

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

In the Matter of)	
)	
WRNN License Company, LLC)	MB Docket No. 12-1
)	CSR-_____
Petition for Special Relief for)	
Modification of the Television Market of)	
Station WRNN-TV)	
)	
To: Chief, Media Bureau)	

PETITION FOR SPECIAL RELIEF

I. INTRODUCTION AND SUMMARY

WRNN License Company, LLC (“WRNN License Co.”), licensee of television station WRNN-TV, New Rochelle, New York (Fac. ID No. 74156) (“WRNN” or the “Station”), by its attorneys and pursuant to Section 614 of the Communications Act of 1934, as amended, and Section 76.7(a) of the Commission’s Rules, hereby submits this Petition for Special Relief (“Petition”) to modify the television market of WRNN to include various communities in the New York DMA served by Spectrum’s¹ Bergen County, New Jersey system.²

As described more fully herein, WRNN recently relocated within the New York DMA to implement its channel sharing agreement, resulting in a material change to the service it provides to the Communities. Through this change, WRNN now satisfies the statutory test for market

¹ According to the FCC’s COALs database, Spectrum does business in the communities at issue herein as Time Warner Cable New York City LLC. For ease of reference, “Spectrum” is used herein.

² Specifically, WRNN is seeking to add the following communities: Fort Lee (NJ0082), Edgewater (NJ0092), Ridgefield (NJ0203), Englewood Cliffs (NJ0208), Cliffside Park (NJ0232), Englewood (NJ0251), Palisades Park (NJ0252), Fairview (NJ0253), Ridgefield Park (NJ0254), Guttenberg (NJ0338), Little Ferry (NJ0339), Moonachie (NJ0427), Leonia (NJ0431), and Teterboro (NJ0484) (the “Communities”).

modification proceedings: (i) Spectrum historically has carried WRNN's channel share partner in the Communities; (ii) WRNN places a noise-limited service contour over the Communities, is geographically proximate to them, and is connected to them by shopping and labor patterns; and (iii) programming aired by WRNN is of interest to residents of the Communities. WRNN License Co. respectfully requests that the Commission modify WRNN's local television market without delay.

II. BACKGROUND

a. WRNN

WRNN is an independent television station that has served the New York DMA for decades.³ WRNN formerly was licensed to Kingston, New York, and broadcast from a transmitter site located in Woodstock, New York, ten miles northwest of Kingston. In 1996, the Commission granted a petition filed by Time Warner (Spectrum's predecessor company) seeking to remove the Communities from WRNN's market.⁴ In so doing, the Commission focused on WRNN's geographic distance from the Communities and its then-failure to place a Grade B contour over them.⁵ Specifically, the Commission stated that "Time Warner's cable communities are, on average, 83 miles away from the station and are outside the station's Grade B contour."⁶ Indeed, the Commission noted that "the majority of the New York ADI stations

³ WRNN signed on-air as WTZA in 1985.

⁴ *Petition of Time Warner Entertainment-Advance/Newhouse Partnership for Modification of the ADI of Television Stations WTBY, Poughkeepsie, NY, WRNN, Kingston, NY, WHAI-TV, Bridgeport, CT, WLIG, Riverhead, NY*, Memorandum Opinion and Order, 11 FCC Rcd 6541 (MB 1996). The Commission's 1996 order deleted each of the fourteen communities that WRNN now seeks to add.

⁵ *Id.* at 6556, para. 31.

⁶ *Id.*

have transmitters located atop of the World Trade Center in lower Manhattan and provide a Grade B contour covering Bergen County and almost every other County in the New York Market.”⁷

Now, more than twenty years later, the factors that previously caused the Commission to delete the Communities from WRNN’s market no longer apply. Not only does the Station place a noise-limited contour squarely over the Communities, but it is also geographically proximate to them. WRNN’s dramatic change in circumstance is the result of its successful bid to relinquish spectrum in the broadcast Incentive Auction and a channel sharing arrangement with WWOR-TV, Secaucus, New Jersey (Fac. ID No. 74197) (“WWOR”) pursuant to which WRNN is the channel “sharee.”⁸ As a result of that arrangement, WRNN broadcasts from an antenna that sits atop One World Trade Center in lower Manhattan and has changed its community of license to New Rochelle, New York. WRNN’s signal now covers Bergen County and its community of license is considerably closer to the Communities. Accordingly, WRNN License Co. submits that the Communities are now properly within the Station’s market and the market should be modified accordingly.

b. Relevant Precedent—WJAL

When instituting the current channel sharing regime pursuant to the broadcast Incentive Auction, the Commission recognized that “relocations made to implement a channel sharing arrangement may [impact] a station’s MVPD carriage rights.”⁹ It noted that the carriage rights of

⁷ *Id.* at 6554, para. 26.

⁸ *See* LMS File No. 0000042455.

⁹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6857, para. 708 (2014).

a station moving within its DMA would not be “expanded or diminished” automatically through the relocation process, but that a channel sharee able to reach additional communities from its new location could seek to add those communities to its market.¹⁰

In 2018, the Commission considered two petitions for market modification filed by Entravision Holdings, LLC (“Entravision”) seeking to add certain communities to television station WJAL’s market.¹¹ Like WRNN, WJAL was a successful bidder in the Incentive Auction and entered into a channel sharing arrangement as a sharee that resulted in a transmitter site relocation and community of license change. Based on WJAL’s new transmitter site and community of license, Entravision sought to add certain communities in the Washington, DC DMA served by Comcast and CoxCom to WJAL’s market.¹² Many of these communities had previously been deleted from the station’s market.

The Commission granted Entravision’s petition. In so doing, the Commission found that historic carriage of WJAL’s channel sharing partner weighed in favor of Entravision’s requested market modification and that WJAL’s signal coverage and geographic proximity to the communities at issue, as well as shopping and labor patterns, “strongly weigh[ed] in favor of a grant.”¹³ Although the Commission noted that it would evaluate subsequent requests by channel

¹⁰ *Id.* at 6857, para. 709.

¹¹ *Entravision Holdings, LLC for Modification of the Television Market for Station WJAL(TV), Silver Spring, Maryland*, Memorandum Opinion and Order, 33 FCC Rcd 2215 (MB 2018) (“*Entravision Order*”).

¹² *See Entravision Holdings LLC for Modification of the Television Market for Station WJAL(TV), Silver Spring, Maryland, Facility ID 10259*, Petition for Special Relief, MB Docket 17-306 (filed Nov. 7, 2017) (Comcast Petition); *Entravision Holdings LLC for Modification of the Television Market for Station WJAL(TV), Silver Spring, Maryland, Facility ID 10259*, Petition for Special Relief, MB Docket 17-307 (filed Nov. 7, 2017) (Cox Petition) (collectively, the “*Entravision Petition*”).

¹³ *Entravision Order* at 2231, para. 28. The Commission afforded little or no weight to other statutory factors discussed in Entravision’s petition.

sharing stations “on the specific facts and circumstances presented in those proceedings,”¹⁴ as discussed herein, the same factors weigh heavily in favor of granting the instant Petition.

III. THE FIVE MARKET MODIFICATION FACTORS ENUMERATED IN THE COMMUNICATIONS ACT SUPPORT ADDITION OF THE COMMUNITIES TO WRNN’S MARKET

Pursuant to Section 614(h) of the Communications Act, the Commission considers the following factors when evaluating market modification petitions:

- (I) Whether the station, or other stations located in the same area, have been historically carried on the cable system(s) within the community;
- (II) Whether the television station provides coverage or other local service to the community;
- (III) Whether modifying the market of the television station would promote consumers’ access to television broadcast station signals that originate in their state of residence;
- (IV) Whether any other television station that is eligible to be carried by a cable system in the community in fulfillment of the requirements of Section 614(h) provides news coverage of issues of concern to the community or provides carriage or coverage of sporting and other events of interest to the community; and
- (V) Evidence of viewing patterns in cable and noncable households within the areas served by the cable system(s) in such community.¹⁵

As set forth below, application of these factors to WRNN supports grant of the instant Petition.

¹⁴ *Id.*

¹⁵ 47 U.S.C. § 534(h)(1)(C)(ii)(I)-(V). *See also Second Report and Order Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, Order on Reconsideration and Second Report and Order, 14 FCC Red 8366, 8369-8370 (1999); The STELA Reauthorization Act of 2014, Pub. L. No. 113-200, 128 Stat. 2059 (2014) (adding new statutory factor, denominated as factor (III) above); *Amendment to the Commission’s Rules Concerning Mkt. Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Report and Order, 30 FCC Red 10406 (2015).

a. Historic Carriage

The first statutory factor the Commission must consider is “whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community.”¹⁶ This factor can demonstrate the presence of a “market nexus between the broadcast station and the communities where the station is carried and thus provide evidence as to the scope of a station’s market.”¹⁷ WRNN has not been carried on Spectrum’s Bergen County, New Jersey system pursuant to Spectrum’s must-carry obligations.¹⁸

However, as the Commission recognized in the *Entravision Order*, carriage of a channel sharee’s co-located partner is particularly relevant in the context of a market modification request made pursuant to a channel sharing arrangement.¹⁹ There, the Commission found that the historic carriage factor weighted in favor of WJAL’s requested market modification because WJAL relocated its transmission facilities to its channel sharing partner’s transmitter site, and the cable operators at issue carried WJAL’s channel sharing partner. The Commission reasoned that WJAL “would be at a competitive disadvantage if these cable operators did not also carry [it]....”²⁰

Like WJAL, WRNN has relocated its transmission facilities to the transmission site used by its channel sharing partner, here WWOR. As demonstrated by Exhibit A, Spectrum carries

¹⁶ 47 U.S.C. § 534(h)(1)(C)(ii)(I).

¹⁷ *Tennessee Broadcasting Partners*, 23 FCC Rcd 3928, 3932, para. 5 (MB 2008); *see also Entravision Order* at 2223, para. 11.

¹⁸ As discussed in section III.b.iv., below, WRNN License Co. is currently leasing access to Spectrum’s Bergen County, New Jersey system for 58 hours per week.

¹⁹ *Id.* at 2225, para. 15.

²⁰ *Id.*

WWOR on its Bergen County, New Jersey system.²¹ Spectrum also carries a number of other co-located stations, as well as stations broadcasting from nearby locations in lower Manhattan.²² Thus, for Spectrum to refuse to carry WRNN in the Communities would make WRNN an outlier amongst its peers and place the station at a severe competitive disadvantage.

Also relevant to the Commission's consideration of the historic carriage factor is whether the station requesting market modification is carried by competitors in the relevant communities.²³ As evidenced by the local channel lineup cards in Exhibit B, WRNN is currently carried by Verizon FiOS, DISH and DIRECTV in Bergen County, New Jersey, including in the Communities.²⁴ The historic carriage factor clearly weighs in favor of WRNN's requested market modification.²⁵

²¹ Exhibit A (Spectrum Cable Lineup Card).

²² For example, Spectrum carries WCBS-TV, WPXN-TV, and WNET(DT), all of which broadcast from One World Trade Center, as well as WABC(DT), WNBC(DT) and WNYW(DT), which broadcast from lower Manhattan. *Id.*

²³ See, e.g., *Petition for Modification of Philadelphia, PA Designated Market Area with Regard to Station WACP, Atlantic City, NJ*, Memorandum Opinion and Order, 29 FCC Rcd 1835, 1845, para. 19, n. 77 (MB 2014).

²⁴ Exhibit B (Verizon FiOS, DISH and DIRECTV Channel Lineup Cards). Moreover, WRNN is carried on the predominant cable systems in all of the counties surrounding Bergen County. Bergen County stands out as an island amidst a sea of carriage.

²⁵ Although the Commission determined in the *Entravision Order* that it need not accord WJAL new station status to properly analyze its market modification petitions, WRNN License Co. notes that, like WJAL, the Station's relocation to a new transmitter site and change in community of license make it resemble a new station in many respects. See *Entravision Order* at 2225, para. 15. Thus, the Commission could deem WRNN new to the Communities, in which case its signal coverage of the Communities would be afforded the most weight in the Commission's analysis. See *WACP*, 29 FCC Rcd at 1848, para. 27.

b. Local Coverage and Service

Under the second statutory factor, the Commission considers “whether the television station provides coverage or other local service” to the community at issue.²⁶ To establish that a station provides coverage or other local service, “parties may demonstrate that the station places at least a Grade B coverage contour over the cable community, or is located close to the community in terms of mileage.”²⁷ The Commission has consistently recognized that signal coverage²⁸ and geographic proximity²⁹ are solid measures of the scope of a station’s market and help establish the relevant nexus between the station and the market. The Commission also looks to shopping and labor patterns to help assess the connection between a station and the communities at issue as well as any locally-focused programming broadcast by the station.³⁰ The Commission affords less significance to locally-focused programming where signal

²⁶ 47 U.S.C. § 534(h)(1)(C)(ii)(II).

²⁷ *Tennessee Broadcasting Partners*, 23 FCC Rcd at 3934, para. 11. The service area of an analog station was defined by the station’s Grade B contour. A digital television station’s service area is defined as the area within its noise-limited contour where its signal strength is predicted to exceed the noise-limited contour service level, which for channels 14-69 is 41 dBu. See 47 CFR § 73.622(e). The Commission treats a digital station’s noise-limited contour as the functional equivalent of an analog station’s Grade B contour. See *Report to Congress: The Satellite Home Viewer Extension and Reauthorization Act of 2004*; Study of Digital Television Field Strength Standards and Testing Procedures, 20 FCC Red 19504, 19507, para. 3 (2005).

²⁸ *CoxCom, LLC*, Memorandum Opinion and Order, 30 FCC Rcd 10978, 10985, para. 11 (2015) (“the Commission has long recognized that Grade B contour coverage, in the absence of other determinative facts, is an efficient tool to adjust market boundaries because it is a count indicator of the economic reach of a particular television station’s signal.”).

²⁹ *Comcast Cable Communities, Inc.*, 19 FCC Rcd 5245, 5252, para. 17 (2005) (“Given the station’s closer geographic proximity, it appears that it is [the station’s] intent to serve these communities. As such, carriage of the station’s signal is reasonable and appropriate under the [Communications Act] and the Commission’s rules.”).

³⁰ *Tennessee Broadcasting Partners*, 23 FCC Rcd at 3937, para. 22.

coverage, geographic proximity, and shopping and labor patterns evidence a sufficient nexus to the community.³¹

i. Contour and Signal Strength

Pursuant to its channel sharing arrangement, WRNN broadcasts from a transmitter located atop One World Trade Center. From that location, the Station's 41 dBu noise-limited service contour clearly encompasses the Communities. Exhibit C provides a map showing WRNN's current signal contour in relation to the Communities and the relevant Spectrum headend.³² WRNN's signal contour supports inclusion of the Communities in the Station's market.³³

ii. Geographic Proximity

Pursuant to its analysis of the second statutory factor, the Commission will examine a station's proximity to the subject communities in terms of mileage. In so doing, the Commission considers both the distance between a station's transmitter site and the relevant communities, and

³¹ *Entravision Order* at 2229, para. 23 (“[W]e find that the ample evidence regarding WJAL’s signal coverage, geographic proximity, and shopping and labor patterns in relation to the Communities overcomes the absence of local programming in WJAL’s channel lineup and that the second statutory factor weighs strongly in favor of WJAL’s Petition.”).

³² Exhibit C (Contour Map). *See also Entravision Order* at 2219, para. 4 n. 17 (noting that Longley-Rice propagation curves may be included to support a technical service exhibit). The locations of cable headends are no longer publicly available via cable operators’ online public inspection files. Thus, WRNN License Co.’s engineer called his counterpart at Spectrum to determine the location of the headend for Bergen County, New Jersey. The engineer was told that there is no headend in Bergen County and that subscribers located there are serviced via Spectrum’s Network Operations Center (“NOC”) in Manhattan. The location of the NOC is plotted on the Contour Map in Exhibit C. The Contour Map in Exhibit C also identifies some, but not all, of the Communities.

³³ *See Entravision Order* at 2229, para. 23 (finding that WJAL’s contour encompassing the communities at issue supported the station’s requested market modification).

the distance between a station's community of license and the relevant communities.³⁴ As demonstrated by Exhibit D, the Station is geographically proximate to the Communities. WRNN's transmitter site on top of One World Trade Center is approximately 12.6 miles driving distance to Fort Lee.³⁵ Similarly, the Station's community of license—New Rochelle, New York—is approximately 15.9 miles driving distance from Fort Lee.³⁶ As the crow flies, WRNN's transmitter site is approximately 9.80 miles and its community of license is approximately 10.75 miles, respectively, from Fort Lee.³⁷ The community furthest from the Station is Teterboro, which is a 15.6-mile drive from One World Trade Center and a 22.1-mile drive from New Rochelle.³⁸

These distances are well within those the Commission has previously cited as providing “ample evidence” that the second statutory factor weighed in a petitioning station's favor.³⁹ For example, in granting WJAL's Petition for Market Modification, the Commission noted that Entravision submitted evidence demonstrating that its station's transmitter site was an average of 29.4 miles from the furthest community it sought to add.⁴⁰ Entravision also submitted evidence

³⁴ See, e.g., *WRNN License Company*, 20 FCC Rcd 7904, 7909, para. 10 (MB 2005); *Time Warner Entertainment-Advance/Newhouse Partnership*, 22 FCC Rcd 13642, 13646, para. 9 (MB 2007).

³⁵ Exhibit D (Driving Distances Chart).

³⁶ *Id.*

³⁷ Exhibit E (Terrain Maps).

³⁸ Exhibit D (Driving Distances Chart). Guttenberg—the closest community to the Station's transmitter site—is a 7.9-mile drive from One World Trade Center. Fort Lee is the closest community to the Station's community of license—as noted above, it is a 15.9-mile drive from New Rochelle, New York. *Id.* On average, the Communities are a 12.7-mile drive from One World Trade Center and an 18.9-mile drive from New Rochelle, New York. *Id.*

³⁹ *Entravision Order*, 2229 at para. 23.

⁴⁰ *Id.*, 2227 at para. 19. See also *Petition for Modification of Philadelphia, PA Designated Market Area with regard to Station WACP, Atlantic City, NJ*, Memorandum Opinion and Order,

that WJAL's community of license was, on average, 41.2 miles from the furthest community at issue.⁴¹

Consistent with relevant precedent, the Commission should find that the distance of WRNN's transmitter and community of license from the Communities weighs in favor of WRNN License Co.'s requested market modification.

iii. Shopping and Labor Patterns

The Commission also considers shopping and labor patterns when analyzing whether a nexus exists between a station and the communities it seeks to add to its market. As demonstrated herein, WRNN's community of license—New Rochelle, New York—shares strong economic connections with the Communities.

New Rochelle, New York sits just across the Hudson River from the Communities to the north-northeast. New Rochelle and the Communities are part of the larger New York/New Jersey Metropolitan area and are therefore connected by a multitude of interstate and state highways as well as public transportation. For example, Fort Lee can be reached from New Rochelle via a 26-minute drive along NY-9A, a 24-minute drive along I-87, or a 20-minute drive along I-95.⁴² Fort Lee is also accessible from New Rochelle in just over an hour via a variety of

29 FCC Rcd 1835, 1846-47, paras. 20, 22 (MB 2014) (declining to modify WACP's market so as to exclude cable communities located 62 miles from WACP's transmitter site and 88 miles from the station's city of license); *In re KJLA, LLC for Modification of the Television Market for Station KJLA-DT, Ventura, California*, 26 FCC Rcd 12652, 12657, para. 11 (MB 2011) (modifying KJLA's market to include communities located between 35 and 76 miles from KJLA's transmitter site and between 64 and 108 miles from the station's community of license).

⁴¹ *Entravision Petition* at 16-17.

