is

¹² See 47 U.S.C. § 338(l)(2)(B)(ii).

¹³ See generally STELAR Order (MB Docket No. 15-71).

¹⁴ See, e.g., STELAR Order, at ¶¶ 3, 14-15, 28.

¹⁵ STELAR Order, at ¶ 18.

not universally more important than any of the other factors[.]”¹⁶ Importantly, the Commission ordered that “the in-state factor *does not serve as a trump card* negating the other four statutory factors.”¹⁷

Second, the Commission maintained the existing framework as to the other four factors, particularly the second statutory factor, “local service” by the station subject to market modification. It did not suggest that access to in-state signals alone would be sufficient to satisfy the longstanding “local service” factor (in addition to satisfying the third, “access to in-state signals” factor) where those in-state stations provide programming of general statewide interest but not programming specifically targeted to the local community. By contrast, the Commission explained the crucial difference between the “local service” second factor and the “access to in-state signals” third factor:

[U]nder factor two, we consider whether the station has aired programming, such as news, politics, sports, weather and other emergency information, *specifically targeted to the community at issue* (e.g., town council meeting, news or weather event that occurred in the community, local emergencies, etc.). Under factor three, we would consider whether the station has aired programming, such as news, politics, sports, emergency information, *specifically related to the state in which the community is located* (e.g., coverage of state politics and legislative matters, state sports team coverage, state emergency information, etc.).¹⁸

Third, the Commission did not modify, lessen, or waive any of the required evidentiary factors for petitions seeking to add “in-state” signals or forecast circumstances in which a waiver

¹⁶ STELAR Order, at ¶ 18.

¹⁷ STELAR Order, at ¶ 18 (emphasis added).

¹⁸ STELAR Order, at ¶ 18 n.85 (emphasis added). As set forth in Section III.B., *infra*, this explanation from the Commission proves the error of the Bureau’s contention that “a distinction between ‘*state-related*’ programming and ‘*localized*’ programming’ . . . simply does not exist in the orphan county context.” La Plata Order, at ¶¶ 43, 52 (emphasis in original).

would even be appropriate.¹⁹ The Commission specifically made these pre-STEELAR, existing evidentiary requirements applicable to market modification for satellite carriage “given the same language is used in both the cable and satellite statutory factors and the record provides no basis for adopting a different interpretation in the satellite versus cable context.”²⁰ Far from excusing noncompliance with these requirements, the Commission reaffirmed the importance of complying with them.

Fourth, a unique feature of market modification proceedings for satellite carriage is that, unlike in the cable market modification context, the Commission has permitted county governments to file petitions seeking market alterations. But, the Commission expressly recognized the difficulty that county governments might have in providing the required “specific evidence to demonstrate the five statutory factors” and “strongly encourage[d] county government petitioners to enlist the aid and cooperation of the station they wish to bring to their county” in order to “avoid dismissal” due to a lack of sufficient evidence.²¹ The Commission therefore recommends that county governments consult with the affected television station before filing a petition for market modification because “without the willing participation of the affected broadcaster, modifying the market of a particular television station, in itself, would not result in consumer access to that station.”²²

¹⁹ STELAR Order, at ¶ 20 (requiring that market modification requests “must include” at least the seven evidentiary requirements set forth in 47 C.F.R. § 76.59(b)(1)-(7)); *id.* ¶ 22 (holding that market modification requests that do not include the required evidence will be dismissed). The Commission added to the six evidentiary requirements that predated STELAR the requirement that, when applicable, the petitioner provide a statement that the station is licensed to a community within the same state.

²⁰ STELAR Order, at ¶ 20.

²¹ STELAR Order, at ¶ 14.

²² STELAR Order, at ¶ 14.

Here, the Petitions do not reflect the intent of the Atlanta Stations to authorize carriage of their signals on satellite in Stephens County, nor do the Petitions reflect the programming that those stations intend to provide that is specifically targeted to viewers in Stephens County—i.e., local news, sports, weather, etc. The letter from the Georgia Broadcasters Association (GAB) included in the Petitions does not, and cannot, purport to speak for any of the Atlanta Stations individually. In any event, the GAB states that it “continues to support efforts to negotiate terms of targeted carriage arrangements to allow delivery of local, in-state, non-duplicative broadcast programming and to increase access to in-state news by Georgia viewers”—an outcome that generally would not require any market modification by the FCC.²³ In short, the Board provides no evidence that the Commission’s grant of a market modification will produce the result supposedly desired by some of the County’s residents—satellite carriage of the Atlanta Stations without any additional charge to viewers.

D. Not All Orphan Counties Are Similarly Situated

In recent post-STELAR orphan county market modification proceedings, the Media Bureau has: reduced the importance of geographic proximity tests and historic carriage and ratings data; given “substantial weight” to the “in-state” programming factor; and effectively allowed “in-state” programming to be counted twice by using it as a satisfactory showing of the second factor’s “local service.” Rather than giving “positive” or “negative” weight to the first, second, fourth, and fifth factors, the Media Bureau’s post-STELAR decisions have tended to pronounce these factors as “neutral” even where there is no meaningful evidence to support them,²⁴ so that the only factor

²³ See Petitions, at Exhibit L.

