

EXHIBIT 15-A

Amended and Restated Request for Continued Satellite Authority

At the request of the Commission's staff, HITV License Subsidiary, Inc. ("HITV") hereby amends and restates its request for a waiver of the Commission's local television ownership rules to permit HITV to continue to operate KGMV(TV), Wailuku, Hawaii, as a satellite of KGMB(TV), Honolulu, Hawaii.¹ The Mass Media Bureau authorized Emmis to operate KGMV(TV) as a satellite of KGMB(TV) in September 2000.² Since that time, none of the fundamental geographic and economic facts that render the Hawaiian television market unique have changed. As such, HITV respectfully requests that the Commission allow KGMV(TV) to continue operating as a satellite of KGMB(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

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

¹ 47 C.F.R. § 73.3555, Note 5 (2006).

² See *LINT Co.*, 15 FCC Rcd 18130, ¶ 9 (MMB 2000).

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).

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.¹⁰

Presumptive Satellite Waiver. KGMV(TV) satisfies the first and third prongs of the Commission's presumptive satellite waiver test. As the attached engineering statement from DuTreil, Lundin & Rackley demonstrates, no City Grade contour overlap exists between KGMV(TV) and its parent station KGMB(TV).¹¹ Moreover, due to the unique economic,

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.

¹⁰ HITV notes that at the time it initially prepared its satellite waiver request it believed that KGMV(TV) qualified for a presumptive satellite waiver. As explained below, however, after commissioning a new engineering study, HITV learned that is no longer the case. See Note 13.

¹¹ See Attachment I.

historical, and geographic realities of operating a television station on the island of Maui, no alternative operator is 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 as the attached engineering statement demonstrates, only 19.6% of the land area within the KGMV(TV) grade B contour receives service from four or fewer stations.¹³

Unique Historical and Geographic Circumstances. Less than sixteen months ago, the Media Bureau 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 Wailuku, Hawaii.¹⁴ The Commission also cited those same unique concerns in 2000 when it last authorized KGMV(TV) to operate as a satellite station for KGMB(TV). Specifically, the Commission held that “the unique population distribution and geography in Hawaii constitute ‘*compelling circumstances*’ warranting satellite status.”¹⁵

¹² See Unique Historical and Geographic Circumstances *infra*.

¹³ When HITV prepared its initial satellite waiver request it believed that KGMV(TV) would satisfy the reception test and would qualify for a presumptive satellite waiver. In the May 2000 application where Emmis Communications Corporation (“Emmis”) acquired KGMV(TV), Emmis demonstrated that over 33% of the land area was underserved. See FCC File No. BALCT-20000517ACX. HITV’s engineering study, however, indicates that in the intervening years a sufficient amount of engineering changes have occurred such that Emmis’s number is no longer accurate.

¹⁴ *Emmis Television License*, 20 FCC Rcd at 20044 (authorizing KAIL-TV, Wailuku, Hawaii, to operate as a satellite of KHON-TV, Honolulu, Hawaii) (emphasis added).

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

Those circumstances, which for decades have served as the basis for satellite waivers for the television stations licensed to Wailuku,¹⁶ 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 impracticable to operate a stand-alone, full-power television station on any of the islands except for Oahu (where Honolulu and parent station KGMB(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 10.57% of the total population of the entire state.¹⁷ The Commission repeatedly has explained that these market facts are “compelling circumstances” and they justify granting satellite authority for the

¹⁶ See, e.g., *Emmis Television License*, 20 FCC Rcd at 20044 (authorizing KAIH-TV, Wailuku, Hawaii, to operate as a satellite of KHON-TV, Honolulu, Hawaii); *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).

¹⁷ According to the 2000 U.S. Census, the population of the State of Hawaii is 1,211,537 and the population of Maui County is 128,094. See http://factfinder.census.gov/servlet/GCTTable?_bm=y&-geo_id=04000US15&-_box_head_nbr=GCT-PH1-R&-ds_name=DEC_2000_SF1_U&-_lang=en&-format=ST-2S&-_sse=on.

television stations serving the outlying islands in Hawaii.¹⁸

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 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 KGMB(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 CBS network programming, including CBS's national news and public affairs programs. If KGMV(TV) operated as a stand-alone station, residents would no longer receive this programming. Grant of

¹⁸ 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.").

the instant request thus serves the public interest because it will allow residents on this Island of Maui to continue to receive the full complement of network programming.¹⁹

Conclusion. HITV 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 KGMB(TV). Based upon the foregoing, HITV respectfully requests a waiver of the local television ownership rules to permit the assignment of the licenses described in the instant application and the continued operation of KGMV(TV) as a satellite station of KGMB(TV).

¹⁹ 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").

TECHNICAL EXHIBIT
TV SATELLITE REQUEST
TELEVISION STATION KGMB(TV)
HONOLULU, HAWAII
CH 9 105 KW -12 M
TELEVISION STATION KGMV(TV)
WAILUKU, HAWAII
CH 3 14.1 KW 1814 M

Technical Statement

The technical exhibit of which this statement is part was prepared to support an application for a continued TV Satellite Request for station KGMV(TV) on Channel 3 assigned to Wailuku, Hawaii. The main station will remain KGMB(TV) on Channel 9 assigned to Honolulu, Hawaii.

Attached as Figure 1 is a coverage map showing the Grade B and City Grade coverage contours for both KGMB(TV) and KGMV(TV). As can be seen, there is no City Grade contour overlap between KGMB(TV) and KGMV(TV). Within the Grade B coverage contour for KGMV(TV), that is not served by the Grade B contour of KGMB(TV), resides a population of 172,160 persons over a land area of 6,085 square kilometers.¹ Of that area that has only four video services remaining resides a population of 10,230 persons over a land area of 1,195 square kilometers

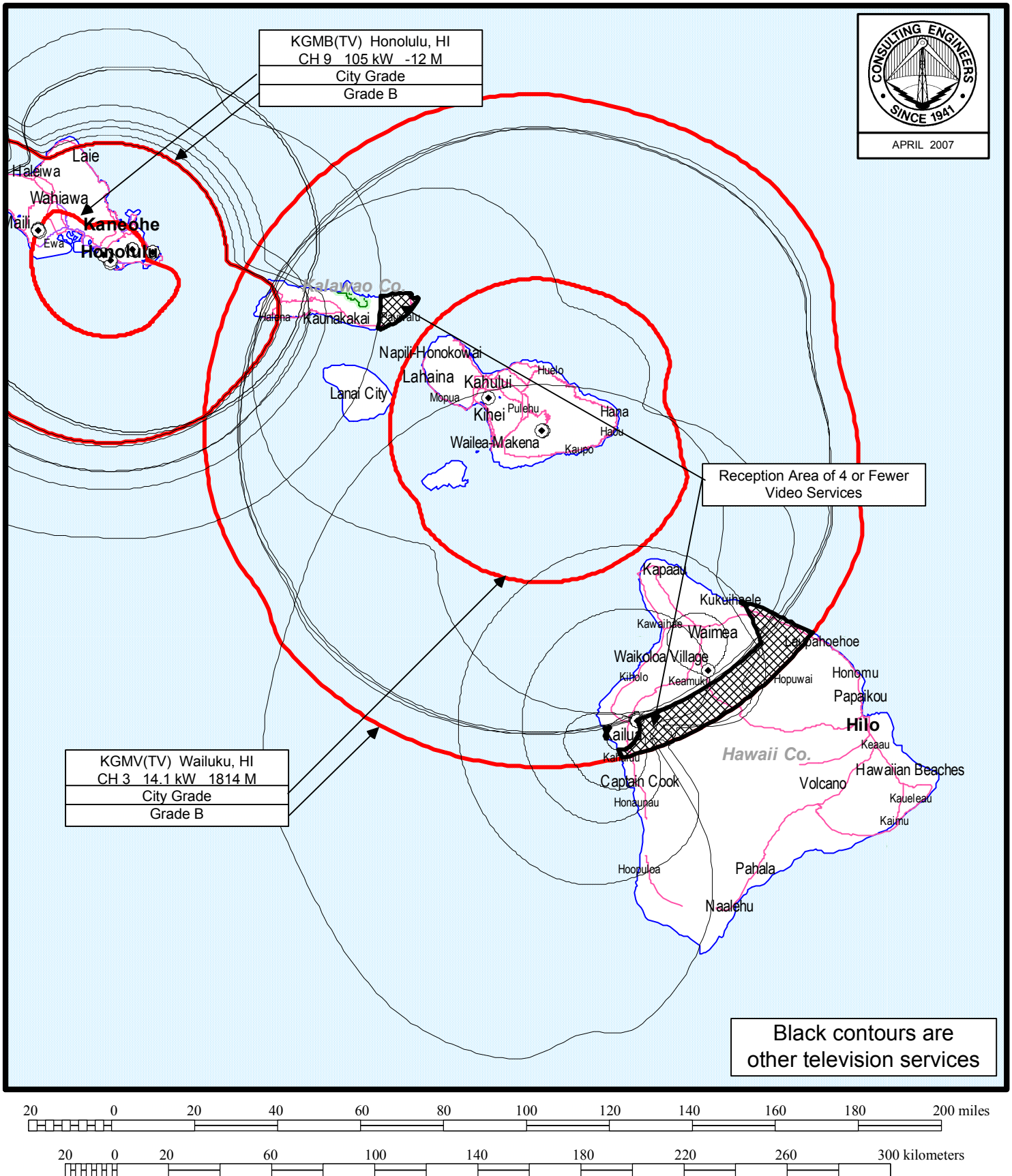
Charles A. Cooper

April 11, 2007

du Treil, Lundin & Rackley, Inc.
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¹ The population is based upon the 2000 Census.

Figure 1



TV SATELLITE ANALYSIS

TELEVISION STATIONS KGMV/KGMV

HAWAII

du Treil, Lundin & Rackley, Inc., Sarasota, Florida