



Federal Communications Commission
Washington, D.C. 20554

December 1, 2021

Tribune Media Company
c/o Elizabeth Ryder
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062
(via electronic mail)

KIAH(TV), Houston, TX
Facility ID No. 23394
LMS File No. 0000166996

Dear Licensee:

This letter is in reference to the above-captioned application for legal special temporary authority (Legal STA) filed by Tribune Media Company (Nexstar or Licensee), licensee of full power television station KIAH(TV), Houston, Texas (KIAH or Station).¹ In its Legal STA, the Licensee requests authorization to allow KIAH's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on KHOU(TV), Houston, Texas (KHOU), licensed to KHOU-TV, Inc; KUHT(TV) (KUHT), Houston, Texas, licensed to University of Houston System;² and KTMD(TV), Galveston, Texas (KTMD), licensed to NBC Telemundo License LLC (collectively, Multicast Hosts).³ 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,⁴ it has requested the instant authorization 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 KIAH be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any

¹ Application of Tribune Media Company for Legal Special Temporary Authority as Amended, LMS File No. 0000166996 (filed Nov. 15, 2021) (Nexstar Legal STA).

² KUHT is a non-commercial educational (NCE) station. Under the Commission's rules "[n]oncommercial educational television stations may participate in simulcasting arrangements with commercial stations." 47 CFR § 73801(a). We find that the proposed arrangement with KUHT acting as a multicast host and, as discussed below, being provided ATSC 3.0 capacity over KIAH is consistent with the rationale underlying the Commission's decision to permit NCEs to serve as host stations for commercial stations' programming. 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, 9941 and 9954, paras. 14 and 50 (2017) (*Next Gen TV Report and Order*); *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Second Further Notice of Proposed Rulemaking, FCC 21-116, para. 11 (rel. Nov. 5, 2021) (*Second ATSC 3.0 FNPRM*) (noting that the licensed multicast approach proposed would allow NCE stations to serve as hosts to commercial stations' multicast.). Furthermore, permitting KUHT to participate in the ATSC 3.0 rollout as proposed not only is important to ensure that viewers maintain access to all of KIAH's multicast streams, but it provides an opportunity for a public television station to participate in the ATSC 3.0 market conversion in the Houston DMA.

³ KHOU is licensed to operate on RF Channel 11, KUHT is licensed to operate on RF Channel 8, and KTMD is licensed to operate on RF Channel 22.

⁴ Nexstar Legal STA, Amended Narrative Exhibit at 2.

obligations under the Communications Act of 1934, as amended (Act) and the Commission's rules (Rules).⁵ For the reasons below, we grant the Licensee's request.

Background. On November 23, 2021, the Video Division granted the Station's application for modification of license to convert its existing broadcast facilities to ATSC 3.0 transmission.⁶ As required by section 73.3801 of the Rules,⁷ the Station's primary stream will be simulcast in an ATSC 1.0 format over KPRC-TV, Houston, Texas (KPRC), licensed to Graham Media Group, Houston, Inc.⁸ In addition to its primary stream, the Station currently broadcasts four non-primary multicast streams: (1) *Antenna TV*, (2) *TBD*, (3) *Comet TV*, and (4) *Court TV*.⁹ In order to avoid the loss of the Station's over-the-air multicast programming to its current ATSC 1.0 viewers, the Licensee has entered into written agreements with the Multicast Hosts to broadcast *Antenna TV* and *TBD* over KHOU, *Comet TV* over KUHT, and *Court TV* over KTMD.¹⁰ As part of the same arrangements, the Multicast Hosts have been provided capacity as ATSC 3.0 guest stations on the Station's channel.¹¹

As noted in the Legal STA, 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, over 99 percent of KIAH's current over-the-air ATSC 1.0 viewers will retain access to *Antenna TV* and *TBD* over

⁵ *Id.* See *Next Gen TV Report and Order*, 32 FCC Rcd at 9970-73, paras. 79-82 (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.).

⁶ Application of Tribune Media Company for Modification of License, LMS File No. 0000167309 (granted Nov. 23, 2021) (Nexstar License Modification).

⁷ 47 CFR § 73.3801(b).

⁸ See Nexstar License Modification. KPRC is licensed to operate on RF Channel 35.

⁹ Nexstar Legal STA, Amended Narrative Exhibit at 1.

¹⁰ *Id.*

¹¹ See Application of KHOU-TV, Inc. for Modification of License, LMS File No. 0000167273 (granted Nov. 23, 2021); Application of University of Houston System for Modification of License, LMS File No. 0000167251 (granted Nov. 23, 2021); Application of NBC Telemundo License LLC for Modification of License, LMS File No. 0000169199 (granted Nov. 23, 2021).

¹² Nexstar Legal STA, Amended Narrative Exhibit at 1. We also note that under current Commission rules 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."); see also *infra* note 27.