²⁴ See, e.g., La Plata Order, at ¶¶ 24-59; *Gray Television Licensee, LLC, for Modification of the Satellite Television Market for WSAW-TV, Wausau, Wisconsin*, Memorandum Opinion and Order, 32 FCC Rcd 668, DA 17-74 (MB 2017), at ¶¶ 30, 32 (geographic proximity for second factor and fourth factor deemed neutral). In some cases the Media Bureau has found evidence in

given any meaningful, positive weight on the scale is the in-state programming factor—which has the same practical effect of eliminating the other factors from the scale at all. The result of this flawed analysis is that the third factor, access to in-state programming, automatically becomes the dispositive factor in orphan county petitions, as the lack of any meaningful evidence regarding the other four factors is of little, if any, consequence.

This analysis is unsupported by STELAR and the STELAR Order. Among other things, it fails to recognize that not all orphan counties are similarly situated within the context of the five statutory factors, and that a *per se* grant of orphan county market modification petitions driven by one factor alone is improper.

For example, orphan counties in some states will have a stronger geographic nexus to an “in-state” station than other orphan counties in other states.²⁵ Additionally, in some cases, the Bureau has determined that some in-state stations may already provide meaningful coverage of news and events occurring in orphan counties.²⁶ And, evidence of historical carriage and ratings

favor of petitioners on some of those factors where meaningful evidence to support those factors has been submitted and there was no opposition filed. *See, e.g., Harrison County, Texas, Petitions for Modification of the Satellite Television Markets of KLTV, Tyler, Texas and KFXK-TV, Longview, Texas, Memorandum Opinion and Order, DA 18-573 (MB rel. June 1, 2018) (“Harrison County Order”)* (Bureau found that: evidence demonstrated that one of the in-state stations’ community of license of the Texas station was within the county, the county was largely within the service contours of the in-state stations, there was some evidence of historical carriage on cable systems with the county, and there was no opposition to the petitions (and therefore no showing of local service by the Shreveport stations)).

²⁵ Compare *Harrison County Order*, at ¶ 24 (“In the instant case, however, Petitioner has demonstrated not only that KFXK provides substantial over-the-air coverage of the County, but also that the Station offers local service through its programming and connection to the County. We thus find that the second statutory factor weighs in favor of the requested modification.”), with *La Plata Order*, at ¶ 53 (“In this case, we find that overall geographic proximity measures do not enhance the Petitioner’s case, and we thus consider them neutral.”).

²⁶ See *Harrison County Order*, at ¶¶ 23-24; *Monongalia County, West Virginia and Preston County, West Virginia, Petitions for Modification of the Satellite Markets for WDTV, Weston, West*

data may vary significantly across differently situated orphan counties.²⁷ Given these differences, proper application of all five statutory factors and evidentiary requirements—as mandated by Congress—must prevent a market modification in circumstances where there is little, if any, local nexus between the in-state stations and the orphan counties, particularly as it relates to evidence of local programming.

Although a “one-factor-fits-all-orphan-county-petition” is inappropriate, there are indeed situations where the five-factor analysis may support an orphan county’s request for modification. For example, it may very well have been appropriate for the Commission to grant market modifications filed by West Virginia’s Preston and Monongalia Counties to receive in-state, West Virginia stations where the petitioners presented evidence of local signal coverage, extensive local programming from the in-state stations, and evidence of historical carriage on cable systems—and where the in-state stations at issue provide extensive local coverage of West Virginia University, located in Monongalia County.²⁸ That petition was unopposed.

Conversely, it was far less appropriate to grant a market modification petition in La Plata County, Colorado, where the petitioning county provided little more than a scintilla of evidence of meaningful local nexus between the in-state, Denver stations and La Plata County, where the

Virginia, and WBOY-TV and WVFX, Clarksburg, West Virginia, Memorandum Opinion and Order, DA 18-113 (MB rel. Feb. 7, 2018) (“West Virginia Order”), at ¶¶ 22-23, 30-31, 38-39.

²⁷ See, e.g., West Virginia Order, at ¶¶ 34, 42 (given the factor neutral weight where evidence provided indicated Nielsen had not been able to measure viewing in the subject counties for at least 10 years); *Electric Plant Board of the City of Russellville, Cumberland Cellular, Inc. d/b/a Duo County Telecom, and North Central Telephone Cooperative, Inc., for Modification of the Television Market for WBKO(TV), Bowling Green, Kentucky*, Memorandum Opinion and Order, 32 FCC Rcd 10255, DA 17-1183 (MB 2017), at ¶ 15 (positive weight given where historical Nielsen data demonstrated some viewing in the communities at issue); Harrison County Order, at ¶¶ 27, 34 (negative weight given where no evidence of viewing patterns presented).

²⁸ See generally West Virginia Order.

Albuquerque stations submitted evidence of significant local coverage of La Plata County, and where the crux of the petition was effectively based on obtaining access to “local” news in Denver—some 330 miles away. That petition was opposed by the Albuquerque stations. The Denver stations offered to provide their “*local, in-state, non-duplicative broadcast programming*”²⁹ (for which a market modification would not be required), but they did not express a desire to provide their duplicating network and syndicated programming (for which a market modification would be required).

In sum, modifying a local television market to promote access to in-state programming of statewide interest without evidence of a meaningful local nexus between the subject county and the in-state station does not comport with STELAR, the Commission’s STELAR Order, or the principles of localism embedded in the statutory factors and evidentiary requirements.

II. The Petitions Fail to Comply with Evidentiary Standards Required by the Commission’s Rules

A. DISH’s Feasibility Response Includes Conditions that Would Frustrate the Desired Goal of the Petitions

STELAR provides that a market modification “shall not create additional carriage obligations for a satellite carrier if it is not technically and economically feasible for such carrier to accomplish such carriage by means of its satellites in operation at the time of the determination.”³⁰ In its STELAR Order, the Commission stated that “[t]he Commission will not proceed to evaluate the five factors for a market modification with respect to a particular satellite

²⁹ Petition for Special Relief (KDVR) of La Plata County, Colorado, MB Docket 16-366 (filed Sept. 7, 2016), at Exhibit H; Petition for Special Relief (KCNC) of La Plata County, Colorado, MB Docket 16-367 (filed Sept. 7, 2016), at Exhibit H; Petition for Special Relief (KMGH) of La Plata County, Colorado, MB Docket 16-368 (filed Sept. 7, 2016), at Exhibit H; and Petition for Special Relief (KUSA) of La Plata County, Colorado, MB Docket 16-369 (filed Sept. 7, 2016), at Exhibit H.

³⁰ 47 U.S.C. § 338(l)(3)(A).

carrier where it is shown that the resulting carriage obligation would not be technically and economically feasible at the time of the market determination.”³¹

There are at least three issues with the feasibility certifications:

First, the certifications attached to the Petitions relate solely to Franklin County, Georgia, and do not separately reference Stephens County, Georgia.

Second, the feasibility certifications submitted with the Petitions are now more than two years old. Particularly in the case of DISH, which expressly reserved the right to amend its response based on technical or economic infeasibility, the Petitions should be denied or, at the very least, the County should be required to supplement them with new certifications from DISH and DIRECTV.³²

Further, the response from DISH, even assuming it applies to Stephens County as well as Franklin County, states that it may not, in fact, be technically or economically feasible for DISH to retransmit the Atlanta Stations under certain conditions. DISH’s reservations as to feasibility highlight the uncertainties and costs to consumers associated with a market modification. DISH notes that it cannot guarantee that it will be able to successfully reach an agreement with the Atlanta Stations to carry those stations in Stephens County,³³ as the Atlanta Stations may or may not be able to reach an economic agreement with DISH regarding the terms for retransmission consent. In fact, DISH suggests that if any of the four Atlanta Stations were to deny DISH the right to retransmit its signal, “it may be either technically or economically infeasible, or both, for

³¹ STELAR Order, at ¶ 30.

³² See 47 U.S.C. § 338(1)(3); see also *Gray Television Licensee, LLC, for Modification of the Television Market for WYMT-TV, Hazard, Kentucky*, Memorandum Opinion and Order, DA 18-500 (MB rel. May 16, 2018) (denying market modification due, in part, to showing of technical and economic infeasibility).

³³ See Petitions, at Exhibit A.

DISH to launch a customer offering with only the remaining stations that did grant retransmission consent.”³⁴ DISH further reserves the right to “charge additional fees” to subscribers who want to receive the Atlanta Stations, and maintains that “[w]ithout the ability to offset the additional costs associated with a market modification, it would be ‘economically infeasible’ pursuant to 47 CFR 76.59(e) for DISH to comply with a market modification ordered by the FCC.”³⁵

DISH’s response, therefore, conditions feasibility upon both (i) reaching an economic retransmission consent agreement with all of the Atlanta Stations, and (ii) charging a fee to Stephens County residents to receive such signals. The scenario discussed by DISH does not square with the responses of the Georgia Association of Broadcasters or the residents of Stephens County. The GAB letter focuses on carriage of local, nonduplicative programming of the Atlanta Stations, and there is no submission from Stephens County demonstrating that all of the Atlanta Stations have committed to negotiate with DISH for the right to retransmit their full signals, including all of the stations’ network and syndicated programming. Further, the Board’s own survey of residents of the four northeast Georgia counties (including Stephens County) reveals that 43 percent of those surveyed are not willing to pay extra for Atlanta Stations, and only 19 percent of residents are willing to pay extra for them.³⁶ The Board’s own evidence, then, reveals that a market modification may not have the desired outcome sought by many residents of Stephens County—the immediate addition of the Atlanta Stations to DISH at no extra charge to consumers—and that the feasibility of carriage of any Atlanta Station on DISH is uncertain at best.

³⁴ See Petitions, at Exhibit A.

³⁵ See Petitions, at Exhibit A.

³⁶ See Petitions, at Exhibit G.

B. The Petitions Lack Required Evidence

The Petitions do not include required evidence of (i) exhibits establishing historic carriage of the in-state stations in Stephens County, and (ii) published audience data for the relevant in-state station or other “specific audience indicia.” Because the failure to comply with these procedural evidentiary requirements is grounds for dismissal,³⁷ the Board (unable to show them) asks the Commission to waive these evidentiary requirements.

