

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|---|---|----------------------------|
| In the Matter of |) | |
| Comment Requested for Inquiry Required |) | MB Docket No. 05-25 |
| By the Satellite Home Viewer Extension |) | |
| And Reauthorization Act on Rules Affecting |) | DA 05-169 |
| Competition in the Television Marketplace |) | |

Comments By:

The Pioneer Telephone Association, Inc. d/b/a Pioneer Communications (“Pioneer”)

Background

Pioneer Communications is an independent telecommunications service provider, serving approximately 9,500 cable television subscribers across twenty-three small communities in rural western Kansas. Pioneer currently offers more than 64 channels of Basic tier programming, more than 50 channels of Premium programming, 22 channels of Pay-per-view programming, and more than 100 channels of digital tier programming, including more than 50 channels of music.

In the interest of promoting a fair marketplace and the consumer benefits of balanced competition amongst multichannel video service providers, Pioneer Communications hereby requests the reexamination and revision of existing regulations to permit cable operators, particularly those in rural areas that are unserved or underserved by local broadcasters, to import broadcast signals. As practiced today, the rules of retransmission consent and nonduplication place rural cable operators in an unfavorable position and severely limit their ability to compete with direct broadcast satellite (DBS) in the delivery of broadcast signals to consumers. Additionally, to further level the playing field, cable operators in these rural markets should be given the same opportunity as has been afforded to direct broadcast satellite providers in the SHVERA.

Without revision, DBS providers will continue to possess an unfair advantage, so long as cable operators are excluded from this option. If given the same opportunity to negotiate for carriage of broadcast stations from neighboring or distant markets, small cable operators such as Pioneer would be able to compete fairly with direct broadcast satellite providers and more capable of serving our rural customers with broadcast programming choices that are more pertinent to their preferences and daily lives.

Many of the communities in Pioneer Communications' cable service area are geographically located in a so-called "White Area", where they are unable to receive some, or all, of the local analog or digital broadcast stations via standard over-the-air transmissions. For example, if a customer in Coolidge, Kansas, were to erect their own analog or digital antenna in an attempt to receive the signal of KSNG/NBC in Garden City, Kansas, KUPK/ABC in Garden City, Kansas, or KBSD/CBS in Dodge City, Kansas, they would not be able to receive the signal of those broadcasters with any fidelity. The only access these rural customers have to such broadcast stations are via retransmission over Pioneer Communications cable television system.

As illustrated in the figures below, roughly one-half of the rural western Kansas communities served by Pioneer Communications' cable television service are geographically located completely beyond the Grade B contour of western Kansas' principal commercial broadcast affiliate stations. Figure 1 reveals that fifteen of the twenty-three communities served by Pioneer's cable service are beyond the broadcast reach of KBSD, the western Kansas CBS affiliate station. This shortfall is directly attributable to the fact that the broadcaster has failed to invest in adequate transmission facilities to appropriately serve the designated market area directly via over-the-air signal.

(Figures Following)

Figure 1. KBSD – CBS Broadcast Contour and Pioneer Communications Cable TV Service Areas

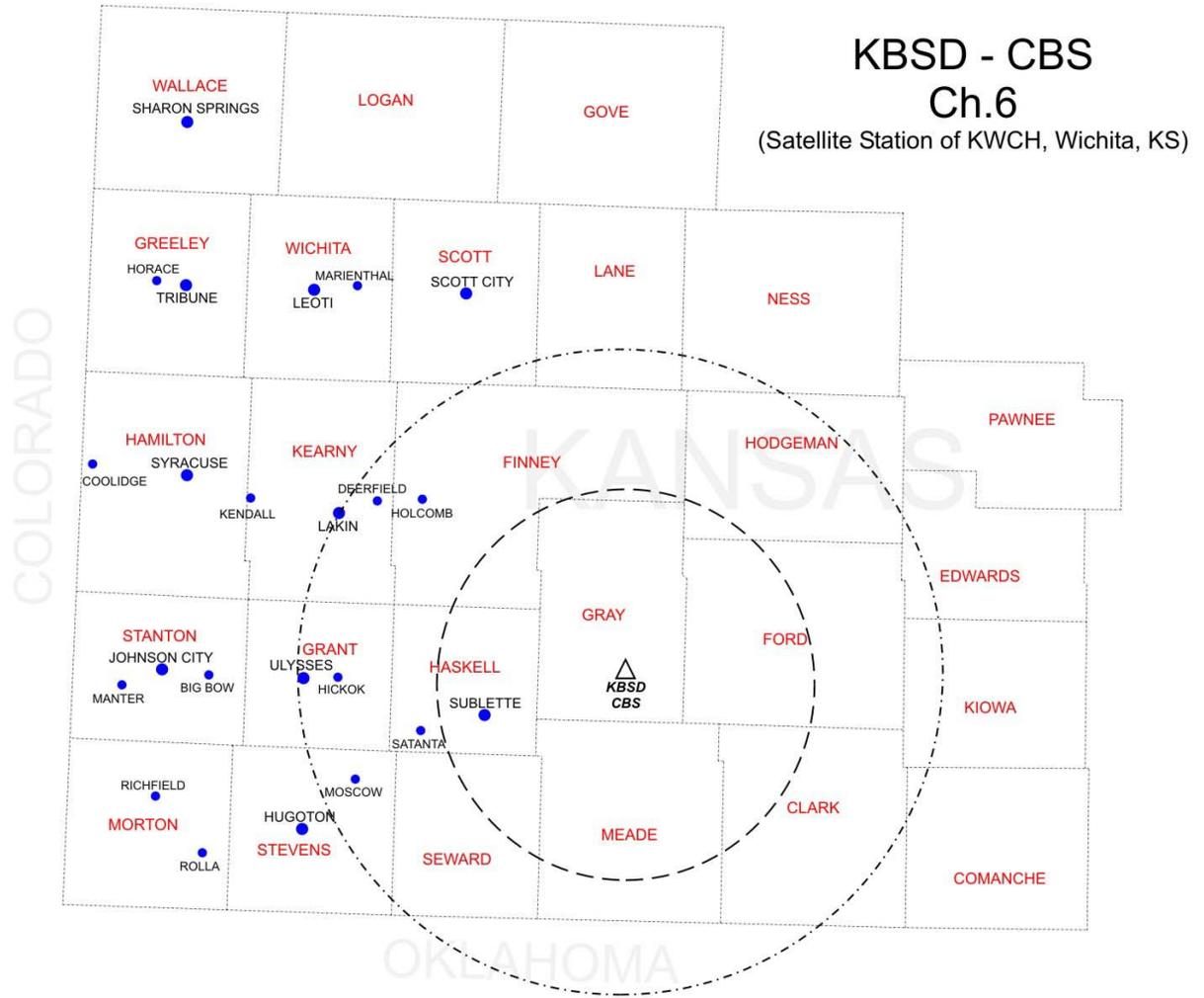


Figure 2. KSNG – NBC Broadcast Contour and Pioneer Communications Cable TV Service Areas

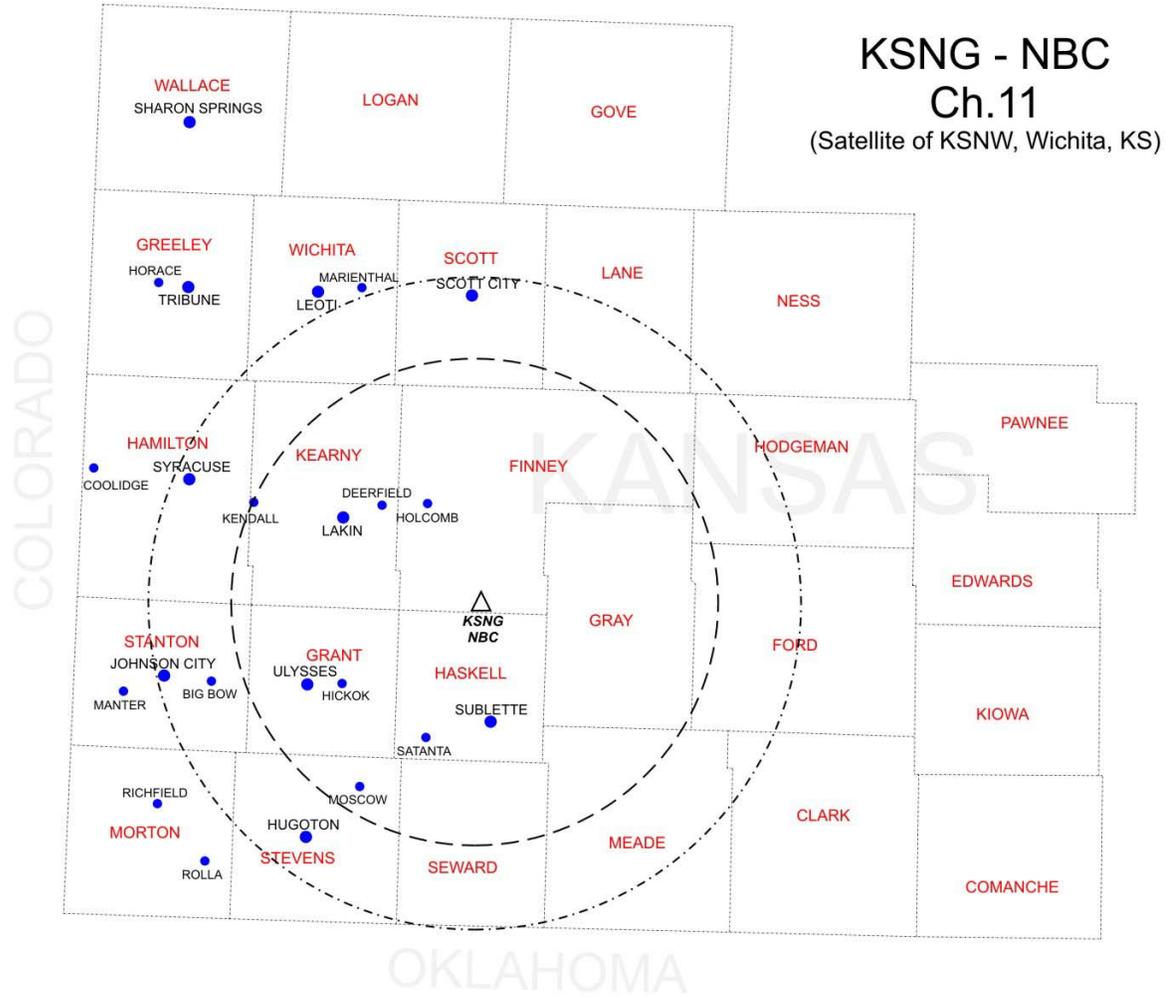
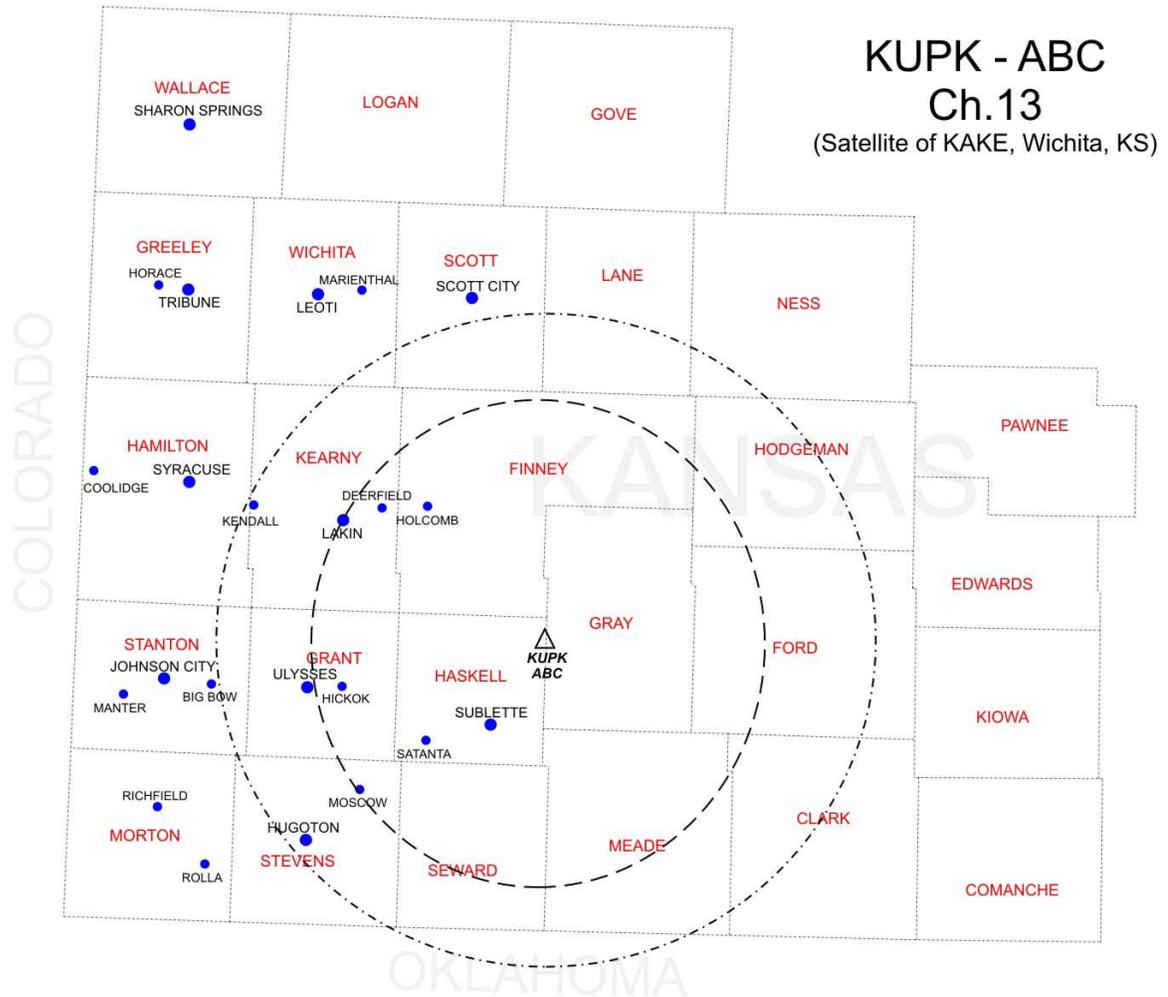


Figure 3. KUPK – ABC Broadcast Contour and Pioneer Communications Cable TV Service Areas



In the event a consumer from this area were to opt for subscription service via DBS they may be given their choice of “local” broadcast stations, including broadcast stations from the eastern Colorado market, as opposed to being forced to elect for reception of the Kansas broadcast stations originated from Wichita, Kansas. However, cable customers and cable operators in these service areas are not granted the same opportunity. The Kansas broadcaster denies those customers the right to choose reception of an eastern Colorado market station, while at the very same time, the Kansas broadcaster fails to deliver an adequate over-the-air transmission to serve that consumer. Effectively, the broadcaster lays claim to an area that they do not serve.

Currently, if not for the considerable engineering effort and expense of the cable operator, many of these rural communities would not receive a retransmitted broadcast signal of the western Kansas affiliate stations of the CBS, NBC, ABC, FOX, UPN and WB broadcasters. If given access to the importation of neighboring or distant broadcast stations, small cable operators such as Pioneer would undeniably be able to retransmit broadcast television signals of far better quality to rural customers.

Positioned along the state line dividing Kansas and Colorado and situated midway between the market areas of Wichita and Colorado Springs/Denver, Pioneer's cable customers in rural western Kansas have repeatedly requested to have improved choice in being able to see the Wichita and/or eastern Colorado market broadcast stations. The consumers' interest in both television markets falls in line with their established interests in terms of commerce, weather, news, sports, and entertainment in both markets. Not only is much of the Pioneer cable service area located adjacent to Colorado, but five of the western Kansas communities served by Pioneer are resident in the Mountain Time zone.

These interests are conveyed most succinctly in the comments Pioneer has received directly from its cable customers. As an example, attached in Appendix I are copies of a number of letters written by Pioneer Communications' cable customers in response to a 2001 decision by the western Kansas KBSD-CBS station, their KWCH Wichita affiliate, and corporate owner, Media General, to deny retransmission of an eastern Colorado market CBS station in the Pioneer Communications cable service area.

Echoing the resounding requests of our customers, Pioneer has issued repeated requests to the broadcast stations in western Kansas to permit our cable system to carry broadcast stations from the neighboring eastern Colorado market. The consumer interests behind these requests have fallen on deaf ears with the western Kansas broadcasters, and the requests have been consistently rejected on the grounds of non-duplication. These denials comes in spite of the fact that the signal transmitted for each of these western Kansas stations fails to adequately reach and serve a number of rural communities within the very geographical zone to which they claim this right, namely those counties directly bordering or near to the Colorado-Kansas boundary.

Yet the cable customers in the service area adjacent to the Colorado border are required to view programming only from the Wichita broadcaster, via their western Kansas affiliate stations, despite the population's established proximity, affinity, and identity with the eastern Colorado market. As evidenced in the communications from our customers, the Wichita-oriented stations often fail to provide news, weather and programming that is meaningful and pertinent to the lives of those who live along the Colorado border.

If Pioneer were granted the same authorization as that of DBS providers to import eastern Colorado broadcast stations to our cable customers, then we would, first and foremost, be better enabled to satisfy the needs and demands of the consumer, and also be in a more balanced position to provide multichannel video services directly competitive to those of DBS.

The broadcasters in western Kansas have become expressly restrictive in setting the terms of retransmission consent, and have prohibited cable carriage of any western Colorado market broadcast stations in the Pioneer Communications service area. The western Kansas broadcasters have asserted this condition, regardless of whether or not the western Kansas broadcast station actually even serves these communities with an adequate broadcast signal.

In fact, in the Pioneer Communications cable television system, there are a number of communities that would not be able to receive the signal of the western Kansas broadcaster at all, if it were not for the cable operator's own considerable effort and expense to receive and retransmit the broadcast signal. Very simply, in many cases the western Kansas broadcast stations either do not serve, or appreciably underserve the area. However, this is the very same area to which they lay claim in their assertion of nonduplication rights.

Ultimately, in the interest of improved quality and improved choice for the consumer, Pioneer recommends that the Commission no longer allow broadcast stations to claim exclusive rights to an area which they do not adequately serve. The legitimacy of such domain comes into question when the broadcaster fails to provide a "good quality" over-the-air signal to the entirety of the market. In the case of broadcasters in rural western Kansas, there exists a considerable disparity

between their territorial claim of the area artificially designated by the Nielsen DMA, and the actual footprint where they succeed in providing broadcast services.

Such revisions would also serve to expedite the digital television transition objectives of the Commission. Given the authority to pursue retransmission consent for broadcasts from neighboring or distant markets, rural area cable operators would then have more complete access to digital broadcast signals. In the case of Pioneer Communications' cable service area, only one commercial broadcaster serving the rural southwestern Kansas market currently provides a digital broadcast signal of adequate strength to be received and retransmitted at Pioneer Communications headend facilities in Ulysses. Given the opportunity to negotiate carriage with stations from other markets, Pioneer would then be able to deliver a number of other previously unavailable digital broadcast signals.

Furthermore, two of the four commercial broadcast stations in the area have recently made statements that they have no immediate plans to update and transition their analog broadcast facilities to digital. They have indicated that they would not make this investment until such a time as mandated to do so. Given these indicators, Pioneer is concerned that consumers in the rural market of western Kansas who receive their programming via over-the-air antenna or cable television will not be allowed access to the majority of digital broadcast programming for many years to come. Overall, situations such as this are set to delay the goal of the Commission, and of the nation, to complete the digital television transition.

Pioneer's cable customers have repeatedly expressed a legitimate desire to receive broadcast programming from the neighboring eastern Colorado market served by stations in Pueblo, Colorado Springs, and/or Denver. In support of the interests of our customers, and Pioneer's principal mission to provide video programming services that are affordable and meaningful to the residents of our rural communities, we ask that the Commission consider revision of the nonduplication rule. In cases such as those that exist in the western Kansas market, where the local affiliate station's signal is admittedly weak or altogether absent, we believe that the cable operator should be granted the opportunity to elect to carry the analog and/or digital signal of broadcast affiliate of a neighboring market, either exclusively, or in addition to "local" affiliate station's signal. Today such opportunities are denied the cable consumer and the cable operator by way of the local broadcaster's assertion of nonduplication rights.

Pioneer would also recommend that the SHVERA be revised in so much as it grants opportunities of broadcast retransmission to DBS providers that are not equitably afforded to rural cable operators. While DBS providers have been given authorization to offer out-of-market stations and distant digital stations to a number of communities and rural service areas in western Kansas, Pioneer, as a cable operator, has been denied that opportunity under the nonduplication restrictions imposed by local market broadcasters. As a multichannel video provider serving rural communities in western Kansas that are otherwise severely underserved by the local market broadcast stations, Pioneer Communications would ask to be given the same opportunity to negotiate retransmission consent from both the local designated market area broadcasters and those of neighboring or distant markets.

If left in place without revision, these rules and regulations will continue to have an adverse affect on competition in the multichannel video marketplace. Customers that wish to obtain such out-of-market analog and digital broadcast stations will be left with no competitive option, other than subscription to a DBS service. In the end, it is simply unreasonable that such unbalanced conditions afford greater choice in broadcast programming carriage over DBS, and at the same time, limit such choice for rural cable operators and their customers.

In order to remain competitive and in order to continue to provide a viable alternative to DBS service, it is critical that Pioneer be allowed to deliver commercial broadcast networks to cable customers in rural western Kansas, under the same provisions and conditions that are afforded to DBS providers.

[REDACTED]
[REDACTED]
JOHNSON, KS 67855-0100

Phone [REDACTED] Fax [REDACTED]
E-Mail [REDACTED]

JUL - 9 2001

July 5, 2001

COPY

KWCH - CBS
General Manager
2215 East 37th St. North
P. O Box 12
Wichita, Ks. 67219

Re: Colorado Channel 7

Dear Sir:

Western Kansas should be allowed to receive Colorado Channel 7, particularly in view of the fact our Channel 6 (your affiliate) is either off the air or producing a poor picture about 60% of the time. With our frequent Channel 6 problems we are at least able to watch CBS programming on the Colorado station, even though it is an hour later. If you are going to object to a part of Western Kansas receiving Colorado Channel 7, it would seem appropriate for you to see that your Channel 6 is upgraded so it would be more reliable for its viewers.

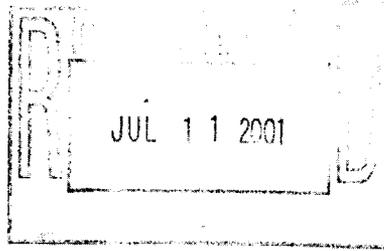
For those of us who reside on the Colorado line, the severe weather information on Colorado Channel 7 is often very appropriate, particularly when your Channel 6 is off the air. I am extremely disappointed in your selfish and thoughtless decision to object to a small part of Western Kansas receiving Colorado Channel 7.

Sincerely,

[REDACTED]
[REDACTED]

CC: Pioneer Communications

July 9, 2001



KWCH-CBS

General Manager

2815 East 37th St. North

P.O. Box 12

Wichita, Ks, 67219

copy

We seriously object to your demand that Pioneer Communications cease retransmission of KCNC the Denver-based CBS affiliate. This action would be much more palatable if we could receive information from KWCH that is equally as applicable to this area as that offered by KCNC thru Pioneer Communications.

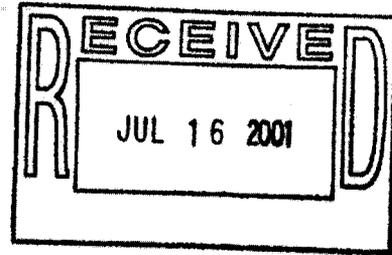
[Redacted signature area]

Lakin, Ks. 67860

CC Pioneer Communications

July 12, 2001

[REDACTED]
Johnson, KS. 67855



General Manager
KWCH TV
2815 East 37th St. North
P.O. Box 12
Wichita, KS. 67219

To the General Manager:

I write to express my great disappointment in your demand that Pioneer Communications discontinue broadcasting your affiliate CBS signal, KCNC of Colorado.

Our reception of your signal is extremely poor. If you insist on being the only CBS signal for southwest Kansas, it seems only fair that before demanding the discontinuance of an affiliate signal in our area, you would first repair/improve as necessary your own signal so that it can be received with clarity.

I ask you then, please, to allow Pioneer Communications to continue broadcasting KCNC of Colorado until you have taken appropriate action to provide all of southwest Kansas with a clear signal.

Thank you,
[REDACTED]

CC: Pioneer Communications
CBS Broadcasting Company

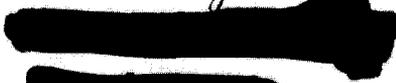
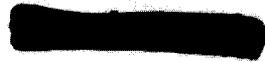
Johnson, Kansas
July 5, 2001

Pioneer Communications Cable TV,

I am very unhappy about Denver's KCNC-CBS 4 having been removed from our lineup. I am not the only one who is disturbed about it, as someone else commented that the news is far better and the picture more clear than on channel 6.

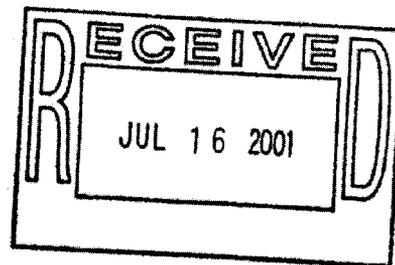
I have family in Denver and lived there for 33 years before coming here 13 years ago to care for my elderly mother. I greatly desire to have Denver-channel 4 back where it should be. Please do all you can to get it back for all of us who enjoy it. Thank you,

P.S. I do plan to write to
KWCH-CBS General Mgr.
in Wichita



Johnson, KS 67855

July 13, 2001

General Manager
KWCH TV
2815 E. 37th St. North
P.O. Box 12
Wichita, KS 67219



General Manager:

I wish to take this opportunity to express my great disappointment in your station's forcing Pioneer Communications to remove Denver's CBS affiliate, KCNC, from its list of available channels. We live in Johnson, Kansas, only fourteen miles from the Colorado border. We often watched news on your channel and then turned to KCNC for newcasts out of Denver. Frankly, in our location, we find Denver newcasts are often of more interest than news out of Wichita.

I find it very disconcerting that a your station would be so intimidated by the presence of same-network competition that you would go to these extremes to remove the competition. Surely you are aware that KWCH is in a highly competitive market in Wichita. My inclination at this point is to discontinue viewing KWCH and begin watching ABC and NBC affiliates that also originate out of Wichita.

My suggestion to Pioneer Communications is going to be that they drop KWCH and begin carrying KCNC once again.

A final bit of advice is that if you are intimidated by competition, try to solve the problem by making yours the better product. The "bully" tactics that you have apparently used to force KCNC from Pioneer Communication's offerings appear to be an admission of managerial ineptitude.

Thank you.

Sincerely,

A large, solid black rectangular redaction box covering the signature area.

cy: Pioneer Communications

JUL - 6 2001

[REDACTED]
[REDACTED]
Ulysses, Kansas 67880
Home (620) [REDACTED] Office (620) [REDACTED]
FAX (620) [REDACTED]

July 5, 2001

KWCH-CBS
General Manager
P.O. Box 12
Wichita, Kansas 67219

RE: "Land of the Forgotten"

Gentlemen:

My name is [REDACTED] I live in the small, rural town of Ulysses, Kansas, which is located in the southwestern corner of Kansas.

Our community's cable TV provider, Pioneer Communications, has in the past, broadcast two CBS affiliated stations in our area. Those two stations are your station and KCNC/CBS - Denver, Colorado. As of July 1, 2001, Pioneer Communications was "ordered" by the FCC to stop the broadcast of the Denver station in our area. I was told by Pioneer Communications that KWCH's former parent company had given Pioneer Communications consent to transmit KCNC-Denver. However, KWCH's current parent company, Media General, has contacted the FCC concerning the broadcast of KCNC-Denver in an area which is not in KCNC-Denver's "service area".

This letter is to request that Media General/KWCH-Wichita reconsider its request to the FCC and grant Pioneer Communications consent for retransmission of KCNC-Denver (CBS) to Pioneer Communication's cable TV customers. There are several reasons which I believe make my request reasonable:

1. Ulysses, Kansas, is located 35 miles east of the Colorado/Kansas state line. Even though Ulysses may be closer in road miles to Wichita than to Denver, Ulysses residents are more connected to Denver than to Wichita. When Ulysses residents go to a "city", they most generally choose Denver for shopping, cultural events, sporting

events (Denver Broncos, Colorado Avalanche, Colorado Rockies, etc.), travel by air, etc.

2. The CBS signal which we receive from KWCH-Wichita (via Ensign, Kansas) is of such poor quality that we cannot see the picture or hear the sound. The picture is snowy and the sound is fuzzy. KCNC-Denver's CBS signal was of much better quality - you could actually see the picture and hear the sound.
3. I believe that in KWCH's mind, their viewing area stops at Dodge City. The businesses which advertise on KWCH are not targeting western Kansas residents. The ads are geared more towards central and eastern Kansas patrons. Local advertisers have told me that they do not advertise on KWCH because they know that people in western Kansas will not see the ad because western Kansans do not watch KWCH - they watch KCNC-Denver.
4. All of western Kansas's weather systems come from the west. It is comforting to be able to watch the Denver weather broadcast to see what weather systems are headed towards our area and what those systems have produced in eastern Colorado. This is usually a good early warning system for weather headed our way.
5. There are several communities in Pioneer Communication's broadcast area which are in the mountain time zone - the same time zone as Denver. Therefore, it would seem to me that the broadcast times for programming from KCNC-Denver are more in tune with those communities daily life (i.e., work day, evening meal time, bed time, etc.) than KWCH-Wichita.

In short, I feel that Ulysses residents (and surrounding communities served by Pioneer Communications) now live in an "unserved", "land of the forgotten", area. We are being dictated to by a huge communications company (Media General) which is based out of Virginia and doesn't have a clue about life in western Kansas. Ulysses, Kansas, is located in a remote area. Sometimes, television is our only source of entertainment and I don't appreciate Media General choosing what television stations I can and cannot watch.

I commend our local cable provider (Pioneer Communications) for providing a large variety of programming to its viewers. Pioneer Communications has assured me that they are not giving up on trying to distribute a Denver based broadcast affiliate (whether it be a

CBS, NBC or ABC affiliate) within Pioneer's cable television service area in order to better serve the interests of western Kansas viewers.

Thank you for your consideration in this matter.

Sincerely,

A large, solid black rectangular redaction covers the signature area of the letter.

tjo

Enclosure

cc: Media General

FCC Cable Services Bureau

FCC Consumer Information Bureau

FCC Mass Media Bureau

Kenneth S. Fellman, Chairman, FCC Local and State Government

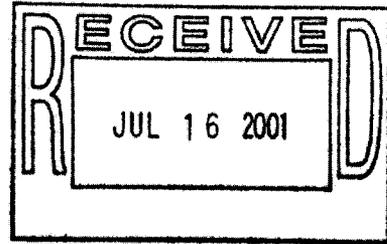
Advisory Committee

Pioneer Communications

I'm disappointed
that the Denver
station has been removed.
I watched it often.
Have many family
members there. Travel
up there often by myself.
Like to know what the
weather is, or going to be.

[REDACTED]
[REDACTED]
Ulysses KS 67880-1603

620 - [REDACTED]



July 12, 2001

[REDACTED]
[REDACTED]
Johnson, KS. 67855

General Manager
KWCH TV
2815 East 37th St. North
P.O. Box 12
Wichita, KS. 67219

To the General Manager:

I write to express my great disappointment in your demand that Pioneer Communications discontinue broadcasting your affiliate CBS signal, KCNC of Colorado.

Our reception of your signal is extremely poor. If you insist on being the only CBS signal for southwest Kansas, it seems only fair that before demanding the discontinuance of an affiliate signal in our area, you would first repair/improve as necessary your own signal so that it can be received with clarity.

I ask you then, please, to allow Pioneer Communications to continue broadcasting KCNC of Colorado until you have taken appropriate action to provide all of southwest Kansas with a clear signal.

Thank you,
[REDACTED]

CC: Pioneer Communications
CBS Broadcasting Company

T

[REDACTED]
Sublette, KS 67877

Home Phone: [REDACTED]

Church Phone: [REDACTED]

July 7, 2001

KWCH-CBS
General Manager
2815 East 37th St. North
P.O. Box 12
Wichita, KS 67219

Copy

Re: Your petition to the FCC forcing Pioneer Communications
to stop carrying Denver's KCNC-NEWS 4 CBS station.

Sir,

I can't begin to tell you how short-sighted your petition to the FCC will prove to be. I realize that you people in Wichita believe you are in the very center of all of Kansas and its citizens. It might surprise you to know that many of us live as close to Colorado Springs and Denver as we do to Wichita. And yes, I know you also broadcast from Channel 6 at Ensign. However, there's been no news or features from that location for many years now. Practically all of your programming is aimed at Wichita and its surrounding area. Further, many of us have family living in Colorado, and like to be able to keep up with what's happening in their communities as well as in the city of Wichita.

Here in Haskell County we live close enough to the west edge of the Central Time Zone that it's often necessary to watch CBS programs, including CBS Evening News, on Mountain Time rather than Central Time, if we're to get to see them. You see, Denver is as much "local news" for a majority of Western Kansas folks as is Wichita. Also, our weather most often comes in from the west. Being able to check weather conditions in Colorado is important to a lot of folks out this way. If we can't do it via TV, we'll turn the TV off and tune in our radios for the weather information we need regarding what's coming at us from off the mountains. For us living out here on the High Plains, that - and watching the sky! - is a much more accurate prediction of our impending weather, than what we get from Wichita radar!

Most of us, I would guess, get home in time for your local 6 o'clock news, but arrive for just the very end of the CBS Evening News offering. When we could turn over to the Denver station at 6:30 Kansas time, we could still receive our evening news from CBS, beginning at 6:30 Kansas time, 5:30 Colorado time. We could also get ski/snow depth reports, fishing reports for Eastern Colorado lakes (we don't have very many of those in Western Kansas), and news about the entire High Plains region, including northeastern New Mexico and southwest Nebraska. What a neat deal! But now we can't do that any more. You want us to see only programs from Wichita.

NO WONDER SO MANY FOLKS ARE CHANGING TO SATELLITE! They can just skip Wichita altogether, and go directly to whatever network or other channel they want. Not only are you ruining the cable TV business for Pioneer, you're driving your own customers and viewers away. I certainly do hope the CBS Network puts some pressure on you folks there at Channel 12, Wichita, and Channel 6, Ensign, to withdraw your petition to the FCC, and let Pioneer in Ulysses return to showing Denver's Channel 4 in the future.

With sincere disgust at your self-interest and greediness,

[REDACTED]
[REDACTED] I thought you at Pioneer Communica-
tions might like to see the letter I sent to KWCH in Wichita. If
I knew the address of the the main CBS office, I'd send a copy to
them.