



Federal Communications Commission
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Paxson Houston License, Inc.
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1200 New Hampshire Avenue, N.W.
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Re: Application for Modification of
KPXB(TV), Conroe, Texas
File No. BMPCT-20020107AAJ
Facility ID No. 58835

Dear Applicant:

By letter dated February 19, 2004, the Video Division denied the above-referenced application for minor modification of the authorized facilities of station KPXB(TV), channel 49, Conroe, Texas, as amended. Paxson Houston License, Inc. (Paxson), the licensee of KPXB(TV), filed a timely petition for reconsideration.

In its application, Paxson proposed to co-locate its NTSC and DTV facilities at a new tower near Missouri City, Texas (the "Richland Tower"), located over 50 miles from its authorized analog location.¹ Because Paxson's proposed transmitter site was short spaced to several stations, it requested that the Commission grant a waiver of the short spacing requirements. Based upon the staff's review of the station's engineering showings, we denied the waiver requests because Paxson's authorized site was still available for its use. In addition, relocation of the KPXB(TV) transmitter would result in interference to 3,174 viewers of KAZH(TV), and a loss of service to areas which presently receive a Grade B or better signal from the station, for a loss of service to 86,585 persons.

On reconsideration, Paxson asserts that KPXB(TV) currently serves an estimated 4,265,984 persons within its Grade B contour, but that KTBU(TV), the other television station licensed to Conroe, is able to serve 13 percent more persons from its site. Paxson claims that its present site is constructively unavailable because it is unable to improve service at its existing site in order to operate a competitive signal.² According to Paxson's FAA consultant, the FAA would not permit

¹ The Commission has granted Paxson's application to construct KPXB-DT, channel 5, at Richland Tower. See FCC File No. BMPCDT-20020221AAV.

² Paxson cites to *Caloosa Television Corp.*, 3 FCC Rcd 3656, 3657-58 (1988) and *Sarkes Tarzian, Inc.*, 6 FCC Rcd 2465, 2467 (1991) as cases where the Commission acknowledged that the inability of a station to remain competitive affords a compelling justification to overcome the availability of an existing, fully-spaced site.

an increase in KPXB(TV)'s existing tower height, nor approve a new, taller tower in the region surrounding the current site.

Another of our concerns was that the proposed facility would cause interference to KAZH(TV). Paxson now states that because KAZH(TV) has completed its own relocation to the Missouri City antenna farm, KAZH(TV) is no longer predicted to receive interference from Paxson's proposed facility. Paxson further states that KAZH(TV)'s relocation also resulted in interference to the reception of KPXB(TV)'s signal by some 5,700 persons, and that co-locating at the Missouri City antenna farm will eliminate this interference.

With respect to the resulting loss area, Paxson states that it has relied on low power television station KBPX-LP, which rebroadcasts the signal of KPXB(TV), to deliver the primary source of PAXTV programming in Houston. According to Paxson, as a result of new DTV service in the area, 67,643 individuals recently lost relied upon over-the-air service from KBPX-LP, and there is no available channel for use at its existing site, or in the vicinity, to restore service to these persons. Moving KPXB(TV) to the Missouri City antenna farm, however, completely restores service to these individuals. Thus, Paxson has filed a minor modification application,³ and request for Special Temporary Authority,⁴ to relocate its displaced low power television station to the north of Houston, at Shepherd, Texas. From this site, KBPX-LP can restore service to all but 24,153 of the 86,585 individuals who would lose service from KPXB(TV), a number much lower than the 67,643 individuals that no longer receive PAXTV due to the displacement of KBPX-LP.⁵

In view of the foregoing, we conclude that reconsideration is warranted. Accordingly, the petition for reconsideration and modification application ARE GRANTED. By separate letter, we are granting the Special Temporary Authorization for a low power television facility at Shepherd, Texas, and permission for program test authority for KPXB(TV) is conditioned upon Paxson's prior construction and activation of the STA facility.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

³ File No. BPTTL-20040323AUP.

⁴ File No. BSTA-20041020AET.

⁵ At this time, we need not, and do not, consider whether Paxson's application to move its low power television to Shepherd should be treated as a minor modification or major change application.

