



Federal Communications Commission
Washington, D.C. 20554

MAY 11 2011

Oklahoma Land Company, LLC
c/o Mark D. Schneider, Esq.
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

Re: Request for Waiver of Main Studio Rule
KUOK(TV), Woodward, Oklahoma
Facility ID No. 86532

Dear Counsel:

This concerns the above-referenced request for a permanent waiver of Section 73.1125(a) of the Commission's rules,¹ the main studio rule, filed by Oklahoma Land Company, LLC ("Oklahoma Land").² Specifically, Oklahoma Land seeks to close the main studio of station KUOK(TV), Woodward, Oklahoma, and use the studio of commonly-owned station, KTUZ-TV Shawnee, Oklahoma, located 146 miles away, for KUOK(TV) and KTUZ-TV.³ For the reasons discussed below, we deny the request for permanent waiver, and grant a temporary, one-year waiver, subject to the conditions set forth herein.

Background. The main studio rule requires that each broadcast station maintain a main studio at one of the following locations: (a) within the station's community of license; (b) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (c) within twenty-five miles from the reference coordinates of the center of its community of license.⁴ However, Section 73.1125(b)(2) permits a station to locate its main studio outside the locations specified above when good cause exists, and when so doing would be consistent with the operation of the station in the public interest.⁵

In support of its permanent waiver request, Oklahoma Land asserts that when it acquired KUOK(TV) out of bankruptcy, the station was insolvent and off-the-air. Given these facts, Oklahoma Land asserts that the community of Woodward has already demonstrated that it is unable to economically support a main studio.⁶ Oklahoma Land further asserts that the community of

¹ 47 C.F.R. § 73.1125(a).

² Oklahoma Land filed its initial request for a main studio waiver on September 29, 2009, and filed a supplement to its request on June 22, 2010.

³ We note that station KTUZ-TV's community of license is Shawnee, Oklahoma, but its main studio is located in Oklahoma City, Oklahoma, within the station's prescribed principal community contour.

⁴ 47 C.F.R. § 73.1125(a).

⁵ 47 C.F.R. § 73.1125(b)(2).

⁶ Request for Waiver of Main Studio Rule, at 4.

Woodward is unable to provide qualified personnel for the operation of KUOK-TV. In this regard, Oklahoma Land states that it previously advertised for a broadcast engineer in the local Woodward newspaper, but received only one response from a clearly, unqualified individual.⁷ In addition, Oklahoma Land provides statistics showing that as of 2007: (1) the population of Woodward was 12,300; (2) 13.3% of Woodward County was living below the poverty line; and (3) the median household income in Woodward was \$45,700, roughly ten percent below the national average.⁸

As precedent for its request, Oklahoma Land cites *Mark III Media, Inc.*,⁹ where a continuing main studio waiver was granted to stations KGWR-TV, Rock Springs, Wyoming, and KGWL-TV, Lander, Wyoming. Oklahoma Land points out that Rock Springs, Wyoming, had a population of 19,300, with 7.8% of the population at or below the poverty level, and a per capita income of \$19,575.¹⁰ Oklahoma Land also cites to *Clear Channel Broadcasting Licenses, Inc.*,¹¹ where a continuing main studio waiver was granted to stations KAAS-TV, Salina, Kansas, and KOCW(TV), Hoisington, Kansas. Oklahoma Land asserts that a main studio waiver was granted for KAAS-TV even though Salina's population was 46,140 at the time.

Discussion. The main studio rule is rooted in Section 307(b) of the Communications Act of 1934, as amended (the "Act"), which mandates the Commission to "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide for a fair, efficient, and equitable distribution of radio service to each of the same."¹² In carrying out this mandate, the Commission has established a scheme for distributing broadcast service in which every television station is assigned to a community of license with a primary obligation to serve that community.¹³ A central component of this scheme requires a station's main studio to be reasonably accessible to its community of license.¹⁴ Accordingly, Section 307(b) of the Act creates a "bedrock obligation" of each broadcast licensee to serve the needs and interests of its community.¹⁵

⁷ *Id.* at 5.

⁸ *Id.* at 4-5.

⁹ *Mark III Media, Inc.*, Letter, 21 FCC Rcd 6255 (Vid. Div. 2006).

¹⁰ Request for Waiver of Main Studio Rule, at 4-5.

¹¹ *Clear Channel Broadcasting Licenses, Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 21196 (2007).

¹² 47 U.S.C. § 307(b).

¹³ See *Review of the Commission's Rules Regarding the Main Studio Rule and Local Public Inspection Files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691, 15692 (1998), *recon. granted in part*, 14 FCC Rcd 11113 (1999).

¹⁴ *Id.*

¹⁵ *Id.* at 15693.

In this case, we are not persuaded by Oklahoma Land's argument that good cause exists for permanently moving station KUOK(TV)'s main studio 146 miles away from its current site. Station KUOK(TV) has previously operated with a main studio. The 2006 and 2007 main studio waivers granted in *Mark III Media, Inc.*, and *Clear Channel Broadcasting Licenses, Inc.*, and relied upon by Oklahoma Land, all involved stations previously recognized by the Commission as "satellites" pursuant to Section 73.3555(b), Note 5 of the Commission's rules,¹⁶ and had long operated without main studios. The satellite stations at issue had broadcast substantial portions of their respective parent stations' programming.

Moreover, the satellite stations were located in geographically large markets that were small in terms of Nielsen Designated Market Area ("DMA") television households served. For instance, in *Mark III Media, Inc.*, stations KGWR-TV and KGWL-TV were located in the Casper-Riverton, Wyoming DMA, which, at the time, was ranked 200 in terms of the number of television households.¹⁷ In *Clear Channel Broadcasting License, Inc.*, the Commission noted that stations KAAS-TV and KOCW(TV) were located in the Wichita-Hutchison, Kansas DMA, which extended 300 miles east to west, 200 miles north to south, and comprised approximately 70% of the area of the state of Kansas.¹⁸ In contrast, the Oklahoma City, Oklahoma, DMA, in which station KUOK(TV) is located, is relatively large in terms of households served, ranking 45 overall, but comprises a smaller geographic area than the Wichita-Hutchison market.¹⁹

We are further unconvinced that the economics of the Woodward community justifies grant of a permanent main studio waiver in this case. Oklahoma Land states that 13.3% of Woodward County's population lives below the poverty line.²⁰ However, this poverty rate is lower than in Oklahoma generally, and is only three-tenths of a percentage point higher than the national average.²¹ In addition, Woodward residents enjoy a significantly higher median household income (\$45,700) than residents of Oklahoma overall (\$41,551).²² While the unemployment rate in Woodward has increased along with the overall national economic downturn, it was still below the 2009 national average of 9.3%.²³

¹⁶ 47 C.F.R. § 73.3555(b), Note 5.

¹⁷ *Mark III Media, Inc.*, 21 FCC Rcd at 6256.

¹⁸ *Clear Channel Broadcasting Licenses, Inc.*, 22 FCC Rcd at 21207.

¹⁹ See *LMC BET Holdings, LLC*, Letter, 22 FCC Rcd 6794 (Vid. Div. 2007) (Continuing main studio waiver granted to station WJMN-TV, Escanaba, Michigan, a satellite station located in the Marquette, Michigan DMA, ranked 178 overall in terms of households served); *Max Radio of the Carolinas, LLC*, Letter, 21 FCC Rcd 8668, 8670 (Aud. Div. 2006) (New main studio waiver granted to station WCMS-FM, Hatteras, North Carolina, was grounded on "unique geographic characteristics of North Carolina's Outer Banks," in that proposed main studio would be significantly more accessible to Hatteras listeners).

²⁰ Request for Waiver of Main Studio Rule at 4.

²¹ *Id.* at Exhibits 3, 4.

²² *Id.* at 4.

²³ *Id.*

Furthermore, the economic outlook presented by Oklahoma Land is not nearly as dire as another case it cites as precedent, *Living Faith Ministries, Inc.*,²⁴ where both a parent and satellite station were granted a permanent main studio waiver. In *Living Faith Ministries*, the Commission granted a permanent main studio waiver to WAGV(TV), Harlan, Kentucky, and WLFB(TV), Bluefield, West Virginia.²⁵ In Harlan, the per capita income of the residents was 11-52% below the national average and the poverty level was almost three times the national average. Similarly, in Bluefield, the per capita income of the residents was 19-53% below the national average and the poverty level was slightly higher than in Harlan.

While finding that the facts presented do not justify a permanent main studio waiver, we recognize that certain facts may justify a temporary waiver in this case. Station KUOK(TV) was acquired out of bankruptcy, and based on the facts set forth above, it is unclear at this point in time whether Oklahoma Land has fully staffed the station. Given these facts, we will grant a temporary waiver of the main studio rule not to exceed 12 months from release of this Letter. In the meantime, we will require that Oklahoma Land meet the following commitments: (1) maintain a toll-free phone number; (2) advertise the toll-free phone number on air and in the local phone book; and (3) maintain a copy of the public files in Woodward for viewers to inspect.

ACCORDINGLY, the request for a permanent waiver of Section 73.1125 of the Commission's Rules for station KUOK(TV), Woodward, Oklahoma, **IS DENIED**. Oklahoma Land Company is hereby **GRANTED** a temporary, one-year waiver, subject to the conditions specified above.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

²⁴ *Living Faith Ministries, Inc.*, Letter, 21 FCC Rcd 5046, 5048 (Vid. Div. 2006).

²⁵ The Commission initially authorized the operation of WAGV(TV) as a satellite of WLFB(TV) in 1987.