

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re Applications of)
)
NEW YORK SPECTRUM HOLDING) **LMS File No. 0000054668**
COMPANY LLC) **MX Group No. 51**
(WYXN-LD, Facility ID 38945, New York, NY)
)
and)
)
TVC NY LICENSE, LLC) **LMS File No. 0000048135**
(WNYN-LD, Facility ID 74305, New York, NY) **MX Group No. 51**
)
For Construction Permits for)
Displacement Relief)

To: Chief, Video Division, Media Bureau
Filed Electronically in LMS

JOINT PETITION FOR APPROVAL OF SETTLEMENT

1. New York Spectrum Holding Company LLC. (“NYSHC”) and TVC NY Licensee (“TVC NY”) are the licensees of the Low Power Television (“LPTV”) stations listed in the caption and have each filed applications for displacement relief proposing operation on Channel 30. Both applications were listed in MX Group No. 51 in Public Notice DA-1108, released October 30, 2018. NYSHC and TVC NY hereby petition the Media Bureau to approve the attached Settlement Agreement, providing for them to share a channel, which will partially resolve the mutual exclusivities in MX Group No. 51.

2. The Settlement Agreement provides for NYSHC and TVC NY to share Channel 30, each as a separate licensee, operating from the TVC NY transmitter site. Each applicant will provide its own programming for broadcast on separate digital streams through the shared transmission facilities.

3. MX Group No. 51 includes a third application for Channel 30, filed by Venture Technologies Group, LLC (“Venture”), LMS File No. 0000054813 (WNJJ-LD, FID 167314). Venture is not a participant in the settlement. NYSHC and TV NY thus contemplate that the Commission will still hold an auction, at which they plan to bid together against Venture to the extent that the Commission permits collaboration.¹

4. MX Group No. 51 further includes two applications for first-adjacent Channel 31, LMS File Nos. 0000052801 (W26DC-D, FID 49882) and 0000054804 (W34DI-D, FID 127812). Those two applicants are not participants in the instant settlement, but NYSHC and TVC 26 are waiving incoming interference from those applications. The proposals of neither NYSHC nor TVC NY cause more than 2% interference to the Channel 31 applications, so no reciprocal waivers are need to break the mutual exclusivity between applications for Channels 30 and 31.

5. Attached to this Joint Petition are two agreements between NYSHC and TVC NY – a Settlement Agreement and a Channel Sharing Agreement. Also attached are Declarations from principals of both applicants, stating that approval of their settlement is in the public interest because it will enable both applicants to continue provide programming to the public as they have in the past, each application was not filed for the purpose of reaching or carrying out a settlement, and no consideration has been paid or promised by or to either party beyond the benefits resulting from participating in the settlement.

6. The Settlement Agreement spells out the commitment of the two licensees to work together toward the goal of grants of both of their respective applications and collaborative bidding

¹ There is no requirement in DA 19-1108 that settlements completely resolve an MX Group. Moreover, there is no “quiet period” currently in effect that precludes applicants from agreeing to bid collaboratively at the auction. The applicants will file an appropriate notice of intent to collaborate when the Commission announces a deadline for filing auction participation forms and notifications of bidding agreements.

should there be an auction. The Channel Sharing Agreement spells out the working and financial relationships between the two sharing parties and complies with the Commission's requirements for LPTV sharing arrangements.

6. This Joint Petition, the Settlement Agreement, and the Declarations of the applicants are being submitted as amendments to each of the pending displacement applications of NYSHC and TVC NY. Pursuant to informal advice from the Video Division Staff, NYSHCs will not amend its application to specify TVC NY's proposed transmitter site and facilities until the Settlement Agreement has been approved, and the Video Division provides instructions regarding the timing and format of such an amendment.

7. In light of the foregoing, NYSHC and TVC NY respectfully submit that a grant of this Joint Petition and approval of their Settlement would serve the public interest, by allowing both WYXN-LD and WNYN-LD to continue to serve the public if the non-participating application on Channel 30 is dismissed or they prevail in an auction.²

Respectfully submitted,



Peter Tannenwald
Kathleen Victory

Fletch, Heald & Hildreth, PLC
1300 N. 17th St., 11th Floor
Arlington, VA 22209-3801
Tel. 703-812-0404/0473
Email: tannenwald@fhhlaw.com
victory@fhhlaw.com

January 10, 2019

Charles R. Naftalin

Holland & Knight LLP
800 17th St., N.W., Suite 1100
Washington, DC 20006
Tel. 202-457-7040
Email: charles.naftalin@hklaw.com

² An Informal Objection is pending against the non-participating application of Venture for Channel 30, LMS File No. 0000063339.

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