

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of:	}	MB Docket No. 12-1
	}	
Mark III Media, Inc.	}	CSR - _____
	}	
Petition for Recognition of Significantly Viewed Status	}	
	}	
	}	

To: Office of the Secretary
Attn: Chief, Video Division
Media Bureau

PETITION FOR SPECIAL RELIEF

Mark III Media, LLC (“Mark III”), the licensee of broadcast station KGWC-TV, Casper, Wyoming (Facility ID 63177) (“KGWC-TV”), by its attorneys, respectfully requests, pursuant to Sections 76.7(a)(1) and 76.54(b) of the Commission’s rules, that the Commission recognize KGWC-TV as significantly viewed in the communities of Rock Springs and Gillette, Wyoming. In accordance with the procedures set by the Commission, Mark III commissioned two, week-long independent professional audience surveys of over-the-air television homes in these communities. The results show that KGWC-TV, an CBS affiliate, meets the significantly viewed standard for network-affiliated stations set out in Section 76.5(i) of the Commission’s rules. Accordingly, KGWC-TV qualifies for the significantly viewed exception to the Commission’s network nonduplication and syndicated exclusivity rules in the surveyed communities.

KGWC-TV, an affiliate of the CBS television network, serves the Casper-Riverton Designated Market Area (“DMA”) (196th ranked). The Wyoming community of Rock Springs is in Sweetwater County, which is part of the Salt Lake City, Utah DMA. The Wyoming

community of Gillette is in Campbell County, which is part of the Denver, Colorado DMA. KGWC-TV does not appear on the Commission's list of stations that are significantly viewed in Sweetwater or Campbell counties.¹ As a result, cable and satellite systems serving Rock Springs and Gillette (the "Communities") currently may be required to delete all of KGWC-TV's network programming and syndicated programming upon notice from an in-market broadcast television station that also airs the programming. Under the significantly viewed exceptions for cable and satellite systems, however, these systems will not be required to delete KGWC-TV's network or syndicated programming if KGWC-TV is deemed to be significantly viewed in the Communities. As shown below, KGWC-TV has met the significantly viewed standard in the Communities and cable and satellite subscribers in these communities should not be deprived of access to major portions of KGWC-TV's programming.

Because the Commission's 1972 Significantly Viewed list may no longer reflect real-life circumstances in particular markets, the Commission has adopted procedures for recognizing additional stations as significantly viewed in particular communities. A station may obtain significantly viewed status by means of a showing that the station meets the applicable significantly viewed benchmarks in particular areas served by a cable system at issue.

In order to be deemed to be significantly viewed in a community, stations affiliated with a major network – such as KGWC-TV – must achieve both “a share of viewing hours of at least 3 percent (total week hours) and a net weekly circulation of at least 25 percent” in over-the-air homes in the community, per Section 76.5(i) of the Commission's rules. The data supporting

¹ See *Memorandum Opinion and Order on Reconsideration of the Cable Television Report and Order*, 36 FCC 2d 326, at Appendix B (1972), *aff'd sub nom. American Civil Liberties Union v. FCC*, 523 F.2d 1344 (9th Cir. 1975) (the “1972 Cable Reconsideration Order”). The Commission maintains an up-to-date version of the list on its website, reflecting stations added since 1972 and stations subject to programming deletions in particular communities. The most recent version of the list is available at: <http://www.fcc.gov/mb/significantviewedstations121913.pdf>.

this showing must be drawn from studies conducted by an independent, professional audience survey organization over at least two weekly periods separated by at least thirty days, no more than one of which may be a week between the months of April and September. If two surveys are taken, they must include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level. (See Section 76.54(b) of the Commission's rules.)

As explained below, according to community-specific data commissioned by Mark III from Eastlan Ratings, LLC ("Eastlan"), KGWC-TV's viewing levels in the Communities far exceed the Commission's minimum requirements. Thus, Mark III respectfully requests that the Commission recognize KGWC-TV as significantly viewed in the Communities.