The Opposition Parties acknowledge that the Media Bureau has recently waived certain evidentiary requirements in market modification petitions filed by other orphan counties. But nothing in the Commission’s STELAR Order contemplates a blanket waiver of evidentiary requirements for orphan county petitioners solely because they are orphan counties. Nor does it suggest that certain evidentiary requirements are inapplicable to orphan county petitioners. Rather, the Commission’s STELAR Order implementing the “in-state” factor adopts the existing evidentiary requirements, and it explicitly references the need for county governments to “provide specific evidence to demonstrate the five statutory factors.”³⁸ Here, the County’s failure to provide evidence of historical carriage and ratings data, and other omissions, renders the Petitions procedurally defective and subject to dismissal, and it also reflects the substantive failure to meet the first and third statutory factors, as discussed in more detail below.

³⁷ See, e.g., *Sagamorehill Broadcasting of Wyoming/Northern Colorado, LLC*, Memorandum Opinion and Order, 22 FCC Rcd 12944, DA 07-3205 (MB 2007) (dismissing petition for failure to provide required data); *Withers Broadcasting Company of West Virginia*, Memorandum Opinion and Order, 20 FCC Rcd 17890, DA 05-2926 (MB 2005) (same).

³⁸ STELAR Order, at ¶ 14.

C. The Petitions Do Not Reflect the Support or Participation of the Atlanta Stations

The Commission appropriately recognizes that a market modification will not result in desired carriage without the willing participation of the affected stations.³⁹ And although the Commission specifically recommends that petitioning counties seek the assistance of affected stations, the Petitions do not reflect the intent of the Atlanta Stations to authorize carriage of their signals on satellite in Stephens County, nor do the Petitions reflect the programming that those stations intend to provide that is specifically targeted to viewers in Stephens County—i.e., local news, sports, weather, etc. The letter from the Georgia Broadcasters Association included in the Petitions does not, and cannot, purport to speak for any of the Atlanta Stations individually. And, as discussed above, the GAB states that it “continues to support efforts to negotiate terms of targeted carriage arrangements to allow delivery of local, in-state, non-duplicative broadcast programming and to increase access to in-state news by Georgia viewers”—an outcome that generally would not require any market modification by the FCC. Again, the Board provides no evidence that grant of a market modification will produce the result alleged desired by some of the County’s residents—satellite carriage of the Atlanta Stations without any additional charge to viewers; the lack of such evidence must weigh against grant of the Petitions.

III. The Statutory Factors Do Not Support Market Modification

Four of the five statutory factors weigh against modification because the Petitions, on their face, demonstrate that the Board is entitled to no enhancement under these factors.

- *First*, the Board acknowledges that the signals of the Atlanta Stations are not historically carried in Stephens County.⁴⁰

³⁹ STELAR Order, at ¶ 14.

⁴⁰ See Petitions, at 9 (Section III(5)).

- *Second*, the Board does not offer evidence of *local* programming with a nexus to Stephens County—i.e., coverage of local news, weather, sports, or any issues relevant to the specific needs and interests of Stephens County viewers. Nor does the Board provide evidence that the Atlanta Stations intend to provide or invest in such programming. Indeed, the Board’s own evidence (or, rather, lack thereof) shows that the Atlanta Stations provide no meaningful technical coverage of Stephens County.⁴¹ The Board’s citations to survey and census data—including purported evidence of shopping, labor, and commuting patterns—do not establish a substantial local relationship between Stephens County and Atlanta.
- *Third*, the Board does not establish that the In-Market Stations fail to provide localized programming of interest to Stephens County viewers.
- *Fourth*, the Board offers no evidence that the Atlanta Stations achieve any meaningful audience share in Stephens County.

The “in-state” programming factor supports grant of the Petitions for the simple reason that the Atlanta Stations would provide “Georgia” programming to Stephens County residents, as this factor essentially automatically favors every orphan county market modification petition because it was designed by Congress to do so. But Congress did not design a system where the “in-state” programming factor would supersede or otherwise excuse consideration of the other factors and allow access to statewide programming to be elevated above localized programming specifically targeted to the needs and interests of local communities.

A. Historical Carriage

The Board does not provide any evidence that the Atlanta Stations have been historically carried on any MVPD systems within Stephens County. As set forth in the Opposition Parties’

⁴¹ See Petitions, at Exhibits E and F.

Exhibits A through D attached hereto, the In-Market Stations have been historically carried on the cable and satellite systems in Stephens County. In particular, WSPA is carried on Channel 7 on both DISH and DIRECTV and has been carried on those providers since at least 1999, as well as on cable systems serving Stephens County for many years.⁴² WHNS is carried on Channel 21 on both DISH and DIRECTV and has been carried on those providers since at least 2000, as well as on cable systems serving Stephens County for many years.⁴³ WYFF is carried on DISH and DIRECTV on Channel 4 and has been carried on those providers since they began providing local-into-local service in Stephens County, as well as on cable systems serving Stephens County for many years.⁴⁴ WLOS is carried on Channel 13 on both DISH and DIRECTV and appears to have been carried on those providers in Stephens County since at least 2000, as well as on cable systems serving Stephens County for many years.⁴⁵

The lack of historical carriage of the Atlanta Stations and the evidence of historical carriage of the In-Market Stations weighs against market modification.⁴⁶

⁴² See Opposition Parties' Exhibit B, Declaration of Mark Higgins ("Higgins Decl."), at ¶ 4.

⁴³ See Opposition Parties' Exhibit A, Declaration of Les Vann ("Vann Decl."), at ¶ 4.

⁴⁴ See Opposition Parties' Exhibit C, Declaration of John Humphries ("Humphries Decl."), at ¶ 4.

⁴⁵ See Opposition Parties' Exhibit D, Declaration of Joseph Fishleigh ("Fishleigh Decl."), at ¶ 4.

⁴⁶ See *Cablevision of Monmouth, Inc. for Modification of the ADI Market for Station WMBC-TV, Newton, NJ; Complaint of Mountain Broadcasting Corp. against Cablevision of Monmouth, Inc. Request for Carriage*, Memorandum Opinion and Order, 11 FCC Rcd 9314, DA 96-1266 (CSB 1996) ("Monmouth Order"), at ¶ 19 (concluding that, with respect to a specialized format station, "the lack of historical carriage and the dearth of audience is evidential significance when linked with other information regarding the market, including lack of Grade B coverage, geographic distance, and the absence of noncable audience share in the relevant communities. In these instances, we cannot discount the stations' existing carriage and audience as proper indicators of the scope of its market area.").

B. Technical Coverage, Local Programming, and Other Evidence of a Purported Local Nexus Between Atlanta and Stephens County

To analyze a station's coverage or local service, the Commission considers a station's signal contour coverage over the communities, its proximity to the communities in mileage, and its provision of programming with a distinct nexus to the communities.⁴⁷ In this case, the coverage or local service factor weighs against market modification.

(a) Technical Coverage

The Petitions fail to adequately demonstrate any meaningful technical coverage of Stephens County by the Atlanta Stations. The "Contour Map" attached to the Petitions as Exhibit F is not a contour map at all, but a map showing driving distances between Toccoa, Georgia (the Stephens County seat), and Atlanta. By contrast, as demonstrated in the Opposition Parties' Exhibit E, each In-Market Station's noise limited service contour (NLSC) contains all or most of Stephens County.

Further, as demonstrated in the Opposition Parties' Exhibit F, which corresponds to the County's Exhibit E, evidence of the strength of broadcast signals received in Toccoa, Georgia, shows that the In-Market Stations deliver strong NLSC service to Toccoa, while NLSC service from the Atlanta Stations is weak to non-existent in the same location. The relevant statistic is the column labeled "NM(db)," which shows the amount above or (if negative) below NLSC service at the location for each station listed. The data in this column shows that three of the four Atlanta Stations have exceptionally weak (negative) NLSC coverage at Toccoa, Georgia, while the In-

⁴⁷ See *California-Oregon Broadcasting, Inc. d/b/a Crestview Cable Communications, for Modification of the DMA for Stations: KFXO, NPG of Oregon, Inc., Bend, OR; KOHD, Three Sisters Broadcasting LLC, Bend, OR; KVTZ, NPG of Oregon, Inc., Bend, OR*, Memorandum Opinion and Order, 29 FCC Rcd 3833, DA 14-506 (2014), at ¶ 16.

Market Stations provide strong NLSC coverage to Toccoa. Indeed, the stations at the top of the chart—the In-Market Stations—provide the strongest NLSC coverage to Toccoa.

The Board also inaccurately and confusingly appears refer to “signal strength” and “geographic proximity” interchangeably. The *geographic distance* to Stephens County from a station’s transmitter site is not the same as *strength* of over-the-air signals received in Stephens County. As to geographic distances, the County’s own evidence presented in Exhibit E demonstrates that the transmitters of the Atlanta Stations are farther from Toccoa than the transmitters of the In-Market Stations, with one exception.⁴⁸

(b) Local Programming

Most notably, neither the Petitions nor the programming guides of the Atlanta Stations submitted by the Board demonstrate any significant coverage of local programming “specifically targeted” to Stephens County.⁴⁹ Rather, the Petitions appear to rely on Atlanta programming of “Georgia” news. There is no evidence that the Atlanta Stations currently cover local news, weather, sports, issues, political races, or events in Stephens County. Nor is there evidence that the Atlanta Stations would provide such localized coverage if the Petitions are granted.

The lack of any evidence of localized programming from the Atlanta Stations specifically targeted to Stephens County is important because, again, the Commission has clearly delineated the distinction between locally-targeted programming in factor two and state-related programming in factor three:

[U]nder *factor two*, we consider whether the station has aired programming, such as news, politics, sports, weather and other emergency information, *specifically targeted to the community at issue* (e.g., town council meeting, news or weather event that

⁴⁸ Petitions, at Exhibit E. The only exception according to the distances listed on the Exhibit is that the transmitter site of WSB is closer than the transmitter site of WLOS.

