

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

In the Matter of)
)
Amendment of Section 73.622(i),) MB Docket No. 18-383
Post-Transition Table of DTV Allotments) RM-11822
(Cookeville and Franklin, Tennessee))

NOTICE OF PROPOSED RULEMAKING

Adopted: December 19, 2018

Released: December 19, 2018

Comment Date: [15 days after date of publication in the Federal Register]
Reply Comment Date: [25 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Commission has before it a petition for rulemaking (Petition) filed by ION Media License Company, LLC (ION or Petitioner), licensee of digital television station WNPX-TV, channel 36, Cookeville, Tennessee (WNPX).1 ION requests an amendment of the Post-Transition Table of DTV Allotments to delete channel 36 at Cookeville, Tennessee, and substitute channel 36 at Franklin, Tennessee.2 ION further requests modification of WNPX’s license to specify Franklin as its community of license pursuant to Section 1.420(i) of the Commission’s rules.3

II. BACKGROUND

2. Section 1.420(i) of the rules provides that the Commission, during a rulemaking proceeding to amend the Table of Allotments, may modify a station’s license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.4 The Commission will apply this procedure in the limited circumstances where: (1) the new allotment will be mutually exclusive with a station’s existing allotment; (2) the new allotment will result in a preferential arrangement of the allotments according to the Commission’s television allotment priorities; and (3) the new allotment will not deprive a community of its sole local transmission outlet.5

1 Petition for Rulemaking of ION Media License Company, LLC (filed Dec. 3, 2018) (Petition).

2 Id.; see 47 CFR § 73.622(i).

3 Petition at 1.

4 47 CFR § 1.420(i); see Modification of FM and TV Authorizations to Specify a New Community of License, Report and Order, 4 FCC Rcd 4870, 4873, para. 22 (1989) (Change in Community R&O) (“[W]e will amend the Commission’s rules to provide a procedure whereby a licensee or permittee may petition the Commission for an amendment to the FM and television tables of allotments, and modification of its license accordingly, without placing its existing authorization at risk”), recon. granted in part, 5 FCC Rcd 7094 (1990) (Recon MO&O).

5 Change in Community RO&O, 4 FCC Rcd at 4874, para. 28. The Commission determines a preferential arrangement of the allotments based on the following five priorities: (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

III. DISCUSSION

3. ION’s proposed reallocation is mutually exclusive with WNPX’s current allotment because it is based on the technical specifications currently authorized for the station.⁶ ION asserts that the proposed reallocation is consistent with the Commission’s second allotment priority because it will provide Franklin with its first local transmission service.⁷ ION explains that Franklin not only qualifies as a community for allotment purposes, but is also a larger community than Cookeville and is deserving of its first local transmission service. ION notes that Franklin (population of 62,487, compared to Cookeville’s population of 30,435) is the county seat of Williamson County, Tennessee, and has an active government that oversees the city’s fourteen departments, including the City of Franklin Fire and Police Departments.⁸ ION documents that Franklin has 14 public schools, five local newspapers, eight hospital/medical centers, and over 127 churches.⁹ Finally, ION asserts that the proposed reallocation will not deprive Franklin of its sole broadcast station as it will continue to be served by station WCTE(TV), licensed to Upper Cumberland Broadcast Council, on channel *22 at Cookeville.¹⁰

4. We believe that ION’s proposal warrants consideration. Accordingly, we seek comments on the proposed amendment to the Post-Transition Table of DTV Allotments in Section 73.622(i) of the rules as seen below:

| City and State | Channel No. | |
|-----------------------|-------------|----------|
| | Present | Proposed |
| Cookeville, Tennessee | *22, 36 | *22 |
| Franklin, Tennessee | - | 36 |

IV. PROCEDURAL MATTERS

5. *Initial Regulatory Flexibility Act Analysis.*—The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the Post-Transition Table of DTV Allotments, Section 73.622(i).

6. *Paperwork Reduction Act.*—This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public

(Continued from previous page) _____

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. *Amendment of Section 3.606 of the Commission’s Rules and Regulations*, Sixth Report and Order, 41 F.C.C. 148, 167-173 (1952). The Commission will entertain a request to waive the prohibition on the removal of local service in the rare circumstances where such a removal might serve the public interest by, for example, providing a first reception service to a significantly sized population. *Recon MO&O*, 5 FCC Rcd at 7096, para. 17.

⁶ See Petition at 2.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 4.

Law 107-198, § 3506(c)(4).

7. *Ex Parte Rules.*—For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

8. *Filing Requirements.—Comments and Replies.* Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). In addition to the filing procedures below, a copy of such comments should be served on the Petitioner: ION Media License Company, LLC., c/o Terri McGalliard, 601 Clearwater Park Road, West Palm Beach, FL 33401.

9. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

10. Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

11. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

12. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

13. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20743.

14. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

15. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

16. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

17. *Additional Information.* For additional information on this proceeding, contact Darren Fernandez, Darren.Fernandez@fcc.gov, or Joyce Bernstein, Joyce.Bernstein@fcc.gov, of the Media Bureau, Video Division.

V. ORDERING CLAUSE

18. Pursuant to authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 47 CFR Sections 0.61, 0.204(b) and 0.283, **IT IS PROPOSED TO AMEND** the Post-Transition Table of DTV Allotments, 47 CFR Section 73.622(i).

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau