



Federal Communications Commission
Washington, D.C. 20554

DA 08-1571
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1800E3-JLB

Trinity Broadcasting of New York, Inc.
c/o Colby M. May, Esq.
205 Third Street, S.E.
Washington, D.C. 20554

Re: WTBY-TV, Poughkeepsie, New York
Facility ID No. 67993

Dear Licensee:

Trinity Broadcasting of New York, Inc. ("Trinity"), licensee of WTBY-TV, analog channel 54, and WTBY-DT, digital channel 27, Poughkeepsie, New York, has requested Commission authority to: (i) cease analog broadcasting on NTSC Channel 54 and surrender its license for the channel prior to the end of the DTV transition period; and (ii) thereafter operate WTBY-DT as a single channel, digital-only television station on DTV Channel 27. Trinity's proposal appeared on public notice on May 30, 2007.¹ As explained in more detail below, we grant Trinity's request, subject to certain conditions.

Trinity's request was initially submitted pursuant to the voluntary band-clearing mechanisms adopted by the Commission to facilitate the clearing of channels 52-59.² In the Report and Order in its Third Periodic Review,³ the Commission extended the current band-clearing "rebuttable presumption" standard for stations on channels 60-69 to band-clearing requests filed by stations on channels 52-59.⁴ In the *Upper 700 MHz MO&O and FNRPM*,⁵ the Commission established a rebuttable presumption that, in certain circumstances, substantial public interest benefits will arise from a voluntary agreement between a 700 MHz licensee and an incumbent broadcast licensee on Channels 60-69 that clears the 700 MHz band of incumbent television licensee(s). In particular, this favorable presumption attaches to any requests that: (1) would make new or expanded wireless service, such as '2.5' or '3G' services, available to consumers; (2) would clear commercial frequencies that enable provision of public safety services; or (3) would result in the provision of wireless service to rural or other underserved communities. The applicant would also need to show that grant of the request would not result in any one of the following: (1) the loss of any of the four stations in the designated market area (DMA) with the largest audience share; (2) the

¹ See *Media Bureau Receives Request by Analog Television Station in the Lower 700 MHz Band to Cease Analog Broadcasting, Surrender NTSC License, and Operate as a Single Channel, Digital-Only Television Station*, DA 07-2237.

² *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, 17 FCC Rcd 1022 (2002).

³ *In the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, FCC 07-228 (released December 31, 2007) (*Third DTV Periodic Review Report and Order*).

⁴ *Id.* at ¶ 129.

⁵ *Upper 700 MHz MO&O and FNRPM*, 15 FCC Rcd 20845 (2000).

loss of the sole service licensed to the local community; or (3) the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service.⁶ The Commission further indicated that when this presumption is not established, or is rebutted, it would review regulatory requests by weighing the loss of broadcast service and the advent of new wireless service on a case-by-case basis.⁷

The grant of Trinity's request will make new or expanded wireless services available to consumers. Trinity submits a letter from QUALCOMM Incorporated ("QUALCOMM"), stating that grant of Trinity's request will allow MediaFLO USA, Inc., a wholly-owned subsidiary of QUALCOMM, to deploy and operate a network to offer a "mediacast" service to deliver many channels of multimedia content to third generation wireless phones. Trinity further states that WTBY-TV is not among the "top four" stations in the New York market. While WTBY-TV is the sole analog station licensed to Poughkeepsie, there is a low power television station, W42AE, licensed in Poughkeepsie.⁸ In addition, the New York City DMA, in which WTBY operates, has a cable and satellite penetration rate of 93%, and the entire analog loss area will continue to receive service from WTBY-DT.

While Trinity has not met all of the factors necessary to come within the rebuttable presumption, we believe that the public interest would be served by permitting Trinity to surrender its license for NTSC Channel 55, Poughkeepsie, New York and operate as a digital-only station on channel 27. Accordingly, Trinity's request IS GRANTED, subject to the following conditions. Prior to discontinuing analog service and surrendering its NTSC license, we expect Trinity to supply all cable systems carrying its digital signal with the conversion equipment necessary to translate WTBY-DT's signal to an analog signal. In addition, to promote the public interest and consistent with the requirements adopted in the *Third DTV Periodic Review Report and Order*, WTBY must comply with the following viewer notification requirements: The station must air viewer notifications on its analog and DTV facilities every day on-air at least four times a day including at least once in primetime for a 60-day period prior to termination of the analog signal. These notifications must include: (1) the station's call sign and community of license; (2) the fact that the station intends to terminate its analog operations before the transition date; (3) the expected date of analog termination; (4) what viewers can do to continue to receive the station, i.e., how and when the station's digital signal can be received, and whether viewers will need to repeat the channel scan on their DTV receivers; (5) information about the availability of digital- to-analog converter boxes in their service area; and (6) the street address, email address (if available), and phone number of the station where viewers may register comments or request information.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁶ *Id.* at 20870-71.

⁷ *Id.*

⁸ That station, which is licensed to Dutchess Community College, rebroadcasts the signal of noncommercial educational station WMHT(TV), Schenectady, New York. *See* File No. BRTTL-20070126AAU.