



Federal Communications Commission
Washington, D.C. 20554

September 29, 2022

HSH Charleston (WCIV) Licensee, LLC
201 Massachusetts Avenue, NE
Suite C-1
Washington, DC 20002
arightside@aol.com
(via electronic mail)

WGWG(TV), Charleston, SC
Facility ID No. 21536
LMS File No. 0000184943

Dear Licensee:

This letter is in reference to the above-captioned application for extension of legal special temporary authority (STA Extension Request) filed by HSH Charleston (WCIV) Licensee, LLC (Licensee), licensee of full power television station WGWG(TV), Charleston, South Carolina (Station or WGWG).¹ In its Legal STA, the Licensee requests authorization to allow WGWG's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on WCSC-TV, Charleston, South Carolina (WCSC), licensed to Gray Television Licensee, LLC; WCIV(TV), Charleston, South Carolina (WCIV), licensed to Sinclair Broadcast Group, Inc.; and WCBD-TV, Charleston, South Carolina (WCBD), licensed to Nexstar Media, Inc. (collectively, Multicast Hosts).² These arrangements between the Licensee and the Multicast Hosts have been entered into in connection with the Station's transition of its facilities to the ATSC 3.0 transmission standard. Although the Licensee has agreed to indemnify the Multicast Hosts from all liabilities or claims resulting from the airing of its multicast streams over the Multicast Hosts' channels,³ it has requested the instant authorization to continue to make clear that it will remain responsible from a statutory and regulatory perspective for the Station's multicast streams. Specifically, the Licensee requests that WGWG be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communications Act of 1934, as amended (Act) and the Commission's rules (Rules).⁴ For the reasons below, we grant the Licensee's request.

Background. On March 9, 2022, the Video Division granted WGWG's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions, and WGWG

¹ LMS File No. 0000197515, as amended (Extension/Change STA).

² *Id.*, STA Request at 1. WCSC is licensed to operate on RF channel 19; WCIV is licensed to operate on RF channel 25; WCBD is licensed to operate on channel 20.

³ *Id.*, STA Request at 2.

⁴ *Id.*; 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, 9970-73, paras. 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.).

commenced ATSC 3.0 operations shortly thereafter.⁵ As required by section 73.3801 of the Rules,⁶ WGWG's primary stream (*Heroes and Icons*) is authorized to simulcast in an ATSC 1.0 format over the facilities of WTAT-TV, Charleston, South Carolina (WTAT).⁷ In addition to its primary stream, WGWG is authorized to air three multicast streams over the Multicast Hosts channels: (1) *Decades* (WCSC); (2) *Antenna TV* (WCIV); and (3) *Start TV* (WCBT).⁸ The Licensee has requested another extension of its Legal STA, except this time the Licensee states that effective September 12, 2022, it modified its channel lineup to have *MeTV* become its primary stream⁹ and *Heroes and Icons* become a multicast stream that will be aired over WCIV.¹⁰ No other changes were made to its multicast streams or the Multicast Hosts by which they are being aired. The Licensee states that this change in programming will allow viewers to continue to receive *Heroes & Icons* programming, while also being provided access to new *MeTV* programming. According to the Licensee, if WGWG were broadcasting in ATSC 1.0 via its own facilities, it would be able to broadcast its primary and all four multicast streams over its own channel.¹¹

Because of ATSC 1.0 capacity constraints the Station is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 simulcast signal.¹² Furthermore, due to capacity and other constraints the Station is not able to simulcast an ATSC 3.0 version of its multicast streams.¹³ Pursuant to an engineering study conducted by the Licensee, under its multicast hosting arrangements over 99 percent of viewers will continue to receive access to WGWG's multicast programming, with *Antenna TV* and *Heroes and Icons* remaining available to 99.9 percent of its ATSC 1.0 viewers, *Start TV* remaining available to 99.8 percent of viewers, and *Decades* remaining available to 100 percent of existing viewers.¹⁴ Absent the proposed arrangements and grant of the instant request, the Licensee stated that "all over-the-air viewers would lose access to WGWG's multicast streams."¹⁵ The Licensee's engineering study also showed that its multicast streams will continue to serve the Station's Designated Market Area (DMA) and community of license.¹⁶

⁵ See Application of HSH Charleston (WCIV) Licensee for Modification of License, LMS File No. 0000184942 (granted Mar. 9, 2022) (HSH License Modification).

⁶ 47 CFR § 73.3801(b).

⁷ WTAT is licensed to WTAT Licensee, LLC and licensed to operate on RF channel 35.

⁸ Extension/Change STA, STA Request at 1.

⁹ On September 16, 2022, the Commission granted the Station's application for modification of license in which it notified the Commission of the change in its primary stream. See LMS File No. 0000199719.

¹⁰ Extension/Change STA, STA Request at 1.

¹¹ *Id.*, at 3.

¹² *Id.* Next Gen TV stations are not required to air their multicast channels as part of their ATSC 3.0 conversion. See *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40 ("The provision of multicast channels is discretionary, and we decline to adopt rules requiring broadcasters who currently air such channels to continue to do so.").

¹³ Extension/Change STA, STA Request at 1.

¹⁴ *Id.*, Engineering Statement at 4-9.

¹⁵ *Id.*, STA Request at 2.

