



Federal Communications Commission
Washington, D.C. 20554

December 17, 2018

Nexstar Broadcasting, Inc.
545 E. John Carpenter Freeway
Suite 700
Irving, TX 75062

Re: Application for Assignment of License

KFVE(TV), Honolulu, HI, ID No. 36917
KGMD-TV, Hilo, HI, ID No. 36914
KGMV(TV), Wailuku, HI, ID No. 36920
File Nos. BALCDT-20181106ABF-ABH

Dear Applicant:

This letter is in reference to the unopposed, above-captioned application for assignment of the licenses of KFVE(TV), Honolulu, Hawaii; KGMD-TV, Hilo, Hawaii; and KGMV(TV), Wailuku, Hawaii, from HITV License Subsidiary, Inc. (HITV), to Nexstar Broadcasting, Inc. (Nexstar). Nexstar has requested authority to continue operating KGMD-TV and KGMV 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 application.

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" standard applicable to new satellite stations. The criteria for a presumptive satellite exception are:³

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 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.⁴ The Commission has acknowledged that "there is no digital counterpart to a station's analog city grade

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 hist. omitted (*Television Satellite Stations*).

³ *Id.* at 4213-14.

⁴ *Id.* at 4212.

contour” and, accordingly, stated that “consistent with case law developed after the digital transition, we [will] evaluate all future requests for new or continued satellite status on an ad hoc basis.”⁵

In support of its request, Nexstar argues that the unique geography and population distribution of the Hawaiian television market justify continuing satellite status for KGMD-TV and KGMV. It further contends that the economic realities of the market make it exceedingly difficult to operate a standalone, full-power television station on any of the islands except for Oahu, where Honolulu and parent station KFVE are located. Specifically, Nexstar notes that each of the five commercial television stations licensed to Hilo (210 miles from Honolulu on the island of Hawaii) and each of the five commercial television stations licensed to Wailuku (89 miles from Honolulu on the island of Maui) operates as a satellite of a main station in Honolulu; that the islands of Hawaii and Maui are covered by rugged, mountainous terrain that is largely uninhabitable, with each accounting for less than 15 percent of the population of the entire state; and that no primary network affiliation is available for KGMD-TV or KGMV. It further observes that the Commission staff has previously found these concerns to constitute “compelling circumstances” warranting satellite status.⁶ Finally, Nexstar submits a letter from W. Lawrence Patrick, Managing Partner of media brokerage firm Patrick Communications, attesting to the unique challenges of the Honolulu market, asserting that KGMD-TV and KGMV would be unable to survive as standalone stations, and stating that, given the low chance of success in finding any buyer for the stations, he would decline the listing.

Nexstar has provided information sufficient to warrant continued satellite operation for KGMD-TV and KGMV under our *ad hoc* analysis. Given the stations’ long history as satellites,⁷ the geographically challenging nature of the market, and lack of access to compelling programming, it is unlikely that an alternative operator would be willing and able to operate the stations as standalone facilities. Accordingly, we find that the continued operation of KGMD-TV and KGMV as satellites of KFVE 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.

⁵ 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al., MB Docket No. 14-50, Report and Order, 31 FCC Rcd 9864, 9876, n.72 (2016), subsequent hist. omitted.

⁶ See LINT Co., 15 FCC Rcd 18130 (MB 2000).

⁷ *Id.* HITV sought and received authority to continue operating KGMD as a satellite when it acquired the station in 2007 (File No. BALCDT-20070227ADF). However, in lieu of a traditional request for continuation of the historic satellite status of KGMD-TV, HITV instead sought and received a waiver of the Commission’s former main studio rule. In light of the station’s long history of operating as a satellite, we believe that official reauthorization is warranted.

ACCORDINGLY, IT IS ORDERED That the application for the assignment of the licenses of KFVE(TV), Honolulu, Hawaii; KGMD-TV, Hilo, Hawaii; and KGMV(TV), Wailuku, Hawaii, from HITV License Subsidiary, Inc., to Nexstar Broadcasting, Inc. (File Nos. BALCDT-20181106ABF-ABH) IS GRANTED.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau