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January 24, 2012

## **BY HAND FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A325  
Washington, DC 20554

FILED/ACCEPTED

JAN 24 2012

Federal Communications Commission  
Office of the Secretary

Attn: Chief, Media Bureau

**Re: Requested Ex Parte Communication  
Amendment of § 73.622(i), Post-Transition Table of DTV  
Allotments, Television Broadcast Stations (Augusta, Georgia),  
MB Docket No. 11-54 and RM-11624**

Dear Ms. Dortch:

On September 21, 2011, WFXG License Subsidiary, LLC (“WFXG Licensee”) filed a letter in this allotment proceeding to reflect the consummation of the sale of WFXG(DT), Augusta, Georgia (“WFXG” or the “Station”), from Southeastern Media Holdings, Inc. (“Southeastern”) to WFXG Licensee, and to express the new licensee’s continued support for the FCC’s proposed reallocation of Channel 51. By e-mail of December 16, 2011, Media Bureau staff requested that WFXG Licensee, as the new licensee of the Station, update the record regarding its continued interest in the substitution of Channel 51 for Channel 31. As described in more detail below, WFXG Licensee supports the reallocation of Channel 51, as proposed in the NPRM.<sup>1</sup>

First, legislation is now pending in Congress that addresses the proposal made in the National Broadband Plan to repack the television broadcast spectrum in order to reallocate a

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<sup>1</sup> See Notice of Proposed Rulemaking, *Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations (Augusta, Georgia)*, 26 FCC Rcd 3870 (Video Division Mar. 16, 2011) (“NPRM”).

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major portion of such spectrum for wireless broadband use. If WFXG constructs a new facility on Channel 31, there is a real risk that it will be required to build yet another facility on another channel, within the next few years. It would not be in the public interest for WFXG to embark on an effort to construct a new facility on Channel 31 when a broad-scale repacking of the entire television band appears likely and when such a repacking could require the Station to construct *another* facility on another channel.<sup>2</sup>

Second, the Station believes that the public would be better served with the Station's financial resources focused on its operations and investments in programming, including WFXG's local news programming. Construction of a new station on Channel 31 would impose a substantial financial burden on the Station, at a cost of approximately \$1.5 to \$2 million.<sup>3</sup> As a third-ranked station in a very small market (the 111th-ranked Augusta, GA-Aiken, SC DMA), WFXG could not finance such an extraordinary capital expenditure from its operations. Further, as a result of the change in ownership, the Station is subject to the major outstanding debt necessary to fund the purchase of the Station from Southeastern. To finance a new facility on Channel 31, the Licensee would have to seek additional funding from what remains a very tight credit market.<sup>4</sup> Rather than diverting the Station's limited resources for a further digital conversion, WFXG Licensee believes that the Station's resources would be better deployed to facilitate the new owner's priority focus — enhancing local news and other programming.<sup>5</sup>

Third, WFXG has operated on Channel 51 since it first began its digital operations. Southeastern originally filed a request to move the Station's allotment from Channel 51 to Channel 31, but ultimately reconsidered that request and filed the pending request (which the FCC has proposed to grant) to remain on Channel 51. Having reviewed the Station's

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<sup>2</sup> Moreover, at this stage, it is not certain that broadcasters will be reimbursed for the expenses incurred during a repacking process, nor is it certain that the size of a reimbursement fund will be sufficient to reimburse all expenses.

<sup>3</sup> The estimate of \$1.5 to \$2 million includes the cost of a new antenna and transmission line as well as the cost of constructing a new tower. The Station's current tower cannot support two antennas and two transmission lines. Thus, construction of two free-standing facilities would be necessary in order to avoid a loss of service during a switch from Channel 51 to Channel 31.

<sup>4</sup> In addition, the pending legislation on repacking likely will raise questions in the minds of potential lenders, who reasonably may ask why they should help to finance the construction of a Channel 31 facility that might operate for only a few years.

<sup>5</sup> Since the acquisition from Southeastern, WFXG Licensee has made major investments in the Station's news operations, adding a newsroom, purchasing HD equipment, hiring six news personnel, and adding a half-hour to the 10 p.m. nightly news. The Station intends to expand its news programming to other dayparts in the future.

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technical operating experience (and experience with wireless operations adjacent to Channel 51) following the digital transition, WFXG Licensee believes that the service provided on Channel 51 is adequate. Remaining on Channel 51 would avoid a disruptive and potentially confusing channel-change and would promote efficiency.

The FCC has proposed to allow WFXG to remain on Channel 51. As noted in the NPRM in this proceeding,<sup>6</sup> and under the standard generally applied in allotment rulemaking proceedings, the proposed reallocation of Channel 51 is consistent with applicable rules and policies.<sup>7</sup> No viewer will lose existing service, because WFXG proposes to maintain the *status quo*. For the reasons described above, WFXG also believes that it would be more efficient and would better serve the public interest to allow the Station to continue operating on Channel 51.<sup>8</sup>

Respectfully submitted,



William H. Fitz  
Eve R. Pogoriler  
*Counsel to WFXG License  
Subsidiary, LLC*

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<sup>6</sup> See Notice of Proposed Rulemaking, *Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations (Augusta, Georgia)*, 26 FCC Rcd 3870 (Video Division Mar. 16, 2011) (“NPRM”).

<sup>7</sup> In such proceedings, the FCC generally summarizes the petitioner’s reasons for the request and simply notes that the proposal complies with the principal community coverage requirement and other technical requirements. See, e.g., Notices of Proposed Rulemaking for Montgomery, Alabama, 26 FCC Rcd 11357 (2011); Panama City, Florida, 26 FCC Rcd 11351 (2011); and El Paso, Texas, 26 FCC Rcd 6206 (2011).

<sup>8</sup> The Station notes that the FCC sought public comment on the petition for rulemaking and request for licensing freeze relating to the use of Channel 51 on March 28, 2011 — *after* WFXG had filed its petition seeking reallocation of Channel 51 and *after* the FCC had released the NPRM proposing to allow WFXG to remain on Channel 51. Further, A Block bidders were fully aware of the need to protect Channel 51 operations generally, and WFXG’s Channel 51 allotment specifically. See Southeastern’s Reply Comments in this proceeding (May 19, 2011), at 3-4 (citing Commission statements on the need for protection of Channel 51 and noting that Southeastern’s proposed request to change WFXG’s allotment from Channel 51 to Channel 31 occurred several months after the A block auction).

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cc: Barbara Kreisman, Joyce Bernstein, and Shaun Maher (by e-mail)

by first class U.S. mail and e-mail:

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**DECLARATION**

I, Barry Barth, do hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. I am the Vice President of WFXG License Subsidiary, LLC and the General Manager of WFXG-TV, Augusta, Georgia.

2. I have reviewed the foregoing "Requested Ex Parte Communication." The facts stated therein, of which the FCC may not take official notice, are true and correct to the best of my knowledge, information and belief.

Executed on this 24<sup>th</sup> day of January, 2012.

A handwritten signature in cursive script, appearing to read "B.C. Barth", written over a horizontal line.

Barry Barth