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Re: **Application for Transfer of Control**
Nassau Broadcasting II, L.L.C.
WBYN(AM), Lehighton, PA, Fac. ID No. 69688
WCHR(AM), Trenton, NJ, Fac. ID No. 25011
WEEX(AM), Easton, PA, Fac. ID No. 8596
WNJE(AM), Flemington, NJ, Fac. ID No. 28130
WODE-FM, Easton, PA, Fac. ID No. 8595
WPLY(AM), Mount Pocono, PA, Fac. ID No. 67060
WPST(FM), Trenton, NJ, Fac. ID No. 25013
WSBG(FM), Stroudsburg, PA, Fac. ID No. 47423
WTKZ(AM), Allentown, PA, Fac. ID No. 27510
WVPO(AM), Stroudsburg, PA, Fac. ID No. 47423
WWYY(FM), Belvidere, NJ, Fac. ID No. 54689
File No. BTC-20090518AHQ

Application for Transfer of Control
Nassau Broadcasting III, L.L.C.
WAFY(FM), Middletown, MD, Fac. ID No, 3728
WARK(AM), Hagerstown, MD, Fac. ID No. 39807
WBQI(FM), Bar Harbor, ME, Fac. ID No. 40925
WBQQ(FM), Kennebunk, ME, Fac. ID No. 69854
WBQW(FM), Kennebunkport, ME, Fac. ID No. 69855
WBQX(FM), Thomaston, ME, Fac. ID No. 49564
WBYA(FM), Islesboro, ME, Fac. ID No. 41105
WEMJ(AM), Laconia, NH, Fac. ID No. 67270

WEXP(FM), Brandon, VT, Fac. ID No. 65961
WFNK(FM), Lewiston, ME, Fac. ID No. 65675
WFNQ(FM), Nashua, NH, Fac. ID No. 23329
WFYX(FM), Walpole, NH, Fac. ID No. 23307
WHDQ(FM), Claremont, NH, Fac. ID No. 17798
WHXQ(FM), Scarborough, ME, Fac. ID No. 73885
WIKE(AM), Newport, VT, Fac. ID No. 49400
WJYY(FM), Concord, NH, Fac. ID No. 54909
WLAM(AM), Lewiston, ME, Fac. ID No. 64434
WLKZ(FM), Wolfeboro, NH, Fac. ID No. 65624
WLNH-FM, Laconia, NH, Fac. ID No. 73215
WLVP(AM), Gorham, ME, Fac. ID No. 24944
WMOO(FM), Derby Center, VT, Fac. ID No. 63193
WNHV(AM), White River Junction, VT, Fac. ID No. 17800
WNHW(FM), Belmont, NH, Fac. ID No. 54908
WORK(FM), Barre, VT, Fac. ID No. 34810
WSNO(AM), Barre, VT, Fac. ID No. 34813
WTHK(FM), Wilmington, VT, Fac. ID No. 57728
WTHT(FM), Auburn, ME, Fac. ID No. 24949
WTSV(AM), Claremont, NH, Fac. ID No. 17795
WWEG(FM), Myersville, MD, Fac. ID No. 39806
WWFY(FM), Berlin, VT, Fac. ID No. 17808
WWOD(FM), Hartford, CT, Fac. ID No. 20606
WXLF(FM), White River Junction, VT, Fac. ID No. 17801
WZLF(FM), Bellows Falls, VT, Fac. ID No. 69493
W245AA, Portland, ME, Fac. ID No. 24950
W284AB, Jamaica, VT, Fac. ID No. 57729
W293AB, Keene, NH, Fac. ID No. 17796
W294AB, Hanover, NH, Fac. ID No. 17799
W298AH, Claremont, NH, Fac. ID No. 83636
WHDQ-FM1, Rutland, VT, Fac. ID No. 76669
File No. BTCH-20090518AIO

Applications for Assignment of Licenses
From Nassau Broadcasting III, L.L.C., Assignor, to Du Lac Trust, LLC, Trustee, Assignee
WNNH(FM), Henniker, NH, Fac. ID No. 11664
WWHQ(FM), Meredith, NH, Fac. ID No. 73216
WHXR(FM), North Windham, ME, Fac. ID No. 59534
File No. BALH-20090518AIG

Applications for Assignment of Licenses
From Nassau Broadcasting III, L.L.C., Assignor, to Mid-Cape Broadcasting II, LLC, Assignee
WFQR(FM), Harwich Port, MA, Fac. ID No. 29570
WFRQ(FM), Mashpee, MA, Fac. ID No. 29571
WPXC(FM), Hyannis, MA, Fac. ID No. 54620
File No. BALH-20090518AIK

Dear Counsel:

The Media Bureau has under consideration the above-captioned transfer applications ("Transfer Applications"), as amended, for consent to a proposed restructuring of Nassau Broadcasting I, L.L.C. ("Nassau")[1] that will result in the transfer of control of Nassau from Nassau Broadcasting Partners, L.P. ("NBP LP") to its lenders, certain existing holders of indirect equity interests in Nassau and certain members of Nassau's senior management.[2] Also before us is an assignment application ("Divestiture Application") filed to address compliance with the Commission's local radio ownership limits in the Concord, New Hampshire, and Portland, Maine, Arbitron Metros. Finally, we have before us an assignment application ("Cape Cod Spin-Off Application") filed to address compliance with the Commission's local radio ownership limits in the Cape Cod, Massachusetts, Arbitron Metro. For the reasons described below, we conditionally grant the Transfer Applications, the Divestiture Application and the Cape Cod Spin-Off Application.

Background. As noted above, the Transfer Applications will effectuate the restructuring of Nassau. Nassau is the sole member of Nassau II and Nassau III. Collectively, these two companies hold licenses for 52 radio stations operating in 13 Arbitron markets.[3]

Nassau is currently controlled by its sole member, NBP LP. NBP LP, in turn, is controlled by its general partner, Nassau Broadcasting Partners, Inc. ("NBP Inc."). Louis F. Mercatanti, Jr., directly and indirectly, has control of NBP LP through his ownership and voting control of NBP Inc., which has the only voting rights in NBP LP. The sole limited partner of NBP LP is Nassau Partner Holdings, L.L.C. ("NPH").

Nassau's lenders have agreed to cancel certain of the company's debt in exchange for equity interests in Nassau. Through the restructuring transactions, Nassau's lenders – Goldman, Sachs & Co. ("Goldman Sachs"), and P.E. Capital, LLC and P.E. Capital II, LLC (collectively, "P.E. Capital") – will acquire, on a fully-diluted basis, 85 percent of the equity, and control, of Nassau. The remainder of the restructured company will be owned by certain existing equity holders in NPH[4] and certain members of Nassau's senior management.[5] Thus, the restructuring will result in a transfer of control of Nassau – and

[1] Nassau is the sole member of Commission licensees Nassau Broadcasting II, L.L.C. ("Nassau II") and Nassau Broadcasting III, L.L.C. ("Nassau III").

[2] The parties indicate that RTV Ventures LLC ("RTV") will become a member of Nassau shortly after the closing of the restructuring transactions and thus has been treated as a party to the Transfer Applications and the Cape Cod Spin-Off Application. For this reason, we treat RTV as a party to those applications and include RTV in our analysis.

[3] Nassau III also is the licensee of the 5 FM translator stations and 1 FM booster station identified in the caption.

