

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

In the Matter of )
)
Amendment of Section 73.622(i), ) MB Docket No. 21-254
Post-Transition Table of DTV Allotments, ) RM-11911
Television Broadcast Stations )
(Fredericksburg, Texas) )

REPORT AND ORDER

(Proceeding Terminated)

Adopted: August 23, 2021

Released: August 24, 2021

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed on March 12, 2021, and amended June 1, 2012, by Corridor Television, L.L.P. (Petitioner), the licensee of KCWX (MyNetwork), channel 5, Fredericksburg, Texas. The Petitioner has requested the substitution of high-VHF channel 8 for low-VHF channel 5 in the DTV Table of Allotments.

2. The Petitioner filed comments in support of the petition, as required by the Commission's rules, reaffirming its commitment to apply for channel 8. We believe the public interest would be served by substituting channel 8 for channel 5 at Fredericksburg, Texas. The Petitioner states that since it converted to digital channel 5 operations in 2009, it has received numerous complaints from the public about poor reception, and while it is operating with an effective radiated power of 45 kW, this power increase did not resolve the reception issues due to the "cliff effect" of digital signals. The Petitioner recounts the steps it has taken to improve reception on its low-VHF channel, including obtaining

1 Amendment of Section 73.73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Fredericksburg, Texas), MB Docket No. 21-254, Notice of Proposed Rulemaking, DA 21-705 (rel. June 16, 2021) (NPRM).

2 Petition of Corridor Television L.L.P. for Rulemaking (filed Mar. 12, 2021), LMS File No. 0000139110 (Petition). Petitioner amended its Petition (Amended Engineering Statement) at the staff's request to provide additional information about the estimated loss area. The Petitioner is proposing to apply for a Distributed Transmission System (DTS) facility on channel 8, and thus amended its petition after the pertinent portions of the new DTS rules, which afford television broadcasters greater flexibility in the placement of DTS transmitters, became effective. See NPRM at n.1.

3 As noted in the NPRM, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. The Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments, but because the Table has not yet been amended, the Bureau has continued to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018), for the purpose of this proceeding. See NPRM at n.2.

4 47 CFR §§ 1.415, 1.419; see also Buffalo, Iola, Normangee, and Madisonville, Texas, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

5 NPRM at para. 2.

6 Id.

authorizations for digital replacement translators, but concludes that it has no option to resolve the Station's reception problems other than to move from its low-VHF channel 5 to high-VHF channel 8.<sup>7</sup>

3. In the Amended Engineering Statement, the Petitioner proposes to utilize a DTS facility comprised of six single frequency network (SFN) nodes.<sup>8</sup> The Petitioner identified three separate loss areas, which it labeled Loss Areas 1, 2, and 3. The Petitioner submitted documentation showing that Loss Area 1 would continue to be served by five other full-power television stations and that Loss Area 2 would continue to be served by eight other full-power television stations. While Loss Area 3 would only continue to receive service from one full-power television stations, only 14 people live in this area.<sup>9</sup>

4. As proposed, channel 8 can be substituted for channel 5 at Fredericksburg, Texas, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules (rules),<sup>10</sup> at coordinates 30-08-13.7 N and 098-36-36.1 W.<sup>11</sup> While 14 people are predicted to be underserved, we consider that number to be *de minimis*.<sup>12</sup> In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:<sup>13</sup>

| <u>City and State</u> | <u>DTV Channel</u> | <u>DTV Power (kW)</u> | <u>Antenna HAAT (m)</u> | <u>DTV Service Pop.</u> |
|-----------------------|--------------------|-----------------------|-------------------------|-------------------------|
| Fredericksburg, Texas | 8                  | 17                    | 412                     | 3,548,925               |

5. 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 Procedure Act.<sup>14</sup> An expedited effective date is necessary in this case to ensure that KCWX can operate with improved service to its viewers as quickly as possible.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, the DTV Table of Allotments, section 73.622(i) of the Commission's rules, 47 CFR § 73.622(i), **IS AMENDED**, with respect to the community listed below, to read as follows:

| <u>City and State</u> | <u>Channel No.</u> |
|-----------------------|--------------------|
| Fredericksburg, Texas | 8                  |

7. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Corridor Television, L.L.P. shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 8 in lieu of channel 5.

8. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at para. 3 and Amended Engineering Statement, Engineering Statement at 1-9.

<sup>9</sup> *NPRM* at para. 3 and Amended Engineering Statement, *passim*.

<sup>10</sup> 47 CFR § 73.625(a).

<sup>11</sup> Concurrence from the Mexican government has been obtained for this channel substitution allotment.

<sup>12</sup> See *WSET, Inc.*, 80 FCC Rcd 233, 246 (1980) (finding loss area population of 500 people to be *de minimis*).

<sup>13</sup> 47 CFR §§ 73.616, 73.623.

<sup>14</sup> 5 U.S.C. § 553(d)(3).

9. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-254 and RM-11911 **SHALL BE TERMINATED** and its docket closed.

10. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

FEDERAL COMMUNICATIONS COMMISSION

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