

FCC Form 2100 – Schedule 314
Streamlined Processing Television Satellite Reauthorization Certification
WBKP(TV), Calumet, Michigan (Facility ID No. 76001)

Streamlined Processing for Television Satellite Reauthorization Certification

Assignor, Lake Superior Broadcasting Corporation (“LSCBC”), and Assignee, Bee’s Knees LLC, a wholly-owned subsidiary of Evening Telegram Company d/b/a Morgan Murphy Media (“MMM”) (LSCBC and MMM, together, the “Applicants”), hereby certify that the Commission’s streamlined reauthorization procedures for television satellite stations are applicable to the instant assignment application for WBKP(TV), Calumet, Michigan (Facility ID No. 76001) (“WBKP”).

I. Legal Standard

Applicants are subject to streamlined television satellite reauthorization procedures if the following two conditions are satisfied:

1. the application includes “a certification by both parties to the transaction that the underlying circumstances upon which the Commission relied in granting the current satellite authorization have not changed materially since the issuance of the most recent satellite authorization”; and
2. the application includes “a complete copy of the most recent written Commission decision (e.g., Letter Order) granting the satellite exception.”¹

While applicants are not required to attest to specific facts, materiality certifications “should be informed by the specific factors relied upon by the applicants and the Commission in the prior grant,” and “applicants are welcome to add any explanatory details considered helpful.”² As for what circumstances constitute a “material change,” the Commission has stated that “the circumstances of each case should guide the determination of whether there has been a material change in the underlying circumstances upon which the Commission originally granted the existing satellite authorization.”³

II. DISCUSSION

WBKP is currently authorized to serve as a satellite television station for its parent station WBUP(TV), Ishpeming, Michigan (Facility ID No. 59281) (“WBUP”). Both WBKP and WBUP are being assigned from LSCBC to MMM pursuant to the instant assignment application. Following MMM’s acquisition of the stations, WBKP will continue to serve as WBUP’s satellite station.

¹ *Streamlined Reauthorization Procedures for Assigned or Transferred Television Satellite Stations, et al.*, Report and Order, 34 FCC Rcd. 1539 at ¶ 9 (2019) (“2019 Satellite Stations Order”).

² *Id.*

³ *Id.*

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The Applicants hereby certify that WBKP is eligible for streamlined television satellite reauthorization procedures because the underlying circumstances relied upon by the Commission in granting WBKP's satellite authorization have not materially changed since WBKP's current satellite authorization was issued to LSCBC on January 15, 2004. A copy of the WBKP's current satellite authorization decision is attached hereto as **Attachment A**.⁴

A. WBKP's Satellite Reauthorization

On January 15, 2004, the Media Bureau reauthorized WBKP's satellite exception on the following grounds:

1. No Contour Overlap. LSCBC submitted a technical showing demonstrating that there was no City Grade overlap between WBKP and WBUP.⁵

2. Underserved Area. LSCBC demonstrated through the "Transmission Test" that the respective area is underserved because WBKP is the only station licensed to Calumet, Michigan.⁶

3. Alternative Operators. LSCBC submitted a declaration of a media broker attesting that: (a) no potential buyer expressed interest in purchasing WBKP to operate it as a full-service station; (b) there is not enough population in the Calumet area to support the operation of a full-service station; and (c) divestiture of WBKP would put WBUP at a significant competitive disadvantage in the market as it would force Calumet-area viewers to revert to reliance on cable and/or satellite for television service due to inadequate over-the-air television coverage.⁷

4. Common Ownership. In connection with its 2004 request, LSCBC submitted information including that the Commission previously determined that the common ownership of WBKP and WBUP and the operation of WBKP as a satellite of WBUP would service the public interest.⁸ In that previous decision, the Commission granted Scanlan Television, Inc.'s ("Scanlan") request to convert WBKP to a satellite television station for WBUP to avoid violation of the duopoly rule because: (a) there was no City Grade contour overlap between

⁴ See *Lake Superior Community Broadcasting Corp., et al.*, CDBS File Nos. BAPCT-20030822AGR & BALCT-20030822AGQ, Letter Decision (MB, rel. Jan. 15, 2004) ("*WBKP Satellite Reauthorization Letter*"), attached hereto as **Attachment A**. WBKP was initially authorized to operate as a television satellite for WBUP on February 8, 2004. See *Scanlan Television, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd. 2691 (2000).

⁵ *WBKP Satellite Reauthorization Letter* at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

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WBUP and WBKP; (b) WBKP meets the “Transmission Test” as the only station licensed to Calumet, Michigan; and (c) based on the declarations of Scanlan’s president and media broker W. Lawrence Patrick, WBKP operations were not profitable and no other operator would be able to sustain its operations as a full service station due its location in a small and sparsely populated area.⁹ In its 2004 decision, the Media Bureau concluded, based upon LSCBC’s representations “and the history of this station,” that continuing WBKP’s satellite exception was in the public interest.¹⁰

B. Current Circumstances

The circumstances underlying the Media Bureau’s reauthorization of WBKP’s satellite exception in 2004 have not materially changed:

1. No Contour Overlap. Since WBUP’s satellite reauthorization in 2004, both WBKP and WBUP converted to digital facilities and therefore, the City Grade contour overlap criteria is no longer relevant to determining whether reauthorization of WBKP’s satellite exception is in the public interest.¹¹ Nevertheless, there has been no material change in WBKP and WBUP’s service areas since the 2004 reauthorization decision. In 2014, a minor modification application was submitted for WBUP which included a showing demonstrating that WBKP’s licensed and WBUP’s proposed principal community contours did not overlap.¹² WBUP subsequently commenced operations with those proposed facilities and currently operates

⁹ *Id.* (citing *Scanlan Television*, 15 FCC Rcd. 2691 at ¶¶ 4-9).

¹⁰ *Id.* The 2004 decision was based on the three factors listed above. The prior Scanlan Television decision had also cited a concern that Scanlan would lose its ABC affiliation if the continued common operation was not permitted. *Scanlan Television*, 15 FCC Rcd. 2691 at ¶ 9. That concern was not cited by the Media Bureau in the 2004 decision.

¹¹ *See 2019 Satellite Stations Order*, 34 FCC Rcd. 1539 at ¶ 3 (stating that the 2009 DTV Transition “rendered ineffectual the first prong of the Commission’s presumptive standard as there is no precise digital counterpart to a station’s analog City Grade contour. Accordingly, . . . the Commission . . . evaluate[s] all request for new and continued satellite status on an *ad hoc* basis.” (citing *2014 Quadrennial Regulatory Review*, Second Report and Order, 31 FCC Rcd. 9864, 9876, ¶ 32 n.72 (2016))).

¹² *See* CDBS File No. BMPCDT-20130802ABN (granted Aug. 26, 2014) (providing a map demonstrating that WBKP’s licensed 43 dBμ contour and WBUP’s proposed 35 dBμ contour did not overlap). *See also* 47 C.F.R. § 73.625(a)(1) (noting that the principal community contours for a Channel 5 station (WBUP) is the 43 dBμ contour and for a Channel 10 station (WBUP) is the 35 dBμ contour); *Consent to Transfer Control of Licenses by Shareholders of Media General, Inc., et al.*, Memorandum Opinion and Order, 29 FCC Rcd. 14798 at ¶ 18 (2014) (noting that “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.” (emphasis added)).

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with those facilities.¹³ WBKP currently operates with the digital facilities licensed in 2009.¹⁴ Accordingly, the waiver criteria concerning WBKP and WBUP's service areas relative to one another remain materially unchanged since 2004.

2. Underserved Area. As in 2004, WBKP continues to be the only television station licensed to Calumet, Michigan. Therefore, pursuant to the "Transmission Test," the respective area continues to be underserved by broadcast television.

3. Alternative Operators. The market conditions in the Upper Peninsula of Michigan – where WBKP is located – continue to preclude WBKP's operations as a full-service station. As demonstrated by the declaration of media broker W. Lawrence Patrick attached hereto as **Attachment B** (the "Patrick Declaration"): (a) no potential buyer expressed interest in purchasing WBKP to operate it as a full-service station; (b) there is not enough population in the Calumet area to support the operation of a full-service station; and (c) the divestiture of WBKP would put WBUP at a significant competitive disadvantage in the market by forcing Calumet-area viewers to revert to reliance on cable and/or satellite for television service due to inadequate over-the-air television coverage.¹⁵ Therefore, Mr. Patrick concludes that market conditions continue to preclude the operations of WBKP and WBUP as standalone stations.¹⁶

4. Common Ownership. WBKP and WBUP's continued common ownership by MMM is in the public interest to allow these stations to effectively compete in this very small TV market. The Marquette market is ranked 182 by Nielsen – one of the smallest TV markets in the country. According to BIA's Market Competition Report for the market, the largest operator in the market, with the NBC and Fox affiliations, has almost 3.5 times the revenue of the combined WBKP/WBUP operation. Furthermore, WBKP ranks second to last in the market in revenue exceeding only the revenue of another operator's multicast channel, operating the station on a standalone basis would not be economically feasible, as demonstrated by the Patrick Declaration.¹⁷ Therefore, enabling the continued common ownership of WBUP and WBKP through reauthorization of WBKP's satellite exception is in the public interest as it would ensure the continued provision of over-the-air network broadcast service to the residents of the Upper Peninsula.

¹³ See LMS File No. 0000004980 (granted Nov. 5, 2015).

¹⁴ See CDBS File No. BLCDT-20090818ABS (granted Aug. 23, 2011).

¹⁵ Declaration of Larry Patrick at ¶¶ 6-7, attached hereto as **Attachment B**.

¹⁶ *Id.* at ¶ 9.

¹⁷ Marquette DMA – BIA Market Competition Report, attached hereto as **Attachment C**.

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CONCLUSION

For the foregoing reasons, the Applicants hereby submit that the reauthorization of WBKP's satellite exception is in the public interest and is subject to the Commission's streamlined reauthorization procedures.

Attachment A

WBKP Satellite Reauthorization Letter (Jan. 15, 2004)

Attachment B

Declaration of Larry Partick

DECLARATION

I, **W. Lawrence Patrick**, hereby declare the following:

1. I am the Managing Partner of Patrick Communications, LLC (“Patrick Communications”), a media brokerage firm.
2. Patrick Communications served as the broker for Lake Superior Communications Broadcasting Corporation (“LSCBC”) in its sale of television stations WBKP(TV), Calumet, Michigan (Facility ID No. 76001) (“WBKP”), and WBUP(TV), Ishpeming, Michigan (Facility ID No. 59281) (“WBUP”), to Evening Telegram Company d/b/a Morgan Murphy Media (“MMM”).
3. I have personal knowledge of the facts concerning the market conditions in the Marquette DMA in which WBUP and WBKP operate that are set forth in the foregoing Streamlined Processing for Television Satellite Reauthorization Certification for WBKP (“Certification”), which was prepared by LSCBC and MMM in conjunction with WBKP and WBUP’s FCC Assignment of License Application.
4. I have had personal knowledge of the market conditions in the Marquette DMA for over twenty years, and previously prepared a statement in support of WBKP’s initial satellite exception request (“Initial Satellite Exception Request”) filed by its initial licensee, Scanlan Television, Inc. (“Scanlan”).
5. In support of Scanlan’s Initial Satellite Exception Request for WBKP, which was granted by the Commission on February 8, 2000, I stated that I did not believe that market conditions made standalone operations of WBKP as a full-service station feasible because: (a) WBKP is located in a market far too small and too sparsely populated to support full-service operations; and (b) Calumet, Michigan and the surrounding area was too sparsely populated and lacked a sufficient economic base to support a standalone, full-service television station.
6. Since WBKP’s initial satellite exception was granted in 2000, market conditions have not sufficiently changed to support standalone operations of the station. Indeed, the population of the village of Calumet, Michigan has now decreased to 621 residents, and the population of Houghton County, where Calumet is located, is only now about 37,000 people. Furthermore, Calumet’s location on the northern portion of the Upper Peninsula of Michigan makes the community geographically isolated from major populations centers – thereby preventing an operator from relying upon surrounding areas to support a full-service station in the area.
7. Common ownership of WBUP and WBKP continues to remain in the public interest. In offering these stations for sale following the death of LSCBC’s sole shareholder, I approached every potential buyer for the stations that I could think of. No buyer expressed any interest in WBKP as a standalone station.

8. Finally, WBKP is currently ranked second to last in the Marquette DMA in terms of revenue (exceeding only the revenue of a multicast channel of another market operator) – demonstrating that standalone operations of the station are not sustainable.
9. For these reasons, I believe that market conditions continue to preclude operations of WBKP on a standalone basis as a full-service station.
10. I have read the Certification, and the statements therein are truthful and correct to the best of my knowledge, information, and belief.

W. Lawrence Patrick

Dated: September __, 2023

Attachment C

Marquette DMA – BIA Market Competition Report