⁴⁹ See Petitions, at Exhibits H and I.

occurred in the community, local emergencies, etc.). Under *factor three*, we would consider whether the station has aired programming, such as news, politics, sports, emergency information, *specifically related to the state in which the community is located* (e.g., coverage of state politics and legislative matters, state sports team coverage, state emergency information, etc.).⁵⁰

This distinction is also important to avoid the improper “double counting” of programming that is “state-related” programming for factor three purposes, by also considering the same programming to be “local programming” for factor two purposes. If availability of “state-related” programming relevant to Georgians generally is sufficient to satisfy both factor three *and factor two*, then the clear demarcation between factors two and three outlined in both the statute and in the Commission’s STELAR Order is eradicated, and every orphan county would automatically meet the “local service” requirement in factor two without having to provide any evidence of local programming specifically targeted to the orphan county. Factor two would be rendered wholly superfluous because it would be subsumed by factor three.

The Atlanta Stations’ provision of Atlanta programming and state-related programming is not a substitute for the provision of localized programming that specifically targets the needs and interests of Stephens County viewers, as required by the second factor.⁵¹ It is true, of course, that some state-related programming can certainly be a *component* of localism.⁵² But Congress never

⁵⁰ STELAR Order, at ¶ 18 n.85 (emphasis added).

⁵¹ See STELAR Order, at ¶ 18, n. 85.

⁵² The Media Bureau has previously cited the Senate Commerce Committee Report on STELAR as evidence that “local” programming includes “in-state” programming. See La Plata Order, at ¶ 22. But the portion of the Senate Commerce Committee Report to which the Bureau cites for the proposition that “local programming” is to include “programming originating from and about the State in which a consumer resides” does not deal with statutory factor two, or factor three, or any of the other factors.⁵² In fact, that portion of the Senate Commerce Committee Report does not pertain to Section 102 of the Act or market modification petitions at all. Rather, it deals with Section 205 of the Act, wherein Congress explained that the Commission could consider “in-

intended for programming of statewide interest to be a proxy for localized programming specifically targeted to the local community under the second factor. Such a result would run counter to the very principle of localism and broadcasters' public interest obligation to air programming "relevant to the tastes, needs and desires of the public they are licensed to serve."⁵³ There is no basis to suggest that all Georgians—from Savannah on the coast to Dade County in the Appalachians—can have their "local" needs and interests adequately addressed solely through local or state political news from Atlanta, coverage of the Atlanta sports teams, and other Atlanta- or Georgia-focused programming.

Granting a market modification without meaningful evidence of a local nexus beyond programming of general statewide interest risks disrupting the economics of the local television marketplace without any corresponding benefit to localism. Indeed, the Commission itself has recognized that not every in-state station necessarily has an incentive to invest in providing *localized* programming that specifically targets the needs and interests of specific local communities, particularly when the location of the in-state station is geographically distant and demographically distinct from the community at issue.⁵⁴ The Commission recognized this marketplace reality when it recently rejected calls to depart from the existing DMA structure:

[C]hanging the market of a particular county from one DMA to another that is potentially composed of counties from the same state as the county may not necessarily increase the amount of local programming that the county receives due to the economics of

state programming" to be "local programming" *for the purposes of drafting a Commission "report to various named congressional committees on DMAs."*

⁵³ *Deregulation of Radio*, Report and Order, 84 FCC 2d 968, FCC 81-17 (1981), at ¶ 32 (quoting *En Banc Programming Inquiry Statement*, 44 FCC 2303, 2314 (1960)).

⁵⁴ See *In-State Broadcast Programming: Report to Congress Pursuant To Section 304 of the Satellite Television Extension and Localism Act of 2010*, Report, 26 FCC Rcd 11919, DA 11-1454 (MB 2011), at ¶ 48 (summarizing comments and examples submitted by National Association of Broadcasters).

broadcast television and the ability (or inability) to serve a geographically distant, but in-state county.⁵⁵

There are, of course, situations where certain orphan counties have presented evidence of significant coverage of local programming specifically targeted to their communities. A recent example involved Preston and Monongalia Counties in West Virginia.⁵⁶ The Media Bureau found that the in-state stations at issue aired county-specific programming that included high school sports, major weather events, major arrests, crime spree, road closures, and economic development projects aimed at certain neighborhoods in the counties.⁵⁷ The in-state stations also provided “extensive coverage” of West Virginia University, which is located in Monongalia County itself—an example of programming of statewide interest that was also, simultaneously, a matter of particular “local” interest to the residents of the orphaned county.⁵⁸ In that case, the evidence of “local service” was based on far more than local news from a distant In-State community (where the in-state stations were located—i.e., Clarksburg, West Virginia, the equivalent of Atlanta news in the present matter), or programming of interest to West Virginians generally. Rather, the petitions in the West Virginia proceeding demonstrated a history of the in-state stations’ provision of local service to the orphan counties—based on locally-oriented programming—sufficient to satisfy the local service factor.

⁵⁵ 2016 In-State Programming Report, at ¶ 88.

⁵⁶ See West Virginia Order.

⁵⁷ See West Virginia Order, at ¶¶ 22-23.

⁵⁸ See West Virginia Order, at ¶ 24.

(c) Labor, Shopping and Commuting Patterns, and Citizen Comments

The Petitions' purported evidence of labor, shopping, and commuting patterns, as well as citizen comments, does not demonstrate a sufficient nexus between the Atlanta Stations and Stephens County.

