

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

In the Matter of)
)
Amendment of Section 73.622(i),) MB Docket No. 11-100
Post-Transition Table of DTV Allotments,) RM-11632
Television Broadcast Stations.)
(Eau Claire, Wisconsin))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 20, 2011

Released: July 22, 2011

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a Notice of Proposed Rulemaking¹ issued in response to a petition for rulemaking filed by Gray Television Licensee, LLC ("Gray"), the licensee of WEAU-TV, channel 13, Eau Claire, Wisconsin. Gary requests the substitution of channel 38 for channel 13 at Eau Claire. Gray filed comments reaffirming its interest in the proposed channel substitution. No other comments were received.

2. We believe the public interest will be served by substituting channel 38 for channel 13 at Eau Claire. The tower holding WEAU-TV's main antenna collapsed on March 22, 2011, and Gray must rebuild the tower and also replace the station's transmission equipment. Furthermore, according to Gray, viewers in pockets of the station's service area have reported difficulties receiving the station's digital signal on channel 13 since the end of the digital transition. Gray believes that these over-the-air reception problems may be resolved by moving WEAU-TV to a UHF channel, and that substituting channel 38 for channel 13 will permit it to leverage the significant and unplanned cost of rebuilding the station in such a way as to better serve the public interest.²

3. Channel 38 can be substituted for channel 13 at Eau Claire, Wisconsin as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) of the Commission's rules, at coordinates 44-39-50 N. and 90-57-40 W. In addition, we find that this channel change meets the technical requirements set forth in Sections 73.616 and 73.623 of the Commission's rules with the following specifications:

Table with 5 columns: City and State, Channel, Power (kW), Antenna HAAT (meters), Service Pop. (thous.)

¹ Eau Claire, Wisconsin, Notice of Proposed Rulemaking, DA 11-1034 (rel. June 10, 2011).

² NPRM at 1.

Eau Claire, Wisconsin	38	1000	616	912
-----------------------	----	------	-----	-----

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to Section 553(d)(3) of the Administrative Procedures Act.³ WEAU-TV has been off-the-air since March 22, 2011, when its tower collapsed, and Section 312(g) of the Communications Act of 1934, as amended, provides that “If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license . . . expires at the end of that period . . .”⁴ Given that severe winter weather conditions can have a delaying impact on the construction of communications towers, time is of the essence in this case.

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 immediately upon the date of publication of this Report and Order in the Federal Register, the Post-Transition Table of DTV Allotments, Section 73.622(i) of the Commission’s rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel Nos.</u>
Eau Claire, Wisconsin	15, 38

6. IT IS FURTHER ORDERED, That within 45 days of the effective date of this Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying channel 38 in lieu of channel 13.

7. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

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

9. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Media Bureau, (202) 418-1647.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

³ 5 U.S.C. § 553(d)(3).

⁴ 47 U.S.C. § 312(g).