

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
)
)
KAZN-TV LICENSEE, LLC)
)
v.)
)
AT&T)
)
Must-Carry Complaint Regarding Carriage of)
KILM, Barstow, California)
_____)

CSR -

Accepted/Files

OCT - 2 2014

Federal Communications Commission
Office of the Secretary

To: Office of the Secretary
Attn: Chief, Media Bureau

MUST-CARRY COMPLAINT

KAZN-TV Licensee, LLC (“KAZN”), licensee of full-power commercial television station KILM, Barstow, California (Facility ID No. 63865) (“KILM” or the “Station”), by its attorneys and pursuant to Sections 76.7 and 76.61 of the Commission’s rules,¹ hereby files this must-carry complaint against AT&T for its failure to carry the signal of KILM on cable systems serving the Los Angeles California DMA (collectively, the “Communities”).²

I. KILM Is Entitled to Carriage Because It Is a Qualified Local Commercial Television Station

KILM is a qualified local commercial television station under the Commission’s

¹ 47 C.F.R. §§ 76.7, 76.61.

² See Exhibit A.

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must-carry rules and, therefore, is entitled to carriage in the Communities.³ Under relevant rules, a full-power station is entitled to carriage if: (1) it is within the same market as the cable system involved, (2) carriage of the station will not cause increased copyright liability for the cable operator, and (3) the station either delivers a good quality signal to the cable system's principal head end or agrees to be responsible for the costs of delivering such a signal to the cable system.⁴

KILM satisfies each of these carriage conditions. First, KILM and AT&T's cable systems are located within the same television market. Pursuant to Section 76.55(e) of the Commission's Rules, a station's television market is defined as its Designated Market Area ("DMA") as assigned by Nielsen Media Research. KILM is licensed to Barstow, California and has been assigned by Nielsen to the Los Angeles, California DMA.⁵ Each of the Communities served by AT&T are also located in the Los Angeles DMA. AT&T's cable systems are, therefore, located within the same television market as KILM.

Second, AT&T will not incur additional copyright liability for carriage of KILM. Because KILM is located within the same television market as AT&T's cable systems, the Station is considered a "local signal" under the Copyright Act.⁶ Thus, carriage of KILM would not expose AT&T to increased copyright liability.

Finally, KILM is capable of delivering a good-quality signal to AT&T's principal head ends. In the event that AT&T is unable to receive a good quality signal from KILM over-the-air,

³ 47 C.F.R. §§ 76.55(c), 76.56(b).

⁴ See 47 U.S.C. § 534(h)(1)(B)(ii)-(iii); 47 C.F.R. §§ 76.55(c), 76.56(b).

⁵ See *Television and Cable Factbook*.

⁶ See *Copyright Act of 1976*, 17 U.S.C. § 111(f).

the Station will provide equipment and bear the costs of delivering such a signal via alternative means.⁷

II. AT&T Has Failed to Fulfill Its Obligations Under the Rules

By not carrying KILM in the Communities, AT&T is in violation of the Commission's must-carry rules.⁸ By letter dated July 3, 2014, KAZN provided notice pursuant to Section 76.64(f) of the Commission's rules that KAZN was electing mandatory carriage.⁹ AT&T failed to respond within the requisite 30-day timeframe or, for that matter, at all.¹⁰ Accordingly, KAZN is forced to file the instant must-carry complaint.¹¹

Continued failure to carry KILM's signal is a violation of the must carry requirements. KILM is a qualified local commercial television station entitled to carriage. In addition, the Station does not substantially duplicate the signal of any other local commercial television station carried or transmitted by AT&T within the DMA, nor does it have a network affiliation duplicating that of a local commercial television station carried by AT&T in the DMA.

III. Conclusion

In sum, KILM is legally entitled to carriage in the Communities and has done everything required to secure such carriage. Without basis, AT&T has failed to respond to KAZN's carriage demands or otherwise discuss the matter. KAZN therefore requests that the Commission order

⁷ See KAZN's July 3, 2014 demand letter to AT&T, attached hereto as Exhibit B.

⁸ See 47 C.F.R. § 76.56(b).

⁹ See Exhibit B.

