



Federal Communications Commission  
Washington, D.C. 20554

DA 06-870

April 18, 2006

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

Re: WPZA238, Chicago, IL  
ULS File No. 0002395142

Dear Ms. McCarthy:

On November 30, 2005, you filed a Form 601 application for modification of station WPZA238, seeking authorization to operate on TV Channel 55 in the Chicago, IL area.<sup>1</sup> Your application incorporates broadcaster consent, pursuant to section 27.60(b)(1)(iv) of the Commission's rules. This section permits licensees in the 700 MHz Band 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>2</sup>

Your application includes copies of two consent agreements, between Qualcomm and: (1) Paxson Communications Corporation, parent of the licensee of WPXE(TV), Channel 55, Kenosha, WI ("Paxson Agreement"); and (2) Northwest Indiana Public Broadcasting Inc., licensee of WYIN(TV), Channel 56, Gary, IN ("Northwest Indiana Agreement"). With respect to WPXE(TV), you note that the agreed-upon potential interference is in an area where 27% of the people covered by the station's Grade B contour reside, and where at least 25 other TV/DTV stations will continue to provide service, including other Paxson affiliates.<sup>3</sup> With respect to WYIN(TV), you note that the agreed-upon potential interference is in an area where 0.7% of the people covered by the station's Grade B contour reside, and where at least 29 other TV/DTV stations will continue to provide service including two additional noncommercial educational stations that are Public Broadcasting Service members.<sup>4</sup>

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<sup>1</sup> The application was amended, under the same ULS file number, on December 23, 2005.

<sup>2</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>3</sup> *See* Amended Attachment to Form 601, WPZA238, Chicago, IL, Qualcomm Incorporated, ULS File No. 0002395142 at 2-3 (filed Dec. 23, 2005).

<sup>4</sup> *Id.* at 2.

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 a “mediacast” service to deliver many channels of multimedia content to third generation wireless phones, using “forward link only” or “FLO” technology developed by Qualcomm called “MediaFLO.” 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 15 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. 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>5</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. 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>6</sup>

Second, neither WPXE(TV) or WYIN(TV) are among the “top four” stations in their markets.<sup>7</sup> As noted earlier, WPXE(TV) is the sole station licensed to Kenosha, but affected viewers will continue to receive service from at least 25 other stations, including other stations affiliated with Paxson. In fact, over 80 percent of the affected viewers live in the Chicago-Gary DMA and will continue to receive service from their home market Paxson affiliate, WCPX(TV). The remaining affected viewers, who live in the Milwaukee DMA, will continue to receive Paxson program service from other Paxson affiliates, which is almost identical to the program service they receive from WPXR(TV). In addition, WPXE(TV) will continue to place a city-grade signal over its community of license. Two full-service television stations are licensed to Gary, Indiana: WYIN(TV) and WPWR(TV). While WYIN(TV) is the sole noncommercial educational station licensed to Gary, Indiana, potentially affected viewers will continue to receive service from two other noncommercial educational television stations that carry PBS programming, as well as from over 29 other commercial stations also noted earlier.

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 Paxson Agreement and with the Northwest Indiana Agreement. Any changes to the technical parameters of the proposed facilities that will result in levels of interference greater than

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<sup>5</sup> Qualcomm Attachment at 6.

<sup>6</sup> *Id.*

<sup>7</sup> WPXE(TV) is in the Milwaukee, Wisconsin DMA and WYIN(TV) is in the Chicago, Illinois–Gary, Indiana DMA.

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those agreed to in the preceding agreements will require separate Commission approval.

Sincerely,

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau

Roger S. Noel, Chief  
Mobility Division  
Wireless Telecommunications Bureau