Federal Communications Commission
Washington, D.C. 20554

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DA 26-1240

In Reply Refer to:
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In Re: Application for Assignment of License
& Request for Waiver
Application File No. 0000300839 et al.

Petition to Deny

Dear Counsel:

We have before us the above-captioned application for consent to assign the licenses of WAFL(FM), Milford, Delaware; WNCL(AM), Milford, Delaware; WCHK-FM, Milford, Delaware; W271CX, Milford, Delaware; WXDE(FM), Lewes, Delaware; and WAVD(FM), Ocean Pines, Maryland (collectively, Stations) from FM Radio Licenses, LLC, d/b/a Forever Media (Forever Media) to Draper Media, Inc. (Draper).[1] The Assignment Application is accompanied by a Request for Waiver (Waiver Request) of section 73.3555(a) of the Commission's rules (Rules) to permit Draper to exceed the market cap of seven full-service, commercial AM and FM radio stations and the subcap of four commercial FM stations in the Salisbury-Ocean City Nielsen Metro (Salisbury Metro).[2] Also before us are: (1) a Petition to Deny the Assignment Application filed by DataTech Digital, LLC (DataTech);[3] (2) a Joint Opposition

[1] Application File No. 0000300839 et al. (filed July 20, 2026) (Assignment Application or Application).

[2] *See* Assignment Application, Exhibit, "Draper Waiver Request-Forever Media (Final Redacted) Redacted.pdf." (Waiver Request); 47 CFR § 73.3555(a) (In a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations, a person or single entity (or entities under common control) may have a cognizable interest in licenses for no more than seven commercial radio stations in total and no more than four commercial stations in the same service (AM or FM)).

[3] Petition to Deny, Pleading File No. 0000301960 (filed Aug. 13, 2026) (Petition).

to the Petition filed by Forever Media and Draper (collectively, Applicants);[4] and (3) a Reply to the Opposition filed by DataTech.[5] For the reasons set forth below, we grant the Assignment Application and Waiver Request, and deny the Petition.

Background. Draper is an established, family-owned broadcaster serving the Delmarva Peninsula and the Wilmington metropolitan area.[6] Its radio operations include 13 commercial FM stations and one commercial AM station, stretching from Wilmington, Delaware, in the north to Salisbury, Maryland, in the south. Of those stations, four FM stations are home to the Salisbury Metro. The Salisbury Metro, ranked 132nd nationally, is a relatively small but competitive market with 40 full-service commercial and noncommercial radio stations split among 18 ownership groups.[7] Major radio operators include iHeart Media, Inc. (iHeart) (earning 33.8% of radio revenues), Draper (earning 21.5% of radio revenues), and Forever Media (earning 11.3% of radio revenues).[8] The market features diverse formats and multiple owners with significant revenue and ratings shares.

The proposed transaction involves Draper acquiring five full-service commercial radio stations from Forever Media (four FM, and one AM) and one FM translator.[9] Two of the stations to be acquired (WXDE(FM) and WAVD(FM)) serve the Salisbury Metro, while the other three stations (WAFL(FM), WNCL(AM), and WCHK-FM) are licensed to Milford, Delaware (collectively, Milford Stations), a city that is divided between Maryland—within the Salisbury Metro—and Kent County, Delaware, which is not part of any Nielsen Metro.[10] Because Milford lies partially within the Salisbury Metro, the Commission treats stations licensed to Milford as Salisbury Metro stations under the policy established in the *2002 Biennial Review Order*.[11] If approved, the acquisition would result in Draper owning nine full-service radio stations—two more than the market cap—including eight FM stations, which exceeds the FM subcap by four.

Draper contends that a waiver is justified here because: (1) the acquisition would strengthen Draper's competitive position against the current radio market leader, iHeart; (2) the three Milford Stations have negligible listenership and revenue within the Salisbury Metro and therefore contribute little to the competitive landscape; (3) the proposed transaction would enhance local service and improve operational efficiency; and (4) recent Media Bureau waiver grants demonstrate the Commission's willingness to consider flexibility in applying the local radio ownership caps where the applicant establishes that exceeding the caps would strengthen competition and localism.[12]

DataTech opposes the Waiver Request, asserting that the proposed transaction would effectively create a duopoly in the market and undermine the ability of smaller broadcasters to compete.[13] It argues that permitting Draper to own nine full-service radio stations—including eight FM stations—would substantially increase Draper's market share, raising its projected revenue share from 21.6% to 32.9% and

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[4] Joint Opposition to Petition to Deny, Pleading File No. 0000302252 (filed Aug. 20, 2026) (Opposition).

[5] Reply, Pleading File No. 0000303313 (filed Sept. 9, 2026) (Reply).

[6] Waiver Request at 1 and n.3.

[7] *See* BIA Advisory Services, Media Access Pro Database, Salisbury-Ocean City Metro market revenue estimates (accessed Nov. 3, 2026).

[8] *See* Waiver Request, Exh. B (citing BIA Advisory Services, Investing in Radio 2026, 1st Quarter Edition Market Report (2026).

[9] *Id*. at 4.

[10] *Id*. at 4-5.

[11] *2002 Biennial 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. 02-277 et al., Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13727, para. 280 & n.589 (2003).

[12] *See* Waiver Request at 5-8.

[13] Petition at 6.

its audience share from 21.7% to 30.9%, and would result in Draper and iHeart together controlling approximately 67% of market revenue and nearly 75% of reported audience share.[14] DataTech contends these projected shifts contradict Draper's assertion that the waiver would not harm competition.[15] It further argues that Draper has not provided measurable commitments regarding staffing, local news production, format preservation, or separate advertising operations.[16] Finally, DataTech contends that Draper's request warrants closer scrutiny because it treats the Milford stations as part of the Salisbury Metro for purposes of its waiver request, while treating those stations as outside the Nielsen market in portions of its engineering analysis.[17] Based on these concerns, DataTech urges the Commission to require that Draper amend the Assignment Application to comply with the existing ownership limits, and if Draper does not do so, to deny the Waiver Request, or alternatively, require that Draper divest WXDE(FM) and WAVD(FM) and limit any waiver solely to a subcap waiver to allow Draper to acquire the Milford Stations.[18]

In their Opposition, Applicants argue that the proposed transaction will improve competitive conditions by enabling Draper to reinvest in local service, achieve operational efficiencies, and compete more effectively with iHeart, the market's largest radio operator.[19] Applicants further assert that increased competition does not harm existing stations, noting that DataTech currently competes successfully against numerous broadcasters and has not explained why it would be materially disadvantaged after the transaction.[20] Applicants also assert that Draper is not required to submit detailed operational plans and that its established record of expanding local news and investing in acquired stations demonstrates its intent to enhance local service.[21]

Applicants further reject DataTech's argument regarding Draper's treatment of the Milford Stations, explaining that the engineering analysis appropriately assessed contour overlap outside the Salisbury Metro and does not undermine their waiver showing.[22] In their view, the analysis confirms that acquisition of the Milford Stations will not result in impermissible concentration inside the Salisbury Metro.[23] Applicants conclude that DataTech has not raised any substantial question of public-interest harm and maintain that the transaction will ultimately improve service and strengthen overall competition in the Salisbury Metro.[24]

In its Reply, DataTech challenges Applicants' claim that the waiver would improve the marketplace.[25] DataTech maintains instead that granting the waiver would give Draper a competitive advantage beyond what the Commission's rules contemplate, particularly given the limited revenue available in the market.[26] It contends that such an advantage would disrupt the competitive balance and

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[14] *Id*. at 6-7.

[15] *Id*. at 7.

[16] *Id*.

[17] *Id*.

[18] *Id*. at 7-8.

[19] Opposition at 3.

[20] *Id*. at 4.

[21] *Id*. at 4-5.

[22] *Id*. at 5.

[23] *Id*.

[24] *Id*.

[25] Reply at 1-2.

[26] *Id*. at 2.

economically harm smaller competitors, including DataTech itself, and therefore the waiver should be denied.[27]

Discussion. Petition to Deny the Assignment Application. In order to assess the merits of a petition to deny, a two-step analysis is required. First, the petition must make specific allegations of fact sufficient to demonstrate that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.[28] If the petition meets this threshold requirement, the Commission must then determine "whether the totality of the evidence raises a substantial and material question of fact justifying further inquiry."[29] If no such question is raised, the Commission will deny the petition and grant the application if it concludes that such grant otherwise serves the public interest, convenience, and necessity.

In the broadcast regulatory context, standing is generally obtained by a petitioner in one of three ways: (1) as a competitor in the market suffering signal interference; (2) as a competitor in the market suffering economic harm; or (3) as a resident of the station's service area or regular listener of the station.[30] In this case, DataTech holds a license for two broadcast stations in the Salisbury Metro and therefore has standing, as an economic competitor, to file the instant Petition.

Having established that DataTech has standing, we next consider whether its allegations satisfy the substantive requirements of section 309(d) of the Communications Act of 1934, as amended (the Act). Although DataTech asserts that the proposed transaction would be inconsistent with the public interest and would violate the Commission's local radio ownership rule, its pleadings do not provide specific, sworn factual allegations necessary to make a *prima facie* showing under section 309(d) or raise a substantial and material question of fact warranting further inquiry under section 310(d) of the Act.[31] Instead, DataTech raises only generalized competitive concerns and objections to the Waiver Request, which we address below, and fails to identify any defect in the Assignment Application or any issue bearing on Draper's basic qualifications to hold a Commission license. Accordingly, based on the underlying record, we conclude that DataTech has not raised a substantial or material question of fact as to whether grant of the Assignment Application would serve the public interest, convenience, and necessity. We further find that Draper is fully qualified to acquire the Stations' licenses and that grant of the Application is consistent with the public interest, convenience, and necessity. We therefore grant the Application and deny the Petition.

Request for Waiver. We grant Draper's request for waiver of the Commission's local ownership rule to permit Draper to acquire the Stations from Forever Media. The Commission's rules may be waived for good cause shown.[32] When an applicant seeks waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action.[33] Waiver is appropriate where the particular facts make strict compliance with the rule inconsistent with the public interest, or where special circumstances "warrant a deviation from the general rule and such deviation will serve the public

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[27] *Id*.

[28] 47 U.S.C. § 309(d)(1); 47 CFR § 73.3584 (Procedures for filing petitions to deny).

[29] *See* 47 U.S.C. § 309(d)(2), (e); *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985).

[30] *See, e.g., Melodie Virtue, Esq.*, Letter Decision, 30 FCC Rcd 6045, 6049 (MB 2015) (citing 47 U.S.C. § 309(d)(1)); 47 CFR § 73.3584(a); *MCI Communications Corp.*, Memorandum Opinion and Order, 12 FCC Rcd 7790, 7794 (1997).

[31] 47 U.S.C. § 309(d); 47 U.S.C. § 310(d).

[32] 47 CFR § 1.3.

[33] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, para. 2 (D.C. Cir. 1969).

interest."[34] In making this determination, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[35]

We find that a waiver of the local radio ownership rule is warranted in this case because the unique characteristics of the Salisbury Metro, combined with the specific operational and competitive dynamics presented in the record, demonstrate that strict application of the rule would not serve the public interest. First, the Salisbury Metro is a small, competitive market comprising 40 full-service, commercial and noncommercial radio stations owned by 18 independent entities. Market revenues have been declining, and the record shows significant competitive pressure from non-broadcast audio platforms, such as Pandora, Spotify, Apple Music, YouTube, podcasts, and SiriusXM, that were not contemplated when the current ownership limits were adopted.[36] In this environment, greater scale is essential for radio operators to sustain local service. Draper has demonstrated that the proposed acquisition would allow it to achieve efficiencies necessary to maintain and expand local programming—an outcome that is consistent with the Commission's core public interest objectives.

Second, we find that the transaction will promote localism. The record demonstrates that Draper has an established history of expanding local news, weather, traffic, emergency information, and public-affairs content following acquisitions in the Salisbury Metro, Wilmington Metro, and the non-rated areas in between.[37] The additional scale achieved through this transaction will allow Draper to deploy more diverse reporting resources, strengthen coverage of community events, and enhance the availability of timely emergency communications—improvements that are particularly important in a small, rural, and geographically dispersed market such as the Salisbury Metro. Although DataTech argues that the additional scale afforded by the waiver would disadvantage smaller broadcasters operating in the Metro,[38] the efficiencies gained from integrating the acquired stations into Draper's operations will help sustain investment in local broadcast radio service at a time when many small-market broadcasters face declining revenues and increased competition from non-broadcast audio platforms.[39] These benefits directly advance the Commission's localism objectives and outweigh any potential competitive concerns in a market that will continue to host a substantial number of independent broadcast voices post-transaction.

Third, the waiver would not result in undue concentration in the Salisbury Metro. Even after the transaction, iHeart would remain the largest radio operator in the Metro by both revenue and audience share, and at least 16 independent commercial and noncommercial radio station ownership groups would continue to serve the market, preserving a wide range of viewpoints and programming formats.[40] The record further shows that the Salisbury Metro is already a competitive environment, with several commercial radio operators holding meaningful revenue and ratings shares. In addition, no reduction in the number of distinct station formats is expected as a result of the transaction. Thus, we are not persuaded by DataTech's argument that granting the waiver would give Draper a competitive advantage beyond what the Commission's rules contemplate, and that such an advantage would disrupt the competitive balance and economically harm smaller licensees.[41] Enabling Draper to achieve modest additional scale will allow it to compete more effectively with iHeart, the market's dominant radio operator, as well as with non-broadcast audio services that exert significant competitive pressure on local

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[34] *Id.* at 1159; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

[35] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[36] *See* Waiver Request at 3-4 and Exh. B.

[37] *See id.* at 2, 8.

[38] *See* Petition at 6-7.

[39] *See* Waiver Request at 7.

