Federal Communications Commission
Washington, D.C. 20554
February 10, 2011

Mr. Gregory J. Herman   **DA 11-260**
President
WATCHTV, Inc.
1628 N.W. Everett Street
Portland, Oregon 97209-2109

                                                In re: Request for Modification of
                                                          Experimental License
                                                          File No. BPEX-20100406ADD
                                                          Facility ID 185620

Dear Mr. Herman:

        This is to inform you that the above-captioned request for modification is denied. Although your submission is styled as a request for an experimental authorization, the request is a very unusual one. The proposal contemplates that analog TV service from four stations would cease and their programming would be transmitted from a different digital TV station on a multicast basis. The request contains no analysis of the potential impact on consumers; it merely assumes that virtually all viewers who previously received the analog signals will be able to receive the multicast digital signal. The four analog stations would then be converted to a different technology previously implemented in China, intended to support what is described as broadband service. That technology is inconsistent with the existing ATSC standard for transmission of digital television in the United States.

        This Commission supports innovation and technological experimentation. However, we are also mindful to ensure that experiments not undermine our rules. An experimental license is not to be used to introduce a new service that does not comply with our rules, as this request appears to contemplate. Although the proposal itself is silent about the number of participants in the experiment, it is our understanding from the applicant's counsel that the applicant hopes that thousands will participate. In addition, you, as the applicant's CEO, have been quoted as saying that, "If the technology works as well as anticipated, deployment can start within a year, with widespread penetration, including rural areas, faster than any other technology."[1]

        The request thus appears to be more akin to a developmental license, which may in appropriate circumstances be used to introduce a new service that does not comply with our existing rules; however, such a request should be accompanied by a petition for rulemaking seeking changes consistent with the operation under investigation.[2] Where a new service would employ technology inconsistent with the existing ATSC standard, any rulemaking most likely would be accompanied by industry standards development.

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[1] Groticelli, *Watch TV asks FCC for experimental license to test spectrum efficient wireless transmission technology*, Broadcast Engineering, Jan. 14, 2011.

[2] *In the Matter of Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules 2006 Biennial Review of Telecommunications Regulations*, Notice of Proposed Rulemaking, 25 FCC Rcd 16544 at para. 5 (2010). *Cf.* 47 C.F.R. § 74.103(d) ("experimental operation which looks toward the development of radio transmitting apparatus or the rendition of any type of regular service using [frequencies not allocated for the service] will not be authorized prior to a determination by the FCC that the development of such an apparatus or the rendition of such a service would serve the public interest").

In short, the information submitted with the request is not persuasive that the proposal is truly for a technical experiment. It does not describe except in the most general of terms what tests, if any, will be performed. The Commission generally looks favorably on experiments designed to examine technical issues. We cannot, however, authorize an experiment that appears designed to establish a new service that is not currently permitted under Commission rules.

Accordingly, the above-captioned request for modification is denied, without prejudice to submission of a new request for an experimental license for a properly defined technical experiment.

Sincerely,

William T. Lake
Chief, Media Bureau

cc: Peter Tannenwald, Esq.
       Jeffrey S. Fisher