

FCC Form 314
Section III, Question 6(b)
Exhibit 18

Odessa Satellite Exemption and Radio-Television Cross-Ownership Showing

This Application and a concurrently-filed FCC Form 314 application seek consent to the assignment of the licenses of two television stations — KWES-TV, Odessa, Texas and KWAB-TV, Big Spring, Texas — from Midessa Television Limited Partnership to KWES License Subsidiary, LLC (“Assignee”), and the assignment of a radio station — KTXC(FM), Lamesa, Texas — from Midessa Broadcasting Limited Partnership to Assignee. This Exhibit 18 (1) respectfully requests that the Commission grant continued authority pursuant to Section 73.3555, Note 5 of the Commission’s rules, to operate KWAB-TV as a satellite station of KWES-TV, and (2) demonstrates that the assignments comply with the Commission’s radio-television cross-ownership rule, Section 73.3555(c).

I. The Commission Should Reaffirm KWAB-TV’s Status as a Satellite of KWES-TV

KWES-TV and KWAB-TV are located in the Odessa-Midland, Texas Designated Market Area (“DMA”). Both stations are NBC affiliates (KWAB retransmits the programming of KWES). The system of parent and satellite stations has served the viewers of this DMA well, and grant of the instant request will ensure continuity in the provision of NBC network programming throughout this DMA. Conversely, a denial of this request will likely result in the proposed satellite station being unable to continue operations, thus depriving viewers of the service upon which they rely. *See* Letter of Louis McDermott, Vice President of Kalil & Co., Inc. (“Kalil”), a nationally-recognized media brokerage firm, attached as **Annex A**.

In support of its request, Assignee demonstrates herein that the satellite operation of KWAB-TV is presumptively in the public interest pursuant to the Commission’s three-part test set forth in *Television Satellite Stations*, 6 FCC Rcd 4212 (1991) (“*Satellite Order*”):

(1) there is no city-grade contour overlap between the parent and the satellite;

(2) the satellite provides 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.

In the instant case, as the Commission recognized when it most recently reauthorized KWAB’s satellite status in 2008, “KWAB-TV has operated as a satellite of KWES-TV for many years.”¹ The stations no longer have city-grade contours, as those contours are determined by analog service patterns, but prior to the digital television transition there was no

¹ *Kathleen A. Kirby, Esq.*, Letter, 23 FCC Rcd 16444, 16445 (MB Vid. Div. 2008) (“*KWAB 2008 Satellite Order*”).

city-grade contour overlap between the stations.² Thus, the first criterion of the *Satellite Order* is satisfied.

The second prong of the Commission's presumptive test, which requires that the satellite station provide service to an "underserved area," can be satisfied upon a showing that the satellite station's community of license has two or fewer full-service stations already licensed to it. As evidenced by the Commission's records, KWAB-TV is the only full-power television station licensed to Big Spring, Texas. Thus, the second criterion under the *Satellite Order* is satisfied.

Finally, no alternative operator is ready to purchase and operate KWAB-TV as a full-service, stand-alone station. The stations have long operated as parent and satellite, with KWAB providing the local and network programming of KWES to outlying communities that otherwise would be deprived of such service.³ Further, as indicated in the Kalil letter attached hereto as Annex A, KWAB-TV simply is not viable as a stand-alone station. Big Spring, KWAB-TV's community of license, is located in the eastern portion of the DMA and covers only about 50,000 people. In contrast, the six other commercial full-power stations in the DMA are licensed either to Midland or Odessa, the main population centers in the DMA, and each of these other stations covers a population of hundreds of thousands. A standalone KWAB-TV would have virtually no chance of obtaining a major network affiliation, given the small population it serves, and the station could not generate sufficient advertising revenues to support its ongoing operational costs. Accordingly, the third criterion under the *Satellite Order* is satisfied because, as Kalil concludes, KWAB-TV could be sold only as a satellite station.

In light of the foregoing, Assignee respectfully requests that the Commission continue to permit operation of KWAB-TV as a satellite of KWES-TV.

II. The Proposed Assignments Comply With the Radio-TV Cross-Ownership Rule

In the Odessa-Midland DMA, in addition to KWES-TV and KWAB-TV, Drewry Communications owns KTXC(FM), Lamesa, Texas, which Assignee would acquire as part of the instant transaction. As shown in the contour map attached as **Annex B**, the radio-television cross-ownership rule applies because KTXC(FM)'s 1 mV/m contour encompasses Big Spring, Texas, the community of license of KWAB-TV, and KWES-TV's noise-limited service contour encompasses Lamesa.⁴

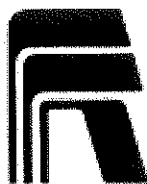
² *Id.*

³ See *KWAB 2008 Satellite Order*, 23 FCC Rcd at 16445.

⁴ See 47 C.F.R. § 73.3555(c)(1). Although Section 73.3555(c) of the Commission's rules references the Grade A contour of a television station, the Commission has determined that the digital NLSC may be used in lieu of the former analog Grade A contour in analyzing the applicability of the radio-television cross ownership rule. See *Application for Transfer of Control* (continued...)

Under the radio-television cross-ownership rule, it is permissible in any market for an entity to own up to two commercial TV stations (if otherwise permitted under the local television ownership rule) and one commercial radio station. Accordingly, the rule permits Assignee to acquire an attributable interest in KTXC, KWES-TV, and KWAB-TV (subject to the Commission's affirmation that the previously-granted satellite exemption may remain in place). No party to this transaction will have an attributable interest in any other television or radio station in the DMA upon consummation of the transaction. Accordingly, the transaction complies with the radio-television cross-ownership rule.

of Nassau Broadcasting II, LLC, 25 FCC Rcd 1851(MB 2010); *New Rushmore Radio, Inc.*, 29 FCC Rcd 3265, 3266 n.6 (MB 2014).



Kalil & Co., Inc.

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August 5, 2015

Raycom Media, Inc.
201 Monroe Street
RSA Tower 20th Floor
Montgomery, AL 36104

Attention: Paul McTear
President/Chief Executive Officer

Re: KWAB-TV, Big Spring, Texas
Evaluation of Prospects for Television
Station Sale to Out-of-Market Purchaser

Ladies and Gentlemen:

Raycom Media, Inc. ("Raycom") has engaged Kalil & Co., Inc. ("Kalil") to evaluate the prospects for a sale of television broadcast station KWAB-TV, Big Spring, Texas.

This analysis regards the feasibility of operating KWAB-TV, Big Spring, Texas, as a full service, standalone television operation with no technical, sales or programming support from its parent station. Currently, KWAB-TV broadcasts as a satellite of KWES-TV, Odessa, Texas. You have also asked that we provide an opinion whether it is likely or unlikely that the current licensee of the station would be able to find an alternative operator willing and able to operate the satellite station as a financially viable, full-service, standalone facility.

Qualifications of Kalil: Kalil & Co., Inc. has been in the media brokerage business for over forty years. Located in Tucson, Arizona, Kalil is comprised of eight brokers whose combined experience totals well over 100 years. Kalil conducts business throughout the United States and is widely recognized as one of the top brokerage organizations in the country. Over the last 10 years, Kalil has brokered well over \$2.5 billion worth of transactions.

As a Vice President at Kalil, I have extensive knowledge of the television industry in general, having worked as a media broker for the past 13 years. I have been engaged by the owners of television stations for both acquisitions and divestitures. I have been involved personally in the acquisition or sale of hundreds of broadcast properties, including stations in small, medium, and large markets.

Analysis: In evaluating the marketability of KWAB, the following points highlight the challenging nature of attempting to sell KWAB-TV as a standalone, full-service facility:

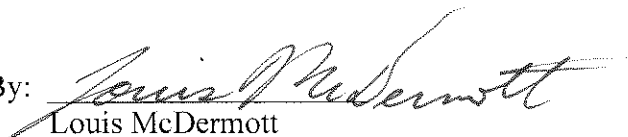
- KWAB-TV and KWES-TV operate as the NBC affiliate serving the Odessa-Midland television marketplace. This market is the nation's 146th largest television market, as defined by Nielsen, with approximately 445,000 people in the market. The market is comprised of 19 counties with the majority of the markets population located in the cities of Odessa and Midland. Ector County, home of Odessa, has 143,790 people, and Midland County, home to Midland, has 144,408 people. Of the 7 commercial, full power stations in the market, only KWAB is not licensed to either Midland or Odessa. This puts KWAB at an extreme disadvantage if it were to compete with the other commercial full powers in the market as a standalone.
- According to BIA, the predicted coverage areas for the other 6 commercial full powers show over-the-air coverage in the hundreds of thousands of population. The predicted coverage area for KWAB is 50,000. This is no surprise, as KWAB is located in the eastern portion of the market. Big Spring, Texas, KWAB's city of license, is located in Howard County. The population of Big Spring is 28,145 and Howard County's total population is 35,594 people. Compare that to the populations of Ector and Midland Counties, both in the 140,000+ count, and you can see the immediate disadvantage faced by KWAB if it were to operate as a standalone, full-service television station.
- KWAB would have no real chance of getting an affiliation agreement with any of the established broadcast networks due to the minimal population covered by its signal.
- Setting aside the lack of a proper affiliation being available, or obtainable, by KWAB as a standalone, full-service station, the cost of outfitting, staffing and programming KWAB-TV could not be covered by the advertising revenues to be generated in Big Spring, Texas. We are aware of no instances in which satellite stations serving only small, outlining communities such as Big Spring have been successfully converted to viable standalone operations.

In view of the above facts, we would attribute little value to station KWAB-TV except in conjunction with KWES-TV. It is our opinion that KWAB-TV could be sold only as a satellite station, and not on a standalone basis. Consequently, we reached the conclusion that KWAB-TV would not be viable as a standalone television station.

Sincerely,

Kalil & Co., Inc.

By:


Louis McDermott
Vice President

