

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

KCNC

In the Matter of )

SagamoreHill Broadcasting of Wyoming/  
Northern Colorado, LLC )

CSR-7132-A

For Modification of the Cheyenne, Wyoming-  
Scottsbluff, Nebraska DMA )

MEMORANDUM OPINION AND ORDER

Adopted: July 12, 2007

Released: July 13, 2007

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. SagamoreHill Broadcasting of Wyoming/Northern Colorado, LLC, licensee of station KGWN-TV (CBS), Cheyenne, Wyoming ("KGWN-TV"), filed the above-captioned petition for special relief seeking to modify the Cheyenne, Wyoming-Scottsbluff, Nebraska designated market area ("DMA") to include 43 communities located in Larimer and Weld Counties, Colorado. Oppositions to this petition have been filed on behalf of Comcast Cable Communications, LLC ("Comcast"), CBS Television Stations, Inc., licensee of station KCNC-TV (CBS), Denver, Colorado ("KCNC-TV"), and Entravision Holdings, LLC, licensee of television broadcast station KCEC, Denver, Colorado ("KCEC"). KGWN-TV has filed a consolidated reply to these oppositions.

II. BACKGROUND

2. Pursuant to its decision in *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modification petitions.<sup>1</sup> This approach, codified in Section 76.59(b) of the Commission's rules, requires that the following evidence be submitted:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes, and any other evidence contributing to the scope of the market.

<sup>1</sup>14 FCC Rcd 8366, 8385 (1999) ("*Modification Final Report and Order*").

- (2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas.

Note to paragraph [2]: Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.<sup>2</sup>

- (3) Available data on shopping and labor patterns in the local market.
- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listing.
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience average over Sunday-Saturday, 7 a.m. to 11 p.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.<sup>3</sup>

Petitions for special relief to modify television markets that do not include the above evidence shall be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee.<sup>4</sup> In addition, parties may continue to submit whatever additional evidence they deem appropriate and relevant.

### III. DISCUSSION

3. In our review, we note that KGWN-TV has failed to comply with the requirements set forth in the *Modification Final Report and Order* and Section 76.59(b). While KGWN-TV did provide a map showing its predicted Grade B signal contour, this map did not clearly delineate all of the relevant cable communities or their individual distances from KGWN-TV's transmitter site, nor did it show any terrain features that might affect station reception (standardized evidence requirements 1 and 2).<sup>5</sup> In addition, KGWN-TV failed to provide any audience survey data to indicate its viewership in the

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<sup>2</sup>The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B contour analysis. In situations involving mountainous terrain or other unusual geographical features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test. *See Modification Final Report and Order*, 14 FCC Red at 8388.

<sup>3</sup>47 C.F.R. § 76.59(b).

<sup>4</sup>47 C.F.R. §§ 76.7, 76.59(c).

<sup>5</sup>*See* 47 C.F.R. § 76.59(b)(1)-(2).

communities at issue (standardized evidence requirement 6).<sup>6</sup> A statement regarding the station's significantly viewed status is insufficient for this purpose.<sup>7</sup> Finally, KGWN-TV failed to provide any data on shopping and labor patterns in the local market (standardized evidence requirement 3).<sup>8</sup> The information, as provided, is not sufficient to make a complete and comprehensive analysis of KGWN-TV's DMA modification request. KGWN-TV did not explain why more complete and detailed information was not submitted.

4. Finally, we note that the Physical System Identifier ("PSID") information provided in the list of communities for which KGWN-TV is seeking inclusion appears to indicate at least 16 separate physical systems but KGWN-TV's map references only three cable systems. If it re-files, KGWN-TV should clarify the actual cable systems and their respective communities to be included in its petition.

5. In light of KGWN-TV's failure to provide the information required by Section 76.59, its petition for special relief will be dismissed without prejudice. KGWN-TV may re-file its request at a later date.

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934 and Section 76.59(c) of the Commission's rules, that the petition for special relief, filed by SagamoreHill Broadcasting of Wyoming/Northern Colorado, LLC **IS DISMISSED WITHOUT PREJUDICE**.<sup>9</sup>

7. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.<sup>10</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Deputy Chief, Policy Division  
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<sup>6</sup>See 47 C.F.R. § 76.59(b)(6).

<sup>7</sup>See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Broadcast Signal Carriage Issues, 8 FCC Rcd 2965, 2977 (1993) ("Must Carry Order").

<sup>8</sup>See 47 C.F.R. § 76.59(b)(3).

<sup>9</sup>47 U.S.C. § 534(h); 47 C.F.R. § 76.59(c).

<sup>10</sup>47 C.F.R. § 0.283.