

Request for Special Temporary Authority

WLEX Communications, LLC (“WLEX”), licensee of Transmit-Only Earth Station E190036, and Cordillera Communications, LLC (“Cordillera”), parent entity of WLEX, hereby request Special Temporary Authority (“STA”) for operation of the earth station by Scripps Broadcasting Holdings, LLC (“Scripps”) until FCC action is completed on a pending transfer of control application¹ (the “Pending Application”).

Cordillera and Scripps’ parent Scripps Media, Inc. are party to a Purchase Agreement dated as of October 27, 2018 whereby Scripps Media, Inc. will acquire certain subsidiaries of Cordillera. On November 9, 2018, the parties filed a number of applications for the transfer of control of Cordillera’s broadcast subsidiaries (the “Transfer Applications”). The Commission granted the Transfer Applications, which involve Media, International, and Wireless Telecommunications Bureau licenses, on April 5, 16, and 19, 2019.²

WLEX filed an application for a new transmit-only earth station on October 26, 2018³, which the Commission granted on March 22, 2019 and assigned call sign E190036. On March 28, 2019, Cordillera and Scripps filed the Pending Application, which was accepted for filing on April 17, 2019. Petitions to deny the Pending Application are due May 17, 2019. Also on March 28, 2019, Scripps Media, Inc. filed an application for a *pro forma* assignment of license from WLEX Communications, LLC to Scripps Broadcasting Holdings, LLC.⁴

Cordillera and Scripps plan to consummate the Transaction on May 1, 2019. Because the Pending Application will not be granted by that date, WLEX and Cordillera hereby request STA to allow Scripps to operate the earth station in the normal course of business until the Pending Application is processed. The earth station is used in WLEX’s production of local news and other programming that is of local importance. Thus, grant of the instant request is in the public interest because it will permit Scripps to continue using the earth station to provide information to its viewers in the Lexington, Kentucky market. Indeed, the International and Media Bureaus already have granted similar applications to permit Scripps to acquire the Cordillera subsidiaries.

¹ See FCC File No. SES-T/C-20190328-00397.

² See Attachment A for a list of applications approved by the International Bureau and Attachment B for the Media Bureau decision.

³ See FCC File No. SES-LIC-20181026-03649.

⁴ See FCC File No. SES-ASG-20190328-00396. The Commission granted that application on April 16, 2019.

Attachment A

International Bureau Transfer Applications
Granted April 16, 2019

Call Sign/Class of Station	Licensee	File Number
E140084 Fixed-Temporary Fixed Transmit Only	KPAX Communications, LLC	SES-T/C-20181109-03162
E960412 Fixed-Temporary Fixed Transmit Receive Earth Station	KTVQ Communications, LLC	SES-T/C-20181109-03163
E910526 Fixed Fixed Transmit Receive Earth Station	KXLF Communications, LLC	SES-T/C-20181109-03164
E030018 Fixed-Temporary Fixed Transmit Only	Sangre de Cristo Communications, LLC	SES-T/C-20181109-03165

Attachment B

FCC Media Bureau Decision
Released April 4, 2019



Federal Communications Commission
Washington, D.C. 20554

April 4, 2019

DA 19-259
Released: April 4, 2019

Cordillera Communications, LLC
c/o Michael D. Basile
Cooley LLP
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004

Scripps Media, Inc.
c/o Kenneth C. Howard, Jr.
Baker & Hostetler LLP
1050 Connecticut Ave., NW, Suite 1100
Washington, D.C. 20036

Quincy Media, Inc.
c/o Elizabeth E. Spainhour
Brooks, Pierce *et al.*
150 Fayetteville Street, Suite 1700
Raleigh, NC 27601

Re: Applications for Consent to Transfer Control of License
and Request for Continued Satellite Authority
KATC, Lafayette, LA, Fac. ID No. 33471
KBZK, Bozeman, MT, Fac. ID No. 33756
KPAX-TV, Missoula, MT, Fac. ID No. 35455
KOAA-TV, Pueblo, CO, Fac. ID No. 59014
KRIS-TV, Corpus Christi, TX, Fac. ID No. 25559
KSBY, San Luis Obispo, CA, Fac. ID No. 19654
KXLF-TV, Butte, MT, Fac. ID No. 35959
WLEX-TV, Lexington, KY, Fac. ID No. 73203
KRTV, Great Falls, MT, Fac. ID No. 35567
KTVH-DT, Helena, MT, Fac. ID No. 5290
KTVQ, Billings, MT, Fac. ID No. 35694
File Nos. BTCCDT-20181109AAK, AAM, AAN, AAR,
AAU, AAY, ABC, ABE, ABF, ABG, ABP

Application for Consent to Assign License
KVOA(TV), Tucson, AZ, Fac. ID No. 25735
File No. BALCDT-20181109AAC

Dear Counsel:

By this letter, we grant the above-captioned uncontested applications (Transfer Applications) for the transfer of control of certain subsidiaries of Cordillera Communications, LLC (Cordillera) holding

television broadcast licenses to Scripps Media, LLC (Scripps) (collectively, the Transfer Applicants).¹ In connection with the sale, we grant Scripps continued authority to operate station KBZK, Bozeman, Montana, as a satellite of KXLF-TV, Butte, Montana, pursuant to the satellite exception to the Local Television Ownership Rule.² We also grant the above-captioned uncontested application for the assignment of license of station KVOA(TV), Tucson, Arizona from Cordillera to Quincy Media, Inc. (Quincy) (Assignment Application). We will condition the grant of the above-captioned applications on the prior and/or concurrent consummation of the sale of KVOA(TV).

The Transfer Applicants do not assert that common ownership of KBZK and KXLF-TV would violate the Local Television Ownership Rule but do state that “KBZK has been operated as a satellite of KXLF pursuant to Commission authority for the past 25 years,” and that “permitting Scripps to operate KBZK as a satellite of KXLF will allow Scripps to continue rebroadcasting the locally produced, network, and syndicated programming that KXLF airs to the terrain challenged area in and around Bozeman.”³

Applying the satellite authorization rules that are currently in place, we find that the Transfer Applicants have satisfied the requirements to permit continued authorization of KBZK to operate as a satellite of KXLF-TV.⁴ In *Television Satellite Stations*,⁵ the Commission stated that applicants seeking to transfer or assign a television satellite station are entitled to “presumptive” satellite status if the parent/satellite combination meets three criteria: (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.⁶ If an applicant cannot qualify for the presumption, the Commission will evaluate the proposal on

¹ The Transfer Applicants are filing or have filed separate applications requesting Commission consent for the transfer of control and subsequent assignment of private radio and satellite earth station licenses held by Cordillera subsidiaries. Transfer Applications, Exh. 20, “Transaction Description and Request for Continued Satellite Station Status Under Rule Section 73.3555, Note 5” (Comprehensive Exhibit) at 1. As a second step after consummation of the proposed transfer of control the licenses will be assigned to a wholly owned subsidiary of Scripps via Form 316 applications. *Id.* at 1, Att. B.

² 47 CFR § 73.3555, Note 5.

³ Comprehensive Exhibit, Amendment - Third Supplement/Revised Exhibit 20 at 1-2.

⁴ The Commission recently adopted new rules streamlining the reauthorization of existing satellite television stations as part of a transfer of control. *Streamlined Reauthorization Procedures for Assigned or Transferred Television Satellite Stations*, Report and Order, MB Docket No. 18-63, FCC 19-17 at 3, para. 6 (rel. Mar. 12, 2019) (*Streamlined Procedures Order*). The Commission defined a satellite as a “full-power terrestrial broadcast station[] authorized under Part 73 of the Commission’s rules . . . [that] generally retransmits some or all of the programming of another full-power television station, known as the parent station, which typically is commonly owned or operated with the satellite station.” *Id.* at 1, para. 2. The Commission further noted that satellites were initially authorized in “sparsely populated areas with insufficient economic bases to support full-service stations and then later in larger markets when a proposed satellite could not viably operate as a full-service station.” *Id.* Specifically, the new rules allow applicants to use streamlined procedures in those situations where there has been no material change in the circumstances that warranted the grant of a station’s existing authorization and upon submission of a complete copy of the most recent written Commission decision granting satellite authorization. While the Transfer Applications submit that the circumstances have not materially changed since the most recent grant of satellite status and that their request would qualify under the new streamlined procedures, the *Streamlined Procedures Order* is not

an *ad hoc* basis and grant the application if there are compelling circumstances that warrant approval.⁷ In the *Quadrennial Report and Order*, the Commission stated that there “is no digital counterpart to a station’s analog [C]ity [G]rade contour,” and “[a]ccordingly, consistent with case law developed after the digital transition, [the staff will] evaluate all future requests for new or continued satellite status on an *ad hoc* basis.”⁸ Therefore, criterion one is no longer relevant in the digital context. The Commission granted satellite status to KBZK in 1993.⁹

With regard to the second criterion of the three-prong traditional analysis, a proposed satellite serves an underserved area if either: (a) there are two or fewer full-service television stations licensed to the station’s community of license (the “transmission test”), or (b) 25% or more of the area within the satellite’s Grade B contour, but outside the parent station’s Grade B contour, is served by four or fewer services (the “reception test”).¹⁰ As demonstrated by the Transfer Applicants, KBZK qualifies under the “transmission test,” since there is only one other full-service station licensed to the community of Bozeman, Montana -- non-commercial station KUSM-TV.¹¹

To demonstrate compliance with the third criterion of the traditional analysis, the transfer Applicants provide a letter from Mr. Louis G. Zachary, Jr., Managing Principal, Methuselah Advisors. Mr. Zachary states that he has years of experience in assisting buyers and sellers of broadcast television properties.¹² Mr. Zachary states that during his firm’s extensive open marketing process on behalf of Cordillera, it received no expression of interest for KBZK as a stand-alone operation. He further explains that this lack of interest was expected because a licensee’s ability to serve both of the market’s distinct population centers, Butte and Bozeman, is critical to any station’s success, but KBZK’s over-the-air signal does not reach Butte – which is 75 miles away from Bozeman over rugged terrain.¹³ Moreover, Mr. Levy represents that were KBZK not a satellite station, it would no longer have access to KXLF-TV’s CBS programming and would have to find alternate programming of sufficient interest to support

yet effective. Comprehensive Exhibit, Amendment - Third Supplement/Revised Exhibit 20 at 2. If a licensee of a satellite station seeks to assign or transfer the license to a new owner that wishes to continue operating the station as a satellite, the Commission’s current procedures require the applicants to the transaction to make the same showing that is required for initial satellite authorization. 47 CFR § 73.3555, Note 5.

⁵ *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212 (1991), *subsequent history omitted* (*Television Satellite Station*).

⁶ *Id.* at 4213-4214, para. 12.

⁷ *Id.* at 4214, para. 14.

⁸ 2014 *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 et al.*, MB Docket No. 14-50, Report and Order, 31 FCC Rcd 9864, 9876 n. 72 (2016) (*Quadrennial Report and Order*), *recon. granted in part and denied in part*, 32 FCC Rcd 9802 (2017).

⁹ *See Big Horn Communications, Inc.*, Memorandum Opinion and Order, 8 FCC Rcd 6765 (1993).

¹⁰ *See Television Satellite Stations*, 6 FCC Rcd at 4215.

¹⁰ *Id.*

¹¹ Comprehensive Exhibit at 2.

¹² Comprehensive Exhibit, Att. D, Letter from Louis G. Zachary, Jr., Managing Principal, Methuselah Advisors Securities to Marlene H. Dortch, Secretary, FCC (dated Nov. 6, 2018).

¹³ *Id.* at 2.

advertising sales. Since each of the top networks already has an affiliate in the market, KBZK's owner would likely face insurmountable challenges to acquire programming that is of interest to viewers in the market. According to Mr. Zachary, without popular programming KBZK would not attract the audience needed to capture sufficient advertising or retransmission consent revenues to operate the station and would likely lose its news product.¹⁴

We find that the Transfer Applicants have set forth information sufficient to warrant continued satellite status for KBZK pursuant to our *ad hoc* analysis. Given that KBZK is the only full-power commercial television station in its community of license and only one of two full power stations; does not cover the major population centers in the DMA; and would be costly to operate as a stand-alone station with little prospect for significant revenue, we find it unlikely that an alternative operator would be willing and able to purchase or operate the station as a stand-alone facility. Moreover, KBZK has operated as a satellite of KXLF-TV under Commission authority for more than 25 years, and we see no evidence in the record that continuing the satellite exception will harm competition in that market, or that the factors underlying the most recent grant of satellite status has materially changed.

Having reviewed the Transfer Applications and other facts before us, we conclude that, not only will granting these applications and the request for satellite exemption reauthorization comply with Commission rules, but will also serve the public interest, convenience, and necessity. We also conclude that granting the Assignment Application will serve the public interest, convenience, and necessity.¹⁵

ACCORDINGLY, IT IS ORDERED, pursuant to section 154(i) of the Communications Act, as amended,¹⁶ and by the authority delegated by sections 0.61 and 0.283 of the Commission's rules,¹⁷ that the above-referenced applications for consent to transfer control of the licenses of 11 stations from Cordillera Communications, LLC to Scripps Media, Inc. (File Nos. BTCCDT-20181109AAK, AAM, AAN, AAR, AAU, AAY, ABC, ABE, ABF, ABG, ABP) **ARE GRANTED**, conditioned upon prior and/or concurrent consummation of the sale of KVOA(TV), Tucson, Arizona.

IT IS FURTHER ORDERED, that the request for the continued operation of station KBZK, Bozeman, Montana as a satellite of KXLF-TV, Butte, Montana, pursuant to section 73.3555, Note 5, of the Commission's rules, **IS GRANTED**.

¹⁴ *Id.*

¹⁵ The Transfer Applicants submit that the reach of the Scripps stations post-transaction would extend to only 12.690% of U.S. television households when applying the UHF discount and to 20.096% of U.S. households without applying that discount – well below the 39% national ownership cap. Transfer Applications, Supplement to Exh. 20 at 1; *see* 47 CFR § 73.3555(e)(1) (prohibiting 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).

¹⁶ 47 U.S.C. § 154(i).

¹⁷ 47 CFR §§ 0.61, 0.283.

IT IS FURTHER ORDERED, pursuant to section 154(i) of the Communications Act, as amended,¹⁸ and by the authority delegated by sections 0.61 and 0.283 of the Commission's rules,¹⁹ that the above-referenced application for consent to assign the license for KVOA(TV), Tucson, Arizona, **IS GRANTED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁸ 47 U.S.C. § 154(i).

¹⁹ 47 CFR §§ 0.61, 0.283.