



Federal Communications Commission
Washington, D.C. 20554

August 7, 2013

DA 13-1713
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Sinclair Television Group, Inc.
c/o Clifford M. Harrington, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037

Re: Applications for Transfer of Control

KVAL-TV, Eugene, OR, Fac. Id. No. 49766;
KCBY-TV, Coos Bay, OR, Fac. Id. No. 49750
File No. BTCCDT-20130425ACX

KPIC(TV), Roseburg, OR, Fac. Id. No. 61551
File No. BTCCDT-20130425ADQ

KIMA-TV, Yakima, Washington, Fac. Id. No. 56033
KEPR-TV, Pasco, Washington, Fac. Id. No. 56029
File No. BTCCDT-20130425ADE

Dear Counsel:

This letter is in reference to the unopposed, above-captioned applications for transfer of control from (i) Fisher Broadcasting-Oregon TV, L.L.C., licensee of KVAL-TV, Eugene, Oregon and KCBY-TV, Coos Bay, Oregon, (ii) South West Oregon TV Broadcasting Corp., licensee of KPIC(TV), Roseburg, Oregon, and (iii) Fisher Broadcasting-Washington TV, L.L.C., licensee of KIMA-TV, Yakima, Washington, and KEPR-TV, Pasco, Washington, to Sinclair Television Group, Inc. ("Sinclair"). Sinclair has requested authority to continue operating (i) KCBY-TV and KPIC(TV) as satellite stations of KVAL-TV in the Eugene, Oregon Nielsen Designated Market Area ("DMA") and (ii) KEPR-TV as a satellite station of KIMA-TV in the Yakima-Pasco-Richland-Kennewick, Washington DMA, pursuant to Note 5 of Section 73.3555 of the Commission's rules.¹ For the reasons set forth below, we grant the requests for continuing satellite authority and the applications.

In *Television Satellite Stations*,² the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would 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.

² *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212, 4215 (1991)(subsequent history omitted)(*Television Satellite Stations*).

construct or to purchase and operate the satellite as a full-service station.³ If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis and grant the application if there are compelling circumstances that warrant approval.⁴

Eugene Market. With regard to the first criterion, 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. Thus, as we stated previously, the Principal Community contour is not an equivalent standard to use in determining whether a proposed satellite qualifies for the presumptive satellite exemption to the duopoly rule.⁵ In a previous request, Fisher had demonstrated that no City Grade contour overlap existed between KCBY-TV, KPIC(TV), and KVAL-TV.⁶

Regarding the second criterion, Sinclair relies on the Commission's "transmission" test to demonstrate that KCBY-TV provides service to an underserved area. That test deems an area underserved if there are two or fewer full-power television stations (including commercial, noncommercial, and satellite stations) licensed to the proposed satellite's community of license. Here, KCBY-TV and KMCB(TV), a satellite station of KMTR(TV) in Eugene, are the only full-service television stations licensed to Coos Bay. There are three stations licensed to Roseburg, Oregon, the community of license of KPIC-TV, but Sinclair contends that one of the three, KTVC(TV), appears to broadcast the same programming as KBLN-TV, Grants Pass, Oregon, and therefore its niche programming does not directly compete for viewers and advertising revenues with the other two stations licensed to the community, KPIC-TV and KTCW(TV).

As for the third criterion, Sinclair cites a previous Commission review authorizing the operation of KCBY-TV and KPIC-TV, which determined that the geographically challenging market and the stations' limited coverage areas could not support a viable, stand-alone operation.⁷ It contends that long-term satellite operations indicate that standalone operation is likely to be impossible, and notes that KPIC(TV) has been operating as a satellite station since 1956 and KCBY-TV has been operating as a satellite since 1960. Sinclair further submits a statement from W. Lawrence Patrick, Managing Partner of the media brokerage firm Patrick Communications, in support of its assertion that standalone operation of KCBY-TV and KPIC-TV is likely impossible.

Patrick notes that the Eugene, Oregon DMA covers an extremely large geographic area and the size of the market essentially mandates use of a satellite to serve the viewing public properly. He further states that total television advertising dollars decreased by 3 percent from 2007 to 2012 and that BIA Kelsey ranks the market 134th in terms of television advertising revenue, well below its population rank of 121. Patrick contends that "this indicates a television economy where there is less advertising revenue available for the pool of stations than most markets of comparable population."⁸ According to Patrick, because the major network affiliations are already present in the DMA, there would be no primary network television programming available to either satellite, and the stations would not have access to sufficient programming to compete for audience and revenue. Patrick thus concludes that "the marketing

³ *Id.* at 4213-14.

⁴ *Id.* at 4212.