¹⁰ See 47 C.F.R. § 76.61(a)(2). KAZN's demand letter was mailed via U.S. Postal Service Certified Mail on July 3, 2014. See Exhibit C. The letter was delivered on July 7, 2014. See Exhibit C. AT&T then had thirty days in which to respond. To date, KAZN has not received a response.

¹¹ As required by the Commission's rules, this complaint is submitted within 60 days of AT&T's failure to respond to KAZN's demand letters. See 47 C.F.R. § 76.61(a)(5)(ii), (a)(2).

AT&T immediately to commence carriage of KILM in the Communities and take any other enforcement action it deems appropriate.

Respectfully submitted,

KAZN-TV LICENSEE, LLC

By: 

Aaron P. Shainis
Its Counsel

Shainis & Peltzman, Chartered
1850 M Street NW, Suite 240
Washington, DC 20036
202-293-0011

October 2, 2014

AT&T

Headend ID

Headend Location

13085

Los Angeles

Counties: Esmeralda, NV
Inyo, CA
Kern, CA
Los Angeles, CA
Orange, CA
Riverside, CA
San Bernardino, CA
Santa Barbara, CA
Ventura, CA

*KAZN is not aware of any other franchise communities served by the system listed in this Exhibit A. Nevertheless, to the extent this Exhibit A does not list a franchise community served by a system listed herein, such community or system is hereby included.

EXHIBIT B

Shainis & Heltzman, Chartered

Counselors at Law

Aaron P. Shainis
aaron@s-plaw.com
Lee J. Heltzman
lee@s-plaw.com

Suite 240
1850 M Street, N.W.
Washington, D.C. 20036

(202) 293-0011
Fax (202) 293-0810
e-mail: shainisheltzman@s-plaw.com

July 3, 2014

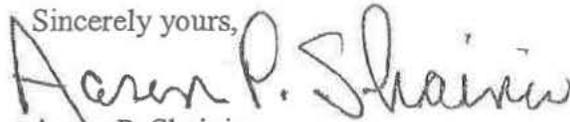
VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

AT&T
208 South Akard Street
Dallas, Texas 75202

Dear Sir/Madam:

Attached is a request for carriage by KAZN-TV Licensee, LLC, the licensee of Station KILM, Barstow, California. If there are any questions with respect to this matter, please communicate with the undersigned.

Sincerely yours,



Aaron P. Shainis
Counsel for KAZN-TV Licensee, LLC

Enclosure

July 3, 2014

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

AT&T
208 South Akard Street
Dallas, Texas 75202

Dear Sir/Madam:

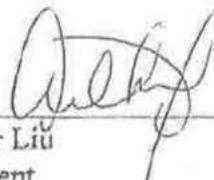
Pursuant to the provisions of Section 614 of the Cable Television Consumer Protection and Competition Act of 1992, and Section 76.64(f) of the Rules and Regulations of the Federal Communications Commission, this will inform you that Television Station KILM, licensed to Barstow, California, elects mandatory carriage pursuant to Section 76.56(b) on your cable system(s) located within the KILM coverage contour. The communities which are served by the system are within the Los Angeles DMA. *See* the attached Technical Statement. The Station is licensed to a community within the Los Angeles DMA, and the Station is therefore entitled to mandatory carriage.

Further, pursuant to Section 76.57(d) of the Rules and Regulations of the Federal Communications Commission, the Station hereby elects carriage on cable channel 44, which is the Station's over-the-air broadcast channel, or on another cable channel mutually agreed upon by the Station and you.

Please contact our counsel if you have any objections to this mandatory carriage election at the following address:

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street NW
Suite 240
Washington, DC 20036

Very truly yours,



Arthur Liu
President
KAZN-TV Licensee, LLC

TECHNICAL STATEMENT - KILM TV CH 44
FCC PART 76.55 MUST-CARRY RULES
BARSTOW, CALIFORNIA

June 30, 2014

RE: KILM DTV FCC FACILITY ID 63865
FCC CONSTRUCTION PERMIT BMPCDT-20090601AAG
CH 44 BARSTOW, CALIFORNIA

Los Angeles DMA -

The facilities authorized by KILM, as authorized by the FCC, place a predicted 41 dBu F(50,90) contour over the five county Los Angeles DMA, is available in the market via the LATV Networks, LLC fiber network and places a predicted over the area signal level of -61 dBm or greater to a wide geographic area in the densely populated regions of Los Angeles, Ventura, Orange, Riverside and San Bernardino counties. Your cable system has been selected to receive this letter as your cable system is located on list "Cable Communities Registered with the FCC" and is located within the KILM coverage contour.

