



# PUBLIC NOTICE

Federal Communications Commission  
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DA 21-313

Released: March 12, 2021

**MEDIA BUREAU ESTABLISHES PLEADING CYCLE FOR APPLICATIONS FILED FOR THE TRANSFER OF CONTROL AND ASSIGNMENT OF BROADCAST LICENSES FROM QUINCY MEDIA, INC., TO GRAY TELEVISION, INC., AND DESIGNATES PROCEEDING AS PERMIT-BUT-DISCLOSE FOR *EX PARTE* PURPOSES**

**MB Docket No. 21-87**

**Petition to Deny Date: April 12, 2021**

**Opposition Date: April 27, 2021**

**Reply Date: May 7, 2021**

On February 12, 2021, the Federal Communications Commission (Commission) accepted for filing applications seeking consent to Gray Television, Inc.'s (Gray) proposed acquisition of Quincy Media, Inc. (Quincy) (collectively, the Applicants), which would ultimately result in Gray's control of certain Quincy license subsidiaries. In the proposed transaction, pursuant to the Stock Purchase Agreement dated January 21, 2021 (Agreement), Gray would acquire 100% of the capital stock of Quincy from the Quincy stockholders. Immediately following consummation of the acquisition, some of the Quincy licensee subsidiaries would be merged into Gray, with Gray as the surviving entity. The jointly filed applications are listed in the Attachment to this Public Notice.<sup>1</sup>

As explained more fully in the Comprehensive Exhibit to the applications, in certain Designated Market Areas (DMAs), Gray and Quincy both own full-power television stations and common ownership of the combined stations would potentially violate the local television multiple ownership rule.<sup>2</sup> Specifically, the Applicants identify six markets where common ownership of the combined stations would exceed the limits imposed by the Commission's local television multiple ownership rule. Therefore, "[t]o ensure compliance with the Commission's rules, Gray will divest nine Quincy stations in

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<sup>1</sup> Copies of the applications are available in the Commission's Licensing Management System (LMS).

<sup>2</sup> See 47 CFR § 73.3555(b) ("An entity may directly or indirectly own, operate, or control two television stations licensed in the same Designated Market Area (DMA) (as determined by Nielsen Media Research or any successor entity) if: (1) The digital noise limited service contours of the stations (computed in accordance with § 73.622(e)) do not overlap; or (i) At the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and (ii) At least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. Count only those TV stations the digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination. In areas where there is no DMA, count the TV stations present in an area that would be the functional equivalent of a TV market. Count only those TV stations digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination.").

six markets simultaneous with the closing of the proposed [acquisition].”<sup>3</sup> Gray proposes to file “[a]n application for consent to assign the licenses of the stations identified for divestiture . . . as soon as a buyer for each station is selected and a purchase agreement [is] signed.”<sup>4</sup>

Gray also has filed failing station waivers of the Commission’s local television multiple ownership rule to acquire stations in three markets where Quincy owns and operates broadcast television stations.<sup>5</sup> To this end, Gray makes showings in support of its position that, due to specific circumstances in the local markets, continued common ownership of the stations would serve the public, interest, convenience, and necessity.<sup>6</sup> Gray further has filed continuing satellite waivers in two markets where Quincy owns and operates television satellite stations.<sup>7</sup>

The Applicants report that after consummation of the proposed acquisition and taking into account the UHF Discount, Gray will have a national reach of 17.92%.<sup>8</sup> Accordingly, Gray asserts that the transaction would be in compliance with the national television ownership rule, which prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the United States after taking into account a 50 percent discount to UHF stations (UHF Discount).<sup>9</sup>

### **EX PARTE STATUS OF THIS PROCEEDING**

In order to assure the staff’s ability to discuss and obtain information needed to resolve the issues presented, by this Public Notice and pursuant to Section 1.1200(a) of the Rules,<sup>10</sup> we establish a docket for this proceeding and announce that the *ex parte* procedures applicable to permit-but-disclose proceedings will govern our consideration of these applications.<sup>11</sup>

Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, then the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex*

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<sup>3</sup> LMS Lead File No. 0000136257, Comprehensive Exhibit at 38 (Comprehensive Exhibit).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 38; 47 CFR § 73.3555(b).

<sup>6</sup> Comprehensive Exhibit at 38–46.

<sup>7</sup> *Id.* at 46–47; 47 CFR § 73.3555, Note 5 (“Paragraphs (b) through (e) of this section will not be applied to cases involving television stations that are “satellite” operations. Such cases will be considered in accordance with the analysis set forth in the Report and Order in MM Docket No. 87–8, FCC 91–182 (released July 8, 1991), as further explained by the Report and Order in MB Docket No. 18–63, FCC 19–17, (released March 12, 2019), in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest.”).

<sup>8</sup> Comprehensive Exhibit at 1.

<sup>9</sup> *See id.*; 47 CFR § 73.3555(b)(e)(1) and (2).

<sup>10</sup> 47 CFR § 1.1200(a).

<sup>11</sup> *See* 47 CFR § 1.1206.

*parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules.<sup>12</sup> Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.<sup>13</sup> We strongly urge parties to use the Electronic Comment Filing System (ECFS) to file *ex parte* submissions. All *ex parte* filings must be clearly labeled as such and must reference MB Docket No. 21-XX.

## GENERAL INFORMATION

The applications referred to in the Attachment to this Public Notice have been accepted for filing upon initial review. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Interested persons must file petitions to deny no later than **April 12, 2021**. Oppositions to petitions to deny must be filed no later than **April 27, 2021**. Replies must be filed no later than **May 7, 2021**. Persons and entities that file petitions to deny become parties to the proceeding.

To allow the Commission to consider fully all substantive issues regarding the applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. Replies may only address matters raised in oppositions. A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 21-87, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

*Filing Requirements.* Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>14</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the ECFS.<sup>15</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

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<sup>12</sup> 47 CFR § 1.1206(b).

<sup>13</sup> 47 CFR § 1.1206(b)(2).

<sup>14</sup> 47 CFR §§ 1.415, 1.419.

<sup>15</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998).

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>16</sup>
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

**In addition, one copy of each submission must be sent to the following:**

- David Brown, Video Division, Media Bureau, e-mail [David.Brown@fcc.gov](mailto:David.Brown@fcc.gov)
- Chris Robbins, Video Division, Media Bureau, e-mail [Chris.Robbins@fcc.gov](mailto:Chris.Robbins@fcc.gov)

Any submission that is e-mailed to David Brown or Chris Robbins should include in the subject line of the e-mail: (1) MB Docket No. 21-87; (2) the name of the submitting party; (3) a brief description or title identifying the type of document being submitted (e.g., MB Docket No. 21-87, Gray-Quincy Merger, *Ex Parte* Notice).

*Availability of Documents.* Documents in this proceeding are available electronically through the ECFS, which will provide hyperlinks to the applications in the Media Bureau's Licensing and Management System (LMS). ECFS and LMS may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

*People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

For further information, contact David Brown at (202) 418-1645 or Chris Robbins at (202) 418-0685. For press inquiries, contact Janice Wise at (202) 418-8165.

This action is taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.<sup>17</sup>

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<sup>16</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

<sup>17</sup> 47 CFR §§ 0.61 and 0.283.

## ATTACHMENT

## QUINCY HOLDINGS, INC., LICENSES AND AUTHORIZATIONS TO BE TRANSFERRED

*Television Stations to be Transferred*

<b>Call Sign, Community of License</b>	<b>Facility ID</b>	<b>Licensee</b>	<b>File Number</b>
WSJV(TV), Elkhart, IN	74007	WSJV License LLC	0000136257
WPTA(TV), Fort Wayne, IN	73905	WPTA License LLC	0000136237
WISE-TV, Fort Wayne, IN	13960	WPTA License LLC	0000136236
WEEK-TV, Peoria, IL	24801	WEEK License LLC	0000136228
WYOW(TV), Eagle River, WI	77789	WAOW-WYOW License LLC	0000136271
WREX(TV), Rockford, IL	73940	WREX License LLC	0000136240
KBJR-TV, Superior, WI	33658	KBJR License LLC	0000136261
KDLH(TV), Duluth, MN	4691	KBJR License LLC	0000136262
KRII(TV), Chisholm, MN	82698	KBJR License LLC	0000136263
KTIV(TV), Sioux City, IA	66170	KTIV License LLC	0000136266
K24JG-D, Norfolk, NE	66171	KTIV License LLC	0000136267
KTTC(TV), Rochester, MN	35678	KTTC License LLC	0000136223
W34FC-D, La Crosse, WI	35676	KTTC License LLC	0000136224
WBNG-TV, Binghamton, NY	23337	WBNG License LLC	0000136226
WVVA(TV), Bluefield, WV	74176	WVVA License LLC	0000136221
WGEM-TV, Quincy, IL	54275	WGEM License LLC	0000136230
W255CY, Quincy, IL	156892	WGEM License LLC	0000136233

*Radio Stations to be Transferred*

<b>Call Sign, Community of License</b>	<b>Facility ID</b>	<b>Licensee</b>	<b>File Number</b>
WGEM(AM), Quincy, IL	54277	WGEM License LLC	0000136232
WGEM-FM, Quincy, IL	54281	WGEM License LLC	0000136231