



Federal Communications Commission
Washington, D.C. 20554

DA 08-340
February 12, 2008

Michael E. Carosella
QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, CA 92121

Re: WPWU989, San Diego, CA
ULS File No. 0003265317

Dear Mr. Carosella,

On December 20, 2007, you filed an FCC Form 601 application for modification of station WPWU989, seeking authorization to operate on TV Channel 55 in the San Diego, CA area.¹ Your application incorporates broadcaster consent, pursuant to section 27.60(b)(1)(iv) of the Commission's rules.² 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.³

Your application includes a copy of a consent agreement between QUALCOMM Incorporated ("QUALCOMM") and Ellis Communications KDOC Licensee, LLC ("Ellis Communications") licensee of KDOC-TV, channel 56, in Anaheim, CA. In the agreement, Ellis Communications has agreed to accept potential interference to the population in the Grade B contour of KDOC-TV's licensed facilities (BLCT-20060302ACB). We note that this interference represents the total amount of interference that KDOC-TV will experience from QUALCOMM's proposed operations in the San Diego, CA area, as well as other previously or concurrently authorized QUALCOMM facilities, and that Ellis Communications' consent covers QUALCOMM's operations in all contributing markets. QUALCOMM will operate in San Diego, CA from multiple sites.

¹ The Commission placed the application on public notice. *See* Wireless Bureau Market-Based Applications Accepted for Filing, *Public Notice*, Report No. 3728 at 3 (rel. Jan. 9, 2008). No petitions have been filed against the application.

² *See* 47 C.F.R. § 27.60(b)(1)(iv).

³ 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*").

For the reasons discussed below, we find that grant of the application is in the public interest.⁴ 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.⁵ 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.⁶ 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, readily available and will stimulate new development on a large scale within the emerging technology of mobile video.⁷ 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.⁸

Second, while the application proposes an increase in the interference already approved to KDOC-TV, from 1.28% to 1.49% of the population within its protected contour, we find that the same factors relied upon in the prior grant letters involving this station justify a grant of this latest application.⁹ As the Divisions previously noted, KDOC-TV is not among the “top four” stations in the Los Angeles market, nor is it a network affiliate. While KDOC-TV is the sole analog station licensed to Anaheim, affected viewers will continue to receive service from at least 40 and up to 46 other analog and digital television stations. In addition, no viewer will lose over-the-air access to the station’s programming because KDOC-DT provides service to the entire area of agreed upon interference.¹⁰

⁴ With respect to any stations receiving interference for which consent is not provided, we note that Qualcomm’s proposed operations are in accordance with the terms of the Commission’s Order granted October 13, 2006. *See* Qualcomm Incorporated Petition for Declaratory Ruling, *Order*, 21 FCC Rcd 11683 (2006).

⁵ QUALCOMM Attachment to application for modification of Station WPZA238, ULS File No. 0002395142 at 5.

⁶ *Id.*

⁷ QUALCOMM Attachment at 5, 6.

⁸ QUALCOMM Attachment at 6.

⁹ *See Michael E. Carosella*, 22 FCC Rcd 10155 (2007) and *Michael E. Carosella*, 22 FCC Rcd 20049 (2007).

¹⁰ We note that station KFMB-DT, which now operates on channel 55 in San Diego, has contour overlap with the facilities proposed in the instant application. The Commission has granted that station an experimental authorization to operate instead on channel 7 until the end of the DTV transition, and QUALCOMM may not commence MediaFLO operations in San Diego until KFMB-DT has ceased operating on channel 55 and begun operating on channel 7 as authorized.

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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 Ellis Communications 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, or that result in any additional interference under the thresholds established in the Commission's Qualcomm Order, will require separate Commission approval.

Sincerely,

Barbara A. Kreisman, Chief
Video Division
Media Bureau

Roger S. Noel, Chief
Mobility Division
Wireless Telecommunications Bureau