

## Justification for Waiver

This application to modify the power level of station WJLP requires a waiver of Section 73.622(f)(6) and, if necessary, (f)(5) of the Commission's rules which limits effective radiated power (ERP) to the level authorized by its current STA. The proposal will increase the (ERP) from 6.96 kW to 26.5 kW, a gain of 5.81 dB over the authorized level for Channel 2-6 television stations in Zone 1 at elevations greater than 305 meters height above average terrain.

The proposed increase is consistent with the level of increased power authorized by the Commission for WJLP's operations at World Trade Center (5.96 dB above the normal power limitation). The proposed power is also consistent with the Commission's previous waivers of power limitations to stations in Philadelphia (station WPVI, 37.2 kW) and Schenectady (station WRGB 30.2 kW, and 60 kW as an STA). These previous waivers reflect the Commission's candid recognition that low band VHF stations are faced with numerous problems in delivering a useful signal to their audiences. Indeed, over the last six months there has been a massive exodus of stations from their VHF channel assignments to available UHF channels, all citing the difficulty that they have been experiencing with reception and resulting customer complaints. The Commission has addressed that serious issue by approving these relocations to UHF channels.

Reception of the Channel 3 broadcast signal, particularly indoor reception in an urban environment, is difficult to maintain due to the lack of adequate radiated power to meet the required signal-to-noise ratio to properly decode the digital signal. This problem is further exacerbated by the absence of external outdoor antennas in urbanized areas, and by the poor performance of VHF indoor television antennas which are being marketed to the public as suitable for "VHF/UHF" reception, but in fact, are suitable for only "High-VHF/UHF" (channels 7 to 13 reception and UHF channels). Serving New Jersey and New York, with their many highly urbanized areas, WJLP's signal on channel 3 thus suffers the quintuple whammy of environmental noise level interference, an extremely low ERP level, signal blockage from tall buildings in New York, the difficulty of signal penetration into apartment buildings that lack (and often do not permit) outdoor antennas, as well as the pervasive unavailability of true low band VHF antennas for indoor use.

The licensee had hoped that relocation of its main transmitter to the WTC site would help to alleviate the reception problems it had been experiencing, but the *opposite* was true. Testing transmissions from WTC resulted in *increased* complaints from viewers that they could not receive the WJLP signal. PMCM hopes to develop a permanent remedy for that issue as it evaluates the results of its field testing, but for the foreseeable future, continued transmission from its 4 Times Square location on a primary basis is required.

Due to spectrum congestion in the New York region and other consideration, WJLP does not have the luxury being able to move to a UHF channel, as has been the remedy for VHF broadcasters elsewhere. The only viable option here is to increase power to a level that will overcome at least a portion of the obstacles that are faced. Fortunately, the dearth of low band VHF stations in the New York/New Jersey area makes it possible to increase power significantly without creating interference to other nearby stations. As noted in the Engineering Statement, a Mutual Upgrade Agreement with WJLP's channel 2 and 4 neighbors to the south provides for a power increase among the parties to that agreement without harm to any of them. (The MUA is attached to the 2017 application to increase power at WTC which the Commission approved in 2018 and, for convenience is also attached to this application.) Since the WTC site will become an auxiliary transmitter site, an increase in power from the 4 Times Square site is now necessary to balance the increased signal strength from the increased power levels of those nearby stations that the Commission authorized in 2018. Other than the stations that are parties to the MUA noted herein, there are no full power, co-channel or adjacent channel stations entitled to interference protection to the west, north or east of the transmitter site. More than two years of operation at 4 Times Square with the power level requested herein confirms that no harm will be caused by grant of this request. Hence, the grant of this waiver will permit significantly improved reception of WJLP's signal to

viewers in the New Jersey/New York area without any harm to other broadcasters, and such an outcome will clearly serve the public interest. Grant of the waiver is therefore respectfully requested.