

LEGAL EXHIBIT
STATION KPXB-DT (FACILITY I.D. NO. 58835)
MODIFICATION APPLICATION

Paxson Houston License, Inc. (“Paxson”), permittee of station KPXB-DT, Conroe, Texas, hereby submits this exhibit in conjunction with the instant application for a modification of a digital television (“DTV”) construction permit to move KPXB’s digital facilities to a new tower (“Richland Tower”) near Missouri City, Texas. Paxson recently filed an application to move its analog facilities to the same location (FCC File No. BMPCT-20020107AAJ), wishing to co-locate the analog and digital facilities at the Richland Tower. Although the instant application proposes digital facilities in compliance with the Commission’s current rules, Paxson is submitting this exhibit to emphasize the interrelated nature of the proposed analog and digital facilities.

Co-locating the digital and analog facilities at the Richland Tower requires a waiver of the Commission’s analog television minimum distance requirements.¹ Specifically, locating KPXB’s facilities on the Richland Tower requires co-location of adjacent analog channels – KPXB(TV) on analog Channel 49 and KTMD(TV) on analog Channel 48, Galveston, Texas – an arrangement that the Commission has not authorized in the past. Like Paxson, contemporaneous with KTMD’s application to relocate its analog transmitter to the Richland Tower, the licensee of KTMD also has submitted an application to move its DTV facilities to the Richland Tower to take advantage of efficiencies associated with co-location of analog and DTV facilities.

Several public interest benefits weigh in favor of this proposed co-location. First, the new tower location will result in substantial service gains for both KPXB and Telemundo-owned

KTMD, a Spanish-language station. Also, co-location of a KPXB and KTMD's digital and analog facilities will reduce DTV construction costs and facilitate a smoother conversion to full DTV service for both stations. Finally, co-location will reduce the overall number of towers needed for television stations during the transition to DTV.

Analog Short-Spacing Waivers.

From KPXB(TV)'s current location at the KTBUTV tower, KPXB is short-spaced to KITUTV, Channel 34, Beaumont, Texas, and KTMD(TV). The short-spacing with KITUTV will be eliminated by KPXB's move to the Richland Tower, but the short-spacing between KPXB(TV) and KTMD(TV) will continue, as the two stations are co-locating their transmitters on the Richland Tower. This proposed arrangement likely will cause some interference, but the licensees are committed to reducing potential interference by controlling the environment to the extent allowed and creating as similar propagation of the two NTSC signals as possible.

In addition to the continued short-spacing with KTMD, three new short-spacings will be created. No interference is expected to occur to two of the stations, and only *de minimis* interference is predicted to the third.

Analog Service Gains and Losses.

There will be significant analog service gains as a result of KPXB(TV) and KPXB-DT's relocation to the Richland Tower. The relocation will add a predicted 555,877 viewers and 13,260 square kilometers to KPXB(TV)'s Grade B service area. The Grade B service area loss will be 86,585 viewers and 4,353 square kilometers, with a net increase of 469,292 viewers and

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¹ Paxson is seeking waiver of Sections 73.610 and the accompanying Table II found in Section 73.698.

8,907 square kilometers. As indicated in the analog short-spacing waiver request, much of the Grade B land area and population loss occurs in areas where there are at least five other commercial television services available. The remainder of the land area and population Grade B losses occur in areas where there are at least two commercial television services available for viewers. With the net gain of an additional 469,292 viewers, significant benefits will be realized by allowing KPXB to relocate its analog and DTV facilities to the Richland Tower.

Moreover, KPXB's move to Richland Tower also must take into consideration the service gains and losses of KTMD, because without the co-location at the Richland Tower of KPXB and KTMD, KTMD could not have the significant service gains it also will experience by relocating to the Richland Tower. KTMD's proposed analog antenna location at Richland Tower will provide Grade B coverage to 4,765,511 persons, an increase of 481,242 persons. The land area served by the new antenna location also will increase from 13,583 square kilometers to 25,409 square kilometers, an increase of 11,826 square kilometers. The substantial service gains that will be achieved here also provide a compelling basis for grant. Loss of Grade B service to KTMD's existing viewers will be minimal (a total of 457 persons in an area of 26 square kilometers). KPXB's and KTMD's overall gains in coverage of nearly one million viewers, taken together with the gain in Hispanic viewers, greatly outweigh the losses that occur as a result of relocation to the Richland Tower by both stations.

Facilitation of DTV Transitioning Supports this Waiver.

The Commission has emphasized the importance of facilitating the rapid construction of a station's DTV facilities. Permitting KPXB and KTMD to co-locate their analog and digital facilities will allow both stations to achieve significant cost savings in the areas of technical operations, equipment maintenance, engineering staff and site fees. These cost savings in turn

will allow both KPXB and KTMD to construct their DTV facilities more quickly and to progress with greater speed to full implementation of DTV. The Commission has recognized that co-location of a station's digital and analog facilities has important public interest benefits, including reducing DTV construction costs and facilitating a smoother conversion to full DTV service.² Furthermore, with regard to the analog short-spacing waivers, the Commission has stated that the efficiencies that come with the co-location of a station's DTV and analog facilities weigh in favor of a grant of a short-spacing waiver request.³

Other Public Interest Benefits.

Other public interest factors support the co-location of KPXB's DTV and analog facilities. The relocation to the Richland Tower will advance the public's interest in grouping antennas. The Commission has generally supported the use of antenna farms by broadcasters in a particular market.⁴ Additionally, grant of the waiver request would be beneficial to a station affiliated with an emerging network.

The foregoing considerations warrant the Commission's grant of KPXB-DT's proposed relocation of its digital facilities to the Richland Tower. The relocation would permit both KPXB and KTMD to provide service to an increased number of viewers. Between the two stations, nearly one million additional persons would receive new broadcast service.

² *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 12 FCC Rcd 12809, 12847 (1997); *J.S. Kelly, L.L.C.*, 13 FCC Rcd 23632, 23636 (1998).

³ *See KRCA License Corp.*, 15 FCC Rcd 1794, 1800-1802 (1999).

⁴ *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 12 FCC Rcd 14588, 14634 (1997).

Furthermore, the co-location plan will allow both stations to gain efficiencies associated with co-locating a station's analog and digital facilities.