Federal Communications Commission
Washington, D.C. 20554

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Re: Schurz Communications, Inc.

Dear Counsel:

This letter is in reference to the unopposed, pending applications listed on Attachment A hereto (Applications) seeking Commission consent to (1) the assignment to Gray Television Licensee, LLC (Gray) of certain full-power broadcast television licenses held by subsidiaries of Schurz Communications, Inc. (Schurz); and (2) the interrelated transactions among Gray, Schurz, and various third parties that are necessary for Gray to comply with the Commission's multiple ownership rules or that otherwise facilitate the larger transaction.[1] In addition to the waiver sought for the Augusta-Aiken local television market,

[1] Gray acknowledges that it must divest or otherwise dispose of a full-power television station in each of the following local television markets: Wichita-Hutchinson; South Bend-Elkhart; Augusta-Aiken; and Rapid City. In the Wichita-Hutchinson market, Gray entered into an agreement with a subsidiary of Lockwood Broadcast Group, Inc. (Lockwood) to sell all of the assets of KAKE(TV), Wichita, Kansas, and its full-power satellite stations KLBY(TV), Colby, Kansas, and KUPK(TV), Garden City, Kansas (File Nos. BALCDT-20151014AEC *et seq.*), in exchange for Lockwood's WBXX-TV, Crossville, Tennessee (File No. BALCDT-20151014ADY). The Video Division granted these applications on January 29, 2016, and the parties consummated the transaction on February 1, 2016. In the South Bend-Elkhart market, Gray has assigned to WLUC Licensee, LLC, a subsidiary of Sinclair Broadcast Group, Inc. (Sinclair), its rights to acquire WSBT-TV, South Bend, Indiana, from Schurz, in exchange for Sinclair's WLUC-TV, Marquette, Wisconsin. The Video Division granted the WLUC-TV assignment application (File No. BALCDT-20151008ACB) on February 8, 2016. As discussed below, in the Augusta-Aiken market, Gray requests a temporary waiver of the local television ownership rule (Duopoly Rule), 47 C.F.R. § 73.3555(b)(2), to permit common ownership of WAGT(TV) and WRDW-TV, Augusta, Georgia, until the conclusion of the broadcast incentive auction. Finally, in the Rapid City market, Gray has assigned to Legacy Broadcasting of Rapid City, LLC (Legacy) its rights to acquire KHME(TV) (formerly KOTA-TV), Rapid City, South Dakota, and its full-power satellite station KHSD-TV, Lead, South Dakota, from Schurz.

Failing Station Waiver. The Duopoly Rule permits common ownership of two full-power television stations licensed to communities in the same DMA, the Grade B contours of which overlap,[6] provided that, at the time the application to acquire the station(s) is filed: (1) at least one of the two stations is not ranked among the top four stations in the DMA, based on the most recent all-day audience share; and (2) at least eight independently owned and operating, full-power commercial and noncommercial television stations would remain in the DMA after the transaction. While KSCW-DT is not ranked among the top four stations in the market, there are fewer than eight independent licensees in the Wichita-Hutchinson DMA. Gray therefore requests a waiver of the Duopoly Rule, pursuant to the "failing station" standard.[7]

The Commission has defined a "failing station" as one that has been struggling "for an extended period of time both in terms of its audience share and financial performance."[8] The criteria for a "failing station" waiver of the Duopoly Rule are:[9]

1. One of the merging stations has an all-day audience share of no more than four percent;
2. The station has had a negative cash flow for the previous three years;
3. The merger would produce tangible and verifiable public interest benefits; and
4. The in-market buyer is the only reasonably available candidate willing and able to acquire and operate the station, and selling the station to an out-of-market buyer would result in an artificially depressed price.

A waiver will be presumed to be in the public interest if the applicant satisfies each criterion.

Gray notes that Nielsen ratings demonstrate that KSCW-DT has consistently failed to achieve a meaningful audience share, garnering only a two percent share over the last four "sweeps" periods. It also submits financial data showing that, although the station's financial performance has improved at least marginally under common ownership with KWCH-DT, it still experienced negative cash flow over the past three years and likely would not survive if operated on a stand-alone basis.[10]

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[6] Although the rule refers to Grade B contours, we note that, following the digital transition, the Commission has developed the digital noise-limited contour (NLSC) to approximate the same probability of service as the analog Grade B contour, has stated that the two are roughly equivalent, and has proposed to replace the Grade B contour with the NLSC contour for purposes of the rule. *See* 47 C.F.R. § 73.622(e); *2014 Quadrennial Review FNPRM and Report and Order*, 29 FCC Rcd at 4383-84; *see also Riverside Media*, Letter, 26 FCC Rcd 16038, 16060, n.2 (2011) (determining that the Commission will treat the NLSC contour as the "functional equivalent" of the Grade B contour for purposes of the local television ownership rule) (citations omitted).

[7] 47 C.F.R. § 73.3555, Note 7. *See also Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903 (1999) (*Local Ownership Order*).

[8] *Local Ownership Order*, 14 FCC Rcd at 12939.

[9] 47 C.F.R. § 73.3555, Note 7; *Local Ownership Order*, 14 FCC Rcd at 12939.

[10] Gray requested confidential treatment for this material, pursuant to Sections 0.457 and 0.459 of the Commission's rules. 47 C.F.R. §§ 0.457, 0.459. Consistent with Commission practice, Gray provided adjusted and unadjusted financial statements for its operation of the stations in the Wichita-Hutchinson DMA, which enabled Commission staff to analyze KSCW-DT as if it were operated on a stand-alone basis. *See J. Stewart Bryan III and Media General Communications Holdings, LLC*, 28 FCC Rcd 15509 (MB 2013).

Gray maintains that common ownership of KSCW-DT and KWCH-DT serves the public interest, describing some of the programming and operational improvements that have already resulted from the combination and pledging to continue and expand them. In particular, Gray notes that, whereas KSCW-DT provided no local news prior to combining with KWCH-DT, it now broadcasts 18 hours of original news content that otherwise would not be available to viewers, including the market's only local morning news from 7 a.m. to 9 a.m. (Monday-Friday and Sunday) and 30-minute newscasts at 4 p.m. (Monday-Friday) and 9 p.m. (7 days/week). It also states that viewers of KSCW-DT will continue to have access to critical emergency programming information through the state-of-the-art KWCH-DT radar system, which is especially important because the station's service area is part of "Tornado Alley." Gray further touts the strength of its news operations in markets that it currently serves and asserts that its Washington, DC news bureau offers a perspective to stories of local importance in a way that is not possible under the station's current ownership.

Finally, Gray submits an analysis of the marketability of KSCW-DT by Frank J. Higney, Vice President of Kalil & Co. (Kalil), a leading media brokerage firm, which details the challenging nature of selling a stand-alone CW affiliate. Mr. Higney states that CW programming is not successful enough to support a thriving station under most circumstances and that the cost of acquiring additional non-network programming could be prohibitive; that, while KSCW-DT is currently co-located with KWCH-DT and able to benefit from operational synergies, without access to such resources the cost structure for KSCW-DT would increase by hundreds of thousands of dollars; that KSCW-DT, as a stand-alone operation, would be at a significant competitive disadvantage in the geographically-large Wichita-Hutchinson DMA, as each of the major network affiliates maintains a network of satellites and translators to cover the market; and that, over the past four years, only two stand-alone, full-power CW-affiliated television stations have sold to an out-of-market buyer, one to an entity generally described as a "spectrum speculator" for the broadcast incentive auction, the other a distress sale in bankruptcy court. He concludes that "an in-market buyer would be the only reasonably available candidate willing and able to acquire and operate the station."

Based on the detailed information submitted by Gray, we are persuaded that grant of a waiver is warranted on the ground that KSCW-DT is a "failing station." Consistent with the *Local Ownership Order*, we believe that the continued operation of KSCW-DT in tandem with a stronger, in-market station will pose minimal harm to our interest in diversity and competition, because, absent the waiver, its financial situation hampers its ability to provide a viable voice. This outcome also serves the public interest, yielding tangible benefits to the community through the sustained provision of programming of local interest that is otherwise unlikely to air.

