

Federal Communications Commission  
Washington, D.C. 20554

Mark III Media, Inc.  
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P.O. Box 29  
Arlington, Virginia 22210

**DA 06-1180**  
**Released: May 31, 2006**

Re: Request for Continuing Waivers of Main Studio Rule for  
KGWR-TV, Rock Springs, Wyoming, ID No. 63170  
KGWL-TV, Lander, Wyoming, ID No. 63162

Dear Counsel:

This concerns the above-referenced request for continuing waivers of Section 73.1125, the Commission's main studio rule, filed by Mark III Media, Inc. ("Mark III").<sup>1</sup> Specifically, Mark III seeks authority to continue operating stations KGWR-TV and KGWL-TV without main studios, utilizing the main studio of KGWC-TV, Casper, Wyoming.

*Background.* KGWR-TV and KGWL-TV have long operated as 100% satellites of KGWC-TV, as authorized by the Commission's satellite exemption to the television duopoly rule.<sup>2</sup> 47 C.F.R. ¶ 73.3555, Note 5. In 2002, these stations were assigned from Benedek Broadcasting Corporation to Chelsey. (See File No. BALCT-20020619ABN). However, a satellite exemption was no longer required to permit common ownership of KGWR-TV, KGWL-TV and KGWC-TV, pursuant to the revised local television ownership rule, since there is either *de minimis* or no Grade B overlap among the stations.<sup>3</sup> Nevertheless, Chelsey requested waivers of the main studio rule to permit continued operation of KGWR-TV and KGWL-TV without local main studios.<sup>4</sup>

In support of its 2002 request, Chelsey asserted that the communities could not support main studios in Lander and Rock Springs. Chelsey indicated that while the Casper-Riverton DMA is geographically large, it had a small, rapidly decreasing population. The DMA ranked 192 in 1995, but ranked 200<sup>th</sup> in 2002. Chelsey pointed out that no other commercial television stations were licensed to Rock Springs and Lander. Further, the President and Chief Operating Officer of Benedek Broadcasting Corporation, K. James Yager, declared that the stations were unable to generate sufficient revenue to support their operations and joint operation of the stations in conjunction with KGWC-TV was necessary for their survival.

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<sup>1</sup> Mark III has submitted this request in connection with its pending application to acquire stations KGWC-TV, Casper, Wyoming, KGWR-TV, Rock Springs, Wyoming and KGWL-TV, Lander, Wyoming from Chelsey Broadcasting Company of Casper, LLC ("Chelsey") (File Nos. BALCT-200030826ALR-ALT).

<sup>2</sup> See *Letter from Barbara Kreisman, Chief, Video Division, to William H. Fitz, Esq. re Benedek Broadcasting Corporation*, File Nos. BALCT-19960111IP-IX (April 8, 1996) and *Stauffer Communications, Inc.*, 10 FCC Rcd 5165 (1995).

<sup>3</sup> See *Letter from James J. Brown, Deputy Chief, Video Division to Chelsey Company of Casper, LLC* (August 29, 2002). Although all three stations are assigned to the Casper-Riverton, Wyoming DMA, the Grade B contours of KGWR-TV and KGWL-TV do not overlap the Grade B contour of parent station KGWC-TV, and KGWR-TV and KGWL-TV have only *de minimis* Grade B overlap.

<sup>4</sup> *Id.*

The Commission granted Chelsey's 2002 main studio request, finding that the Casper-Riverton, Wyoming market had a small population and that no other commercial television stations were licensed to Lander and Rock Springs.<sup>5</sup> Moreover, the Commission found persuasive the fact that Casper-Riverton was ranked the 200<sup>th</sup> DMA. The Commission also noted that it previously recognized stations KGWR-TV and KGWL-TV as satellites of KGWC-TV. Consequently, the Commission stated, both stations have operated without main studios for several years.

*Waiver Showing.* Mark III maintains that the key bases for a continuation of the main studio waivers granted by the Commission in 2002 remain true today. In this regard, Mark III explains that Lander and Rock Springs are sparsely-settled, rural communities which cannot support full service operations by KGWR-TV and KGWL-TV. To provide coverage to this large rural area, now ranked 198 out of 210 DMAs nationwide, Mark III states that these stations have long rebroadcast the programming of parent station KGWC-TV in Casper. Furthermore, Mark III states that these small towns could only receive local Wyoming programming as "satellites" of KGWC-TV, since there continues to be no other commercial television stations licensed to Rock Springs or Lander. Mark III avers that continued broadcast service to the outlying areas of Lander and Rock Springs depends on the ability of KGWL-TV and KGWR-TV to share facilities, including a main studio, with KGWC-TV.

In addition, Mark III indicates that the population of Lander, located in Fremont County, is only 7,023 persons.<sup>6</sup> According to Mark III, the current unemployment rate in Fremont County varies from 6.2% to 8.4%, higher than the statewide unemployment rate, which ranges from 4.2% to 5.1%. Moreover, Mark III avers that Fremont County ranks 20<sup>th</sup> out of 23 Wyoming counties in per capita income (\$16,519), with approximately 17.6% of the population at or below the poverty level. Mark III asserts that in every relevant income and earnings category, Fremont is below the state average. With respect to Rock Springs, located in Sweetwater County, the population is 19,300 persons.<sup>7</sup> Mark III states that this area is dependent upon natural gas exploration and development, and that the unemployment rate in Sweetwater County varies from 4.7% to 5.9%. Mark III adds that the unemployment rate for Sweetwater County has been higher than the state unemployment average since 1992. According to Mark III, the county's per capita income level of \$19,575 is lower than the national average of \$21,587, with 7.8% of the population at or below the poverty level. Given the limited resources of these small, rural communities, Mark III maintains that neither Rock Springs nor Lander is able to generate sufficient revenues to support a main studio, much less the upcoming digital conversion of the stations' facilities to ensure future service.

*Discussion.* We believe that the public interest will be served by granting continuing main studio waivers for KGWR-TV and KGWL-TV to permit these stations to operate without main studios, utilizing the studio of KGWC-TV, Casper, Wyoming. With respect to the accessibility of the Casper studio, Mark III submitted a supplemental exhibit demonstrating that the studio is accessible from Rock Springs and Lander by interstate and U.S. highways. Moreover, we recognize that the Commission has previously recognized stations KGWR-TV and KGWL-TV as satellites of KGWC-TV, and that both stations have operated without main studios for many years. Furthermore, we note that the Casper-Riverton DMA is ranked 198<sup>th</sup>, and no other commercial

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<sup>5</sup> See *Letter from James J. Brown, Deputy Chief, Video Division to Chelsey Broadcasting Company of Casper, LLC* (File Nos. BALCT-20020619ABN-ABP)(August 29, 2002).

<sup>6</sup> The population of Fremont County is 35, 804 persons.

<sup>7</sup> The population of Sweetwater County is 37,975 persons.

television stations are licensed to Lander or Rock Springs.<sup>8</sup> In addition, Mark III provides current market data to support its claim that the economically depressed communities of Lander and Rock Spring continue to be unable to support full-service stations.

However, we are concerned that Mark III takes adequate measures to ensure that it maintains awareness of the needs and interests of its local viewers. We will require Mark III to maintain a toll-free number that will permit the residents of Rock Springs and Lander to contact the Casper studio without long-distance charges. We also encourage Mark III to engage in and maintain dialogue with residents of Rock Springs and Lander to make widely known the means for contacting Casper with input regarding KGWR-TV and KGWL-TV. Overall, in light of its showing here, we believe that Mark III has demonstrated that it can and will serve the needs and interests of Rock Springs and Lander, even without main studios.

Accordingly, the request of Mark III Media, Inc. for continuing waivers of 47 C.F.R. § 73.1125(a) for KGWR-TV, Rock Springs, Wyoming and KGWL-TV, Lander, Wyoming **IS HEREBY GRANTED.**

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Chelsey Broadcasting Company of Casper, LLC

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<sup>8</sup> Although station KCWC-TV (Channel 4) has a main studio and is licensed to Lander, it is a noncommercial educational station and thus does not compete with KGWL-TV.