

EXHIBIT 13

**REQUEST FOR CONTINUED SATELLITE EXEMPTION
PURSUANT TO 47 C.F.R. § 73.3555, NOTE 5**

This request for authorization to continue satellite operations pursuant to Note 5 of Section 73.3555 of the Commission's Rules applies to two applications filed concurrently: (i) the application for Commission consent to the assignment of the licenses of WAVB-TV, San Juan, 1/ and WVOZ-TV, Ponce, Puerto Rico, from International Broadcasting Corporation ("IBC") to Esperanza Television, LLC ("ETV") and (ii) the application for Commission consent to the assignment of the license of WVEO(TV), Aguadilla, Puerto Rico, from Southwestern Broadcasting Corporation ("SBC") to ETV. Pedro Roman Collazo ("Roman") currently controls WAVB-TV, WVOZ-TV and WVEO(TV), as the sole stockholder of both IBC and SBC.

Roman currently operates WVOZ-TV and WVEO(TV) as satellite stations (the "Satellites") of WAVB-TV pursuant to Commission authority granted in 1993. 2/ The

1/ The WAVB-TV call sign became effective on February 2, 2001. Prior to that date the station's call sign was WTCV(TV).

2/ See *Canal 48, Inc.*, 8 FCC Rcd 2193 (1993) (The Commission granted consent to Roman to acquire and operate WVOZ-TV (then WIEC) as a satellite of WAVB-TV (then WSJU)) ("*Canal 48*"). Prior to the acquisition of WVOZ-TV, Roman was already operating WVEO(TV) as a satellite of WAVB-TV, pursuant to Commission authority. See *Hector Nicolau*, 5 FCC Rcd 6370 (1990). However, at the time that the Commission authorized WVEO(TV) to operate as a satellite, Roman had intended to also acquire television station WTIN(TV), Ponce, Puerto Rico, which would provide programming for and be the parent of WVEO(TV). Roman did not consummate the acquisition of WTIN(TV) and instead operated WVEO(TV) as a satellite of WAVB-TV. The Commission acknowledged

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predicted Grade B signal contour of WAVB-TV overlaps with the Grade B contours of both WVOZ-TV and WVEO(TV) and, therefore, the three stations could not be commonly owned as stand-alone operations. 3/ Because the circumstances surrounding the continued common ownership of WAVB-TV and the Satellites (collectively, the "Stations") remain unchanged since *Canal 48*, ETV hereby requests the continuation of the Note 5 satellite exemption for the Satellites, so that ETV may operate the Stations following consummation of the proposed transaction.

Pursuant to *Television Satellite Stations*, 4/ the Commission presumes that a proposed satellite operation will serve the public interest if (i) no City Grade overlap exists between the parent and the satellite; (ii) the proposed satellite would provide service to an underserved area; and (iii) no alternative operator is ready and able to purchase or operate the satellite as a full-service station. The Commission evaluates proposed

Roman's operation of WVEO(TV) as a satellite of WAVB-TV in *Canal 48*. See *Canal 48* at note 1.

3/ On March 16, 2000, the Commission issued a construction permit to modify the facilities of WAVB-TV, File No. BPCT-19971113KE (the "WAVB-TV Construction Permit"). The facilities specified in the WAVB-TV Construction Permit eliminate Grade B contour overlap between WAVB-TV and WVEO(TV). However, there remains predicted Grade B signal contour overlap between the proposal contained in the WAVB-TV Construction Permit and WVOZ-TV's licensed facilities.

4/ *Television Satellite Stations*, 6 FCC Rcd 4212 (1991), *on recon.*, *Second Further Notice of Proposed Rule Making*, 6 FCC Rcd 5010 (1991), *on further recon.*, *Review of the Commission's Regulations Governing Television Broadcasting*, 10 FCC Rcd 3524 (1995). See also *Review of the Commission's Regulations Governing Television Broadcasting*, 14 FCC Rcd 12903, 12943 (1999) (Commission will continue to except satellite stations from the new television duopoly rule).

operations that do not meet the presumptive criteria on an *ad hoc* basis, based on the totality of the circumstances, to determine whether the proposal would serve the public interest.

As demonstrated below, the operation of WVOZ-TV and WVEO(TV) as satellite stations of WAVB-TV meets the first and third presumptive criteria outlined above, but not the second prong of the standard. Nevertheless, the Commission has repeatedly recognized that the special characteristics of Puerto Rico warrant grant of parent-satellite status to Island stations even where the presumptive criteria are not met. 5/ Moreover, in 1990, when the Commission authorized Roman to operate WVEO(TV) as a satellite of WAVB-TV, and again, in 1993, when the Commission authorized the satellite operations of WVOZ-TV, the Commission determined, under an *ad hoc* analysis, that the satellite operations of these stations would serve the public interest. 6/

City Grade Contour Overlap. As demonstrated in Attachment 1 hereto, there is no City Grade overlap between WVOZ-TV and WAVB-TV. 7/ Likewise, there is no

5/ See e.g. *Milton Maltz*, 13 FCC Rcd 15527, 15537 (MMB 1998) (Authorized satellite operations based on *ad hoc* analysis despite failure to meet first two presumptive criteria); *JEM Communications, Inc.*, 9 FCC Rcd 4874, 4875 (1994) (Commission found that a persuasive showing has been made to justify satellite operation based on the facts of the case despite a failure to satisfy all of the requirements for a presumptive grant).

6/ See *Hector Nicolau*, 5 FCC Rcd at 6371; *Canal 48*, 8 FCC Rcd at 2194.

7/ There is also no City Grade overlap between the proposal contained in the WAVB-TV Construction Permit and that of WVOZ-TV's licensed facilities. See note 3, *supra*.

City Grade overlap between WVEO(TV) and WAVB-TV. 8/ Accordingly, the first presumptive criterion is satisfied. 9/

Service to Underserved Areas. For the purposes of the Commission's presumptive criteria for satellite operation, an underserved area is defined as one in which there are two or fewer television stations (including all commercial, noncommercial educational and satellite stations) licensed to the satellite's community of license (the "transmission" test) or, alternatively, one in which 25% or more of the area within the satellite's Grade B contour (and outside the parent's Grade B contour) receives four or fewer television services (the "reception" test). 10/

There are six television stations licensed to Ponce and more than four television stations services can be received in an excess of 75% of the area within WVOZ-TV's Grade B contour which is outside WAVB-TV's Grade B contour. Accordingly, WVOZ-TV does not serve an underserved area as measured by either the transmission or the reception test. Likewise, WVEO(TV) does not serve an underserved area as measured by either the transmission or the reception test, as there are three television stations licensed

8/ Again, there is also no City Grade overlap between the proposal contained in the WAVB-TV Construction Permit and that of WVEO(TV)'s licensed facilities. See note 3, *supra*.

9/ It should be noted that there is City Grade contour overlap between the two Satellites (WVOZ-TV and WVEO(TV)). However, mountainous terrain divides the areas served by WVOZ-TV and WVEO(TV) and using the Longley-Rice prediction method, which accounts for such terrain, there is only a 42 square kilometer city grade contour overlap area between the two stations and only 8,872 potential viewers reside within the area of overlap. See Engineering Statement, Attachment 1 hereto.

to Aguadilla and more than four television stations services can be received in an excess of 75% of the area within WVEO(TV)'s Grade B contour which is outside WAVB-TV's Grade B contour.

Nevertheless, because Puerto Rico is a geographically small and highly concentrated broadcast market, it is difficult for any Puerto Rico station to show a sufficient lack of predicted Grade B service to satisfy the reception test. Accordingly, in authorizing the current operation of the Satellites, as well the operation of other satellite stations in Puerto Rico, the Commission has long recognized that given the Island's unique terrain and economic conditions, satellite operations or rebroadcast arrangements are a necessity, even in cases where the communities of license and their surrounding areas do not satisfy the Commission's definition for being underserved. ^{11/} This reality is best exemplified by the fact that all but one of the television stations licensed to Ponce, and *all* of the stations licensed to Aguadilla, rely entirely on other stations for their programming, either through local marketing agreements ("LMAs") or authorized satellite operations. ^{12/}

^{10/} See *Television Satellite Stations*, 6 FCC Rcd at 4215.

^{11/} See e.g. *T. Michael/Whitney*, DA 01-189 (MMB, released January 26, 2001); *Milton Maltz*, 13 FCC Rcd 15527 (MMB 1998); *JEM Communications, Inc.*, 9 FCC Rcd 4874 (1994); *Canal 48*, 8 FCC Rcd 2193 (1993); *Hector Nicolau*, 5 FCC Rcd at 6371-2.