[4] In terms of indirect equity holders, Mr. Mercatanti will relinquish control of Nassau but retain a reduced equity interest in the restructured company through his ownership of Nassau Holdings, Inc. ("NHI") and Nassau Management, L.L.C. ("NM"), both of which currently hold indirect equity interests in Nassau through NPH. In addition, the following entities, each of which currently holds an indirect equity interest in Nassau through NPH, will retain reduced equity interests in the restructured Nassau: Spectrum-Nassau Corporation and Spectrum-Nassau Associations, L.P. (collectively, "Spectrum"); and Spire Capital Partners, L.P.; Spire Capital Partners Parallel Fund, L.P.; Spire Investments, LLC; and Spire-Nassau I Corporation (collectively, "Spire").

[5] These members of Nassau's senior management will receive non-voting Participation Units in the restructured company. When fully vested, the Participation Units will represent up to 5 percent of Nassau's fully-diluted equity.

consequently Nassau II and Nassau III – from NBP LP to the following entities, each of which will hold a direct membership interest in Nassau: (1) Goldman Sachs, (2) Spectrum, (3) Spire, (4) P.E. Capital, (5) NHI, (6) NM, and (7) certain members of Nassau's senior management.

The reorganized Nassau will be governed by a board of managers comprised of six board managers. The board will consist of Nassau's current chief executive officer, a board manager designated by Spectrum, a board manager designated by Spire, and such other board managers as may be designated by Nassau's lenders. Each lender will have the right to designate at least one board manager. Collectively, the board managers designated by the lenders will hold at least a majority and up to 85% of the votes eligible to be cast at a meeting of the board.

Discussion. *Radio Multiple Ownership Analysis.* Nassau and those parties with an attributable interest in Nassau propose to own or have a cognizable interest in radio stations in 24 distinct radio markets.[6] In 21 of these markets, no radio multiple ownership issue is raised. In the remaining three markets, an issue arises but compliance is ensured through either divestiture or spin-off of Nassau stations.

Concord, New Hampshire, and Portland, Maine. The proposed transfer of control of Nassau will terminate the company's ability to maintain certain grandfathered ownership interests held by Nassau III in the Concord, New Hampshire, Arbitron Metro and the Portland, Maine, Arbitron Metro that do not comply with the Commission's current local radio ownership limits.[7] To resolve this issue, Nassau has filed the Divestiture Application, which seeks consent to its proposed assignment of certain broadcast station licenses to Du Lac Trust LLC, Trustee of the Concord/Portland Divestiture Trust ("Trust").[8] The trust is insulated from Nassau's control in accordance with the Commission's insulation criteria. Approval of the Divestiture Application will resolve all issues of compliance with the local radio ownership rule in the Concord, Massachusetts, and Portland, Maine, Arbitron Metros.

Cape Cod, Massachusetts. The proposed transfer of control of Nassau would provide Goldman Sachs with attributable interests in all Nassau radio stations, including those in the Cape Cod, Massachusetts, Arbitron Metro ("Cape Cod Stations").[9] Combined with the attributable interest held by a

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The parties have not yet identified these individuals. However, they have committed to ensure that they comply with all applicable FCC rules and requirements.

[6] As noted above, Nassau owns 52 radio stations. Many of these radio stations are licensed to communities located within 13 different Arbitron Metros. For purposes of the local radio ownership rule, the local markets of these stations are defined by their Arbitron Metros. *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13723-37 (2003) ("*2002 Biennial Review Order*"), *aff'd in part and remanded in part*, *Prometheus Radio Project, et al. v. FCC*, 373 F.3d 372 (3d Cir. 2004) ("*Prometheus Remand Order*"), *cert. denied,* 125 S. Ct. 2902, 2903, 2904 (2005). The remaining stations involved in the proposed transactions are licensed to communities located outside Arbitron Metros. The Commission has specified that, for purposes of the local radio ownership rule, the local markets of these stations are defined using the interim, contour-overlap methodology. *Id.* Based on application of this methodology here, we analyzed an additional 11 radio markets for compliance with the local radio ownership rule.

[7] 47 C.F.R. § 73.3555(a)(1). *See 2002 Biennial Review Order*, 18 FCC Rcd at 13807-10. *See also Prometheus Radio Project, et al. v. FCC*, No. 03-3388 (3d Cir. Sept. 3, 2003) (granting motion for stay of effective date of new rules), *stay modified on reh'g*, No. 03-3388 (3d Cir. Sept. 3, 2004).

[8] The licenses to be divested to the Trust are those for WWHQ(FM), Meredith, New Hampshire; WNNH(FM), Henniker, New Hampshire; and WHXR(FM), North Windham, Maine.

[9] The Cape Cod Stations are WFRQ(FM), Mashpee, Massachusetts; WFQR(FM), Harwich Port, Massachusetts; and WPXC(FM), Hyannis, Massachusetts.

Goldman Sachs' affiliate in another licensee that owns four FM radio stations in the Cape Cod Metro, this interest does not comply with the local radio ownership rule. To address this issue, the parties have filed an assignment application seeking to spin-off the Cape Cod Stations from Nassau to Mid-Cape Broadcasting II, LLC ("Mid-Cape II"). The sole member of Mid-Cape II is Mid-Cape Broadcasting LLC ("Mid-Cape"). The members of Mid-Cape will be all of the parties identified as new members in Nassau, except Goldman Sachs. Mid-Cape will be governed by a board of managers. The board will be structured identically to Nassau's board but for the exclusion of Goldman Sachs.[10] Approval of the Cape Cod Spin-Off Application herein will resolve all issues of compliance with the local radio ownership rule in the Cape Cod Arbitron Metro.

Radio/Television Cross-Ownership Analysis. As noted above, the proposed transfer of control of Nassau would provide Goldman Sachs with attributable interests in all Nassau radio stations, including some whose communities of license are located in the Allentown and Trenton Arbitron Metros and within the geographic boundaries of the Philadelphia Designated Market Area ("DMA"). The limited partner of Goldman Sachs is The Goldman Sachs Group, Inc. ("GSG"). GSG also is sole member of The Goldman, Sachs & Co., LLC, the general partner of Goldman Sachs. GSG currently holds a debt interest in WRNN-TV Associates Limited Partnership ("WRNN") that exceeds more than 33 percent of WRNN's total asset value. WRNN is the parent of WTVE License Company, LLC, licensee of television station WTVE(TV). WTVE(TV) is licensed to Reading, Pennsylvania and serves the Philadelphia DMA. By taking an attributable interest in Nassau, Goldman Sachs will trigger the equity/debt plus rule with respect to GSG's interest in WRNN.[11] Thus, GSG will be deemed to have an attributable interest in WTVE(TV). Below, we analyze whether the combination of GSG's attributable interests in the Nassau radio stations in the Allentown and Trenton Arbitron Metros and in WTVE(TV) complies with the radio/television cross-ownership rule. We conclude that the combination of these interests would be consistent with the competition and diversity goals which the radio/television cross-ownership rule is designed to advance.

The Rule. The current radio/television cross-ownership rule is implicated when the Grade A contour of a television station encompasses the entire community of license of a commonly owned AM or FM radio station, or when the 2 mV/m contour of an AM radio station, or the 1 mV/m contour of an FM radio station, encompasses the entire community of license of a commonly owned television station.[12] Under the relevant numerical ownership/voice count restrictions of the radio/television cross-ownership rule, a party may own 1 television station and up to 6 radio stations in any market where at least 20 independently owned media voices remain in the market after the proposed transaction;[13] a party also may own 1 television station and up to 4 radio stations in any market where at least 10 independently owned media voices remain in the market after the proposed transaction.[14] As discussed below, the parties must demonstrate that at least 20 independently owned media voices will remain in the Allentown Arbitron

[10] The board will consist of Mid-Cape's current chief executive officer, a board manager designated by Spectrum, a board manager designated by Spire, and such other board managers as may be designated P.E. Capital. P.E. Capital will hold at least a majority and up to 85% of the votes eligible to be cast at a meeting of the board.

[11] Under the Commission's equity/debt plus standard, an interest generally is held attributable if, aggregating both equity and debt, the interest exceeds 33 percent of the total asset value (all equity plus all debt) of a broadcast station licensee and the interest holder also (1) holds an attributable interest in another media outlet in the same market that is subject to the multiple or cross-ownership rules, or (2) supplies over 15 percent of the total weekly broadcast programming hours of the station in which the interest is held. *See* 47 C.F.R. § 73.3555 Note 2(i).

[12] 47 C.F.R. § 73.3555(c)(1)(i) and (ii).

[13] Id. § 73.3555(c)(2)(i)(A).

[14] Id. § 73.3555(c)(2)(ii).

Metro after the proposed transaction and that at least 10 such voices will remain in the Trenton Arbitron Metro after the proposed transaction.

For purposes of determining the number of independent voices remaining in the market at issue, the Commission counts:

> (1) all independently owned and operating full-power broadcast television stations within the DMA of the TV station's (or stations') community (or communities) of license that have Grade B signal contours that overlap with the Grade B signal contour(s) of the television station(s) in question;
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> (2) all independently owned and operating primary broadcast radio stations that are in the Arbitron Metro of the television station's community of license or the radio station's (or stations') community (or communities) of license, and all independently owned out-of-market radio stations with a minimum share as reported by Arbitron or another nationally recognized audience rating service in the Metro market;
>
> (3) all independently owned newspapers that are published at least four days a week within the television station's DMA in the dominant language of that market and that have a circulation exceeding 5 percent of the households in the DMA; and
>
> (4) cable systems, which count as a single voice, provided cable service is generally available to television households in the DMA.[15]

Issues Created by the Digital Television Transition. On June 12, 2009, all full power television stations stopped broadcasting in analog and began broadcasting only digital signals. As a result, WTVE(TV) does not have an analog Grade A or Grade B contour by which to judge compliance with the radio/television cross-ownership rule. Instead, WTVE(TV), like all digital television stations, has a digital noise limited service contour ("NLSC")[16] and a digital television principal community contour.[17] To date, the Commission has not modified its multiple ownership rules to specify contours that are meaningful for digital service. As detailed below, based on our careful review of the specific facts of this case, we determine that a NLSC-based methodology will be useful in analyzing both whether these transactions implicate ownership concerns and, if so, whether the transactions would be consistent with the competition and diversity goals which the radio/television cross-ownership rule is designed to advance.[18]

The parties recognize that the current Grade A-encompassment standard cannot be used to judge encompassment of commonly-owned radio station signals by a digital television station's signal. As a result, the parties suggest that we examine their applications using an NLSC-encompassment standard.

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[15] Id. § 73.3555(c)(3).

[16] 47 C.F.R. § 73.622(e).

[17] 47 C.F.R. § 73.625.

[18] *See 2006 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,* Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2017 (2008); *2002 Biennial Review Order,* 18 FCC Rcd at 13627-45*; Review of the Commission's Regulations Governing Television Broadcasting*, Memorandum Opinion and Order and Second Order on Reconsideration, 16 FCC Rcd 1067, 1067-68 (2001) ("*Local Television Second Recon.*); *Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903, 12907 (1999); *Amendment of Section 73.35, 73.340 and 73.630 of the Commission's Rule Relating to Multiple Ownership of Standard, FM and TV Broadcast Stations*, First Report and Order, 22 F.C.C.2d 306, 307 (1970).

We note that the NLSC generally is considered equivalent to the analog Grade B contour, which was larger than the analog Grade A contour.[19] Based on our review of the specific station service contours at issue here, we are confident that a finding that there is no NLSC-encompassment necessarily means that there could not be any encompassment by the equivalent of the analog Grade A contour.[20]

While the parties do not address the question of how to determine the number of independently owned and operating full power television stations in conducting the voice count, we find that we must address that issue too. Currently, the voice count for television stations looks at two factors – whether the television station being considered is in the same DMA as the television station at issue and whether the Grade B contour of the television station being considered overlaps the Grade B contour of the television station at issue. The Commission has required Grade B-overlap in order to ensure that the television stations being counted as independent voices in the market of the television station in question actually are voices in that market.[21] The Commission's longstanding view has been that, even if two television stations are licensed to the same DMA, where there is no Grade B overlap, these stations do not serve as "a source of competition and diversity" for each other.[22]

The Commission has not directly addressed the issue of what digital contour to use in place of the Grade B contour for purposes of the voice count. However, it has used the NLSC to define the outer limits of a station's service area in much the same way as it used the analog Grade B contour. Indeed, the Commission has characterized the NLSC as the counterpart to the analog Grade B contour.[23] Moreover,

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[19] *The Satellite Home Viewer Extension And Reauthorization Act Of 2004; Study Of Digital Television Field Strength Standards And Testing Procedures*, Report to Congress, 20 FCC Rcd 19504, 19507, 19554 (OET/MB 2005) ("*SHVERA Report to Congress*"); *Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004; Implementation of Section 340 of the Communications Act*, Report and Order, 20 FCC Rcd 17278, 17292 (2005) ("*SHVERA Order"*); *Technical Standards For Determining Eligibility For Satellite-Delivered Network Signals Pursuant to the Satellite Home Viewer Extension and Reauthorization Act*, Notice of Inquiry, 20 FCC Rcd 9349, 9350 (2005) ("*SHVERA NOI*"); *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Report and Order, 19 FCC Rcd 19331, 19336 (2004); *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd 18279, 18311 (2004); *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 16 FCC Rcd 5946, 5956 (2001); *Technical Standards for Determining Eligibility For Satellite-Delivered Network Signals Pursuant To the Satellite Home Viewer Improvement Act*, Report, 15 FCC Rcd 24321, 24322 (2000) ("*SHVIA Report*"). *See also Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, Seventh Report and Order, 22 FCC Rcd 15581 (2007) (discussion of "DTV Power" in DTV Table Appendix B treats the Grade B and NLSC contours as comparable by using the Grade B contour for stations that did not have a DTV channel); *Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, Notice of Inquiry, 17 FCC Rcd 25632, 25639 (2002) (implying equivalence between the analog Grade B service contour and the NLSC) ("*White Spaces NOI*"). *See also Borger Broadcasting, Inc., Debtor in Possession,* Letter, __ FCC Rcd ___, 2010 FCC LEXIS 659, at *2 n.3 (MB 2010) ("*Borger Broadcasting*").

[20] We emphasize that our use of an NLSC-encompassment standard here is based on the specific facts and circumstances present here and in no way prejudges the manner in which the Commission ultimately may revise the multiple ownership rules to reflect the fact that all full power television stations now broadcast only digital signals.

[21] *Local Television Second Recon.*, 16 FCC Rcd at 1073.

[22] *Id.*

[23] *See SHVERA Report to Congress*, 20 FCC Rcd at 19507; *SHVERA NOI*, 20 FCC Rcd at 9350; *SHVIA Report*, 15 FCC Rcd at 24322. *See also Borger Broadcasting*, 2010 FCC LEXIS 659, at *2 n.3.

the Commission repeatedly has recognized that, "[f]or digital television stations, instead of a contour defined by Grade B signal intensity, the noise-limited service contour … is used."[24] As the Commission has noted, under both the analog Grade B and digital NLSC, "an acceptable television picture and sound service is available at 50% of the locations for 90% of the time at locations on the outer edge of a station's service area."[25] Given the Commission's findings in other contexts and our review of the station service contours involved here, we believe that it is appropriate for us to use NLSC overlap in conducting the television voice count herein.[26]

Analysis. No Nassau radio station service contour encompasses WTVE(TV)'s community of license. WTVE(TV)'s NLSC,[27] however, does encompass the communities of license of eight Nassau radio stations – five in the Allentown, Pennsylvania, Arbitron Metro and three in the Trenton, New Jersey, Arbitron Metro.[28] Specifically, in the Allentown Metro, GSG would own or have an attributable interest in one television station and five radio stations (3 AM and 2 FM).[29] In the Trenton Metro, GSG would own or have an attributable interest in one television station and three radio stations (2 AM and 1 FM).[30] Under the radio/television cross-ownership limits, this means that at least 20 independently owned media voices must remain in the Allentown market and at least 10 independently owned media voices must remain in the Trenton market after the transactions proposed herein. We find that this is the case in both the Allentown and Trenton Metros and thus that the proposed transactions would not raise competitive or diversity concerns.

Conclusion/Actions. We have reviewed the proposed restructuring of Nassau, the Transfer Applications, the Divestiture Application and the Cape Cod Spin-Off Application. We conclude that the applicants are fully qualified and that grant of these applications, subject to the condition set forth below, will serve the public interest, convenience, and necessity. Accordingly, IT IS ORDERED, that the applications for consent to the transfer of control of Nassau Broadcasting II, L.L.C. (File No. BTC-20090518AHQ); for consent to the transfer of control of Nassau Broadcasting III, L.L.C. (File No.

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[24] *SHVERA Report to Congress*, 20 FCC Rcd at 19554; *SHVERA Order*, 20 FCC Rcd at 17292 (amending the Commission's rules to "update the existing reference to 'Grade B contour,' which applies to analog stations, to add 'noise limited service contour,' the service contour relevant for a station's digital signal"); *SHVIA Report*, 15 FCC Rcd at 24322 (2000). *See also, White Spaces NOI*, 17 FCC Rcd at 25639 (2002).

[25] *SHVERA Report to Congress*, 20 FCC Rcd at 19512.

[26] We note that, here too, we do not wish to prejudge the Commission's ultimate decision on this issue. Our finding is based on the specific facts and circumstances of this case and thus is applicable solely to the analysis of these particular transactions.

[27] We note that WTVE(TV) operates distributed transmission facilities. Thus, we have examined whether there is any encompassment of the communities of license of any Nassau stations by the NLSC of the facilities specified in WTVE(DT)'s construction permit, File No. BPCDT20040518AAZ, or the NLSCs of its distributed transmission facilities. File Nos. BSDTS20060407ACP and BMPCDT20081027ACR.

[28] The Commission has clarified that "for purposes of the radio/TV cross-ownership rule, we generally do not count radio stations located in one Arbitron radio market toward the limits on the number of radio stations a party may own in another Arbitron radio market, even when the radio stations in the different markets fall within the Grade A contour of a commonly owned TV station." *Local Television Second Recon.*, 16 FCC Rcd at 1081-82. Thus, we analyze the Allentown and Trenton markets separately.

[29] The Nassau radio stations involved are WBYN(AM), Lehighton, Pennsylvania; WEEX(AM) and WODE-FM, Easton, Pennsylvania; WTKZ(AM), Allentown, Pennsylvania; and WWYY(FM), Belvidere, New Jersey.

[30] The Nassau radio stations involved are WNJE(AM), Flemington, New Jersey; and WCHR(AM) and WPST(FM), Trenton, New Jersey.

BTCH-20090518AIO); for consent to the assignment of licenses from Nassau Broadcasting III, L.L.C. to Du Lac Trust, LLC, Trustee (File No. BALH-20090518AIG); and for consent to the assignment of licenses from Nassau Broadcasting III, L.L.C. to Mid-Cape Broadcasting II, LLC (File No. BALH-20090518AIK) ARE GRANTED, SUBJECT TO THE CONDITION that both of the assignment of license applications granted herein shall be consummated prior to or concurrently with the transfer of control of Nassau Broadcasting III, L.L.C.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau