



Federal Communications Commission
Washington, D.C. 20554

December 14, 2015

DA 15-1413
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Agape Church, Inc.
Victory Television Network, Inc.
c/o Marnie K Sarver
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

Re: Application for Consent to Assignment of Licenses
KVTN-DT, Pine Bluff, Arkansas, Facility ID No. 607
KVTH-DT, Hot Springs, Arkansas, Facility ID No. 608
KVTJ-DT, Jonesboro, Arkansas, Facility ID No. 2784
File No. BALCDT-20151014ADS

Dear Counsel:

By this letter we grant the above-captioned uncontested application for the assignment of three television licenses from Agape Church, Inc. (“Agape”) to Victory Television Network, Inc. (“VTN”). In connection with the sale, we also grant VTN’s request for continued authority to operate KVTH-DT, Hot Springs, Arkansas, as a satellite of KVTN-DT, pursuant to Note 5 of Section 73.3555 of the Commission’s rules.¹

In *Television Satellite Stations*, the Commission adopted “a presumption that TV satellite operations are in the public interest if individual applicants can satisfy certain public interest criteria.”² The presumptive satellite exemption to the duopoly rule is therefore 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.³ 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 No objections have been filed against the requested continued “satellite exemption.”

¹ 47 C.F.R. § 73.3555, Note 5. VTN submits that KVTJ-DT, Jonesboro, Arkansas also operates as a satellite of KVTN-DT, but that because the digital noise-limited contours of KVTN-DT and KVTJ-DT do not overlap, specific satellite authority is not necessary for KVTJ-DT. FCC File No. BALCDT-20151014ADS, Att. 18, “Request for Continuation of Satellite Status” at 1 n.1 (“Satellite Waiver Continuation Request”).

² *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212, 4213 (1991) (subsequent history omitted) (“*Television Satellite Stations*”).

³ *Id.* at 4213-14.

⁴ *Id.* at 4214.

With regard to the first criterion, we recognize that, following the digital transition, full-power television stations have a digital Principal Community contour that serves a much larger area than their former analog City Grade contour, and that the first criterion of the presumptive standard is no longer relevant in the digital environment.⁵ However, prior to the digital transition, KVTH-DT's analog City Grade contour did not overlap that of the parent station KVTN-DT.⁶

Regarding the second criterion, VTN has demonstrated that KVTH-DT is located in an underserved area. The "transmission" test deems an area underserved where there are two or fewer full-service television stations licensed to a proposed satellite's community of license.⁷ KVTH-DT is the only full service broadcast station of any kind licensed to the community of Hot Springs, Arkansas.⁸

With regard to the third criterion, the Satellite Waiver Continuation Request does not present any evidence that the licensee has attempted to sell KVTH-DT separately as a full-service station. Instead, VTN submits a declaration from Brian N. Byrnes, in which he concludes that it is his opinion that the satellite waiver should continue.⁹ Mr. Byrnes states that several factors make the operation of KVTH-DT as a stand-alone full-service station impracticable: (1) KVTH-DT's coverage pattern does not reach the primary cities Little Rock and Pine Bluff Arkansas, which represent the centers of commerce for the area;¹⁰ (2) television revenues have not grown, as there was \$76.9 million in television expenditures in 2010 and the estimated revenues for 2015 will be \$77.0 million; and (3) all of the networks capable of securing consistent ratings of any levels are currently represented in the Little Rock-Pine Bluff DMA.¹¹ Mr. Byrnes concludes that KVTH-DT could not be operated as a profitable stand-alone television broadcast property serving its city of license or the greater area of the Little Rock-Pine Bluff DMA.

We find that VTN has set forth information sufficient to warrant continued satellite status for KVTH-DT pursuant to our *ad hoc* analysis. Given KVTH-DT's long history as a satellite of KVTN-DT, the limited advertising revenue opportunities, and the fact that all of the major networks are represented in the DMA at issue, it is unlikely that an alternative operator would be willing and able to operate KVTH-DT as a stand-alone facility. We see no evidence in the record that continuing the satellite exemption will harm competition in the market. Indeed, we find that doing so will benefit the public interest by promoting access to broadcast services which may otherwise not be feasible. For the reasons discussed above, we find that the continued operation of KVTH-DT as a satellite of KVTN-DT would be in the public interest.

Having reviewed the application, pleadings, and other facts before us, we conclude that grant of the Application as requested will comply with the Commission's rules and section 310(d) of the Act. We

⁵ *LIN License Co., LLC*, Letter Order, 27 FCC Rcd 12082, 12083 (MB Vid. Div. 2012).

⁶ Satellite Waiver Continuation Request at 1

⁷ *Television Satellite Stations*, 6 FCC Rcd at 4215.

⁸ Satellite Waiver Continuation Request at 2-3.

⁹ Satellite Waiver Continuation Request, Decl. of Brian Byrnes at 1.

¹⁰ *Id.* Both KVTH-DT and KVTN-DT serve the Little Rock-Pine Bluff, Arkansas television designated market area ("Little Rock-Pine Bluff DMA").

¹¹ *Id.* at 2.

conclude that all the Applicant is fully qualified and that grant will serve the public interest, convenience, and necessity.¹²

ACCORDINGLY, IT IS ORDERED, That the request for the continued operation of station KVTH-DT, Hot Springs, Arkansas as a satellite of KVTN-DT, Pine Bluff, Arkansas, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, IS GRANTED.

IT IS FURTHER ORDERED, That the above-referenced application for consent to assign the licenses of KVTN-DT, Pine Bluff, Arkansas, KVTH-DT, Hot Springs, Arkansas, and KVTJ-DT, Jonesboro, Arkansas (File No. BALCDT-20151014ADS) IS GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹² Agape and VTN have committed to the transfer of Agape's FCC Registration Number to VTN in connection with consummation.