



Federal Communications Commission
Washington, D.C. 20554

February 1, 2007

DA 07-500

Released: February 2, 2007

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Re: Applications for Transfer of Control
WAPA-TV, San Juan, PR, ID No. 52073
File No. BTCCT-20061108AHE¹

Dear Applicants:

This is in regard to the above-captioned unopposed applications for the transfer of control of three licensee subsidiaries of LIN Television Corporation (LIN) to Intermedia Partners VII, L.P. (Intermedia). The companies being transferred are:

- Televiscentro of Puerto Rico, LLC, licensee of WAPA-TV, San Juan, Puerto Rico; WIRS(TV), Yauco, Puerto Rico; and WTIN(TV), Ponce, Puerto Rico;
- S&E Network, Inc., licensee of WJPX(TV), San Juan, Puerto Rico; WKPV(TV), Ponce, Puerto Rico; and WJWN-TV, San Sebastian, Puerto Rico; and
- WNJX-TV, Inc., licensee of WNJX-TV, Mayaguez, Puerto Rico.

As part of this transaction, Intermedia requests continuing satellite authority for stations WTIN(TV), WNJX-TV, WKPV(TV), WIRS(TV), and WJWN-TV, pursuant to the satellite exemption to the duopoly rule. *See* 47 C.F.R. § 73.3555, Note 5. For the reasons stated below, we grant the applications and the requested continuing satellite authority.

The Puerto Rico Market. Nielsen has not developed DMA markets for the island of Puerto Rico. However, in past television duopoly cases involving stations in different parts of Puerto Rico, we have implicitly treated the entire island as a single television market.² For example, in *JEM*

¹ A complete list of the stations affected by the application is attached as Exhibit A.

² *See Paxson San Juan, Inc.*, 16 FCC Rcd 14139 (2001); *Milton S. Maltz*, 13 FCC Rcd 15527 (1998); and *JEM Communications, Inc.*, 9 FCC Rcd 4874 (1994).

Communications, we found that it was necessary to grant satellite exemptions to permit common ownership of television stations in San Juan, Ponce and San Sebastian, recognizing that, despite the fact that the stations were located on opposite parts of the island, they were part of a single television market.³ The applicants maintain that advertisers treat the island as a single market and that the financial viability of Puerto Rico television stations is dependent on island-wide coverage.

We conclude that our previous decisions and local economic and market conditions support continued treatment of the island of Puerto Rico as one television market for purposes of our multiple ownership rule. Therefore, a broadcaster may have an attributable interest in up to two television stations in Puerto Rico if eight independent voices would remain in the market following the acquisition and only one of the stations at issue is ranked in the top four.⁴ Satellite stations, however, are exempt from our multiple ownership rules.⁵ Following the proposed transaction, there would be more than eight independent voices in Puerto Rico. WAPA-TV is ranked in the top four, but WJPX(TV) is not. Therefore, Intermedia may own both of those stations. In order to own the other five stations that are part of the transaction, Intermedia will need renewed satellite exemptions for each of those stations.

The Satellite Exemptions. In *Television Satellite Stations*,⁶ the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is 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. *Id.* at 4213-14. 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. *Id.* at 4212.

In granting the past satellite exemptions, the Commission based its decision on Puerto Rico's unique topography and on the economic conditions on the island. As the applicants argue, these conditions continue to exist. Specifically, Puerto Rico is approximately 125 miles long (east to west) and thirty miles wide (north to south), bisected east to west by a central mountain range which effectively blocks television signals directed across its heights. In previous decisions, the Commission has noted that useful television coverage for stations in Puerto Rico is ordinarily limited to the Grade A contour and is sometimes unsatisfactory even within that area.⁷ Because no single station can reach the entire island, Puerto Rico television stations have a long-standing

³ *JEM Communications*, 9 FCC Rcd at 4875.

⁴ 47 C.F.R. § 73.3555.

⁵ 47 C.F.R. § 73.3555, Note 5.

⁶ 6 FCC Rcd 4212, 4215 (1991) (subsequent citations omitted).

⁷ *Canal 48*, 8 FCC Rcd 2193 (1993).

practice of either utilizing satellite stations or entering into rebroadcast arrangements with other stations on the island. According to Jose E. Ramos, general manager of stations WAPA-TV and WJPX(TV), stations outside of San Juan can only survive by working in concert with a San Juan station and the San Juan stations “can only succeed financially by rebroadcasting their programming island-wide.”⁸

In addition, cable subscription on Puerto Rico is limited to approximately 25% of TV households and only 20% of TV households subscribe to DBS.⁹ This is substantially below the subscription rate of over 80% for multi-channel video providers in the United States.¹⁰ Therefore, the availability of over-the-air television signals is even more important in Puerto Rico than it is in the rest of the United States.

