



Federal Communications Commission
Washington, D.C. 20554

DA 08-430
February 21, 2008

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

Re: WPZA237, Huntsville, AL
ULS File No. 0003249107

Dear Mr. Carosella,

On December 4, 2007, you filed an FCC Form 601 application for modification of station WPZA237, seeking authorization to operate on TV Channel 55 in the Huntsville, AL 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 the Mississippi Authority for Educational TV (the "Mississippi Authority"), the licensee of WMAE-DT, channel 55, in Booneville, MS. In the agreement, the Mississippi Authority has agreed to accept potential interference to 4.64% of the population in the noise limited service contour of WMAE-DT's special temporary authorization (STA) facilities (BDSTA-20040204ADG). We note that this interference represents the total amount of interference that WMAE-DT will experience from QUALCOMM's proposed operations in the Huntsville, AL area, as well as other previously or concurrently authorized QUALCOMM facilities, and that the Mississippi Authority's consent covers QUALCOMM's operations in all contributing markets.

Your application includes a copy of a consent agreement between QUALCOMM Incorporated ("QUALCOMM") and Huntsville Television Acquisition Licensing, LLC ("Huntsville Television"), the licensee of WZDX(TV), channel 54, in Huntsville, AL. In the agreement, Huntsville Television has

¹ The Commission placed the application on public notice. *See* Wireless Bureau Market-Based Applications Accepted for Filing, *Public Notice*, Report No. 3670 at 3 (rel Dec. 19, 2007). 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*").

agreed to accept potential interference to 1.76% of the population in the Grade B contour of WZDX(TV)'s construction permit (BMPCT-20020708AAV) and licensed facilities (BLCT-20041021AEN). We note that this interference represents the total amount of interference that WZDX(TV) will experience from QUALCOMM's proposed operations in the Huntsville, AL area, as well as other previously or concurrently authorized QUALCOMM facilities, and that Huntsville Television's consent covers QUALCOMM's operations in all contributing markets. QUALCOMM will operate in Huntsville, AL from multiple sites.

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, the application proposes a slight increase in the interference already approved to WMAE-DT, from 3.57% to 4.64%.⁹ We find that the same factors relied upon in our prior grant letter justifies a grant of this latest application. While WMAE-DT is the sole station licensed to Booneville,¹⁰ all viewers in the loss area will continue to receive service from one to four other noncommercial educational television stations, and no portion of the area of agreed-upon interference will be served by fewer than two TV/DTV stations. In addition, the majority of the population within the agreed-upon area of interference reside outside of Mississippi, and the cable and satellite penetration rates in those DMAs

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 *Letter to Michael E. Carosella*, 22 FCC Rcd 19449, 19450 (2007).

¹⁰ Noncommercial educational television stations are not rated by Nielson.

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range from 86.1% to 90.6%. Finally, QUALCOMM has submitted a letter from the Executive Director of the Mississippi Authority, confirming that the Mississippi Authority intends to flash-cut on its current analog channel *12 by the end of the transition, and that the revenue provided by QUALCOMM under their agreement will be used to implement this flash-cut and ready WMAE-DT for post-transition operation.

With respect to WZDX(TV), it is not the sole station licensed to Huntsville. While it is one of the top four rated stations in the market, the entire area of agreed-upon interference will continue to receive FOX service from WZDX-DT. In addition, at least 12 and as many as 26 TV or DTV stations serve a portion of the area of agreed-upon interference.

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 Mississippi Authority and Huntsville Television Agreements. 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