



Federal Communications Commission
Washington, D.C. 20554

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DA 16-352
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Pappas Telecasting of Central Nebraska, L.P.
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Fletcher Heald & Hildreth, PLC
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Arlington, VA 22209

KHGI Licensee, LLC
c/o Clifford Harrington
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW
Washington, D.C. 20036

Re: Application for Consent to Assignment of Licenses and Request for Continued Satellite Authority
KHGI-TV, Kearney, NE, Fac. ID No. 21160
KWNB-TV, Hayes Center, NE, Fac. ID No. 21162
KHGI-CD, North Platte, NE, Fac. ID No. 168339
KHGI-LD, O'Neil, NE, Fac. ID No. 127682
KWNB-LD, McCook, NE, Fac. ID No. 126405
File No. BALCDT-20151103BCF

Dear Counsel:

By this letter we grant the above-captioned uncontested application for the assignment of five television licenses from Pappas Telecasting of Central Nebraska, L.P. ("Pappas") to KHGI Licensee, LLC. In connection with the sale, we grant KHGI Licensee, LLC continued authority to operate station KWNB-TV as a satellite of KHGI-TV, Kearney, NE pursuant to the satellite exemption to the local television ownership rule.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

¹ 47 C.F.R. § 73.3555, Note 5.

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

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.” Applicants state that KWNB has operated as a satellite of KHGI since at least 1956.⁵

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.⁶ The continuing satellite waiver request nevertheless explains that, prior to the digital transition, the analog City Grade contours of KHGI and KWNB did not overlap, and at the current time, the digital Principal Community contours of the stations do not overlap either.⁷

With regard to the second criterion, KHGI Licensee, LLC demonstrates that KWNB is located in an underserved area. The “transmission” test deems an area underserved where there are two or fewer full-service television stations (including commercial, noncommercial, and satellite stations) licensed to a proposed satellite’s community of license.⁸ Here, station KWNB is the only full-service television station licensed to the community of Hayes Center, NE.⁹

With regard to the third criterion, KHGI Licensee, LLC has provided evidence that no alternative operator is ready and able to construct or to purchase and operate station KWNB as a full-service station. In its waiver request, KHGI Licensee, LLC included a letter from Mr. Frank Higney, Vice President of Kalil & Co., Inc. (“Kalil Letter”), a nationally recognized brokerage and appraisal firm, noting that Kalil has extensively marketed the Pappas stations, and none of the prospective buyers have indicated any desire to acquire KWNB-TV on a standalone basis. The Kalil Letter further states that if KWNB-TV were to be converted to a full power standalone television station, it would not, and could not, be financially viable. This opinion is based on the fact that Kalil has no knowledge of any other instance in which a satellite serving such a small and distant community has ever been converted successfully to a standalone station.¹⁰ According to Kalil, any advertising revenues brought in from the KWNB-TV community of license would not sufficiently cover the numerous costs associated with running KWNB-TV as a full-service standalone station, since, as it stands, the station serves a very limited population and its signal does not reach the retail, financial, or population centers of any of the two defined metro areas in the DMA. Due to this limited coverage and economic situation, the Kalil Letter explains that KWNB would have “absolutely no chance” of getting a major network affiliation other than as a satellite of a parent station.¹¹

³ *Id.* at 4213-14.

⁴ *Id.* at 4214.

⁵ Satellite Waiver Continuation Request at 1.

⁶ *LIN License Co., LLC*, Letter Order, 27 FCC Rcd 12082, 12083 (MB Vid. Div. 2012).

⁷ Satellite Waiver Continuation Request at 1.

⁸ *Television Satellite Stations*, 6 FCC Rcd at 4215.

⁹ Satellite Waiver Continuation Request at 2.

¹⁰ *Id.*

¹¹ *Id.*

While the instant request does not satisfy all of the criteria of the Commission's presumptive satellite standard, we find that KHGI Licensee, LLC has set forth information sufficient to warrant continued satellite status for KWNB-TV pursuant to our *ad hoc* analysis. Given the station's long history as a satellite of KHGI-TV, the limited and spread out population of the DMA, and its distance from the major hubs of the two defined metro areas in the DMA, it is unlikely that an alternative operator would be willing and able to operate the station 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 KWNB-TV as a satellite of KHGI-TV would be in the public interest.

Furthermore, having reviewed the application and other facts before us, we conclude that, not only will grant of the application comply with Commission rules, but that grant will serve the public interest, convenience, and necessity.

ACCORDINGLY, IT IS ORDERED, That the request for the continued operation of station KWNB-TV as a satellite of KHGI-TV, Kearney, NE, 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 stations KHGI-TV, Kearney, NE; KWNB-TV, Hayes Center, NE; KHGI-CD, North Platte, NE; KHGI-LD, O'Neil, NE; and KWNB-LD, McCook, NE (File No. BALCDT-20151103BCF) IS GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau