

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In re )  
 )  
Petition to Show Cause ) CSR-8775-M  
KJLA, LLC ) Docket No. 13-63  
 )  
Against CCO SoCal I, LLC )  
  
To: Office of the Secretary  
Attn: Chief, Media Bureau

**OPPOSITION TO PETITION**

CCO SoCal I, LLC (“Charter” or the “Company”) hereby opposes the “Petition for Issuance of Order to Show Cause” filed by KJLA, LLC, licensee of KJLA, Ventura, California (“KJLA” or the “Station”) in the above-captioned proceeding.<sup>1</sup> The Station does not dispute that Charter is properly carrying KJLA’s digital must carry signal in a *digital* format on its cable systems in the Los Angeles DMA.<sup>2</sup> Rather, it alleges that the Company discontinued carriage of KJLA’s signal in *analog* format in violation of the Commission’s *2012 Viewability Order*<sup>3</sup> by failing to provide adequate notice to either KJLA or its own subscribers. The Station also claims

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<sup>1</sup> The Commission docketed the Station’s “Petition for Issuance of Order to Show Cause,” as a must carry complaint (“Petition”). See *Special Relief and Show Cause Petitions*, Report No. 0392 (March 18, 2013).

<sup>2</sup> The Petition does not identify particular communities. Instead, it refers broadly to Charter’s analog subscribers in the Los Angeles DMA. See, e.g., Petition at 1. This Opposition addresses those communities to which Charter currently retransmits KJLA’s signal in digital-only format, including Big Bear Lake, Burbank, Cerritos, Glendale, Hesperia, Long Beach, Malibu, Rancho Cucamonga, Riverside, San Bernardino, San Gabriel Valley, Ventura, Victorville, and Whittier (the “Cable Communities”).

<sup>3</sup> *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Fifth Report and Order, 27 FCC Rcd. 6529 (2012)(“*2012 Viewability Order*”).

that Charter has failed to make affordable equipment available that would enable analog subscribers to continue to view stations (such as KJLA) subject to the digital migration. *The Station's factual allegations are wrong*: Charter properly notified both KJLA and its own subscribers that the Company was terminating analog delivery of KJLA's signal, and it offers digital equipment for continued viewing of KJLA by analog subscribers free of charge.

In the *2012 Viewability Order*, the Commission announced the sunset of the "viewability" rule, which had required cable operators with hybrid analog/digital systems to carry digital must carry signals in an analog format. After December 12, 2012, operators of hybrid cable systems may avoid such "dual carriage" and instead satisfy the viewability requirements of Section 614(b)(7) of the Act by offering digital equipment (*e.g.* set-top boxes) to analog subscribers "at no cost or at an affordable cost."<sup>4</sup> The Commission also expects cable operators to notify affected must carry stations 90 days, and affected cable subscribers 30 days, in advance of suspending analog delivery of a must carry station.<sup>5</sup> Charter has fully complied with these requirements and expectations. Accordingly, Charter respectfully requests the Petition be denied.

**I. Charter Provided Proper Notice to the Station That It Was Suspending Analog Delivery of KJLA.**

The Petition initially contends that Charter failed to provide the Station with notification of the Company's plan to deliver KJLA in digital-only format. In fact, Charter sent a letter dated November 13, 2012, to the Station at the exact address identified on the FCC's website (the "November Notice").<sup>6</sup> The November Notice clearly advises the Station that "on or after

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<sup>4</sup> See *2012 Viewability Order* at ¶ 11.

<sup>5</sup> See *id.* at ¶ 17.

<sup>6</sup> See Exhibit 1. The same address appears on KJLA's website. See *id.*

February 12, 2013, Charter will convert the analog presentation of your station's primary broadcast signal into a digital format" on various identified channel lineups.<sup>7</sup> The November Notice further explains that KJLA "will continue to be available to ALL of [Charter's] customers ... in a digital format on the basic tier of service."<sup>8</sup>

The electronic receipt from the U.S. Postal Service, attached hereto as Exhibit 3, confirms that the November Notice was actually delivered to and received by the Station. Despite the Station's claims to the contrary, Charter did, in fact, provide the Station with proper notice that on or after February 12, 2013, it would deliver only a digital version of KJLA's signal on the relevant cable systems.

## **II. Charter Properly Notified Its Subscribers That It Was Suspending Analog Delivery of KJLA.**

The Petition criticizes Charter's subscriber notices as "underwhelming," but ultimately concedes that Charter did, in fact, notify subscribers of the proposed channel delivery format change.<sup>9</sup> Indeed, the Petition includes a copy of a Charter customer bill, which includes a message entitled "Important Notice," unambiguously advising subscribers: "Effective on or after February 12, 2013, Charter will offer the following channels [including KJLA] exclusively in a digital format."<sup>10</sup> The bill message is equally clear in explaining that the planned format change "will require digital equipment in order to view these channels on all of your television sets."<sup>11</sup> Charter included the digital migration notice in the bills of all of its subscribers in the affected communities issued during the period December 13, 2012 to January 12, 2013. KJLA may not

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<sup>7</sup> A copy of the November Notice is attached hereto as Exhibit 2.

<sup>8</sup> *Id.* (Emphasis in original).

<sup>9</sup> Petition at 5.

<sup>10</sup> *See* Petition at 5, and Exhibit A.

<sup>11</sup> *See id.*

like Charter's bill message, but it clearly satisfies the notification requirements and expectations set forth in the Commission's Rules and the *2012 Viewability Order*, which does not dictate specific notification language or methodologies.

The Petition erroneously contends that, beyond the billing inserts (which by themselves clearly provide adequate notification to customers), "Charter has not engaged in any more extensive efforts to educate analog subscribers of the steps that need to be taken to transition to digital service to retain the programming of must-carry stations such as KJLA."<sup>12</sup> Again, the Station is wrong. Although not required to do so, Charter sent a separate letter on January 10, 2013, regarding the digital transition to all of its limited basic service tier subscribers, which are the subscribers most likely to be affected by Charter's delivery format change (the "January Subscriber Notice").<sup>13</sup> As was the case with the bill messages, this stand-alone notification clearly advises subscribers that after February 12, Charter would deliver certain signals, including KJLA, "exclusively in digital format."<sup>14</sup> The January Subscriber Notice goes on to explain that the format change will require digital equipment to view the channels at issue and that Charter will provide the necessary equipment at no cost.<sup>15</sup>

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<sup>12</sup> Petition at 5. While the Petition is quick to criticize Charter's subscriber notification process, it says nothing about KJLA's own viewer outreach efforts. Despite the fact that the Station claims to have become aware of Charter's format change in November 2012, Charter is not aware that KJLA itself notified viewers of the change, as expressly contemplated by the Commission in the *2012 Viewability Order*. *2012 Viewability Order* at ¶17 ("Advance notice about planned carriage changes will allow must-carry stations to notify their viewers – through on-air messages, website postings, mailings or other forms of communications of their choosing – about the planned change in carriage, and about the viewers' options to ensure continued access to the station's programming.").

<sup>13</sup> *See* Exhibit 4.

<sup>14</sup> *See id.*

<sup>15</sup> *Id.*

In addition to the bill messages and stand-alone subscriber notifications described above, Charter published a “Legal Notice” regarding Charter’s proposed transition to digital-only service in each of seven newspapers available to subscribers in the affected communities, including the *Big Bear Grizzly* (1/16/13), the *Burbank Leader* (1/12/13), the *Glendale News Press* (1/12/13), the *Press Telegram* (Long Beach)(1/9/13), the *Press Enterprise* (Riverside)(1/11/13), the *San Gabriel Valley Tribune* (1/16/13), and the *Daily Press* (Victorville)(1/11/13).<sup>16</sup> Thus, despite the Stations claims to the contrary, Charter’s digital service transition notice to subscribers was more than adequate.