Satellite Exceptions. In *Television Satellite Stations*,[11] 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 exception standard applicable to new satellite stations. The criteria for a presumptive satellite exception are:[12]

1. There is no City Grade overlap between the parent and the satellite;

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

[12] *Id.* at 4213-14.

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.

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.[13]

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 exception.[14] However, Gray demonstrates that, prior to the digital transition, the City Grade contours of KBSD-DT, KBSH-DT, and KBSL-DT did not overlap that of KWCH-DT.

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, KBSD-DT is the only station licensed to Ensign, Kansas, KBSH-DT is one of two full-power television stations licensed to Hays, Kansas, and KBSL-DT is the only full-power television station licensed to Goodland, Kansas. Each of the stations thus serves an underserved area.

As for the third criterion, Gray submits a statement from Mr. Higney of Kalil, who expounds upon the difficulty of attempting to sell KBSD-DT, KBSH-DT, and KBSL-DT as stand-alone, full-power stations. Mr. Higney observes that, geographically, the Wichita-Hutchinson DMA is very large, comprised of 65 counties spread over central and western Kansas, so that each of the Big 4 network affiliates operates one or more satellite stations to provide an over-the-air signal to its viewers; that KBSD-DT, KBSH-DT, and KBSL-DT would face an immediate disadvantage if they were to operate as stand-alone stations, because, while the population within the predicted coverage areas for the seven full-power commercial stations in the market is over 700,000, the population within the predicted coverage areas of the satellite stations is only 156,000 for KBSD-DT, 102,000 for KBSH-DT, and 50,000 for KBSL-DT; that the stations would have no real chance of obtaining an affiliation agreement with any of the established broadcast networks due to their minimal population coverage; and that setting aside the lack of a proper affiliation, the cost of outfitting, staffing, and programming the stations as stand-alone facilities could not be covered by the advertising revenues to be generated in their communities of license. He concludes that Kalil "would attribute little value to stations KBSD-DT, KBSH-DT and KBSL-DT except in conjunction with KWCH-DT" and that "these stations could be sold only as satellite stations."

While the instant request does not satisfy the Commission's presumptive satellite exception standard, Gray has provided information sufficient to warrant continued satellite operation for KBSD-DT, KBSH-DT, and KBSL-DT under our *ad hoc* analysis. Given the stations' long history as satellites,[15] the

[13] *Id.* at 4212.

[14] *New Young Broadcasting Holding Company, Inc.*, Letter Decision, 25 FCC Rcd 7518, 7519 (Vid. Div. 2010).

[15] *See* Letter from Barbara A. Kreisman, Chief, Video Services Division, Mass Media Bureau, to John R. Feore, Jr. (March 2000)(noting that the stations had been authorized to operate as satellites on multiple occasions since 1982). We note that KBSL-DT no longer has any contour overlap with KWCH-DT. However, considering the station's

geographically challenging nature of the market, lack of access to compelling programming, and insufficient advertising revenues to support ongoing operational costs, it is unlikely that an alternative operator would be willing and able to operate the stations as stand-alone facilities. Accordingly, we find that the continued operation of KBSD-DT, KBSH-DT, and KBSL-DT as satellites of KWCH-DT would serve the public interest.

Waiver of JSA Attribution. In support of its request for waiver of the JSA attribution standard with respect to the agreement between KWCH-DT and Entravision station KDCU-DT, Gray points to the tangible public interest benefits produced by the relationship. It states that, because of the JSA, Entravision had access to a tower and an existing digital transmitter, cutting startup costs by about 50 percent and speeding its ability to construct the new station it acquired at auction and begin broadcasting. Gray also observes that, through the resources the JSA provides, KDCU-DT offers the only Spanish-language news, weather, emergency, and community activity programming to viewers in the Wichita-Huchinson market, delivering a unique service to a growing Latino population. Finally, Gray claims that grant of a waiver until the statutory deadline, providing it with the same period of relief afforded to essentially all current parties to a JSA – including those between two of the top three or top four English-language stations in a market – would better serve the diversity policies underlying the JSA attribution standard than would strict application, given the strong public interests served by expanding service to the KDCU-DT Spanish-speaking audience.[16]

We disagree. Although the Commission has recognized that "cooperation among stations may have public interest benefits under some circumstances, particularly in small to mid-sized markets," such as Wichita-Hutchinson, it nonetheless concluded that "these potential benefits do not affect our assessment of whether television JSAs confer significant influence such that they should be attributed."[17] Moreover, while the Commission has noted that parties that believe the public interest would be disserved by application of the attribution standard to their particular circumstances always have the ability to seek a waiver, we find that, on the basis of the record before us, Gray has not made a showing sufficient to justify such a waiver.[18] Attribution of the KDCU-DT JSA would cause Gray to violate the Duopoly Rule upon its acquisition of the Schurz stations in the Wichita-Hutchinson market. Given the size and complexity of the instant transaction, however, we find that a temporary waiver of the Duopoly Rule would not undermine the goals of competition, localism, and diversity that underlie the Commission's multiple ownership rules.[19] Accordingly, Gray will have one year to terminate the KDCU-DT JSA or otherwise bring it into compliance with the Commission's rules.

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long history of operating as a satellite and the Commission's repeated recognition of it as such, we believe that official reauthorization is warranted.

[16] Gray also states that its acquisition of KWCH-DT complies with the Commission's processing guidance concerning transactions proposing a change in ownership of a station that is party to an existing JSA. *See Processing of Broadcast Television Applications Proposing Sharing Arrangement and Contingent Interests*, Public Notice, 29 FCC Rcd 2467 (MB 2014). We need not address this matter, as we are granting relief on other grounds.

[17] *2014 Quadrennial Review FNPRM and Report and Order*, 29 FCC Rcd at 4537.

[18] *Id.* at 4540-41.

[19] *See e.g., Capital Cities/ABC, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 5841 (1996) (providing a six month temporary waiver of local TV ownership rule); *UTV of San Francisco, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 14975 (2001) (providing a six-month temporary waiver of local TV ownership rule); *Telemundo*

Augusta-Aiken. Gray is the licensee of full-power television station WRDW-TV, Augusta, Georgia, a CBS affiliate, while Schurz is the licensee of full-power television station WAGT(TV), Augusta, Georgia, an NBC affiliate. Both stations are among the top-four ranked stations in the Augusta-Aiken local television market, and Gray acknowledges that it must divest or otherwise dispose of one to come into compliance with the Duopoly Rule. The parties have stated on the record that they intend to participate in the broadcast incentive auction and offer the spectrum of WAGT. Accordingly, Gray requests a temporary waiver of the Duopoly Rule to permit joint ownership of WRDW-TV and WAGT until the conclusion of the auction. It also commits, as a condition of the waiver, to taking WAGT off the air immediately upon closing the Schurz transaction, so that it will not actually operate two top-four ranked stations in the market at any point during the temporary waiver period. Gray states that, in the event that the license of WAGT is not surrendered in the auction, it will sell the station to a new entrant, as it has done in other markets.[20]

Additionally, WAGT currently receives joint sales and other services pursuant to an agreement with Media General, Inc. (Media General), a subsidiary of which is the licensee of WJBF(TV), Augusta, Georgia, the number-one ranked station in the market. Gray does not seek to assume the JSA, which it states will terminate at the closing of the Schurz transaction.

Based on the specific and unique facts presented in this market, we find that the benefits of facilitating the larger transaction and encouraging participation in the broadcast incentive auction outweigh any potential harm that may result from the grant of a temporary waiver of the Duopoly Rule permitting joint ownership of WRDW-TV and WAGT for the duration of the auction. We will not, however, permit Gray to take WAGT off the air upon closing the Schurz transaction; rather, we require Gray to operate the station separately during the period of common ownership, maintaining its programming and refraining from engaging in any joint sales, including joint sales with WRDW-TV.[21] Indeed, our action with respect to the assignment of the license of WAGT is specifically conditioned upon termination of the existing JSA with Media General. Finally, following its acquisition of WAGT, we direct Gray to prepare and file an application to assign the station's license to an independent divestiture trust, which we will process and grant, in the event that the license is not surrendered in the auction.

Cheyenne-Scottsbluff. Gray seeks to acquire the license of KDUH-TV, Scottsbluff, Nebraska, which is located in the Cheyenne-Scottsbluff DMA. The station historically has operated as a semi-satellite of KHME(TV) (formerly KOTA-TV), Rapid City, South Dakota, though it is not expressly authorized as a satellite, because the need for a satellite exception to the Duopoly Rule is obviated by the stations being in separate DMAs. Gray has stated its intention to operate KDUH-TV as a satellite of its full-power television station KNOP-TV, North Platte, Nebraska, which is located in the North Platte DMA. Once again, with the stations licensed to separate DMAs, a satellite exception to the Duopoly Rule is neither necessary nor appropriate.[22] Without a satellite exception or other waiver, however, Gray's

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Communications Group, Inc., 17 FCC Rcd 6958 (2002) (providing a 12-month temporary waiver of the local TV ownership rule) (*Telemundo*).

[20] *See* Press Release, Federal Communications Commission, Statement from FCC Chairman Tom Wheeler on Gray/MMTC Section of Buyers for Former Stations (Aug. 27, 2014).

[21] *See Telemundo,* 17 FCC Rcd at 6977.

[22] Gray also seeks to acquire the license of KSGW-TV, Sheridan, Wyoming, which is located in the Rapid City DMA and historically has operated as a semi-satellite of KHME. As with KDUH-TV, Gray has stated its intention

acquisition of KDUH-TV would cause it to violate the Duopoly Rule in the Cheyenne-Scottsbluff DMA, where it is already the licensee of KGWN-TV, Cheyenne, Wyoming, and its full-power satellite station KSTF(TV), Scottsbluff, Nebraska, since there are fewer than eight independently owned and operated full-power television stations in the market. Gray notes that it has petitioned to change the community of license of KDUH-TV, to Sidney, Nebraska, which is located in the Denver DMA, and that the Commission issued a Notice of Proposed Rulemaking seeking comment on the proposal on February 8, 2016.[23] It currently has no other stations in the Denver DMA. Accordingly, Gray requests a temporary waiver of the Duopoly Rule to permit common ownership of KDUH-TV and KGWN-TV until the conclusion of the community of license change proceeding.

In support of its request for temporary waiver of the Duopoly Rule, Gray states that combining the operations of KDUH-TV and KNOP-TV will create substantial public interest benefits, since, historically, much of western Nebraska has been assigned to the Denver DMA, causing residents of that region to receive "local" news that originates from out of state, with a focus on issues of importance to Denver and surrounding communities. It maintains that reorienting the programming of KDUH-TV to serve its Nebraska viewers by rebroadcasting KNOP-TV, as well as utilizing the resources of its stations in Lincoln and Omaha, will make KDUH-TV the premier source of in-state local news for many of these "orphan counties" in western Nebraska. Gray asserts that its proposed operation of KDUH-TV will improve service for more than 80,000 Nebraska residents.

Based on the specific facts and circumstances presented here, we believe that a temporary waiver of the Duopoly Rule to permit common ownership of KDUH-TV and KGWN-TV until the conclusion of the community of license change proceeding for KDUH-TV is warranted.[24] During the limited duration of the waiver, the station's programming will focus on a DMA other than the one in which the violation occurs, and the significant interest in providing viewers in western Nebraska access to television broadcast signals that originate in their State of residence – one expressly recognized by Congress –[25] far outweighs any potential harm that may be caused from joint ownership.

Springfield, MO. Gray seeks to acquire the license of station KYTV(TV), Springfield, Missouri, from Schurz. In addition to owning KYTV, Schurz is party to various sharing agreements with Perkin Media, LLC (Perkin), the licensee of KSPR(TV), Springfield, Missouri, including a JSA/SSA and an option to acquire the station. Schurz also guarantees Perkin's financing arrangements. Gray has stated that, while it will assume the non-attributable SSA upon closing the Schurz transaction, it will not assume

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to reorient the station's programming, operating it as a satellite of its full-power station KCWY-DT, Casper, Wyoming, which is located in the Casper-Riverton DMA. Gray does not need a satellite exception for KSGW-TV, because it and KCWY-DT are located in separate DMAs and because its noise limited contour does not overlap with that of any station Gray owns or proposes to own in the Rapid City DMA.

[23] *Scottsbluff, Nebraska, and Sidney, Nebraska*, Notice of Proposed Rulemaking, DA 16-139 (MB rel. Feb. 8, 2016). Gray has filed pursuant to the provisions set forth in Section 1.420(i) of the Commission's rules, 47 C.F.R. § 1.420(i), which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.

[24] If a Report and Order authorizing the community of license change is not released within 12 months of the publication of the NPRM in the Federal Register, Gray will then have 30 days to file an application to assign one of its full-power television stations in the Cheyenne-Scottsbluff DMA to an independent divestiture trust.

[25] STELA Reauthorization Act of 2014, Pub. L. No. 113-200, 128 Stat. 2059 (2014).

the JSA (which will terminate), the option, or the guarantee of Perkin's indebtedness, nor will Gray, on its own, guarantee it. Furthermore, Schurz has exercised its option to acquire KSPR from Perkin, and its application for consent to assignment of the station's license is off Public Notice and unopposed.

The parties have committed to steps that would result in their compliance with the Commission's multiple ownership rules in the Springfield, MO local television market. Our action with respect to the Schurz transaction is specifically conditioned upon termination of the existing JSA and related contingent financial interests with Perkin.

Rapid City. As noted above, Gray has assigned to Legacy its rights to acquire KHME(TV) (formerly KOTA-TV), Rapid City, South Dakota, and its full-power satellite station KHSD-TV, Lead, South Dakota, from Schurz. Legacy requests authority to continue operating KHSD-TV as a satellite station, stating that it was constructed in 1966 to operate as a satellite of KHME and has been operated as such at all times since then. In keeping with the legal standard described above, we will review this proposal under our *ad hoc* analysis.

Satellite Exception. Legacy acknowledges that it cannot satisfy the first criterion, because the predicted contours of KHME and KHSD-TV substantially overlap. In granting prior satellite exceptions, however, the Commission has recognized that, because of the mountainous terrain in the market, ridges to the west of the KHME transmitter block much of its signal to areas west of those ridges, and, conversely, those same ridges block much of the signal from the KHSD-TV transmitter in the area around Rapid City and to its east.[26]

Regarding the second criterion, KHSD-TV is one of two full-power television stations licensed to Lead, South Dakota, and the second station, KIVV-TV, is also an authorized satellite. Thus KHSD-TV provides service to an underserved area, pursuant to the "transmission" test.

As for the third criterion, Legacy submits a statement from Mr. Higney of Kalil, who states that the geography and terrain of the Rapid City market make it so that a single station cannot cover it without satellites or translators and that each of the Big 4 network affiliates operates one or more satellite stations to provide an over-the-air signal to its viewers; that the KHSD-TV coverage area represents less than 25 percent of the market; and that the costs of operating KHSD-TV as a stand-alone station, without the benefit of a major network affiliation in one of the smallest television markets in the country, are prohibitive and would not yield positive cash flow returns for equity investors. Mr. Higney concludes that KHSD-TV is "financially viable only as currently operated...with the operational, management, sales, and programming coverage of a parent station in the Rapid City DMA."

Legacy has provided information sufficient to warrant continued satellite operation for KHSD-TV under our *ad hoc* analysis. Given the station's long history as a satellite, the geographically challenging nature of the market, lack of access to compelling programming, and insufficient advertising revenues to support ongoing operational costs, it is unlikely that an alternative operator would be willing and able to operate the station as a stand-alone facility. Accordingly, we find that the continued operation of KHSD-TV as a satellite of KHME would serve the public interest.

Summary. Section 310(d) of the Communications Act of 1934, as amended (Act), provides that no station license shall be transferred or assigned until the Commission, upon application, determines that

[26] *New Rushmore Radio, Inc.*, Letter Decision, 29 FCC Rcd 3265, 3268 (Vid. Div. 2014).

the public interest, convenience, and necessity will be served thereby.[27] We have reviewed the information submitted by the applicants and find that, with grant of the waivers as set forth herein, and conditioned upon completion of the required divestitures and termination of the JSAs in the Augusta-Aiken and Springfield, MO local television markets, the Applications comply with the Act and the Commission's multiple ownership rules. Furthermore, in light of the above discussion, 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 a 12-month waiver of Section 73.3555(b)(2) of the Commission's rules as applied to Gray Television Licensee, LLC, in the Wichita-Hutchinson Designated Market Area IS GRANTED. IT IS FURTHER ORDERED That the request for a waiver of Section 73.3555(b)(2) of the Commission's rules to permit common ownership by Gray Television Licensee, LLC, of WRDW-DT, Augusta, Georgia, and WAGT(TV), Augusta, Georgia, until the conclusion of the broadcast incentive auction IS GRANTED. IT IS FURTHER OREDERED That the request for waiver of Section 73.3555(b)(2) of the Commission's rules to permit common ownership by Gray Television Licensee, LLC, of KGWN-TV, Cheyenne, Wyoming, and KDUH-TV, Scottsbluff, Nebraska, until the conclusion of the rulemaking proceeding to change the community of license of KDUH-TV IS GRANTED. IT IS FURTHER ORDERED That the request for a "failing station" waiver of Section 73.3555(b)(2) of the Commission's rules to permit the common ownership by Gray Television Licensee, LLC, of KSCW-DT, Wichita, Kansas, and KWCH-DT, Hutchinson, Kansas, IS GRANTED. IT IS FURTHER ORDERED That the requests to continue operating KBSD-DT, Ensign, Kansas, KBSH-DT, Hays, Kansas, KBSL-DT, Goodland, Kansas, and KHSD-TV, Lead, South Dakota, as satellite stations pursuant to Section 73.3555, Note 5, of the Commission's rules ARE GRANTED. IT IS FURTHER ORDERED That the applications for assignment of the licensees of the full-power broadcast television stations listed on Attachment A hereto ARE GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[27] 47 U.S.C. § 310(d).

ATTACHMENT A

Call Sign	City, State	Facility ID Number	File Number
KWCH-DT	Hutchinson, KS	66413	BALCDT-20150917ADX
KSCW-DT	Wichita, KS	72348	BALCDT-20150917ADY
KBSD-DT	Ensign, KS	66414	BALCDT-20150917ADZ
KBSH-DT	Hays, KS	66415	BALCDT-20150917AEA
KBSL-DT	Goodland, KS	66416	BALCDT-20150917AEB
WSBT-TV	South Bend, IN	73983	BALCDT-20151008ACM
WAGT(TV)	Augusta, GA	70699	BALCDT-20150917AEE
KHME(TV)	Rapid City, SD	17688	BALCDT-20151013AFS
KHSD-TV	Lead, SD	17686	BALCDT-20151013AFT
KDUH-TV	Scottsbluff, NE	17683	BALCDT-20150917ADD
KSGW-TV	Sheridan, WY	17680	BALCDT-20150917ADF
KTUU-TV	Anchorage, AK	10173	BALCDT-20150917ADQ
WDBJ(TV)	Roanoke, VA	71329	BALCDT-20150917AEK
KYTV(TV)	Springfield, MO	36003	BALCDT-20150917ACT
KSPR(TV)	Springfield, MO	35630	BALCDT-20151216ACH