

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

In the Matter of)
)
Amendment of Section 73.606(b),) MM Docket No. 01-134
Table of Allotments,) RM-10137
TV Broadcast Stations.)
(Elk City, Oklahoma and)
Borger, Texas))

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 5, 2001

Released: September 14, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the Notice of Proposed Rule Making (“Notice”), 16 FCC Rcd 12689 (2001), issued in response to a petition for rule making filed by TV 31, L.L.C. (“TV 31”), permittee for Station KBCA, Channel 31, Elk City, Oklahoma, proposing the reallocation of Channel 31 from Elk City to Borger, Texas, as that community’s first local television service. TV 31 filed supporting comments in response to the Notice. No other comments were received.

2. As stated in the Notice, TV 31’s petition for rule making was filed pursuant to the provisions of Section 1.420(i) of the Commission’s Rules which permits the modification of a station’s authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest where the requested allotment would be mutually exclusive with the existing authorization. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part (“Change of Community MO&O”), 5 FCC Rcd 7094 (1990). Additionally, the Notice also stated that the proposed reallocation of Channel 31 to Borger would result in a preferential arrangement of allotments by providing a first local television transmission service to Borger in compliance with our allotment priorities while not depriving Elk City of local television service.¹

3. Borger (population 15,675),² has a mayor/city council form of government with its own post

¹ The television allotment priorities are: (1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities. See Sixth Report and Order on Television Allocations, 41 FCC Rcd 148, 167 (1952).

office and zip codes (79007 and 79008). Borger also has its own police and fire departments, a hospital, public library, local newspaper (the Borger News Herald), and its own public school district, the Borger Independent School District. Borger has a Chamber of Commerce, numerous businesses and churches, the Rotary Club and Lions Club. Rand McNally designated Borger as a Principal Business Center in 1995.³

4. We believe the public interest would be served by reallocating Channel 31 from Elk City, Oklahoma, to Borger, Texas, and modifying the authorization for Station KBCA accordingly. Our analysis is based on TV 31's showing that the reallocation to Borger will result in a preferential arrangement of allotments. See Community of License R&O at 4873, and the Sixth Report and Order, supra. Borger will be provided with its first local television service and Elk City will not be left unserved. Although there is a theoretical gain and loss, since the Channel 31 facility is not built, the reallocation does not represent a loss of service from Elk City upon which the public has come to rely. According to our engineering analysis, the reallocation will provide a first and second television service to a significant population. Further, the DTV Table contained in Section 73.622(b) of the Commission's Rules is not affected by the requested reallocation of Channel 31 to Borger and the 80 dBu contour for Channel 31 does not cover an urbanized area from either community. Channel 31 can be allotted to Borger, Texas, in compliance with the Commission's minimum distance separation requirements at TV 31's specified site.⁴

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 29, 2001, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Elk City, Oklahoma	*15-
Borger, Texas	31

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of TV 31, L.L.C. for Station KBCA, Channel 31, Elk City,

² Population figure was taken from the 1990 U.S. Census.

³ A Principal Business Center is defined by Rand McNally as a city of major economic importance that includes, but is not limited to Basic or Major Trading Centers.

⁴ The coordinates for Channel 31 at Borger are 35-41-56 and 100-53-34. The station will be operating with 5000kw ERP and 300 meters HAAT at this site..

Oklahoma, IS MODIFIED to specify operation on Channel 31 at Borger, Texas, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, TV 31, L.L.C., licensee of Station KBCA, is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license from Elk City, Oklahoma to Borger, Texas.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
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Mass Media Bureau