

Main Studio Waiver Amendment

This Amendment is filed at the request of FCC staff in order to supplement the main studio waiver request included in the Assignee's Request for Continued Satellite Authority.¹

Main Studio Waiver for KUPK

KUPK, Garden City, Kansas, has operated pursuant to a waiver of the main studio rule, 47 C.F.R. § 73.1125, since at least January 2013 when the Commission granted the main studio waiver request of Gray MidAmerica TV Licensee Corp. ("Gray") for KUPK.² In approving Gray's request, the Commission found that the following facts justified a waiver. First, the Wichita-Hutchinson, Kansas Nielsen DMA had declined in ranking from No. 59 to No. 68 in the prior two decades.³ Second, the declines in population and per capita income of Garden City and its surrounding communities made the maintenance of a main studio in the community less viable.⁴ Third, neither of the two stations licensed to the community of Garden City would maintain a main studio and, thus, neither would be placed at a competitive disadvantage.⁵ Fourth, and finally, Gray committed in its written request to continue to maintain its presence in the Garden City community and to maintain a toll-free telephone number in the studio and a website through which residents could obtain programming and other information.⁶

The facts underlying the Commission's action granting the KUPK main studio waiver request in 2013 remain true today.

First, according to Nielsen's 2015-16 DMA rankings, Wichita-Hutchinson is DMA No. 65.⁷ While the Wichita-Hutchinson DMA has inched up slightly in ranking since 2011, it remains true that the DMA has declined in ranking over the past 25 years from No. 59 in 1990 to No. 65 in 2015.

Second, with regard to the viability of a main studio located in Garden City, according to U.S. Census data, the population of Garden City has remained relatively steady since 2013, when

¹ See Exhibit 18, Request for Continued Satellite Authority for KLBY and KUPK.

² See *Request for Waiver of Main Studio Rule, KUPK, Garden City, Kansas*, Letter (Jan. 28, 2013) (hereinafter, "*KUPK Decision*").

³ See *KUPK Decision*, at 2.

⁴ See *id.*

⁵ See *id.*

⁶ See *id.*

⁷ See Nielsen Local Television Market Universe Estimates (2015-2016), available at <http://www.tvb.org/media/file/2015-2016-dma-ranks.pdf> (last visited Dec. 20, 2015).

the Commission granted Gray's waiver request, and 2014. The population increased by only 50 people from 2013 to 2014.⁸ Looking further back, the population has decreased 5.1 percent between 2000 and 2014.⁹ The estimated median per capita income for Garden City based on 2014 data remains well below the statewide per capita median—in fact, the Garden City figure is more than 20 percent below the statewide figure.¹⁰ Each of these facts makes the maintenance, operation, and staffing of a main studio in Garden City economically challenging today just as it was in 2013.

Third, as was the case in 2013, there are two full-power television stations licensed to Garden City, and both currently operate pursuant to main studio waivers granted by the Commission.¹¹ Thus, neither station will be at a competitive disadvantage today if Knoxville TV's request is granted any more than either station was in 2013.

Finally, Knoxville TV will be acquiring in the transaction certain assets of Gray located in Garden City. Knoxville TV is committed to continuing to maintain a presence in the Garden City community and will continue to maintain the toll-free telephone number in the studio and a website through which residents may obtain programming and other information.

⁸ See U.S. Census data, available at http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml (enter Garden City, KS, and select 2014 Population Estimates Program, Annual Population Estimates) (last visited Dec. 21, 2015). The population of Garden City was estimated as 27,004 in 2014 and 26,954 in 2013.

⁹ The population was estimated as 28,451 in 2000 by the U.S. Census Bureau. *See source cited supra*, note 8 (enter Garden City, KS, and select Census 2000, General Demographic Characteristics). The population of Garden City was estimated as 26,945 in 2012. *See source cited supra*, note 2 (enter Garden City, KS, and select 2014 Population Estimates Program, Annual Population Estimates). According to these data, the Garden City population decreased by 5.3 percent (as opposed to 6.3 percent) from 2000 to 2012 and 5.1 percent from 2000 to 2014.

¹⁰ The U.S. Census Bureau estimated the median per capita income for 2014 as \$21,652 for Garden City, whereas the median capita income statewide was estimated as \$27,367. *See source cited supra*, note 8 (enter Garden City, KS, select Income, then select 2014 American Community Survey, Selected Economic Characteristics; also search Kansas, select Income, and then select 2014 American Community Survey, Selected Economic Characteristics). Thus, in 2014 Garden City's median per capita income was 20.9 percent lower than the median per capita income for the state of Kansas. (The Commission's decision in 2013 discussed average income rather than median income data.)

¹¹ *See Request for Waiver of Main Studio Rule, KSNG (DT), Garden City, Kansas*, Letter (Jan. 28, 2013).

