Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of

WPRV-TV, Inc.,	BALCT- 940203KE
Debtor (Chapter 7)	BALTT- 940203KF
(Assignor)	

and

The Catholic, Apostolic and Roman Church in Puerto Rico, Archdiocese of San Juan
(Assignee)

For Assignment of License of Station WPRV-TV, Channel 13 and TV Translator Station W56BC, Channel 56, Fajardo, Puerto Rico

MEMORANDUM OPINION AND ORDER

Adopted: August 29, 1994; Released: September 27, 1994

By the Commission:

1. The Commission has before it for consideration applications to assign the licenses of commercial station WPRV-TV, Channel 13 and TV translator station W56BC, Channel 56, Fajardo, Puerto Rico from WPRV-TV, Inc., Debtor (Chapter 7) to The Catholic, Apostolic and Roman Church in Puerto Rico, Archdiocese of San Juan (Archdiocese of San Juan). The proposed assignee is the licensee of AM radio station WKVM in San Juan, Puerto Rico and FM radio station WORO in Corozal, Puerto Rico. Because WPRV-TV's Grade A contour encompasses the communities of license of WKVM(AM) and WORO(FM) the proposed acquisition of station WPRV-TV would be inconsistent with Section 73.3555(c) of the Commission's Rules (the "one-to-a-market" rule), which prohibits the common ownership of television and radio stations in the same market. However, Archdiocese of San Juan has requested waiver of the rule pursuant to the "failed station" exception set forth in Note 7 of that rule.

2. In 1989, the Commission established standards for reviewing requests for waiver of the "one-to-a-market" rule including adopting a policy under which it would look favorably upon waiver requests involving (1) station combinations in the top 25 markets where 30 or more independent broadcast voices would remain after the proposed transaction; and (2) combinations involving "failed stations." *See Amendment of Section 73.3555,* 4 FCC Rcd 1741, *reconsidered in part,* 4 FCC Rcd 6489 (1989). Broadcast stations that have not been operated for a substantial period of time (four months or more), or that are involved in bankruptcy proceedings are considered "failed" within the meaning of the "failed station" criterion. For the reasons set forth below, we find that the Archdiocese of San Juan has met the necessary standard to receive a waiver under the "failed station" criterion.

3. First, WPRV-TV, Inc. has been involved in bankruptcy proceedings for six years. The station originally filed for protection under 11 U.S.C. Chapter 11 on December 3, 1987 and was converted to the current proceeding under 11 U.S.C. Chapter 7 on June 6, 1989. In addition, our records show that WPRV-TV has been off the air, with Commission approval, since September 22, 1992 due to financial difficulties. For these reasons, we conclude that the applicants have demonstrated that WPRV-TV is a "failed station" as described in Note 7 of Section 73.3555. *See Great Alaska Electric Radio Co., Inc.,* 5 FCC Rcd 2935 (1990); and *KEZB, Inc., Debtor,* 7 FCC Rcd 3209 (1992).

4. In view of the foregoing, and having determined that the applicants are qualified in all other aspects, we find that a grant of the applications, subject to the following conditions, would serve the public interest.

5. Accordingly, IT IS ORDERED, That the applications (BALCT-940203KE and BALTT-940203KF) for consent to assign the licenses of station WPRV-TV and TV translator station W56BC, Fajardo, Puerto Rico from WPRV-TV, Inc., Debtor (Chapter 7) to The Catholic, Apostolic and Roman Church of Puerto Rico, Archdiocese of San Juan, ARE GRANTED, subject to the following conditions:

(a) That the assignment of licenses covered by BALCT-940203KE and BALTT-940203KF be consummated within sixty (60) days of the date of the grant, that the Commission be notified of such consummation within one day thereafter and that the stations resume broadcasting within sixty (60) days after consummation of the grant of applications; and

(b) That ten days prior to the commencement of regular programming operation, the assignee submit certification that equipment performance measurements were made in accordance with Section 73.1590 of the Commission's Rules.

6. It IS FURTHER ORDERED, That the staff of the Mass Media Bureau shall send copies of this Memorandum Opinion and Order to the applicants by Certified Mail -- Return Receipt Requested.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary