

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

In the Matter of	)	
	)	
Amendment of Section 73.622(i)	)	
Table of Allotments,	)	MB Docket No.
Digital Television Table of Allotments	)	RM-
(Gadsden, Alabama and Hoover,	)	
Alabama)	)	

To: Office of the Secretary  
Attn: Video Division, Media Bureau

**PETITION FOR RULE MAKING**

ION MEDIA LICENSE COMPANY, LLC (“Petitioner”), licensee of digital television station WPXH-TV, and pursuant to Section 307(b) of the Communications Act of 1934, as amended, and Section 1.420 of the Commission’s rules,<sup>1</sup> hereby submits this Petition for Rulemaking (the “Petition”) to request that the Commission amend Section 73.622(i) of its Rules, the DTV Table of Allotments, to delete Channel 45 at Gadsden, Alabama and substitute Channel 45 at Hoover, Alabama.<sup>2</sup> Pursuant to Section 1.420, Petitioner further requests that the license for WPXH-TV also be modified to specify the new community of license without allowing competing applications.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. § 307(b); 47 C.F.R. § 1.420(i).

<sup>2</sup> ION recognizes that the Television Table of Allotments has not been updated since the conclusion of Auction 1000 and that the Commission intends to adopt a fully revised Table of Allotments following the repack. *See* Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, 29 FCC Rcd 6567, n. 1545 (2014). The requested change should be included in the permanent Television Table of Allotments adopted by the Commission.

<sup>3</sup> Modification of FM and TV Authorizations to Specify a New Community of License, *Report and Order*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

## **I. REALLOTMENT OF CHANNEL 45 TO HOOVER SATISFIES THE FCC'S ALLOTMENT PRIORITIES.**

Pursuant to Section 307(b) of the Communications Act of 1934, as amended, the Commission must provide a “fair, efficient and equitable distribution of radio service” among the various states and communities in the country.<sup>4</sup> In considering a proposal to reallocate a television station from one community to another, the Commission compares the existing allotment and the proposed allotment to determine whether or not the proposal will result in a preferential arrangement of allotments.<sup>5</sup> In making this determination, the Commission has long applied a series of five allotment priorities. Those television allotment priorities are to “(1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities.”<sup>6</sup>

Reallotment of WPXH-TV’s Channel 45 from Gadsden to Hoover would represent a preferential allotment pursuant to Priority 2, as Hoover is a much larger community than Gadsden and the reallocation would provide the larger community of Hoover with its first local full-power television service.<sup>7</sup>

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<sup>4</sup> 47 U.S.C. § 307(b).

<sup>5</sup> See, e.g., *North Pole and Plattsburg, New York, Report and Order*, 26 FCC Red 32, 45 (2011), citing Amendment of Section 3.606 of the Commission’s Rules and Regulations, *Sixth Report and Order*, 41 FCC 148, 167-173 (1952).

<sup>6</sup> *Id.*

<sup>7</sup> According to the 2010 Census, Gadsden has a population of 36,856 and Hoover has a population of 81,619. See United States Census Bureau American Fact Finder, available at <http://factfinder.census.gov/faces/nav/jsf/pales/communityfacts.xhtml>

Currently, the station's authorized transmission facilities produce a 48 dBu service contour that covers 96.2% of the City of Hoover. This minor shortfall in satisfying the Commission's community of license requirement for Hoover will be remedied by the post-incentive auction transition.<sup>8</sup> WPXH-TV was reassigned to a new channel in the repacking process, and WPXH-TV has been granted a construction permit authorization to build post-auction facilities that will deliver a 48 dBu signal that encompasses one-hundred percent (100%) of the City of Hoover, as shown in Exhibit A.<sup>9</sup> To the extent necessary, Petitioner requests temporary waivers of (1) the rule requiring full coverage of the City of Hoover prior to WPXH's transition to its new channel;<sup>10</sup> and (2) any current freeze on the filing of petitions for digital channel substitutions.<sup>11</sup>

## **II. THE COMMUNITY OF HOOVER DESERVES A FIRST LOCAL TELEVISION SERVICE.**

The City of Hoover was incorporated in 1967. The City of Hoover is the largest community near Birmingham and the sixth largest city in the state. Located near the foothills of the Appalachian Mountains, City of Hoover qualifies as a community for allotment purposes. With a 2010 Census population of 81,619 people, City of Hoover has an active local government.<sup>12</sup> The City operates under the Mayor-Council form of government since incorporation.<sup>13</sup> The Mayor and City Council are elected "at-large" on a non-partisan basis to

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<sup>8</sup> See Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition, Public Notice, DA 17-106 (rel. Jan. 27, 2017); Television Broadcast Station Construction Permit (WPXH-TV), File Number 0000034874.

