

### **307(b) Exhibit**

NM Licensing LLC (“NextMedia”), licensee of Station WIIL(FM), Kenosha, Wisconsin hereby submits this Application which proposes to delete Channel 236B at Kenosha, Wisconsin and allot Channel 236B to Union Grove, Wisconsin as that community’s first local service. In proposing this reallocation of Channel 263B NextMedia asks that the Commission apply principles enunciated in Clear Channel Radio Licenses, Inc., DA 09-2469 (Audio Div., released November 23, 2009), to immediately remove Station WIIL from the Chicago Arbitron Metro Market, where NextMedia holds the licenses of eight FM stations, and relocate it in the Milwaukee-Racine Arbitron Metro. Station WIIL’s present community of license is actually located closer to Milwaukee, WI than it is to Chicago, IL and only the accident of Arbitron Metro definitions locates it in the Chicago market. Good cause exists to permit this relocation in that it provides a more favorable arrangement of allotments under Section 307(b) and mitigates NextMedia’s multiple ownership of radio stations in the Chicago Arbitron Metro.

As demonstrated in the Technical Exhibit, Channel 236B can be allotted to Union Grove consistent with the treatment accorded grandfathered short-spaced stations seeking community of license changes in Gaffney Broadcasting, Inc., 23 FCC Rcd 8412 (Audio Div. 2008). There, the Commission waived Rule 73.3573(g)(4) to permit a grandfathered short-spaced FM station to change community of license in a one-step minor modification application, even though it could not demonstrate the existence of a non-short-spaced assignment site. Applying the policy enunciated in Newman and Peachtree City Georgia, 7 FCC Rcd. 6307 (1992), the Commission permitted the pre-1964 grandfathered short-spaced station to change community of license “provided that [an assignment site is specified where] no new short-spacings are created, no existing short-spacings are exacerbated and the potential for interference between currently short-spaced stations is not increased.” 23 FCC Rcd. at 8416. To this end, NextMedia requests waiver of the requirement that there exist a non-short-spaced assignment or allotment site for Channel 236B at Union Grove, Wisconsin.

The Technical Exhibit further notes that Station WIIL's existing facilities are short-spaced to three pre-1989 3kW Class A FM stations and that all such short-spacings are eliminated when the "prior rules" spacing table of Rule 73.213(c)(1) is utilized. Since WIIL does not propose any changes in its transmitter site, it qualifies for waiver of Rule 73.207 under policies enunciated in Fremont and Holton, Michigan, 14 FCC Rcd. 17108 (Mass Media Bur. 1999)

The Technical Exhibit proves that a 70 dBu signal can be provided to Union Grove from the proposed reference coordinates. The relocation of WIIL(FM) from Kenosha to Union Grove does not involve a change in facilities and thus no loss or gain area will be created.

NextMedia desires to change the community of license for WIIL(FM) from Kenosha to Union Grove under the guidelines set forth in Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd. 4870 (1989), recons. granted in part, 5 FCC Rcd. 7094 (1990).<sup>1</sup> There, the Commission stated that a station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 236B at Union Grove is mutually exclusive with the current use of Channel 236B at Kenosha. Second, Kenosha will not be deprived of its only local service because it will continue to be served by Station WLIP(AM) and non-commercial educational FM Station WGTD. Third, the provision of a first local service at Union Grove (2000 U.S. Census population 4,322) under Priority 3 will result in a preferential arrangement of allotments over the retention of a local service at Kenosha (2000 U.S. Census population 90,352) under Priority 4. See Revision of FM Assignment and Procedures, 90 FCC 2d 88 (1982).

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<sup>1</sup> See also Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, 21 FCC Rcd. 14212 (2006).