

## CHARACTER ISSUES

### Introduction

Oregon Trail Broadcasting Company, the proposed assignor of Station KPVI-DT, Pocatello, Idaho, is a subsidiary corporation of Intermountain West Communications Company ("Intermountain West"), the successor company to Sunbelt Communications Company. As set forth herein, Intermountain West is the 100% owner of the following other licensee companies and stations:

Beartooth Communications Company, the licensee of Station KTVH-DT, Helena, Montana ("BCC")

Bozeman Trail Communications Company, the licensee of Station KCWY-DT, Casper, Wyoming ("BTCC")

Falls Broadcasting Company, the licensee of Station KXTF-DT, Twin Falls, Idaho ("Falls").

Ruby Mountain Broadcasting Company, the licensee of Station KENV-DT, Elko, Nevada ("Ruby")

Sierra Communications Company, the licensee of Station KRNVDT, Reno, Nevada ("Sierra")

Southern Nevada Communications Company, the licensee of Station KSNV-DT, Las Vegas, Nevada

Yuma Broadcasting Company, the licensee of Station KYMA-DT, Yuma, Arizona (Yuma")

Over the course of the past 15 years, various pleadings, objections and complaints have been filed against Intermountain West and certain of its subsidiary licensees, seeking to revoke or deny their licenses. Except for the license renewal for Station KCWY-DT, granted April 12, 2013, the result has been an across-the-board hold imposed on the license renewal applications of the above stations. This includes the license renewal for Station KPVI-DT, Pocatello, Idaho, filed with the FCC on May 30, 2005, more than seven years ago (*see* BRCT-20050530AIN). While most of the issues raised in the above pleadings and objections have been addressed and dealt with by the FCC, there remain residual issues in certain of those cases. This Exhibit sets forth a history of those claims and their current status.

### **Yuma Broadcasting Company**

The FCC records indicate the FCC's Enforcement Bureau has three imposed holds on the processing of the 2006 renewal application filed by Station KYMA-DT, Yuma, Arizona. Two of the license renewal holds are due to obscenity complaints associated with two NBC network programs. Apparently these holds stem from the carriage of a program titled *Las Vegas* and a Notre Dame football game where a fleeting explicative was aired.

There is also a news distortion complaint stemming from a local citizen complaining that the citizen was referred to mistakenly in a local newscast as having been arrested in possession of heroin when apparently the drug in question was hashish. The complainant was further upset when the station did not issue an immediate correction to the news story (*see* attached news story describing the arrest). The FCC has viewed this as a news distortion complaint and placed a hold on the license application.

### **Beartooth Communications Company**

Beartooth Communications Company ("BCC") is a wholly owned subsidiary of Intermountain and the licensee of Station KTVH-DT, Helena, Montana. On February 13, 2004, MMM License, LLC ("MMM") filed a Petition to Revoke and Deny the Licenses, Authorizations and Applications of BCC ("MMM Petition"), concerning, with respect to BCC, the Applications for Television Translator Stations in Billings, Bozeman, Butte, Great Falls, Havre, Helena, Kalispell, Lewistown, and Missoula, Montana ("BCC Translator Applications"), and the Application for On-Channel Booster Station for Channel 12, Great Falls, Montana (Fac. ID 159493), FCC File No. BNPTVB-20030915ACY ("BCC Booster Application").

In the MMM Petition, MMM alleged that BCC lacked the necessary financial resources to complete construction on the above-referenced Applications, that BCC made material misrepresentations concerning its financial qualifications, and that BCC violated the FCC's multiple ownership rule (47 C.F.R. §73.3555). MMM also filed a First Supplement to the MMM Petition (dated March 30, 2004) in which it puts forth additional speculative arguments as to the issues it raised initially in the MMM Petition ("First Supplement"). Through Counsel, BCC filed its Opposition to the MMM Petition on February 26, 2004, and filed their Motion to Strike and Opposition to First Supplement of MMM License, LLC on April 13, 2004. In both of these responsive pleadings, BCC demonstrated that MMM had offered only speculative claims concerning BCC which were wholly unsupported by anyone with personal knowledge, and were wholly unsupported by the Commission's rules and application procedures.

On January 16, 2004, KRTV Communications, Inc., KXLF Communications, Inc., KPAX Communications, Inc., and KTVQ Communications, Inc. ("Cordillera") filed several Informal Objections to certain of BCC's translator applications alleging that BCC violated Commission policy with respect to site availability. On April 1, 2004, Cordillera filed Comments with the Commission with respect to its previously filed Informal Objections and reciting the same issues raised by MMM and BCC, its parent company, Intermountain, and its

affiliates. BCC filed a response to the Informal Objection on April 30, 2004, reiterating that none of the Cordillera statements hold any merit and that all should be dismissed by the Commission. Cordillera filed its Reply Comments on May 17, 2004. Both the MMM Petition and the Cordillera Comments include allegations that were rejected by the Commission in its July 22, 2003 letter. The BCC translator applications were dismissed by the Commission in August, 2011.

### **Bozeman Trail Communications Company**

Bozeman Trail Communications Company ("BTCC") is a wholly owned subsidiary of Intermountain. BTCC held a minority 49% interest in Sweetwater Broadcasting Company ("SBC"), the licensee of KCWY, Casper, Wyoming, with James E. Rogers holding an attributable interest in SBC as an officer and a director. On February 17, 2004, SBC filed an application to transfer control of KCWY to BTCC (FCC Form 315), File No. BTCCT-20040217ACN. On March 29, 2004 Max Media of Montana, LLC, the parent of MMM License, LLC, filed a Petition to Deny the transfer of control application, arguing that BTCC has de facto control over KCWY. Sweetwater filed its Opposition to Max Media's Petition on April 12, 2004. Max Media filed its reply to the Opposition on April 22, 2004. In a letter dated July 29, 2005 from Donna C. Gregg, Chief, Media Bureau, to SBC, BTCC and Uhlmann/Latshaw Broadcasting, LLC, the Bureau found Max Media lacked standing to file the Petition to Deny and dismissed the allegation of de facto control. Although the Bureau issued a Notice of Apparent Liability ("NAL") against Sweetwater in this proceeding, the foundation for the NAL was not based upon issues of character but the failure to file various documents relating to future ownership of Station KCWY. The FCC granted the transfer of control application on November 11, 2005. In addition, the license renewal application for KCWY-DT was granted by the FCC on April 12, 2013.

### **Meridian Communications of Idaho**

On August 18, 1999, Meridian Communications of Idaho, Inc. ("Meridian") and Flat Iron Ranches, Inc. ("Flat Iron") submitted a settlement agreement to the Commission seeking its approval to resolve the impasse between their mutually exclusive applications for a construction permit for a new UHF television station on Channel 20 in Idaho Falls, Idaho. These applications had been pending since 1995. Shortly after Meridian filed its original application, on May 15, 1995 The Post Company ("Post"), the licensee of station KIFI-TV, Idaho Falls, Idaho filed a petition to deny that application. Some four years later, on December 17, 1999, after the settlement agreement was filed, Post filed a supplement to its earlier petition alleging that Meridian had violated the FCC's multiple ownership rules because of familial ties between James E. Rogers, the chief principal of Intermountain West, and his children, Suzanne Rogers and Perry Rogers, the chief principals in Meridian; had made misrepresentations and lacked candor; and that Meridian was otherwise not qualified to be a licensee.

### **Oregon Trail Broadcasting Company**

On the same date, December 17, 1999, The Post Company also filed a petition to deny or revoke the licenses held by Intermountain through its subsidiaries for stations KPVI(TV), Pocatello, Idaho, KJWY(TV)<sup>1</sup>, Jackson, Wyoming, and KXTF(TV), Twin Falls, Idaho. Therein Post claimed there were substantial family, ownership and business relationships between Meridian and Intermountain.

On January 27, 2000, Fisher Broadcasting, Inc. ("Fisher"), the licensee of KIDK(TV), Idaho Falls, Idaho, also filed comments in support of Post's petition stating it was concerned about the family relationships between Intermountain and Meridian. They also questioned the propriety of a local marketing agreement between Intermountain's station KXTF(TV), Twin Falls, Idaho and Compass Communications of Idaho, Inc. ("Compass"), the licensee of KFXP(TV) Pocatello, Idaho.

In a letter dated July 22, 2003 from Barbara A. Kreisman, Division Chief, Video Division, Media Bureau to J. Dominic Monahan, Esquire, the Commission staff rejected all of the Post and Fisher allegations finding that neither had raised a substantial material question of fact. In its letter decision the FCC acknowledged that Post had also challenged licenses of stations KPVI(TV), KFXP(TV), and KJWY(TV). However, the Commission staff stated that the petition against those stations would be addressed in a separate proceeding.

The result of the Commission's July 22, 2003 decision was to resolve all character issue allegations against Meridian and Intermountain in their favor. To the extent the issue remained regarding the Local Marketing Agreement between stations KXTF(TV) and KFXP(TV), its impact on the licenses of stations KPVI(TV), KXTF(TV) and KJWY(TV), that was left to a separate proceeding. Moreover, no character issues (e.g. misrepresentation or lack of candor) were associated with that matter.

Notwithstanding the Commission staff's favorable letter ruling regarding Meridian and Intermountain with respect to the Post and Fisher allegations, Post filed a Petition for Reconsideration of the letter decision on August 21, 2003 challenging the staff's findings on Meridian's financial qualifications and the real party in interest issue. Absent from the request for reconsideration was any reference to the earlier alleged misrepresentation issue (i.e. character issue). Intermountain filed its opposition thereto on September 4, 2003 and a reply pleading was filed by Post on September 15, 2003. In a letter dated July 21, 2005 from Barbara A. Kreisman, Division Chief, Video Division, Media Bureau to Post, Meridian and Intermountain, the Commission staff denied the Petition for Reconsideration stating that Post failed to provide the Commission with any new evidence to support its claims.

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<sup>1</sup> Station KJWY(TV) was sold to PMCM TV, LLC on June 12, 2009 (*see* BALED-20090227ABM, granted June 10, 2009).

NPG of Idaho ("NPG"), the new licensee of KIFI-TV, filed an Application for Review on August 22, 2005 challenging the staff findings. Intermountain filed its opposition on September 6, 2005 and a reply pleading was filed by NPG on September 13, 2005.

On January 11, 2011, the FCC issued a *Memorandum Opinion and Order* which resulted in the affirmance of the staff grant of the construction permit for Channel 20 to Meridian Communications of Idaho, Inc. ("Meridian"). In reaching that decision, the Commission dealt with allegations raised by NPG of Idaho, Inc. (the successor to The Post Company) ("NPG") which opposed the application for the permit on the grounds that James Rogers, the father of Suzanne Rogers and Perry Rogers, was the real party in interest in the Channel 20 application.

The Commission also took note that the Joint Sales Agreement, a Shared Services Agreement, a Construction and Lease Agreement and a Co-Location/Co-Use Agreement between Rocky Mountain Broadcasting Company ("Rocky Mountain") and BCC involving Stations KMTF(TV) and KTVH(TV), both in Helena, Montana, were yet to be examined.

This explanatory exhibit is provided out of abundance of caution and in the interest of full disclosure.