

Multiple Ownership Compliance and Request for Satellite Waiver

The instant application seeks consent to the assignment of the FCC licenses for KFNB, Casper, Wyoming (Facility ID 74256), KFNE, Riverton, Wyoming (Facility ID 21613), KFNR, Rawlins, Wyoming (21612) and KLWY, Cheyenne, Wyoming (Facility ID 40250) from Wyomedia Corp. (“Wyomedia”) to Front Range Television LLC (“Front Range”) pursuant to the Asset Purchase Agreement submitted with this application.

KLWY is licensed to Cheyenne, Wyoming, within the Cheyenne-Scottsbluff designated market area (“DMA”); no parties to this application hold any attributable interests within the Cheyenne-Scottsbluff DMA. Accordingly, Front Range’s proposed ownership of KLWY complies with the multiple ownership rules.

KFNR is licensed to Rawlins, Wyoming, which is located within Carbon County, Wyoming, part of the Denver, Colorado DMA; no parties to this application hold any attributable interests within the Denver DMA. Accordingly, Front Range’s proposed ownership of KFNR also complies with the multiple ownership rules in that DMA.

KFNR, together with KFNE, have historically been operated as satellites of KNFB, and accordingly both stations are treated by Nielsen as being part of the Casper-Riverton, DMA, as is KNFB.¹ Both KNFB and KFNE are licensed to communities that are part of the Casper-Riverton DMA and, as explained below, the noise-limited service contours (NLSCs) of each of KFNE and KFNR slightly overlap with that of KNFB.² Accordingly, Front Range hereby

¹ For multiple ownership compliance purposes, the Commission looks to a station’s community of license instead of its Nielsen assignment, although as set forth herein, both KFNR and KFNE would qualify for continued satellite exception to the multiple ownership rules. *See* Schurz Communications, Inc., *Opinion*, 31 FCC Rcd 1113 (2016).

² There is no overlap between the contours of KFNR and KFNE themselves.

requests waiver of the Commission's multiple ownership rules pursuant to Note 5 to Section 73.3555 of the Commission's Rules to operate KFNR and KFNE as satellites of KFNB.

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 purchase and operate the satellite as a full-service station.³ Alternatively, if an applicant cannot qualify under the presumptive waiver test, the Commission will employ an *ad hoc* approach to determine whether other compelling circumstances warrant grant of satellite status.⁴ Since the conclusion of the transition to digital television service, stations no longer have a City Grade contour and therefore cannot satisfy the first presumptive standard. As a result, the Commission now evaluates all satellite waiver requests on an *ad hoc* basis.⁵ Front Range submits that operation of KFNR and KFNE as satellites of KFNB clearly satisfies the Commission's requirements under an *ad hoc* approach.

As noted above, after the conclusion of the digital transition, there is no longer an equivalent to the former analog City Grade Contour.⁶ In recognition of the differences between the analog City Grade contour and the digital Principal Community Contour, the Bureau has approved satellite waivers in situations where, prior to the digital transition, there was no City

³ See 47 C.F.R. § 73.3555, Note 5; *Satellite Order*, 6 FCC Rcd 4212, 4213-14 (1991) (subsequent history omitted).

⁴ See *id.* at 4214.

⁵ See *Streamlining Reauthorization Procedures for Assigned or Transferred Television Satellite Stations*, Report and Order, FCC 19-17, para. 4 (2019)

⁶ *Id.*

Grade overlap between the satellite and parent stations.⁷ Here, there was no historical City Grade contour overlap between any of KFNR, KFNE, and KFNB. As explained by the previous licensee of the stations in an application filed in 2010 seeking a main studio waiver, there was not even any contour overlap of the stations' larger analog Grade B contours.⁸ After the digital transition, however, there is now very minimal overlap of the NLSCs of each of KFNE and KFNR with that of KFNB.⁹ Accordingly, Front Range submits that this application satisfies the first satellite waiver criterion.

As to the second prong of the satellite waiver test, an applicant can demonstrate that an area is underserved by one of two tests: the transmission test or the reception test.¹⁰ Under the transmission test, a proposed community is underserved if two or fewer full service television stations are licensed to it.¹¹ Both KFNE and KFNR serve underserved areas under the transmission test, and therefore the reception test is not applicable. KFNE is the only full-service television station licensed to Riverton, Wyoming, and KFNR is similarly the only full-service television station licensed to Rawlins, Wyoming. Accordingly, Front Range submits that this application satisfies the second satellite waiver criterion.

Front Range also submits that this application satisfies the third satellite waiver criterion in that no alternative operator would be able to operate either station (or any full-power station licensed to Rawlins or Riverton) as a full-service, stand-alone television station.

⁷ See, e.g., *Cunningham Broadcasting Corporation*, DA 12-2209 (rel. Nov. 18, 2013).

⁸ See BTCCDT-20100319AEG.

⁹ *Id.* As of 2010, the total population in the contour overlap area of KFNE and KFNB was 34 persons and in the contour overlap area of KFNR and KFNB was only 10 persons. Front Range submits that this situation has not materially changed and that any population in the extremely remote overlap areas is exceedingly small.

¹⁰ See *Satellite Order*, 6 FCC Rcd at 4215.

¹¹ See *id.*

Both Rawlins and Riverton are very small communities (2018 estimated populations of 8,658 and 10,996, respectively)¹² in one of the nation's smallest DMAs – ranked 199th out of 210 DMAs nationally.¹³ The state capital of Casper, by comparison, has a population of 57,461, making it impossible for a standalone station in Rawlins or Riverton to compete with the other full-power stations in the market that serve Casper. As noted above, no other full-power television station is licensed to either of the communities of Rawlins or Riverton. The other Big 4 network affiliates in the DMA all also utilize satellite stations or low-power television stations to provide over the air service to these remote, underserved areas.

On two prior occasions, the Media Bureau has recognized the economically precarious situation faced by these two communities. In 2009, and again in 2010, the Bureau granted applications seeking main studio waivers for each of KFNE and KFNR, based in part on showings by the applicants that neither Rawlins nor Riverton could support a standalone station.¹⁴ That situation remains unchanged, and the communities still cannot support the stations as stand-alone operations.

As satellite stations, KFNR and KFNE also provide important public interest benefits to residents in the sparsely populated and remote areas of Wyoming which they serve. The stations rebroadcast KFNB's Fox network programming, as well as programming of specific interest to Wyoming residents produced and broadcast by KFNB. If KFNE or KFNR operated as stand-alone stations, residents would no longer receive this programming. Grant of the instant request

¹² See <https://www.census.gov/quickfacts/fact/table/rawlinscitywyoming>; <https://www.census.gov/quickfacts/rivertoncitywyoming>

¹³ See <https://www.nielsen.com/wp-content/uploads/sites/3/2019/09/2019-20-dma-ranker.pdf>

¹⁴ See Letter to Wyomedia Corporation dated September 23, 2010 re File No. BTCCDT-20100319AEG, *et al.*

thus serves the public interest because it will allow residents throughout Wyoming to continue to receive the full complement of network programming, as well as news and other programming focused on residents of the state.¹⁵

Front Range has demonstrated that grant of the instant waiver request is consistent with Commission precedent. Operating either KFNE or KFNR as a full-service independent station is simply not feasible given the stations' limited coverage area and poor prospects for financial success except as satellite stations. Accordingly, the public interest would be served by the Commission's authorization of the continued operation of KFNR and KFNE as satellites of KFNB.

¹⁵ 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").