⁴² Exhibit F (Driving and Public Transportation Routes). From One World Trade Center, Fort Lee is a 22-minute drive via NY-9A or a 26-minute drive via I-95. *Id.*

buses and the New York City Subway.⁴³ Similarly, Teterboro, the furthest community from One World Trade Center and New Rochelle, New York, in terms of mileage, can be reached from New Rochelle via a 35-minute drive via NY-9A or a 55-minute drive via I-95, and takes under two hours to reach via public transportation.⁴⁴

New Rochelle boasts many businesses, entertainment and sports venues, and shopping outlets that attract residents from all over the New York/New Jersey metropolitan area, including the Communities.⁴⁵ New Rochelle is also home to Iona College, which draws 3,178 undergraduate students.⁴⁶ The largest percentage of enrolled students at Iona coming from out-of-state are from New Jersey.⁴⁷ In addition, U.S. Census Data shows that New Rochelle and the Communities share many common characteristics.⁴⁸ For example, New Rochelle and Fort Lee have median household incomes of \$77,320 and \$76,578, respectively, and the most common job groups in New Rochelle and Fort Lee are management, business, service and arts.⁴⁹

⁴³ *Id.*

⁴⁴ *Id.* From One World Trade Center, Teterboro is a 30-minute drive via NJ-3 or I-95. *Id.*

⁴⁵ Exhibit G(a) (New Rochelle Chamber of Commerce Business Directory). Similarly, many residents of New Rochelle are likely to be quite familiar with the Communities. East Rutherford, New Jersey is the home of the NY Giants football team. In 2018, the NY Giants had the fourth-highest attendance numbers in the NFL, averaging 76,940 attendees per game. To reach MetLife Stadium via New Rochelle, the most direct route along I-95 takes fans through or directly past many of the Communities, include Fort Lee, Ridgefield Park, Palisades Park, Ridgefield, and Moonachie. Thus, Giants fans residing in New Rochelle are likely to be familiar with the Communities. *See* Exhibit G(b) (NY Giants Attendance and Driving Directions).

⁴⁶ Exhibit H (Iona College Facts).

⁴⁷ *Id.*

⁴⁸ Exhibit I (U.S. Census American FactFinder Data).

⁴⁹ *Id.*

Thus, as demonstrated herein, the interconnection between New Rochelle and the Communities supports weighing the second statutory factor in favor of WRNN License Co.'s requested market modification.

iv. Local Programming

Finally, when analyzing the second statutory factor the Commission will consider local programming. The absence of such programming, however, will not tip the scale against a petitioner where historical carriage, geographic proximity, and shopping and labor patterns support weighing the second statutory factor in favor of petitioner.⁵⁰

WRNN airs paid programming, regional and international news, and syndicated programming. This programming is of general interest to viewers in the Communities. Of particular relevance, WRNN is the local broadcast partner of Fujisankei Communications International ("FCI"), which distributes Japanese programming including FCI News Catch! and Kuishinbo! Banzai. This programming is valued by the Communities, particularly residents of Fort Lee, which has a sizeable Asian-American population.⁵¹ As explained in the attached letter from Katsuyohi Aota, President and COO, FCI relies on WRNN "for the important distribution the station provides in the market."⁵² In fact, FCI programming is of such interest that WRNN License Co. leases access on Spectrum's Bergen County, New Jersey system in order to provide it to the Communities generally, and the residents of Fort Lee in particular. As Mr. Aota

⁵⁰ See *Entravision Order* at 2229, para. 23.

⁵¹ Exhibit J (U.S. Census Demographic and Housing Estimates).

⁵² Exhibit K (Aota Letter).

explains in his letter, although leased access allows viewers to access FCI's programming, viewers "would benefit from having certain, ongoing access to WRNN on [Spectrum]." ⁵³

Thus, as demonstrated herein, WRNN provides programming of interest to the Communities, further supporting weighing the second statutory factor in its favor.

c. Consumer's Access to In-State Broadcast Signals

The third statutory factor asks "whether modifying the market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence."⁵⁴ This factor is intended to ensure that cable and other multichannel video programming distributor subscribers are "receiving news, politics, sports, emergency information, and other television programming relevant to their home state" and "relevant to their everyday lives."⁵⁵ Nonetheless, the Commission has explicitly stated that, to the extent a petition does not involve an "in-state" station, the "in-state factor would be inapplicable and the modification request would be evaluated based on the other statutory factors."⁵⁶

WRNN is licensed to New Rochelle, New York and broadcasts from a transmitter located atop One World Trade Center in lower Manhattan. The Communities are located in New Jersey, and thus the Station's signal does not originate in the state of residence of the residents of the

⁵³ *Id.*

⁵⁴ 47 U.S.C. § 534(h)(1)(C)(ii)(III).

⁵⁵ *Amendment to the Commission's Rules Concerning Mkt. Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Report and Order, 30 FCC Rcd 10406, 10420, para. 19 (2015) ("*STELAR Market Mod. Order*").

⁵⁶ *Entravision Order* at 2230, para. 25 (citing *STELAR Market Mod. Order*, 30 FCC Rcd at 10420, para. 19)). The Commission also affirmed in the *Entravision Order* that "The inability to satisfy one factor does not serve to increase scrutiny under any of the other four factors, any more than *satisfaction* of one factor would *diminish* scrutiny under the others." *Id.* (emphasis in original).

Communities. Accordingly, the Commission should assign no weight to this factor in evaluating the WRNN License Co.'s requested market modification.

d. Carriage of Other Eligible Stations

Next, under the fourth statutory factor, the Commission will consider “whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community.”⁵⁷ This factor is generally interpreted as enhancing a station’s market modification petition if other stations do not sufficiently serve the communities at issue; however, other stations’ service to the communities rarely has counted against a petition.⁵⁸ Upon information and belief, Spectrum’s Bergen County, New Jersey system carries other television stations that provide coverage of news, sports, and other issues of interest to the Communities. Consistent with well-established precedent, the Commission should assign no weight to this factor in its evaluation of the Petition.

e. Viewing Patterns

The fifth statutory factor focuses on “evidence of viewing patterns” in cable and noncable households located within the area served by the cable system at issue.⁵⁹ It is WRNN License Co.’s understanding that WRNN reached more than a quarter of the households in Bergen County, New Jersey during a recent three-month reporting period.⁶⁰ The fact that WRNN has

⁵⁷ 47 U.S.C. § 534(h)(1)(C)(ii)(IV).

⁵⁸ *Entravision Order* at 2230, para. 26.

⁵⁹ 47 U.S.C. § 534(h)(1)(C)(ii)(V).

⁶⁰ WRNN does not subscribe to Nielsen or any other rating service.

earned this audience despite not having must-carry rights on Spectrum's Bergen County, New Jersey system indicates that the programming the Station provides is of interest to residents of the Communities.

Despite this evidence of viewership in the Communities, WRNN notes that the Commission has, in the past, given this factor limited weight in similar circumstances. Specifically, the Commission has taken this approach where the petitioning station's market was previously modified to exclude the relevant communities.⁶¹ As explained above, WRNN's market was modified in 1996 to exclude the Communities. Thus, to the extent the Commission considers the Station's viewership to be "low" or "nonexistent," it should similarly consider that level of viewership to be "unsurprising" and afford this factor limited weight.⁶² Furthermore, the Commission should consider the Station's recent modifications to its community of license, transmitter site relocation, and signal coverage improvement as mitigating circumstances with respect to any lack of viewership in the Communities.⁶³ The Commission should either weigh this factor in favor of WRNN, or afford it limited weight.

⁶¹ *Entravision Order* at 2231, para. 27.

⁶² *Id.*

⁶³ *Id.*

IV. Conclusion

As shown herein, application of the statutory factors to WRNN License Co.'s requested market modification support adding the Communities to WRNN's market.

Respectfully Submitted,

WRNN License Company, LLC

By: s/Kathryne Dickerson

Kathryne Dickerson

Ari Meltzer

Wiley Rein LLP

1776 K Street, NW

Washington, DC 20006

(202) 719-7000

Its Attorneys

Date: April 3, 2019

DECLARATION OF CHRISTIAN FRENCH

I, Christian French, hereby declare under penalty of perjury that I have reviewed the foregoing Petition for Special Relief and that, to the best of my knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law and is not interposed for any improper purpose.

s/Christian French
Christian French
Chief Operating Officer

Dated: April 3, 2019