

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

In the Matter of)
)
Authorizing Permissive Use of the “Next) GN Docket No. 16-142
Generation” Broadcast Television Standard)
)
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COMMENTS OF NEXSTAR BROADCASTING, INC.

Nexstar Broadcasting, Inc. (“Nexstar”), the licensee of 134 full-power television stations, respectfully submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹ The NPRM seeks comment on several issues related to the implementation of the ATSC² 3.0 television transmission (or “Next Generation Television”) standard, including authorization of broadcasters voluntary use of ATSC 3.0, the incorporation of the ATSC 3.0 standard into Commission rules, method of deployment, service and interference protection, public interest and consumer protection, and MVPD carriage.

I. Introduction.

Local television broadcasters play a unique and vital role in their local communities – from providing critical emergency information and general and breaking news to supporting and promoting local businesses and community organizations. For local stations to continue to play their role in today’s highly competitive and fragmented media environment, stations must be able

¹ *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Notice of Proposed Rulemaking, 32 FCC Rcd 1670 (rel. Feb.24, 2017).

² The Advanced Television Systems Committee (“ATSC”) is an international, non-profit organization developing voluntary standards for digital television. Over 150 ATSC member organizations represent the broadcast, broadcast equipment, motion picture, consumer electronics, computer, cable, satellite and semiconductor industries.

to compete effectively and efficiently with all other participants in the media marketplace – which requires broadcasters to use the most flexible, robust, consumer-friendly technology. The current transmission standard – ATSC 1.0 – is none of these things. Indeed, more than a dozen years ago the Commission recognized the need for television transmission technology to evolve stating:

We also acknowledge the likelihood that there will be further improvements made to the DTV standards over time and indeed, encourage ATSC and other interested parties to continue their work and efforts in these areas. In this regard, we reaffirm our intention to give significant weight to proposed changes that reflect the kind of broad industry consensus developed through ATSC’s standards-making procedures. While it will be necessary to conduct rulemaking activity to incorporate such changes in the rules, we nonetheless will endeavor to pursue such rulemaking as quickly as possible, either through our periodic review of the DTV transition or through separate proceedings as may be appropriate.³

In the intervening years, industry stakeholders, like the ATSC, engineers, equipment manufacturers and broadcasters, including Nexstar, have been collaborating on innovative new technologies to increase the efficiency of the television spectrum, while working to improve existing services and develop new services for progressively more sophisticated and evolving consumers. ATSC 3.0 is the result of that innovation – a flexible use, IP-based improvement upon the ATSC 1.0 transmission standard.

ATSC 3.0 will provide broadcasters with the means to significantly improve and expand existing television services. As just one example of the enhanced emergency alert system capabilities available under ATSC 3.0, Nexstar’s stations KSNC(TV), Great Bend, Kansas and KSNK(TV), McCook, Nebraska, both located in Tornado Alley,⁴ will have the ability to quickly

³ *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Second Report and Order & Second Memorandum Opinion and Order, 17 FCC Red 15978, 16002 (2002).

⁴ National Oceanic and Atmospheric Administration, National Centers for Environmental Information, Climate Information, <https://www.ncdc.noaa.gov/climate-information/extreme-events/us-tornado-climatology/tornado-alley> (last visited on May 1, 2017). Nexstar owns more than 50 television stations in communities throughout and adjacent to Tornado Alley and throughout the southeast where tornados are prevalent in the spring months. Nexstar also operates several television stations in hurricane prevalent areas ranging from Honolulu, Hawaii to the northeast coast of the United States.

localize relevant emergency information about severe weather (i.e. a fast-moving tornado or disaster evacuation route) in the immediate community, distribute this emergency information beyond the household television to devices such as cell phones, tablets and other connected inert or mobile devices, and send a signal to wake-up devices in sleep or power-saver mode when viewers may be unaware of the hazardous conditions which are occurring (i.e. in late night or predawn hours when most people are sleeping). In addition, the ability of the ATSC 3.0 standard to go mobile - beyond traditional delivery of emergency information using a television set – to alert consumers of imminent danger is one of the greatest features of Next Generation Television. Had this technology existed on May 22, 2011 when a rain-wrapped EF-5 tornado struck Joplin, Missouri, or May 20, 2013 when an EF-5 tornado struck Moore, Oklahoma, or even April 29, 2017 when a wide EF-3/4 tornado covered over 50 miles on the ground in southeast of Dallas, Texas, those away from home at schools, shopping malls, sporting events and the like, or driving along highways in vehicles, could have received the same urgent alerts being provided over-the-air regarding the extreme dangerousness of these severe weather events. Similarly, in 2012, when Hurricane Sandy devastated the east coast, ATSC 3.0 alerts would have been able to continue providing critical emergency information even as cellular services failed. These life-saving possibilities are reason enough to expedite the authorization of the ATSC 3.0 transmission standard for the deployment by the television broadcast industry on a voluntary basis. However, ATSC 3.0 also will permit broadcasters to provide ultra-high definition video and immersive audio, reliable mobile broadcasting and data services, and consumer interactivity, as well as offer broadcasters the tools to remain competitive in the ever-expanding wireless distribution demand world.

As Chairman Pai recently acknowledged, innovation requires commitment, investment

and flexibility.⁵ Industry stakeholders have made the commitment, are poised to make the additional investment, and now seek the appropriate regulatory flexibility to deploy ATSC 3.0 beyond test facilities. ATSC 3.0 does not require additional spectrum, it will not cause additional interference, and it can and will coexist with ATSC 1.0. Deployment of Next Generation Television will not negatively impact or disenfranchise consumers who retain ATSC 1.0 devices, nor will it negatively impact any station that elects to continue operating under the existing ATSC 1.0 standard. Finally, ATSC 3.0 is immediately operational under the current service and technical regulations. The television broadcast industry is ready for the FCC to step in and partner with it to make this innovative standard a reality.

II. The Commission Should Expeditiously Adopt Only Those Minimal Regulations Necessary to Permit Broadcasters to Voluntarily Implement ATSC 3.0 Transmissions.

The Next Generation Television standard is in the introductory stage with no real-world deployment beyond the testbed and its implementation is complicated and encumbered by the television spectrum repacking process. Accordingly, it is premature for the Commission to mandate that any station deploy ATSC 3.0 or establish a mandatory date by which all stations must operate only with the ATSC 3.0 standard. Therefore, Nexstar supports the Commission's proposal to authorize the ATSC 3.0 transmission standard as an optional standard that may be deployed by television broadcasters on a voluntary basis. This approach not only provides broadcasters with an opportunity to work out technical anomalies in collaboration with early adopter consumers and to differentiate Next Generation Television offerings as most desired by their local markets, but it also will allow faster and more responsive deployment of this new technology into the consumers' hands, further stimulating an already vibrantly competitive video

⁵ See e.g., Remarks of FCC Chairman Ajit Pai at Carnegie Mellon University – *Bringing the Benefits of the Digital Age to All Americans*, Pittsburgh, PA, March 15, 2017, available at <https://www.fcc.gov/document/chairman-pai-bringing-benefits-digital-age-all-americans>.

distribution market.

In addition, voluntary deployment of ATSC 3.0 transmissions will enable broadcasters to improve the test standard with its release into the mainstream marketplace through subsequent consumer feedback. During this period of transition and innovation, broadcasters need flexibility to deploy and adjust to technical and marketplace demands without the presence of an unnecessary layer of regulatory oversight. Accordingly, the Commission should not adopt rules that impose more than minimal obligations on broadcasters, manufacturers or multichannel video programming distributors.⁶ Once the marketplace has determined the services, equipment and consumer devices that are most optimal for use with Next Generation Television, the Commission may then determine the optimal time to phase out ATSC 1.0 transmission.

