



Federal Communications Commission  
Washington, D.C. 20554

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KJZZ-TV, Salt Lake City, Utah  
Facility ID No. 36607  
LMS File No. 0000113901

Dear Licensee:

This letter is in reference to the above captioned application for legal special temporary authority (Legal STA) filed by KJZZ Licensee, LLC. (the Licensee), licensee of full power television station KJZZ-TV, Salt Lake City, Utah (KJZZ or Station).<sup>1</sup> In its Legal STA, the Licensee requests authorization to allow KJZZ'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 KUTV(TV), Salt Lake City, Utah, (KUTV) licensed to KUTV Licensee, LLC, and KTVX(TV), Salt Lake City, Utah (KTVX), licensed to Nexstar Broadcasting, Inc. (Nexstar) (collectively "multicast hosts").<sup>2</sup> This arrangement between the Licensee and the multicast hosts has been entered into in connection with KJZZ's transition of its facility to the ATSC 3.0 transmission standard. Although the Licensee has agreed to indemnify Nexstar from all liabilities or claims resulting from the airing of KJZZ's multicast streams over their facilities,<sup>3</sup> the Licensee has requested the instant authorization to make clear that Licensee will remain responsible from a statutory and regulatory perspective for KJZZ's multicast streams.<sup>4</sup> Specifically, the Licensee requests that KJZZ be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act), and the Commission rules and regulations in the same manner as an ATSC 1.0 primary simulcast stream is treated under the Commission's ATSC 3.0 rules and regulations.<sup>5</sup> For the reasons below, we grant the Licensee's

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<sup>1</sup> Application of KJZZ Licensee, LLC for Legal Special Temporary Authority as amended, LMS File No. 0000113901 (filed June 23, 2020) (KJZZ Legal STA).

<sup>2</sup> KUTV is licensed to operation on RF channel 34, and KTVX is licensed to operate on RF channel 30.

<sup>3</sup> KJZZ Legal STA at 2.

<sup>4</sup> We note that KUTV and KJZZ are both commonly owned by Sinclair Broadcast Group (Sinclair), the parent company of both KJZZ Licensee, LLC and KUTV Licensee, LLC. Counsel for Sinclair has informed Video Division staff that because the stations are commonly owned, they have not entered into any contractual indemnification, however, to ensure clarity under the Commission's rules given the involvement of Nexstar in the multicast arrangement, Sinclair requests that the instant legal authorization cover KJZZ's multicast streams aired both over the facilities of KTVK and KUTV.

<sup>5</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, our rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection file, indecency, sponsorship identification, etc.).

request.

*Background.* On June 2, 2020, the Video Division granted KJZZ's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions.<sup>6</sup> As required by section 73.3801 of the Commission's rules,<sup>7</sup> KJZZ's primary stream will be simulcast in an ATSC 1.0 format over the facility of KUCW, Ogden, Utah (KUCW).<sup>8</sup> In addition to its primary stream, KJZZ currently broadcasts four multicast channels: Comet TV, DABL, TBD, and Charge!.<sup>9</sup> In order to avoid the loss of KJZZ's over-the-air multicast programming to its current ATSC 1.0 viewers, Licensee has entered into a written agreement with the hosts to broadcast its multicast streams using the facilities and channels of KUTV and KTVX. As part of the same agreement, the multicast hosts have been provided capacity as ATSC 3.0 guest stations on KJZZ's facility.<sup>10</sup>

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, KJZZ is not able to air its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted on KUCW.<sup>11</sup> Furthermore, due to capacity and other constraints Licensee is not able to simulcast an ATSC 3.0 version of KJZZ's multicast streams.<sup>12</sup> Pursuant to an engineering study conducted by Licensee, under its arrangement with the multicast hosts, approximately 99.9% of KJZZ's current over-the-air ATSC 1.0 viewers will retain access to KJZZ's multicast programming.<sup>13</sup> Absent this arrangement and grant of the instant request, the Licensee states that "all over-the-air viewers would lose access to KJZZ(DT)'s multicast streams."<sup>14</sup> Licensee's engineering study also shows that its multicast streams will continue to serve KJZZ's community of license (which is the same as the one assigned to the hosts).<sup>15</sup>

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<sup>6</sup> Application of KJZZ Licensee, LLC for Modification of License, LMS File No. 0000113900 (filed May 18, 2020) (KJZZ License Modification).

<sup>7</sup> 47 CFR § 73.3801(b).

<sup>8</sup> KUCW is licensed to operate on RF channel 35 and is licensed to Nexstar Broadcasting, Inc.

<sup>9</sup> The Licensee proposes airing Comet TV and DABL on KUTV, and TBD and Charge! on KTVX. KJZZ Legal STA at 1.

<sup>10</sup> Application of Nexstar Broadcasting, Inc. for Modification of License, LMS File No. 0000114065 (filed May 20, 2020); Application of KUTV Licensee, LLC for Modification of License, LMS File No. 0000113902 (filed May 18, 2020).

<sup>11</sup> KJZZ Legal STA at 1.

<sup>12</sup> Specifically, the Licensee states that in order to air an ATSC 3.0 simulcast of the Station's multicast streams, KJZZ would not be able to accommodate current ATSC 3.0 guests as arranged. According to the Licensee, to do so would not only require a reworking of existing ATSC 3.0 agreements, but impact stations' abilities to offer enhanced ATSC 3.0 offerings, such High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, Licensee notes that additional engineering work would be required to accommodate simulcasting KJZZ's multicast streams in both an ATSC 1.0 and ATSC 3.0 format, at a minimum, delaying the rollout of ATSC 3.0 in the Salt Lake City market, which is expected to launch on June 30, 2020. *Id.*

<sup>13</sup> *Id.*, KJZZ-KUTV-KTVX STA Engineering Exhibit at 1-3, 5. We note that KJZZ's ATSC 1.0 primary simulcast that is being aired over the facility of KUCW(TV) will approximately serve 99.9% of its current ATSC 1.0 service population. *See* KJZZ License Modification, KJZZ-KUCW ATSC 3.0 Engineering Statement at 1, 3.

<sup>14</sup> KJZZ Legal STA at 1-2.

<sup>15</sup> *Id.*, KJZZ-KUTV-KTVX STA Engineering Exhibit at 1-2, 4, 6.

Licensee goes on to state that it provided the requisite 120-day notice regarding relocation of KJZZ's primary ATSC 1.0 stream and its multicast streams.<sup>16</sup> KJZZ also has been airing the requisite over-the-air announcements<sup>17</sup> and posted to its website consumer notices regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order to continue to receive KJZZ's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels for each of KJZZ's program streams will remain unchanged and will be identified to viewers as being associated with KJZZ.<sup>18</sup> KJZZ plans to convert its facility to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of KUCW (primary stream), KUTV and KTVX (multicast streams) on June 30, 2020.<sup>19</sup>

*Discussion.* We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of the Licensee's Legal STA. Under the Commission's rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing multicast streams.<sup>20</sup> Grant of the instant Legal STA will not only promote continued transmission of those programming streams to viewers, but by providing KJZZ an authorization to air these signals over the multicast hosts' facilities, this grant will make clear that the Licensee is responsible for the content of those signals from a regulatory compliance and Commission enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to KJZZ multicast streams (Comet TV, DABL, TBD, and Charge!), we will treat those signals as multicast streams being originated by KJZZ even though they are being transmitted over the multicast hosts' facilities. The Licensee is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to KJZZ's three multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,<sup>21</sup> equal employment opportunities, public inspection file, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,<sup>22</sup> we will not require that KJZZ air an ATSC 3.0 version of the ATSC 1.0 multicast streams being aired over the hosts' facilities.

Given that the current arrangement is temporary and is in furtherance of an ATSC 3.0 simulcasting arrangement, we will not apply the broadcast ownership rules to the extent that the arrangement would result in a potential violation of those rules. We find this approach is consistent with the Commission's decision and underlying basis 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."<sup>23</sup> For purposes of the instant Legal STA, we find

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<sup>16</sup> KJZZ Legal STA at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

<sup>17</sup> KJZZ Legal STA at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

<sup>18</sup> KJZZ Legal STA at 2.

<sup>19</sup> See KJZZ License Modification.

<sup>20</sup> *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

<sup>21</sup> The Licensee notes in its Legal STA that KJZZ "does not currently, and does not intend to, rely on its multicast streams for compliance with the Commission's Children's Television Programming requirements....As such, KJZZ-TV's compliance with the Commission's Children's Television Programming requirements nor viewers' access to the station's required core programming will be affected by the proposed changes." KJZZ Legal STA at 2.

<sup>22</sup> See *supra* note 21.

<sup>23</sup> *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking,

compelling the capacity and engineering constraints that Sinclair has set forth.<sup>24</sup>

We are taking this temporary measure in order to help facilitate the deployment of ATSC 3.0 and in light of the evolving nature of ATSC 3.0 deployment and related agreements. To the extent that existing Commission rules and regulations do not provide sufficient clarity or guidance on issues related to the relocation of ATSC 1.0 multicast streams (simulcasted or non-simulcasted) and any other arrangements that have become necessary as part of broadcasters' voluntary transition to ATSC 3.0 since the Commission's ATSC 3.0 rules were adopted over two years ago, we encourage licensees to formally seek modification or clarification of the Commission's existing rules prior to seeking renewal of the instant Legal STA.

As explained above, we will continue to consider these program streams to be KJZZ's multicast streams even though they are being aired on a different channel than KJZZ's ATSC 1.0 primary stream. Multicast signals are not entitled to mandatory carriage rights,<sup>25</sup> and this authorization does not modify or alter KJZZ's mandatory carriage rights. Ultimately any impact on an MVPD's ability to carry KJZZ's multicast streams pursuant to a retransmission consent agreement are subject to the terms of the private contractual relationship between the Licensee and the affected MVPD. According to the Licensee, the current arrangement between KJZZ and the multicast hosts "will preserve access to those KJZZ-TV multicast streams currently received for most, if not all, viewers who are receiving them via MVPDs."<sup>26</sup> The Licensee states it has provided written notice to all impacted MVPDs, is coordinating with all impacted MVPDs, and will continue to coordinate as needed with potentially affected MVPDs to ensure they continue to receive a good quality signal of the multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.<sup>27</sup> As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the above captioned Legal STA requested by KJZZ Licensee, LLC, licensee of KJZZ-TV, Salt Lake City, Utah, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on December 29, 2020. For purposes of the Act, and the Commission's rules and regulations we will consider the multicast program streams of Comet TV, DABL, TBD, and Charge! to be originated by KJZZ even though they are being aired over the hosts' facilities. Further, 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 KJZZ's multicast streams are being aired on the hosts' facilities pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., KJZZ is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired

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FCC 20-73, para. 15 (rel. Jun. 9, 2020).

<sup>24</sup> See *supra* note 13.

<sup>25</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>26</sup> KJZZ Legal STA at 2.

<sup>27</sup> *Id.*

over the facility of an ATSC 1.0 simulcast host). Any additional multicast streams, a change in the multicast streams being aired over the multicast hosts' facilities by KJZZ or relocating KJZZ's multicast streams to a new ATSC 1.0 host, will require the filing of a new request. The Licensee agrees to coordinate with MVPDs as necessary. While renewal of the instant authorization may be requested, there is no guarantee of renewal and whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast streams pursuant to an ATSC 3.0 simulcasting arrangement.

Sincerely,

/s/

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