To provide a representative sample of over-the-air viewing of KGWC-TV in the Communities, Mark III commissioned Eastlan, an independent professional survey organization, to conduct two, week-long surveys of non-cable and non-alternative-delivery system ("non-ADS") households located in the Zip codes comprising the Communities.² As explained in the attached Eastlan study, the data was compiled based on two telephone surveys, conducted September 7-13, 2014 and November 30-December 6, 2014.³ The sample source for the surveys

² Specifically, the Eastlan survey results are for Zip codes 82901, 82932 and 82935 for Rock Springs, Wyoming, and 82716, 82718, 82725, 82727 and 82731 for Gillette, Wyoming, as assigned by the U.S. Postal Service. *See* Exhibit 1.

³ Due to an oversight, Eastlan did not send the notice described in Section 76.54(c) prior to conducting its survey. The Commission has stated that the purpose of the notice is to provide an opportunity to a "petitioner to correct any errors or clarify issues related to the methodology before the data are purchased and the petition is actually filed and, perhaps, avoid the filing of oppositions." *See Saga Broadcasting, LLC*, 28 FCC Rcd 16,685, ¶ 4 (2013). Since the Commission will be soliciting comment on this Petition, and since Mark III has already purchased the studies, Mark III respectfully requests that the Commission waive the notice requirement to the extent necessary to process this Petition. Furthermore, the same parties that were to have received the notice pursuant to Section 76.54(c) will be served with a copy of this Petition, so no party will be prejudiced. In the event that any party raises concerns with respect to Eastlan's methodology, Mark III will address it in its response. The

consisted of randomly-selected telephone numbers, including listed, unlisted and wireless numbers in the Communities. Only non-cable/non-ADS households were surveyed. Eastlan's study shows the following for the Communities:⁴

Community	Households Studied	Total Viewing Hours Share	Standard Error	Share – Standard Error	Net Weekly Circulation Share	Standard Error	Net Weekly Share – Standard Error
Rock Springs	22	32.1%	3.02	29.08%	90%	5.01	84.88%
Gillette	20	20.7%	4.12	16.58%	60%	8.22	51.78%

The independent professional audience survey demonstrates that, based on the average results from two, week-long surveys conducted in accordance with the Commission's rules, KGWC-TV achieved average share and cume figures far above the Commission's minimum requirements for network-affiliated stations.

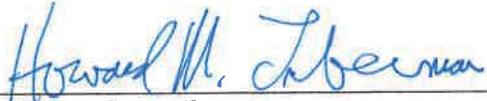
Thus, Mark III respectfully requests that the Commission recognize KGWC-TV's significantly viewed status in the Communities.

alternative would be to reinitiate the costly survey process, which Mark III submits would not be in the public interest.

⁴ See Exhibit 1. The data submitted, along with the description of methodology, are as agreed on between Mark III and Eastlan. See *Gulf-California Broadcast Co.*, 23 FCC Rcd 7406, at ¶4 n.15 (rel. May 6, 2008).

Respectfully submitted,

MARK III MEDIA, INC.

By:  _____

Howard M. Liberman

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Its Attorneys

February 20, 2015



EASTLAN

R A T I N G S

2014 Significant Viewing Study

Rock Springs (Sweetwater county) WY and Gillette (Campbell county) WY

Prepared For:
Mark III Media Corporation &
Silverton Broadcasting Company

Prepared By:
Eastlan Ratings
December 26, 2014

Introduction

Eastlan Ratings has produced reliable estimates of radio listening habits in hundreds of U.S. markets since 1999. In addition, the company produces customized studies resolving other objectives related to media usage. This report summarizes a formal, quantitative, and statistically representative Significant Viewing Study of the adult population in Rock Springs (Sweetwater county) and Gillette (Campbell county) in the State of Wyoming.

This formal written report summarizes findings from a comprehensive Significant Viewing Study of adults (18+) self-identified as residing in either Rock Springs (Sweetwater county) or Gillette (Campbell county) in Wyoming. All respondents were from non-cable/non-ADS households prescreened to be viewers of TV broadcasts over the air and using antenna to capture such programming.

Rock Springs (Sweetwater county) is comprised of zip codes 82901, 82932 and 82935.

Gillette (Campbell county) is comprised of zip codes 82716, 82718, 82725, 82727 and 82731.

Methodology

All of this work has been done using surveys collected by phone with respondents selected at random from among all members of the target audience owning a phone (whether land-line or cell, listed or unlisted).

The Primary data was derived from 42 surveys conducted with randomly selected adults among non-cable/non-ADS households who use over the air antenna to receive TV broadcasts and who reside in either Rock Springs (Sweetwater county) or Gillette (Campbell county) in the State of Wyoming. All surveys were collected using double-blind interviewing methods. All respondents were selected at random among the total adult population in the two counties mentioned. Through random selection and double-blind interviewing, the sample represents the media consumption habits of all adults in Sweetwater and Campbell counties to within +/- 15% at a 95% confidence interval, in the worst case.

Weekly Cume and Average Share were calculated using industry standard formulas.

All surveys were conducted by trained and supervised interviewers working out of our research affiliate, FMR Associates in Tucson, AZ. Half of the surveys were completed in the week of September 7-13, 2014 while the remainder were completed during the week of November 30-December 6, 2014.

Conclusion

Eastlan concludes that both KTWO and KGWC meet the FCC's requirements of significantly viewed status in Rock Springs, Wyoming. Pursuant to Section 76.5(i), a network station must attain at least a three percent share of total weekly viewing hours and a net weekly circulation (also known as Cume) of at least 25 percent among over-the-air viewers in the relevant community, calculated to one standard error. Exhibit A (KTWO) and Exhibit B (KGWC) show both KTWO and KGWC exceed both standards in the Rock Springs WY community.

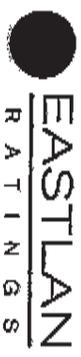
Furthermore, we have concluded that both KTWO and KGWC meet the FCC's requirements of significantly viewed status in Gillette, Wyoming. Pursuant to Section 76.5(i), a station must attain at least a three percent share of total weekly viewing hours and a net weekly circulation (also known as Cume) of at least 25 percent among over-the-air viewers in the relevant community, calculated to one standard error. Exhibit C (KTWO) and Exhibit D (KGWC) show both KTWO and KGWC exceed both standards in the Gillette WY community.

Population 46,619
 Households 17,545
 Non-Cable/Non-ADS* 11%

Television Viewing From Non-Cable/Non-ADS Homes*
 September 7-13, 2014 and November 30-December 6, 2014

Station	18+ In-Tab	Avg Wkly Cume %	Cume Std Error	Avg Share M-Su 6a-6a	Share Std Error
KTRW	22	90%	5.01	31.9%	3.04

*Non-Cable/Non-ADS (alternative delivery source) Homes are defined herein as those that view the broadcast signal of the television stations OIA (over-the-air)



Rock Springs (Westwater County) 197
zip codes 82901, 82932 and 82935

EXHIBIT B

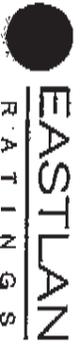
Population 46,619
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Television Viewing From Non-Cable/Non-ADS Homes*

September 7-13, 2014 and November 30-December 6, 2014

Station	18+ In-Tab	Avg Wkly Cume %	Cume Std Error	Avg Share M-Su 6a-6a	Share Std Error
KQWC	22	90%	5.01	32.1%	3.02

*Non-Cable/Non-ADS (alternative delivery source) Homes are defined herein as those that view the broadcast signal of the television stations OTA (over-the-air)

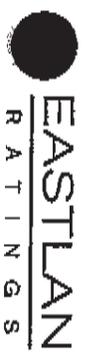


Population 49,225
 Households 18,464
 Non-Cable/Non-ADS* 15%

Television Viewing From Non-Cable/Non-ADS Homes*
 September 7-13, 2014 and November 30-December 6, 2014

Station	18+ In-Tab	Avg Wkly Curm %	Curm Std Error	Avg Share M-Su 6a-6a	Share Std Error
KTWO	20	70%	7.69	24.1%	4.24

*=Non-Cable/Non-ADS (alternative delivery sources) Homes are defined herein as those that view the broadcast signal of the television stations OTA (over-the-air)