KILM operates from transmitter sites located at Mt. Harvard overlooking Los Angeles, Snow Peak overlooking the Palms Spring market and a site north of Victorville in San Bernardino County. Should you have any difficulty is determining how to obtain a quality signal at your off air pickup point please contact the undersigned.

The foregoing was prepared on behalf of KAZN-TV Licensee, LLC by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.



BY: _____

Clarence M. Beverage
for Communications Technologies, Inc.
P.O. Box 1130, Marlton, New Jersey
Phone 856-985-0077 ext. 12
cbeverage@commtechrf.com

June 30, 2014

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EXHIBIT C

English Customer Service USPS Mobile

Register / Sign In



Search USPS.com or Track Packages

Quick Tools Ship a Package Send Mail Manage Your Mail Shop Business Solutions

USPS Tracking™



Customer Service > Have questions? We're here to help.

Tracking Number: 70111570000012815117

(Return receipt never came back, but there is confirmation of delivery online.)

Expected Delivery Day: Monday, July 7, 2014

Product & Tracking Information

Postal Product: First-Class Mail® Features: Certified Mail™

Return Receipt

Available Actions

DATE & TIME	STATUS OF ITEM	LOCATION
July 7, 2014, 2:22 pm	Delivered	DALLAS, TX 75202

Your item was delivered at 2:22 pm on July 7, 2014 in DALLAS, TX 75202.

July 7, 2014, 10:41 am	Out for Delivery	DALLAS, TX 75201
July 7, 2014, 10:31 am	Sorting Complete	DALLAS, TX 75201
July 7, 2014, 9:43 am	Arrived at Unit	DALLAS, TX 75201
July 6, 2014, 5:04 am	Departed USPS Facility	DALLAS, TX 75260
July 6, 2014, 12:38 am	Arrived at USPS Facility	DALLAS, TX 75260
July 5, 2014, 6:50 pm	Arrived at USPS Facility	COPPELL, TX 75099
July 5, 2014, 6:32 am	Departed USPS Facility	GAITHERSBURG, MD 208
July 3, 2014, 11:41 pm	Arrived at USPS Facility	GAITHERSBURG, MD 208
July 3, 2014, 3:15 pm	Acceptance	WASHINGTON, DC 2003

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Postage	\$ 1.19	0233
Certified Fee	\$ 3.30	13
Return Receipt Fee (Endorsement Required)	\$ 2.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 7.19	07/03/2014

7011 1570 0000 1281 5117

Track Another Package

What's your tracking (or receipt) number?

Track It

Sent To **AT: T**

Street, Apt. No., or PO Box No. **208 South Akard Street**

City, State, ZIP+4 **Dallas TX 75202**

PS Form 3800, August 2006 See Reverse for Instructions

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DECLARATION OF ARTHUR LIU

I, Arthur Liu, hereby declare as follows:

1. I am President of KAZN-TV Licensee, LLC
2. I have reviewed the foregoing Must-Carry Complaint and attached Exhibits and certify under penalty of perjury that, to the best of my knowledge, information, and belief formed after reasonable inquiry, they are well grounded in fact and warranted by existing law, or a good faith argument for the extension, modification or reversal of existing law, and not interposed for any improper purpose.

By: _____



Arthur Liu
KAZN-TV Licensee, LLC

September 30, 2014

CERTIFICATE OF SERVICE

I, Malinda Markland, do hereby certify that copies of the foregoing "Must-Carry Complaint" were sent via First Class U.S. Mail, postage prepaid, this 2nd day of October, 2014 to the following:

**AT&T
208 SOUTH AKARD STREET
DALLAS, TEXAS 75202**

Malinda Markland

Malinda Markland