



Federal Communications Commission
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Re: File Nos. BTCCDT-20131220GUG et al.

Dear Counsel:

As set forth in greater detail below, we grant the above-captioned applications¹ for transfer of control of television licenses from Hoak Media, LLC (“Hoak”) to Gray Television Group, Inc. (“Gray”). We also grant Gray authority to continue operating (i) KPRY-TV, Pierre, South Dakota, and KABY-TV, Aberdeen, South Dakota, as satellite stations of KSFY-TV in the Sioux Falls, South Dakota Nielsen Designated Market Area (“DMA”) and (ii) KQCD-TV, Dickinson, North Dakota, KMOT, Minot, North Dakota, and KUMV-TV, Williston, North Dakota, as satellite stations of KFYZ-TV in the Minot-Bismarck-Dickinson, North Dakota DMA, pursuant to Note 5 of Section 73.3555 of the Commission’s rules.² Each of the stations has operated as a satellite for most, if not all, of its history.³

Continuing Satellite Waivers. In *Television Satellite Stations*,⁴ the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part “presumptive” satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is

¹ A complete list of the stations included in the application is included as Exhibit A.

² 47 C.F.R. § 73.3555, Note 5.

³ File No. BTCCDT-20131220GUG, Request for Continuation of Satellite Waiver (“Satellite Waiver Request”) (citing *Hoak Media of Dakota License, LLC*, Letter Decision, 21 FCC Rcd 13435 (Vid. Div. 2006) (granting satellite waiver for KMOT(TV), KQCD-TV, and KUMV-TV); *Hoak Media of Dakota License, LLC*, Letter Decision, 21 FCC Rcd 13438 (Vid. Div. 2006) (granting satellite waiver for KABY-TV and KPRY-TV)).

⁴ *Television Satellite Stations Review of Policy and Rules*, Report and Order, 6 FCC Rcd 4212, 4215 (1991).

ready and able to construct or to purchase and operate the satellite as a full-service station.⁵ If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis and grant the application if there are compelling circumstances that warrant approval.⁶

Sioux Falls Market. With regard to the first criterion, we note that, following the digital transition, full-power television stations have a digital Principal Community contour that serves a much larger area than their former analog City Grade contour. Thus, as we stated previously, the Principal Community contour is not an equivalent standard to use in determining whether a proposed satellite qualifies for the presumptive satellite exemption to the duopoly rule.⁷ Here, neither the digital principal community contours nor the historic analog City Grade contours for the stations overlap.⁸

Regarding the second criterion, Gray relies on the Commission's "transmission" test to demonstrate that it provides service to an underserved area. That test deems an area underserved if there are two or fewer full-power television stations (including commercial, noncommercial, and satellite stations) licensed to the proposed satellite's community of license. Here, KABY-TV and KDSD-TV are Aberdeen's only local television stations and KPRY-TV and KTSD-TV are Pierre's only local television stations.⁹

Under the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station.¹⁰ Gray cites previous Commission cases authorizing the operation of KABY-TV and KPRY-TV as satellites of KSFY-TV.¹¹ Those reviews showed that the satellite stations cover only a small population area in the market, and that neither of the satellite stations would be able to gain access to network or syndicated programming without operating as a satellite. All four major broadcast networks already have affiliates in the DMA, and each network affiliate operates with one or more satellite stations in the market.¹² Furthermore, the transferee notes that these stations have operated as satellites since 1993, and the Commission most recently granted continued satellite authority to these stations in 2006. Gray finally notes that during the process that resulted in the sale of the stations, no potential buyer expressed interest in KABY-TV or KPRY-TV as a standalone station.¹³

Although the instant request does not satisfy the Commission's presumptive satellite exemption standard, Gray has provided information sufficient to warrant continued satellite operation for KPRY-TV and KABY-TV under our *ad hoc* analysis. Given the stations' long history as satellites, the limited population of the DMA, and the fact that the other major network affiliates in the DMA also rely on satellites, it is unlikely that an alternative operator would be willing and able to operate the station as

⁵ *Id.* at 4213-14.

⁶ *Id.* at 4212.

⁷ *New Young Broadcasting Holding Company, Inc.*, Letter Decision, 25 FCC Rcd 7518, 7519 (Vid. Div. 2010).

⁸ Satellite Waiver Request, Exh. A.

⁹ *Id.* at 3.

¹⁰ *Television Satellite Stations Review of Policy and Rules*, 6 FCC Rcd at 4215.

¹¹ *Hoak Media of Dakota License, LLC*, Letter Decision 21 FCC Rcd 13438 (2006); *Kelso Partners IV, L.P.*, Memorandum Opinion and Order, 11 FCC Rcd 8764 (1996).

¹² *Hoak Media of Dakota License, LLC*, 21 FCC Rcd at 13439.

¹³ Satellite Waiver Request at 5.

stand-alone facility. Accordingly, we find that the continued operation of KABY-TV and KPRY-TV as satellites of KSFY-TV would serve the public interest.

Minot-Bismarck-Dickinson DMA. With regard to the first criterion, Gray notes that, prior to the digital transition, the stations' analog City Grade contours did not overlap, and no overlap exists among the current digital principal community contours of KFYZ-TV and the three satellite stations.¹⁴ Gray does not contend that it can satisfy the second criterion of the presumptive test.¹⁵

Under the third criterion, Gray cites previous Commission cases authorizing the operation of KMOT(TV), KQCD-TV, and KUMV-TV as satellites of KYFR-TV.¹⁶ Those reviews showed that the satellite stations cover only small population areas in the market, and none of the satellite stations would be able to gain access to network or syndicated programming without operating as a satellite. All four major broadcast networks already have affiliates in the DMA, and each network affiliate operates with one or more satellite stations in the market.¹⁷ These stations have operated as satellites since at least 1998, and the Commission most recently granted continued satellite authority to these stations in 2006. Gray finally notes that during the process that resulted in the sale of the stations, no potential buyer expressed interest in KMOT(TV), KQCD-TV, and KUMV-TV as standalone stations.¹⁸

Gray also contends that, absent continued satellite authority, a significant number of households would lose the over-the-air signal of the NBC affiliate in the DMA. Moreover, Gray contends that loss of the satellite stations would put KFYZ-TV at a major competitive disadvantage to compete for advertising revenue in the DMA, as all major network affiliates operate with at least one satellite station in the DMA.¹⁹

Although the instant request does not satisfy the Commission's presumptive satellite exemption standard, Gray has provided information sufficient to warrant continued satellite operation for KMOT(TV), KQCD-TV, and KUMV-TV under our *ad hoc* analysis. Given the stations' long history as satellites, the limited population of the DMA, and the fact that the other major network affiliates in the DMA also rely on satellites, it is unlikely that an alternative operator would be willing and able to operate the station as stand-alone facility.

Furthermore, having carefully reviewed the applications listed in Exhibit A, we find that the applicants are fully qualified and conclude that the grant of the applications would serve the public interest.

Current Renewals. It is Commission policy, in multi-station transactions, to grant transfer of control applications while renewal applications are pending as long as there are no basic qualification

¹⁴ Satellite Waiver Request, Exh. C.

¹⁵ In 2006, when the Commission last granted waivers to these stations to continue operating as satellites, Hoak Media of Dakota Licensee, LLC submitted an engineering statement in support of its contention that the "reception" test for the second criterion was satisfied. The Commission concluded that a continuing satellite waiver was appropriate. *Hoak Media of Dakota License, LLC*, 21 FCC Rcd at 13437. Gray provides no such support here, and therefore its argument must fail under the presumptive test. However, as we discuss further below, we conclude that continued satellite waiver authority is appropriate under the *ad hoc* test.

¹⁶ *Hoak Media of Dakota License, LLC*, 21 FCC Rcd at 13437; *Kelso Partners IV, L.P.*, Memorandum Opinion and Order, 11 FCC Rcd 8764 (1996).

¹⁷ *Id.*

¹⁸ Satellite Waiver Request, Exh. B.

¹⁹ *Id.* at 4.

issues pending against the transferor or transferee that could not be resolved in the context of the transfer proceeding, and the transferee explicitly assents to standing in the stead of the transferor in the pending renewal proceeding.²⁰ Some of the Hoak licensees have applications pending before the Commission for renewal of broadcast licenses.²¹ None of these renewals has petitions or other matters currently pending that present a basic character qualification issue. Gray has submitted a statement explicitly agreeing to stand in the stead of the transferor in any renewal application that is pending at the time of the consummation of the transfer.²² Therefore, we will apply the policy set out in *Shareholders of CBS* to those applications. We recognize that other stations to be transferred to Gray may need to file their renewal applications prior to closing. This situation is also encompassed by the precedent established by *Shareholders of CBS*.²³

ACCORDINGLY, IT IS ORDERED, That the applications for transfer of control of the licenses of the stations identified in Exhibit A, File Nos. BTCCDT-20131220GUG *et al.* ARE GRANTED. IT IS FURTHER ORDERED, That Gray's requests for continuing waivers to operate (i) KPRY-TV, Pierre, South Dakota, and KABY-TV, Aberdeen, South Dakota, as satellite stations of KSFY-TV and (ii) KQCD-TV, Dickinson, North Dakota, KMOT, Minot, North Dakota, and KUMV-TV, Williston, North Dakota, as satellite stations of KFYZ-TV, pursuant to 47 C.F.R. § 73.3555, Note 5, ARE GRANTED.

Sincerely,

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

²⁰ *Shareholders of CBS Corporation*, Memorandum Opinion and Order, 16 FCC Rcd 16072, 16072-73 (2001).

²¹ Stations KFYZ-TV, Bismarck, North Dakota; KUMV-TV, Williston, North Dakota; KSFY-TV, Sioux Falls, South Dakota; KPRY-TV, Pierre, South Dakota; KABY-TV, Aberdeen, South Dakota; KVLV-TV, Fargo, North Dakota; KALB-TV, Alexandria, Louisiana; KNOP-TV, North Platte, Nebraska; K11TW, North Platte, Nebraska; and KNOE-TV, Monroe, Louisiana.

²² File No. BTCCDT-20131220GUG, Description of the Transaction at 3.

²³ See *Cumulus Media, Inc. and Citadel Broadcasting Corp.*, Memorandum Opinion and Order, 26 FCC Rcd 12956, 12959 (2011).

Exhibit A- Stations to be Transferred from Hoak to Gray

Station	Fac. ID	Community	Application Number
KFYR-TV	41427	Bismarck, ND	BTCCDT-20131120GUG
KQCD-TV	41430	Dickinson, SD	BTCCDT-20131120GUG
KMOT	41425	Minot, ND	BTCCDT-20131120GUG
KUMV-TV	41429	Williston, ND	BTCCDT-20131120GUG
KSFY-TV	48658	Sioux Falls, SD	BTCCDT-20131120GUG
KPRY-TV	48660	Pierre, SD	BTCCDT-20131120GUG
KABY-TV	48659	Aberdeen, SD	BTCCDT-20131120GUG
KVLY-TV	61961	Fargo, ND	BTCCDT-20131120GUG
KALB-TV	51598	Alexandria, LA	BTCCDT-20131220GPK
KNOP-TV	49273	North Platte, NE	BTCCDT-20131220GRO
K11TW	49285	North Platte, NE	BTCCDT-20131220GRO
K18DH	49276	Broken Bow, NE	BTCCDT-20131220GRO
K35AL	49283	Lexington, NE	BTCCDT-20131220GRO
KNOE-TV	48975	Monroe, LA	BTCCDT-20131220GSU
K18AB-D	48977	El Dorado, AR	BTCCDT-20131220GSU