Gillette (Campbell County) WV
ZIP codes 02716, 02718, 02725, 02727, 02731

EXHIBIT D

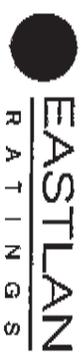
Population 49,225
Households 18,464
Non-Cable/Non-ADS* 15%

Television Viewing From Non-Cable/Non-ADS Homes*

September 7-13, 2014 and November 30-December 6, 2014

Station	18+ In-Tab	Avg Wkly Cumc %	Cumc Std Error	Avg Share M-Su 6a-6a	Share Std Error
KQWC	20	60%	8.22	20.7%	4.12

*=Non-Cable/Non-ADS (alternative delivery source) Homes are defined herein as those that view the broadcast signal of the television stations OTA (over-the-air)



CERTIFICATE OF SERVICE

I, Nellie Martinez-Redicks, a Secretary with Drinker Biddle & Reath, LLP, hereby certify that on this 20th day of February, 2015, I caused a copy of the foregoing “**Petition for Special Relief**” to be served upon the following by first-class:

Sweetwater Television Co., Inc.
P.O. Box 8
Rock Springs, WY, 82902

City of Rock Springs
City Hall
212 D Street
Rock Springs, WY 82901

City of Green River
City Hall
50 East 2nd North
Green River, WY 82935

KCSG
158 West 1600 South, Suite 200
St. George, UT 84770

KENV-DT
1790 Vassar Street
Reno, NV 89502

KJZZ-TV
301 West South Temple Street
Salt Lake City, UT 84101

KMYU
2300 N Street, NW
Washington, DC 20037

KPNZ
1845 Empire Avenue
Burbank, CA 91504

KSL-TV
55 North 300 West, 2nd Floor
Salt Lake City, UT 84101

KSTU
5020 Amelia Earhart Drive
Salt Lake City, UT 84116

KTMW
314 S. Redwood Rd.
Salt Lake City, UT 84104

KTVX
545 E. John Carpenter Freeway, Suite 700
Irving, TX 75062

KUCW
545 E. John Carpenter Freeway, Suite 700
Irving, TX 75062

KUPX-TV
601 Clearwater Park Road
West Palm Beach, FL 33401

KUTH-DT
5999 Center Drive, Suite 4083
Los Angeles, CA 90045

KUTV
2300 N Street, NW
Washington, DC 20037

Charter Communications
12405 Powerscourt Drive
St. Louis, Missouri 63131

Kendall Glover, Director of Utilities
City West Building
611 N Exchange Ave.
PO Box 3003
Gillette, WY 82717

KCDO-TV
3001 S. Jamaica Ct., Suite 210
Aurora, CO 80014

KCEC
2425 Olympic Blvd., Suite 6000 W
Santa Monica, CA 90404-4030

KCNC-TV
1800 K Street, NW, Suite 920
Washington, DC 20006

KDEN-TV
300 New Jersey Ave., NW, Suite 700
Washington, DC 20001

KDVR
100 East Speer Blvd.
Denver, CO 80203

KETD
1845 Empire Avenue
Burbank, CA 91504

KFCT
100 East Speer Blvd.
Denver, CO 80203

KWGN-TV
100 E. Speer Boulevard
Denver, CO 80203

DIRECTV
2230 E. Imperial Highway, Mail Stop N344
El Segundo, CA 90245

KMGH-TV
312 Walnut Street, 28th Floor
Cincinnati, OH 45202-4067

KPJR-TV
P.O. Box C-11949
Santa Ana, CA 92711

KPXC-TV
601 Clearwater Park Road
West Palm Beach, FL 33401

KQCK
2600 SW 3rd Avenue, Suite PH-B
Miami, FL 33129

KREG-TV
545 E. John Carpenter Freeway, Suite 700
Irving, TX 75062

KTFD-DT
5999 Center Drive, Suite 4083
Los Angeles, CA 90045

KUSA
7950 Jones Branch Drive
McLean, VA 22107

DISH Network
9601 S. Meridian Blvd.
Englewood, CO 80112

By:


Nellie Martinez-Redicks



Electronic Form 159

Payment Confirmation

Your transaction has been approved. For your records, please note the following:

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AUTHORIZATION NUMBER :	058699
AMOUNT PAID :	\$1,465.00

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