

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Authorizing Permissive Use of “Next)	GN Docket No. 16-142
Generation” Broadcast Television Standard)	

To: The Commission

COMMENTS OF PUBLIC MEDIA COMPANY

Public Media Company (“PMC”) respectfully submits these comments in response to the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) issued on November 20, 2017, in the above-captioned proceeding.¹

PMC is a national non-profit strategic consulting company that fosters public media growth.² Twenty-four public television licensees, operating 81 noncommercial educational (“NCE”) television stations have joined PMC in forming the Public Media Venture Group (“PMVG”). The purpose of PMVG is to accelerate the invention and implementation of new and enhanced public television services using the ATSC 3.0 platform (hereinafter “Next Gen TV” or “ATSC 3.0”). Stations that are members of, and investors in, PMVG are anxious to bring the benefits of ATSC 3.0 to their service areas as rapidly as possible. These anticipated services will include enhanced television delivery as we now think of it – more program streams and

¹ *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930 (2017) (“ATSC 3.0 Order and Further Notice”). *See also* 82 Fed. Reg. 60350 (Dec. 20, 2017).

² PMC was founded in 2001 as a 501(c)(3) for the purpose of strengthening and expanding public broadcasting services in communities nationwide so that people have greater program choices for in-depth information; national, regional and local news; diverse music and cultural programming. PMC has advised more than 300 public television and radio stations and organizations on business plans, acquisitions, and other initiatives that drive innovative, sustainable public media growth. In 2014, PMC broadened its mission to include the execution of collaborative partnerships like VuHaus (a music video site run in partnership with 20 public radio stations) and Channel X, a video content exchange for sharing and licensing independent news and programming for broadcast and digital delivery.

enhanced program streams – as well as innovative new forms of public service such as enhanced communications with first responders, enhanced alerts and warnings, and expanded educational services.

PMC welcomes the opportunity to comment on the FNPRM, and specifically on the Commission’s request for comments on “issues related to exceptions to and waivers of the local simulcasting requirement.”³ The FCC’s requests for comment on, “special circumstances [the Commission] should consider for NCE stations” and “whether to exempt NCE . . . stations as a class from [the] local simulcasting requirement or adopt a presumptive waiver standard for such stations” are particularly appreciated.⁴

In response, PMC strongly urges the Commission to adopt the following recommendations in refining its simulcasting policies for public television stations as they transition to the Next Gen TV standard:

- Allow NCE stations to flash-cut to ATSC 3.0 and exempt them from any requirement to simulcast their programming on a host station using the current broadcasting standard (“ATSC 1.0”), or at least provide NCE stations with a presumptive waiver of the local ATSC 1.0 simulcasting requirement;
- Allow any NCE station that simulcasts its ATSC 1.0 stream on a host station to do so irrespective of whether the hosted ATSC 1.0 signal covers the NCE station’s community of license; and
- Provide expedited processing for NCE simulcast applications irrespective of whether an NCE station’s proposal satisfies the 95 percent population coverage threshold.

³ ATSC 3.0 Order and Further Notice at 9989 ¶ 121.

⁴ ATSC 3.0 Order and Further Notice at 9990 ¶ 123 & 125.

Public television stations have a unique non-profit public service mission to ensure that all citizens within their service area – and often within their entire state, including rural areas that often are not served by commercial stations – receive robust public television service. Only if the FCC embraces PMC’s recommendations, will public television broadcasters be able to fulfill their distinctive noncommercial public service commitment to serve their communities as they transition to Next Gen TV.

I. The Commission Should Exempt NCE Stations From Local Simulcasting Requirements.

In the FNPRM, the Commission has asked, “whether to exempt NCE . . . stations as a class from [the] local simulcasting requirement or adopt a presumptive waiver standard for such stations.”⁵

Unlike commercial television licensees, public television stations deliver universal service irrespective of potential economic return. As NCE stations transition to ATSC 3.0, it is already the independent mandate of public television licensees both to provide continuity of access to their viewers and to provide service in the best interests of their communities. Also, separate from each public television licensee’s over-arching obligation to serve its viewers, the reality is that many public television stations are located in rural areas outside of populated Designated Market Areas (“DMAs”) where no host station would be available to provide substantial coverage of an NCE station’s community of license. For these stations, flash-cutting to Next Gen TV may be the only practical solution.⁶

⁵ ATSC 3.0 Order and Further Notice at 9990 ¶ 125.

⁶ The Commission should ensure that its rules do nothing to hinder the rollout of ATSC 3.0 in rural areas where enhanced capabilities that come with ATSC 3.0, such as targeted emergency alerts, are particularly vital.

For example, PMVG member Arkansas Educational Television Network (“AETN”) provides what is often the sole broadcast television service in areas throughout Arkansas. In many of these areas, there are no stations to serve as potential simulcast partners. For instance, KAFT, Fayetteville, AR (Facility ID 2767) has no other television broadcaster within approximately 40 miles. AETN’s KEMV, Mountain View, AR (Facility ID 2777) is even more remote with no other television broadcaster within approximately 70 miles and KETG, Arkadelphia, AR (Facility ID 2768) has no other television broadcaster within approximately 75 miles. Similarly, PMVG member station WCTE, Cookeville, TN (Facility ID 69479), licensed to Upper Cumberland Broadcast Council, reports that the nearest TV transmitter site is 40 miles away.

Moreover, the situation faced by the 16 statewide public television networks as they plan a transition to ATSC 3.0 is particularly compelling because the lack of a potential simulcast partner in any single area served by a state network is likely to delay adoption of Next Gen TV across the entire state. This is because a number of state networks, as a matter of public policy, will be reluctant to initiate ATSC 3.0 service in only part of their state. Simply put, because all the citizens of the state contribute to the operation of a public television statewide network through state appropriations, all citizens of the state are entitled to access to the full suite of public television services provided. For these statewide networks, the ability to flash-cut is essential. Otherwise, the inability to find a simulcast partner in any one area of a state could imperil the nation’s transition to Next Gen TV as a result of lengthy delays in rolling out enhanced ATSC 3.0 services to large swaths of rural America.

For example, the University of North Carolina (“UNC”) is the licensee of a state network serving all of North Carolina. The following UNC-TV stations have no feasible simulcast

partners that serve a significant portion of their coverage area: WUND-TV, Edenton, NC (Facility ID 69292), WUNE-TV, Linville, NC (Facility ID 69114), and WUNP-TV, Roanoke Rapids, NC (Facility ID 69397). Flash-cutting to Next Gen TV may be the only viable option for these rural stations, which serve precisely the communities that are all too often at risk of being left behind. But this is not only a rural issue for statewide networks because, without the option of flash-cutting their rural stations, progress in transitioning to ATSC 3.0 could be held back for an entire state.

Accordingly, PMC urges the Commission to allow public television stations the option of flash-cutting to ATSC 3.0 for any licensee that concludes its viewers would be best served by such a flash-cut. Of course, consistent with their mandate to provide universal service, those public television stations that do flash-cut to ATSC 3.0 would take any necessary practical steps to ensure that over-the-air homes with only ATSC 1.0 receivers can continue to receive public television programming. Local public television stations would work with consumer electronics manufacturers and retailers to ensure consumer access to converter equipment and, funds permitting, steps may also include providing over-the-air households with an external tuner dongle, set-top box or gateway device. For steps such as this to be practical, however, and in order to preserve already existing carriage of public television programming, it is vital that the Commission provide must-carry rights for the primary ATSC 3.0 service of any NCE station that flash-cuts to Next Gen TV. Failing to do so may significantly delay or jeopardize the adoption of ATSC 3.0.

Whether or not the FCC chooses to allow flash-cuts for commercial licensees, there is justification for treating NCE stations differently. Public television has only must-carry

available to it for MVPD coverage and does not have access to revenues generated from retransmission consent.

II. The ATSC 1.0 Signal of Any Simulcasting Public Television Station Should Be Exempt From Community of License Coverage Requirements and Should Receive Expedited Processing of Its Simulcasting Application.

In the ATSC 3.0 Order and Further Notice, the Commission determined that an ATSC 1.0 simulcast channel must “retain and continue to cover the station’s community of license and that it be assigned to the same DMA as the originating station.”⁷ Additionally, the Commission adopted a rule that encourages simulcasting stations to continue serving the station’s current population by providing “expedited processing to . . . [simulcast] applications if the 1.0 simulcast signal broadcast at the temporary host facility will serve at least 95 percent of the predicted population served by the originating station’s 1.0 signal.”⁸

In the FNPRM, however, the Commission asks under what circumstances it should waive the community of license coverage requirement for ATSC 1.0 simulcast signals and specifically whether there are “special circumstances [the FCC] should consider for NCE stations, including those that are in isolated areas or are not centrally located in DMAs?”⁹

As discussed above, PMC urges the Commission to exempt NCE stations altogether from the ATSC 1.0 simulcasting requirements. Nevertheless, there likely are many public television licensees that will conclude that the best way to service their communities is to enter into one or more simulcasting arrangements. Accordingly, independent of whether the Commission agrees to exempt public television stations from the simulcasting requirements, PMC separately urges the Commission to exempt simulcasting NCE stations from the community of license coverage

⁷ ATSC 3.0 Order and Further Notice at 9946 ¶ 29.

⁸ ATSC 3.0 Order and Further Notice at 9947 ¶ 34.

⁹ ATSC 3.0 Order and Further Notice at 9990 ¶ 123.

requirement and also to provide expedited review of NCE simulcast applications whether or not they meet the 95 percent coverage threshold.

As discussed above with respect to the simulcasting requirement, public television licensees are different from commercial broadcasters in two important ways that justify disparate treatment. First, it is the mission of public television stations to deliver universal service and to serve in the best interests of their communities and, second, public television stations often are located in rural areas where no host station would be able to replicate current service. Additionally, PMC notes that hosting agreements during the ATSC 3.0 transition would not implicate the “fair, efficient, and equitable” distribution of television service under Section 307(b) of the Communications Act.¹⁰ Hosting agreements would not result in any allocation changes or changes to the Table of Allotments. Accordingly, hosted simulcasting of ATSC 1.0 programming would have no impact on the “fair, efficient, and equitable” distribution of television service and therefore no implication for Section 307(b).

As an example of the special circumstances public television stations can face, PMVG member Nebraska Educational Television (“NET”) operates a network of public television stations whose service includes significant educational programming and educational support services that reach every corner of Nebraska. KRNE-TV, Merriman, NE (Facility ID 47971), KPNE-TV, North Platte, NE (Facility ID 47973), and KXNE-TV, Norfolk, NE (Facility ID 47995) serve areas where there may be another station to partner with to provide ATSC 1.0 simulcast services, but these potential partner stations have significant enough differences in coverage patterns that it is unlikely NET could meet the 95 percent threshold for expedited consideration.

¹⁰ ATSC 3.0 NPRM at 1684 ¶ 25 & n.55.

Accordingly, the Commission should defer to public television licensees by virtue of their local expertise and their noncommercial motivation, and therefore not only allow simulcasting arrangements irrespective of community of license coverage but also provide expedited simulcasting application processing for all public television simulcasting applications.

III. Conclusion.

PMC is excited for Next Gen TV and believes that ATSC 3.0 represents transformative technology that will result in significant opportunities for broadcasters, viewers, and communities.

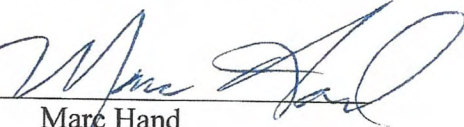
PMC strongly urges the Commission to allow NCE stations to flash-cut to ATSC 3.0 exempt from local simulcasting requirements because (1) public television licensees have a unique commitment to provide continuity of access to their communities and (2) many public television stations are located in rural areas where flash-cutting to Next Gen TV may be the only viable strategy.

Separately, but for the same reasons, for those public television stations that do enter into ATSC 1.0 simulcasting arrangements, the Commission should not subject them to any community of license coverage requirement and should provide expedited processing for all NCE simulcasting applications.

Public broadcasters are a vital component of the transition to Next Gen TV and central to fulfilling the public interest goal of providing Next Gen TV services in education, public safety, and civic engagement. PMC is confident that its recommendations will help ensure that NCE stations play a vital and necessary role in facilitating the transition to Next Gen TV by serving as early adopters of the exciting innovations that will come with Next Gen TV.

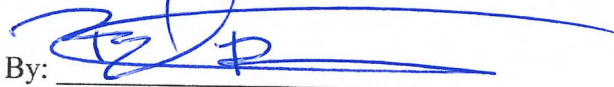
Respectfully submitted,

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Dated: February 20, 2018

GSB:9278567.5