The Survey Monkey survey of residents of the four northeast Georgia counties (including Stephens County) lacks any scientific validity where it fails to provide any information about sample selection or other methodology and no evidence of statistical significance. Yet, even within the results as presented, the respondents do the largest percentage of their shopping “locally”—and even with Georgia, respondents apparently do more shopping and service delivery in Athens and Gainesville than Atlanta.⁵⁹ Further, the purported evidence of “commuting patterns” on the one page of labor statistics for Stephens County actually shows a *lack* of evidence that Stephens County residents commute to Atlanta in significant numbers. Rather, the top counties that Stephens County residents purportedly commute to include other northeast Georgia counties (Franklin and Hart), northwest Georgia counties (Habersham and Hall), and counties in other smaller, metropolitan areas such as Clark County (Athens, GA) and White County (Gainesville, GA), as well as Oconee County in South Carolina.

Second, the Petitions cite “data denoting economic trends connecting Stephens County with their neighboring Georgia communities,”⁶⁰ allegedly from Georgia Power and the Georgia Department of Labor.⁶¹ But the data attached to the Petitions barely references any specific economic data connecting Stephens County and Atlanta. The U.S. Census data in Exhibit G

⁵⁹ Petitions, at Exhibit G. The color-coded results of the pie chart appear to show Athens in the pale yellow color, Gainesville in the dark pink color, and Atlanta in the pale blue color.

⁶⁰ Petitions, at 8 (citing Exhibit G).

⁶¹ Petitions, at Exhibit G.

purportedly shows “inflow/outflow” information regarding people who migrate in and out of Stephens County for work—yet there is no mention of the communities between which these people purportedly travel. The Georgia Power data purports to detail economic “leakage” and “surplus” in certain industries in Stephens County, but again, nothing in the evidence connects this data to any specific economic nexus between Stephens County and Atlanta.

The Board cites recent evidence that designates the Micropolitan Statistical Area of Toccoa (in Stephens County) as part of the Combined Statistical Area of Atlanta-Athens-Clarke County-Sandy Springs, GA-AL. This designation does not add Toccoa to the Metropolitan Statistical Area of Atlanta-Sandy Springs-Alpharetta. The Combined Statistical Area is a broader designation of social and economic interactions, “but at lower levels than are found among counties within Metropolitan and Micropolitan Statistical Areas.”⁶² The Board’s own evidence of commuting and shopping patterns shows that Stephens County residents have greater interaction with their immediate neighboring communities than they do with Atlanta.

Finally, the summary of citizen comments submitted by the County in Exhibit M actually reveals competing preferences for the Atlanta and In-Market Stations. Despite the comments submitted in support of receiving Atlanta Stations, the summary of comments also reflects that some residents are opposed to market modification, for several reasons. For example, there are comments stating that (i) South Carolina news is more accurate for the Toccoa area and has more balanced political views and coverage, (ii) Toccoa has more in common with South Carolina than Georgia, (iii) the In-Market Stations provide local coverage of Stephens County, and (iv) the Atlanta Stations have less interest in Stephens County than the In-Market Stations.⁶³ Perhaps most

⁶² Petitions, at Exhibit K.

⁶³ Petitions, at Exhibit M.

tellingly, as shown in the Petitioners' Exhibit G, 43 percent of the North Georgia residents surveyed responded that they are not willing to pay extra to view the Atlanta Stations.

In sum, the local service factor weighs against modification because the Atlanta Stations do not provide technical coverage of Stephens County, the County provided insufficient evidence of programming tailored to the specific local interests of Stephens County, and the County provided insufficient evidence of a demonstrated economic nexus between Stephens County and Atlanta.

C. Access to In-State TV Broadcast Signals

The FCC's STELAR Order presumes consumer access to in-state television signals is sufficient to satisfy this factor, and it is undisputed that the Atlanta Stations provide programming related to Georgia. But there should be no additional weight given to this factor in this case—especially in light of the evidence that the In-Market Stations provide coverage of local news and issues of interest to Stephens County.

D. Coverage by Other Stations of News, Issues, and Events of Interest to Stephens County

The Petitions offer no evidence that the In-Market Stations fail to provide coverage of news, weather, sports, issues, and events of interest to Stephens County viewers. Instead, the evidence attached as Opposition Parties' Exhibits A-D reflects that the In-Market Stations serve viewers living in Stephens County, Elbert County, Franklin County, and Hart County and their communities (the portions of Georgia that are in the In-Market Stations' DMA) in numerous ways, including through routine and consistent coverage of a significant number of regular local weather, news, sports, and election stories, as well as coverage of Georgia-oriented sports (in addition to North and South Carolina sports, which are also of interest to Stephens County viewers).

In recent months, for example, the In-Market Stations have reported on numerous stories specific to Stephens County, and the stations routinely cover local news of interest to viewers in Northeast Georgia, including Stephens County, that involve local government, crime, and economic development.⁶⁴ In addition, WHNS, WSPA, and WYFF regularly provide Stephens County weather information, including severe weather alerts, school closings, forecasts, and election results.⁶⁵ The In-Market Stations also routinely provide coverage of Georgia-centric sports during their newscasts, including coverage of the Atlanta Braves, University of Georgia football, the Atlanta Falcons, the Masters' golf tournament, and more.⁶⁶ The In-Market Stations provide additional, supplemental coverage of the same types of stories on their websites as well, including, in many cases, online stories targeted to Stephens, Elbert, Franklin, and Hart Counties and their communities.⁶⁷

The Petitions complain that viewers in Stephens County want to see Atlanta Falcons football games instead of Carolina Panthers games and that they would prefer to receive more coverage of the Georgia Bulldogs and less coverage of the Clemson Tigers. But these generalizations are unsupported by the evidence with respect to coverage; market modification would be a solution in search of a problem.

