



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

PAUL HUDSON  
DIRECT (202) 973-4275  
paulhudson@dwt.com

SUITE 200  
1919 PENNSYLVANIA AVE NW  
WASHINGTON, DC 20006

TEL (202) 973-4200  
FAX (202) 973-4499  
www.dwt.com

April 10, 2008

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, DC 20554

Re: *Puerto Rico Cable Acquisition Corp. Request for Waiver of 47 C.F.R. § 76.1204(a)(1),  
CSR-7201-Z*

Dear Ms. Dortch:

On April 9 and 10, 2008, Paul Hudson, counsel for Puerto Rico Cable Acquisition Corp. d/b/a Choice Cable T.V. (“Choice”), had *ex parte* conversations with Elizabeth Andrion, Interim Legal Advisor to Chairman Martin,<sup>1</sup> regarding Choice’s request for a temporary waiver from the integration ban.

The shutdown of Choice’s ability to offer HD to new customers, as reported in Choice’s April 1, 2008 letter, impacts a substantial portion of the population of rural Puerto Rico. Although the median household income in Choice’s service area is less than \$13,000,<sup>2</sup> HD televisions have recently become affordable to thousands of additional Puerto Rican families. As evidenced from Exhibit 1 hereto, (non-CableCARD) HD televisions are currently available at retail stores in Choice’s service area for less than \$250 – less than half the cost of a new Motorola CableCARD HD/DVR set-top box. As a result, thousands of Choice customers have recently purchased new HDTVs, including persons at or below the median household income for Choice’s service area.

In early 2008, Choice hired an independent market research agency to survey the communities Choice serves. The survey results revealed that 24% of the households in Choice’s

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<sup>1</sup> Choice’s April 1, 2008 letter in this proceeding identified Ms. Andrion as Deputy Chief of the Office of Strategic Planning and Policy Analysis. Choice hereby clarifies that it communicated with Ms. Andrion in her capacity as Interim Legal Advisor to Chairman Martin.

<sup>2</sup> Choice Application for Review at 4 (citing U.S. Census data).

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service area have purchased Plasma or LCD TVs, and that an equal percentage stated that HD was either “very important” or “important” in their valuation of television programming. But despite the fact that approximately one-quarter or more of Choice’s customers have HDTVs, less than 1% subscribe to Choice’s HD service. And now Choice is effectively unable to provide HD service to this large and growing portion of its customer base that has an HDTV in their home.

Accordingly, it would be incorrect to conclude that the shutdown of HD does not affect most Puerto Ricans on the theory that they are unable to afford HD in any event. The Commission should instead aspire for HD service to be available to all Americans. *See* Section 706 of the Telecommunications Act of 1996, directing Commission “to encourage the deployment ...of advanced telecommunications capability to all Americans.” As the Hon. Luis Fortuño, the Member of Congress from Puerto Rico, explained to Chairman Martin in supporting Choice’s requested waiver, it would be “unconscionable and contrary to Congressional intent for the Commission to shut down Choice’s HDTV transition and leave any consumers unable to purchase HD cable services.”<sup>3</sup>

In the meeting, Choice also repeated that it would be willing to accept a waiver for a limited period of time, so that Choice and the Commission would have an opportunity at the end of that period to revisit whether a waiver would thereafter continue to serve the public interest. Choice’s application filed in April 2007 requested a waiver for at least three years. If the Commission now grants a waiver, the waiver period should extend at least three years from the date of the grant in 2008, and not from the effective date of the integration ban. To be able to undertake and invest in a significant expansion in the number of HD channels it offers,<sup>4</sup> Choice would need to have a reasonable assurance that it would have at least three years to offer a viable HD service and build a larger HD customer base before a waiver expired. If instead a waiver term was set so that it would expire not on a predetermined date but based on future events, the Commission should assure that the actual expiration of the waiver would not occur until at least eighteen months after such a triggering event, so that Choice could attempt to adjust its business models, programming agreements, equipment orders, and provide notice of changes to its customers.

Choice has demonstrated that consumers in its rural Puerto Rico service area would receive substantial benefits from grant of the requested waiver. At least as importantly, if not more so, Choice has also demonstrated that these consumers would not receive any benefit from the integration ban during the period of the requested waiver, if that waiver is denied. The Commission should therefore grant Choice’s unopposed request for waiver.

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<sup>3</sup> Letter from Hon. Luis Fortuño, Member of Congress, to Hon. Kevin J. Martin, Chairman, FCC (Dec. 11, 2007) at 2 (emphasis added).

<sup>4</sup> *See* Choice October 26, 2007 ex parte letter at 1 (stating that Choice would intend to double or triple the number of HD channels it offers if the waiver is granted).

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. Hudson", written in a cursive style.

Paul B. Hudson  
Counsel for Puerto Rico Cable Acquisition Corp.

cc: Elizabeth Andrion  
Michelle Carey  
Rudy Brioché  
Rick Chessen  
Cristina Chou Pauzé  
Amy Blankenship  
Monica Desai  
Thomas Horan  
Nancy Murphy  
Mary Beth Murphy  
Steven Broeckaert  
Brendan Murray  
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### Item Description

**Note:** You must have a source of HD programming in order to take full advantage of an HDTV. Otherwise, the picture quality of an HDTV without an HD source may not be much better than that of a standard-definition TV. Please contact your local cable or satellite TV provider for details on how to upgrade to HD programming.

**Key Features & Benefits:**

- **19" widescreen high-definition LCD**  
Delivers 1440 x 900 resolution at a 16:9 aspect ratio
- **Built-in digital ATSC/NTSC tuner**  
Receives conventional analog broadcasts, as well as over-the-air digital broadcasts including HDTV programs, where available, and unscrambled digital cable
- **S-video input, component video input, headphone output, RF (cable) input, digital audio output (coaxial), PC-IN and audio mini plug**  
Accommodate DVD players, camcorders, PCs and other electronic gear
- **Wall mountable**  
Mounts on a wall with an optional 100 x 100 mm VESA-compatible kit (sold separately)
- **Additional Features:**
  - UL Listed, FCC/DHHS Certified
  - Energy Star rated
  - Owner's Manual Printed in English and Spanish

### Check In-Store Availability (Bela)



Emerson 19" Diagonal Widescreen LCD HDTV,  
SLC195EM8  
Model #: SLC195EM8

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See Pricing Information for details.

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We found **11** stores within 100 miles of **00715**. Only stores that carry this product are shown below. (In-stock status is approximate and was last updated on 04/09/2008 at 3:29 AM, E.T.)

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<b>Ponce</b> Wal-Mart Supercenter# 5793 #333 Carr #14, Cotto Laurel Ponce, PR 00780 (787) 842-0420	<b>LIMITED STOCK</b> <b>2.92 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>
<b>Santa Isabel</b> Wal-Mart Supercenter# 3693 Carr Estatal #153 Km 7.2 Santa Isabel, PR 00757 (787) 971-1000	<b>IN STOCK</b> <b>14.51 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>
<b>Cayey</b> Wal-Mart Supercenter# 2721 Pz Calle Cent State 1 735 Cayey, PR 00736 (787) 738-7215	<b>LIMITED STOCK</b> <b>29.2 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>
<b>Guayama</b> Wal-Mart# 2072 Ave Los Veteranos Guayama, PR 00784 (787) 864-2039	<b>OUT OF STOCK</b> <b>30.23 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>
<b>Hatillo</b> Wal-Mart# 1854 Plaza Del Norte Carr #2 Km 81.9 Hatillo, PR 00659 (787) 860-1020	<b>IN STOCK</b> <b>35.73 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>
<b>Bayamon</b> Wal-Mart# 2501 501 West Main Ave Bayamon, PR 00961 (787) 269-2200	<b>IN STOCK</b> <b>38.12 miles</b> <a href="#">View Map &amp; Details</a>	<b>MAKE THIS MY STORE</b>

Choice Service Area

" " "

Choice Service Area

" " "

**Caguas**  
Wal-Mart Supercenter#  
2449  
Rafael Cordero Ave # 301  
Caguas, PR 00725  
(787) 286-8550

**OUT OF STOCK**  
**39.49 miles**  
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**Mayaguez**  
Wal-Mart# 2067  
975 Avenue Hostos Ste  
2100  
Mayaguez, PR 00680  
(787) 844-1313

**OUT OF STOCK**  
**39.61 miles**  
View Map & Details

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**Isabela**  
Wal-Mart# 2085  
3535 Military Ave  
Isabela, PR 00662  
(787) 830-3030

**LIMITED STOCK**  
**44.15 miles**  
View Map & Details

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**Carolina**  
Wal-Mart Supercenter#  
2423  
Parque Escondido  
Carolina, PR 00987  
(787) 257-0082

**OUT OF STOCK**  
**45.65 miles**  
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MAKE THIS MY STORE

**Humacao**  
Wal-Mart# 2240  
Plz Palma Real Pr # 3 Km  
77.6  
Humacao, PR 00791  
(787) 852-9600

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**50.42 miles**  
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Choice Service Area

Choice Service Area

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