[40] *See* BIA Advisory Services, Media Access Pro Database, Salisbury-Ocean City Metro market revenue estimates (accessed Nov. 3, 2026).

[41] *See* Reply at 2.

radio stations. The resulting strengthening of a locally based broadcaster in a small and economically constrained market is likely to support more sustainable competition rather than diminish it.

Finally, the Milford Stations present a unique regulatory circumstance. We must count these stations as part of the Salisbury Metro because Milford lies partially within Sussex County. However, the record shows that they have minimal listenership, negligible advertising revenue, and no meaningful competitive presence within the Metro. Although DataTech suggests the Milford Stations should be evaluated as Salisbury Metro competitors,[42] a waiver analysis considers not only market boundaries but also actual competitive conditions. In this regard, Nielsen's county-by-county data indicate that WAFL(FM) and WCHK-FM reach only a small fraction of Salisbury Metro listeners and derive most of their audience and advertising revenue from areas outside the Metro, while WNCL(AM) registers no measurable ratings in the Metro at all.[43] The Milford Stations therefore play virtually no role in the listening or advertising markets of Salisbury or Ocean City, the core population centers of the Metro. Counting these stations toward the ownership cap correspondingly overstates Draper's competitive position and does not reflect actual market conditions. This discrepancy between the Stations' mandatory inclusion in the Metro and their insignificant competitive impact is precisely the type of special circumstance that makes waiver relief appropriate. Indeed, these facts parallel prior Commission cases in which strict application of the ownership rules did not accurately capture competitive realities.[44] Taken together, these factors—ongoing market competitiveness, meaningful localism benefits, the continued presence of numerous independent owners, and the unusual treatment of the Milford Stations—constitute special circumstances warranting a waiver, and we find that granting such waiver will serve the public interest.

Conclusion and Ordering Clauses. In view of the foregoing, we conclude that DataTech has not raised a substantial and material question of fact warranting further inquiry into the Assignment Application. We therefore grant the Assignment Application and deny the Petition. We further find that special circumstances justify a waiver of the Commission's local radio ownership rule and that grant of the waiver to facilitate the proposed transaction will serve the public interest.

Accordingly, **IT IS ORDERED** that the application seeking consent to assign the licenses of WAFL(FM), Milford, Delaware (Facility ID No. 53482); WNCL(AM), Milford, Delaware (Facility ID No. 53483); WCHK-FM, Milford, Delaware (Facility ID No. 58763); W271CX, Milford, Delaware (Facility ID No. 151295); WXDE(FM), Lewes, Delaware (Facility ID No. 53487); and WAVD(FM), Ocean Pines, Maryland (Facility ID No. 53490), Application File No. 0000300839 et al., filed on July 20, 2026, **IS GRANTED**.

IT IS FURTHER ORDERED, that the Petition to Deny the Assignment Application, Pleading File No. 0000301960, filed on August 13, 2026, by DataTech Digital, LLC, **IS DENIED**.

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[42] *See* Petition at 6.

[43] *See id*. at 5 and Exh. F, citing The Nielsen Company, County Composition Report, Salisbury-Ocean City (2024).

[44] In March 2026, for example, the Commission granted Connoisseur Media (CM) market cap and subcap waivers to acquire four (4) stations from Bonneville International Corporation, resulting in CM owning nine (9) FM stations in the San Francisco Market, above the market cap of eight (8) and the FM subcap of five (5). The San Francisco Market included a total of 145 commercial and noncommercial AM and FM stations, including 23 stations that were also home to the San Jose Market, an embedded market within the larger San Francisco Market. *See* Application File No. 0000281230 et al. (gr. Mar. 30, 2026); *Actions*, Public Notice, Report No. PN-2-260401-01 (MB Apr. 1, 2026). *See also* Application File Nos. 0000276880 et al. (Sun Broadcasting, Inc.) (SBI) and 0000276891 et al. (Fort Myers Broadcasting, Inc.) (Fort Myers) (gr. Jan. 30, 2026); *Actions*, Public Notice, Report No. PN-2-260203-01 (MB Feb. 3, 2026) (granting waivers to SBI and Fort Myers to acquire stations in the Fort Myers Metro, resulting in SBI owning six (6) FM stations and Fort Myers owning five (5) FM stations in the Fort Myers Metro despite a market subcap of four (4) FM stations).

IT IS FURTHER ORDERED, that pursuant to section 1.3 of the Commission's rules, 47 CFR § 1.3, the request of Draper Media, Inc. for a waiver of the local radio ownership rule, 47 CFR § 73.3555, **IS GRANTED** with respect to the proposed transaction.

Sincerely,



Albert Shuldiner
Chief, Audio Division
Media Bureau