

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Cross Hill Communications, LLC)	File No. CSR-____-M
Licensee of Station WYCX-CD,)	MB Docket No. 12-____
Manchester and Londonderry, VT)	
and South Charlestown, NH)	
)	
v.)	
)	
Duncan Cable TV)	
Wilmington, VT (VT0164))	

To: Chief, Policy Division, Media Bureau
Filed electronically in MB Docket No. 12-1

MUST-CARRY COMPLAINT

1. Introduction. Cross Hill Communications, LLC (“Cross Hill), hereby petitions the Commission, pursuant to Sections 76.7 and 76.61(a)(3) of the Commission’s Rules and Regulations, for an Order directing Duncan Cable TV (“Duncan”) to comply with the mandatory carriage provisions of Section 76.56 and the channel positioning provisions of Section 76.57 of the Rules with respect to Station WYCX-CD, FCC Facility ID 26996, licensed to Manchester and Londonderry, VT, and South Charlestown, NH. Duncan operates a cable system serving the community of Wilmington in Windham County, Vermont.

2. Regulatory Background. Pursuant to Section 614(c)(1)(B) of the Communications Act of 1934, as amended, and Section 76.56(b)(3) of the Commission’s Rules, a Class A television broadcast station such as WYCX-CD is entitled to assert mandatory carriage rights on

a cable system if it is a “qualified low power station” as defined in Section 76.55(d).¹ The requirements to be a qualified low power station include minimum hours of operation, compliance with all certain obligations and requirements applicable to full power television stations, provision of programming addressing local news and informational needs which are not being adequately served by full power stations because of geographic distance, and compliance with interference regulations. In addition, the station must be located within 35 miles of the cable system’s principal headend, the station’s community of license must be outside of the top 160 Metropolitan Statistical Areas ranked as of June 30, 1990, and there must be no full power television station licensed to any community within the county served by the cable system. Finally, the low power station must deliver a signal of good quality over-the-air to the cable headend.²

3. WYCX-CD is a qualified Class A/low power television station. The must-carry demand sent to Duncan, a copy of which is attached hereto as Exhibit A, spells out each of the requirements for being a qualified Class A/low power television station and recites how WYCX-CD complies with every requirement.

4. Must-Carry Election. The most recent three-year must-carry election cycle began on January 1, 2012, with election notices due October 1, 2011. Cross Hill was not the licensee of WYCX-CD at that time and has been advised by the previous licensee that it did not make an

¹ The cited rule sections refer to low power television stations. The Commission has always treated Class A television stations the same as low power television stations for cable carriage purposes; *see, e.g., Tri-State Christian TV, Inc.v. Infostructure Cable and Internet, Request for Carriage*, 18 FCC Rcd 16433 (MB 2003).

² The required signal intensity is -61 dBm for a digital signal; *see* §76.55(c)(3) of the Commission’s Rules.

election for WYCX-CD. Therefore, WYCX-CD is deemed to have elected must-carry status, pursuant to Section 76.64(f)(3) of the Rules.

5. Carriage of WYCX-CD. Duncan does not currently carry WYCX-CD. A copy of Duncan's current channel lineup is attached as Exhibit C.³ It should be noted that Duncan's system has more than 35 activated channels, and not more than one-third of its channels are filled with broadcast signals; so it is required by Section 76.56(b)(3) to carry up to two Class A/qualified low power television stations.

6. Carriage Demand and Response. By letter delivered on November 13, 2013 (Exhibit A hereto), Cross Hill requested mandatory carriage on Duncan's cable system.⁴ Duncan has never responded in writing. Oral discussions occurred between representatives of Cross Hill and Duncan have been inconclusive, with no commitment by Duncan to commence carriage of WYCX-CD. Pursuant to Section 76.61(a)(5)(2) of the Rules, the 60-day time period for filing a must-carry complaint started 30 days after delivery of Cross Hill's must-carry demand, or December 13, 2013. The 60-day complaint period expires February 11, 2014. Accordingly, this complaint is timely filed.

7. Conclusions:

a. WYCX-CD made no carriage election by October 1, 2011 and so is a must-carry station by default.

b. WYCX-CD meets all requirements to be a qualified Class A/low power television station.

c. WYCX-CD made a valid carriage demand, to which Duncan did not reply. This complaint is timely filed based on an assumed rejection of the demand 30 days after it was delivered.

³ Source: <http://www.duncancable.com/chlineup.html>, visited February 10, 2014.

⁴ A copy of the delivery confirmation is attached as Exhibit B.

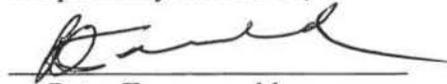
d. WYCX-CD operates on both over-the-air and virtual Channel 2 and so is entitled to carriage on cable Channel 2.⁵ The signal must be provided in the basic tier, delivered to all subscribers.

e. Duncan does not presently carry the signal of WYCX-CD.