¹⁶ *Id.*, Engineering Statement at 4-9.

The Licensee also stated that the Station aired consumer notices leading up to the programming change and posted notices to its website.¹⁷ The Licensee goes on to state that it has coordinated with or will coordinate with MVPDs as needed.¹⁸ According to the Licensee, because WCIV is currently serving as a multicast host for WGWG, it anticipates that MVPDs will continue to receive a good quality signal of its multicast streams.¹⁹ In order to continue to alleviate any viewer confusion, the Licensee confirms that the PSIP (virtual) channel for each of the Station’s programming streams will remain unchanged and will continue to be identified to viewers as being associated with WGWG.²⁰ As noted above, the Licensee made a change to its multicast streams on September 12, 2022.²¹

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 continue airing their existing multicast streams.²² Grant of the instant Legal STA will promote the continued transmission of the Station’s multicast programming streams in an ATSC 1.0 format to viewers and make clear that the Station is responsible for the content of that signal from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to the Station’s multicast streams, we will continue treat those signals as multicast streams being originated by the Station even though they are being transmitted over the Multicast Host’s channel. The Licensee is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to its original multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children’s programming,²³ equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System.²⁴ We decline to require the Station to air an ATSC 3.0 version of the ATSC 1.0 multicast streams being aired over the Multicast Host’s channel given the capacity and engineering constraints that the Licensee has described. Furthermore, because the Station has certified that the change in programming being aired will not require any additional spectrum capacity beyond what could be aired over WGWG’s own channel if it were operating in ATSC 1.0, we find it is in the public interest to allow the programming change.²⁵

Finally, 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 arrangements would result in a potential violation of those rules. We find this approach is consistent with

¹⁷ *Id.*, STA Request at 3. Counsel for WGWG informed Media Bureau staff via electronic mail that the on-air announcements ran for a period of 30 days prior to the change.

¹⁸ *Id.*

¹⁹ *Id.*, STA Request at 2-3.

²⁰ *Id.*.

²¹ *Id.*, STA Request at 1.

²² *Supra* note 12.

²³ The Licensee has stated that it “does not, and does not intend to, rely on any programming broadcast on its multicast streams for compliance with the Commission’s children’s programming requirements.” Extension/Change STA, STA Request at 3.

²⁴ *See supra* note 4.

²⁵ *See* Extension/Change, Amendment. *See e.g.*, Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Gray Television Licensee, LLC (Apr. 29, 2022) (on file at LMS File No. 0000184684) (permitting KSMO-TV to switch the streams airing on its multicast hosts).

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.”²⁶

Accordingly, the application of HSH Charleston (WCIV) Licensee, LLC, licensee of full power television station WGWG, Charleston, South Carolina, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on March 28, 2023. For purposes of the Act and the Commission’s rules, we will consider the multicast program streams to be originated by the Station, even though the streams are being aired over the Multicast Hosts’ channels. Any change in the multicast streams being aired over the Multicast Hosts by the Station or relocating a multicast stream 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 as necessary to ensure that they continue to receive a good quality signal of the multicast streams over-the-air or via alternative delivery methods. Because multicast signals are not entitled to mandatory carriage rights,²⁷ any impact on an MVPD’s ability to carry WGWG’s multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between the Station and the affected MVPDs. Our grant of the instant STA authorization shall not prejudice the outcome of the Commission’s current ATSC 3.0 proceeding relating to the licensing of multicast streams and will be subject to the outcome of the proceeding.²⁸

Sincerely,

/s/

Barbara A. Kreisman

²⁶ *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, 35 FCC Rcd 5916, 5924, para. 15 (2020).

²⁷ 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.

²⁸ In the *Second ATSC 3.0 Second FNPRM* the Commission seeks comment on issues related to the licensing of ATSC 1.0 multicast streams by stations that have converted their facilities to ATSC 3.0 operations. See *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN Docket No. 16-142, Second Further Notice of Proposed Rulemaking, FCC 21-116 (rel. Nov. 5, 2021) (*ATSC 3.0 Second FNPRM*); see also *Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters*, GN Docket No. 16-142 (filed Nov. 9, 2020). The Commission stated that during the pendency of the rulemaking it will “maintain the status quo and permit the Bureau to continue to process STA requests and 3.0 license applications in the same manner it has to date.” *ATSC 3.0 Second FNPRM* at n. 47. We find that the instant request is consistent with the Bureau’s prior actions under the STA process. The Commission also stated that “any STA or 3.0 license application granted previously or during the course of this proceeding containing such multicast arrangements shall not prejudice the outcome of this proceeding, and any such STA or 3.0 license application will be subject to the outcome of this proceeding.” *ATSC 3.0 Second FNPRM* at n. 47. Accordingly, we want to make clear that our action herein is not intended to prejudge the outcome of the proceeding and all licensees must come into compliance with any rules adopted by the Commission, therein, to the extent this authorization conflicts.

Chief, Video Division
Media Bureau

Cc: (via electronic mail):

Colby M. May, Esq. (Counsel for HSH Charleston (WCIV) Licensee)

Joan Stewart, Esq. (Counsel for Gray)

Miles S. Mason, Esq. (Counsel for Sinclair)

Elizabeth Ryder (Mission)