Because the transition will be voluntary and will occur across different markets at different times and speed, Nexstar agrees that broadcasters implementing Next Generation Television should be required to maintain and continue to broadcast at least one ATSC 1.0 programming stream so that viewers can remain connected to their local television stations. Indeed, even absent a regulatory mandate for that requirement, Nexstar believes television broadcasters will continue to provide ATSC 1.0 access to their viewers to avoid loss of viewership from those viewers that are not early adopters, or who are less receptive to a new standard or the requirement to purchase new television stations. Because the level of ATSC 1.0 viewership likely will remain high until a mandatory transition date, a “requirement” to simulcast the ATSC 1.0 and the ATSC 3.0 transmissions is an obligation readily acceptable to most broadcasters,

⁶ With respect to manufacturers of television sets, Nexstar notes that LG Electronics announced that it has begun selling television sets in South Korea that include both ATSC 3.0 and ATSC 1.0 tuners. CES 2017: LG Debuts ATSC 3.0-Enabled 4-K TVs, Broadcasting & Cable, available at <http://www.broadcastingcable.com/news/news-articles/ces-2017-lg-debuts-atsc-30-enabled-4k-tvs/162270>. With the introduction of ATSC 3.0 transmission in the U.S., it will only be a matter of a short time before similarly equipped television sets will become available in the United States.

including Nexstar.

However, because Next Generation Television will not require additional spectrum or cause interference to ATSC 1.0 transmissions,⁷ Nexstar urges the Commission to, at this early stage, implement ATSC 3.0 without the burden of unnecessary licensing obligations (beyond the obligation to continue providing one ATSC 1.0 programming stream). Nexstar, therefore, urges the Commission to permit broadcasters to begin implementing ATSC 3.0 through voluntary and broadcaster-negotiated simulcasting agreements (rather than adopting complex channel sharing and licensing rules); e.g., the Commission should empower television broadcasters to enter private commercial agreements with other stations in the same market to foster development and deployment of Next Generation Television.⁸ This will permit broadcasters to tailor their voluntary implementation to the specific requirements of each market, while allowing for flexibility and adaption of the agreements over time, without the requirement to seek modification of Commission regulations or Commission consent to do so.

In addition, because ATSC 1.0 and ATSC 3.0 share the same interference standards (that is, the interference impact on surrounding stations will be similar regardless of transmission standard) Nexstar further urges the Commission to forgo imposing a construction permit and

⁷ In most, but not all markets, concentration of contours makes one station's coverage contour close or comparable to other stations in the same market. Therefore, service and interference protection will, in most cases, remain consistent with what is already present in the existing ATSC 1.0 environment. To the extent any broadcaster seeks to expand its service area through the deployment of a Single Frequency Network, Nexstar concurs with utilizing the Distributed Transmission System concept with an expanded "market" coverage area subject to the caveat that the expanded service area not cause impermissible actual interference to co-channel or adjacent channel stations.

⁸ The only suggestion Nexstar makes with respect to simulcasting agreements is that these agreements require the licensee responsible for (or in control of) the specific simulcasting stream be required to acknowledge that the licensee providing the stream would remain responsible for its content for FCC regulatory and other legal purposes. That is, if stations A, B and C are each simulcasting an ATSC 1.0 programming stream using station A's 1.0 facilities, station A is responsible for all aspects of the programming stream that it is broadcasting, and stations B and C are each responsible for the entire stream of programming they provided for simulcast broadcast via station A's facilities.

licensing requirement on stations implementing ATSC 3.0 unless a station is simultaneously requesting other modifications of its facilities. Nexstar believes that it would be a relatively simple procedure for the Commission to develop a schedule for inclusion in LMS that would permit stations to notify the Commission (and thereby the public) that the station has initiated voluntary ATSC 3.0 operations. As the Commission, has acknowledged, this model will “minimize administrative burdens and offer more flexibility to the broadcast industry.”⁹

Nexstar further believes the simulcasting model eviscerates MVPD fears regarding extensive carriage obligations. Each station’s ATSC 1.0 programming stream, regardless of the originating transmission facility, would remain subject to must-carry and retransmission consent elections by the licensee in control of the content contained in the applicable programming stream, with any further carriage obligations subject to negotiation between the MVPD and applicable licensee.¹⁰

Although Nexstar supports the simulcasting proposal, Nexstar urges the Commission to allow for the content of such simulcast to be determined by the broadcaster and its market. Mandating an absolute exact duplication between the ATSC 1.0 and ATSC 3.0 transmissions is counterproductive to the flexibility of the ATSC 3.0 standard. Moreover, this proceeding relates solely to a technology change, meaning that Next Generation Television transmissions will remain subject to the same programming regulations imposed on ATSC 1.0 transmission,

⁹ *NPRM*, 32 FCC Rcd at p. 1679.

¹⁰ MVPDs seem opposed to permitting broadcasters to introduce superior technology based on a non-existent requirement that they will be obligated to carry any ATSC 3.0 programming stream immediately upon a station’s deployment of ATSC 3.0 transmissions. As noted above, the must-carry and retransmission consent obligations should remain linked to the ATSC 1.0 programming stream (or streams) of each applicable licensee. Moreover, the Commission has already stated, “MVPDs will not be required to carry broadcasters’ ATSC 3.0 signals during the period when broadcasters are voluntarily implementing ATSC 3.0 service.” *NPRM* at p. 1683. Therefore, the Commission should reject the transparent opportunism of the MVPD commenters and refrain from shackling broadcasters with additional, unnecessary regulatory burdens and allow ATSC 3.0 carriage obligations to be developed through good faith negotiations by the involved parties.

including children’s programming and commercial limits, political and sponsorship obligations, EAS requirements and the like. Requiring broadcasters to broadcast one stream of completely identical ATSC 1.0 and ATSC 3.0 would eviscerate broadcasters’ ability to provide targeted EAS alerts, targeted news and weather, targeted commercial advertisement, and other potentially useful content differences. Broadcasters already are incentivized to broadcast programming with the widest community appeal, therefore, it is sufficient to require broadcasters to continue their public interest and consumer protection obligations in the context of ATSC 3.0 without micromanaging such application.

Nexstar further supports the deployment of Next Generation Television on a market by market basis as opposed to a station by station basis. This will foster an environment whereby each market may independently coordinate with its local stations to identify, and modify as necessary, the ATSC 1.0 and ATSC 3.0 “Lighthouse” host station and develop a deployment timeline with the certainty necessary to notify the Commission, viewers and the relevant MVPDs of the impending market transmission changes. Consistent with the Commission’s proposal, Nexstar agrees that any necessary modifications to the Lighthouse stations and their “multicasting” partners would be undertaken as minor modifications.

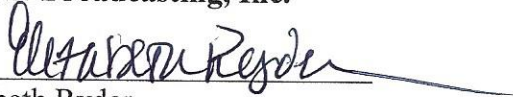
Nexstar further urges the Commission to permit stations to utilize vacant in-band channels on a market-wide basis as a collective location for the market’s stations to initiate either ATSC 3.0 and/or a shared ATSC 1.0 facilities. This type of collocation would provide television broadcasters with a fast lane to deployment by allowing stations to undertake the necessary equipment purchasing to both repack their ATSC 1.0 facilities and implement ATSC 3.0 transmissions for at each station’s existing facility. Finally, Nexstar urges the Commission to expeditiously complete this proceeding so that broadcasters can effectively plan both for their

repack obligations and implementation ATSC 3.0 in the most efficient and cost-effective manner.

Nexstar respectfully asks the Commission to move swiftly in this proceeding so that broadcasters have the authority and flexibility to innovate and provides consumers with the numerous benefits of Next-Generation Television.

Respectfully submitted,

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