¹³ Nexstar Legal STA, Narrative Exhibit at 1. Specifically, Licensee states that to air an ATSC 3.0 simulcast of the Station's non-primary multicast streams, the Station would not be able to accommodate current ATSC 3.0 guests as arranged. According to the Licensee, doing so also would impact the Station's ability to offer enhanced ATSC 3.0 offerings, such as High Dynamic Range, Wide Color Gamut and High Frame Rate, Dolby AC-4 immersive audio, advanced emergency alerting and information functions, and non-real time interactive data delivery. *Id.* Furthermore, the Licensee notes that this would delay rollout of ATSC 3.0 in the Houston, Texas Designated Market Area (DMA). *Id.*, Amended Narrative Exhibit at 1-2.

KHOU, *Comet TV* over KUHT, and *Court TV* over KTMD.¹⁴ Absent the proposed arrangements and grant of the instant request, the Licensee states “all over-the-air viewers would lose access to KIAH’s multicast streams.”¹⁵ The Station’s non-primary multicast streams will continue to serve the Station’s DMA and community of license.¹⁶

The Licensee goes on to state that it has provided the requisite notice to MVPDs regarding relocation of the Station’s primary ATSC 1.0 stream and its non-primary multicast streams.¹⁷ The Station is also airing the requisite over-the-air announcements regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets to continue to receive KIAH’s ATSC 1.0 programming streams.¹⁸ In order to alleviate any viewer confusion, the PSIP (virtual) channel for each of KIAH’s programming streams will remain unchanged and will be identified to viewers as being associated with KIAH.¹⁹ The Licensee plans to convert the Station’s facilities to ATSC 3.0 and commence its ATSC 1.0 operations over KPRC (primary stream), KHOU (*Antenna TV* and *TBD*), KUHT (*Comet TV*), and KTMD (*Court TV*) on December 2, 2021.²⁰

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 non-primary multicast streams.²¹ Grant of the instant Legal STA will promote the continued transmission of the Station’s non-primary multicast programming streams in an ATSC 1.0 format to viewers and make clear that the Station is responsible for the content of those signals from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to the Station’s non-primary multicast streams, we will treat those signals as multicast streams being originated by the Station even though they are being transmitted over the Multicast Hosts’ channels. The Station is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to all of its original non-primary multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children’s programming,²² equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System.²³ Furthermore, we decline to require the Station to air an ATSC 3.0 version of the ATSC 1.0

¹⁴ Nexstar Legal STA, Engineering Statement at 4-5, 9, 13, 15. We also note that over 99% of the Station’s current over-the-air ATSC 1.0 viewers will retain access to its primary programming over KPRC. Nexstar Legal STA, Engineering Statement at 4, 11.

¹⁵ Nexstar Legal STA, Amended Narrative Exhibit at 2.

¹⁶ Nexstar Legal STA, Engineering Statement at 5-6, 9, 13, 15.

¹⁷ Nexstar Legal STA, Amended Narrative Exhibit at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁸ Nexstar Legal STA, Amended Narrative Exhibit at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

¹⁹ Nexstar Legal STA, Amended Narrative Exhibit at 2.

²⁰ *Id.*

²¹ *Supra* note 12.

²² The Licensee notes in its Legal STA that it does not intend to rely on its multicast streams for compliance with Children’s Television Programming Requirements. Nexstar Legal STA, Amended Narrative Exhibit at 2.

²³ See *supra* note 5. Moreover, because KUHT will remain an NCE licensee, it is prohibited from broadcasting advertisements on its portion of the channel shared with KIAH. 47 U.S.C. § 399b(b)(2). Any advertisements

non-primary multicast streams being aired over the Multicast Hosts' channels given the capacity and engineering constraints that the Licensee has described.

Further, 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 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."²⁴

Accordingly, the application of Tribune Media Company, licensee of KIAH(TV), Houston, Texas, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on June 1, 2022. 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 non-primary multicast streams being aired over the Multicast Hosts by the Station or relocating any of the non-primary multicast streams to a new ATSC 1.0 multicast host will require the filing of a new request. By this grant, the Licensee agrees to coordinate with MVPDs as necessary. Because multicast signals are not entitled to mandatory carriage rights,²⁵ any impact on an MVPD's ability to carry KIAH's non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between KIAH and the affected MVPDs. According to the Licensee, it will coordinate with all impacted MVPDs to ensure that they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods.²⁶ Our grant of the instant STA authorization shall not prejudice the

broadcast on a portion of the channel shared with KIAH during the course of this STA must be limited to KIAH's portion of the shared channel.

²⁴ *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).

²⁵ 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*, CS Docket No. 98-120, Second Report and Order and First Order on Reconsideration, 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.

²⁶ Nexstar Legal STA, Amended Narrative Exhibit at 2.

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.²⁷

Sincerely,

/s/

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²⁷ In the *Second ATSC 3.0 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 *Second ATSC 3.0 FNPRM*, FCC 21-116. See also Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition). 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.” *Second ATSC 3.0 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.” *Id.* Accordingly, we want to make clear that our action herein is not intended to prejudice 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.