### **III. Charter is Offering Analog Customers Free Set-Top Boxes to Assist With the Transition to Digital-Only Service.**

The Station also incorrectly contends that Charter does not offer viable low-cost equipment to allow analog subscribers to access digital-only stations, such as KJLA.<sup>17</sup> As noted above, Charter’s subscriber notifications emphasize that such digital equipment is necessary for continued viewing of the subject channels and provide a phone number for subscribers to call to obtain the equipment. Charter’s January Subscriber Notice also clearly indicates that Charter will provide the necessary digital equipment for free.<sup>18</sup> In fact, Charter has supplied its subscribers with thousands of free set-top boxes since first notifying them in December 2012 of its plans to deliver multiple channels of programming, including KJLA, in digital format only.

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<sup>16</sup> The language in each newspaper notice is the same as in Charter’s bill notifications. A sample “Legal Notice” from the *Press Enterprise* is attached hereto as Exhibit 5.

<sup>17</sup> See Petition at 6.

<sup>18</sup> See Exhibit 4.

The Petition complains bitterly that Charter customer service representatives inform analog subscribers about available digital packages.<sup>19</sup> But, as the Station well knows, there is nothing in the Commission’s rules or the *2012 Viewability Order* that prohibits such marketing efforts.<sup>20</sup> Charter concedes that customer service representatives may promote Charter’s various digital packages, but it vehemently denies that its customer service representatives are instructed to present Charter’s various digital packages as the *only* means by which analog subscribers may view recently migrated stations, as the Station claims. Charter has already distributed large numbers of set-top boxes to analog customers at no cost, and it continues to do so in response to customer calls to Charter representatives in connection with the digital channel migration. The Station’s specious claims about Charter’s marketing practices are further undermined by the fact that the toll-free number on the January Subscriber Notice,<sup>21</sup> permits subscribers to order free set-top boxes without ever speaking with a customer service representative.

The Commission has determined “that a range of charges for DTAs and set top boxes – *i.e.*, free or a monthly fee of no more than \$2 – would satisfy the requirement for affordable

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<sup>19</sup> See Petition at 6.

<sup>20</sup> The Station’s criticism of comments made by Charter’s CEO, Thomas Rutledge, regarding the Company’s plans to go all digital on a nationwide basis is similarly flawed. See Petition at 6-7. Notwithstanding the Station’s views, digital transmission is the inevitable successor to analog transmission. Having itself transitioned to digital delivery several years ago, the Station can hardly criticize Charter for embarking down the same path. Indeed, the Commission has long contemplated and encouraged the cable industry’s transition to all-digital operations. See *2012 Viewability Order* at ¶ 13 (“We continue to expect most cable operators will eventually transition to all-digital systems.”).

<sup>21</sup> See Exhibit 4.

equipment ....”<sup>22</sup> As noted above, Charter offers to provide set-top boxes to analog customers free of charge.<sup>23</sup> In short, Charter is providing affordable digital equipment that allows customers continued access to channels that are no longer delivered in analog format, in full compliance with the Commission’s expectations, as set forth in the *2012 Viewability Order*.

**IV. Charter’s Approach to Transitioning Its Systems to All-Digital Is Consistent with the *2012 Viewability Order*.**

Finally, the Petition makes much of the fact that Charter’s February 12, 2013 digital channel migration included some, but not all, of the broadcast stations carried on Charter’s cable systems. The Commission, however, has already considered and rejected this objection. There is no requirement under *2012 Viewability Order* that a cable operator must treat all local broadcast signals consistently with regard to analog carriage. To the contrary, the *2012 Viewability Order* is premised on the fundamental notion that the operator of a hybrid analog/digital cable system shall have sole discretion to determine whether it carries a particular must carry signal in analog or digital format, provided that the operator complies with the specific conditions set forth in that Order.

In the end, it is clear that KJLA disagrees with the Commission’s conclusion that a must carry station is no longer entitled to analog carriage simply because other programming services are delivered in analog. But the Station’s disagreement with Commission rules and policy does not justify requiring Charter to resume analog carriage of KJLA.

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<sup>22</sup> *2012 Viewability Order* at ¶ 14. (The Commission referenced several specific examples of compliant equipment offers, including Comcast’s offering of two or three free DTAs, Time Warner’s provision of “one or more” free DTAs for two years, and Bright House’s offer to provide set-top boxes to basic service tier customers for \$1 a month.).

