

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In re Petition of	)	
	)	
Comcast Cable Communications, LLC,	)	CSR-8883-A
on behalf of its subsidiaries and affiliates	)	Docket No. 14-102
	)	
For Modification of the Television Market of	)	
Station WFXU, Channel 48, Live Oak, Florida	)	

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

**REPLY TO OPPOSITON**

Comcast Cable Communications, LLC, on behalf of its subsidiaries and affiliates ("Comcast"), hereby replies to the Opposition to Comcast's Petition for Special Relief submitted by Budd Broadcasting Co., Inc. ("Budd"), licensee of WFXU(TV) (Channel 48, Live Oak, Florida) ("WFXU" or "Station") in the above-referenced proceeding. As an initial matter, the Opposition should be rejected because it was untimely filed.<sup>1</sup> But even if the Commission

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<sup>1</sup> Comcast's Petition was put on Public Notice on July 11, 2014 and oppositions, therefore, were due on July 31, 2014. See 47 C.F.R. § 76.7(b)(1). As a courtesy, Comcast agreed to extensions totaling one month, until August 28, 2014. Budd submitted two *unsupported* motions requesting a total of 71 days, until October, 10, 2014, in which to file an opposition to the Petition. The Commission did not act on either of the requests. In any event, Budd did not file its Opposition until January 6, 2015, more than 5 months beyond the official due date, and nearly 3 months after the date Budd had requested. Moreover, Budd failed to submit a motion explaining why it should be permitted to ignore the Commission's procedural rules. Although footnote 1 of the Opposition indicates that it was untimely-filed due to the pending approval of Budd's LPTV license application, this is hardly justification for the lengthy delay or for other procedural deficiencies. Indeed, the Opposition did not include a "verification" by the signatory as required under 47 C.F.R. § 76.6(a)(4), nor was it served on all of the parties included on the Petition's service list. In any event, the WUFEX-LD application was approved on November 14, 2014, 53 days prior to the date on which the Opposition was actually filed. The procedurally defective Opposition should be stricken from the record without any further consideration by the Commission.

accepts and considers the late-filed Opposition, the Opposition fails to rebut Comcast's demonstration that all four relevant statutory factors support modifying the Station's "must carry" market to exclude certain communities served by Comcast that are located in the Tallahassee-Thomasville DMA (the "Cable Communities").<sup>2</sup>

Indeed, the Opposition does not dispute that WFXU – located an average of more than 82 miles from the Cable Communities – fails to provide "noise-limited" service coverage of 41 dBu (the digital equivalent of an analog Grade B contour) over the Cable Communities, and does not offer any significant "local" programming. Nor does the Opposition dispute that WFXU has never been carried in the Cable Communities and that it has no measureable viewership in any of the Cable Communities. Finally, the Opposition does not dispute that Comcast already carries a number of other truly "local" broadcast stations in the Cable Communities.

Having essentially conceded the controlling market modification factors with respect to WFXU, the late-filed Opposition focuses entirely on the signal coverage of low power television station WUFX-LD.<sup>3</sup> According to the Opposition, the Commission should deny Comcast's Petition, because WUFX-LD "receives and rebroadcasts content" from WFXU and provides a signal to the principal headends that serve the Cable Communities.<sup>4</sup> However, as Commission precedent makes clear, Budd cannot rely on translator stations to establish a "local presence" for

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<sup>2</sup> A list of the Cable Communities is included as Exhibit I to the Petition.

<sup>3</sup> See Opposition at 2.

<sup>4</sup> *Id.*

the purposes of the "coverage" prong of the market modification test.<sup>5</sup> Indeed, a ruling that would afford WFXU credit for coverage achieved via a translator or LPTV station would effectively eviscerate the distinction between full power and LPTV status deliberately incorporated into the must carry statute.<sup>6</sup>

### **CONCLUSION**

For the reasons stated in the Petition and in this Reply, the Commission should promptly issue an order modifying WFXU's "must carry" market to exclude the Cable Communities.

Respectfully submitted,

**Comcast Cable Communications, LLC  
on behalf of its subsidiaries and affiliates**

By: 

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January 16, 2015

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<sup>5</sup> See, e.g., *Time Warner New York City Cable Group*, 11 FCC Rcd. 6528, ¶ 24 (1996) ("*Time Warner*") (explaining that "such [translator] coverage does not lessen the relevance of the parent station's failure to place a Grade B Contour over the subject cable communities as Grade B coverage is indicative of the station's natural market."); see also *Dynamic Cablevision of Florida, Ltd., et al.*, 12 FCC Rcd. 9952, ¶ 13 (1997) ("Commercial translators are secondary service stations that are explicitly not entitled to carriage in their own right and the service provided by [the station's] translators here are of limited significance in the market modification analysis. On balance, the translators here appear not to be a reflection of the underlying market area of [the station], filling in gaps in the station's service area, but an extension of it."), *aff'd*, 14 FCC Rcd. 13783 (1999).

<sup>6</sup> See 47 U.S.C. § 534(h)(1)(B)(i).

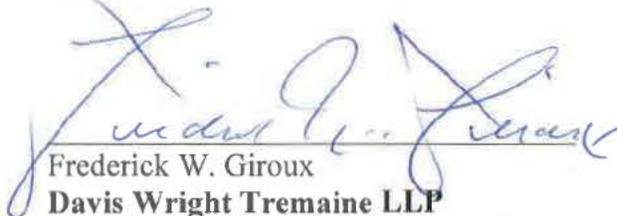
**CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)**

The below-signed signatory has read the foregoing Reply to Opposition, and to the best of my knowledge, information and belief formed after reasonable inquiry, it 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 is not interposed for any improper purpose.

Respectfully submitted,

**Comcast Cable Communications, LLC  
on behalf of its subsidiaries and affiliates**

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January 16, 2015

## CERTIFICATE OF SERVICE

I, Deborah D. Williams, do hereby certify on this 16<sup>th</sup> day of January, 2015 that a true and correct copy of the foregoing "Reply to Opposition" has been sent via U.S. mail, postage prepaid to the following:

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