

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

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)
)

To: The Commission

**REPLY TO POST-NEWSWEEK'S OPPOSITION TO THE
PETITION FOR PARTIAL RECONSIDERATION OF
PAXSON COMMUNICATIONS CORPORATION**

Paxson Communications Corporation ("PCC"), licensee of WPXM(TV), Miami, Florida, by its attorneys, hereby replies to Post-Newsweek Stations of Florida, Inc.'s ("Post-Newsweek") Opposition to PCC's Petition for Partial Reconsideration of the *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87-268, FCC 98-24 (rel. Feb. 23, 1998). PCC offers a simplified allotment scheme that is consistent with the Commission's rules and policies and creates significant public interest benefits for the roll-out of DTV service in Miami, Florida.

As explained in its Petition, due to problems at its existing NTSC tower site, PCC seeks to relocate its DTV facilities to an antenna farm located in Hollywood, Florida.^{1/} Because PCC's current DTV channel allotment for WPXM would result in unacceptable interference at the new

^{1/} See Petition for Partial Reconsideration of Paxson Communications Corporation, MM Dkt. 87-268, at 3 (filed April 20, 1998) ("Petition").

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transmitter site, PCC requests the reassignment of WPXM's DTV allotment from Channel 26 to Channel 31.²⁷

Post-Newsweek erroneously claims that PCC offered no explanation for the timing of its request. However, PCC explained in its Petition that the instant conjunctive reallocation and relocation is sought to remedy a tower availability issue that has arisen. The only alternative available site in the Miami market that allows WPXM to operate without receiver antenna orientation problems is at the Hollywood antenna farm. While there were previous opportunities to file pleadings responsive to the Commission's *Sixth Report and Order*, circumstances such as this do not conveniently occur within the normal calendar deadlines for notice and comment rulemakings. In fact, the Commission anticipated problems with tower availability and vowed that it would afford broadcasters flexibility in addressing these issues.²⁸ Given the uniqueness of PCC's request, the circumstances in which it arises and the fluid landscape of DTV allotments, grant of PCC's request is warranted.

Post-Newsweek's opposition demonstrates that it would rather have PCC's DTV operations in Miami remain unresolved and delayed through a separate DTV allotment

²⁷ PCC originally sought reassignment to Channel 3, but recognizing that the allotment of Channels 3 and 4 in the same market should be avoided, PCC supplemented its Petition and requested the Commission reassign WPXM to Channel 31. *See* Supplement to Petition for Partial Reconsideration of Paxson Communications Corporation, MM Dkt. 87-268 (filed May 26, 1998). PCC's request for reassignment to Channel 31 moots Post-Newsweek's concern of allotting Channel 3 and 4 in the same market, as well as its concern about interference to WEDU(TV), Tampa, Florida, which is no longer affected by WPXM under PCC's revised proposal.

²⁸ *See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Sixth Report & Order, 12 FCC Rcd 14588, 14635 (1997) ("*Sixth Report and Order*").

modification procedure and a petition for a proposed rulemaking for a new channel allotment. Indeed, Post-Newsweek's claims of a "heavy burden on the Commission and on the public" will be worse if PCC is forced to seek its relief through separate interdependent proceedings at a later date. PCC's proposal improves the DTV allotment scheme in Miami by providing enormous benefits for the roll-out of DTV service in the market^{4/} without creating unacceptable interference to other stations.^{5/} PCC applauds an expeditious roll-out of DTV, but forcing PCC's proposal through a protracted rulemaking proceeding will undermine a quick transition.

While alleging that the Commission has denied the specific relief sought by PCC, Post-Newsweek cites no instance where the Commission has foreclosed the conjunctive reallocation and relocation request PCC now seeks. PCC agrees with Post-Newsweek that individually, relocation requests and channel reallocations can be more properly treated through established Commission procedures. However, PCC's interdependent request arises under extraordinary circumstances and the Commission has repeatedly held that broadcasters would be afforded flexibility in seeking solutions to allotment problems. Specifically, the Commission has stated that "to provide broadcasters flexibility, we will allow stations to relocate to other locations or co-locate their facilities with other broadcasters where such relocations and co-locations would

^{4/} PCC's proposal will result in 820,000 people and 1,410,000 people gaining reception of WPXM as compared to the station's present DTV and NTSC allotments, respectively. These increases will, consequently, spur competition in the Miami television market and further the Commission's goal of viewpoint diversity.

^{5/} PCC's proposal would not increase interference except to 0.5% of the Grade B service area of station WTVJ(TV), Miami, Florida—an amount that is consistent with the circumstances of past allotment modifications

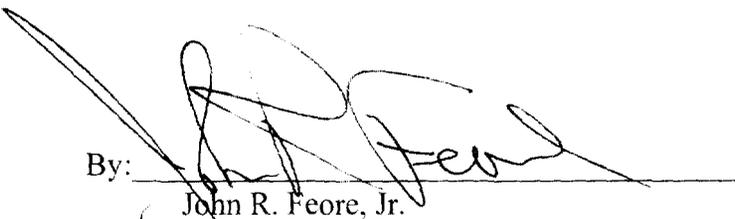
not increase interference."^{6/} Because WPXM's proposal will result in no new unacceptable interference to other broadcasters, PCC's proposal should be readily granted.

PCC's proposal comports with the Commission's rules and policies while also furthering the public interest. PCC's request arises out of the dramatic changes affecting the television industry and PCC is pursuing the most efficient means by which it can ensure a rapid deployment of DTV to Miami.

For these reasons, PCC requests that the Commission grant PCC's conjunctive reallocation and relocation request.

Respectfully submitted,

PAXSON COMMUNICATIONS CORPORATION

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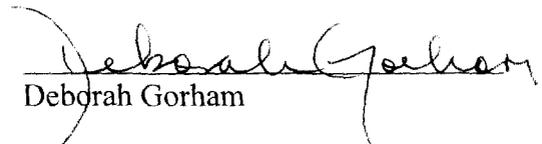
June 2, 1998

^{6/} *Sixth Report and Order*, 12 FCC Rcd at 14635.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Reply to Post-Newsweek's Opposition to the Petition for Partial Reconsideration of Paxson Communications Corporation" was sent by first-class United States mail, postage prepaid, this 2nd day of June, 1998, to the following:

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