<sup>9</sup> See Exhibit A

<sup>10</sup> See 47 CFR §73.625(a)(1)

<sup>11</sup> See Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately, Public Notice, 26 FCC Rcd 7721 (MB 2011) ("The Freeze Notice").

<sup>12</sup> See United States Census Bureau American Fact Finder, available at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

<sup>13</sup> See City of Hoover, AL available at <http://www.hooveral.org/>



concurrent four-year terms. City Council is comprised of seven members and is responsible for passing resolutions and ordinances, adopting the budget and appointing members to the local boards and committees. Mayor is responsible for carrying out the policies and ordinances of the government.

The City government provides a full range of services such as E911 Emergency Services, Hoover Police Department, City of Hoover Fire Department, Public Works Department and Utilities (including Water, Gas and Electricity, Garbage and Recycling). City of Hoover has sixteen public schools, including ten elementary schools, three middle schools, one high school and two technical/trade schools. Furthermore, City of Hoover has a local newspaper; seven hospitals/medical centers; a public library; two performing arts centers; two historic sites; and numerous sports facilities, including the Hoover Metropolitan Complex. Exhibit B presents overall statistics on the City of Hoover. <sup>14</sup>

Despite its size and importance, there are currently no full-power television stations licensed to City of Hoover. Accordingly, an allotment at Hoover would qualify for consideration under Priority 2 as the community's first local service. Gadsden will continue to have a full-power television station allotted to it, WTJP-TV, licensed to TCCSA, Inc., D/B/A Trinity Broadcasting Network. As a result, the proposed allotment does not in any way compromise Priority 1. Nor will the proposed change of community of license create any new interference to any other television station or other licensed operation in the service area.

### **III. CONCLUSION**

Petitioner respectfully requests that the Commission issue a Notice of Proposed Rulemaking to amend the DTV Table of Allotments to delete Channel 45 at Gadsden,

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<sup>14</sup> See Exhibit B.

Alabama and substitute Channel 45 at Hoover, Alabama. If this Petition is granted, Petitioner will file all necessary applications to modify Petitioner's authorizations for WPXH-TV to specify Hoover as the station's community of license.

