

Federal Communications Commission  
Washington, D.C. 20554

Hoak Media of Dakota License, LLC  
c/o Tom Davidson, Esq.  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Ave., NW  
Washington, DC 20036

Re: *Applications for Assignment of Licenses*  
KSFY-TV, Sioux Falls, SD; Facility ID No. 48658  
KABY-TV, Aberdeen, SD; Facility ID No. 48659  
KPRY-TV, Pierre, SD; Facility ID No. 48660  
K07QL, Mitchell, SD, Facility ID No. 48661  
File Nos. BALCT-20060721ADV-ADY

*Request for Continuing Satellite Authorization*  
KABY-TV, Aberdeen, SD  
KPRY-TV, Pierre, SD

Dear Counsel:

This is in reference to the above-captioned applications for the assignment of licenses from South Dakota Television License Sub, LLC to Hoak Media of Dakota License, LLC (“Assignee”). As part of this transaction, the assignee requests continuing satellite authorization for stations KABY-TV, Aberdeen, South Dakota and KPRY-TV, Pierre, South Dakota, which operate as satellites of KSFY-TV, Sioux Falls, South Dakota, pursuant to the satellite exemption to the duopoly rule. *See* 47 C.F.R. § 73.3555, Note 5. Station KSFY-TV and the satellite stations are all located within the Sioux Falls-Mitchell, South Dakota DMA.

In *Television Satellite Stations*, 6 FCC Rcd 4212, 4215 (1991) (subsequent citations omitted), 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 construct or to purchase and operate the satellite as a full-service station. *Id.* at 4213-14. 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. *Id.* at 4212.

As to the first criterion, the assignee has submitted an engineering study, which demonstrates that no overlap exists between the City Grade contours of KSFY-TV and its two satellite stations, KABY-TV and KPRY-TV. Thus, the proposed satellite operation meets the first component of the presumption. With respect to the second criterion, applicants can use two different tests to demonstrate that an area is underserved. Under the “transmission test” a proposed satellite community of license is considered

underserved if there are two or fewer television stations already licensed to it. *Id.* at 4215. The assignee asserts that Aberdeen and Pierre each have only one other television station licensed to them, in each case a non-commercial station. Thus, the proposed satellite stations will continue to provide service to underserved areas.

Regarding the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station. *Id.* at 4215. In support of its continuing waiver request, the assignee submits an economic viability study from Kelly Callan, Vice President of Kalil & Co., Inc., a media brokerage firm. Ms. Callan indicates that her company was retained by the assignee to list stations KSFY-TV, KABY-TV and KPRY-TV for sale. However, all of the potential buyers expressed that their interest in the stations was as a package. There was no interest in the purchase of either of the satellites as stand alone stations. In fact, Ms. Callan states that if her company had been asked to list the satellites as stand alone stations, it would have declined to do so. In Ms. Callan's opinion, no knowledgeable, qualified buyer would be interested in KABY-TV or KPRY-TV as stand alone stations.

In this regard, Ms. Callan indicates that these satellite stations cover only small population areas within the Sioux Falls-Mitchell DMA, and neither of these stations would be able to gain access to network or syndicated programming without operating as a satellite of another station in the market. Further, the four major broadcast networks already have affiliates in the DMA and are likely to have DMA-wide exclusivity for such programming. Moreover, each network affiliate operates with one or more satellite stations in the market. Ms. Callan adds that a review of the statement of income for 2005 for the two satellite stations further supports her opinion that neither station could survive as a stand-alone facility. Specifically, Ms. Callan avers that in 2005 stations KABY-TV and KPRY-TV generated no revenue. Instead, all of the licensee's revenue was generated by the operation of KSFY-TV. Furthermore, the assignee notes that these stations have operated as satellites since 1993, and that the Commission most recently granted continued satellite authority to these stations on February 27, 2004. *See Letter from Barbara A. Kreisman, Chief, Video Division, to South Dakota Television License Sub, LLC and Elcom of South Dakota, Inc.* (File Nos. BALCT-20031218AAH, AAI, AAJ and AAK (February 27, 2004).

Based on our review of the materials submitted, we find that the assignee has set forth information sufficient to warrant continued satellite operation for stations KABY-TV and KPRY-TV. These stations have operated as satellites of station KSFY-TV for the past 13 years, and the assignee has submitted further evidence demonstrating the infeasibility of finding a purchaser willing to operate the stations on a stand alone basis. We therefore find that the continued operation of KABY-TV and KPRY-TV as satellites of KSFY-TV would be in the public interest. In view of the foregoing, and having determined that the assignee is qualified in all respects, we find that a grant of the above-referenced applications would serve the public interest, convenience and necessity.

**ACCORDINGLY**, the request of Hoak Media of Dakota License, LLC for the continued operation of KABY-TV, Aberdeen, South Dakota and KPRY-TV, Pierre, South Dakota, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, **IS GRANTED**.

**FURTHERMORE**, the above-referenced applications for consent to assign the licenses for KSFY-TV, Sioux Falls, South Dakota, KABY-TV, Aberdeen, South Dakota, KPRY-TV, Pierre, South Dakota, and K07QL, Mitchell, South Dakota to Hoak Media of Dakota License, LLC **ARE GRANTED**.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Andrew Kersting, Esq.