Main Studio Waiver for KLBY

KLBY, Colby, Kansas, has operated pursuant to a main studio waiver granted by the Commission for more than a decade, since at least 2003.¹² In 2003, the Commission determined the following facts justified the grant of Gray's request for waiver of the main studio rule. First, the Commission recognized that Colby has a small population and that no other commercial television stations at that time were licensed to the community.¹³ Second, the Commission acknowledged KLBY's numerous financial difficulties—declining revenues, Colby's shrinking population, depressed wages and sustained negative cash flow—which prevented Gray from supporting a main studio in Colby.¹⁴ Third, the Commission noted it had previously recognized station KLBY as a satellite of KAKE-TV.¹⁵ Finally, it found Gray's pledge to provide a toll-free number for Colby residents would improve residents' accessibility to the main studio in Wichita.¹⁶ Accordingly, based on the facts, the Commission found that grant of a waiver of the main studio rule for KLBY under the circumstances was appropriate and would serve the public interest.¹⁷

Little has changed in the demographics and economic situation of Colby since 2003.

First, while there is now one additional full-power television station, KWKS, licensed to Colby, it is a non-commercial educational station¹⁸ that operates pursuant to a main studio waiver granted by the Commission.¹⁹ To the extent the stations compete at all, neither KWKS nor KLBY will be at a competitive disadvantage by virtue of the Commission's grant of this main studio waiver request.

¹² See *Request for Waiver of Section 73.1125 KLBY(TV), Colby, Kansas*, Letter (July 23, 2003) (hereinafter, "*KLBY Decision*").

¹³ See *KLBY Decision*, at 2.

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ A search of the Commission's Consolidated Database System ("CDBS") on December 20, 2015, using the search criteria "Colby, KS" as the community and state of license returns just two digital television stations—KLBY and KWKS. KWKS is licensed to Smoky Hills Public Television Corp. According to CDBS, KWKS was granted an original construction permit in 2006 in FCC File No. BNPEDT-20040726ACE.

¹⁹ See FCC File No. BLEDT-20070601ATA, Exhibit 6.

Second, with regard to financial difficulties attendant to operating a main studio in Colby, it should be noted that the population of Colby has decreased from 2000 to 2014.²⁰ Nearly 10 percent of residents live below the poverty line in 2014,²¹ and the median household income as estimated in 2014 has risen by less than ten thousand dollars since 2000.²² Moreover, the estimated median per capita income for Colby is 7.5 percent below the median per capita income for the rest of the state of Kansas.²³ Additionally, as discussed above, the Wichita-Hutchinson DMA has declined in ranking over the past 25 years from No. 59 in 1990 to No. 65 in 2015. Given that the station has operated pursuant to a main studio waiver for at least the past twelve years, Knoxville TV would be required to undertake a significant investment of financial and operational resources to locate, secure, equip, and staff a main studio in Colby in the absence of a waiver. As was the case in 2003, the current economic situation of Colby poses significant challenges to the support of a main studio.

Third, KLBY has been operated as a satellite of KAKE for many years, and Knoxville TV has requested continued satellite treatment for KLBY.²⁴

Finally, Knoxville TV will continue to provide a toll-free number for Colby residents and a website through which residents of Colby may maintain their accessibility to the main studio in Wichita and obtain programming and other information.

* * *

Grant of Knoxville TV's request will permit the assignee to commit resources to serving the communities of Garden City and Colby, Kansas, with news and information of relevance to local viewers. For all the foregoing reasons, Knoxville TV respectfully submits that grant of waiver

²⁰ According to U.S. Census data, the population of Colby was 5,450 in 2000 and 5,388 in 2014. See http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml (enter Colby, KS, and select 2014 Population Estimates Program, Annual Population Estimates; also select Census 2000, General Demographic Characteristics) (last visited Dec. 21, 2015).

²¹ See source cited *supra*, note 20 (search Colby, KS, select Income, and then select 2014 American Community Survey, Selected Economic Characteristics). The percent of all people in Colby living below the poverty line is estimated as 9.8 percent.

²² See source cited *supra*, note 20 (search Colby, KS, select Income, and then select 2014 American Community Survey, Selected Economic Characteristics; also search Colby, KS, select Income, then select Census 2000, Selected Economic Characteristics). The median household income in 2000 was estimated as \$34,615 and \$44,207 in 2014.

²³ See source cited *supra*, note 20 (search Colby, KS, select Income, and then select 2014 American Community Survey, Selected Economic Characteristics; also search Kansas, select Income, and then select 2014 American Community Survey, Selected Economic Characteristics). The 2014 median per capita income for Colby is \$25,314, which is 7.5 percent lower than the median per capita income for Kansas of \$27,367.

²⁴ See Exhibit 18, Request for Continued Satellite Authority for KLBY and KUPK.

of rule 73.1125 of the Commission's rules for both KUPK and KLBY is justified by the facts and would serve the public interest.

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