



Federal Communications Commission  
Washington, D.C. 20554

May 26, 2021

WCWB Licensee, LLC  
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(via electronic mail)

WPNT-TV, Pittsburgh, PA  
Facility ID No. 73907  
LMS File No. 0000129403

Dear Licensee:

This letter is in reference to the above-captioned application for extension of legal special temporary authority (STA Extension) filed by WCWB Licensee, LLC. (WCWB Licensee, or Licensee), licensee of full power television station WPNT-TV, Pittsburgh, PA (WPNT or Station).<sup>1</sup> In its STA Extension, Licensee requests continued authorization to allow some of WPNT's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on the facilities of WTAE-TV, Pittsburgh, Pennsylvania, licensed to Hearst Stations, Inc., (Hearst or multicast host).<sup>2</sup> Licensee requests that WPNT continue to be treated as if it is still originating the multicast streams airing on the channel and facilities of WTAE-TV and to be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act) and the Commission's rules (Rules).<sup>3</sup> Although the Licensee has agreed to indemnify the multicast hosts from all liabilities or claims resulting from the airing of its multicast stream over the Stations' facilities,<sup>4</sup> it has requested the instant authorizations to make clear that it will remain responsible from a statutory and regulatory perspective for the Stations' multicast streams. For the reasons below, we grant WPNT's request.

*Background.* On May 20, 2020, the Video Division granted WPNT's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions, and WPNT commenced ATSC 3.0 operations on June 16, 2020.<sup>5</sup> As required by section 73.3801 of the Rules,<sup>6</sup>

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<sup>1</sup> Application of WCWB Licensee, LLC for Extension of Legal Special Temporary Authority as amended, LMS File No. 0000129403, as amended (filed Dec. 4, 2020) (WPNT Extension).

<sup>2</sup> WTAE is licensed to operate on RF channel 27.

<sup>3</sup> See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection files, indecency, sponsorship identification, etc.).

<sup>4</sup> Letter from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to WCWB Licensee, LLC at 1 (June 15, 2020) (on file at LMS File No. 112579) (STA Grant).

<sup>5</sup> Application of WCWB Licensee, LLC. for Modification of License as amended, LMS File No. 0000112577 (granted May. 20, 2020) (WPNT License Modification).

<sup>6</sup> 47 CFR § 73.3801(b).

WPNT's primary stream is simulcast in an ATSC 1.0 format over the facility of commonly owned WPGH-TV, Pittsburgh, PA (WPGH).<sup>7</sup> In addition to its primary stream, WPNT currently broadcasts three non-primary multicast streams: *Stadium*, *Comet TV*, and *TBD*.<sup>8</sup> In order to avoid the loss of WPNT's over-the-air multicast programming to its current ATSC 1.0 viewers, Licensee entered into a written agreement with Hearst to broadcast WPNT's multicast channels using the facilities and channel of WTAE.<sup>9</sup>

On June 15, 2020, the Media Bureau granted a legal STA finding that for purposes of the Act and the Commission's rules the multicast program streams of *Stadium*, *Comet TV*, and *TBD* will be considered to be originated by WPNT, even though they are being aired over WTAE's facilities and channel.<sup>10</sup> As noted in the WPNT Legal STA, because of ATSC 1.0 capacity constraints, WPNT is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted by WPGH.<sup>11</sup> Furthermore, due to capacity and other constraints WPNT is not able to simulcast an ATSC 3.0 version of WPNT's multicast streams.<sup>12</sup> Absent an extension of the current arrangement and grant of the instant request, WPNT states that "all over-the-air viewers would lose access to WPNT-TV's multicast streams."<sup>13</sup>

*Discussion.* We find that the facts and circumstances remain unchanged from grant of the WPNT Legal STA, and that the public interest would be served by grant of the STA Extension. Pursuant the Commission's rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing non-primary multicast streams.<sup>14</sup> Grant of the STA Extension will promote the continued transmission of WPNT's multicast programming streams to viewers. The Media Bureau will continue to treat WPNT as the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to WPNT's three non-primary multicast streams airing on WTAE.<sup>15</sup> Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted, we

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<sup>7</sup> See WPNT License Modification. WPGH is licensed to operate on RF channel 20.

