

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Media General Communications Holdings, Inc. )  
WNCT-TV, Greenville, North Carolina )  
Facility Identification No. 57838 ) CSR: \_\_\_\_\_  
 )  
Petition for Waiver of Sections 76.92(f) and )  
76.106(a) of the Commission's Rules )

To: Office of the Secretary  
Attn: Chief, Media Bureau

**PETITION FOR SPECIAL RELIEF**

Pursuant to 47 C.F.R. § 76.7(a)(1), Media General Communications Holdings, LLC. (“Media General”), licensee of WNCT-TV, Greenville, North Carolina, respectfully requests waivers of the “significantly viewed” exceptions to the network non-duplication rule and the syndicated exclusivity rule with respect to WRAL-TV, Raleigh, North Carolina, in Greenville and Kinston, North Carolina (collectively, the “Communities”).

Without a waiver, WNCT-TV cannot realize the benefits of its exclusive programming rights on the cable television systems in the Communities. As a result, the broadcast programming rights that WNCT-TV bargained for in its affiliation agreement with the CBS Network are being ignored in favor of the programming broadcast by WRAL-TV. WRAL-TV, however, broadcasts from a tower site located approximately 60 miles from the Communities. Not surprisingly, the community-specific viewing survey Nielsen conducted confirms conclusively that WRAL-TV lacks the requisite over-the-air viewership in the Communities to be considered significantly viewed. In fact, Nielsen’s survey data demonstrates that WRAL-TV did not have *any* over-the-air viewership in the Communities. The Commission, therefore,

should grant this Petition and waive the “significantly viewed” exceptions to the program exclusivity rules with respect to WRAL-TV in the Communities. Doing so will allow WNCT-TV to benefit from the exclusivity rights for which it bargained.

### **Background**

Each of the Communities is located within the protected “geographic zone” for WNCT-TV provided by the Commission’s rules and Media General’s network affiliation and syndicated programming agreements, and neither of the Communities is located within the protected “geographic zone” of WRAL-TV.<sup>1</sup> Therefore, the Commission’s network non-duplication rule ordinarily would permit Media General to require that local cable systems delete the duplicating network programming of WRAL-TV in the Communities.<sup>2</sup>

Under the “significantly viewed” exception to that rule, however, a cable system is not required to delete the duplicate programming of distant stations that are deemed to be “significantly viewed” in the community at issue.<sup>3</sup> In this case, the Commission’s current list of “significantly viewed” stations identifies WRAL-TV as “significantly viewed” in Pitt and Lenoir Counties, where Greenville and Kinston, respectively, are located.<sup>4</sup> Accordingly, absent the waivers requested herein, a cable operator need not delete the duplicate programming of WRAL-TV in the Communities.<sup>5</sup>

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<sup>1</sup> The geographic zone for WRAL-TV is 35 miles from each of Raleigh, Durham, Goldsboro, and Fayetteville, North Carolina, but with respect to WRAL-TV’s CBS network programming, the geographic zone cannot exceed the boundaries of the Raleigh-Durham (Fayetteville) designated market area because the CBS Television Network does not grant its affiliates network exclusivity rights within the designated market area for another CBS Network affiliate. See §76.92 note 1 (defining the geographic zone as the area agreed upon with the station’s network but not to exceed the limits in Section 73.658(m) of the Commission’s rules). The geographic zone for WNCT-TV is 35 miles from each of Greenville, Washington, and New Bern, North Carolina.

<sup>2</sup> 47 C.F.R. §§ 76.92. See also § 76.106(a) (creating a similar significantly viewed exception for syndicated programming exclusivity).

<sup>3</sup> See *Id.* §§ 76.92(f). See also § 76.106(a).

<sup>4</sup> See Federal Communications Commission, *Significantly Viewed List* (Dec. 13, 2013), available at <http://www.fcc.gov/mb/significantviewedstations121913.pdf>.

<sup>5</sup> 47 C.F.R. § 76.92(f), § 76.106.