⁵ *New Young Broadcasting Holding Company, Inc.*, Letter, 25 FCC Rcd 7518, 7519 (Vid. Div. 2010).

⁶ *Applications of Retlaw Broadcasting of Eugene, L. L.C. and Fisher Broadcasting, Inc.*, Memorandum Opinion and Order 14 FCC Rcd 6667, 6667 (1999) ("*Fisher Broadcasting, Inc.*").

⁷ *Id.* at 6678.

⁸ Statement of W. Lawrence Patrick in Support of Request for Continuing Satellite Waiver for KPIC(TV) and KCBY-TV at 2.

of KCBY-TV and KPIC(TV) as standalone stations would be unsuccessful given the marginalized nature of the operation, and knowing that a buyer would be hard pressed to find compelling programming sufficient to survive.”⁹

Yakima-Pasco-Richland-Kennewick Market. With respect to the first criterion, Fisher had demonstrated in a previous request that no City Grade contour overlap existed between KIMA-TV and KEPR-TV.¹⁰

Regarding the second criterion, Sinclair relies on the Commission’s “transmission” test to demonstrate that KEPR-TV provides service to an underserved area. That test deems an area underserved if there are two or fewer full-power television stations (including commercial, noncommercial, and satellite stations) licensed to the proposed satellite’s community of license. KEPR-TV is the only full-service television station licensed to Pasco, Washington.

As for the third criterion, Sinclair cites a previous Commission review authorizing the operation of KEPR-TV, which determined that the geographically challenging market and the station’s limited coverage area could not support a viable, stand-alone operation.¹¹ It contends that long-term satellite operations indicate that standalone operation is likely to be impossible, and notes that KEPR-TV has been operating as a satellite station since 1954. Sinclair further submits a statement from W. Lawrence Patrick, Managing Partner of the media brokerage firm Patrick Communications, in support of its assertion that standalone operation of KEPR-TV is likely impossible.

Patrick states that the Yakima-Pasco-Richland-Kennewick DMA covers a very sizeable geographic area and the size of the market essentially requires use of a satellite to serve the viewing public adequately. He further states that BIA Kelsey ranks the market 140th in terms of television advertising revenue, well below its population rank of 123. Patrick contends that “this indicates a television economy where there is less advertising revenue available for the pool of stations than most markets of comparable population.”¹² Patrick thus concludes that “the marketing of KEPR . . . as a standalone station would be unsuccessful given the marginalized nature of the operation, and knowing that a buyer would be hard pressed to find compelling programming sufficient to survive.”¹³

Although the instant requests do not satisfy the Commission’s presumptive satellite exemption standard, Sinclair has provided information sufficient to warrant continued satellite operation for KCBY-TV, KPIC(TV), and KEPR-TV under our *ad hoc* analysis. In 1999, the Commission reviewed the specific facts surrounding these stations and the operation of KCBY-TV and KPIC(TV) as satellites of KVAL-TV and KEPR-TV as a satellite of KIMA-TV and concluded that the satellites could not survive as stand-alone stations.¹⁴ Given the stations’ long history as satellites, the geographically challenging nature of their coverage areas, and the declining position of the Eugene DMA and the Yakima-Pasco-Richland-Kennewick DMA, it is unlikely that an alternative operator would be willing and able to operate the stations as stand-alone facilities. Accordingly, we find that the continued operation of KCBY-TV and KPIC(TV) as satellites of KVAL-TV and KEPR-TV as a satellite of KPIC-TV would serve the public interest.

⁹ Id. at 3.

¹⁰ *Fisher Broadcasting, Inc.*, 14 FCC Rcd at 6676.

¹¹ Id. at 6678.

¹² Statement of W. Lawrence Patrick in Support of Request for Continuing Satellite Waiver for KEPR-TV at 2.

¹³ Id. at 3.

¹⁴ *Fisher Broadcasting, Inc.*, 14 FCC Rcd at 6678.

Furthermore, having carefully reviewed the applications, we find that the applicants are fully qualified and conclude that the grant of the applications would serve the public interest.

ACCORDINGLY, IT IS ORDERED That the application for transfer of control of the licenses of KVAL-TV, Eugene, Oregon and KCBY-TV, Coos Bay, Oregon (File No. BTCCDT-20130425ACX), the application for transfer of control of KEPR-TV, Pasco, Washington, and KIMA-TV, Yakima, Washington (File No. BTCCDT-20130425ADE), and the application for transfer of control of KPIC-TV, Roseburg, Oregon (File No. BTCCDT-20130425ADQ) ARE GRANTED.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B a / K', with a long horizontal stroke extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau