



Federal Communications Commission
Washington, D.C. 20554

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(Service via Email)

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Re: PMCM TV, LLC
WJLP-TV, Middletown Township, NJ
File Nos. BPCDT-20130528AJP and
0000001037
Facility ID No. 86537
Docket No. 14-150

Counsel:

PMCM TV, LLC (PMCM), the permittee of station WJLP-TV (formerly KVNV(TV)), RF channel 3, Middletown Township, New Jersey, is presently operating pursuant to program test authority.¹ For the reasons discussed below, we are suspending program test authority effective 12:00 pm, EST, November 10, 2014.

By letter released October 23, 2014 (October 23 Letter), the Video Division assigned station WJLP-TV virtual channel 33 for use on an interim basis while the Media Bureau sought comment on (1) a request for a Declaratory Ruling by Meredith Corporation (Meredith), the licensee of WFSB(TV), RF channel 33, virtual channel 3, Hartford, Connecticut, that WJLP-TV be assigned virtual channel 33 and (2) an "Alternative PSIP Proposal" by PMCM requesting that WJLP-TV be assigned a two-part virtual PSIP channel 3.10 (with any additional streams eventually transmitted as 3.11, 3.12, etc.), while

¹ By letter dated September 29, 2014, PMCM, through its counsel, notified the Commission that it had completed construction of the above-referenced facilities and was commencing equipment tests as of that date.

WFSB(TV) would retain virtual channels 3.1 through 3.9.² The Division assigned WJLP-TV virtual channel 33 on an interim basis after being informed by Meredith, ION Media License Company (ION)³ and CBS Broadcasting Inc. (CBS)⁴ (collectively the Joint Parties) that as of September 30, 2014, PMCM “has commenced program-length commercial programming and network (ME-TV) programming identifying itself as ‘Channel 3’ and using virtual channel 3.10, which it can only use if it obtains a waiver that the Commission has never issued.”⁵ In so doing, the Division acknowledged that PMCM has raised a number of arguments why it should not be required to use virtual channel 33, and the Division emphasized that the interim assignment of virtual channel 33 for use by WJLP-TV was without prejudice to consideration of these pending arguments and PMCM’s “Alternative PSIP Proposal” to use virtual channel 3.10, which would occur after the pleading cycle has closed on that proposal and Meredith’s request for declaratory ruling.⁶ By letter dated November 4, 2014, the Joint Parties notified the Commission that WJLP-TV continues to operate on virtual channel 3.10, in violation of the Commission’s rules and the Division’s October 23 Letter. The Joint Parties submitted a photograph of the WJLP-TV programming aired on November 4 at 10:32 am, showing that the station was operating with virtual channel 3.10. The New York Field Office of the Enforcement Bureau has confirmed that WJLP-TV was still operating with virtual channel 3.10 as of 9:09 am, November 7.

Upon completion of construction of a facility authorized in its construction permit, a permittee may operate the facility pursuant to program test authority, provided that an application for a license to cover is filed within 10 days, and program test authority is automatically terminated by final determination upon the license application.⁷ The granting of program test authority, however, should not be construed as approval of the license application,⁸ and the Commission “reserves the right to revoke,

² Letter from Hossein Hashemzadeh, Deputy Chief, Video Division, Media Bureau to Donald J. Evans, Esq., DA 14-1528 (rel. Oct. 23, 2014), available at http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=53948. Comments and reply comments were due by October 14 and October 29, 2014. See *Media Bureau Seeks Comment on Request for Declaratory Ruling by Meredith Corporation and “Alternative PSIP Proposal” by PMCM TV, LLC for KVNV(TV), Middletown Township, New Jersey*, Public Notice, MB Docket No. 14-150 (rel. Sept. 12, 2014).

³ ION is the licensee of station WPXN-TV, New York, New York, which is carried on channel 3 on Cablevision cable systems in the New York DMA.

⁴ CBS is the licensee of KYW-TV, RF channel 26, virtual channel 3, Philadelphia, Pennsylvania, and has contour overlap with WJLP-TV.

⁵ The Joint Parties further requested that the Media Bureau “immediately notify [PMCM] that any further equipment or program tests initiated by [WJLP-TV] . . . must use virtual channel 33 pending final action by the Commission in [MB Docket No. 14-150].”

⁶ Section 73.682(d) of the Commission’s rules requires digital broadcast television signals to comply with ATSC A/65C (“ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006”) (“PSIP Standard”). 47 C.F.R. § 73.682(d) (incorporated by reference, see § 73.8000). As explained in the Division’s October 23 letter, the PSIP Standard does not provide for or require the sharing of virtual channels by licensees with overlapping contours that are not commonly owned, and that because the Division had not yet ruled on PMCM “Alternative PSIP Proposal,” PMCM currently had no inherent right to use virtual channel 3 where it was already used by WFSB(TV) and KWKY-TV. Annex B, Section 1.4 of the PSIP Standard would assign WJLP-TV, as a newly licensed station, virtual channel 33, which is WFSB(TV)’s RF channel, and the Division further explained that its assignment of virtual channel 33 on an interim basis was consistent with its previous interpretation of the PSIP Standard in a similar case. See October 23 Letter at 3.

⁷ 47 C.F.R. § 73.1620(a)(1), (c).

⁸ 47 C.F.R. § 73.1620(e).

suspend, or modify program tests by any station without right of hearing for failure to comply adequately with all terms of the construction permit . . .”⁹

Because station WJLP-TV is operating in a manner inconsistent with the Division’s October 23 Letter directing the station to use virtual channel 33 on an interim basis, WE HEREBY SUSPEND PROGRAM TEST AUTHORITY for the operation of WJLP-TV, Middletown Township, New Jersey, effective 12:00 pm, EST, November 10, 2014. Continued operation of the station after 12:00 pm, EST, November 10, 2014, and prior to issuance of a letter by the Division reinstating program test authority, will be considered an unauthorized operation of the station and will result in the institution of a forfeiture or other proceeding to enforce compliance. The Division may issue a letter reinstating program test authority upon notification, supported by the declaration, under penalty of perjury, of one of PMCM TV LLC’s principals, that it will operate WJLP-TV using virtual channel 33 on an interim basis, as specified in the Division’s October 23 Letter. Any notification should be filed with the Office of the Secretary and an electronic copy also should be sent to Hossein.Hashemzadeh@fcc.gov, Joyce.Bernstein@fcc.gov and Kevin.Harding@fcc.gov.

Sincerely,



Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

cc: Tara M. Corvo, Esq.
Frederick W. Giroux, Esq.
Seth A. Davidson, Esq.
William LeBeau, Esq.
Stephen Maguire/District Director/NY Field Office

⁹ 47 C.F.R. § 73.1620(b). The rule further provides that “All operation under program test authority shall be in strict compliance with the rules governing broadcast stations . . .” *Id.* at (d).