

J.D.G. Television, Inc., the assignor in this application, operates television station KFAA, Rogers, Arkansas, as a satellite of television station KPOM-TV, Fort Smith, Arkansas. KPOM-TV and KFAA are both licensed to communities in the Fort Smith-Fayetteville-Springdale-Rogers, Arkansas Designated Market Area.¹ Because there is predicted Grade B overlap between KPOM-TV and KFAA, Nexstar Finance, L.L.C. (“Nexstar”), the proposed assignee of the stations, cannot own both stations under Section 73.3555(b)(i) of the Commission’s rules. Therefore, Nexstar requests consent for continued operation of KFAA as a satellite of KPOM-TV pursuant to Note 5 of Section 73.3555 of the Commission’s rules. As shown below, continued operation of KFAA as a satellite of KPOM-TV is essential to KPOM-TV’s ability to compete with the other stations in this DMA.

The Commission’s satellite policy provides that an applicant for satellite status is entitled to a presumption that the proposed satellite operations are in the public interest if it meets the following three criteria: (1) there is no City Grade overlap between the parent and satellite; (2) the proposed satellite would provide service to an unserved or 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. *Television Satellite Stations*, 6 FCC Rcd 4212 (1991).

There is a slight City Grade contour overlap between KPOM-TV and KFAA. This overlap encompasses approximately 423 square kilometers and 72,825 persons.² This overlap is approximately 26.1 percent of the population and 6.65 percent of the area of KPOM-TV’s City Grade contour and is approximately 31.76 percent of the population and 20.23 percent of the area of KFAA’s City Grade contour. Nexstar further notes that the population and area in the City Grade overlap is approximately 14.33 percent of the population and 2.75 percent of the area in KPOM-TV’s Grade B contour and approximately 21.46 percent of the population and 5.97 of the area in KFAA’s Grade B contour.

Under the second criterion, an area is deemed unserved if, under the “transmission test,” there are two or fewer full-service stations already licensed to the proposed satellite community of license. *Television Satellite Stations*, 6 FCC Rcd at 4215. A review of the CDBS database shows that KFAA is the only television station licensed to Rogers, Arkansas. Accordingly, this case meets the second element of the Commission’s satellite station test.

With respect to the third criterion, Nexstar submits the attached letter from Mr. Brian Cobb of CobbCorp, LLC. Mr. Cobb indicates that based on his experience, listing KFAA as a full-service station apart from KPOM-TV would not result in the purchase by a separate operator because of the difficulty of the terrain in the market. Mr. Cobb states that without the satellite waiver it would be “very difficult for KPOM to compete effectively” In addition, Mr. Cobb notes that KFAA’s Grade B contour does not reach Ft. Smith, a key city in the DMA. Mr. Cobb states that due to the insufficient signal, it is his opinion that KFAA “could not operate

¹ Fort Smith-Fayetteville-Springdale-Rogers is the 108th DMA as ranked by A.C. Nielsen.

² Attached hereto is an engineering study showing the slight overlap of the City Grade contours of KPOM-TV and KFAA and a Table showing the population and area overlap between the stations.

successfully . . . particularly if it attempted to produce its own local news or public affairs programming.”

Although the instant request does not meet all three criteria for a presumptive satellite waiver for KFAA, many of the factors relevant to the Commission’s original grant of a satellite waiver for KFAA remain applicable today. Continued satellite operations of KFAA are necessary to allow Nexstar to compete effectively with the other licensees in the DMA. KFAA’s satellite operations allow for the placement of a strong signal over portions of the market that KPOM-TV’s signal does not reach due to the mountainous terrain between its transmitter site and the Fayetteville, Rogers and Springdale areas of the DMA. In addition, continued satellite operations of KFAA will allow Nexstar to effectively compete with KSFM-TV (a VHF station licensed to the New York Times) and KHBS and its satellite station KHOG (two UHF stations licensed to Hearst Argyle).

KFAA also remains the only television station licensed to Rogers, Arkansas. Although the population in and around the Rogers area has increased since 1989, the current population of Rogers is only 38,829.³ With its reduced power signal, KFAA is unable to reach the viewers in the southern portion of the DMA. The small population of Rogers is unlikely to have an advertising revenue base strong enough to support a stand-alone station. In addition, as a stand-alone station KFAA would experience significant programming costs, particularly since the only major network affiliation available is with the FOX Television Network, which charges (rather than pays) its affiliates for the affiliation.⁴ Without a satellite waiver, KFAA would join KPOM-TV in an inability to compete effectively with the New York Times and Hearst Argyle stations.

Continuing the satellite waiver for KFAA also will serve the public interest by facilitating each station’s conversion to full-power digital operations. Nexstar estimates that the conversion to full-power digital operations for its stations and for KPOM-TV and KFAA will require an expenditure of approximately \$750,000 per station. If Nexstar’s request for a continuation of KFAA’s satellite waiver is not granted, these stations may not be able to generate sufficient revenues to cover such conversion costs.

Therefore, Nexstar requests the Commission grant its request for continued operations of KFAA as a satellite of KPOM-TV. Grant of this waiver will not affect diversity or competition in the DMA; rather it will preserve a long-established relationship in the market.

³ U.S. Census Bureau available at: http://factfinder.census.gov/servlet/GCTTable?ds_name=DEC_2000_SF1_U&geo_id=04000US05&_box_head_nbr=GCT-PH1&format=ST-7

⁴ Nexstar notes that currently the Fox and UPN affiliations in this market currently are held Equity Broadcasting which operates low power and translator stations licensed to the Fort Smith-Fayetteville-Springdale-Rogers DMA. In addition, the WB affiliation currently is operated on cable via the WB 100+ cooperative.