

ATTACHMENT B, EXHIBIT 18

FCC SEPTEMBER 2000 SATELLITE DECISION



Federal Communications Commission
Washington, D.C. 20554

SEP 25 2000

E. Joseph Knoll, III, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, DC 20006

Re: KTRE(TV), Lufkin, Texas
KLTV(TV), Tyler, Texas
Transfer of Control of Civic License
Holding Company, Inc.
Request for Continuing Satellite Exemption
File Nos. BTCCT-20000801ACV
BTCCT-20000801ACW
FIN: 68540 & 68541

Dear Mr. Knoll:

This letter concerns the above-referenced applications for transfer of control of Civic License Holding Company, Inc., licensee of KLTV(TV), Channel 7 (ABC), Tyler, Texas; and KTRE(TV), Channel 9, Lufkin, Texas; from Shareholders of Civic Communications Corporation II to Cosmos Broadcasting Corporation (Cosmos). To permit continued common ownership of these stations, Cosmos proposes to continue to operate KTRE(TV) as a satellite of KLTV(TV) pursuant to the Note 5 exemption set forth in the Commission's broadcast multiple ownership rule. *See* 47 C.F.R. § 73.3555(b) Note 5. For the reasons set forth below, we grant Cosmos' continued satellite request and the transfer of control applications.

REQUEST FOR SATELLITE STATUS

In *Television Satellite Stations*, 6 FCC Rcd 4212 (1991) (subsequent citations omitted), the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with the 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 construct or to purchase and operate the satellite as a full-service station. *Id.* at 4213-14. Applications meeting these criteria, when un rebutted, will be viewed favorably by the Commission. If an applicant cannot 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. *Id.* at 4214.

The Commission recently revised its broadcast multiple ownership rules to provide that one entity may own two television stations in the same Nielsen Designated Market Area (DMA) if eight full-power independent television stations (commercial and noncommercial) will remain post-merger and one of the stations is not among the top four-ranked stations in the market based on audience share. *See Review of the Commission's Regulations Governing Television Broadcasting*, MM Docket No. 91-221, *Report and Order*, FCC 99-209, released August 6, 1999 (*Report and Order*). Therefore, because KLTN(TV) and KTRE(TV) are both located in the Tyler-Longview (Lufkin & Nacogdoches) DMA, Cosmos seeks a continuing satellite exemption to permit common ownership of these stations.

Cosmos first notes that KTRE(TV) was the first VHF station in Commission history to be granted permission to operate as a satellite station in 1954. *See Forest Capital Broadcasting Co.*, 44 FCC 69 (1954). Cosmos states that the circumstances have not changed significantly since the Commission's last grant of continuing satellite authority for these stations in 1988. Cosmos maintains that KTRE(TV) continues to qualify under the presumptive test for satellite status. First, Cosmos provides an engineering statement that demonstrates that neither the stations' City Grade contours nor their Grade A contours overlap. Second, Cosmos demonstrates that KTRE(TV) continues to serve an underserved area. An area is deemed underserved if, under the "transmission test," there are two or fewer full-service stations already licensed to the proposed satellite community of license, or, under the "reception test," 25 percent or more of the area within the proposed satellite's Grade B contour, but outside the parent's Grade B contour, receives four or fewer services, not including the proposed satellite service. *Television Satellite Stations*, 6 FCC Rcd at 4215. Here, Cosmos notes that KTRE(TV) meets the second criterion because KTRE(TV) is the only television station licensed to Lufkin, Texas.

Cosmos also submits information to demonstrate that KTRE(TV) would not be able to operate as a stand-alone station. Cosmos states that KTRE(TV)'s Grade B signal covers only a small portion of the Tyler-Lufkin DMA (about 29.5% or 70,120 television households). In addition, because its Grade B signal does not cover the "headends" of the DMA's major cable systems, KTRE(TV) would not qualify for cable carriage on any of these cable systems. Because of its small audience and inability to obtain cable carriage, KTRE(TV) would lack the potential to produce meaningful national sale revenue as a stand-alone station. Cosmos also provides a study by Patrick Communications (Patrick), a media investment and brokerage company, assessing the viability of operating KTRE(TV) as a stand-alone station. Patrick's conclusion is that KTRE(TV) could not realistically operate in such a manner. Patrick points to the fact that the Tyler-Longview Texas DMA currently includes affiliates for the ABC, NBC, and Fox networks. The UPN and WB networks are currently carried on a low power facility and a cable channel. As for the remaining network, because of its small coverage area, Patrick contends that it is unlikely that CBS would seek an affiliation with KTRE(TV). Therefore, if operated as a stand-alone station, KTRE(TV) would have to operate as an independent station which Patrick states would be difficult given its inability to attract advertising revenues. For these reasons, Patrick concludes that it would be futile to attempt to sell KTRE(TV) as a stand-alone station.

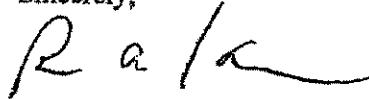
In sum, we find that Cosmos has met the presumptive test that grant of continued satellite status to KTRE(TV) is warranted and an exception to the duopoly rule pursuant to Note 5 to Section 73.3555 of the Commission's rules should be granted. Thus, we find that the operation of KTRE(TV) as a satellite of KLTV(TV) would be in the public interest. In view of the foregoing, and having determined that the applicant is qualified to operate the station as proposed, we find that a grant of this application will serve the public interest, convenience and necessity.

CONCLUSION

Accordingly, IT IS ORDERED, That the request by Cosmos Broadcasting Corporation, for the operation of station KTRE(TV), Lufkin, Texas, pursuant to the satellite exception to the duopoly rule, Section 73.3555 of the Commission's rules, IS GRANTED.

IT IS FURTHER ORDERED, That the applications for consent to transfer of control of Civic License Holding Company, Inc. (File Nos. BTCCT-20000801ACV and BTCCT-20000801ACW), licensee of KLTV(TV), Tyler, Texas, and KTRE(TV), Lufkin, Texas, from Shareholders of Civic Communications Corporation II to Cosmos Broadcasting Corporation, ARE GRANTED.

Sincerely,

A handwritten signature in black ink, appearing to read 'R a / a', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Services Division
Mass Media Bureau