^{12/} See Economic Viability Study prepared by W. Lawrence Patrick (Attachment 2 hereto). The one station in Ponce that originates its own programming, WSTE(TV), is the only VHF station licensed to Ponce. More importantly, WSTE(TV) has been authorized to operate utilizing a unique system of three high-power on-channel boosters which provide coverage to the entire island. See *Siete Grande Television*, 7 FCC Rcd 5299 (1992). Despite the extended coverage of WSTE(TV)'s signal, the station still receives a

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Availability of an Alternative Operator. The Island of Puerto Rico is approximately 125 miles long (east to west) and thirty miles wide (north to south), bisected east to west by the Cordillera Central Mountain Range, which effectively blocks television signals that originate on one side of the Island to be received on the other. WAVB-TV is licensed to San Juan on the northeast coast of the Island; WVOZ-TV, which is licensed to Ponce, is located on the south coast; and WVEO(TV), Aguadilla, is located on the northwest coast. As the Commission has repeatedly recognized, Puerto Rico's mountainous terrain has a "significant limiting effect on the actual over-the-air coverage of television station operating on the island." ^{13/} Furthermore, in authorizing Roman's operation of WVEO(TV) as a satellite, the Commission concluded the limited signal coverage of Puerto Rico television stations, combined with the relatively poor economic conditions of areas that lie outside of the San Juan population center, "indicate that satellite operations or rebroadcast arrangements are a necessity" ^{14/}

When Roman acquired WVEO(TV) in 1990, it had been off the air since 1985. ^{15/} Likewise, when Roman acquired WVOZ-TV in 1993, the station had been dark for more than three years, and prior to that had been receiving its programming from a

significant amount of its programming from a same-market station. See *Siete Grande Television*, 11 FCC Rcd 21154, 21155-56 (1996).

^{13/} *Hector Nicolau*, 5 FCC Rcd at 6371.

^{14/} *Id.*, at 6371-72.

^{15/} See *Hector Nicolau*, 5 FCC Rcd at 6371.

separately owned station that, itself, went dark as a result of bankruptcy. 16/ The Commission has repeatedly recognized that areas outside the San Juan population center lack the economic base to sustain full-service operations. 17/ The current economic conditions in Puerto Rico are consistent with the substantial and long-standing evidence of the inability of either of the Satellites to operate as a full-service, stand-alone station and the unavailability of a qualified buyer to purchase either of the Satellites for full-service, stand-alone operation.

In the attached declaration of Pedro Roman Collazo, the Stations' current licensee, Roman states that each of the Stations has consistently sustained losses since he began operations. 18/ Specifically, Roman states that he would be unable to operate either of the Satellites as a stand-alone station, and that virtually none of the Stations' advertising revenue comes from Ponce or Aguadilla-based businesses. Additionally, the attached Economic Viability Study prepared by W. Lawrence Patrick, a media broker who is extremely familiar with the Puerto Rico market explains that neither Ponce nor Aguadilla could support a stand-alone operation. The Patrick study indicates Patrick's opinion that there would be no qualified buyer who would be interested in purchasing either of the Satellites as a stand-alone operation.

16/ See *Canal 48* at 2193-94.

17/ See e.g. *T. Michael Whitney*, DA 01-189, at para. 5; *JEM Communications, Inc.*, 9 FCC Rcd at 4875; *Canal 48, Inc.*, 8 FCC Rcd at 2194; and *Hector Nicolau*, 5 FCC Rcd at 6372.

18/ See Declaration of Pedro Roman Collazo (Attachment 3 hereto).

In conclusion, although neither of the Satellites is entitled to an exemption under the Commission's presumptive criteria, in a number of cases involving television stations on the island of Puerto Rico, the Commission has recognized not only the unusual economic circumstances but also the unique and extreme topography in Puerto Rico as a basis for authorizing satellite operations even where the presumptive criteria are not met. Additionally, the Commission has already determined, based on the totality of the circumstances, that operation of WVOZ-TV and WVEO(TV) as satellites of WAVB-TV serves the public interest. 19/ The circumstances upon which the Commission based that determination remain unchanged today.

19/ See *Canal 48*, 8 FCC Rcd 2193.

EXHIBIT 13

**REQUEST FOR CONTINUED SATELLITE EXEMPTION
PURSUANT TO 47 C.F.R. § 73.3555, NOTE 5**

ATTACHMENT 1

Engineering Statement
**INFORMATION REGARDING COVERAGE OF
PROPOSED COMMONLY OWNED TELEVISION STATIONS**

WAVB-TV Ch. 18 San Juan, Puerto Rico Facility ID 28954
WVEO(TV) Ch. 44 Aguadilla, Puerto Rico Facility ID 61573
WVOZ-TV Ch. 48 Ponce, Puerto Rico Facility ID 29000

prepared for
Esperanza Television, LLC

Introduction

The instant engineering statement has been prepared on behalf of *Esperanza Television, LLC* in support of an application for assignment of three television stations. WAVB-TV is currently authorized as a parent to the two satellite stations, WVEO(TV) and WVOZ(TV). Attached herewith are two maps: **Figure 1** depicts the locations of the respective Grade B (64 dB μ) and City Grade (80 dB μ) signal strength contours; **Figure 2** illustrates the extent of the actual City Grade overlap between WVEO(TV) and WVOZ-TV when predicted with the Longley-Rice alternative propagation prediction model utilized by OET Bulletin 69.

Grade B and City Grade Contour Overlap

Figure 1 depicts the locations of the Grade B and City Grade contours for WAVB-TV as licensed (BLCT-19840808KN) and authorized (BPCT-19971113KE) with the Grade B and City Grade contours of its licensed satellite stations WVEO(TV) (BLCT-19950606KE) and WVOZ-TV (BLCT-19860808KK). As shown by **Figure 1**, Grade B contour overlap exists between WAVB-TV and WVEO(TV) and between WAVB-TV and WVOZ-TV. The licensed and authorized City Grade contours of WAVB-TV do not overlap the City Grade contours of either WVEO(TV) or WVOZ-TV. However, as also illustrated by **Figure 1**, the Grade B and City Grade contours of WVEO(TV) and WVOZ-TV do share some common overlap.

The contours shown are predicted every degree for 360 radials with U.S.G.S. 3 arc second terrain data and an implementation of the Commission's TVFMFS

computer program which simulates the FCC's TV propagation curves pursuant to §73.684 of the FCC Rules.

Included on the map are the boundaries of the populated places (cities) shaded in gray and municipios (roughly equivalent to counties in the United States). There are no Designated Market Areas for Puerto Rico. However, the clusters of gray, populated places suggest some separation between the San Juan, Ponce, and Aguadilla/Mayaguez areas of the island.

Longley-Rice Study of City Grade Overlap Between WVEO(TV) and WVOZ-TV

The island of Puerto Rico is well known for its precipitous terrain features which isolate metropolitan areas along the different coastal areas. Accordingly, the Longley-Rice alternative propagation prediction model used for the Commission's Office of Engineering and Technology Bulletin number 69 *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, July 2, 1997 ("OET-69") was applied to consider the extent of the predicted common overlap of City Grade signal for WVEO(TV) and WVOZ-TV. (No reduction in coverage area for incoming interference is made.) As shown on **Figure 2**, there is some small overlap of the City Grade signals of WVEO(TV) and WVOZ-TV depicted with pink dots.

The implementation of OET-69 for this coverage study followed the guidelines of OET-69 as specified therein. However, for increased accuracy, a nominal cell size of 1 km was used. The Longley-Rice computer program input data, following the guidelines established under OET-69, includes a location variability of 50%, a time availability of 50%, a situation variability of 50%, horizontal polarization, 0.005 S/m conductivity, a climate constant of 15, an assumption of a continental temperate climate zone, and a receive antenna height of 10 meters. Comparisons of various

Engineering Statement

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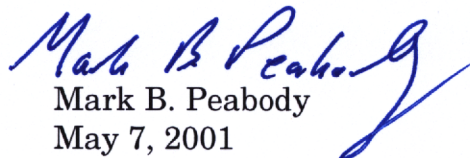
results of this computer program to the Commission's implementation of OET-69 show good correlation.

Conclusion

There is some overlap of the Grade B contours of the parent station, WAVB-TV with those of its satellites, WVEO(TV) and WVOZ-TV. There is no overlap between the City Grade contours of the licensed or authorized WAVB-TV facilities with the City Grade contours either WVEO(TV) or WVOZ-TV. There is some overlap between the City Grade contours of WVEO(TV) and WVOZ-TV. The Longley-Rice studies included herein illustrate that the overlap between the predicted City Grade signals of WVEO(TV) and WVOZ-TV is limited to certain small, isolated areas so that there is no significant, consistent overlapping City Grade coverage area.

Qualifications

I, Mark B. Peabody, hereby certify that the foregoing engineering statement for *Esperanza Television LLC* for the applications for assignment of the licenses of WAVB-TV, WVEO(TV) and WVOZ-TV regarding overlapping coverage areas was prepared by me or under my direction, that it is true and correct to the best of my knowledge and belief, and that my qualifications are a matter of record with the Federal Communications Commission.


Mark B. Peabody
May 7, 2001