<sup>23</sup> Charter is prepared to extend a free or low-cost set-top box offer if its transition to all-digital operations on any of the systems at issue extends beyond its current equipment offer period.

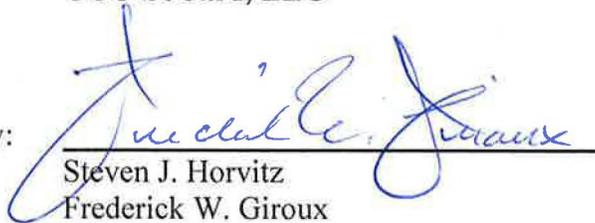
## CONCLUSION

Charter timely informed the Station and its own subscribers that it was suspending analog delivery of KJLA, it advised subscribers that this change would require digital equipment, and it has provided such equipment to thousands of subscribers free of charge -- all in full compliance with the Commission's rules and stated expectations. For the foregoing reasons, Charter respectfully request that the Commission deny the Petition.

Respectfully submitted,

**CCO SoCal I, LLC**

By:



Steven J. Horvitz  
Frederick W. Giroux

**Davis Wright Tremaine LLP.**

1919 Pennsylvania Avenue, N.W., Suite 200  
Washington, D.C. 20006  
(202) 973-4200

Its Attorneys

April 8, 2013

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

The below-signed signatory has read the foregoing Opposition to Petition, 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,

**CCO SoCal I, LLC**

By:

  
Frederick W. Giroux

**Davis Wright Tremaine LLP.**

1919 Pennsylvania Avenue, N.W., Suite 200  
Washington, D.C. 20006  
(202) 973-4200

Its Attorney

April 8, 2013

**EXHIBIT 1**



Station Search Details

FCC > [Media Bureau](#) > [MB-CDBS](#) > [CDBS Public Access](#) > [Station Search](#)

[Help](#) [site map](#)

### Station Search Details

**Call Sign:** KJLA  
**Facility Id:** 14000  
**Community of License:** VENTURA, CA  
**Service:** DT  
**Fac Type:** COMMERCIAL DIGITAL TV  
**Status:** LICENSED  
**Status Date:** 05/05/2009  
**Frequency:** 680  
**Channel:** 49  
**Virtual Channel:** 57  
**Digital Status:**  
**Lic Expir:** 12/01/2014  
**NTSC TSID:** 434  
**DTV TSID:** 435  
**Licensee:** KJLA, LLC  
**Address:** 2323 CORINTH AVENUE  
**Address 2:**  
**City:** WEST LOS ANGELES  
**State:** CA  
**Zip Code:** 90064 -  
**Phone Number:** (310) 943-5288  
**Engineering Data** [View Engineering Data](#)  
**Call Sign History** [View Call Sign History](#)  
**FRN History** [View FRN History](#)  
**Correspondence Folder** [View Correspondence Folder](#)

### Digital Television Replacement Translator Information

**File Number** BDRTCDT-20111108APG  
**Channel** 49

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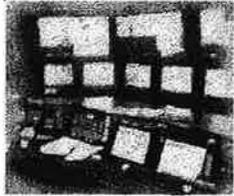
Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

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Federal Communications Commission  
 445 12th Street SW  
 Washington, DC 20554  
[More FCC Contact Information...](#)

Phone: 1-888-CALL-FCC (1-888-225-5322)  
 TTY: 1-888-TELL-FCC (1-888-835-5322)  
 Fax: 1-866-418-0232  
 E-mail: [fccinfo@fcc.gov](mailto:fccinfo@fcc.gov)

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- [Full Production Srv](#)
- [DTV Answers](#)
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To report closed caption technical problems please contact:  
 310-943-5288, 310-943-5299 Fax or cc1 (at) kjla.com

