

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

In re)
)
PMCM TV, LLC)
)
Request to Utilize Virtual Major Channel)
Number 3 in the Operation of)
Station WJLP(TV), Middletown)
Township, New Jersey)
Facility Identification No. 86537)

MB Docket No. 14-150 **Accepted / Filed**

SEP 11 2015

Federal Communications Commission
Office of the Secretary

TO: Marlene H. Dortch, Secretary

For transmission to: The Commission

SUPPLEMENT TO APPLICATION FOR REVIEW

PMCM TV, LLC ("PMCM"), licensee of Station WJLP(TV), Middletown Township, New Jersey, hereby supplements its Application for Review in the above-captioned proceeding to include the attached copy of its Emergency Request for Relief, being filed concurrently herewith. To the extent deemed necessary, PMCM seeks leave to file this Supplement because it presents relevant information which was not previously available. As set forth in the attachment, the Emergency Request for Relief is being submitted to the Media Bureau as the information contained neither has been nor could have been previously submitted to the Bureau.

Respectfully submitted,

PMCM TV, LLC

By: *Anne Goodwin Crump*
Donald J. Evans
Harry F. Cole
Anne Goodwin Crump

Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street – 11th Floor
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September 11, 2015

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TO: Marlene H. Dortch, Secretary

For transmission to: William Lake, Chief¹
Media Bureau

EMERGENCY REQUEST FOR RELIEF

1. PMCM TV, LLC ("PMCM"), licensee of Station WJLP(TV), Middletown Township, New Jersey, hereby requests emergency relief necessary to prevent continued audience confusion arising from the designation of virtual major channel number 33 for Station WJLP(TV). As discussed below, that designation – imposed on PMCM by order of the Media Bureau – has apparently caused significant problems with over-the-air receivers in the New York

¹ The matter of WJLP(TV)'s virtual major channel number is currently pending before the full Commission through PMCM's Application for Review in MB Docket No. 14-150, filed July 6, 2015. The instant request is directed to the Media Bureau because it involves information which has not been – and, indeed, could not have been – previously presented to the Bureau. In view of the obvious relevance of that information to the questions pending before the Commission, however, copies of this request are being submitted to the Commission as a supplement to PMCM's Application for Review.

DMA. As a result, an indeterminate number of over-the-air viewers seeking to view either WCBS-TV or WJLP(TV) have been unable to do so.²

2. The denial of access to local programming is a quintessential matter of public interest which demands immediate corrective action. *See, e.g.*, Statement of FCC Chairman Tom Wheeler on Retransmission Dispute Between Dish Networks and Sinclair Broadcasting, released August 26, 2015. This is particularly so in this case, where the harm arises not from any voluntary conduct by a regulatee, but rather from a decision imposed on PMCM, over its objection, by the Media Bureau. That decision forced PMCM to abandon use of two-part virtual channel number 3.10, which it had used – without any reported problems – for nearly six months. In view of the problems which have arisen from WJLP(TV)'s use of virtual major channel 33 – and which (as detailed below) PMCM has confirmed through its own testing – PMCM requests that it be directed to recommence use of two-part virtual channel number 3.10.

Background

3. The matter of WJLP(TV)'s virtual major channel number has been pending for more than a year and need not be revisited here in any detail. To summarize the salient considerations, PMCM operated WJLP(TV) using virtual major channel number 3 (as part of the two-part virtual channel number 3.10) from the commencement of program test operation on September 29, 2014 until March 16, 2015. During that period PMCM received no reports from

² The precise number of viewers affected by the phenomenon described here cannot be reliably determined with any precision because of the nature of the phenomenon. Viewers wishing to view a particular channel but unable to receive that channel can be expected simply to look for another channel rather than pursue the matter. PMCM has received at least dozens of complaints from frustrated would-be viewers, so PMCM is confident that the problem is prevalent. And, given the broad range of receivers which produced the same unfortunate phenomenon when tested by PMCM, PMCM is confident that the potential number of affected viewers (or, rather, frustrated would-be viewers) is extremely high.

any viewers concerning receiver confusion resulting in the display of any other station when Channel 3 was selected by the viewer.

4. On March 16, 2015, at the direction of the Media Bureau, *see* Letter to Donald J. Evans *et al.* from Hossein Hashemzadeh, November 7, 2014, and following the lifting of a stay imposed by the U.S. Court of Appeals for the District of Columbia Circuit, PMCM changed its two-part virtual channel number to 33.1. Since that time PMCM has received numerous reports from viewers who, upon tuning their receivers to Channel 33 in order to watch WJLP(TV), found themselves viewing WCBS-TV. PMCM has also received reports that viewers who tune their receivers to Channel 3 receive WJLP, despite PMCM's use of virtual channel 33.1. By clicking on "2" to watch WCBS-TV, some viewers reportedly received no signal, while others received WCBS-TV.

5. To investigate these reports, PMCM conducted its own tests using a range of receivers purchased by PMCM and those installed at its studio facilities in Freehold, New Jersey. PMCM also tested additional receivers already in use in a number of viewers' homes in the market. The receivers in question were all manufactured since the DTV transition in 2009 and are thus presumably ATSC-compliant; a number were purchased off-the-shelf as recently as August, 2015. They include models from major manufacturers, such as Panasonic, JVC, Phillips, Sony, Hisense, LG and Samsung, ranging in size from 19" to 60". They include standard digital sets, later model "smart" sets, and at least two digital converter devices.

6. According to PMCM's Engineer, Jim McGowan, who conducted the testing, the majority of receivers tested produced the complained-of results. That is, when Channel 33 was selected through the receiver's remote, the receiver tuned to WCBS-TV (which broadcasts on RF channel 33). When Channel 3 was selected through the remote, the receiver tuned to

Station WJLP. When Channel 2 was selected, some sets received no signal, while others tuned to WCBS-TV.

7. In view of the channels involved, the problem appears to arise from the particular RF channels and virtual major channel numbers used by the two stations. The precise source of the problem – which was wholly unanticipated by PMCM and, we suspect, by the Commission as well – is unclear. It may arise from the design of certain receivers (or the electronic components installed in those receivers by their respective manufacturers) that, for some reason, do not perform as anticipated, at least insofar as ATSC A/65 is concerned. Whatever the cause of the problem, its adverse effects are clear.

WCBS-TV transmits its over-the-air signal on RF Channel 33, but utilizes virtual major channel number 2. WJLP(TV), by contrast, transmits its over-the-air signal on RF Channel 3, but (by direction of the Media Bureau) utilizes virtual major channel 33. It appears that the use of these particular channels by stations in such immediate proximity to one another is causing confusion in many receivers. That is, in many instances when a viewer, using his or her receiver's remote device, selects a channel that is used by the two nearby stations – (a) one as its over-the-air RF channel and (b) the other as its virtual major channel – the receiver tunes to the former rather than the latter, despite the PSIP protocol which would ordinarily direct the contrary result. Thus, even though the latter station would ordinarily be identified by viewers according to its virtual major channel, the viewer cannot access that station by that identifying channel number.

Because this phenomenon adversely affects CBS as well as PMCM by rendering their respective stations effectively invisible to many over-the-air viewers, PMCM contacted representatives at CBS to apprise them of the reports PMCM had received and the preliminary

results of PMCM's tests. In response, CBS has informally confirmed to PMCM that CBS, too, had received complaints from over-the-air viewers who were (a) unable to receive WCBS-TV on Channel 2 but (b) able to receive it when their receivers were tuned to Channel 33. This creates the very confusion and service disruption that the Bureau intended to avoid by assigning PSIP 33.1 to WJLP.

Discussion

8. From not only the anecdotal reports of dozens of viewers but also PMCM's own empirical testing, it is clear that some technical problem exists with PMCM's use of virtual major channel 33. As a result of that problem, an indeterminate – but likely very substantial – number of viewers in the New York market are apparently unable to receive WJLP by tuning to Channel 33 or WCBS-TV by tuning to Channel 2. Many potential WJLP viewers may simply believe that the station has gone off the air since there is no apparent mechanism for them to tune to the station on their set.

9. PMCM is not in a position to identify the precise source of the problem. In view of the wide range of commercially available receivers which, in direct testing by PMCM, produced the aberrant results, it is apparent that the problem is not isolated to one or two particular receiver makes or models. That suggests that the problem likely arises from the unorthodox requirement that WJLP(TV) utilize virtual major channel 33, a conclusion that is bolstered by the fact that, during nearly six months of operation using virtual major channel 3, no such problem was reported at all. By contrast, the problem cropped up in a viewer complaint within the first twenty-four hours of WJLP(TV)'s operation with virtual major channel 33, and the complaints have continued ever since.

10. Whatever may be the source of the problem, immediate correction of the problem is clearly a necessity. As matters currently stand, two stations in the New York market cannot now be received by a significant number of over-the-air viewers who tune their receivers to the respective channel supposedly designated for each of those stations. For those viewers, both stations have become effectively invisible.