Moreover, Puerto Rico broadcasters must operate in an extremely competitive market. There are approximately 100 radio stations and 30 television stations licensed to the island. However, outside of the capital city of San Juan, the majority of these stations operate in concert with a San Juan station, either as satellites under rebroadcast agreements or under local marketing agreements.

Problems caused by Puerto Rico’s topography and market structure are compounded by its weak economic conditions. The gross national income per capita is only 30% of the U.S.’ average and the average wage earned by island residents is only 54% of that earned by mainland residents.¹¹ Outside of San Juan, the income differential is even more dramatic. For example, the median per capita income in San Juan, according to the Census Bureau in its 2000 report, was \$12,437 while in Yauco, where WIRS(TV) is licensed, it was only \$6,434. Furthermore, according to the Bureau of Labor Statistics, the unemployment rate in Puerto Rico is 9.9%, which represents a significant decline from past years, but is more than double the 4.5% rate for the overall U.S. economy during the same period.¹²

According to Mr. Ramos, the generally weak economy in Puerto Rico historically has had an impact on advertising sales and that impact will worsen. Mr. Ramos predicts that advertising sales in 2006 will have declined by approximately 10% from 2005 levels.

In previous Puerto Rico decisions, the Commission has recognized that “economic conditions indicate that satellite operations or rebroadcast arrangements are a necessity,” even in cases where the stations’ communities of license and their surrounding areas are not technically unserved or

⁸ Declaration of Jose E. Ramos, Exhibit 18 to applications.

⁹ See *Television and Cable Factbook*, F-3 (2006); MediaFAX Ratings at Attachment E to Exhibit 18.

¹⁰ *2006 Video Competition Report*, 21 FC Rcd 2503 (2006).

¹¹ Barry P. Bosworth and Susan M. Collins, Economic Growth, *in* The Economy of Puerto Rico 18 (Susan M. Collins, Barry P. Bosworth, and Miguel A. Soto-Class eds., 2006).

¹² See www.bls.gov *Statistics at a Glance*.

underserved.¹³ In *Hector Nicolau*, the Commission stated that “[W]ithout the use of satellite operation or rebroadcast arrangements, television operations and programming choices beyond San Juan would be limited.”¹⁴

WTIN(TV). In 2001, the Commission authorized WTIN(TV) to operate as a satellite station of WAPA-TV.¹⁵ Although the original proposal to operate WTIN(TV) as a satellite did not satisfy the presumptive criteria regarding city grade contour overlaps and provision of service to an underserved area, the Commission nonetheless found that the unique circumstances of the Puerto Rico market, discussed above, including its topography and economic conditions, supported satellite status for the station. The applicants state that the situation now is essentially the same as it was when the satellite operation was originally approved. They state that, although a minimal amount of advertising time is sold by the licensee to specifically target the residents of Ponce, the revenues generated from those advertising sales are too small to permit operation of WTIN(TV) as a stand-alone commercial station.¹⁶ Based on the conditions of the Puerto Rico market and the past performance of the station, they argue that WTIN(TV) cannot operate as a viable stand-alone station. Based on the record in this case and on our prior precedent, we agree with the applicant’s conclusions.

WNJX-TV. In 2001, the Commission authorized WNJX-TV to operate as a satellite of WAPA-TV.¹⁷ Although there is no city grade overlap between the stations, WNJX-TV does not serve an underserved area under our transmission or reception standards and, therefore, does not meet our presumptive criteria. The Commission nonetheless approved its satellite operation under an *ad hoc* analysis. Television service in Mayaguez is heavily dependent on the rebroadcast of programming from stations located in other parts of the island. Of the three stations in Mayaguez, one is commonly owned and operated with another island station and the other two rebroadcast the programming of other island stations. In previous decisions, the Commission has stated that the south-central coast of Puerto Rico, where Mayaguez is located, lacks the economic base to sustain full-service operations.¹⁸ In his declaration attached to the application, Mr. Ramos states that the station does not generate any advertising revenues that would permit the operation of the station as a stand-alone entity. We believe that the conditions that justified the past satellite operation of WNJX-TV continue to exist.

¹³ 5 FCC Rcd 6370 (1990).

¹⁴ *Id.*

¹⁵ *Applications of Paxson Communications of San Juan, Inc. and LIN Television Corporation*, 16 FCC Rcd 14139 (2001) (“*Paxson*”) (permitting LIN to continue its attributable rebroadcasting agreement with WTIN(TV), which at the time was not licensed to LIN, and granting continued satellite exceptions for WKPV(TV) and WJWN(TV)).

¹⁶ Declaration of Jose E. Ramos.

¹⁷ *See Application of T. Michael Whitney and LIN Television of San Juan, Inc.*, 16 FCC Rcd 2297 (2001) (“*Whitney*”) (granting LIN’s request to operate WNJX-TV as a satellite of WAPA-TV).

¹⁸ *See, e.g. Paxson*, 16 FCC Rcd at 14143.

WIRS(TV). Satellite operation for WIRS(TV) was originally authorized in 2003.¹⁹ In its 2003 satellite request, LIN stated that WIRS(TV) met the second and third criteria of our satellite waiver policy, but not the first. With respect to the first criterion, LIN submitted an engineering study that shows that there is city grade overlap between WJPX and WIRS. LIN noted that there is a central mountain range between the stations causing significant signal blockage. This unique terrain characteristic has contributed to the Commission giving diminished importance to the presence of City Grade overlap in other satellite cases involving Puerto Rico stations located on either side of the mountain range.²⁰ In limited circumstances, the Commission has allowed satellite status despite the presence of City Grade overlap. For example, in *Precht Communications, Inc.*, under facts similar to those here, the Commission allowed satellite status despite City Grade overlap because the proposed satellite station was the only one licensed to the community, provided the only Grade B service to a significant portion of the community of license, and was able to demonstrate its difficult operating conditions.²¹ As in *Precht*, there is only one station assigned to the community of license at issue. Furthermore, that station has to contend with geographical constraints that make the community of license in many ways arguably more remote than the one in *Precht*. Furthermore, our previous decision found that there was long-standing evidence of the inability of WIRS to operate as a full-service, stand-alone station. According to Mr. Ramos, the situation has not changed and the station does not generate any revenue through the sale of local advertising time. In our previous decision, we found that operation of WIRS(TV) as a stand-alone station was not a viable option and we believe that is still the case.

WKPV(TV) and WJWN-TV. In 1994, the Commission authorized stations WKPV(TV) and WJWN-TV to operate as satellites of WJPX-TV, San Juan. That authority was renewed in 1996 and 2001. The applicants state that there is no city grade overlap between WJPX-TV and either of the two stations. They also state that, although there is predicted city grade overlap between the two stations, the Commission has recognized in its previous decision that no actual overlap existed when terrain is considered. According to the application, that situation has not changed.

In regard to the second criterion, WJWN-TV is the only full-service station licensed to San Sebastian, which qualifies it as “underserved” under our transmission test. Ponce, the community of license for WKPV(TV), does not qualify as “underserved,” but the Commission “has not previously considered this to be an obstacle to satellite status”²² for this station “due to the stringent economic circumstances and the unusually severe economic conditions on the

¹⁹ Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to Margaret L. Tobey, Esq., December 11, 2003.

²⁰ See *JEM Communications*, 9 FCC Rcd 4874, 4876 (1994); *Paxson*, 16 FCC Rcd at 14145; *Hector Nicolau*, 5 FCC Rcd 6370, 6371 (1990).

²¹ See *Precht Communications, Inc.*, 13 FCC Rcd 8659 (1998).

²² *Paxson*, 16 FCC Rcd at 14145.

island.”²³ According to Mr. Ramos, neither station generates any revenue through the sale of local advertising. He concludes that neither station would be viable as a stand-alone station and that continued satellite operation is essential for both stations’ continued viability. Based on the record here and on the unique factors that we have repeatedly recognized in the Puerto Rico market, we agree.

Based upon the representations and showing set forth in the application, we find that the applicants have demonstrated that continuing satellite operation is justified for all of the stations at issue. Each station has a long-standing history of satellite operation. All of the stations are impacted by the unique topographical and economic constraints that we have repeatedly recognized as justifying satellite operation for stations in Puerto Rico. The stations serve communities that are geographically isolated and economically constrained. We have repeatedly found, and find again today, that these stations would fail without the ability to operate as satellite stations. Therefore, we find that continued operation of these stations as satellites would be in the public interest. We further find that Intermedia is qualified to operate the stations as proposed and that a grant of the above-captioned applications will serve the public interest, convenience and necessity.

ACCORDINGLY, IT IS ORDERED, That the requests of Intermedia Partners VII, L.P. for continued satellite operation of stations WTIN(TV), WNJX-TV, WIRS(TV), WKPV(TV) and WJWN-TV ARE GRANTED. IT IS FURTHER ORDERED, That the applications for consent to transfer of control of stations WAPA-TV, WJPX(TV), WTIN(TV), WNJX-TV, WIRS(TV), WKPV(TV) and WJWN-TV from LIN Television Corporation to Intermedia Partners VII, L.P. ARE GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

²³ *JEM Communications*, 9 FCC Rcd at 4874.

EXHIBIT A

Station	Community	File Number
WAPA-TV	San Juan, Puerto Rico	BTCCT-20061108AHE
WJPX(TV)	San Juan, Puerto Rico	BTCCT-20061108AHA
WIRS(TV)	Yauco, Puerto Rico	BTCCT-20061108AHF
WTIN(TV)	Ponce, Puerto Rico	BTCCT-20061108AHG
WKPV(TV)	Ponce, Puerto Rico	BTCCT-20061108AHB
WJWN-TV	San Sebastian, Puerto Rico	BTCCT-20061108AHC
WNJX-TV	Mayaguez, Puerto Rico	BTCCT-20061108AGU