KJLA TV  
 2323 Corinth Ave  
 West Los Angeles, CA 90064

Office: 310.943.5288  
 Fax: 310.943.5299  
 Toll Free: 800.588.5788

General Manager  
 Francis X. Wilkinson  
 fwilkinson (at) kjla.com

Operations/Production  
 Mike Seros  
 mseros (at) kjla.com

Director of Engineering  
 Ken Brown  
 kbrown (at) kjla.com

Traffic Manager  
 Laura Zaragoza  
 lzaragoza (at) kjla.com

CFO  
 Ed Safa  
 esafa (at) kjla.com

Sales  
 sales1 (at) kjla.com

Chief Engineer  
 Eddie Hernandez  
 ehernandez (at) kjla.com

Job Inquiries  
 jobs1 (at) kjla.com

Closed Caption contact  
 Programming / Traffic Assistant  
 Daniela Nuno  
 dnuno (at) kjla.com

Questions & Comments  
 info2 (at) kjla.com

Internship Program  
 Tim Treadway  
 ttreadway (at) kjla.com

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**EXHIBIT 2**



November 13, 2012

KJLA, LLC, licensee of KJLA  
2323 Corinth Ave  
West Los Angeles, CA 90064

**VIA CERTIFIED MAIL**

Re: Notification of Migration of Station to Digital-Only Carriage in  
Certain Cable Systems

KJLA, LLC:

Charter Communications currently carries your station on one or more of our cable systems pursuant to the Federal Communication Commission's must-carry rules. Please be advised that on or after February 12, 2013, Charter will convert the analog presentation of your station's primary broadcast signal into a digital format on our cable lineup(s) listed below.

Affected Lineup(s): Big Bear Lake, CA; Burbank, CA; Cerritos, CA; Glendale, CA; Hesperia, CA; Long Beach, CA; Malibu, CA; Rancho Cucamonga, CA; Riverside, CA; San Bernardino, CA; San Gabriel Valley, CA; Ventura, CA; Victorville, CA and Whittier, CA

Effective on the date of conversion, the station will continue to be available to ALL of our customers served by the above lineup(s) in a digital format on the basic tier of service. Station's primary signal will continue to be mapped to the same channel position as its analog channel is today, in addition to its digital channel position. In conjunction with this conversion, Charter will notify our analog-only customers to inform them of a free or reduced cost digital converter box offer so that they can continue to watch your channel on their analog television set.

There will be continued carriage of your station during this migration and our customers will continue to enjoy the benefits of your station's programming. Charter looks forward to working cooperatively with you during this transition. Someone will be contacting you closer to the migration date to coordinate the notification of our mutual viewers.

If you have any questions about this notification, please contact Mr. David Oldani at Charter Communications, 12405 Powerscourt Drive, Saint Louis, Missouri 63131.

Sincerely,

CHARTER COMMUNICATIONS

**EXHIBIT 3**

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## Track & Confirm

You entered: 9171969009350029839800

### Status: Delivered

Your item was delivered at 12:30 pm on November 20, 2012 in LOS ANGELES, CA 90064. Additional information for this item is stored in files offline.

You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed momentarily.

I would like to receive notification on this request

[Restore](#)

### Find Another Item

What's your label (or receipt) number?

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## Track & Confirm

[GET EMAIL UPDATES](#)

[PRINT DETAILS](#)

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
8171969009350029039800	First-Class Mail®	Delivered	November 20, 2012, 12:30 pm	LOS ANGELES, CA 90064	Return Receipt Electronic
		Processed through USPS Sort Facility	November 17, 2012, 12:41 am	LOS ANGELES, CA 90052	
		Electronic Shipping Info Received	November 13, 2012		

### Check on Another Item

What's your label (or receipt) number?

#### LEGAL

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- [Terms of Use](#)
- [FOIA](#)
- [No FEAR Act EEO Data](#)

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**EXHIBIT 4**



Dear Charter Customer,

Effective on or after February 12, 2013, Charter will offer the following channels exclusively in a digital format. This change will require digital equipment in order to view these channels on all of your television sets.

Channel	Ch. #	Channel	Ch. #
KDOC - IND	10	KAZA - Azteca America	23
KTBN - TBN	[Variable based on lineup]		24
KILM - IND	15	KLOS - CBS	25
KSCI - IND	18	KJLA - IND	26
KRCA - IND	19	KBEH - IND	29
KXLA - IND	20	KPXN - ION	30
KVMD - IND	21	Speed Channel	40
KWHY - MundoFox	22		

To help you with this transition, we are providing you **2 digital receivers or 2 HD receivers or 2 DVR boxes at no cost for 24 months.\***

By adding Charter digital equipment in your home, you will have access to Charter On Demand, where you can choose from a library of over 10,000 movies and shows to watch on your schedule. Includes an easy-to-use Interactive Program Guide so you always know what's on and parental controls. With Charter TV® in HD, watch all of your favorite channels in breathtaking clarity with up to 6x sharper resolution than standard TV and with Charter DVR® you can pause and rewind live TV, even create your own instant replays.

At Charter, we continue to enhance our services, offer more of the best entertainment choices and deliver the best value. If you have any questions about upcoming changes to your channel line-up or want to add Charter services, **please call 1-866-974-5133.**

Thank you for choosing Charter.

Sincerely,

John Birrer  
Senior Vice President, Customer Experience

### IMPORTANT NOTICE

**STARTING ON  
OR AFTER**

**2/12/13**

**some channels will be  
exclusively offered in  
a digital format.**

#### What should you do?

To continue to enjoy these channels, please call a Charter Representative at 1-866-974-5133 to acquire your **2 digital receivers or 2 HD receivers or 2 DVR boxes at no cost for 24 months.\***

©2013 Charter Communications, Inc. Offer is valid to qualified residential customers who have no outstanding obligation to Charter. Standard rates apply after promotional period. Standard rates will apply for installation, taxes, fees, surcharges and additional equipment. On Demand programming varies by level of service; pricing, ratings and scheduling are subject to change. Standard rates apply for Charter DVR service fee. Charter leased digital equipment or CableCARD required to view programming channels, except for Basic Service viewable with customer owned TV equipped with digital QAM Tuner. Charter leased digital equipment required to view PPV and On Demand programming. HD capable equipment required to view HD programming (where available). All programming may not be available to CableCARD customers. Service is subject to all applicable service terms and conditions, which are subject to change. Restrictions apply.

**EXHIBIT 5**

**Newspaper Notice Example (Press Enterprise - Riverside, CA)**

Below is an example of the notification that was included in the seven newspaper notices. As noted below, the channel numbers and names varied based on the customer's specific lineup.

**LEGAL NOTICE**

Effective on or after February 12, 2013, Charter will offer the following channels exclusively in a digital format. This change will require digital equipment in order to view these channels on all of your television sets. Please call us at 877-617-0294 to acquire a digital receiver or for more information.

**Riverside, CA Lineup**

<b>Channel</b>	<b>Channel Number</b>	<b>Service Tier</b>
KDOC - IND	10	Basic
KTBN - TBN	14	Basic
KILM - IND	15	Basic
KSCI - IND	18	Basic
KRCA - IND	19	Basic
KJLA - IND	20	Basic
KVBC - IND	[Variable by lineup]	Basic
KLHY - MundoFox	22	Basic
KAZA - Azteca America	23	Basic
KVCR - PBS	24	Basic
KLCS - PBS	25	Basic
KJLA - IND	26	Basic
KBEH - IND	29	Basic
KPXN - ION	30	Basic
Speed Channel	40	Exp Basic

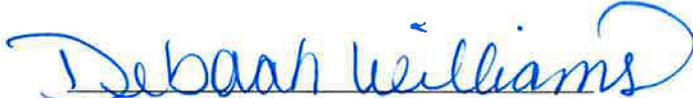
1/11

**CERTIFICATE OF SERVICE**

I, Deborah Williams, hereby certify that a true and correct copy of the foregoing Opposition to Petition was sent via first-class, postage prepaid mail on this 8<sup>th</sup> day of April, 2013 to the following:

Steven A. Broeckaert, Esq.  
Federal Communications Commission  
Media Bureau – Policy Division  
445 12<sup>th</sup> Street, SW, Room 4-A865  
Washington, DC 20554

Barry A. Friedman  
Thompson Hine LLP  
1919 M Street, N.W.  
Washington, DC 20036

  
Deborah Williams