



Federal Communications Commission
Washington, D.C. 20554

February 26, 2019

Serestar Communications Corporation
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NBC Telemundo License
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Airwaves, Inc.
c/o Michael Couzins, Esq.
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656 Telegraph Avenue, Suite B201
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Re: KTMW, Salt Lake City, UT, KMUM-
CD, Sacramento, CA, KCSO-LD,
Sacramento, CA, UT, KULX-CD,
Ogden, UT, K17II-D, Logan, UT,
KULU-LD, Park City, UT
File Nos. BALCDT-20181204ABI,
BAL-20181204ABJ, BAL-
20181204ABK, BALDTA-
20181204ABL, BALDTL-
20181204ABM and BALDTL-
20181204ABN
Facility ID Nos. 10177, 18736, 18998,
168495, 168494, 168492

Counsel:

The Video Division (Division) has before it applications for consent to assign the licenses of the above-captioned stations, from Serestar Communications Corporation (Serestar) to NBC Telemundo License LLC (NBC Telemundo). On February 12, 2019, Airwaves, Inc. (Airwaves) filed an informal objection (Objection), requesting that the Division delay action on the above-captioned applications (Application) until Airwaves has had the opportunity to resolve disputed payments under a contract between it and Serestar.¹ For the reasons below, we deny the informal objection, and grant the applications.

¹ Airwaves, Inc., Informal Objection (Feb. 12, 2019) (Objection).

Background. Airwaves was the previous owner of certain of the above-captioned stations, and sold the stations to Serestar in 2015.² According to Airwaves, “[a]t the insistence of [Serestar], the sale included a time brokerage agreement,” and that “Serestar used that fact to deliberately obfuscate the amounts owed, and separately to attempt in bad faith to evade several of its payment responsibilities under the contract.”³ Airwaves issued a final demand for \$57,280.72 on January 30, 2019. Airwaves has further filed a complaint in state court in Utah. It requests that the FCC delay action on the assignment until a response is provided by Serestar and reviewed by Airwaves, or alternatively, hold the applications in abeyance until the state court has adjudicated the matter.

Discussion. The Commission applies a two-step analysis when it evaluates an informal objection under the public interest standard.⁴ First, we must determine whether the informal objection contains specific allegations of fact sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.⁵ The first step “is much like that performed by a trial judge considering a motion for directed verdict: if all the supporting facts alleged ... were true, could a reasonable fact finder conclude that the ultimate fact in dispute had been established.”⁶ If the specific allegations make a *prima facie* case, we next examine and weigh the evidence presented, to determine “whether the totality of the evidence raises a substantial and material question of fact justifying further inquiry.”⁷ If no such question is raised, the Commission will deny the informal objection and grant the application if it concludes that such grant otherwise serves the public interest, convenience, and necessity.

The gravamen of the Objection is alleged breach of contract by Serestar. Commission precedent is clear on this matter: the existence of a contractual dispute will not compel staff to defer action on an assignment or transfer of control application until a state or local court resolves the dispute.⁸ Accordingly, we find that no substantial and material question of fact has been raised concerning the application and, therefore, deny the Objection.

After reviewing the record, we find that the Applicants possess the necessary qualifications and that the proposed transaction does not violate the Act, the Commission’s rules, or Commission policies. We find it in the public interest, convenience, and necessity to grant the application for consent to assign the Stations from Serestar to NBC Telemundo.

Accordingly, **IT IS ORDERED** that Airwave’s informal objection **IS DENIED**, and that the applications for approval to assign the licenses for KTMW, Salt Lake City, Utah, KMUM-CD, Sacramento, California, KCSO-LD, Sacramento, California, KULX-CD, Ogden, Utah, K17II-D, Logan, Utah, and KULU-LD, Park City, Utah, from Serestar, Inc. to NBC Telemundo License, LLC, file nos. BALCDT-20181204ABI, BAL-20181204ABJ, BAL- 20181204ABK, BALDTA-20181204ABL,

² *Id.* at 1.

³ *Id.*

⁴ 47 U.S.C. § 309(d)(1), (2); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

⁵ 47 U.S.C. §§ 309(d)(1), 310(d).

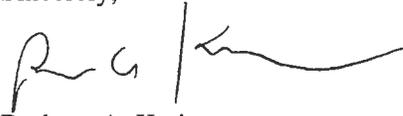
⁶ *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987).

⁷ *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985).

⁸ *Radio Station WOW v. Johnson*, 326 U.S. 120, 132 (1945); *Arecibo Radio Corporation*, Memorandum Opinion and Order, 101 FCC.2d 545, 548 at para. 7 (1985) (*Arecibo*); *Channel 61 Associates*, 31 FCC Rcd at 1343 (Vid. Div. 2016) (“[T]he existence of a contractual dispute does not compel the Commission to stop processing a license application until the matter is resolved by the courts”); *KAXT, LLC*, Memorandum Opinion and Order, 30 FCC Rcd 2691 (Vid. Div. 2015).

BALDTL-20181204ABM and BALDTL-20181204ABN, **ARE GRANTED.**

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a vertical line separating the initials from the last name.

Barbara A. Kreisman
Chief, Video Division
Media Bureau