For decades, the Commission has adopted procedures for waiving the significantly viewed exception based on studies conducted by an independent, professional audience survey organization.<sup>6</sup> To obtain a waiver, a petitioner must demonstrate, “utilizing community- or system-specific data, to one standard error, . . . that the station in question has not met [the FCC’s] standards for significant viewing for two consecutive years.”<sup>7</sup> To be presumed “significantly viewed” in a community, WRAL-TV must achieve *both* “a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent” in non-cable, non-DBS homes in that community.<sup>8</sup>

### **Waiver Showing**

Media General commissioned Nielsen Media Research to prepare a study of representative community-specific audience surveys of WRAL-TV’s over-the-air viewing in each of the Communities. As documented in the attached Exhibit A, Nielsen used the same methodology that the Bureau has accepted in countless similar petitions. Nielsen prepared a special tabulation of Nielsen data gathered over two four-week sweeps periods in each of two consecutive years from non-cable and non-ADS households in February and November of 2012 and 2013.<sup>9</sup> Media General notified interested parties of its intent to purchase data from Nielsen,<sup>10</sup> and received no responses.

Nielsen compiled data based on the Nielsen Station Index survey conducted over four-week periods during February and November 2012 and February and November 2013 based on

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<sup>6</sup> See *KCST-TV, Inc.*, 103 FCC 2d 407, 413 (1986).

<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 76.5(i). WRAL-TV is considered a “full network station” under the FCC’s Rules. See § 76.5(j).

<sup>9</sup> See 47 C.F.R. § 76.54(b); see also, e.g., *WTNH Broadcasting, Inc.*, 16 FCC Red 16377 (2001).

<sup>10</sup> See 47 C.F.R. § 76.54(c) (2011); *Meredith Corporation Petition For Waiver of Section 76.92(f) of the Commission’s Rules*, 22 FCC Red 12932, 12935 (2007).

the residential zip codes assigned to each of the Communities.<sup>11</sup> Not surprisingly, given distance between the Communities and WRAL-TV's transmitter site, the Nielsen studies conclusively confirm that WRAL-TV has not met the FCC's standards for significant viewing for two consecutive years. In each of the Communities, WRAL-TV recorded absolutely no over-the-air viewership in any of the eight survey periods in 2012 and 2013. Specifically, the station's average net weekly circulation (cume) and average share of viewing hours during the survey periods were as follows:

### Greenville

Survey Period	Households Studied	Average Net Weekly Circulation	Standard Error	Average Share Viewing Hours	Standard Error
Feb. 2012	6	0.00	0.00	0.00	0.00
Nov. 2012	4	0.00	0.00	0.00	0.00
Feb. 2013	5	0.00	0.00	0.00	0.00
Nov. 2013	8	0.00	0.00	0.00	0.00

### Kinston

Survey Period	Households Studied	Average Net Weekly Circulation	Standard Error	Average Share Viewing Hours	Standard Error
Feb. 2012	3	0.00	0.00	0.00	0.00
Nov. 2012	9	0.00	0.00	0.00	0.00
Feb. 2013	6	0.00	0.00	0.00	0.00
Nov. 2013	3	0.00	0.00	0.00	0.00

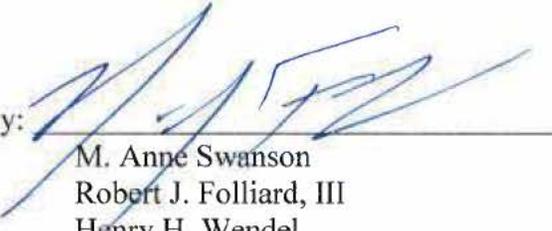
<sup>11</sup> Specifically, Nielsen provided survey data for the following zip codes for Greenville: 27833, 27834, 27835, 27836, and 27858. For Kinston, Nielsen provided data for the following zip codes: 28501, 28502, 28503, 28504.