With respect to pro sports, in 2017, the Atlanta Falcons played nine games on FOX, two games on NBC, two games on CBS, and two games on ESPN.⁶⁸ Of these 16 games, only five of

⁶⁴ See Opposition Parties' Exhibits A-D.

⁶⁵ See Opposition Parties' Exhibits A-C.

⁶⁶ See Opposition Parties' Exhibits A-D.

⁶⁷ See Opposition Parties' Exhibits A-D.

⁶⁸ See "A Week by Week Look at the Falcons' 2017 Schedule," AJC.com (April 20, 2017), available at <https://www.ajc.com/sports/football/week-week-look-the-falcons-2017-schedule/mpY93tW35r6s4cxHhjRbPP/>.

them were played at the same time as the Carolina Panthers.⁶⁹ This means that at least eleven of the 16 Atlanta Falcons games in 2017 should have been available to viewers in Stephens County, either through the In-Market Stations or on ESPN. Petitioners' focus on access (or purported lack thereof) to coverage of the Atlanta United Major League Soccer team would not be affected by market modification, as the majority of the United's soccer games air on FOX sports cable channels—and occasionally on FOX.⁷⁰ Viewers watching the In-Market Stations and viewers watching the Atlanta Stations have identical access to these games.

With respect to college teams, citizen complaints about disproportionate coverage of Clemson instead of Georgia are betrayed by the availability of coverage of both teams by the In-Market stations and on cable networks. Clemson plays in the Atlantic Coast Conference (ACC), and ACC games generally are broadcast on television on ABC or the ACC Network. Georgia plays in the Southeastern Conference (SEC), and SEC games air on broadcast television on CBS. When Clemson and Georgia games do not air on ABC or CBS, respectively, they may air on cable sports channels such as ESPN or the SEC Network. In other words, there should be few, if any, scenarios in which Stephens County viewers are unable to watch a Georgia Bulldogs game because of a competing Clemson Tigers game airing on one of the In-Market Stations.

In addition, the Dabo Swinney Show (the head football coach of Clemson) airing on WSPA pulls solid ratings in these Georgia counties—better, in fact, in some of those counties than in

⁶⁹ See “2017 Carolina Panthers Schedule,” *charlotteobserver.com* (April 20, 2017), *available at* <http://www.charlotteobserver.com/sports/nfl/carolina-panthers/article145877524.html>.

⁷⁰ See “2018 Atlanta United TV Schedule,” *dirtyouthsoccer.com* (March 2, 2018), *available at* <https://www.dirtyouthsoccer.com/2018/1/4/16850088/2018-atlanta-united-tv-schedule>.

certain South Carolina counties.⁷¹ And, by car, Toccoa, Georgia, is approximately 34 miles away from Clemson, South Carolina and 50 miles away from Athens, Georgia.⁷² In short, the college football allegiances of Stephens County residents are not so easily defined by the state boundary lines as the Petitions would lead one to believe.

Finally, the Petitions make much of the fact that some of the In-Market Stations promote themselves with various “Carolina”-specific branding. It is undisputed that the overwhelming majority of the Opposition Parties’ viewers are located in South Carolina and North Carolina. It is only natural that a station’s promotional campaigns might reflect that statistical fact. But it is not a station’s marketing that matters here; instead, the relevant evidence is that of local service to Stephens County provided by the In-Market Stations—which is amply demonstrated in Opposition Parties’ Exhibits A-D.

E. Viewing Patterns in Stephens County

The Petitions offer no evidence relating to viewing patterns and audience share of the Atlanta Stations in Stephens County. The Opposition Parties have reviewed Nielsen data for the In-Market Stations and the Atlanta Stations and submit that the data demonstrates that viewers in Stephens County prefer the In-Market Stations over the Atlanta Stations.

IV. Conclusion

The Petitions seek nothing more than a market modification based on the fact that Stephens County residents do not receive programming from the Atlanta Stations. The Petitions should be denied because (i) the Petitions lack the required evidence to support their requested relief, and (ii) the Petitions fail upon any analysis of all five statutory factors. To grant a modification on these

⁷¹ See Higgins Decl., at ¶ 6.

⁷² Clemson to Toccoa and Athens to Toccoa driving distances are available at <http://www.google.com/maps>.

facts would require the Commission to turn a blind eye to all but one statutory factor—access to in-state programming. For all of these reasons, the Petitions should be denied.

Respectfully submitted,

/s/

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December 27, 2018

Certificate of Service

The undersigned does hereby certify that I caused a copy of the foregoing **Joint Opposition to Petitions for Special Relief** to be placed in the U.S. Mail, first-class postage prepaid, addressed as follows:

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This the 27th day of December, 2018

/s/

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