<sup>8</sup> WPNT Extension at 1. Under its arrangement with Hearst, approximately 93.4% of WPNT's current over-the-air ATSC 1.0 viewers will retain access to WPNT's multicast programming. STA Grant at 2. WPNT's ATSC 1.0 primary simulcast that is being aired over the facility of WPGH-TV will serve approximately 97.6% of its current ATSC 1.0 service population. See WPNT License Modification, WPNT-WPGH ATSC 3.0 Engineering Exhibit at 1 and 3.

<sup>9</sup> *Id.*

<sup>10</sup> See STA Grant at 1.

<sup>11</sup> WPNT Extension at 1.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

<sup>15</sup> These requirements include, but are not limited to, the Commission's rules regarding political broadcasting, children's programming, equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. WPNT has also noted that WPNT "does not currently, and does not intend to, rely on its non-primary multicast streams for compliance with the Commission's Children's Television Programming requirements. As such, neither WPNT-TV's compliance with the Commission's Children's Television Programming requirements nor viewers' access to the station's core programming will be affected." STA Grant at 3, note 19.

note that WPNT is not required to air an ATSC 3.0 version of the ATSC 1.0 non-primary multicast streams being aired over the WTAE-TV's facilities.

Accordingly, the above captioned request of WCWB Licensee, Inc., licensee of WPNT-TV, Pittsburgh, Pennsylvania, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on November 26, 2021. For purposes of the Act and the Commission's rules we will consider the multicast program streams of *Stadium*, *Comet TV*, and *TBD* to be originated by WPNT, even though they are being aired over WTAE's facilities and channel. Further, as specified in the grant of the original STA, we will not apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as the Station's non-primary multicast streams are being aired on the facilities of the multicast host pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., the Station is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host).<sup>16</sup> Any change in the non-primary multicast streams being aired over the multicast host by the Station or relocation of either of the non-primary multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. By this grant, the Licensee agrees to continue to coordinate with MVPDs that carry the non-primary multicast programming streams as necessary. Because multicast signals are not entitled to mandatory carriage rights,<sup>17</sup> any impact on an MVPD's ability to carry WPNT's non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between WPNT and the affected MVPDs. According to the Licensee, it has coordinated with all impacted MVPDs and by this agreement commits to continue to coordinate as needed with potentially affected MVPDs to ensure that they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.<sup>18</sup> Finally, grant of subsequent extensions of the STA will be subject to any additional

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<sup>16</sup> See STA Grant at 3-4, citing Next Gen TV Report and Order, 32 FCC Rcd at 9972, para. 80, n.237 (finding that this approach is consistent with the Commission's decision to "not apply the broadcast ownership rules in any situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility would result in a potential violation of those rules"). See also Promoting Broadcast Internet Innovation through ATSC 3.0, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5916, 5924, para. 15 (2020).

<sup>17</sup> See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee's multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term "primary video" to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

<sup>18</sup> STA Grant at 2.

Commission or Bureau decisions regarding the treatment of multicast non-primary streams aired pursuant to an ATSC 3.0 simulcasting arrangement.<sup>19</sup>

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

Cc: (via electronic mail):  
Coe W. Ramsey, Esq.  
(Counsel for WTAE)

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<sup>19</sup> We note that the Commission has before it a Petition for Declaratory Ruling and Rulemaking requesting that the Commission “(1) clarify that its existing rules permit a station transmitting in ATSC 3.0 to partner with one or more other stations that would host the first station’s simulcasted ATSC 1.0 multicast streams to preserve existing service in the market; and (2) establish rules permitting a station transmitting in ATSC 3.0 to partner with one or more other stations that would host the first station’s ATSC 1.0 multicast streams, regardless of whether those ATSC 1.0 multicast streams are simulcast in ATSC 3.0, and also permit a station transmitting in ATSC 1.0 to partner with one or more other stations to host content transmitted in ATSC 3.0.” *See* Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition); *Media Bureau Seeks Comment on Petition for Declaratory Ruling and Petition for Rulemaking of the National Association of Broadcasters Seeking to Clarify Treatment of Multicast Streams Under the Next Gen TV Local Simulcasting Rules*, GN Docket No. 16-142, Public Notice, 35 FCC Rcd 13130 (MB 2020). Our action herein is not intended to prejudge the outcome of any potential proceeding undertaken as a result of the Petition.