### **Conclusion**

The Nielsen studies confirm the obvious: WRAL-TV's distant broadcast signal failed to meet the required viewing standard in both 2012 and 2013. Therefore, Media General has met its burden to obtain the requested waivers and respectfully requests waivers of the significantly viewed exceptions with respect to WRAL-TV in Greenville and Kinston, North Carolina.

Respectfully submitted,

MEDIA GENERAL COMMUNICATIONS HOLDINGS,  
LLC.

By: 

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August 13, 2014

## EXHIBIT A



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for WRAL during the Nielsen Station Index (NSI) survey conducted over four week periods during the February 2012, November 2012, February 2013 and November 2013 measurement periods. The report is based on series of Zip code groups. Households will maintain the reported Nielsen Viewers in Profile (VIP) weights used to project in-tab sample households to universe estimates for their respective measurement periods. This study measures non-cable/non-ADS household viewing between 7AM-1AM, Monday to Sunday.

The sample source for this survey consisted of non-cable/non-ADS TV households returning usable television viewing diaries. NSI procedures were used for distributing diaries and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen Viewers in Profile analysis. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:

The average weekly circulation (cume) is an average of the four weeks of the measurement period. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w * Qhrs(s))}{\sum_1^n (w * Qhrs(t))}$$

Share Standard Error



$$\text{Std Error} = \sqrt{\frac{n}{n-1} * \sum_1^n \left[ \frac{(w * Qhrs(s)) - (\text{Share} * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where  $n$  = number of intab households

where  $w$  = household weight

where  $Qhrs(s)$  = total quarter hours tuned to station of interest by household

where  $Qhrs(t)$  = total quarter hours tuned by household

#### Average Weekly Cume

$$\text{Average Weekly Cume} = \frac{1}{z} * \sum_1^z \left[ \frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}} \right]$$

#### Average Weekly Cume Standard Error

$$\text{Std Error} = \sqrt{\frac{1}{z^2} \sum_1^z \left[ \frac{n}{n-1} * \sum_1^n \left[ \frac{(x - \text{Week Cume}) * HH \text{ Weight}}{\sum_1^n HH \text{ Weight}} \right]^2 \right]}$$

where  $z$  = number of weeks in analysis (with non-zero intabs)

where  $n$  = number of intab households in week

where  $x = 0$  if household did not tune station of interest

where  $x = 1$  if household did tune station of interest

The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.



Significant Viewing Study  
Greenville-New Bern  
Feb12, Nov12, Feb13 & Nov13  
Su-Sa 7A-1A  
WRAL

WRAL

Geography Grouping	Results	Feb12	Nov12	Feb13	Nov13
27833, 27834, 27835, 27836, 27858	Number of Intabs	6	4	5	8
	Average Weekly Cume	0.00	0.00	0.00	0.00
	Cume Std. Error	0.00	0.00	0.00	0.00
	Share	0.00	0.00	0.00	0.00
	Share Std. Error	0.00	0.00	0.00	0.00

Geography Grouping	Results	Feb12	Nov12	Feb13	Nov13
28501, 28502, 28503, 28504	Number of Intabs	3	9	6	3
	Average Weekly Cume	0.00	0.00	0.00	0.00
	Cume Std. Error	0.00	0.00	0.00	0.00
	Share	0.00	0.00	0.00	0.00
	Share Std. Error	0.00	0.00	0.00	0.00

## CERTIFICATE OF SERVICE

I, Rayya Khalaf, a secretary at Cooley LLP, certify that on this 13th day of August 2014, I caused the foregoing Petition for Special Relief to be served by first-class mail, except where email delivery is indicated (\*), on the following:

Steven A. Broeckaert\*  
Senior Dep. Chief, Policy Division  
Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

ION Media License Company, LLC  
601 Clearwater Park Road  
West Palm Beach, FL 33401

WLFL Licensee, LLC  
c/o Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037

ION Media Raleigh License, Inc.  
601 Clearwater Park Road  
West Palm Beach, FL 33401

Capitol Broadcasting Company, Inc.  
2619 Western Boulevard  
Raleigh, NC 27606

WTVD Television, LLC  
77 West 66<sup>th</sup> Street, 16<sup>th</sup> Floor  
New York, NY 10023

Radiant Life Ministries  
11717 Route 37  
Marion, IL 62959

University of North Carolina  
10 TW Alexander Drive  
Research Triangle Park, NC 27709

Radiant Life Ministries  
4909 Expressway Drive, Suite E  
Wilson, NC 27893

WUVC Television, LLC  
5999 Center Drive, Suite 4083  
Los Angeles, CA 90045

WRAX-TV, Inc.  
2619 Western Boulevard  
Raleigh, NC 27606

ION Media Greenville License, Inc.  
601 Clearwater Park Road  
West Palm Beach, FL 33401

Raleigh (WRDC-TV) Licensee, Inc.  
c/o Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037

North Carolina License Holdings  
The Empire State Building  
350 Fifth Avenue, Suite 5340  
New York, NY 10018

Esteem Broadcasting of North Carolina LLC  
13865 East Elliot Drive  
Marshall, IL 62441

North Carolina Department of the  
Secretary of State  
2 South Salisbury Street  
Raleigh, NC 27601

Gray Television Licensee, LLC  
4370 Peachtree Road  
Atlanta, GA 30319

ION Media Jacksonville License, Inc.  
601 Clearwater Park Road  
West Palm Beach, FL 33401

Time Warner Cable Southeast LLC  
13820 Sunrise Valley Drive  
Herndon, VA 20171

Cebridge Acquisition, L.P.  
520 Maryville Centre Drive, Suite 300  
St. Louis, MO 63141

  
Rayya Khalaf

# Agency Tracking ID:PGC2550419 Authorization Number:042256

## Successful Authorization -- Date Paid: 8/13/14 FILE COPY ONLY!!

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<b>SECTION A - Payer Information</b>		
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) <b>Susan E Anderson</b>		(3) TOTAL AMOUNT PAID (dollars and cents) <b>\$1465.00</b>
(4) STREET ADDRESS LINE NO. 1 <b>Cooley LLP</b>		
(5) STREET ADDRESS LINE NO. 2 <b>1299 Pennsylvania Avenue, NW, Suite 700</b>		
(6) CITY <b>Washington</b>		(7) STATE <b>DC</b>
		(8) ZIP CODE <b>20004</b>
(9) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>202-7762588</b>		(10) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(11) PAYER (FRN) <b>0015798168</b>		(12) FCC USE ONLY
<b>IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)</b>		
(13) APPLICANT NAME <b>Media General Communications Holdings, LLC</b>		
(14) STREET ADDRESS LINE NO. 1 <b>333 East Franklin Street</b>		
(15) STREET ADDRESS LINE NO. 2		
(16) CITY <b>Richmond</b>		(17) STATE <b>VA</b>
		(18) ZIP CODE <b>23219-2213</b>
(19) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE) <b>804-8875000</b>		(20) COUNTRY CODE (IF NOT IN U.S.A.) <b>US</b>
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(21) APPLICANT (FRN) <b>0015751217</b>		(22) FCC USE ONLY
<b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>		
(23A) FCC Call Sign/Other ID <b>WNCT-TV</b>	(24A) Payment Type Code(PTC) <b>TQC</b>	(25A) Quantity <b>1</b>
(26A) Fee Due for (PTC) <b>\$1,465.00</b>	(27A) Total Fee <b>\$1465.00</b>	FCC Use Only
(28A) FCC CODE 1 <b>Greenville,NC</b>	(29A) FCC CODE 2 <b>Kinston,NC</b>	

8/13/2014

FCC:Success:Form 159 - PRINTABLE VERSION

(23B) FCC Call Sign/Other ID	(24B) Payment Type Code(PTC)	(25B) Quantity
(26B) Fee Due for (PTC)	(27B) Total Fee	FCC Use Only
(28B) FCC CODE 1	(29B) FCC CODE 2	