



Federal Communications Commission  
Washington, D.C. 20554

DA 06-2320  
November 16, 2006

Ms. Jennifer M. McCarthy  
Vice President, Regulatory and Market Development  
QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, CA 92121

Re: WPZA239, Dallas, TX  
ULS File No. 0002571881

Dear Ms. McCarthy:

On April 13, 2006, you filed an FCC Form 601 application for modification of station WPZA239, seeking authorization to operate on TV Channel 55 in the Dallas, Texas, area.<sup>1</sup> Your application incorporates broadcaster consent, pursuant to section 27.60(b)(1)(iv) of the Commission's rules.<sup>2</sup> This rule section permits a 700 MHz Band licensee to obtain the written concurrence of a co-channel or adjacent channel TV/DTV broadcaster, whereby the incumbent broadcaster consents to accept higher levels of interference than the rule otherwise permits, subject to Commission approval.<sup>3</sup> Your application includes a copy of a consent agreement between QUALCOMM Incorporated ("QUALCOMM") and Johnson Broadcasting of Dallas, Inc. ("JBI"), licensee of KLDT-TV, analog channel 55, and permittee, by special temporary authority, of KLDT-DT, digital channel 54, Lake Dallas- Fort Worth, Texas ("JBI Agreement"). You note that the agreed-upon potential interference is in an area where only 0.86 percent of the people covered by KLDT-DT's Grade B contour reside,<sup>4</sup> and where at least 10 analog and 17 digital television stations will continue to provide programming options.<sup>5</sup> We note that JBI concurrently filed a request to cease broadcast operations on analog station KLDT-TV (Channel 55) and operate digital

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<sup>1</sup> The application was amended, under the same ULS file number, on April 18, 2006, and May 25, 2006. The Commission placed the application on public notice. *See* Wireless Telecommunications Bureau Market-Based Applications Accepted for Filing, *Public Notice*, Report No. 2478 at 4 (rel. Apr. 26, 2006). No petitions have been filed against the application.

<sup>2</sup> *See* 47 C.F.R. § 27.60(b)(1)(iv).

<sup>3</sup> This approval process involves an analysis by the Media Bureau, under delegated authority, to determine whether grant of the application is in the public interest. *See* Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20845 (2000) (basis for public interest analysis of Lower 700 MHz consent agreements); Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (framework for public interest analysis of Lower 700 MHz "band-clearing" agreements) ("*Lower 700 MHz Report and Order*").

<sup>4</sup> *See* Amended Attachment to Form 601, WPZA239, Dallas, TX, QUALCOMM Incorporated, ULS File No. 0002571881 (filed May 25, 2006).

<sup>5</sup> *See* Attachment to Form 601, WPZA239, Dallas, TX, QUALCOMM Incorporated, ULS File No. 0002571881, at 2 (filed Apr. 13, 2006) ("QUALCOMM Attachment").

station KLDT-DT (Channel 54) until the end of the digital transition,<sup>6</sup> when KLDT-DT will move to an in-core channel.<sup>7</sup>

For the reasons discussed below, we find that grant of the application is in the public interest. First, our approval of the application will allow QUALCOMM to deploy its MediaFLO (“forward link only”) technology, a “mediacast” service capable of delivering many channels of multimedia content to third generation (“3G”) wireless phones. According to QUALCOMM, which holds licenses for Channel 55 (Block D in the Lower 700 MHz Band) covering the entire nation, MediaFLO initially will provide up to fifteen live streaming video program channels, numerous video “clip cast” channels from which subscribers can choose video clips for viewing on-demand, and numerous audio channels.<sup>8</sup> QUALCOMM states that MediaFLO will be available at “mass market” prices for most of the nation’s over 194 million mobile phone customers, and that it will spur the development of new content and new technologies.<sup>9</sup> QUALCOMM also intends that the network will carry local programming and core public interest program content such as breaking news, weather, and public affairs, as well as maintain network capability to disseminate emergency alert information, in both visual (including textual) and auditory form. QUALCOMM further states that its MediaFLO technology offers distinct efficiency and cost advantages in delivering content to a large mobile subscriber base, as compared to cellular and higher-frequency based systems. Moreover, as QUALCOMM notes, MediaFLO will be affordable and readily available as early as the second half of 2006, while stimulating new development on a large scale within the emerging technology of mobile video.<sup>10</sup> Given that QUALCOMM’s business plan calls for an investment of \$800 million, grant of this application will contribute to the growth of the American economy.<sup>11</sup>

Second, KLDT(TV) is not among the “top four” stations in the Dallas-Ft. Worth market. While KLDT(TV) is the sole analog station licensed to Lake Dallas, affected viewers will continue to receive service from at least 16 other analog television stations and 17 other digital television stations. WPXR(TV). In addition, as part of its agreement with QUALCOMM, JBI has completed construction the maximized facilities authorized in its DTV construction permit.<sup>12</sup> According to JBI, over 390,000 people who did not receive KLDT(TV) service will receive service from the maximized facilities of KLDT(DT). While JBI has agreed to allow MediaFLO to interfere with up to 1% of the service area of

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<sup>6</sup> See Letter from Arthur V. Belendiuk, Counsel for JBI, to Marlene H. Dortch, Secretary, Federal Communications Commission (requesting authority to cease Channel 55 analog broadcast) (Apr. 13, 2006). At the time if filed its band-clearing request, operated KLDT-DT pursuant to a low-power special temporary authority (STA), FCC File No. BDSTA-20020703 ABO. As part of its agreement with QUALCOMM, JBI has since constructed the maximized facilities authorized in its DTV construction permit. JBI’s band-clearing request is being approved by the Media Bureau by separate letter.

<sup>7</sup> JBI has received a tentative channel designation on channel 39 for its post-transition DTV operations. See *In the Matter of Negotiated Channel Election Arrangements*, 20 FCC Rcd 10141 (2005)

<sup>8</sup> QUALCOMM Attachment at 5.

<sup>9</sup> *Id.*

<sup>10</sup> QUALCOMM Attachment at 5, 6.

<sup>11</sup> QUALCOMM Attachment at 6.

<sup>12</sup> See File No. BLCDT-20060928AKX.

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KLDT(DT)'s service area, this interference will not extend beyond the end of the DTV transition period, when KLDT(DT) will be required to move to an in-core channel. We conclude that this temporary loss of service is outweighed by the fact that over 390,000 people will receive KLDT(DT) service for the first time.

Accordingly, we believe that the public interest will be served by a grant of QUALCOMM's application, conditioned upon operating within the technical parameters specified in the application, and in accordance with the JBI Agreement. Any changes to the technical parameters of the proposed facilities that will result in levels of interference greater than those agreed to in the preceding agreements referenced herein will require separate Commission approval.

Sincerely,

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau

Roger S. Noel, Chief  
Mobility Division  
Wireless Telecommunications Bureau