Respectfully Submitted,



Terri McGalliard

Secretary

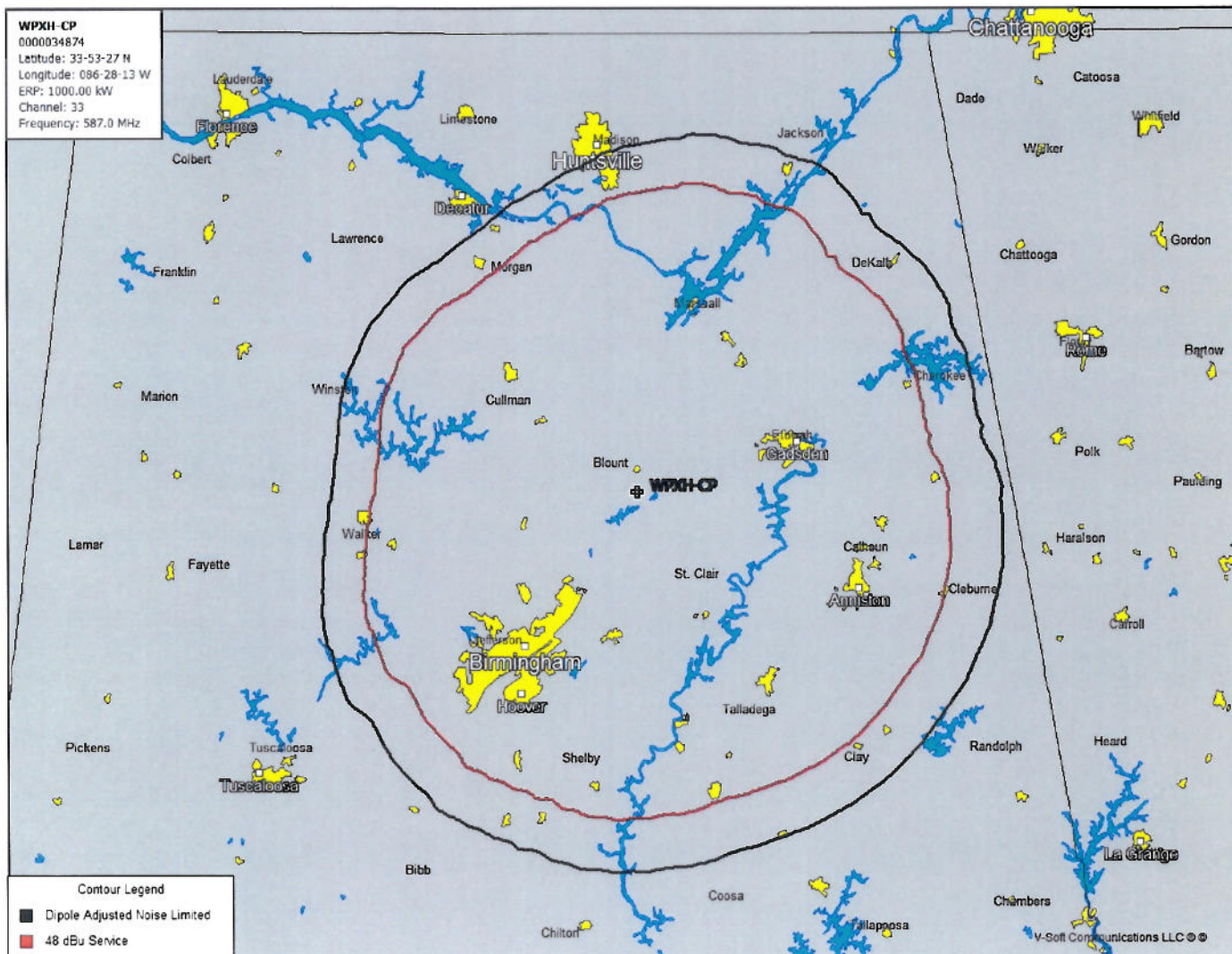
ION Media License Company, LLC

**ION Media Networks, Inc.**  
601 Clearwater Park Road  
West Palm Beach, FL 33401

**EXHIBIT A**

Technical Exhibit – Contour of WPXH-TV  
Serving Hoover, Alabama

WPXH-CP  
0000034874  
Latitude: 33-53-27 N  
Longitude: 086-28-13 W  
ERP: 1000.00 kW  
Channel: 33  
Frequency: 587.0 MHz





## **EXHIBIT B**

Overall statistics on the City of Hoover

Category	Hoover, AL
Population	81,619 (2010)
Police	Hoover, AL Police Department.
Fire	10 fire stations
Post Offices	1 post office location
Government (City)	Office of the Mayor City Administrator City Council Finance Services Planning and Zoning Parks and Recreation Public Works Utilities Risk Management
Newspapers	The Hoover Sun
Libraries	Hoover Public Library
Colleges	7 within 40 miles of Hoover
Universities	None
Public Schools	10 elementary schools 3 middle schools 1 high school 2 private schools 2 technical/trade schools
Senior Citizen Services	Hoover Senior Center
Airports	None
Hospitals/Medical Centers	Greenville Pediatrics - Hoover Baptist Health Center - Hoover Medical West Freestanding Emergency Center Life Grace Hospital UAB Medicine Hoover St. Vincent's Primary Care – Hoover
Radio Stations	WERC (105.5 FM)
Television Stations with an OTA signal	10 No stations licensed to Hoover AL
Performing Arts	Library Theatre Point Dance Arts Birmingham Dance Theatre Alabama Dance Academy
Synagogues	Beth Hallel Synagogue
Mosque/Islamic Center	Hoover Crescent Islamic Center

Churches (representative list- Hoover has over 25 churches)	<p>           Hunter Street Baptist Church            Discovery United Methodist Church            Prince of Peace Catholic Church            Cross Creek Church            Green Valley Baptist Church            St Alban's Episcopal Church            Hoover Church of Christ            Shades Mountain Community Church            Church of the Holy Apostles            Christian Life Church            Oakmont Presbyterian Church            Christ the King Lutheran            Lake Crest Presbyterian Church            Dominion Baptist Church            Chapel in the Pines Presbyterian            St Luke Korean Catholic Church            United Church of God            Christ the King Anglican Church            Church on the Bluffs            Alabama CBF         </p>
Parks	<p>           Wildflower Park            Georgetown Lake Park            Inverness Park            Russet Woods Park            Star Lake            Veterans Park            Sertoma Park            Moss Rock Preserve            Hoover Lake House            Blue Ridge Park and Trails            Aldridge Gardens         </p>
Historic Sites	<p>           Lover's Leap            Hoover Historical Society         </p>
Sports	<p>           Riverchase Sports Park            Hoover Metropolitan Complex            Hoover Sports Park Central            Hoover Met Soccer Fields            Hoover Recreational Center         </p>
Festivals/Fairs	<p>           Moss Rock Festival            Taste of Hoover            Bluff Park Art Show         </p>
Local Attractions	<p>           Moss Rock Preserve            Aldridge Gardens            Riverchase Galleria         </p>
Galleries	<p>New Life Art Inc.</p>