

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Streamlined Reauthorization Procedures for)	
Assigned or Transferred Television Satellite)	MB Docket No. 18-63
Stations)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	

To: Marlene Dortch, Secretary
Attention: Chief, Media Bureau

REPLY COMMENTS OF GRAY TELEVISION, INC.

Gray Television, Inc. (“Gray”), by its attorneys, hereby files these reply comments in the Commission’s proceeding on proposed changes to the Commission’s process for reauthorizing television satellite stations.¹ Gray filed initial comments in this proceeding demonstrating that the public interest will best be served if the Commission adopts the proposal outlined in Gray’s June 26, 2017 *Ex Parte* letter.² That proposal included an expedited process for any applicants seeking authority to continue operating existing television satellite stations in conjunction with a new parent station.³ No party has opposed Gray’s proposal and there is unanimity among the commenting parties that changes to the Commission’s TV satellite

¹ Streamlined Reauthorization Procedures for Assigned or Transferred Television Satellite Stations, *Notice of Proposed Rulemaking*, FCC 18-34 (rel. Mar. 23, 2018) (“*NPRM*”).

² Comments of Gray Television, Inc., FCC Dockets MB 18-63 and 17-105 (filed May 11, 2018) (“Gray Comments”).

³ Letter from Kevin P. Latek, Executive Vice President, Gray Television, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-105 (filed June 26, 2017) (*Ex Parte* Letter).

reauthorization process would serve the public interest.⁴ Gray urges the Commission to promptly adopt Gray's proposals in this proceeding.

I. The New Streamlined Procedures Should Apply Regardless of Whether the Parent Station of the Satellite Remains the Same.

As NAB and Gray argued in their comments, the Commission should extend its proposed streamlined reauthorization procedures to any transfer of a satellite station where the parties can certify that the underlying circumstances upon which the Commission relied upon in granting the satellite authorization have not changed materially since the most recent authorization.⁵ This should be the case regardless of whether the parent station stays the same or changes.

In his statement on approving the *NPRM*, Commissioner O'Reilly explained why this should be the rule: "if the original intent of [a satellite waiver] was to help struggling stations, the condition of the satellite station, not the parent station, should be our primary focus."⁶ As Commissioner O'Reilly recognized, logic dictates that since the Commission's evaluation of whether a station qualifies as a television satellite station focuses squarely on the satellite station's circumstances, the identity of the parent station should be irrelevant.

Rather than focus on the parent station, the Commission should review only the health and viability of the satellite station. And when the applicants can show that the satellite station's circumstances that previously supported the waiver are materially unchanged, the Commission should reauthorize the satellite waiver even if the parent station changes.

⁴ Comments of Nexstar Broadcasting, Inc., FCC Dockets MB 18-63 and 17-105 (filed May 11, 2018) ("Nexstar Comments"); Comments of The National Association of Broadcasters, FCC Dockets MB 18-63 and 17-105 (filed May 11, 2018) ("NAB Comments").

⁵ Gray Comments at 5-7, NAB Comments at 6.

⁶ *NPRM* at 12.

II. Gray Agrees with Nexstar's Examples of Satellite Transfer That Would Not Qualify for Expedited Processing.

Gray agrees with Nexstar's formulation of what factors should disqualify a proposed TV satellite transfer from streamlined processing. Obviously, material changes to the satellite's operations need to be fully considered by the Commission, and the Commission should be very clear up front about what circumstances will require a full satellite showing. In its comments, Nexstar identified the following material changes that would trigger a full review of a station's satellite status:

material changes should be limited to voluntary facilities modification applications (i.e., outside of the current repackaging process) to a station's service contour whose overlap with the parent station exceeds twenty percent (20%) of the prior contour overlap submitted and approved after the effective date of the proposed new rule; the seller has received a bona fide purchase offer for the satellite facility in the immediately preceding three year period; or if an alternative showing was made, a fundamental change in the information related to that showing.⁷

Nexstar's proposal correctly recognizes that only changes that reasonably call into question a station's satellite authorization should disqualify a proposed transfer from streamlined processing.

Specifically, when a satellite station voluntarily modifies its facilities that could fundamentally change the satellite station's economic prospects, calling into question whether the station could be expected to survive as a stand-alone station. Similarly, if a seller has received a *bona fide* offer from a buyer that plans to operate the satellite station as a standalone facility, then a further evaluation of the satellite waiver is warranted. And of course, changes to the elements of an alternative showing could call into question the ongoing basis for maintaining a satellite waiver.

⁷ Nexstar Comments at 4, n. 9.

In all these cases, the Commission would reasonably require a more substantial showing justifying continuation of a satellite waiver. This approach ensures that the focus remains on the condition of the satellite station and its ability to operate as a standalone station (without shifting attention to a new parent), while protecting the public interest in receiving the maximum number of distinct broadcast stations that a local market can support.

III. Form 732s Should Incorporate Streamlined Reauthorizations.

Gray also supports the proposals of Nexstar and NAB for the Commission to memorialize the streamlined grant of a satellite reauthorization through inclusion of a “special condition” in the Form 732 granting the associated assignment or transfer of control application. Currently, satellite reauthorizations are handled in a written decision issued by the Media Bureau or the full Commission. The streamlines processes proposed by the Commission and supported by all commenters would obviate the need for a detailed, written evaluation of satellite status in the transfer context. Using a notation of the Form 732 issued to authorize an assignment or transfer would ensure that the public has ready access to a satellite authorization without the inherent delay that accompanies the need for a written decision. Using Form 732 for this purpose also would ensure the transparency of this process to the viewing public because Form 732 authorizations are easily accessible to any interested party in the Commission’s Consolidated Databases System.

IV. Conclusion

Gray respectfully requests that the Commission expeditiously adopt the changes to the reauthorization process consistent with Gray's initial comments and as described above.

Respectfully submitted,

GRAY TELEVISION, INC.

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