

EXHIBIT 20-A

Request for Continued Satellite Authority

Southeastern Media Holdings, Inc. (“Southeastern”), proposed transferee of KGMV(TV) and KFVE(TV) hereby requests a waiver of the Commission’s local television ownership rules to permit Southeastern to continue to operate KGMV(TV), Wailuku, Hawaii, as a satellite of KFVE(TV), Honolulu, Hawaii.¹ The Media Bureau authorized Emmis to operate KGMV(TV) as a satellite of KFVE(TV) in September 2000, and continued this satellite waiver upon acquisition of the stations by HITV License Subsidiary, Inc. in 2007.² Since the Bureau last determined that operation of KGMV(TV) as a satellite was appropriate, none of the fundamental geographic and economic facts that render the Hawaiian television market unique have changed. As such, Southeastern respectfully requests that the Commission allow KGMV(TV) to continue operating as a satellite of KFVE(TV).

Background. The Commission has long recognized the public interest benefits of permitting satellite service to sparsely-settled, underserved rural areas.³ In its 1987 *Satellite Policy Inquiry*, the FCC noted that “it appears to us that from the point of view of the population in these [sparsely settled] areas that the advantages are likely to outweigh the disadvantages by a considerable margin.”⁴

¹ 47 C.F.R. § 73.3555, Note 5 (2006); KFVE was formerly operated as KGMB. The two stations swapped call signs in 2009.

² See *LINT Co.*, 15 FCC Rcd 18130, ¶ 9 (MMB 2000); see also FCC File No. BALCT-20070227ADF, granted May 25, 2007.

³ See, e.g., *Basin TV Co.*, 13 RR 392 (1956).

⁴ *Notice of Inquiry and Notice of Proposed Rule Making Concerning Television Satellite Stations*, 2 FCC Rcd 1359, 1362 (1987).

Pursuant to the Commission's satellite waiver policy, a proposed satellite operation is presumed to be in the public interest if it meets three requirements: (1) no City Grade contour overlap exists between the parent and the satellite; (2) the proposed satellite station will provide service to an underserved area; and (3) no alternative operator is ready and able to purchase and operate the satellite as a full-service station.⁵ An applicant can demonstrate that an area is underserved – and, thus, satisfies the second prong of the presumptive waiver test – by one of two tests: the transmission test or the reception test.⁶ Under the transmission test, a proposed community is underserved if two or fewer full service television stations are licensed to it.⁷ A station satisfies the reception test if at least twenty-five percent of the land area within the station's Grade B contour (but not including any area within the parent station's Grade B contour) receives four or fewer services.⁸

Alternatively, if an applicant cannot qualify under the presumptive waiver test, the Commission may employ an *ad hoc* approach to determine whether other compelling circumstances warrant grant of satellite status.⁹ As explained below, KGMV(TV) does not qualify for a presumptive waiver, but consistent with longstanding Commission precedent, KGMV(TV) meets the standards for the *ad hoc* test.

Presumptive Satellite Waiver. KGMV(TV) satisfies the first and third prongs of the Commission's presumptive satellite waiver test, as that test has been applied by the Bureau after

⁵ See 47 C.F.R. § 73.3555, Note 5; *Satellite Order*, 6 FCC Rcd 4212, 4213-14 (1991) (subsequent history omitted).

⁶ See *Satellite Order*, 6 FCC Rcd at 4215.

⁷ See *id.*

⁸ See *id.*

⁹ See *id.* at 4214.

the completion of the transition to digital television broadcasting. The Bureau has previously recognized that after the conclusion of the digital transition, there is no longer an equivalent to the former analog City Grade Contour.¹⁰ In recognition of the differences between the analog City Grade contour and the digital Principal Community Contour, the Bureau has approved satellite waivers in situations where, prior to the digital transition, there was no City Grade overlap between the satellite and parent stations.¹¹ Here, and as recognized by the Bureau in granting satellite status to KGMV(TV) on two previous occasions, there was historically no City Grade overlap between KGMV(TV) and KFVE(TV). Moreover, due to the unique economic, historical, and geographic realities of operating a television station on the island of Maui, it is unlikely that any alternative operator would be ready and able to purchase and operate the satellite as a full-service station.¹²

KGMV(TV), however, no longer serves an underserved area because the station does not satisfy either the transmission test or the reception test. More than two full service television stations are licensed to Wailuku, and the majority of the area within the KGMV(TV) service contour receives service from more than four stations.

Unique Historical and Geographic Circumstances. The Media Bureau has recognized that “the unique distance and terrain features in the Hawaiian Islands, combined with the fact that most of the stations in the service area operate as satellites constitute *persuasive evidence*” that continued satellite operation is warranted for a full-service television station licensed to

¹⁰ See, e.g., *Cunningham Broadcasting Corporation*, DA 12-2209 (rel. Nov. 18, 2013).

¹¹ *Id.*

¹² See Unique Historical and Geographic Circumstances *infra*.

Wailuku, Hawaii.¹³ The Commission also cited those same unique concerns in 2000 when it authorized KGMV(TV) to operate as a satellite station for KFVE(TV). Specifically, the Commission held that “the unique population distribution and geography in Hawaii constitute ‘*compelling circumstances*’ warranting satellite status.”¹⁴ Those circumstances, which for decades have served as the basis for satellite waivers for the television stations licensed to Wailuku,¹⁵ have not changed. The geography and population distribution of the Hawaiian television market continue to be unique and continue to justify satellite status for KGMV(TV).

Geographic and economic realities in Hawaii make it exceedingly difficult to operate a stand-alone, full-power television station on any of the islands except for Oahu (where Honolulu and parent station KFVE(TV) are located). Wailuku is located on the Island of Maui, and each of the five commercial television stations licensed to Wailuku operates as a satellite of a main station in Honolulu. Wailuku and Honolulu are 89 miles apart and separated by a large expanse of the Pacific Ocean. Furthermore, much of the Island of Maui is rugged mountainous terrain that is largely uninhabitable. The economic center of the state and the vast majority of its population are on the Island of Oahu. The population of the Island of Maui is only 11.38% of

¹³ *Emmis Television License*, 20 FCC Rcd at 20044 (authorizing KAIH-TV, Wailuku, Hawaii, to operate as a satellite of KHON-TV, Honolulu, Hawaii) (emphasis added).

¹⁴ *LINT Co.*, 15 FCC Rcd at ¶ 9 (emphasis added).

¹⁵ *See, e.g., LIN License Company, LLC*, 27 FCC Rcd 12092 (2012), *David D. Burns, Esq.*, 22 FCC Rcd 19218 (2007), and *Emmis Television License*, 20 FCC Rcd at 20044 (all authorizing continued operation of KAIH-TV, Wailuku as a satellite of KHON-TV, Honolulu); *LINT Co.*, 15 FCC Rcd at ¶ 9 (authorizing KGMV(TV), Wailuku, Hawaii, to operate as a satellite of KGMB(TV), Honolulu, Hawaii); *Argyle Television, Inc.*, 12 FCC Rcd 10737 (1997) (authorizing KMAU-TV, Wailuku, Hawaii, to operate as a satellite of KITV(TV), Honolulu, Hawaii); *The Providence Journal Company*, 12 FCC Rcd 2883 (1997) (authorizing KOGG(TV), Wailuku, Hawaii, to operate as a satellite of KHNL(TV), Honolulu, Hawaii); *BBC License Subsidiary, L.P.*, 10 FCC Rcd 10968, ¶44 (1995) (authorizing KAIH-TV, Wailuku, Hawaii, to operate as a satellite of KHON-TV, Honolulu, Hawaii).

the total population of the entire state.¹⁶ The Commission repeatedly has explained that these market facts are “compelling circumstances” and they justify granting satellite authority for the television stations serving the outlying islands in Hawaii.¹⁷

Given these fundamental realities, it is apparent that neither KGMV(TV) nor any other full power television station license to Wailuku can be sustained as a full-service, stand-alone television station. All five commercial stations (including KGMV(TV)) have historically been, and remain, satellites of Honolulu stations. In this competitive environment, KGMV(TV) could not survive as a stand-alone station. No primary network affiliation is available for KGMV(TV) because the twelve full-power commercial television stations licensed to communities on the Island of Oahu have secured all viable affiliations in the Hawaiian market. As a result, KGMV(TV) would have to compete for advertising dollars as an independent station serving a small fraction of the audience in the Hawaiian market. Moreover, KGMV(TV) would be competing against network affiliates serving the entire market with their stable of satellites. Only by continuing to permit KGMV(TV) to operate as a satellite of KFVE(TV) will the Commission enable KGMV(TV) to maintain its economic viability and its ability to provide service to the surrounding area.

As a satellite station, KGMV(TV) also provides important public interest benefits to residents in Wailuku and on the Island of Maui. The station broadcasts MyNetworkTV

¹⁶ According to the 2010 U.S. Census, the population of the State of Hawaii is 1,360,301 and the population of Maui County is 154,834. See http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1.

¹⁷ See, e.g., *BBC License Subsidiary*, 10 FCC Rcd at ¶ 44. (“Hawaii’s geographical constraints and limited population outside of Honolulu constitute such compelling circumstances. Specifically, the eight islands comprising the state of Hawaii are separated by large expanses of water and mountainous terrain. As a result, the nine stand-alone stations in Hawaii, all licensed to Honolulu, serve the islands through a structure of satellite stations. Indeed, the 11 other full power television station in Hawaii are satellite stations.”).

programming, as well as programming of specific interest to Hawaiians produced and broadcast by KFVE(TV). If KGMV(TV) operated as a stand-alone station, residents would no longer receive this programming. Grant of the instant request thus serves the public interest because it will allow residents on the Island of Maui to continue to receive the full complement of network programming.¹⁸

Conclusion. Southeastern has demonstrated that grant of the instant waiver request is consistent with Commission precedent. Operating KGMV(TV) as full-service independent station is simply not feasible given the station's limited coverage area and poor prospects for financial success except as a satellite station. Accordingly, the public interest again would be served by the Commission's authorization of the continued operation of KGMV(TV) as a satellite of KFVE(TV). Based upon the foregoing, Southeastern respectfully requests a waiver of the local television ownership rules to permit the transfer of control of the licenses described in the instant application and the continued operation of KGMV(TV) as a satellite station of KFVE(TV).

¹⁸ See *Satellite Order*, 6 FCC Rcd at 4214 (explaining that an applicant who cannot meet the presumptive waiver standards nevertheless may qualify for a satellite waiver if grant "would result in the provision of the full complement of network signals to its service area").