8. Relief Requested. In light of the foregoing showing, Cross Hill hereby requests that Duncan be directed immediately to carry WYCX-CD's primary program stream from over-the-air Channel 2.1 on cable Channel 2.⁶ The Commission should direct Duncan to initiate notice to its subscribers that may be required by Section 76.1601 of the Rules immediately.

Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th St., 11th Floor
Arlington, VA 22209-3801
Tel. 703-812-0404
Fax 703-812-0486

Respectfully submitted,



Peter Tannenwald

Counsel for Cross Hill Communications, LLC

February 11, 2014

⁵ Cross Hill demands carriage for only its primary stream, Channel 2.1, and not any of its other streams.

⁶ If Duncan can demonstrate that another broadcast station has a legally superior right to be carried on cable channel 2, Cross Hill is willing to negotiate with Duncan for alternative channel placement.

DECLARATION OF GREGORY UHRIN

Gregory Uhrin hereby declares as follows:

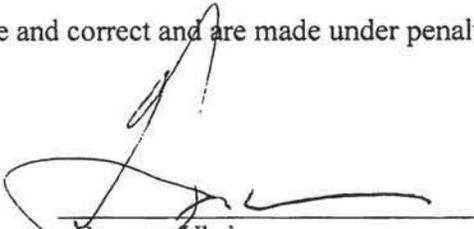
1. I am Chief Operating Officer of Cross Hill Communications, LLC, licensee of Station WYCX-CD, licensed to Manchester and Londonderry, VT, and South Charlestown, NH.

2. I have reviewed the foregoing "Must-Carry Complaint." The statements therein concerning communication with Duncan Cable TV and the service provided by WYCX-CD are true and correct to the best of my knowledge and belief.

3. Attached hereto are true and correct copies of a carriage demand sent to Duncan Cable and confirmation of delivery from the United States Postal Service.

The foregoing statements are true and correct and are made under penalty of perjury.

Executed on February 10, 2014



Gregory Uhrin

Exhibit A

Cross Hill Communications, LLC
75 Newport Road, Ste 210
New London, NH 03257

Via Priority Mail, Signature Confirmation Requested

Mr. Clifford Duncan
Duncan Cable TV
P.O. Box 685
Wilmington, VT 05363-0685

Re: Must-Carry Request for Station WYCX-CD at Wilmington, VT

Dear Mr. Duncan:

This letter constitutes a formal request on behalf of Cross Hill Communications, LLC, ("Cross Hill") that Duncan Cable TV carry the signal of Class A television station WYCX-CD, FCC Facility ID 26996, on your cable television system serving Wilmington, Vermont (FCC Cable ID VT0164). WYCX-CD qualifies for mandatory carriage, as discussed below.

1. WYCX-CD broadcasts 24 hours a day and so meets both the minimum operating requirements for full power stations set forth in Section 73.1740(a)(2)(ii) of the FCC's Rules (at least two hours each day and 28 hours per week) and the 18-hour per day requirement for Class A stations.

2. WYCX-CD meets all obligations and requirements applicable to full power television stations with respect to the broadcast of non-entertainment programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity. The station complies with the FCC's rules regarding lowest unit charge and equal time for political candidates, will afford access upon request by candidates for federal office, will notify opponents and provide an opportunity to reply to political editorials (if any), and will notify subjects and provide an opportunity to respond to personal attacks if any are broadcast. The station does not discriminate in employment on the basis of race, sex, color, ethnicity or age.

3. WYCX-CD's programming includes a substantial amount of original locally produced content each week, much of which involves news and information oriented toward local needs not addressed by programming on full power stations whose signals may reach Wilmington and Windham County. The nearest full power stations are in Manchester, NH, and Rutland, VT, too far away to devote meaningful attention to the local needs of residents of Wilmington. WYCX-CD's programming includes a Monday through Friday local news program; interview programs; programs featuring local personalities, businesses, and institutions; and local sports coverage promoting support of local high schools. Examples of local programming broadcast in 2013 include the following:

Week 4	Brattleboro High School Hockey vs. Hartford
Week 13	Vital Communities Program Food Program in Putney

Week 15	VNA of Vermont Program serving Windham County
Week 19	Rockingham Meeting House with the Historical Society
Week 20	Bellows Falls Farmers Market
Week 20	Bellows Falls Baseball vs. Green Mountain
Week 21	Feature about WOOL-FM Community Radio Station
Week 22	Roots on the River Festival

4. WYCX-CD is duly authorized pursuant to Part 73 of the FCC's Rules and thus has been found in compliance with the FCC's interference rules. The station recently received a new digital license on May 31, 2013. The station has not received any complaints of interference to reception of any other station.

5. WYCX-CD's digital transmitter is located at Hannum Hill, at 42° 58' 28" north latitude, 72° 36' 10" west longitude (NAD27), which is approximately 15 miles from the community of Wilmington. A recent air check indicated that a good quality signal is receivable close to the Duncan Cable headend.

6. WYCX-CD's communities of license are Manchester and Londonderry, VT, and South Charlestown, NH. The population of each community, and the sum of the populations of all three, are all less than 35,000 persons. Neither is in any MSA. The population of Wilmington is likewise less than 35,000 persons.

7. There is no full power television station licensed to any community in Wilmington or Windham County, VT, where Wilmington is located.

8. At the time of the most recent must-carry election cycle, October, 1, 2011, WYCX-CD did not make an election between must-carry and retransmission consent status. Therefore, the station is must-carry by default. There is no time limit under FCC rules as to when a must-carry station may assert its mandatory carriage rights.

The foregoing information demonstrates that WYCX-CD is fully qualified for carriage. Pursuant to Section 76.57(f) of the FCC's Rules, Cross Hill requests carriage on cable channel 2, which corresponds to the station's over-the-air channel. Should Duncan Cable wish to carry WYCX-CD on a different channel pursuant to a mutual agreement, Cross Hill will be happy to consider such a proposal.

Cross Hill requests that mandatory carriage commence as soon as any required notices can be given to Duncan Cable's subscribers and the notice period ends. Cross Hill believes that such notices are required only if WYCX-CD will replace another program service on a particular channel and not if WYCX-CD will be carried on a cable channel that is currently vacant.

I look forward to your response within the 30-day period required by the FCC's Rules.

Very truly yours,

Mr. Gregory Uhrin
Manager & COO



Date: November 15, 2013

Greg Uhrin:

The following is in response to your November 15, 2013 request for delivery information on your Signature Confirmation™ item number 23013460000127106660. The delivery record shows that this item was delivered on November 13, 2013 at 10:33 am in WILMINGTON, VT 05363 to C DUNCAN. The scanned image of the recipient information is provided below.

Signature of Recipient :
(Authorized Agent)

A handwritten signature in black ink, followed by the name "C Duncan" written in a similar cursive style.

Address of Recipient :

The number "685" written in a large, handwritten cursive style.

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

Exhibit C



Channel Line-up

<u>Ch. #</u>	<u>Station ID</u>	<u>Station Type</u>
2	WGBH Boston	PBS
3	On Cable Guide	
4	WBZ Boston	CBS Network
5	WSBK Boston 38	UPN Network
6		FOX Network
7	WHDH Boston	NBC Network
8	The Wilmington Channel	Local Access
9	TSN (The Student Network)	Independent
10	WTEN Albany	ABC Network
11	WVTA Vt. ETV	PBS
12	WNNE Vt. 31	NBC Network
13	WLVI Boston 56	Independent
14	MSNBC	
15	HBO Home Box Office	Premium Movies
16	C-Span	
17	C-Span 2	
18	Travel Channel	
19	Fit TV	
20	OWN	
21	The Discovery Channel	
22	The History Channel	

- 23 The Learning Channel (TLC)
- 24 DIY - Do it yourself Network
- 25 Home and Garden (HGTV)
- 26 G4
- 27 Food Network
- 28 MSNBC
- 29 CNBC
- 30 WCAX Vt. 3 Burlington
- 31 The Weather Channel
- 32 Fox News
- 33 CNN
- 34 One America News
- 35 Fox Business News
- 36 Outdoor Channel
- 37 NBC Sports Network
- 38 ESPN Classic
- 39 The Golf Channel
- 40 Speedvision
- 41 Outside / Mt. Snow TV
- 42 ESPN
- 43 ESPN 2
- 44 New England Sports Network (NESN)
- 45 NBA TV
- 46 *(See High Def Listing)*
- 47 WTBS Superstation
- 48 Fox FX

49	TNT
50	Bravo
51	Arts & Entertainment (A & E)
52	American Movie Classics (AMC)
53	Turner Classic Movies (TCM)
54	USA Network
55	National Geographic Channel
56	ABC Family Channel
57	Independent Film Channel (IFC)
58	Comedy Central
59	TV Land
60	Cartoon Network
61	Nickelodeon
62	E! Entertainment
63	Hallmark Channel
64	Spike TV
65	Animal Planet
66	Video Hits 1 (VH1)
67	Music Television (MTV)
68	Great American Country (GAC)
69	CMT Country Music Television
70	QVC
71	
72	BBC America
73	Classic Arts Showcase
74	RFD TV

98	Disney Channel
99	Sy Fy
116	CNN Headline News

Digital Channel Line-up

7.1	NBC WHDH Boston
7.2	This Boston
19.1	ABC WTEN Albany
19.2	WTEN Weather
19.3	Retro TV
25.1	FOX WFXT Boston
44.1	PBS New Hampshire
44.2	WGBH World
44.3	Create
44.4	EI - PBS
46.1	ESPN HD
46.11	NESN HD
76.201	NBA-TV HD
113.20	Outdoor Channel

CERTIFICATE OF SERVICE

I, Evelyn M. Ojea, do hereby certify that I have, this 11th day of February, 2014, caused a copy of the foregoing "Must Carry Complaint" to be sent by first class United States mail, postage prepaid, to the following:

Mr. Clifford Duncan
Duncan Cable TV
P.O. Box 685
Wilmington, VT 05363-0685

Telecom Division
Public Service Department
State of Vermont
112 State Street Third Floor
Montpelier, VT 05620-2601


Evelyn M. Ojea