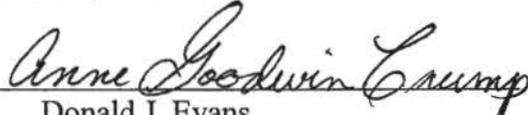
11. PMCM encourages the Commission to undertake its own investigation to confirm this phenomenon and to determine why this unfortunate invisibility is occurring. But in the meantime, PMCM urgently requests that the Commission afford both it and CBS immediate interim relief by directing PMCM to revert to operation utilizing two-part virtual channel 3.10 pending identification of, and appropriate corrective steps relative to, the source of the problem. Recent extended experience demonstrates that use of Channel 3.10 causes no similar receiver confusion: from September 29, 2014 to March 16, 2015, such use consistently resulted in the ready availability of both WJLP(TV) and WCBS-TV to their respective over-the-air audiences through the conventional channel designation process. Again, no reported problems with the reception of either station – or any other station, including WFSB, for that matter – were reported during that period. PMCM submits that use of two-part virtual channel number 3.10 for WJLP(TV) presents the most obvious and expeditious means of restoring these two stations to their respective over-the-air audiences.

12. Cloaking two television stations from a significant number of over-the-air viewers is plainly contrary to the public interest. The Commission should take immediate steps to correct that regrettable circumstance.

WHEREFORE, for the reasons stated, PMCM TV, LLC requests that it be permitted to utilize two-part virtual channel number 3.10 immediately.

Respectfully submitted,

PMCM TV, LLC

By: 

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Harry F. Cole

Anne Goodwin Crump

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1300 N. 17th Street – 11th Floor
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September 11, 2015



CH 2 Wilmington, Delaware / CH3 Middletown, New Jersey

Declaration

Jim McGowan, under penalty of perjury, hereby declares the following to be true and correct:

1. I am Chief Engineer for PMCM TV, LLC ("PMCM"), licensee of Station WJLP(TV), Middletown Township, New Jersey. I am preparing this Declaration for submission to the Federal Communications Commission in connection with PMCM's Emergency Request for Relief relative to interference which it is encountering with WCBS-TV, New York, New York.

2. By way of personal introduction, for 30 years I have worked with broadcast stations (radio and television) in the Information Technology field. My specialties include, but are not limited to, Network Management, LANS, WANS, FOS/Windows/Unix/Linux applications and operating systems, Voice over IP, Video over IP, TCP/IP design and implementation, VPNS, VLANS, Telephony systems, Wireless Networks, Video/Audio and Data Switching, Bridges, Routers and Firewalls, Video and Audio Encoders, Receivers, PSIP Systems, Network/ATSC/Analyzers and GPS/NTP Systems. I am a Microsoft Certified Systems Engineer. I have 15 years' experience in writing, testing and debugging applications in BASIC, ASSEMBLY, HTML & ASP, and also in designing and working with automation systems. I hold a New Jersey Department of Education Certification for Electronics and IT instruction.

3. Since mid-March, 2015, shortly after WJLP changed its two-part virtual channel number from 3.10 to 33.1, PMCM has received (and continues to receive) complaints from dozens of WJLP viewers. Complainants have advised PMCM that, while they had previously watched the station on Channel 3, they have since mid-March been unable to receive it by tuning their receivers to Channel 33. According to the complainants, when they tune their receivers to Channel 33 to watch WJLP, their receivers tune instead to WCBS-TV. As a result, affected viewers are given the impression that WJLP, operating as "Channel 33", does not exist. PMCM has also received reports that viewers who tune their receivers to Channel 3 receive WJLP, despite PMCM's use of virtual channel 33.1. By entering channel "2" on the receivers' remotes to watch WCBS-TV, some viewers reportedly received no signal, while others received WCBS-TV. This creates considerable confusion among would-be viewers of both WJLP and WCBS-TV.

PMCM TV, LLC.

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CH 2 Wilmington, Delaware / CH3 Middletown, New Jersey

4. Since the complaints began, I (along with other PMCM officials) have sought to identify the source of the problem. Having first confirmed that WJLP's transmission system is functioning properly and that WJLP's PSIP identifies the station with the two-part virtual channel number 33.1, we concluded that receiver error is the likely cause of the problem. To investigate that possibility, PMCM took the following steps:

- (a) PMCM purchased approximately 16 consumer-grade digital television receivers currently available in the retail marketplace. We connected the test receivers to a Winegard HD8200 L-VHF, H-VHF, UHF antenna at PMCM's Freehold, New Jersey studios pointed at New York to maximize reception of local signals in the New York City area. We also conducted similar tests at different field locations also in the New York City area using an antenna on a 30-foot high pole oriented to New York.
- (b) After setting up the receivers, we completed a full-channel scan, following the recommendations of each receiver's respective manufacturer.
- (c) We confirmed that each receiver was in fact receiving signals by selecting a number of channels known not to have a problem.
- (d) We then entered channel 33 on the TV remote of each receiver. In response, some receivers (which we dubbed "Working Sets") displayed WJLP on two-part virtual channel 33.1; by contrast, other receivers (dubbed "Non-Working Sets") displayed WCBS-TV (Channel 2.1)
- (e) We then directed each receiver to a random channel and then entered channel 3 on the remote. In response, some receivers (the "Working Sets") indicated that no signal was being received; others (the "Non-Working Sets") displayed WJLP.
- (f) We then again directed each receiver changed to a random channel and then entered channel 2 on the remote. In response, some receivers (the "Working Sets") displayed WCBS-TV; others (the "Non-Working Sets") indicated that no signal was being received.

5. In addition to acquiring and testing receivers, PMCM representatives tested receivers in a random selection of viewers' homes using the same protocol described in Paragraphs 4(b)-(f), above.

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CH 2 Wilmington, Delaware / CH3 Middletown, New Jersey

6. In all, PMCM tested a total of 41 receivers and digital converters encompassing 18 different models from a total of 16 different manufacturers. The receivers ranged in size from 19 to 60 inches; they included standard digital sets, “smart” TVs and digital converters, all manufactured between 2009 and 2015. Where possible, multiple samples of each model were tested.

7. Of the different receiver models tested, 11 of 18 were in the category which we dubbed “Non-Working Sets” – that is, when channel 33 was entered on their remotes, the sets tuned to WCBS-TV, and when channel 3 was entered, the sets tuned to WJLP. The “Non-Working Sets” identified in our testing were:

MANUFACTURER	MODEL NO.	DATE OF MANUFACTURE OR PURCHASE	LOCATION OF TEST
Panasonic	TC-32LX34	Manufactured May, 2011	PMCM Studio
Seki	SC371TS	Manufactured November, 2012	PMCM Studio
JVC	EM32TS	Purchased December 2013	PMCM Studio
Hisense	40K20D	Manufactured November 21, 2013	PMCM Studio
Phillips	32PFL5708/F7	Purchased August, 2015	PMCM Studio
Sony Bravia	KDL-32L5000	Manufactured March, 2009	Viewer’s Residence
Coby	LEDTV1926	N/A	Viewer’s Residence
Proscan	PLED1960A-E	N/A	Viewer’s Residence
Haier	H124xd2	N/A	Viewer’s Residence
Zenith Digital Converter	DTT901	Manufactured 2009	Viewer’s Residence
NHENS Digital Inc. Digital Stream	DTX9950	N/A	Viewer’s Residence

PMCM TV, LLC.

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CH 2 Wilmington, Delaware / CH3 Middletown, New Jersey

PMCM TV, licensee of WJLP TV, Middletown, NJ, has and continues to receive multiple viewer complaints following our DTV PSIP channel change from 3 to 33. We have received numerous complaints from former viewers who watched us on Channel 3.10 but have been unable to receive us on channel 33. Over the past few months we have diligently been working to find an answer as to why. We have now isolated a problem I expect will be found in millions TV sets currently sold in the USA over the past 6 years. I have personally tested a random sample of TVs and found that under a specific set of conditions better than half the models fail to operate in accordance with ATSC protocol, confusing viewers of both WCBS in New York and WJLP, and in the process seriously harming WJLP's ability to reach its intended audience.

I received no inquires or notices of any receiver problems or viewer confusion as noted above during the nearly 6 months of WJLP's operation on PSIP channel 3.10.

Jim McGowan

A handwritten signature in cursive script that reads "Jim McGowan".

September 10, 2015

Chief Engineer for PMCM TV, LLC

PMCM TV, LLC.

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CERTIFICATE OF SERVICE

I, Anne Goodwin Crump, hereby certify that on this 11th day of September, 2015, do hereby certify that a true and correct copy of the foregoing "Supplement to Application for Review" was served by first-class U.S. mail, postage-prepaid, and/or, as noted below, sent by electronic mail to the following:

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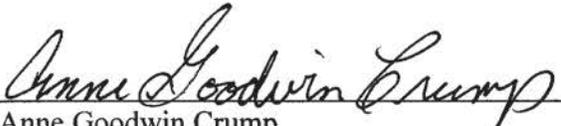
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* Via Hand-Delivery