

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

In the Matter of )  
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Amendment to the Commission’s Rules ) MB Docket 15-71  
Concerning Market Modification )  
 )  
Implementation of Section 102 of the STELA )  
Reauthorization Act of 2014 )

To: Office of Secretary  
Attention: The Commission

**COMMENTS OF UNITED COMMUNICATIONS CORPORATION**

**KEYC-TV, WWNY-TV, WNYF-CD AND WWNY-CD**

United Communications Corporation ("UCC"), by counsel, hereby submits its Comments in response to the *Notice of Proposed Rulemaking*<sup>1</sup> (the "NPRM"), in which the Commission announced proposed rules to implement Section 102 of the Satellite Television Extension and Localism Act ("STELA") Reauthorization Act of 2015 ("STELAR"). In the experience of UCC, the current satellite carriage rules, bound as they are by somewhat artificial DMA boundaries, do not necessarily result in carriage of the television stations that provide the most effective locally-oriented programming for the communities where the satellite subscribers live. The rules set forth in the NPRM represent a significant step toward remedying this problem. Accordingly, UCC urges the Commission to adopt the proposed rules, subject to certain refinements discussed below.

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<sup>1</sup> *Market Modification*, MB Docket No. 15-71, Notice of Proposed Rulemaking, FCC 15-34, rel. March 26, 2015.

## BACKGROUND

UCC is the licensee of full-power television stations KEYC-TV, Mankato, Minnesota, Fac. ID 68853, and WWNY-TV, Carthage, New York, Fac. ID 68851 as well as Class A Television Station WNYF-CD, Watertown, New York, Fac. ID 168478, and Class A Television Station WWNY-CD, Massena, New York, Fac. ID 16744. Stations KEYC-TV and WWNY-TV are CBS affiliates, Station WNYF-CD and WWNY-CD are Fox affiliates, and Fox programming is also carried on the second digital stream of the CBS stations. Aside from network programming, Stations KEYC-TV, WWNY-TV WWNY-CD and WNYF-CD have a long tradition of serving their communities with local news, information, weather and emergency information, public service announcements, community outreach and sponsorships, and other local programming, as well as additional news and community information found on the stations' websites. They are the *only* television stations providing substantial local news programming in their respective markets.

More specifically, UCC operates Station KEYC-TV in the Mankato, Minnesota television market. This market is currently ranked by Nielsen as number 199 in size out of a total of 210 television markets.<sup>2</sup> It has only 52,160 television households. This is roughly *one-thirtieth* the size of its immediate neighbor to the northeast, the Minneapolis-St. Paul market. In addition to locally-produced and syndicated programming, the Station broadcasts programming of the CBS network on its main digital stream. Programming of the Fox television network is aired on the secondary digital stream.

Station KEYC-TV was started in 1960 by newspaper publisher Lee Enterprises, Inc. UCC, owned by the Howard J. Brown family, acquired the Station in 1978. UCC has owned the

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<sup>2</sup> [http://www.tvb.org/media/file/Nielsen\\_2014-2015\\_DMA\\_Ranks.pdf](http://www.tvb.org/media/file/Nielsen_2014-2015_DMA_Ranks.pdf), last visited 13 May 2015.

Station ever since. Thus the Station has had only two owners – both companies noted for their devotion to local service – over the entire time of its existence.

The Station has long been recognized for its exceptional commitment to local news, emergency information, local sports, and other local programming. As noted above, the Station is the only full power television station operating in the Mankato market, or for that matter the only television station of any kind originating programming there.<sup>3</sup> It is the sole source of local television news. As such, local residents depend on the Station for accurate and timely local news and in particular weather information.

As one illustration of many that could be offered as to the service provided by KEYC-TV, we note that on May 8, 2014, the Station's meteorologists took to the air to provide nearly two hours of continuous weather coverage. Local viewers relied on the Station as their primary source for critical information as tornados and severe thunderstorms ravaged the area. Unfortunately, satellite viewers in places like Jackson, Cottonwood and Faribault Counties, Minnesota, and Emmet and Dickinson Counties, Minnesota – all of which are much closer to KEYC-TV's transmitting facilities than those of any other television station -- could not receive these broadcasts via their satellite carriers because these communities are outside the counties currently listed by Nielsen as belonging to the Mankato DMA.

All of the subject counties were for many years within the Mankato DMA, and KEYC-TV remains the most-watched television station in those counties despite its lack of satellite access there. Unfortunately, as multiple distant signals were brought in by cable and translator from larger markets, the *combined* viewing shares of the large-market stations exceeded that of single station KEYC-TV, and thus the counties were stripped out of the Mankato DMA.

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<sup>3</sup> The market has several translators rebroadcasting the signals of stations from distant markets, but no low power television station broadcasting its own programming, much less producing any local programming.

Despite the DMA reassignment, local cable operators have continued to recognize the value that the local programming of KEYC-TV represents to their subscribers. Thus, UCC has been able to maintain carriage on the cable systems serving these “out of market” counties. Satellite carriers, however, have limited carriage of KEYC-TV to the limits of the current, truncated DMA.

Similarly, the northern portion of Nicollet County, Minnesota is treated as part of the Minneapolis-St. Paul DMA because of the combined effect of the numerous stations licensed to the Twin Cities, even though some of northern Nicollet County is as little as four miles from the KEYC-TV studio, and KEYC-TV is consistently the most-watched station there. That is possible in part because cable operators realize that the DMA boundaries are artificially skewed by small-market stations like KEYC-TV being simply outnumbered by stations home to large markets like the Twin Cities. Accordingly, cable operators in northern Nicollet County value their ability to retransmit KEYC-TV’s programming to their subscribers.

By the same token, KEYC-TV is the only television station that routinely covers local events in Waseca, Minnesota (25 miles from Mankato but some 65 miles from the Twin Cities). Because of combined shares of the Twin Cities stations, Nielsen places Waseca County in the Minneapolis-St. Paul DMA. Nevertheless, in recognition of the value of the local programming provided by KEYC-TV (and only KEYC-TV), the UCC station is carried on cable systems in Waseca. Sadly, though, it is denied carriage by satellite operators there.

Allowing Station KEYC-TV to modify its market for purposes of satellite carriage would go a very substantial distance toward correcting the current distortion of KEYC-TV’s lack of access to satellite subscribers who are otherwise part of its natural market.

The service area of KEYC-TV includes no “orphan counties” as described in the NPRM – counties assigned to a DMA whose television stations are licensed to communities in a different state, and where satellite operators therefore have no obligation to carry any in-state television station. UCC understands the problem, though, and trusts that the proposed rules will help to ameliorate the situation.

It may be useful for the Commission to consider a set of circumstances that mirrors that of the “orphan counties.” KEYC-TV is the only commercial television station historically providing Grade B or better service (and now digital NLSC or better service) to Estherville and surrounding Emmet County, Iowa. Thus, KEYC-TV’s local news coverage has for decades included developments in that county and neighboring communities. Naturally, Emmet County for many years was part of the Mankato DMA. This matched natural shopping patterns, as Mankato<sup>4</sup> is by far the closest metropolitan area to Estherville. Sioux City is some forty miles further from Estherville than Mankato by automobile, while Des Moines is over a hundred miles further from Estherville than Mankato.

Nevertheless, because KEYC-TV was only one station, signals from Iowa stations affiliated with other networks were brought in by cable operators. Eventually the combined viewing shares of those signals exceeded KEYC-TV’s audience share, and the county fell out of the Mankato DMA. Satellite subscribers in Emmet County now have all of the Iowa programming they could want. However, they are deprived of the signals of the one station – KEYC-TV -- that consistently provides local new and other programming for Emmett County.

The adoption of rules allowing KEYC-TV to bring Emmet County and Estherville back within its market for purposes of satellite carriage will not deprive area residents of programming originating in Iowa, because at a minimum they will still receive signals from Iowa stations

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<sup>4</sup> Mankato is the center of the Mankato-North Mankato Metropolitan Statistical Area.

affiliated with other networks. However, it will allow them to receive the programming that KEYC-TV, and only KEYC-TV, provides with respect to issues affecting the local area across state lines. Notably, weather systems pay no attention to state boundaries. A tornado sweeping southeast from Jackson, Minnesota will not stop at the Iowa border merely because satellite subscribers in Estherville lack access to KEYC-TV severe weather alerts that warn cable subscribers and viewers of KEYC-TV off air of the tornado's approach.

Accordingly, the laudable goal of providing satellite subscribers with access to the signals of *some* television stations licensed to communities within the same state should not trump the value of local coverage provided by stations that happen to be licensed to communities in a different state so as to deprive satellite customers of access to the signals of those stations that are more truly "local" than the more distant same-state stations.

KEYC-TV is significantly viewed in all of the counties mentioned above, and UCC recognizes that such status obviates a copyright problem that might otherwise impede satellite carriage in the subject counties. However, significantly-viewed status does not give a station any right to "local into local" satellite carriage in communities outside its DMA. Therefore the market modification process is essential to promoting carriage of stations that provide the most assiduous local service to residents of a given community.

UCC supports the Commission's conclusion that the authors of STELAR did not intend to forestall market modification requests that would not have the effect of supplying in-state programming to residents of "orphan counties." The reference in the legislative history to DMAs that "cover vast geographic distances" is just as applicable to the excessive distances occupied by the Minneapolis-St. Paul DMA within Minnesota as it is to DMA's that stretch across state lines. For example, Jackson, Minnesota lies roughly 150 miles from the Twin Cities

– far beyond the range of the transmitters of stations licensed to Minneapolis and St. Paul. Yet it is within the Minneapolis-St. Paul DMA due to distribution of those stations’ signals by translator, cable systems and satellite operators. In contrast, Jackson is less than 35 miles from the transmitter of KEYC-TV, across level prairie. Residents of Jackson receive an excellent signal from KEYC-TV off air. Yet to the extent that they use a satellite television service, they are deprived of the one station that provides local programming for Jackson. It would clearly provide “access to local television programming that is relevant to [such residents’] daily lives” (cf. *Senate Commerce Committee Report* at 11, cited in the NPRM at para. 11) for KEYC-TV market to be modified so as to add Jackson and Jackson County to its DMA for satellite carriage purposes.

With regard to UCC’s stations in northern New York -- WWNY-TV WWNY-CD and WNYF-CD – DMA boundaries represent less of a problem, as most of the communities within these stations’ NLSC and Grade B coverage contours fall within the boundaries of the Watertown-Carthage DMA. However, experience gained in a carriage dispute some years ago teaches that greater flexibility as to signal distribution just outside the DMA boundaries would serve the public interest. Specifically, the community of Malone, New York is roughly 30 miles from Massena, the city of license of UCC’s station WWNY-CD. Malone is part of the St. Lawrence Valley served by UCC’s stations. However, it falls within the Burlington (Vermont) – Plattsburgh (New York) DMA. The DMA is dominated by stations licensed to Vermont, which are separated from Malone not only by Lake Champlain and a state boundary but also by the northern ridges of the Adirondack Mountains. When a dispute over fees resulted in the loss of carriage of a Burlington station, the cable operator substituted the signal of the UCC station. Even though this was only temporary (as the fee dispute was soon resolved), while this

substitution was in effect UCC received many favorable comments from viewers who appreciated the chance to receive local television news focused issues affecting the St. Lawrence Valley rather than Vermont. A market modification that would allow WWNY-CD's market to include Malone would be of undeniable benefit to satellite subscribers in Malone.

In response to the question posed in the NPRM regarding service of market modification requests (NPRM at para. 10), UCC believes that there is no need for service of the request on parties other than the satellite operator. Unlike the situation with cable systems, franchising authorities have no responsibility to exercise here as they do not authorize operation by satellite systems.

Finally, with respect to the applicable "community," UCC favors the ability to use county-wide data where applicable. County-wide data is more easily available than community-specific data. In the context of satellite carriage, there will seldom be much difference between the two when the subject county is reasonably small, as is the case with most counties in Minnesota and Iowa.

