



Federal Communications Commission
Washington, D.C. 20554

November 18, 2013

DA 13-2207
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Sinclair Television Group, Inc.
c/o Clifford M. Harrington, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

Re: Applications for Assignment of License

KVII-TV, Amarillo, TX, ID No. 40446
KVIH-TV, Clovis, NM, ID No. 40450
File Nos. BALCDT-20130315ACC-ACD

WPBN-TV, Traverse City, MI, ID No. 21253
WTOM-TV, Cheboygan, MI, ID No. 21254
File Nos. BALCDT-20130315ADS-ADT

Dear Counsel:

This letter is in reference to the unopposed, above-captioned applications for assignment of the licenses of (1) KVII-TV, Amarillo, Texas, and KVIH-TV, Clovis, New Mexico, from Barrington Amarillo License LLC to KVII Licensee, LLC; and (2) WPBN-TV, Traverse City, Michigan, and WTOM-TV, Cheboygan, Michigan, from Barrington Traverse City License LLC to WPBN Licensee, LLC. Both proposed assignees are indirect, wholly-owned subsidiaries of Sinclair Television Group, Inc. (Sinclair). Although the assignments do not create any new ownership combinations, Sinclair has requested authority to continue operating KVIH-TV and WTOM-TV as satellite stations, pursuant to Note 5 of Section 73.3555 of the Commission's rules.¹ For the reasons set forth below, we grant the request for continuing satellite authority and the applications.

In *Television Satellite Stations*,² the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a 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

¹ 47 C.F.R. § 73.3555, Note 5.

² *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212, 4215 (1991)(subsequent history omitted)(*Television Satellite Stations*).

construct or to purchase and operate the satellite as a full-service station.³ If an applicant does not 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.⁴

Amarillo Market. With respect to the first criterion, we note that, following the digital transition, full-power television stations have a digital Principal Community contour that serves a much larger area than their former analog City Grade contour. The digital Principal Community contour thus does not provide an equivalent standard for determining whether a station qualifies for the presumptive satellite exemption. However, prior to the digital transition, there was no City Grade contour overlap between KVII-TV and KVIH-TV.

Regarding the second criterion, the Commission's "transmission" test deems an area underserved if there are two or fewer full-power television stations (including commercial, noncommercial, and satellite stations) licensed to the proposed satellite's community of license. Here, KVIH-TV remains the only full-power television station licensed to Clovis, New Mexico.

As for the third criterion, Sinclair cites previous Commission decisions authorizing KVIH-TV to operate as a satellite of KVII-TV, including renewals of such status in 2002, 2005, and 2011, which determined that the sparsely-populated coverage area lacked a sufficient economic base to support a viable, stand-alone operation. It states that there have been no changes to the technical facilities or coverage area of KVIH-TV and that the core circumstances underlying the previous authorizations of satellite status have not changed, as detailed in the statement from Brian E. Cobb, President of the media brokerage and appraisal firm CobbCorp LLC.

Cobb notes that Clovis, New Mexico, is located more than 100 miles from Amarillo, Texas, the major population and economic center of the Amarillo Designated Market Area (DMA), which has declined both in market ranking and television advertising revenue since the Commission last authorized satellite operations. He further states that the KVIH-TV coverage area does not contain any "significant population centers that would provide sufficient viewers and advertising to support full-service operations," that the station "has operated at a loss," and that, without the financial resources of KVII-TV, "its prospects of economic survival would be virtually impossible."

Traverse City-Cadillac Market. As noted above, the first criterion of the presumptive standard is no longer relevant in the digital environment. However, prior to the digital transition, there was no City Grade contour overlap between WPBN-TV and WTOM-TV. The second criterion is satisfied under the "transmission" test, as WTOM-TV is the only full-power television station licensed to Cheboygan, Michigan.

Concerning the third criterion, Sinclair again notes that WTOM-TV has long operated as a satellite of WPBN-TV, including renewals of such status in 1996, 1997, 2006, and 2011, and states that there have been no changes to the technical facilities or coverage area of WTOM-TV. It submits that the conditions supporting the previous authorizations remain, including, as noted in a statement from Mr. Cobb, that each of the four full-service commercial television stations assigned to the Traverse City-Cadillac DMA is affiliated with a "Big Four" network and uses a satellite to reach Michigan's sparsely populated Upper Peninsula and that, due to "the insufficiency of the signal to cover key portions of the

³ *Id.* at 4213-14.

⁴ *Id.* at 4212.

DMA, the limited population and economic base in that coverage area, and the lack of any realistic prospect to obtain a major network affiliation,” WTOM-TV “needs to continue to operate as a satellite of a viable sister facility.”

While the instant requests do not satisfy the Commission’s presumptive satellite exemption standard, Sinclair has provided information sufficient to warrant continued satellite operation for KVIH-TV and WTOM-TV under our *ad hoc* analysis. Given the stations’ long history as satellites, the sparse population within their coverage areas, and the declining position of the Amarillo and Traverse City-Cadillac DMAs, it is unlikely that an alternative operator would be willing and able to operate KVIH-TV and WTOM-TV as stand-alone facilities. Accordingly, we find that the continued operation of KVIH-TV as a satellite of KVII-TV and WTOM-TV as a satellite of WPBN-TV would serve the public interest.

Furthermore, having carefully reviewed the applications, we find that the applicants are fully qualified and conclude that the grant of the applications would serve the public interest.

ACCORDINGLY, IT IS ORDERED That the application for the assignment of the licenses of KVII-TV, Amarillo, Texas, and KVIH-TV, Clovis, New Mexico, from Barrington Amarillo License LLC to KVII Licensee, LLC (File Nos. BALCDT-20130315ACC-ACD) IS GRANTED. IT IS FURTHER ORDERED That the application for assignment of the licenses of WPBN-TV, Traverse City, Michigan, and WTOM-TV, Cheboygan, Michigan, from Barrington Traverse City License LLC to WPNB Licensee, LLC (File Nos. BALCDT-20130315ADS-ADT) IS GRANTED.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B A K', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau