

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

Murphy D. Boughner)	
)	
Must-Carry Complaint Regarding)	CSR-8870-M
Low Power Television Station)	Docket No. 14-15
KGCT-CD, Marion, Ohio)	

To: Office of the Secretary
Attn: Chief, Media Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

Cable One, Inc. (“Cable One”), by its attorneys and pursuant to Section 1.106(g) of the Commission’s rules, hereby opposes the Petition for Reconsideration (“Petition”) filed by Murphy D. Boughner, licensee of low-power television station KGCT-CD (“KGCT” or the “Station”), concerning the Media Bureau’s May 29, 2014 Memorandum Opinion and Order¹ (the “Order”) rejecting the Station’s demand for carriage on Cable One’s Bartlesville, Oklahoma cable system (the “System”). As KGCT’s argument that the Order should be reversed due to alleged anomalies in Cable One’s tests of KGCT’s signal has no basis in law or fact, the Petition for Reconsideration must be rejected.

In the Order, the Media Bureau confirmed that KGCT is not eligible for mandatory carriage of the System because KGCT is not a qualified low power (“LPTV”) station under Commission rules due to KGCT’s failure to deliver a good quality over-the-air signal to the Bartlesville System’s principal headend. Section 614(c)(1) of the Communications Act provides that cable systems are required to carry only the signals of “qualified” LPTV stations,² with the

¹ DA 14-736.

² 47 U.S.C. § 534(c)(1).

definition of a “qualified” LPTV station set forth in Section 76.55(d) of the Commission’s rules providing that an LPTV station must deliver to a cable system’s principal headend an “over-the-air signal of good quality.”³

In its pleadings, Cable One submitted three separate signal tests conducted in full compliance with Commission standards each demonstrating that KGCT’s signal strength fell well below the -61 dBm minimum necessary to qualify for cable carriage.⁴ The Petition attacks these signal tests, not because they demonstrate any reception or because of any specific or demonstrated non-compliance with Commission standards, but because they fail to register any reading of third-party station KUTU, a low-power, co-channel station operating from Tulsa, Oklahoma, nearly 45 miles to the south of Bartlesville. According to an informal test conducted by Mr. Boughner using a handheld antenna held out a car window, KUTU can apparently be received at a location in a parking lot somewhere close to 5 miles from Cable One’s Bartlesville headend. According to Mr. Boughner, this means that KUTU’s signal should have registered on Cable One’s signal tests, and the fact that it did not register means that the tests must somehow be defective with regard to KGCT’s signal, thereby warranting reversal of the Bureau’s Order denying carriage.

This argument has no basis in law or fact and must be rejected. First, the only technical criteria under the law that is relevant to KGCT’s must carry status is its ability to deliver an “over-the-air signal of good quality” to Cable One’s Bartlesville headend location. Cable One three times demonstrated that KGCT does in fact not do so. Each of these tests was conducted in

³ Pursuant to Section 76.55(d)(4) of the Commission’s rules, an “over-the-air signal of good quality” is defined as a signal of at least -61 dBm at the cable system’s principal headend. 47 C.F.R. § 76.55(d)(4).

⁴ See Exhibit A to the Opposition, signal test report of KGCT’s signal conducted on February 2, 2014 at Cable One’s Bartlesville principal headend, Exhibit B to the Opposition, signal test report of KGCT’s signal conducted on July 28, 2014, and the March 14, 2014 signal test report submitted along with Cable One’s March 20, 2014 letter to the Bureau in this docket.

full compliance with Commission standards, and the Petition demonstrates no actual technical defect in the tests.⁵ As the record remains solid that KGCT does not deliver the requisite “over-the-air signal of good quality” to Cable One’s Bartlesville principal headend location, reversal of the Order is not warranted.

Second, reception of KUTU by Cable One, or by any party at any location in or near Bartlesville, is entirely irrelevant to the analysis. Nothing in the Communications Act or Commission rules or precedent dictates that reception of other broadcast station signals is relevant to an analysis of whether a particular station actually delivers a good quality signal to the cable operator’s headend.

Third, even if potential reception of KUTU were a relevant criteria, Mr. Boughner’s signal test, taking readings using a handheld antenna held out a car window in a random parking lot miles from Cable One’s headend location, is in no measure in compliance with Commission standards for conducting signal tests of broadcast signals. The test is not verified or attested to, is not conducted over discreet time periods, and KGCT submits no written or measured technical record of the results. Thus, even if reception of KUTU were legally relevant, Mr. Boughner’s test would be of no probative value or relevance whatsoever, and would not undermine any Cable One’s three properly conducted signal tests of KGCT’s signal.

⁵ KGCT gives no legal support for its complaint that the antenna orientation on one of the tests was off azimuth for best reception of its signal. But as KGCT admits, even if the antenna azimuth were “corrected” to its liking, it would at best, and only theoretically, only improve reception 6.0 dBm at best. As the very best actual reading of KGCT’s signal at the headend was -71.15 dBm, even such a “corrected” test would still produce results that were still well below the -61 dBm standard.

Finally, the fact that Cable One's three signal tests did not register any signal from KUTU should not be surprising given that its Grade B equivalent contour (on file with the Commission) does not even remotely overlay Bartlesville or Cable One's principal headend.⁶

For all these reasons, there is no reason for the Bureau to reconsider its holding that KGCT is not eligible for carriage on Cable One's system because the record shows that KGCT absolutely fails to deliver a good quality signal to Cable One's principal headend.

⁶ See attached TV Station Profile Contour Map from KUTU's FCC station file, available electronically at stations.fcc.gov/station_profile/KUTU-CD/contour-maps, and attached as an exhibit hereto.

WHEREFORE, Cable One respectfully requests that KGCT's Petition for Reconsideration be denied. Undersigned counsel have read the foregoing Opposition and to the best of such counsels' knowledge, information and belief formed after reasonable inquiry, this submission 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,

CABLE ONE, INC.

By:  _____

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Date: July 7, 2014

EXHIBIT



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STATION PROFILE

X KUTU-CD

KUTU-CD TULSA, OK

Virtual Channel RF Channel 25 Facility ID 31369

FIND A STATION

You may enter a call sign (e.g., WXYZ), network affiliation (e.g., NBC), channel number (e.g., 26), or facility ID number (e.g., 123456).

CONTOUR MAPS



Data © OpenStreetMap and contributors, CC-BY-SA

RECENT HISTORY

- Uploaded 1 file in Issues and programs lists 8 months ago
- Uploaded 1 file in Time brokerage agreements 9 months ago
- Uploaded 1 file in Issues and programs lists 12 months ago
- Uploaded 1 file in Issues and programs lists 1 year ago
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- Uploaded 1 file in Local public notice announcements 1 year ago

GENERAL RESOURCES

The Public and Broadcasting Manual

For help or assistance please contact us at 1-877-480-3201 or 1-717-338-2824 (TTY) or you may submit requests online via e-support.

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 Washington, DC 20554

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CERTIFICATE OF SERVICE

I Craig Gilley hereby certify that copies of the foregoing "Opposition to Petition for Reconsideration" were served this 7th day of July, 2014 via first-class mail, postage prepaid, upon the following:

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*Via ECFS



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